
CIVIL RIGHTS DEVELOPMENTS IN NEW HAMPSHIRE, 1980

February 1981

--A clearinghouse report of the New Hampshire Advisory Committee to the U.S. Commission on Civil Rights, published for the information of the Commission and the people of New Hampshire. The contents of this report should be attributed to the New Hampshire Advisory Committee rather than to the Commission.

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UNITED STATES COMMISSION ON CIVIL RIGHTS

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Dear Friend:

The U.S. Commission on Civil Rights was established by Congress in 1957 as an independent, bipartisan factfinding agency to investigate complaints, study legal developments and appraise Federal laws and policies with respect to discrimination, and serve as a national civil rights clearinghouse. In turn, State Advisory Committees were formed to assist the Commission in these responsibilities.

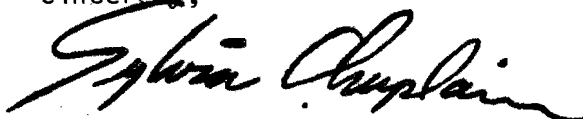
Over the past year the New Hampshire Advisory Committee has been monitoring civil rights developments in our State as well as providing the U.S. Commission on Civil Rights with specific information within the agency's jurisdiction. That jurisdiction now includes discrimination because of race, religion, national origin, sex, age, and handicap.

As an outgrowth of our monitoring efforts, we have prepared this brief report on civil rights developments in New Hampshire 1980. It does not claim to be a comprehensive statement, but we do believe it can serve as a bench-mark, identify problems and progress, add to our understanding of the status of protected groups, and help refine our concept of civil rights.

We have also included a short statement on the activities of the New Hampshire Advisory Committee. If you would like to recommend ways in which we or the Commission might improve our work, please write to us at the above address. Certainly, the work ahead for all of us will be great.

We hope that you will find this review useful. Additional copies are available from the New England Regional Office as are the other publications of our Advisory Committee and the Commission.

Sincerely,



SYLVIA F. CHAPLAIN
Chairperson
New Hampshire Advisory Committee

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Introduction

To most Americans, the phrase "civil rights" brings to mind the quest of black Americans for freedom and equality: images of lunch counter sit-ins, freedom rides, and the National Guard escorting black children during the desegregation struggles of the 1950's and 1960's. We recall the reaction to the quest for civil rights in threats, violence, bombings, and murders.

The Nation then entered a period of legislative and judicial activity; increasing concern with de facto as well as de jure school segregation; growing emphasis on housing and employment discrimination; and a broader definition of "protected" groups. Most of us recognized that discrimination was being experienced by other racial groups including Asians and Native Americans; by groups identified by national origin, especially Hispanics; by religious groups; and by women, the elderly, and the handicapped.

Efforts were made on the local, State, and national levels to address these problems, with varying degrees of effectiveness. Even with growing resistance in the 1970's, there was progress.

However, 1980 has seen a resurgence of the Ku Klux Klan and other hate groups, an attempted assassination of a major black leader, urban riots, and political attacks on programs that blacks and other minorities regard

as crucial to their hopes. The year ended with black Americans not only fearful that the political tide had turned against them, but with the evidence of race-motivated murders in a number of cities.

The U.S. Commission on Civil Rights believes that the 1980's will be a critical period for civil rights. In a year-end report to the President and Congress, the Commission observed that hate group activity, racially motivated violence, and the rising number of civil disorders all have contributed to "an atmosphere that impedes civil rights progress."

The Commission called for a strong, well-coordinated Federal response, led by the Attorney General or another designated official, to deter violence, and it urged the President to appoint a senior White House advisor responsible for improving and directing the Federal civil rights effort.

The past year also saw a hardening of opposition to measures that actively seek to advance equality of opportunity not only for racial minorities, but for women, the handicapped, and the elderly. In response, the Commission urged Congress to support the strengthening of fair housing legislation, and to provide the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs with the resources to combat job discrimination. The Commission reaffirmed its support for the Equal Rights Amendment and affirmative action, and recommended changes in Federal law to prosecute police officers who violate the civil rights of those they are charged to protect.

While many of these matters may seem removed from the events of daily life in New Hampshire, they nonetheless involve us as Americans concerned about our fellow Americans, whatever their background or State of residence.

The brief report that follows paints a somewhat less bleak picture for our State. We have transmitted this information to the U.S. Commission on Civil Rights as its New Hampshire Advisory Committee, and now are pleased to share it with you.

An Overview of New Hampshire

Although 1980 was a Census year and promised to deliver more detailed information than ever before about racial and national origin groups in individual States, publication of these statistics has been delayed pending the outcomes of a number of suits around the country alleging that undercounts occurred. Only the overall total for New Hampshire has been released by the U.S. Bureau of the Census-- 918,959, up 24.6 percent from 1970.

The latest available figures on the minority population are 1979 statistics published during the first quarter of 1980 by the New Hampshire Department of Employment Security. These statistics show that at the beginning of 1980, minority group members totaled 9,373 in a population of 890,700, or 1.05 percent. There were 3,385 blacks (0.38 percent), 474 American Indians (0.05 percent), 1,007 Japanese and Chinese (0.11 percent), 3,298 Hispanics (0.37 percent), and 1,209 others (0.14 percent). The Hispanic and Asian American populations are generally believed to be growing.

As of mid-November, 114 Vietnamese, 69 Laotian, 5 Cambodian, and 28 Cuban refugees had settled in the State, according to the Refugee Settlement Office of the Catholic Diocese of Manchester. The office had not received any reports of discrimination.

The largest concentrations of minorities were in Hillsborough and Rockingham Counties. About two-thirds of the State's Hispanics and blacks live in these counties.

New Hampshire has a large minority-language population in its Franco-Americans, and an active Franco-American Council concerned with education and cultural issues.

The average annual unemployment rate in the State was 3.2 percent in 1979. For minorities, it was 4.3 percent. The female unemployment rate was close to the overall rate, and lower than it in several counties. The minority labor force participation rate of 69.8 percent exceeded the

overall LFPR of 68.3 percent. Female participation in the labor force was lower, 55.2 percent; women accounted for 42 percent of New Hampshire's labor force.

Legal, Policy, and Institutional Developments

Laws and Legislation

The New Hampshire Legislature was not in session during 1980. In the 1980 legislative election, two female State senators and 122 representatives were elected. This 29.2 percent proportion of women is among the highest in the 50 State legislatures.

During the November election, a referendum to make New Hampshire's bill of rights gender-neutral failed to pass.

Government Agency Activity

During 1980 sex and age discrimination in employment apparently accounted for the great majority of complaints made to the New Hampshire Commission for Human Rights. This is the implication of partial (July 1, 1979 - December 9, 1980) statistics for the current fiscal biennium. Sixty-nine percent of the complaints alleged sex discrimination in employment, 21 percent age discrimination in employment, and 10 percent discrimination in public accommodations or housing due to race, color, creed, national origin, religion, marital status, or handicap. (The Commission has no jurisdiction over education, voting rights, or criminal justice.)

Of the 202 complaints closed by the Commission during the period reported, 78 resulted in adjustments or orders totaling \$173,550. The remainder involved other resolutions, such as determination that the Commission lacked jurisdiction over the matter, failure of the complainant to proceed, or findings of no probable cause.

Nineteen complaints to the Commission came from State government employees, and resulted in back pay, promotion, and hiring valued at \$52,590.

In 1980, the New Hampshire Commission for Human Rights demonstrated that henceforward discrimination against the handicapped would be taken seriously by making its first financial award in a handicap case. The case involved a police officer who had been dismissed by town selectmen for his back problem, although the police chief had hired the officer with full knowledge of the problem.

The Commission was instrumental in removing the New Hampshire State Police Department's upper age limit for trooper trainees. Applicants now will be considered on an individual basis.

The New Hampshire Commission on the Status of Women held a hearing on women and employment in Manchester in November, the first in a series on the theme to be held in various communities through 1981. More than 30 experts and lay people testified in Manchester.

A new unit was established within the New Hampshire Department of Education in 1980 to promote local compliance with Title IX of the Education Amendments of 1972. Title IX prohibits discrimination based on sex in educational institutions receiving Federal financial assistance. The new "Equal Opportunity Unit on Sex Desegregation" is funded by the U.S. Department of Education. It commenced operations for the 1980-81 school year, including instructing school district-level Title IX coordinators about conducting self-evaluations, funding the hiring of consultants by local school systems, and offering workshops. In response to a request from the New Hampshire Interscholastic Athletic Association, which was concerned about a situation in Jaffrey where boys wanted to try out for field hockey, the unit conducted a workshop on athletics and Title IX. Also, after Manchester teachers alleged the existence of inequalities in physical education offerings, the unit gave a workshop on physical education and Title IX.

In July, the State Board of Education received a report on services for the handicapped prepared by the Consumer Advisory Committee to the Division of Vocational Rehabilitation. The report noted progress in the past year with regard to providing the handicapped with barrier-free housing and better transportation. The committee worked with the U.S. Department of Housing and Urban Development in examining the housing situation. The

committee singled out a transportation program in Sullivan County as providing a possible model for the rest of the State. The program uses a broker-manager coordinating a fleet of vehicles to carry handicapped and elderly persons to rehabilitation services, medical appointments, and other activities.

The New Hampshire Personnel Department, in response to the urging of the New Hampshire Civil Liberties Union, agreed to rephrase State employment examination questions that seem to assume that supervisors will be male and clerical workers female.

The U.S. Department of Education negotiated a compliance agreement with New Hampshire after finding that the State policy of providing special education for only 180 days violated Section 504 of the Federal Rehabilitation Act of 1973.

The U.S. Office of Special Education and Rehabilitative Services awarded a \$60,000 grant to the University of New Hampshire to train park administrators in how to make their facilities more accessible to the handicapped. Project PAR (Planning for Accessible Recreation) involved administrators from New Hampshire in its first sessions, commencing in the fall of 1980, and will include representatives from other New England States during 1981.

Joseph D. Fletcher, Jr., of Manchester set a national precedent by becoming the first epileptic to win the right to be considered for a job in the corrections field. Hillsborough County officials notified him of his eligibility after he submitted complaints to the New Hampshire Commission for Human Rights.

The U.S. Department of Housing and Urban Development's regional fair housing/equal opportunity unit found the cities of Manchester and Salem to be in "apparent noncompliance" with equal employment requirements of Section 109 of the Federal Housing and Community Development Act of 1974. This puts the communities in the position of having to either refute the findings of the HUD review team or propose remedies acceptable to HUD.

Judicial and Criminal Justice System Activity

The U.S. Supreme Court upheld the discrimination charge of a female Keene State College professor who had been denied promotion. She argued that the college's responsibility to prevent discrimination surpassed its obligation to accept the decisions of its academic committees.

In an out-of-court settlement, the Public Service Company of New Hampshire has agreed to take several steps that will open opportunities for women. The company is to hire an affirmative action coordinator, described job qualifications more precisely, keep more detailed promotion and transfer records, and make job titles gender-neutral. These actions are to correct severe job segregation by gender as documented by the plaintiff in a class action suit filed in 1976. The Federal Court will maintain jurisdiction until April 1, 1986.

Panelists at the New Hampshire State Advisory Committee's "Forum on Effectiveness of the Domestic Violence Law" emphasized that in many jurisdictions women have been able to readily obtain restraining orders, and in other jurisdictions this became the case after advocates explained the new procedures to the magistrates. The chief justice's authorization of clerks and masters to issue ex parte orders in urgent situations (with the absent judge signing later) had greatly aided implementation of the law. However, many judges reportedly remain hostile to petitioners.

For the first time, New Hampshire has a female Superior Court judge. Governor Hugh Gallen appointed Linda Stewart Dalianis in October.

A convention of New England police chiefs in Bretton Woods in September produced controversial statements about police deadly force vis-a-vis minorities. Several leaders of the International Association of Police Chiefs (IAPC) objected to a Federal Law Enforcement Assistance Administration (LEAA) grant to study how to reduce police shootings of minority citizens. Spokespersons pointed out that LEAA is funding the IAPC and other (including minority) organizations in a study treating weapons use against all types of citizens, and the latest grant is not only duplicative but regrettably narrow in its focus on minorities. The remarks

seem to discount the well-documented disproportionate victimization of minorities by police misconduct.

Social Conditions and Controversies

The city of Manchester is having problems adjusting to the growth of its Hispanic population. Although the number of Hispanics is estimated to be only about 3,000, many are recent arrivals attracted by the booming economy of southern New Hampshire. Conflict has arisen in the areas of bilingual education, access to housing, and relations with the police. The city's efforts to draft a policy with regard to the Hispanic population have been hampered by different understandings of the rights and status of Puerto Rico and Puerto Ricans. However, the Manchester Union Leader, observed that "there is rampant prejudice against Hispanics in the community" and that harmful stereotypes exist.

Advisory Committee Activities

In May, the Committee co-sponsored a conference on Equal Opportunity in Education, in conjunction with the New Hampshire Department of Education and the Commission on the Status of Women.

At a forum the New Hampshire Advisory Committee sponsored in Concord on August 21, it released a statement and recommendations on the effectiveness of New Hampshire's one-year-old domestic violence law. The forum featured a panel of representatives of women's rights organizations and services for battered women. The Advisory Committee also announced that it would distribute emergency phone number cards to courts, police stations, hospitals, doctor's offices, and mental health centers for distribution to potential victims.

Subsequent to the Advisory Committee's expressions of interest in allegations by the Hispanic community of Manchester, a number of changes apparently have taken place. A Subcommittee on Hispanic Concerns met with the Manchester police chief, who agreed to have members of the Hispanic community conduct sensitivity and cultural awareness training for police. Also, the superintendent of schools modified the transportation

arrangements for bilingual students and plans to establish an ESL (English as a Second Language) program at the junior high level.

A member of the New Hampshire Advisory Committee testified at a hearing in New York on proposed Federal rules on language discrimination. He offered a justification for bilingual education in general and recommended more than a dozen specific revisions of the proposed regulations. The Committee also wrote to the State Commission on Education to learn the State's position with regard to the proposed regulations.

In November, the Advisory Committee participated in a U.S. Commission on Civil Rights national project on local compliance with the Voting Rights Act of 1965. The Committee monitored voting practices in Strafford (one of ~~the~~ New Hampshire jurisdictions covered by the act) and encountered no irregularities.

Prospectus

Emerging Issues

The 1981 legislature is considering the fate of over 100 State agencies and boards that are scheduled to go out of existence under "sunset" provisions of their legislation. The Sunset Committee's staff report recommended against the renewal of at least 50 agencies. Civil rights agencies that have come under review include the Commission on the Status of Women and the Commission for Human Rights. The staff report made no recommendations concerning the women's commission, but urged a restructuring of the Commission for Human Rights. Among the proposed changes are reducing the number of commissioners from five to three, reducing the time limit for action from 180 days to 90, and transferring jurisdiction over housing discrimination to the State Housing Commission.

The New Hampshire Coalition Against Family Violence has proposed legislation that would add a surcharge to the marriage license fee and use a portion of the revenues to fund services for victims of domestic violence. Similar measures have been enacted in six other States.

Proposed New Hampshire Advisory Committee Activities

The Advisory Committee is undertaking several efforts concerning the Hispanic community, including examining the Manchester school system's procedure for certifying children for bilingual education and possibly producing a profile of the community that will help the white community to understand its new neighbors better.

The Committee is planning to carry out an informational project about fair housing.

The Committee will also focus on the condition of working women, and will disseminate information for employers about the problem of sexual harassment.

The Committee will analyze and publicize 1980 Census information for New Hampshire when it becomes available.

The New Hampshire Advisory Committee also intends to respond to topical issues and problems. It will participate as well in the national projects of the U.S. Commission on Civil Rights, which in 1981 will examine racial violence, the activities of hate groups, discrimination in health care, and religious discrimination.

NEW HAMPSHIRE STATE ADVISORY COMMITTEE
To The
U.S. COMMISSION ON CIVIL RIGHTS

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The U.S. Commission on Civil Rights is an independent factfinding agency which investigates issues related to discrimination or denial of equal protection of the laws because of race, color, national origin, religion, sex, handicap, and age. The New Hampshire Advisory Committee is one of 51 such bodies composed of private citizens who advise the Commission on civil rights developments in their States.