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

Who Is Enforcing Civil Rights in Arkansas: Is There a Need for a State Civil Rights Agency?

February 2001

A report of the Arkansas Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. Statements in this report should not be attributed to the Commission, but only to participants at the fact-finding meeting or to the Advisory Committee.

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Letter of Transmittal

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

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The Arkansas Advisory Committee submits this report, *Who Is Enforcing Civil Rights in Arkansas: Is There a Need for a State Civil Rights Agency?* As part of its responsibility to advise the Commission on civil rights issues in Arkansas, the Advisory Committee on September 23-24, 1998, held a fact-finding meeting to obtain information regarding the need for a state civil rights enforcement agency. The Committee heard from more than 27 persons representing federal, state, and local governments, civil rights groups, community and religious organizations, and concerned citizens.

During the course of the Advisory Committee's background investigation and fact-finding meeting, it became clear that there is a need for a state civil rights enforcement agency to deal with discrimination complaints. Although the state has a civil rights law (Arkansas Civil Rights Act of 1993), it is not substantially equivalent to applicable federal civil rights laws, rules, and regulations.

Based on information presented, the Advisory Committee believes that it is urgent the State Legislature of Arkansas amend the Arkansas Civil Rights Act of 1993 to make it substantially equivalent to federal laws. In doing so, the act should also be amended to establish a human rights agency to address civil rights disputes and issues within the state. A state human rights agency may bring many benefits such as faster case processing; an opportunity for education and training in civil rights; and a vehicle for effective and efficient administration of civil rights laws.

The Advisory Committee further found that although representatives of the business community say there is a sizable group of skilled and aggressive civil rights attorneys in the state, this remains to be seen. The Committee found that many persons in the state are often unaware of who to contact or where to file discrimination complaints.

The Advisory Committee recommends that the Arkansas Bar Association and other legal institutions develop a list of attorneys who specialize in or will accept civil rights cases. This list should be distributed to relevant community and civil rights organizations as well as the general public. The Central Regional Office has developed a "Where to Turn Guide for Civil Rights Assistance," which may also be distributed and used by the general public.

The Advisory Committee notes that most persons interviewed for this report did not know that there are state civil rights protections. The Committee recommends that concerted efforts be made statewide to establish meaningful coalitions to address civil rights and race relations. A strong liaison with a wide range of community organizations such as the local chambers of commerce, churches, civic organizations, and civil rights groups must be initiated.

Finally, there appears to be a lack of coordinated leadership efforts at all levels with respect to civil rights and race relations in Arkansas. The Advisory Committee urges the gov-

error to take the lead in establishing constructive dialogue on race relations and civil rights in the state. Clearly, with the surge of Hispanic and Asian populations in Arkansas, the state will have to become proactive on civil and human rights to address the needs and interests of its diverse citizenry. This should include a statement on the governor's vision for reducing discrimination and building bridges of understanding among different groups.

The Advisory Committee urges the Commission to assist it in follow-up activities to the report.

Respectfully,

A handwritten signature in cursive script that reads "Katherine P. Mitchell". The signature is written in black ink and is positioned above the typed name.

Katherine P. Mitchell, *Chairperson*
Arkansas Advisory Committee

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

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* Not a member at the time of the fact-finding meeting

Acknowledgments

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I. Introduction

Over a number of years, the Central Regional Office of the U.S. Commission on Civil Rights has conducted extensive reviews of state and local civil rights enforcement agencies and has made recommendations to strengthen these agencies and in some instances to create state agencies where needed.¹ The Central Region's focus on the progress of state and local human rights agencies is based on "new federalism," in which the federal government committed itself to increase funding for state and local civil rights agencies to enforce civil rights laws.²

The purpose of this report is to examine whether citizens of Arkansas have adequate means for redressing complaints of discrimination in employment, housing, and public accommodations; to assess the existing state civil rights laws in the context of applicable federal civil rights laws; and to inform the general public about civil rights laws in Arkansas.

The Arkansas Advisory Committee has consistently received information and complaints over a number of years from citizens alleging a lack of civil rights enforcement in Arkansas and that citizens do not know where and how to file complaints of discrimination.³ Currently, Arkansas is one of several states in the nation that have not established a state civil rights/human rights enforcement agency.⁴

¹ See *Iowa Civil Rights Agencies*, September 1982; *Nebraska Human Rights Agencies*, December 1982; *Missouri Human Rights Agencies*, June 1988; *From the Dream of the Sixties to the Vision of the Nineties—The Case for An Alabama Human Relations Commission*, December 1992.

² Arkansas Advisory Committee to the U.S. Commission on Civil Rights, project proposal, "Is There a Need for an Arkansas Human Relations Agency," July 17, 1998.

³ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, meeting minutes, Apr. 30, 1998, and Jan. 22, 1998; 1998 Southwest Region Civil Rights Conference, Arkansas Department of Human Services, Little Rock, AR, Apr. 28–30, 1998 (hereafter cited as Arkansas Civil Rights Conference).

⁴ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, fact-finding meeting, Little Rock, AR, Sept. 23–

On June 11, 1998, the Advisory Committee voted to conduct a fact-finding meeting to assess this situation. Such a meeting was held on September 23–24, 1998, in Little Rock. Persons representing local, state, and federal governments; elected officials; attorneys; community leaders; and civil rights advocates appeared before the Committee to present their views and factual information about the nature and extent of civil rights enforcement in Arkansas.⁵

The Advisory Committee conducted field interviews and obtained information from selected government agencies and civil rights organizations regarding the numbers and types of complaints they received and whether they believed a state agency was needed to enforce civil rights laws in Arkansas. The Advisory Committee also received information from participants at an Arkansas Civil Rights Conference sponsored by the Arkansas Department of Human Services in April 1998.⁶

Arkansas Demographics

According to the 1990 census, Arkansas has a population of 2,350,725, a 2.8 percent increase over the 1980 census. Arkansas is the 33rd largest state in the Union. Minorities total 425,857, or 18.1 percent, of the state population. Forty-eight percent, or 1,133,076, of the population is male, and 52 percent, or 1,217,649, is female.⁷

Pulaski County is the most populous county, with almost 15 percent of the total state population. The largest cities in Arkansas are Little

24, 1998, transcript, vol. 1, p. 42 (hereafter cited as *Transcript*).

⁵ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, meeting minutes, June 11, 1998; *Transcript*, vol. 1 and 2.

⁶ Arkansas Civil Rights Conference. The Advisory Committee conducted field investigation interviews and questionnaires from July 1998 through September 1998.

⁷ U.S. Department of Commerce, Bureau of the Census, CB 91-100, March 1991 and July 1998.

Rock, North Little Rock, Fayetteville-Springdale, Fort Smith, Pine Bluff, and Texarkana.⁸ The population breakdown is shown in table 1.⁹

TABLE 1

Arkansas Population

	1990		1998
	Number	%	Estimates
Total population	2,350,725		
White	1,944,744	82.7	
Black	373,912	15.9	
American Indian, Eskimo or Aleut	12,773	0.5	
Asian or Pacific Islander	12,530	0.5	18,529
Other race	6,766	0.3	
Hispanic origin	19,878	0.8	49,473

SOURCE: U.S. Department of Commerce, Bureau of the Census, CB 91-100, March 1991 and July 1998.

Data analyzed by the Arkansas Employment Security Department in 1996 show that people of color make up 14.3 percent of Arkansas' labor force. This statistic includes a growing number of Hispanic, Native American, and Asians and Pacific Islanders. In the Pulaski County area alone there was an 83 percent increase in the Hispanic labor force from 1990 until 1996. Similarly, there was a 168 percent increase in the Native American labor force. According to the Arkansas State Data Center and recent newspaper accounts, the population of minority groups has increased considerably throughout the '90s.¹⁰

Arkansas leads the nation in Hispanic population growth. Hispanic immigrants, mostly from Mexico and Central America, have moved into Arkansas and are primarily employed in the state's poultry and meat processing industries.¹¹ Officials at the State Census Data Center said that in 1990 the census counted 19,878 Hispanics. But over the past decade, the population has more than doubled and exceeded the 2005 pro-

jection issued two years ago. The new estimate conducted in 1998 shows 49,473 Hispanics, which researchers indicate is probably too low by as much as a third, putting the actual population at more than 60,000.¹² Although Hispanics live in all areas of Arkansas, their numbers are concentrated in Fayetteville and the Springdale-Rodgers area in northwest Arkansas and farther south in Fort Smith and DeQueen. According to state officials, the new census estimates show that a new and permanent community is in the making.¹³

The state has experienced a smaller growth in the Asian American immigrant population. The Asian population increased from 12,530 in the 1980 census to 18,529 in the 1990 census.¹⁴

In the past, race relations were addressed as a black-white issue. Clearly, with the surge of the Hispanic and Asian populations in Arkansas, race relations will have to address many other ethnic and multicultural issues. A definitive population count will not be available until the 2000 census.¹⁵

Statement of the Issues

The first efforts to develop state civil rights legislation began under then-Governor Bill Clinton in 1991 with the formation of a task force.¹⁶ The Arkansas State Legislature and then-Governor Jim Guy Tucker signed into law Arkansas' first civil rights legislation on April 8, 1993 (see appendix B).¹⁷ This bill was shepherded through the Legislature by State Senator Bill Lewellen of Marianna and State Representative Bill Walker of Little Rock. According to Senator Lewellen, the civil rights legislation passed but fell short of providing full civil rights protections. Its signing capped a struggle to bring Arkansas into the fold with other states, allowing citizens to bring civil rights actions in

⁸ Ibid.

⁹ Ibid.

¹⁰ Andrew Green, "Arkansas Leads U.S. in Surge of Hispanics," *The Arkansas Democrat-Gazette*, Sept. 4, 1998, p. 1A; Jim Nesbitt, "Hispanics Full Growth of Small Arkansas Towns," *The Times Picayune*, Aug. 18, 1994, p. 1B.

¹¹ Ibid.

¹² Ibid.; U.S. Department of Commerce, Bureau of the Census, ST-98-30, July 1998.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ "Minority Population Surges," *USA Today*, Washington edition, Sept. 14, 1999, pp. 1-3.

¹⁶ Arkansas Civil Rights Act of 1993; Noel Oman, "Signing of Bill Ends State's Long Holdout on Civil Rights Front," *The Arkansas Democrat-Gazette*, Apr. 9, 1993, p. 1A.

¹⁷ The Arkansas Civil Rights Act of 1993 (codified at ARK. CODE ANN. § 16-123-101 (Michie Supp. 1999)).

state courts on the basis of race, religion, national origin, sex, and disability.¹⁸

Currently in Arkansas, there are no state agencies with statutory authority to enforce state civil rights laws. However, redress of grievances is available at the federal level. If a person is discriminated against in employment because of race, color, sex, religion, national origin, or disability, he or she can file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC). In the area of housing, if a person is discriminated against because of race, color, religion, national origin, sex, familial status, or handicap that person can file a complaint with the U.S. Department of Housing and Urban Development (HUD). Citizens may also file housing complaints with the Arkansas Fair Housing Council or the Arkansas Community Organization for Reform (ACORN), which are local deferral agencies with limited enforcement authority.¹⁹

The question then becomes, Could a state agency authorized to enforce comparable provisions of federal civil rights be effective? Claude Rogers, past president of the International Association of Official Human Rights Agencies and former director of the St. Louis, Missouri, Civil Rights Enforcement Agency, pointed to the benefits of having a state agency even in the presence of federal authorities.²⁰ He told the Advisory Committee:

You have a civil rights statute in the state of Arkansas that most of the citizens cannot access because most of them cannot afford to pay lawyers to defend them, and there are very few attorneys in the United States of America or anywhere in the world that I know that will take a civil rights case on consignment unless it's a smoking gun. . . . So you need a state civil rights agency that is there working for the citizens, one that does not cost them anything, that can do the investigation, and gather materials that are needed. EEOC has a backlog that you would not believe. And they're constantly trying to reduce that backlog. Currently I believe if you file a case with the EEOC, it takes at least 18 months before it's assigned. Justice delayed is justice denied. So a local or a state human rights agency not only serves the purpose of being an avenue for citizens who do not have the funds to hire a private attorney, but they also receive justice immediately. Most business people across the country feel that they would rather have those types of things (civil rights litigation) settled right at home in the state of Arkansas, rather than having the United States government in their business.²¹

State officials of Tennessee and Nebraska, which both have established human rights agencies, have noted that state enforcement agencies provide citizens orderly, timely, and inexpensive legal services to redress grievances.²²

¹⁸ Oman, "Signing of Bill Ends State's Long Holdout," p. 1A.

¹⁹ *Transcript*, vol. 1 and vol. 2.

²⁰ Claude Rogers, *Transcript*, vol. 1, pp. 26-50.

²¹ *Ibid.*, pp. 32-33.

²² Warren Moore, Tennessee Human Rights Commission, and Lawrence Myers, Nebraska Equal Opportunity Commission, cited in Arkansas Advisory Committee to the U.S. Commission on Civil Rights, *From the Dream of the Sixties to the Vision of the Nineties—The Case For An Alabama Human Relations Commission*, December 1992, p. 9.

II. Review of the Arkansas Civil Rights Act of 1993

According to an article in the *Arkansas Law Review and Bar Association Journal, Inc.*, the Arkansas Legislature, after almost 30 years of avoiding issues that the rest of the country had already addressed, enacted its first modern civil rights act.¹ The law covered discrimination based on race, religion, national origin, gender, and disability.²

The Arkansas Civil Rights Act of 1993 states in part:

- (a) The right of an otherwise qualified person to be free from discrimination because of race, religion, ancestry or national origin, gender, or the presence of any sensory, mental, or physical disability is recognized as and declared to be a civil right. This right shall include, but not be limited to:
1. The right to obtain and hold employment without discrimination;
 2. The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges or any place of public resort, accommodation, assemblage, or amusement;
 3. The right to engage in property transactions without discrimination;
 4. The right to engage in credit and other contractual transactions without discrimination; and
 5. The right to vote and participate fully in the political process.
- (b) Any person who is injured by an intentional act of discrimination in violation of subdivisions (a)(2)–(5) of this section shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover compensatory and punitive damages, and, in the discretion of the court, to recover the cost of litigation and reasonable attorneys' fees. . . . The opportunity to obtain housing and other real estate without discrimination

because of religion, race, color, national origin, sex, disability, or familial status, as prohibited by this chapter, is recognized and declared to be a civil right. . . .³

During the 1995 legislative session, a new section covering housing discrimination was added to the law.⁴ Yet, five years after the statute was enacted, litigants have filed very few cases under the new law. However, it does not mean that it is always preferable to file under state law because the state act also leaves several significant areas uncovered.⁵

The Arkansas Civil Rights Act of 1993 provides some civil rights protections, but the law is not substantially equivalent to federal civil rights laws, and procedures, remedies, and judicial review of actions are not equivalent to those under federal guidelines.⁶ Major areas of civil rights protections not covered include age discrimination in employment and housing. The act also lacks an enforcement mechanism.⁷

According to officials of the U.S. Equal Employment Opportunity Commission (EEOC), Little Rock Area Office, the Arkansas Act does not conform to the age discrimination under EEOC's jurisdiction because it does not prohibit age dis-

³ The Arkansas Civil Rights Act of 1993 (codified at ARK. CODE ANN. § 16-123-101 (Michie Supp. 1999)).

⁴ The Arkansas Fair Housing Act of 1995 (codified at ARK. CODE ANN. § 16-123-201 (Michie Supp. 1999)).

⁵ Beiner, "An Overview of the Arkansas Civil Rights Act," p. 1.

⁶ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, fact-finding meeting, Little Rock, AR, Sept. 23–24, 1998, transcript, vol. 2, pp. 330–31, and vol. 1, pp. 108–09 (hereafter cited as *Transcript*); Wanda Milton, supervisory investigator, Little Rock Area Office, U.S. Equal Employment Opportunity Commission, information submitted, July 23, 1998 (hereafter cited as *Milton, EEOC Information*); Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, city of Little Rock, information submitted, Feb. 1, 1999; Beiner, "An Overview of the Arkansas Civil Rights Act."

⁷ Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3600–3620; § 7(d) and 42 U.S.C. 3535(d)).

¹ Theresa M. Beiner, "An Overview of the Arkansas Civil Rights Act of 1993," *Arkansas Law Review and Bar Association Journal, Inc.*, 1997.

² *Ibid.*

crimination.⁸ The Arkansas Act that defines "disability" does not cover alcoholism. The act exempts religious entities from the employment aspects of the law, and the section of the Arkansas law that defines "employee" does not conform to EEOC's standards because it excludes individuals employed by their parents, spouses, or children, and individuals employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.⁹

The U.S. Department of Housing and Urban Development (HUD) administers federal housing programs. HUD'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. The governing law is the Civil Rights Act of 1968, as amended by the Fair Housing Amendments of 1988. The Arkansas Act also does not meet the requirements set forth under the laws and regulations enforced by HUD prohibiting age discrimination in housing, and it fails to have an enforcement mechanism.¹⁰

According to Judge Wendell L. Griffen of the Arkansas Court of Appeals, the Arkansas Act is not enforced by any state agency with civil rights responsibilities.¹¹

Claude Rogers said effective civil rights legislation should at a minimum do the following:

- provide rights and remedies substantially equivalent to federal guidelines such as prohibiting discrimination based on race or color, national origin, religion, sex, disability, age, marital status, and familial status;
- prohibit discrimination in the areas of employment, housing, and public accommodations;
- provide enforcement powers and judicial review of the agency's actions;
- provide outreach and education services to the general public;

- provide specific authority to localities to investigate and enforce civil rights protection locally; and
- allow state agencies to accept grants and enter into cooperative agreements with other state, local, and federal agencies.¹²

Mr. Rogers said some states have been progressive in their lawmaking by including discriminatory practices based on income, height and weight, and sexual orientation.¹³

In its review of the Arkansas Civil Rights Act, concerns were expressed to the Advisory Committee that the act is not substantially equivalent to federal laws. The Committee also heard of other areas of concern that limited aggrieved citizens' ability to pursue their rights, such as costs for legal counsel, which adversely affect low-income persons, and the lack of available attorneys who will accept civil rights cases.¹⁴

Summary of Views Regarding an Arkansas Civil Rights Enforcement Agency

Most persons interviewed and participants who spoke or submitted written information for the fact-finding meeting either supported state civil rights legislation and a state enforcement agency or opposed them. There was not much gray area on this point.¹⁵ Some agreed, however, that based on the current political climate, attempts to increase civil rights protections in Arkansas most likely would be unsuccessful. This is evident by the defeat of comprehensive state hate crime laws proposed in 1999 by the Legislature and the defeat of other efforts to safeguard the human rights of citizens. For example, state employers came together and effectively weakened workers' compensation laws; the state failed to establish landlord and tenant rights laws; an administrative law judge was removed because her rulings appeared to be favorable toward plaintiffs' interests; a law creating the Arkansas Women's Commission was repealed, which would have helped improve the education and economic status of women; a bill failed to

⁸ Milton, EEOC Information.

⁹ Ibid.

¹⁰ Dan Pless, *Transcript*, vol. 1, pp. 107-10; Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, interview, July 24, 1998.

¹¹ Wendell L. Griffen, *Transcript*, vol. 2, pp. 349-50.

¹² Claude Rogers, *Transcript*, vol. 1, pp. 26-49.

¹³ Ibid., p. 39.

¹⁴ Phillip Kaplan, *Transcript*, vol. 1, pp. 58-59; vol. 2, pp. 360-61; Candance Odom, interview, Aug. 27, 1998.

¹⁵ *Transcript*, vol. 1 and 2.

pass the Legislature that would have repealed part of a law that allows the state to check for citizenship before issuing a driver's license, thereby potentially subjecting immigrants with noticeable accents or Spanish-sounding names to discriminatory treatment; and the city of Little Rock failed to get state legislation passed allowing local municipalities the authority to adopt their own fair housing ordinances.¹⁶

Although Governor Mike Huckabee has publicly renounced the practice of discrimination and said his administration is inclusive, a number of persons and representatives of organizations such as ACORN, the state NAACP, and Catholic Immigration Services believe the current administration has been generally inactive and dispassionate on civil rights issues.¹⁷ They cited the controversy surrounding the upheaval at the state's Youth Services Department that raised allegations of racial discrimination in the firing of black administrators, the confrontation between ACORN and the governor at the Arkansas Civil Rights Conference in April 1998, and the lack of accessible state properties for mobility-impaired persons.¹⁸

In the minds of some community representatives, the administration has not gone beyond the acknowledgment that civil rights problems exist, and it has failed to implement the changes needed. The questions then become, What has the administration done to make its vision of civil rights a reality? What are the different views and pros and cons of establishing substantially equivalent civil rights legislation and a state human rights agency?

Joe Franklin, who spoke on behalf of the governor, stated:

Last September Governor Mike Huckabee, along with President Clinton and Little Rock Mayor Jim Daly,

¹⁶ Phillip Kaplan, *Transcript*, vol. 1, pp. 56-57; Dan Pless, *Transcript*, vol. 1, pp. 113-14; Joe Stumpe, "Difference Over Agenda Helped End Women's Commission, *The Arkansas Democrat-Gazette*, Feb. 28, 1999, p. 1B; Elizabeth McFarland, "Hate Crime Bill Fails 12-14 in House Panel," *The Arkansas Democrat-Gazette*, Feb. 17, 1999, p. 1B; Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, letter, "Introduction to Substantially Equivalent Ordinances," July 16, 1999.

¹⁷ Bill Lewellen, *Transcript*, vol. 2, pp. 334, 340; Mitch Kline, director, ACORN, interview, June 14, 1998; Sheila Gomez, director, Immigration Services, Catholic Social Services, interview, July 13, 1998.

¹⁸ *Ibid.*

participated in the 40th anniversary of the integration of Little Rock Central High School. That day the three of them symbolically held open the doors for nine African American students who had been shut out of that school 40 years earlier. Governor Huckabee said in his speech that day: "Essentially, it is not just a skin problem; it is a sin problem, because we in Arkansas have wandered around in ambiguity with all kinds of explanations and justifications. I think today we come to say once and for all that what happened 40 years ago was simply wrong. It was evil, and we renounce it."¹⁹

Phillip Kaplan, Kaplan, Brewer & Maxey

Phillip Kaplan, an attorney with the law firm Kaplan, Brewer & Maxey, P.A., has served as legal counsel for plaintiffs in civil rights cases. He strongly opposes expanding current legislation to enforce the state's civil rights laws.²⁰ According to Mr. Kaplan, in those states with deferral agencies to the EEOC, there has always been a coalition of political forces that enabled such legislation to pass. He said this environment does not exist in Arkansas. Usually there is a large labor constituency or women's groups that have been able to mobilize and garner the legislative impetus needed to pass civil rights legislation. He believes there is enough legislation on the books to adequately address civil and human rights issues. He contended that more legislation will only arouse hostility. Moreover, with the exception of employment discrimination, he said, there are very few housing or public accommodations discrimination complaints filed in Arkansas.²¹ He told the Advisory Committee:

There are very few lawsuits filed. Most of these things are either mediated or handled at an administrative level at HUD. . . . The same is true with public accommodations. For example, we know that Sears is not treating somebody who is a customer badly on account of race, sexual preference, or gender. That kind of thing with major department stores just doesn't happen.²²

Mr. Kaplan said that there are other legal and technical factors involved in proving discrimination cases and that plaintiffs would be

¹⁹ Joe Franklin, *Transcript*, vol. 1, pp. 10-11.

²⁰ Phillip Kaplan, *Transcript*, vol. 1, pp. 50-51, 55-56.

²¹ *Ibid.*

²² *Ibid.*, pp. 52-53.

best served by using federal civil rights laws rather than state laws. He noted that a plaintiff's burden of proof in employment cases is rigorous. Therefore, attorneys are exceedingly selective about the employment civil rights cases they will handle; and some do not take them at all. Relatively few cases are decided for the plaintiff at trial.²³ Moreover, Mr. Kaplan observed that bringing a claim of discrimination at the state level provides no legal advantage or relevant precedent because state judges look to federal law for guidance on civil rights cases.²⁴ Instead of new legislation, Mr. Kaplan said:

My feeling is, quite frankly, there's enough law now. The Arkansas civil rights statute, while it is not self-effectuating, is a very broad and comprehensive statute. And if only it were universally loved and adopted, it would make a difference, but I think that there are many places where it could be, I suppose, more effectively enforced and where education might make a difference, where having some discussion in the nature of dialogue on race, that the President has tried to develop, might have some considerable impact. I just don't think that additional legislation is going to have that much impact, because the laws as they exist now are sufficient, if enforced, or if adopted in one's heart.

Litigating these things isn't ultimately going to be whatever is going to bring about the change. You can't have enough lawsuits to change what is in people's hearts. You just have to change their minds and hearts in order to change the way they react toward people that are different from them, and we've come a long way.²⁵

James W. Moore, Friday, Eldridge & Clark

James W. Moore, an attorney in Little Rock, exclusively represents employers in their defense against employment discrimination charges. He serves on the board of directors of the Arkansas State Chamber of Commerce and the United States Chamber of Commerce.²⁶ He opposes legislation for a state civil rights enforcement agency. A state agency, he said, would be just another unnecessary layer of bureaucracy added to existing federal and state enforcement proce-

²³ Ibid., pp. 54-55.

²⁴ Ibid.

²⁵ Ibid., pp. 55-56.

²⁶ James Moore, *Transcript*, vol. 1, p. 178.

dures that are available to persons alleging discrimination.²⁷ Mr. Moore said if legal costs are a concern, plaintiffs may also file an employment discrimination complaint in federal court for a state cause of action based on the Arkansas Act without delay.²⁸ Mr. Moore summed up the Arkansas Chamber of Commerce's position:

In our view we do not feel that there is such a need. The Arkansas business community, which is comprised mostly of employers of less than 100 employees, believes that we do not need another civil rights enforcement authority to protect the employees from workplace discrimination.

Now, let me point out that such a state agency would be in addition to the existing employee rights law enforcement authority of the EEOC, which we all know, the OFCCP, the NLRB, OSHA, HUD, the U.S. Department of Justice, the U.S. Department of Labor, the Arkansas Civil Rights Act of 1993, the Arkansas Department of Labor, and a very skilled and sizable aggressive Civil Rights Bar, which represents plaintiffs here in Arkansas, which is a relatively small state from a population standpoint. . . .

More agencies to complain to simply means more litigation, and more litigation creates the need for more attorneys and more litigation expense. While lawyers have prospered over the last 30 years with the expansion of civil rights legislation, this is hardly a rationale for another agency in an area of law which is already saturated with legislation and regulatory agencies.²⁹

Mr. Moore believes outreach and educational programs for employers are the best approaches to preventing and reducing discrimination in the workplace.³⁰

Bill Lewellen, State Senator, Mariana, Arkansas

Senator Bill Lewellen has been on the forefront calling for statewide civil rights legislation. He provided significant leadership in moving Arkansas' civil rights legislation to its passage in 1993.³¹ The governor's Task Force on Civil

²⁷ Ibid., pp. 179-80.

²⁸ Ibid., p. 187.

²⁹ Ibid., pp. 180-82.

³⁰ Ibid.

³¹ Rachel O'Neal, "Task Force Favors Senator's Civil Rights Bill," *The Arkansas Democrat-Gazette*, Feb. 17, 1993, p. 9B; "For 2nd Day, Senate, House Consider Civil Rights Bill," *The Arkansas Democrat-Gazette*, Feb. 27, 1993, p. 2B.

Rights, formed in 1991 by then-Governor Bill Clinton, was sponsored in the Senate by Senator Lewellen.³² He described the political climate of the early 1990s as being one in which most Arkansans did not believe it was necessary to have a state civil rights bill.³³ He said a law was passed mainly for appearance only when state officials found out Arkansas was one of several states without a statewide civil rights law. According to Senator Lewellen, the Legislature's intent was to get a civil rights law passed, but one that was not enforceable.³⁴

Consequently, a law was passed that was not substantially equivalent to federal antidiscrimination laws and had many limitations in rights, remedies, and guarantees that should have been covered. Senator Lewellen said because of these limitations, it is still better to go to the federal courts than file under state law. The limitations in the monetary remedies in all employment discrimination cases even under federal law are one of the reasons many attorneys will not take on these cases. He said if an attorney represents a person who is unable to pay attorney's fees, the maximum amount of reimbursement by the state is not enough to cover legal fees.³⁵

Senator Lewellen also complained about state officials and the media's failure to adequately inform the public about Arkansas' civil rights laws. He said:

The overall intent was never to have a civil rights bill that was going to be enforceable or usable in this state, and I think as you can see from the result of it, and when you hear people talk about how often they use the civil rights bill in court, or how often it's brought up or what you see, generally when you pass legislation that you hear Ms. Simmons say when they do things, they've got brochures going out, they've got pamphlets out, they've got things noticed in county offices and what have you.

Many times we pass legislation that we're proud of and we pass out brochures. We send things out. We do public service announcements, etc. No such occurrences have occurred to notify the public that Arkansas even has a civil rights bill. So at this point probably 99 percent of the citizens of this state are still not

³² Rachel O'Neal, "Task Force Favors Senator's Civil Rights Bill," *The Arkansas Democrat-Gazette*, Feb. 17, 1993, p. 9B.

³³ Bill Lewellen, *Transcript*, vol. 2, p. 330.

³⁴ *Ibid.*, pp. 330-31.

³⁵ *Ibid.*, pp. 330-33.

aware that the civil rights bill was ever passed or what the laws are in regard to it.³⁶

Senator Lewellen stressed that efforts must continue to get an effective statewide civil rights law that has all the rights, remedies, and guarantees that citizens of other states have. He contended that without enforcement there will never be compliance. Reconciliation will not work, he said, because if there is no fear or incentives to comply, people will continue to discriminate. Senator Lewellen believes a state enforcement agency could do a better job of investigating than the EEOC.³⁷ He further pointed out:

Because poor people do not have the resources to prove discrimination and are the most vulnerable, they should also have a place in Arkansas where they can go to help enforce their rights.³⁸

Senator Lewellen also noted that if a human rights agency is established, it should be autonomous and independent from political influence, and provided appropriate resources.³⁹

Dan Pless, Director, Arkansas Fair Housing Council

Dan Pless is the director of one of only two local agencies in the state to receive federal grants to investigate complaints of housing discrimination.⁴⁰ With the exception of the central cities of Little Rock, Pine Bluff, and areas in Lake Village, his agency, the Arkansas Fair Housing Council, investigates complaints in all areas of the state, with only four investigators. The council's funding comes from HUD and the U.S. Departments of Justice and Agriculture.⁴¹

Mr. Pless told the Advisory Committee that during the years 1996-97, the council investigated 63 housing complaints. In 1997-98, the council investigated 111 complaints. For these

³⁶ *Ibid.*, pp. 330-31.

³⁷ *Ibid.*, p. 338.

³⁸ *Ibid.*, p. 341.

³⁹ *Ibid.*

⁴⁰ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, meeting minutes, Apr. 30, 1998; Dan Pless, *Transcript*, vol. 1, pp. 111-12; Dan Pless, director, Arkansas Fair Housing Council, Response, Aug. 24 1998 (hereafter cited as Arkansas Fair Housing Council Response).

⁴¹ *Ibid.*

years, 134 (77 percent) of the complaints were based on race and national origin; 17 (8 percent) were based on disability status; 14 (8.1 percent) on family status; and six (3.4 percent) were unsubstantiated.⁴²

In previous years, the council provided educational programs and outreach activities through the Fair Housing Initiatives Program, but it had to discontinue these services because of its heavy caseload.⁴³

Mr. Pless said that the council does not even begin to "scratch the surface" of what is needed to adequately assist citizens in seeking redress for their housing complaints. He said:

My belief is that there's a serious fair housing problem in Arkansas, and that there's a tremendous amount of discrimination against people—for all of the reasons—in the protected classes. We have the rather odd distinction of being one of the few fair housing councils that has had occasion to file complaints on religious discrimination, which is fairly rare in the world anymore—and it's rare for the Arkansas Fair Housing Council—but we still get complaints about people who are being discriminated against because of their religion.

We're seeing a tremendous amount of complaints in northwest Arkansas and in western Arkansas because of the increase in the number of Hispanics. Western Arkansas, northwestern Arkansas, traditionally have been predominantly white areas of the state. And they didn't particularly adjust well to having African Americans there, and they're doing even less well with adjusting to having Hispanics in the area.⁴⁴

Mr. Pless told the Advisory Committee he supports efforts to establish a state civil rights enforcement agency. However, he noted that political forces are quite strong in opposing such an agency. Mr. Pless said that if an agency is created, its level of effectiveness would depend upon its level of independence.⁴⁵

⁴² Ibid.

⁴³ Dan Pless, *Transcript*, vol. 1, pp. 117–18.

⁴⁴ Ibid., p. 112.

⁴⁵ Arkansas Fair Housing Council Response.

Jamie Jamison, director, U.S. Department of Housing and Urban Development, Southwest Office of Fair Housing and Equal Opportunity

According to information provided by HUD, as of September 1998, the Southwest office had 183 open investigations. Of these, 70 percent were considered to be over age. There is a continuous backlog of over-age cases due to shortage of resources, agency reorganization, and an introduction of new technology that requires staff retraining.⁴⁶

From 1996 to August 1998 HUD accepted 188 complaints from Arkansas, with the bulk coming from Pulaski County (59), Calhoun (31), Washington (10), Garland (9), and Jefferson (9).⁴⁷ The types of complaints received most often concerned discrimination based on race or disability; and familial status involving discriminatory terms, conditions, services, privileges and/or facilities related to the sale of residential property or rental property. Of the 188 complaints filed, 79 (42 percent) were on the basis of race.⁴⁸

HUD officials said they would support a state civil rights agency to assist in the enforcement of equal housing laws in Arkansas. This would help in reducing 70 percent of the over-age cases in the regional office.⁴⁹

Kay Klugh, Area Director, U.S. Equal Employment Opportunity Commission

The Little Rock Area Office of the EEOC is responsible for investigating employment discrimination charges filed in Arkansas.⁵⁰ The district office, located in Memphis, Tennessee, has jurisdiction over the states of Arkansas and Tennessee. The Little Rock Area Office has a staff of 31 employees, including an area director, two supervisory investigators, one charge receipt supervisor, one alternative dispute resolution coordinator, one administrative law judge, two attorneys, 15 investigators (one of whom is fluent in Spanish), one computer assistant, one

⁴⁶ Jamie K. Jamison, director, U.S. Department of Housing and Urban Development, Southwest Region, letter to Melvin L. Jenkins, director, Central Regional Office, U.S. Commission on Civil Rights, Sept. 1, 1998.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Kay Klugh, *Transcript*, vol. 2, p. 295.

personal assistant for the alternative dispute resolution coordinator, one investigative support assistant, one program assistant, one secretary, and three office automation clerks.⁵¹

As of October 1, 1999, the area office had 558 charges pending in its inventory. The average age of these charges was 309 days.⁵²

In 1995, EEOC adopted new national enforcement procedures to address the growing backlog of cases to include investigation and enforcement, conciliation, technical assistance, and public education.⁵³ According to Kay Klugh, there has been a 70.6 percent decrease in the pending inventory of the office since the new charge procedures were established. All employment complaints are now classified into three categories. Category A charges are charges that appear more likely that discrimination has occurred than not and receive first priority. Category B are charges where further evidence is required to determine whether it is more likely than not that a violation has occurred and will be investigated as resources permit. Category C are charges subject to possible dismissal.⁵⁴

Ms. Klugh said these new standards provide field personnel flexible procedures for processing charges and substantial decision-making authority in the field offices, including discretion to decide the amount of resources to be used for each charge and permitting settlement in appropriate cases.⁵⁵

An analysis of charges filed with the Little Rock Area Office starting October 1, 1996, through June 1998 indicates that 4,220 charges were filed, with approximately 44 percent filed on the basis of race. Another 25.8 percent were filed on the basis of sex, 21.3 percent were filed under the Americans with Disabilities Act (ADA), and 16.6 percent contained retaliation charges.⁵⁶

An analysis of cause findings determinations over the same period shows that approximately 47 percent of these were issued on ADA charges,

35 percent were issued on sex discrimination cases, 27 percent on sexual harassment cases, and 12 percent were on race cases.⁵⁷

Ms. Klugh reported that some of the priority issues for investigation by EEOC are the hiring and advancement of African Americans and women by employers; discriminatory downsizing on the basis of race, sex, and age; sexual harassment; reasonable accommodations for people with disabilities; discrimination against individuals with terminal illnesses; and retaliation cases.⁵⁸

EEOC also established alternative dispute resolution (ADR) procedures in Arkansas in January 1997, which are offered in about half of Category B cases. According to EEOC, ADR is a means for resolving disputes in the workplace free from the costs of investigation, extended litigation, and appeals. ADR provides the following advantages:

- mediation rather than arbitration;
- voluntary participation by all parties;
- neutral mediation by someone other than an EEOC employee;
- fairness of process;
- strict confidentiality regarding mediation process and content; and
- enforceable agreements.⁵⁹

Because the district office did not receive a favorable response to ADR from some employers, the agency is reviewing its procedures and talking to employers as to why they do not want to participate. When Ms. Klugh was asked why employers were reluctant to participate in ADR, she said:

[S]ome employers in the state have their own internal ADR program and if it didn't work the first time, they're not willing to go and try it again. A lot of the employers do not believe that they have discriminated, so they're not willing to try to go through an ADR program to work out the problem. Some of the others have told us that ADR is just a way for EEOC to make them pay out money.⁶⁰

⁵¹ Ibid.; Kay Klugh, area director, U.S. Equal Employment Opportunity Commission, letter to Melvin L. Jenkins, director, Central Regional Office, U.S. Commission on Civil Rights, Nov. 4, 1999 (hereafter cited as Klugh Letter).

⁵² Klugh Letter.

⁵³ Kay Klugh, *Transcript*, vol. 2, pp. 295-96.

⁵⁴ Ibid., pp. 296-98.

⁵⁵ Ibid.

⁵⁶ Ibid., p. 302.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ U.S. Equal Employment Opportunity Commission, *Alternative Dispute Resolution Policy Statement*, 915.002, July 17, 1995; U.S. Equal Employment Opportunity Commission, *Early Alternative Dispute Resolution Brochure*, A Program of the St. Louis District Office, 1998.

⁶⁰ Kay Klugh, *Transcript*, vol. 2, pp. 303, 310-11.

An ADR program for Category B charges has now been established in the state. The current coordinator of that program for Arkansas was hired in February of 1999 and began to mediate cases in late May of 1999. From June through September, he successfully mediated 22 of the 32 cases assigned to him for mediation, for a successful mediation rate of 68.8 percent. The Arkansas program also provided 94 cases for mediation by outside mediators during this same period.⁶¹

Ms. Klugh said the agency has targeted some outreach efforts in areas with large concentrations of Hispanics and will be hiring an employee who is fluent in Spanish.⁶²

In response to a concern as to what happens when a complaint is filed with her office, Ms. Klugh described the process as follows:

Let me go into a little bit more detail then on how we process cases. A person comes into the office to be counseled or calls or writes a letter, somebody is going to speak with him initially.

They will be given, first off, a fact sheet that explains what the process is. The person also will explain to them what is going to happen. If the investigator at the initial stage of the investigation can determine that there's nothing we can do for this person, we try to tell them immediately, and those are the cases we will dismiss within 10 days.

And each of these persons is still given their right to sue should they choose to do that. All of the other cases, the cases where we think that discrimination has occurred, these cases will be immediately assigned for investigation. That does not mean that they will get immediate investigation, because we have 10 people.

Okay. Right now we have nine. So we have nine people to serve the entire state of Arkansas. That includes taking that charge when it comes in the door, so that really leaves about three days a week for the investigator to investigate charges.

Then Category A charges are fairly quickly investigated. Oftentimes in these cases where we think the statutes have been violated, we don't even ask for information from the employer. We will immediately schedule an on-site or we will ask that the employer give us the information within a very short time pe-

riod, so that we can try to resolve the situation as quickly as possible.

In those cases where we just don't know whether or not discrimination has occurred, we ask the employer to respond within 30 days. Oftentimes they do, oftentimes they don't, and that causes another problem. However, once that response comes into the office currently, me and my two supervisors and the ADR coordinator will review that information. We review that case file again, and we reprioritize at that point.

At that point, there are very few of our charges that will remain in the holding tank. If the charge is to remain in the holding tank, we do send the individual a letter telling them that. We also tell them in that letter that they can provide any other information they may have that will help us to recategorize that charge.

Only the charges that are going to be remaining in that holding tank should be in a situation where the charging party won't know what's happening, other than its being on hold. In the other situations where the charge is being actively investigated or being dismissed, that person is going to be contacted immediately, either by phone or by letter. I know that our district prefers that we contact people by phone. I prefer sending out that information in writing, so there's no misunderstanding of what our evidence shows.

That person is at that point given time to recontact the investigator or provide any additional information that will change our decision, and that happens in every case. We don't dismiss a case without that person being told either initially when he comes in or through written correspondence or telephone contact before the charge goes out. And it may involve a period of time simply because of the number of charges we're getting and the size of the staff we have.⁶³

Ms. Klugh stated she could not officially say whether a state agency is needed to investigate employment discrimination complaints in Arkansas, but she said any assistance to resolve such complaints would be useful.⁶⁴

**Bob Balhorn, Executive Vice President,
Arkansas Realtors Association**

The Arkansas Realtors Association has a membership of more than 5,000 people and ap-

⁶¹ Klugh Letter.

⁶² Kay Klugh, *Transcript*, vol. 2, pp. 311-12.

⁶³ *Ibid.*, pp. 305-08.

⁶⁴ *Ibid.*, p. 314.

proximately 38 local Realtors boards throughout Arkansas.⁶⁵

The Realtors Association has actively supported fair housing initiatives and worked closely with HUD and the Real Estate Association to support fair housing efforts. Bob Balhorn said the Realtors Association had subscribed to fair housing efforts for almost 20 years. It had also worked with other community and government agencies involved in housing issues, such as the city of Little Rock, the Arkansas Fair Housing Council, and ACORN.⁶⁶

On November 5, 1997, HUD's Program Operations and Compliance Center of the Fair Housing Division in Little Rock, the Arkansas Realtors Association, and the Mortgage Bankers Association of Arkansas signed the Fair Lending Best Practices Agreement and the Fair Housing Resolution Partnership Agreement. Both agreements addressed goals and objectives the Realtors Association would carry out to provide equal housing opportunity to all home seekers.⁶⁷

Bob Balhorn cited other efforts that the Realtors Association has made to support fair housing initiatives such as ensuring that all real estate contracts include a fair housing and equal opportunity statement affirming the association's policy. To help promote understanding between landlords and tenants in Arkansas, the Realtors Association developed a landlord-tenant handbook. This handbook aids both tenants and landlords in understanding housing laws and their rights and responsibilities.⁶⁸ Other efforts have included seminars and extensive equal opportunity training for staff and members. Each local Realtors board has in place an equal opportunity committee. Procedures have been developed to address housing complaints through the Professional Standards Committee, which has authority to discipline members (fine, suspend, dismiss) who violate established Realtor standards and fair housing mandates. Mr. Balhorn said the Realtors Association is also willing to

hear grievances from the public about fair housing.⁶⁹

Mr. Balhorn said the Realtors Association supports the Arkansas Civil Rights Act and initiatives to add enforcement authority to the law, but does not support efforts by the city of Little Rock to push legislation allowing municipalities to set up individual fair housing agencies. It believes a statewide agency would be more uniform, cost efficient, and effective than independent local governments.⁷⁰

Since the Advisory Committee meeting, the Arkansas Realtors Association has monitored the legislative actions regarding a municipal fair housing bill that if passed would allow local governments in Arkansas the authority to establish fair housing commissions. The Realtors Association has been in the forefront in opposing the bill, which was defeated in 1999. However, the association supported legislation that called for a study of the usefulness of a statewide fair housing agency. Mr. Balhorn said:

We wholeheartedly support S.R. 11 and plan to lead the charge for an Arkansas Fair Housing Commission.⁷¹

Mr. Balhorn suggested that if such an agency were established that its primary focus should be on education and outreach, and that its policies and procedures should comply with federal regulations. He further said complaints should be handled expeditiously and clear distinctions should be made between investigative and adjudicating functions. The proposed agency must provide due process provisions; the right to appeal to the court system; and provide an impartial hearing panel to adjudicate cases, rather than an administrative judge.⁷²

According to Mr. Balhorn, the Arkansas Fair Housing Task Force continues to meet and is in the process of finalizing some broad parameters for a fair housing law to be introduced in the 2001 session of the Arkansas General Assembly.⁷³

⁶⁵ Bob Balhorn, *Transcript*, vol. 1, p. 170.

⁶⁶ *Ibid.*, p. 172.

⁶⁷ *Ibid.*; Bob Balhorn, executive vice president, Arkansas Realtors Association, letter to Melvin L. Jenkins, director, Central Regional Office, U.S. Commission on Civil Rights, Nov. 19, 1999 (hereafter cited as Balhorn Letter).

⁶⁸ Bob Balhorn, *Transcript*, vol. 1, pp. 166-67.

⁶⁹ *Ibid.*, pp. 169, 171-72.

⁷⁰ Balhorn Letter.

⁷¹ *Ibid.*

⁷² Bob Balhorn, *Transcript*, pp. 174-75.

⁷³ Balhorn Letter.

Wendell L. Griffen, Judge, Arkansas Court of Appeals

Judge Griffen serves on the Arkansas Court of Appeals. He believes a state enforcement agency is needed, but questioned whether the state would be courageous enough to establish a creditable and effective program.⁷⁴ He said:

I speak because of my concern for the administration of justice. My views are I should say my own. They should not be considered as the views of my court or necessarily the view of my congregation.

I first begin with what I consider a fundamental premise. Arkansas needs a civil rights agency, a civil rights enforcement agency. Despite the appearance of a number of civil rights offices in a few state agencies, there . . . has never been in Arkansas a single state agency with statewide enforcement, investigatory, or compliance responsibilities and powers to handle allegations of discrimination in education, employment, public accommodation, or commercial activity.

Although there are agencies to regulate a number of things ranging from economic development, education, health, cemeteries, water well construction, and pollution, Arkansas has never seen fit to create, fund, staff, and concern itself with any governmental entity that addresses and enforces the age-old issue of inequality.

Intellectual honesty compels us to acknowledge that reality and to admit that it is at the very least remarkable. It is no accident that Arkansas lacks a civil rights enforcement agency. Like other jurisdictions, our state has historically viewed justice from the perspective of persons who are white and male.

Those are the very persons who are least likely to complain about historical practices, traditions, and mores that are unjust, because they have been historically the beneficiaries rather than the victims of discrimination.

We should not be surprised, therefore, that a state that made it unlawful for teachers to hold membership in the NAACP, a state that paid white teachers a different and higher income from that paid African American teachers, and then that used the Arkansas State Police to investigate the NAACP, and persons suspected of involvement with it, has no state agency to investigate civil rights complaints and reports of discrimination.⁷⁵

Judge Griffen characterized Arkansas's civil rights background as weak. He said:

This is a poignant example of the way that we seem to view civil rights in Arkansas. We prefer not to think about civil rights at all, but if we must, we don't desire anything that is effective.

Yet Arkansas is certainly in need of a civil rights agency, after all federal lawsuits against the Arkansas State Police, the Arkansas State Hospital, the Arkansas Department of Corrections, and other state agencies have been won in federal court in Arkansas by Arkansans, who were treated unfairly because of their race, gender, age, disability, religion, or national origin.

Perhaps our state might have even been spared the expenses and the embarrassment that came from the ill-fated creation-science bill legislation in the 1980s had there been some state agency that served as a clearinghouse for information about the potential civil rights effect of a law that required the teaching of creation science in public schools.

I suspect that Arkansas will continue to resist creating a civil rights agency, will continue to resist funding one, and will continue to resist staffing one. Of course, there is the time-honored notion that we really don't need such an agency, because we treat people fairly. If that notion were true, the Arkansas State Hospital would not still be defending a federal race discrimination lawsuit that was first filed two decades ago.

There will always be those who insist that a civil rights agency will simply encourage people to raise unwarranted allegations of discrimination so that they can obtain leverage that they don't deserve.

Then we can expect opposition from businesses and business leaders who already consider the federal civil rights agencies to be unnecessary and intrusive. And we must never forget that there still is in Arkansas and elsewhere a strain of political leadership and a block of citizens who are opposed to civil rights efforts because they reveal entrenched policies and practices in our institutions that promote racism, sexism, and other unjust treatment to people because of their age, disability, religion, or national origin.

Nevertheless, I continue to maintain that Arkansas needs a civil rights enforcement agency. Just as our people need local help in the areas of health, education, criminal justice, pollution control, and economic development, we need local help in the area of civil rights monitoring, investigation, and enforcement. Just as the Arkansas Department of Labor regulates

⁷⁴ Wendell L. Griffen, *Transcript*, vol. 2, pp. 342-45.

⁷⁵ *Ibid.*, pp. 341-42.

labor practices, investigates allegations of unsafe and unfair labor conditions, and enforces labor standards, Arkansas needs an office of civil rights that can investigate allegations of discrimination, regulate compliance with state and federal civil rights laws and regulations, and enforce civil rights standards.

The issue and the question that I hope this body will put to the political leadership of this state, as well as the business leadership of this state and the people of this state, is whether we have the decency, the courage, and the political will to create, fund, and staff an agency to do this necessary work.⁷⁶

Judge Griffen said that in 1979, then-Governor Bill Clinton recommended that the state create a civil rights agency. Legislation was passed to set up the agency, and a director was named. Although the office did not have enforcement authority, it was authorized to receive complaints of discrimination. The agency, however, never got off the ground because the Legislature did not appropriate operating funds. According to Judge Griffen, the primary opposition to civil rights enforcement is from business leaders who consider the federal civil rights agencies to be unnecessary and intrusive. Further, there is a strain of political leadership in Arkansas opposed to civil rights efforts.⁷⁷ Judge Griffen is pessimistic and believes institutions in Arkansas will continue to resist civil rights compliance.⁷⁸

Bill Cain, General Counsel, Disability Rights Center

The Disability Rights Center, formally called Advocacy Services, is a federally funded agency authorized to advocate for and protect the civil rights of persons with disabilities. The center's main focus is advocacy, information and referral, education, and training.⁷⁹

According to the center's annual report, each year it receives hundreds of complaints of discrimination. However, complaints are accepted based on a system of priorities established each year. For 1997-98 the center's civil rights priorities were employment, voting rights, physical and program accessibility to state and local gov-

ernment services, and abuse/neglect of people with disabilities.⁸⁰

Officials of the center said they would support legislation to create an administrative agency for civil rights enforcement. They noted, however, that they will not support legislation that is too wieldy and impractical.⁸¹ Bill Cain advised that setting up a separate enforcement agency would be too expensive and it would not have a chance of passing in the Legislature because "it would scare people to death." He stated:

This legislation is another layer. It's going to ferment litigation, and I don't know why you want to take a civil rights case to a state court . . . As a lawyer I want a federal forum always . . . You have the laws already in place.⁸²

Barry Vuletich, Consumer Affairs, Arkansas Rehabilitation Services

Barry Vuletich serves as staff liaison to the governor's Commission on Persons with Disabilities.⁸³ He believes that it would be good to have a state-level agency responsible for addressing civil rights problems. He stressed, however, that his position does not necessarily reflect the position of the governor's office.⁸⁴ Although he does not keep records on the number of complaints he receives, he estimated that he receives at least 200 calls yearly from persons alleging some form of discrimination related to employment, fair housing, access to county facilities, denial of services, and questions about service animals for people with disabilities.⁸⁵ He usually refers callers to a federal agency, the Disability Rights Center, or advises them to seek an attorney.⁸⁶ Mr. Vuletich believes much discrimination goes unreported because people are discouraged when they know their only option is to go to the federal government or when they do not have the financial resources to hire an attorney.⁸⁷

⁷⁶ Ibid., pp. 344-45.

⁷⁷ Ibid., pp. 344-46.

⁷⁸ Ibid., p. 345.

⁷⁹ Bill Cain, *Transcript*, vol. 1, p. 100; Nan Ellen D. East, Disability Rights Center, information submitted, Sept. 15, 1998.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Bill Cain, *Transcript*, vol. 1, p. 104.

⁸³ Barry Vuletich, *Transcript*, vol. 2, pp. 366-67.

⁸⁴ Ibid., pp. 367-68.

⁸⁵ Ibid., p. 367.

⁸⁶ Ibid.

⁸⁷ Ibid., pp. 367-68.

Mr. Vuletich said the argument against creating a state enforcement agency is always that there is too much government in the lives of people, but he maintains that such an agency would provide a local presence and possibly ensure speedy resolution of cases.⁸⁸ Mr. Vuletich summed up his position:

Seventy percent of persons with severe disabilities are unemployed in Arkansas or underemployed. Only 33 percent of persons with disabilities go to restaurants at least once a week, compared to 60 percent of nondisabled people. Only one of five adults, that's 20 percent, adults with disabilities 18 and over, have not graduated from high school, compared with only one in 10 of those with disabilities. This indicates to me discrimination is going on. . . . I honestly believe that if we had an office of civil rights at the state level, this would provide an opportunity for people to have a voice and additional resources to turn to.⁸⁹

Oliver Dillingham, Program Manager, Equity Assistance Center, Arkansas Department of Education

Oliver Dillingham, who provides technical assistance to school districts to assist them in complying with civil rights laws, said that there is a great need for an Arkansas enforcement and compliance agency.⁹⁰ In his work with school districts, he hears about many overt acts of discrimination, particularly as they relate to disabled students. In addition to enforcement, there is a need for members of the public to be aware of their civil rights and understand the complaint process by which their grievances can be heard.⁹¹

The U.S. Department of Education's Office for Civil Rights regional office in Dallas is swamped with complaints of discrimination. In 1996, he said there were 4,828 complaints alleging discrimination.⁹² Mr. Dillingham is convinced that twice as many persons have not filed who should have done so. He said that every day he receives phone calls from citizens complaining of acts of discrimination who do not know where to file their complaints.⁹³

⁸⁸ Ibid., pp. 368-69.

⁸⁹ Ibid., p. 368.

⁹⁰ Oliver Dillingham, *Transcript*, vol. 1, pp. 276-77.

⁹¹ Ibid., p. 278.

⁹² Ibid., pp. 277-78.

⁹³ Ibid.

Cathy Collins, Director, Little Rock Racial and Cultural Diversity Commission

The Racial and Cultural Diversity Commission is responsible for promoting racial and cultural harmony in Little Rock through outreach, education, and training. Members of the commission are also interested in civil rights issues at the state and local levels.⁹⁴

According to Cathy Collins, Mayor Jim Dailey in his State of the City Address expressed his desire that the city of Little Rock adopt a fair housing ordinance "substantially equivalent" to the Federal Fair Housing Act. He charged the commission with the work of developing the ordinance.⁹⁵ Although the commission spent considerable time collecting information and collaborating with HUD and other interested public and private community organizations, several roadblocks impeded the process. Arkansas' statutory and constitutional arrangement became a barrier because a municipal ordinance cannot exceed the requirements of a state law. Since the fair housing section of the Arkansas Act lacks key elements of a substantially equivalent law, Little Rock and other local municipalities are constitutionally prohibited from enacting a stronger law. Further complicating things, Arkansas retains a bicameral court system in which circuit and chancery courts split jurisdiction based upon the nature of the cases. This system forms a somewhat irregular fit with the requirements of substantial equivalency.⁹⁶ Despite these difficulties, Ms. Collins said the commission was able to find solutions to overcome roadblocks by drafting language incorporating the bicameral court system into the requirements of substantial equivalency.⁹⁷

Ms. Collins is convinced that the state's failure to have substantially equivalent laws denies citizens of Arkansas benefits that would improve housing conditions, provide speedy resolution of fair housing complaints, and provide meaningful

⁹⁴ Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, interview, July 14, 1998.

⁹⁵ Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, letter to Melvin L. Jenkins, director, Central Regional Office, U.S. Commission on Civil Rights, Feb. 1, 1999 (hereafter cited as Collins Letter).

⁹⁶ Ibid.

⁹⁷ Ibid.

partnerships between government and community organizations.⁹⁸

Ms. Collins stressed that citizens of Arkansas need to be educated and have access to information about civil rights issues. She believes the presence of a state enforcement body may help in this effort. Ms. Collins said that from a symbolic standpoint it is important for the state to make a statement to the citizens of Arkansas and the rest of the nation that Arkansas is committed to furthering human rights and it will do this by establishing an agency to ensure these rights.⁹⁹

In March 1999, legislation that would have enabled local governments to enact fair housing ordinances independent of the state failed in the House. The Arkansas Realtors Association opposed the legislation because it believed a statewide agency rather than individual municipalities would simplify the handling of housing discrimination complaints and provide more efficient administration of such complaints. Ms. Collins said the city will continue its efforts to obtain passage of this legislation.¹⁰⁰

Mitch Kline, Director, Arkansas Community Organization for Reform (ACORN)

ACORN is a not-for-profit community organization that advocates for and serves more than 3,000 disadvantaged low- to moderate-income families throughout Arkansas. ACORN receives funding from the Fair Housing Initiatives Program of the U.S. Department of Housing and Urban Development to investigate fair housing complaints and provide education.¹⁰¹ It also receives some funding from the city and the county to address housing issues in Little Rock.¹⁰²

Mitch Kline believes there is a need for an enforcement agency; however, he said, the state

should not be the body responsible for overseeing civil rights enforcement because state government has serious discrimination problems within many of its agencies.¹⁰³ He said some of the major areas of discrimination in state and local governments are limited employment opportunities, underrepresentation of minorities in leadership positions, and failure to ensure voting rights.¹⁰⁴

Rita Sklar, American Civil Liberties Union of Arkansas

The ACLU of Arkansas is a private, non-profit, nonpartisan agency committed to advocating for and defending the civil liberties of individuals in Arkansas.¹⁰⁵ According to Rita Sklar, her agency receives thousands of complaints each year from Arkansans who believe their civil rights have been violated. She identified a full range of civil rights issues that people request assistance on, such as employment, education, housing, police abuse, and religious discrimination. She said ACLU is unable to handle the vast majority of these complaints because the complaints do not fall within its jurisdiction, nor does it have the staff or resources to handle the complaints.¹⁰⁶

Ms. Sklar supports legislation for a state human rights agency:

An agency that receives and investigates complaints of discrimination could do much to ameliorate the situation. We are a small organization with limited resources and cannot possibly handle all the complaints we receive. Furthermore, very often there is simply no straightforward legal solution to the problem, since it has more to do with people's intolerance and lack of exposure to different cultures and environments . . . A black man in a small town in the Delta feels he has nowhere to turn when he is continually harassed by the local sheriff; nor does the father of racially mixed children in mostly white northwest Arkansas, or the mother of a gay boy beat up by classmates in a high school. The presence of a government body dedicated to these issues could not only help fix the problem, but symbolically say this behavior is not tolerated by our laws and government.¹⁰⁷

⁹⁸ Ibid.

⁹⁹ Cathy Collins, *Transcript*, vol. 1, pp. 209-12.

¹⁰⁰ Collins Letter, Feb. 1, 1999; Cathy Collins, director, Little Rock Racial and Cultural Diversity Commission, letter to Melvin L. Jenkins, director, Central Regional Office, U.S. Commission on Civil Rights, July 19, 1999; Bob Balhorn, Arkansas Realtors Association, memorandum to Farella Robinson, civil rights analyst, Central Regional Office, U.S. Commission on Civil Rights, "Arkansas Fair Housing Bills," Mar. 17, 1999.

¹⁰¹ Mitch Kline, director, ACORN of Little Rock, Arkansas, interview, July 15, 1998 (hereafter cited as Kline Interview).

¹⁰² Mitch Kline, *Transcript*, vol. 1, p. 137.

¹⁰³ Ibid., p. 126; Kline Interview.

¹⁰⁴ Mitch Kline, *Transcript*, pp. 128-38.

¹⁰⁵ Rita Sklar, director, American Civil Liberties Union of Arkansas, information submitted, July 14, 1998.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

Ms. Sklar pointed out that the lack of available attorneys to provide legal counsel is another reason why a state enforcement agency is needed. In the area of employment discrimination, the ACLU refers most of these complaints to private civil rights attorneys. Whether or not an individual gets help will depend on whether he or she is able to find an attorney close by or an attorney with the time, ability, and inclination to litigate civil rights cases on a contingency basis. There are even fewer attorneys willing to investigate allegations of police abuse or jail conditions, and they are unequally distributed throughout the state. In Arkansas access to justice depends not only on education and income level, but also on geography and ability to travel.¹⁰⁸

Judy Matsuoka, Director, Women's Project

The Women's Project advocates on behalf of women's rights in the areas of sexual harassment, sexual orientation, and domestic violence. Although it does not investigate complaints of discrimination, it does hold community-organizing events and provide information and referral.¹⁰⁹

According to Judy Matsuoka, despite the fact that the agency does not accept complaints of discrimination, it still receives many inquiries for assistance. Calls for assistance most often involve sexual harassment, discrimination against lesbians and gay men, employment discrimination based on sexual orientation, and housing discrimination against people with disabilities.¹¹⁰

Ms. Matsuoka says that her agency would support any effort to strengthen state civil rights legislation. She does not believe citizens of Arkansas have adequate means for seeking redress of grievances because it is difficult to find attorneys willing to take civil rights cases. Ms. Matsuoka believes that if a human rights agency is established, it must be neutral and untied to any political or corporate interests.¹¹¹

Sheila Gomez, Director, Immigration Services, Catholic Social Services

Immigration Services for Catholic Social Services is the only nonprofit agency recognized and accredited by the Immigration and Naturalization Service and the Board of Immigration Appeals.¹¹² It provides immigration assistance to immigrants at or near the poverty level in Arkansas.¹¹³ The agency also provides support for families and individuals who are eligible for immigration benefits but cannot afford private assistance.¹¹⁴

Immigration Services receives a grant from the U.S. Department of Justice to provide educational programs in Arkansas on immigration issues and unfair employment practices. Sheila Gomez said because of the agency's work with the immigrant population, it is very aware of the extent of abuse in employment and the vulnerability of the immigrant employee.¹¹⁵

According to Ms. Gomez, within the past eight years Arkansas has experienced a dramatic increase in its immigrant population, which is most evident in northwest Arkansas.¹¹⁶ Along with the rise in the immigrant population, there is similarly a rise in anti-immigrant sentiment, particularly against Hispanic immigrants. Ms. Gomez reported that the social climate is such, that it is not only acceptable to discriminate against immigrants but in some circles it is also considered "patriotic."¹¹⁷

Based on the nature and extent of civil rights abuse agency officials have heard about or detected, she believes a state office to investigate civil rights abuses could be useful. She further noted the need for a state presence in civil rights enforcement:

Washington, D.C., is far away in another planet sometimes, and they have a lot of complaints from all over. And I think because of the nature of immigration in Arkansas, and the fact that it's been so much so soon, in a short period of time, the people who have lived here a long time are experiencing something that is very different and unique for them. Immigra-

¹⁰⁸ Ibid.

¹⁰⁹ Judy Matsuoka, director, Women's Project, information submitted, Aug. 28, 1998.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Sheila Gomez, *Transcript*, vol. 1, p. 87.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Ibid., p. 91.

¹¹⁶ Ibid., p. 87.

¹¹⁷ Ibid., p. 88.

tion in California, Texas, or New York is not like immigration in Arkansas. We need an office in Arkansas with people who understand where we are in our immigration.¹¹⁸

Ms. Gomez reported that this anti-immigrant sentiment against Hispanics had contributed to instances of racial tensions, particularly in northwest Arkansas.¹¹⁹ Some of the discrimination complaints she receives most often concern abuse by law enforcement agencies, government agencies, and private employers.¹²⁰ Legal immigrants have complained about being refused identification, such as social security cards and marriage certificates. Throughout the state, immigrants have also complained about illegal police stops and being asked to show documents to prove their legal status.¹²¹

In Pulaski County, Ms. Gomez alleged that some Hispanics were denied housing because they did not speak English. They were also charged higher rent and had to pay under different conditions than non-Hispanic renters.¹²²

In Ashley County, Ms. Gomez alleged that a Hispanic person was asked to leave a store because of his national origin descent. In another situation, an employee at an Ashley County store was told to follow Hispanics and blacks in the stores because "they steal."¹²³ Ms. Gomez also provided the Advisory Committee information on alleged employment discrimination in Texarkana, Fort Smith, Springdale, Rogers, Hope, Warren, Siloam Springs, and Grannis. One of the major patterns of discrimination she has found is that employers will deny immigrants job applications until they can prove legal status. According to Ms. Gomez, employers must first interview a potential applicant, after which the applicant has three days to produce proof of legal status. Clients also reported incidents in which employers will intimidate immigrant employees to prevent them from filing for workers' compensation.¹²⁴

Ms. Gomez said when Immigration Services receives complaints, either oral or written, her agency will refer them to the U.S. Department of Justice, Office of the Special Counsel. Ms. Gomez said that sometimes her agency refers clients to Arkansas Legal Services but would also like to make referrals to pro bono attorneys.¹²⁵

Robert Trevino, State Director, Arkansas League of United Latin American Citizens (LULAC)

LULAC is the oldest and largest Hispanic advocacy organization in the United States.¹²⁶ Robert Trevino said the state needs a commission to oversee civil rights complaints and an impartial body to decide these issues.¹²⁷ According to Mr. Trevino, there are problems in the Hispanic community that not only can be attributed to discrimination and the lack of opportunities but also to exploitation by employers.¹²⁸

Another major concern among Hispanics is affordable housing. Many Hispanics, particularly those employed in agriculture, live in substandard housing. When they complain, they are oftentimes threatened with either losing their jobs or deportation.¹²⁹ There are concerns with employers who use immigrants to work but refuse to pay them.¹³⁰ Relations between the police and the Hispanic community are poor. Most police departments in Arkansas are ill-prepared or unwilling to deal with Spanish-speaking citizens. Translation services throughout the justice system are inadequate, denying many non-English-speaking persons their due process rights.¹³¹

Mr. Trevino said that despite these problems some positive efforts have been made to address Hispanic concerns.¹³² He reported that Governor Mike Huckabee met with representatives of LULAC regarding some of these issues and that the Arkansas Minority Health Commission had

¹¹⁸ Ibid., pp. 88-93.

¹¹⁹ Ibid., p. 88.

¹²⁰ Ibid., pp. 88-89.

¹²¹ Ibid.

¹²² Ibid., p. 89.

¹²³ Ibid., pp. 89-90.

¹²⁴ Ibid.

¹²⁵ Ibid., pp. 94, 96.

¹²⁶ Robert Trevino, *Transcript*, vol. 1, pp. 231, 236.

¹²⁷ Ibid., pp. 233-34.

¹²⁸ Ibid., pp. 232-34; Doug Thompson, "Hispanics Find Allies in State's Black Leaders," *The Arkansas Democrat-Gazette*, Oct. 3, 1999, p. 1A.

¹²⁹ Robert Trevino, *Transcript*, vol. 2, pp. 232-33.

¹³⁰ Ibid.

¹³¹ Ibid., p. 232.

¹³² Ibid., pp. 234-35.

been particularly supportive in addressing the effect of pesticides on workers in agriculture. The governor also ordered the State Depart-

ments of Education, Health, and Human Services, and the state police to appoint staff to serve as a liaison to LULAC.¹³³

¹³³ Ibid.; Doug Thompson, "Hispanics Allies in State's Black Leaders," *The Arkansas Democrat-Gazette*, Oct. 3, 1999, p. 12A.

III. What Are the Costs of Establishing a State Human Rights Agency?

As with any new idea, program, policy consideration, expansion of an existing agency, or the establishment of a new agency, the question of cost is crucial. The Arkansas Advisory Committee asked Claude Rogers, past president of the International Association of Official Human Rights Agencies and former director of the St. Louis, Missouri, Civil Rights Enforcement Agency, to discuss funding considerations.

Mr. Rogers said that if the Arkansas Legislature is serious about having a human rights agency, then state lawmakers should ensure that such an agency is funded and staffed properly. Factors that should be considered are the amount of funding, the number of persons needed to staff a well-run agency, the agency's jurisdictional authority, and the average number of discrimination complaints expected each year. If a local agency is established and covers a limited area, the start-up costs and operating budget costs will be less than a statewide agency.¹ For example, an enforcement agency in the city of St. Louis, Missouri, had an operating budget of about \$600,000, versus a statewide agency operating budget that ranged between \$1 million and \$1.5 million.² Other factors to be considered are the number of area offices that will be needed throughout the state and the number of people needed to staff each office effectively.³

Mr. Rogers suggested that agency resources be organized around the types of complaints that will be investigated.⁴ He recommended separate investigative units for employment and housing

cases. Public accommodations complaints generally can be merged into the housing unit.⁵

Mr. Rogers stressed the importance of having state civil rights laws that are substantially equivalent to EEOC and HUD requirements so that the state is eligible for federal funding.⁶ Federal reimbursement is only possible if the state agency has been certified to receive and investigate complaints.⁷ According to human rights directors in Tennessee and Nebraska, start-up costs usually range between \$300,000 and \$500,000 depending on the size of the state and how the agency is organized.⁸ HUD reimburses state agencies \$1,200 per complaint referral, and EEOC reimburses \$550 per complaint.⁹ For example, from 1996 to 1998, HUD received 188 complaints from Arkansas, averaging 73 complaints per year. Based on that average, the state agency could have received up to \$87,600 per year from HUD.¹⁰ EEOC received 4,220 complaints during that same period, averaging 1,406 complaints per year. Based on this average, the state agency could have received up to \$733,300 per year.¹¹ Mr. Rogers stressed that federal funds should not be the only funding source; other public and private funding sources should also be used to support the operations of the agency.¹²

⁵ Ibid.

⁶ Ibid., pp. 35-36.

⁷ Alabama Advisory Committee to the U.S. Commission on Civil Rights, *From the Dream of the Sixties to the Vision of the Nineties—The Case for An Alabama Human Relations Commission*, December 1992, p. 11.

⁸ Ibid.

⁹ Ibid.; Claude Rogers, telephone interview, Nov. 5, 1999.

¹⁰ Jamie K. Jamison, director, U.S. Department of Housing and Urban Development, Southwest Region, information submitted, Sept. 1, 1998.

¹¹ Wanda Milton, supervisory investigator, U.S. Equal Employment Opportunity Commission, Little Rock Area Office, information submitted, July 23, 1998.

¹² Claude Rogers, *Transcript*, vol. 1, pp. 34-36.

¹ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, fact-finding meeting, Little Rock, AR, Sept. 23-24, 1998, transcript (hereafter cited as *Transcript*). Claude Rogers, *Transcript*, vol. 1, pp. 34-36.

² Ibid., p. 34.

³ Ibid., pp. 34-35.

⁴ Ibid., p. 35.

IV. Where to Turn for Legal Assistance

During the course of the Advisory Committee's study of the need for a state civil rights agency in Arkansas, issues surfaced regarding citizens' lack of information on where to turn for legal services and repeated reports that there were only a few attorneys in the state willing to accept civil rights cases. In the absence of appropriate state civil rights laws, citizens are either left to pursue a federal investigation or seek an attorney to file a civil rights case in the courts, assuming the plaintiff can afford an attorney.¹

According to Phillip Kaplan, attorneys are very selective in accepting such cases because they are time consuming, expensive, and hard to win.² He stated:

[T]he fact is that you're not going to get that many lawyers to handle [civil rights cases]. It just isn't going to happen . . . I've watched the development of a number of lawyers who handle these cases with dexterity and ability, and there just aren't that many. . . . Moreover, it is too difficult to make a living. . . . Most lawyers going to law school are not interested in handling this kind of litigation because it takes significant start-up money. . . . Those [attorneys] who handle them are exceedingly selective about the cases they handle because they are so hard to win. . . .³

Judge Wendell L. Griffen said good civil rights attorneys have courage and integrity:

Civil rights law is not for the faint-hearted or the ignorant. While a lawyer may be very able and informed in

the area of municipal finance or tax law, civil rights litigation is very much a specialty unto itself. You're going to have to have somebody who can walk the walk. Anybody who has a law degree but doesn't particularly believe in the notion of civil rights should not consider such a profession.⁴

Carolyn Wagner, a parent who needed a civil rights attorney to represent her son in a sexual harassment case based on his sexual orientation, also complained that it is almost impossible to get an attorney to represent complainants.⁵ Mrs. Wagner said, after many attempts, she finally found an attorney to represent her son, but he soon retired from practicing law before the complaint was resolved. Since that time, all her legal representation has come from out of state.

Jim Moore, an attorney who represents employers, on the other hand, believes there is a sufficient number of attorneys in Arkansas who are willing to accept civil rights cases.⁶ According to Mr. Moore, there is a sizable group of skilled and aggressive lawyers who practice civil rights law in Arkansas. Mr. Moore also provided the Advisory Committee a list of 48 attorneys in Arkansas who litigate civil rights cases (see appendix C). He stated:

There is a Civil Rights Bar in Arkansas and there are many fine plaintiff civil rights attorneys in the Little Rock area [where most practice] . . . and there are others now throughout the state.⁷

¹ Arkansas Advisory Committee to the U.S. Commission on Civil Rights, fact-finding meeting, Little Rock, AR, Sept. 23-24, 1998, transcript (hereafter cited as *Transcript*); Phillip Kaplan, *Transcript*, vol. 1, pp. 58-59; Carolyn Wagner, *Transcript*, vol. 1, p. 246; Bill Lewellen, *Transcript*, vol. 2, pp. 332-34, 340-41; Dale Charles, *Transcript* vol. 2, pp. 360-61; Candance Odom, interview, Aug. 27, 1998.

² Phillip Kaplan, *Transcript*, vol. 1, pp. 58-59.

³ *Ibid.*

⁴ Wendell L. Griffen, *Transcript*, vol. 2, p. 348.

⁵ Carolyn Wagner, *Transcript*, vol. 1, p. 246.

⁶ Jim Moore, *Transcript*, vol. 1, pp. 179, 183-84.

⁷ *Ibid.*, pp. 183-84.

V. Findings and Recommendations

The following findings and recommendations made through the U.S. Commission on Civil Rights to state and local officials are submitted in accordance with the provisions of Section 703.2(e) of the Commission's regulations calling upon Advisory Committees to "initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied."

The Arkansas Advisory Committee believes that these recommendations based on the information gathered during this study will strengthen equal opportunity efforts, improve the effectiveness of Arkansas' civil rights laws, and assure citizens of Arkansas that civil rights protections are adequately enforced.

Finding 1

Arkansas is one of several states that have not established a state statutory human rights or human relations agency with authority to enforce state human and civil rights laws. The Committee's review of the Arkansas Civil Rights Act of 1993 revealed that the act is not substantially equivalent with federal laws, rules, and regulations in the areas of prohibited age and disability discrimination in employment; and age, religion, and familial status discrimination in housing; and fails to provide for an administrative enforcement body to receive and process complaints in accordance with U.S. Department of Housing and Urban Development (HUD) procedures, which require remedies and judicial review of agency actions.

In the absence of a substantially equivalent state law, complainants must file with the U.S. Equal Employment Opportunity Commission (EEOC) for employment discrimination and HUD for housing discrimination.

The Arkansas Act has not spawned a significant amount of litigation. Some participants believe the weakness of the Arkansas Act contributes to its lack of use by plaintiffs and their at-

torneys. Only two cases have been filed under its jurisdiction, both unsuccessful.

Recommendation 1a

The Advisory Committee recommends that the State Legislature of Arkansas amend the Civil Rights Act of 1993 to make it substantially equivalent to federal laws and regulations and establish a human rights agency that is an arm of state government allowing the state to retain authority to address civil rights disputes and issues within Arkansas. A substantially equivalent law would make Arkansas eligible for federal funding with agencies such as HUD and EEOC. Other funding may be available through cooperative agreements with other federal agencies such as the U.S. Department of Health and Human Services and the U.S. Department of Education. A state human rights agency may bring many benefits such as faster case processing; provide an opportunity for education and training in civil rights; and effective and efficient administration of civil rights laws.

Recommendation 1b

General powers and duties of such an agency should include, but not be limited to the following:

- receive, investigate, and pass upon charges of unlawful employment, housing, and public accommodations practices anywhere in the state;
- hold hearings, subpoena witnesses, take sworn testimony, and require the production of documents related to discrimination;
- cooperate with the federal government and local human rights agencies;
- attempt to eliminate unlawful employment, housing, and public accommodations practices by means of alternative dispute resolution, and persuasion;
- develop and maintain programs that build positive relations among communities and

- enhance problem-solving skills through the use of education and training; and
- require that every employer, employment agency, and labor organization subject to its jurisdiction make and keep such records relevant to the determination of whether unlawful employment practices have been or are being committed.

Recommendation 1c

The Advisory Committee recommends that appropriate state officials review and consult with other state governments that have substantially equivalent civil rights laws.

Finding 2

Although representatives of the business community say there is a sizable group of skilled and aggressive civil rights attorneys in Arkansas, that remains to be seen. Representatives of community and civil rights organizations report that complainants are often either unaware of where to file discrimination complaints or do not have the resources needed to identify and obtain legal representation. Complainants consistently find it difficult to secure legal counsel due to cost or the unavailability of civil rights attorneys or attorneys willing to litigate such cases.

Most of the participants at the fact-finding meeting believe the lack of information on where to turn for legal assistance has had a detrimental effect on civil rights enforcement in Arkansas.

Recommendation 2

The Advisory Committee recommends the Arkansas Bar Association and other legal institutions develop a list of attorneys who specialize in or will accept civil rights cases. This list should be used to refer potential plaintiffs to appropriate legal counsel and be distributed to relevant community and civil rights organizations as well as members of the general public for their use.

The Central Regional Office has developed a "Where to Turn Guide for Civil Rights Assistance"

(see appendix D), which also may be distributed and used by the public. Copies are available upon request at (913) 551-1400.

Finding 3

Public awareness of local and state government civil rights agencies and community-based organizations as to what they do and the means by which these agencies can be contacted is very limited. According to persons interviewed, most citizens do not know that there are state civil rights protections and what these protections are. Local and state officials, as well as the agencies that may be able to assist potential complainants, have not adequately publicized the availability of their services and developed effective coordination among themselves or with the various constituent groups.

Recommendation 3

Concerted efforts must be made statewide and within local communities to establish meaningful coalitions and partnerships to address civil rights and race relations. A strong liaison with a wide range of community organizations such as the local chambers of commerce, churches, civic organizations, and civil rights groups must be initiated.

Finding 4

There appears to be a lack of coordinated leadership efforts at all levels with respect to civil rights and race relations matters in Arkansas.

Recommendation 4

The Advisory Committee urges the governor to take the lead in establishing constructive dialogue on race relations and civil rights in Arkansas. Clearly with the surge of Hispanic and Asian populations in Arkansas over the past 10 years, the state will have to become proactive on civil and human rights to address the needs and interests of its diverse citizenry. This dialogue should start with a statement of the governor's vision for reducing discrimination and building bridges of understanding among different groups.

Appendix A

Fact-finding Meeting Agenda

ARKANSAS ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS

LITTLE ROCK CONVENTION CENTER
MILLER ROOM
LITTLE ROCK, ARKANSAS

"IS THERE A NEED FOR AN ARKANSAS CIVIL RIGHTS ENFORCEMENT AGENCY?"

AGENDA

WEDNESDAY, SEPTEMBER 23, 1998

9:00 a.m. **INTRODUCTIONS AND REMARKS**
Dr. Katherine Mitchell, Chairperson
Arkansas Advisory Committee

Melvin L. Jenkins, Director
Central Regional Office, USCCR

SESSION I

Opening Statements

9:15 a.m. Joe Franklin, Governor's Liaison on behalf of the
Honorable Mike Huckabee, Governor
State of Arkansas

9:40 a.m. Honorable Bill Lewellen, State Senator
Marianna, Arkansas

10:00 a.m. Claude Rogers, Past President
International Association of Official Human Rights Agencies &
Former Director of the St. Louis, Missouri Civil Rights Enforcement
Agency

10:20 a.m. **BREAK**

Legal Perspectives

10:40 a.m. Phillip Kaplan, Attorney
Kaplan, Brewer and Maxey Law Firm

11:00 a.m. Willyerd Collier, Attorney
Director of Affirmative Action
University of Arkansas-Fayetteville

11:20 a.m. Shelia Gomez, Director
Catholic Immigration Services

11:40 a.m. LUNCH

SESSION II

Status of Civil Rights Enforcement in the State

1:20 p.m. Gary Sweeney, Chief Program Operations Branch (no show)
Fair Housing/U.S. Department of Housing & Urban Development
Region VI, Dallas, TX

1:40 p.m. Dan Pless, Director
Arkansas Fair Housing Council

2:00 p.m. Mitch Kline, Director
ACORN - Little Rock

2:20 p.m. Augustus Taylor, Deputy Regional Director
U.S. Department of Justice/Community Relations Service
Region VI, Dallas, Texas

3:00 p.m. BREAK

SESSION III

Business, Community and Civil Rights Organizations Perspectives

3:40 p.m. Bob Balhorn, Director
Arkansas Realtors Association

4:00 p.m. James W. Moore, Attorney
Friday, Eldredge and Clark Law Firm
Arkansas Chamber of Commerce

4:20 p.m. Tracy Steele, Director
Martin Luther King Commission

5:00 p.m. Bill Cain, General Counsel
Disability Rights Center

5:20 p.m. Kathy Collins, Director
Little Rock Racial and Cultural, Diversity Commission

5:40 p.m. **DINNER**

SESSION IV

Business, Community and Civil Rights Organizations Perspectives (Cont'd)

7:00 p.m. Rita Sklar (**no show**)
Arkansas American Civil Liberties Union

7:20 p.m. Robert Trevino, State Director, Arkansas
Ben Rodriguez, Member
Arkansas League of United Latin American Citizens (LULAC)

7:40 p.m. Carolyn Wagner
Son alleged discrimination based on sexual orientation

8:00 p.m. Candace Odom
Alleged employment discrimination based on race/ethnicity

8:20 p.m. **OPEN SESSION**

9:00 p.m. **ADJOURNMENT**

THURSDAY, SEPTEMBER 24, 1998

9:00 a.m. **OPENING REMARKS**
Dr. Katherine Mitchell, Chairperson
Arkansas Advisory Committee

SESSION V

Business, Community and Civil Rights Organizations Perspectives (Cont'd)

9:15 a.m. Kate Klugh, Area Director
U.S. Equal Employment Opportunity Commission, Little Rock

Verma Simmons, Assistant Director
Employee Relations
Arkansas Department of Human Services

9:40 a.m. Honorable Bill Lewellen, State Senator
Marianna, Arkansas

Honorable Wendell L. Griffen
Arkansas Court of Appeals

10:00 a.m. Dale Charles, Director
Arkansas State Conference of NAACP

10:20 a.m. Ronald W. Lanoue, Director (**no show**)
National Conference for Community and Justice

10:40 a.m. Barry Vuletich
Arkansas Rehabilitation Services

11:00 a.m. **OPEN SESSION**

11:30 a.m. **ADJOURNMENT**

Appendix B

Arkansas Civil Rights Act of 1993

Chapter 123.

Civil Rights.

Subchapter 1. The Arkansas Civil Rights Act of 1993.

16-123-101. Title.

16-123-102. Definitions.

16-123-103. Applicability.

16-123-104. Construction.

16-123-105. Civil rights offenses.

16-123-106. Hate offenses.

16-123-107. Discrimination offenses.

16-123-108. Retaliation - Interference - Remedies.

Subchapter 2. Fair Housing.

16-123-201. Short title.

16-123-202. Definitions.

16-123-203. Legislative declaration.

16-123-204. Conduct prohibited in real estate transactions - Exception.

16-123-205. Conduct in real estate financing prohibited - Exception.

16-123-206. Contractual provisions.

16-123-207. Representations prohibited.

16-123-208. Retaliation.

16-123-209. Violation.

16-123-210. Civil remedy.

Subchapter 1.

The Arkansas Civil Rights Act of 1993

§ 16-123-101. Title.

This subchapter shall be referred to as the "Arkansas Civil Rights Act of 1993".

History. Acts 1993, No. 962, § 1

§ 16-123-102. Definitions.

For the purposes of this subchapter:

(1) "Because of gender" means, but is not limited to, on account of pregnancy, childbirth, or related medical conditions;

(2) "Compensatory damages" means damages for mental anguish, loss of dignity, and other intangible injuries, but "compensatory damages" does not include punitive damages;

(3) "Disability" means a physical or mental impairment that substantially limits a major life function, but "disability" does not include:

(A) Compulsive gambling, kleptomania, or pyromania;

(B) Current use of illegal drugs or psychoactive substance use disorders resulting from illegal use of drugs, or

(C) Alcoholism.

(4) "Employee" does not include:

(A) Any individual employed by his or her parents, spouse, or

child;

(B) An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility;
or

(C) An individual employed outside the State of Arkansas;

(5) "Employer" means a person who employs nine (9) or more employees in the State of Arkansas in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or any agent of such person;

(6) "National origin" includes ancestry;

(7) "Place of public resort, accommodation, assemblage, or amusement" means any place, store, or other establishment, either licensed or unlicensed, that supplies accommodations, goods, or services to the general public, or that solicits or accepts the patronage or trade of the general public, or that is supported directly or indirectly by government funds, but "place of public resort, accommodation, assemblage, or amusement" does not include:

(A) Any lodging establishment which contains not more than five (5) rooms for rent and which is actually occupied by the proprietor of such establishment as a residence; or

(B) Any private club or other establishment not in fact open to the public; and

(8) "Religion" means all aspects of religious belief, observance, and practice.

History. Acts 1993, No. 962, § 9; 1995, No. 480, § 1.

§ 16-123-103. Applicability

(a) The provisions of this subchapter relating to employment shall not be applicable with respect to employment by a religious corporation, association, society, or other religious entity.

(b) It shall not constitute employment discrimination under this subchapter for an employer to refuse to accommodate the religious observance or practice of an employee or prospective employee if the employer demonstrates that he is unable to reasonably make such accommodation without undue hardship on the conduct of the employer's business.

(c) A defendant may avoid liability under this subchapter by showing that his actions were based on legitimate, nondiscriminatory factors and not on unjustified reasons.

(d) Provided the conduct at issue is based on a bona fide business judgment and is not a pretext for prohibited discrimination, nothing in this subchapter shall be construed to prohibit or restrict:

(1) An insurer, hospital, medical service company, health maintenance organization, or any agent or entity that administers benefit plans, or any bank, savings and loan, or other lender from underwriting insurance or lending risks or administering such risks that are based on or are not inconsistent with federal or state law;

(2) A person covered by this subchapter from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or are

not inconsistent with federal or state law; or

(3) A person covered by this subchapter from establishing, sponsoring, observing, or administering the terms of a bona fide benefit plan that is not subject to federal or state laws that regulate insurance.

(e) This subchapter shall not apply to matters regulated by the Arkansas Insurance Code or the Trade Practices Act of the Arkansas Insurance Code, § 23-66-201 et seq.

History. Acts 1993, No. 962, §§ 6, 8.
§ 16-123-104. Construction.

Nothing in this subchapter shall be construed to waive the sovereign immunity of the State of Arkansas.

History. Acts 1993, No. 962, § 7.
§ 16-123-105. Civil rights offenses.

(a) Every person who, under color of any statute, ordinance, regulation, custom, or usage of this state or any of its political subdivisions subjects, or causes to be subjected, any person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Arkansas Constitution shall be liable to the party injured in an action at law, a suit in equity, or other proper proceeding for redress.

(b) In the discretion of the court, a party held liable under this section shall also pay the injured party's cost of litigation and a reasonable attorney's fee in an amount to be fixed by the court.

(c) When construing this section, a court may look for guidance to state and federal decisions interpreting the federal Civil Rights Act of 1871, as amended and codified in 42 U.S.C. § 1983, as in effect on January 1, 1993, which decisions and act shall have persuasive authority only.

History. Acts 1993, No. 962, § 2; 1995, No. 480, § 2.
§ 16-123-106. Hate offenses.

(a) An action for injunctive relief or civil damages, or both, shall lie for any person who is subjected to acts of

- (1) Intimidation or harassment; or
- (2) Violence directed against his person; or
- (3) Vandalism directed against his real or personal property.

where such acts are motivated by racial, religious, or ethnic animosity.

(b) Any aggrieved party who initiates and prevails in an action authorized by this section shall be entitled to damages, including punitive damages, and in the discretion of the court to an award of the cost of the litigation, and a reasonable attorney's fee in an amount to be fixed by the court.

(c) This section shall not apply to speech or conduct protected by the First Amendment of the United States Constitution or Article 2, § 6, of the Arkansas Constitution.

History. Acts 1993, No. 962, § 3
§ 16-123-107. Discrimination offenses

(a) The right of an otherwise qualified person to be free from discrimination because of race, religion, national origin, gender, or the presence of any sensory, mental, or physical disability is recognized as and declared to be a civil right. This right shall include, but not be limited to:

- (1) The right to obtain and hold employment without discrimination;
- (2) The right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement;
- (3) The right to engage in property transactions without discrimination;
- (4) The right to engage in credit and other contractual transactions without discrimination; and
- (5) The right to vote and participate fully in the political process.

(b) Any person who is injured by an intentional act of discrimination in violation of subdivisions (a)(2)-(5) of this section shall have a civil action in a court of competent jurisdiction to enjoin further violations, to recover compensatory and punitive damages, and, in the discretion of the court, to recover the cost of litigation and a reasonable attorney's fee.

(c)(1)(A) Any individual who is injured by employment discrimination by an employer in violation of subdivision (a)(1) of this section shall have a civil action in a court of competent jurisdiction, which may issue an order prohibiting the discriminatory practices and provide affirmative relief from the effects of the practices, and award back pay, interest on back pay, and, in the discretion of the court, the cost of litigation and a reasonable attorney's fee.

(B) No liability for back pay shall accrue from a date more than two (2) years prior to the filing of an action.

(2)(A) In addition to the remedies under subdivision (c)(1)(A) of this section, any individual who is injured by intentional discrimination by an employer in violation of subdivision (a)(1) of this section shall be entitled to recover compensatory damages and punitive damages. The total compensatory and punitive damages awarded under this subdivision (c)(2)(A) shall not exceed:

(i) The sum of fifteen thousand dollars (\$15,000) in the case of an employer who employs fewer than fifteen (15) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(ii) The sum of fifty thousand dollars (\$50,000) in the case of an employer who employs more than fourteen (14) and fewer than one hundred one (101) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(iii) The sum of one hundred thousand dollars (\$100,000) in the case of an employer who employs more than one hundred (100) and fewer than two hundred one (201) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(iv) The sum of two hundred thousand dollars (\$200,000) in the case of an employer who employs more than two hundred (200) and fewer than five hundred one (501) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year; and

(v) The sum of three hundred thousand dollars (\$300,000) in the case of an employer who employs more than five hundred (500) employees in each of twenty (20) or more calendar weeks in the current or preceding calendar year.

(3) Any action based on employment discrimination in violation of subdivision (a)(1) of this section shall be brought within one (1) year after the alleged employment discrimination occurred, or within ninety (90) days of receipt of a "Right to Sue" letter or a notice of "Determination" from the United States Equal Employment Opportunity Commission concerning the alleged unlawful employment practice, whichever is later.

History. Acts 1993, No. 962, §§ 4, 5; 1995, No. 480, § 3.

§ 16-123-108. Retaliation - Interference - Remedies.

(a) Retaliation. No person shall discriminate against any individual because such individual in good faith has opposed any act or practice made unlawful by this subchapter or because such individual in good faith made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

(b) Interference, Coercion, or Intimidation. It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this subchapter.

(c) Remedies and Procedures. The remedies and procedures available in § 16-123-107(b) shall be available to aggrieved persons for violations of subsections (a) and (b) of this section.

History. Acts 1995, No. 480, § 4.

Subchapter 2.

Fair Housing.

§ 16-123-201. Short title.

This subchapter shall be known and may be cited as the "Arkansas Fair Housing Act".

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.

§ 16-123-202. Definitions.

As used in this subchapter:

(1) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one (1) or more persons;

(2) "Real estate broker or salesman" means a person, whether licensed or not, who:

(A) For or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property;

(B) Negotiates or attempts to negotiate any of those activities;

(C) Holds himself out as engaged in those activities;

(D) Negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon real property.

(E) Is engaged in the business of listing real property in a publication; or

(F) Is a person employed by or acting on behalf of a real estate broker or salesman;

(3) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest therein; and

(4) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park, trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.
§ 16-123-203. Legislative declaration.

The opportunity to obtain housing and other real estate without discrimination because of religion, race, color, national origin, sex, disability, or familial status as prohibited by this chapter, is recognized and declared to be a civil right.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.

§ 16-123-204. Conduct prohibited in real estate transactions - Exception.

(a) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not on the basis of religion, race, color, national origin, sex, disability, or familial status of a person or a person residing with that person:

(1) Refuse to engage in a real estate transaction with a person;

(2) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;

(3) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate transaction;

(4) Refuse to negotiate for a real estate transaction with a person;

(5) Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or knowingly fail to bring a property listing to a person's attention, or refuse to permit a person to inspect real property;

(6) Make, print, or publish or cause to be made, printed, or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin or an intention to make any such preference, limitation, or discrimination; or

(7) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith

(b) This section shall not apply to:

(1) The rental of a housing accommodation in a building which contains housing accommodations for not more than two (2) families living independently of each other if the owner or a member of the owner's immediate family resides in one (1) of the housing accommodations, or to the rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the lessor's immediate family resides therein; or

(2) The rental of a housing accommodation for not more than twelve (12)

months by the owner or lessor where it was occupied by him and maintained as his home for at least three (3) months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.

§ 16-123-205. Conduct in real estate financing prohibited - Exception.

(a) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(1) Discriminate against the applicant because of the religion, race, color, national origin, sex, disability, or familial status of the applicant or a person residing with the applicant; or

(2) Use a form of application for financial assistance or financing to make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, sex, disability, or familial status of the applicant or a person residing with the applicant.

(b) Subdivision (a)(2) of this section shall not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the National Housing Act, as amended, being 12 U.S.C. §§ 1701-1750g (Supp. 1973), or by a regulatory board or officer acting under the statutory authority of this state or the United States.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.

§ 16-123-206. Contractual provisions.

(a) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, sex, disability, or familial status is void, except this section shall not prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted because of race, color, sex, disability, familial status, or national origin.

(b) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

(c) A person shall not threaten, intimidate, or interfere with persons in the enjoyment of their dwelling because of the race, color, national origin, sex, or familial status of such persons, or of visitors or associates of such persons.

(d) A person shall not discharge, threaten, coerce, intimidate, or take any other adverse action against an employee, broker, agent, or other person because he or she refused to take part in a discriminatory housing practice or because he or she has aided or encouraged any other person in the exercise or enjoyment of any right granted under the provisions of this subchapter.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.
§ 16-123-207. Representations prohibited.

A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition, with respect to religion, race, color, national origin, sex, disability, or familial status of the owners or occupants, in the block, neighborhood, or area in which the real property is located or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.
§ 16-123-208. Retaliation.

Two (2) or more persons shall not conspire to, or a person shall not:

(1) Retaliate or discriminate against a person because the person has opposed a violation of this subchapter, or because the person has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this subchapter;

(2) Attempt, directly or indirectly, to commit an act prohibited by this subchapter;

(3) Willfully interfere, obstruct, or prevent a person from complying with this subchapter or an order issued or rule promulgated under this subchapter; or

(4) Discharge, threaten, coerce, intimidate, or take any other adverse action against an employee, broker, agent, or other person because he or she refused to take part in a discriminatory housing practice or because he or she has aided or encouraged any other person in the exercise or enjoyment of any right granted under the provisions of this subchapter

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.
§ 16-123-209. Violation.

A person shall not violate the terms of an order to an adjustment order made under this subchapter.

History. Acts 1995, No. 1129, § 1; 1995, No. 1327, § 1.
§ 16-123-210. Civil remedy.

(a)(1) A person alleging a violation of this subchapter may bring a civil action for appropriate injunctive relief or damages, or both.

(2) As used in subdivision (a)(1) of this section, "damages" means damages for injury or loss caused by each violation of this subchapter, including reasonable attorney's fees

(b) An action commenced pursuant to subsection (a) of this section may be brought in the circuit court for:

(1) The county where the alleged violation occurred; or

(2) The county where the person against whom the civil complaint is filed resides or has his principal place of business.

(c) In a civil action under this subchapter, the court in its discretion may allow the prevailing party reasonable attorney's fees and costs.

(d) A court rendering a judgment in an action brought pursuant to this subchapter may award all or a portion of the costs of litigation, including reasonable attorney's fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.

Appendix C

Where to Turn for Legal Counsel in Arkansas

**Arkansas Volunteer Lawyers for
the Elderly**
2020 West 5th Street, Suite 620
Little Rock, AR 72205
1-800—999-2853

Center for Arkansas Legal Services
209 West Capitol Avenue, Suite 36
Little Rock, AR 72201
(501) 376-3423
Toll Free: 1-800-950-5817
Fax: (501) 376-3664

OTHER CIVIL RIGHTS ATTORNEYS*

LITTLE ROCK

Ed Adock
Gus Allen
Travis Barland**
Marcia Barnes
Clayton R. Blackstock
Michael Booker
Darrell Brown
John L. Burnett
Mark Burnette
Arkie Byrd
Sheila F. Campbell
Stephen L. Curry
Melva Harmon
Floyd A. Healy
Christopher R. Heil
Sam T. Heuer
Marceliers Hewett
Rickey Hicks
Denise Reid Hoggard
Phillip Kaplan

David Ivers
John T. Lavey
JoAnn C. Maxey
Richard L. Mays
Sherri P. McDonough
Agather C. McKeel
Marie Miller**
Robert A. Newcomb
James H. Penick III
Willard Proctor, Jr.
Janet L. Pulliam
Richard W. Roachell
Simmons S. Smith
L. Oneal Sutter
Horace Walker
Pamela D. Walker
Ralph Washington
Morgan Welch
Marie Miller
John Walker

PINE BLUFF

Eugene Hunt
Jeffrey H. Kearney

John L. Kearney
Gene E. McKissic

FORREST CITY AND WEST HELENA

Vondell Bland, Sr.
Jimmie Wilson**

William G. Snowden
Dion Wilson**

HOT SPRINGS

John P. Lewis, P.A.
(Employment Discrimination/Wrongful
Discharge Only)

Stephany S. Barnhart
(Agriculture Only)

FAYETTEVILLE

Mark L. Martin
Brent Sterling
Nancy L. Hamm**

Jim Rose III
Rich Woods

JACKSONVILLE

John Ogles

ARKADELPHIA

Rae Perry**

SHERWOOD

Raymond Weber**

CONWAY

Fritzie M. Vammen**

MARIANNA

Bill Lewellen

*Source: Submitted by James W. Moore of Friday, Eldredge and Clark, Attorneys at Law, Little Rock, AR, February 1999..

**Source: Submitted by Dan Pless, Director, Arkansas Fair Housing Council, November 1999.

Appendix D

Where to File Complaints or Receive Assistance on Civil Rights

State and Local Agencies

Attorney General's Office

200 Tower Building
323 Center Street
Little Rock, AR 72201
Tel: (501) 682-2007
Fax: (501) 682-8084

Arkansas Fair Housing Council

901 Carpenter Street
Arkadelphia, AR 71923
Tel: (870) 245-3855
Fax: (870) 246-360

Arkansas ACORN Fair Housing Organization (AAFHO)

2101 South Main
Little Rock, AR 72206
Tel: (501) 376-7151 - Little Rock
(501) 534-5160 - Pine Bluff
1-800-575-2114 - Statewide

Arkansas State Conference NAACP

1124 Dr. Martin Luther King Jr. Drive
Little Rock, AR 72202
Tel: (501) 376-7399

Arkansas Realtors® Association

204 Executive Court, Suite 300
Little Rock, AR 72205
Tel: (501) 225-2020
Fax: (501) 225-7131

Arkansas American Civil Liberties Union

103 West Capitol, Suite 1120
Little Rock, AR 72201
Tel: (501) 374-2660
Fax: (501) 374-2842

Arkansas Disability Coalition
2801 Lee Avenue, Suite B
Little Rock, AR 72205
Tel: (501) 372-5113

Southwest Migrant Education Cooperative
2503 Highway 67 West
Hope, AR 71801
Tel: (501) 777-3743

Arkansas Disability Policy Consortium
2201 Brookwood Drive, Suite 117
Little Rock, AR 72202
Tel: (501) 666-8868 or
1-800-828-2799

National Conference of Christian and Jews
103 West Capitol, Suite 1212
Little Rock, AR 72201
Tel: (501) 372-5129

Disability Rights Center
1100 North University, Suite 201
Little Rock, AR 72207
Tel: (501) 296-1775 or
1-800-482-174
E-mail: panda@advocacyservices.org

Arkansas Crime Information Center
One Capitol Mall, 4D-200
Little Rock, AR 72201
(501) 682-2222

Arkansas for Independent Living Council
209 West Capitol, Suite 331
Little Rock, AR 72201
Tel: (501) 372-0607

Ozark Legal Services
Georgetown Square
4083 North Shiloh Drive, Suite 3
Fayetteville, AR 72703-5202
(501) 442-0600

Women's Project
2224 Main Street
Little Rock, AR 72206
Tel: (501) 372-5113
Fax: (501) 372-0009

Centro Hispano
923 McAlmont
Little Rock, AR 72202
Tel: (501) 376-6470
Fax: (501) 376-0880

League of United Latin American Citizens (LULAC)
P.O. Box 56444
Little Rock, AR 72215
Tel: (501) 851-1876

Catholic Immigration Services
2500 North Tyler Street
Little Rock, AR 72217-7565
Tel: (501) 664-0340
Fax: (501) 664-9075

Federal Agencies

U.S. Equal Employment Opportunity Commission (EEOC)

Memphis District Office
1407 Union Avenue, Suite 621
Memphis, TN 38104
Tel: (901) 722-2617
Fax: (901) 722-2602

Little Rock HUD Area Office

425 West Capitol, Suite 625
Little Rock, AR 72201
Tel: (501) 324-5060
Fax: (501) 722-2602
TDD: (501) 324-5481

EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; Title I of the Americans with Disabilities Act, which prohibits employment discrimination against people with disabilities in the private sector and State and local governments; prohibitions against employment discrimination affecting individuals with disabilities in the Federal government; and sections of the Civil Rights Act of 1991.

U.S. Department of Housing and Urban Development (HUD)

Office of Fair Housing and Equal Opportunity (FHEO)
Region VI
1600 Throckmorton Street
P.O. Box 2905
Fort Worth, TX 76113-2905
Tel: (817) 885-5491
Fax: (817) 883-6022
TDD: (817) 885-5447

Little Rock Area Office

TCBY Tower
425 West Capitol Avenue, Suite 900
Little Rock, AR 72201
Tel: (501) 324-6945
Fax: (501) 324-6142

FHEO enforces the Fair Housing Act of 1988 which prohibits discrimination in public and private housing and HUD-assisted housing and community development programs on the basis of race, color, religion, sex, national origin, handicap, or familial status.

U.S. Department of Education

Office for Civil Rights, Dallas Enforcement Center

1200 Main Tower Building, Suite 2260, 06-5010

Dallas, TX 75202-9998

Tel: (214) 767-3959

Fax: (214) 767-6509

TDD: (214) 767-3639

OCR enforces four Federal statutes that prohibit discrimination in programs and activities receiving Federal financial assistance from the department. Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964; sex discrimination is prohibited by Title IX of the Education Amendments of 1972; discrimination on the basis of disability is prohibited by section 504 of the Rehabilitation Act of 1973; and age discrimination is prohibited by the Age Discrimination Act of 1975. OCR investigates complaints filed by individuals, or their representatives, who believe that they have been discriminated against because of race, color, national origin, sex, disability, or age. OCR maintains a headquarters office in Washington D.C., and 10 regional offices.

U.S. Department of Health and Human Services (HHS)

Office for Civil Rights (OCR), Region VI

1301 Young Street, Suite 1169

Dallas, TX 75202

Tel: (214) 767-4056 or 1-800-368-1019

Fax: (214) 767-0432

TDD: (214) 767-8940

HHS is responsible for ensuring equal opportunity and compliance with laws prohibiting discrimination in the provision of health and social services. It conducts compliance reviews and receives and investigates complaints alleging discrimination based on race, color, sex, national origin, age, or disability. In addition, it conducts studies and surveys, conciliates, publicizes findings, and provides training.

U.S. Commission on Civil Rights

Central Regional Office

400 State Avenue, Suite 908

Kansas City, KS 66101

Tel: (913) 551-1400

Fax: (913) 551-1413

TDD: (913) 551-1414

The Commission is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to: investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices; study and

collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin; submit reports, findings, and recommendations to the President and Congress; and issue public service announcements to discourage discrimination or denial of equal protection of the laws.

U.S. Department of Justice (DOJ)

Civil Rights Division

10th Street and Constitution Avenue, N.W., Room 5643

Washington, D.C. 20530

Tel: (202) 514-4609

Fax: (202) 307-1379

TDD: (202) 514-0716

CRD is the primary entity, among six agencies within the Federal Government, responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, color, sex, disability, religion, or national origin. CRD's jurisdiction extends to the enforcement of civil rights in education, housing, places of public accommodations, and voting. CRD also coordinates the enforcement activities of other Federal agencies.

Community Relations Service (CRS)

Region VI - Southwest

1420 West Mockingbird Lane, Suite 250

Dallas, TX 75247

Tel: (214) 655-8175

Fax: (214) 655-8184

The CRS assists and aids communities in resolving civil rights disputes, conflicts, or difficulties related to race, color, or national origin. Areas of concern include employment, education, housing, and the administration of justice. In addition to receiving and investigating complaints, CRS seeks conciliation, conducts public education programs, publicizes its findings, and offers training and technical assistance.

U.S. Department of Labor
Office of Federal Contract Compliance Programs (OFCCP)
Dallas Regional Office
A. Maceo Smith Federal Building
525 Griffin Street, Room 840
Dallas, TX 75202
Tel: (214) 767-2804
Fax: (214) 767-2149

The OFCCP administers laws that prohibit discrimination based on race, color, religion, sex, national origin, disability, or veteran status. The program require nondiscrimination and affirmative action in employment y Federal contractors and subcontractors. The OFCCP's activities include conducting compliance reviews of Federal contractors and subcontractors, receiving and investigating complaints, publicizing findings, litigating cases, and providing compliance assistance to Federal contractors.

U.S. Department of Agriculture (USDA)
Office of Civil Rights Enforcement
New Orleans Regional Service Center
1380 Old Gentilly Road, Building 350
New Orleans, LA 70129
Tel: (504) 255-5680
Fax: (504) 255-5089
TDD: (504) 255-5086

OCRE is the umbrella civil rights office of USDA. OCRE has responsibility for the development, implementation, and coordination of all aspects of USDA's civil rights program. OCRE is responsible both for enforcing Federal civil rights laws prohibiting discrimination in federally assisted and conducted programs and for internal equal employment opportunity programs within enforcement responsibilities for Title II of the Americans with Disabilities Act of 1990, including investigating all complaints filed under the law.

U.S. Environmental Protection Agency (EPA)
Office of Civil Rights
401 "M" Street, S.W. (1201)
Washington, D.C. 20460
Tel: (202) 260-4575
Fax: (202) 260-4580

The purpose of the Environmental Protection Agency (EPA) is to protect and enhance our environment today and for further generations to the fullest extent possible under the laws enacted by Congress. The agency's mission is to control and abate pollution in the areas of air, water, solid waste, pesticides, radiation, and toxic substances. EPA's mandate is to mount an integrated, coordinated attack on environmental pollution in cooperation with State and local governments. EPA's Office of Civil Rights receives and investigates complaints of environmental discrimination under Title VI of the Civil Rights Act of 1964.

Appendix E

Tim Hutchinson, United States Senator (Letters)

ARKANSAS
COMMITTEES
ENVIRONMENT AND PUBLIC WORKS
LABOR AND HUMAN RESOURCES
VETERANS' AFFAIRS

United States Senate
WASHINGTON, DC 20510-0403

October 15, 1998

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STATE OFFICES
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(870) 935-5022
101 N Washington, Suite 406
El Dorado, AR 71730
(870) 863-6406

Mr. Melvin L. Jenkins, Director
U.S. Commission On Civil Rights
400 State Ave., Ste. 908
Kansas City, Kansas 66101



Dear Director Jenkins:

I write to obtain information concerning the protocol and standard procedures involved in visits undertaken by the U.S. Commission on Civil Rights. Specifically, I would like to know what the objective of these visits are and what standards are used to determine the proper subject of questions posed to the hosts of these visits. In addition, I would like a status report on the results of your office's information gathering regarding the need for an additional agency in the State of Arkansas to receive and investigate complaints of discrimination. Finally, please explain to me why such an information gathering effort has been undertaken and provide any information your office possesses which supports the same. Thank you.

With kind regards,

Sincerely,

Tim Hutchinson
United States Senator

TH:mdh



**UNITED STATES
COMMISSION ON
CIVIL RIGHTS**

Central Regional Office
Gateway Tower II
400 State Avenue, Suite 908
Kansas City, KS 66101-2406
(913) 551-1400
(913) 551-1413 FAX

November 2, 1998

Honorable Tim Hutchinson
United States Senator
245 Dirksen Senate
Office Building
Washington, D.C. 20510

Dear Senator Hutchinson:

This letter is in response to your correspondence of October 15, 1998 in which you requested information regarding the purpose and objectives of the U.S. Commission on Civil Rights and in particular, the work of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights.

The U.S. Commission on Civil Rights is an independent, bipartisan factfinding agency first established under the Civil Rights Act of 1957. On November 30, 1983, the Commission was reestablished under the United States Commission on Civil Rights Act of 1983 (P.L. 98-183). The Commission is authorized to:

- Investigate complaints alleging that citizens are being deprived of their right to vote because of race, color, religion, sex, age, handicap, or national origin, or, in the case of Federal elections, by fraudulent practices;
- Study 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;
- Appraise Federal laws and policies 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;
- Serve as a national clearinghouse for civil rights information; and
- Submit reports of its activities, findings, and recommendations to the President and Congress.

The Commission is composed of eight members appointed by the President and Congress who ensures that the Commission conducts extensive research and

investigation regarding discrimination or denial of equal protection of the laws in areas such as voting, education, employment, health services, housing administration of justice, and evaluates the Federal effort to further equal opportunity.

In furtherance of its factfinding duties, the Commission has established Advisory Committees in 50 states and the District of Columbia. Similarly, a Advisory Committee is established in Arkansas as the "eyes and ears" of the Commission at the State level. This Committee is expected to be knowledgeable about civil rights issues, problems, occurrences, and enforcement in the State and to keep the Commission informed about their projects and information dissemination activities.

In this effort, the Arkansas Advisory Committee has been monitoring civil rights enforcement in Arkansas since 1990 as well as the Arkansas legislature's attempts to pass statewide civil rights legislation. On May 1, 1998 the Arkansas Advisory Committee voted unanimously to conduct a factfinding project on the strengths and weaknesses of Arkansas civil rights legislation and whether or not there is a need for a State enforcement agency. This decision was based on information reported to the Committee regarding the lack of State civil rights enforcement and concerns that the present State civil rights law does not conform with Federal guidelines.

The factfinding meeting held on September 23-24 was a systematic gathering of data, documents, and opinions from a variety of diverse persons knowledgeable about civil rights issues in Arkansas. The information collected by the Committee will result in findings and recommendations which will be reported to the Commissioners in Washington and the general public.

At this time staff in the Central Region is reviewing and analyzing the data and a final report will be issued within the next several months. In the meantime, we have enclosed a copy of the transcript of the proceeding of our September meeting, a copy of the factfinding meeting agenda, a brochure which explains in detail the responsibilities of the Commission, and a listing of the members of the Arkansas Advisory Committee.

Thank you for your interest in the work of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights. If you have any further questions regarding this matter, please feel free to contact me.

Sincerely,



MELVIN L. JENKINS, Esq.
Director

Enclosures

cc: Arkansas Advisory Committee Members

Appendix F

William (Bill) Walker, State Senator (Letter)



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

Central Regional Office
Gateway Tower II
400 State Avenue, Suite 908
Kansas City, KS 66101-2406
(913) 551-1400
(913) 551-1413 FAX

March 17, 1999

Honorable William (Bill) Walker
State Senator
State Capitol
Room 312
Little Rock, AR 72201

Dear Senator Walker:

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices;
- Study and collect information relating to discrimination or denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin;
- Submit reports, findings, and recommendations to the President and Congress.

The Commission is composed of eight members appointed by the President and Congress who ensures that the Commission conducts extensive research and investigation regarding discrimination or denial of equal protection of the laws in areas such as voting, education, employment, health services, housing administration of justice, and evaluates the Federal effort to further equal opportunity.

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The factfinding meeting held on September 23-24, 1998 was a systematic gathering of data, documents, and opinions from a variety of diverse persons knowledgeable about civil rights issues in Arkansas. The information collected by the Committee will result in findings and recommendations which will be reported to the Commissioners in Washington and the general public.

Recently it has come to our attention that you are sponsoring a fair housing bill in the Senate which, if passed, will allow municipalities throughout the State the authority to investigate fair housing complaints. The Advisory Committee would like to find out the status of this bill and the nature and extent of its provisions. Ms. Farella Robinson, a member of my staff will be contacting you to obtain more details on the proposed fair housing bill and how we may assist you. You may contact Ms. Robinson at (913) 551-1405.

For your information enclosed is a listing of the Arkansas Advisory Committee members. Thank you for your cooperation.

Sincerely,



MELVIN L. JENKINS, Esq.
Director

Enclosure

Appendix G

State Human Rights Agencies in the United States

Alaska Human Rights Commission
800 A Street, Suite 204
Anchorage, AL 995-01-3669
Jurisdiction: (E H P C)*
Other: Government Practices, Finance, Coercion

Arizona Civil Rights Division
Office of the Attorney General
251 West Washington Street
Phoenix, AZ 85008
Jurisdiction: (E H)*

California Department of Fair Employment and Housing
2014 T Street, Suite 210
Sacramento, CA 95814-6835
Jurisdiction: (E H P A C)*
(The California Department of Industrial Relations, Division of Labor Standards Enforcement, enforces prohibition against discrimination in employment because of sexual orientation.)

Colorado Civil Rights Division Commission
1560 Broadway, Suite 1050
Denver, CO 80202-5143
Jurisdiction: (E H P C L)*
Other: Discrimination in advertising

Connecticut Commission on Human Rights and Opportunities
21 Grand Street, Room 400
Hartford, CT 06106
Jurisdiction: (E H P C L)*
Other: Credit

Delaware Division of Human Relations
820 North French Street, 4th Floor
Wilmington, DE 19801
Jurisdiction: (E C)*

D.C. Department of Human Rights & Minority Business
441 4th Street, N.W., Suite 970
Washington, D.C. 20001
Jurisdiction: (E H P C A L)*

Florida Commission on Human Relations
325 John Knox Road
Suite 240, Building F
Tallahassee, FL 32303-4102
Jurisdiction: (E H P C)*
Other: Private clubs

Georgia Commission on Equal Opportunity
710 International Tower
229 Peachtree Street, NE
Atlanta, GA
Jurisdiction: (E H C)*

*Responsible for laws prohibiting discrimination in: E-Employment, H-Housing, and P-Public Accommodations. A-has responsibility for dealing with Hate/Bias Crimes. C-has Community Relations responsibilities. L-facilities landlord/tenant conflicts. Statutes also prohibit discrimination in other area(s) listed.

Hawaii Civil Rights Commission
830 Punchbowl Street, Room 411
Honolulu, HI 96813
Jurisdiction: (E H P)*
Other: Access to State and State funded services because of disability

Illinois Department of Human Rights
100 West Randolph Street, Suite 10-100
Chicago, IL 60601
Jurisdiction: (E H P C A)*
Other: Financial credit, sexual harassment in higher education

Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate, N103
Indianapolis, IN 46204
Jurisdiction: (E H P A C)*
Other: Education, credit

Iowa Civil Rights Commission
211 East Maple Street, Second Floor
Grimes State Office Building
Des Moines, IA 50319
Jurisdiction: (E H P C L)*
Other: Credit, Education

Kansas Human Rights Commission
900 Southwest Jackson, Suite 851-South
Topeka, KS 66612-1258
Jurisdiction: (E H P C)*

Maine Human Rights Commission
State House - Station 51
Augusta, ME 04333
Jurisdiction: (E H P L)*
Other: Credit extension, education

Maryland Commission on Human Relations
6 St. Paul Street, 9th Floor
William Schaefer Tower
Baltimore, MD 21202-1631
Jurisdiction: (E H P C L)*
Other: Health care facilities

Massachusetts Commission Against Discrimination
One Asburton Place, Room 601
Boston, MA 02108
Jurisdiction: (E H P C)*
Other: Education, mortgage, credit and services

Michigan Department of Civil Rights
201 North Washington Square, Suite 700
Lansing, MI 48913
Jurisdiction: (E H P A C L)*

Other: Education, public services

Minnesota Department of Human Rights
Army Corps of Engineers Center
190 East 5th Street, Suite 700
St. Paul, MN 55101
Jurisdiction: (E H P A C L)*
Other: Public services, education

Missouri Commission on Human Rights
3315 West Truman Boulevard, P.O. Box 1129
Jefferson City, MO 65102-1129
Jurisdiction: (E H P C)*

Montana Human Rights Commission
P.O. Box 1728
Helena, MT 59624
Jurisdiction: (E H P A C)*
Other: Education, government services, finance and credit, insurance and retirement plans

Nebraska Equal Opportunity Commission
301 Centennial Mall South, 5th Floor
Lincoln, NE 68509-4934
Jurisdiction: (E H P C)*

Nevada Equal Rights Commission
1515 East Tropicana, Room 590
Las Vegas, NV 89119
Jurisdiction: (E H P C)*

New Hampshire Commission on Human Rights
2 Chenell Drive
Concord, NH 03301-6053
Jurisdiction: (E H P C L)*

New Jersey Division on Civil Rights
CN 089, 140 East Front Street, 6th Floor
Trenton, NJ 08624-0089
Jurisdiction: (E H P)*

New Mexico Human Rights Division
1596 Pacheco Street, Aspen Plaza
Santa Fe, NM 87502-3979
Jurisdiction: (E H P C)*

New York State Division of Human Rights
Jurisdiction: (E H P C L)*

North Carolina Human Relations Commission
217 West Jones Street
Raleigh, NC 27603
Jurisdiction: (E H A C)*

North Dakota Department of Labor
600 East Boulevard, Department 408
13th Floor
Bismarck, ND 58505-0340

*Responsible for laws prohibiting discrimination in: **E**-Employment, **H**-Housing, and **P**-Public Accommodations. **A**-has responsibility for dealing with Hate/Bias Crimes. **C**-has Community Relations responsibilities. **L**-facilities landlord/tenant conflicts. Statutes also prohibit discrimination in other area(s) listed

Jurisdiction: (E C)*

Ohio Civil Rights Commission
1111 East Broad Street, #301
Columbus, OH 43205-1397
Jurisdiction: (E H P C)*
Other: Higher education and credit

Oklahoma Human Rights Commission
2101 North Lincoln, Room, 480
Jim Thorpe Building
Oklahoma City, OK 73105
Jurisdiction: (E H P C)*

Civil Rights Division
Bureau of Labor and Industries
800 N.E. Oregon Street #32, Suite 1070
Portland, OR 97232
Jurisdiction: (E H P C)*
Other: Vocation schools

Pennsylvania Human Relations Commission
101 South Second Street, Suite 300
Harrisburg, PA 17101
Jurisdiction: (E H P A C L)*
Other: Post-secondary education

Rhode Island Coalition for Affirmative Action
10 Abbott Park Place
Providence, RI 02903-3768
Jurisdiction: (E H P C)*

South Carolina Human Affairs Commission
2611 Forest Drive, Suite 200
Columbia, SC 29240
Jurisdiction: (E H P A C)*

South Dakota Division of Human Rights
500 East Capitol, State Capitol
Pierre, SD 57501-5070
Jurisdiction: (E H P C L)*

Tennessee Human Rights Commission
530 Church Street, Suite 300
Nashville, TN 37243-0745
Jurisdiction: (E H P C)*

Texas Commission on Human Rights
P.O. Box 13493
Austin, TX 78711
Jurisdiction: (E H)*

Anti-Discrimination Division Industrial Commission of Utah
160 East 300 South, 3rd Floor
P O. Box 146640
Salt Lake City, UT 84114-6630
Jurisdiction: (E H)*

Protection Division
Office of the Attorney General
State of Vermont
109 State Street, Pavilion Office Building
Montpelier, VT 05609-1001
Jurisdiction: (E A C)*
Other: Maternity leave/family leave

Commonwealth of Virginia Council on Human Rights
1100 Baker Street, 12th Floor
Richmond, VA 23219
Jurisdiction: (E)*

Washington State Human Rights Commission
P.O. Box 42490, Suite 420
Olympia, WA 98504-2490
Jurisdiction: (E H P.C)*
Other: Insurance and credit

West Virginia Human Rights Commission
1321 Plaza East, Room 106
Charleston, WV 25301-1400
Jurisdiction: (E H P A C)*

Wisconsin Equal Rights Division
Department of Industry, Labor and Human Relations
201 East Washington Avenue, Room 40
P.O. Box 8928
Madison, WI 53708
Jurisdiction: (E H P C)*
Other: Post-secondary education

⁷ Source: International Association of Official Human Rights Agencies

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