

# REAUTHORIZATION REQUEST FOR THE U.S. COMMISSION ON CIVIL RIGHTS

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## HEARING BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS

SECOND SESSION

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FEBRUARY 9, 1994

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# CONTENTS

## HEARING DATE

February 9, 1994 .....	Page 1
------------------------	-----------

### OPENING STATEMENT

Edwards, Don, a Representative in Congress from the State of California, and chairman, Subcommittee on Civil and Constitutional Rights .....	1
---	---

### WITNESS

Berry, Mary Frances, Chairperson, U.S. Commission on Civil Rights, accom- panied by Stuart J. Ishimaru, Acting Staff Director, U.S. Commission on Civil Rights, and Carl A. Anderson, Commissioner, U.S. Commission on Civil Rights, and Vice President of Public Policy, Knights of Columbus, and Dean, North American Campus, Pontifical John Paul II Institute for Studies on Marriage and Family .....	2
---	---

### STATEMENT SUBMITTED FOR THE HEARING

Berry, Mary Frances, Chairperson, U.S. Commission on Civil Rights .....	6
---	---

### APPENDIX

Material submitted for the hearing .....	23
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# REAUTHORIZATION REQUEST FOR THE U.S. COMMISSION ON CIVIL RIGHTS

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WEDNESDAY, FEBRUARY 9, 1994

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:30 a.m., in room 2226, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Don Edwards, Henry J. Hyde, Howard Coble, and Charles T. Canady.

Also present: Ivy Davis-Fox, assistant counsel, and Kathryn Hazeem, minority counsel.

## OPENING STATEMENT OF CHAIRMAN EDWARDS

Mr. EDWARDS. The subcommittee will please come to order.

In 1957, the U.S. Commission on Civil Rights was created. It was a radical idea in those days, very controversial, but at its very best, the Commission has been the Nation's conscience on civil rights. It has been our barometer reminding us where we have been and where we need to go.

It is supposed to be a temporary agency because we want to believe that some day we won't need the Civil Rights Commission, that we will be enforcing the civil rights laws that are so important to our country without any oversight whatsoever.

We had problems in the last few years and a majority of the subcommittee felt that the Commission had turned away from its fact-finding mission and indeed Congress, for a short time, seriously considered abolishing it all together, but it survived and we have great hopes for it.

We know that the great civil rights laws passed in 1964 and 1965 changed the nature of our country, and took us away from apartheid in 11 States—the old Confederacy—and was absolutely the most revolutionary period in America. So we support the Commission and we are here today to hear the testimony of the Chair and of the Acting Director.

Mr. Hyde.

Mr. HYDE. Thank you, Mr. Chairman. I don't have any prepared remarks to make other than to welcome our guests today and to say that the need for oversight of our civil rights laws probably has never been greater. It seems the more laws we pass and the more commissions and committees exist, we still have so long to go, so

much further to go in respecting each other as human beings. I look forward to these hearings.

Thank you, Mr. Chairman.

Mr. EDWARDS. Thank you Mr. Hyde.

Way back in the very early 1980's, we found that the Voting Rights Act needed to be brought up to date and strengthened and Mr. Hyde and I and a Member who is no longer with us, who is deceased, who became the mayor of Chicago, Harold Washington, traveled to Texas and Alabama, and different parts of the country and came back in a state of shock, both of us, at some of the gerrymandering and other racially motivated outrages that were going on and we completely rewrote the Voting Rights Act and it has really worked considerably better since that time.

The gentleman from Florida, Mr. Canady.

Mr. CANADY. Thank you, Mr. Chairman.

I don't have a prepared statement either. I would like to join you in welcoming the witnesses. I look forward to their testimony.

Mr. EDWARDS. Thank you.

Dr. Mary Frances Berry is the newly appointed Chairperson and she is speaking on behalf of the Commission. Accompanying her is Stuart J. Ishimaru, the newly appointed Acting Staff Director.

Dr. Berry is a distinguished scholar and civil rights advocate who has been associated with the Civil Rights Commission for many years. Stuart Ishimaru is a former and valued staff member of the full Judiciary Committee and this subcommittee and most recently has been a staff assistant employed by the House Armed Services Committee.

Also we recognize—we welcome another Commissioner, Mr. Carl Anderson. Welcome.

If Dr. Berry and Mr. Ishimaru will raise your right hands.

[Witnesses sworn.]

Mr. EDWARDS. Without objection, Dr. Berry, your full statement will be made a part of the record.

You may proceed.

**STATEMENT OF MARY FRANCES BERRY, CHAIRPERSON, U.S. COMMISSION ON CIVIL RIGHTS, ACCOMPANIED BY STUART J. ISHIMARU, ACTING STAFF DIRECTOR, U.S. COMMISSION ON CIVIL RIGHTS, AND CARL A. ANDERSON, COMMISSIONER, U.S. COMMISSION ON CIVIL RIGHTS, AND VICE PRESIDENT OF PUBLIC POLICY, KNIGHTS OF COLUMBUS, AND DEAN, NORTH AMERICAN CAMPUS, PONTIFICAL JOHN PAUL II INSTITUTE FOR STUDIES ON MARRIAGE AND FAMILY**

Ms. BERRY. Thank you very much, Mr. Chairman.

I am very pleased to have been invited here to discuss reauthorization, accompanied by Mr. Ishimaru, and I have always respected this subcommittee which deals with some of the most controversial and most important issues to our Nation, and in particular the members of this committee.

One of the saddest things that ever happened to me was to find out recently that the chair of this subcommittee has decided not to run again. That was one of the saddest days in my life. I so much appreciate and the country should appreciate the contributions that

you have made over the years to the cause of human rights and to the cause of social justice. We will miss you.

Mr. EDWARDS. I will be here for a year raising a ruckus.

Ms. BERRY. I am here representing the whole Commission. We have eight members, as you know, including such persons as our Vice-Chair, Cruz Reynoso, who is a law professor at UCLA and a former Justice on the California Supreme Court; and the other Commissioner here is Commissioner Carl Anderson, who is vice president of public policy with the Knights of Columbus and Dean of the North American Campus of the Pontifical John Paul II Institute for Studies on Marriage and Family.

I will, when we are finished, see if there is anything he would like to say and of course he is available for questions if the subcommittee should so wish.

The Commission we believe is—the Commission has voted to recommend that we have a 6-year reauthorization and I am here in support of the Commission's recommendation.

We believe that the Commission is still vital to progress toward equality in our country. The Commission does, as you know, fact-finding on discrimination and our jurisdiction does cover race, color, religion, sex, national origin, age and disability.

By the way, the statute still says handicapped. I think we should probably change that to disability instead of handicapped.

We are a watchdog over the effectiveness of Federal civil rights enforcement and we have 51 State Advisory Committees. The way we do our work is to have hearings to issue reports to the President and Congress and serve as a national clearinghouse for information. We are supposed to make recommendations to improve the process of ending discrimination and enforcing civil rights.

During the period of the current authorization of the Commission, we have had a number of reports and work products that show that we have been producing. There have been problems in the past with work product and the rate of production and the quality at the Commission, and I am quite familiar with those, but in the last year, we have made some improvement and we hope during the period of reauthorization, Mr. Ishimaru and I and the other Commissioners, will be able to improve that record even further.

I call your attention to the report we did on Asian-Americans and their civil rights, which is one of the first works of its kind and found, among other things, that Asian-Americans, while they seem to be quite successful, bump up against a glass ceiling in employment and are unable to advance as far as they would if there were no discrimination.

It called attention to the fact that there are many Asian-American groups that are not rich and that there are a lot of poor Asian-Americans who are deprived because of discrimination. Hate crimes directed at Asian-Americans were the subject of this report, too. The report has been enthusiastically received.

We did another report on the 1988 fair housing law to see what HUD was doing about implementing it and, in particular, that part of the law which requires that State agency enforcement be substantially equivalent with Federal requirements.

Our report found weaknesses at HUD. It had not made sure that States and local agencies could enforce the law. HUD has been trying to make improvements.

We also did a report on federally assisted transportation projects which the Department of Transportation is using in its work and one on validity of testing in education and employment.

Testing is a hot issue. We were trying to shed some light on how you use tests without discriminating against people on the basis of race, ethnic origin or gender.

We did a report on equal employment opportunities for Federal employees, which found out what we knew pretty much viscerally, that there are major problems in how the employment opportunity laws are enforced for Federal employees. People who may be engaged in discrimination are often in the chain of command to act on such grievances, which means they are simply deciding their own fate and their own actions.

The Commission testified before the House Education and Labor Subcommittee on Select Education and Civil Rights in support of a bill which incorporates various recommendations we made to solve that problem. We have held important briefings where people come before us to talk about issues and to tell us they think we either should have a hearing or some work product to deal with these issues.

The Commission conducts briefings on a variety of topics. We had one on statehood for the District of Columbia in which the Mayor and the Delegate from the District of Columbia to Congress testified. In addition to supporters, we heard from opponents of statehood. Indeed, an array of people talked about what the role and response should be and whether there is discrimination involved in the absence of statehood for the District of Columbia.

We had a briefing on religious bigotry recently in which people from all religious groups come before us—the ACLU, and the Antidefamation League—to talk about the issues of hatred and religious bigotry and what the Commission may do.

There was also a briefing on economic empowerment, including America Works, an organization in New York. I see the mayor has given this organization a contract to try to get welfare recipients into the work force.

Mr. EDWARDS. Did you write a report on each of these?

Ms. BERRY. That is a good question, Mr. Chairman.

In the past, the Commission has not issued reports on briefings, but I think that in terms of work product on our own watch, that we ought to issue a summary of what came out of the briefing so that people know, since we have the experts there, even though not under oath, what the information provides.

So I think that that is a great idea. I have thought about it for a long time, and maybe now I have a chance to implement it. This will be another work product.

We still get a lot of complaints from individuals who allege violations of civil rights. These increase every year and we refer them to Federal, State and local agencies and we need to start tracking them better. But we do refer them and have started the tracking process.

One of the important things about that is it gives us feedback on how well the agencies are doing their job and we ought to utilize that kind of tracking of complaints in our own monitoring projects.

We have had a number of State Advisory Committee reports on various subjects. The important thing about those is that many of them lead to either legislation in the State, at the State level, or local action. For example, there was an Alabama report that said there ought to be a citizens advisory group on race relations. That has been adopted and a group has been established.

There was a recommendation that there be a Human Relations Commission in the State of Alabama. The legislature at this hour is considering whether there ought to be one. So those reports work, too.

We have had a number of hearings on the racial and ethnic tensions project which is about poverty, inequality and discrimination. We are trying to figure out what we could recommend that would help the country grapple with this increasing problem of racial tensions and polarization that exists in our country.

We have a number of reports that are in process that will be issued, we think two this year and others to come next year. We will issue these reports.

We have another one on the Fair Housing Act which will look at what HUD itself is doing. The other was about the State and local agencies. This one is about what HUD itself will be doing.

We expect to issue the HUD report this year and also one on title VI of the Civil Rights Act of 1964 which, of course, prohibits recipients of Federal financial assistance from discriminating on the basis of race, color or national origin.

There has not been an enforcement report done in at least the last 15 years by the Commission. This report will be important in looking at how they are doing in their on-site compliance reviews, what are they doing about individual complaint investigations.

There have been a lot of complaints to us about the lack of enforcement of title VI. So we will do that and we have another project on the Federal civil rights enforcement budget looking at the budgets for the Federal agencies to see if the resources are commensurate with what they have to do in their work.

So there are a number of these projects under way and we believe that building on what has been done in the past, that during an additional period of reauthorization, we will have an opportunity to be even more productive and to aid the country in the cause of civil rights.

Thank you very much, Mr. Chairman. I would be pleased to answer any questions you might have.

[The prepared statement of Ms. Berry follows.]



STATEMENT OF  
THE HONORABLE MARY FRANCES BERRY, CHAIRPERSON  
U.S. COMMISSION ON CIVIL RIGHTS  
BEFORE THE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS  
COMMITTEE ON THE JUDICIARY

February 9, 1994

Mr. Chairman and members of the Subcommittee, I am pleased to testify today in support of the reauthorization of the U.S. Commission on Civil Rights.

As the Chairperson of the Commission, I sit before you representing the Commission as a whole. My colleagues on the Commission have a diverse range of backgrounds, views and talents. The other individuals who comprise the eight-member policymaking body of the Commission are: Vice Chairperson Cruz Reynoso, Professor of Law at the UCLA Law School; Carl A. Anderson, Vice President for Public Policy with the Knights of Columbus and Dean, North American Campus of the Pontifical John Paul II Institute for Studies on Marriage and Family; Arthur A. Fletcher, Distinguished Professor of Business Administration and Director, of the International Institute for Corporate Social Policy at the University of Denver; Robert P. George, Associate Professor of Politics at Princeton University; Constance Horner, Guest Scholar in Governmental Studies, Brookings Institution; Russell G. Redenbaugh, Partner and Director of Cooke & Bieler, Inc., and Chairman and CEO of Action Technologies, Inc.; and Charles Pei Wang, Secretary, United Way of New York City.

Each member of the Commission has his or her own viewpoint on the civil rights issues that we address; however, we share the common goal of fulfilling the Commission's legislative mandate to the best of our ability. The Commission has voted to recommend that the existing authorization statute for the Commission be extended for a six-year term.

The Commission on Civil Rights is vital to sustaining progress toward true equality in our nation. As an independent bipartisan agency, the Commission is mandated to conduct factfinding and report on discrimination and denials of equal protection of the law on the basis of race, color, religion, sex, national origin, age and disability; monitor and evaluate the effectiveness of Federal civil rights enforcement efforts; and provide support to

our 51 State Advisory Committees. In carrying out this mandate, we conduct hearings; issue reports to the President and the Congress, and serve as a national clearinghouse for information on civil rights. The Commission is expected to make recommendations to all Federal agencies on ways to strengthen their civil rights policies and procedures.

Let me review the accomplishments of the Commission over the period of this current authorization:

o In February 1992, the Commission issued a report entitled Civil Rights Issues Facing Asian Americans in the 1990s. This Report provided a comprehensive analysis of the civil rights issues facing Asian Americans and contained many recommendations for action to alleviate the problems described. It is one of the first works of its kind and has been enthusiastically received.

o During FY 1992, the Commission issued a Federal civil rights enforcement report entitled Prospects and Impact of Losing State and Local Agencies from the Federal Fair Housing System. This Report examined the Fair Housing Assistance Program and the certification status of State and local agencies under the Fair Housing Amendments Act of 1988. The Report also assessed the role and status of those State and local human relations/rights agencies that are seeking to be substantially equivalent under the 1988 Amendments, and evaluated the consequences for the enforcement of the Fair Housing Act if these agencies are not certified. To address one of the Commission's recommendations contained in this Report, HUD added new staff to handle complaints received from State and local agencies that have not yet gained interim agreements with HUD.

o In July 1992, the Commission released a summary report, Constructing Denver's New Airport: Are Minorities and Women Benefiting? This Report summarized information obtained at the Commission's June 1991 forum in Denver, Colorado on alleged discrimination in hiring and minority contracting in the construction of the city's new international airport.

o Monitoring of civil rights enforcement efforts followed release of this report on the Denver Airport. In January 1993, the Commission issued Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects, which provided preliminary findings on the performance of the Departments of Transportation and

Labor in enforcing various civil rights laws pertaining to hiring and contracting in this multibillion dollar construction project. The Commission received a reply from Transportation Secretary Peña in which he indicated that an internal review was underway to determine what was needed to enhance the Department's enforcement of Title VI of the Civil Rights Act of 1964.

o Also during FY 1993, the Commission issued The Validity of Testing in Education and Employment. This Report was based on a consultation on the use of testing in education and employment and summarized the research and views of experts on appropriate methods of test development to avoid racial, ethnic, and gender bias.

o The Commission issued Equal Employment Opportunity for Federal Employees which highlighted certain inequities and conflicts of interest inherent in the current procedure by which Federal agencies process employee complaints of discrimination. The Commission testified before the House Education and Labor Subcommittee on Select Education and Civil Rights in support of H.R. 2721, which incorporated several of the Commission's recommendations.

o Commission statements were issued on topics such as the Civil Rights Act of 1991, the 50th Anniversary of Pearl Harbor, and Religious Discrimination and Bigotry.

o The Commission held briefings on issues such as voter representation and statehood for the District of Columbia, religious bigotry, and economic empowerment.

o The Commission continues to receive about 4,000 complaints per year from individuals alleging violations of their civil rights. These complaints are reviewed and referred to Federal, State, and local agencies or private organizations as appropriate for action. The Commission intends to expand its current tracking of these complaints to use this data in support of our on-going monitoring of the status of civil rights enforcement efforts by the various government agencies.

o State Advisory Committee reports issued in FY 1992 covered a wide array of issues as illustrated by the following examples: race relations in Selma, Alabama; Hawaiian Homelands Program and the failure of the Federal and State governments to protect the civil rights of native Hawaiians; voting rights in San Luis, Arizona; police-

community relations in Tampa, Florida; hate crime in Indiana; racial and religious tensions on selected Kansas college campuses; campus tensions in Massachusetts; education opportunities for American Indians in Minneapolis and St. Paul schools; shelter issues in New York; new Fair Housing Amendments and eastern New York public housing; and school desegregation in Milwaukee Public Schools.

Many of these SAC reports have resulted in improvements in the subject areas cited, for example, one of the principal recommendations contained in the Alabama SAC report concerning the formation of a citizens advisory group on race relations has been adopted. Several recommendations contained in the SAC report on Hawaiian Homelands have been adopted or are in progress.

o During FY 1993, SAC reports covered issues such as access of the minority elderly to health care and nursing homes in New York; public education in Idaho; provisions on sex discrimination in employment in South Dakota; the need for a human relations commission in Alabama; policing in Chicago, Illinois; police-community relations in southern West Virginia; race relations in Dubuque, Iowa; stereotyping of minorities by the news media in Minnesota; environmental equity in Louisiana; and Native American students in North Dakota special education programs. Other SAC projects included the on-going joint border violence study of the Arizona, California, New Mexico, and Texas Committees, retention of minorities and women in public institutions of higher education in Colorado; implementation of the Americans with Disabilities Act in Delaware; lending practices in the District of Columbia; race relations in western Kansas; racial tensions in Florida, Missouri, Nebraska, North Carolina, South Carolina, and Tennessee; and Asian American civil rights issues in Maryland.

To illustrate the impact of these SAC reports, the current session of the Alabama legislature is considering the formation of a human relations commission as recommended in the FY 1993 Alabama SAC report.

o In 1991, the Commission began a multi-year project addressing the state of race and ethnic relations, the underlying causes of worsening racial tensions and the immediate need to find solutions to this tragic decline. By holding a series of factfinding hearings in several cities, the Commission hopes to find solutions to the divisiveness alienating different sectors of America's communities.

In our FY 1992 and FY 1993 hearings on this overall topic entitled Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination, the Commission heard many individuals testify on the animosity between racial and ethnic groups. The projections of the Workforce 2000 project tell us that minorities and women will predominate in the labor force in less than another decade. If the increase in bigotry and violence that we are currently experiencing has not been curbed by then, the convergence of these two trends could have serious consequences in the years to come.

On January 29-31, 1992, the Commission held a hearing on the underlying causes of the disturbances that occurred in May 1991 in the Mount Pleasant area of the District of Columbia, with special emphasis on the concerns of the Latino community. This hearing focused on immigration issues, police-community relations, employment opportunities, and the delivery of services by the District of Columbia government. The first report stemming from the Racial and Ethnic Tensions exploration was based on this hearing and was issued in January 1993. Former Commission Chairperson Arthur Fletcher presented testimony before the City Council of the District of Columbia on the findings and recommendations contained in this Commission Report, thereby participating in the initial implementation of some of our recommendations.

To explore racial and ethnic tensions from a national perspective, the Commission held a hearing in Washington, D.C. on May 21-22, 1992. Panels of expert witnesses provided testimony on various aspects of the crisis facing America's communities. The third major factfinding hearing conducted by the Commission in FY 1992 was held in Chicago, Illinois, June 24-26, 1992. Approximately 60 witnesses provided sworn testimony on topics such as an overview of the situation in Chicago, minority access to housing and mortgage credit, minority access to credit and business development, police-community relations, access to education, access to health care, and employment and training. The Commission held another hearing in June 1993 in Los Angeles. This hearing focused on both police-community relations and economic development in the city of Los Angeles and their impact on the increase of tensions. The hearing also dealt with the television entertainment and news media portrayal of minorities.

Despite the relative gains that have been made over recent years by both minorities and women through civil rights legislation and court intervention, race relations in this country are still characterized by

mistrust, fear, and anger. This has been confirmed repeatedly by experts, community leaders and the general citizenry in testimony given to the Commission on Civil Rights.

Such highly publicized events such as the riots in Los Angeles, or the disturbances in the Crown Heights section of New York may not begin to reflect the extent and intensity of the racial and ethnic tensions nationwide. While the media and many political and community leaders tend to dwell on the spectacular incidents of interracial tensions, everyday tensions between neighbors and coworkers indicate a far more pervasive and destructive social condition. Underlying the headline stories are incidents of discrimination and denial of opportunity which pervades the everyday lives of this nation's racial and ethnic minorities.

Major Commission activities scheduled for completion during FY 1994 include the following:

o The Commission plans to issue several reports with findings and recommendations stemming from recent hearings on our Racial and Ethnic Tensions project. A report based on the Commission's June 1992 hearing in Chicago will analyze police policies, civilian review, and the processing of police misconduct complaints. The economic section of this report will focus on policy issues related to minority access to credit and business development. The Commission also intends to issue a report on the national perspectives hearing held in May 1992 in Washington, D.C. This report will summarize the testimony of experts on such topics as hate incidents, changing demographics, multiculturalism, socioeconomic factors, financial and banking industry practices, and the Community Reinvestment Act. A report is also expected on the Commission's June 1993 hearing in Los Angeles. This Report will examine the progress of reforms in the Los Angeles Police Department, and it will explore governmental policies and programs and their impact on economic opportunities in minority communities. A third focus of the Los Angeles report will pertain to local news media coverage of area minorities and the portrayal of people of color on primetime television entertainment programming.

o Public factfinding hearings will also continue on the Racial and Ethnic Tensions theme with a major hearing planned for New York City and another hearing in Miami.

o Fair Housing Amendments Act of 1988: The Enforcement Report will analyze the Department of Housing and Urban Development's new system of adjudicating complaints before administrative law judges, the prosecution of complaints by the Justice Department and the administration by HUD of programs assisting State, local and nonprofit groups engaged in fair housing enforcement, outreach, education and the overall resources allocated for fair housing enforcement.

o A study of Title VI of the Civil Rights Act of 1964 will examine the civil rights enforcement efforts and activities of Federal agencies with responsibilities for ensuring nondiscrimination in their federally assisted programs under Title VI. Title VI prohibits recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity. The study will review enforcement efforts in recent years and assess the adequacy of the Title VI enforcement activities by Federal agencies. This assessment will include their performance in conducting onsite compliance reviews and individual complaint investigations as well as an analysis of their compliance standards.

o The Commission will also conduct an analysis of the Federal Civil Rights Enforcement Budget: FY 1995. This analysis will consider whether the resources provided for civil rights enforcement are adequate, given budgetary trends, specifically considering the responsibilities added by recent civil rights legislation including the Americans with Disabilities Act and the Civil Rights Act of 1991.

Beginning in FY 1995 and continuing in the future, the Commission expects to focus its resources increasingly in the area of civil rights enforcement. Federal civil rights enforcement has not been subject to rigorous and comprehensive analysis by the Commission in over a decade. We believe such efforts need sustained effective leadership, sufficient resources, and tough new enforcement standards. Our commitment to ensure that Federal law enforcement agencies carry out their responsibilities to the fullest extent and that they receive the necessary leadership and support, particularly financial support, has become one of the Commission's foremost priorities for the coming years.

One such project endorsed by the Commission for FY 1995 involves the evaluation of the Federal effort to eliminate employment discrimination by examining the policies and enforcement mechanisms of the Equal Employment Opportunity Commission and the Department of Justice. This study, entitled Evaluation of Fair Employment Law Enforcement, will concentrate on the operation of

Title VII of the 1964 Civil Rights Act, Americans with Disabilities Act, Age Discrimination in Employment Act, and Equal Pay Act. We will examine staffing and resources of enforcement agencies relative to the responsibilities outlined in these laws; the effectiveness of implementing policies, regulations and procedures; the adequacy of enforcement measures; and the conformity with EEOC standards of charge processing by State and local fair employment agencies.

A second major Commission approved activity scheduled for FY 1995 is entitled Evaluation of Equal Educational Opportunity Law Enforcement. This project will evaluate the efforts of the Department of Education and its Office of Civil Rights to enforce a variety of laws mandating equal educational opportunity, with particular attention to the education offered language-minority children, programs provided to children with disabilities, equal educational opportunity for girls, and the ability tracking of minority children.

Continuing with our Racial and Ethnic Tensions programmatic focus in FY 1995, the Commission intends to conduct the last hearing on this multi-year theme in the lower Mississippi Delta region. This hearing is expected to cover issues such as the impact of State financing on public education, and the remaining vestiges of segregation in higher education. Other issues may include voting rights, health care and housing.

The Commission plans to complete statutory reports with findings and recommendations stemming from our FY 1994 hearings on Racial and Ethnic Tensions in New York City and in Miami. A summary report is also planned examining the common causes as well as distinguishing differences in the way racial and ethnic tensions were experienced and dealt with in the different communities examined.

With this Subcommittee's endorsement of our reauthorization and with the appropriations committees' recognition of our financial needs, the Commission on Civil Rights will be equipped to contribute more effectively than ever to the serious needs in the civil rights area. In essence, we will be better able to fulfill our congressional mandate.

While the Commission has proposed a continuation of our current statute for an additional six-year period, I should note for the record that the Administration has yet not taken a position on our reauthorization.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer questions you might have concerning the work of the Commission and its reauthorization.



Mr. EDWARDS. We welcome the gentleman from North Carolina, Mr. Coble. Do you have a statement?

Mr. COBLE. No statement, Mr. Chairman.

Thank you very much.

Mr. EDWARDS. Mr. Hyde, I know you have to be at the Rules Committee.

Mr. HYDE. That was yesterday. Anyway, thank you.

Ms. Berry, the administration's budget proposes an increase in 1995 to \$12.4 million; the 1994 funding level was \$7.8 million, and I understand the budget contemplates 30 full-time equivalent positions to the Commission being added, so the staff will have 120 instead of 90.

Could you tell us what specific projects this additional funding and staff will be directed towards?

Ms. BERRY. The OMB was quite receptive to two notions that we presented to them. One was that the Commission needs to have more employees in the midlevel. We have a number of people at the top level. I think what they call the tooth-to-tail ratio is out of balance, in my opinion.

We have too many people at the top and not enough at the bottom.

They were receptive to the idea that we need people to do civil rights analysis at the midlevel so we can get reports and do evaluation and monitoring of the agencies like we used to do when the Commission had staff to monitor each agency to see how they are enforcing civil rights.

In the General Counsel's Office, we need people to help us get the reports out. In addition to not enough hearings, I don't think we get the reports out fast enough when we do the hearings. I think we should do more full-blown and two-Commissioner hearings so we can deal with issues as they arise. We need a fast-response system so that when something happens and the Commission has a body of information built up over the years on that issue, we can prepared a statement in a timely manner to address the issue.

One of the most frustrating things I have found at the Commission is responding to issues in a timely fashion. It was also a problem when I used to run education programs in the Federal Government. I was always having reports done by my research analysis agency that came out after I needed them. They would tell me what the profile or good information about  $x$  and it was too late or it would have been much more timely if I had had it before.

There are a lot of other issues besides racial tensions. We have the American with Disabilities Act that has just come on line and we need to look at the problems, the issues, now that is coming on line.

The Commission has not done a report on sex discrimination. We have a proposal to do a project on employment discrimination, whether it is on race, sex, religion, or national origin. We need to do that.

So I think that there are a number of these areas as well as stepping up the entire monitoring of the Federal Government.

OMB—one might have thought the administration wouldn't be interested in us stepping up our monitoring of what they were

doing, but we were able to persuade them that there is a need to beef up that activity, that they can benefit from it not only from criticism, but from being told how you may better do some things to be more efficient.

In those areas, that is what we would do with the money.

Mr. HYDE. Mr. Anderson, do you have something that you would like to tell us at this hearing?

Mr. ANDERSON. I think if you have a specific question, I would be happy to answer it.

Ms. BERRY. I asked him if he wanted to make a general statement and he said no.

Mr. HYDE. Are you satisfied that these additional positions are necessary or will be helpful; will be cost-effective?

Mr. ANDERSON. Well, thank you Mr. Hyde.

I would, and I thank you for the opportunity—I haven't had a prepared statement here—but in answer to that question, I think speaking for myself as a Commissioner and my experience on the Commission, you have now on the Commission a very energized group of Commissioners who would like the Commission to move forward very actively and really are being held back because of the limited staff.

I think candidly, I probably should not say this, but I think you ought to either put us out of business or you should give us some type of increase.

Mr. HYDE. The resources to do your job?

Mr. ANDERSON. I think we are marginalized to the point that it is very difficult for us to meet schedules and to do the type of thing we want to do. Therefore, I think it is appropriate to consider that type of an increase.

We are all under budget constraints and I think I am as appreciative of that as anyone else, but I think this Commission ought to have in your discretion at least a reasonable increase.

I would just say one other thing in general. This Commission is composed of members who have broad and diverse experiences, and diverse philosophies. And sometimes on the controversial issues and deeply held views that confront many of the dilemmas that we confront in civil rights, it takes us a while to work through those problems with the type of philosophies that many of us come to on the Commission.

But when we are able to arrive at a conclusion and a report—for example, I think the Asian-American report is a very good example of it—the fact that you have a Commission with such widely diverse views and experiences come together and issue a report like that, I think it has a considerable impact and can have a considerable effect.

Mr. HYDE. I agree with you completely. When people from different perspectives can agree on something, especially something controversial, it has a special salience that it might not otherwise have.

One more question. Are you satisfied that your Commission as a Commission would be as concerned or would treat a complaint or consider, shall we say, discrimination against nonminorities as fairly, and is the pursuit for truth broad based or does it emphasize minority—discrimination against minorities?

In other words, is equal protection of the law—are you—of course, the discrimination overwhelmingly has been against minorities and of course the time and the effort would be directed to discrimination against minorities in the broadest sense of the term. But discrimination does exist and its potential is very great in affirmative action and quotas and things like that and I am just cutting to the chase without beating around the bush, but there is reverse discrimination.

There are preferences that really reject the notion of equal protection of the law.

I am just wondering if you are satisfied the Commission is sensitive to those, too?

Mr. ANDERSON. Mr. Hyde, I think one of the things that we have been struggling with on the Commission over the past several years is the emerging demographic trends which indicate that we will soon be in a sense a nation of minorities and that there will not be a dominant majority in many circumstances.

So therefore, speaking for myself and what I have witnessed on behalf of other Commissioners, I think there is a very strong commitment to equal protection under the law, and really looking at a changing demographic trend in this country that is going to require some rethinking on the part of the way we treat individuals.

Mr. HYDE. A broader-based ethnic sensitivity, really?

Mr. ANDERSON. I would think so. I am sure the chairman has views on this as well. It seems to me that what we have learned from the Asian-American report is that you cannot classify all Asian-Americans together, that they are very diverse ethnically. That applies as well to Latinos.

One of the things we found out in our hearing in Los Angeles was that the Latino community is diverse from the Caribbean, from Central America, from Mexico; Mexican-Americans who have lived in this country for generations, their families.

It is not one solid group and I would say the same thing for Americans of eastern and southern European descent, that there are vast divergencies there as well and those groups have been the subject of discrimination.

I think one of the largest mass lynchings in the South—perhaps the largest mass lynching in the South—occurred in Louisiana and it was Italian-Americans who were the victims of that.

So it is not simply a question of reverse discrimination or the impact of quotas, but I think while that has to be a concern, the concern is even broader than that.

Mr. HYDE. Very good.

Thank you so much.

Mr. EDWARDS. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

I am sorry I was late. I had another meeting. I appreciate you all being here.

To extend Mr. Hyde's question, this may well be justified, but I just can't help but compare the way we do business inside the Beltway as opposed to the way we do business outside the Beltway.

If this were private sector, rather than going from \$7.8 million to \$10.2 million, we would probably be cutting back to around \$5

million. Rather than extending from 90 positions to 120 positions, we would probably reverse that trend.

I just wish we—perhaps we can't do it, but it seems to me that if we could operate the government—and we in the Congress are just as guilty as the different agencies are—we could conduct ourselves here on a daily basis the way the private sector does and have some sort of appreciation for profit margin—as my late grandma used to say, Mr. Chairman, my coffee would taste better of a morning.

I don't know that I will ever see that day. I remain unconvinced that we need to increase it to this extent, that we need to increase these positions to this extent. It may be justified, but I remain Doubting Thomas and I will observe from the sidelines as we develop this from day to day.

Ms. BERRY. I appreciate your comments, Mr. Coble, but let me explain why there was receptivity to this increase. Comparatively, this amount of money will give the Commission something like 40 percent less FTEs than we had in 1986.

The Commission had a budget at that time that was about double what it is now, and in 1987, we took a big hit when the budget was pared down and we haven't had increases since then. The idea was even if we get this increase, we will still be well below what we were in 1986.

So the Commission is one of those agencies in the government that took a big hit at a the time when everybody else was getting increases, our budget was halved. There were some political controversies that led to that reduction. So, while the administration cannot propose we get us back to 1986 levels, it recognizes that civil rights problems have increased, and we are by law required to monitor the EEOC, the Office of Federal Contract Compliance in the Labor Department, all the offices of civil rights in all cabinet departments.

That is why my colleague feels you should either put us out of business or give us enough money to do it because people want to know why we aren't monitoring these agencies. Such reports could help these agencies to be more efficient, to spend the taxpayer's money better. This is the kind of work the Commission used to do; but we don't have the staff to do it.

If we aren't able to produce with these increases, we will be back saying that we weren't able to do it, but that is the idea.

Mr. COBLE. I am concerned about racial tensions in this country. Blacks are to blame, whites are to blame, every group must take its share; but when I hear about people who stand up and spit out sulphur to a crowd that becomes obviously enthusiastic about it, cheering him on, riots, mob riot mentality, it bothers me and I suspect it bothers you.

Ms. BERRY. Oh, sure.

Mr. COBLE. I hope that you all at the Commission, maybe as the "lead dogs," if you will, hopefully can assuage my discomfort to that end. I suspect all of us in this room probably share what I have said.

Ms. BERRY. Absolutely. I have spoken out publicly on the recent controversy that got widely publicized on this issue. The Commission has repeatedly taken positions against such kind of bigotry

and our racial tensions hearings in part are designed to try to air some of the causes and to do something about reducing these tensions that we are so aware of. We will be doing everything we can to try to indicate that this kind of activity as well as that kind of response is absolutely reprehensible.

Mr. COBLE. Thank you.

Mr. EDWARDS. Mr. Canady.

Mr. CANADY. Thank you, Mr. Chairman.

In your testimony, you indicated that the Commission has voted to recommend the existing authorizing statute of the Commission be extended for a six-year term. Was that an unanimous vote of the Commission?

Ms. BERRY. No, it was not. Everyone voted in favor of it except me and I think I abstained. As a matter of fact, I know I abstained.

Mr. CANADY. Any particular reason?

Ms. BERRY. I have been on the Commission a long time through ups and downs. On the one hand, you like long reauthorizations, but on the other hand, I like to stand back and look at the situation as if I am an outsider and I believe that a shorter reauthorization puts more pressure on us to do what we have to do and that that combined with the increase in the budget, which I hope we will get, we will be able to show in a shorter period of time than that whether we are worth it and whether we can do it.

For me during my tenure as chair that puts an additional pressure on me to show the kind of leadership that we would do that. That is what was going on in my mind.

I wouldn't vote against it, because who would be against it, but that is why I abstained. Since you asked me, I will answer it honestly, because I am under oath.

Mr. CANADY. What shorter term would you think might be appropriate?

Ms. BERRY. Gee, I don't know. Something—I have no idea. I guess something shorter than—in my personal view—the Commission wants six years. You are asking for my personal view—

Mr. CANADY. Yes. Your abstaining view.

Ms. BERRY. Probably something shorter than six, but longer than two would be reasonable.

Mr. CANADY. All right. I don't have any other questions.

Thank you.

Mr. EDWARDS. Thank you.

Dr. Berry, you mentioned in your testimony that some readjustment should be made in the organization in that you, I believe you said that there are too many people near the top and not enough people in the trenches doing the work at the Commission.

Now this happened to the FBI in the last couple of years. Their budget was frozen and they weren't able to hire any new special agents, so Mr. Freeh, the new Director, readjusted by taking nearly a thousand agents out of headquarters where he felt they were sitting at desks and supervising more than doing the work that street agents of the FBI are supposed to do and reassigned them to field work throughout the country. Instead of just asking for more agents.

Now, can you tell the committee what you meant by a top heavy or words to that effect of higher level positions?

Ms. BERRY. Since the Commission is such a small agency and with the cuts that took place in the 1980's, we have people at the high GS level-supervisors, and the low GS level-support staff, but none at the midlevel GS9 through 12—the people who actually do a lot of investigation and monitoring. The Commission needs to fill these positions in order to get the reports out.

Since we are so small—86 people—it wouldn't work to say that we should reassign supervisors. I am saying that with these new resources that we get, we should fill in those ranks of people who actually do that kind of online work that the supervisors manage and we will be more productive.

We may need a few more support staff but filling in the middle is the primary reason for the increase.

Mr. ISHIMARU. We have been looking at the management structure of the agency trying to figure out if we can do more with less. I have learned since I got there two months ago that there is a certain amount of infrastructure that needs to take place to pay people on time, to get Xerox paper and things like that.

The bulk of our increase if we get it for next year would go to the General Counsel's Office and to the Office of Civil Rights Evaluation that would look at Federal enforcement efforts. They would be worker bees, people out doing the work.

We are also looking at our structure now and trying to figure out if we have too many supervisors and not enough workers. There are some remnants of that still in the agency that stems from the cutbacks in the mid-1980's.

Ms. BERRY. I guess I believe that you can manage, a supervisor could manage more people, that you don't need to have 5 or 6 supervisors each managing 2 or 3 or 4 people.

I have run a university. I have run a big Federal agency with a \$13 billion budget, so I have managed. It seems to me that we could have some efficiencies there, do consolidation of the management. I think the Commissioners understand that.

So the idea is not simply get additional resources and have everybody produce less or the same amount; the idea is to try to get more done and the overall goal which is to be helping the agency be more efficient in enforcing civil rights, and second for us to be more efficient and knowledgeable in making recommendations that will help the country and will help the officials to do their jobs so that we can alleviate this discrimination problem and create greater opportunities. So That is the idea.

Mr. EDWARDS. Does each Commissioner have an assistant or some staff member assigned to him or her?

Ms. BERRY. Yes. Each Commissioner has an assistant. This is in the appropriations language.

Mr. ISHIMARU. It is allowed by the appropriation language.

Mr. EDWARDS. How much do they get paid?

Mr. ISHIMARU. They get paid from a GS-11 to a GS-13.

Mr. EDWARDS. They are civil service employees?

Mr. ISHIMARU. Yes. They are schedule C political appointees. Each member has the opportunity to appoint a political appointee to serve as their confidential assistant.

Mr. EDWARDS. Mr. Anderson, do you have one?

Mr. ANDERSON. Yes, I do.

Mr. EDWARDS. How much does this person get paid?

Mr. ANDERSON. I should be able to tell you that precisely, but I think it is a level of GS-11 or GS-12. He is a part-time employee. He is a professor of law at George Mason University.

Mr. EDWARDS. Does he work full-time with you?

Mr. ANDERSON. No, he is part-time with me.

Mr. EDWARDS. Do you know how much he gets, Stuart?

Mr. ISHIMARU. Let me check on the level for him.

Mr. EDWARDS. What contributions do these assistants make? Do they write papers? Do they—what do they do?

Ms. BERRY. Well, each Commissioner uses their special assistant in whatever way they choose to use the person. All the special assistants, to my knowledge, are full-time, except yours, Mr. Anderson, who is part-time; is that right?

Mr. ANDERSON. Yes.

Ms. BERRY. And mine, who is part-time. My special assistant helps to write speeches, arranges things that I have to do for the Commission and keeps track of that. He works part-time because he is a graduate student at the university here.

Mr. EDWARDS. How much does he get paid?

Ms. BERRY. He is a GS-13 part-timer. I don't know how much he gets. He is a Ph.D. student.

Mr. EDWARDS. I think you have 51 State Advisory Committees. Does each one have a permanent employee or two?

Ms. BERRY. No. The State Advisory Committees are supported by regional offices and the regional office has a regional director who is a longtime civil servant senior level Commission employee.

Mr. EDWARDS. Where are those regional offices?

Ms. BERRY. In Kansas City, Los Angeles, New York, here in Washington and—did I miss one?

Mr. ISHIMARU. Chicago, Atlanta, Denver. There are six.

Mr. EDWARDS. How many employees in the regional offices?

Mr. ISHIMARU. It ranges, Mr. Chairman, from 5 or 6 in the larger offices to three in the smaller offices. The Washington office has 5 full-time employees, the Kansas City office has 5 full-time employees; the Los Angeles office has 6; the Atlanta office has 3; the Denver office has 3; and the Chicago office has 3.

Mr. EDWARDS. How do you know what they are doing?

Mr. ISHIMARU. There are regional directors posted in each office, for the most part, longtime employees of the Commission. At one point in the early eighties we had 10 regional offices around the country.

During the cutbacks in the mid-eighties, the regional office structure shrunk from 10 to 3. We had regional offices in Los Angeles and Kansas City as well as in Washington. A number of years ago, three regional offices were opened up to try to deal with the vast number of States these offices had to cover. But they are stretched thin.

Each State does not have a person, a staff person to staff the office. I just got out of a meeting with the regional directors yesterday, and they told me that their folks were stretched very, very thin; that some offices had coverage of up to six States, which they felt was unmanageable, to support the State Advisory Committees.

Mr. EDWARDS. Do they write reports to you?

Mr. ISHIMARU. The regional offices write reports for the State Advisory Committees that are put in front of the main Commission for their consideration. But they send in monthly reports to me as well, talking about the civil rights activity in the area, yes.

Mr. EDWARDS. So they send you monthly reports so that you can see what they are doing?

Mr. ISHIMARU. The regional offices and the State Advisory Committees serve as our eyes and ears so we have a better feel for what is going on throughout the country. It is a valuable resource.

Mr. EDWARDS. What do they do all day—wait for complaints to come in?

Ms. BERRY. You better not answer that Stuart because you don't know. We assume they are compiling information for the monthly reports, and will alert us if anything is going on there that we should do something about, and that they are keeping in touch with their State Advisory Committees and chairs about the reports. That is what we hope and expect they are doing.

Mr. EDWARDS. It seems to me that you should have inspectors and an inspector too that is constantly traveling around inspecting the operation of these offices, but you don't have?

Ms. BERRY. We don't have at present, no.

Mr. ISHIMARU. We do not.

Mr. HYDE. How many people in the Chicago office?

Mr. ISHIMARU. 3: A regional director, a civil rights analyst and a support person. So there are 3 physical bodies in the Chicago office and that covers the region around Chicago that actually conforms to the typical Federal region in the Midwest.

Mr. HYDE. Would you send me a paper listing the addresses of each of the regional offices?

Mr. ISHIMARU. Absolutely.

Mr. EDWARDS. I think we all agree that we should be doing better in civil rights. We have these lawsuits going on in public housing where African-Americans have been excluded and they laboriously have to go through lawsuits to integrate public housing where the taxpayers are providing the housing. On something like that—is that in Texas?

Ms. BERRY. Yes.

Mr. EDWARDS. Does your Texas office or your office have anything to do with that? Did you try to monitor it?

Mr. ISHIMARU. I believe our Kansas City office, the Los Angeles office which has jurisdiction over Texas, was monitoring the situation. They were not directly involved. That office in the western region covers from Texas to Hawaii, and up to Alaska as well. It covers a very large region of the country but they have been monitoring the situation in Texas.

Mr. EDWARDS. There has been quite a lack of communication between the Commission and this subcommittee over the past few years because—I regret that because we are supposed to be doing oversight over the Federal agencies and their employment practices and their discrimination against people because of the statutory provisions of the civil rights laws.

Do you think that we can get a lot better communication with you, Dr. Berry?



Ms. BERRY. I certainly hope so. I have been at this and been on the Commission since 1980 and been in the Federal Government even before that and dealing with this committee and going through all the ups and downs at the Commission, and I certainly believe in a relationship that exchanges information so that we might all do a better job in helping to make the enforcement effort more efficient and creating opportunities. So I am looking forward to this chance to sort of implement some of the things I have always wanted to do.

Mr. EDWARDS. Do you have a press office?

Ms. BERRY. Yes, we do.

Mr. EDWARDS. Is this person a civil service person?

Ms. BERRY. They are civil service people. There is a press—the guy who runs the office—he is the chief, Mr. Rivera is called chief, and then he has how many people—

Mr. ISHIMARU. There are three people total, two professional people as well as—

Mr. EDWARDS. From the press releases that I read, Mr. Hyde and I think my other colleagues, they are not getting in the newspapers.

Ms. BERRY. Right.

Mr. EDWARDS. Would you agree?

Ms. BERRY. I agree. When I mentioned earlier that we needed to have a fast-response system, a better fast-response system, there are things that happen every day, and over the years I have said without success that when something happens and we already have a body of information about almost every issue you can imagine built up over time, that we ought to be able to generate some helpful response to that situation on something that we suggest or could do that we should get out to the public right away.

You have to do it when people need it, and we haven't done that. I am hoping that we will be able to do that so that people can feel the presence of this organization that they pay for when it tries to help on issues that are out there.

So I quite agree that that is what we ought to do.

Mr. EDWARDS. Mr. Hyde?

Mr. HYDE. I have no further questions.

Mr. CANADY. No further questions, Mr. Chairman.

Mr. EDWARDS. Well, thank you very much. We are looking forward to a much more active Civil Rights Commission. It might sound like not much money to a lot of people, but it sounds like a lot of money to me and to all of us that you are going to be spending, although we haven't decided what amount we are going to authorize yet for next year and send on to the Appropriations Committee.

But I think we have a long way to go in civil rights in this country and we need lots of ideas, we need lots of communication from you experts who are men and women of goodwill. So thank you very much for appearing today and unless my colleagues have any more questions, we will conclude.

Thanks.

Ms. BERRY. Thank you very much, Mr. Chairman.

Mr. EDWARDS. The subcommittee is adjourned.

[Whereupon, at 11:20 a.m., the subcommittee was adjourned.]

**A P P E N D I X**

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**MATERIAL SUBMITTED FOR THE HEARING**

**UNITED STATES  
COMMISSION ON CIVIL RIGHTS**

**REQUEST  
FOR APPROPRIATION**

**FISCAL YEAR 1995**





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

OFFICE OF STAFF DIRECTOR

February 22, 1994

The Honorable Neal Smith  
Chairman, Subcommittee on Commerce, Justice,  
State, the Judiciary and Related Agencies  
Committee on Appropriations  
United States House of Representatives  
The Capitol Building, Room H-309  
Washington, D.C. 20515-1504

Dear Mr. Chairman:

I am pleased to transmit the FY 1995 budget request for the United States Commission on Civil Rights, totaling \$10,200,000 and 120 full time equivalent (FTE) work years. The appropriation for FY 1994 is \$7,776,000, supporting 90 FTEs. The FY 1995 estimate represents an increase of \$2,424,000 and 30 FTEs over the agency's FY 1994 appropriation.

Since 1957, the Commission on Civil Rights, an independent bipartisan agency, has been charged with identifying the underlying causes of discrimination in our Nation, recommending solutions, and issuing reports to the President and the Congress. The Federal civil rights and equal opportunity laws were enacted to guarantee equal access so that each individual can fully participate in the Nation's economic, legal and social benefits. To ensure that these laws will be rigorously enforced, the Commission is focusing a significant portion of its resources on the evaluation of Federal civil rights enforcement efforts. In FY 1995, with your endorsement of increased staff, the Commission will conduct two major enforcement studies. One will evaluate the Federal government's effort to eliminate employment discrimination through an examination of the policies and procedures of the Equal Employment Opportunity Commission and the Department of Justice. The second study will evaluate the efforts of the Department of Education and its Office for Civil Rights to enforce a variety of laws mandating equal education opportunity, with particular attention to education offered to language-minority children, programs provided to children with disabilities, equal educational opportunity for girls, and the ability tracking of minority children.

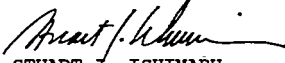
In FY 1995, the Commission will complete the series of factfinding hearings on the national crisis in **Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination**. The Commission will conduct a hearing in the lower Mississippi Delta Region. This hearing is expected to cover issues such as the

impact of State financing on public education, the remaining vestiges of segregation in higher education, voting rights, health care, and housing. In FY 1995 the Commission will issue statutory reports, with findings and recommendations, on the New York and Miami hearings that will be held in FY 1994. The agency will also issue a summary report on the racial and ethnic tensions hearings, held in the urban communities of Washington, D.C., Chicago, Los Angeles, New York, and Miami. This report will examine common causes, as well as distinguish differences, in the way such tensions were dealt with in these different urban communities.

There will be a small increase in the Regional program staff to enhance our support for the Commission's 51 State Advisory Committees. The goal will be for each Advisory Committee to conduct two or more meetings annually, many of which will be factfinding. Project reports will be issued on a broad range of State and local civil rights issues.

This requested increase reflects an inflation adjustment for personnel and nonpersonnel costs. This FY 1995 appropriation request demonstrates the Commission on Civil Rights' strong commitment to carrying out its statutory mandate.

Sincerely,



STUART J. ISHIMARU  
Acting Staff Director

Enclosure



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

OFFICE OF STAFF DIRECTOR

February 22, 1994

The Honorable Ernest F. Hollings  
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Committee on Appropriations  
United States Senate  
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Washington, D.C. 20510

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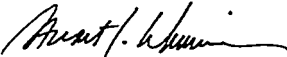
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**UNITED STATES COMMISSION ON CIVIL RIGHTS**

**TABLE OF CONTENTS**

**SUMMARY OF CHANGES**

	<b>Page(s)</b>
General Statement . . . . .	1-2
Legislative Authorization of the Commission . . . . .	3-4
Explanation of Total Increase and Appropriation	
Language . . . . .	5
Summary of Changes . . . . .	6

**TABLES and SCHEDULES**

Program and Financing . . . . .	7
Object Classification . . . . .	8
Personnel Summary . . . . .	9
Detail of Permanent Positions . . . . .	10

**NARRATIVE JUSTIFICATIONS**

Introduction . . . . .	11-12
Investigations . . . . .	13-17
Federal Program Evaluation . . . . .	18-23
State Advisory Committees . . . . .	24-25
National Clearinghouse . . . . .	26-27

## GENERAL STATEMENT

The Commission, as established in 1957, has a broad-ranging mandate to monitor and report on the status of civil rights' protections in the United States. As an independent, bipartisan, factfinding agency of the Federal Government, the Commission reports to the President, the Congress and the public on civil rights protections and issues.

The charter establishing the agency mandates that the Commission investigate allegations that certain citizens are being deprived of their right to vote by reason of their color, race, religion, sex, age, disability, or national origin, or by reason of fraud.

Second, the Commission is required to study and collect information on legal developments, or developments in the administration of justice, that constitute discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin. This second function is also the basis for the Commission's studying and collecting information on developments that generally constitute discrimination or denial of the equal protection of the laws.

Third, the Commission is charged with appraising, evaluating and reporting on the effectiveness of the statutes and policies of the Federal Government with respect to discrimination or denial of equal protection of the laws under the Constitution.

The Commission is required to serve as a national clearinghouse of information on civil rights, especially on discrimination and denial of equal protection of the laws, including, but not limited to, the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice. Finally, the Commission is mandated to issue reports to the President and the Congress on civil rights issues under its jurisdiction.

Eight Commissioners, four appointed by the President and four appointed by the Congress, determine the policy direction for the agency. A full-time Staff Director, appointed by the President with the concurrence of a majority of the Commission, is responsible for the day-to-day conduct and administration of the Commission's operations.



The work of the Commission is supported and enhanced by the 51 State Advisory Committees (SACs) (including one in the District of Columbia) which serve as the "eyes and ears" of the national Commission at the State and local levels. SAC reports and briefing memoranda are included in the itemization of the Commission's research and information gathering activities. Additionally the SACs monitor potential and actual threats to civil rights at the State and local levels, and disseminate information contained in Commission and State Advisory Committee reports.

The Commissioners of the Commission on Civil Rights are responsible for determining the program direction and agenda for the Agency. The Commission will continue to focus its resources on the conduct of a series of factfinding hearings in various geographical locations. These will result in a series of statutory reports containing findings and recommendations. Priority program emphasis will also be placed by the Commission on studies of Federal civil rights enforcement and related monitoring activities.

## LEGISLATIVE AUTHORIZATION OF THE COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is an independent, bipartisan agency, originally established by the Civil Rights Act of 1957 (P.L. 85-315). Public Law 95-444 extended the life of the Commission through Fiscal Year 1983 and extended the Commission's jurisdiction to include discrimination because of age and handicap. The Commission was reestablished for a six-year term by the United States Commission on Civil Rights Act of 1983 (P.L. 98-183). The Commission was reauthorized and extended for 22 months through FY 1991 (P.L. 101-180). The Commission was most recently reauthorized and extended through the end of FY 1994 by the United States Commission on Civil Rights Reauthorization Act of 1991 (P.L. 102-167).

The duties of the Commission, as enumerated in Sections 5 (a), (c), and (f) of P.L. 98-183, as amended by P.L. 102-167, are as follows:

"Section 5 (a) The Commission shall ---

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(4) serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice; and

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of the Presidential electors, Members of the United States Senate, or the House of Representatives, as a result of any

patterns or practice of fraud or discrimination in the conduct of such election.

Section 5 (c) The Commission shall ...

submit reports to the Congress and the President at such times as the Commission, the Congress, or the President shall deem desirable.

Section 5 (f)....The Commission shall ...

submit at least one annual report that monitors Federal civil rights enforcement efforts in the United States to Congress and to the President."

**UNITED STATES COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES**

Congressional Appropriation for FY 1994.....	\$7,776,000
Budget and Estimate for FY 1995.....	\$10,200,000
	—————
Program Increase.....	\$ 2,424,000

**APPROPRIATION LANGUAGE  
FEDERAL FUNDS**

**General and Special Funds:**

Salaries and Expenses

For expenses necessary for the U.S. Commission on Civil Rights, including hire of passenger motor vehicles, [\$7,776,000] \$ 10,200,000. (The Departments of Commerce, Justice, State, the Judiciary and Related Agencies Appropriations Act.)

UNITED STATES COMMISSION ON CIVIL RIGHTS  
SUMMARY OF CHANGES

		FY 1995 Request
	Full-time Equivalent Employment	Amount
<b>SUMMARY OF CHANGES:</b>		
Appropriation FY 1994.....	90	\$7,776,000
<hr/>		
<b>ADJUSTMENTS TO BASE AND BUILT IN CHANGES:</b>		
<hr/>		
Nonrecurring Costs:		
Benefits for former personnel		...
Adjustments for inflation for personnel and nonpersonnel costs.....		637,000
Total Adjustment to Base.....		<hr/> 637,000
FY 1995 Base.....		\$8,413,000
 <b>PROGRAM INCREASES:</b>		
<hr/>		
Personnel compensation and benefits.....	30	\$1,291,000
Program increases for nonpersonnel object classifications related to personnel changes.....		496,000
Total Program Increase.....	<hr/> 30	<hr/> 1,787,000
Total Appropriation Requested	120	\$10,200,000

SF 300

COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES

## PROGRAM AND FINANCING (in thousands of dollars)

Identification Code 95-1900-0-1-751	1993 ACTUAL	1994 ESTIMATE	1995 ESTIMATE
<b>Program by activities:</b>			
00.01 Direct program.....	7,743	7,776	10,200
01.01 Reimbursable program.....	...	...	...
<b>10.00 Total obligations.....</b>	<b>7,743</b>	<b>7,776</b>	<b>10,200</b>
<b>Financing:</b>			
25.00 Unobligated balance lapsing.....	33	...	...
<b>39.00 Budget authority .....</b>	<b>7,776</b>	<b>7,776</b>	<b>10,200</b>
<b>Budget authority:</b>			
<b>40.00 Appropriation.....</b>	<b>7,776</b>	<b>7,776</b>	<b>10,200</b>
<b>Relation of obligations to outlays:</b>			
71.00 Obligations incurred net.....	7,743	7,776	10,200
72.40 Obligated balance, start of year.....	1,311	1,034	1,034
74.40 Obligated balance, end of year.....	-1034	-1034	-1357
77.00 Adjustments in expired accounts.....	...	...	...
<b>89.00 Outlays.....</b>	<b>8,020</b>	<b>7,776</b>	<b>9,877</b>

S3648

COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES

Object Classification (in thousands of dollars)

Identification Code 95-1900-0-1-751	1993 ACTUAL	1994 ESTIMATE	1995 ESTIMATE
Personnel Compensation			
11.1 Full-time permanent.....	3,700	4,134	5,708
11.3 Other than full-time permanent.....	546	412	376
11.5 Other personnel compensation.....	122	50	52
11.9 Total personnel compensation	4,368	4,596	6,136
12.1 Personnel benefits: Civilian.....	760	811	1,114
13.0 Benefits for former personnel.....	29	8	...
21.0 Travel & transportation of persons..	360	302	528
22.0 Transportation of things.....	21	23	25
23.1 Rental payments to GSA.....	979	1,040	1,070
23.2 Rental payments to others.....	52	81	79
23.3 Communications, utilities, and miscellaneous charges.....	172	235	270
24.0 Printing and reproduction.....	113	120	220
25.0 Other services.....	629	420	467
26.0 Supplies and materials.....	163	110	156
31.0 Equipment.....	97	30	135
99.0 Subtotal, direct obligations.....	7,743	7,776	10,200
99.9 Total obligations.....	7,743	7,776	10,200

COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES

Personnel Summary

Identification Code 95-1900-0-1-751	1993 ACTUAL	1994 ESTIMATE	1995 ESTIMATE
Total number of full-time permanent positions.....	84	86	117
Total compensable workyears:			
Full-time equivalent employment.....	88.00	90.00	120.00
Full-time equivalent of overtime and holiday hours.....	...	...	...
Average ES salary.....	94,559	106,219	110,212
Average GS grade.....	10.92	11.02	10.63
Average GS salary.....	43,033	45,792	35,059



UNITED STATES COMMISSION ON CIVIL RIGHTS  
SALARIES AND EXPENSES

DETAIL OF PERMANENT POSITIONS

	1993 ACTUAL	1994 ESTIMATE	1995 ESTIMATE
ES-6.....	1	1	1
ES-5.....	1	1	1
ES-4.....	2	2	2
ES-1.....	1	1	2
Subtotal.....	5	5	6
GS-15.....	13	13	13
GS-14.....	7	7	7
GS-13.....	13	15	15
GS-12.....	11	12	20
GS-11.....	9	8	16
GS-10.....	...	...	...
GS-9.....	6	6	11
GS-8.....	2	2	4
GS-7.....	6	7	10
GS-6.....	3	1	3
GS-5.....	7	8	9
GS-4.....	2	2	3
Subtotal.....	79	81	111
Ungraded.....	...	...	...
Total permanent positions.....	84	86	117
Unfilled positions, end of year....	-4	-1	...
Total permanent employment end of year.....	80	85	117

## INTRODUCTION

### ACCOMPLISHMENTS FOR FISCAL YEAR 1993

In Fiscal Year 1993 the Commission began its second full year on issues related to rising **Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination**. This 3 to 5-year agenda, established by the Commissioners in February 1991, continued to focus the Commission on this important situation. The projected hearings, briefings, and statutory reports aim to bring national attention to the crisis in racial and ethnic tensions in American society, with potential serious adverse impact on the Nation's economic and social future. Enforcement studies and monitoring activities continued to be a high priority for the Commission. State Advisory Committees' activities in Fiscal Year 1993 continued with some carrying out projects in conjunction with the national program area. Each SAC functioned at the same reduced level of one to two meetings per year, as in Fiscal Year 1992, due to the limited Fiscal Year 1993 funding level. Finally, because the appropriation for Fiscal Year 1993 did not cover cost of living adjustments and inflation for current levels, as well as costs associated with the relocation of Washington, D.C., the absorption of these costs necessitated the curtailment, postponement and in some instances the cancellation of previously approved projects.

### PLANS FOR FISCAL YEAR 1994

In Fiscal Year 1994 the Commission will continue the series of factfinding hearings on the rising crisis in **Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination**. The goal of these hearings is to identify and break down the discriminatory barriers that inhibit access to economic opportunity, education, housing, social services, administration of justice, health services, and transportation. As a followup to the hearings already conducted in Washington, D.C., and Chicago in Fiscal Year 1992 and the one held in Fiscal Year 1993 in Los Angeles, the Commission will conduct hearings in New York City and Miami in Fiscal Year 1994.

The Nation's civil rights and equal opportunity laws have been designed to guarantee equitable access to each member of society so that all can participate fully in the economic, legal, and social benefits of the United States. The program initiative that the Commission is undertaking parallels the administration's bold initiative to "invest in the future" because the enforcement of the Nation's civil rights laws must be an integral part of its economic and social programs. In Fiscal Year 1994, the Commission will focus its monitoring and evaluation efforts on two areas of Federal civil rights enforcement programs. One will be an analysis of the resources allocated in the administration's Fiscal Year 1995 budget for Federal civil rights enforcement; the other study will examine the enforcement of Title VI of the Civil Rights Act of 1964 for federally assisted programs and projects.

Regional programs and State Advisory Committee activities will continue at the same level in Fiscal Year 1994. Thus, each Advisory Committee will conduct one to two meetings, for factfinding and other purposes. Reports of projects will be issued on a broad range of civil rights issues of concern at the State and local level.

#### PLANS FOR FISCAL YEAR 1995

In Fiscal Year 1995 the Commission will complete the series of factfinding hearings on the national crisis in **Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination**. During this fiscal year, the Commission will hold a factfinding hearing in the Lower Mississippi Delta and issue reports on the New York and Miami hearings that were held in Fiscal Year 1994. The proposed staffing increase, contained in our Fiscal Year 1995 budget request, will also permit the agency to monitor and report to the President and the Congress on emerging legislative, regulatory, and judicial developments.

The Commission will continue to pursue an active monitoring and evaluation program of Federal civil rights enforcement efforts. During Fiscal Year 1995, with increased staff, the Commission will conduct two enforcement studies. One will evaluate the Federal Government's effort to eliminate employment discrimination through an examination of the policies and enforcement procedures of the Equal Employment Opportunity Commission and the Department of Justice. The second study will evaluate the efforts of the Department of Education and its Office for Civil Rights to enforce a variety of laws mandating equal educational opportunity. There will be particular attention given to education offered to language minority children; to programs provided to children with disabilities; to girls; and to tracking of minority children.

Regional programs and State Advisory Committee activities will increase with the proposed small addition of staff. The goal will be for each Advisory Committee to conduct a minimum of two meetings annually, many of which will be factfinding. Project reports will be issued on a broad range of State and local civil rights issues.

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**INVESTIGATIONS, HEARINGS, LEGAL ANALYSIS,  
AND LEGAL SERVICES**

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The goal of the Commission's investigations, hearings, and other related efforts is to provide information and recommendations to the President, the Congress, and the public regarding denials of civil rights and equal protection of the law because of race, color, religion, national origin, age, disability, or sex, or in the administration of justice. This is done primarily by the Office of General Counsel through reports and statements based on legal studies and factfinding investigations, which include hearings. Legal services include providing advice to the Commissioners and Commission staff on legal issues and other matters pertaining to the ongoing operations of the Commission and ensuring that these operations remain within the scope of the Commission's statutory jurisdiction and applicable Federal law. All Commission and State Advisory Committee reports are reviewed for legal sufficiency prior to publication.

**ACCOMPLISHMENTS IN FISCAL YEAR 1993****Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—Volume One, The Mount Pleasant Report**

In January 1993 the Commission released the report on *Racial and Ethnic Tensions in American Communities: Poverty, Discrimination, and Inequality—Volume One, The Mount Pleasant Report*. The report is based on a hearing held in January 1992 on the underlying causes of the rioting that took place in May 1991 in Mt. Pleasant, the largest Latino community in Washington, D.C. The report focused on immigration issues, police-community relations, employment opportunities, education, and the delivery of services by the District of Columbia government. The Commission's then-Chairperson presented testimony to the City Council of the District of Columbia on the Commission's Mt. Pleasant report.

**Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—The Los Angeles Hearing**

The Commission held a 3-day factfinding hearing on the resurgence of racial and ethnic tensions in Los Angeles. This hearing, which received extensive media coverage, took place in June. It focused on both police-community relations issues and economic development issues in the city of Los Angeles and their impact on the increase of racial and ethnic tensions. Approximately 150 witnesses testified during the hearing.

### Media Project

Because of budgetary constraints in Fiscal Year 1993, the Commission could not continue its study of the portrayal of minorities and women by entertainment television, and of employment patterns of minorities and women in the entertainment television industry, as originally envisioned.

An abbreviated examination of this issue was integrated into the Commission's 3-day hearing in Los Angeles concerning **Racial and Ethnic Tensions in American Communities**. A series of panels on the third day of the hearing focused on how African Americans, Hispanics, Asian Americans, and Native Americans are being covered by local television news organizations and portrayed on national entertainment television programming. Testimony was also gathered concerning local news coverage during the 1992 Los Angeles riots, employment and promotion practices at local television stations and Hollywood studios, and involvement of people of color in the development and production of primetime television entertainment series.

### Additional Activities

#### *Briefing on Voter Representation in the District of Columbia*

During March 1993, the Commission held a briefing on the issue of voter representation and statehood for the District of Columbia. A wide range of positions on this issue were presented by local and Federal officials and private citizens.

#### *Administration of Justice--Deaths in Mississippi*

As a result of complaints received by the Commission about suicides in prisons in Mississippi, the Commission wrote to the Attorney General, requesting that the Department of Justice reopen investigations of these events. The Department has since reopened these investigations.

### **PLANS FOR FISCAL YEAR 1994**

#### **Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination--Volume Two, The Chicago Report**

The Commission will issue a report containing findings and recommendations based on the 3-day hearing held by the Commission in Chicago in June 1992. The report will analyze police policies, civilian review, and the processing of police misconduct complaints. The economic section of the Chicago report will focus on policy issues related to minority access to credit and business development.

### National Perspectives on Racial and Ethnic Tensions--Clearinghouse Report

The Commission will issue a report on the national perspectives hearing held in May of 1992 in Washington, D.C. It will be a clearinghouse report designed to familiarize the general public with the nature of the wide range of issues related to the causes of and solutions to racial and ethnic tensions discussed at this hearing. Over 35 experts testified on such topics as hate incidents, changing demographics, multiculturalism, socioeconomic factors, financial and banking industry practices, the Community Reinvestment Act, and civil rights.

### Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination--Volume Three, The Los Angeles Report

During Fiscal Year 1994, the Commission will publish a report on the Los Angeles hearing. This report will examine police-community relations and the progress of reforms made in the aftermath of the 1992 riots. The report will also examine economic development issues, as well as media issues.

### Media Project

The June 1993 Commission hearing in Los Angeles included several panels addressing issues related to the portrayal of people of color on prime-time entertainment television series, and the employment of people of color in the television industry. The findings and recommendations will be included in the report on the Los Angeles hearing.

### Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination--Hearings in New York and Miami

During Fiscal Year 1994 the Commission will hold a hearing in New York City on the resurgence of racial tensions in that city. Topics that will be covered during this 3-day hearing include administration of justice, economic development, and immigration. The Commission plans to also hold a hearing on racial tensions in Miami.

### Commission Briefings

Because other important civil rights issues and topics do not fit easily into the agency's current investigative and monitoring priorities, they may ordinarily receive only passing attention by the Commissioners as a collective body during any program year. To address this concern, a series of briefings by outside experts was scheduled for the Commissioners in conjunction with regular Commission meetings.

Briefings completed or scheduled for Fiscal Year 1994 include:

- Racial and Ethnic Breakdowns in Census Income Data
- Economic Empowerment of Inner-City Residents
- Religious Civil Rights Issues
- The Civil Rights Dimension of Health Care Reform
- Enforcement of the Americans with Disabilities Act
- Immigration and Civil Rights

#### PLANS FOR FISCAL YEAR 1995

##### Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination—Volume Four, The New York Report

The Commission will issue a report based on a hearing that will be held in New York during Fiscal Year 1994. The 3-day hearing will study three critical civil rights issues: administration of justice, economic development, and immigration:

##### Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination—Volume Five, The Miami Report

This report will include findings and recommendations based on a hearing that will be held in Miami during Fiscal Year 1994.

##### Summary Report on Racial and Ethnic Tensions in American Urban Communities

The Commission will prepare a summary report recapitulating the findings and recommendations contained in the geographic-specific reports on the racial and ethnic tensions between the majority and minority populations, as well as between various minority populations, in large urban centers. This summary report will examine common causes, as well as distinguish differences, in the way such tensions were experienced and dealt with in the different communities examined.

##### Racial and Ethnic Tensions in American Rural Communities: Poverty, Inequality and Discrimination—Hearing in The Mississippi Delta

The Commission will examine racial and ethnic tensions in a different setting, moving from urban to rural. A hearing will be held in the Lower Mississippi Delta. This hearing will address issues such as the impact of State financing on public education, and the remaining vestiges of segregation in higher education. Other issues to be addressed at this hearing include health care, housing, and voting rights.

**Legislative, Regulatory, and Judicial Developments**

In addition, the Commission will monitor, more extensively, legislative, regulatory, and judicial developments in the area of civil rights. Systematic monitoring will allow the Commission to make indepth analyses in selected areas.

**Commission Briefings**

The series of briefings begun in Fiscal Year 1994 will be continued during Fiscal Year 1995.



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**FEDERAL PROGRAM EVALUATION AND OTHER MONITORING ACTIVITIES**

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The goal of the Commission's enforcement studies and related efforts is to provide information and make recommendations to the President and the Congress on the efforts of the Federal Government to ensure against the denials of civil rights because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. To accomplish this, the Commission monitors and analyzes the civil rights activities of Federal agencies.

The Office of Civil Rights Evaluation (OCRE) is ultimately responsible for monitoring and evaluating the 14 Executive Departments and 27 other Federal agencies as their operations relate to civil rights. These activities are intended to enable the Commission to participate proactively in formulating Federal civil rights policies, to promote effective coordination of interagency and intergovernmental enforcement activities, and to ensure that civil rights laws are aggressively and efficiently enforced. In addition to these responsibilities, OCRE receives and refers thousands of complaints of civil rights violations to appropriate enforcement agencies each year.

**ACCOMPLISHMENTS FOR FISCAL YEAR 1993****Enforcement Activities Relating to Federally Assisted Transportation Projects**

In June 1991, the Commission held a forum in Colorado to gather information about allegations of discrimination against minorities and women in awarding construction contracts and in employment arising from the construction of the multibillion dollar Denver International Airport. Based on the results of this forum, the Commission initiated monitoring of Federal civil rights enforcement efforts at the new Denver International Airport and, generally, Federal enforcement relating to public works construction projects.

A report on this monitoring effort, *Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects*, was released by the Commission in January 1993. It provides preliminary findings on the performance of the Departments of Transportation (Office of the Secretary and Federal Aviation Administration) and Labor (Office of Federal Contracts Compliance Programs) in enforcing Title VI of the Civil Rights Act of 1964, Executive Order 11246, and Transportation's Disadvantaged Business Enterprise program. Transportation Secretary Peña has initiated a review of whether the Department of Transportation's Title VI enforcement efforts need to be enhanced.

**A Comparative Analysis of Title 29 C.F.R. Part 1614 and the Federal Employee Fairness Act**

The Commission analyzed the Equal Employment Opportunity Commission's new regulations, 29 C.F.R. Part 1614, and House and Senate bills proposing the Federal Employee Fairness Act (S. 404/H.R. 1111). Both are designed to strengthen the government's system for processing Federal employee discrimination complaints under Title VII, but take very different approaches. The Commission's analysis evaluated the relative merits of these two approaches in terms of dealing with problems of fairness, conflict of interest and timeliness in the Federal EEO complaint process. A staff report entitled, *Equal Employment Rights for Federal Employees*, was released in August 1993. The Commission testified before the House Education and Labor Subcommittee on Select Education and Civil Rights in support of H.R. 2721, which replaced H.R. 1111 and incorporated several of the Commission's recommendations.

**The Validity of Testing in Education and Employment**

This report was delayed for presentation to the Commissioners until early Fiscal Year 1993 due to budget and staff constraints. The report, *The Validity of Testing in Education and Employment*, which was based on a consultation held in June 1989 on the use of testing in education and employment, summarizes the research and views of experts on appropriate methods of test development to avoid racial, ethnic, and gender bias. The report was released in Fiscal Year 1993.

**Fair Housing Amendments Act of 1988: The Enforcement Report**

Substantial work was completed in Fiscal Year 1993 on a report evaluating enforcement of the Fair Housing Amendments Act of 1988 by the Department of Housing and Urban Development (HUD) and the Department of Justice. Topics addressed in the report include the implementation by HUD of the new system of adjudicating complaints before administrative law judges; the prosecution of complaints by the Justice Department in which a party elected a Federal jury trial; substantive policies interpreting the law pursued by each department in guidance and procedures, regulations, and legal opinions; the administration by HUD of programs assisting State, local, and nonprofit groups engaged in fair housing enforcement, outreach, and education; and resources provided for fair housing enforcement. The report will be issued in Fiscal Year 1994.

**Monitoring of Federal Civil Rights Enforcement**

OCRE maintains a program to monitor the policies, operations, and impact of Federal civil rights enforcement agencies. This program contributes to planning Commission programs and policies, facilitates communication and coordination with Federal agencies, and enhances the Commission's ability to identify and respond to emerging civil rights issues. During Fiscal Year 1993, the Commission monitored selected enforcement issues in the general areas of

employment, education, economic opportunities in federally assisted programs, and hate crime reporting.

*Title VI.* Monitoring of the enforcement of Title VI of the Civil Rights Act of 1964 (federally assisted programs) revealed widespread deficiencies in policies and practices. These results have prompted the Commission to undertake a major evaluation of Title VI enforcement in Fiscal Year 1994.

*Environmental Justice.* Growing evidence shows that minority populations suffer disproportionately higher health risks resulting from environmental hazards in the air, in the water and in the workplace. Concern that the Federal Government has done little to prevent these conditions and has even participated in discriminating against minorities in administering environmental laws prompted the Commission to begin monitoring enforcement of Federal environmental and applicable civil rights laws. The Commission found that the Environmental Protection Agency had not implemented policies to prevent an inequitable distribution of environmental health risks. Further, EPA had not used Title VI to ensure that its Federal assistance programs affect the environment and health of minority populations in nondiscriminatory ways.

*Media and Hate Crimes.* The Commission was asked to participate in the development of a report required in the current authorizing legislation of the Department of Commerce's National Telecommunications and Information Administration (NTIA). Earlier meetings between Commission staff and NTIA staff resulted in a mutual agreement that the NTIA would draft the report and submit it to the Commission for comment. The draft report concerns the overall topic of the dissemination of hatred and bigotry via computer, electronic mail, fax, and other telecommunications technologies, as well as the depiction of violence in various broadcast media, and the effect of such communications on hate crimes in the U.S. The Commission reviewed the draft report and provided comments.

#### **Briefing on Minority and Female Participation in the Professional Sports Industry**

The Commissioners were briefed on the employment of minorities and women in nonplaying positions by professional basketball, baseball, and football organizations. The Commission was asked to evaluate the affirmative action plans of major league baseball, to hold public hearings on racism and sexism in cities with professional teams, and to research and investigate equal employment opportunity in the major professional sports industry, starting with the 83 professional teams.

Commission staff followed up the briefing through contacts with the Departments of Education and Labor and the Equal Employment Opportunity Commission. Information has been requested from each agency.

**Complaints Referral**

The Commission received over 4,000 written and telephone complaints from individuals alleging civil rights violations nationwide and referred them to the appropriate individual agencies for action. A new automated data processing system was implemented in the last quarter of Fiscal Year 1993. This system greatly expanded data retrieval, storage and reporting capabilities. It will also permit more efficient and intensive tracking of complaints referred by the Commission to Federal agencies.

**PLANS FOR FISCAL YEAR 1994****Fair Housing Amendments Act of 1988: The Enforcement Report**

The report, which evaluates the enforcement of the Fair Housing Amendments Act of 1988 by the Departments of Housing and Urban Development and Justice, will be issued in Fiscal Year 1994. (See narrative description in Accomplishments for Fiscal Year 1993).

**Title VI of the Civil Rights Act of 1964**

This study will examine the civil rights enforcement efforts and activities of several Federal agencies with responsibilities for ensuring nondiscrimination in their federally assisted programs under Title VI of the Civil Rights Act of 1964. Title VI prohibits recipients of Federal assistance from discriminating on the basis of race, color, or national origin in any program or activity.

The study's chief objective is to assess the adequacy of the Federal agencies' Title VI enforcement activities, including their performance in conducting onsite compliance reviews and individual complaint investigations, and their policies regarding compliance standards. The study will focus on the Department of Justice, which is responsible for overseeing enforcement of Title VI, and selected other agencies.

Among other sources of information, the Commission will analyze complaint and compliance review data and the agencies' workloads (e.g., onsite compliance reviews and complaint investigations conducted annually), the allocation of resources to compliance reviews and individual complaint investigations, and the agencies' own goals, plans, and regulations.

In Fiscal Year 1994, the Commission will produce a statutory report with recommendations for enhancing the enforcement of Title VI.

**The Federal Civil Rights Enforcement Budget: Fiscal Year 1995**

The Commission will analyze the Administration's requested Federal civil rights enforcement budget for Fiscal Year 1995, focusing on the budgets of the Equal Employment Opportunity Commission, the Civil Rights Division of the Department of Justice, the Office of Federal

Contract Compliance Programs of the Department of Labor, and the Offices for Civil Rights of the Departments of Health and Human Services and Education. The report will assess whether the resources provided for civil rights enforcement is adequate, specifically considering the responsibilities added by the Americans with Disabilities Act, the Civil Rights Act of 1991, and other recent civil rights legislation.

Data used to develop the report will be obtained directly from the Fiscal Year 1995 budget documents, agency program plans, appropriation requests, performance indicators, program evaluations, congressional testimony, and interviews with agency officials, including Office of Management and Budget and congressional staff.

## **PLANS FOR FISCAL YEAR 1995**

### **Evaluation of Fair Employment Law Enforcement**

This project will evaluate the Federal effort to eliminate employment discrimination through an examination of the policies and enforcement mechanisms of the Equal Employment Opportunity Commission (EEOC) and the Department of Justice (DOJ).

The study will examine the operation of Title VII of the 1964 Civil Rights Act, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Equal Pay Act, and will include all protected classes in the Commission's jurisdiction. One goal is to determine whether each of the enforcement agencies has sufficient staff, resources, and training to carry out its responsibilities; whether its procedures and organization are effective; whether its policies and regulations comport with congressional intent and existing case law; and whether its policies, regulations, or the law require revision or elaboration in order to decrease the incidence and impact of job discrimination. The second goal is to determine whether enforcement measures (i.e., compliance review, investigation, and litigation) taken by the agencies adequately address systemic and individual complaints of discrimination. The third goal is to determine whether the education and enforcement measures taken by the agencies ensure compliance with the laws, specifically whether standards and practices for monitoring consent decrees, settlements, and conciliation agreements are adequate. The fourth goal is to determine whether charge processing by State and local fair employment agencies is of high quality and conforms to EEOC standards. A report will be issued in Fiscal Year 1995.

### **Evaluation of Equal Educational Opportunity Law Enforcement**

This project will evaluate the efforts of the Department of Education and its Office for Civil Rights to enforce a variety of laws mandating equal educational opportunity, with particular attention to the education offered language-minority children, to programs provided to children with disabilities, to equal educational opportunity for girls, and to ability tracking of minority children.

In assessing the Federal Government's commitment to guaranteeing equal educational opportunity, the project would examine the policies and enforcement efforts of the Department of Education (DOEd) pertaining to five major statutes: Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments Act of 1972, Section 504 of the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, and the Equal Educational Opportunity Act of 1974. One goal is to determine whether the DOEd has sufficient staff and resources to carry out its enforcement responsibilities; whether its procedures and organization are effective; whether its policies and regulations comport with existing law; and whether its policies, regulations, or the law require revision or elaboration. The second goal is to determine whether the education and enforcement measures taken by DOEd adequately ensure compliance with the laws, specifically whether DOEd's mandated technical assistance and monitoring standards are adequate. The third goal is to evaluate DOEd's criteria for selecting jurisdictions for onsite compliance reviews and its performance in conducting onsite compliance reviews and individual complaint investigations. The fourth goal is to evaluate DOEd's compliance standards.

The study will focus on five areas that influence the quality and distribution of educational opportunities: (1) the structure of educational programs designed to serve a diverse student population (including mainstreaming and remediation programs); (2) diagnostic and screening procedures for allocating students across alternative educational programs; (3) the allocation of teachers, facilities, and other resources among educational programs; (4) institutional efforts to create a nurturing learning environment for disadvantaged students; and (5) institutional programs to facilitate or encourage the involvement of parents in their children's education.

Under the proposed budget, this project will begin in June 1995 and produce multiple reports during Fiscal Year 1996.

#### **Complaints Referral**

Additional resources will be used to enhance the tracking of complaints referred by the Commission to other Federal agencies. Currently, tracking typically involves little more than ensuring that complaints have been referred to and are being processed by the appropriate agency. In Fiscal Year 1995 the Commission plans to track and evaluate the actions of Federal agencies throughout the processing of referred complaints, from intake to final disposition. Besides giving the complainants better service individually, this tracking system will provide valuable information about Federal civil rights enforcement policies and operations.

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**STATE ADVISORY COMMITTEES**

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The purpose of the State Advisory Committees (SACs) is to provide information and recommendations to the Commission and the public on emerging civil rights issues at the State and local levels. The 51 SACs conduct studies and reviews of a wide variety of civil rights issues, report to the Commission on the results of their studies, and assist in following up on recommendations contained in Commission and Advisory Committee reports. Members of the Advisory Committees are volunteers appointed by the Commission. They are supported by the Commission's six regional offices. The SACs meet for the purposes of program planning, receiving information from scheduled speakers, and reviewing and approving their reports. The SACs also monitor Federal, State, and local agencies and the civil rights implications of their activities and receive complaints from individuals and groups.

**ACCOMPLISHMENTS FOR FISCAL YEAR 1993****State Advisory Committee Activities**

During Fiscal Year 1993, the goal remained for each Advisory Committee to meet twice during the year. Seventy-three meetings were held. Projects and reports focused on a wide range of civil rights issues and included continuing and new projects. Reports published during the year covered access of the minority elderly to health care and nursing homes in New York; public education in Idaho; provisions on sex discrimination in employment in South Dakota; the need for a human relations commission in Alabama; Native American students in special education in North Dakota; policing in Chicago, Illinois; police-community relations in southern West Virginia; race relations in Dubuque, Iowa; stereotyping of minorities by the news media in Minnesota; and campus tensions in Massachusetts.

Other projects included the joint border violence study of the Arizona, California, New Mexico, and Texas Committees; retention of minorities and women in public institutions of higher education in Colorado; implementation of the Americans with Disabilities Act in Delaware; lending practices in the District of Columbia; monitoring of hate crime in Indiana; the status of human rights agencies in Iowa; race relations in western Kansas; hate crimes in Kentucky, Montana, Ohio, and Oregon; police-community relations in Mississippi; racial tensions in Florida, Missouri, Nebraska, North Carolina, South Carolina, and Tennessee; environmental equity in Louisiana; Asian American civil rights issues in Maryland; campus tensions in Connecticut and Vermont; policing in Milwaukee, Wisconsin; employment of minorities and women in Wyoming State government; and the administration of justice in New Jersey.

**Regional Offices**

No regional offices were reopened. Staff in the existing regional offices was not increased over the Fiscal Year 1992 level.

Regional staff, in addition to supporting the State Advisory Committees, also provided support to various national office projects, in particular the Commission's hearing in Los Angeles. Staff also received complaints, assisted in some training and education efforts, and participated in Federal regional activities related to civil rights.

**PLANS FOR FISCAL YEAR 1994****State Advisory Committee Activities**

During Fiscal Year 1994, the goal remains for each Advisory Committee to meet twice a year. The Committees are expected to continue to work on projects started in Fiscal Year 1993, sending to the Commission reports on policing in Milwaukee, hate crimes in various States, racial tensions in several States, and violence along the U.S.-Mexico border, and to begin or continue projects dealing with many other civil rights issues. Because members of the Advisory Committees are appointed for 2-year terms, some projects may be changed and new projects adopted; each Committee chooses its area of study.

**Regional Offices**

No additional regional offices will be opened during Fiscal Year 1994 and no permanent staff members will be added to the existing regional offices.

**PLANS FOR FISCAL YEAR 1995****State Advisory Committee Activities**

Since projects are determined by the 2-year Advisory Committees, information on specific topics to be examined in Fiscal Year 1995 is not available now.

**Regional Offices**

No additional regional offices will be opened in Fiscal Year 1995, but 3 to 4 new staff (civil rights analysts and research-writers) will be added to support regional operations.



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**NATIONAL CLEARINGHOUSE, INFORMATION DISSEMINATION, AND RELATED LIAISON ACTIVITIES**

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The goals of these activities are: (1) to provide the public with a national clearinghouse repository for information concerning denials of civil rights because of race, color, religion, national origin, age, disability, or sex, or in the administration of justice; (2) to keep the public informed about civil rights developments through the distribution of the Commission's reports and publications; and (3) to provide information about civil rights issues and the activities of the Commission to the President, the Congress, organizations interested in civil rights, the media, and the public.

**ACCOMPLISHMENTS DURING FISCAL YEAR 1993****National Clearinghouse Library and Publications Distribution**

The Commission's Robert S. Rankin Civil Rights Memorial Library serves as a clearinghouse of civil rights information and is used extensively by public and private sector organizations and individuals, as well as Commission employees, who are conducting research. This is the largest civil rights library in the nation. Library staff provides civil rights information to the public, maintains the library collection, makes loans to the public, and handles publication inquiries and distribution.

In Fiscal Year 1993, the agency estimated that over 1,000 persons visited the library in search of both general and specific civil rights information and over 2,000 telephonic inquiries were received. Additionally, the library staff annually handles several thousand inquiries and requests for a wide variety of publications issued by the Commission on various civil rights issues. As a result of the racial and ethnic tensions project and continuing concerns in various civil rights areas, the Commission anticipates that requests for library services will continue to increase. Additionally, the agency anticipated a high demand for new reports on fair housing, the Mount Pleasant disturbance in Washington, D.C., and the racial and ethnic tensions hearings. Distribution was also made of SAC reports released in Fiscal Year 1993.

**Civil Rights Update**

The Commission's bimonthly newsletter, *Civil Rights Update*, was published and distributed during Fiscal Year 1993. The newsletter was expanded to include information about civil rights developments involving other agencies.

*Update* is the Commission's primary vehicle for disseminating information about the Commission's activities and concerns to a wide public on a regular basis as part of the agency's clearinghouse responsibilities.

#### PLANS FOR FISCAL YEARS 1994 AND 1995

Activity for the National Clearinghouse Library, Publications Distribution and *Civil Rights Update* will continue at the same levels.

#### Commission Journal

Limited funding has prevented, since 1988, the publication of *Perspectives*, the Commission's quarterly journal. Given the continued nationwide increase in racial, ethnic and religious bigotry and conflict, a Commission journal that can address these and other pressing civil rights issues is needed more than ever. During Fiscal Year 1995, the Commission will publish one issue of a journal that will present views on important civil rights issues in the United States. Plans currently call for the journal to become a quarterly publication in Fiscal Year 1996.

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MAJORITY—225-3961  
 MINORITY—225-8908

December 20, 1993

Mr. Stuart J. Ishimaru  
 Acting Staff Director  
 U.S. Commission on Civil Rights  
 924 9th Street, N.W.  
 Suite 700  
 Washington, D.C. 20425

Dear Mr. Ishimaru:

As we prepare for the 1994 reauthorization request of the Civil Rights Commission, I expect the Subcommittee will examine closely the agency's budget and fact-finding record since the 1991 extension effort. Let me remind you that during the 1991 debate there was very strong bi-partisan sentiment to reject any future extensions unless the Commission clearly demonstrates it is back in the fact-finding business.

In preparation for that review I ask that you provide the budget information requested below. Please provide the data for fiscal years 1992, 1993 and up to the present.

## Per Diem Expenses for:

1. Commissioners
  - a. each Commissioner
  - b. each Commissioner's special assistant
2. Staff
  - a. Office of the Staff Director
  - b. Office of the General Counsel
  - c. Other Headquarters staff (please identify)
  - d. Regional Offices (list each separately)

## Travel Expenses for:

3. Commissioners
  - a. each Commissioner
  - b. each Commissioner's special assistant
4. Staff
  - a. Office of the Staff Director
  - b. Office of the General Counsel

Mr. Stuart J. Ishimaru  
Acting Staff Director  
December 20, 1993  
page 2


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- c. Other Headquarters staff (please identify)
- d. Regional Offices (list each separately)

Please provide the requested information by January 31st. If you are unable to meet this deadline or have any questions please contact Ivy Davis-Fox, Assistant Counsel, at 226-7680.

With kind regards.

Sincerely,



Don Edwards  
Chairman  
Subcommittee on Civil and  
Constitutional Rights



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

624 Ninth Street, N.W.  
Washington, D.C. 20425

FEB 7 - 1994

January 31, 1994

The Honorable Don Edwards  
Chairman, Subcommittee on Civil  
and Constitutional Rights  
Committee of the Judiciary  
United States House of Representatives  
806 O'Neill House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

In response to your request of December 20, 1993, I am pleased to submit the enclosed data for your consideration in preparation for the 1994 reauthorization request for the Commission on Civil Rights. Answers to your specific questions are presented in the enclosures to this letter.

To facilitate your review, the Travel and Per Diem expenses for each category of traveler are presented on separate enclosures by fiscal year and, represent recorded Travel and Per Diem expenses. Please let me know if you require further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stuart J. Ishimaru".

STUART J. ISHIMARU  
Acting Staff Director

Enclosures

Fiscal Year	NAME	COST CENTER	TRAVEL EXPENSES*	PER DIEM*
FY 1992	ALLEN, WILLIAM	Commissioner	\$2,760.00	\$3,446.29
FY 1992	ANDERSON, CARL	Commissioner	\$1,164.00	\$962.35
FY 1992	BUCKLEY, ESTHER	Commissioner	\$3,276.00	\$3,609.45
FY 1992	FLETCHER, ARTHUR	Commissioner	\$12,775.00	\$400.51
FY 1992	REDENBAUGH, RUSSELL	Commissioner	\$1,718.00	\$2,252.03
FY 1992	WANG, CHARLES	Commissioner	\$678.00	\$5,117.73
FY 1992	BROADUS, JOSEPH	Comm Assistant	\$324.00	\$0.00
FY 1992	BUDD, RACHEL	Comm Assistant	\$1,452.00	\$2,334.57
FY 1992	HALL, AMY	Comm Assistant	\$112.00	\$413.96
FY 1992	HOUSE, RENATA	Comm Assistant	\$2,297.00	\$2,795.11
FY 1992	MORRISON, KATHLEEN	Comm Assistant	\$4,372.00	\$3,647.26
FY 1992	STAFF	Ofc of Staff Dir	\$10,126.25	\$14,128.44
FY 1992	STAFF	Other Hq. Staff		
		OM	\$1,429.00	\$1,802.67
		CRE	\$946.00	\$1,140.23
FY 1992	STAFF	Ofc Gen Counsel	\$7,951.90	\$8,752.91
FY 1992	REGIONS	Eastern Region	\$3,817.75	\$2,772.33
FY 1992	REGIONS	Central Region	\$18,383.00	\$15,452.90
FY 1992	REGIONS	Western Region	\$7,340.00	\$27,177.97
FY 1992	REGIONS	Southern Region	\$8,117.00	\$12,886.55
FY 1992	REGIONS	Rocky Mtn Region	\$6,808.00	\$5,710.00
FY 1992	REGIONS	Midwestern Region	\$1,009.00	\$8,068.64

\*As of 12/31/93

Fiscal Year	NAME	COST CENTER	TRAVEL EXPENSES*	PER DIEM*
FY 1993	ALLEN, WILLIAM	Commissioner	\$159.62	\$353.06
FY 1993	ANDERSON, CARL	Commissioner	\$426.00	\$140.00
FY 1993	BERRY, MARY	Commissioner	\$526.00	\$0.00
FY 1993	BUCKLEY, ESTHER	Commissioner	\$662.50	\$421.39
FY 1993	FLETCHER, ARTHUR	Commissioner	\$9,237.00	\$0.00
FY 1993	GEORGE, ROBERT	Commissioner	\$1,701.33	\$1,260.35
FY 1993	HORNER, CONSTANCE	Commissioner	\$0.00	\$0.00
FY 1993	RAMIREZ, BLANDINA	Commissioner	\$268.00	\$321.00
FY 1993	REDENBAUGH, RUSSELL	Commissioner	\$2,004.00	\$2,163.00
FY 1993	REYNOSO, CRUZ	Commissioner	\$2,416.01	\$1,001.09
FY 1993	WANG, CHARLES	Commissioner	\$5,564.60	\$2,339.29
FY 1993	BROADUS, JOSEPH	Comm Assistant	\$468.50	\$266.00
FY 1993	BROWN, RONALD	Comm Assistant	\$644.00	\$180.50
FY 1993	BUDD, RACHEL	Comm Assistant	\$2,955.98	\$2,680.50
FY 1993	GRAY, THOMAS	Comm Assistant	\$530.50	\$324.50
FY 1993	HALL, AMY	Comm Assistant	\$0.00	\$0.00
FY 1993	HOUSE, RENATA	Comm Assistant	\$398.00	\$0.00
FY 1993	MORRISON, KATHLEEN	Comm Assistant	\$100.00	\$0.00
FY 1993	TETI, DENNIS	Comm Assistant	\$468.00	\$180.00
FY 1993	TOOLSIE, KRISHNA	Comm Assistant	\$0.00	\$0.00
FY 1993	STAFF	Ofc Staff Director	\$18,553.02	\$28,481.50
FY 1993	STAFF	Other Hq. Staff		
		OM	\$3,361.42	\$3,300.75
		CRE	\$1,703.73	\$1,140.20
FY 1993	STAFF	Ofc Gen. Counsel	\$25,108.10	\$22,055.77
FY 1993	REGIONS	Eastern Region	\$6,484.53	\$1,974.34
FY 1993	REGIONS	Central Region	\$22,049.84	\$10,517.88
FY 1993	REGIONS	Western Region	\$16,941.07	\$14,060.77
FY 1993	REGIONS	Southern Region	\$8,733.75	\$4,170.97
FY 1993	REGIONS	Rocky Mtn. Region	\$11,832.96	\$6,682.90
FY 1993	REGIONS	Midwestern Region	\$5,505.37	\$5,790.42

\*As of 12/31/93

Fiscal Year	NAME	COST CENTER	TRAVEL EXPENSES*	PER DIEM*
FY 1994	GEORGE, ROBERT	Commissioner	\$175.00	\$176.00
FY 1994	REDENBAUGH, RUSSELL	Commissioner	\$313.47	\$463.00
FY 1994	REYNOSO, CRUZ	Commissioner	\$1,751.55	\$511.50
FY 1994	BROWN, RONALD	Comm Assistant	\$161.50	\$5.90
FY 1994	BUDD, RACHEL	Comm Assistant	\$382.46	\$472.50
FY 1994	GRAY, THOMAS	Comm Assistant	\$1,324.00	\$964.00
FY 1994	TETI, DENNIS	Comm Assistant	\$619.20	\$443.60
FY 1994	STAFF	Ofc Staff Director	\$856.60	\$3,680.06
FY 1994	STAFF	Ofc Gen. Counsel	\$640.20	\$1,090.00
FY 1994	REGIONS	Eastern Region	\$1,792.56	\$519.06
FY 1994	REGIONS	Central Regionn	\$2,058.67	\$971.34
FY 1994	REGIONS	Western Region	\$1,717.25	\$1,914.50
FY 1994	REGIONS	Southern Region	\$642.89	\$204.06
FY 1994	REGIONS	Rocky Mtn. Region	\$1,416.06	\$863.34
FY 1994	REGIONS	Midwestern Region	\$273.75	\$351.09

\*As of 12/31/93



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 BOB GOODLATE, VIRGINIA

MAJORITY--215-3951

MINORITY--215-8906

March 9, 1994

Mr. Stuart J. Ishimaru  
 Acting Staff Director  
 U.S. Commission on Civil Rights  
 624 Ninth Street, N.W.  
 Suite 700  
 Washington, D.C. 20425

Dear Mr. Ishimaru:

Please assist the Subcommittee in its review of the Commission's reauthorization request by providing answers to the following questions. The requested information should cover fiscal years 1992, 1993 and through the present.\*

1. Please list the number of billable days, and total amount claimed by each Commissioner.
2. Identify the special assistants and the Commissioners to whom each is assigned.
  - a. outline the duties each performs.
  - b. indicate the annual salary for each -- denote the GS level and whether the individual is compensated on a full-time or part-time basis.
3. The salaries of the special assistants represent what percentage of the agency's total personnel costs?
4. The per diem and travel expenses of the special assistants represent what percentage of the agency's total travel costs?
5. What amount and percentage of the agency's (a) staff and (b) resources are devoted to regional operations?

\* Information provided earlier by your office regarding travel and per diem for the current fiscal year covers the first quarter (December 31, 1993). If you have data beyond that period, please list it separately.

Mr. Stuart J. Ishimaru  
March 9, 1994  
page 2

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Please provide the requested information by March 31, 1994. If you have any questions or are unable to comply with this request, please contact Ivy Davis-Fox, Assistant Counsel at 226-7680.

With kind regards.

Sincerely,



Don Edwards  
Chairman  
Subcommittee on Civil and  
Constitutional Rights



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

624 Ninth Street, N.W.  
Washington, D.C. 20425

April 14, 1994

The Honorable Don Edwards  
Chairman, Subcommittee on Civil  
and Constitutional Rights  
Committee on the Judiciary  
United States House of Representatives  
2307 Rayburn House Office Building  
Washington, D.C. 20515-8216

Dear Mr. Chairman:

This is in response to your letter of March 9, 1994 concerning followup questions to our recent hearing on the reauthorization of the U.S. Commission on Civil Rights. We appreciated the opportunity to appear before your Subcommittee, and we look forward to working with you and the other members on this issue as the year progresses.

Answers to your specific questions are contained in the enclosure to this letter. The questions are stated prior to each answer for your ease in reviewing the material. For each question, we have provided information for FY 1992, FY 1993, and FY 1994 through March, 1994. The exact cutoff dates in March vary due to the different procedures for payroll versus other types of data. Specific dates are cited for the FY 1994 information at the beginning of each response. Please note that in answer to question 2.b. regarding the annual salary of each assistant, we have also included an actual salary category.

Should you desire additional information on any of these matters, please contact Mary K. Mathews, Assistant Staff Director for Congressional Affairs on 202-376-7700.

Sincerely,

A handwritten signature in cursive script that reads "Mary Frances Berry".

MARY FRANCES BERRY  
Chairperson

Enclosure

cc: Ivy Davis-Fox

## U.S. COMMISSION ON CIVIL RIGHTS

Q.1. Please list the number of billable days, and total amount claimed by each Commissioner.

## A.1. FY 1992

<u>Commissioner</u>	<u>Billable Days</u>	<u>Amount</u>
William B. Allen	75.00	31,935
Carl A. Anderson	43.63	18,561
Mary F. Berry	52.00	22,125
Esther Buckley	73.75	31,387
Arthur A. Fletcher	125.00	52,978
Blandina Ramirez	46.00	19,518
Russell Redenbaugh	75.00	31,789
Charles P. Wang	74.38	31,677

## FY 1993

William B. Allen	24.75	10,635
Carl A. Anderson	29.00	12,789
Mary F. Berry	35.00	15,523
Esther Buckley	15.38	6,606
Arthur A. Fletcher	125.00	54,634
Robert P. George	45.94	20,374
Constance J. Horner	22.00	9,757
Blandina Ramirez	20.00	8,649
Russell Redenbaugh	75.00	33,043
Cruz Reynoso	27.63	12,252
Charles P. Wang	65.50	28,962

## FY 1994 (Salary data through 3/19/94)

Carl A. Anderson	13.75	6,098
Mary F. Berry	24.00	10,644
Arthur A. Fletcher	68.00	30,159
Robert P. George	30.81	13,666
Constance J. Horner	15.66	6,944
Russell Redenbaugh	37.50	16,632
Cruz Reynoso	31.66	14,040
Charles P. Wang	41.88	18,572

2.

Q.2. Identify the special assistants and the Commissioners to whom each is assigned.

A.2. The special assistants and the Commissioners to whom each is assigned are listed below:

**FY 1992**

<u>Assistant</u>	<u>Commissioners</u>
Renata House	Arthur Fletcher
Joseph Broadus (No Assistant)	Carl Anderson
Rachel Budd	Esther Buckley
Amy Hall	Russell Redenbaugh
Kathleen Morrison	Charles Wang
Eileen O'Brien	William Allen
Krishna Toolsie	Blandina Ramirez
	Mary Frances Berry

**FY 1993**

Renata Anderson	Arthur Fletcher
Joseph Broadus	Carl Anderson
Ronald Brown	Constance Horner
Rachel Budd	Russell Redenbaugh
Thomas Gray	Cruz Reynoso
Amy Hall/Lori Kitazano	Charles Wang
Kathleen Morrison	William Allen
Dennis Teti	Robert George
Krishna Toolsie (No Assistant)	Mary Frances Berry
(No Assistant)	Esther Buckley
	Blandina Ramirez

**FY 1994**

Renata Anderson	Arthur Fletcher
Joseph Broadus	Carl Anderson
Ronald Brown	Constance Horner
Rachel Budd	Russell Redenbaugh
Thomas Gray	Cruz Reynoso
Lori Kitazano	Charles Wang
Dennis Teti	Robert George
Krishna Toolsie	Mary Frances Berry

3.

Q.2.a. Outline the duties each performs.

A.2.a. The special assistants to the Commissioners are appointed under the Schedule C authority in the Excepted Service. While the current incumbents are performing at several different grade levels, their functions include: reviewing all written materials related to USCCR hearings and studies to advise their Commissioner of modifications as appropriate; drafting confidential and other correspondence and speeches setting forth the Commissioner's position on a given issue; coordinating plans for meetings and speaking engagements; obtaining background material; briefing their Commissioner on various issues; and ensuring that the Commissioner's views are communicated within the Commission in a clear and timely manner. Special Assistants also establish procedures to monitor the Commission's activities related to policies, programs, and projects that are subject to review and comment by the Commissioners. Assistants perform special assignments concerning policy or program matters of a confidential or politically sensitive nature for their Commissioner which may include the establishment of special case or report files, and the development and coordination of information requests from members of Congress, White House staff, and key Federal officials. Assistants also prepare administrative documents such as time cards, travel vouchers, and requests for reimbursement in support of the Commissioner's USCCR activities.

Q.2.b. Indicate the annual salary for each -- denote the GS level and whether the individual is compensated on a full-time or part-time basis.

A.2.b. The annual salary, actual salary, GS Level and compensation basis for the special assistants are listed below. Under the compensation basis heading, abbreviations are cited as follows: I=Intermittent, P=Part-time, and F=Full-time.

FY 1992

<u>Assistant</u>	<u>Annual Salary</u>	<u>Actual Salary</u>	<u>GS Level</u>	<u>Compensation Basis</u>
Renata House	33,504	27,395	11	I
Joseph Broadus	46,210	22,627	13	P
Rachel Budd	26,798	6,804	09	I
Amy Hall	43,368	34,904	12	F
Kathleen Morrison	36,184	33,752	11	F
Eileen O'Brien	32,423	3,853	11	I
Krishna Toolsie	40,156	30,605	12	I

4.

**FY 1993**

<u>Assistant</u>	<u>Annual Salary</u>	<u>Actual Salary</u>	<u>GS Level</u>	<u>Compensation Basis</u>
Renata Anderson	35,865	34,339	11	F
Joseph Broadus	49,517	39,600	13	P
Ronald Brown	40,298	28,424	12	F
Rachel Budd	33,623	23,939	11	F
Thomas Gray	36,313	9,605	11	F
Amy Hall	44,972	28,861	12	F
Lori Kitazano	36,313	6,125	11	F
Kathleen Morrison	36,184	971	11	I
Dennis Teti	62,293	43,939	13	F
Krishna Toolsie	47,920	32,594	13	I

**FY 1994 (Actual salary data as of 3/19/94)**

Renata Anderson	37,382	18,101	11	F
Joseph Broadus	51,612	17,499	13	P
Ronald Brown	42,003	20,344	12	F
Rachel Budd	35,291	13,872	11	F
Thomas Gray	36,313	18,096	11	F
Lori Kitazano	36,313	15,869	11	F
Dennis Teti	64,928	31,446	13	F
Krishna Toolsie	49,947	19,351	13	I

Q.3. The salaries of the special assistants represent what percentage of the agency's total personnel costs?

A.3. In the chart that follows, the FY 1994 salary data is as of 3/19/94.

	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
Assistant Salaries	159,940	248,397	154,578
Total Salaries	4,201,959	4,368,324	2,153,625
Percentage Assistants	3.81	5.69	7.18

5.

Q.4. The per diem and travel expenses of the special assistants represent what percentage of the agency's total travel costs?

A.4. In the chart that follows, the FY 1994 data has been divided into two parts. Part (a) refers to data as of the first quarter of the fiscal year ending 12/31/93, and part (b) refers to the second quarter of the fiscal year beginning January 1, 1994 and ending on March 31, 1994.

	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
Assistant Travel	17,748	9,196	4,373 (a) 2,963 (b)
Total Travel	219,728	258,610	71,845
Percentage Assistants	8.08	3.56	10.21

Q.5. What amount and percentage of the agency's (a) staff and (b) resources are devoted to regional operations?

A.5.a. The amount and percentage of the agency's staff devoted to regional operations are as follows:

	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
<b>Staff (FTP)</b>			
Regional Staff	25	25	25
Total Staff	79	80	85
Percentage Regions	31.65	31.25	29.41

(Regional staff figures reflect only staff directly assigned to regional offices.)

A.5.b. The amount and percentage of the agency's resources devoted to regional operations are as follows:

**Resources (dollars)**

Regional Resources	1,609,934	1,898,046	846,900
Total Resources	7,159,000	7,776,000	3,391,332
Percentage Regions	22.49	24.41	24.97



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ONE HUNDRED THIRD CONGRESS

## Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

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MINORITY—325-3908

June 14, 1994

Dr. Mary Frances Berry  
 Chairperson  
 U.S. Commission on Civil Rights  
 624 Ninth Street, N.W. Suite 700  
 Washington, D.C. 20425

Dear Dr. Berry:

During the last reauthorization debate, concerns were raised about the Commission's work record. These concerns focused on the lack of hearings and consultations, the fact that only one statutory report was produced and other "activities" such as:

- in FY 1990: (a) staff report on Economic Progress of Black Women, (b) legal analysis on the Civil Rights Act of 1990
- in FY 1991: (a) analysis and statement on minority scholarships, (b) statement on eliminating race-baiting in campaigning, (c) report on a briefing on bigotry and violence on American campuses, (d) publication of transcripts from regional forums held in Nashville and Los Angeles.

In helping the Subcommittee prepare for the upcoming reauthorization the following information would be most useful.

Part I

Please provide information about the Commission's work product since the last reauthorization - report the information separately for fiscal years 1992, 1993 and 1994 (up to the present).

- the number of published Statutory Reports - give titles and indicate when research/hearings was conducted.
- the number of published Monitoring Reports - give title(s) and indicate when research was conducted.

- the number of published Commission Statements - give subject matter and attach copy.
- the number of Hearings conducted - give subject matter, dates and locations. Indicate when transcripts, or reports will be published.
- the number of Consultations conducted - give subject matter, dates and locations. Indicate when transcripts, or reports will be published.
- the number of published Clearinghouse Reports - give titles.
- the number of published State Advisory Committee Reports - give titles.

#### Part II

Please provide the Subcommittee with an EEO profile of the agency's workforce for fiscal years 1992, 1993, through the present. Please submit a copy of the agency's most recent affirmative action plan. On January 31, 1985, the New York Times reported that the government would not appeal a district court ruling finding that the Commission's Southern Regional Office had discriminated against a female employee in violation of the Equal Pay Act. Please forward a copy of the court's findings and order. What were the money damages in that case? Were the damages paid from the federal treasury and how was the payment reflected in the agency's report to the Congress? What disciplinary action was taken against the offending official(s)? What other discrimination claims have been filed against the agency (either administratively or litigation) and what is the status of such claims -- from 1986 to present?

#### Part III

As you know, the GAO has recently conducted a travel audit of the Commission, for the past three fiscal years. One conclusion is that the failure to file timely travel vouchers may mean the agency has violated the Antideficiency Act and the *bona fide* needs rule. What steps have you taken to assure that the official in question settles this account?

Please provide the requested information by close of business Friday, June 24, 1994.

With kind regards,



Don Edwards  
Chairman  
Subcommittee on Civil and  
Constitutional Rights

encl.

## Definition of Work Product Terms

Statutory Reports - make findings and recommendations.

Monitoring Reports - evaluate federal agency enforcement of federal civil rights laws. A report card on agency enforcement.

Statements - express Commission views and are based upon earlier Commission work.

Hearings - the most formal exercise of Commission authority is defined by statute and the agency uses subpoena power.

Consultations - informal seminars where witnesses brief the commissioners. Witnesses are usually experts and subpoena power is not used. A report of the consultation and accompanying documents may be published.

Clearinghouse Reports - provide information on some area of Commission jurisdiction -- contain no findings and recommendations and are based on staff research.

State Advisory Committee Reports - provided to Commission by the SACs, based on investigation by regional office staff or forums -- may include recommendations to Commission.



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

624 Ninth Street, N.W.  
Washington, D.C. 20425

June 27, 1994

The Honorable Don Edwards  
Chairman, Subcommittee on Civil  
and Constitutional Rights  
Committee on the Judiciary  
United States House of Representatives  
806 O'Neill House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to the questions raised in your letter of June 14, 1994 as a followup to the House Judiciary Subcommittee on Civil and Constitutional Rights' hearing on the reauthorization of the U.S. Commission on Civil Rights. The enclosures to this letter provide, in question and answer format, responses to the items raised in your letter.

Based on communication with your Subcommittee, the Commission provided, in July 1992, a list of definitions of its work products. These are similar, but not identical, to the definitions included in your June 14 letter. We have provided information on monitoring reports, as requested, and we have added information on forums, conferences and briefings, which you did not specifically request. The work product information for FY 1994 is through June 24, 1994.

Based on a discussion with Ms. Ivy Davis-Fox of the Subcommittee's staff, the original deadline for responding to your request was extended to June 27. Should you desire additional information on any of these matters, please contact James S. Cunningham, Acting Assistant Staff Director for Congressional Affairs on 202-376-8589.

Sincerely,

A handwritten signature in cursive script that reads "Mary Frances Berry".

MARY FRANCES BERRY  
Chairperson

Enclosures

cc: Ivy Davis-Fox

## U.S. COMMISSION ON CIVIL RIGHTS

Part I

Please provide information about the Commission's work product since the last reauthorization--report the information separately for fiscal years 1992, 1993 and 1994 (up to the present):

- Q: Number of published statutory reports - give titles and indicate when research/hearings was conducted.
- A: The Commission's statutory reports are listed below, grouped by fiscal year.

FY 1992

There were 2 statutory reports published in FY 1992.

*Civil Rights Issues Facing Asian Americans in the 1990s*, published: February 1992, research: November 1989 to September 1991.

*Prospects and Impact of Losing State and Local Agencies from the Federal Fair Housing System*, published: September 1992, research: January-October 1991 (Note: Research period includes the distribution and collection of survey results.)

FY 1993

There were 2 statutory reports published in FY 1993.

*Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects*, published: January 1993, research: June-August 1992.

*Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination--Volume One, The Mount Pleasant Report*, published: January 1993. Hearing was held January 29-31, 1992. Most research was conducted between June and December 1991, however, additional research was conducted between July and October 1992 during the report preparation phase.

FY 1994

No reports have been published to date in FY 1994.

- Q: Number of published monitoring reports - give title(s) and indicate when research was conducted.

- A: The Commission's monitoring reports are listed below, grouped by fiscal year. Please note that some items are also listed as statutory reports, since they contain findings and recommendations. One report is a staff report on monitoring and other research related to enforcement of employment rights of Federal employees.

FY 1992

There was 1 monitoring report published in FY 1992.

*Prospects and Impact of Losing State and Local Agencies from the Federal Fair Housing System*, published: September 1992, research: January to October 1991 (Note: Research period includes the distribution and collection of survey results.)

FY 1993

There were 2 monitoring reports published in FY 1993.

*Enforcement of Equal Employment and Economic Opportunity Laws and Programs Relating to Federally Assisted Transportation Projects*, published: January 1993, research: June-August, 1992.

*Equal Employment Rights for Federal Employees*, published: August 1993, research: July-December 1992.

FY 1994

No monitoring reports have been published to date in FY 1994.

- Q: Number of published Commission statements - give subject matter and attach copy.

- A: Commission statements are listed below, grouped by fiscal year. A copy of each statement is attached.

FY 1992

The Commission issued 4 statements in FY 1992.

On enactment of the Civil Rights Act of 1991.

Expressing concern about the increasing incidence of racial and ethnic tensions, and announcing the Commission's public hearings on this problem.

Expressing the Commission's concern over the violence in Los Angeles in 1992 and announcing plans to investigate the underlying causes of racial and ethnic tensions that led to these disturbances.

On the 50th anniversary of Pearl Harbor.

FY 1993

The Commission issued 1 statement in FY 1993.

On the death of Thurgood Marshall.

FY 1994

The Commission has issued 2 statements to date in FY 1994.

On the 65th anniversary of the birth of Dr. Martin Luther King.

On religious discrimination and bigotry.

Q: Number of hearings conducted--give subject matter, dates and locations. Indicate when transcripts or reports will be published.

A: Commission hearings are listed below, grouped by fiscal year.

FY 1992

During FY 1992, the Commission conducted 3 hearings related to the overarching theme of *Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination*.

● On January 29-31, 1992, the Commission held a hearing in Washington, D.C. This hearing focused on the concerns of the Latino community in the Mount Pleasant area of the city, including such issues as immigration, police-community relations, employment opportunities, education, and the delivery of services by the District of Columbia.

A report entitled, *Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination--Volume One, The Mount Pleasant Report*, was published in January 1993.

● On May 21-22, 1992, the Commission held a second hearing in Washington, D.C. in order to examine rising racial and ethnic tensions from a national perspective. Experts testified on a wide range of topics such as hate incidents,

changing demographics, multiculturalism, socioeconomic factors, financial and banking industry practices, and the Community Reinvestment Act.

The Commission will publish the transcript of this hearing and an executive summary in FY 1994.

- On June 24-26, 1992, the Commission held a hearing in Chicago, Illinois. Subjects covered during this hearing included: police policies, civilian review and the processing of police misconduct complaints, minority access to credit and business development.

The Commission will issue a report on this hearing in FY 1995.

#### FY 1993

During FY 1993, the Commission conducted 1 hearing related to the overarching theme of *Racial and Ethnic Tensions in American Communities: Poverty, Inequality and Discrimination*.

- On June 15-17, 1993, the Commission held a hearing in Los Angeles, California. Subjects covered during this hearing included: reforms in the Los Angeles Police Department, governmental policies and programs and their impact on economic opportunities in minority communities, local news media coverage of minorities, and the portrayal of people of color and people of religious faith in primetime television entertainment programming.

The Commission will issue a report on this hearing in FY 1995.

#### FY 1994

No hearings have been held to date in FY 1994. The Commission has rescheduled the hearing on *Racial and Ethnic Tensions* to be held in New York City to September 19-21, 1994.

Q: Number of consultations conducted - give subject matter, dates and locations. Indicate when transcripts or reports will be published.



- A: The Commission conducted no consultations during the current reauthorization period. However, a report based on an earlier consultation was published in FY 1993.

FY 1992

The Commission conducted no consultations in FY 1992.

FY 1993

The Commission conducted no consultations in FY 1993.

In February 1993, the Commission issued a report entitled, *The Validity of Testing in Education and Employment*, based on a consultation held June 1989 in Washington, D.C.

FY 1994

The Commission has conducted no consultations to date in FY 1994.

- Q: Number of published clearinghouse reports - give titles.
- A: The Commission's clearinghouse reports are listed below, grouped by fiscal year.

FY 1992

There was 1 clearinghouse report published in FY 1992.

*Constructing Denver's New Airport: Are Minorities and Women Benefiting?* Published: July 1992. This report was based on a forum held in Denver, Colorado, June 21-22, 1991.

FY 1993

There were no clearinghouse reports issued in FY 1993.

FY 1994

No clearinghouse reports have been issued to date in FY 1994.

- Q: Number of published State Advisory Committee reports - give titles.

A: The titles of State Advisory Committee reports are listed below, grouped by fiscal year.

FY 1992

*Crisis and Opportunity: Race Relations in Selma.* Alabama.

*A Broken Trust: The Hawaiian Homelands Program: Seventy Years of Failure of the Federal and State Governments to Protect the Civil Rights of Native Hawaiians.* Hawaii.

*The Increase of Hate Crime in Indiana.* Indiana.

*Racial and Religious Tensions on Selected Kansas College Campuses.* Kansas.

*Education Opportunities for American Indians in Minneapolis and St. Paul Public Schools.* Minnesota.

*Police-Community Relations in Reno, Nevada.* Nevada.

*Shelter Issues in New York: The New Fair Housing Amendments and Eastern New York Public Housing.* New York.

*Impact of School Desegregation Upon Minority Students in Milwaukee Public Schools.* Wisconsin.

*Voting Rights Issues in San Luis, Arizona.* Arizona.

*Campus Tensions in Massachusetts: Searching for Solutions in the 1990s.* Massachusetts.

*Civil Rights Issues in Arkansas, 1991-92.* Arkansas.

FY 1993

*Minority Elderly Access to Health Care and Nursing Homes.* New York.

*Public Education in Idaho--Does It Meet the Needs of All Students?* Idaho.

*From the Dream of the Sixties to the Vision of the Nineties--The Case for an Alabama Human Relations Commission.* Alabama.

*Native American Students in North Dakota Special Education Programs.* North Dakota.

*Police-Community Relations in Southern West Virginia.* West Virginia.

*A Time to Heal: Race Relations in Dubuque, Iowa.* Iowa.

*Stereotyping of Minorities by the News Media in Minnesota.* Minnesota.

*Police Protection of the African American Community in Chicago.* Illinois.

*The Battle for Environmental Justice in Louisiana...Government, Industry, and the People.* Louisiana.

*Employment Discrimination and Women in South Dakota: A Legislative Handbook.* South Dakota.

**FY 1994**

*White Supremacist Activity in Montana.* Montana.

*Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations.* Indiana.

*The Use and Abuse of Police Powers: Law Enforcement Practices and the Minority Community in New Jersey.* New Jersey.

In addition to the work product categories provided above, we are providing the following information on Commission forums, conferences and briefings.

**FY 1992**

There were no forums, conferences or briefings held in FY 1992.

**FY 1993**

The following 3 briefings were held in FY 1993:

Office of Contract Compliance Programs (DOL) Compliance Activities Relating to the Glass Ceiling Facing Minorities and Women Seeking High-Wage Jobs. (Briefing held November 1992)

Voter Representation and Statehood for the District of Columbia. (Briefing held March 1993)

Minority and Female Participation in the Professional Sports Industry. (Briefing held May 1993)

FY 1994

The following 6 briefings have been held to date in FY 1994:

Racial and Ethnic Breakdown in Census Income Data.  
(Briefing held November 1993)

Economic Empowerment of Inner-City Residents.  
(Briefing held December 1993)

Religious Civil Rights Issues. (Briefing held January 1994)

The Civil Rights Dimension of Health Care Reform.  
(Briefing held April 1994)

Implementation of the Americans with Disabilities Act.  
(Briefing held May 1994)

The Civil Rights Consequences of Growing Anti-Immigrant Sentiments. (Briefing held June 1994)

Part II

- Q: Please provide the Subcommittee with an EEO profile of the agency's workforce for fiscal years 1992, 1993, and 1994 through the present.
- A: Enclosed are EEO statistical profiles of the Commission on Civil Rights for September 1992, September 1993 and June 23, 1994.
- Q: Please submit a copy of the agency's most recent affirmative action plan.
- A: According to EEOC guidance, Federal agencies with fewer than 500 employees are not required to prepare and submit an affirmative action plan to EEOC. However, pursuant to EEOC Form 567, agencies with fewer than 500 employees should submit a policy statement such as the enclosed March 14, 1994 "Statement of Commitment to Equal Opportunity" signed by former Acting Staff Director, Stuart J. Ishimaru. Also enclosed is a copy of the Commission's "Federal Equal Opportunity Recruitment Program (FEORP) Annual Accomplishment Report," which was submitted to OPM on November 23, 1993.
- Q: On January 31, 1985, the New York Times reported that the government would not appeal a district court ruling finding that the Commission's Southern Regional Office had discriminated against a female employee in violation of the

Equal Pay Act. Please forward a copy of the court's findings and order.

- A: Enclosed is a copy of the September 27, 1984 Order of the United States District Court for the Northern District of Georgia, Atlanta Division, in Marilyn Grayboff versus Clarence Pendleton, Chairman, United States Commission on Civil Rights, Civil Action C. 83-801 A.
- Q: What were the money damages in the case?
- A: Pursuant to the enclosed settlement agreement, dated March 5, 1987, in Miriam (Marilyn) N. Grayboff vs. Clarence M. Pendleton, Jr., Chairman, The United States Commission on Civil Rights, the agency agreed to pay the plaintiff a lump sum settlement of \$31,627 "...for any and all back pay, front pay, reinstatement claims and any and all other claims for damages..." An additional \$215.75 contribution was to be paid into Ms. Grayboff's "retirement fund."
- Q: Were the damages paid from the federal treasury and how was the payment reflected in the agency's report to the Congress?
- A: There are no agency financial records available to determine if the monies were paid from the federal treasury. [Such records are retained for a maximum of 6 years.] However, the normal procedure for the payment of such sums would be for the agency to make such payment from its appropriated funds. In our review of documents submitted to Congress, we did not find a reference to this issue.
- Q: What disciplinary action was taken against the offending official(s)?
- A: There is no record in the individual's Official Personnel Folder (OPF), of any disciplinary action being taken. According to agency records, the official was required to enroll in classes over a six (6) month period on supervisory and managerial responsibilities with respect to eliminating sex discrimination in the workplace.
- Q: What other discrimination claims have been filed against the agency (either administratively or litigation) and what is the status of such claims--from 1986 to present?
- A: Based on available records, there have been two (2) discrimination complaints filed since 1986 at the Commission. These are:

Complaint of S. T. which was settled by the agency in May 1994 for \$5000. The charging party brought a complaint on the basis of physical disability and race.

Complaint of W. L. which is pending findings of fact on the remedial portion by the Administrative Judge. The charging party brought this complaint on the basis of sex and age.

### Part III

- Q: As you know, the GAO has recently conducted a travel audit of the Commission, for the past three fiscal years. One conclusion is that the failure to file timely travel vouchers may mean the agency has violated the Antideficiency Act and the *bona fide* needs rule. What steps have you taken to assure that the official in question settles this account?
- A: To address the discrepancy noted in the preliminary findings of the GAO audit, the Commission on Civil Rights has taken the following actions. Individual vouchers for some of the unclaimed travel have been received, reviewed for propriety, and are currently pending final settlement. Vouchers have been requested to cover the remaining tickets issued and a letter to this effect has been sent to this individual with a July 5, 1994 due date. The results of our review of vouchers submitted to date indicated that neither the Antideficiency Act nor the *bona fide* needs rule will be violated by the final processing of these vouchers. Additionally we have begun the process of revising our internal operating procedures to minimize the opportunities for this type of discrepancy to occur. Specific actions include: revising all Commission on Civil Rights travel instructions and brochures to be more specific regarding official travel requirements; monitoring and reporting of discrepancies noted by the travel management reports received from the American Express Company; requiring more specific documentation of travel performed using blanket travel authorizations; and terminating of travel privileges when the travel instructions are not followed. These and other planned actions will help ensure the Commission's compliance with the applicable Federal Travel Rules and Regulations while maintaining a viable travel management program.

THE UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS  
1121 Vermont Avenue N.W.  
Washington, D.C. 20425  
Public Affairs  
(202)-376-8312

# NEWS RELEASE

For Release: IMMEDIATELY

Contact: BARBARA J. BROOKS  
or  
CHARLES R. RIVERA

## CIVIL RIGHTS COMMISSION URGES ENACTMENT OF A 1991 CIVIL RIGHTS BILL

WASHINGTON, D.C. -- In a letter to the President and members of Congress made public today, the U.S. Commission on Civil Rights characterized the drawn-out debate over alternative civil rights bills as being divisive, and called for a conclusion to "tortuous negotiations" on these bills.

The October 21, 1991 letter warned that, with racial and religious bigotry increasingly prevalent throughout the nation, the ongoing debate over a civil rights bill should "not be the source of further division within our nation's populace."

The letter urged passage by Congress, and signing by the President, of a bill demonstrating that "discrimination in all forms -- whether by intentional acts or the disparate impact of seemingly neutral decisions that nevertheless keep women and minorities out of the workplace -- will not be tolerated."

In their letter, the Commissioners specifically addressed two important components of proposed 1991 civil rights legislation: the need for employers to show a "business necessity" in order to uphold practices that keep women and minorities out of the workplace, and the need to allow "victims of intentional discrimination based on sex, religion or ethnic origin... to sue for damages" -- as is already the case with victims of intentional racial discrimination.

The letter declared that "all sides must strive, without reservation, to achieve agreement on a bill that sends a clear, unequivocal message: the barriers to equal employment opportunity for all Americans must come down!"

A copy of the letter is attached.

The U.S. Commission on Civil Rights is an independent Federal agency. Arthur A. Fletcher is Chairman; Charles Pei Wang is Vice Chairman. William B. Allen, Carl A. Anderson, Mary Frances Berry, Esther G.A. Buckley, Blandina Cardenas Ramirez and Russell G. Redenbaugh serve as Commissioners. Wilfredo J. Gonzalez is staff director.



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

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

October 21, 1991

The President  
Members of Congress

Dear Mr. President and Members of Congress:

The current exhaustive debate on the pending civil rights bills is a divisive issue for America - at a time when expressions of racial and religious prejudice and bigotry amongst Americans are increasingly prevalent - on our campuses, in our workplaces, and in our communities. It is important that this proposed legislation not be the source of further division within our Nation's populace.

The tortuous negotiations on the pending civil rights bills must be put to rest. The Supreme Court decisions that this legislation seeks to reverse were handed down more than two years ago, and many attempts at compromise and negotiation have occurred in the interim. All sides profess a commitment to statutorily enacting the *Griggs* standard. Thus we particularly encourage all of the parties to reach final agreement on legislation.

We wish to address two important components of 1991 civil rights legislation. First is the upholding of case law which has for 20 years increased the rights of women and minorities in the workplace, and second, the availability of damages in those instances where there has been intentional discrimination.

First, in the *Wards Cove* case, the court of appeals applied the *Griggs* standard of disparate impact, and the packing company appealed. The Supreme Court, agreeing in large part with the Justice Department amicus brief, reversed that decision, and in doing so reversed 20 years of precedent relating to the shifting burden of proof. We concur with the 20 years of experience which supports the notion that the employer must show "business necessity" in order to uphold practices that keep women and minorities out of the workplace.

Encouragingly, the Department of Justice some months ago abandoned its argument that shifting the burden to the employer to prove "business necessity" was "unjustifiable" and announced its support for this aspect of the pending bills. Still at issue, however, is how close the legislation will come to defining "business necessity" in the mold of *Griggs* and its progeny.



Second, much has been made in the course of the ongoing debate about the issue of damages — specifically whether and to what extent victims of intentional discrimination based on sex, religion or ethnic origin should be allowed to sue for damages, as are victims of intentional racial discrimination.

As an entity known historically as the "moral conscience of the nation" on civil rights, this Commission can hardly endorse any cap on compensatory or punitive damages in cases of proven intentional discrimination. This is an issue we would leave to the courts to determine on the basis of the facts in each specific case, and with the judiciary's traditional authority to reduce any jury award found to be excessive. Apart from punishing the wrongdoer, such penalties can serve to send a powerful message to others who would intentionally deny anyone equal employment opportunity.

In July 1990, we issued a report describing what this Commission considered to be the necessary elements of a model civil rights act. After more than a year of continuing, divisive debate, it does not appear that any side will see its vision of a "model" law enacted by the Congress and signed by the President. But it also seems clear to us that all sides must strive, without reservation, to achieve agreement on a bill that sends a clear, unequivocal message: *the barriers to equal employment opportunity for all Americans must come down!*

We are confident that most Americans believe in fair play; and the battles fought and won through our courts over the past 20 years by women and minorities to knock down arbitrary barriers to their full participation in the labor force attest to that belief. At a time when the Department of Labor has just recently confirmed the existence of significant evidence of a "glass ceiling" in American industry which prevents women and minorities from rising to levels of management commensurate with their abilities, it would be both ironic and tragic to retreat from a landmark decision that knocked down other artificial barriers at the very entrance to the workplace.

We believe the Nation as a whole has much to lose if legislation is not enacted, and much to gain from a demonstration on the part of its elected leadership that discrimination in all forms — whether by intentional acts or the disparate impact of seemingly neutral decisions that nevertheless keep women and minorities out of the workplace — will not be tolerated. We encourage all parties to rise above these issues and reach agreement this year.

Respectfully,

FOR THE COMMISSIONERS,



ARTHUR A. FLETCHER  
Chairman



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

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

STATEMENT OF THE CIVIL RIGHTS COMMISSION  
CONCERNING RACIAL AND ETHNIC TENSIONS

As members of the U.S. Commission on Civil Rights, we are deeply concerned about the increasing incidence of racial and ethnic tensions in our country and the lack of focused attention being paid to this issue.

We have a responsibility to raise the issue of race relations in the United States to its very highest level of priority. With that in mind, the U.S. Commission on Civil Rights unanimously voted at its January retreat to reorient its program for the next three years toward an investigation of the resurgence of racial and ethnic tensions throughout the country.

This investigation will include public hearings in geographically diverse cities. The first of these hearings will be held in Washington, D.C. on January 29, 30 and 31, 1992. Other locations in which we intend to hold hearings are California and Illinois. Additional sites for hearings are projected to be Colorado, the Mississippi Delta, New York City and the Northwest region, areas associated with racial tension and violence.

In each of the sites, we intend to focus on police-community relations, the local news media coverage of the issues, education, employment, housing, political participation and other topics.

Congress has provided the Commission with subpoena power to compel the appearance of witnesses at its hearings. During the hearings, we expect to examine the extent, causes, and possible solutions to racial and ethnic tension and violence. After completion of each hearing, we will issue a report of our findings with recommendations to the President and Congress.

THE UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS  
1121 Vermont Avenue N.W.  
Washington, D.C. 20425  
Public Affairs  
(202)-376-8312

# NEWS RELEASE

For Release: WED., MAY 6, 1992

Contact: CHARLES R. RIVERA  
OR  
BARBARA J. BROOKS

## RIGHTS COMMISSION TAKES RACIAL TENSION PROBE TO L.A.

WASHINGTON, D.C. --- Meeting in emergency session Monday, members of the U.S. Commission on Civil Rights decided to travel to Los Angeles Saturday to begin five days of preliminary factfinding on last week's rioting there. The Commission had already decided to devote its limited resources to a study of the "rising tide of racial and ethnic tensions apparent across this country," and has a May hearing set for Washington, D.C.

"Unfortunately, the Commission's reading of the barometer of racial tensions has proven all too accurate, and its fears well-founded," says a Commission statement.

The May hearings are set to provide a national perspective on "Racial and Ethnic Tensions: Poverty, Inequality, and Discrimination," from a cross section of distinguished individuals in a variety of fields. Hearings are also set for Chicago in June, Los Angeles and New York City next year, Memphis and Miami the following year.

The independent, bi-partisan federal agency is chaired by Arthur A. Fletcher. Charles Pei Wang is vice chair and members include Carl A. Anderson, William B. Allen, Mary Frances Berry, Esther G.A. Buckley, Blandina Cardenas Ramirez, and Russell G. Redenbaugh. Wilfredo J. Gonzalez is staff director.

The Commission's full statement is attached.



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

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

**STATEMENT OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

On Monday morning at 8 a.m. EDT, this Commission met in emergency session to consider the events of the past week in Los Angeles, California, and to determine how we could best contribute to the achievement of both lasting peace and justice in that community, and throughout the country.

Based in large part on a course of action we embarked upon one year ago, we determined that our response should be twofold:

First, the Commissioners, along with headquarters and regional staff, will conduct five days of preliminary factfinding in Los Angeles, commencing this Saturday, May 9. Thereafter, we will maintain a continuing presence in the community through our Western Regional Office, and will conduct a field investigation which will culminate in a hearing in Los Angeles in late fall or early winter.

Second, we will continue to conduct a series of hearings from both national and local perspectives, on the causes, and potential remedies for the racial and ethnic tensions plaguing our nation.

In February, 1991, this Commission expressed unanimous concern at the rising tide of racial and ethnic tensions apparent across this country. So compelling was our conviction that immediate, national attention at the highest level must be brought to bear on this problem, that we determined to postpone or abandon any projects not directly related to this paramount concern. Instead, we embarked upon a three-to-five year project designed to examine the causes of racial and ethnic tensions, to raise the level of public awareness of the extent and depth of the underlying issues, and to attempt to bring about a new discourse aimed at identifying solutions.

Hardly had the ink dried on this plan when a civil disturbance occurred in the Mount Pleasant section of Washington D.C. that involved issues germane to the Commission's study: the socio-economic isolation of a minority population; the friction between that population and law enforcement personnel; and the incendiary effect of a single flashpoint in that police-community relationship.

Thus, in January of this year, Mount Pleasant became the site of the Commission's first hearing on racial and ethnic tensions in America. This hearing was conducted with a sense of urgency borne of the belief that frustrations seething in the nation's capital were not an isolated manifestation. They were prevalent in communities across the country and susceptible to erupting in similar fashion at any time.

So concerned was this body about the increasing number of racial incidents, the growing evidence of bigotry and intolerance, and the reported number of hate crimes, that we took an extraordinary step last July. We wrote not only to Federal government leadership, but also to the governors of all 50 states, urging the avoidance and condemnation of any political campaign tactics or rhetoric that might exacerbate racial or ethnic hostilities.

Unfortunately, the Commission's reading of the barometer of racial tensions has proven all too accurate, and its fears well-founded. Last week, the flashpoint came with a jury verdict acquitting Los Angeles police officers involved in the brutal beating of Mr. Rodney King. That verdict stunned the nation.

At our emergency meeting Monday morning, we deliberated on how we should address both the immediate and longer term situations in Los Angeles. Central to this question was how this independent, bipartisan agency's 35 years of experience in analyzing, among other related issues, the causes of civil disturbances, could best be utilized in a situation where the causes by now are all too well known -- and the time for action too long delayed.

As stated earlier, our decision was two-fold. First, we determined to maintain our previously established schedule of hearings. In doing so, we will continue to pursue our purpose of raising the national consciousness to the magnitude of the tragedy America faces if issues of social justice and equality of opportunity are not addressed promptly and meaningfully.

Secondly, as part of that effort, and in immediate response to the devastating violence that occurred in Los Angeles, members of the Commission and staff will visit that city for purposes of on-site factfinding, beginning on this Saturday, May 9, through May 13, and will report back to the Commission as a whole prior to our next scheduled hearing, on May 21 and 22, in Washington, D.C.

The purpose of the Washington hearing is to provide a national perspective on "Racial and Ethnic Tensions: Poverty, Inequality, and Discrimination." This hearing will afford the Commission an opportunity to hear from a cross section of distinguished individuals who through their own work in a variety of fields have also tried to raise the level of consciousness of the American public to the nation's most serious domestic problems.

After considering the results of our preliminary factfinding in Los Angeles, and the information and opinions gathered in the May hearing, the Commission will announce the date on which it will hold a hearing in Los Angeles. That hearing will culminate several

months of field investigation, and will, among other things, evaluate the performance and accomplishments of Federal and local entities in the aftermath of the civil disturbance.

In the meantime, the Commission has long recognized that the underlying causes of racial and ethnic tensions and unrest are by no means exclusive to any particular localities. Similarly, solutions may be found and must be sought everywhere. We intend, therefore, to continue our previously established schedule of hearings around the country, which will include hearings in Chicago, Illinois on June 24 through 26; in New York City in 1993; and subsequently in Memphis, Tennessee and Miami, Florida.

The Commission intends to issue interim reports after each of these local hearings, and to issue a comprehensive report with recommendations to the President and the Congress at the conclusion of the project.



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

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

#### COMMISSION STATEMENT ON THE 50TH ANNIVERSARY OF PEARL HARBOR

The Japanese attack at Pearl Harbor on December 7, 1941 was tragic in its loss of life, in its destruction, and in its immediate and far-reaching consequences for the United States and the rest of the world. On the 50th anniversary of that terrible but galvanizing event in U.S. history, it is altogether fitting that we memorialize the 2,403 American military personnel and civilians who died as a result of the attack, as well as the families they left behind.

The momentous event that brought this nation into World War II also holds a lasting lesson about the manner in which this nation can, under duress, treat an entire group of minority citizens. On February 19, 1942, President Franklin Roosevelt signed Executive Order 9066, which declared military zones from which individuals could be removed in the interests of national security. The signing of this order set the stage for the removal of Japanese Americans from the West Coast, and their subsequent detention in internment camps.

As a direct result of this order, Japanese Americans were selectively forced from their homes. This action was implemented in the absence of martial law, with civilian courts open, and with the presumption that ethnicity determines loyalty.

The incarceration of Japanese Americans during World War II resulted in the loss of homes, property and personal effects. With sweeping violations of their constitutional rights, Japanese Americans lost their freedom for periods of up to four years -- humiliated and ostracized, victims of misplaced blame. In recognition of the injustices served these people, the U.S. government acknowledges that such acts should never have taken place.

In commemorating this special anniversary of Pearl Harbor, we must be mindful that some individuals and groups may use this occasion to exploit racial animosities based on misinformation, prejudice and hatred. As it did in 1941, the specter of racism has the power to stir fear and suspicion in our communities, opening wounds that are difficult to heal.

The last decade has witnessed a dramatic increase in intolerance, hostility and hate crimes directed against Asian Americans. Incidents have ranged from negative media portrayals and vandalism to the beatings of Asian Americans and the racially-motivated murders of individuals such as Vincent Chin in Michigan, Ming Hai Loo in North Carolina, and Thong Hy Huynh in California. "Japan-bashing" in this country, brought on by U.S.-Japan trade



UNITED STATES  
COMMISSION ON  
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624 Ninth Street, N.W.  
Washington, D.C. 20425

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS  
ON THE DEATH OF THURGOOD MARSHALL

It is with deep regret and sorrow that the United States Commission on Civil Rights has learned of the death of Thurgood Marshall. Along with millions of others, we mourn the passing of a truly great American.

Justice Thurgood Marshall's lifelong and fearless defense of civil rights and civil liberties for Americans and other U.S. residents long denied such rights is permanently etched into this Nation's history. His use of the law as an instrument for positive social change in this country is unparalleled. His unwavering belief that the Declaration of Independence and the Constitution of the United States meant what they said about equality before the law profoundly changed the course of American history. His dedication to the proposition that constitutional provisions and protections, as well as obligations and responsibilities, apply equally to the most prominent and the least powerful among us, makes him a hero of the civil rights movement.

Justice Marshall's nearly six decades as a civil rights attorney, federal judge, solicitor general and Associate Supreme Court Justice are a beacon for those striving to guarantee that this Nation's commitment to "justice for all" not continue to ring hollow for a large segment of its population.

- m o r e -



By the time of his appointment to the Supreme Court by President Johnson in 1967, Justice Marshall had established himself as the leading civil rights lawyer in the country.

During his career, he successfully argued 29 of the 32 cases he brought before the Supreme Court in addition to bringing scores of civil rights cases before lesser courts in every state. Paramount among those cases was the 1954 Brown v. Board of Education case, which broke the "separate but equal" doctrine that had kept schools in many areas racially segregated. He also fought discrimination in housing and voting by successfully challenging covenants that kept blacks from renting and buying desirable real estate, and by opening primary voting polls to blacks in the South.

Thurgood Marshall will be sorely missed by those who shared his vision and his dream of a democratic society cleansed of the blight of bigotry and discrimination. The American people can best honor him by keeping his vision and dream alive by rededicating themselves to their fulfillment.

The United States Commission on Civil Rights pledges itself to this task, and invites all who are about freedom to join with us in this worthy endeavor.

1/25/93



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

624 Ninth Street, N.W.  
Washington, D.C. 20425

STATEMENT BY THE U.S. COMMISSION ON CIVIL RIGHTS  
ON THE 65TH ANNIVERSARY OF THE BIRTH OF  
DR. MARTIN LUTHER KING, JR.

It is entirely appropriate that, on the sixty-fifth anniversary of his birth, the American people celebrate the life of Dr. Martin Luther King, Jr. Since his lifetime, our nation has made remarkable progress in eradicating discrimination based on race, religion, national origin, sex, disability and age. But victory is far from won.

As we reflect upon the meaning of Dr. King's life and teachings, we recognize that inequalities persist and that there is a resurgence of the kind of racial hatred against which he fought so ardently. We are reminded that some Americans still prefer to judge others by the color of their skin rather than by the content of their character. By re-doubling our efforts to identify and eliminate discrimination, we honor Dr. King while moving our nation closer to the reality of liberty and justice for all.

The United States Commission on Civil Rights calls upon our fellow citizens and government at every level to join with us in helping make a reality of his dream -- for it is, after all, the promise of America.

frictions, has increasingly victimized Japanese and other Asian Americans, making them even more vulnerable to racial intolerance.

As this nation approaches its special remembrance of the attack on Pearl Harbor a half-century ago, we would do well to also remember that Asian Americans have been working for more than a century to make this country great. It is in that spirit that the U.S. Commission on Civil Rights calls upon all Americans to reject messengers and messages that would victimize Japanese and other Asian Americans. The United States Commission on Civil Rights deplures any attempt to create negative emotional messages through racial exploitation that would adversely affect Japanese and Asian Americans.

THE UNITED STATES  
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# NEWS RELEASE

For Release: IMMEDIATELY

Contact: CHARLES R. RIVERA  
or  
BARBARA J. BROOKS

## RIGHTS COMMISSION CONDEMNS KEAN COLLEGE HATE SPEECH

WASHINGTON, D.C. The U.S. Commission on Civil Rights today voted unanimously to endorse a February 23 congressional resolution (H.Res. 343) condemning a hate-filled speech given by Kahlid Abdul Muhammad at New Jersey's Kean College on November 29, 1993.

Commissioner Carl Anderson resolved that Muhammad's speech was fueling religious bigotry and discrimination throughout the nation. The Commission has been conducting national hearings on the resurgence of racial tensions.

The Commissioners agreed with Commissioner Arthur A. Fletcher that the agency has the moral obligation to go beyond condemning the content of Muhammad's Kean College speech. "The Commission will continue to address what it sees as an increasingly combustible mixture of racism, anti-Semitism and other forms of religious bigotry," Chairperson Mary Frances Berry said.

The text of the Commission resolution follows:

Whereas the United States Commission on Civil Rights strongly opposes racism, anti-Catholicism, and anti-Semitism, and all forms of ethnic or religious intolerance:

- M O R E -

Whereas the racist, and anti-Catholic, and anti-Semitic speech given by Kahlid Abdul Muhammad of the Nation of Islam at Keen College on November 29, 1993, incites divisiveness and violence on the basis of race, religion, and ethnicity; and

Whereas Mr. Muhammad specifically justifies the slaughter of Jews during the Holocaust as fully deserved; disparages the Pope in the most revolting personal terms; and calls for the assassination of every white infant, child, man, and woman in South Africa: Now, therefore, be it

Resolved, that the U.S. Commission on Civil Rights,

(1) condemns the speech given by Kahlid Abdul Muhammad as outrageous hatemongering of the most vicious and vile kind;

(2) condemns all manifestations and expressions of racism, anti-Catholicism, and anti-Semitism, and ethnic or religious intolerance.

The U.S. Commission on Civil Rights is an independent, bipartisan Federal factfinding agency. The Chairperson of the Commission is Mary Frances Berry and the Vice Chairperson is Cruz Reynoso. Other Commission members are Carl A. Anderson, Arthur A. Fletcher, Robert P. George, Constance Horner, Russell G. Redenbaugh and Charles Pei Wang. Stuart J. Ishimaru is acting staff director.

U.S. COMMISSION ON CIVIL RIGHTS  
 REPORT OF RACE/NATIONAL ORIGIN BY GRADE AND SEX  
 SEPTEMBER - 1992

PAY PLAN	GRADE	ASIAN		BLACK		HISPANIC		WHITE		OTHER		TOTAL	
		F:	M:	F:	M:	F:	M:	F:	M:	F:	M:	F:	M:
ES	00	0	0	0	0	0	1	2	1	0	0	2	2
GM	15	0	0	1	3	2	2	2	3	0	0	5	8
GM	14	0	1	1	1	0	0	3	1	0	0	4	3
GM	13	0	0	1	1	0	0	1	0	0	0	2	1
GS	13	0	1	1	2	0	1	3	3	0	0	4	7
GS	12	1	1	2	0	1	1	1	1	0	0	5	3
GS	11	0	1	2	1	0	1	2	1	0	0	4	4
GS	10	0	0	0	0	0	0	0	0	0	0	0	0
GS	09	0	0	3	1	0	0	1	0	0	0	4	1
GS	08	0	0	1	0	0	0	0	0	0	0	1	0
GS	07	0	0	6	0	2	0	0	0	1	0	9	0
GS	06	0	0	3	0	0	0	0	0	0	0	3	0
GS	05	0	0	4	1	0	0	0	0	0	0	4	1
GS	04	0	0	4	0	1	0	0	0	0	0	5	0
GS	03	0	0	0	0	0	0	0	0	0	0	0	0
GS	02	0	0	0	0	0	0	0	0	0	0	0	0
SUB-TOTALS		1	4	29	10	6	6	15	10	1	0	52	30
GRAND TOTALS		5		39		12		25		1		81	
PERCENTAGES		6.1%		48%		14.8%		30.8%		1.2%			

U.S. COMMISSION ON CIVIL RIGHTS  
 REPORT OF RACE/NATIONAL ORIGIN BY GRADE AND SEX  
 SEPTEMBER - 1993

PAY PLAN	GRADE	ASIAN		BLACK		HISPANIC		WHITE		OTHER		TOTAL	
		F:	M:	F:	M:	F:	M:	F:	M:	F:	M:		
ES	00	0	0	0	1	0	0	1	3	0	0	1	4
GM	15	0	0	1	3	1	1	3	0	0	0	5	4
GM	14	0	1	1	1	0	0	3	1	0	0	4	3
GM	13	0	1	1	2	0	2	0	2	0	0	1	7
GS	15	0	0	0	0	0	1	1	0	0	0	1	1
GS	14	0	0	0	1	0	0	0	0	0	0	0	1
GS	13	0	0	2	0	0	0	2	1	0	1	4	2
GS	12	1	0	2	0	1	1	1	3	0	0	5	4
GS	11	0	1	1	0	0	1	2	0	0	0	3	2
GS	10	0	0	0	0	0	0	0	0	0	0	0	0
GS	09	0	0	3	3	0	0	1	0	0	0	4	3
GS	08	0	0	2	0	0	0	0	0	0	0	2	0
GS	07	0	0	4	0	1	0	1	0	1	0	7	0
GS	06	0	0	3	0	0	0	0	0	0	0	3	0
GS	05	0	0	3	3	1	0	0	0	0	0	4	3
GS	04	0	0	2	0	0	0	0	0	0	0	2	0
GS	03	0	0	0	0	0	0	0	0	0	0	0	0
GS	02	0	0	0	0	0	0	0	0	0	0	0	0
SR	00	0	1	1	1	0	1	1	3	0	0	2	6
GW	01	0	0	0	0	0	0	0	0	0	0	0	0
WG	04	0	0	0	0	0	0	0	0	0	0	0	0
SUB-TOTALS		1 4		26 15		5 7		15 13		1 1		48 40	
GRAND TOTALS		5		41		12		28		2		88	
PERCENTAGES		6%		47%		14%		32%		02%			

PAGE 1

EEO STATISTICAL REPORT  
AS OF 06-23-94

PAY PLAN	GRADE	BLACK		HISPANIC		OTHER		WHITE		TOTAL
		FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	
ES	00	0	0	0	0	0	0	1	1	2
GM	15	1	2	1	2	0	0	2	1	9
	14	0	1	1	0	0	1	3	1	7
	13	1	1	0	0	0	0	1	0	3
GS	15	1	1	0	0	0	0	0	2	4
	13	3	3	0	2	0	2	1	2	13
	12	2	1	1	2	1	1	1	3	12
	11	0	2	1	0	1	0	2	0	6
	09	4	2	0	0	0	0	1	0	7
	08	2	0	0	0	0	0	0	0	2
	07	5	0	1	0	1	0	0	0	7
	06	1	0	0	0	0	0	0	0	1
	05	4	0	1	0	1	0	0	0	6
	04	1	1	0	0	0	0	0	0	2
SR	00	1	1	0	1	0	1	1	3	8
SUB-TOTALS		26	15	6	7	4	5	13	13	89
GRAND TOTALS		41		13		9		26		
PERCENTAGES		46%		15%		10%		29%		



**FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)**  
**Annual Accomplishment Report**

The U.S. Commission on Civil Rights is a Federal agency whose ceiling authorization is 90 full-time equivalency, (FTE). This includes Headquarters and six (6) Regional Offices. In FY 1993 the Commission had eight (8) vacancies, whereas our recruitment efforts resulted in the hiring of eight (8) new employees which included two (2) white females, two (2) black females, one (1) Hispanic female, and three (3) black males.

A summary of accomplishments is indicated below:

- We continued to mail copies of our vacancy announcements to universities and colleges with a large number of minorities/women in fields such as law and social science to attract candidates for vacant positions.
- We ensured that students from universities and colleges who are interested in volunteer positions with the Commission are referred to the appropriate official for placement.
- We utilized community resources and associations such as the National Association for Equal Opportunity in Higher Education, National Council of La Raza, the Conference on Asian Pacific American Leadership, and the Organization of Chinese Americans to list vacancies and to identify potential applicants. We have reached out to the National Congress of American Indians, the American Indian Law Center, the Baltimore Indian Center, the Mid-Atlantic Indian Alliance, and the Morningstar Foundation (D.C.) for information on where to send announcements when new vacancies are going to be filled.
- Internally we continued to distribute to the Commission's top officials a quarterly EEO report to ensure continual awareness of the Commission's EEO profile and the need for improvement, as appropriate.

## Annual Federal Equal Opportunity Recruitment Program (FEORP) Report

Please Type Or Print Clearly And Return This Sheet With Original Signature To:

Assistant Director for Office of Affirmative Recruiting and Employment  
Office of Personnel Management - CEG/OARE  
1900 E Street, N.W., Room 6332  
Washington, D.C. 20415

**- IDENTIFYING INFORMATION**

## A. Name and Address of Agency

U.S. Commission on Civil Rights  
624 Ninth Street, N.W.  
Room 511  
Washington, D.C. 20425

## B. Name and Title of Designated FEORP Official (include address, if different from above.)

Telephone Number

Tino Calabria, EEO Programs Office Director  
624 Ninth Street, N.W.  
Room 503 - Tel. 202/376-7533  
and  
Marcia Tyler, Personnel Division Chief  
624 Ninth Street, N.W.  
Room 511 - Tel. 202/376-8364

## C. Name and Title of Contact Person (include address, if different from above.)

Telephone Number

Same as above.

**- CERTIFICATION**

I certify that the above named agency: (1) has a current Federal Equal Opportunity Recruitment Program (FEORP) plan and the program is being implemented as required by Public Law 95-454 and subsequent regulations and guidelines issued by the Office of Personnel Management; (2) that all field offices or installations having less than 500 employees are covered by a FEORP plan; (3) that all field offices or installations having 500 or more employees are either covered by the plan or by a local plan; and (4) that such plans are available upon request from field offices or installations.

Signature and Date Signed

Marcia Tyler 11/21/93

REPRODUCE LOCALLY

OPM Form 152  
(Rev. 9/83)

STATE RECRUITMENT PROGRAM (FERDP) PLAN

AGENCY: U.S. COMMISSION ON CIVIL RIGHTS

PERIOD COVERED BY PLAN - FY 94

CONTACT'S NAME: Tino Calabria, EEO Programs Off. Dir.

TELEPHONE NO.: 202/376-7533

RECRUITMENT PRIORITIES TARGETED GROUP (S)	GRADE LEVEL(S)	OCCUPATION(S)	RECRUITMENT METHODS/SOURCES	TARGET DATES
All minority groups, women, and persons with disabilities.	GS-5/7/9 and Co-op students	Administra- tive, man- agerial, legal.	Universities/colleges; minority group asso- ciations; State and local employment of- fices.  Professional organiza- tions.	FY 94
NOTE: Implementation of plan pending the lifting of budgetary constraints.				

(Note: The above should reflect recruitment priorities only - not a complete list of all underrepresented groups. In addition, it is not necessary to include the underrepresentation indices.)

List of Black Colleges with Graduate Programs

<b>Economics:</b>	Alabama A&M University Atlanta University Howard University Jackson State University Morgan State University Prairie View A&M University Virginia State University
<b>Sociology:</b>	Atlanta University Fisk University Florida A&M University Grambling State University Howard University Jackson State University Lane College Morgan State University Norfolk State University North Carolina Central University Prairie View A&M University Texas Southern University
<b>Political Science and Government:</b>	Atlanta University Howard University Jackson State University So. University (B.R.) Tuskegee University
<b>Social Science/Social Studies:</b>	Atlanta University Florida A&M University Grambling State University Norfolk State University North Carolina A&T University Virginia State University
<b>Law:</b>	Howard University North Carolina Central University Texas College Xavier University

List of Black Colleges with Graduate Programs**Business Administration:**

Alabama A&M University  
Albany State College  
Atlanta University  
Bowie State College  
Delaware State College  
Fayetteville State University  
Florida A&M University  
Hampton University  
Howard University  
Jackson State University  
Lane College  
Lincoln University

List of Colleges with Graduate Programs with high enrollment of Hispanics

<b>Economics:</b>	Arizona State University California State University, Fullerton California State University, Los Angeles New Mexico State University Pan American University The University of Arizona University of California University of Miami University of New Mexico University of Texas at Austin
<b>Sociology:</b>	Arizona State University California State University, Fullerton California State University, Los Angeles The University of Arizona University of California University of Miami University of New Mexico University of Texas at Austin
<b>Political Science:</b>	Arizona State University California State University, Fullerton California State University, Los Angeles New Mexico State University The University of Arizona University of California University of Miami University of New Mexico University of Texas at Austin
<b>Social Science/Social Studies:</b>	Arizona State University Florida International University The University of Arizona University of Texas at Austin
<b>Law:</b>	Arizona State University The University of Arizona University of California, Los Angeles University of Miami University of New Mexico University of Texas at Austin

List of Colleges with Graduate Programs with high enrollment of Hispanics**Business Administration:**

Arizona State University  
California State University, Fullerton  
California State University, Los Angeles  
New Mexico State University  
Pan American University  
The University of Arizona  
University of California  
University of Miami  
University of New Mexico  
University of Texas at Austin

List of Colleges with Graduate Program with high enrollment of Asians/Pacific Islanders

<b>Economics:</b>	California State University, Hayward California State University Los Angeles California State Polytechnic University California State University, Sacramento San Diego State University University of California, Berkeley University of California, Los Angeles University of Washington
<b>Sociology:</b>	California State University, Hayward California State University Los Angeles California State University, Northridge California State University, Sacramento San Diego State University University of California, Berkeley University of California, Los Angeles University of Washington
<b>Social Science/Social Studies:</b>	California State University, Los Angeles San Diego State University
<b>Law:</b>	University of California, Berkeley University of California, Los Angeles University of Washington
<b>Business Administration:</b>	California State University, Hayward California State University Los Angeles California State University, Northridge California State University, Sacramento San Diego State University University of California, Berkeley University of California, Los Angeles University of Washington





UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

624 Ninth Street, N.W.  
Washington, D.C. 20425

STATEMENT OF COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY

I AM AFFIRMING THIS AGENCY'S COMMITMENT TO PROMOTE EQUAL EMPLOYMENT OPPORTUNITY FOR ALL EMPLOYEES AND APPLICANTS FOR EMPLOYMENT WITHOUT REGARD TO COLOR, RACE, RELIGION, SEX, AGE, DISABILITY OR NATIONAL ORIGIN.

OUR OBJECTIVE IS TO PROVIDE A WORK ENVIRONMENT FREE OF UNLAWFUL EMPLOYMENT DISCRIMINATION.

ALL AGENCY EMPLOYEES, ESPECIALLY MANAGERS AND SUPERVISORS, ARE RESPONSIBLE FOR SUPPORTING OUR POLICY ON EQUAL EMPLOYMENT OPPORTUNITY AND FOR ASSURING THAT THE WORK PLACE IS FREE FROM DISCRIMINATION. ALL PERSONNEL PRACTICES INCLUDING RECRUITMENT, SELECTION, TRAINING, PROMOTION, TRANSFER, AND BENEFITS ARE REQUIRED TO BE FREE OF UNLAWFUL DISCRIMINATION.

  
STUART J. ISHIMARU  
Acting Staff Director

3/14/94  
Date

OF

FILED IN CLERK'S OFFICE  
U. S. D. C. - Atlanta

SEP 27 1984

HENRY CARTER, Clerk  
*H. Carter*  
Deputy ClerkIN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MARILYN GRAYBOFF :  
:   
VERSUS : CIVIL ACTION C\_83-801\_A  
:   
CLARENCE PENDELTON, Chairman, :  
United States Commission on :  
Civil Rights :

ORDER

Plaintiff Marilyn N. Grayboff (Grayboff) sued defendant Clarence Pendleton, Chairman, United States Commission on Civil Rights (the Commission) (defendant), alleging a violation of the Equal Pay Act, 29 U.S.C. §206(d)(1) (1982).<sup>1</sup> The parties agreed that the court would decide the action on the basis of a stipulated record. Oral argument on the record was held on July 2, 1984. After reviewing the stipulated record, the court holds that Grayboff has proved her claim of an Equal Pay Act violation by a preponderance of the evidence.

The following will constitute the court's findings of fact and conclusions of law pursuant to Fed.R.Civ.P. 52(a). Grayboff, a white female, was hired by defendant in 1974 as an Equal Opportunity Specialist (EOS), to work in the Southern Regional Office (SRO). Although the title varied over the years,

the EOS position apparently remained the same. The EOS's basically functioned as liaisons between the federal government and the states. To perform this task, each EOS had a number of states for which he or she was responsible. The EOS's helped set up state advisory committees (SAC's) in each state. The SAC's were the links through which the EOS's maintained contact with the states. These groups of local citizens would monitor civil rights concerns in their respective states, and suggest areas meriting action to the EOS's. The EOS's would assist the SAC's in investigations, projects, and programs concerning local civil rights issues.

In performing the required functions, the EOS's took on a great deal of responsibility. They dealt with a variety of people from the states, including public officials, private employers, employees, and the media. Additionally, they were responsible for research and writing of projects and investigations in their states. They also were required to submit periodic reports concerning the status of civil rights in their states. The EOS position is a highly visible and highly pressured one, and the EOS's basically were accountable for their own actions.

Grayboff was hired as a GS-11. At that time, the SRO had three other EOS's: a black female at GS-11, a black male at GS-11, and a white male at GS-13. The black male quit soon after Grayboff's hiring and was replaced by a black male at GS-13. The

black female was brought in as a GS-9 and promoted to a GS-11. Grayboff was rated "a strong GS Grade 12, if not a 13," by Personnel. Nevertheless, Bobby D. Doctor, the Regional Director of the SRO (Doctor), hired Grayboff as a GS-11 because she allegedly had limited direct civil rights experience, she was willing to work at that level, and her salary history was comparatively low. The male GS-13's were hired at that level because they had been with other federal agencies. The record does not indicate that either male had prior civil rights experience.

Grayboff previously had been a journalist, and had extensive civil rights involvement. When she came to Atlanta in 1967, she became a volunteer with Economic Opportunity Atlanta. She also was employed by the Urban Laboratory on Education, a consortium of various local universities and schools. Additionally, she founded and directed the Integrant Planning Institute, which implemented a program to integrate school children without busing.

Throughout her tenure with defendant, Grayboff performed the same tasks and had the same responsibilities as the other EOS's. She was assigned two states, Alabama and Mississippi, as were the other EOS's. She actually was given more writing work, because of her skills in that area. For example, soon after her arrival she did most of the writing and editing on a GS-13 male's project in Florida.

In 1975, Doctor told Grayboff that a member of the Georgia Advisory Committee informed him that Arabs investing in Southern states were tying anti-semitic strings to their money. A friend then told Grayboff that a Kuwaiti trade delegation would be in Mississippi. Because she was going to Mississippi on other Commission business, she decided to investigate, and informed Doctor. While in Mississippi, Grayboff rode on the press plane covering the delegation. This caused state government complaints that Grayboff's presence indicated "monitoring" by the federal government. Doctor interceded with Commission authorities to prevent discipline against Grayboff. Grayboff was held fully accountable for her actions.

In 1975, Katie Harris, (Harris) a white female, was hired as a research writer at GS-12, taking over some of Grayboff's extra writing chores. Although in a position similar to an EOS, she was responsible primarily for research, writing, and media relations for the entire region, not just a few states. In 1978, Idalia Morales-Miller (Morales-Miller) an Hispanic female, became the Deputy Director of the SRO. Her testimony in the stipulated record indicates that Doctor never clearly defined her duties and responsibilities, and that a conflict existed regarding her function in the SRO. Morales-Miller sent a memorandum to Doctor concerning her survey of positions in the SRO. This memorandum indicated no differences in the actual EOS function: between GS-11, 12, or 13. Doctor never took action on the memorandum.

Grayboff had been appointed as an excepted employee, meaning that she did not go through the competitive civil service process. In 1976, the Commission lost its Schedule A ability to hire. Doctor recommended her for a promotion to GS-12 in 1977, but it was denied because Grayboff was not a career employee. Grayboff mistakenly thought she was career, due to her prior federal government service during the Second World War. She was told to send in a new 171 form to convert. She did not do so immediately because of her work commitments. When she tried to send in the form later, she allegedly was told that it was too late, the register was closed.

Grayboff received satisfactory ratings in every performance report. Although indicating a problem with meeting deadlines, the reports stressed Grayboff's superior writing skills and dedication. Doctor testified that he thought she was a good employee overall. Notwithstanding these favorable evaluations, Doctor, through Morales-Miller, attempted to initiate disciplinary action against Grayboff. Pursuant to Doctor's instructions, Morales-Miller contacted Joseph Zambrano, Personnel Director of the Commission (Zambrano), in June 1980 to ascertain whether dismissal was appropriate for various actions such as missing deadlines, and failure to obey orders.<sup>2</sup> She testified that the answer was yes, that she told Doctor, and that he instructed her to draft the request to dismiss. Zambrano denied that he responded affirmatively. Doctor testified that he reduced the punishment to a ninety-day suspension because th

charges would not substantiate dismissal. Actually, the charges did not substantiate a ninety-day suspension, or a five-day suspension later suggested by Doctor. Finally, a written reprimand was placed in Grayboff's file for twelve months.

In 1981, Doctor again asked Morales-Miller to discipline Grayboff for tardiness in meeting deadlines. Morales-Miller checked the records and found that Grayboff was no more tardy than any other EOS, and in fact was less so. She informed Doctor of this fact. Throughout Grayboff's employment, other EOS's had been cautioned for these same failings.

In 1979, Grayboff suffered a back injury in a work related accident. She experienced much pain and was unable to sit or stand for long time periods. Although she attempted to work part time, Doctor continued to give her full time assignments and deadlines. Grayboff's last day in pay status was July 15, 1981, and she received her last paycheck in August, 1981. Grayboff was terminated for disability in November, 1982. She offered to work part time. Zambrano believed that the job called for a full time worker and her request was refused. She filed this lawsuit on April 22, 1983.

The Equal Pay Act (the Act) provides that an employer shall not discriminate "between employees on the basis of sex by paying wages to employees ... at a rate less than the rate [paid] ... to employees of the opposite sex ... for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working

conditions." 29 U.S.C. §206(d)(1) (1982). The term "employer" includes the federal government. Id. §203(d),(x); see also §203(e)(2).

To establish a prima facie case under §206(d)(1), a female plaintiff must show that she received less pay than a male for equal work, requiring equal skill, effort, and responsibility, under similar working conditions. Id. §206(d)(1); see also Morgado v. Birmingham-Jefferson County Civil Defense Corps, 706 F.2d 1184, 1187-88 (11th Cir. 1983); cert. denied \_\_\_ U.S. \_\_\_, 104 S.Ct. 715, 79 L.Ed.2d 178 (1984). Equal skills, effort, and responsibility cannot be defined precisely. 29 C.F.R. §800.122 (1983). Skill includes such factors as experience, training, education, and ability. Id. §800.125 (1983). Effort is concerned with the amount of physical or mental exertion required to perform the job. Id. §800.127 (1983). Jobs do not require equal effort if the more highly paid job involves additional effort, consumes significant time, and is economically commensurate with the pay differential. Hodgson v. Brookhaven Gen'l Hosp., 436 F.2d 719, 725 (5th Cir. 1970). Responsibility includes "the degree of accountability required, with emphasis on the importance of the job obligation." 29 C.F.R. §800.129 (1983). Working conditions may be similar, not equal. Id. §800.131 (1983). Employees performing jobs with equal skill, effort, and responsibility likely will be working under similar working conditions. If conditions are substantially different,



such as inside and outside sales work, the equal pay requirement would not apply. Id. §800.132 (1983).

If plaintiff sets forth a prima facie case, the defendant must prove that the pay differential was based on an exception to the Act: the payment made pursuant to a seniority system, a merit system, a system based on quality or quantity of production, or on the basis of a factor other than sex. 29 U.S.C. §206(d)(1). The facts necessary to establish these exceptions "are peculiarly within the knowledge of the employer." 29 C.F.R. §800.141. Thus the employer/defendant must prove those facts to qualify for an exception. Id. See also, Corning Glass Works v. Brennan, 417 U.S. 188, 196 (1974) (employer has burden of showing that exception applies). Notwithstanding the merit, seniority, or quantity or quality system exceptions, sex must play no part in the pay differential. 29 C.F.R. §800.142. See Brennan v. Victoria Bank & Trust Co., 493 F.2d 896, 902 (5th Cir. 1974).

Upon review of the stipulated record, the court finds that Grayboff has presented a prima facie case that defendant violated the Act. Testimony from almost all witnesses indicated that EOS's did the same work and the job descriptions were almost identical. See Morgado, 706 F.2d at 1188. Each position required equal skills. Grayboff clearly had equal or greater skills in oral and written communications. She also had extensive civil rights experience, apparently more than the GS-13 males. All EOS's received equal, if minimal, training.

Additionally, each EOS position required an equal amount of effort. The evidence shows physical and mental exertion was great for all EOS's. The court finds nothing to indicate that the tasks performed by male GS-13's in any way consumed more time or effort than those performed by Grayboff. In fact, the tasks were identical. See Hodgson, 436 F.2d at 725.

The evidence clearly demonstrates that all EOS's had equal responsibility. As the Kuwaiti incident shows, Grayboff was held as accountable for her actions as were the male GS-13's. The job goals and functions for all EOS's were identical; thus the job obligations were equally important.

Defendant asserts that Grayboff was subject to more supervision as a GS-11; she therefore did not have responsibility equal to the GS-13's. This argument is not persuasive. The only difference in job descriptions was that a GS-13 was not subject to day-to-day supervision; a GS-11 received "minimal supervision" available when needed. See 706 F.2d at 1188. Even this distinction did not exist in practice. The evidence shows that Grayboff was supervised in the same way as the GS-13's: basically she was given great responsibility and little monitoring. In later years, Grayboff received numerous critical memoranda, which defendant calls additional supervision. Other EOS's, including the GS-13 males, also received critical memoranda. The dubious equation of memoranda with supervision does not explain why Grayboff was classified as a GS-11 years earlier. Additionally, Grayboff and the GS-13 males worked under similar conditions

They operated out of the same office, and made field trips according to the needs of their particular states. In sum, Grayboff and the male EOS's performed equal work, notwithstanding defendant's allegations of closer supervision.

Defendant has invoked the merit system and the "factors other than sex" exceptions to rebut Grayboff's prima facie case. Concerning the former exception, defendant contends that a bona fide merit system exists. The evidence indicates otherwise. The formal, written classification system on its face indicates no significant differences between the grade levels. Assuming arguendo that the position descriptions themselves indicate greater supervision over a GS-11, as defendant contends, in reality, a GS-11 and GS-13 received equal supervision. The mere existence of written job descriptions do not necessarily constitute a merit system. Morgado, 706 F.2d at 1188. Because people in different grades performed equal work, the grade classifications were artificial. The classification scheme as applied to Grayboff presented no means of advancement or reward for merit, and thus is not a bona fide merit system. Id.

Defendant also contends that Grayboff's failure to fill out a new 171 form after Doctor recommended her promotion in 1977 caused her to remain in the GS-11 slot. First, this argument offers no rationale for Grayboff's original hire in the lower position. Second, the promotion would have been only to a GS-12, which would not alleviate the problem. Finally, the court has difficulty with the assertion that Grayboff had the burden of

correcting defendant's unequal pay system. The evidence indicates that until the Commission lost its Schedule A authority in 1976, it could have promoted Grayboff or moved her into career service on its own volition. Doctor testified that he did not promote Grayboff then because she had deadline problems, but she received satisfactory performance reports. He also believed that he could not promote an excepted employee, but apparently never checked on this. Grayboff was performing equal work and should have received equal pay, notwithstanding Doctor's criticisms which also applied to the GS-13 males. See Hodgson, 436 F.2d at 725.

After the Commission lost its Schedule A authority, Doctor recommended Grayboff for promotion. His request was rejected because she was not a career employee. Grayboff never sent in her 171; she feared that she could lose her current position, and was told that the job register was closed, which are reasonable explanations. Nevertheless, defendant contends that Grayboff should have acted, and that it could not. The Office of Personnel Management (OPM) may remove any position from, or revoke in whole or in part any provision of Schedule A authority. 5 C.F.R. §6.6 (1978). When OPM or an agency finds that an excepted position has been brought into the competitive service, by statute, executive order, revocation under §6.6, or otherwise is made subject to a competitive exam, the agency may retain the incumbent. Id. If it does so, it may decide whether to convert the incumbent to career status. 5 C.F.R. §316.702 (b)(1) (1978). The incumbent is a status quo employee if the

agency decides not to convert. id. §316.702(b)(2) (1978). A status quo employee can be promoted, Id. §335.102(d) (1978), to positions for which an agency has adopted a system of promotion by merit. Id. §335.103 (1978)

An employee retained under 5 C.F.R. §316.702 who was in permanent excepted status at the time the position was brought into competitive service, and who performed satisfactorily for the immediately preceding six months, may be converted to career status within six months after the position became competitive. Id. §315.701. Additionally, status quo (non-converted) employees can acquire competitive status and are entitled to be converted when they complete three years of satisfactory service, including twelve continuous months immediately preceding conversion. Id. §315.704(a).

Defendant has presented the last two pages of a memorandum or recommendation, dated February, 1976, of the Civil Service Commission (now the OPM). This document states that the Commission's Schedule A authority should be amended, not revoked, so that Schedule A employees could not be converted to career status. A December 23, 1982 opinion of William Bohling, Chief, Noncompetitive Staffing Branch, OPM, responded to the Commission's request concerning Schedule A authority. The opinion stated that the regulations cited supra said "revoked," the Schedule A authority was "amended," and thus the regulations did not apply to the Schedule A authority. The gist is that Grayboff's position never became competitive. She was neither:

eligible for conversion, nor was she a status quo employee eligible for promotion.

If carried to its logical conclusion, defendant's semantic argument would place Grayboff's position in limbo. Because the position was not in competitive status, an employee from the register could not fill it. Because Schedule A authority to hire new employees had been taken away (as opposed to revoked) an excepted employee could not be hired. In fact, Grayboff was in limbo, unable to move because of a situation not of her making.

The argument's troublesome nature is alleviated because the court has found that Grayboff was doing equal work for unequal pay. Her reclassification as a GS-13 would not be a promotion, but merely would place her in an equal position with her male coworkers. Defendant's duty was to remedy the unequal pay situation. Bureaucratic and semantic idiosyncrasies did not relieve defendant of that duty.

Defendant also asserts that factors other than sex caused its decision to hire Grayboff as a GS-11. Doctor testified that she lacked direct civil rights experience. This reason appears pretextual because Grayboff had extensive civil rights involvement. The record does not indicate that the male GS-13's had more or any civil rights experience.

Additionally, defendant contends that Grayboff was willing to accept a lower level, and that her salary history was below that of the GS-13 males. These arguments are troublesome

An employer obviously may use discretion in setting pay rates, but sex must play no part in the determination. See Victoria Bank & Trust Co., 493 F.2d at 902. Women traditionally have been willing to accept depressed pay rates, and have lower salary histories, precisely because of sex discrimination. Id. Defendant admitted that Doctor could have offered the males a lower rate but that they would not have accepted the jobs. These factors, plus Grayboff's broad work experience and civil rights expertise, and her personnel rating of a strong GS-12, if not a 13, indicate that Doctor did consider Grayboff's sex in determining her salary. Clearly, Grayboff's hire at GS-11, and defendant's failure to elevate her to a GS-13, infected her entire tenure with the Commission. A woman hired at a lower salary is at a continuous disadvantage, because of the difficulties in "catching up." Id.

The court also rejects defendant's allegation that Grayboff did not qualify for promotion. As already discussed, Grayboff was doing GS-13 work. Her competency was at least as great as the male EOS's. Her performance reviews were satisfactory. Promotion thus is not the proper term. Grayboff should have been a GS-13; defendant was required to place her in that position.

Finally, defendant claims that because two females held GS-13 and GS-14 positions in the SRO, sex was not a factor in its decision regarding Grayboff's rank. First, the two women held positions different than Grayboff. Morales-Miller, the GS-14,

was Deputy Director, with dissimilar duties. The GS-13, Harris, was a research/writer. As discussed earlier, this position was similar in some aspects to an EOS, but its basic functions and scope were distinct. Neither position could be considered equal to Grayboff's. Additionally, the question is not whether the Commission never hires women in high ranks, but whether it hires males and females to do the same particular job at different pay. In the instant case, Grayboff has proven that defendant indeed hired her to do GS-13 work as a GS-11 because of her sex.

#### DAMAGES

An employer who violates §206 is liable to the employee for unpaid wages, and in an additional equal amount as liquidated damages. 29 U.S.C. §216(b). A willful violation of the Act extends a plaintiff's recovery period from two to three years. 29 U.S.C. §255(a). Finally, the court "shall ... allow a reasonable attorney's fee to be paid by the defendant, and costs of the action." 29 U.S.C. §216(b).

Grayboff contends that defendant committed a willful violation of the Act, and that liquidated damages are proper. Willfulness is shown by evidence that an employer knew or suspected that its actions violated the Act. Marshall v. A & M Consol. Indep. School Dist., 605 F.2d 186, 190 (5th Cir. 1979). An employer can avoid liquidated damages by showing that it acted in good faith and had reasonable grounds to believe that its acts did not violate §206. 29 U.S.C. §260. The court in its discre-



tion then may award no liquidated damages, or any amount not to exceed unpaid wages. Id.

Doctor testified that he was aware of the Act, that it applied to his employees, and that Grayboff and her male counterparts performed basically the same work. His claim that Grayboff's position required greater supervision is not supported by the evidence. Of consequence is the Commission's mandate: to monitor civil rights laws. Its plea that its actions were not willful and knowing strains credibility.

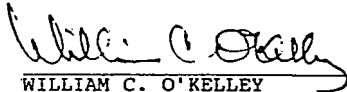
The only evidence of good faith offered by defendant is the attempted promotion in 1977. Obviously, this event in no way mitigated defendant's hiring and retention of Grayboff as a GS-11 for three years. Additionally, the promotion was to a GS-12, which would not have cured the disparity. The court appreciates that lack of clear regulatory guidance, as in the Schedule A matter, may have confused defendant. This does not excuse defendant from the performance of its obligations under the Act. Apparently defendant did not try to rectify the situation other than make a half-hearted attempt to promote Grayboff to GS-12. The court finds that defendant has not shown good faith, and thus awards Grayboff liquidated damages in an amount equal to unpaid wages.

Grayboff damages will be the difference between her level and step, and GS-13 and the corresponding step, from April 22, 1980 to July 15, 1981, her last date in pay status. An equal amount will be awarded as liquidated damages. The court

also will entertain a motion for reasonable attorney's fees and costs, which should follow the guidelines in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974).

While the court has found in favor of the plaintiff, judgment should not enter at this time. The court has conferred with the attorneys for the parties and they are directed to endeavor to submit to the court within ten days of this order the dollar amount that would be represented by the court's findings. Thereafter the court will direct entry of judgment in the proper amount.

IT IS SO ORDERED this 21<sup>st</sup> day of September, 1984.

  
\_\_\_\_\_  
WILLIAM C. O'KELLEY  
United States District Judge

1/ In her complaint, Grayboff alleged that she was terminated in retaliation for filing an Equal Pay Act claim and requested reinstatement. Grayboff did not discuss this second cause of action in her trial brief and defendant thus did not address the issue in his brief. Her calculations of damages in the brief included sums from April 22, 1980, to the present, but never mentioned reinstatement. Grayboff's counsel said at oral argument that the maximum recovery sought was from either April, 1980 or 1981, to August, 1981, and noted that Grayboff had been "constructively discharged." He initiated no further discussion on this aspect. Also at oral argument, Grayboff's counsel indicated that her retirement benefits are based on a lower rating. He indicated that the record would be supplemented with this information, but this has not occurred. The parties have not defined the second issue clearly: whether a constructive discharge occurred, whether it was retaliation or was justified by Grayboff's health. Thus the court will not rule on this issue.

2/ The reprimand was for "failure to follow instructions and proper leave procedures." Specifically, Grayboff was accused of making verbal changes in a videotape contract concerning Laurel Mississippi, and of going to Mississippi without a superior's consent. Grayboff denied this and introduced a voucher for an airline ticket to Mississippi signed by Doctor. An additional charge was her failure to instruct private employers of their role at a hearing in Knoxville, Tennessee. Grayboff challenges this charge, noting that she followed Doctor's instructions. She also was criticized for failing to meet a deadline.

The second charge stemmed from Grayboff's failure to present a copy of a court summons for her jury duty leave. She told Doctor and Morales-Miller about jury duty before the fact, but lost her summons and procured a new one while on jury duty. Portia Ral indicated that while another employee had jury duty, to her knowledge only Grayboff was required to bring in the summons.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MIRIAM N. GRAYBOFF,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
vs.	:	
	:	NO. C85-4238A
CLARENCE M. PENDLETON, JR.,	:	
Chairman, The United States	:	
Commission on Civil Rights	:	
(Commission) and THE	:	
COMMISSION,	:	
	:	
Defendants.	:	

SETTLEMENT AGREEMENT

This Agreement made and entered into this 5<sup>th</sup> day of March, 1987, by Miriam N. Grayboff (Plaintiff), Clarence M. Pendleton, Jr., Chairman, The United States Commission on Civil Rights or his successor and the Commission, has the following terms:

The parties wish to settle the dispute represented by this action and any other disputes <sup>(with the Commission)</sup> arising out of plaintiff's employment with the Commission. To do so, the parties have agreed to a full and final and complete resolution of this action and all issues arising from plaintiff's Equal Pay Act claims, Title VII claims and any other employment claims which plaintiff may have against the Chairman and/or the Commission.

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just*

For and in consideration of the terms of this agreement and its mutual promises and warranties and for good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged, plaintiff, the Chairman, and the Commission hereby agree as follows:

Plaintiff will release, <sup>of the Commission</sup> acquit and forever discharge these defendants and all others, from any and all claims, demands, rights of action, causes of action, lawsuits, claims for costs, attorneys' fees, damages, losses, expenses or claims of any other character whatsoever which arise out of her employment with the Commission. Plaintiff is, however, <sup>her claims for workers compensation including</sup> free to pursue recovery for any adjustments due her from the Office of Workers Compensation for increased amounts claimed by her to be due for disability benefits related to 409 hours of missed work which she contends should be adjusted as a result of ~~Title VIII~~ relief adjusting her 1979 pay rate upward. Plaintiff also agrees to dismiss <sup>(Civil Action No. C 85-4238A)</sup> this action with prejudice, each party to bear its own costs and attorney's fees.

In exchange, defendants agree: to pay plaintiff a lump sum settlement amount of thirty-one thousand six hundred twenty-seven and 00/100 dollars (\$31,627.00) for any and all back pay, front pay, reinstatement claims and any and all other claims for damages; to cut personnel forms necessary to achieve retroactive career status for plaintiff effective March 31, 1976; to cut personnel forms by which plaintiff

retroactively achieves GS1<sup>3</sup>, step 4 as of ~~September 11,~~ <sup>July 15,</sup> 1978, and GS1<sup>3</sup>, step 5 as of April 22, 1979, GS13, ~~step 5 as~~ <sup>and</sup> ~~of November 13, 1979,~~ <sup>and</sup> GS13, step 6, as of May 17, 1981, and whatever additional personnel forms are needed to systematically bring plaintiff's payroll records forward to achieve a "high three" for retirement purposes at the appropriate GS13; the Commission will pay an additional contribution of two hundred fifteen and 75/100 dollars (\$215.75) into the retirement fund. (Plaintiff is responsible for paying the same amount into the fund.)

The check for the lump sum payment is to be made payable to Miriam N. Grayboff and her attorneys Kalijarvi & Chuzi.

The parties to this agreement authorize and direct their respective counsel of record to take all appropriate steps to execute all documents necessary to implement the terms of this agreement.

The terms of this agreement are contractual and not merely recitals and shall be binding upon and inure to the benefit of the parties to the agreement and their respective agents, attorneys, representatives, successors, executors, administrators, heirs and assigns.

It is understood and agreed that the monetary considerations to be paid to the plaintiff and the promises recited and referred to in this agreement are given and accepted to

resolve potential and disputed claims and to avoid the expense and risks of litigation. It is further understood that this agreement and the monetary consideration do not constitute and shall not be construed as an admission of liability on the part of any party.

The parties agree that if any term, provision, covenant or condition of this agreement or its application to any person, entity, or circumstance, shall to any extent be or be declared to be invalid or unenforceable, the remainder of the agreement shall not be affected and each other provision, term, covenant, or condition of the agreement shall be valid and enforceable to the full extent permitted by law.

The parties understand and agree that this agreement contains the entire agreement between the parties to it. No promise or inducement has been made except as set forth in the agreement. No representations or agreements, oral or otherwise between the parties to this agreement which are not included in it shall be of any force and effect.


The parties acknowledge that they are and have been represented by counsel in connection with the negotiation and preparation of the agreement, that its provisions and the legal effect of the provisions have been explained to them and that they have entered into this agreement freely and voluntarily without coercion or undue influence.

IN WITNESS WHEREOF, the parties to this agreement have caused it to be executed as demonstrated by their signatures below.

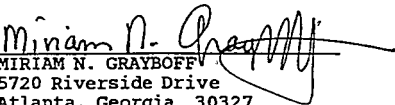
This 3rd day of April, 1987.

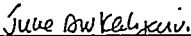
CLARENCE M. PENDLETON, JR.  
Chairman, The United States Commission  
on Civil Rights

ROBERT L. BARR, JR.  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
NINA L. HUNT  
ASSISTANT UNITED STATES ATTORNEY

1800 United States Courthouse  
75 Spring Street, S.W.  
Atlanta, Georgia 30335  
(404) 331-6458  
Georgia Bar No. 378625

  
\_\_\_\_\_  
MIRIAM N. GRAYBOFF  
5720 Riverside Drive  
Atlanta, Georgia 30327

  
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1901 L. Street, N.W.  
Washington, D. C. 30036



IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF GEORGIA  
 ATLANTA DIVISION


MIRIAM N. GRAYBOFF,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
vs.	:	
	:	NO. C85-4238A
CLARENCE M. PENDLETON, JR.,	:	
Chairman, The United States	:	
Commission on Civil Rights	:	
(Commission) and THE	:	
COMMISSION,	:	
	:	
Defendants.	:	

STIPULATION FOR DISMISSAL

It is hereby stipulated by Miriam N. Grayboff, plaintiff, by and through her attorneys, and Clarence M. Pendleton, Jr., Chairman, Commission on Civil Rights and the Commission, defendants, by and through their attorneys, that this action be dismissed, without costs or attorneys' fees

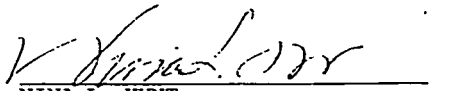
to either party and with prejudice to plaintiff.

This \_\_\_\_\_ day of \_\_\_\_\_, 1987.

  
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ROBERT L. BARR, JR.  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
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Georgia Bar No. 378625

SUBCOMMITTEE STAFF ANALYSIS OF COMMISSION WORK PRODUCT  
(FY 1992 to June 24, 1994)

CATEGORY	FY '92	FY '93	FY '94
Reports	1 <ul style="list-style-type: none"> <li>◦ 2/92: Civil Rs and Asians (res. 11/89-9/91)</li> </ul>	1 <ul style="list-style-type: none"> <li>◦ 1/93: Mt. Pleasant (hear. 1/92; res. 12/91, 7-10/92)</li> </ul>	0
Monitoring Reports	1 <ul style="list-style-type: none"> <li>◦ 9/92: Fair Housing - State/Loc (res. 1-11/91)</li> </ul>	1 <ul style="list-style-type: none"> <li>◦ 1/93: EEO &amp; Transportation (res. 6-8/92)</li> </ul>	(1) <ul style="list-style-type: none"> <li>◦ proposed release of rpt on HUD?DOJ enforcement of Fair Housing Amendments</li> </ul>
Statements, Letters, Press Releases, Staff Reports	4 <ul style="list-style-type: none"> <li>◦ 10/22/91: 1991 CRA (1pg press release; 2pg ltr to Cong/Pres)</li> <li>◦ 11/15/91: Announcing racial justice theme ( 1 p g statement/announcement; 1pg press release)</li> <li>◦ 5/6/92: reaction to Rodney King tensions (1pg ress release, 3pg statement announcing preliminary fact-finding meeting in LA and plans for DC)</li> <li>◦ 12/6: Pearl Harbor (2pg statement denouncing intolerance against Asians)</li> </ul>	2 <ul style="list-style-type: none"> <li>◦ 8/93: <u>Staff Report</u> on EE Rs for Fed. Employees (res. 7-12/92)</li> <li>◦ 1/25/93: 2pg statement on th death of Justice Marshall</li> </ul>	2 <ul style="list-style-type: none"> <li>◦ 12/6/91: 1pg statement on Dr. Kings birth</li> <li>◦ 3/4/94: 2pg press release condemning Kean College speech by Khalid Muhammad &amp; supporting H.Res. 343</li> </ul>

Hearings	3	1	(1)
<ul style="list-style-type: none"> <li>◦ 1/29-30: Mt. Pleasant (pub. 1/93)</li> <li>◦ 5/21-22: Nat'l perspective on racial tensions (pub. + executiv summary FY '94)</li> <li>◦ 6/24-26: Chic. (rpt. fy '95)</li> </ul>	<ul style="list-style-type: none"> <li>◦ 6/15-17: LA (rpt. fy '95)</li> </ul>	<ul style="list-style-type: none"> <li>◦ proposed hearing in NYC</li> </ul>	
Consultations	0	0	0
Clearinghouse Reports	1	0	0
<ul style="list-style-type: none"> <li>◦ 7/92: Denver Airport (based on forum held 6/21-22/91)</li> </ul>			
○ Miscellaneous (briefings, forums, conferences)	0	3	6
		<ul style="list-style-type: none"> <li>◦ 11/93 Briefing on OFCCP and Glass Ceiling</li> <li>◦ 3/93: Briefing on DC statehood</li> <li>◦ 5/93: briefing on minority/female participation in professional sports industry</li> </ul>	<ul style="list-style-type: none"> <li>◦ 11/93: Census racial/ethnic income data</li> <li>◦ 12/93: Economic empowerment and inner-city</li> <li>◦ 1/94: religious civil rs issues</li> <li>◦ 4/94: civil rs and health care</li> <li>◦ 5/94: ADA implementation</li> <li>◦ 6/94: anti-immigration sentiments</li> </ul>
SAC Reports	11	10	3
<ul style="list-style-type: none"> <li>◦ AL, AR, AK, HA, IN, KS, MA, MN, NV, NY, WS</li> </ul>	<ul style="list-style-type: none"> <li>◦ .AL, ID, IL, IA, LA, MN, NY, ND, SD, WV</li> </ul>	<ul style="list-style-type: none"> <li>◦ IN, MT, NJ</li> </ul>	

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