Enforcing Civil Rights in Alaska: Who is Handling the Complaints?

Alaska Advisory Committee to the
United States Commission on Civil Rights

May 1995

This report of the Alaska Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in this report should not be attributed to the Commission, but only to the Advisory Committee.

Letter of Transmittal

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

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Attached is a report of the Alaska Advisory Committee based upon a forum convened by the Committee on September 17, 1993, in Juneau. In addition, interviews and other research were undertaken by members of the Committee and Commission staff.

The Advisory Committee proposed a study to gather information on community allegations of the lack of Federal civil rights enforcement in the State. The Advisory Committee found that because of its presence in the State, the Alaska Human Rights Commission received a significant number of complaints. Although Federal agencies received complaints, the lack of resources and geographic distance from Alaska hindered on-site visits and compliance reviews, and the lack of presence prevented Alaskans from filing concerns with appropriate agencies. To a certain degree, the community perception could not be refuted.

The Advisory Committee believes the document will play an important role in educating Alaskans on the role and function of specific Federal agencies relative to civil rights enforcement. The Advisory Committee is hopeful that the report will generate Federal agency interest in developing a creative approach to solving the community perception and increasing the Federal civil rights enforcement presence.

The Advisory Committee offers the report as part of its function to advise the Commission of civil rights issues of concern in Alaska and to add to the Commission's body of research on such matters. The report was approved for submission by the Advisory Committee, 10 for, 1 other.

On behalf of the Advisory Committee,

Rosalee T. Walker

Rosalee T. Walker, *Chairperson*
Alaska Advisory Committee

Alaska Advisory Committee

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* Was not a member of the Advisory Committee at the time of the open meeting. Ms. Mireles replaced Jocelyn B. Bocachica, formerly of Juneau, who moved from the State following the forum.

Acknowledgments

The Alaska Advisory Committee wishes to thank staff of the Commission's Western Regional Office in Los Angeles for its assistance in the preparation of this report. The project was the principal assignment of Thomas V. Pilla with assistance and support from Grace Hernandez and Priscilla-Lee Herring. The report was written by Thomas V. Pilla. Editorial assistance and preparation of the report for publication were provided by Gloria Hong. The project was carried out under the overall supervision of Philip Montez, Director, Western Regional Office.

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I. Introduction

A major duty of the U.S. Commission on Civil Rights is to "appraise the laws and policies of the Federal Government with respect to discrimination or equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin."[1] Through time, the Commission has issued a number of reports[2] monitoring and assessing the "structure, mechanisms, and procedures utilized by Federal departments and agencies in carrying out their civil rights responsibilities."[3] This body of knowledge on Federal enforcement has been supplemented by studies undertaken by the Commission's State Advisory Committees.[4]

Alaska Advisory Committee

State Advisory Committees are charged with the responsibility of advising the Commission of civil rights issues of importance in their States.[5] In the past, the Alaska Advisory Committee to the Commission has reviewed programs and released reports on its studies of minority and women businesspersons[6] and the employment of minorities and women by State government.[7]

Through its monitoring of activity in communities, the Alaska Advisory Committee becomes aware of issues of concern to minorities and women in the State. The Alaska Advisory Committee periodically has received complaints alleging that a lack of Federal presence hindered enforcement of civil rights laws in the State and that

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1 42 U.S.C. 1975c (1988).

2 Among these reports are: Federal Civil Rights Enforcement Effort (September 1970); The Federal Civil Rights Enforcement Effort, Seven Months Later (May 1971); The Federal Civil Rights Enforcement Effort: One Year Later (November 1971); The Federal Civil Rights Enforcement Effort—A Reassessment (January 1973); The Federal Civil Rights Enforcement Effort, Volume I: To Regulate in the Public Interest (November 1974); The Federal Civil Rights Enforcement Effort, Volume II: To Provide For Fair Housing (December 1974); The Federal Civil Rights Enforcement Effort, Volume III: To Ensure Equal Educational Opportunity (January 1975); The Federal Civil Rights Enforcement Effort, Volume IV: To Provide Fiscal Assistance (February 1975); The Federal Civil Rights Enforcement Effort, Volume V: To Eliminate Employment Discrimination (July 1975); The Federal Civil Rights Enforcement Effort, Volume VII: To Preserve, Protect and Defend the Constitution (June 1977); The Federal Civil Rights Enforcement Effort, To Eliminate Employment Discrimination: A Sequel (December 1977); The Federal Civil Rights Enforcement Budget: Fiscal Year 1983 (June 1982); Federal Civil Rights Commitments: An Assessment of Enforcement Resources and Performance (November 1983); hereafter collectively cited as Enforcement Effort (with specific date).

3 Enforcement Effort, September 1970, p. iii.

4 The Commission is mandated to establish State Advisory Committees in all States and the District of Columbia. Pub. L. 103–419, 108 Stat. 4340. These 51 Federal advisory bodies advise the Commission of civil rights issues within their boundaries. Some examples of State Advisory Committee reports on Federal enforcement include: West Virginia Advisory Committee, *Civil Rights Laws and Legislation in West Virginia* (1989); Vermont Advisory Committee, *Civil Rights Enforcement in Vermont* (1987); Iowa, Kansas, Missouri and Nebraska Advisory Committees, *Federal Affirmative Actions Efforts in Mid-America* (1983); Kentucky Advisory Committee, *Fair Housing in Louisville: The Community Block Grant Program* (1982); Louisiana Advisory Committee, *Fair Housing in America: Volume I, Community Development in Louisiana* (1981); Michigan Advisory Committee, *Reinvestment and Housing Equality in Michigan: Local Decisions and Federal Funds* (1980).

5 45 C.F.R. 703.2 and 703.3 (1993).

6 Alaska Advisory Committee, *Minority and Women's Business Enterprise Programs in Alaska* (1989).

7 Alaska Advisory Committee, *Changing Commitment into Action—Employment of Women and Minorities in Alaska State Government* (1980).

citizens often do not know where to file their concerns about discrimination. The Advisory Committee decided to conduct a forum and collect data to assess whether this perception was reality.[8]

Staff of the Commission's Western Regional Office (WRO), located in Los Angeles, California, contacted regional representatives of Federal agencies in Seattle and State agencies in Alaska whose responsibilities include the enforcement of civil rights laws. Through telephone contact and written correspondence, staff advised these representatives of the nature of the inquiry and solicited participation for the forum.[9] Questionnaires were forwarded to those agencies that indicated that they would not be available.[10] The forum was held September 17, 1993, in Juneau, the State capitol.[11] More than 19 participants appeared before the Advisory Committee to present their views, opinions, perceptions, and facts on the enforcement of civil rights laws in Alaska.[12] This report summarizes the Advisory Committee's inquiries.

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8 At its meeting of June 5, 1991, the Alaska Advisory Committee decided to conduct such a forum. All eight members in attendance at the meeting concurred in the decision. Alaska Advisory Committee, Meeting of June 5, 1991, Minutes, June 10, 1991, p. 3. The proposed project also was discussed at the Advisory Committee's meeting of May 28, 1992. Alaska Advisory Committee, Meeting of May 28, 1992, Minutes, June 4, 1992, p. 4.

9 Initial telephone consultation occurred during the first week of August 1993. Written correspondence detailing the nature of the Advisory Committee's inquiry was also forwarded during the first week of August 1993.

10 Questionnaires dated Aug. 30, 1993, were sent to the Seattle offices of: Jeanette Leino, District Director, U.S. Equal Employment Opportunity Commission; Gary Jackson, Regional Director, Office for Civil Rights, Department of Education; David Hashimoto, Office of Fair Housing, U.S. Department of Housing and Urban Development. Questionnaires dated Aug. 31, 1993, were sent to the Seattle offices of: Carmen Rockwell, Regional Manager, Office for Civil Rights (OCR), U.S. Department of Health & Human Services (HHS); Walt Trimble, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor; Robert Hughes, Community Relations Service (CRS), U.S. Department of Justice. Constance Moorehead, District Director, OFCCP, and Robert Hughes, CRS, appeared at the forum. A followup questionnaire dated Oct. 13, 1994, was forwarded to Carmen Rockwell of OCR/HHS and faxed on Nov. 14, 1994.

11 Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, California. United States Commission on Civil Rights, Alaska Advisory Committee, Transcript of Proceedings, Juneau, AK, Sept. 17, 1993 (hereafter cited as Transcript).

12 Participants included: Pat Gullufsen, assistant attorney general, Department of Law, State of Alaska; Leslie Longenbaugh, chairperson, Juneau Human Rights Commission; Andrea Laita, manager, Department of Human Services, Central Council of the Tlingit and Haida Tribes; Sandra Cross, manager, Energy Assistance Program, Central Council of the Tlingit and Haida Tribes; Theresa Germain, job developer and employment rights officer, Central Council of the Tlingit and Haida Tribes; Irma Mireles, president, Hispanic Heritage Committee; Roy Castro, member, Hispanic Heritage Committee; Willa Perlmutter, supervising attorney, Alaska Legal Services, Juneau office; Constance Moorehead, District Director, Office of Federal Contract Compliance Programs (OFCCP), Seattle District Office; Robert Hughes, Community Relations Service, U.S. Department of Justice, Seattle office; Paula Haley, executive director, Alaska Human Rights Commission; Dave Stewart, human resource manager, Alaska Department of Education; Ray Jose, member, Board of Directors, Filipino Community; Remond Henderson, president, National Association for the Advancement of Colored People (NAACP), Juneau Branch; Rita DeSouca, executive director, Alaskans Living with HIV; Jenny Bell, chairperson, Juneau Minority Community Police Relations Task Force; Robert Gregovich, Advocacy Services of Alaska; Claudia Brown-Paige, resident, Juneau; Paul Purkett, resident, Juneau.

II. Background

Demographics

According to the Bureau of the Census, U.S. Department of Commerce, Alaska had a total population of 401,851 in 1980 and 550,043 in 1990. The 1990 population in Alaska included: 415,492 white (75.53 percent); 31,245 American Indian (5.68 percent); 22,451 black (4.08 percent); 17,803 Hispanic origin (3.23 percent); 7,976 Filipino (1.45 percent); 4,163 Korean (0.75 percent); 2,066 Japanese (0.37 percent); 1,342 Chinese (0.24 percent); 582 Vietnamese (0.10 percent); 472 Asian Indian (0.08 percent); and 9,801 all other (1.78 percent).[1] According to community representatives, some villages challenged the 1990 census data. For example, the Alaska Legal Services Corporation reported that "over 85,000 people in the State . . . are Native people (e.g., Yupik Eskimo, Aleut, Athabascan, Inupiaq, Tlingit)."[2] The Alaska Department of Labor estimated a total population of 586,900 in 1992.[3]

Although Alaska is the largest State in the Union with 656,424 square miles of total land and water area, the State has a density of 0.8 persons per square mile[4] and only 1,089 miles of interstate highway.[5] In spite of its low density, in 1991 Alaska was 70.7 percent urban, which meant that a significant portion of its population lived in places of 2,500 persons or more.[6] Most Alaskans live in towns and villages or clustered settlements, and much of the State remains almost uninhabited or is composed of national parks, and wildlife and wilderness preserves.[7]

Participants at the forum noted that the ability to travel around Alaska is impeded by the lack of scheduled airline trips to small communities.[8] Rita DeSouca, executive director, Alaskans Living with HIV, told the Advisory Committee that in response to questions about anticipated travel expenses in a grant proposal, she advised the granting agency in Washington, D.C., "it's not like you just go from one airport to the other and rent a car . . . .[going on to explain] . . . how big Alaska [is], what it would be like to go out to [remote] villages, and how expensive it [is]." An industry of private, "bush" pilots fills the need. According to

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1 Edith R. Horner, *Almanac of the 50 States: Basic Data Profiles with Comparative Tables,* Information Publications, Palo Alto, CA, 1992, p.11 (hereafter cited as Almanac). The percentages do not add to 100 because of double counting and self-identification of ethnicity.

2 James J. Davis, Jr., supervising attorney, Alaska Legal Services Corporation, Bethel, letter to David Hunter, voting section, Civil Rights Division, U.S. Department of Justice, Washington, DC, June 29, 1994 (hereafter cited as Davis letter).

3 Alaska Department of Labor, Research & Analysis Section, Demographics Unit, *Alaska Population Overview, 1991 Estimates,* Alaska, July 1993, p. 15 (hereafter cited as *Population Overview).*

4 Almanac, p. 11.

5 Almanac, p. 18. In comparison, Texas, the second largest State in terms of square miles with a total of 268,601 has 3,228 miles of interstate.

6 *Population Overview,* p. 12.

7 *Population Overview,* p. 12. In 1988, 81.1 percent of the State's land area was federally owned. Almanac, p. 11. In comparison, for the same year, only 30.3 percent of the nation's 3,787,425 square miles of land was federally owned. Almanac, p. 411. The city of Anchorage covers about 2,000 square miles, roughly four times the area of Los Angeles, CA; Juneau is the largest city in the United States with 3,108 square miles. *Vacation Alaska and the Yukon* (Miami, FL: International Voyager Media Limited Partnership, 1994), p. 38 (hereafter cited as *Vacation Alaska).*

8 All of Alaska's cities, towns and villages are small in population. Anchorage is the only city in the State with a population over 100,000 residents.

the Federal Aviation Administration, in 1992 Alaska had 9,566 licensed pilots and 9,408 registered aircraft.[9]

Adding to the travel problems faced by Alaskans are the distances between population centers,[10] geographical and topographical barriers,[11] and the severity of weather conditions during winter months. Southeast Alaska includes over 1,000 islands[12] and the inside passage that handles significant ship and ferry traffic. The Aleutian Island chain[13] stretches over 1,175 miles into the northern Pacific Ocean and lacks a cohesive bridge and highway system. According to the United States Coast Guard, Alaska had 6,660 licensed vessels in 1989.[14]

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9 The figures are for the calendar year that ended Dec. 31, 1992. Charles Monaco, public affairs specialist, Federal Aviation Administration (FAA), Alaska office, telephone interview, Apr. 5, 1994 (hereafter cited as Monaco telephone interview). In comparison, nationally, there were 665,069 licensed pilots as of December 31, 1993, and 276,985 registered aircraft as of December 31, 1992. Hank Verbais, public affairs specialist, Western Pacific Region Headquarters, FAA, Los Angeles, telephone interview, Apr. 5, 1994 (hereafter cited as Verbais interview).

10 For example, the distance between Anchorage and Fairbanks is 360 miles; 1,007 miles between Haines and Homer; 940 miles between Haines and Kenai; 457 between Haines and Tok; and 909 miles between Seward and Haines. These are the major cities and communities connected by road.

11 The Brooks Range and Alaska Range are the major mountain ranges in the State. Mount McKinley, also known as Mount Denali, at 20,320 feet is the highest mountain in the United States. There are more than 5,000 glaciers in Alaska, and one of them is larger than the State of Rhode Island. The State's tidal shore line measures 47,300 miles. Vacation Alaska, p. 8.

12 Southeast Alaska contains 1,000 of the 1,800 named islands, rocks, and reefs in the State. *Alaska Almanac,* (Alaska Northwest Books: 1990) (hereafter cited as *Alaska Almanac).*

13 There are approximately 200 islands in the Aleutian chain. *Alaska Almanac.*

14 These are the number of vessels documented for Juneau, Alaska, one of 15 home ports in the United States. Home port is the port designated as such by the owner and approved by the appropriate documentation officer. As of March 31, 1989, there were 197,183 vessels with documentation for the 15 home ports. U. S. Department of Transportation, U. S. Coast Guard, *Merchant Vessels of the United States, 1989 (including Recreational Vessels), 31 March 1989,* vol. 1, Washington, DC, p. viii (hereafter cited as *Merchant Vessels).* Of the total vessels, 116,172 were recreational; 28,553 fishing boats; 17,473 freight barges; 9,018 passenger vessels; 7,971 unknown; 5,487 towboat/tugboats; 3,381 tank barges; 952 freight ships; 890 offshore supply vessels; 305 tank ships; 158 industrial vessels; 67 unclassified vessels; 44 passenger barges; 23 research vessels; 6 school ships; and, 4 public vessels. *Merchant Vessels,* p. vii.

III. General Complaints

Participants at the forum alleged a wide variety of civil rights complaints that need review and potential investigation by Federal and State agencies. The Advisory Committee recognizes that the mere filing of a complaint does not support a charge of discrimination, however, it is an important first step for those seeking redress of a grievance or perceived discrimination. Although not exhaustive, the Advisory Committee presents these general concerns as expressed by forum participants in order to initiate awareness, dialogue, and action.

Education

The Alaska educational system is decentralized, according to Dave Stewart, Alaska Department of Education. The department acts as an advisor and consultant, and operates three schools for direct provision of educational services. The 54 independent school districts in the State are on their own programmatically.[1]

As of October 1, 1992, enrollment was 120,116 students in grades K–12 and an additional 2,000 children in pre-elementary programs over which the department exercises the same general supervision.[2] This total statewide enrollment includes: 80,158 white; 25,464 Alaska Native; 5,695 black; 4,835 Asian and Pacific Islander; 2,749 Hispanic; and 1,215 American Indian.[3] Stewart noted that the Federal Department of Education provides a good deal of funding for the program services provided to the districts.[4] The State Department of Education received from the Federal Government over $117 million in 1993 and over $99 million in 1994.[5]

Irma Mireles, president of the Hispanic Heritage Committee, stated that the Juneau-Douglas School District has only one full-time Latina who teaches Spanish in the high school, and a Mexican American with an Alaska teaching certificate who has been a permanent substitute for the past 3 to 4 years.[6] She added that teachers and staff have very little cultural diversity training,[7] and the school district is not prepared to assist Hispanic students with special needs.[8] The Juneau Borough Schools have 5,405 total students, including 3,837 white; 1,075 Alaska Native; 275 Asian and Pacific Islander; 122 Hispanic; and 96 black.[9]

Leslie Longenbaugh, chairperson, Juneau Human Rights Commission, noted that "the Filipino

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1 Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, California. United States Commission on Civil Rights, Alaska Advisory Committee, Transcript of Proceedings, Juneau, AK, Sept. 17, 1993 (hereafter cited as Transcript). Transcript, p. 166.

2 Transcript, p. 174.

3 State of Alaska, Department of Education, Office of Data Management, "Total Statewide Enrollment by Ethnicity and Grade," Oct. 1, 1992 (hereafter cited as Statewide Enrollment).

4 Transcript, p. 178.

5 Dave Stewart, Alaska State Department of Education, telephone interview, November 3, 1994 (hereafter cited as Stewart telephone interview). The actual dollars were $117,654,000 in 1993 and $99,801,100 in 1994. The department has budgeted for $65 million in 1995. Individual school districts also may have received Federal dollars that go directly to the individual districts. These funds are not tracked by the State Department of Education.

6 Transcript, p. 67.

7 Transcript, pp. 66–67.

8 Transcript, p. 68.

9 Statewide Enrollment, p. 6.

community in the city was the second largest minority community so it is very important to reach that group . . . in the appropriate language."[10]

Language considerations are also of concern to the State's Native people. According to James L. Davis, supervising attorney of the Bethel office of the Alaska Legal Services Corporation:

> Most Native children are still raised to learn their Native tongue first, and English second. The downside of this is that many Native people are not particularly proficient in the English language. The last census [1990] report showed that large numbers of voting age Native people do not speak English very well. For example, in the Bethel census area 48.7 percent of the voting age Native people do not speak English very well. In the Anchorage borough, the percentage is 39.5 percent; in the Kenai borough, the percentage is 30.9 percent; in the Juneau borough, the percentage is 34.6 percent.[11]

Remond Henderson, president of the Juneau branch, National Association for the Advancement of Colored People (NAACP), stated the subject of major concern to the NAACP is in the area of education. He reported that of approximately 1,000 students in the Juneau High School District, approximately 38 percent are minority. There are not enough minority teachers in the Juneau school district, he added. Of the approximately 100 teachers in the Juneau School District, only 2 are minorities and neither of them are African American or Alaska Native.[12] According to Mr. Henderson, the NAACP would like to see an increase in the number of African American, Alaska Native, Hispanic, Filipino, and other minority teachers.[13]

Jenny Bell, chairperson of the Juneau Minority Community Police Relations Task Force, suggested that education is an important area of concern to minority communities[14] and alleged that problems such as the Native American dropout rate can be attributed to racism within the school system.[15]

Willa Perlmutter, of Alaska Legal Services, stated that her office receives complaints alleging racial discrimination in the educational system and concerns from rural communities in Southeast Alaska about the impact of educational policies on Native Alaskan students.[16]

Employment

Irma Mireles noted that of the 10,600 State employees, only 117 or 1.6 percent are Hispanic. As of June 30, 1992, the executive branch work force was 84.5 percent white, 6.8 percent Native American, 3.5 percent Asian and Pacific Islander, 3.1 percent black, 1.6 percent Hispanic, and 0.5 percent unknown.[17] Mireles alleged that only 10 of the 580 city employees in Juneau are Hispanic. The main complaint she hears is the lack of training opportunities and denial of promotions.

The city and borough of Juneau had a total of 583 employees as of June 30, 1994, including: 304 white males, 217 white females, 5 black males, 3 black females, 7 male Hispanics, 4 female Hispanics, 7 Asian males, 5 Asian females, 19 Native

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10 Transcript, p. 25.

11 Davis letter.

12 Transcript, p. 187.

13 Transcript, pp. 186–87.

14 Transcript, p. 203. Ms. Bell is also chairperson of the special committee on human rights of the Alaska Native Sisterhood Camp II.

15 Transcript, p. 204.

16 Transcript, p. 92.

17 State of Alaska, Department of Administration, Division of Personnel/Office of Equal Employment Opportunity, *1992 Annual Progress Report on Equal Employment Opportunity and Affirmative Action in Alaska State Government,* June 30, 1992, p. 4 (hereafter cited as Alaska Affirmative Action). There were 2,052 minority employees in the executive branch.

American males, and 12 Native American females.[18]

The city of Fairbanks has a total of 483 employees, including: 138 white females (28.6 percent); 309 white males (63.9 percent); 4 black females (.8 percent); 9 black males (1.9 percent); 4 Hispanic Females (.8 percent); 7 Hispanic males (1.5 percent); 1 Asian Female (.2 percent); 4 Asian males (.8 percent); 1 Native Alaskan female (.2 percent); and 6 Native Alaska males (1.3 percent).[19]

The city of Anchorage was contacted for information on its municipal employees.[20] As of early 1995 the city has not provided any information to the Advisory Committee.[21]

Ms. Mireles said that most Hispanics in Juneau work in restaurants as cooks, dishwashers, and waiters. She added that some employers are fair, but most are abusive.[22]

Willa Perlmutter, supervising attorney of the Alaska Legal Services, Juneau office, said that there is an enormous variation in employment practices and in the treatment of employees in the State due to the nature of the Alaskan economy and the major employers.[23]

Rita DeSouca, executive director of Alaskans Living with HIV, said that people with HIV or AIDS are experiencing discrimination in jobs.[24] She said, "I have referred them to Alaska Legal Systems, Human Rights Commission, and to other agencies, and it is unusual for an HIV positive or one with AIDS to follow through with a complaint because of their fears of lack of confidentiality."[25] The fear of lack of confidentiality is "exacerbated by the fact that we have so many small communities in Alaska [and word travels faster in small towns]."[26] DeSouca stated that another problem is that many people infected with the AIDS virus are too weak due to their illness to follow through with the lengthy and demanding process of litigation.[27]

Jenny Bell, of the Juneau Minority Community Police Relations Task Force, noted that an area "of great concern to the minority community is employment within the law enforcement entities . . . hiring more minorities is only part of the answer" because she believes "that law enforcement entities also need to promote those minorities they already employ."[28]

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18 City and borough of Juneau, EEO–4 Report, June 30, 1994 (hereafter cited as Juneau EEO–4 Report). The report included the following departments: Financial Administration and General Control (98 employees); Streets and Highways (23); Police Protection (62); Fire Protection (39); Parks and Recreation, Natural Resources (157); Health (69); Housing (7); Community Development (16); Utilities and Transportation (83); Sanitation and Sewage (30); and Others (7). The total for each department includes full-time employees, other than full-time, and new permanent full-time hires.

19 Tony Shumate, personnel director, City of Fairbanks/Municipality Utilities System, telephone interview, October 31, 1994 (hereafter cited as Shumate telephone interview).

20 Thomas V. Pilla, WRO, USCCR, letter to Carol Smith, manager, Disabilities Management, Municipality of Anchorage, Oct. 31, 1994 (hereafter cited as Smith information letter). The letter requested information on total municipal employees and a breakdown by ethnicity and sex of the city work force. A followup telephone message was left with Shirley Ward on Nov. 18, 1994. Ms. Smith telephoned the WRO on Dec. 7, 1994, to apologize for the delay and requested that the letter be telefaxed. A copy of the letter was telefaxed December 7 and again on Dec. 8, 1994.

21 Neither the SAC nor regional staff have received the requested data as of Feb. 27, 1995.

22 Transcript, p. 65.

23 Transcript, p. 93.

24 Transcript, p. 190.

25 Transcript, p. 191.

26 Transcript, p. 192.

27 Transcript, p. 192.

28 Transcript, p. 205.

To obtain data on the number of minority and women employees within the major law enforcement operations in the State, the Advisory Committee solicited employment information from the Alaska Department of Public Safety[29] and the police departments of the three major cities.

The Alaska State Troopers is a job class within the Alaska Department of Public Safety. As of February 1995, there were 324 commissioned and 523 other than commissioned officers in the Department of Public Safety.[30] Of the commissioned officers, commonly referred to as State troopers, 18 are white female, 177 white male, 1 Hispanic female, 5 Hispanic male, 18 Alaska Native male, 5 American Indian male, 4 Asian Pacific Islander male, and 5 black male.[31] The director of the Alaska State Troopers is an Alaska Native.

As of October 31, 1994, the police department of the city of Anchorage had 248 sworn[32] and 144 nonsworn employees.[33] Of the sworn personnel, 30 are Caucasian female, 191 Caucasian male, 1 black female, 11 black males, 6 Hispanic males, 5 Native American males, and 5 Asian males. Of the nonsworn employees, 105 are Caucasian female, 17 Caucasian male, 6 black female, 4 Hispanic female, 2 Hispanic male, 3 Native American female, and 6 Asian females.[34]

The police department of the city of Fairbanks has 36 sworn and 15 non-sworn employees.[35] Of the sworn officers, 1 is a black male, 1 is a Hispanic male, 1 is an Asian male, and 2 are females. Nonsworn employees of the Fairbanks Police Department work in the clerical support and record clerks units. The 11-member clerical support unit includes 2 white males and 9 white females; the 4-member records clerks unit includes 3 white females and 1 Asian female.[36]

As of June 30, 1994, the city and borough of Juneau's police protection employment category had 62 employees, consisting of 34 white males, 2 Hispanic males, 3 Native American males, 21 white females, 1 Asian female, and 1 Native American female.[37] As of November 6, 1994, Juneau Police Department personnel included 41 sworn officers and 25 nonsworn personnel.[38] The sworn officers included: 34 white males, 3 white females, 3 Hispanic males, and 1 American Indian/Alaska Native male. The nonsworn personnel included: 2 white males, 2 American

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29 Thomas V. Pilla, civil rights analyst, WRO, USCCR, letter to Major Glenn Godfrey, Department of Public Safety, State of Alaska, Nov. 9, 1994. A copy of the letter is on file in the WRO. The letter followed telephone calls placed from the WRO to Alaska State Troopers on Nov. 3 and 9, 1994. Telephone log, WRO.

30 Fran Kinney, Human Resources Manager, Division of Administrative Services, Department of Public Safety, State of Alaska, letter, Feb. 24, 1995 (hereafter cited as Kinney letter). An Alaskan commissioned officer equates to sworn personnel in other law enforcement jurisdictions.

31 Kinney letter.

32 Sworn law enforcement employees are those who possess peace officer powers and primarily engage in line policing functions. Nonsworn, the other major category of law enforcement employees, include department clerks, typists and general employees.

33 Anchorage Police Department, Personnel Section, telephone interview, November 9, 1994 (hereafter cited as Anchorage Police Personnel Section telephone interview). The department has an authorization for 275 sworn and 147 nonsworn positions. There are currently vacancies in both categories.

34 Anchorage Police Personnel Section telephone interview.

35 Shumate telephone interview.

36 Ibid.

37 Juneau EEO–4 Report.

38 Kenneth L. Kareen, personnel director, City and Borough of Juneau, "Special Report On Police Department Personnel As of November 6, 1994," Nov. 8, 1994 (hereafter cited as Juneau Special Report). Of the 13 sworn officers above the rank of police officer there is one "Male, American Indian/Alaska Native" sergeant, one "Female, White" investigator and one "Female, White" sergeant. Juneau Special Report.

Indian/Alaska Native males, 1 Asian/Pacific Islander female, and 1 American Indian/Alaska Native female.[39]

Housing

To provide a framework for this section, the Advisory Committee collected data on the availability of housing in the major cities within the State. The 1990 census counted 94,153 housing units in Anchorage, including 3,831 units of on-base military housing. The Department of Community Planning and Development of the municipality of Anchorage found 3,675 substandard housing units or 4 percent of the available housing stock, including 1,910 that needed rehabilitation, 1,489 substandard units, and 642 unsound units.[40] As of September 30, 1993, the waiting list for Alaska Housing Finance Corporation (AHFC) assisted housing in Anchorage totalled 5,000 and the Cook Inlet Housing Authority (CIHA) had a waiting list of 150 households.[41]

The 1990 census reported 31,823 housing units in the Fairbanks-Northstar Borough; of this figure, 26,693 were occupied and another 2,565 lacked plumbing.[42] The borough of Fairbanks encompasses 7,361 square miles.[43]

In the city and borough of Juneau, which encompasses over 3,000 square miles, there were 10,821 total housing units, as of November 1, 1993, of which 10,727 were occupied.[44] According to Tom Korosei, planner, Department of Community Development for the city and borough of Juneau, between November 1993 and August 1994, 91 new permits were issued.[45] Korosei added that there is a very low vacancy rate. For the city and borough of Juneau, the 1990 census reported 218 units without complete kitchens, and 265 units lacking complete plumbing facilities.

Irma Mireles stated at the forum that housing in Juneau is very scarce and high priced with many rentals beyond the reach of low-income residents. The data supports the contention that housing in Juneau is in short supply. Mireles noted that often rental owners ask for the first and last month's rent plus a deposit and alleged that this practice is often used to discriminate against Hispanics.[46] Mireles added that "some people buy mobile trailers, but even here, Hispanics have reported problems of discrimination."[47]

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39 Ibid.

40 Comprehensive Housing Affordability Strategy (CHAS) FY 1993 Annual Performance Report and FY 1994 Annual Plan, December 1993 (Revised April 1994), Department of Community Planning and Development, Municipality of Anchorage, p. 22 (hereafter cited as CHAS). The total of 4,041 is higher than 3,675 due to double counting of some units.

41 CHAS, p. 52.

42 Mark Gramstad, community research center, planning department, Fairbanks-Northstar Borough, telephone interview, October 31, 1994 (hereafter cited as Gramstad telephone interview). The borough encompasses 7,361 square miles which includes the 33.2 square mile city of Fairbanks. Gramstad telephone interview.

43 Gramstad telephone interview. According to Mr. Gramstad, the housing figures cited for Fairbanks are drawn from the 1990 census data.

44 City and Borough of Juneau, Department of Community Development, *Annual Population Estimate 1993,* November 1993.

45 Tom Korosei, planner, Department of Community Development, City and Borough of Juneau, telephone interview, Nov. 3, 1994 (hereafter cited as Korosei telephone interview).

46 A member of the Advisory Committee wrote: "the suggestion that it is racially discriminatory to require security deposits and advance payment of rent in Juneau is fanciful: the rental housing market there is so tight that it is simply good business, however unwelcome it may be to renters." James W. Muller, member, Alaska Advisory Committee to the USCCR, letter to Thomas V. Pilla, civil rights analyst, WRO, USCCR, Oct. 24, 1994 (hereafter cited as Muller letter). Mr. Muller was not in attendance at the forum. When asked during a forum break to expand on this allegation, Ms. Mireles offered the observation that landlords and rental managers would, based upon race, inflate the security deposit requirements of potential renters they did not want in their units.

47 Transcript, p. 63.

Paula Haley, Alaska Human Rights Commission, said:

> The 1988 Federal Fair Housing Amendments Act[48] was one of the most sweeping changes to discrimination laws that our country has ever seen. It changed the method of enforcement, allowed for punitive damages, and allowed either side to go to court if probable cause was found.[49]

According to Ms. Haley, the Federal act also required fair housing assistance program agencies to renew their relationship with HUD by demonstrating substantial equivalency to the Federal law. Ms. Haley noted that the law in the State and in Juneau and Anchorage is not substantially equivalent. She added that Alaska had only 12 cases in the co-filed status between 1988 and 1993. The Alaska Human Rights Commission decided that it was not worth the effort to seek State legislation for equivalency with Federal law.[50]

De Souca alleged that people who are HIV positive and those with AIDS are experiencing discrimination in housing.[51]

Complaints Processed

The Advisory Committee solicited information on complaints received from Alaska by Federal agencies in their regional offices during fiscal years (FY) 1991 through 1993. The Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development received 33 in FY 1991, 34 in FY 1992, and 23 in FY 1993.[52] The Office for Civil Rights of the U.S. Department of Education received 25 complaints in FY 1991, 38 in FY 1992, and 17 in FY 1993.[53] The Equal Employment Opportunity Commission's Seattle District Office received 37 complaints in calendar year 1990, 34 in FY 1992, and 74 in FY 1993.[54] The Office for Civil Rights of the Department of Health and Human Services in Seattle received five complaints in FY 1991, six in FY 1992, and two in FY 1993.[55] From FY 1991 to FY 1994, the Office of Federal Contract Compliance Programs of the U.S. Department of Labor investigated a total of nine complaints.[56]

Constance Moorehead, District Director of the Office of Federal Contract Compliance Programs, Seattle District Office, told the Advisory Committee that OFCCP gets "an enormous number of complaints from the State of Alaska . . . [and]

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48 Fair Housing Amendments Act of 1988, Pub. L. 100–430, 102 Stat. 1619 (codified as amended in scattered sections of 28 U.S.C. and 42 U.S.C.).

49 Transcript, p. 162.

50 Transcript, p. 163.

51 Transcript, p. 190.

52 James E. Brown, Director, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Seattle, WA, letter to Rosalee T. Walker, Chairperson, Alaska Advisory Committee, Sept. 9, 1993 (hereafter cited as Brown letter). The figure for FY 93 is through Sept. 8, 1993. Brown letter.

53 Gary D. Jackson, Regional Civil Rights Director, Office for Civil Rights, U.S. Department of Education, Seattle, WA, letter to Rosalee T. Walker, Chairperson, Alaska Advisory Committee, Sep. 10, 1993 (hereafter cited as Jackson letter).

54 Jeanette M. Leino, Director, Seattle District Office, EEOC, Seattle, WA, letter to Rosalee T. Walker, Chairperson, Alaska Advisory Committee, Sept. 10, 1993 (hereafter cited as Leino letter). The figure for FY 1993 is for the period, Oct. 1, 1992 through Sept. 10, 1993.

55 Carmen Palomera Rockwell, regional manager, Office for Civil Rights, U.S. Department of Health & Human Services, letter to Thomas V. Pilla, civil rights analyst, WRO, USCCR, Nov. 10, 1994 (hereafter cited as Rockwell letter). OCR received five complaints in FY 1994.

56 Constance F. Moorehead, Director, Seattle District Office, U.S. DOL, OFCCP, Facsimile Letter, Nov. 22, 1994 (hereafter cited as Moorehead Facsimile). Ms. Moorehead wrote: "Our complaints clerk is out of the office (Regional) and verification of total number of complaints for the entire time period can not be given. However, from 1991 to 1994 (Fiscal Year) we indicate a total of 9 complaints that were investigated. Should we obtain other verification of the historical file, I will advise you."

TABLE 1
U.S. Department of Justice, Community Relations Service, Region X, Complaints, Fiscal Years 1991-1993

	1991	1992	1993	Totals
Hate issues	10	11	7	28
Education	2	4	3	9
Administration of justice	2	2	3	7
General community	0	3	0	3
Other	1	1	0	2
Totals	15	21	13	49

Source: Robert Hughes, Community Relations Service, U.S. Department of Justice, Region X, Seattle, Washington, Sept. 17, 1993.

cannot go out and investigate unless we have a complaint that has been signed by the complainants."[57] She added that "it's been years since [OFCCP has] had one from the Southeast area [of the State]."

Table 1 presents information on complaints received by the Justice Department's Community Relations Service for the relevant fiscal years.

The Advisory Committee also solicited information on the number of complaints received by State agencies. Ms. Haley, of the Alaska Human Rights Commission, noted that in 1992 there were 547 discrimination complaints filed with enforcement agencies in the State, and the commission received 437, the majority of such complaints.[58] She added that between calendar years 1990 and 1992, there was a 63 percent increase in complaint filings to the Human Rights Commission.[59]

According to Steven S. Holt, executive director, Equal Rights Commission, municipality of Anchorage, his office handles approximately 145 complaints per year.[60] The Office of the Ombudsman of the municipality of Anchorage receives a wide variety of complaints about city departments and the school district. In 1992 and 1993, the ombudsman's office received 2,500 contacts from residents, and processed 510 complaints in 1992 and 681 in 1993.[61] Of the complaints processed, 23 became formal investigations in 1992, and 25 in 1993.[62] At the time of the Advisory Committee's

57 Transcript, p. 108.

58 Transcript, p. 141. The complaints handled by the Human Rights Commission (HRC) represented 79.8 percent of the total. The statewide total includes complaints that may have been filed with the Anchorage Equal Rights Commission, the U.S. Equal Employment Opportunity Commission, and/or any other enforcement agency. In 1990 HRC received 255 of the 400 complaints filed statewide, and in 1991, 371 of the 519.

59 Transcript, p. 142.

60 Interview with Steven S. Holt, executive director, Equal Rights Commission, Municipality of Anchorage, Anchorage, AK, May 5, 1994 (hereafter cited as Holt interview).

61 1992–93 Anchorage Ombudsman Annual Report, Office of the Ombudsman, Anchorage, AK, January 1994, p. 5 (hereafter cited as Ombudsman Report). The Advisory Committee offers the data as information to the reader and has made no analysis regarding whether the complaints involve civil rights violations.

62 Ombudsman Report, p. 3.

forum, the Juneau Human Rights Commission had been in existence only since May 1993 and had not received any complaints.

IV. Civil Rights Enforcement

According to Pat Gullufsen, assistant attorney general, Department of Law, State of Alaska, "Alaska has, in terms of the enactment of and enforcement of civil rights laws, a sound policy, not by any means a perfect one, and not one that is without room for improvement."[1]

The Alaska antidiscrimination statute states:

> b) [Therefore] it is the policy of the state to . . . eliminate and prevent discrimination in employment, in credit and financing practices, in places of public accommodation, in the sale, lease, or rental of real property because of race, religion, color, national origin, sex, age, physical or mental disability, marital status, changes in marital status, pregnancy or parenthood. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment. . . .[2]

To enforce the act, the statute also creates the Alaska State Commission for Human Rights (Human Rights Commission) in the Office of the Governor.[3] Paula Haley, executive director of the Human Rights Commission, told the Advisory Committee that it is a unique "agency in government . . . because [its] function includes, if appropriate, prosecuting the State for acts of discrimination."[4]

Ms. Haley added:

> We can process complaints of discrimination in the areas of employment, housing, acts by financial institutions, acts of the State or its political subdivisions, [i.e.,] cities and boroughs, and in areas of public accommodation, businesses open to the public, such as hotels and restaurants.
>
> We provide protection to individuals based on race, sex, age, physical/mental disability, parenthood, marital status, and national origin. We can process the investigation of a case and are mandated to be impartial. . . . We are the civil rights police.[5]

Theresa Germain, job developer and tribal employment rights officer, Tlingit and Haida Central Council, told the Advisory Committee that her agency referred all "complaints to the Human Rights Commission" even though "most individuals that have been discriminated against do not wish to wait for a year or two before [there is a resolution to their] problem." She believed that the statistics would be higher, but people will not file complaints because of the time it takes to resolve them. Ms. Haley noted that the Human Rights Commission only has 15 employees statewide, a 42 percent reduction since fiscal year 1984, while receiving more complaints than it has in the prior 17 years of its existence. She added, "the loss of staff clearly slows down the processing of complaints, but no Alaskans are being denied service."[6]

Another problem, Germain added, is that people do not know to whom to carry particular concerns and they end up at the Human Rights Commission. In 1992, 4,250 Alaskans contacted the

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1 Transcript, 1993, p. 8. Unless otherwise noted, all quotes and statements in this report are from the proceedings transcript, which is on file in the Commission's Western Regional Office in Los Angeles, California. United States Commission on Civil Rights, Alaska Advisory Committee, Transcript of Proceedings, Juneau, AK, Sept. 17, 1993 (hereafter cited as Transcript).

2 4 Alaska Stat. 18.80.200 (1991).

3 4 Alaska Stat. 18.80.010 (1991).

4 Transcript, p. 146.

5 Transcript, pp. 148–149.

6 Transcript, p. 144.

Human Rights Commission with inquiries, and Ms. Haley stated that while "many of these may not have been complaints of discrimination," the number represents a "dramatic increase over past years."[7] Ms. Haley added that the Commission also refers complaints to other organizations that can assist.

Other participants suggested that the absence of offices of Federal enforcement agencies within the State has a negative impact. Willa Perlmutter, supervising attorney, Alaska Legal Services, Juneau office, told the Advisory Committee that the enforcement of civil rights in an employment context is very difficult because there is no Equal Employment Opportunity Commission (EEOC) office in Alaska (the closest EEOC office is in Seattle). Complaints go to the Alaska Human Rights Commission and that is fraught with difficulty, she added, due to the Commission's bureaucracy and the political process.[8]

Even though the Federal Information Center (FIC) administered by the General Services Administration (GSA) provides information on Federal agencies, services and programs,[9] determining which Federal agency should receive a complaint was alleged by forum participants to be a problem. In addition to the EEOC, other Federal agencies with responsibility in the area of civil rights include the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (DOL); Civil Rights Division (CRD) of the Department of Justice (DOJ); Community Relations Service (CRS) of DOJ; Office for Civil Rights (OCR) of the Department of Education; Office for Civil Rights (OCR) of the Department of Health and Human Services (HHS); and Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development (HUD).

In an effort to determine the presence and activity of these agencies in Alaska, the Advisory Committee forwarded letters to their respective regional headquarters in Seattle, Washington, inviting their participation at its forum.[10] Representatives of CRS and OFCCP did appear before the Advisory Committee. OCR of HHS initially indicated a representative would appear at the forum, but did not send a representative. Representatives of the other Federal departments and agencies indicated that they would not be able to appear, citing impediments such as budgetary constraints, end of the fiscal year bans on travel, and lack of staff resources.[11] Questionnaires were forwarded to these agencies. DOE's OCR, EEOC, HUD's Office of Fair Housing and Equal Opportunity, and OCR of HHS responded to the Advisory Committee's request for information on their operations in the State. The remainder of this section reports the responses of these agencies to the questionnaire or their remarks before the Advisory Committee at its forum.

Department of Education

The U.S. Department of Education (DOE) establishes policy for, administers, and coordinates most Federal assistance to education.[12] Within the DOE, its Office for Civil Rights (OCR) is responsible for ensuring that institutional recipients of Federal financial assistance from the DOE do not discriminate on the basis of race, color or national origin in the operation of its programs, the placement of its facilities, or the distribution

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7 Transcript, p. 142.

8 Transcript, p. 93.

9 The General Services Administration (GSA) administers the Federal Information Center (FIC) which assists in providing information about Federal agencies, services and programs. FIC has 800 numbers and receives an average of 5,000 calls per day from all over the Nation.

10 Telephone consultations and written correspondence were initiated in early August 1993. See chap. I, footnote no. 9.

11 Telephone conversations of August 11 and 27 with OCR of DOE; August 11, 27, and 30 with Office of Fair Housing and Equal Opportunity of HUD; and August 17 and 27 with EEOC. Memorandum of call forms on file in the Western Regional Office. A typical comment was, based mostly on cost, we will not be able to participate.

12 20 U.S.C. 3401 et seq. (1988 & Supp. V 1993).

of its services.[13] There are no DOE offices in Alaska. OCR Region X in Seattle employs 45 individuals, including "34 who have direct responsibilities for compliance enforcement and monitoring activities."[14]

During fiscal years 1991 through 1993, "in the State of Alaska, OCR conducted 80 complaint investigations, initiated 2 compliance reviews and completed 2 State-level Vocational Education Methods of Administration reviews."[15] As a result of this investigative activity, OCR "identified 18 instances [where] corrective action [was] required" and was "successful in obtaining the appropriate corrective action from recipients through voluntary agreements that ensured compliance with civil rights law requirements." Although OCR can recommend fund terminations, "it has been unnecessary to institute proceedings to terminate any institution's funding or to refer the case to the Department of Justice for court action." No other sanctions have been imposed by OCR during the 3 fiscal years.

According to DOE regional staff, OCR finds no unusual problems and concerns in serving Alaska and has not coordinated any civil rights enforcement efforts with other Federal agencies in the State.[16]

Equal Employment Opportunity Commission

The Equal Employment Opportunity Commission (EEOC) was created by Title VII of the Civil Rights Act of 1964[17] and is responsible for enforcing laws against discrimination based on race, color, religion, sex, national origin, disability, or age in hiring, promoting, firing, setting wages, testing, training, apprenticeship, and all other terms and conditions of employment.[18] There is no EEOC office in Alaska. The Seattle District Office has a work force of 58 employees, all of whom have a direct or indirect responsibility for civil rights enforcement.[19] According to Jeanette M. Leino, Director, Seattle District Office, the office experienced a 40 percent increase in intake of charges filed during FY 1993.[20]

EEOC has contractual agreements with the Alaska Human Rights Commission and the Anchorage Equal Rights Commission which state that, under normal conditions, if a charge is filed initially with one of the Alaska commissions those offices will investigate the charge rather than EEOC. If the charge is filed directly with EEOC, then EEOC will initially process the case. Most of the charges filed in Alaska are handled by the two Alaska commissions under contract to EEOC.[21]

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13 34 C.F.R. 100.1–100.3 (1993).

14 Jackson letter. Unless otherwise noted, information regarding DOE's OCR activity in Alaska is found in this letter.

15 Ibid.

16 Ibid.

17 42 U.S.C. 2000e (1988). The EEOC became operational July 2, 1965. Title VII was amended by the Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 86 Stat. 103, the Pregnancy Discrimination Act of 1978, 42 U.S.C. 2000e(k) (1988), and the Civil Rights Act of 1991, Pub. L. 102–166, 105 Stat. 1071.

18 National Archives and Records Administration, Office of the Federal Register, *The United States Government Manual, 1991/92,* Washington, DC, July 1, 1991, p. 553 (hereafter cited as *Government Manual).*

19 Leino letter. Unless otherwise noted, all information regarding EEOC's activity in Alaska is from this letter. EEOC staff includes 26 employees who are primarily responsible for investigating and resolving individual and systemic charges of discrimination. There are 9 employees in the legal unit and 1 administrative judge. One employee is responsible for the agency's Federal Affirmative Action Unit program and 2 employees are responsible for the State and Local Unit. Additional employees are involved in support and other district activities.

20 Leino letter.

21 The Juneau Human Rights Commission was formed in May 1993 by the city and borough assembly. The nine appointed members were charged with the responsibility to examine sources of tension around discrimination; intervening when individuals request such action; educating and informing the public about discrimination; promoting interaction among various religious,

Under its contract with EEOC, the Alaska Human Rights Commission processed 211 charges in fiscal year 1991, 211 in fiscal year 1992, and 212 in fiscal year 1993. Under its contract with EEOC, the Anchorage Equal Rights Commission processed 87 charges in fiscal year 1991, 93 in fiscal year 1992, and, 91 in fiscal year 1993.

When violations of antidiscrimination laws are found, EEOC seeks a "make whole" remedy, and since November 21, 1991, it has been empowered to seek compensatory and punitive damages when appropriate. Although EEOC coordinates with other Federal civil rights agencies, it "currently has no specific cases [in this category in the State]."

Ms. Leino noted that EEOC has:

some unusual problems concerning servicing the State of Alaska from the Seattle District Office because of the geographical distances between the two States. However, we have made an effort to travel to Alaska at least twice a year to review case files, provide training, and handle any problems that have arisen in working with our contract agencies.[22] Except for the geographical distance, which may affect our ability to do frequent on-site visits in cases in Alaska, we do not have any particular problem with serving the State of Alaska.[23]

Department of Health and Human Services

The U.S. Department of Health and Human Services (HHS) oversees health and social services[24] programs. Within HHS, the Office for Civil Rights (OCR) is responsible for the administration and enforcement of laws that prohibit discrimination in federally assisted health and human services programs.[25] Although there is no field or district HHS OCR in Alaska, there is a toll-free number.[26] The Seattle HHS OCR regional office handles the States of Alaska, Idaho, Oregon, and Washington and has a total of 15 staff, including 8 investigators, 3 supervisors/managers, and 1 attorney, who have direct responsibility for civil rights monitoring and/or enforcement.[27]

According to Carmen Rockwell, regional manager, OCR, HHS, "the office carries out its civil rights responsibilities through a variety of compliance activities, including outreach, public information activities of all kinds, complaint investigations, limited scope reviews of selected providers, OCR newsletter, advisory letters, and education."[28]

Ms. Rockwell wrote:

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racial, and civil rights groups; and reporting annually with recommendations to the borough assembly. Transcript, pp. 20–22. Leslie Longenbaugh, the commission's chairperson, appeared at the Advisory Committee's forum and noted that they had not received any complaints to that date and attributed this to the relative newness of the Juneau commission.

22 Ms. Leino was not suggesting any specific problem existed. In her letter she stated: "We have an excellent working relationship with our contract agencies in Alaska." Leino Letter. Ms. Haley of the Alaska Human Rights Commission noted in her presentation that "[the Alaska Commission's] relationship with the Seattle EEOC district office has never been anything but cooperative. It is a wonderful relationship. . . . " Transcript, p. 155.

23 Leino letter. Since 1992, EEOC has filed 3 lawsuits in Alaska based on allegations of sexual harassment and constructive discharge, discharge based on religion, and sexual harassment and retaliatory discharge, respectively. The agency's administrative judge resolved 27 cases during fiscal year 1993. For the period, 1990–93, EEOC conducted 3 on-site visits to Federal installations in the State.

24 Social services is a broad term used to cover welfare, vocational rehabilitation, child welfare, and aging programs. The Federal Civil Rights Enforcement Effort: One Year Later. (November 1971), p. 136.

25 OCR of HHS administers and enforces: Title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; section 407 of the Drug Abuse Offense and Treatment Act of 1972; section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; the Equal Employment Opportunity provisions of the Communications Finance Act of 1934 as amended; Titles VI and XVI of the Public Health Service Act; section 307 (a) of the Family Violence Prevention and Services Act; Titles VII and VIII of the Public Health Service Act; and subtitle A, Title II, of the Americans with Disabilities Act of 1990.

26 Rockwell letter. The number as of Nov. 10, 1994, was 1-800-362-1710.

27 Rockwell letter.

It is very expensive to travel to Alaska; therefore, we plan our trips very carefully to obtain the maximum benefit. Given the wide geography of the state and the fact that there are over 800 small Alaska Native villages, combined with the high cost of travel, we have used several means to provide education and outreach such as using radio and newspaper interviews, attending conferences that provide an opportunity to educate a large number of people, and educating state and municipality program heads to advise them of civil rights issues. When we have received complaints from the State of Alaska, we have thus far been able to provide equal services by making on-site visits when necessary.[29]

Ms. Rockwell believes that "the level of cooperation between [OCR] and the State agencies in Alaska, especially the Alaska State Commission for Human Rights and the Anchorage Equal Rights Commission, is excellent."[30]

For fiscal years 1991–94, HHS OCR did not recommend any Federal fund terminations for programs that may have been in violation of civil rights laws and did not impose any sanctions for failure to abide by civil rights laws in Alaska.[31] During these fiscal years, it did not coordinate any of its civil rights enforcement efforts with other Federal agencies.

Department of Housing and Urban Development

The Department of Housing and Urban Development (HUD) administers housing programs throughout the Nation.[32] The Department's Office of Fair Housing and Equal Opportunity administers fair housing laws and regulations prohibiting discrimination in public and private housing and in HUD-assisted housing and community development programs on the basis of race, color, religion, sex, national origin, handicap, or familial status.[33] There is no HUD Office of Fair Housing and Equal Opportunity in Alaska. The Seattle office is responsible for the States of Alaska, Idaho, Oregon, and Washington.[34] There are 28 permanent and 9 temporary employees in Seattle, all responsible for civil rights monitoring and enforcement activities.[35]

According to James E. Brown, Director, Office of Fair Housing and Equal Opportunity, Seattle, "all enforcement activity in the State of Alaska for the past three years has been initiated by complaints. [The Office's] limited travel budget has not allowed for scheduling any compliance reviews during this time period."[36] There have been no recommendations for fund termination" nor have any "other sanctions been ordered through administrative hearings or court proceedings." Mr. Brown added that "many complainants have received remedy through negotiated settlement agreements."

Like the EEOC and HHS regional civil rights office, HUD's Office of Fair Housing and Equal Opportunity "has difficulty in conducting activities in the State because of limited staff and travel funds." Mr. Brown wrote:

In past years, much of [HUD's] enforcement and outreach activities were conducted under contract with the Alaska State Human Rights Commission and the Anchorage Equal Rights Commission through HUD's Fair Housing Assistance Program. This relationship was ended when the State and the City of Anchorage failed

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28 Ibid.

29 Ibid.

30 Ibid.

31 Ibid.

32 42 U.S.C. 3531 et seq. (1988 & Supp. IV 1992).

33 24 C.F.R. 100.5 et seq. (1994).

34 Brown letter.

35 Brown letter. The number of temporary employees reflected those employed as of Sept. 9, 1993.

36 Ibid.

to pass legislation which would make their laws substantially equivalent to Federal law.[37]

Like DOE's OCR, HUD's Office of Fair Housing and Equal Opportunity does not coordinate any of its civil rights enforcement efforts in the State with other Federal agencies.

Department of Justice

The Department of Justice (DOJ) has two units with responsibilities in the area of civil rights. The Civil Rights Division (CRD) was established to secure effective Federal enforcement of civil rights. The CRD is responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. CRD has no regional offices anywhere in the Nation.

DOJ's Community Relations Service (CRS)[38] attempts to prevent and resolve community conflicts and reduce community tensions arising from actions, policies, and practices perceived to be discriminatory on the basis of race, color, or national origin.[39] According to Robert Hughes, mediator, CRS, Seattle, "the heart of [its] mandate is conflict management." CRS does not have an office in Alaska and the Seattle CRS regional office, which handles the States of Alaska, Idaho, Oregon, and Washington, has five employees.[40]

In Alaska, CRS opened 15 cases in fiscal year 1991, 21 in fiscal year 1992, and 13 in fiscal year 1993. Mr. Hughes attributed the decrease in 1993 to a lack of presence, noting, "when we are not present in a community or in a State or given area, our contacts cool off [and] inevitably, the number of alerts[41] are reduced accordingly."

Once CRS receives a complaint or request for service, it assesses whether it has jurisdiction and if so, begins its resolution process by contacting all parties to the conflict and attempting to move them through communication, cooperation, and collaboration to solve the problem and fashion an agreement. According to Mr. Hughes, CRS has used its mediation services to ease racial tensions in 1977 in Point Barrow, resolve a shooting incident involving the Anchorage Police Department in 1982 and initiate the development of the Anchorage Minority Police Community Relations Task Force and similar organizations in Juneau and St. Paul. He added that, upon request, the CRS has also provided cultural awareness or cross-cultural workshops for community groups and institutions.

Department of Labor

The Department of Labor oversees employment-related issues and concerns.[42] Within the Department's Employment Standards Administration, the Office of Federal Contract Compliance Programs (OFCCP) attempts to ensure nondiscrimination and affirmative action for minorities, women, veterans, and disabled Government contract and subcontract workers.[43] OFCCP has an office in Anchorage staffed by one person. The DOL Seattle District Office is responsible for the States of Alaska and Washington, and the panhandle of Idaho.[44] It has a staff of 17, all directly

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37 Ibid.

38 CRS was created by Title X of the Civil Rights Act of 1964, 42 U.S.C. 2000g et seq. (1988).

39 42 U.S.C. 2000g-1 (1981).

40 Transcript, p. 126. Mr. Hughes retired in 1994.

41 Transcript, p. 127. According to Mr. Hughes, when CRS receives a complaint or becomes aware of a problem or perception of a problem, CRS files an "alert." An "alert" is a formal notification from the field to the Washington, DC, headquarters office of CRS that racial tension exists at a particular site. U.S. Commission on Civil Rights, "Briefing on Bigotry and Violence on College Campuses Before the Campus Bigotry Subcommittee," May 18, 1989.

42 29 U.S.C. 551 et seq. (1988).

43 41 C.F.R. Part 60 (1993).

44 The remainder of Idaho and the State of Oregon are the responsibility of the Portland district office. The regional office also

responsible for civil rights monitoring and/or enforcement.

According to Constance Moorehead, District Director, Seattle District Office, OFCCP, all complaints are received in the regional office[45] and screened to determine whether they are jurisdictional. Complaints are date stamped on receipt,[46] and a complaint form is mailed to the complainant. OFCCP has no jurisdiction over State agencies or unions and cannot investigate unless the person or company has a Federal contract. If complaints are found to be within OFCCP jurisdiction, "they are investigated immediately."[47]

OFCCP also is responsible for conducting scheduled compliance reviews of government contractors.[48] Ms. Moorehead noted:

> Some community people [believe] it is ridiculous that we send letter[s] and [tell] contractor[s] that [OFCCP] is coming. We're not allowed to just pop up on their door. We must schedule our compliance reviews. We have an electronic data collection system which identifies contractors throughout the Nation that show concentrations or underutilization of minorities and females. . . .

In fiscal years 1991 to 1994, OFCCP conducted 50 compliance reviews in Alaska, "16 of construction contractors and 34 of contractors who provide services or supplies to the government."[49] Ms. Moorehead noted that "obviously for weather reasons [staff] can't get up to the far north during certain times of the year, so . . . [any complaint filed] from up there during the winter months would probably be held for a time period when the weather broke."[50]

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has 8 staff persons who are not involved in investigations.

45 However, 41 C.F.R. 60-1.22 (1993) states that complaints may either be filed in the regional offices or at the Washington, DC, headquarters office.

46 At the forum Ms. Moorehead noted that the complaints are received by telephone and through the mail. However, the regulations direct only that complaints be filed in the regional offices or in the headquarters office.

47 Transcript, p. 108.

48 Ibid, p. 103 and 41 C.F.R. 60-1.20 (1993).

49 Moorehead Facsimile letter.

50 Transcript, p. 108. A member of the Advisory Committee took issue with this statement, writing: "It is true that occasionally our winter weather in Alaska is so severe as to make travel impossible, but not in very many places or for very long. Aside from one volcanic eruption and one persistent fog, I cannot remember any times in the last decade when travellers were unable to get into or out of Anchorage; and even Juneau, where the weather is notoriously difficult for air travel, is hardly out of bounds for the whole winter season. When smaller places are unreachable because of heavy snows or severe storms, these conditions rarely last more than a few days. . . . It is hardly obvious to me that resolution of complaints has to be postponed for months because of the weather, if it would be desirable for other reasons that it go forward more expeditiously. Moreover, I am not sure that personal visits are always necessary to conduct fact-finding." Muller letter.

V. Conclusions

Participants alleged that complainants with civil rights concerns in Alaska have difficulty acquiring relief. They are often unaware of the proper Federal agency or department that should receive the complaint and where it should be submitted. While the Advisory Committee does not believe that the mere filing of a complaint supports a charge of discrimination, it concludes that they have value in allowing complainants a forum and eventual direction, if necessary, to an appropriate resource. Knowing where to initially send the complaint is an important part of the process. The lack of Federal agency presence in Alaska adds to the confusion. As a consequence, the majority of complaints are forwarded to the Alaska Human Rights or Anchorage Equal Rights Commissions. Although these agencies do an admirable job of handling complaints, in the majority of cases, they are not responsible for monitoring or enforcing Federal civil rights laws. An exception is the processing of employment complaints by contract agencies for the EEOC.

By their own admission, Federal agencies view geographical distance and limited travel budgets as impediments to their activity in Alaska. For example, only two of the six Federal representatives invited by the Advisory Committee to its forum found the resources to participate. Although appreciative of the responses to its questionnaire by those who were unable to attend, the Advisory Committee would have found the chance to question representatives in person of more value in determining the level of monitoring, complaint processing, and enforcement.

The Advisory Committee concludes that the community perception remains valid and that the lack of Federal presence has a detrimental effect on the filing of complaints and civil rights enforcement in the State. Even DOL's OFCCP, the agency with a field office in the State, notes the problem. The representative from DOL's OFCCP noted that it "had been years since a complaint was filed from southeast Alaska." Since OFCCP's field office is in Anchorage, the Advisory Committee suggests that lack of presence plays a role in the absence of complaints from this portion of the State.

While not suggesting that Federal agencies need field offices in every community, the Advisory Committee believes a system is required to ensure that communities are aware of the responsible Federal agencies and are provided with methods to contact such agencies. Any methods and procedures currently being utilized by Federal agencies to advise communities and receive complaints are not achieving the goal. The use of a toll-free telephone number by OCR of HHS is a start and might be emulated by other agencies.

The Advisory Committee concludes that the challenges presented by the State of Alaska to Federal civil rights enforcement require creative solutions. The Federal Information Center (FIC), administered by the General Services Administration (GSA) can assist in providing information about Federal agencies, programs, and services. Whether FIC operators are aware of available local resources was not determined. Perhaps there should be a Federal ombudsman's office manned by an individual in each of the three major Alaskan cities whose role and function would be to direct complainants to the most appropriate Federal agency referral. This would achieve the goal of access and allow complainants to obtain information on the appropriate Federal agency for their concern. It certainly would speed up the process and decrease the level of frustration suggested by community representatives.

The Advisory Committee believes that this report will assist in educating the community on the role and function of Federal agencies in civil rights enforcement.[1] However, the Advisory Committee would welcome any creative program that would increase access to Federal civil rights enforcement agencies by the citizens of Alaska. The challenge of creating such programs must be met by these Federal agencies. In the interim, the Advisory Committee will continue to monitor the enforcement of civil rights by Federal and State agencies.

1 One member of the Advisory Committee wrote: "While I do not concur with some of the approaches taken in this report, nor with some of the conclusions it draws, I think that it raises some important questions and should be released for discussion." James W. Muller, Report Comment Form, Dec. 12, 1994. The form is on file in the WRO.

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