

STATE ADVISORY COMMITTEES

OVERSIGHT HEARING
BEFORE THE
SUBCOMMITTEE ON
CIVIL AND CONSTITUTIONAL RIGHTS
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-NINTH CONGRESS
FIRST SESSION
ON
STATE ADVISORY COMMITTEES
—
SEPTEMBER 19, 1985
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Serial No. 57



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STATE ADVISORY COMMITTEES

THURSDAY, SEPTEMBER 19, 1985

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

The subcommittee met at 9:10 a.m., room 2237, Rayburn House Office Building, Hon. Don Edwards (chairman of the subcommittee) presiding.

Present: Representatives Edwards, Conyers, Schroeder, and Sensenbrenner.

Staff present: Stuart J. Ishimaru, assistant counsel; Phil Kiko, associate counsel.

Mr. EDWARDS. The subcommittee will come to order.

Today the subcommittee begins an examination of the State Advisory Committees—we'll call them SACs—of the United States Commission on Civil Rights.

Since the Commission was established by the Civil Rights Act of 1957, the State Advisory Committees have played a valuable role in advising the Commission of civil rights issues in their States. In past years, the State Advisory Committees have been composed of a diverse group of persons interested in civil rights. The SACs have had a long record of publishing their findings and conclusions, advising the Commission, as well as providing valuable insights to the Congress, the courts, State and local governments and the general public.

Events over the past year have brought about controversy. All 51 SACs were rechartered earlier this year, with a majority of new members added to the rolls. Questions have arisen regarding the diversity of membership of the SACs. There has been a noticeable decrease in the number of minorities and women chosen to serve on the SACs. Even more striking is the new composition of SAC chairs, now overwhelmingly white and male.

The size of each SAC, which ranged between 11 and 29, has been reduced to a standard 11, regardless of the size and needs of the State. Not a single SAC report has been printed since the Commission was reconstituted in late 1983. This is not due to a lack of activity on the part of the SACs, but because of a change in policy which now requires SAC reports to be reviewed by the Commission for consistency with Commission policy before they can be published.

All SAC reports, from the beginning of 1984, are still in Washington awaiting review and approval.

I believe that the SAC can and should serve an important purpose as the grass-roots "eyes and ears" of the Commission. The regional programs of the Commission, of which the SACs are a major part, consume over one-third of the Commission's budget. During the course of the hearing this morning, I hope we can explore these issues.

We are fortunate to have the Chairman of the Commission and the Acting Staff Director with us this morning, as well as current and former SAC chairpersons.

This isn't the first time the SACs have been part of a controversy. During the reauthorization of the Commission in 1978, the Carter administration proposed to regionalize the SACs, and in effect, questioning their usefulness. After long debate in both houses of Congress, this proposal was rejected, reaffirming the special and important role of the State Advisory Committees. And I hope we can explore this special role today.

Before I introduce the first two distinguished witnesses, I recognize the gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. SENSENBRENNER. Thank you very much, Mr. Chairman.

This morning our subcommittee is, once again, going on a trip to nowhere. We can see that it's a trip to nowhere by the empty press table in the room and by the rather sparse turnout. This certainly is not a magnet of an investigation.

This isn't the first time the Subcommittee on Civil and Constitutional Rights has embarked on a trip to nowhere. We've conducted numerous, quote, "investigations," unquote, that really have not resulted in any firm conclusions, any written reports by the subcommittee, or any legislation for consideration either by the full committee or by the Congress. If I were a betting man, I would bet that this trip to nowhere will have an equal lack of results.

So, I guess I really am puzzled why we are wasting our time in investigating this subject, knowing that nothing is going to result from it, when there is a docket of important issues that are crying for action both before this subcommittee and the full Judiciary Committee, that the chairman and the majority party have decided to ignore.

I think one of the reasons why we have such a sparse turnout at the committee table at this morning's hearing is that it is in conflict with the annual breakfast that the Attorney General of the United States gives for members of the Judiciary Committee. Prior to today, all the subcommittees of the Judiciary Committee postponed their hearings in deference to the breakfast the Attorney General gives, regardless of who that individual is. Today, I guess we decided not to do that, and there were 29 of the 35 members of the full Judiciary Committee down at the Justice Department. I apologized and left early to be here today to hold down the fort; but I really think that it is an insult to the Office of the Attorney General to hold this conflicting hearing, particularly because there can't be the participation of the other members of the subcommittee the committee hearings deserve.

Finally, I would like to make one point relative to the note that the chairman put in his memorandum to members of the subcommittee dated on September 17. He says that he has requested the General Accounting Office to investigate management practices of

the U.S. Commission on Civil Rights. That request only dealt with the reconstituted U.S. Commission on Civil Rights, and it seems to me that that is a partisan request that is designed to engage in a witch hunt on this particular Commission. If we're really concerned with making the Civil Rights Commission more effective in responding to the civil rights needs that do exist in this country, we ought to look at the management practices of the Commission since its inception rather than zeroing in on certain personalities that may happen to hold the position of commissioners at the present time.

If we want to make civil rights the bipartisan issue that it has been, and which has resulted in tremendous advances being made in this area in this country, I think that we ought to look at the management practices of the Commission since 1957 rather than since 1981; and I have submitted to the chairman a letter which I would ask unanimous consent to include in the committee record at this point in time to that effect.

Mr. EDWARDS. Without objection so ordered.

[The letter of Mr. Sensenbrenner follows.]

F. JAMES SENSENBRENNER, JR.
Ninth District, Wisconsin
COMMITTEE ON THE JUDICIARY
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September 17, 1985

Honorable Don Edwards
Chairman
Subcommittee on Civil and
Constitutional Rights
Committee on the Judiciary
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for sending me a copy of your letter to the General Accounting Office requesting an investigation of the Civil Rights Commission.

I am concerned about what appears to be the partisan nature of the request. First, no attempt is made in the request to have the GAO compare the procedures, personnel practices and activities of the Civil Rights Commission with activities of previous Commissions. The request also only states that complaints have been received. It does not specify from whom, nor does it specify the specific nature of the procedural irregularities.

What most concerns me is that you want the content of the request and the persons interviewed to be kept secret. It appears that the Subcommittee is requesting the GAO to engage in a fishing expedition and a witch hunt. I am frankly surprised at why the contents of the request should be kept secret; why the Minority was not informed of the request; why the Civil Rights Commission was not given a copy of the request by either the GAO or the Subcommittee Majority Staff; and why it was so difficult for my staff to secure a copy of the letter. One can only surmise that such secrecy is necessary because of the need for proper timing of the release of information to attain maximum political benefit. I would like to request that the Minority Staff of the Subcommittee be provided with a copy of the preliminary report which I assume was made by the GAO in compliance with this request.

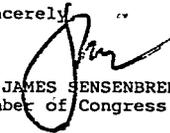
Because it appears that the GAO request was politically motivated and an attempt by this Subcommittee to engage in partisanship in the area of civil rights I cannot be expected to comply with your request for confidentiality. I would consider, however, complying with your request, if the investigation request were expanded to include Commission activities going all the way back to its inception in 1957. The Subcommittee would then be able to compare management practices and activities, policies, practices and precedents with previous Commissions.

Mr. Chairman, though we sometimes have our differences, I would hope we share the goals of obtaining "good government". I have no difficulty in a comprehensive review of the Civil Rights Commission and it is time to do so. We should go back to its inception and the intents for its creation. We should review its mission, activities, precedents, policies, programs, and effectiveness in carrying those out. Nothing should be immune from review, even the possibility whether or not the Commission is the best way to accomplish the goals we seek. I believe the Commission and its supporters should defend and justify its existence as much as the detractors and critics of the Commission should defend their positions.

It would seem we have much more to gain by reviewing the entire history of the Commission rather than just a "snap shot" of a time under a particular Administration. This only raises the suspicions that our Committee is merely indulging in an adversarial hearing to meet a particular political agenda rather than a sincere effort to correct inadequacies of the enforcement of civil rights for all Americans. Mr. Chairman, civil rights is the keystone of our Nation's most precious commodities, liberty and freedom. This should not be jeopardized merely to fulfill the desires of some who would use this investigation as a platform to engage in political rhetoric to serve their own interests.

I prevail upon you in fairness, in consideration of the relation of the minority with the majority, freedom for all Americans, and good government not to engage in intrigue, but to expand and expose the issue to open and public debate.

Sincerely,



F. JAMES SENSENBRENNER, JR.,
Member of Congress

FJS:pkw

Mr. EDWARDS. Our first panel this morning consists of the Chairman of the Civil Rights Commission, Clarence Pendleton, and the acting staff director, Max Green. Mr. Green was the primary staff person in charge of rechartering the SACs. As I understand it, Mr. Green will be leaving the Commission at the end of this month for a job at the White House, in the public liason section headed by former Commission staff director Linda Chavez.

So, Mr. Green, we congratulate you.

Mr. Pendleton, we welcome you, and you may proceed. And without objection, both of your formal statements, will be made a part of the full record.

TESTIMONY OF CLARENCE M. PENDLETON, JR., CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS.

Mr. PENDLETON. Mr. Chairman, thank you very much, and I'll take congratulations, too, if you were about to give them out.

Mr. Chairman, my name is Clarence M. Pendleton, Jr., and I'm Chairman of the U.S. Commission on Civil Rights. At issue today is something of which I am very proud, the 1985 recharter of the State Advisory Committees to the U.S. Commission on Civil Rights. I will be happy to discuss our recharter at length, and our acting staff director, Max Green, can take any specific, technical questions which the committee or you may have.

Let me start with some background. These committees are essential to the work we do at the Commission. Composed of 11 members each, located in every State and the District of Columbia, they are the "eyes and ears" of the national commission. By holding hearings in State capitols, small towns, by issuing fact-finding reports on a range of civil rights topics, the State Advisory Committees point to civil rights violations we might not otherwise discover. Like the Commission, these committees, called SACs for short, have a proud history of alerting the Nation to the evils of discrimination based on color, race, sex, religion, national origin, age and handicap.

And I must say, Mr. Chairman, that your preliminary remarks interest me, in that I see no reason why white males cannot head Civil Rights Commission Committees, cannot head SACs. I don't think that it was ever intended by the Congress that this would be—that the Civil Rights Commission or the civil rights community would be the sole bastion, if you will, of minority people as designated by the Congress. And I think that as long as we are going to have a commission, and we talk about regardless of discrimination—I mean, regardless of race, sex or religion, then white males certainly need to be included, and I think this commission is proud of the fact that we've been able to pick outstanding persons for chairpersons, and outstanding persons for committee membership, as the balance of my testimony will indicate.

As early as 1959, the SACs were out front, uncovering voter intimidation in Alabama, exposing the near slavery of migrant workers in Colorado, documenting willful housing segregation in New York State. We are grateful for the services of hundreds of men and women who serve on these committees without compensation.

But frankly, Mr. Chairman, despite their stellar record, the SACs have not been without their problems. As civil rights questions have grown more complex, as the blatant evils of sex discrimination and racial segregation have been replaced by the murkier questions of comparable worth and court-ordered busing, as the nation has changed since the great civil rights bills passed through these Chambers more than 20 years ago, the SACs have often remained impervious to the complexities around them.

Before our recharter, the SACs simply did not reflect a wide-ranging debate over civil rights in this country. And I would like to add here that it was interesting to read in the Washington Post survey of black leaders and the American public with respect to issues as they affect minorities, and perhaps that information, if it is possible, could be made a part of the record, if we can get it or the committee can get it.

Mr. Chairman, no SAC report ever critically examined bilingual education and its tendency to segregate Hispanic schoolchildren from their native-born peers. No SAC report ever proposed to abolish Federal goals and timetables for ethnic groups which have suffered discrimination and may no longer need such protection.

Mr. Chairman, these SACs, while infused with the spirit of the civil rights movement, had lost track of the changing nature of the movement. The world is simply more complex in 1985 than it was in 1965. They would not acknowledge that many early and active supporters of the civil rights movements could no longer embrace all that was done in the name of civil rights, like numerical hiring quotas. We felt the SACs had to be diverse, eclectic enough to debate tough questions like rights of handicapped newborns or Federal affirmative action coverage of colleges and universities. The law already requires the SACs to be bipartisan; we felt they should be ideologically diverse as well, men and women who disagree over the means but are committed to the common end of weeding out discrimination and seeing minorities become fully incorporated in American life. Some of our members favor race-conscious policies, others do not, but all want an America based on fairness and equal opportunity.

Back in January 1984, the renewed Civil Rights Commission had a number of options regarding the SACs. Some said we should abolish the SACs, and we emphatically rejected that idea. A second option was to leave the SACs as they were. Again, we felt diversity demanded some amendments to the SAC rosters. So, we chose a third option: we agreed to recharter the SACs with their current membership for one year, during which time the procedural rules and membership of the SACs could be studied.

In March 1984, the staff director recommended several changes. They are:

One, to reduce costs and absences by making all SACs consist of 11 members;

Strengthen the civil rights involvement of the SACs by increasing the required number of annual SAC meetings from two to four; and

Return the SACs to their statutory function as advisory bodies by routing SAC reports to the Commission in draft rather than in final printed form.

And I must say here, in all clarity, it is not the intent of this commission that there would be any "muzzle" rule on what SACs say. We want to be able to join in with SACs, not issue disclaimers on reports. And our work would be to check for defame, and degrade, and statutory clarity and those kinds of things.

And rather than print it in final form, why not send it in draft? Why not make the corrections and then print it in final form as a report of the commission and just not the individual SACs?

Between March 1984 and January 1985, the SACs were scrutinized in great detail. Our regional direction scoured the country for new talent, our Washington staff searched, too. Finally, in 1985 the commission acted on the staff director's recommendations and voted to recharter the SACs.

You may wonder just who we appointed. Many of them are reappointments. Although we were under no obligation, legal or otherwise, we chose to reappoint nearly half of the current members, or 270 out of a total SAC membership of 550. We asked Tom Pugh of Illinois to stay with us, and he chose to accept our invitation. Unfortunately, Ms. Frankie Freeman, a former commissioner from Missouri, decided not to. In Vermont, we were delighted to retain Philip Hoff, State senator and former Governor. In Alabama, we kept Abigail Turner, a specialist attorney for civil rights in the Mobile office of the Legal Services Corporation of Alabama. In South Dakota we asked Cleora Rae Johnson, a Sioux tribal leader, to stay with us. We're glad she did. There are 267 others, and I will be glad to present the list to you. You do have one already, and if, without objection, Mr. Chairman, if that could be inserted into the record.

Mr. EDWARDS. Without objection.

[Information follows:]

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 Oralia G. Mercado - Casper, WY
 Gloria J. Monroe - Casper, WY
 Jamie C. Ring - Casper, WY
 Edna L. Wright - Wawilins, WY

Mr. PENDLETON. My point simply is this: Far from conducting a purge, we reaffirmed our faith in literally hundreds of these veteran SAC members. We also added new talent to the committee. We examined each State committee individually and lent it balance so that all views could be represented. Many of the persons we appointed are long-time civil rights advocates who have become skeptical of race-conscious strategies; many are more favorably disposed to racial preferences. Our only litmus test was talent—informed citizens who understood and cared about civil rights in our country.

Mr. Chairman, in California, your home State and mine, for the sake of diversity and debate we appointed William Allen and Ken Masugi. Dr. Allen is an expert on economic policy at Harvey Mudd College and a member of the Council for the Black Economic Agenda. Dr. Masugi is editor of the Claremont Review of Books, a frequent witness at congressional hearings, and author of a forthcoming book on ethnicity in American politics.

In Florida, diversity meant appointing Paul Porter and Michael Moorhead. Dr. Porter is the Albert A. Levin professor of urban studies at Cleveland State University and an expert in urban development. Mr. Moorhead is a professor of law at the University of Florida and the president of CLEO, the Council on Legal Education Opportunity, an acclaimed program aiding disadvantaged law students.

In Arizona, diversity meant adding I.W. Abel and Lupe Flores. For 12 years I.W. Abel was president of the United Steelworkers of America, where he grappled with hiring goals, quotas and other civil rights issues. In 1968, he served on President Johnson's National Advisory Committee on Civil Disorders. Ms. Flores, senior manager of compliance programs at Motorola, Inc., is an affirmative action professional who oversees much of that company's equal opportunity hiring.

In Mississippi, diversity meant appointing Lewis Westerfield, Jr., and Leslie Grant Range. When we wanted a chairman, we looked to Mr. Westerfield, who is the first black full professor of law at the University of Mississippi and an outstanding constitutional scholar. We also sought Leslie Grant Range, a man who has devoted his adult life to aiding minorities in different ways, through self-help organizations like the Delta Opportunities Corp., where he has served as a director.

The list goes on, Mr. Chairman: In Massachusetts, Glenn Loury, formerly a professor at the Kennedy School of Government at Harvard University, and who, I now understand, is at Princeton, a prolific author on race in America.

In North Carolina, Donald Horowitz, professor of law at Duke University, a Guggenheim fellow. He has authored many works on ethnic conflict in the United States and around the world.

In Alabama, Lawrence Hanks, chairman of the Political Science Department at Tuskegee Institute, Harvard educated and an expert on politics in today's rural South.

In Georgia, Grace Hamilton, the first black woman elected to the Georgia State Legislature.

In New York, Jeremy Rabkin, professor of government at Cornell and a writer and observer of civil rights issues ranging from universities admissions to comparable worth.

In Texas, Lino Graglia, professor at the University of Texas Law School, an articulate critic of court-ordered school desegregation.

These are some of the men and women we have appointed. They are a diverse crew, bound by a fraternity of talent.

No doubt, Mr. Chairman, you are interested in the demographic profiles of our SAC members, their breakdown by race, and sex, and so on, and I'll get to that in just a second. But let me say that race and sex were not the basis of our selection. We felt that all Mississippians, black and white, would be well represented by Lewis Westerfield, just as all North Carolinians could be proud of Donald Horowitz as their SAC chair.

We were recruiting individuals; we were not administering digital justice—so many blacks here and so many whites there. Instead, we sought diversity and knowledge, no matter what color it came in. With that in mind, let me give you the numbers:

Before the 1985 recharter, the SACs were 7 percent American Indian; now they are 3 percent. Before, they were 3 percent Asian, and they remain at 4 percent Asian. Before, they were 28 percent black; now they are 25 percent black. Before, 12 percent Hispanic; now 9. Before, they were 49 percent white; and now it is 59 percent.

In terms of political affiliation, the number of Democrats increased from 42 to 46 percent, and Republicans decreased from 37 to 35 percent. And the number of self-proclaimed independents dropped from 20 to 18 percent.

As for gender, men composed 54 percent of SAC members before the recharter; now they are 64 percent, and women declined conversely.

Religion: Catholics shifted from 24 to 22 percent, Protestants from 52 to 46 percent, Jews from 10 to 21 percent, and others from 14 to 11 percent.

Mr. Chairman, what do these numbers really tell you? What do they say about goodwill, the sincerity, the commitment of our SAC members?

Those are qualities that can only be discerned when you treat these people as individuals and not as so many digits. I urge you and the members of this committee to look behind the dry statistics and see for yourself, meet our new SAC members, talk with them. You might be pleasantly surprised.

You may also be interested in the racial data presented to our SAC chairmen. These chairmen, while responsible for conducting the SAC meetings are not potentates. They do not run these committees; in fact, their votes count the same as that of any other member.

Let me give you the statistics on our SAC chairmen. Race: Asians from 12 to 4 percent; blacks from 41 to 18 percent; Hispanics from 14 to 6 percent; and whites from 29 to 72 percent. Religion: Catholics remain at 14 percent; Protestants shifted from 62 to 30; the number of Jewish chairmen grew from 12 to 48; and the members of other religious groups shifted from 12 to 8 percent.

Democrats shifted from 53 to 40 percent, Republicans from 25 to 44, and independents 22 to 16.

In gender, male chairs grew from 61 to 92, and women declined conversely.

Mr. Chairman, the number of racial minorities among the SAC chairs has shifted more amongst the aggregate number of SAC members. And let me assure you that our selection of chairs, like our selection of SAC members, was not made on the basis of race or sex. The net result, Mr. Chairman, chairmen who are knowledgeable, concerned and committed to enforcing civil rights in this country.

Could anyone question the expertise of our Colorado chair, Maxine Kurtz—with us today—who is counsel for the career services authority of the city and county of Denver and one time director of the Denver Model Cities Program? Could anyone impugn the civil rights credentials of our Arkansas chair, Dr. Lloyd V. Hackley, chancellor of the University of Arkansas at Pine Bluff, professor of political science and a veteran of the civil rights movement? Could anyone doubt the qualifications of our Tennessee chair, James Blumstein, professor of law at Vanderbilt University, a prolific scholar on civil rights and the lead counsel and plaintiff in *Dunn v. Blumstein*, a 1974 Supreme Court case which abolished discriminatory residence requirements in voting? Could anyone challenge the goodwill of our Illinois chair, Hugh Schwarzberg, Chicago attorney, former chairman of the civil rights committee of the Chicago Bar Association and a leader in B'nai Brith?

I only ask the following: Instead of judging our chairmen by their race, look at them as individuals. Indeed, Mr. Chairman, if you have any objection to any one of our SAC chairs, I would be interested in hearing of it. These men and women are, by no means, conformists. They were not chosen to toe the party line. Like the SACs, themselves, the views of our chairmen encompass the spectrum of debate on busing, comparable worth and the whole range of civil rights topics.

Anyone who attended our SAC chairmen's meeting last spring would know this. At that conference, we held seminars that touched on a variety of issues. We invited speakers of all points of view to debate openly. Albert Shanker, president of the United Federation of Teachers and Dr. Bernard Gifford, dean of the school of education at the University of California at Berkeley, Nathan Glazer of Harvard and Chester Finn of the Department of Education, were the scholars on our education panel. Our SAC chairmen didn't sit nodding their heads. Many of our own appointees took issue with the current policies of the Commission, many agreed with us; but all debated in an atmosphere that can be called democratic.

I am submitting the transcript later, when we've gotten it all put together, of that conference, as an exhibit, and would ask that when it's finished, you so include it in the record.

Mr. EDWARDS. If there is no objection.

Without objection.

[Information held in committee files.]

Mr. PENDLETON. Mr. Chairman, later on in this discussion, the acting staff director can, of course, take any of your questions regarding specific numbers. Let me close by thanking you for inviting me here and urging you to take a careful look at the men and women we appointed, liberals and conservatives, Democrats and Republicans, blacks and whites, who are talented, determined to

weed out discrimination in our country. And I am very proud of them, and I think that you will be, too.

Thank you very much.

Mr. EDWARDS. Thank you, Mr. Pendleton.

[The complete statement of Mr. Pendleton follows:]

PREPARED STATEMENT OF CLARENCE M. PENDLETON, JR., CHAIRMAN, U.S. COMMISSION
ON CIVIL RIGHTS

House of Representatives, Subcommittee on
Civil and Constitutional Rights

September 19, 1985

Mr. Chairman, my name is Clarence M. Pendleton, Jr. and I am the Chairman of the U.S. Commission on Civil Rights.

At issue today is something of which I am very proud--the 1985 recharter of the State Advisory Committees to the U.S. Commission on Civil Rights. I will be happy to discuss our recharter at length; and our Acting Staff Director, Max Green, can take any specific, technical questions you might have.

Let me start with some background. These Committees are essential to the work we do at the Commission. Composed of eleven members each, located in every state and the District of Columbia, they are the eyes and ears of the national Commission. By holding hearings in state capitals and small towns, by issuing fact-finding reports on a range of civil rights topics, the State Advisory Committees point to civil rights violations we might not otherwise discover. Like the Commission, these Committees, called SACs for short, have a proud history of alerting the nation to the evils of discrimination based on color, race, sex, religion, national origin, age and handicap.

As early as 1959, the SACs were out in front--uncovering voter intimidation in Alabama, exposing the near slavery of migrant workers in Colorado, documenting willful housing segregation in New York state. We are grateful for the services of the hundreds of men and women who serve on these committees without compensation.

But, frankly, Mr. Chairman, despite their stellar record, the SACs have not been without their problems.

As civil rights questions have grown more complex, as the blatant evils of sex discrimination and racial segregation have been replaced by the murkier questions of comparable worth and court-ordered busing, as the nation has changed since the great civil rights bills passed through these chambers twenty years ago, the SACs have often remained impervious to the complexities around them.

Before our recharter the SACs simply did not reflect the wide-ranging debate over civil rights in this country.

Mr. Chairman, No SAC report ever critically examined bilingual education--and its tendency to segregate Hispanic school children from their native-born peers.

No SAC report ever proposed to abolish federal goals and timetables for ethnic groups which have suffered discrimination but may no longer need such protection.

Mr. Chairman, these SACs, while infused with the spirit of the civil rights movement, had lost track of the changing nature of the movement: the world is simply more complex in

1985 than it was in 1965. They would not acknowledge that many early and active supporters of the civil rights movement could no longer embrace all that was done in the name of civil rights--like numerical hiring quotas.

We felt the SACs had to be diverse--eclectic enough to debate tough questions like the rights of handicapped newborns or Federal affirmative action coverage of colleges and universities. The law already requires the SACs to be bipartisan; we felt they should be ideologically diverse as well--men and women who disagree over the means but are committed to a common end of weeding out discrimination and seeing minorities become fully incorporated in American life. Some of our members favor race-conscious policies; others do not. But all want an America built on fairness and equal opportunity.

Back in January 1984, the renewed Civil Rights Commission had a number of options regarding the SACs. Some said we should abolish the SACs--and we emphatically rejected that idea. A second option was to leave the SACs as they were. Again, we felt diversity demanded some amendments to the SAC rosters. So we chose a third option. We agreed to recharter the SACs with their current membership for one year, during which time the procedural rules and membership of the SACs could be studied.

In March 1984 the ~~staff~~ director recommended several changes:

- o Reduce costs and absences by making all SACs consist of eleven members.
- o Strengthen the civil rights involvement of the SACs by increasing the required number of annual SAC meetings from two to four.
- o Return the SACs to their statutory function as advisory bodies by routing SAC reports to the Commission in draft rather than printed form.

Between March 1984 and January 1985, the SACs were scrutinized in great detail. Our regional directors scoured the country for new talent; our Washington staff searched, too. Finally, in January 1985, the Commission acted on the staff director's recommendations and voted to recharter the SACs.

You may wonder just who we appointed.

Many of them are reappointments. Although we were under no obligation, legal or otherwise, we chose to reappoint nearly half of the current members or 270 out of a total SAC membership of 550. We asked Tom Pugh of Illinois to stay with us and he chose to accept our invitation; unfortunately, Ms. Frankie Freeman of Missouri did not. In Vermont, we were delighted to retain Philip Hoff, state senator and former governor. In Alabama, we kept Abigail Turner, a Specialist

Attorney for Civil Rights in the Mobile office of the Legal Services Corporation of Alabama. In South Dakota we asked Cleora Rae Johnson, a Sioux tribal leader, to stay with us. We're glad she did. There are 267 others and I will be glad to present a list if you do not have one already.

My point is simply this: far from conducting a purge, we reaffirmed our faith in literally hundreds of these veteran SAC members.

We also added new talent to the Committees. We examined each state committee individually and lent it balance—so that all views would be represented. Many of the persons we appointed are long-time civil rights advocates who have become skeptical of race-conscious strategies. Many are more favorably disposed to racial preferences. Our only litmus test was talent—informed citizens who understood and cared about civil rights in our country.

Mr. Chairman, in California, your home state and mine, for the sake of diversity and debate we appointed William Allen and Ken Masugi. Dr. Allen is an expert on economic policy at Harvey Mudd College and a member of the Council for a Black Economic Agenda; Dr. Masugi is Editor of the Claremont Review of Books, a frequent witness at Congressional hearings and the author of a forthcoming work on ethnicity in American politics.

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The list goes on Mr. Chairman:

Massachusetts. Glenn C. Loury, formerly Professor at the Kennedy School of Government, Harvard University, now at Princeton University and a prolific author on race in America.

North Carolina. Donald Horowitz, Professor of Law at Duke University. A Guggenheim fellow, he has authored many works on ethnic conflict in the United States and around the world.

Alabama. Lawrence Hanks, Chairman of the Political Science Department at Tuskegee University, Harvard educated and an expert on politics in today's rural south.

Georgia. Grace Hamilton, the first black woman elected to the Georgia state legislature.

New York. Jeremy Rabkin, Professor of Government at Cornell and a writer and observer of civil rights issues ranging from university admissions to comparable worth.

Texas. Lino Graglia, Professor at the University of Texas Law School and an articulate critic of court-ordered school desegregation.

These are some the men and women we have appointed. They are diverse crew--bound by a fraternity of talent.

No doubt, Mr. Chairman you are interested in the demographic profiles of our SAC members--their breakdown by race, sex and so on. I will get to that in a second. But let me say that race and sex were not the basis of our selection.

We felt that all Mississippians--black and white--would be well represented by Lewis Westerfield, just as all North Carolinians could be proud of Donald Horowitz as their SAC chair.

We were recruiting individuals; we were not administering digital justice--so many blacks here, so many whites there. Instead we sought diversity and knowledge--no matter what color it came in. With that in mind, let me give you the numbers.

Before the 1985 recharter the SACs were 7% American Indian; now they are 3%.

Before they were 3% Asian; they remain 4% Asian.

Before they were 28% black; now they are 25%.

Before they were 12% hispanic; now 9%.

Before they were 49% white; now 59%.

In terms of political affiliation the number of Democrats increased from 44 to 46%; Republicans decreased from 37 to 35%; and the number of self-proclaimed Independents dropped from 20% to 18%.

As for gender, men composed 54% of SAC members before the recharter; 64% now. Women declined conversely.

Religion. Catholics shifted from 24% to 22%; Protestants from 52% to 46%; Jews from 10 to 21%; other from 14% to 11%.

Mr. Chairman, what do these numbers tell you? What do they say about the goodwill, the sincerity, the commitment of our SAC members? Those are qualities that can only be discerned when you treat these people as individuals and not as so many

digits. I urge you and the members of this committee to look behind the dry statistics and see yourself. Meet our new SAC members. Talk with them. You might be pleasantly surprised.

You may also be interested in the racial data pertaining to our SAC Chairmen. These Chairmen, while responsible for conducting the SAC meetings, are not potentates. They do not "run" these Committees; in fact, their vote counts the same as that of any other member. Let me give you the statistics on our SAC Chairmen:

Race. Asians went from 12% to 4%; blacks from 41% to 18%; Hispanics from 14% to 6% and Whites from 29% to 72%.

Religion. Catholics remained at 14%; Protestants shifted from 62% to 30%; the number of Jewish chairmen grew from 12 to 48 and members of other religious groups shifted from 12 to 8%.

Party. Democrats shifted from 53% to 40%, Republicans from 25% to 44% and Independents from 22% to 16%.

Gender. Male chairs grew from 61% to 92% and women declined conversely.

Mr. Chairman, the number of racial minorities among SAC chairs has shifted more than amongst the aggregate number of SAC members. But let me assure you that our selection of chairs, like our selection of SAC members, was not made on the bases of race or sex. The net result? Chairmen who are knowledgeable, concerned and committed to enforcing civil rights in this country.

Could anyone question the expertise of our Colorado chair Maxine Kurtz, Counsel for the Career Service Authority of the City and County of Denver and one-time director of Denver Model Cities?

Could anyone impugn the civil rights credentials of our Arkansas chair Dr. Lloyd V. Hackley, Chancellor of the University of Arkansas at Pine Bluff, professor of political science and a veteran the civil rights movement?

Could anyone doubt the qualifications of our Tennessee Chair James Blumstein, Professor of Law at Vanderbilt University, a prolific scholar on civil rights, and the lead counsel and plaintiff in Dunn v. Blumstein--a 1972 Supreme Court case which abolished discriminatory residence requirements in voting?

Could anyone challenge the goodwill of our Illinois chair Hugh Schwarzberg--Chicago attorney, former Chairman of the civil rights committee of the Chicago Bar Association and a leader in B'nai Brith?

I ask only the following: instead of judging our chairmen by their race, look at them as individuals. Indeed, Mr. Chairman, if you have any objections to any one of our SAC chairs I would be interested to hear them..

And these men and women are by no means conformist. They were not chosen to tow a party line. Like the SACs themselves, the views of our chairmen encompass the spectrum of debate on busing, comparable worth and whole range of civil rights topics.

Anyone who attended our SAC chairmen's meeting last spring would know this. At that conference, we held seminars that touched on a variety of issues. We invited speakers of all points of view to debate openly. Albert Shanker, President of the United Federation of Teachers and Dr. Bernard Gifford, Dean of the School of Education at the University of California, Berkeley Nathan Glazer of Harvard and Chester Finn, Jr. of the Department of Education were the scholars on our education panel. Our SAC chairman didn't sit nodding their heads. Many of our own appointees took issue with the current policies of the Commission; many agreed with us. But all debated in an atmosphere that can only be called--democratic. I am submitting the transcript of that conference as an exhibit.

Mr. Chairman, later on the Acting Staff Director can, of course, take any of your questions regarding specific members.

Let me close by thanking you for inviting me and by urging you to take a careful look at the men and women we appointed. Liberals and conservatives, Democrats and Republicans, blacks and whites--they are talented and determined to weed out discrimination in our country. I am very proud of them and I think you will be, too.

Mr. EDWARDS: Mr. Green, do you have a statement?

Mr. GREEN: No, I do not.

Mr. EDWARDS: Does the gentlewoman from Colorado have any questions?

Ms. SCHROEDER: No, I don't, Mr. Chairman. I just apologize because we have that trade caucus downstairs that we're going to have to run to, and I am very sorry.

Mr. EDWARDS: I might point out, this is the fifth meeting I've had this morning.

Ms. SCHROEDER: I know.

Mr. EDWARDS: Well, we're very grateful to have you here, Mr. Pendleton.

You described in some detail how the SACs help you do the work in the 50 States. How many reports have been issued or written by the SACs?

Mr. PENDLETON: I noted, in your opening statement, that we had not done much with reports since 1983. I said, in my statement, that it took a year or so to recharter the SACs. We have some reports, now, that are out—I think Mr. Green can tell you the number out—from printing. But these SACs have just been rechartered, and they're looking at the issues.

We even encourage the SAC chair people and the SACs, if they wanted to, to join in some reports that we are into, so that we can have the eyes and ears of the Commission reflected in certain States and they can take on certain projects. I'm not so sure they've reached a point, now, of picking reports; but that is not the only function of the SACs.

Mr. EDWARDS: Do you have some comment?

Mr. GREEN: Well, a number of SAC reports have been approved for publication. I don't know the exact number. I can tell you this, that very, very few reports have been turned down for publication, and that the majority will be approved as written or will be approved after revisions are made.

Mr. EDWARDS: But for over a year, you haven't issued any reports to the public.

Mr. PENDLETON: There have been none to issue. I think we've been reviewing them, we've worked with the SACs; and so now—that process is rather lengthy—to make sure it's in the final form, we can check it out for legal sufficiency, the matters of defame and degrade, and then send those to the printers.

Mr. EDWARDS: But your response is still zero, Mr. Pendleton.

Mr. PENDLETON: I'm sorry?

Mr. EDWARDS: But your response is still zero. You still haven't issued any report, you're still mulling them over in the office.

Mr. PENDLETON: No, I think some are finalized matter, being printed. If you call issuing the final printed form, the number is zero; but I think if you talk about whether or not they've been approved for printing, that's a different issue, and I think there must be around seven reports, as I can recall, that have been approved for printing.

Mr. EDWARDS: How many reports are awaiting your approval, Mr. Green?

Mr. GREEN: Since January of 1984, we have approved without major revision seven reports or concepts. Nine have been sent back

for revision on legal sufficiency grounds, three have been sent back for revision on jurisdictional grounds, and a couple—a few—have been found not suitable for publication.

Mr. EDWARDS. Well, we do have a problem. You have reports in the office, but none are in the public domain. Correct?

And when do you expect to get some into the public domain so there can be some public response and interest in them?

Mr. PENDLETON. I think there has been public response where those facts have generated those reports, in that public domain. I'm sure that as soon as they come from the printers, by that schedule we'd have them in place; and I would say sometime within the next 6 to 8 months you might see something printed with a fancy cover on it and out into the public.

What I'm interested in, I guess, in a number of your questions about getting reports to the public, it is also clear with us, that there is much more to be done. There's been much more work generated, I think, by some of these SACs, in the meetings that I've read about in the press, and the reports that we get on a monthly basis from the staff director shows a lot of things are happening. And I think gathering facts, to be able to assemble those in a report, is critical so that they can be quality reports that meet the test of jurisdiction and meet the test of contemporary issues on civil rights, so that they can come to the public.

Mr. EDWARDS. I think the public and this committee would be interested in seeing what kind of work is being done by the SACs. So far, we have seen nothing.

Mr. PENDLETON. Let me be specific with you. There was a lot of public discussion about the impact of the Migrant Workers Report in the State of Virginia. That is an older SAC report. We spent a lot of time with that, because, as I recall, Mr. Chairman, migrant workers are not a protected class. There might be people who comprise the migrant worker population that are in a protected class. It was a matter of putting that report in the kind of form around the jurisdiction and the mandates so it could be issued. I think that report has had tremendous impact upon how migrant workers are treated in the State of Virginia, and will continue to have some impact, I think, for some time to come. The Governor and his staff have made reference to that report, so I think there are things in the public domain, and as reports are generated, I'm certain they won't make as much impact in the public domain.

Similar things can be said about the approved or unapproved reports in the State of Delaware with respect to the same situation. The Delaware SAC decided to release a report—information—before it came to the Commission. That got to the public domain, and we're still trying to work with that one now for official release.

Mr. EDWARDS. Well, thank you, Mr. Pendleton. I think you should have pointed out that the report you refer to on the migrant problems in Virginia was written by the old SAC in Virginia and that you held it for more than 2 years.

Why did you hold it for 2 years without publishing it?

Mr. PENDLETON. I did say that it was written by the old Commission. I did say—probably when you were talking, Mr. Chairman—that that report dealt initially with migrant workers being a protected class. They are not, by statute, a protected class. The idea

was to work with the SAC, to put that report in such condition that we could release it so that migrant workers would not be considered a class, and so that information could get out in a form that was jurisdictional and met our tests of legal sufficiency.

I think the assumption is, because one is written that one has to be published. I think it is also clear to us that we want to make certain that when work goes out from the Commission, that it has the blessing of Commissioners.

This is the first Commission that I know of, where we have asked the staff director to receive copies of the draft report at the same time the staff receives them. And Commissioners are discussing the reports so that they can be conversant with content and, also, understand the process.

I must also say to you that sometimes reports run into the conflict of budget and how much money we have to print them.

Mr. EDWARDS. For the record I think we should point out that there was a precedent for a SAC investigation. In 1959 there was a SAC study of migrant workers in Colorado. So, you did have a precedent in this particular case.

Mr. PENDLETON. Mr. Chairman, I hate to belabor the point. I think you missed the point. There was a report about migrant workers; this report in Virginia made them a protected class. I know of nothing in the statute that makes migrant workers a protected class, and you had to make—had to put the report into a jurisdictional framework, I guess, so that it could be released, so that they were not considered by the public to be a protected class, so that it would not violate the statute.

Mr. EDWARDS. Thank you, Mr. Pendleton.

Mr. SENSENBRENNER.

Mr. SENSENBRENNER. Thank you, Mr. Chairman. I just have a couple of quick questions.

Penny, what are you doing appointing all those Democrats to these SACs?

Mr. PENDLETON. Well, I think that there are Democrats who want to do the right thing. And it's our contention that we want to maintain bipartisan SACs, and we want to make sure that everybody's point of view gets to the table, in all seriousness; we think that is important.

You'll recall that our Commission has more Democrats than it has Republicans, and I think that's interesting, too.

Mr. SENSENBRENNER. Yes. That's because I prevailed upon Mr. Michael to appoint a Democrat as his selectee.

Mr. PENDLETON. You are a wise man, Mr. Sensenbrenner.

Mr. SENSENBRENNER. Thank you, Mr. Pendleton.

It seems to me the implication is being made that somehow activities in Washington are suppressing the debates and the conclusions of the SACs from being released to the public. Are the meetings of the SACs in the 50 States open to the public, and have they been reported in the local press in each of the 50 States?

Mr. PENDLETON. Mr. Sensenbrenner, I think these SACs have received more press since the rechartering of any SACs that I have known. The meetings are open.

There's been great work done in Louisiana. There was a meeting and there was a big discussion and assertions were given out about

comparable worth by one of the professors, I think at LSU, during the meeting of the SAC, one of the initial meetings in Louisiana. That received a lot of attention, a lot of media coverage, the wire services plus local papers picked it up.

There's been a lot of discussion about affirmative action in the State of Maine. There's been much discussion about what happens in Montana and the composition of people. There have been attacks by the liberal media on people that we have appointed. I think that is unfortunate. And there has been, I think, again, more public attention generated around these SACs than I have ever seen.

Mr. SENSENBRENNER. In other words, in each of the 50 States, the people have the information available on what the SACs are doing, what the debates are in the SACs, and, I assume, if there is a vote taken, what conclusion the SAC has made, even before you in Washington get any word of what they're up to.

Mr. PENDLETON. We won't—again, that's true, because we don't want to get into their business. If a report is what is at issue, we want to make sure that that report meets the standards for reporting. We don't pick the SACs issues to deal with. It is clear that Commission policy means policy with respect to those things that we have adopted, there's no question about that. And that has been true of any commission.

We have encouraged Commission members to meet with SACs and attend SAC meetings around the country. I'm proud to say that last year we met—went out of our way to meet—with many people in the current and the old SACs, if you will, and we had regional meetings, brought them in for extra meetings, and we discussed where we were as a Commission, the kind of agenda, and elicited their cooperation.

I think I have met with just about every SAC chairperson in this country, whenever I travel the States—and I might be in the territory where the SAC chairman or a SAC person is, I make certain that I spend time talking to that person, so that my colleagues, if they have not done so, will do the same. We want a harmonious working relationship with the SACs. We consider them to be our eyes and ears in the community, there's no question about it. And I'm certain that this committee and this Congress can be proud of the work that these SACs are going to do, are going to come up with, and, hopefully, we can get it all published and get it to the public domain, or broader public domain, as soon as possible.

Mr. SENSENBRENNER. Thank you very much.

Mr. PENDLETON. Thank you.

Mr. EDWARDS. I believe it is your testimony, Mr. Pendleton, that your Commission members and your staff talk to these people who are members of your SACs in the 50 States, and that this information is gone over and then you issue reports on their findings from Washington. Is that your testimony?

Mr. PENDLETON. No. No, no. They are advisory to the Commission. They are not a separate, legally constituted entity, they are our advisory committees. As a result, we have responsibility over the kinds of things that come out. We take all kinds of advice and listen to all kinds of advice, but we must remember that they are our committee, they do not belong to anyone else. And we will

work with them in such a way to make the work fruitful, in keeping with the statute that has constituted this Commission.

Mr. EDWARDS. I understand that over half of the staff recommendations for SAC members were rejected by the staff director. What were the reasons for the rejection, do you know?

Mr. PENDLETON. Max can answer that. Of course, I have some ideas, but I want him—he was the one that put this together, pretty much, and I think he is the one that can give you the best answer.

Mr. GREEN. Well, I would put it a different way. I would say that nearly half of the recommendations were accepted. And I would also say that the Commissioners are in no way bound by the recommendations of the career staff of the Commission on Civil Rights.

The reason why the Commission decided to accept half and then to go out and look for other people to fill up the other slots, was that it was felt that it was absolutely essential that we add more diversity to the membership of the State advisory committees. And we think that we have succeeded very well in doing that.

Let me give you some examples of that, perhaps, that you might find interesting and informative. I know that you're going to have testifying here the former chairman of the Illinois State Advisory Committee and of the Missouri State Advisory Committee. Take a look at the new membership of the Illinois State Advisory Committee. What you'll find is, as Mr. Pendleton said in his testimony, there was no attempt to purge the old members of the State Advisory Committees. On the other hand, I think it is ludicrous to assume that we ought to reappoint everybody who has served on those committees simply because they once served on those committees. At the very least, one would hope for some fresh blood.

What do we do in Illinois? What we did was to, out of—we have 11 members in that State Advisory Committee, 6 of them, a majority, had served on the State Advisory Committee in the past. Of the new people who we appointed, their credentials, it seems to me, are impeccable. I would stack up the credentials—the civil rights credentials—of the new chairman against any—against that of the old chairman, which is not to say that the old chairman didn't have impressive civil rights credentials but so does the new chairman. He is the former chairman of the civil rights committee of the Chicago Bar Association with a history as long as your arm in civil rights.

I can also point out we added several other people who have long-time involvement in civil rights matters. For example, we have appointed—this is a new appointee—a new appointee is Joyce Tucker, who is director of the Illinois Department of Human Rights. Her prior employment includes her work as acting director of the Illinois Department of Equal Employment Opportunity.

We have, in addition, John Linger, who served for the U.S. Commission on Civil Rights, the past summer, and is a student at the Chicago Law School, and has written for our civil rights publication.

But the point is this, that in Illinois one of the committees that has been complained about, we retained six people and then the people who we added have impressive civil rights credentials. I

don't see the basis for complaining about the composition of that committee.

And I could go over other committees in the same fashion, to show you, one, that the purpose was to add diversity to these committees, and then the purpose was to add people with impressive civil rights credentials who could bring a new way of looking at civil rights issues.

There is a debate on civil rights in the United States of America, and the committees, in our opinion, should reflect that debate; they should not reflect just one point of view.

In line with that, let me tell you this—and this is a matter of record—that at our meeting of the State Advisory Committee chairmen in June, what we encouraged them to do was not to follow the line of the new reconstituted Commission on Civil Rights, but rather, time and time again, what we urged them to do was to put on forums on controversial civil rights issues, and we urged them always to have not just one point of view represented, not just two points of view represented, but all points of view represented; so that the debate on civil rights could be fairly reflected within the State Advisory Committees of the U.S. Commission on Civil Rights.

Mr. PENDLETON. Mr. Chairman, I just want to make one add-on comment to that. This Commission, as it is constituted, has no fear of the debate on the status quo. In many of my speeches, I have been asking the question, 21 years after the Civil Rights Act of 1964 was passed, is it still important to consider preferential treatment for people in this country? And if that is the case, who gets it and how long should it last?

In the previous Commission we haven't entertained such thinking. You'll probably hear testimony today about the politization of the Civil Rights Commission. Mr. Chairman, that debate is over. We are sitting, and to look at the kind of work that we are doing, the kind of issues that we're taking on, the kind of questions that we're trying to answer for the American taxpayer, we have no fear of the debate. And I think it's now time that we have that debate. And the people we have appointed to these commissions, and the ones that we have kept, have no fear of discussing the issue for the sake of coming out with a different kind of recommendation to the public.

Mr. EDWARDS. Well, Mr. Pendleton, a third of your budget goes to SACs in the 50 States. Previous Civil Rights Commissions, which you don't seem to respect very much, issued lots of reports from those States, which were in the public domain and which the American people got a chance to read. You have issued not one single report from the SACs.

Mr. PENDLETON. And, Mr. Chairman, you refuse to understand that these are reconstituted committees and they are trying to get to issues that they want to put in the report. Unless they bring us the reports, Mr. Chairman, we can't give them the work; then you'd be criticizing us again. And I have respect for many of the other commissioners and all the other commissions that have worked in civil rights; but times do bring about a change.

I think what is also clear here, is that—you mentioned one-third of the budget; our budget has not increased for inflation for years

and we know, good and well, that this side of the Congress has tied up our budget in the past so that we couldn't do anything more with it. One-third of the money of a \$12 million budget's been here since I've been here. And what we've done now, in this Commission, is to allow two more SAC meetings a year, which are mandatory for SAC people to attend—two more, rather than just two. They can meet more often. And that does not include the annual meeting of SAC chairs.

And I agree with you, a third of the budget deserves some work, and that work, now, is putting together the kind of information to do the kind of fact finding required to give us the reports you say should be in the public domain. And I make you that commitment, I make you that promise, that when the reports come to us they will be expedited. We have a new process to make that happen and hope to turn it around with a 6-week to 2-month period. That is not easy, Mr. Chairman.

Mr. EDWARDS. Mr. Green, you mentioned Illinois with some pride. Hispanics are a large minority in the State of Illinois, and yet, there is no Hispanic member. Couldn't you find one, or did you try?

Mr. GREEN. If we had gone out and said, "We will commit ourselves to a quota of one Hispanic," we would have found that Hispanic. And if we had committed ourselves to finding 11 Hispanics, and said that we would have set up a quota of 11 Hispanics, I guarantee you that we would have found 11 Hispanics and you would see 11 Hispanic names down here. What we did do was try to go out and find the best qualified people that we could. We think that we have succeeded in putting together a very prestigious committee.

Mr. EDWARDS. Well, your staff recommended one Republican Hispanic, a Hispanic woman, and you turned her down.

Mr. PENDLETON. Well, Mr. Chairman, I think that's true, we turn people down. We turned a lot of people down. And I think that goes back to your opening remark with respect to some kind of proportional representation or race conscious assignment, and this Commission does not believe in that.

Mr. EDWARDS. Mr. Kiko.

Mr. KIKO. I have a question dealing with the process that the Commission went through when they selected the new SAC members.

Mr. Pendleton, in your testimony—either you or Mr. Green can respond—you did mention that the Civil Rights Commission staff participated in the selection of members of the SACs. Could you tell me how the Commission recruited SAC members? What organizations were contacted? What groups were contacted? What did the process entail?

Mr. GREEN. Well, the first thing we did was to solicit the recommendations of our field staff. And as Mr. Pendleton and I both have stated, of the recommendations which were made by our field staff, fully 270 of them were accepted and approved. And those 270 people are now sitting on the rechartered State Advisory Committees. We also felt that we had to—or at least we were under some obligation to—improve the quality of these State Advisory Committees, to add to the diversity of the State Advisory Committees, so

what we did was begin to search out for people who had credentials in the civil rights area but who reflected a different point of view, so that there could be a debate within each and every State Advisory Committee.

So, we went to organizations like the Equal Employment Advisory Council, whose membership consists of EEOC officers, personnel directors, counsels for major corporations—people who have had hands-on experience in implementing civil rights laws, people who have hands-on experience in implementing affirmative action programs.

I should tell you, by the way, that many of these people whose names were recommended by the Equal Employment Advisory Council disagree with my point of view on, for example, goals and timetables, or disagree with Mr. Pendleton's point of view on goals and timetables; but felt that they had brought needed experience to the State Advisory Committees. And after talking with them and reading something about their backgrounds, we felt that these were people who we could reason with, who we could dialog with, who we could debate with; and we thought, therefore, they deserved to be on State Advisory Committees.

We went to organizations like the Anti-Defamation League, the quintessential Jewish civil rights agency. We looked to—well, we have a number of consultants who work with the Civil Rights Commission on various projects, we asked them for their recommendations.

If you look down the list of people appointed to the State Advisory Committees, one thing I can assure you is that never before in the history of the Civil Rights Commission have the State Advisory Committees included so many prestigious members of law faculties.

Why is that the case? It didn't happen by accident. It happened because we were in contact with various people in the legal profession and we asked them for their opinions about it: you know, "Who would be good to serve in the State of Tennessee?" Jim Blumstein's name was recommended there. "Who would be good to serve in other States?" And we got names in that way, by word of mouth from people whose opinions we respected.

In addition, we had various contacts within the trade union movement, and so I.W. Abel's name, who Mr. Pendleton mentioned, his name came up. Now, to tell you the truth, I don't know where I.W. Abel stands on the question of busing; I don't think Mr. Pendleton does either. I don't know where I.W. Abel stands on the question of goals and timetables. I think it was during his presidency of the United Steelworkers that a steelworker's local, probably with the "OK" of the international, entered into the *Weber* agreement. Most likely, on a number of civil rights issues, Mr. Abel and I would disagree and Mr. Pendleton and Mr. Abel would disagree. But that was not the criteria; the idea behind the rechartering of the State Advisory Committees was not to flip flop them and take them from being, you know, like State Advisory Committees who toed one line and then fill them solely with people who toed another line; the idea was, as was stated several times this morning, to add diversity, to encourage debate.

Mr. KIKO. When you would ask somebody to serve, or you would talk to a perspective SAC member, was there ever anything men-

tioned that got to—I think you've already answered this, but—they should toe a certain agenda, they should, you know, stick to a certain line in agreement with the Civil Rights Commission, or was that ever—

Mr. GREEN. Absolutely not.

Mr. KIKO [continuing]. Ever anything expressed or implied?

Mr. GREEN. Absolutely not. You know, with the quality of people that we were trying to recruit, it would have been insulting and politically dangerous for us to have done such a thing.

And, by the way, you're going to have a new State Advisory Committee chairman testify this morning, and ask her that question. Ask her what she was asked before she—

Mr. KIKO. I intend to do that.

Mr. GREEN [continuing]. Agreed to serve as the chairman. And also, by the way, ask her whether or not she was given any guidance about, direction about, exactly what she should do as chairman once she agreed to serve on the committee, and whether she was given any direction as to what to say at this hearing. She wrote testimony which I can tell you right now I saw for the first time when I walked into this room.

Mr. EDWARDS. On that subject, I get out of your responses to Mr. Kiko that you are going to allow these members of your commissions who disagree with you to issue minority reports from—

Mr. PENDLETON. Sure.

Mr. EDWARDS [continuing]. the SACs; is that correct?

Mr. PENDLETON. If they want to put it in the report, I don't see any reason why that cannot be considered in the process. The Commissioners, themselves, issue minority statements.

Mr. EDWARDS. Well, we don't know if you have them, Mr. Pendleton, because they are on Mr. Green's desk.

Are there minority reports and minority opinions in the reports that you have on your desk, that you are going to publish?

Mr. GREEN. Of the State Advisory Committees?

Mr. EDWARDS. Yes.

Mr. PENDLETON. I don't know.

Mr. GREEN. All I know is that has not been a practice in the past. It is something that the Commission can consider and it's something that the Commission's been considering.

Mr. PENDLETON. Well, I think if they follow what's happening with the Commission, itself, I think it's clear, Mr. Chairman, that this is—their collegiality is probably out of the window, and I've been encouraging my fellow Commissioners to come, when we come to vote on matters, like on comparable worth and on the *Stotts* decision and the like, that they bring their own opinions with them, and we issue those right along with the report.

And we have yet to stifle anyone's comments. I think it is inappropriate to stifle people's comments. I think if there are serious enough objections to where the State Advisory Committee is, the State Advisory Committee ought to make a similar kind of decision. I'd have no problem with that. I'm sure my colleagues would not either.

Mr. EDWARDS. Go ahead, Phil.

Mr. KIKO. I don't have any further questions.

Mr. PENDLETON. Thank you.

Mr. ISHIMARU. Let me follow up on Mr. Kiko's earlier question regarding groups you contacted to find SAC members.

Did you contact any minority or women's groups?

Mr. GREEN. Well, I would say this about that: Actually, there is a group of women which was contacted, which was the Eagle Forum, which recommended a number of names to us. Four members of the Eagle Forum were eventually appointed to the State Advisory Committees. As far as—

Mr. EDWARDS. Is that Phyllis Schlafly's group?

Mr. PENDLETON. Yes.

Mr. GREEN. What?

Mr. EDWARDS. Is that Phyllis Schlafly's group?

Mr. GREEN. Yes, it is.

Mr. EDWARDS. Yes. Thank you.

Mr. GREEN. Four members out of a total of—four good members, we're proud of those members, four good members of the State Advisory Committees, out of a total of 550, come from or publicly identify themselves as members of the Eagle Forum.

As far as other organizations are concerned, I've mentioned one minority organization, which is the Anti-Defamation League. Other organizations were not—for example, let's say the NAACP, were not officially contacted, but it was not necessary in this particular instance.

Mr. ISHIMARU. Why not?

Mr. GREEN. It wasn't because what we were trying to do was not get official representatives of any organization. We don't want a—the people who we appointed from the Eagle Forum are not supposed to come there and say, "The Eagle Forum told me to say this to you. I am the official representative of the Eagle Forum and this is what we think that you should do." They should consider themselves as members of the State Advisory Committee who have a point of view which deserves to be expressed within the State Advisory Committee.

The question was, is the point of view of the NAACP on affirmative action, is that represented within the State Advisory Committees? And the fact is, it is very well represented. And we want it to continue to be represented, which is why we so readily—the Commissioners—so readily agree to approve 270 of the recommendations of our field staff. And these are almost entirely people who, you know, who share that general point of view, so

Mr. PENDLETON. Just one point on that issue. If the committee reviewed the "biogs" and the biographical data sheets of every one of the SAC people who now comprise the 11-member SACs of each State, you will find that many people belong to many minority and women's organizations already, and NAACP and so forth, Urban League, and people have a long history of being members of, as you call it, the minority organizations, and they're there. Part of our work was to add some balance, because, in many cases, it was over balanced the other way in terms of the minority organizations.

Let me be fair with you again—and I want to stick to this point—the Civil Rights Commission and the civil rights people in this country are not limited to minority and women's groups, it is open to all Americans, and, therefore, they have to be, all Americans, represented; not in proportional numbers, certainly not, but

that the views of people are represented. There's nothing to say in this country that white Americans do not have the feeling for where minority, or black, or Hispanic Americans are in this country, and certainly you cannot say that the other is not. I think it is important to talk about the fact that we have to have representation around issues and not so much representation around groups. This is not a representative body where you have to have selected from certain groups a number that reflects their involvement in some proportionate way.

Mr. ISHIMARU. Am I following you correctly in saying that the staff recommendations that came in to you over a 3-month period late last year were stacked toward the traditional civil rights view, or—

Mr. PENDLETON. I don't think so at all.

Mr. ISHIMARU [continuing]. Were they representative?

Mr. PENDLETON. We came up with a balance point, we looked—I think the staff looked at where it was. And I think what we did was say, "Look we want diversity on the debate. How do we get that from the SACs? We've got to make certain that we've got people where there's a balanced point of view, or people that understand what the issues are—"

Mr. ISHIMARU. So it wasn't balanced?

Mr. PENDLETON. Beg pardon?

Mr. ISHIMARU. So the staff recommendations were not balanced?

Mr. PENDLETON. They were balanced.

Mr. GREEN. There's some confusion here, because when you say "staff recommendations"—

Mr. ISHIMARU. From the regional program offices, and they came in through the rechartering packets that were due late last year.

Mr. PENDLETON. Go ahead.

Mr. GREEN. The fact is that the recommendations that came in from the field offices were primarily of those people who had served on the committees in the past or who, for all we could tell from reading their "bios," were people who shared that same point of view.

Mr. ISHIMARU. So, they were stacked, in a sense.

Mr. GREEN. I don't want to criticize the field staff of the U.S. Commission on Civil Rights, in saying that they attempted, through their recommendations, to stack the Commission. What I'm saying is that I don't think they sufficiently took into consideration the need for diversity—

Mr. ISHIMARU. They weren't balanced?

Mr. GREEN [continuing]. And that we filled in that gap.

Mr. ISHIMARU. So the SAC recommendations which came in from the field staff were not balanced?

Mr. GREEN. Officially, no. Look, if they added enough diversity, then we would just have, you know, 550 recommendations from the field staff would have been approved.

Mr. PENDLETON. Let's be fair, that isn't the only route for recommendations.

Mr. ISHIMARU. What are the other routes?

Mr. PENDLETON. The field staff is not the only route recommendation. I think there are many people who I have met in the course of travels, on both sides of the ledger, if you will, the race-conscious

remedies versus the nonrace-conscious remedies, if you will, who have asked to be members. I can only turn those names over, like my colleagues have probably done, people who want to be on SACs. At the same time, a lot of people whom I know, whom I didn't know this happened to, are no longer members of SACs, who think the way I think. But that's the nature of the beast.

We are trying, again, to add to the Commissions' discussions the kind of people that will give it a balanced point of view, if you will. And I think that's pretty much mirrored in our work with comparable worth, where we had eight pro and eight con papers at the comparable worth consultation. So, it means we have no fear of that debate.

Mr. ISHIMARU. Mr. Green, over the last couple of weeks I've been going over the "bio" sheets of the new and old SAC members, and I found a couple to be rather disturbing. One of your SAC members in New Mexico, the chair of the SAC, was found guilty in 1976 of violating title VII of the Civil Rights Act.

Is that the type of person you're looking for to serve as a SAC chairman?

Mr. GREEN. What happened is, I had our general counsel look into that case, because a complaint was made. I think you don't think it would be fair that, just because a complaint was made, we should ask a man—

Mr. ISHIMARU. He was found guilty, wasn't he?

Mr. GREEN [continuing]. Not to serve. What happened was, that—as a matter of fact, he, personally, was not found guilty of any discrimination. The court did not find that he had practiced discrimination, the court did not find that he was responsible for discrimination that was practiced. What the court did find, was that somebody lower down—he was the head of the Model Cities Agency, had practiced discrimination and was found guilty of discrimination. The fact that he was sitting at the top of that Agency doesn't mean that he was practicing discrimination. And that, I am sure, has happened to I don't know how many people who have had responsible jobs. I would suspect the heads of, what, half the major corporations in the United States have found themselves sitting at the top of a corporation whose low officials had been responsible for practicing one form of discrimination or another.

Mr. ISHIMARU. What about Ms. Whitlock out in Arizona, one of the Eagle Forum members who was an opponent to a 1979 fair housing ordinance in the city of Mesa? What about her opposing the civil rights law that basically set forth fair housing as a city policy?

Mr. GREEN. She was not in favor of a particular piece of legislation. To me, what would disqualify somebody from serving on a State Advisory Committee—and I would certainly not recommend anybody to Mr. Pendleton or any other Commissioners if this were the case—what would disqualify them in my eyes would be if they personally practiced discrimination or if they advocated the practice of discrimination.

Whether or not they stand in favor of a particular piece of legislation or not I don't think disqualifies them. And, in fact, if one is—there is a Grove City bill. Whether or not one is for or against

the Grove City bill doesn't, to me, say whether or not you are qualified or not to serve on the Civil Rights Commission.

I happen to think of many people who are serving in very responsible elected and appointed positions in American government today who were not in favor of every single piece of civil rights legislation that has been passed in our history, even those pieces of legislation which I, personally, support. That, in my opinion, does not disqualify them from serving in the Civil Rights Commission.

Because she was against that particular piece of legislation does not mean that she is not in favor of civil rights. And what civil rights means is that individuals should not be discriminated against on the basis of race, or sex or ethnicity.

Mr. PENDLETON. I looked at some of that, and I can only say to you that to say that she's against fair housing is to say one thing for the public record. I think when you make that kind of statement, what was she opposed to in this whole case? There are many ways to look at legislation. The fair housing legislation, which may not really be fair housing legislation and might have some other implications to it.

I think a lot of us can oppose things, as Mr. Green says, that does not make us anticivil rights; although many people call us that way does not mean that we're "anti" that. There may be a different point of view of how that bill should have gone. So, I think to say that she was opposed to fair housing, as to say that Mr. Montoya was convicted, tends to confuse the record.

Like Ms. Kurtz, having been a model cities director, myself, I understand what can happen to you in cities. And it just so happens that if somebody had come behind Mr. Montoya and he had been out of the job altogether, it still would have been a Montoya suit. And I walked into a similar situation in San Diego. I was not a part of the suit, but a citizen suit on the reorganization of the citizen's advisory board of the Model Cities Program in San Diego was certainly an interesting suit.

So I think what you have done, you have searched well, and I think you have brought forth some things that require some discussion but do not disqualify people from being a member of the SAC.

Mr. ISHIMARU. Mr. Green, when did you actually search for new members? When did the search take place? Was it after the regional recommendations came into Washington?

Mr. GREEN. I would say that most of the search took place subsequent to then.

Mr. ISHIMARU. When were the phone calls being made, in January, February, and March of this year?

Mr. GREEN. That's when the bulk of them were made, yes.

Mr. PENDLETON. If you recall, counsel, that we said, "Let things alone for a year." We could have changed this whole thing, like, right away; no question we could have done that. But what we did was, we said, "Let's look at where it is and let's come up with the best possible recommendation." And once we did it, and the time ran out, for the 2 years to recharter, we had to stay on course. Had we not stayed on course, there might have been a different kind of oversight hearing here.

Mr. ISHIMARU. Your statement, Mr. Pendleton, said that a search was ongoing from March 1984 until January, and that the rechartering was done in January.

Mr. PENDLETON. Right.

Mr. ISHIMARU. Is that—

Mr. PENDLETON. January 1985, I think we did most of the rechartering work.

Mr. ISHIMARU. [continuing]. Say of five States only.

Mr. GREEN. Well, there was a search that went on throughout the second half of 1984, because the State Advisory Committees—I mean, excuse me, the regional offices—were working on it during that period.

Mr. ISHIMARU. Weren't the regional offices told to start the search in September 1984, at the SAC chair hearing in Nashville? Wasn't that the start of the search process, and not the second half of 1984? Didn't Ms. Chavez tell the regional directors to give her a list by the end of the year, putting the search into a 3-month period; a process that normally takes 2 years to do?

Mr. PENDLETON. Well, that could be true. I don't know Ms. Chavez, you'd probably have to ask her that question. All I can say to you is that the time element between the time we set for letting things stay in place for a year and the time to recharter the SACs, we said, in many cases, "Let's recharter them at a time when the charter expires." It was important to get on with that work. If it took years before, it does not mean it has to take 2 years now.

I'd say that gets back to the chairman's point, "You took so long to do things, why don't you get on with it?" And we got on with it.

Mr. ISHIMARU. My point is that all of this happened relatively quickly. It happened in a 3-month period when the regional offices came up with names, followed by a 3-month period when your office in Washington come up with names. And it seems a little sloppy to me, when you have people like Mr. Montoya, who nobody knew anything about, and Mr. Stewart, the chair of the Connecticut SAC, who said that he didn't have any clue as to why he was picked to serve on a State Advisory Committee.

Mr. PENDLETON. Let's be clear. I think the scenario you are drawing is not a good one, and I think it is a disingenuous way of dealing with our business. If we did it in 3 months time, it's commendable to the staff to get the Commission's work done in a period of time when we could begin to act. There have been so many comments and criticisms about delays in our work, and now, when we do something with dispatch, we do something that is complete and you still want to say that Mr. Montoya is a problem. Mr. Montoya is not a problem, the lady in Arizona is not a problem.

Mr. ISHIMARU. So you are proud to have all of these SAC members.

Mr. PENDLETON. There's absolutely no question about that. We voted them in and we are proud to have people as part of the SAC.

Mr. ISHIMARU. Let me make one more point.

Mr. GREEN. I've gone over these sheets time and time again.

Mr. GREEN. I should add that in cases like the one you've discussed with regard to Mr. Montoya, we have asked the people who complained to provide us with information if they think that he's

unqualified to serve. The only thing we've received so far was a court decision which did not find him culpable of discrimination.

Mr. ISHIMARU. In any form?

Mr. GREEN. No. The actual court decision, no.

In which case, what should we do? The man has had an admirable record. Because somebody complained about him——

Mr. ISHIMARU. He was also found guilty in 1976.

Mr. GREEN [continuing]. Therefore, he won't be allowed——

Mr. PENDLETON. Of what?

Mr. ISHIMARU. Of a violation of title VII of the Civil Rights Act.

Mr. PENDLETON. He was not found guilty at all.

Mr. GREEN [continuing]. He was not found culpable of discrimination.

Mr. PENDLETON. Mr. Montoya was not found guilty. The agency might have had a problem, but not Mr. Montoya, because we checked on it.

Mr. GREEN. If you would like, we can have our general counsel come up and discuss the case with you, but he——

Mr. PENDLETON. Be glad to do that.

Mr. GREEN [continuing]. Read it carefully, many times, and he advised me that Mr. Montoya was not found culpable of discrimination.

In which case, what reason would I have for asking him not to serve as the State committee chairman?

Mr. PENDLETON. As a matter of fact, counsel, I have known Mr. Montoya for some time, as far back as 1970, and find him to be a man of high standing and high character. And you get into those kinds of positions and those kinds of things happen to you, there's just no question about it.

Mr. ISHIMARU. Let me make one more point. I've gone through the "bio" sheets and the rechartering packs for the last couple of weeks now, and I've looked at the people you've picked, and just going down, the numbers are rather striking.

Under your regulations you are required to have SACs that are diverse as to race, sex, political affiliation, religion, et cetera. Going down the list, just for race and gender, are the people who were picked by the Washington, DC staff: 4 Asian American, 7 Indians, 44 blacks, 16 Hispanics, 206 whites—73 percent of the choices, 72 females, 207 males—74 percent of the choices. For SAC chairs it's even——

Mr. GREEN. You're confused. The Washington staff, nobody, no one, not a single——

Mr. ISHIMARU [continuing]. Mr. Green, who recommended the people?

Mr. GREEN [continuing]. They didn't pick. They made recommendations.

Mr. ISHIMARU. Which were voted on by the Commission.

Mr. GREEN. Every single selection, each and every one of the 550 State Advisory Committee members was picked, or selected, or appointed—whatever words you want to use—by the Civil Rights Commission.

Mr. ISHIMARU. Who did the background work?

Mr. PENDLETON. The staffs did the background work.

Mr. ISHIMARU. The staff did the background work.

Mr. PENDLETON. Do you want to separate the Washington staff from the regional staff?

Mr. ISHIMARU. Sure.

Mr. PENDLETON. You can't do that.

Mr. ISHIMARU. Sure I can.

Mr. PENDLETON. No, you cannot. They report to the Washington staff.

Mr. ISHIMARU. Right. But the regional staffs came in with recommendations.

Mr. PENDLETON. So?

Mr. ISHIMARU. Over half of those recommendations were added to by the Washington staff headed by your office—

Mr. PENDLETON. That's fine.

Mr. ISHIMARU [continuing]. Mr. Green. Right?

Mr. PENDLETON. They work for the Washington staff.

Mr. ISHIMARU. Right. I understand that.

Mr. PENDLETON. They're not a separate entity.

Mr. ISHIMARU. I understand that. But Mr. Green's office came up with recommendations as well.

Mr. PENDLETON. Why not?

Mr. ISHIMARU. Is that right?

And of those recommendations, I'm making the point that those numbers came up overwhelmingly white and overwhelmingly male.

Mr. PENDLETON. What's wrong—

Mr. GREEN. As a matter of fact, Mr. Green, myself, who was in charge of this process, made 550 recommendations to the staff director, 270 of which were forwarded by the regional offices.

Mr. PENDLETON [continuing]. I'm trying to understand. You and the chairman have an affinity for these numbers and that white men should not be a part of this process, or not in the numbers they should be in. Where should white men fall in this process?

Mr. ISHIMARU. The regulations of your agency, Mr. Pendleton—

Mr. PENDLETON. Yes.

Mr. ISHIMARU [continuing]. Say that the State Advisory Committees shall be diverse groups. The choices that were made by Mr. Green's office certainly didn't fit that criteria, they were—

Mr. PENDLETON. How did you define bi partisan in this case?

Mr. ISHIMARU [continuing]. There was certainly backtracking there.

I have no further questions. Thank you.

Mr. PENDLETON. Oh, OK.

Mr. EDWARDS. Well, we thank—

Mr. PENDLETON. That's one way to end it.

Mr. EDWARDS [continuing]. You very much. We have three more distinguished witnesses we're anxious to hear.

Our final panel this morning consists of former and current SAC members and chairs:

Frankie Freeman was one of the initial appointments to the Missouri SAC in 1958, on which she served until 1964 when President Johnson appointed her to serve on the Commission. Her distinguished work on the Commission lasted for 16 years, the longest tenure of any commissioner. In 1982, she was appointed to chair the Missouri SAC but was not reappointed during this recharter.

Tom Pugh is the former chair of the Illinois SAC and continues to serve on the committee. He is a newspaper editor and a university professor.

Maxine Kurtz is the current chair of the Colorado SAC. She is an attorney with the city and county of Denver and coordinates an affirmative action program for the city.

We welcome all three of you.

Ms. Freeman, do you want to begin?

TESTIMONY OF FRANKIE M. FREEMAN, FORMER COMMISSIONER OF THE U.S. COMMISSION ON CIVIL RIGHTS AND FORMER CHAIR OF THE MISSOURI STATE ADVISORY COMMITTEE; TOM PUGH, MEMBER AND FORMER CHAIRMAN OF THE ILLINOIS STATE ADVISORY COMMITTEE; AND MAXINE KURTZ, CHAIRWOMAN, COLORADO STATE ADVISORY COMMITTEE

Ms. FREEMAN. Yes, thank you. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am Frankie M. Freeman of St. Louis, MO. I want to thank the subcommittee for extending an invitation to me to appear to offer comments concerning the State Advisory Committees to the U.S. Commission on Civil Rights.

As you know, I have come full circle in my services to the U.S. Commission and the State Advisory Committees. In 1958, I was appointed as a charter member of the first organized Missouri State Advisory Committee. I served as vice chairman and secretary to the Advisory Committee. And I served on the Advisory Committee until 1964, when President Johnson nominated me to be a commissioner on the Civil Rights Commission, and then I continued until July 7, 1980. Thereafter, I was nominated by President Carter to become the first Inspector General of the Community Services Administration. I submitted my resignation to President Carter as a commissioner, and he accepted the resignation subject to the qualification of my successor. Commissioner Berry was not confirmed until July 7, 1980, so, therefore, for the last 9 months of my 16-year term I served in a dual capacity.

Then, on Inaugural Day of 1981, when President Reagan dismissed all of the inspectors general, and I returned to St. Louis, and thereafter I was invited to and appointed as the chairperson of the Missouri Advisory Committee. This represents a total of about 25 years that I've served.

So, I am pleased to comment on three subjects, three areas, with respect to the State Advisory Committee. And the first one relates to the role and purpose of the State Advisory Committees—and I have brought with me a report which I would like to leave with the committee, the Fifty States Report of the U.S. Commission on Civil Rights of 1961. I think it is important to include as a supplement to my statement the comments and statements from the preface of that report, in which Chairman Hannah referred to the statutory duties of the Civil Rights Commission. And in referring to that, especially the one to evaluate sufficiency of the laws and policies of the Federal Government with respect to equal protection, the preface says:

Aware of the fact that an accurate analysis of so sensitive an aspect of our national life depends in large part upon intimate knowledge of local conditions in all of the States of the Union, Congress authorized the Commission, under section 105(c) of the Civil Rights Act of 1957, to constitute an Advisory Committee in each State. In due course, 50 such committees were created that consist of citizens of standing who are sufficiently interested in the vital problems of civil rights to serve without compensation. The Commission has striven to constitute committees that are broadly representative of their respective States.

And then, referring to the report, he said:

This volume contains these 1961 reports of the 50 State Advisory Committees. Since they are the product of 50 separate committees representing 50 States, they differ vastly from each other. These reports are not uniform, either in approach or in content. They may be based on information developed in the course of public meetings or on data accumulated by means of questionnaires or an extensive research and study. The reports were subjected to a minimum of staff editing before their inclusion in this volume. No attempt was made to force them into a preconceived or uniform mold.

And then he said:

Since their organization the State Advisory Committees have been of invaluable assistance to the Commission in its efforts to gain a clear insight into the civil rights problems of the Nation. The Commission has availed itself of this help by conducting regional meetings of the Advisory Committees, directing occasional specific inquiries into individual committees, sending staff members whenever possible to attend Advisory Committee meetings and hearings, and by drawing on committee reports in the preparation of the Commission Statutory Report to the President and the Congress.

This had preceded my tenure as Commissioner. But as my prepared statement indicates, during the entire time that I served as Commissioner, this was the position that the Commission took with respect to the course of the Commission, of the State Advisory Committees; because we found and we believed that those reports were very necessary, and, therefore, they were always disseminated. We forwarded the advice and recommendations of the State Advisory Committees to responsible Federal agencies for implementation.

When I returned to the Missouri Advisory Committee, and in my 2 years as chairperson, the Advisory Committee was very active. We issued reports on affirmative action and contract compliance in the Federal civil rights enforcement effort. The last report which we released, which is the report "Federal Civil Rights Enforcement Efforts in Mid-America," which was released in September 1983—and I would also like to leave a copy with the committee—that report happens to be the last report that has been released by the Missouri Advisory Committee.

There are three reports that I am aware of—"Police Community Relations in Omaha, NE," "Minorities and Women as Government Contractors of Kansas," and the report that I was involved in, "Civil Rights Enforcement by State Education Agencies in Region Seven." And as I indicated, those three reports have still not been released, and that was confirmed when I heard Chairman Pendleton say that they have not been released. And, to my knowledge, the report which I have referred to, and brought with me, is the last report.

I would like to call the committee's attention to the Federal Advisory Committee Act:

Any legislation shall contain appropriate provisions to assure that the advice and recommendations of the Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's individual judgment.

With a quote from the statute in mind, I do not understand why the reports noted above have not been transmitted to the commissioners. If the State Advisory Committees are to serve as the eyes and the ears of the Commission, then the advice offered in these reports should go to the commissioners.

Finally, I want to comment on the composition of State Advisory Committees, particularly in the Missouri committee. During my tenure as Commissioner, we always sought to have representation from all segments. Efforts were made to have representation from business, industry, and commerce, including labor. We always included race, sex, religion, and age as factors in balancing the State committees.

As chairperson of the Missouri SAC, the breakdown was: eight blacks, one Hispanic, six whites, seven females, eight males, three under 40, seven over 40, five over 60. We had a total of 15 members. Now, I am told there are 11 members: five blacks, six whites, three females, eight males. As you can see, there is no Hispanic representation, with the Hispanic population increasing in the State. The male-female proportion is not even close.

From reading articles in the press, all of the members of the Missouri Advisory Committee are either from Kansas City or St. Louis, except for one member from the Bootheel. Other sections of the State are not represented.

Finally, on the point of representativeness while serving as chair, the regional composition of chairs was: two blacks, two whites, two females, two males, two Democrats, two Republicans. The composition as chairs is now all male and all white.

In summary, if the State Advisory Committees to the U.S. Commission on Civil Rights are to serve as the eyes and ears for the Commission, then the advice from these committees must reach the Commissioners without interference from headquarters. And, from my perspective, there should be a more diverse representation among the chairs. The composition is now all male and all white.

I want to again thank the subcommittee for inviting me, and I will answer any questions which you have.

[The complete statement of Ms. Freeman follows:]

PREPARED STATEMENT OF FRANKIE M. FREEMAN, FORMER COMMISSIONER OF THE U.S. COMMISSION ON CIVIL RIGHTS AND FORMER CHAIR OF THE MISSOURI ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

Mr. Chairman and members of the Subcommittee, I am Frankie M. Freeman of St. Louis, Missouri. I want to thank the Subcommittee for extending an invitation to me to appear to offer comments concerning the State Advisory Committees to the U.S. Commission on Civil Rights.

As you know I have come full circle in my services to the U.S. Commission on Civil Rights and its State Advisory Committees. In 1958 I was appointed as a charter member of the first organized Missouri Advisory Committee. I served as vice-chairman and secretary to the Advisory Committee. I served on the Advisory Committee until 1964 when President Lyndon B. Johnson nominated me to serve as a Commissioner on the U.S. Commission of Civil Rights. I served for 16 years as a Commissioner and the last 9 months I served in a dual capacity. I was nominated by President Jimmy Carter as the first Inspector General of the Community Services Administration and as I indicated for 9 months from October 1979 until July 7, 1980, I also served as a Commissioner on the U.S. Commission on Civil Rights. After leaving the office of Inspector General I was asked to again offer my services to the U.S. Commission on Civil Rights. In 1983 I was appointed as Chairperson of the Missouri Advisory Committee and I served until early 1985.

In your letter to me you have asked me to provide testimony on three items:

(1) Role and purpose of the State Advisory Committees to the Commission...whether the State Advisory Committees serve as the "eyes and ears" for the Commission or proponents of Commission policy;

(2) Whether or not statements, reports and opinions of State Advisory Committees have been disseminated or held up by

Commission Headquarters; and

(3) Whether or not State Advisory Committees are representative of State population.

As I indicated to you, prior to serving as a Commissioner, I served for a considerable time on the Missouri Advisory Committee. Our charge at that time was to serve as the "eyes and ears" for the Commission with respect to civil rights matters in Missouri. The Advisory Committees were also charged with the mandate from the Commission to:

(1) to advise the Commission of all information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

(2) to advise the Commission as to the effect of the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution; and

(3) to advise the Commission upon matters of mutual concern.

One of the first reports issued by the Missouri Advisory Committee was the July 1959 report on Desegregation of Schools in Missouri and prior to my leaving the Advisory Committee we issued another major report on the status of minorities in the State. Both reports involved a major investment of time from Advisory Committee members. We in certain instances held open meetings to gather the necessary information so we could properly advise the Commissioners. We as Advisory Committee members took our role seriously in serving as the "eyes and ears" for the Commission. In serving as a Commissioner we used the State Advisory Committees as advisors. These Committees were involved in undertaking major factfinding studies on school desegregation, prisoner's rights and regional studies on affirmative action and local civil rights enforcement. These Committees were asked to advise the Commissioners, so that we as Commissioners could properly advise

the President and Congress. Quite often we forwarded the advice and recommendations of the State Advisory Committee to responsible Federal agencies for implementation.

When I returned to the Missouri Advisory Committee and in my two years as Chairperson (1983-1985) the Advisory Committee was quite active. In an attempt to ascertain the status of protected classes, we held numerous community forums. We issued reports on affirmative action and contract compliance and the Federal civil rights enforcement efforts; and we met with governmental leaders (State and local), community groups and community leaders. All of these activities were in the spirit of advising the Commissioners.

The Advisory Committee also met with Commission members, including Chairman Clarence Pendleton. The Committee was invited by Mr. Pendleton to continue to advise the Commission. However, I must note that at least three reports from the Kansas City regional office that were submitted to Headquarters prior to my leaving the Advisory Committee, have not, as of when I left the Committee been transmitted to the Commissioners for review. Those three reports are: Police-Community Relations in Omaha (Nebraska), Minorities and Women as Government Contractors (Kansas), and a report I was involved in, Civil Rights Enforcement by State Education Agencies in Region VII.

The last report that the Missouri Advisory Committee released was the Federal Civil Rights Enforcement Effort in Mid-America (October 1983). To my knowledge that was the last report issued through the regional office in Kansas City although as I have indicated, other reports had cleared the Advisory Committee and regional office review process.

The Advisory Committees are charged under the Federal Advisory Committee Act (FACA) in part:

Any legislation shall contain appropriate provisions to assure that the advice and recommendations of the Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's independent judgment (5 USC - Appendix 2, sec. 5(b)(3)).

With the quote from the statute in mind, I do not understand why the reports noted above have not been transmitted to the Commissioners. If the State Advisory Committees are to serve as the "eyes and ears" of the Commission then the advice offered in those reports should go to the Commissioners.

Finally, I want to comment on the composition of State Advisory Committees, particularly the Missouri Committee. During my tenure as Commissioner, we always sought to have representation from all segments. Efforts were made to have representation from business, industry and commerce, including labor groups. We also included race, sex, religion and age as factors in balancing the State Committees. As Chairperson of the Missouri SAC the breakdown was:

8 Blacks	3 Catholics
1 Hispanic	3 Jewish
6 Whites	8 Protestants
	1 Other
7 Females	7 Democrats
8 Males	6 Republicans
	2 Independents
3 Under 40	
7 Over 40	
5 Over 60	

We had a total of 15 members. Now I am told that there are 11 members:

5 Blacks
6 Whites

3 Females
8 Males

As you can see there is no Hispanic representation with the Hispanic population increasing in the State. The male-female proportion is not even close. From reading articles in the press, all of the members of the Missouri Advisory Committee are either from Kansas City or St. Louis except for one member from the Bootheel. Other sections of the State are not represented.

Finally on the point of representativeness while serving as Chair, the regional composition of Chairs was:

2 Blacks	2 Females	2 Democrats
2 Whites	2 Males	2 Republican

The composition is now all male and all white.

In summary, if the State Advisory Committees to the U.S. Commission on Civil Rights are to be the "eyes and ears" for the Commission then the advice from these Committees must reach the Commissioners without interference from Headquarters, and from my perspective there should be a more diverse representation among the Chairs. The composition is now all male and all white.

I want to again thank the Subcommittee for inviting me and I will answer any questions you might have of me.

Mr. EDWARDS. Well, thank you very much, Ms. Freeman.

We are now going to hear from Tom Pugh, who is the former chair of the Illinois SAC and continues to serve on the committee. Mr. Pugh is a former newspaper editor and a university professor.

Welcome, Mr. Pugh.

Mr. PUGH. Thank you, Mr. Edwards.

I'm going to raise up a couple—two—paragraphs out of my prepared remarks.

As a result of the overturning of the chairmanships in the SACs generally, the politicization of the U.S. Commission on Civil Rights, has transformed itself from an impartial, factfinding agency which reports to the President and Congress into a propaganda agency for the ultraconservative positions. But as a result of that action—as a result of the changing of the chairmen and the recomposition of the committees, the State advisory committees have been politicized also. That's important.

I've been a member of the Illinois SAC for 11 years, as chairman for 3 years, and 4 months, until January of this year when I became the first of 50 SAC chairpersons to be fired, according to the newspapers. Dismissal of the chairpersons and the slashing of the size of the committees, and, also, the cuts in the size of the regional staff and the suppression of SAC reports, ended 3 years of conflict between the SACs and the Commission.

The issue between the SACs and Reagan's latest appointees to the Commission is basically the same disagreement which has divided the Commission itself, whether the Commission was to be transformed from a respected, bipartisan agency, reporting to the President and the Congress on civil rights problems into a propaganda vehicle for the Reagan administration effort to stall affirmative action in employment, to stall further progress in school desegregation, and to stall the advancement of women.

By the summer of 1984, Reagan's reconstituted Commission found itself faced with stinging criticism of 49 SAC chairpersons at their annual conference, which was hidden away from the Washington media in Nashville, TN. Complaints about the suppression of SAC reports, the Commission's redefinition of civil rights, and plans to cut the size of the committees were countered primarily by arguments from the Commission's Vice Chairman, Morris Abram, that SACs should begin to follow the line being put out by the reconstituted Commission.

The replacement of all the chairpersons was obviously intended to end the argument. There's no other explanation. And the figures you've talked of are correct. But even more distressing than the recomposition of the SACs has been the outright cut in the size of most of the SACs. All of them were cut to 11 members. In the case of the Illinois committee, which had 22 members, it cuts us in half.

The August meeting of the new committee in Illinois had to be canceled because of a lack of a quorum. And the September meeting would not have had a quorum if one of the members, Dr. Gallo-way, had not come to the meeting to resign out of principle, because there were no Hispanics put on the committee. When you realize that the real work of the SACs is done by voluntary members, when you cut the size of the SAC in half, you cut the ability of the committee to work.

Both Chairman Pendleton and the staff director made comments about the composition of the Illinois Committee, how good the new members, are and so forth. I don't argue with that. I would make a couple of observations, for what it's worth: That the former president of the Chicago Teachers Union was on the old SAC, there are no union presidents on the new SAC. The old SAC recommended the appointment of Prof. Gary Orfield, one of the Midwest's outstanding urbanologists. He was rejected by the staff in Washington.

It really irks me to see you misled on the composition of the former Illinois Committee. I think that it's obvious 11 volunteers are going to do less work than 22 volunteers.

The Illinois SACs experience in getting its reports printed is a sorry story ever since Pendleton took over the Commission. "Housing Chicago Style," a report which I have here, was a hearing held in December 1981, which took a year to get into print. I think you've been supplied with copies of it. I did a great deal of work on that myself as a volunteer, inviting all the people who testified, and, I suppose, working probably 2 or 3 months voluntarily to produce that. But the burial of the Illinois SACs report, "Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program," has turned into a mummification. Well over 3 years went into this report, much of it done by the since resigned Midwest regional staffer Gregory Squires, before it was dumped by the Commission along with all the members of the Illinois SAC who worked on it.

It is obvious that the reconstituted Commission is not publishing any SAC reports. I would correct Chairman Pendleton on one of the errors he made in his testimony, when he said that no SAC reports have been made regarding bilingual education. Mr. Sensenbrenner, if he were here, might find that the Wisconsin committee made just such a report about 2 years ago. And I can give you the reference on that.

The Illinois committee did a specific report on that—two specific reports, both bilingual, the most recent one being "The ABC's of Special Education," which is a handbook for the parents of special education children. Perhaps today it's nonjurisdictional, I don't know, because it's written in Spanish and people can understand it if they speak that language.

Mention has been made of the publication of a Delaware SAC report on migrant farming; it wasn't mentioned that the chairman of that committee resigned in protest because of its being held back.

The new SAC handbook, which was discussed in draft and distributed at a recent meeting, will say that SAC reports must now go to the staff director, "for review of their appropriateness and compatibility with Commission policy." Compatibility is the key word. Realizing what Commission policy has come to be, it makes me wonder if any reports on any controversial issues will ever be published by the Commission if the Commission majority does not agree with their conclusions.

It's a simple fact, Mr. Green—or Mr. Pendleton—said that new development has taken place whereby the Commissioners will get all of these reports at the same instant they hit the director's office. That indicates to me that the Commissioners intend to

ensor even what—well, I don't have to say more. Just consider what's happening.

I'd like to make one final report about one other Illinois SAC report, "Contract Compliance in Chicago," that was submitted to the Commission in August 1984 as a briefing memo rather than as a formal SAC report, because it was made plain to me that it would be very likely to be given the same Mickey Mouse treatment that our IRB report was given. Since it was not going to be published by the Commission, the Illinois Committee submitted it to the Commission, hoping that some members would at least look at it. I'm not proud that I failed to fight over the suppression of this report. I still do not know if any of the Commissioners ever saw it.

The last three published reports of the Illinois SAC—"Housing Chicago Style," "The ABC's of Special Education," and "Shutdown: Economic Dislocation in Equal Opportunity," show the kind of work that SAC's produced before the reconstitution stopped everything.

The "Shutdown" report, incidently, is not available. It's a very important report that mentions victims of most of the plant relocations are mostly minorities and women. But we have been unable to get prints of that report. I have a problem, I can't even get a copy of it myself. I have a mimeograph of it if the committee is interested in it.

The statement was made during the testimony that Commission meetings are open, and, consequently, the contents of these reports are known. I should point out that a number of the reports are prepared by the staff and that on several occasions the staff has told me personally, "You cannot release this report in any draft stage because it's against the rules." I've argued, because I know what the law is and I know how the Freedom of Information Act works; I'm a little bit privy to that. But very consciously the staff tries to suppress these reports. We issued one draft report because Mayor Washington of Chicago wanted it, and it was important at the time. And, you know, there was a lot of pain involved in making this report public.

There is just simply no question that the standard practice of the new Commission, or, let's say, the staff of the new Commission, has been to suppress not only the printing of reports but also the distribution of reports which they disagree with. In fact, they also have discouraged studies to be undertaken that bear upon issues that they think might embarrass the administration.

I can give you a list of the suggestions that have been made at Illinois SAC meetings over the past 2 or 3 years. The subject of immigration is one that we made three or four suggestions for studies. The fact that we've been bugging on the issue of immigration makes it even more difficult to accept the fact that there are no Hispanics on the new Illinois committee. I point out the city of Chicago has about 300,000 Hispanics.

I'll take any questions at this time.

Mr. EDWARDS. All right, thank you, Mr. Pugh.

[The complete statement of Mr. Pugh follows:]

PREPARED STATEMENT OF TOM PUGH, MEMBER AND FORMER CHAIRMAN OF THE ILLINOIS
SAC

SUMMARY

The politicization of the U. S. Commission on Civil Rights, which has transformed it from an impartial, fact-finding agency which reports to the President and Congress into a propaganda agency for the ultraconservative positions of the Reagan administration in regard to the rights of minorities and women, has been extended to the Commission's state advisory committees.

I was chairman of the Illinois State Advisory Committee until January when I became the first of 50 chairpersons to be replaced by the "reconstituted Commission." This wholesale change of leadership was accompanied by the slashing of the size of the state committees. In the case of Illinois, the advisory committee was downsized from 22 to 11 members.

These actions followed three years of disagreements between the Commission and its state advisory committees, during which the work of the committees seemed to come to a standstill. In the case of the Illinois committee, two of its major reports have been withheld from public printing. Both have a bearing on affirmative action in respect to employment of minorities and women in Chicago. The Commission has adopted policies and its leaders have expressed opinions which discourage the kind of affirmative action which is examined in these Illinois committee reports, one of which has been worked over for three years.

At the same time that the Commission's Washington, D.C., staff has worked to stymie the work of its state advisory committees, the Commission's regional staff has been significantly reduced in size. The Chicago regional office staff has been cut in half. This fact severely limits the sight and the hearing of the state committees and the regional staff, which nonetheless are still described by the Commission as its "eyes and ears."

"I think we need a new dialogue in America. It might begin with an intellectual housecleaning in Washington, D.C. . . . In the words of Morris Abram, our nominee to the Civil Rights Commission, 'It's time for some people to stop shouting slogans of the past and begin dealing with the facts, figures and conditions of the present.'" -- Ronald Reagan, August 1, 1983

Now that the last step in the politicization of the United States Commission on Civil Rights -- the trashing of its state advisory committees -- has been taken by the Reagan administration, it is good that Congress is beginning to deal with the facts, figures and conditions of the present.

The role of the state advisory committees (SACs, for short) is laid out in the law and in the Commission's 30-page State Advisory Committee Handbook, last issued in 1983. The Handbook is now being updated by the "reconstituted Commission" -- that's what it has called itself since January, 1984, when the administration succeeded in stacking the Commission with ultraconservatives on issues involving minorities and women. I have a draft of the new Handbook and I must say that it reads as if I will be terminated as a SAC member if I do not make it plain to Congress that I am speaking today as a private citizen and not as a member of the Illinois SAC. The phrase "eyes and ears" of the Commission is used in the Handbook to describe the role of the SACs and the Commission's regional staff, whose main work is to assist the SACs.

I have been a member of the Illinois SAC for 11 years. I was its chairman for three years and four months, until January of this year when I became the first of 50 SAC chairpersons to be "fired" by the Commission. The dismissals of the chairpersons, the slashing of the size of the committees and the regional staff, and the suppression of SAC reports ended three years of hard times between the SACs and the Commission which followed the addressing of a letter to President Reagan in 1982 from myself and 32 other SAC chairpersons. Upset by what we perceived to be the beginning of the politicization of the Commission, we asked the President

to meet with us to discuss "our conclusion that the integrity, indeed the future, of the basic civil rights agencies of the federal government (were) in grave doubt." The President refused to meet with us and his newly-appointed Commission chairman, perhaps stung by the letter's implication that his appointment was "distressing," stormed that SAC leaders should quit if we didn't like the direction the Commission was going. Some did, but most stayed until the ax fell after the President's re-election.

The issue between the SACs and Reagan's latest appointees to the Commission is basically the same disagreement which has divided the Commission itself: whether the Commission was to be transformed from a respected bipartisan agency reporting to the President and the Congress on civil rights problems into a propaganda vehicle for the Reagan administration's efforts to stall affirmative action in employment, further progress in school desegregation, and the advancement of women. By the summer of 1984, Reagan's "reconstituted Commission" found itself faced with stinging criticism from 49 SAC chairpersons at their annual conference which was hidden away from the Washington media in Nashville, Tenn. Complaints about the suppression of SAC reports, the Commission's redefinition of "civil rights," and plans to cut the size of the committees were countered primarily by arguments from Commission Vice Chairman Morris Abram that the SACs should begin to follow the line being put out by the "reconstituted Commission."

The replacement of 50 chairpersons this year was obviously intended to end the argument. I saw no headlines critical of the administration's policies coming from this summer's chairpersons conference in Washington. What did make headlines, however, was the shocking change of skin color and sex of the people at the conference. The New York Times on May 26 reported an astounding 46 of the 50 new leaders were male, 36 were white, and the numbers of women, black, and Hispanic leaders had been cut in half. In Illinois, where the problems of Hispanics is the SACs first priority, all Hispanics were eliminated from the reorganized SAC. In a genuine effort to correct this travesty, one of the new appointees to the Illinois SAC, the Rev. Ira Gallaway, resigned this month with the plea that an Hispanic be appointed to replace him.

I have in times past made fun of old Commission's quest for balance and broad representation on the SACs (see "White Minstrel Show: Civil Rights, Civil Wrongs" in The Nation on Aug. 5, 1983), but it was not funny to see the "reconstituted Commission" simply slash to the bone the power of minorities and women on its new SACs.

Even more distressing than this recomposition of the SACs has been the outright cut in the size of most of the SACs. Despite a chorus of complaints from the SACs, all of them were reestablished with 11 members. In the case of the Illinois SAC, which had 22 members, the cut halves the committee. The August meeting of the new committee had to be cancelled because of a lack of a quorum. And the September meeting would not have had a quorum if Dr. Galleway had not been present to submit his resignation plea. But getting a quorum is not the biggest problem the downsized SACs will have. No, the real problem will come in getting the committee's work done. When you consider that most of the work of the SACs is done voluntarily by members of the SAC, it is not difficult to figure that 11 volunteers will do less work than 22 volunteers.

Almost as important as the reduction in SAC membership is the reduction in the size of the Commission's regional staff which serves the state committees. In the Chicago regional office, I see three vacancies on the staff, which apparently are not to be filled. That leaves three men on the staff to cover six states (Illinois, Michigan, Indiana, Wisconsin, Ohio, and Minnesota) -- that's just not enough "eyes and ears."

The work of the SACs, already at a virtual standstill, will be even more difficult because of these calculated reductions. Testimony before the House Appropriations Committee on April 18 indicated how dramatically the product of the SACs has been reduced. Fact-finding meetings held by SACs across the nation numbered only 18 FY 1982 and 12 in FY 1983, but they dropped to three in FY 1984 and only an estimated four were expected in FY 1985! In the case of SAC reports, the Commission published 30 in FY 1982, 27 in FY 1983, only five in FY 1984, and none at all in FY 1985! All five of the FY 1984 publications were backlogged before the Commission was "reconstituted."

The Illinois SAC's experience in getting its reports published by the Commission has been a sorry story since Pendleton took over the chairmanship. "Housing: Chicago Style," a consultation held at the University of Illinois at Chicago in December of 1981, took a year to get into print. But the burial of the Illinois SAC's report, "Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program," has turned into a mummification. Well over three years work went into this report, much of it done by since-resigned Midwest regional staffer Gregory Squires, before it was dumped by the Commission along with all of the members of the Illinois SAC who worked on it. I have repeatedly expressed my concern that SACs be left with the power to publish (or release) their own reports, but the reconstituted Commission will not allow it. Dr. Squires twice made unsensible revisions in the IRB report at the direction of the Washington staff, but it has been withheld from printing, I believe, because it bears on affirmative action, a subject the Commission does not seem to want discussed without inserting its own bias against it. It will be indefensible if the politicized Commission continues to suppress reports from its SACs which do not follow the new line. An early draft of the IRB report was made public after some arm-twisting in December, 1983, when Chicago's mayor, Harold Washington, asked for the preliminary findings because they had a bearing on the city's effort to reform its affirmative action program. The report has value beyond the boundaries of Chicago, but roadblocks still prevent its publication. After it was established that the report was within the Commission's jurisdiction, other incomprehensible (to me) excuses were found to stall publication. Now that it is obvious that the reconstituted Commission is not publishing any SAC reports, I am ready to quit playing the silly game which has wasted so much time. Similar baloney arguments against the publication of a Delaware SAC report on migrant farming caused the chairperson of that SAC to quit in protest. The new SAC Handbook will say that SAC reports must go to the staff director "for review of their appropriateness and compatibility with Commission policy." Realizing what "Commission policy" has come to be makes me wonder if any reports on controversial issues will ever be published if the Commission majority does not agree with their conclusions.

I would make one final point about one other Illinois SAC report: "Contract Compliance in Chicago" was submitted to the Commission in August, 1984, as a "briefing memo" rather than a formal SAC report, because it was made plain to me that it would very likely be given the same Mickey Mouse treatment that the IRB report received. Since it was not going to be published by the Commission, the Illinois Committee submitted to the Commission hoping that some members would at least look at it. I am not proud that I failed to fight over the suppression of this report. I still do not know if any of the commissioners ever saw it.

The last three published Illinois SAC reports -- "Housing: Chicago Style (October, 1982); "The ABC's of Special Education" (March, 1982), and "Shutdown: Economic Dislocation and Equal Opportunity" (June, 1981) -- show what kind of work was produced before they were overwhelmed by people in the Reagan administration who listen only to the slogans they want to hear.

I have tried to stick to the facts in this report. If you care about the opinions of this former editorial writer from Teoria, you will find them expressed in the September 6, 1985, issue of the National Catholic Reporter, which I have appended.

☛ 'WHITE MINSTREL SHOW'

Civil Rights, Civil Wrongs

TOM PUGH

This summer the Illinois Advisory Committee to the United States Civil Rights Commission (of which I am the chairman) is searching the state for new members—and we are doing it by the numbers.

According to the commission, the new members should be more than just capable; they should fall neatly into such categories as black, white, Hispanic, male, female, young, old, executive, union member, jobless, handicapped, etc. Somewhere along the road from intolerance to affirmative action, the Civil Rights Commission developed a fetish about making certain that all segments of society are represented on its advisory committees. At the same time, a lot of Americans, including Ronald Reagan, were trying to figure out why "quotas" for hiring and the like are necessary. Wasn't it enough just to be fair?

That President Reagan fails to grasp the basics of affirmative action is shown by the three nominations he made in May to the six-member commission. All three nominees are white. All three are men. All three are academicians (two are former college presidents, one is a professor). If approved by the Senate, these three white men will sit with two women—both white—in a minstrel show in reverse, presided over by Reagan's black chairman, Clarence Pendleton Jr. And if that is not irony enough, consider the fact that Pendleton's major exercise as chairman has been to issue brief dissenting statements whenever the commission reiterates its longtime support of affirmative action.

The Senate can save the country from further embarrassment by refusing to confirm these latest nominees. In the case of one of them, Robert A. Destro, an assistant professor of law at Catholic University's Columbus Law School who seems more concerned about the rights of the unborn than those of the living, the Senate should have no problem. It rejected him and two other nominees last year after civil rights groups across the nation howled about their credentials. It is less predictable how the Senate will respond to the nominations of Morris B. Abram, former president of Brandeis University, and John H. Bunzel, former president of San Jose State University and now a senior research fellow at Stanford's Hoover Institution. Although both have been described in the press as conservatives who agree with Reagan's opposition to quotas and busing, in decades past both were praised for their positions on civil rights and

Tom Pugh, who was a Nieman Fellow and for many years associate editor of The Peoria Journal Star, teaches journalism at the University of Illinois at Urbana-Champaign.

human rights. People with liberal credentials, no matter how ancient, are desperately needed by the Reagan Administration if it is to make any bid for the votes of minorities and women in 1984.

As that election approaches, it is important to keep in mind the history of the commission before President Reagan brought it to the brink of travesty. Remember that when Reagan comes home to Illinois, many people call him by his old nickname, "Dutch," which is a synonym for "stubborn" in these parts.

The Civil Rights Commission that he inherited from Jimmy Carter, headed by Arthur S. Flemming, a venerable bureaucrat who simultaneously served as U.S. Commissioner of Aging, was one with problems. (Under Flemming, the commission really worried too much about the quota of senior citizens on its state advisory committees.) Flemming was appointed in 1974 after Richard Nixon drove Father Theodore Hesburgh, the president of Notre Dame, from the chairmanship for criticizing the way he waffled on school busing. Ironically, under Presidents Ford and Carter, Flemming devoted so much of the commission's resources to the busing issue that there was often little money left for anything else.

During the Carter years, those of us charged with giving advice to the commission wondered if the President knew it existed. With Andrew Young and other minority advisers, Carter didn't need Flemming to remind him that school busing was heading downhill toward a cliff. Whatever the reason, things at the commission just "slud" during Carter's Presidency; he didn't even try to fill vacancies in an orderly or timely way.

Enter Dutch. One of Reagan's first acts as President was to appoint Mary Louise Smith, the former national chairwoman of the Republican Party, to the commission, a good indication of what he had in mind for that body. But Smith's tenure has been a pleasant surprise. She has never acted in a partisan way, and her conservative Iowa background has not prevented her from being ten times the liberal that Pendleton has been since Reagan kicked Flemming out to make way for him.

Pendleton has been a problem, both for the commission and for the White House staff, which seems to be keeping him away from Reagan. One imagines that Presidential Counselor Edwin Meese 3d has that job, since he is responsible for bringing Pendleton from California into the Washington fold. Pendleton has his own agenda, and it doesn't square with the White House's. Last September he was angered by a front-page story in *The New York Times* reporting complaints about the President's civil rights stance submitted by myself and thirty-two other chairpersons of state advisory committees. We had written the President that we had "deep concern regarding the dangerous deterioration in the Federal enforcement of civil rights taking place in the nation." We said we were distressed at the nominations he was making to various civil rights agencies, and urged him to meet with us.

Pendleton himself made headlines about the same time by saying the President was amenable to the idea of holding a "black summit" at Camp David. Four days later, at the tail end of a *Washington Post* story (in which Reagan defended himself against the charges), "a senior presidential advisor" said the President had no plans to hold Pendleton's "summit." Much worse than that kind of anonymous insult was a series of articles carried by the Gannett News Service early in May in which Pendleton caught hell for his lavish expense account expenditures in Washington and San Diego. According to the stories, Pendleton was living high at a time when the two organizations he headed—the San Diego Urban League and the Civil Rights Commission—were having severe financial troubles. The most damaging revelation was that "Pendleton permitted the establishment of a business venture in which the San Diego Urban League was used to help create a front for two white businessmen, allowing them to pose as a minority firm and qualify for special preference when they bid for government contracts." It might be said in defense of Pendleton that since he doesn't believe in quotas, he cannot be faulted for helping whites get some of the business that the government was directing to minority firms.

Pendleton often undercuts the recommendations of the commission's reports by issuing statements disputing their findings. Consider the May 1983 report titled "Greater Baltimore Commitment: A Study of Urban Minority Economic Development." The thrust of the 117-page report is that the Small Business Administration and the Minority Business Development Agency should expand their efforts to help minorities in Baltimore. Pendleton argued that "a reduction in the federal role and the revision of its policies would do more to promote local business and employment opportunities for minorities." The report said that only 278 of Baltimore's 6,000 1981 high school graduates had found full-time jobs six months after their graduation. While Pendleton harped on getting the Federal government off the back of black Baltimore, the report said that a \$10 million cut in Federal funding had reduced the number of students employed in the city's work-study programs from 27,000 to 530 in two years. Whose side is Pendleton on?

Ostensibly, he is on Reagan's side, and that may become more obvious when the crunch comes on an affirmative action report scheduled for delivery in 1984. Probably the most significant unfinished project in the Civil Rights Commission's mill, the report is tentatively titled "Successful Affirmative Action Efforts." It remains to be seen how successful the commission will be in getting such a document out in 1984 if Reagan runs for re-election, especially in view of the fact that the stated aim of the report is to "document and publicize policies and practices which lead to employment progress for minorities and women, thus countering popular perceptions that affirmative action does not work."² Of course, when it comes to perceptions of affirmative action, none are more important than those of Ronald Reagan himself. If the commission cannot succeed in altering Reagan's vision, then unemployment among minorities will continue to rise. How much worse must the situation

become before the President recognizes that trickle-down civil rights works no better than Reaganomics does?

The President's views on busing are as flawed as his views on quotas and affirmative action. He seems not to understand that setting quotas or goals is only a way to help members of minority groups move closer to the norms and ideals that he claims to believe in for all Americans. Similarly, he seems not to recognize (or be willing to admit) that a school bus is a vehicle to move children to places where they can get a more equal education. It may be difficult to communicate such complexities to the President, but the Civil Rights Commission should continue to make the effort. Presidents always take themselves too seriously, and Reagan needs to laugh more at the mistakes his advisors push on him. Here in Illinois, we do not think a Federal case will be made against the advisory committee if we cannot come up with a handicapped Oriental woman union leader for the panel. So we joke about it. But we do not for a moment forget that our goal is to get a wide range of people to work together to end the many forms of discrimination that make America an unfair place. Yes, Reagan ought to laugh about how funny Pendleton and his all-white teammates on the Civil Rights Commission will look. And then Dutch needs to be told that if he had only understood a little more about how quotas work, he could have avoided getting slapped upside the head. □

TOM FUGH

Tom Pugh, a freelance writer living in Peoria, Illinois, was until January the chairman of the Illinois Advisory Committee to the United States Commission on Civil Rights.

He was for 20 years the associate editor and an editorial writer for the Peoria Journal Star. For the past three years he has been a visiting lecturer in journalism at the University of Illinois at Urbana-Champaign.

He holds a bachelor's and a master's degree from Bradley University and he was a Nieman Fellow at Harvard University.

He taught journalism at Bradley University for many years and at Illinois State University. He was awarded the American Political Science Association's Distinguished Reporting Award and has received many prizes for news, editorial, and article writing.

He has been a member of the Illinois Advisory Committee to the Civil Rights Commission for 11 years. He has written extensively about civil rights and world affairs, recent articles on these subjects having appeared in The Nation.

He has received the Peoria Commission on Human Relations Brotherhood Award and served as a member of the Illinois Area Fund for Reconciliation of the United Methodist Church.

He is a former president of Local 86 of the American Newspaper Guild and a former president of the Illinois Valley Press Club.

He lives at 500 W. Melbourne, Peoria, 61604, with his wife, Margaret, a nurse practitioner specializing in women's health care.

Mr. EDWARDS. The last member of the panel to testify is Maxine Kurtz. Ms. Kurtz is the current chair of the Colorado SAC. She is an attorney with the city and county of Denver and coordinates an affirmative action program for the city.

Ms. Kurtz, we welcome you.

Ms. KURTZ. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I appreciate the opportunity to make this presentation today. I'm one of the current SAC chairs.

Our committee is almost exactly representative from the standpoint of both gender and racial composition of the composition of the State, although one of our Hispanic members has chosen to resign, partly because of burnout. She had been a SAC member for some 8 years, and the group seemed to be headed in a somewhat different direction than she was interested in.

Our current membership has representatives of the affirmative action or equivalent programs of three major corporations in the State, a dean of one of the universities, the head of our State commission on Indian affairs, a representative of the League of Women Voters, and a representative of the Anti-Defamation League, or at least a member of it, and, finally, a gentleman who is interested broadly in the issues of education in the community whose occupation is that of being an attorney and a small businessman.

We currently have nine members on our SAC; two have resigned. I mentioned one. The other felt an incompatibility with the direction his career was taking and the work of my committee. And I am the chair.

The group, to the extent that it has any particular problems is caused by the fact that everybody is out of Metropolitan Denver area, although we are supposed to be a statewide committee. It saves money but it's not very representative. Initially, we decided that we would try to address the problems throughout the State by asking representatives of the law enforcement agencies in the civil rights area to meet with us. Two of them were unable to get authorization from their Washington headquarters, the director of the Office of Federal Contract Compliance Programs and the regional director of the EEOC. The two that did testify were the representative of our State civil rights commission and a representative—or, as a matter of fact, the director—in the region for the Community Relations Service of the Justice Department.

We also decided that we would contact the advocacy groups throughout the State, to find out what, in their perception, were the major civil rights issues in the State. We promptly ran into the Reduction of Paperwork Act, and so what we had to do was trim that list of some 40 organizations down to 9, in order to avoid having to clear our proposed investigation with the OMB. And when I get back to Denver tomorrow, we should have the initial results of that.

I think, to the extent that this committee has a particular interest on the subject matter area, I think it's from the K-12, the elementary and secondary education programs. Particularly the leadership from the large companies are complaining that they are having problems recruiting people for skilled jobs, for management trainee positions and for management positions as a whole, because

of the high dropout rate among the young people in the State; that, however, in the view of the committee is essentially a symptom and not a cause, and there is some considerable interest in formulating a program to investigate why the dropouts and to find out if that differential dropout rate that we can readily establish by the statistics, has any relationship at all to the questions of discrimination.

There has been some comment about the limitations on the SACs. As an attorney I have a limited problem with the matter. We are an arm, in a sense, of the Civil Rights Commission, we are a creature of the Civil Rights Commission, and the idea that we ought to be related to the jurisdictional parameters of the Commission, itself, in our work, rather than simply investigating any social, economic, cultural, political or what-have-you problem that happens to be around the State, whether or not it is related to the questions of discrimination, does not give me any difficulty.

Now, I should add, perhaps, that I have some reputation around the country, or did have at least, for some years, of being a relatively successful grantsman. Now, what that really means is that you are creative in the way you write your proposals, so that it's clear what the linkage is between what you want to do and what the authorization statutes and guidelines have to say, and hopefully you have psyched out the people themselves and figured out what their particular propensities are. But with some creative work on the part of the members of our SAC, we expect that we are going to be able to investigate whatever we want to investigate and be able to frame that in terms of the statute that sets up the program for the Civil Rights Commission.

The other problem I can see is that some of the kinds of activities require some preapproval. We don't expect any problems on preapproval excepting that of time, just getting paper from here to there and back again. However, there are other ways of doing activities, and within these limits that have been set by the Commission and while they are busy looking at the papers, we feel that we are going to have little trouble in figuring out something else to do.

We are one of the more active SACs, I should say. We would meet once a month if it weren't for the requirements for 30 days of advance notice, which makes it impossible to have monthly meetings, for all practical purposes. So, we're meeting about once every 5 weeks and expect to continue to do that for the 2-year term of our committee.

Thank you, Mr. Chairman. I'll be glad to answer any questions.
[The complete statement of Ms. Kurtz follows:]

PREPARED STATEMENT OF MAXINE KURTZ, CHAIR, COLORADO STATE ADVISORY
COMMITTEE TO THE U.S. CIVIL RIGHTS COMMISSION

I am Maxine Kurtz, Chair of the Colorado State Advisory Committee to the U.S. Civil Rights Commission. In a variety of capacities, I have been active in the civil rights movement in Colorado for over 40 years, including such areas as fair housing, open accommodations, education and employment. Currently, I am Personnel Research Officer for the City and County of Denver's Career Service Authority, which has pioneered techniques for employing minorities and women. Prior to my current position, I headed a model cities program, and earlier was the head of the research and special projects division of the Denver Planning Office. In all of these positions, I was able to influence the integration of minorities and women into the mainstream of life in the City.

Membership of the Colorado State Advisory Committee (SAC)

The attached copy of a memorandum from Linda Chavez to the Civil Rights Commission summarizes the salient information about the membership of the Colorado SAC, as reconstituted about May of this year. Three of the 11 members were holdovers from the former SAC, and the remaining 8, including me, were new.

As of today, two of the members have resigned. Ms. Lucero resigned because her interests were different than those of the rest of the committee, and she felt that she could more fruitfully pursue those interests in other organizations. To set this in perspective, I should note for the committee that Ms. Lucero's interests related to some phase of the judiciary, while the rest of the SAC seem to be interested primarily in aspects of K-12 education.

The other member who resigned was Thomas Tencredo, who is regional head of the U.S. Department of Education. Mr. Tencredo has a "volatile" career (to use his term), and deemed current developments to be such as to limit his effectiveness as a SAC member.

The biographic information on the attached memorandum to the contrary notwithstanding, Cynthia Kent currently resides in Denver. As a result, all of the SAC members live in Denver and its suburbs. About half of the State's population resides in metropolitan Denver.

The SAC is taking several steps to overcome this geographic concentration; one is to try to identify candidates in the southern and western parts of the State whom we can recommend to the Commission for possible replacements. I hope to know who these candidates will be by the end of this month.

My appraisal of the current nine members of the SAC is that they are demographically representative of the composition of the State (or at least they will be if another Hispanic is appointed to replace Ms. Lucero). While there is a spread of viewpoints which has evoked spirited debate, neither the extreme right nor the extreme left is represented on the group. So far, at least, ideology has minimally impacted our work.

How Appointed

I have no personal knowledge of how more than two of us were appointed.

In my case, I was nominated by June O'Neill, a senior researcher for the Urban Institute, who currently is on loan as a consultant to the Commission in an on-going study of women's issues, especially comparable worth. I have known Ms. O'Neill since about 1962, when I included some of her work in the documentation accompanying my testimony before the Pay Equity Hearings held by three House subcommittees. Mr. David Schwartz, a staff member of the Commission, called me to find out if I would be interested in serving as a SAC member, and also what my civil rights background is. Following this part of the conversation, he asked for suggestions of who is familiar with educational problems. I suggested Ms. Berkowitz, and the Commission appointed her as well.

Type of Work Being Done

As the new chair, I decided not to convene a SAC meeting until we were briefed by the national staff and Commission members on the scope and limitations on our work. That meeting was held in June. Thereafter, our SAC has been and will continue to meet about once every five weeks (because of the 30-day notice requirement).

At the initial meeting of the Colorado SAC, the group agreed that we needed to find out what the problems in the State are. We would do this by listening to the civil rights law enforcement groups in the State and consider how to communicate with various advocacy groups.

Four agencies were asked to meet with us at our last meeting: the Colorado Civil Rights Commission (a "706" agency), the Community Relations Service of the Justice Department, the EEOC and the OFCCP. Presentations were made by representatives of the first two agencies. The Regional Director of the EEOC was unable to obtain clearance from his national office in time, and the regional head of OFCCP declined to appear. I might add that immediately after the invitations were issued, a trial balloon was floated suggesting that Executive Order 11246 (the basis for affirmative action programs) might be amended to eliminate goals and timetables. The field staff of OFCCP would probably not have been able to speak authoritatively about the prospects of its mission.

Following the presentations of the representatives of the Justice Department and the State Civil Rights Commission, the SAC decided that a list of 20-30 advocacy groups was too long to invite representatives to speak. Accordingly, we agreed to survey them by mail. This was substantially aborted because of the Paper Work Reduction Act, which limits surveys to 9 or fewer without approval of the Office of Management and Budget. Inasmuch as the SAC membership wanted to start doing something, they were not about to wait for OMB clearance in my opinion. Accordingly, I whittled down the list to nine diverse activist groups representing such groups as Blacks, Hispanics, Asians, American Indians, seniors and the handicapped. The deadline for responses is today (Sept. 19).

Work Planned

Our next meeting, scheduled for October 7, is a pivotal one. We will review the results of the minisurvey, and decide:

- 1) what we want to study during the balance of our two year terms; and
- 2) how we plan to go about studying what we select.

In making these determinations, we are constrained by two factors:

- 1) the subject must fall within the scope of the act creating the Civil Rights Commission (see attachment); and
- 2) certain techniques of making a study require prior approval by the Commission upon advice of counsel.

These data were provided to SAC members in advance so they can decide how they want to proceed. As I noted earlier, our members are action-oriented, and I venture to guess that they will take advantage of any technique for local action without having to wait for clearance from Washington. In the meantime, the clearances will be sought so we can undertake later phases.

Subjects to be Studied

The Chavez memorandum attached to this testimony indicates that there is a hold-over project dealing with civil rights implications of block grant funding on Indian reservations. My inquiry as to the status of this study is that it only was discussed by the earlier SAC, and that no commitment to a study had been made.

As SAC chair, I have insisted that the group know the problems of the State before making a decision about what it will study. The committee members have accepted that advice. Nonetheless, the membership clearly has a preference for investigating some aspect of K-12 education absent some persuasive evidence of an urgent issue of which we are not currently aware.

Many issues in K-12 education and in pre-school education deal more with social and economic issues than with problems of discrimination. We will need to frame our issues with care to meet the requirement that the study fall within the scope of the Civil Rights Act. I am not suggesting that this new limitation is impossible to meet; rather, we need to exercise some ingenuity to be sure that the jurisdictional test is clearly met.

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



STAFF DIRECTOR

MEMORANDUM TO THE COMMISSIONERS

FROM: LINDA CHAVEZ

SUBJECT: Rechartering of the Colorado Advisory Committee

This memorandum requests action required for rechartering the Colorado Advisory Committee to the Commission on Civil Rights. This request is based upon the following information submitted as part of this memorandum:

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

I. Demographic Statistics for Colorado

As shown in the table below, Colorado has a total population of nearly three million of which 657,519, or 22.8 percent, are minority persons. The Hispanic population constitutes the State's largest minority group, accounting for 339,300, or 11.7 percent, of the total population. Blacks constitute 3.5 percent of the State's population and Asians one percent, but no other minority group represents as much as one percent of the population. Although there are two small Indian reservations in Colorado, the majority of Native Americans residing in the State live in Denver.

Listed below in tabular form are the population and minority group statistics for the State:

1980 RACIAL, ETHNIC AND GENDER STATISTICS FOR COLORADO¹

RACE ²	NUMBER	PERCENT
White	2,571,498	89.0
Black	101,703	3.5
Asian and Pacific Islanders	16,675	.5
Native American/Eskimo	17,734	.6
Other	182,354	6.3
TOTAL	2,889,964	

ETHNICITY ³	NUMBER	PERCENT
Not-of-Hispanic Origin	2,550,247	88.2
Hispanic Origin	339,717	11.8

GENDER ⁴	NUMBER	PERCENT
Male	1,434,293	49.6
Female	1,455,671	50.4

II. Recent Activities of the Colorado Advisory Committee

During the current charter period the Committee completed reports on affirmative action at the Federal level and on police relations in small Colorado communities. It has been involved in followup activities related to these two reports. Currently the Committee is participating in a regional project on the civil rights implications of block grant funding on Indian reservations.

1 U.S., Department of Commerce, Bureau of the Census, General Population Characteristics: Colorado, 1980 Census of Population, PC80-1-B7, 1982.

2 Ibid., p. 16.

3 Ibid., p. 17.

4 Ibid.

III. Program Projections for the Charter Period

The newly chartered Committee will continue work on the Indian block grant project and followup activities related to previous reports. It will make a determination of other programs to be undertaken during the next two years. Issues discussed by the present Committee include computer technology and equal opportunity, age discrimination, rights of the disabled, and problems related to immigration and undocumented workers.

IV. Personnel Actions Requested

The authorized size of the Colorado Advisory Committee is 11 members. The personnel actions requested will maintain the Committee at this number.

A. Chairperson Action

Maxine Kurtz, Chair

Ms. Kurtz is an attorney for the Career Service Authority of the City and County of Denver. In that capacity, she coordinates an affirmative action program which emphasizes recruitment, test validation, removal of unnecessary barriers, and training. Ms. Kurtz has also served as the director of Denver's Model Cities Program and was the director of research and special projects for the Denver Planning Office. She is a graduate of the University of Minnesota and completed her law degree at the University of Denver. Ms. Kurtz is a member of the Colorado Bar and the Women's Forum of Colorado. She speaks and writes nationally on comparable worth.

B. Reappointments

Donna Lucero

Ms. Lucero has an educational background in psychology and Spanish. She has experience as personnel officer in New Mexico and Colorado State agencies. She is immediate past president of the Colorado League of Women Voters and has also been president of the board of directors of Mi Casa Resource Center which provides women with such services as employment counseling, financial counseling, personal growth training, and legal referral. As a member of the Citizen's Coalition, which she helped to organize, she participated in a complaint filed against the City of Denver for misuse of General Revenue Sharing funds. The complaint was successfully resolved. Her other community involvement

includes appointment by the Mayor to serve as chair of the Denver Public Schools' Ad Hoc Committee on Desegregation. This committee was charged by the court with recommending revisions to the current desegregation plan.

Ms. Lucero has served eight years on the Colorado Advisory Committee and was Vice Chair during the last two terms. Her extensive involvement with minority and women's issues, and her influence with both the private and governmental sectors, have been valuable to the Committee.

A. B. Slaybaugh

Mr. Slaybaugh is Vice President of the Continental Oil Company, Inc. and is responsible for coordinating the work of his company in 15 Western States. By virtue of this position he is familiar with plans and problems of energy resource development in the Rocky Mountain Region. Mr. Slaybaugh has long been active in business and community affairs at the national, State, and city levels. He was a founding member of Plans for Progress, an alliance of national corporations which initiated efforts to employ minority and handicapped persons in the early 1960's. He has also been a member of the Wage Board and the International Trade Commission. Within the State Mr. Slaybaugh has served on the Energy Coordinating Council and is currently president of the Colorado Safety Association. He was Chairman of the Denver Chamber of Commerce for a year and is a member of the Mayor's Commission on Denver Development.

Mr. Slaybaugh's influential position in the business community, his direct involvement with problems related to development of the region, and his interest in minority affairs have been of assistance to the Committee.

Gwendolyn A. Thomas

Ms. Thomas, who holds a Ph.D. in English from Denver University, is currently Dean of the School of Community and Human Services at the Metropolitan State College. In this position she has been responsible for reorganizing the school and developing curriculum. For many years she has been active in the administration of justice, education, employment, and research in areas which are of concern to minorities and women. Her involvements in activities relevant to civil rights, women's issues, and justice have been highly varied and national in scope. These include membership on the ACLU National Board and Executive Committee, the Advisory Committee for the Denver University Women's Resource Center, and the Western Regional Council for the Wellesley Black Woman's Policy and Research Project.

Ms. Thomas' influence at the policy making level in higher education and the active expressions of her concern for justice and the problems of minorities and women make her a valuable addition to the Advisory Committee.

C. New Appointments

Lawrence A. Adler

A cum laude graduate of Washington Lee University and a graduate of the University of Denver's College of Law, Mr. Adler is the president of Lawrence A. Adler, A Professional Corporation. His primary area of practice is real estate ownership, financing, development, acquisition, and disposition. He is the current past owner of restaurants in Denver, Aspen, and Aurora, Colorado and in Chicago, Illinois. He is also the president of Westchester Management Company and the owner and developer of a variety of real estate properties.

Sandra Rae Berkowitz

A resident of Denver, Mrs. Berkowitz is the chair of the Education Committee of the League of Women Voters' Board of Directors. She is a member of the Denver Public Schools District School Improvement and Accountability Council, and serves as chairman of the Long Range Planning and Desegregation Committee. She is also president of the Denver Coalition for Educational Priorities; co-chairman of the State School Finance Committee of the Colorado League of Women Voters; and a member of the Colorado Department of Education Task Force on School Finance, the Coalition to Improve State School Finance, and the Housing/Integration Committee of the Denver Public Schools.

Gilbert Manuel Cisneros

A current resident of Golden, Mr. Cisneros completed graduate work at the University of Colorado in urban and regional planning. He is currently the Minority Programs Coordinator for the Public Affairs Research Department of the Adolph Coors Company. In that capacity, he coordinated the black covenant and the Hispanic agreement within the Adolph Coors Company. Mr. Cisneros has also served as the executive director of the Denver Business Development Center, the private sector coordinator of that center, and the President of the Grupo Servicios Internacionales. In the latter capacity, he founded a firm promoting trade opportunities between the United States and Latin America. Mr. Cisneros also founded a national organization promoting

education opportunities for minority students. He currently serves as the co-chair of Citizens for America, Inc., of the 6th Congressional District in Colorado and the co-chair of the Finance Committee of the Colorado Republican Hispanic Assembly.

Steven David Ellis

Mr. Ellis is an attorney with the law firm of Robinson, Waters, O'Doriso, and Rapson in Denver. Since 1982, he has worked actively on civil rights issues with Mountain State Legal Foundation and the Civil Rights Committee of the Anti-Defamation League. Mr. Ellis also has worked to secure civil rights for dissidents in the U.S.S.R. as a member of the Commission on International Jewish Affairs. Additionally, he is the founding member of the Colorado Jewish Republican Coalition. Mr. Ellis is a magna cum laude graduate of the Colorado College and a graduate of the University of Colorado School of Law.

Cynthia A. Kent

A resident of the Southern Ute Reservation, Ms. Kent is currently Director of the Colorado Commission on Indian Affairs. Her involvement in Native American and women's rights is extensive. She has been employed by the Southern Ute Tribe as director of education and served on the tribal planning commission. She has also been a member of the Colorado Commission on Women, the Virginia Blue Center for Women, the National Indian Education Association, and the American Association of University Women. Her interests and experience have made her well acquainted with the concerns of minorities, women, and rural residents of the State.

As a representative of rural Native Americans in Colorado she would make a valuable contribution to the Advisory Committee.

Thomas Tancredo

Mr. Tancredo is the Regional Representative in Denver of Secretary of the U.S. Department of Education. He has administrative responsibility for the entire regional office, including student financial aid, the office of civil rights, the inspector general's office and rehabilitation services. A life-long resident of Colorado, Mr. Tancredo was twice elected to the Colorado House of Representatives (1976-1980). He currently serves on the State Bilingual Steering Commission and as the Colorado representative to

the Education Commission of the States. A former public high school and community college instructor, Mr. Tancredo is a senior fellow at the Shavano Institute.

Al Trepanier

Mr. Trepanier is vice-president and director of corporate compliance for the Johns Manville Service Corporation, located in Denver. He is responsible for EEO compliance for all 77 of Manville's corporate locations. His duties include supervision of all affirmative action programs, responsibility for all desk and field audits by the OFCCP and other State and Federal compliance agencies, and overall case supervision for all civil rights charges brought against Manville. Mr. Trepanier's corporate experience in the field of EEO compliance will be of invaluable assistance to the Committee.

V. Advisory Committee Member Biographical Information Forms

See attached CCR Forms 16.

Duties

The Commission's duties are:

To investigate sworn allegations that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, handicap, or national origin.

To study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of color, race, religion, sex, age, handicap, or national origin.

To appraise the laws and policies of the Federal government with respect to discrimination or equal protection of the laws under the Constitution because of color, race, religion, sex, age, handicap, or national origin.

To investigate sworn allegations that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination.

To submit reports to the President and to the Congress.

Mr. EDWARDS. Well, thank you very much, Ms. Kurtz.

Does the gentleman from Michigan, Mr. Conyers, have any questions?

I'm sorry the gentleman missed the testimony of Mr. Green and Mr. Pendleton. Their testimony got into the makeup of the State Advisory Committees, of course, but we also got into the question of the reports that traditionally have been issued by these regional SACs. These splendid reports have been coming out for many, many years, but none has been issued under this administration, under the administration of Mr. Pendleton. And although there was testimony to the effect that there are a number of them sitting on Mr. Green's desk, who succeeded Linda Chavez as staff director. I believe that is accurate. And I think they intimidated they do have some plans for issuing these reports, although there was no firm agreement.

And that is something that you should think of, Ms. Kurtz. One of the questions is do you expect to issue reports?

Ms. KURTZ. Yes.

Mr. EDWARDS. Do you think you'll get them printed?

Ms. KURTZ. Yes.

Mr. EDWARDS. And why do you think you'll get them printed when none have ever been printed under Mr. Pendleton?

Ms. KURTZ. Because I have the feeling that there are ways of writing reports that cover the groundwork in an objective fashion and which clearly establish the link between what the report is dealing with and the authorization which the Congress has given to the U.S. Civil Rights Commission. And I think that jurisdictional question is probably the one which holds up more reports than almost anything else. And I see no reason, if you know ahead of time that you have to establish this linkage there, you design your research project to include that and you design your report to include it, and I would expect that, given the competency of my SAC committee and my own background in this field, that we should be able to prepare a report which meets those jurisdictional concerns that the Commission has. And we expect that it should be cleared in reasonably short order for publication.

Mr. EDWARDS. Thank you.

Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman. I welcome the witnesses here and appreciate their testimony.

I just hope that the advisory committee chairwoman gets this message out to the 49 other chairpersons who apparently don't know how easy it is to get these reports printed. Of course, she's speculating right now. We'll wait and see.

But please tell your colleagues that you think you've got the formula that will get this going. If you don't, I'll be happy to. No, I don't think I could do it, because I'm not sure if you're really right. We'll wait and see if you get yours published first, then I'll tell everybody.

Now, I do have to welcome on a personal note, Mr. Chairman, Frankie Freeman, our old friend in the civil rights struggle from St. Louis, MO.

We're very delighted to see you.

Ms. FREEMAN. Thank you, Mr. Conyers.

Mr. CONYERS. And I don't have any further comment or questions. Thank you very much, Mr. Chairman.

Mr. EDWARDS. I thank you, Mr. Conyers.

Now, Ms. Freeman, when you were serving as a Commissioner here in Washington, how useful did you find the reports of the SACs? Did you find that the SACs always had to parrot what the head of the Commission would direct?

Ms. FREEMAN. Mr. Chairman, not only during the time of my 16 years as a Commissioner but also prior to that time—because I served as a member of the Missouri Advisory Committee—there was no such requirement. The Commission recognized the value of the work of these citizens. We appreciated, we used, as I said in my printed statement, that the recommendations of the committee, in many instances, supplemented work that we weren't able to do. And we transmitted their recommendations to Federal agencies even before we held any hearings or took any other action.

We did have, on the cover of the report, a disclaimer. In other words, we indicated that this was the report of our advisory committees. The statute was very clear, that they were advisory and that they should have an opportunity to at least do their own work as our eyes—as the Commission's eyes and ears.

I think it is unfortunate and really almost tragic that this Commission has such a narrow and restricted view of what it calls its jurisdiction. And that has been very damaging to the achievement of equality. Actually, it will really not achieve the purposes of the Civil Rights Commission if their line continues.

Mr. EDWARDS. You think that Ms. Kurtz is overly optimistic in her belief that her group will be able to write reports and to have them published without undue red lining and review by the administration here in Washington?

Ms. FREEMAN. Well, since they have not been released yet, and none have been released since 1983, I think any statement is very optimistic.

The other problem, however, is that if they are red-lined so much that when they are released they are of very little value, it may be that the report that is released will not reflect the considered judgment of the committee, and that will, even if it's released, be damaging.

Mr. EDWARDS. Well, Ms. Kurtz, I hope you stay in there and fight, because I guess you can see that we think that you're not going to be able to break out of this web that the other SACs are in, apparently, and that you're not going to have the independence that Congress intended for you to have. So, we're counting on you to do it, and if you're not allowed to do it, to let it be known, very, very publicly, what's happened. Because I think you're going in there very honestly and straightforwardly, and you have a good record in civil rights, and I'm sure you're going to be very indignant if your reports are bottled up like a lot of them are and not printed promptly.

After all, civil rights issues get stale; they should be reported promptly. And, actually, there should be practically no editing. After all, these come from responsible people in the 50 States, and bureaucrats of Washington should not cut them up and put them

aside in piles on desks and not publish them. Don't you believe that?

Ms. KURTZ: I think I would keep the caveat, because I've seen an awful lot of reports in the 40 years that I've been in public life that just really did need some editing, not in terms of the material that they contained, but just simply in terms of the rhetoric that's involved, the accusations that are sometimes included in those reports without having been documented and substantiated. Some of these reports I've seen are what I would call highly political in their content. I think some of them can stand a little oversight by the Commission, but assuming that the report is objective, that it's related to civil rights issues, that it is based on facts and that it comes to a proper conclusion, I would expect that the staff and the Commission would approve that report in a reasonably short period of time.

Now, I may be optimistic, but neither you, Mr. Chairman, nor I am in a position right at the moment to prove the matter one way or the other. But I feel that this would be a—that we have a free hand, that we have the opportunity to do a good job; and I fully expect that we will be able to accomplish that. Otherwise, I would not have accepted this position as the Chair of the Colorado SAC, I don't have the time to waste if it's nonproductive work.

Mr. EDWARDS. Thank you.

Mr. Pugh, in 1982 you and 32 other SAC Chairs sent a letter to the President, critical of his civil rights policies. What was the nature of that letter and what was the reaction of the Commission to it?

Mr. PUGH. It's a very long story. It lasted over several months. But the first reaction was an effort to stop us, and the last reaction of the Commission staff was to have all of its Regional Directors telephone threats to all of the State chairmen, warning that they may be fired if they signed the letter. As it turned out, 33, I believe, signed the letter, which I have here and I'll make a part of your record. It was not just critical of civil rights. It was a request for a meeting with the President, which his appointments Secretary declined to give, saying the President was too busy. We made the letter public, and it made front page news in the New York Times and made Chairman Pendleton so mad that he suggested that I and everyone else involved in it simply quit if we didn't like what was going on.

The recurring comment that Mr. Pendleton has made all along is repeated today, that these committees are his. It bothers me a great deal, and I think that he feels that, having had the Commission reconstituted, the committees now are to do his work. He also speaks as if he had a great deal of input into the selection of the new SAC members, and there's no indication that other Commission members did. I wonder about that; that may bear looking into.

More important to me is one thing I omitted. Mr. Green, in his testimony, said that no direction, no efforts, no litmus test was given to the new SAC members. Mr. Pendleton, in his comments, said that he would supply you with a transcript of the new chairpersons' conference when it becomes available. I don't know how long that might take. There is in existence a transcript, a partial transcript of that chairpersons' conference which was made by a

member of the South Dakota committee. A particular point in there is worth bringing up. I should say that, first of all, the major addresses at the chairpersons' conference were concentrated in propagandizing the idea that the quotas were no good. In the Executive Director's remarks, or at least the copy of it that I have, are these sentences which I think point at really what the problem is:

This raises the question in my mind as to what the roles of the State advisory committees themselves should be over the next 2-year period. Should they, the committees, consider themselves to be mini-commissions? Personally I would think that to be a mistake of the highest order. The fact is that the resources for the sophisticated kind of research we are now conducting at the Commission is simply not available to you in the regional offices. We have a few exceptions. We do not have top flight researchers in our regional offices, and we don't have the computing facilities that we do in Washington. So my advice, as far as the research is concerned, research will be done by staff, not by experts who happen to be members of State advisory committees. My advice regarding research which has to be done by the staff is to keep it relatively simple. A good rule of thumb might be not to ask your staff to do any research that you would not be capable of doing yourself if you had the time.

In other words, they're a bunch of dumbbells is what he's saying, and the fact is that he's presided over the decimation of the regional staffs. The last act, I guess, was the movement back to Washington or the dismissal of the last remaining regional attorneys so that none of the State Advisory Committees have any legal advice if they're in a jurisdictional disagreement with the Commission.

Mr. EDWARDS. Well Ms. Freeman, in my more than two decades here, it seems to me that until recently the members of the Civil Rights Commission and the reports were totally free to criticize anybody, including the President of the United States.

Ms. FREEMAN. The Commission did, the State Advisory Committees did, and their reports reflected it. We made recommendations to the President, followed up by criticism in numerous reports. There was never, ever, any attempt by the Commission prior to this administration to follow an "administration line." No.

Mr. EDWARDS. As I remember, President Nixon got pretty mad at Father Hesburgh, but at least he didn't fire him.

Ms. FREEMAN. There was some concern because the Commission issued a series of reports on the Federal civil rights enforcement effort, in which we were critical of the Federal civil rights enforcement. Following the study when we found that the civil rights laws were not being actively enforced, we issued these reports and the President did have some objection in 1970 to the release—there was some concern about it. However, there was no attempt to bottle it up, to stop it. We issued the report. We were critical of the President, we were critical of a number of department heads. The reports were released. We followed up with the State Advisory Committees. Their reports were also critical. At the local level, there was no effort ever to diminish, to edit, to censor the reports. Certainly, there are reports, when they are in draft form, that need editing. But we are not talking about that kind of editing—for language, to correct grammar, that kind of thing. But basic censorship? Never. It never occurred.

Mr. EDWARDS. Ms. Kurtz, you're going to insist on the same rule, I trust. You're going to be independent insofar as criticizing whoever is President while you're chair of the SACs?

Ms. KURTZ. Well, if the President has anything to do with the issue that we're going to investigate.

Mr. EDWARDS. Well, the President's executive branch enforces the civil rights laws, so—

Ms. KURTZ. The Department of Justice, perhaps, but the—

Mr. EDWARDS [continuing]. No, the Department of Justice is a part of the administration.

Ms. KURTZ [continuing]. All right. Fair enough. Yes; if we have something which we can actually document, and it's justified, then the criticism will fall wherever it is due to fall. I'm not suggesting we're going to sanitize this report to hold anybody blameless. But what I'm also suggesting is that we're not going to be throwing out all of kinds of accusations that cannot be documented and justified. I think that's a question, and it's entirely possible, Mr. Chairman, that I—you know, we could come up with a suggestion that conceivably there's a civil rights issue that the Congress hasn't addressed, for that matter. And if that's the case, then we'll say that too. I do not perceive as the way our committee is going to operate at least that we are going to pull any punches on any subject. We're going to carry this right out to its logical conclusion, and let the chips fall where they may. If feelings are ruffled, well that's unfortunate. That's still the way our committee's going to operate, and we'll see what happens when we reach the end of the line and the report is due to be issued.

Mr. EDWARDS. That is good news. I'll be interested to see how you come out. I'll be rooting for you.

Ms. KURTZ. Thank you, sir.

Mr. EDWARDS. Counsel.

Mr. ISHIMARU. I have a question for the panel. All of you have served for a number of years, whereas Ms. Kurtz just started. Were the old panels balanced? Were they stacked in one way or the other in the past? Or was there always a diversity of thoughts on civil rights matters?

Ms. FREEMAN. You say a diversity of thoughts?

Mr. ISHIMARU. Well, on civil rights issues, on—

Ms. FREEMAN. No. We did not make a litmus test with respect to that. We did not have any representation on any of the SACs as far as I know, nor did we seek it, from the Eagle Forum, if that's what you meant, which is what is happening now. Yes; they were balanced, there was an effort to balance them.

Mr. ISHIMARU. So they didn't always come out, and say yes for quotas and yes for forced busing.

Ms. FREEMAN. No; we did not. It was not that kind of a litmus test.

Mr. PUGH. Very definitely, the Illinois committee found itself in a lot of disagreement, and my major problem, before Pendleton came along, was getting the committee members to go the way I wanted them to go, and I didn't succeed quite often. I would think that the Illinois committee was dominated by Republican voices, for what that's worth to the committee.

Mr. ISHIMARU. Ms. Kurtz.

Ms. KURTZ. I would say with our committee that there already have been some enthusiastic debates among the committee members. We did have only one person on the committee past tense

who is what I would call ideolog, somebody who knew the answers to the questions before the questions were asked of him.

Mr. ISHIMARU. Who was that?

Ms. KURTZ. Mr. Tancredo. But for his personal reasons he has resigned from that committee, and the remaining group is welding itself, if you will, into a group which is task oriented and, to the best of my appraisal at this point, in our development, although they do have differing viewpoints, nobody is so set in their ways that they are going to come up with preconceived solutions to problems, and are willing to debate and resolve the issues. But there is quite a spectrum of viewpoints among the committee members.

Mr. ISHIMARU. You were at the SAC chair conference in June, I think it was?

Ms. KURTZ. That's correct.

Mr. ISHIMARU. I was there as well, and I thought that I heard the members of the staff say that SAC documents would not be printed by Washington if the conclusions did not fall in line with the Commission's policies. Is that the same reading you had?

Ms. KURTZ. As I recall what I heard, because I don't have my notes here with me obviously, was that if the Commission has taken a formal position on something, that the SACs were not at liberty to come up with a conclusion other than what the Commission had done in public. Now as I understood it, it was still possible if the situation warranted that we say, your conclusions are out of date, they're inadequately based, conditions have changed, we think the Commission ought to have another look at it. But it would not be published, certainly, if it was clearly contradictory to a position already taken officially by the Commission, and I mean the whole Commission, I don't mean individual members.

Mr. ISHIMARU. So if you did a study in Colorado on comparable worth, and you reached a final conclusion that was opposite of the position taken by the Commission, that wouldn't be published, is that your understanding? And it could not come out through channels through the Commission?

Ms. KURTZ. I would not say couldn't come out through the Commission, but I believe that the Commission would probably not want to publish a document which contradicted the position that the Commission had taken officially, unless the Commission was ready to open the question for further investigation, in which case I could see some advantage. But, yes, I would agree that was the understanding I had as well from that proceeding.

Mr. ISHIMARU. Has that ever happened in the past, for the other two panel members, do you ever recall?

Mr. PUGH. May I speak to that point. I think that the reason that the two Illinois reports have been suppressed is because they deal with affirmative action. And the Commission of course has taken a new position on affirmative action—in general terms they're against it. The industrial revenue bond report bears on affirmative action, which was promised by employers who got the bonds in Chicago, and the contract compliance report in Chicago deals with affirmative action. I think the unsaid reason that they're being suppressed and never will be published is that they talk about some of the values of quotas, which the Commission is against.

I would like very much to give copies of these two reports to the committee. I don't know whether you have the facility to print them in the record, but at least they're public at this point.

Mr. EDWARDS. They can be accepted for the file. Thank you, Mr. Pugh.

Ms. FREEMAN. I would like to respond to the question with respect to the Commission. The answer would be no. There would certainly—

Mr. ISHIMARU. In the past?

Ms. FREEMAN. In the past. It did not happen.

Mr. ISHIMARU. Let me turn to one semitechnical point. Mr. Pugh mentioned the use of briefing memoranda. Why are briefing memoranda being used more and more now, what are they, and how do they work?

Mr. PUGH. I had never heard of a briefing memoranda, or a briefing memo—

Mr. ISHIMARU. Briefing memo, right.

Mr. PUGH [continuing]. Until the report I mentioned on contract compliance was criticized because it was out of compliance with the direction the Commission was interested in going. So the idea was given to me that it would be submitted as a briefing memo, and at least the commissioners would see it. I don't follow the logic of that, but it was said, in effect, it just simply wouldn't be printed.

Along that line, the new committee has been told that they'll be better off if they don't challenge areas where the Commission has a position. The general statement is: Here all kinds of civil rights problems in this country, let's deal with the ones which Pendleton and his crowd are not sensitive about.

Mr. ISHIMARU. Why do you use a briefing memo instead of doing a report?

Mr. PUGH. It is a report. It just simply was submitted as a—given the name of a "briefing memo" because it would go only to the Commission. But if we submitted it as a report, it would end up being hung up forever, seemingly, and even kept from the Commissioners. Previously, I was under the impression that, when the staff didn't act on these reports, they never got to the Commissioners.

Mr. ISHIMARU. Are these briefing memos made public, as far as you know?

Mr. PUGH. I've never seen this one made public. That's why I'm giving it to you, in that sense. No.

Mr. ISHIMARU. Mrs. Freeman, did you ever see a briefing memo when you were serving on the Commission?

Ms. FREEMAN. No, we did not.

Mr. EDWARDS. Mr. Kiko.

Mr. KIKO. I have a question for Mrs. Freeman and Mr. Pugh. During your service on the State Advisory Committees, there were any reports issued by any SACs that did not endorse the use of quotas or forced school busing as a way to balance some of the practices in the past of discrimination?

Ms. FREEMAN. First of all, our reports were related to, the study on affirmative action, and desegregation of "quotas" and "forced school busing"—those two we have no such reports because, actually, as you know, those two words are really code words. We studied desegregation in the public schools, the U.S. Commission did, and

the State Advisory Committees did their studies as followup on desegregation and the public schools. The language or the words "forced school busing" was not reflected in any of the reports because the reports reflected the study of the real issues by the State committees at the local level—

Mr. KIKO. The reports made no recommendations as to how to stop the segregation that was in the schools?

Ms. FREEMAN. The reports made many recommendations with respect to the elimination of racial discrimination in education. Following the open meetings at the State Committee levels and also numerous hearings by the Civil Rights Commission, we made numerous recommendations for the elimination of racial isolation in the public schools.

Mr. PUGH. The Illinois Committee made many recommendations dealing with busing in Chicago, dealing with school desegregation in Chicago, giving alternative ideas on busing. There is no busing in Chicago, and so the answer to your question is yes, there have been many reports. In regard to affirmative action, the reports I'm laying here deal with affirmative action, and there are negative attitudes about it. I won't go into detail, because it's right here, but the industrial revenue bond report raises questions about the value of it. In fact that's one of the reasons it was delayed.

Mr. KIKO. About the value of affirmative action?

Mr. PUGH. No, not the value of affirmative action, about the value of quotas. I think that, to be fair with Mr. Pendleton and Mr. Green, they would say they would agree with affirmative action.

Mr. KIKO. I have a question for Ms. Kurtz.

Have you had any problems on reaching a quorum with 11 members?

Ms. KURTZ. No. The first meeting had all 11 members. By the second meeting, two had resigned, and only one member was absent. So we had eight of the nine members present, and one that wasn't there sent profuse apologies that his company required his presence at that particular day. But we're having excellent attendance from the people on my committee.

Mr. KIKO. And Mr. Pugh, you said your first meeting could not get a quorum, is that correct?

Mr. PUGH. No, not the first meeting, the second meeting.

Mr. KIKO. When you had 22 members, did you ever fail to receive a quorum?

Mr. PUGH. I don't recall at any time. I think that the Illinois Committee—Mr. Edwards, the mention was made that under the new regulations the committees would all hold four meetings a year, rather than two. The Illinois Committee has routinely met 10 or 11 times per year, and I guess some committees, because of lack of funds, meet much less. It's really critical. If all the SACs were to function and have 10 or 11 meetings a year, or properly even 4 meetings a year, there wouldn't be enough money.

Mr. KIKO. I guess what I'm getting at is that if you're having problems getting a quorum with 11 members, I would think you'd still have problems getting a quorum with 22, because you would need 11 more members to show up.

Mr. PUGH. Let me answer that question. When we had 22 members, we went 3½ years without any new blood, without any new

appointments made, as the reconstituted Commission just froze the committee. It was difficult. We managed to get those quorums, but it was difficult.

Mr. KIKO. I just want to ask Ms. Kurtz a question.

When you were being recruited were any implied or express comments made upon you as a SAC chair, to follow a particular agenda, to toe the line of the Civil Rights Commission?

Ms. KURTZ. I was not asked to address any particular area. There were a couple of questions about comparable worth that were addressed to me at the time because of my background, which I feel is fairly extensive. But I was not asked to raise any questions and, in fact, any particular questions with regard to the agenda or non-agenda, if you will, of my committee. In fact, because of the fact that I had not the slightest idea what we were expected to do or what the Commission would like us to do, I held off calling the first meeting of the Colorado SAC until after the meeting was held in Washington with the SAC chairs so I could get some idea of where we were headed, which wasn't particularly informative because our SAC finally wound up still with no particular agenda in mind, and so we're just setting out to do our own agenda. We had neither any direction from Washington nor any followup work on our predecessors. They had completed their work, too. So we just started out with a blank slate, excepting for the predispositions of my colleagues, who seemed to be quite interested in educational issues.

Mr. KIKO. Do the other two members of the panel remember how their names got into the hopper as being asked to serve on the SAC chairs, who made the recommendation, was it field staff, was it Washington staff? I realize you've been on the SAC for a long time, but I was just curious if you could respond.

Ms. FREEMAN. Well, I was a charter member of the Missouri Advisory Committee in 1958. At that time there was not any such office as the field staff. I had been very active in civil rights, I am an attorney, and I had been very active also in Democratic politics, so I don't know who submitted my name. I received a call from Washington, from Commissioner Wilkins at that time, and was asked, I considered it an honor, and accepted.

Mr. KIKO. Mr. Pugh.

Mr. PUGH. In 1963, I shared the Peoria Human Relations Commission Brotherhood Award with Mrs. Valeska Hinton, who was director of the Human Relations Commission in Peoria, IL. About 10 years later, she was a staff person of the civil rights office in Chicago, and she asked me if I would be willing to serve on the State committee. So that's how I came into it.

Mr. KIKO. It was based upon her knowledge of your credentials?

Mr. PUGH. I've written extensively on the civil rights movement and, yes, I think that's exactly right. Incidentally, she retired early from the staff because she couldn't stomach what was happening in the reorganization. And she had a stroke last week. She's an outstanding hero in the civil rights movement.

Mr. KIKO. Mr. Chairman, I have no further questions.

Mr. ISHIMARU. Let me ask one general question for the panel.

Ms. Kurtz mentioned in her testimony how all members of the Colorado SAC are concentrated in the Denver metropolitan area. Would it help you to have more members on the SAC from other

parts of the State? How are you going to get more representation from the other parts, as you mentioned in your testimony?

Ms. KURTZ. Well, actually, now that we have two vacancies, I have a number of people who are knowledgeable and have contacts out in the southern and western parts of the State to consult with, and I hope by the end of this month to be able to make some recommendations to the Washington office of the Civil Rights Commission as to whom we feel on the SAC committee would represent those parts of the State. Metropolitan Denver is about half of the population of the State, and the rest of the State is really divided into about three regions. And we could certainly get about two of those regions represented if we could find people whom the Civil Rights Commission would be willing to appoint.

Mr. ISHIMARU. Would it help you to have a couple more members on the SAC?

Ms. KURTZ. I don't know if it makes much difference. They still could all have come from Denver. I think it was perhaps unwitting on the part of the Commission to have everybody come from Denver because when I asked, that was the answer I got. But if we get another resignation, we probably could recommend from the third region and they would have at least three members from different parts of the State.

Mr. ISHIMARU. Mrs. Freeman, you said that most of the Missouri SAC members come from either Kansas City or St. Louis. Given the fact there were more than 11 people serving, were people more geographically spread out over the State?

Ms. FREEMAN. The geographical spread has always been a problem, and you have to deal with it, and we did work to deal with it. In Missouri, for instance, the Bootheel is a section of the State that requires it, and at least there continues to be representation. Of course Kansas City and St. Louis have had the larger number of members. We did, however, when I was on the Commission, have representatives from the Jefferson City-Columbia area, and also from the Joplin area. And in Springfield. We held open meetings in Springfield. We held open meetings in Hannibal. It is necessary and important for the other sections, these other sections of the State, to be represented. We tried to do that and in many cases we were successful. In others we were less successful than we wanted to be.

Mr. PUGH. Illinois, like California, is a very long State, and the new committee has four members from the city of Chicago, three from Springfield, the State capital, three from Peoria, where I come from, and one from the small town of Cairo, in southern Illinois. This leaves out the East St. Louis metropolitan area, it leaves out the second largest city in Illinois, Rockford, and anything west of a line between—all of the representatives come from the places I've mentioned—when we had 22, we had the opportunity to have broader representation.

Mr. EDWARDS. Well, thank you all very much. It's been very helpful, we've had a good hearing, we appreciate your help and maybe we can come back in a year or so and give us an update report.

[Whereupon, the hearing was adjourned at 11:37 a.m.]

APPENDIXES

APPENDIX 1

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 4, 1985.

Hon. CLARENCE M. PENDLETON, JR.,
Chairman, U.S. Commission on Civil Rights,
Washington, DC.

DEAR MR. PENDLETON: This letter is to follow up our hearing on September 19, 1985, regarding the State Advisory Committees of the U.S. Commission on Civil Rights. During the course of our dialogue, a number of points were made which I believe require further exploration.

1. Regarding SAC publications since January 1984, Mr. Green indicated the following:

- 7 reports or concepts have been approved without major revisions.
- 9 reports or concepts have been sent back on legal sufficiency grounds.
- 3 reports or concepts have been sent back on jurisdictional grounds.
- "a couple or a few" have been found to be not suitable for publication.

a. List the reports and concepts which have been approved. Indicate the date of approval and provide the portion of the meeting transcript reflecting the approval.

b. List the reports and concepts which have been sent back on legal sufficiency grounds. Indicate the date it was sent back, the legal sufficiency problem, and the current status.

c. List the reports and concepts which have been sent back on jurisdictional grounds. Indicate the date it was sent back, the jurisdictional problem, and the current status.

d. List the reports and concepts which have been found to be not suitable for publication. Indicate the date of such determination and nature of the problem.

e. List any other report or concept still awaiting action by the Commissioners or Staff Director.

2. Please provide copies of the Virginia and Delaware migrant worker reports, including all drafts and the final versions. Indicate the jurisdictional problems contained in the draft versions.

3. Past SAC reports contained a disclaimer, indicating that the publication was a product of the SAC and did not necessarily represent the views of the Commission. When SAC reports are published in the future, will they continue to use such a disclaimer?

4. Please list all organizations contacted by the Office of Program and Policy Review staff in recruiting new SAC members, besides the Eagle Forum, the Anti-Defamation League, and the Equal Employment Advisory Council.

5. Another witness at the hearing indicated that briefing memos are now submitted by the SACs instead of reports. What are these briefing memos for? When were they first used? What Administrative Instruction covers briefing memos? List the briefing memos which have been provided to the Commissioners, indicating the date of transmittal, and whether the Commission discussed or acted upon the memos.

Also list briefing memos which have not been approved or are awaiting action by the Commission or the Staff Director.

6. Has the SAC quorum requirement always been a majority plus one, or has it ever been set at a lower number?

7. What was the role of the regional attorneys before they were RIFed? Did they provide legal sufficiency and defame and degrade analysis? Did they also provide legal counsel to the SACs? What is the process now for providing these services to the SACs?

8. Please provide a breakdown of how the Field Operation funds have been used since January 1984. Indicate amount spent on:

SAC planning meetings; SAC factfinding meetings; SAC special work assignments (define); Conferences; Reports and monographs; Briefing memoranda; and Other—specify.

We look forward to receiving answers to these questions.

With kind regards.

Sincerely,

DON EDWARDS,
*Chairman, Subcommittee on Civil
and Constitutional Rights.*

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 14, 1985.

HON. CLARENCE M. PENDLETON, Jr.,
*Chairman, U.S. Commission on Civil Rights,
Washington, DC.*

DEAR MR. PENDLETON: On October 4, 1985, I wrote to you to follow up the Subcommittee's September 19, 1985 hearing on State Advisory Committees. To date, I have not received a response.

Because the hearing record will close shortly, I would appreciate a response to this letter by November 27, 1985. For your convenience, a copy of the letter is enclosed.

With kind regards.

Sincerely,

DON EDWARDS,
*Chairman, Subcommittee on Civil
and Constitutional Rights.*

Enclosure.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 19, 1985.

HON. CLARENCE M. PENDLETON, Jr.
*Chairman, U.S. Commission on Civil Rights,
Washington, DC.*

DEAR MR. PENDLETON: As you know, on September 19, 1985, the Subcommittee held a hearing concerning State Advisory Committees. On October 4, 1985, I sent you a letter with questions to follow up that hearing. On November 14, 1985 I sent you another letter, requesting that the Commission provide an answer to my September 19, 1985 letter by November 27, 1985.

I have not yet received a response to any of this correspondence. Over the past month, on a number of occasions, the Subcommittee has been advised by the Office of Congressional and Public Affairs, and once by the Deputy General Counsel, that a response should be ready "within a few days." At the Commission meeting on December 10, 1985, Commissioner Berry inquired into the status of my letter. Susan Morris indicated that the response should be ready within a week.

Nevertheless, no response has been forthcoming. The Subcommittee is ready to send the hearing transcript to the printer, and I would like to include your response in the record. I understand that the Commission's own record closes 30 days after meetings, hearings and consultations. This is a sensible rule which the Subcommittee also likes to adhere to. However, over 75 days have elapsed since my original

letter and we are still unable to close the record. Accordingly, I would appreciate an answer by the close of business December 20, 1985.

With kind regards.

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on Civil
and Constitutional Rights.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC, December 20, 1985.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights,
U.S. House of Representatives, Washington, DC.

DEAR MR. EDWARDS: This will respond to your letter of October 4, 1985, in which you submitted questions pursuant to my September 19 testimony before your Subcommittee on the subject of the Commission's State Advisory Committees.

Question 1. Regarding SAC publications since January 1984, Mr. Green indicated the following:

7 reports or "concepts" have been approved without major revisions.

9 reports or concepts have been sent back on legal sufficiency grounds.

3 reports or concepts have been sent back on jurisdictional grounds.

"a couple or a few" have been found to be not suitable for publication.

a. List the reports and concepts which have been approved. Indicate the date of approval and provide the portion of the meeting transcript reflecting reflecting the approval.

b. List the reports and concepts which have been sent back on legal sufficiency grounds. Indicate the date it was sent back, the legal sufficiency problem, and the current status.

c. List the reports and concepts which have been sent back on jurisdictional grounds. Indicate the date it was sent back, the jurisdictional problem, and the current status.

d. List the reports and concepts which have been found to be not suitable for publication. Indicate the date of such determination and nature of the problem.

e. List any other report or concept still awaiting action by the Commissioners or Staff Director.

Answer to supplemental question 1(a): Thirteen reports or concepts were approved during the period between January 1, 1984, and September 19, 1985. They are as follows:

A. Reports Approved by Commissioners

1. *Fair Housing in Northwest Indiana.*—(Report completed prior to the reconstitution of the Commission. The new Commission adopted most of the report's recommendations on 5/2/84.)

2. *Accessibility for the Disabled to Wyoming's Higher Education.*—(Report completed prior to Commission's reconstitution. New Commission adopted most of its recommendations on 5/2/84.)

3. *Migrant Farmworkers on Virginia's Eastern Shore.*—(Approved 5/10/85 for limited distribution. Report was ruled not jurisdictional in that it treated migrant workers as a protected class.)

4. *Migrant farmworkers in Delaware.*—(Approved 5/10/85 as above.)

B. Concepts Approved by Staff Director

(Approval by Commissioner Unnecessary)

1. Civil Rights in Montana's Jails (Approved 9/29/83, still pending in the SAC.)

2. Voting Rights in Oklahoma (Approved 7/19/84.)

3. Recruitment and Selection of Police and Firefighters in Iowa (Approved 9/12/84.)

4. Civil Rights Laws and Enforcement in Vermont (Approved 5/1/85.)

5. Enforcement of Fair Housing Laws in California (Approved 6/24/85.)

6. Disparities in Juvenile Justice in Arkansas (Approved 6/24/85.)

7. Quality and Equity in Education in Michigan (Approved 7/19/85.)

8. Employment in Nevada's Casino Industry (Approved 7/19/85.)

9. Hispanic Employment in Illinois Municipalities (Approved 8/20/85.)

Since my testimony before your Subcommittee, the Commission has approved 7 SAC reports, and the Staff Director has approved 3 concepts, as follows:

Reports

1. *Battered Women in Connecticut: Six Years Later* (approved October 16, 1985).
2. *Statewide Conference Report on Civil Rights Complaints and Enforcement in Virginia* (approved October 16, 1985).
3. *Bigotry and Violence in Idaho* (approved October 16, 1985).
4. *Participation of Minority and Women Contractors in the Northeast Corridor Improvement Project* (approved November 12, 1985).
5. *Minorities and Women as Government Contractors—Kansas* (approved November 12, 1985).
6. *Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program* (approved November 12, 1985).
7. *Police-Community Relations in Omaha* (approved November 12, 1985).

Concepts

1. School Dropouts in Alaska Among American Indians and Native Alaskans (Approved 9/26/85.)
2. Forums on New Civil Rights Strategies—Pennsylvania (Approved 11/22/85.)
3. Hawaiian Homelands: Followup (Approved 12/6/85.)

Answer to supplemental question 1(b): With respect to your question that the Commission list reports or concepts returned to the State Advisory Committees on legal sufficiency grounds, the Commission's Office of Regional Programs advises me that one report falls into this category:

1. A report entitled *School Desegregation in Louisiana* was returned to the State Advisory Committee on May 10, 1985, because it did not distinguish between de facto and de jure segregation, ignored Supreme Court rulings, and set forth unsupported findings. The State Advisory Committee decided to drop the report.

Answer to supplemental question 1(c): It is furthermore my information that the following reports were returned to the State Advisory Committees for jurisdictional reasons between January 1, 1984, and September 19, 1985:

1. *South Carolina: The Use of Block Grants in Education*.—Returned to the SAC 10/1/84. The report went beyond the jurisdiction of the Commission in that it did not address discrimination. The SAC was advised to use the report as a resource for a future study, but it declined to take any further action.

2. *State Enforcement of Nondiscrimination Requirements in Education (IA, KS, MO, NE)*.—Returned to the SAC 5/28/85. Report contained some material outside jurisdiction, e.g., concern with bilingual/multi-cultural school curricula. Resubmitted to the Commission on 11/12/85. It is currently under review in the Office of General Counsel.

3. *Tuition Tax Credits in Michigan*.—Returned to the SAC 5/29/85. Report did not deal with real or potential problems of discrimination; sent to Commissioners for information only.

4. *Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program*.—Returned to the State Advisory Committee for revision and subsequently approved by the Commissioners for publication.

The Office of Regional Programs further indicates that the following two concepts were returned to SACs on jurisdictional grounds, but that one of the two has now been approved:

1. *Enforcement of Civil Rights of Disabled Persons in Oklahoma*.—Returned to the SAC 5/24/85. The proposed project was too broad in that it would take the Commission beyond the scope of existing Federal laws prohibiting discrimination based on handicap. The rechartered SAC has shown no interest thus far in revising and re-submitting the concept.

2. *Hawaiian Homelands: Followup*.—Returned to the SAC 8/18/85. Acting Staff Director ruled that no credible claim was made that Native Hawaiians are being discriminated against in the administration of the Homelands Trust. The SAC appealed this decision, and was given permission by the new Staff Director to proceed with the report.

Answer to supplemental question 1(d): The answer to your inquiry regarding reports and concepts found not suitable for publication is the same as the answer to supplemental question 1(c).

Answer to supplemental question 1(e): In response to your request that the Commission list any other report or concept still awaiting action by the Commissioners or the Staff Director, one report is under review in the Office of the Staff Director, *Police-Community Relations in Montgomery, Alabama*. Two SAC concepts are awaiting action by the Staff Director:

1. Fair Housing Remedies in Ohio: Who is Minding the Process? (Ruled jurisdictional and forwarded by the Office of General Counsel for Staff Director approval 12/13/85.)

2. Human Rights Act of North Dakota (Ruled jurisdictional and forwarded by the Office of General Counsel for Staff Director approval 8/14/85.)

Supplemental question 2. Please provide copies of the Virginia and Delaware migrant worker reports, including all drafts and the final versions. Indicate the jurisdictional problems contained in the draft versions.

Answer. Included herewith are copies of the migrant worker reports approved for limited distribution. According to the Office of Regional Programs, no prior drafts or final versions passed between the agency's headquarters and the SACs. The problem with these reports, as I noted in my testimony, was a jurisdictional problem inasmuch as they treated migrant workers as a protected class.

Supplemental question 3. Past SAC reports contained a disclaimer, indicating that the publication was a product of the SAC and did not necessarily represent the views of the Commission. When SAC reports are published in the future, will they continue to use such a disclaimer?

Answer. Disclaimers were added to the migrant worker reports to indicate the existence of a question concerning the jurisdictional sufficiency of these reports. A disclaimer was also added to the Connecticut SAC report, sent to the printer prior to the arrival of the new Staff Director. The new Staff Director has ruled that the practice of publishing SAC reports with disclaimers be discontinued.

Supplemental question 4. Please list all organizations contacted by the Office of Program and Policy Review staff in recruiting new SAC members, besides the Eagle Forum, the Anti-Defamation League, and the Equal Employment Advisory Council.

Answer. The Office of Program and Policy Review advises me that in rechartering the State Advisory Committees, they attempted to make them ideologically diverse as well as meet the statutory requirement that they be bipartisan. They therefore made a strong effort to reappoint SAC members who belonged to prominent civil rights organizations such as the NAACP, NOW, MALDEF, and the Urban League. Since several hundred SAC members were already affiliated with these organizations, Commission staff did not solicit these organizations for additional members. Other organizations with different points of view on civil rights issues were contacted. These other organizations were themselves a diverse group, including mainstream organizations such as the American Federation of Teachers, the Equal Employment Advisory Council, the Anti-Defamation League of B'Nai Brith, Social Democrats USA, and the A. Philip Randolph Foundation (of the AFL-CIO), as well as conservative organizations like Eagle Forum, the Heritage Foundation, Citizens for America, and the Mountain States Legal Foundation.

Supplemental question 5. Another witness at the hearing indicated that briefing memos are now submitted by the SACs instead of reports. What are these briefing memos for? When were they first used? What Administrative Instruction covers briefing memos? List the briefing memos which have been provided to the Commissioners, indicating the date of transmittal, and whether the Commission discussed or acted upon the memos. Also list briefing memos which have not been approved or are awaiting action by the Commission or the staff Director.

Answer. The concept of a briefing memo grew out of a meeting involving the regional directors and Staff Director Linda Chavez in May 1984, and out of an agreed-upon need for a less formal alternative to the State Advisory Committee reports. The practice began in Fiscal Year 1985. Briefing memos are not yet covered by an Administrative Instruction. They are to be sent to the Commissioners for informational purposes only. They are not to be published or generally circulated. All but two of the briefing memos received from the SACs to date have been forwarded to the Commissioners, and the exceptions to this were only recently received. The briefing memos forwarded to the Commissioners are as follows:

January 30, 1985.—1. Bigotry and Violence in New York and New Jersey ,

February 15, 1985.—2. Domestic Violence in New Jersey

March 14, 1985.—

3. Disestablishment of the Dual System of Higher Education in Arkansas

4. Status of Voting Rights in New Mexico

5. Contract Compliance in Chicago

6. Failure of the ERA in Maine

April 3, 1985.—7. I-91/I-291 Highway Project—Connecticut

June 19, 1985.—8. Combined Police/Border Patrol Activity in El Paso

July 25, 1985.—

9. Activities of the New Mexico Legislature

10. South Florida Chapter of Associated General Contractors v. Metro Dade County
 11. Aftermath of Race Rioting in Lawrence, Mass.
 12. Selected Age Discrimination Issues—Iowa
- August 9, 1985.*—
13. Confronting Racial Isolation in Miami—Followup
 14. Block Grant Funding for Indian Reservations (Rocky Mountain Region SACs)
 15. Human Rights Act of North Dakota
 16. Juvenile Justice in New Jersey
 17. Southeast Asian Refugees—The Administration of Justice and Immigration—Washington
- October 25, 1985.*—
18. Indian Hunting and Fishing in Northern Wisconsin
 19. Affirmative Action at the University of New Mexico
 20. Equal Employment Opportunity in Tacoma, Washington, Local Government
 21. Fair Housing in Texas
 22. Fair Housing Legislation in Oklahoma
 23. Indiana Civil Rights Issues in Mental Health

Supplemental question 6. Has the SAC quorum requirement always been a majority plus one, or has it ever been set at a lower number?

Answer. Under the 1957 Commission and its regulations, a SAC meeting quorum consisted of "one-half or more of the Committee, or five members, whichever is lesser." Since all SACs are now limited to 11 members, the question of whether the regulation with respect to a quorum ought to be revised is under consideration.

Question 7. What was the role of the regional attorneys before they were RIFed? Did they provide legal sufficiency and defame and degrade analysis? Did they also provide legal counsel to the SACs? What is the process now for providing these services to the SACs?

Answer. The function of the regional attorneys was to provide legal sufficiency reviews, defame and degrade analyses, and legal counsel as needed by State Advisory Committees. Inasmuch as these attorneys were not fully occupied and in the interest of cost effectiveness, their responsibilities were shifted to the Office of General Counsel.

Supplemental question 8. Please provide a breakdown of how the Field Operation funds have been used since January 1984. Indicate amount spent on: SAC planning meetings, SAC factfinding meetings, SAC special work assignments, (define), Conferences, Reports and Monographs, Briefing memoranda, and Other—specify.

Answer. The agency's financial data has not been gathered in such manner as to enable a response to your question according to the categories you have set forth. Total expenses for Field Operations for Fiscal Year 1984 were \$4,926,000. For Fiscal Year 1985, expenses were \$4,980,000. These figures include overhead expenses attributable to regional operations.

Provided herewith is a FY 1985 report on each of the State Advisory Committees submitted in accordance with the Federal Advisory Committee Act. Information on these forms includes the number of meetings held by the SAC during the year, the SAC's compensation costs, travel and per diem costs, other costs which include printing and mailing costs, and a statement of the SAC's major activities.

Sincerely,

CLARENCE M. PENDLETON, Jr.,
Chairman.

Enclosures.

ENCLOSURE 1—MIGRANT FARMWORKERS ON VIRGINIA'S EASTERN SHORE

A report of the Virginia Advisory Committee to the U.S. Commission on Civil Rights. The subject matter of this report is of public interest and, on that basis, the Commission has authorized its release. However the content of this State Advisory Committee report has not been approved by the U.S. Commission on Civil Rights; no finding of any violation of Federal Civil rights laws had been made in this report; nor has the Commission endorsed any of the findings of fact or recommendations contained herein.

PREFACE

The living and working conditions of migrant farmworkers on the Eastern Shore of Virginia have been described as deplorable¹ and possibly the worst in the Nation² for such workers. At the same time, growers on the Eastern Shore have complained of "duplication, even triplication"³ of Federal and State regulations designed to improve living and working conditions of these farmworkers and to protect their civil rights.

Since the Great Depression in the 1930s, the Federal government has played the major role in providing laws, programs, and financial assistance to improve the living and working conditions of the U.S. population through a wide range of social, economic, and educational programs. Despite these efforts, however, the living and working conditions of migrant workers, many of whom are members of minority groups that have traditionally encountered discrimination, have improved very little.⁴

To examine this persistent phenomenon, the Virginia Advisory Committee held a forum on August 3, 1982, in Painter, Virginia, located in Accomack County on the Eastern Shore. The meeting attracted Federal, State, and local government officials, growers, crewleaders, migrant farmworkers, and various community groups that provide services that benefit migrant workers.

Among the topics covered at the August forum were the living and working conditions of migrant farmworkers, their eligibility for programs and services on the Eastern Shore, current levels of service, civil rights problems of migrant farmworkers, civil rights provisions in the administration of Federal and State programs and services affecting migrant farmworkers (including the Federal block grant programs created by the Omnibus Budget Reconciliation Act of 1981),⁵ and recommendations to improve living and working conditions of migrant farmworkers.

CHAPTER 1.—INTRODUCTION

The first problem to be resolved in a study of migrant workers is that of definition. A uniform definition, accepted by all Federal, State, and local agencies and programs, does not exist.¹ In this report, unless otherwise specified, a migrant worker is:

"Any individual . . . who passes seasonally from one place to another for the purpose of employment, who is not a year-round employee, and who occupies living quarters other than this permanent home during the period of such work."²

Similarly, an accurate, generally accepted count of migrant workers in Virginia or any other State is unavailable.³ The U.S. Department of Agriculture cautions that data on migrant workers it collects is unreliable because of:

¹ *Washington Post*, "An Endless Season: Migrants of the East," August 23-27, 1981.

² Michael T. Robinson, staff attorney, Eastern Shore Legal Aid Center, in *Forum on Ideas for the Design and Implementation of Federal Block Grant Programs to Meet the Needs of Migrants and Seasonal Farmworkers*, Painter, Virginia, unpublished transcript, August 3, 1982, pp. 181-189 (hereinafter cited as Transcript).

³ E. Philip McCaleb, chairman, Migrant and Seasonal Farmworkers Commission, Commonwealth of Virginia, statement to members of the Virginia Advisory Committee, U.S. Commission on Civil Rights, at its meeting held in Richmond, Virginia, at the John Marshall Hotel on May 20, 1982.

⁴ See, U.S. Congress, House of Representatives, Committee on Banking, Finance and Urban Affairs, *Migrant and Seasonal Farmworker Housing in the United States*, 97th Cong., 1st Sess., 1981 (hereinafter cited as *Migrant and Seasonal Farmworker Housing*); U.S. Commission on Civil Rights, North Carolina Advisory Committee, *Where Mules Outrate Men: Migrant and Seasonal Farmworkers in North Carolina*, May 1979; U.S. Commission on Civil Rights, Idaho Advisory Committee, *A Roof Over Our Heads: Migrant and Seasonal Farmworkers Housing in Idaho*, 1980; U.S. Commission on Civil Rights, Iowa Advisory Committee, *How Far Have We Come: Migrant Labor in Iowa*, 1976.

⁵ Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, §§ 1-2765, 95 Stat. 357.

¹ E. Philip McCaleb, Transcript, p. 83; Jennifer Ruducha, nurse coordinator, Delmarva Migrant Health Project, Transcript, p. 142; U.S. Commission on Civil Rights, *Living and Working Conditions of Mushroom Workers*, July 1977, p. 5; U.S. Department of Agriculture, *The Hired Farm Working Force of 1979*, Agricultural Economic Report Number 473, August 1981, pp. 4-5 (hereinafter cited as *Hired Farm Working Force*).

² Va. Code § 32.1-203(3) (1950).

³ Kevin Boyd, executive director, Migrant and Seasonal Farmworkers Association, Inc., Transcript, p. 80; Harold Wilson, executive director of the Housing Assistance Council and chairperson of the Farmworker Housing Coalition, *Migrant and Seasonal Farmworker Housing*, p. 98.

"Inability to obtain information about all cases in the sample, definitional difficulties, differences in the interpretation of questions, respondents' inability or unwillingness to provide correct information, inability of respondents to recall information. . . ."⁴

One estimate is that approximately 5,300 persons are hired as migrant farmworkers in Virginia each year.⁵ These workers are recruited primarily in Florida, Texas, Mexico, Jamaica, and Haiti.⁶ About half of the migrant farmworkers are recruited for the Eastern Shore of Virginia.

Of the approximately 2,600 migrant farmworkers arriving on the Eastern Shore each year, about 62.3 percent are from Florida, 6.4 percent from Texas, and 10.5 percent from parts of Virginia.⁷ The remaining 21.8 percent are recruited from New York and other States in the eastern migrant stream (which extends from Florida to Maine), and from foreign countries, mainly Mexico and Haiti.⁸

Nationally, according to U.S. Department of Agriculture data, about 62 percent of all migrant farmworkers are white, 11 percent are black and other races, and 27 percent are Hispanic.⁹ But the racial composition of migrant farmworkers both on the Eastern Shore and the rest of Virginia is about 78 percent black, 11 percent Hispanic, and 11 percent white.¹⁰ Haitians represent about 10 percent of black migrant workers on Virginia's Eastern Shore, with the remainder of blacks coming mainly from Florida.¹¹ Jamaicans are mostly recruited for the valley area.¹²

The majority of migrant workers on Virginia's Eastern Shore are black single males, between the ages of 22 and 44, who experience high rates of unemployment and have a rudimentary education.¹³ About 4 percent are either physically or mentally handicapped, about 5 percent are ex-offenders, some are specially-disabled veterans, and many are either heavy drinkers or alcoholics.¹⁴

Nationally, farmworkers who are Hispanic or black and other nonwhites are more dependent upon farmwork than are whites.¹⁵ In 1979, three-quarters of all Hispanic, black, and other nonwhite farmworkers cited hired farmwork as their only employment during the year, compared to only half of white farmworkers.¹⁶

In general, minority farmworkers in 1979 were older than whites.¹⁷ White farmworkers had a median age of 22.1 years, compared with 29.9 years for Hispanics and 31.1 years for blacks and others. The majority of whites were between the ages of 14 and 24, many of whom were students and homemakers who used farmwork during the summer to supplement family income.¹⁸ The majority of Hispanics and blacks and others were 25 years and over.¹⁹ According to the U.S. Department of Agriculture:

These data suggest that as white farmworkers become older, they tend to move out of farmwork into other types of activities. For many whites, farmwork is only an entry-level job into the labor force or a supplemental source of earnings. Minority workers, however, are more heavily concentrated in the older age categories, suggesting perhaps, more limited access to other types of employment.²⁰

⁴ *The Hired Farm Working Force of 1979*, pp. 4-5.

⁵ E. Philip McCaleb, *Migrant and Seasonal Farmworker Housing*, p. 302; *Richmond Times-Dispatch*, "No Cut Seen in Farm Jobs for Migrants," June 31, 1918, p. 1.

⁶ Migrant and Seasonal Farmworkers Association, Inc., Final Statistical Report, October 1, 1980-September 30, 1981, and *The Charleston Gazette* (West Virginia), "Employment Woes Risk Apple Crop, Growers Say," June 30, 1983, p. B-2.

⁷ Kevin Boyd, Transcript, pp. 70-71.

⁸ Migrant and Seasonal Farmworkers Association, Inc., Richmond, Virginia, unpublished data for October 1, 1980-September 30, 1981 (hereinafter cited as *MSFA Data*).

⁹ *Hired Farm Working Force of 1979*, p. 13. See also: E.P. Vecchio and Oscar Cerda, staff of the National Association of Farmworker Organizations, "Discrimination Against Farmworkers in the Insurance Industry," U.S. Commission on Civil Rights, *Discrimination Against Minorities and Women in Pensions and Health, Life, and Disability Insurance*: April 1978, Vol. 1, p. 519. According to this source, about 90 percent of the migrant and seasonal farmworker population in the U.S. is Hispanic and most of the remainder is black.

¹⁰ Kevin Boyd, Transcript, p. 70.

¹¹ *MSFA Data*; Jennifer Ruducha, Transcript, p. 149.

¹² *The Charleston Gazette*, "Employment Woes Risk Apple Crop, Growers Say," June 30, 1983, p. B-2.

¹³ *MSFA Data*.

¹⁴ *Ibid.*

¹⁵ *Hired Farm Working Force of 1979*, p. 9.

¹⁶ *Ibid.*, p. 9.

¹⁷ *Ibid.*, p. 7.

¹⁸ *Ibid.*, pp. 5-7.

¹⁹ *Ibid.*, p. 7.

²⁰ *Ibid.*, p. 8.

Shortage of farmworkers

Although agriculture and its related industries are vital to the economic life of Virginia, concentration of economic activity has shifted from farms to towns and cities since World War II.²¹ The shift in population away from farm areas has produced a serious shortage of skilled farmworkers, particularly where agricultural production is dependent upon hand-harvesting of crops.²²

Migrant and seasonal farmworkers are needed in three principal areas in Virginia to help plant and harvest crops; the southwest, with abundant crops of apples, peaches, and cabbage; the Shenandoah Valley, noted for its large crops of apples, peaches, and tobacco; and the Eastern Shore, where vegetables such as tomatoes, potatoes, asparagus, and snap beans are produced.²³

Eastern Shore of Virginia

Two Virginia counties, Accomack and Northampton, constitute what is commonly called the Eastern Shore of Virginia. It is the Virginia portion of the Delmarva peninsula, which also includes parts of Delaware and Maryland.

The Eastern Shore of Virginia is a water-laced, isolated, and sparsely-populated region²⁴ about 70 miles long and 8 miles wide.²⁵ The Chesapeake Bay is on its west side and the Atlantic Ocean on the east side. Accomack County is adjacent to Maryland. The Chesapeake Bay Bridge Tunnel, which extends 17.6 miles over and under water between the southern tip of the Eastern Shore and Hampton Roads, Virginia, is the only connection between the two land areas of Virginia.²⁶ The toll across the Chesapeake Bay Bridge Tunnel was \$9.50 each way in 1982. Thus, the Eastern Shore has little interaction with the Norfolk metropolitan area or other large economic centers for employment or for cultural and social enrichment.²⁷

Accomack County. About 25 percent of the 31,268 county residents live in 14 incorporated towns, which range in size from about 240 to 1,600 persons. The county also has 14 unincorporated towns, numerous small residential communities scattered throughout the county, and about 450 farms. An estimated 32 percent of its land is farmland, 2 percent is in clustered residential communities, 1 percent in commercial and industrial use, 20 percent in forests and open space, and about 45 percent in public lands, conservation areas, and water.²⁸

Northampton County. The county has a population of about 14,625 persons. Almost the entire land area is devoted to farming, with 237 farms. About 45 percent of the farmland is used for the production of vegetables and nursery crops and the other 55 percent for the production of soybeans and grains.²⁹

Two poultry processing plants, Holly Farms and Perdue, have heavily tapped the unskilled labor force.³⁰ The industry has given full-time employment to about 1,800 residents that might be otherwise available to agriculture, seasonal food processing plants, households, and the trade industries. Increased employment opportunities provided by the processing plants have helped to stem the flow of workers into Maryland, but for every worker coming into Accomack County, for example, about 10 commute into Maryland for work.³¹

About 800 persons in Accomack are employed in travel and tourist-related jobs that are seasonal in nature; 700 in seafood and related industries, 275 in vegetable processing, 95 in lumber; and 250 in garment firms. Others are employed in small service industries.³²

²¹ State of Virginia, Virginia Employment Commission, *Labor Market Information for Affirmative Action Programs*, November 1978, p. 409.

²² Unpublished data furnished by C.N. Lester, associate dean, Virginia Cooperative Extension Service, Virginia Polytechnic Institute, Blacksburg, Virginia, to the Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, on August 30, 1982 (hereinafter cited as *Virginia Cooperative Extension Service*).

²³ State of Virginia, *Fiscal Year 1983 Virginia Migrant Education Program Application* (February 11, 1982), map showing migrant worker areas and crops.

²⁴ *Virginia Cooperative Extension Service*. Accomack County Situation Statement, p. 3, and Northampton County Situation Statement, p. 4.

²⁵ *Ibid.*

²⁶ *Virginia Cooperative Extension Service*. Northampton County Situation Statement, p. 4.

²⁷ *Virginia Cooperative Extension Service*. Northampton County Situation Statement, p. 4. (The Chesapeake Bay Bridge Tunnel opened in 1964.)

²⁸ *Virginia Cooperative Extension Service*, Accomack County Situation Statement, p. 3.

²⁹ *Virginia Cooperative Extension Service*. Northampton County Situation Statement, pp. 3-4.

³⁰ *Virginia Cooperative Extension Service*, Accomack County Situation Statement, p. 9.

³¹ *Ibid.*

³² *Ibid.*

Although mechanization has replaced the need for many farmworkers, mechanizations has not taken over all aspects of harvesting. Some crops must still be hand-harvested. As a migrant worker told the Virginia Advisory Committee:

"... the farmer. He can plant it, but he can't harvest it. And machinery is vastly taking over but it hasn't reached the point yet where they can disregard the migrant workers; they still need them."³³

Virginia's Farmworker Commission

In 1978 the Virginia General Assembly created the Migrant and Seasonal Farmworkers Commission. Among its statutory duties is that of providing for the coordination and evaluation of State and Federal services and, to the degree feasible, other governmental, public and private agency services to migrant and seasonal farmworkers within the State.³⁴ The commission has 15 members appointed by the Governor to represent growers; migrant and seasonal farmworkers and crewleaders (if practical); government, public, and private agencies; and interest groups or citizens concerned with migrant and seasonal farmworkers.³⁵

With regard to setting policies that relate to the recruitment and employment of migrant and seasonal farmworkers, the commission has developed a model contract that may be used by growers and crewleaders.³⁶ Kevin Boyd, executive director of the Migrant and Seasonal Farmworkers Association, Inc., a nonprofit organization, told the Virginia Advisory Committee that some representatives of MSFA asked the Migrant and Seasonal Farmworkers Commission to consider developing a model contract that could be used between the crewleader and the workers. However, the "idea was rejected."³⁷

In Boyd's opinion, the Migrant and Seasonal Farmworkers Commission is more representative of the interests of growers than of migrant workers:

"I have been to many of the Commission's meetings, and in my opinion the problems they have dealt with are more geared to what the growers' problems are with farmworkers rather than what the farmworkers' problems are [with growers]."³⁸

Since its inception, according to Boyd, no migrant and seasonal farmworkers have been appointed, although his organization and others have submitted names to various governors for consideration.³⁹ Boyd told the Virginia Advisory Committee that he believed the lack of representation of migrant and seasonal farmworkers on the commission reduced its effectiveness and limited opportunities to resolve problems of farmworkers, particularly those related to the terms and conditions of their employment.

"It seems to me a futile effort for farmworkers to expect to get any sort of resolution to their problems out of a commission where they have no representation."⁴⁰

In 1982, Governor Charles S. Robb reappointed Elizabeth Rice, a former migrant worker and current crewleader, to the Migrant and Seasonal Farmworkers Commission. She was originally appointed by Governor John N. Dalton.⁴¹ Rice told the Virginia Advisory Committee that:

"... the Governor appointed me to represent all the migrants on the Eastern Shore...⁴² my home is on the Eastern Shore, but I go to Florida to work in the winter, and I didn't have the funds to come from Florida up here even though they would reimburse me to do that, but I didn't have it from the beginning. So I would get all my brochures that they sent me and I would read them. But whenever I am here (on the Eastern Shore) I go to the meetings in Richmond."⁴³

The argument can be made that the migratory nature of migrant workers does not make it "practical"⁴⁴ to appoint them, but it is perhaps no less practical to appoint and reappoint a crewleader who is also migratory to represent them.

In addition, no migrant farmworker advocacy groups are represented on the commission,⁴⁵ nor are any private agencies that serve migrant workers.⁴⁶

³³ Spencer Cox, migrant worker, Transcript, p. 78.

³⁴ Va. Code § 9-149 (1950).

³⁵ Kevin Boyd, Transcript, p. 78.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid., p. 92.

⁴³ Ibid., pp. 95-96.

⁴⁴ Ibid., pp. 95-96.

⁴⁵ Ibid.

⁴⁶ Membership list obtained by Virginia Advisory Committee from the Secretary of the Commonwealth, September 1982.

CHAPTER 2.—RECRUITMENT OF EMPLOYMENT

Migrant farmworkers are recruited through farm labor contractors or, sometimes, through the Virginia Employment Commission (VEC). Occasionally migrants find jobs directly; usually such migrants have worked on Virginia's Eastern Shore long enough to know growers who will employ them.

In 1982, the major Federal law regulating recruitment of migrant workers was the Farm Labor Contractor Registration Act (FLCRA),¹ sometimes referred to as the Crew Leader Registration Act. FLCRA was initially passed in 1963 to eliminate the exploitation of migrant farmworkers and of growers by labor contractors. In 1974, the law was amended to strengthen its enforcement mechanisms and increase its coverage.

FLCRA was replaced in April 1983 by the Migrant and Seasonal Agricultural Worker Protection Act.² FLCRA and MSPA are quite similar; the pertinent differences are noted in the text below. There is no State law in Virginia requiring crewleader registration, as there is in some other States, but "pursuant to a State agreement that was initially approved under FLCRA, the VEC is authorized to issue certificates of registration. VEC has expressed its intention to continue this service by agreeing to submit a State plan under Section 513 of MSPA."³

MSPA requires that all farm labor contractors obtain registration certificates from the U.S. Secretary of Labor⁴ and that no grower employ a contractor without such a certificate.⁵ The act also requires contractors to disclose wages and conditions of employment (described below) to migrants at the time of recruitment and to keep accurate payroll records.⁶ Violations of the act are punishable by a \$1,000 fine or up to one year in prison, or both.⁷ Civil penalties include a fine of \$1,000 per violation.⁸ In addition, violations of the act by a contractor without a valid certificate are punishable by a \$10,000 fine or imprisonment for up to 3 years, or both.⁹

In addition to crewleader registration, MSPA also requires registration of employees of crewleaders who deal with or transport farmworkers. These employees are issued farm labor contractor employee identification cards.¹⁰

Certificates of registration and farm labor contractor employee identification cards may be revoked, suspended, not issued, or not renewed if the person applying for them has knowingly made any misrepresentation in order to obtain the registration or card or has failed to comply with the act and its regulations, among other restrictions.¹¹ Farm labor contractors may not knowingly recruit, employ, or utilize the services of any alien not lawfully admitted for permanent residence or who has not been authorized by the U.S. Attorney General to accept employment.¹² A crewleader may not have been convicted of any crime under State or Federal law relating to gambling or to alcoholic beverages in connection with or incident to his or her activities as a farm labor contractor.¹³

In addition, crewleaders may not intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant worker who has filed a complaint with just cause or caused a complaint to be filed.¹⁴

In the summer of 1982, VEC issued 83 certificates of registration to crewleaders. Of these, 55 were issued to crewleaders on the Eastern Shore. VEC also issued 44 farm labor contractor identification cards, of which 28 were issued to employees of crewleaders on the Eastern Shore.¹⁵

In addition, VEC was busy throughout the summer amending certificates and cards of crewleaders. After either a certificate or card is issued, it must be renewed annually.¹⁶

¹ 7 U.S.C.A. §§ 2041-2053 (1973).

² 29 U.S.C.A. §§ 1801-1872 (1975 and 1983 Supplement).

³ Charles M. Angell, Regional Administrator, Employment Standards Administration, U.S. Department of Labor, letter to Edward Rutledge, Director, Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, August 17, 1983.

⁴ Id. at § 1811(a).

⁵ Id. at § 1842.

⁶ Id. at § 1821.

⁷ Id. at § 1851(a).

⁸ Id. at § 1853(a).

⁹ Id. at § 1851(b).

¹⁰ Id. at § 1811(b).

¹¹ Id. at § 1813(a).

¹² Id. at § 1816(a).

¹³ Id. at § 1813(a)(5).

¹⁴ Id. at § 1855(a).

¹⁵ Kenneth Annis, assistant rural services supervisor, Virginia Employment Commission, telephone interview, September 29, 1982.

¹⁶ 29 U.S.C.A. § 1814(b)(1) (1975 and 1983 Supplement).

According to Kenneth Annis, assistant rural services supervisors, VEC:

"Almost every crewleader that came to Virginia this year, we had to amend their cards. Due to cutbacks in Florida, people [in the State employment agency] didn't have the time to register them properly. They purchased insurance; they should have been authorized to transport, but due to some technicality they failed to get the right cards."¹⁷

At the time of recruitment, crewleaders must ascertain and disclose in writing to each worker: (1) the place of employment; (2) the wage rates to be paid; (3) the crops and kinds of activities on which the worker may be employed; (4) the period of employment; (5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them; (6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and (7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishing to the workers.¹⁸

A poster supplied by the DOL regarding MSPA rights must be posted in a conspicuous place at the place of employment, along with the terms and conditions, if any, occupancy for the housing supplied.¹⁹ A crewleader may not require any migrant worker to purchase any goods solely from him or her or an other person.²⁰

Each farm labor contractor or other agricultural employer must keep and preserve for 3 years for each worker records that show: (a) the basis on which wages are paid (b) the number of piecework units earned, if paid on a piece work basis; (c) the number of hours worked; (d) the total pay period earnings; (e) the specific sums withheld and the purpose of each sum withheld; and (f) the net pay. . . .²¹

This information must also be provided to each worker for each pay period.²²

Wagner-Peyser Act

The Wagner-Peyser Act, enacted in 1933, establishes a cooperative system of public employment offices run by the States with Federal money and overseen by the U.S. Department of Labor's U.S. Employment Service.²³ In Virginia, the employment service is run by VEC. VEC provides free job referral services to employers and workers.²⁴

At the request of the growers, VEC can recruit migrant workers within Virginia, in other States, or in U.S. territories. Employers must assure compliance with the regulations of DOL's Employment and Training Administration [ETA] regardless of where the workers are recruited.²⁵

ETA regulations issued pursuant to the Wagner-Peyser Act for the recruitment of temporary foreign agricultural workers are similar to those of MSPA but require more assurances of employers. These regulations provide that employers must agree to supply housing for the workers,²⁶ pay for insurance coverage for any injury and sickness not covered by State workers compensation laws,²⁷ and guarantee that each worker will be provided work for at least three-fourths of the specified work days in the contract.²⁸

If VEC cannot find migrant workers in Virginia, it is authorized by provisions of the Wagner-Peyser Act and regulations of ETA to recruit migrant workers in other States or U.S. territories.²⁹ If an insufficient number of migrant workers are found in the domestic labor force, employers may recruit workers in foreign countries under the H-2 program run by the Immigration and Naturalization Service.³⁰

The H-2 program provides for the admission of nonimmigrant aliens into the United States to accept temporary employment "if unemployed persons capable of performing such service or labor cannot be found in this country."³¹ Their admis-

¹⁷ Transcript, p. 157.

¹⁸ 29 U.S.C.A. § 1821(a).

¹⁹ Id. at § 1821(b).

²⁰ Id. at § 1822(b).

²¹ Id. at § 1821(d).

²² Id.

²³ 29 U.S.C.A. §§ 49-49 L-1 (1973 and 1983 Supplement).

²⁴ Kenneth Annis, Transcript, p. 153.

²⁵ 20 C.F.R. § 602.2 (1981).

²⁶ C.F.R. § 655.202(b)(1) (1981).

²⁷ Id. at § 655.202(b)(2)(ii).

²⁸ Id. at § 655.202(6)(i).

²⁹ 20 C.F.R. § 602.8(a) (1981).

³⁰ 8 U.S.C. § 1101(a)(15)(h)(ii) (1976).

³¹ Id.

sion must not "adversely affect the wages or working conditions of similarly employed U.S. workers,"³² and persons admitted must have "no intention of abandoning" their country.³³

In 1973, in the case of *NAACP v. Brennan*,³⁴ the U.S. Supreme Court found that the DOL had failed to adhere to its own regulations in 13 areas. The violations concerned pay and working conditions and discrimination based on race, sex, national origin, and age.

As a result of the *Brennan* case, DOL developed regulations that are well-designed to protect migrant workers and to ensure nondiscriminatory practices by State employment agencies. The regulations provide for both a regional monitor-advocate system and a State monitor-advocate system to oversee enforcement.³⁵ State monitor-advocates are to collect information from any source available in the State, including reports made by outreach workers in the State public employment agency, in order to assure compliance.³⁶ The regional monitor-advocate oversees the activities of State monitor-advocates.³⁷ Both the regional³⁸ and the State monitor-advocates³⁹ may make onsite visits to migrant camps to obtain information about the living and working conditions of migrant workers.

The DOL regional monitor-advocate for Virginia is located in Philadelphia. The State monitor-advocate is an employee of VEC in Richmond. The State monitor-advocate in Virginia has additional responsibilities as a VEC employee, including handling job service complaints, certification, liaison with the Migrant and Seasonal Farmworkers Commission, and problems that may cause delays in programs such as the Comprehensive Employment Training Administration (CETA) program.⁴⁰

However, apparently growers on Virginia's Eastern Shore no longer use VEC to obtain migrant workers. According to Philip McCaleb, chairman of the Virginia Migrant and Seasonal Farmworkers Commission and a grower on the Eastern Shore of Virginia, growers have problems in meeting the requirements of regulations governing job orders placed with VEC:

"We have gotten to the point where it's almost impossible for any grower on the Eastern Shore to qualify for a job order any more. . . ."⁴¹

VEC personnel have little or no role in the recruitment of migrant workers for the Eastern shore of Virginia and only a minor role in the other areas of Virginia where migrant workers are recruited.⁴²

Kenneth Annis, VEC assistant rural services supervisor, told the Virginia Advisory Committee that VEC attempts to assure that both crewleaders and workers know the terms and conditions of employment:

"We provide assistance to crewleaders and workers. We have provided, I think, something like 3,500 copies of 'Terms and Conditions of Employment' this year to crewleaders and workers. So most workers on the Shore should know basically what they are doing and how much they are supposed to get."⁴³

While it is important that this type of information be made available, workers complain that crewleaders do not comply with the terms and conditions promised. At a congressional subcommittee hearing held on Virginia's Eastern Shore in September 1981, a Haitian migrant said:

"One day . . . I see the bossman coming. He say he got a job in Virginia (picking tomatoes). So I said, OK. I came with him . . . I says, how much (are you going) to pay a basket? He says 50 cents for a basket. OK. I come and start one day, go to work in the field with him. He says he pay 25 cents."⁴⁴

Workers compensation insurance

Virginia has had a workers compensation law since 1919.⁴⁵ Employers covered by the law must obtain insurance from a private insurance company that will provide

³² Id. at § 1182(a)(14)(B).

³³ Id. at § 1101(a)(15)(H)(ii).

³⁴ *NAACP v. Brennan*, 360 F. Supp. 1006 (1973).

³⁵ 20 C.F.R. § 653.108 (1981).

³⁶ 20 C.F.R. § 653.108(n) (1981).

³⁷ Id. at § 658.603(f)(7).

³⁸ Id. at § 658.603(f)(5).

³⁹ Id. at § 653.108(1).

⁴⁰ Jeffreys Hudson, State monitor-advocate, telephone interview, October 10, 1982.

⁴¹ *Migrant and Seasonal Farmworkers Housing*, p. 302.

⁴² *Ibid.*

⁴³ Transcript, p. 154.

⁴⁴ *Migrant and Seasonal Farmworkers Housing*, p. 290.

⁴⁵ *Feitig v. Chalkley*, S.E.2d 73, 74(1946).

benefits to employees who become injured or ill while employed and are unable to work.⁴⁶ An employer may be authorized by the Industrial Commission to be an individual self-insurer.⁴⁷ The benefits cover some medical expenses and loss of income. The workers compensation law in Virginia is administered by the Industrial Commission of the Commonwealth. It is responsible for assuring that covered employers obtain required insurance and that any disputes regarding claims filed on behalf of an employee are properly handled in the event a claim is disputed.⁴⁸

The Wagner-Peyser Act requires that growers or crewleaders who recruit migrant workers through VEC must purchase workers compensation insurance or its equivalent.⁴⁹

State law provides that employees who are successful in establishing a claim may receive, weekly no more than two-thirds the employees average weekly wage.⁵⁰ In 1982, the maximum benefit any type of worker could receive in Virginia was \$253 weekly. MSPA, on the other hand, does not require that employers of migrant workers obtain workers compensation insurance.

Social Security

Unless there is a written agreement to the contrary between a grower and a crewleader, the crewleader is considered the employer by the Social Security Administration (SSA).⁵¹ Otherwise the crewleader does not have authority to deduct proper amounts from the earnings of a migrant for social security, workers compensation, and taxes. The crewleader is required to keep and file all necessary reports to Federal and State agencies.

If a migrant worker earns \$150 from one crewleader or works 20 days in a year and makes the necessary social security contributions, the migrant has met the minimal requirements for eligibility for benefits under the Social Security Act.⁵² This law provides monetary benefits when an eligible worker becomes disabled, retires, needs medicare, or dies.

However, to be eligible for social security benefits, a migrant worker must have applied to SSA for a social security number and made contributions to social security. The crewleader who avoids payment of items like social security has a competitive advantage over crewleaders who do not. When seeking a contract with a grower, the crewleader who requires the last amount of money to cover the payroll is the one most likely to get the contract when competing with other crewleaders.⁵³

One observer has complained that some crewleaders employ migrants who do not have social security cards and deduct social security and taxes anyway:

"The crewleaders pay the social security taxes, or the crewleader—he deducts it from their pay and sometimes on top of that, rent money. He deducts it from their paychecks, and, well, sometimes they [the workers] don't even—some of them don't even have a number—they only have a receipt showing they applied for a social security number, and they still pay taxes."⁵⁴

Unemployment benefits

Migrant workers are frequently unemployed not only in the winter but for intermittent periods during the summer when, for example, they are traveling from one State to another or when they are unable to work because of weather conditions.

Pursuant to the Federal Unemployment Tax Act,⁵⁵ crewleaders, as employers, are required to pay a tax based on the wages paid to migrant workers.⁵⁶ These taxes are then allocated to approved State agencies that administer State unemployment laws. Eligibility for unemployment compensation as well as the amount of benefits varies from State to State:

⁴⁶ Va. Code § 65.1-104.1 (1950)

⁴⁷ *Ibid.*

⁴⁸ Va. Code § 65.1-92 (1950).

⁴⁹ 20 C.F.R. § 655.202(2)(ii).

⁵⁰ Va. Code § 65.1-54 (1950). It should be noted that while compensation for total incapacity may not exceed 66% percent of the injured worker's salary, this payment is subject to a minimum of not less than 25 percent and a maximum of not more than 100 percent of the average weekly salary of the Commonwealth.

⁵¹ 26 U.S.C.A. § 3306(0)(1) (1979).

⁵² U.S. Department of the Treasury, "Social Security Information for Crewleaders and Farmers," March 1975, p. 2.

⁵³ George E. Carr, Legal Aid Bureau, *Migrant and Seasonal Farmworker Housing*, p. 185.

⁵⁴ *Ibid.*, p. 294.

⁵⁵ 26 U.S.C.A. §§ 3301-3311 (1979).

⁵⁶ *Id.* at § 3301.

As arrangement has been made and approved, by the Secretary of Labor, under provisions of the Federal Unemployment Tax Act,⁵⁷ whereby an unemployed worker who has worked in two or more States, such as may occur when migrant workers, may file for a combined-wage unemployment claim. Such combined claims are processed in Virginia by VEC.

Margaret Vass, manager of VEC's Exmore office, told the Virginia Advisory Committee that it is sometimes difficult for migrant workers to obtain unemployment payments. Each State has its own unemployment compensation laws and eligibility requirements, which makes it cumbersome to determine unemployment benefits for migrant workers that travel from State to State. She said: If you work in Virginia, only in Virginia, you may not be eligible. You may go to another State, earn that same amount of money and be eligible.⁵⁸

Prior to being a VEC manager, Vass was an unemployment claims deputy at VEC. In that capacity she was able to help migrant workers obtain unemployment payments even when the workers did not have the full name of the growers or crewleaders that had employed them. Often a migrant worker would know a crewleader only by a first name or nickname. In those cases, she could sometimes obtain the full name by talking with someone in the farm placement section of VEC who could identify the crew leader.⁵⁹

Vass also had success in helping migrants who had been improperly denied benefits in other States. As an illustration, she told the Virginia Advisory Committee that a crew from Eagle Pass, Texas, had been told when they returned to Eagle Pass from Virginia that they did not have a valid claim for unemployment. Vass, however, found out that the workers had credit with an employer in Eagle Pass and with two crewleaders in Virginia. She filed a combined-wages claim that resulted in most of the workers in the crew each receiving between \$1,500 and \$1,700 in benefits. Vass was uncertain about what had happened in Eagle Pass, but she thought the State employment office there should have carried out the same procedure.⁶⁰

While migrant workers may eventually get unemployment payments, there often is a long waiting period, sometimes as long as 9 or more months, according to Kenneth Annis of VEC.⁶¹

Crewleaders do not always pay unemployment taxes in a timely fashion. Annis indicated that a crewleader had paid over \$3,000 in back taxes the week during which the Virginia Advisory Committee was on the Eastern Shore for its forum.⁶²

Fair Labor Standards Act

The Fair Labor Standards Act (FLSA)⁶³ regulates wages, overtime pay, and child labor. It is enforced by the Wage and Hour Division of the U.S. Department of Labor.

Pursuant to provisions of the act, "every employer shall pay to each of his employees who in any workweek is engaged in the . . . production of goods for commerce . . . not less than \$3.35 an hour . . ." ⁶⁴ If a migrant worker does not make the equivalent of \$3.35 per hour doing piecework, then the employer must make up the difference between the amount the migrant worker earned and the minimum wage required.

In fiscal year 1982, the Wage and Hour Division conducted 26 investigations under the Fair Labor Standards Act on Virginia's Eastern Shore. As a result, \$1,832 was found due to 31 employees.⁶⁵

FLSA requires that workers receive premium pay for work in excess of 40 hours per week, but farmworkers are exempt from this requirement and not paid overtime rates.⁶⁶ In addition migrant workers are not paid for the time they spend traveling to and from the fields, for the time they wait for trucks or equipment, for bad weather days that prevent them from working, for days when they are too ill to work, and so forth.⁶⁷

⁵⁷ 20 C.F.R. § 616 (1981).

⁵⁸ Transcript, pp. 164-165.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, pp. 162-164.

⁶¹ *Ibid.*, p. 155.

⁶² *Ibid.*

⁶³ 29 U.S.C.A §§ 201-219 (1978).

⁶⁴ *Id.* at § 206(a)(1).

⁶⁵ Angell Letter.

⁶⁶ 29 U.S.C.A. § 207(a)(1) and § 213(a)(b) (1965); also Angell Letter.

⁶⁷ Monica Heppel, sociologist and former migrant worker, interview in Accomack, Virginia, August 2, 1982 (hereinafter cited as Heppel interview).

The Fair Labor Standards Act regulates the employment of children under the age of 16 years as follows: (1) Youths aged 16 and above may work in any farm job at any time. (2) Youths aged 14 and 15 may work outside school hours in jobs not declared hazardous by the Secretary of Labor. (3) Youths aged 12 and 13 may work in jobs not declared hazardous outside school hours either with written parental consent or on the same farm where their parents are employed.⁶⁸

The Wage and Hour Division office in Baltimore enforces the Fair Labor Standards Act on the Eastern Shore of Virginia. According to Annis, approximately eight inspectors were active on Virginia's Eastern Shore during the summer of 1982.⁶⁹

Some crewleaders are being assessed fines for noncompliance:

"In Virginia, a few years ago, it was costing workers and crewleaders over \$100,000 in assessments and most of those assessments were made in these two counties."⁷⁰

Annis told the Virginia Advisory Committee that he included workers in his statement about the amount of assessments paid because:

The people [migrants] we are talking about protecting are the people that are paying it [the assessment]. Anything you take from them [crewleaders], it comes from the worker, and eventually you are going to pay for it when you buy the pound of potatoes or tomatoes or whatever. . . ."⁷¹

Philip McCaleb, chairman, Migrant and Seasonal Farmworkers Commission, told the Virginia Advisory Committee:

"Virginia has been subjected the past couple of years to an intensive enforcement effort by Wage and Hour. It is illustrated by the fact that I believe Virginia is 9th, 10th, maybe as low as 12th, as far as the number of migrants in utilization in the country and they are 6th in the level of enforcement. Of course, it is curious also that the percentage or the number of citations . . . that [have been] found in Virginia is one of the lowest in the country on a percentage basis in spite of an intensive effort to inspect on a Federal level for Wage and Hour."⁷²

According to testimony given at the congressional hearing on Virginia's Eastern Shore in September 1981:

"Most of the . . . Haitian farmworkers . . . really do not understand the . . . meaning of piecework associated with minimum wage . . . so . . . it's really a source of being exploited by the crewleaders, in the sense that he [the worker] can go out there, spend a whole day on the field, and pick only for \$15 or \$17, while he is entitled to a full day of work."

"But for him, he is satisfied, because he thinks that is what the crewleader owes him, in the sense that's all right, that's what I make. He is satisfied, but he doesn't know that the crewleader has the responsibility to guarantee the worker the full-time work before he even gets him on the bus from Florida to bring him up here. . . ."

"There is another thing about that too, it is the fact they don't get pay receipts. Most crewleaders don't give pay receipts, which would indicate the number of bushels and the number of hours they work for, and they give that."⁷³

Title VII of the Civil Rights Act of 1964

Several participants in the open meeting held by the Virginia Advisory Committee observed:

". . . if they are a Mexican crewleader, they are going to recruit Mexican people, and if they are a black crewleader, they have black people working for them. . . ."⁷⁴

The U.S. Equal Employment Opportunity Commission (EEOC) enforces most of the Federal laws prohibiting discrimination in employment. Title VII of the 1964 Civil Rights Act covers employers who hire 15 or more employees at least 20 weeks a year. Although Title VII is one of the strongest Federal laws in the area of recruitment and other terms and conditions of employment, it probably applies to few crewleaders as employers, since most of them do not employ migrant workers as

⁶⁸ Angell Letter.

⁶⁹ Kenneth Annis, Transcript, p. 156.

⁷⁰ *Ibid.*, p. 156.

⁷¹ *Ibid.*, p. 157.

⁷² *Ibid.*, p. 54.

⁷³ Jean Yves Point du Jour, Maryland Legal Aid Bureau, *Migrant and Seasonal Farmworker Housing*, p. 293.

⁷⁴ Jennifer Ruducha, Transcript, p. 151.

long as 20 weeks a year.⁷⁵ Virginia has no general law prohibiting employment discrimination.⁷⁶

CHAPTER 3.—HOUSING

"Despite the enactment of laws intended to produce adequate housing for farmworkers, very little has in reality been accomplished."¹

A critical shortage of rental housing exists on Virginia's Eastern Shore year-round.² Of the nearly 20,000 housing units in 1980,³ the majority were either single-family or mobile homes, occupied throughout the year by local residents.⁴

Over the past few decades, little construction of housing units has occurred; nearly two-thirds of the occupied housing was built prior to 1940. Half of all year-round rental units in the area are substandard, with outdated heating systems, lack of insulation, and inadequate plumbing and sewage disposal facilities.⁵

Between mid-June and mid-August, 4,000 or more migrant adults and children come to Virginia's Eastern Shore.⁶ All of them need decent temporary housing.

"Not infrequently, migrants have no housing at all and must live out of their cars for days and even weeks at a time."⁷

Because most migrant workers lack transportation⁸ and because temporary housing near the worksite is limited, most migrant workers are housed on farms in migrant camps. A migrant camp is literally anything that provides living quarters for more than 10 persons, one or more of whom is a migrant worker.⁹ A camp may consist of one or more structures—buildings, tents, barracks, mobile homes, vehicles, converted buildings, or other unconventional enclosures—that protects workers from the elements.¹⁰ Housing ranges from converted chicken houses and barns to good block construction.¹¹

Number of Migrant Camps

Available figures on the number of migrant camps on Virginia's Eastern Shore are unreliable. The Migrant and Seasonal Farmworkers Association has identified 43 camps with a capacity of 1,462 persons.¹² Of these camps, 27 are in Accomack County¹³ and 16 in Northampton County.¹⁴ The majority of the camps will accommodate between 11 and 40 people.¹⁵ Of the 27 camps in Accomack, one will accommodate 100 persons and another will hold 120 occupants. Of the 16 camps in Northampton, two camps have a maximum capacity of 60 people each, one will accommodate 50 people, and one will house 90 occupants.¹⁶

Since an estimated 4,000 migrants needed housing during the 1982 season on Virginia's Eastern Shore,¹⁷ the 43 camps with a maximum capacity of 1,462 could not legally accommodate even half the migrants unless the turnover was enormous.

According to the Migrant and Seasonal Farmworkers Association, the 43 camps were identified with the assistance of Virginia's Eastern Shore Health District.¹⁸ This agency is responsible under State law for issuing permits to operate migrant camps and for inspections (as described below). The MSFA believes that the 43 camps are "only the tip of the iceberg"¹⁹ and that "many migrants live in camps or

⁷⁵ *Hired Farm Working Force of 1979*, pp. 12, 20.

⁷⁶ U.S. Commission on Civil Rights, *Sex Discrimination and Title VII in Virginia* (Washington, D.C., April 1981), p. 1.

¹ Representative Henry B. Gonzalez, *Migrant and Seasonal Farmworkers Housing*, p. 2.

² *Virginia Cooperative Extension Service*, p. 7.

³ U.S. Bureau of the Census, *Summary of Social and Economic Characteristics*. Table 4, 1980.

⁴ *Virginia Cooperative Extension Service*, p. 7.

⁵ *Ibid.*

⁶ Kenneth Annis, Transcript, p. 159.

⁷ *A Guide for Serving Farmworkers in the State of Virginia* (Richmond: Migrant and Seasonal Farmworkers Association, 1982) (hereinafter cited as *Guide to Serving Farmworkers*.)

⁸ Kevin Boyd, Transcript, p. 74.

⁹ Va. Code § 32.1-203(2) (1950).

¹⁰ *Id.*

¹¹ Kevin Boyd, Transcript, p. 74.

¹² *Ibid.*, pp. 18-22.

¹³ *Ibid.*

¹⁴ *Ibid.*, pp. 20-22.

¹⁵ *Ibid.*, pp. 18-22.

¹⁶ *Ibid.*, pp. 20-22.

¹⁷ Kenneth Annis, Transcript, p. 159.

¹⁸ *Guide to Serving Farmworkers*, p. 17.

¹⁹ *Ibid.*

houses which have not been inspected by the appropriate State and Federal agencies." ²⁰

Monica Heppel, a sociologist and former migrant worker, told the Virginia Advisory Committee:

"I would come in (to a community agency) and mention (a camp) to someone at legal aid or someone at migrant health, and they didn't even know that there was a crew working . . . and living there. Therefore, there was no way they could have been inspected. And there is a fair amount of that going on." ²¹

Jennifer Ruducha, nurse coordinator for the Delmarva Health Project, reported that outreach workers:

" . . . have haphazardly come across migrants (living in private housing in the communities). Many times it is hard for us to identify who migrants really are. . . . I think there needs to be a structure, a physical place where migrants can be housed so they can be better traced and better . . . taken care of, versus the local housing which isn't regulated. It is very hard to find." ²²

Camp conditions

The Migrant and Seasonal Farmworkers Association, Inc., which offers a housing referral service for migrant and seasonal farmworkers on Virginia's Eastern Shore and elsewhere in the State, reports that it has contact with about 30 percent of migrant workers. ²³ MSFA has found that 67 percent of those migrant workers are living in migrant camps, 18 percent have no shelter at all, about 11 percent rent housing in the surrounding communities, and the remaining 4 percent find housing under other circumstances. The exact figures for all migrants on the Eastern Shore are not available, but it is believed that most migrant workers are housed on the farms. ²⁴

A migrant worker on Virginia's Eastern Shore told members of the Virginia Advisory Committee:

"I know people who have pets (that) live better than the migrant workers are living. . . ." ²⁵

"I haven't seen one (migrant labor camp) that I would consider fit for human beings to live in . . . and I've been to every one in Virginia just about. I've been here for 40 years. . . . They've got houses in them woods you wouldn't believe. No one lives in them until the migrant workers come in and call them a camp." ²⁶

Another migrant told a congressional committee:

"At the camp, the housing was real poor, real old, nothing but wood. The inside has cardboard all up on the top and on the sides. Then you may have a little—what they put on the roof, tar paper, over that, and that was it. And it had a lot of cold wind coming in. And the beds and the mattress—they was old. The mattresses looked like they had been there 2 or 3 years, like you are using the same mattress over and over again.

"When the tomatoes went down, I left there, and I met the Haitians that bring me to Juan's camp. When I got there, just about the same condition—mattress, holes in the wall, holes in the door. The faucet—you have to lean over a big puddle of water to drink it, and if you are not strong to hold to the pipe while you are unscrewing it, you know, to get the water, you fall. It's all real muddy and everything." ²⁷

When converted chicken houses, horse barns, and similar structures are used, ²⁸ typically they are partitioned inside to provide some privacy for the occupants. Some of these migrant camps have only one door and a hallway running from one end to the other with the partitioned areas on either side. ²⁹ Lack of adequate insulation and air conditioning makes the living space very hot in the summer, and the partitions inhibit a free flow of air for ventilation. ³⁰ Mattresses are sometimes wall to wall on the floor. ³¹ The mattresses are removed during the day so the occupants can walk around.

²⁰ Ibid.

²¹ Transcript, p. 104.

²² Transcript, p. 143.

²³ MSFDA Data.

²⁴ Ibid.

²⁵ Spencer Cox, Transcript, p. 66.

²⁶ Ibid., p. 90.

²⁷ James Lee William, migrant, *Migrant and Seasonal Farmworker Housing*, p. 295.

²⁸ Spencer Cox, Transcript, p. 63, and Kevin Boyd, Ibid, p. 4.

²⁹ Jennifer Ruducha, Transcript, p. 144.

³⁰ Heppel Interview.

³¹ Jennifer Ruducha, Transcript, p. 144.

Abandoned farm houses, single-room wood cabins, and concrete houses are other types of migrant camps. It is not unusual to find holes in the walls or roofs, rotten ceilings, and visible electrical wiring.³²

Virginia's Eastern Shore residents rely primarily on septic tanks and privies to remove waste. Neither means of waste and sewage removal is suited to use by large numbers of people. Both depend upon a process of chemical decomposition and drain fields large enough to absorb the waste liquids. Septic tanks generally become full and overflow early in the season due to overuse of the facilities.³³ The same situation is true for privies; that is, overcrowded conditions in the camps leads to an overflow of waste. As a consequence, some migrants use receptacles to collect their waste and discard it in the fields surrounding the camp; some use the fields in the first place.³⁴

This potential spread of disease by insects and other means of contact with surface waste matter is a problem, as is potential contamination of the water supply where the water table is near the surface.

Drainage problems also exists in many of the migrant camps when laundry water is discarded or when water from shower rooms runs out onto the ground.³⁵ Heavy rains often produce pools of water that may stay long enough for insects to breed and transmit disease.³⁶

An outreach worker for the Migrant and Seasonal Farmworkers Association pointed out that when camps on Virginia's Eastern Shore are compared with one another, some are considered better than others and may be called good camps within that context. However, when good camps on Virginia's Eastern Shore are compared with good camps in other parts of Virginia or the Nation, they are generally described as deplorable.

"I have seen some camps that were good by camp standards, but that's by camp standards [on the Eastern Shore of Virginia]. If you've ever seen a camp here on the Eastern Shore [of Virginia], you'd know good is not very good. And I've seen some really rotten living quarters."³⁷

Kevin Boyd of Migrant and Seasonal Farmworkers Association supported this observation:

"Housing . . . is a big problem on the Eastern Shore [of Virginia]. I've heard people who have traveled around the country, have been in migrant camps all over the country, describe those conditions on the Eastern Shore as some of the worst they have ever seen."³⁸

Kenneth Annis, assistant rural services supervisor, Virginia Employment Commission, touched on the question of why migrant workers continue coming to Virginia's Eastern Shore in view of its reputation for having unfavorable housing conditions in the camps:

"We hear that everything is so bad here [on Virginia's Eastern Shore]. And a lot is bad. But have any of us wondered why these people [migrants] come back here year in, year out, when there is good housing in Pennsylvania, when there is good housing in Winchester [Virginia], when there is good housing in southwest Virginia . . . ? Not everything is right; but there are jobs here and they come here because there is work."³⁹

State laws and regulations

Virginia requires that the State Commissioner of Health be given 30 days written notice by any person who plans to construct, remodel, enlarge, or convert property for the purpose of using or occupying the property as a migrant labor camp.⁴⁰ The commissioner is responsible for forwarding to the person who gives notice a copy of Article 6, Migrant Labor Camps, Title 32.1 of the Health Laws of Virginia, and any other applicable regulations.⁴¹

On November 1, 1980, Virginia's Office of Health Protection and Environmental Management published rules and regulations governing the construction and maintenance of migrant labor camps. Under these rules and regulations, a permit must

³² Heppel Interview.

³³ Ibid.

³⁴ Alex Le Brun, migrant worker, *Migrant and Seasonal Farmworker Housing*, p. 294.

³⁵ Monica Heppel, Transcript, p. 102.

³⁶ Heppel Interview.

³⁷ Pauline James, outreach worker, Migrant and Seasonal Farmworkers Association, Transcript, p. 167.

³⁸ Transcript, p. 74.

³⁹ Transcript, p. 159.

⁴⁰ Va. Code § 321-204 (1950).

⁴¹ Id.

be issued by the State health department for each migrant camp operated in the State."⁴² The regulations are enforced on the Eastern Shore by the Eastern Shore Health District."⁴³

Thus the health department should be aware of any migrant camp under construction as well as any camp that has a permit to operate. Even working with the Migrant and Seasonal Farmworkers Association and other groups, as noted earlier, the health department has been unable to determine the exact number of migrant camps on Virginia's Eastern Shore.

Permit requirements

Applicants for a permit to operate a migrant labor camp on Virginia's Eastern Shore are usually crewleaders. Application for a permit to operate a migrant labor camp in Virginia must be made to the Commissioner of Health at least 30 days before the migrant camp is to be occupied.⁴⁴ A separate application is needed for each camp.⁴⁵ Permits are nontransferable and automatically expire on December 31 of each year.⁴⁶

A migrant camp that does not meet applicable regulations at the time a permit is sought may receive a provisional permit valid for no more than 30 days, provided the operation of the camp will not create an imminent danger to the health and safety of migrant workers. The camp must meet the terms, requirements, or conditions prescribed by the commissioner until the camp is brought into compliance.⁴⁷

The camp operator or crewleader is responsible for ensuring compliance with applicable laws and with all conditions stated in the permit itself.⁴⁸ The commissioner of health may deny, revoke, or suspend a permit for a camp when the camp is in violation of the law or applicable regulations.⁴⁹

Federal assurances regarding migrant housing

When migrant workers are recruited through the Virginia Employment Commission under provisions of the Wagner-Peyser Act, the employer must provide rent-free or public housing that meets Federal standards.⁵⁰ Members of the migrant workers family must also be housed.⁵¹ Haitian workers obtained through a special arrangement between the U.S. Department of Labor and the U.S. Department of Justice, pending a decision as to their immigration status, must be provided rent-free housing.⁵²

Very few migrant workers, however, are obtained by growers and crewleaders through VEC. Workers are usually obtained by crewleaders under MSPA (and formerly under FLCRA). Crewleaders and growers are not required by MSPA to provide rent-free or public housing, but a crewleader must identify the housing to be provided, and anyone who owns or controls the housing must comply with MSPA housing requirements.⁵³

These housing requirements in turn refer to Federal and State standards. Generally migrant housing built or under construction prior to April 3, 1980, may conform to standards set by the Employment and Training Administration or by the Occupational Safety and Health Administration (both in the U.S. Department of Labor).⁵⁴ Migrant housing built after April 3, 1980, must conform to the OSHA regulations.⁵⁵ Migrant housing may not be occupied unless a State of local health authority or other appropriate agency (including a Federal agency) has certified that the housing meets applicable safety and health standards. A certificate to that effect must be posted prior to occupancy.⁵⁶ An exception may be made if an inspection was requested of a State or local agency at least 45 days prior to occupation but has not yet been conducted.⁵⁷

⁴² Id. at § 32.1-205.

⁴³ Dr. Belle De Cormis Fears, agency director, Eastern Shore Health District, Transcript, p. 135.

⁴⁴ Id. at § 32.1-204.

⁴⁵ Id. at § 32.1-205.

⁴⁶ Id. at § 32.1-207.

⁴⁷ Id. at § 32.1-208.

⁴⁸ Id. at § 32.1-210.

⁴⁹ Id. at § 32.1-209.

⁵⁰ 20 C.F.R. § 653.501(f)(XV)(1982).

⁵¹ Id.

⁵² Id.

⁵³ 29 U.S.C.A. § 1823(a) (1975 and 1983 Supplement).

⁵⁴ 48 Fed. Reg. 15820 (1983) (to be codified at 29 C.F.R. pt. 500) (proposed April 12, 1983).

⁵⁵ Id.

⁵⁶ 29 U.S.C.A. § 1823(b)(1) (1975 and 1983 Supplement).

⁵⁷ Id. at § 1823(b)(2).

The Wagner-Peyser Act is administered by the U.S. Department of Labor's Employment Training Administration.⁵⁸ Housing for migrants recruited through the Virginia Employment Commission pursuant to that act is inspected by VEC prior to occupancy.⁵⁹ ETA had delegated its inspection authority to VEC.⁶⁰ As noted above, very few migrant workers are recruited through VEC.

The Department of Labor is responsible for administering the Migrant and Seasonal Agricultural Worker Protection Act.⁶¹ Under this act, ESA's Wage and Hour Division inspects migrant camps to determine compliance with applicable health and safety regulations. In fiscal 1982, under the Farm Labor Contractor Act (which was replaced by MSPA in January 1983), Wage and Hour staff conducted 15 housing inspections, 6 of which disclosed violations of FLCRA's health and safety provisions. Under FLCRA, the Wage and Hour Division could only inspect housing owned or controlled by a farm labor contractor.⁶²

The Occupational Safety and Health Act of 1970⁶³ is administered in Virginia by the Virginia Department of Labor and Industry in conjunction with the Virginia Department of Health.⁶⁴ Pursuant to an "operational status agreement" between OSHA and the State of Virginia concluded June 11, 1982, OSHA does not initiate concurrent enforcement authority with regard to any matter covered by Virginia's State plan.⁶⁵

Virginia's health laws governing the construction and maintenance of migrant labor camps include OSHA standards in 29 C.F.R. section 1910.142 (1982) and a few additional requirements related to garbage containers, approved water supply, sewage disposal, and storage of hazardous materials.⁶⁶

The Virginia State plan is administered by the Virginia Department of Labor and Industry, and the Virginia Department of Health is responsible for occupational health matters.⁶⁷ At the local level, the Eastern Shore Health District, including both Accomack and Northampton counties, conducts inspections of migrant camps.⁶⁸ However, the Virginia Department of Labor and Industry continues to inspect camps in response to complaints.⁶⁹ Virginia law provides for judicial review of appeals to the State agency.⁷⁰

State responsibilities

Until 1982 OSHA did periodic onsite monitoring of the implementation of OSHA regulations by the Industrial Safety Division.⁷¹ At that time Virginia became one of 26 States participating in a special study being conducted by the Federal government's Office of Management and Budget to reduce paperwork and costs.⁷² Computer terminals have been installed in designated States agencies to furnish monitoring and compliance data to the Federal government. This program, whose costs are shared equally by the Federal and State governments involved, eliminates onsite monitoring by OSHA of State agencies responsible for enforcing compliance with OSHA regulations until the study is completed.⁷³

The Eastern Shore Health District not only inspects migrant camps on Virginia's Eastern Shore for compliance with VOSHA/OSHA health standards⁷⁴ but also makes biweekly inspections of health conditions as required by Virginia health laws governing the construction and maintenance of migrant labor camps.⁷⁵

⁵⁸ 20 C.F.R. § 602.1(e) (1982).

⁵⁹ Id. at § 653.501(d)(6).

⁶⁰ Id. at § 602.11.

⁶¹ 29 U.S.C.A. § 1861 (1975 and 1983 Supplement).

⁶² Angell Letter.

⁶³ 29 U.S.C.A. § 651-678 (1976).

⁶⁴ 29 C.F.R. § 1952.370(a) (1982).

⁶⁵ Id. at § 1952.372.

⁶⁶ Commonwealth of Virginia, State Board of Health, Rules and Regulations Governing the Construction and Maintenance of Migrant Camps, § 4.01.

⁶⁷ 29 C.F.R. § 1952.370 (1982).

⁶⁸ Dr. Belle De Cormis Fears, Transcript, p. 135.

⁶⁹ 29 C.F.R. § 1952.370(b) (1982).

⁷⁰ 29 C.F.R. §§ 1952.370-384 (1982).

⁷¹ Elliott A. Scruggs, director, Industrial Safety Division, Virginia Department of Labor and Industry, interview in Richmond, September 22, 1982 (hereinafter cited as Scruggs Interview).

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Commonwealth of Virginia, State Board of Health, Rules and Regulations Governing the Construction and Maintenance of Migrant Labor Camps, § 4.01.

⁷⁵ Ibid. § 3.07.

Migrants may file complaints requesting inspection with the Virginia Department of Labor and Industry. The department prefers to have complaints in writing and signed, but that is not essential. Telephone complaints will also be accepted. A copy of the complaint is presented to the owner of the allegedly offending camp; the name of the complainant may be withheld upon request. Imminent danger complaints take precedence over other types of complaints. In 1981, the department had only two complaints filed.⁷⁶ Both involved complaints about electrical wiring and neither complaint was received from the Eastern Shore.⁷⁷

Michael T. Robinson, staff attorney for the Eastern Shore Legal Aid Center, was not surprised by the lack of complaints received by the Virginia Department of Labor and Industry:

When [migrants] come and . . . make reports of violations or they request assistance from outside agencies, sometimes [they] are put into jeopardy for that very reason. . . .⁷⁸

Dr. Belle DeCormis Fears, director of the Eastern Shore Health District told the Virginia Advisory Committee that biweekly inspections are not adequate and that some housing in which migrants are housed cannot be inspected by her agency:

"A migrant camp houses 10 or more people, one of which is a migrant. So any house, or shack, or whatever, occupied by 5, 6, 7, 8, 9 people is not, by definition, a migrant camp and we cannot regulate it. We cannot regulate any private housing. Some [migrants] do live in private housing. So there is certainly a problem, and it is even a problem in enforcing minimum standards which this State has in its rules and regs [regulations].

"Naturally, an inspector can go through a camp today and all the water is hot, and by tomorrow the gas can run out and the garbage can pile up and he is not back for 2 weeks. So I would think you really have to have daily inspections to keep up sanitation and to maintain the migrant camps in topmost condition.

". . . It might be twice a day that's necessary but we are doing it every other week . . . when we were Federally funded, we did inspect every week. . . . But, of course, funds are limited and you have to set up your priorities and do the best you can with what you have."⁷⁹

Adequacy of inspections

Kenneth Annis of the Virginia Employment Commission stated that migrants were being protected and that inspections were producing a high level of compliance:

"There are two teams of Wage and Hour [inspectors] on this Shore today contacting crewleaders and workers—investigating. The worker has some protections. It is a system out there. It has problems, but it is doing a lot better job than it used [to]. There is more compliance in these two counties than any other area [in the nation] other than Mt. Olive, North Carolina

"Wages and Hour has been here since June and . . . we are talking about additional housing inspections. Wages and Hour is inspecting the housing. They are citing crewleaders. If the camp is filthy, the crewleader gets an assessment. These fines run from \$100 to \$1,000. People on the shore are paying a lot of money. A lot of it might be technicalities, but they are paying it. We don't agree with all the things they are writing them up for, but they're doing it. So people are being protected."⁸⁰

Kevin Boyd of the Migrant and Seasonal Farmworkers Association disagreed:

"Many migrants live in camps or houses which have not been inspected by the appropriate State and Federal agencies."⁸¹

A migrant worker told the Virginia Advisory Committee that:

". . . some of the camps we live on haven't been inspected or, if they have passed inspection, should have been condemned 5 years ago. There is a difference between a human being and a chicken [referring to concerted chicken houses]. Mosquitos are in there; they carry diseases. Yet they're okay for people to live in. Outdoor toilets. No hot water to bathe in. You've got to take a bath and shave in cold water.

". . . They get the impression somehow migrant workers are less than human beings . . . the inspectors are not doing their jobs because you can go to any camp

⁷⁶ Scruggs interview.

⁷⁷ Ibid.

⁷⁸ Transcript, p. 188.

⁷⁹ Transcript, p. 135.

⁸⁰ Transcript, pp. 157-158.

⁸¹ *Guide for Serving Farmworkers*, p. 17.

and see the conditions. How can they approve it under any conditions? Somebody is not showing genuine concern about the migrant workers."⁸²

A sociologist and former migrant worker told the Virginia Advisory Committee that more frequent inspections were needed:

"Many times camps would be all right when we moved in; there would be hot water, but the propane tanks would run out and they were never replaced. So we did have cold water to take showers for weeks at a time. . . . Perhaps a camp of 80 people [would have] two very small faucets; the showers would be one room with just a little hole cut out in the side of the wall so the water runs out and collects for mosquitos."⁸³

"The State has been, I think, somewhat successful in the health inspection area [since then]. Offhand, that's about all I really know where they have done a reasonable job of improving the situation."⁸⁴

Closing migrant labor camps

Inspections of migrant labor camps almost never result in the closing of the camps. According to Philip E. McCaleb, chairman of the Migrant and Seasonal Farmworkers Commission:

"It is extremely rare for a regulator, inspector, to close a labor camp because he is not permitted to do so under the law, unless it is a situation of immediate danger to health and life. . . . What happens as far as closing camps, you do not get an opportunity to, under a wage and hour inspection, to correct a defect. If it is existent at the time of the inspection, you are fined.

"What frequently does happen: If there is a county health inspection prior to occupancy, which is in part advisory, you find a situation where it is going to cost X number of dollars to bring your camp up to standards or something like this; you can't afford it, then you close your camp. Those are the situations in which camps are closed."⁸⁵

Jack D. Engler, executive vice president of the Association of Virginia Potato and Vegetable Growers, was asked by a member of the Virginia Advisory Committee if the migrant camps on Virginia's Eastern Shore should be taken over and run by the State. Engler replied:

"I am in no position to say; I just can't answer that. . . . I don't know what you'd do in the interim."⁸⁶

In response to the question of whether or not there might be opposition by the growers to government-owned and operated migrant camps (as was the case when the Farm Security Administration was in operation more than 40 years ago), Engler replied:

". . . the answer is that I don't know. I would simply respond to you that if I were a grower I would certainly feel favorably disposed to not having to provide housing."⁸⁷

A migrant worker addressed Engler about his responses to the question of closing the camps:

"You seem to have some reservation about answering whether or not the camps should be closed. I can answer it . . . directly. Visit one and come back and you will not have any reservations."⁸⁸

Camp regulations

Growers, migrant workers, and others at the open meeting held by the Virginia Advisory Committee in August 1982 seemed to agree that one of the major reasons housing conditions for migrant workers have not improved despite increased inspections is that the regulations don't directly address the underlying causes of those conditions.

Philip E. McCaleb observed that:

"In large part, the resolution to a lot of these [housing] problems lies in regulations . . .⁸⁹ But the key is the laws are drawn in such a way that you can legally abide the law and still not [have] first class accommodations."⁹⁰

⁸² Spencer Cox, Transcript, pp. 64-64.

⁸³ Monica Heppel, Transcript, pp. 101-102.

⁸⁴ *Ibid.*, p. 101.

⁸⁵ Transcript, pp. 110-111.

⁸⁶ Transcript, p. 88.

⁸⁷ Transcript, p. 89.

⁸⁸ Spencer Cox, Transcript, p. 90.

⁸⁹ Transcript, p. 48.

⁹⁰ Transcript, p. 51.

Another witness furnished personal experiences to back her allegation that regulations for migrant housing need to be completely overhauled:

" . . . it is somehow possible for an inspector to come in and give a farmer an incredibly difficult time about some [condition] and let (other conditions) go right by, perhaps because they are not in the books. . . what we really need is a revamping of many of the regulations that are on the books and a rethinking in terms of the whole picture, rather than should there be one light bulb or two light bulbs in this area, or should there be screens when there are holes in the wall, and sort of deal with things on that level."⁹¹

Elliott A. Scruggs, director, Industrial Safety Division, Virginia Department of Labor and Industry, points out that the mobility of crewleaders and crews frustrates anyone attempting to force compliance with laws and regulations:

"One problem in enforcing housing regulations or any other laws related to migrants is the fact that a migrant crew may be in a particular locality for 20 days or less. If the operator of the migrant camp, for example, is given 10 days in which to correct a situation, the entire crew may be gone before the 10 days are up. While it is possible to pursue the operator from State to State, by issuing a warrant and utilizing Federal marshals to deliver it, this is infrequently done."⁹²

Economics of migrant housing

Since growers depend upon migrant workers to harvest their crops to help them realize a profit, an obvious question arises: Why don't growers build decent migrant housing on their farms? The most frequent reply by growers is that migrant housing is not a sound investment.⁹³

According to one grower, in order to build new housing for migrants, most growers would have to obtain a conventional loan at high interest rates and pay substantial monthly payments for up to 30 years. Rental income from migrants would come only during the summer months, as a general rule, and because of their low levels of income, they could afford only a modest rent.⁹⁴ The remainder of the year, the houses would be empty except under unusual circumstances.

From the standpoint of a grower, anything that adds to labor costs is a deduction from the margin of profit the grower is able to realize from his agricultural production.

Farmers Home Administration

The Federal Government has established programs to provide insured loans to farmers who are unable to obtain or afford conventional loans in order to build migrant housing, if they meet eligibility requirements.

The principal public lending agency for farmers and rural communities in obtaining insured loans for housing is the Farmers Home Administration (FmHA) which has authority to make grants⁹⁵ and loans⁹⁶ for purposes of constructing or improving farm labor housing.

In 1978, amendments to the Consolidated Farm and Rural Development Act⁹⁷ extended eligibility for FmHA loans to private corporations, cooperatives, and partnerships, if they are controlled by family farmers and ranchers engaged primarily and directly in farming or ranching.⁹⁸

However, growers have complained of a number of disincentives in trying to deal with FmHA and in meeting the eligibility requirements for the insured loans. To be eligible for a FmHA housing loan, the grower must, among other things, have sufficient operating capital to pay costs such as property and liability insurance premiums, fidelity bond premiums, if required, and other initial expenses.⁹⁹

After the loan is made, the grower must have sufficient income to pay operating expenses, make necessary capital replacements, make payments on the loan, and accumulate reasonable reserves, as required.¹⁰⁰ Further, the housing must be used for migrant or seasonal farmworkers used in the farming operations¹⁰¹ and be located

⁹¹ Monica Heppel, Transcript, p. 105.

⁹² Scruggs interview.

⁹³ Philip McCaleb, *Migrant and Seasonal Farmworker Housing*, p. 270.

⁹⁴ Ed Long, president, Somerset Growers Association. *Ibid.*

⁹⁵ 7 C.F.R. § 1944.157(b) (1982).

⁹⁶ *Id.* at § 1944.157(a).

⁹⁷ 7 U.S.C.A. §§ 1921-1966 (1973).

⁹⁸ *Id.* at § 1941.

⁹⁹ 7 C.F.R. § 1944.157(a)(3) (1982).

¹⁰⁰ *Id.* at § 1944.157(a)(4).

¹⁰¹ *Id.* at § 1944.157(a)(6).

on land that is owned by the grower.¹⁰² A particular requirement that the grower also own the related land or become the owner when the loan is closed¹⁰³ poses a problem since such land may not be for sale, and the grower may not want the land even if it is for sale.¹⁰⁴

Representative Henry B. Gonzalez observes that little improvement has been made in migrant housing since the 1930's. He points out that available FmHA money that could be used for migrant housing is not being used,¹⁰⁵ and that:

" . . . there is a need for 1.2 million housing units for migrant and seasonal farmworkers in the United States. Only one-third that many decent units are actually available today. . . . I realize that there is no way that anyone can economically provide housing for migrants. After all, this is housing that is occupied only a short time of the year. It is housing that is occupied by people who can pay very little rent. There is no way that anyone could build decent housing for migrants without substantial help or subsidization. There is just no way that migrant housing can pay its own way, no matter how well-intentioned a farmer may be." ¹⁰⁶

Jack D. Engler, executive vice president of the Association of Virginia Potato and Vegetable Growers, told the Virginia Advisory Committee that some kind of outside intervention is needed to help growers solve the problem of migrant housing:

" . . . the vital problem of housing . . . should be a part of a Federal-State-block grant, whatever, to relieve somehow . . . the independent businessman, the grower . . . from this horribly difficult problem. . . ." ¹⁰⁷

CHAPTER 4.—HEALTH AND NUTRITION

Statistics gathered by the Migrant Legal Action Program, Inc., reveal that the national average life expectancy among migrant workers is 49 years, compared to a national life expectancy in the general population of 73 years.¹ The rate of infant mortality is two to three times the national average. Among the factors contributing to this high rate of early death among migrants are poor sanitation, poor nutrition, alcoholism and drug abuse, and exposure to pesticides and herbicides.²

According to the East Coast Migrant Health Project, diseases among the east coast migrants of the U.S. may be grouped in four major categories: (1) Nutritional diseases, such as anemias, eye and skin disease, dental caries and bone malformations, high blood pressure and cardiac complications, vessel abnormalities, and diabetes; (2) sanitary diseases, such as hepatitis, diarrhea, food poisoning, worm infestation, and rodent and insect bits and contamination; (3) occupational diseases, such as fractures, loss of limbs and nails, muscle damage from stoop labor, and skin and lung damage from pesticides and weather exposure; and (4) social and communicable diseases, such as tuberculosis, venereal disease, childhood diseases incurred because of a lack of immunization, viral complications from colds and influenza; sickle cell anemia; and mental health problems such as child and spouse abuse and other psychological disorders as a result of continual oppression and deprivation.³

Lack of proper health care results in the early aging of migrants:

"I've seen people 30, 40 years old and they are senile because of the bad kind of situation that they have to live in." ⁴

Against this backdrop, the Migrant and Seasonal Farmworkers Association, Inc., a private, nonprofit organization devoted to upgrading the economic status of migrants and seasonal farmworkers and their families throughout Virginia, estimates that about 56 percent of migrant workers do not receive any regular medical attention.⁵

¹⁰² Id. at § 1944-157(a)(7).

¹⁰³ Id.

¹⁰⁴ See U.S. Commission on Civil Rights, *The Decline of Black Farming in America*, (Washington, D.C. February 1982), for an extensive treatment of FmHA.

¹⁰⁵ Representative Henry B. Gonzalez, *Migrant and Seasonal Farmworker Housing*, p. 2.

¹⁰⁶ Ibid., pp. 2-3.

¹⁰⁷ Transcript, p. 87.

¹ Steven Nagler, executive director, Migrant Legal Action Program, briefing meeting for staff of the Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, Washington, D.C., June 3, 1982 (hereinafter cited as *Nagler Briefing*).

² Ibid.

³ Franklin D. Williams and Pamela Y. Williams, *The Eastern Migrant Stream: CASJC Special Report*, (Church Action for Safe and Just Communities, April 1982), p. 9 (hereinafter cited as *CASJC Report*).

⁴ Pauline James, Transcript, p. 171.

⁵ Kevin W. Boyd, Transcript, p. 75.

Health professionals cite conditions in the migrant camp as the cause for some of the health problems:

"Living conditions do contribute a lot to their health status . . . we may have a family of 10 that may be living in one room and they have mattresses on the floors If the kid has diarrhea and if he is in such crowded living conditions, of course, there is a lot of potential for spread of that diarrhea to other members of the family and then to adjoining rooms."⁶

Children, in particular, suffer from camp conditions where lack of adequate space, supervision and health care are problems. According to Jennifer Ruducha of the Delmarva Migrant Health Project:

" . . . mothers may not have access to store the children's medications in a refrigerator or to store their bottles. So they are staying out of the refrigerator and that poses a very big health risk to the migrants."⁷

Dr. Fears pointed out to the Virginia Advisory Committee that there are several daycare centers on the Eastern Shore of Virginia run by the Virginia Council of Churches with Headstart funds,⁸ but:

"We do have some diarrhea in the daycare centers.⁹ . . . More than one (child) has been in the hospital. . . . Migrant children have died of diarrhea in this area, but . . . not in the last few years.¹⁰ You have to realize that in an ordinary daycare center your child comes to the daycare center and if he is sick, he is isolated and you take him home and you keep him home until he gets well; then you take him back. Not so in the migrant daycare center. You have to receive him the next day, sick or well, because he just doesn't have any other place to go."¹¹

Ruducha stressed the need for daycare facilities for migrant children:

" . . . with a lot of the children running around and vehicles driving very fast, pulling in and out, we had an incident a couple of years ago where a kid was killed because he was playing under a truck that just happened to pull out. They have no place to play, they don't have any type of a guarded area, any type of confined area so that they can play."¹²

Health care services

The Eastern Shore Health District, which includes the county health departments in Accomack and Northampton, provides residents of the Eastern Shore with preventive health care and environmental protection. Anyone, including migrant and seasonal farmworkers, is eligible for the services provided.¹³ Fees are on a sliding scale, based upon ability to pay. Services include immunizations, home health, the Women, Infants, and Children (WIC) nutrition program, maternal and child health care, well-baby clinics, family planning, and control of venereal disease and tuberculosis.

Dr. Belle DeCormis Fears, agency and program director for the health district, describes the WIC program as:

" . . . for pregnant and lactating mothers, infants up to the first year, and children to the 5th year who are financially and nutritionally eligible. And we consider just about all migrants financially and nutritionally eligible."¹⁴

"We get special funds to have outreach. We have a nutritionist outreach worker in the migrant camps to acquaint migrants with this WIC program."¹⁵

Health district programs operate only during the day.¹⁶

The Delmarva Migrant Health Project is the major source of primary health care for migrant farmworkers on the Eastern Shore. The project is sponsored by Delmarva Rural Ministries and funded through a grant from the U.S. Department of Health and Human Services (HHS).

⁶ Jennifer Ruducha, Transcript, pp. 143-144.

⁷ *Ibid.*, pp. 145-146.

⁸ Dr. Belle De Cormis Fears, Transcript, p. 138.

⁹ *Ibid.*, p. 136.

¹⁰ *Ibid.*, pp. 136-137.

¹¹ *Ibid.*, p. 138.

¹² Jennifer Ruducha, Transcript, p. 145.

¹³ Dr. Belle De Cormis Fears, Transcript, p. 132.

¹⁴ *Ibid.*, pp. 137-138. Andrew P. Hornsby, Jr., Administrator of the Mid-Atlantic Region of the U.S. Dept. of Agriculture Food and Nutrition Service, commented that, "WIC program services include the provision of (a) specific supplemental food prescribed to address the health and nutritional needs of eligible persons and (b) nutrition education designed to emphasize the relationship between proper nutrition and good health. He also stated that, 'persons are to be considered for eligibility on an individual basis according to medical standards prescribed for the program.' (Letter to Edward Rutledge, September 13, 1983, hereinafter cited as Hornsby letter.)

¹⁵ Dr. Belle DeCormis Fears, Transcript, p. 137.

¹⁶ *Ibid.*, p. 150.

The Migrant Health Project is perhaps the best understood of all the services available to migrants.¹⁷ According to Jennifer Ruducha, nurse coordinator:

"We have a clinic in Nassawadox and we hire mainly nurses and nurse practitioners and outreach workers. Our outreach workers go out to the camps and they register all the migrants on the camps and in the houses that might be eligible for services."¹⁸

The health project provides both day and evening services:

"Most of the time during the day, the nurses are in the clinics and we see walk-ins. We have a lot of walk-in patients during the day who are having problems who just come into our clinic. Then the nurses and the outreach workers go out in the evening and spend time with migrant farmworkers and take care of their problems.

"We only operate night clinics. Now because of some family planning concerns, we started operating a family planning clinic every other Sunday."¹⁹

Resources available to the health project fall short of need. Ruducha noted:

"We do provide transportation, although that has been a real problem this year because we operate out of Nassawadox. Our whole service area is all the way up to the Maryland county line and all the way down to the Bay Bridge Tunnel, and we rent out our vehicles—our vans— and many times they are very old and they break down. So it is just extremely difficult trying to get people in because we do not have our own van and we do not have funds to purchase a van.

"We have had to work out alternatives with the crewleaders, just doing all sorts of things, going out to the camps—nurses make camps visits, too, and they try to take care of as many problems out in the camp as possible, but many of the people are just so sick that do need to come in and see a doctor and need to have a medical diagnosis and need to be treated."²⁰

"I think our staff would need to increase . . . right now I think we are just basically meeting the minimal needs, survival needs, of the migrants."²¹

The health project relies on the migrant education tracking system (discussed in Chapter 5) whereby educational and health data on individual migrant children is computerized by the Federal government and made available to appropriate agencies serving the migrant stream. Ruducha observed that:

"Many centers up and down the stream do not regularly put in additional information. So a lot of that information in that system is not updated, and therefore it is very difficult to get immediate information on that student's progress or their immunizations or anything like that. . . ." ²²

Hospitalization

According to health care worker Virginia Ruducha, "Migrants are not eligible for medical assistance in the State of Virginia, and that has been a really big problem."²³ Of the three States sharing the Delmarva peninsula, Virginia is the only one that fails to provide any State funds for migrant hospitalization, per se, although it has three times as many migrants as either Delaware or Maryland. Although the State provides matching funds for hospitalization to each county, counties restrict use of the money to residents of 6 months or more.²⁴

In 1982, the Delmarva Migrant Health Project received a one-time Federal grant of \$30,000 for migrant hospitalization. According to Susan Canning, director of Delmarva Rural Ministries, migrant hospitalization costs that year in Virginia exceeded the grant by at least \$100,000.²⁵

William Baker of the State's Department of Social Services points out that migrants are eligible for Medicaid to the same extent they are "categorically eligible"—that is, if they are aged, blind, disabled, or if they are care providers for children who qualify for aid to dependent children.²⁶

His view is confirmed by an examination of Federal regulations. The regulations define a resident of a State as a person:

¹⁷ The migrant health program was the first program begun for migrant workers, starting in 1962.

¹⁸ Jennifer Ruducha, Transcript, pp. 142-143.

¹⁹ *Ibid.*, pp. 149-150.

²⁰ *Ibid.*, p. 146.

²¹ *Ibid.*

²² *Ibid.*, p. 120.

²³ *Ibid.*, p. 147.

²⁴ *Ibid.*, Susan Canning, director, Delmarva Rural Ministries, telephone interview, February 4, 1983 (hereinafter cited as Canning Interview).

²⁵ *Ibid.*

²⁶ Telephone interview, January 22, 1983.

"(ii) Who, is living in the State, is not receiving assistance from another State, and entered the State with a job commitment or seeking employment in the State (whether or not currently employed). Under this definition, the child is a resident of the State in which the caretaker is a resident."²⁷

However, migrant advocate Kevin Boyd asserts that "We've never gotten anyone on medicaid; we're told they're not eligible because they're not residents."²⁸

Notwithstanding the residency problem, however, it is clear that single adults likely to be migrant workers are not categorically eligible for medicaid.

Migrants are theoretically eligible for medical care in hospitals under the Hill-Burton Act,²⁹ but as a practical matter they rarely receive it. Under that act, hospitals that receive Federal funds for construction have an obligation to provide "a reasonable volume of services to persons unable to pay therefor." An exception is allowed "if such a requirement is not feasible from a financial viewpoint."³⁰ With a year-round population of eligible poor people, Delmarva hospitals usually fulfill their Hill-Burton obligation by providing services to longtime residents.³¹

This tenuous situation hampers proper medical treatment:

"It is only the crisis situations that we can really hospitalize migrants. . . For other problems . . . what we have been doing is just recommending to migrants that they go back home and they seek their own hospitalization or . . . medical assistance."³²

Sarah Rosenbaum, of the Children's Defense Fund, calls the migrant hospitalization problem a "horrendous problem" all over the country. Even where medicaid benefits are not routinely denied, processing takes 45-60 days, longer than most migrants can wait. In a crisis, benefits can be made retroactive, but hospitals are reluctant to assume they will receive reimbursements, since the migrant may leave the area upon release and be unavailable to pursue a medicaid claim.³³

If benefits are denied to Hispanic or Haitian migrants, they may have difficulty seeking legal help since legal services agencies are now restricted from assisting undocumented workers. Migrants, may be unable to produce proof of citizenship.³⁴

Food and nutrition

"Nutrition is a serious problem among farmworkers," according to migrant advocate Kevin Boyd. "About 74 percent have no cooking or food storage facilities and do not participate in food programs and/or have no food at all."³⁵

Migrant camps may have central kitchens that serve all workers or migrants may have access to kitchen facilities. All crewleaders who register under the Migrant and Seasonal Agricultural Worker Protection Act must inform workers in advance of any charges, including meal charges, that may be levied for crewleader services.³⁶ Regulations promulgated by the U.S. Occupational Safety and Health Administration (OSHA) state that where workers cook and sleep in the same room, 100 square feet of floor space per person must be provided, along with sanitary facilities for storing and preparing food.³⁷

OSHA also provides that where common cooking facilities exist, they must be in an enclosed and screened shelter, with a ratio of one stove per 10 persons or one stove for every two families.³⁸ All such facilities must be installed "in accordance with State and local ordinances, codes, and regulations governing such installations."³⁹

As an alternative to providing kitchen facilities, migrant camps may have central kitchen and dinner facilities. Such facilities must adhere to U.S. Public Health Service regulations.⁴⁰

Responsibility for assuring compliance with these regulations is delegated to the Eastern Shore Health District from the Virginia State OSHA program, which in turn gets its authority from the Federal Occupational Safety and Health Adminis-

²⁷ 45 C.F.R. §233.40(a)(1) (1982).

²⁸ Telephone interview, January 22, 1983.

²⁹ 42 U.S.C.A. §291-2912 (1982).

³⁰ Id. at §291(e).

³¹ Canning Interview.

³² Jennifer Ruducha, Transcript, p. 147.

³³ Telephone interview, February 3, 1983.

³⁴ Ibid.

³⁵ Transcript, p. 75.

³⁶ 29 U.S.C.A. § 1821(a) (1975 and 1983 Supplement).

³⁷ 29 C.F.R. § 1910.142(b) (1982).

³⁸ Id. at § 1910.142(b)(10).

³⁹ Id. at § 1910.142(b)(11).

⁴⁰ Id. at § 1910.142(i)(1).

tration.⁴¹ The health district inspects camps every 2 weeks.⁴² For those migrants who are able to cook their own food, access to grocery stores and the money to purchase groceries can both be problems.

Because camps are likely to be isolated:

"A common practice is for the crewleader to go into town, because he generally has the transportation, and buy whatever foodstuffs or drinks or whatever he thinks may be needed, and he brings them back and resells it to the worker sometimes at double and triple the price that he paid for it."⁴³

Farmworkers are eligible for food stamps if they meet the income requirements, but experience problems in getting them:

"People have reported to us for years difficulty in receiving food stamps at one of the local departments (of social services) here, and in fact we are having to litigate those kinds of problems for them on a regular basis."⁴⁴

Sometimes the problems revolved around the role of the crewleader:

"I've had people coming through my office to tell me, 'Yeah, we get food stamps, but we don't get them; the crewleader takes the car sometimes and goes to the post office and picks up everybody's food stamps.' I can't believe this, because you are not supposed to give anybody else's mail to anybody else; but it happens. It happens here in Northampton and Accomack County."⁴⁵

One migrant who seeks work directly from farmers reports trouble 'as well without a crewleader:

"We migrate all the way from Florida. We live on Virginia streets and we bear our expenses up, and then when we go up there to get help from this man, he turned us down and tell us we got to have a certificate to sign up, from a crewleader; but we don't have a crewleader."⁴⁶

Pursuing food stamp denials, as with other administrative appeals, is often not an option because the migrants will have moved on before any appeal can be processed.

Pesticides

The use of pesticides is regulated by the Federal Insecticide, Fungicide, and Rodenticide Act⁴⁷ (FIFRA) and the Virginia Pesticide Law.⁴⁸ FIFRA regulations required that:

"When workers are expected to be working in a field treated or to be treated with a pesticide, appropriate and timely warning to such workers shall be given.

"The warning may be oral or in writing, by posting at field entrances or other places where workers gather for instruction. Responsible persons must be sure that workers who cannot read are told orally, and that workers who do not speak English receive warnings in the language they do speak."⁴⁹

The State law is enforced by the Commissioner of Agriculture and Consumer Services. The Board of Agriculture and Consumer Services is responsible for regulations regarding the sale, distribution, use, and disposition of pesticides.⁵⁰ The Commissioner licenses commercial and private pesticide applicators (persons).⁵¹

Alcoholism and Alcohol Abuse

Alcohol abuse is also a serious problem in many camps. Its prevalence was explained by Monica Heppel, who lived as a migrant workers while doing research:

"I drank more living on the camps than I have ever drunk in my life. I think if I stayed there, I'd probably drink a whole lot more. It is easier to deal with mattresses that have stuffing coming out and rats running around and the smell of garbage and privies that haven't been emptied, or port-a-toilets that perhaps passed inspection at the beginning of the season but then haven't been changed. . . . At that point it is easier to drink . . . you can't blame the victim for that kind of response.

. . ."⁵²

⁴¹ 29 C.F.R. § 1952.370 (1982).

⁴² Dr. Belle De Cormis Fears, Transcript, p. 135.

⁴³ Kevin Boyd, Transcript, p. 74.

⁴⁴ Michael T. Robinson, Transcript, p. 187.

⁴⁵ Pauline James, Transcript, p. 169. According to the Mid-Atlantic Food and Nutrition Service Administrator, "Such activity is legitimate as long as the crew leader is designated as an 'authorized representative' in accordance with Federal regulations." (Hornsby letter.)

⁴⁶ Lonnie Westbrook, migrant worker. Transcript, p. 61.

⁴⁷ 7 U.S.C.A. § 136-136(y) (1980).

⁴⁸ Va. Code §§ 3.1-189-3.1-249 (1950).

⁴⁹ *Ibid.*

⁵⁰ Va. Code § 3.1-217 (1950).

⁵¹ *Id.* at § 3.1-249.2

⁵² Transcript, p. 101.

In addition to camp conditions, Heppel cited monotony as a cause of heavy drinking:

"Something that needs to be dealt with . . . is monotony. It is living on these isolated labor camps, seeing the same people day after day with very little to do. That leads again to the drinking, to an increase in violence, to dissatisfied workers, which isn't to the benefit of really anyone.⁵³

"Dr. Heppel also observed that migrants are able to buy beer and cigarettes from crewleaders. Pauline James, of the Migrant and Seasonal Farmworkers Association, observed:

"We had people come in having made \$1.00; they draw three pennies. You wonder where all that money went, but then when they start taking out for rent, for food, for cigarettes, which are \$1.00 a pack now, a fifth of wine, \$6.00, and stuff like that, they can't help but draw three cents. And these people do drink, they drink, they have no drink, they have to do something to forget where they are. If I lived on a camp, I would drink if it make me forget. . . ." ⁵⁴

The selling of alcoholic beverages and tobacco by crewleaders is illegal. In response to a question as to how the practice could be so widespread, Philip McCaleb, a member of the Migrant and Seasonal Farmworkers Commission, replied:

"This is an item that the commission has studied very carefully. The State ABC Board monitors the sale of alcohol very ineffectively. The difficulty in the monitoring of this type of program is the ability to identify outsiders, i.e., undercover investigators. It is extremely difficult to infiltrate and get the goods on the illegal sale of alcohol in this area. AS far as tobacco is concerned, I don't know about that, that's not been a subject for any discussion. But it is something we identify as a definite problem. However, the majority of the enforcement effort is being put forth by the ABC Board which is trying to do everything else. I would say it is definitely categorized as inadequate."⁵⁵

The Virginia Department of Alcoholic Beverage Control agrees that the sale of liquor in migrant camps is a problem. An ABC official noted that enforcement is complicated by the fact that crewleaders sell only to migrants within their camp and that often no money actually changes hands. A paid informer program whereby migrants can be employed to expose such sales is available but is generally not utilized by migrant workers.⁵⁶

Treatment for migrants of alcoholism and alcohol abuse is available from the Eastern Shore of Virginia Alcohol and Drug Abuse Services, headquartered in Onancock. Fees are on a sliding scale.⁵⁷

Health program funding

Both Dr. Fears of the Eastern Shore Health District and Jennifer Ruducha of the Migrant Health Project agree that targeted funds for migrants are a must. Ruducha has said:

"I think that in terms of the block grant program, in every category, I think, that would affect migrant farmworkers, there needs to be some type of a policy set to identify migrants as a target population that needs to be serviced. And in the WIC program where the health department hires someone extra during the summer to handle the burden, the load of patients. I think maybe that is something that should be instituted in the other areas, in the (health district's) prenatal program and in the family planning."⁵⁸

Dr. Fears concurs: "They (migrants) are in so many different communities that it is confusing. Once community does it this way, one does it another way . . . it is my belief that migrants will need a categorical grant to meet their special needs because of their migrancy. They will need outreach."⁵⁹

The current Federal targeting of migrant funds also facilitates interstate cooperation, according to Ruducha:

"Just pointing out the necessity of maintaining migrant health at the national level—our project operates in two other States, in Maryland and Delaware also. Just from that experience alone we are able to transfer a lot of information just

⁵³ Ibid.

⁵⁴ Transcript, p. 169.

⁵⁵ Transcript, pp. 172-173.

⁵⁶ Raymond A. Little, Assistant Director, Regulatory Division, Virginia Department of Alcoholic Beverage Control, letter to Edward Rutledge, August 29, 1983.

⁵⁷ *A Guide for Serving Farmworkers in the State of Virginia* (Richmond: Migrant and Seasonal Farmworkers Association, Inc., 1982), p. 44.

⁵⁸ Transcript, p. 147.

⁵⁹ Transcript, p. 133.

amongst ourselves and be better able to coordinate service for migrants who travel along the Delmarva peninsula.⁶⁰

CHAPTER 5.—EDUCATION

Migrant students do not belong to any one State. They belong to the Nation.¹

Migrant children between the ages of 3 and 21 are the primary focus of this chapter, since they receive the most intensive educational services. They come to the Eastern Shore primarily during the summer months, but some arrive as early as February and stay as late as November.²

Ninety percent of the migrant children are home-based in Florida, 5 percent in Texas, and 5 percent in other States, territories, or foreign countries.³ In recent years, the number of Haitian migrant children rose substantially, increasing 15 percent from 1981-82.⁴ Of the migrant children on Virginia's Eastern Shore in 1982, 50 percent were Mexican-Americans, 43 percent were black Americans, 4 percent were black Haitians, 2 percent were white, and 1 percent were children of other races.⁵

Need for special education

In 1981-82, 85 percent of the migrant children received in Virginia were performing at least one or more grade levels below their peers in reading skills.⁶ That 85 percent also needed remedial assistance in other basic subjects such as math and oral language.⁷ In a special survey conducted by school personnel in Virginia in 1981-82, at least 98 percent of the migrant children received in the State indicated they would like to participate in some kind of special educational activity.⁸ Non-English speaking students were especially interested in learning to speak English.⁹

Migrant children on the Eastern Shore of Virginia, like migrant children throughout the Nation, are generally being reared by parents who have dropped out of school.¹⁰ Approximately 60 percent of the migrant workers on Virginia's Eastern Shore who were 16 years of age or older in 1981 were school dropouts with the equivalent of about a 7th grade education.¹¹

The Federal Government, primarily through the U.S. Department of Education, has provided financial assistance to States to develop programs to assist educationally deprived children such as migrant children.¹²

Migrant Education Program

In 1965, Congress enacted the Elementary and Secondary Education Act (ESEA) which provided financial assistance to States to meet the Special Educational needs of migratory children.¹³ Title I of that act became known as the Title I Migrant Education Program. This categorical grant program was subsumed under the Educational Consolidation and Improvement Act of 1981.¹⁴

The new law retains most of the original program and was included among the categorical programs consolidated under the elementary and secondary block grant created by the Omnibus Budget Reconciliation Act of 1981.¹⁵ As previously re-

⁶⁰ Transcript, p. 142.

¹ George H. Irby, supervisor, Virginia Migrant Education Program, Transcript, p. 116.

² Jennifer Ruducha, Transcript, p. 121.

³ Commonwealth of Virginia, *Fiscal Year 1983 Virginia Migrant Education Program Application* (submitted to the U.S. Department of Education), p. 19 (hereinafter cited as *Migrant Education Plan*).

⁴ A.K. Fisher, assistant superintendent, Accomack County School Board, Transcript, p. 111.

⁵ George H. Irby, interview in Richmond, Virginia, September 13, 1982 (hereinafter cited as Irby interview).

⁶ *Migrant Education Plan*, p. 4.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ A.K. Fisher, Transcript, p. 112.

¹⁰ U.S. Department of Agriculture, *The Hired Farm Working Force of 1979*. Agricultural Economic Report Number 473, August 1981, p. 8. See also, U.S. Department of Commerce, *Educational Attainment in the United States: March 1979 and 1978*. Series P-20, No. 356, Bureau of the Census, 1980.

¹¹ Migrant and Seasonal Farmworkers Association, Inc., Richmond, Virginia, *Statistical Data* for October 1, 1980-September 30, 1981, and Kevin Boyd, Transcript, p. 73.

¹² 34 C.F.R. § 200.1 (1982).

¹³ 20 U.S.C.A. § 241E(c) (1974).

¹⁴ Education Consolidation and Improvement Act of 1981, Title V, §§ 51-596, August 13, 1981, 95 Stat. 463-482.

¹⁵ 20 U.S.C.A. § 3803(a)(2) (1978).

quired, States must submit a State plan to the U.S. Department of Education for approval in order to receive funds to operate a migrant education program.¹⁶ It is the responsibility of the local agencies to administer and operate their respective projects and programs in accordance with the State plan.¹⁷

In Virginia, the State agency is the Virginia Department of Education, and its Division of Compensatory Education (ECIA) serves as the fiscal agent. This division also directly supervises the migrant education program subgrantees.¹⁸

Accomack and Northampton counties are the only school divisions that operate a comprehensive migrant education program in the State.¹⁹ Their program primarily serves children 3-21 years old.²⁰

As required by regulations of the U.S. Department of Education, a State seeking funding for a migrant education plan under chapter I must submit to the Secretary of Education an annual program plan that addresses: (1) instructional services in basic skills and special areas; (2) identification and recruitment of migrant children; (3) interstate coordination; and (4) support services.²¹

Instructional Services

The Virginia Migrant Education Program offers two types of instructional programs—a comprehensive 8-week summer program and a tutorial assistance program that operates during the regular school term.²²

Tutorial Assistance Program

Migrant children in Virginia during the regular school year are required by compulsory school attendance laws to attend an appropriate school in the area in which they reside.²³ About 27 percent of the migrant children living in the State during the regular school year reside in Accomack and Northampton counties.²⁴ In the beginning weeks of September 1982, 352 migrant children were attending regular school in Virginia. Of this number, 41 migrant children were in school in Accomack County and 88 in Northampton County.²⁵

A tutorial assistance program is offered in the valley area and the southwest area of Virginia, but it is not available on the Eastern Shore.²⁶

Migrant students are in the valley area for approximately 2½ months, usually from September until mid-November. Most are elementary school age children. While attending regular classes, they also receive tutorial assistance in reading, mathematics, and language arts. When needed, bilingual education is provided.²⁷

During the winter, home-based migrant students residing in the valley and southwest areas receive tutorial assistance in reading, mathematics, social studies, and science. These students are usually high school age and attend regular classes. In addition, two local migrant programs offer outdoor education, English as a second language, a GED testing program, special education, and other subjects in which tutorial assistance is needed.²⁸

Summer school

Migrant children are not required by law to enroll in school during the summer months.²⁹ However, since 1967 the State has operated a summer migrant education program on the Eastern Shore.³⁰

In the summer of 1982, 1,143 migrant children were enrolled in the migrant education program on the Eastern Shore. Of this total, 777 were in Accomack and 366 in Northampton Counties.³¹

¹⁶ 34 C.F.R. § 204.10 (1982).

¹⁷ Id. at § 204.30.

¹⁸ Irby interview; also Dr. N. Grant Tubbs, administrative director, Office of Special and Compensatory Education, Va. Dept. of Education, letter to Edward Rutledge, August 23, 1983.

¹⁹ Irby interview.

²⁰ George H. Irby, Transcript, p. 117.

²¹ 34 C.F.R. § 204.12 (1982).

²² *Migrant Education Plan*, p. 13.

²³ Va. Code § 22-1-254 (1950).

²⁴ Commonwealth of Virginia; Virginia Migrant Education Program, Enrollment Data as of September 13, 1982, (unpublished) (hereinafter cited as *Enrollment Data*).

²⁵ Ibid.

²⁶ *Migrant Education Plan*, p. 13.

²⁷ *Migrant Education Plan*, p. 15.

²⁸ Ibid.

²⁹ Va. Code § 22.1-254 (1950).

³⁰ A. K. Fisher, Transcript, p. 111.

³¹ *Enrollment Data*.

The duration of the program depends upon the length of time migrant children are in the area. For about an 8-week period, roughly between the middle of June and the middle of August, special instruction is given in language arts, reading, mathematics, early childhood education, movement education, music, social studies, art, and English.³² For migrant children who work in the fields during the day, evenings and Saturday classes are offered in subjects such as engine repair, typing, home economics, woodworking, and English for non-English speaking students.³³

Bilingual needs

As noted above, Haitian children are increasing in number during the summer on the Eastern Shore. They are described as very eager to learn English.³⁴ Some Mexican-American children also need to strengthen English-speaking skills. Although the U.S. Department of Education does not require that the migrant education program provide bilingual education, this component is included when possible.³⁵

Title VI of the Elementary and Secondary Education Act, known as the Bilingual Education Act,³⁶ provides Federal funds to school districts with a large concentration of non-English speaking children so the districts may "encourage the establishment and operation . . . of educational programs using bilingual educational practices, techniques, and methods . . . for children of limited English proficiency, to achieve competence in the English language."³⁷ The money may be used for vocational education, adult education, cultural appreciation, etc., in an effort to prevent the dropout of students that have limited English-speaking ability.

While school divisions on the Eastern Shore offer English as a second language course, they do not have a fully-developed bilingual component in the migrant education program.³⁸

Preschool and adult migrants

The Virginia Council of Churches has sponsored a daycare headstart program both in Accomack and Northampton counties for migrant children from 2 weeks up to 3 years old.³⁹ This program helped to enable school-age migrant children to enroll in the 8-week summer program, since they might otherwise have stayed in the migrant camps to care for preschool children.⁴⁰

The Virginia Employment Commission offers some aptitude testing services,⁴¹ and the Virginia Migrant and Seasonal Farmworkers Association, Inc., (MSFA) has provided some general educational courses for migrants.⁴²

Interstate coordination

One of the problems frequently encountered by migrant students is discontinuity in what they learn from one school district to another.⁴³ Some informal efforts have been made in the eastern migrant stream States (from Florida to Maine) to exchange instructional material used to educate migrant children.⁴⁴ Workshops and conferences such as the Eastern Stream Interstate Conference and the National Migrant Education Conference have encouraged more formal planning for interstate coordination.⁴⁵

In 1966, States with migrant education programs developed and funded a procedure for exchanging information and records on migrant students. In 1970, the procedure became a computerized system known as the Migrant Student Record Transfer System (MSRTS) to help school districts design instructional programs especially for migrant students.⁴⁶ This system contains information on every migrant child that has been enrolled by any school district in the U.S. and Puerto Rico during the year.⁴⁷

³² *Migrant Education Plan*, p. 13.

³³ *Ibid.*

³⁴ A. K. Fisher, Transcript, p. 112.

³⁵ Irby Interview.

³⁶ 20 U.S.C.A. §§ 3221-3261 (1978).

³⁷ 20 U.S.C.A. § 3222(a) (1978).

³⁸ Irby Interview.

³⁹ *Guide to Serving Farmworkers*, p. 8.

⁴⁰ Irby Interview.

⁴¹ Virginia Employment Commission, "Service to Migrant and Seasonal Farmworkers," (Richmond, Virginia, 1982), p. 3.

⁴² *MSFA Data*, p. 39.

⁴³ A. K. Fisher, Transcript, p. 113.

⁴⁴ *Migrant Education Plan*, p. 19.

⁴⁵ *Ibid.*

⁴⁶ Irby Interview.

⁴⁷ Winford Miller, directors, MSRTS, telephone interview, June 1983.

As migrant children move from one school district to another, their individual educational and health records may be obtained by any school official. MSRTS data compiled in each school district for each migrant student enrolled is forwarded to regional migrant centers to be sent to the national migrant center in Little Rock, Arkansas. The national migrant center maintains the data.⁴⁸

Accomack County operates the regional migrant center at Mappsville⁴⁹ which carries out several important functions in the operation of migrant education programs. It maintains the MSRTS, health and skills transmittal system, and migrant identification and recruitment information; provides inservice training; disseminates data to school districts about individual migrant students; and reviews migrant education programs.⁵⁰

The Eastern Shore Health District and other agencies providing health care for migrant children utilize the health information contained in the MSRTS system⁵¹ (see Chapter 4). However, due to the frequency with which some students move from one school district to another, those submitting data for MSRTS do not always have time to report what they have available before it is needed by the next school district.⁵² The results of the Research Triangle study, released in December 1981 and made available to MSRTS, indicated the need to improve both the timeliness and accuracy of data for MSRTS.⁵³

Identification and recruitment

The identification and recruitment of migrant students is required of State education agencies receiving Federal migrant education funds.⁵⁴ The U.S. Department of Education views these activities as essential not only to the effectiveness of any migrant education program, but also to the gathering of data for the MSRTA.⁵⁵

The Mappsville center provides inservice training for local staff, including home-school coordinators who play the central role in identification and recruitment of migrant students.⁵⁶ Virginia's supervisor of migrant education, who has the direct responsibility for assuring the identification and recruitment of migrant students throughout the State,⁵⁷ hires home-school coordinators for each school division offering a migrant education program. Home-school coordinators are responsible for identifying and recruiting migrant students onsite in the migrant camps. They must also submit a student authorization and enrollment form to the regional migrant center for each migrant identified and recruited.⁵⁸ These data, in turn, are submitted to the national MSRTS center.

Migrant education staff in Virginia believe that more migrant children will be identified and recruited in 1983-84 than in any previous year, for several reasons. First, data indicate that agricultural production requiring hand-harvesting may increase significantly.⁵⁹ Also, MSRTS tracking reports for the 1982-83 school year predicted an increase in migrant students residing in Virginia by 1983-84 of as much as 10 to 20 percent.⁶⁰ Based on these and other data, the Virginia Migrant Education Office estimated in its 1983-84 State Plan that 2,000 migrant children would probably be identified and enrolled in the MSRTS.⁶¹ This figure included 210 preschool, 1,035 elementary, and 755 secondary migrant students.⁶²

According to the State supervisor of the migrant education program:

"There was some difficulty in gaining access to the migrant camps when recruitment of migrant students for the migrant education program originated. But, in general, crewleaders have been supportive of recruitment efforts in recent years. [Home-school] coordinators hired to recruit migrant students for the program found children playing in cars while their parents were in the fields and often without

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ *Migrant Education Plan*, p. 7.

⁵¹ Jennifer Ruducha, Transcript, pp. 119-120.

⁵² Ibid.

⁵³ *Migrant Education Program Study, 1976-1981* (Research Triangle Park, North Carolina: Research Triangle Institute), cited in the *Migrant Education Plan*, p. 5.

⁵⁴ 34 C.F.R. § 204.12 (1982).

⁵⁵ *Migrant Education Plan*, p. 7.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ *Virginia Facts and Figures 1981* (Richmond: Governor's Office, Division of Industrial Development), p. 1 and p. 4, cited in the *Migrant Education Plan*, Needs for Assistance Chart, p. 4.

⁶⁰ *Migrant Education Plan*, Needs for Assistance Chart, p. 4.

⁶¹ Ibid., p. 9.

⁶² Ibid.

adult supervision. Without adult supervision, they were lacking in proper care they needed for food, safety, and improving communication skills.⁶³

Local support services

Home-school coordinators, school nurses, counselors, school psychologists, speech therapists, and other staff personnel not only serve the special needs of migrant children in the migrant education program but also refer migrant children and adults to other agencies on the Eastern Shore that may be able to serve their needs.⁶⁴ Approximately 90 percent of the migrant children residing in Virginia during the year need medical, dental, speech, auditory, or other services.⁶⁵ Also, 75 percent of the migrant children enrolled in the migrant education program receive their most nutritious meal at school, and 90 percent lack at least one item of clothing to be able to attend school.⁶⁶

Because of the transportation problems encountered by migrants, transportation is provided for migrant children from the migrant camps to the schools and for their return home each day.⁶⁷

In addition to the Virginia Council of Churches, the Virginia Migrant and Seasonal Farmworkers Association, Inc., and the Virginia Employment Commission, other agencies that provide services for migrant children and adults include the Virginia Department of Public Health, which conducts health examinations for all migrant children recruited for the summer migrant education program, and the Virginia Department of Mental Health, which offers services to migrant children or adults as needed.⁶⁸ The U.S. Department of Agriculture, under authority of the National School Lunch Act,⁶⁹ provides surplus food for education programs when commodities are available.⁷⁰

Monitoring and evaluation

Regulations of the U.S. Department of Education⁷¹ require that parents and guardians of migrant children involved in the migrant education program have an opportunity to participate in the planning, operation, and evaluation of the State plan submitted to the U.S. Department of Education. Virginia has created the Virginia Migrant Education State Parent Consultation Committee, which reviews the goals and objectives of the State plan, discusses concerns about the Migrant Education Program, and makes recommendations to the State supervisor of migrant education.⁷²

The Virginia Migrant Education State Parent Consultation Committee is composed of people in the State who are elected at-large to the Committee.⁷³ A majority of the members are either parents or guardians of migrant children eligible to participate in the migrant education program.⁷⁴

The State supervisor of migrant education programs, Virginia Department of Education, prepares the State plan submitted to the U.S. Department of Education and assists in the design, operation, and evaluation of local programs funded for migrant children.⁷⁵

Compliance

The State supervisor of the Migrant education program must monitor local programs to ensure compliance with civil right assurances, the State Plan, and Federal regulations for the Migrant Education Program. If the State supervisor finds noncompliance in any local migrant program, he or she must take steps to bring the program into compliance.⁷⁶

If a Federal audit discloses substantial noncompliance, the U.S. Department of Education may withhold Federal assistance in whole or in part or enter into a compliance agreement with the State educational agency.⁷⁷

⁶³ Irby Interview.

⁶⁴ Migrant Education, p. 17.

⁶⁵ *Ibid.*, p. 5.

⁶⁶ *Ibid.*, p. 6.

⁶⁷ *Ibid.*, p. 17, Irby Interview.

⁶⁸ Migrant Education Plan, p. 22.

⁶⁹ 42 U.S.C.A. §§ 1751-1769c (1978).

⁷⁰ 42 U.S.C. § 1758(c) (1978).

⁷¹ 34 C.F.R. § 204.12 (1982).

⁷² Migrant Education Plan, p. A-1.

⁷³ Migrant Education Plan, p. A-2.

⁷⁴ *Ibid.*

⁷⁵ Irby Interview; Migrant Education Plan, p. 22.

⁷⁶ Migrant Education Plan, p. 1.

⁷⁷ 34 C.F.R. § 200.260(a)(1982).

Recent changes in Federal migrant education regulations have significantly decreased the size of Virginia's program. In 1982, the U.S. Department of Education reduced funding for Virginia's 1982-83 State plan by 15 percent. This reduction was the result of a new interpretation of a previously published regulation regarding the meaning of the word "guardian."⁷⁸

According to George Irby, participation by migrant children between the ages of 0 and 21 in any special migrant education program was subject to the consent of either a parent or guardian.⁷⁹ In 1982, the U.S. Department of Education ruled that this requirement could be met only when the guardian is a legal guardian.⁸⁰ Prior to this ruling, crewleaders sometimes acted as guardians, not only in Virginia but also in other States, for the purpose of giving consent for education in the absence for a parent.⁸¹

Virginia's State Plan was based on an estimated number of migrant children for whom consent would be given by a crewleader, since their parents would not ordinarily be available.⁸² The requirement that such migrant children have the consent of either parent or a legal guardian may make many children ineligible for the migrant education programs funded by Chapter 1.

In addition, the State Plan for 1982-83 estimated that the program would serve approximately 1,812 currently migratory children and 88 formerly migratory children.⁸³ These estimates were based on the definition of migrant children contained in current regulations.

A change in the definition of "currently migratory child" was subsequently proposed as follows:

Currently migratory child means a child—(1) whose parent or guardian is a migratory agricultural worker or a migratory fisherman; and (2) who has moved from one school district to another—or, in a State that is comprised of a single school district, has moved from one school administrative area to another—within the past 12 months, and during the regular school year, and had his education interrupted as a result of the above. The move must have been made to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment agricultural or fishing activity.⁸⁴

If this definition were adopted, the amount of money received by Virginia for its migrant education program would be reduced more than 50 percent.⁸⁵ Since the new definition would completely eliminate the eligibility of migrant children who travel with their parents only during the summer months. (Their education would not have been interrupted by migrancy.)

Higher Education Act of 1965

The Higher Education Act of 1965,⁸⁶ as amended, has provided two programs to assist migrant and seasonal farmworkers complete high school and enter college. They have been referred to, respectively, as the high school equivalency program (HEP) and the college assistance migrant program (CAMP).⁸⁷ HEP seeks to recruit school dropouts between the ages of 17 and 24 years and provide services that will enable them to study without working.⁸⁸ Participants receive room and board and a stipend for personal expenses while living on a college or university campus and attend classes at least 30 hours a week geared toward preparing them to pass the general education development (GED) examination. If necessary, they also receive tutoring services, counseling, and placement assistance. CAMP provides assistance to first-year undergraduates in an effort to help them remain in college the remaining 3 years. They receive tuition scholarships, a stipend for personal expenses, tutoring, counseling, and help in obtaining financing after the first year.⁸⁹

⁷⁸ Irby Interview.

⁷⁹ Ibid.

⁸⁰ 34 C.F.R. §204.3(d)(5)(i) (1982).

⁸¹ Irby Interview.

⁸² Irby Interview.

⁸³ *Migrant Education Plan*, p. 9.

⁸⁴ 47 Fed. Reg. 54722 (1982).

⁸⁵ Irby Interview.

⁸⁶ 20 U.S.C. § 1070d-2 (1978). See also U.S. Commission on Civil Rights, *Statement on the Fiscal Year 1983 Education Budget*, October 1982, p. 23.

⁸⁷ Id. See also, U.S. Department of Education, Office of Planning, Budget and Evaluation, *The Annual Evaluation Report*, Vol. II, Fiscal Year 1981.

⁸⁸ *Annual Evaluation Report*, 1981.

⁸⁹ Ibid., p. 411.

The beneficiaries of these two programs have been primarily blacks and Hispanics. They have been 80 percent successful in passing the GED and 98 percent successful in completing the first year of undergraduate school under the CAMP program. Of those passing the GED, 90 percent have entered college or job training programs or become employed full-time.⁹⁰ Due to proposed cutbacks in funds, and possibly no funding after fiscal year 1983, these two programs are in jeopardy.

CHAPTER 6.—FINDINGS AND RECOMMENDATIONS

Chapter 1.—Introduction

Finding 1:1: There is no uniform method at the Federal, State, and local levels of government of making an accurate count of migrant workers and tracking their location during the migrant season. Therefore, it is difficult to plan adequate programs and law enforcement procedures for migrant workers.

Recommendation 1:1: A uniform system for counting migrant workers and tracking their location during the migrant season should be established by the Federal, State, and local levels of government, similar to the uniform system that is used to count migrant children and their location in school districts.

Chapter 2.—Recruitment and Employment

Finding 2:1: Growers on Virginia's Eastern Shore are nearly unanimous in their refusal to use the Virginia Employment Commission for recruitment of migrant laborers. This practice results in a reduced level of protection for Virginia's migrant workers.

Recommendation 2:1: The Virginia Employment Commission should devote more time and resources toward persuading growers to use the clearance order system for the recruitment of migrant workers and should work more closely with growers to keep them informed of Federal and State regulations.

Finding 2:2: Many migrants are paid less than the minimum wage by crewleaders, who fail to document and maintain records on employee wages, hours, and deductions as required by Federal regulations. One result of this failure is that migrant workers in Virginia have difficulty qualifying for unemployment compensation insurance.

Recommendation 2:2: The U.S. Department of Labor should improve monitoring and enforcement of Federal laws such as the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

Chapter 3.—Housing

Finding 3:1: Migrant housing on Virginia's Eastern Shore is deplorable with housing structures ranging from chicken houses to barns. Commonly cited problems include mosquito infestation, overflowing privies and septic tanks, lack of hot water for bathing, rotten ceilings and roofs, and walls with holes.

Recommendation 3:1: The Department of Labor should strictly enforce the housing assurances guaranteed under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), the Fair Labor Standards Act (FLSA), and the Occupational Safety and Health Act (OSHA). In addition, the Eastern Shore Health District and the Virginia Employment Commission should make increased use of outreach workers to locate and monitor housing conditions in Virginia's more isolated areas.

Finding 3:2: Current bi-weekly housing inspections by the Eastern Shore Health District are inadequate to provide migrants even the most minimal protections required by Federal and State law.

Recommendation 3:2: Inspection of migrant labor camps by the Eastern Shore Health District should be increased at least to the level of weekly inspections as was previously done when the program was federally funded.

Finding 3:3: Virginia's statutory definition of a labor camp as a structure housing 10 occupants, at least one of whom must be a migrant, sets too high a ceiling and allows many migrant housing units housing fewer than 10 occupants to avoid regulation under State law.

Recommendation 3:3: Legislation defining migrant labor camps should be revised so as to reduce the level of occupancy required to bring housing units within the jurisdiction of the Eastern Shore Health District.

Chapter 4.—Health and Nutrition

Finding 4:1: The level of medical services available to migrants on Virginia's Eastern Shore is inadequate. Moreover, poor housing and other factors such as poor nu-

⁹⁰ Ibid.

trition, alcoholism, lack of recreation, and isolation adversely affect the physical and mental health of Virginia's Eastern Shore migrants.

Recommendation 4:1: Funds specifically earmarked for migrants should be made available by the State for use by such groups as the Delmarva Health Project, the Eastern Shore Health District, and others to meet the special health needs of migrants.

Finding 4:2: Virginia's Eastern Shore migrants experience difficulty in qualifying for entitlement programs such as food stamps and medicaid. This difficulty is caused, in part, by inconsistent requirements in the various Eastern Shore communities.

Recommendation 4:2: A uniform system for determining eligibility requirements should be established for all of Virginia's Federal or State funded benefits programs.

Finding 4:3: Migrants generally lack health insurance. Virginia, unlike most states, provides no State funds for migrant hospitalization.

Recommendation 4:3: Virginia should appropriate money so that migrants can utilize hospitals as needed on the same basis as residents of Virginia.

Finding 4:4: Alcoholic beverages are sold to migrants by crewleaders in apparent violation of State and Federal law.

Recommendation 4:4: The Virginia Department of Alcoholic Beverage Control should devise effective ways to detect and prosecute violations of State law. The Federal Bureau of Alcohol, Tobacco, and Firearms in the U.S. Department of the Treasury should investigate possible violations of the Internal Revenue Code resulting from the resale of liquor to migrants by crewleaders.

Chapter 5.—Education

Finding 5:1: Virginia's Department of Education, Office of Special and Compensatory Education, offers an aggressive program of migrant education that meets or exceeds requirements of the U.S. Department of Education.

Recommendation 5:1: The Office of Special and Compensatory Education should continue its aggressive policy of providing a comprehensive program of migrant education.

Finding 5:2: A new Federal interpretation of the term "guardian" in determining the eligibility of migrant children to participate in the migrant education program has resulted in the loss of eligibility for hundreds of migrant children and has caused a 15 percent reduction by the U.S. Department of Education in funding for Virginia's 1982-83 State plan.

Recommendation 5:2: The Federal Government should continue to allow crewleaders to register migrant children for education programs and should adopt measures designed to encourage, rather than discourage, participation in such programs.

Finding 5:3: Studies predict that the number of migrant children in Virginia will increase at the same time that Federal funds for migrant education are being cut for budgetary and regulatory reasons.

Recommendation 5:3: Targeted Federal funds should continue to be provided in amounts sufficient to meet anticipated need.

APPENDIX: AGENCY RESPONSES

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, VA, August 9, 1983.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: Thank you for your letter of August 2 enclosing the draft report on migrant workers on the Eastern Shore of Virginia. I note you have asked Dr. Kenley, Commissioner of Health in Virginia, for his comments' also.

Dr. Kenley's reply will cover my views also.

Sincerely,

JOSEPH L. FISHER.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF HEALTH,
Richmond, VA, August 19, 1983.

Mr. EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.*

DEAR MR. RUTLEDGE: The 1980 General Assembly recodified Title 32 of the Code of Virginia. In response to these new health laws of Virginia that govern migrant labor camps, the State Board of Health promulgated regulations, and these became effective November 1, 1980.

The health department has a definite interest in the migrant workers who are in and passing through the Commonwealth, and we maintain surveillance over all known migrant labor camps that meet the definition as expressed in Section 32.1-203 of the Code of Virginia. Our reports indicate that these camps maintain reasonable compliance with the regulations. For those that do not comply, corrections are made with prompt response. We have received complaints at the local level only, where they have been handled.

Regarding other services related to nutrition, tuberculosis, venereal disease, and other health problems, etc., our local departments use, to the best of their ability, the resources they have in helping migrant workers and their families. However, because they are a moving target, the difficulties in providing services to these individuals and families, and as expressed in the Commission's report, are disturbing and appear to require approaches to in these problems that currently have not been solved with the resources that we have available.

The Commission can be assured that we in Virginia will explore all avenues available to us to carry out our responsibility to protect the health and safety of those migrant workers and their families in Virginia.

Sincerely,

JAMES B. KENLEY, M.D.,
State Health Commissioner.

COMMONWEALTH OF VIRGINIA,
VIRGINIA EMPLOYMENT COMMISSION,
Richmond, VA, August 17, 1983.

Mr. EDWARD RUTLEDGE,
*Regional Director, Mid-Atlantic Regional Office,
Washington, DC.*

DEAR MR. RUTLEDGE: Thank you for the report on the Commission's study of migrant workers on Virginia's Eastern Shore. We wish to make no comments at this time.

Sincerely,

RALPH G. CANTRELL,
Commissioner.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF EDUCATION,
Richmond VA, August 23, 1983.

Mr. EDWARD RUTLEDGE,
*Regional Director, Mid-Atlantic Regional Office,
Washington, DC.*

DEAR MR. RUTLEDGE: Thank you for the opportunity to review and comment on the Commission's draft report regarding migrant education on the Eastern Shore of Virginia.

Several corrections have been annotated on the following pages:

1. Page 108—Division of Compensatory Education ECIA Chapter 1 serves as the fiscal agent. This Division also directly supervises the migrant education program subgrantees.

2. Page 108 Accomack
3. Page 108 Chapter 1
4. Page 116 Accomack
5. Page 116 47 Winford Miller
6. Page 118 Supervisor
7. Page 119 Supervisor

8. Page 123 Migrant Education Program
9. Page 124 1982-83
10. Page 124 Ages 0 and 21
11. Page 125 Chapter 1
12. Page 125 1982-83

If our office can provide further assistance, please do not hesitate to contact us.

Sincerely,

DR. N. GRANT TUBBS,
Administrative Director,
Office of Special and Compensatory Education.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF HEALTH,
Richmond VA, August 19, 1983.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights, Mid-Atlantic Regional Office,
Washington, DC.

DEAR MR. RUTLEDGE: The 1980 General Assembly recodified Title 32 of the Code of Virginia. In response to these new health laws of Virginia that govern migrant labor camps, the State Board of Health promulgated regulations, and these became effective November 1, 1980.

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The Commission can be assured that we in Virginia will explore all avenues available to us to carry out our responsibility to protect the health and safety of those migrant workers and their families in Virginia.

Sincerely,

JAMES B. KENLEY, M.D.,
State Health Commissioner.

COMMONWEALTH OF VIRGINIA,
VIRGINIA EMPLOYMENT COMMISSION,
Richmond, VA, August 17, 1983

Mr. EDWARD RUTLEDGE,
Regional Director, Mid-Atlantic Regional Office,
Washington, DC.

DEAR MR. RUTLEDGE: Thank you for the report on the Commission's study of migrant workers on Virginia's Eastern Shore. We wish to make no comments at this time.

Sincerely,

RALPH G. CANTRELL, Commissioner.

DEPARTMENT OF AGRICULTURE,
NUTRITION SERVICE,
Trenton, NJ, September 13, 1983.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: This has reference to the Virginia Advisory Committee's report on Migrant Workers on the Eastern shore, which was sent to our Field Office

in Baltimore, Maryland and subsequently reached us for review and response to the relevant portions of the report that concern us.

We found two areas that are of interest to us—the WIC Program that operates as a part of the Delmarva Migrant Health Project and the Food Stamp operations in one of the local Social Service Departments (not named), although some reference was made to problems of a delivery nature in Northampton and Accomack Counties.

The WIC Program appears to be spoken of very favorably. There appears to be no problem of availability of this service, as far as we can see. We wish to comment, however, on the statement of Dr. Belle DeCormis Fears about all migrants being financially and nutritionally eligible. While this is note wrong, without further qualification, it might give the reader the impression that entire groups of people could be considered as eligible based on demographic statistics. Our regulations are very clear that persons are to be considered for eligibility on an individual basis and according to medical standards prescribed for this program.

Further, we believe the report should note that the WIC Program services include the provision of (a) specific supplemental foods prescribed to address the health and nutritional needs of eligible persons and (b) nutrition education designed to emphasize the relationship between proper nutrition and good health.

We took note of the food stamp problems mentioned in this report, which were mainly references to interviews with four persons who were either advocates or farm workers. Nothing was mentioned of State and local office positions on the problems alluded to, which would have been beneficial in shedding some light on the situation and to offer a more balanced viewpoint.

Your report mentions that farmworkers experience problems in getting food stamps. This illustrated by a quote that in part states "We have to litigate those problems for them on a regular basis." It is difficult for us to comment on this statement without knowing more of the background and the dates of the interviews. It was observed that the quote was taken from a transcript of Michael T. Robinson, p. 187, which would be necessary for us to see if a proper response is to be given. We can state factually, however, that there has been monitoring of this situation during the present migrant season, and it appears that conditions have improved considerably over the previous season.

Mention is made of problems revolving around the crew leader. One problem noted is that crew leaders sometimes pick up all of the food stamps from the issuing office for the members of his crew. Such activity is legitimate as long as the crew leader is designated as an "authorized representative" in accordance with Federal regulations. If the crew leader is not designated as an authorized representative, the transaction is not legal and should be reported to the local office for investigation.

With regard to the reference in the report of needing a "certificate" from a crew leader to "sign up," certain types of information must be verified to establish eligibility for food stamps, and crew leaders are necessarily a primary source of such verification. Both FNS and the State were made aware of isolated instances where farm workers, without crew leaders, had problems obtaining proper verification during the 1982 migrant season, and State representatives instructed the local offices of proper procedures to be used in such cases. We have not been made aware of these problems occurring during the 1983 season.

The report also mentions that food stamp appeals are often not an option as migrants move before the appeal can be processed. Federal regulations and the State food stamp manual require expedited hearings for migrants, and to the best of our knowledge this process is being utilized properly by the eastern shore counties.

Please keep in mind that providing adequate service to migrant farm workers is a difficult problem. The eastern shore counties, not unlike other counties throughout the United States, have problems handling their normal on going caseloads, let alone significant influxes of migrant workers. Farm workers have transportation problems, we are aware. The Haitian workers on the eastern shore also have problems communicating. Haitian Creole is not a written language, and a significant percentage of these farm workers are illiterate. However, our monitoring of the situation this year, as of this date, shows that the processing of migrant food stamp applications has improved over prior years.

Prior to finalizing this report, we offer the suggestion that the Commission interview State and local food stamp officials to provide balance to the final report.

We appreciate very much the information provided to us, and look forward to receiving a copy of the final report.

Sincerely yours,

ANDREW P. HORNSBY, Jr.,
Administrator,
Mid-Atlantic Region.

[Memorandum]

September 13, 1983.

To: Edward Rutledge, Regional Director, U.S. Commission on Civil Rights.
 From: Joseph P. Ambrosino, Secretary's Regional Representative.
 Subject: Comments on Migrant Workers on Maryland's Eastern Shore Report.

In response to your request for comments regarding the above report, I am submitting the following:

1. In keeping with recommendations of National Commission on Excellence in Education, migrant students represent a special, educationally disadvantaged group which requires special curriculum materials and individual tutoring within a flexible learning environment to maximize each migrant child's educational potential.

2. Logistical and support services on federal, state, and local levels are critical in enabling migrant students to overcome barriers imposed by their constant transfers from state to state and school district to school district. Local community provisions of needed medical, dental, speech, nutrition, and other services to the economically disadvantaged migrant student are essential for productive learning to take place.

3. The introduction of computerized (MRTS) programs and methods in the identification, recruitment, and continued educational assessment of migrant student progress has contributed significantly to increased enrollment and improved quality of education for migrant students.

4. Expanded and extended interstate cooperation in removing barriers to migrant student educational progress and achievement will provide greater educational equity for migrant children. Facilitating instructional techniques, course credits, and graduation requirements to provide uniformity among states would be a major step forward in providing equal educational opportunities for every migrant student.

Thank you for the opportunity to comment on this document. If I can be of further assistance to you, please don't hesitate to contact me.

RICHMOND, VA, August 19, 1983.

Mr. EDWARD RUTLEDGE,
 Regional Director, U.S. Commission on Civil Rights,
 Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: We received your report on the Migrant Workers on Maryland's Eastern Shore. Your comments concerning Farmers Home Administration appears to be informative, concise and clear.

In our opinion, the report is satisfactory as it is written. We thank you for the opportunity to comment on the contents of this report.

Sincerely,

ROIE M. GODSEY, State Director.

U.S. DEPARTMENT OF LABOR,
 EMPLOYMENT AND TRAINING ADMINISTRATION,
 Philadelphia PA, August 22, 1983.

Mr. EDWARD RUTLEDGE,
 U.S. Commission on Civil Rights,
 Mid-Atlantic Regional Office, Washington DC.

DEAR MR. RUTLEDGE: This is in response to your letter of August 2, 1983, inviting our comments on the draft report prepared by your Virginia Advisory Committee on Migrant Workers. Based on the portion (pages 17-30) you submitted to us, we offer the following comments:

1. Page 23.—Regarding Virginia Employment Commission (VEC) recruitment of workers in foreign countries:

The VEC recruits American workers. If insufficient domestic workers are available, then the employer may be authorized to secure temporary labor from other countries.

2. Page 29.—Regarding the deduction of an excise tax by the crewleaders from the wages paid to migrant workers:

The Federal Unemployment Tax Act requires the payment to be made by the employer and the payment is a percentage of the wages earned by the worker. The payments are not to be deductions from the pay of the workers.

Thank you for the opportunity to comment on this information.

Sincerely,

WILLIAM J. HALTIGAN,
Regional Administrator.

COMMONWEALTH OF VIRGINIA,
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Richmond, VA, August 29, 1983.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: I have been asked to respond to a study of migrant workers on the Eastern Shore of Virginia. We reviewed the draft and are in agreement with the testimony which indicates that crewleaders sell alcoholic beverages to migrants and deduct the cost from the money owed to the migrant. We have reason to believe that these costs are inflated by some crewleaders, even to the extent that the price has been doubled in some cases.

We know that some crewleaders have bought several gallons of alcoholic beverages during the course of a week, but as these beverages were transported legally, we could only surmise the ultimate destination and use. We have tried several enforcement strategies and have had some success in reducing the problem where the migrants obtain the alcohol from outside the camps.

Our major emphasis has been to infiltrate special agents into the system, and where we have been able to do this we have been very successful. However, the crewleaders as a general rule will not sell to anyone outside of his crew or camp. Additionally, this problem is compounded by their selling on "credit," and there is no money passed.

One of the programs implemented ten years ago was the Special Undercover Agency (SUA) to assist us in monitoring the migrant camps. We still have resources to devote to this program and have advised our resident agents to make use of this program where possible. Basically, we will hire anyone whose testimony is acceptable in court and employ this individual to function as a paid informer. This program is available to migrants or anyone else who wishes to do this type of work. The salary is the same as a new agent's, and all expenses are paid.

We have employed many individuals in recent years, but there does seem to be a reluctance on the part of the migrants to do this type of work. Without their support, we are limited to what we can accomplish in the camps.

I would not categorize our programs as being inadequate. I will say that the problem is difficult when dealing with crewleaders.

We will assist or help anyone trying to control this problem, and we welcome any information which will help us to enforce the laws in the camps.

If you need any clarification or confirmation, please do not hesitate to contact us.

Sincerely,

RAYMOND A. LITTLE,
Assistant Director,
Regulatory Division.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT STANDARDS ADMINISTRATION,
Philadelphia, PA, August 17, 1983.

Mr. EDWARD RUTLEDGE,
Mid-Atlantic Regional Office,
Washington, DC.

DEAR MR. RUTLEDGE: This is in response to your letter dated August 2, 1983 enclosing a draft copy of the Virginia Advisory Committee to the United States Commission on Civil Rights Report on migrant farmworkers on Virginia's Eastern Shore.

The report indicates in chapter 2, page 17, "Recruitment and Employment" that "the major federal law regulating recruitment of migrant workers in 1982 was the Federal Labor Contractor Registration Act". The correct title is Farm Labor Contractor Registration Act.

The statement at the end of page 17 that VEC administers MSPA is misleading and not factually correct. The Employment Standards Administration, Wage Hour Division is responsible for the administration and enforcement of MSPA. This

should be changed to read that pursuant to a state agreement that was initially approved under FLCRA, the VEC is authorized to issue certificates of registration. The VEC has expressed its intention to continue this service by agreeing to submit a state plan under Section 513 of MSPA.

In regard to the Fair Labor Standards Act, page 32 of the draft, a statement should be added that the FLSA contains a complete overtime exemption for farmworkers thus most farmworkers do not have to be paid time and a half when they work over 40 hours in a week.

I would recommend that the Child Labor portion of the FLSA, last paragraph of page 32 be expanded to read as follows: (1) Youths aged 16 and above may work in any farm job at any time. (2) Youths aged 14 and 15 may work outside schools hours in jobs not declared hazardous by the Secretary of Labor. (3) Youths aged 12 and 13 may work in jobs not declared hazardous outside school hours either with written parental consent or on the same farm where their parents are employed.

ENCLOSURE 2—MIGRANT FARMWORKERS IN DELAWARE

A report of the Delaware Advisory Committee to the U.S. Commission on Civil Rights. The subject matter of this report is of public interest and, on that basis, the Commission has authorized its release. However the content of this State Advisory Committee report has not been approved by the U.S. Commission on Civil Rights; no finding of any violation of Federal civil rights laws has been made in this report; nor has the Commission endorsed any of the findings of fact or recommendations contained herein.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

CHAPTER 1.—INTRODUCTION

Delaware is one of three States comprising what is commonly referred to as the Delmarva Peninsula. Delaware, Maryland, and Virginia each claim portions of the peninsula, which is bordered on the east of the Delaware River and Atlantic Ocean, on the west by the Chesapeake Bay, and by the Atlantic Ocean on the south. The area is primarily rural and thinly populated. The boundaries of Delaware, Maryland, and Virginia are nearly indistinct except for changing road signs as the traveler passes from one jurisdiction to the next. In many respects the region is a single community.

To this fertile farm region come groups of agricultural workers from southern "home-base" States, most often Florida and Texas.¹ These workers are part of the eastern migrant stream which moves along the entire Atlantic coastal region from Florida to Maine. The migrant workers usually travel long distances in search of jobs. In order to minimize problems in finding work, many migrants allow themselves to be recruited and contracted for a series of jobs as part of a traveling work group or "crew."

During 1982, it is estimated that a peak population of approximately 1,500 migrants participated in the harvesting of crops in Delaware.² These crops included asparagus, squash, cucumbers, potatoes, cabbage, peaches, cantaloupes, watermelons, apples, sweet corn, and nursery stock.³

The racial composition of migrant workers in Delaware typifies that of the eastern migrant stream⁴ in that Delaware's migrants are primarily black, including a growing number of Haitians, with some Hispanics and relatively few whites.⁵ Delaware's migrant workers generally range in age from 18 to 35 years.⁶ The 1,500 migrants who labored to harvest Delaware's crops in 1982 are but a small fraction of the Nation's estimated 1.5 million migrants and seasonal farm laborers hired each year. However, in spite of their efforts, many people argue that migrants and the circumstances surrounding their labor are invisible to mainstream America. Susan Canning, executive director of Delmarva Rural Ministries, a migrant advocacy and service organization, explained:

"Nobody recognizes what migrants contribute to their State. Nobody recognizes them. Migrant workers are here making money, buying food, and contributing to the lifestyle of State residents. Yet nobody recognizes them."⁷

Nor does there appear to have been much change in the Nation's treatment of migrant since Edward R. Murrow's television documentary, "Harvest of Shame",⁸ aired more than 20 years ago.

Since then, several pieces of social legislation aimed at addressing the needs of migrant workers have been passed. This legislation includes the Comprehensive Employment and Training Act (CETA), which provided funds to farmworker organizations to assist migrants in several areas, including employment training and social services. CETA expired in September 1983 and was replaced by the Job Partnership Training Act⁹ which provides employment and training programs for native Americans and migrant and seasonal farmworkers.⁹

In addition, social security benefits and unemployment compensation have been made available to migrant workers who qualify. Moreover, many migrants have availed themselves of legal services offered by various legal aid bureaus that are funded by Federal grants. However, in spite of the increased protection afforded by these legislation changes, the plight of most migrant remains relatively unchanged.

It is against this backdrop of stagnation and apathy that the Delaware Advisory Committee, in conjunction with the Maryland and Virginia Advisory Committees, has undertaken this study of the living and working conditions of migrant workers on the Delmarva Peninsula. In this report, the Delaware Advisory Committee examines the areas of housing, employment, and health among Delaware's more than 1,500 migrants.

CHAPTER 2.—HOUSING

CAPACITY OF MIGRANT HOUSING

In 1983, a total of 26 licensed migratory labor camps operated in New Castle, Kent, and Sussex Counties in Delaware.¹ This tri-county area contains all of Dela-

¹ Al Glover, State farm project coordinator, interview in Dover, Del., July 20, 1983 (hereinafter cited as Glover July Interview).

² Ibid.

³ Ibid.

⁴ Church Action for Safe and Just Communities, *The Eastern Migrant Stream: CASJC Special Report*, by Franklin D. Williams and Pamela Y. Williams (April 1982), p. 19.

⁵ Glover Interview.

⁶ Ibid.

⁷ Susan Canning, executive director, Delmarva Rural Ministries, interview in Dover, Del., August 12, 1983 (hereinafter cited as Canning Interview).

⁸ U.S.C.A. section 1501-1781 (1975 and 1983 Supplement).

⁹ Ibid. at section 1672.

¹ Charles A. Hatfield, Jr., program director, Office of Institutional and General Sanitation, interview in Dover, Del., August 12, 1983 (hereinafter cited as Hatfield Interview).

ware's migrant labor camps. The capacity of these 26 licensed camps is 888.² Over the past 18 years there has been a significant and continual decrease on both the number and capacity of migrant camps in Delaware. In 1965, the first year for which records were kept,³ there were 101 migrant labor camps in Delaware with a total capacity of 6,217.⁴ The reduction in the number and capacity of these camps has been attributed to the increased use of automation in the harvesting of crops and to an overall reduction in the number and size of farms within the State.⁵

The 1983 estimate for Delaware of approximately 1,500, represents only the peak migrant population.⁶ It does not indicate the total number of migrants within the State during the 1983 harvest season. Nor does the estimate include those migrant workers who are not members of registered crews.⁷

There is no accurate count of the total number of migrants in the State. The estimate by the total number of migrants in the State. The estimate by the State Department of Labor of 1,500 migrants in 1982 was merely a projection based upon the peak season count of 1,024 registered migrant workers.⁸ Nonworkers such as spouses or children are not included in this number.⁹ Moreover, the 1,024 registered migrants include only those migrants who are members of a registered crew recruited through the Federal-State employment system.¹⁰ Thus, when nonworkers, unregistered workers, and workers who have come and gone are included, the total number of migrants in the State of Delaware clearly exceeds the estimated 1,500 workers.

In discussing the condition of housing units available to migrants, a distinction must be made between migrants who are members of registered crews and migrants who are not. Housing for migrants who belong to registered crews is subject to standards established by several Federal agencies (which shall be discussed later in this chapter), whereas housing for unregistered migrants, or "freewheelers" is not.

One example of migrant housing available to members of registered crews is one camp in Kent County. The site is located in a rural area, off-road, and housed 48 migrants from July to October in 1982.¹¹ The camp consisted of four units constructed of cement block and woodframe.¹² Each unit has 2 rooms, 10 single beds, and covers an area of 312 square feet.¹³ Facilities included four flush toilets, one urinal, four washbasins, and seven showerheads.¹⁴ Also included were four cookstoves, three refrigerators, two washers, and two dryers which augmented six fixed laundry tubs. Water and electricity were installed, as was a heating system.¹⁵ The camp also has a fire extinguisher, first aid kit, and a dumpster which served as a garbage container. Insect screening was also in use.¹⁶ Under terms of the interstate clearance order, this housing was provided without cost to the migrant worker.

The housing for migrant laborers who belong to registered crews as described above stands in sharp contrast to that available for freewheelers. Susan Canning of the Delmarva Rural Ministries described the living conditions of some unaffiliated migrant laborers this way:

"We saw many, many people last year, particularly those of the Haitian community, living in far below substandard housing . . . fifteen (15) people, adults, in one house with no plumbing, no running water . . . You shouldn't really even call them camps because they are not licensed camps. To allow some of these conditions to

² Ibid.

³ Statistical information submitted to the U.S. Commission on Civil Rights by Charles A. Hatfield, February 2, 1983 (hereinafter cited as Hatfield Submissions).

⁴ Ibid.

⁵ Glover Interview. Although the number of farms has decreased in Delaware since 1965, the average acreage per farm has increased from 163 in 1965 to 186 in 1981. (Marcie Bierlein, director, State Division of Employment Services, letter to Edward Rutledge, January 25, 1984; hereafter cited as Bierlein Response.)

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

⁹ Richard Shiels, monitor advocate, Delaware Department of Labor, interview in Dover, Del., August 8, 1983.

¹⁰ Ibid.

¹¹ Statistical information submitted to the U.S. Commission on Civil Rights by Arthur S. Benson, director, Employment Services Division, Delaware Department of Labor, December 13, 1982 (hereinafter cited as Benson Submission).

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

exist really defeats the purpose of the . . . (Migratory Camp Sanitation) . . . regulations."¹⁷

The problem of poor housing for migrant laborers who belong to independent crews echoed by Al Glover, Delaware State Farm Program coordinator, who stated: "There are some independent crews that come into Delaware and take jobs and housing whenever and wherever available . . . people [are] living in shacks with no running water . . . 27 or 28 people were living in two vans."¹⁸

Problems persist regarding housing provided both for registered crews and for independents. Some licensed camps have poor drainage, which causes flooding and the buildup of stagnant water.¹⁹ This observation is supported by one State official who indicated that typical complaints about licensed labor camps might include "overflowing or improperly maintained garbage dumps and a lack of hot water for a couple of days."²⁰

Greg Shell, managing attorney for the migrant worker unit with the Legal Aid Bureau in Salisbury, Maryland, that serves Delaware stated that he had observed a licensed camp in which serious overcrowding existed.²¹ Twenty-six people were housed in a room intended for only fourteen people.²² The room was said to have been so overcrowded that the beds were only about one foot apart.²³ Shell also stated that in other camps he had seen latrines that appeared not to have been emptied for years.²⁴ However, it is clear that the more serious problems with migrant housing exist in the unlicensed accommodations.

GOVERNMENT REGULATION

Federal oversight responsibility for housing conditions at Delaware's migratory labor camps rests primarily with the U.S. Department of Labor (DOL). DOL administers the Migrant and Seasonal Agricultural Worker Protection Act²⁵ (MSPA), which replaced the Farm Labor Contractor Registration Act. DOL also administers the Wagner-Peyser National Employment System Act²⁶ and regulations issued under the Occupational Safety and Health Act (OSHA).²⁷ The Migrant and Seasonal Agricultural Worker Protection Act is enforced by the Wage and Hour Division of DOL's Employment Standards Administration (ESA), while the Wagner-Peyser Act, which created the U.S. Employment Service, is the responsibility of DOL's Employment Training Administration (ETA). The Wage and Hour Division is also responsible for enforcement of the Fair Labor Standards Act (FLSA).²⁸

During 1983 the Wage and Hour Division conducted 16 investigations related to MSPA enforcement.²⁹ Six of these investigations disclosed health and safety violations with regard to housing. Some of the noted housing violations include:

1. Housing not structurally sound (one camp).
2. Toilets not constructed, located, or maintained in manner to prevent nuisance or public health hazard (one camp).
3. Privy structures and pits not fly-tight (one camp).
4. Failure to provide toilet tissue in common-use toilet facilities (one camp).

¹⁷ Susan Canning, executive director, Delmarva Rural Ministries, statement to the Delaware Advisory Committee, June 11, 1982.

¹⁸ Glover Interview. The Delaware Division of Employment Services reports that a lack of hot water or cold running water for short periods of one or two days has been reported, such conditions were corrected upon notification. The agency is unaware of licensed camps in operation without running or hot water for prolonged periods of time (Bierlein Response).

¹⁹ Gina Miserendino, social services coordinator, Delmarva Rural Ministries, interview in Dover, Del., July 12, 1983.

²⁰ Glover Interview.

²¹ Greg Shell, telephone interview, September 12, 1983 (hereinafter cited as Shell Interview).

²² *Ibid.*

²³ Albert Lee, paralegal, Florida Rural Legal Services (temporarily detailed to Legal Aid Bureau, Inc., in Salisbury, Maryland), telephone interview, September 14, 1983 (hereinafter cited as Lee Interview). According to Charles A. Hatfield, "Each of the camps are measured, and the number of beds per room is established before the crew arrives at the camp. . . . We honor the privacy of the migrant and do not [ordinarily] inspect each bedroom after it is occupied." (Susan H. Kirk-Ryan, letter to Edward Rutledge, January 26, 1984. Hereafter cited as Kirk-Ryan Response.)

²⁴ Shell Interview.

²⁵ 29 U.S.C.A. section 1801 (1975 and 1983 Supplement).

²⁶ 29 U.S.C.A. section 49 (1973).

²⁷ 29 C.F.R. section 1910.42 (1982).

²⁸ 29 U.S.C.A. sections 201-219 (1978).

²⁹ Charles Angell, letter to Robert Owens, February 14, 1984 (hereafter cited as Angell February Response).

5. In adequate in sleeping area (three camps).³⁰ It should be noted that a single camp, if poorly maintained, can be the basis for several violations. (For a complete listing of all housing violations found during DOL's investigation, see appendix B.)

In order to coordinate and strengthen its responsibilities in enforcing the protective statutes (FLSA, MSPA, and OSHA), DOL has established a National Farm Labor Coordinated Enforcement Committee under the direction of an Undersecretary of Labor.³¹ Pursuant to OSHA regulations governing construction of temporary labor camps, all migrant housing must meet certain minimal standards. Among those standards are the following requirements: (1) All camps must be adequate in size to prevent overcrowding;³² (2) All camps must be adequately drained;³³ (3) An adequate water supply for drinking, cooking, bathing, and laundry purposes must be provided;³⁴ (4) All camps must provide adequate toilet facilities for the capacity of the camp;³⁵ and (5) All exterior openings must be screened.³⁶

Within the State of Delaware, regulations relating to migratory labor camps are administered by the State Board of Health³⁷ pursuant to the State Migratory Labor Camp Regulations.³⁸ These regulations generally parallel OSHA requirements in regulating site requirements,³⁹ shelter requirements,⁴⁰ cooking and eating facilities,⁴¹ water supply,⁴² toilet, laundry and bath facilities,⁴³ lighting,⁴⁴ and solid waste.⁴⁵ It should be noted, however, that within the State of Delaware, Federal OSHA regulations relating to migratory labor are administered and enforced by OSHA within the U.S. Department of Labor.

In addition to OSHA and State Board of Health regulations, migrant housing is also governed by provisions of the Wagner-Peyser Act. The Division of Employment Services within Delaware's Department of Labor participates in processing interstate clearance orders under that act.⁴⁶ The interstate clearance order is a means of recruiting agricultural workers through the State employment office. The grower who wishes to recruit laborers submits the clearance order to the State employment office. The clearance order must indicate, among other things, the number of workers, sought and the type and cost of available housing.⁴⁷ With respect to housing, the order must indicate room dimensions, number of beds, capacity, number of toilets and showers, and whether the housing is in compliance with State regulations governing water, electricity, and heating.⁴⁸ According to Al Glover, "80 percent of the growers in the State use the clearance system"⁴⁹ to recruit workers.

Pursuant to the Migrant and Seasonal Agricultural Worker Protection Act, neither the crewleader nor the grower is technically required to provide rent-free or public housing for migrant workers.⁵⁰ However, MSPA does require the crewleader to identify the housing to be used by migrants and, further, requires that anyone who owns or controls the housing must comply with MSPA housing requirements.⁵¹ These requirements refer to other Federal and State requirements. Migrant housing that was built or was under construction prior to April 3, 1980, must conform to standards set by either the Employment and Training Administration or by

³⁰ Ibid.

³¹ 29 C.F.R. section 42.3 (1982).

³² 29 C.F.R. section 1910.142 (a)(2) (1982).

³³ Id. at (a) (1).

³⁴ Id. at (c) (1).

³⁵ Id. at (d) (1).

³⁶ Id. at (b) (8).

³⁷ Susan Kirk-Ryan, deputy attorney general, Delaware Department of Justice, letter to Edward Darden, September 28, 1982.

³⁸ State Board of Health Migratory Labor Camp Regulations, sections 47.01-47.13.

³⁹ Id. at section 47.04.

⁴⁰ Id. at section 47.05.

⁴¹ Id. at section 47.06.

⁴² Id. at section 47.07.

⁴³ Id. at section 47.08.

⁴⁴ Id. at section 47.09.

⁴⁵ Id. at section 47.10.

⁴⁶ Benson Submission.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Glover Interview.

⁵⁰ However, if housing is provided to migrant workers, only the reasonable cost of furnishing such facility, excluding profit, is creditable as wages under the Fair Labor Standard Act. (Charles Angell, Region 3 Administrator, Employment Standards Administration, U.S. Department of Labor, letter to Edward Rutledge, January 19, 1984. Hereafter cited as Angell Response.)

⁵¹ 29 U.S.C.A. section 1823(a) (1975 and 1983 Supplement).

OSHA.⁵² Migrant housing constructed after April 3, 1980, must conform to OSHA regulations.⁵³ In Delaware, all migrant housing provided by growers is also owned by the growers.⁵⁴ Thus, all migratory labor camps in Delaware are subject to MSPA regulations.

According to the Delaware Department of Health and Social Services, housing conditions for migrants have improved in registered camps and the public health staff watches these camps closely.⁵⁵ However, the department acknowledges that "conditions outside these camps can be deplorable."⁵⁶ The department cites several reasons for deplorable conditions in unregistered camps. A review of camp regulations by the State Division of Public Health, the State Agriculture Department, the State Labor Department, and the State Attorney General's office one year ago concluded that: "any attempt to modify the existing regulations would be a problem in that it would make them intrusive into areas where no clearly defined authority was given."⁵⁷

Thus, the ambiguity surrounding the jurisdictional roles of these State agencies hinders the State's efforts to ensure the quality of migrant housing.

The lack of Statewide or local housing codes in lower Delaware also hampers effective control of substandard dwellings.⁵⁸ The Division of Public Health has been urging county governments to adopt such local ordinances.⁵⁹ Even in camps not covered by State regulation, bad housing conditions can be corrected. One way of treating such problems is by enacting nuisance regulations. According to the Secretary of the Department of Health and Social Services: "Nuisance regulations can be invoked, but this requires the cooperation of the local law enforcement and judicial agencies, and often the inhabitants are gone before any effective action can be taken. The residents then are simply forced from one substandard dwelling to another one that may be even less desirable."⁶⁰

Thus, the interdependence of various local agencies and the mobility of the migrant workforce also hampers the State's ability to control migrant housing.

INSPECTION OF MIGRANT CAMPS

As discussed above, migrant housing is subject to inspection pursuant to regulations issued under OSHA, the Wagner-Peyser Act, FLSA, and MSPA. For the most part, monitoring and enforcement of these Federal regulations is delegated in Delaware to the State Department of Labor and to the State Department of Health and Social Services. Both the Division of Employment Services⁶¹ and the Division of Public Health⁶² conducts pre- and postoccupancy inspections of migrant labor camps. The Division of Employment Services must ascertain whether the housing provided by the farm owner meets Federal standards under MSPA and whether applicable provisions of the Wagner-Peyser Act are met in processing interstate clearance orders.⁶³ However, it is the Division of Public Health that has sole authority to issue a license to operate a migrant labor camp in the State.⁶⁴

Upon completion of an application by a grower or crewleader to operate a migrant labor camp, the health department schedules a preoccupancy inspection to determine if the camp meets State health requirements.⁶⁵ Inspections are done by employees of the State's Division of Public Health assigned to various counties within the State.⁶⁶ The inspection focuses upon areas previously described, including site, shelter, water, etc. The camp operator is given an inspection form on the day of inspection that indicates what, if any, violations were found and a time by which to effect repairs.⁶⁷

⁵² 29 C.F.R. section 500.132 (1983).

⁵³ *Id.*

⁵⁴ Glover Interview.

⁵⁵ Patricia C. Schramm, Secretary, Department of Health and Social Services, letter to Edward Rutledge, January 10, 1984.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Hatfield Interview.

⁶³ Glover Interview.

⁶⁴ Hatfield Interview.

⁶⁵ *Ibid.*

⁶⁶ Kirk-Ryan Response.

⁶⁷ *Ibid.*

After inspection, a camp can either be given a license, given a provisional license, or denied a license. According to Hatfield, "you should never give a permit with a lot of waivers attached."⁶⁸ Accordingly, the health department issues very few provisional permits. Of Delaware's 27 licensed camps operating in 1982, only 2 were issued provisional permits.⁶⁹ In 1983 only one provisional permit was issued among the State's 26 licensed camps.⁷⁰ Provisional permits are issued where the violations of State standards are minor. Subsequent to the preoccupancy inspection, the health department reinspects each camp once every month in unannounced visits.⁷¹ According to Hatfield, the Division of Public Health does have adequate staff with which to conduct inspections.

Another benefit enjoyed by health inspectors is that of cooperation by farm owners and crewleaders.⁷² However, cooperation was not always so readily given. In 1973 the Division of Public Health conducted a "baseline survey" of housing conditions in Delaware's migrant labor camps.⁷³ The survey revealed numerous violations of which the owners were apprised. The health department sent letters to the farmers requiring them to make repairs and informing them that their camps would not be relicensed unless repairs were made.⁷⁴ Most farmers made repairs, although some refused and operated unlicensed camps. The health department issued warrants for the arrest of two farmers who eventually paid fines and made repairs.⁷⁵

In addition to the arrest of two farmers and the attendant publicity about poor camp conditions, another step was taken to upgrade Delaware's migrant housing stock. In 1973, the Division of Public Health along with its Health Advisory Council and the State Department of Labor, as well as representatives from the canning industry, migrants, and church workers met to review the results of the baseline survey. As the result of those meetings, regulations affecting migratory labor camps were revised using OSHA regulations as the guidelines.⁷⁶ These actions, collectively, have contributed to what Susan Canning considers "adequate housing in licensed labor camps."⁷⁷

ANALYSIS

Migratory labor camps in Delaware are subject to the housing regulations of several Federal agencies. While this is true of licensed migrant camps in nearly every State, several factors operate in concert to fashion a favorable result in Delaware. First, it should be noted that Delaware, with upwards of 1,500 migrants, has far fewer migrants to deal with than does Maryland or Virginia. Secondly, all migratory labor camps in Delaware are owned by the farm owner. Thus, the housing provisions⁷⁸ of MSPA apply. Thirdly, because 80 percent of all farmers in Delaware recruit migrant workers through the interstate clearance system, certification as to the safety and health of housing for migrants is also required.⁷⁹ In addition, OSHA regulations pertaining to construction of temporary labor camps⁸⁰ also apply to Delaware's migratory labor housing.

The single most significant factor in achieving the goal of these Federal regulations is enforcement. It is essential that State agencies to which monitoring and enforcement is delegated, such as the health department and the employment office, adopt a very serious attitude about implementing the regulations. It is clear that the department of health has done so in Delaware. The health department has revised its regulations affecting the quality of migrant housing and has demonstrated a willingness to do whatever might be necessary to enforce its regulations. Moreover, the agency has worked with the farm owner to help bring about the desired change. Greg Shell of the Legal Aid Bureau stated "to Delaware's credit, in housing they have done some good work."⁸¹ As the result of efforts by the State's Depart-

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Canning Interview.

⁷⁸ 29 U.S.C.A. section 1823 (1975 and 1983 Supplement).

⁷⁹ 20 C.F.R. section 654.400 (b) (1983).

⁸⁰ 29 C.F.R. section 1910.142 (1982).

⁸¹ Shell Interview.

ment of Health and Social Services and the Department of Labor, licensed migrant housing in Delaware is, in the words of Susan Canning, "adequate." This is in striking contrast to other license housing on the Delmarva Peninsula.

CHAPTER 3.—EMPLOYMENT

In fiscal year 1982, approximately 1,042 migrants were employed as agricultural laborers in Delaware. This figure represents the best estimate of State officials¹ and should not be construed as the actual number of migrant workers in the state. In fact, the Delaware Department of Labor does not differentiate between the number of migrant workers and the number of seasonal workers,² although the total number for both groups was estimated to be 5,100 in fiscal year 1982.³

The majority of Delaware's migrant workers are recruited through use of the interstate clearance system. State officials indicated that "80 percent of the growers use the system."⁴ In 1982, 696 workers were recruited through the clearance system.⁵ The overwhelming majority, as many as 80 percent, of Delaware's migrant workforce are employed in the packaging of potatoes.⁶

The typical migrant crew in Delaware recruited through the interstate clearance system originates in either Florida, Texas, or Puerto Rico.⁷ In 1983 the State's Division of Employment Services processed 32 clearance orders in Delaware.⁸ Of that number, 21 originated in Florida, 7 in Texas, and 4 in Puerto Rico.⁹

Delaware's migrant crews begin to arrive in mid-April and remain until the end of November.¹⁰ During this time they engage in harvesting several different crops. For example, a migrant crew that arrives on April 15 might start off picking asparagus. Subsequently, the crew might pick squash, then cucumbers, then do potato grading, and finally finish by picking apples in November.

Migrants are compensated for their labor based on either a piece rate, wherein they are paid for the amount they pick (or pack), or on an hourly wage.¹¹ According to one State official, most migrants prefer piecework to an hourly wage because piecework provides better pay.¹² As an example, the State official explained that the hourly rate of pay is the Federal minimum wage of \$3.35 per hour. However, the piece rate will usually result in higher pay. Picking asparagus and cucumbers usually averages \$6 or \$7 per hour.¹³

The same State official described the rate of pay in the potato grading industry. He stated that the average work week was about 44 hours, compensated at the rate of \$3.35 per hour which provided an average weekly salary of \$147.¹⁴ Albert Lee, a paralegal, stated that he is aware of migrants having earned in excess of \$200 per week grading potatoes.¹⁵ The salary, said Lee, depends upon the number of hours worked per week and the contractor for whom one works.¹⁶

EMPLOYMENT PROBLEMS

Employment-related problems among Delaware migrants were said to be few.¹⁷ During 1982, the State employment office conducted 13 unannounced field checks in addition to 23 preoccupation inspections.¹⁸ These field checks revealed no violation of Federal or State regulations affecting the employment of migrant farmworkers.¹⁹

¹ Glover Interview.

² *Ibid.*

³ Dennis C. Carey, secretary, Delaware Department of Labor, letter to Edward Darden, August 3, 1982 (hereafter cited as Carey Submission).

⁴ Richard Shiels, monitor advocate, Delaware Department of Labor, Division of Employment Services, interview in Dover, Del., July 20, 1983 (hereinafter cited as Shiels Interview).

⁵ Glover Interview.

⁶ Shell Interview.

⁷ Glover Interview.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Al Glover, telephone interview, September 13, 1983.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Lee Interview.

¹⁶ *Ibid.*

¹⁷ Shiels Interview.

¹⁸ Glover September Interview.

¹⁹ *Ibid.*

However, Al Glover of the State employment office was aware of a few allegations made in 1983 concerning alleged overcharging by crewleaders for food consumed by migrants and about insufficient wages paid to migrants.²⁰

The image of a relatively problem-free working environment is not shared by everyone who regularly deals with migrants. Legal aid by attorney Greg Shell had a different view. He believed that the biggest problem was with the potato industry. Shell asserted that many of Delaware's migrants are paid less than the minimum wage for their labor as potato graders.²¹ Potato graders receive the potatoes, harvested by machine, as they are dumped from trailers onto conveyor belts. The graders then pick out the bad potatoes and rocks, size the potatoes and sew the bags, then finally load the bagged potatoes onto trailers.²²

According to Shell, the average workday for migrants who grade potatoes begins about 7 or 8 a.m. and ends at about 9:30 p.m.²³ Thus, the average day consists of 12 working hours. However, migrant workers, according to Shell, are often credited with having worked only 6 or 7 hours during this time. The obvious result is that the migrant worker will be paid the minimum wage of \$3.35 per hour for only 6 hours. If such were the case, this would represent an obvious violation of the minimum wage law. Yet, even if true, the practice would not benefit the crewleader, as will be seen below.

The crewleader is paid a lump sum based upon the number of bags or pounds of potatoes that are bagged.²⁴ Thus, the crewleader is paid not based upon the number of hours that he or his crew have worked, but rather, upon the amount of work that he has produced. The average rate of pay for a contractor in potato grading might be 47 cents per 100 pounds of potatoes actually bagged.²⁵ Therefore, the crewleader, who pays the migrant worker from the amount that he receives,²⁶ is inclined to be more product-oriented than hour-oriented in determining the workers' compensation. This concept of piece rate pay for potato graders is, in the opinion of Shell, an industrywide practice.²⁷

The biggest problem in compensating migrants for their work in potato grading has to do with what is commonly called "down" time.²⁸ Down time is the amount of time during which migrant workers are on the job waiting for work to be processed.²⁹ For example, if the conveyor belt breaks down, or if the potatoes become jammed or even if the workers are awaiting an order to be processed, this constitutes down time.³⁰ Migrants are not usually paid for down time.³¹ Therefore, Shell contends, that while a worker might be on the job from 7 a.m. until 9 p.m., instead of being paid for 11 hours work, any down time will be deducted from the 11 hours.³² It was Shell's contention that migrant workers are often paid only one half the total hours they have worked.³³

Common sense would seem to indicate that no one would be willing to accept only one half the pay to which one is entitled. However, Shell explained that several factors lend themselves to a different conclusion. First, most migrants who do potato grading are specialists³⁴ who, prior to coming to Delaware, have done potato grading in Florida, North Carolina, Virginia, and Maryland.³⁵ As specialists, they have grown accustomed to not being paid for down time and do not perceive nonpayment as a problem.³⁶ Secondly, many of the potato graders, up to one third or even one half, are heavy drinkers who have an alcoholic dependence on the crewleaders who often provides alcohol.³⁷ Therefore, this group won't complain. Finally, many of

²⁰ Ibid.

²¹ Shell Interview.

²² Lee Interview.

²³ Shell Interview.

²⁴ Ibid.

²⁵ Lee Interview.

²⁶ Ibid.; Shell Interview.

²⁷ Shell Interview.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

these migrants, because of their alcohol dependency would not be productive in other areas of migrant labor such as harvesting tomatoes or cucumbers, because they cannot pick very fast and are otherwise undependable.³⁸ Potato grading is their only real livelihood, and they are not willing to jeopardize it by making complaints of nonpayment.

These perceptions were given general support by another legal services worker, Albert Lee. He asserted that perhaps as many as 50 percent of Delaware's crew-leaders and growers pay less than the minimum wage.³⁹ He stated that workers, on the average, work 12 hours per day, although this varies according to the contractor.⁴⁰ He felt that a migrant who works a 12-hour day would be paid for "maybe 6 hours." He too attributed the less than minimum wage payments to the fact that the crewleader is paid on a production basis and does not compensate workers for down time.

For example, a crew leader might earn 46 cents for every 100 lbs. of potatoes processed by his crew. An average trailer load of potatoes weighs 42,000 to 45,000 lbs.; labor requirements are usually for 18-25 workers⁴¹ but may go as high as 30 workers.⁴² Social security deductions are 6.7 percent of the workers' wages.⁴³ If a crewleader processes 42,000 lbs. of potatoes (840 50-lb. bags) at the rate of 46 cents per 100 lbs., he would earn \$193.20. Wages for a crew of 30 workers at the rate of \$3.35 per hour for 1.5 hours would be \$150.75. Social security taxes would be \$10.10, bringing the crewleader's cost per load to \$160.85, for a net profit of \$32.35. Thus, in the view of Albert Lee and Greg Shell, "the crewleaders don't get rich either."⁴⁴ A crewleader who paid the minimum wage for the full time required to load a trailer of potatoes, including down time, might actually lose money.

Shell also pointed out that the Department of Labor's Wage and Hour Division would probably not discover this kind of violation because this type of problem is not a priority item with the agency.⁴⁵ Moreover, it was his contention that wage and hour, in checking pay rates, relies heavily on the crewleader's record book which will only show the number of hours worked and the amount paid. Thus, if a migrant works 10 hours and is credited with only 7, the records will show 7 hours pay for 7 hours work and all will appear in order.

State and Federal officials, while conceding that such a problem was possible, felt it was mostly unlikely. Al Glover, of the State employment office, said that he was unaware of the existence of a problem with wage payments among graders.⁴⁶ Richard Kiggins, of the Wage and Hour Division (DOL), said that although such a problem was possible, it was not at all likely that the problem could exist without wage and hour being aware.⁴⁷ Kiggins stated that a normal wage and hour investigation entails an examination of payroll records as well as interviewing a representative number of employees.⁴⁸ According to Kiggins, workers would certainly be asked the time they began and ended the day's work.

With respect to nonpayment of migrants for down time, Kiggins stated if the time is short and the worker cannot leave the line then he must be paid. The same result would follow, said Kiggins, if the worker were relieved from the line but had no way to return to the camp or to the field.⁴⁹ However, if the worker is permitted to leave the line during down time and has a viable means of returning to camp, then he is not entitled to compensation for that time.⁵⁰

Other work-related problems were said to include overcrowding in some camps,⁵¹ overcharging by crewleaders for meals, wine, and cigarettes,⁵² unsanitary la-

³⁸ Ibid.

³⁹ Lee Interview.

⁴⁰ Ibid.

⁴¹ Bierlein Response.

⁴² Lee Interview.

⁴³ Bierlein Response.

⁴⁴ Shell and Lee Interviews.

⁴⁵ Shell Interview.

⁴⁶ Al Glover, telephone interview.

⁴⁷ Richard Kiggins, Investigator, Wage and Hour Division, U.S. Department of Labor, Baltimore Area Office, telephone interview, September 13, 1983 (hereinafter cited as Kiggins Interview).

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Shell Interview; also see page 6.

⁵² Ibid; Lee Interview.

trines,⁵³ and failure by crewleaders to keep accurate records as required by law.⁵⁴ In some instances, crewleaders were said to be selling cigarettes to migrants for \$2 per pack⁵⁵ and charging as much as \$40-\$45 per week for food.⁵⁶

Albert Lee also said that most migrants were afraid to complain, to legal aid and to State and Federal officials for fear of reprisal by the crewleader.⁵⁷ It was felt that the migrant would be fired.⁵⁸ According to Lee:

"If you ask a migrant to talk to you about any problems or complaints he might have, he'll tell you 'we're okay, everything's fine.' The migrant knows that he can't afford to talk to you. He's afraid he'll be fired, or labeled a troublemaker. He's afraid he'll do worse somewhere else. If he leaves town, someone else will eventually find him and they might beat them up."⁵⁹

Lee also asserted that many crewleaders fail to keep records of when the migrant started and finished the day's work and of wage deductions.⁶⁰

Another employment-related problem is the employment of freewheelers at less than the minimum wage. According to Sue Canning, freewheelers are sometimes hired by licensed crewleaders to augment their crew:

"The crewleaders who hires them doesn't put them on his books and he often pays them less than minimum wage."⁶¹

In spite of these problems, many people believe that Delaware is improving the protections it affords to migrants. Albert Lee of the Legal Aid Bureau stated, "there is a cooperative spirit among growers to improve conditions."⁶² Al Glover stated his belief that a great deal of the improvements is due to use of the interstate clearance order; "the clearance order is a necessary document if you want to maintain protection of migrants."⁶³ Asked why Delaware growers, unlike their Maryland and Virginia counterparts on the Delmarva Peninsula, use the clearance system so heavily, Glover replied:

"We keep them knowledgeable of the laws, we have good communication. Growers use the system in spite of its added expense, random field checks and increased regulation because growers think it's worth it."⁶⁴

And finally, Kiggins of DOL's Wage and Hour Division said:

"As far as compliance with migrant laws and the Migrant and Seasonal Agricultural Worker Protection Act, I believe and I know [that] Delaware is in the forefront. The compliance history in Delaware over the years is exemplary."⁶⁵

GOVERNMENTAL REGULATION

The Federal Government regulates migrant farmworker employment primarily through the Migrant and Seasonal Agricultural Worker Protection Act (MSPA)⁶⁶ and the Fair Labor Standards Act (FLSA).⁶⁷ The Wagner-Peyser Act⁶⁸ and the Employment and Training Administration (ETA) regulations issued pursuant to the act⁶⁹ also provide additional worker protections. Each of these laws and regulations promulgated thereunder is administered by the U.S. Department of Labor (DOL).

The Migrant and Seasonal Agricultural Worker Protection Act, effective in April 1983, replaced the Farm Labor Contractor Registration Act (FLCRA). MSPA provides that any person engaged in any farm labor contracting activity must be registered with the Secretary of Labor.⁷⁰ Any individual hired by the farm labor contractor (crewleader) who engages in farm contracting work must also be registered.⁷¹

⁵³ Shell Interview; also see page 6.

⁵⁴ *Ibid*; Lee Interview.

⁵⁵ *Ibid*.

⁵⁶ *Ibid*.

⁵⁷ Lee and Shell Interviews. The Delaware Division of Employment Services notes that while they have transferred workers from one crew to another, it was not done because of fear, nor has the agency ever been informed of any crewleader who mistreated or terminated his workers because they complained (Bierlein Response).

⁵⁸ Lee Interview.

⁵⁹ *Ibid*.

⁶⁰ *Ibid*.

⁶¹ Canning Interview.

⁶² Lee Interview.

⁶³ Glover Interview.

⁶⁴ *Ibid*.

⁶⁵ Kiggins Interview.

⁶⁶ 29 U.S.C.A. sections 1801-1872 (1975 and 1983 Supplement).

⁶⁷ *Id.* at sections 201-219 (1978).

⁶⁸ *Id.* at section 49 (1973).

⁶⁹ 20 C.F.R. sections 653.100-653.113 (1983).

⁷⁰ 29 U.S.C.A. section 1811(a) (1975 and 1983 Supplement).

⁷¹ *Id.* at section 1811(b).

Registration can be denied to any farm labor contractor applicant who has knowingly made any misrepresentation in the application for a certificate⁷² or who has been convicted within the preceding 5 years of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages in connection with any farm labor contracting activities.⁷³ Conviction within the preceding 5 years of any major felony is also grounds for denial.⁷⁴

During 1983, one investigation by the Fair Labor Standards Administration disclosed minimum wage underpayments to nine employees amounting to \$1,600.⁷⁵ This amount was recovered for the workers. All other FLSA investigations found compliance.⁷⁶

One of the major advantages provided migrant workers by MSPA related to the disclosures required to be made at the time of recruitment. MSPA provides in part that:

Each farm labor contractor . . . which recruits any migrant agricultural worker shall . . . disclose in writing to each such worker . . . the following information at the time of the worker's recruitment: (1) the place of employment; (2) the wage rates to be paid; (3) the crops and kinds of activities on which the worker may be employed; (4) the period of employment; and (5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them. . . .⁷⁷

Disclosure of this information provides a basis upon which the migrant worker can make a knowing and informed decision about whether to accept employment.

Another very important provision of MSPA deals with the type of recordkeeping and information requirements imposed upon employers. In this regard MSPA provides:

Each farm labor contractor . . . which employs any migrant agricultural worker shall—(1) with respect to each such worker, make, keep, and preserve records for three years of the following information: (a) the basis on which wages are paid; (b) the number of piecework units earned, if paid on a piecework basis; (c) the number of hours worked; (d) the total pay period earnings; (e) the specific sums withheld and the purpose of each sums withheld; and (f) the net pay; and (2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1)⁷⁸

Information of this nature is often the focal point of compliance investigations by the Employment Standards Administration's Wage and Hour Division. Violations of MSPA are punishable by fines of up to \$1,000 or up to one year in prison or both.⁷⁹ In addition, the act provides that crewleaders may not ". . . intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant . . . because such worker has . . . filed any complaint . . ." ⁸⁰

The Fair Labor Standards Act regulates wages,⁸¹ maximum hours,⁸² and child labor.⁸³ The act provides that:

"Every employer shall pay to each of his employees who in any workweek is engaged in . . . the production of goods for commerce . . . not less than \$3.35 an hour . . ." ⁸⁴

Thus, if a migrant worker earns less than the equivalent of \$3.35 per hour while being paid on a piecework basis, the employer must pay the worker the difference between the amount earned and the minimum wage. In practice, migrant workers receive no compensation for time spent traveling to and from the fields, for bad weather days, or for time during which processing or other equipment is inoperable.⁸⁵ The Fair Labor Standards Act is enforced by DOL's Wage and Hour Division.

⁷² Id at section 1813(a)(1).

⁷³ Id at section 1813(a)(5)(A).

⁷⁴ Id at section 1813(a)(5)(B).

⁷⁵ Angell Response.

⁷⁶ Ibid.

⁷⁷ Id. at section 1821(a).

⁷⁸ Id. at section 1821(d).

⁷⁹ Id. at section 1851(a).

⁸⁰ Id. at section 1855(a).

⁸¹ 29 U.S.C.A. section 206(a)(1) (1978).

⁸² Id. at section 207(a)(1).

⁸³ Id. at section 212.

⁸⁴ Id. at section 206(a)(1).

⁸⁵ Monica Heppel, sociologist and former migrant worker, interview in Accomac, Virginia, August 2, 1982.

During 1983, DOL's Wage and Hour Division conducted 16 MSPA enforcement investigations. Of these, 11 revealed violations.⁸⁶ Among them were the following:

1. Failure to disclose conditions of employment to workers (5 camps).
2. Failure to maintain records provided by the farm labor contractor (4 camps).
3. Failure to provide wage statements to workers (3 camps).
4. Failure to register employee (2 camps).
5. Utilizing the services of an unregistered farm labor contractor (one camp).

Again, it should be noted that a single camp, if poorly managed, can be the basis for several violations. (For a complete listing of MSPA violations found during DOL's investigations, see appendix B.)

The Wagner-Peyser Act established a national system of Federal/State employment offices that are operated by the States using Federal money.⁸⁷ One of the most important services provided to migrants and contractors by the State employment office is that of processing interstate clearance orders and making job referrals. These two functions are governed by regulations of DOL's Employment and Training Administration.⁸⁸ These regulations provide:

"Before a local office may refer workers to a farm labor contractor . . . one of two requirements must be met: Either a valid interstate clearance order from another state agency is on file in the office, or an intrastate order has been received. . . ."⁸⁹

In addition to processing clearance orders and making referrals, the State employment offices perform numerous other services for migrant and seasonal farmworkers, all of which are governed by ETA regulations. Among these services is the requirement that job order information be conspicuously posted in each State agency and that, where necessary, this information is provided in Spanish.⁹⁰ The migrant must also be provided a list of services available at the local office.⁹¹ ETA regulations require each State office to operate an outreach program in order to locate and contact those migrants who are not reached by normal intake activities.⁹²

Finally, the regulations provide for State agency self-monitoring to assure that State agencies are in compliance with job service regulations in serving migrant and seasonal farmworkers.⁹³ The State administrator is required to appoint a State MSFW monitor advocate⁹⁴ who has responsibility for conducting an ongoing review of services and protections afforded MSFWs,⁹⁵ conducting an in-depth analysis of the review data,⁹⁶ and proposing a written corrective action plan⁹⁷ as needed.

(Federal regulations at 20 C.F.R. parts 651, 653, and 658 (1983) were specifically issued by the Employment and Training Administration (ETA) to improve services and working conditions for migrant and seasonal farmworkers (MSFWs). Through these regulations, ETA has sought to insure that all State employment offices would provide services for MSFWs on a basis that is quantitatively proportionate to services provided to nonmigrants. To assure that these regulations are enforced, a review of State employment offices is conducted by Federal staff (regional and Federal representatives) on a periodic basis.)⁹⁸

ANALYSIS

Employment conditions among migrant workers in Delaware appear to be improving from year to year. Delaware farmers make good use of the interstate clearance order system for recruiting migrants. In most instances, many of the same crewleaders bring in crews year after year and know what practices will and will not be tolerated by growers, migrants, and State and Federal officials. State and Federal officials come to know the practices of various crewleaders. They have a better sense of which crewleaders to watch and for what purposes. This is a tangible benefit that results from familiarity. The State also enjoys the benefit of having a knowledgeable farm community, a farm community that is kept abreast of current laws

⁸⁶ Angell February Response.

⁸⁷ 29 U.S.C.A. sections 49-49L-1 (1973 and 1983 Supplement).

⁸⁸ 20 C.F.R. section 653.104 (1983).

⁸⁹ Id. at section 653.104(c).

⁹⁰ Id. at section 653.102.

⁹¹ Id. at section 653.103(c).

⁹² Id. at section 653.007(a).

⁹³ Id. at section 653.108.

⁹⁴ Id. at section 653.108(b).

⁹⁵ Id. at section 653.108(g)(1).

⁹⁶ Id. at section 653.108(h)(3).

⁹⁷ Id. at section 653.108(h)(5).

⁹⁸ William J. Haltigan, Region 3 Administrator, Employment and Training Administration, U.S. Department of Labor, letter to Edward Rutledge, January 25, 1984.

and that usually offers cooperation with State and Federal officials in complying with the law. Moreover, the State farm program coordinator appears to be a competent and well-intentioned professional who has earned the respect of farmers and other State officials.

However, there are some deficiencies as well. Some crewleaders continue to hire unregistered workers who are paid less than the minimum wage and who are compelled to live in poor housing. The State employment office in Dover does not have adequate staff to discharge effectively all of the duties which that office is to provide. For example, Al Glover indicated that because of staff shortages in processing paperwork, his office did not use ETA form 785, Migrant Worker Itinerary, during 1982.⁹⁹ This form would have assisted in providing a more accurate count of non-workers among migrants. Allegations are made that some crewleaders overcharge migrants for meals and cigarettes. In addition questions have been raised about the efficacy of wage and hour investigations in the potato grading industry.

Although Delaware continues to experience the breadth of problems common to migrant employment, the gravity and occurrence of those problems appear to be far less in Delaware than in its neighboring jurisdictions on the Delmarva Peninsula.

CHAPTER 4.—HEALTH CARE

OVERVIEW

According to statistics prepared by the Migrant Legal Action Program, the national life expectancy among migrant workers is 49 years, compared to a national life expectancy among the general population of 73 years.¹ The rate of infant mortality is two to three times the national average.² Four factors contribute to the reduced life expectancy and the high rate of infant mortality. These factors include poor sanitation, poor nutrition, alcoholism and drug abuse, and exposure to pesticides and herbicides.³

Diseases among East Coast migrants in the United States may be grouped in four major categories: (1) nutritional diseases such as anemias, eye and skin diseases, dental caries and bone malfunctions, high blood pressure and cardiac complications, vessel abnormalities, and diabetes; (2) sanitary diseases, such as hepatitis, diarrhea, food poisoning, worm infestation, and rodent and insect bites and contamination; (3) occupational diseases, such as fractures, loss of limbs and nails, muscle damage from stoop labor, skin and lung damage from pesticides, and weather exposure; and (4) social and communicable diseases, such as tuberculosis, venereal disease, childhood diseases incurred because of a lack of immunization, sickle-cell anemia, and mental health problems, such as child and spouse abuse and other psychological disorders resulting from continual oppression and deprivation.

DELAWARE MIGRANTS

According to Gail Stevens, a health specialist with Delmarva Rural Ministries, Delaware's migrant population is "at risk" as far as health is concerned.⁴ Stevens stated that health risks for migrants are exacerbated by long working hours, inadequate transportation to and from health care facilities, and language barriers between migrant workers and health care providers.⁵ Stevens also stated that migrants also suffer from stress factors which produce "a lot of acute illnesses such as upper respiratory problems."⁶

The most frequently cited health problems among Delaware migrants include alcoholism and high blood pressure. Sister Jacqueline Bricketto, director of La Casa San Francisco,⁷ indicated that nearly 90 percent of the migrants for whom she has

⁹⁹ Glover Interview.

¹ Steven Nagler, executive director, Migrant Legal Action Program, briefing for staff of the Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, Washington, D.C., June 3, 1982.

² Ibid.

³ Ibid.

⁴ *CASCJ Report*, p. 9.

⁵ Gail Stevens, R.N., health specialist, Delmarva Rural Ministries, interview in Dover, Delaware, August 12, 1983 (hereafter Stevens interview).

⁶ Ibid.

⁷ Ibid.

⁸ Casa San Francisco is a nonprofit crisis center for agricultural workers. The center is located in Milton and provides several services to migrant and seasonal farmworkers, including shelter, food, clothing, blood screening, and instruction in English as a second language.

provided services have some problem with alcohol abuse.⁹ According to Stevens, alcohol abuse is highest among black migrants, although the problem has been increasing among the Mexican American population.¹⁰

Alcohol abuse among Delaware migrants is thought to be greatly influenced by the lack of recreational opportunities available to them.¹¹ This view was shared by Stevens who said: "for many migrants, the only recreation in the non-working hours is alcoholic consumption."¹² Sister Bricketto asserted that because of the difficulty and the monotony of migrant labor, "You can't work if you're not drunk."¹³

The problem of high blood pressure is also frequent among Delaware migrants. According to Sister Bricketto, "Nearly every migrant has high blood pressure. It's rare that you come across a migrant without high blood pressure."¹⁴

Stevens too noted a high incidence of high blood pressure among migrants, although in her view, the incidence of high blood pressure was most common among Southern blacks. Fewer cases are reported among Haitians.¹⁵ Stevens stated that the incidence of high blood pressure among migrant laborers is directly related to their diet, stress, and the highly mobile nature of their work. She pointed out that migrants "are not responsible for the food they eat."¹⁶ They often eat food that has been purchased by the crew leader and prepared at the labor camp. In this respect, Stevens said, "There are a number of nutrition problems among the Haitian workers."¹⁷

Upper respiratory problems such as asthma, bronchitis, and pneumonia were cited by Stevens as examples of acute illnesses among Delaware migrants.¹⁸ These conditions were said to be affected by changes in weather¹⁹ to which migrant workers are constantly exposed. According to Stevens, rashes and ear infections also have been reported in connection with upper respiratory problems.

The stress factors under which migrants work also affect their health. Hypertension is seen as a chronic problem among Delaware's migrant population.²⁰ Sister Bricketto stated that many migrants suffer from back problems.²¹ Stevens too indicated that some migrants suffer from back pain and that such pain is often caused by improper body mechanics such as stooping and stretching over a prolonged period of time.²² Poor vision was also seen as a problem among the migrant population of Delaware.²³

HEALTH CARE SERVICES

Health care services for migrant laborers in Delaware are, for the most part, provided by volunteer, nonprofit organizations, such as Delmarva Rural Ministries (DRM) or Casa San Francisco. Several such programs provide a variety of services including food, shelter, clothing, blood screening, English as a second language, etc. The most widely known of these organizations is DMR. DRM operates offcamp clinics within State service centers as well as oncamp in the outreach program. Migrant clinics are housed in two of the four States multiservice centers. The service centers in Wilmington and in Newark see few migrants.²⁴ However, the service centers that are downstate make special provisions for migrants. The Williams Service Center in Dover houses a migrant clinic and coordinates similar services at a satellite location in Milford. The Georgetown Service Center has satellites in Laurel, Bridgeville, and Roxanna, all available to migrant workers.²⁵ At the Georgetown location, migrants

⁹ Jacqueline Bricketto, director, Casa San Francisco, telephone interview, September 28, 1983 (hereafter cited as Bricketto Interview).

¹⁰ Stevens Interview.

¹¹ Bricketto Interview.

¹² Stevens Interview.

¹³ Bricketto Interview.

¹⁴ Ibid.

¹⁵ Stevens Interview.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Bricketto Interview.

²² Stevens Interview.

²³ Ibid.; Bricketto Interview.

²⁴ Mark Delmerico, chief, Division of State Service Centers, interview in Dover, Del., September 28, 1982 (hereafter cited as Delmerico Interview).

²⁵ Ibid.

who use health services also have access to the several other agencies and nonprofit organizations that maintain offices there. DRM uses its good relationships with migrants as crew leaders, in addition to official sources, to identify migrants camps and thereby anticipate the location of migrants in the State. DRM then schedules clinics and screening near active camps. The clinics open usually once a week in each location for the first several weeks. The schedule decreases as the examinations and referrals are completed and the numbers of encounters drop.

The hours of operation are within usual business hours at the service centers and satellites; except, that the Georgetown Center and Milford satellite are open for extended operation from 7 p.m. to midnight as needed to allow DRM clinics, according to State officials.²⁶ The main service centers are equipped for comprehensive medical services, which include some surgical procedures.²⁷

State officials described the following screening programs available to migrants:

1. The Rural Hypertension Control Program provides screening, diagnostic, and prescriptive treatment.
2. The Early Periodic Screening, Diagnostic, and Treatment Program provides medical screening, diagnosis, and treatment for families with eligibility under aid to families with dependent children (AFDC) and medicare.
3. The Volunteer Services and Adult Crisis Intervention Programs provides counseling and emergency shelter for victims of domestic violence, destitution, or sudden catastrophe.
4. The Pharmaceuticals Assistance Program funded by the DeNemours Foundation (Delaware) assists needy patients with funds for prescription drugs.²⁸

In addition to these screening programs, migrants are eligible for any of the public health clinics, such as tuberculosis, venereal disease, child health, immunization, family planning, elderly screening and crippled children's services.²⁹

The extent to which migrants avail themselves of existing medical services and screening may depend on several factors. Transportation is one factor, although it usually does not constitute a major barrier. According to DRM and State officials, migrant workers are bused from licensed camps to evening clinics for initial medical screening and diagnosis. In addition, DRM transports workers in DRM vehicles when necessary and some migrants have access to private vehicles.

At least two factors do pose barriers to migrants in need of health services. First, it is difficult to locate unlicensed migrant housing in parts of the State. The Farmworker Service Coordinating Committee, a voluntary association of government and private organizations, noted in a letter to the Delaware Division of Health:

"Under present . . . [Migratory Camp Sanitation]. . . regulations, if an agricultural employer rents and houses five or more workers in a facility, it would be identified as a migratory labor camp. If migratory workers, regardless of the number, rent the same facility themselves, the facility would be exempt from the migratory labor camp definitions and regulatory requirements."³⁰

DRM recognizes that the State's list of migratory camps is blind to certain locations which serve as migrant camps but are not licensed as such. Nonetheless, DRM does administer health services to migrant workers in these locations. Last year there were at least 12 such locations in Delaware which DRM identified.³¹

The second problem, according to DRM, is the decreasing availability of physicians in rural communities. In Delaware, DRM utilizes provisions of the Emergency Health Personnel Act of 1970³² to help with the shortage of health personnel, especially physicians. The act created the National Health Service Corps (NHSC), which places health personnel in areas where shortages of nurses and physicians exist. However, fewer physicians were available under the program in the past 2 years. According to DRM's executive director, more physicians are opting to practice in urban medical facilities,³³ a choice allowed by recent changes in the NHSC program. According to Susan Canning:

"I used to have approximately seven physicians available to me on the Delmarva . . . for my evening clinic. I now have one physician [through the NHSC] . . .

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Schram Response.

³⁰ A.O. Glover, chairperson, Migrant and Seasonal Farmworker Service Coordinating Committee, letter to Dr. George Bender, M.D., Delaware Division of Public Health, September 21, 1981.

³¹ Canning Statement

³² 42 U.S.C.A., section 254b (1974).

³³ Canning Statement.

and had to hire [other] . . . physicians for the [migrant] . . . community, and take money . . . to pay the physicians . . . out of my limited budget."³⁴

Commenting on the importance of the NHSC in rural areas, Mario Manecci, Deputy Director, Migrant Health Programs, U.S. Department of Health and Human Services, said there would be "an adverse affect on rural health care if NHSC were stopped."³⁵

HOSPITALIZATION

Emergency hospitalization is often arranged through referral by DRM. Under this system, a registered migrant worker or a responsible person contacts the DRM to assist with hospital admissions. Arrangements are made by DRM for the migrant to be accepted by a physician who authorizes hospital admission.³⁶ DRM says that registered migrants are required to use the referral system for most hospital emergency room admissions because: "(1) Having no community-based physician, some migrants may use emergency room facilities for primary care or nonemergency ailments. DRM referral helps to eliminate abuse of emergency room care; and (2) several potential barriers exist for migrants at local hospitals that DRM helps to overcome."

DRM has identified four problem areas regarding migrant use of hospital emergency room facilities in Delaware. First is the pattern of insensitivity among emergency room admitting personnel. According to DRM, many hospital admitting clerks talk only to the representative: ". . . they'll says things like 'What's his name?' or his age, when the person is sitting right there . . . it's all very dehumanizing for the migrant."³⁷

Second, admitting personnel often fail to inform needy patients that the facility was constructed using Federal funds under the Hill-Burton Act,³⁸ according to DRM. Hill-Burton hospitals must, by law, provide aid to needy patients. State officials indicate that Hill-Burton funds are distributed by county and that counties do not wish to exhaust Hill-Burton funds for noncounty residents.³⁹ Therefore, the county hospitals are likely to avoid notifying noncounty residents of Hill-Burton as a way of protecting county residents and assuring that other counties assume responsibility for their own needy.

Third is a pejorative attitude toward Haitian nationals. The typical Haitian migrant speaks creole. In an example of the difficulty the language barrier brings for Haitians, a DRM nurse recalled a Delaware physician who called DRM to translate for a Haitian worker he was treating. The physician had commented that treating the Haitian worker was ". . . like practicing veterinary medicine."⁴⁰

Fourth, some physicians do not accept migrant patients generally because they are doubtful that the fee will be paid. According to DRM, access to many downstate hospitals depends upon the cooperation of a local physician who has privileges at the facility. Since emergency room operations are handled ". . . like independent enterprises,"⁴¹ some emergency rooms will not take hospitalize patients unless so ordered by a participating physician. According to DRM, on two occasions in 1982, migrants were turned away from a community hospital when no participating physicians would accept their cases.⁴² The migrants were later admitted to hospital by physicians of another emergency room facility, 20 miles away.

Hospitalization in rural Delaware is handled by four facilities, usually Kent General Hospital, in Dover; Milford Memorial Hospital, in Milford; Beebe Hospital, in Lewes; and Nanticoke Memorial Hospital, in Seaford. Each is required to provide certain amounts of aid for needy persons under the Hill-Burton Act.

The cost of hospitalization for any duration is very difficult for DRM to subsidize. In fact, DRM policy is not to pay for hospitalization. Also, DRM reports that mi-

³⁴ Ibid.

³⁵ Telephone interview, March 4, 1983.

³⁶ Gail Stevens, Delmarva Rural Ministries, telephone interview February 25, 1983 (hereinafter Stevens February Interview).

³⁷ Ibid.

³⁸ 42 USCA section 291.

³⁹ Amos Burke, director, Bureau of Health Planning, Division of Public Health, State Department of Health and Social Services, telephone interview, March 7, 1983.

⁴⁰ Stevens February Interview.

⁴¹ Ibid.

⁴² Ibid.

grants find it "very difficult to get medicaid . . . [in Delaware] . . . because they have no tenure in the State."⁴³

In 1982, about 30 migrants were referred by DRM for hospitalization for periods of 2-3 weeks or more. A variety of options were used to pay for the hospitalization. The Federal Public Health hospital in Baltimore was utilized.

Also, the State's Indigent Migrant Program provides a certain amount of funds (\$25,000 in 1982) to pay for hospitalization of migrant workers. Recipients of the funds must be migrant workers in Delaware, indigent, and have exhausted other funds or benefits for which they qualify. Funds are granted on a first-come, first-served basis, and there is no limit on the amount of each grant up to the limit of the fund.⁴⁴ The program is administered by the Delaware Department of Health and Social Services. A migrant may use any proof of address or employment to establish status as a migrant or a crewleader may identify the individual.⁴⁵

By late February 1983, the Indigent Migrant Program had used all funds available for FY 1983. The status of the fund in FY 1983 is very different than in prior years. In FY 1982, FY 1981, and FY 1980 the fund accounts were maintained through the migrant season. The last accounting of the fund available from the State shows that at the end of FY 1981, \$6,346 remained of \$25,000 available. DRM reports that in 1982 the Indigent Migrant Program fund was probably exhausted quickly by two serious cases.⁴⁶ According to Land, funds for the indigent migrant program are available by fiscal year (July 1 to June 30). However, the fiscal 1983 funds were exhausted by February 1983, an unusually early date, because of two persons with extended hospital stays and a larger than usual number of total individuals.⁴⁷ As of mid-January 1984, only about one-half of the available funding for fiscal 1984 has been used.⁴⁸

Migrants who neither qualify for assistance to indigents, nor participate in the DRM project are personally responsible for the cost of their hospitalization. For this reason, some migrants carry commercial insurance, often obtained in the home base State.⁴⁹

COST OF MEDICAL SERVICES

Generally rural Delaware is low-income and somewhat typical of the areas which have difficulty attracting physicians. A needs assessment study of Kent County maintains, "Statistical research reveals that poverty is still a pernicious force in Kent County which shapes the lives of 11.5 percent or more of its residents."⁵⁰ Migrant workers in Delaware generally earn little more than a few cents above the hourly minimum wage of \$3.35. On such limited funds, the cost of medical services can become a serious problem for migrant workers.

The DRM health project makes a special effort to help migrant workers avoid financial burdens associated with medical services. According to DRM, the Delaware project has "an [outreach] . . . component not found in Southern projects."⁵¹ Because the State is small and the migrant camp patterns are predictable, DRM can encounter the workers as they enter the Delaware service area.

During the initial registration and screening, DRM personnel are able to take financial information along with the worker's medical history. The financial data permits the DRM nurses to make decisions on appropriate referrals and benefit programs. Once the worker is registered in the migrant health project DRM assumes responsibility for the worker's medical bills.⁵² DRM accepts direct billing from health professionals, facilities, and pharmacies for registered migrants.⁵³ In turn,

⁴³ Ibid. The secretary of the State Department of Health and Social Services took exception to this statement, asserting, "We are aware of no rules regarding tenure in the Delaware medicaid program. . . . Thus, the statement would appear to be inaccurate" (Schram Response).

⁴⁴ Sandra Land, director, Office of Maternal and Child Health and Crippled Children Services, Delaware Division of Public Health, telephone interview March 7, 1983.

⁴⁵ Ibid.

⁴⁶ Stephens February Interview.

⁴⁷ Kirk-Ryan response.

⁴⁸ Ibid.

⁴⁹ Charles Hatfield, Jr., program director, Office of Institutional and General Sanitation, telephone interview, February 23, 1983.

⁵⁰ Ruth M. Laws and Cherritta L. Matthews, *A Needs Assessment and County-Wide Plan*, (Dover, Del.: L&M Educational Resources, Ltd., 1981.) pp. 49-59.

⁵¹ Stevens February Interview.

⁵² Ibid.

⁵³ Ibid.

DRM bills the worker according to a payment schedule; for example, DRM will pay a doctor \$25 for an office visit and the migrant will pay DRM \$8.

DRM gives the migrant an opportunity to pay all or part of their portion of medical bills. However, the bills are due while the migrant is in Delaware. Unpaid bills are seldom forwarded to the migrants home base for collection. According to a DRM nurse:

"Some cannot pay at all. Migrants are very proud people. They would pay if they had it, but [financial] . . . priorities are put on them by the cost of their lifestyle and also the crew leader."⁵⁴

CHAPTER 5.—FINDINGS AND RECOMMENDATIONS

The findings and recommendations that follow are submitted under the provisions of Section 703.2(e) of the U.S. Commission on Civil Rights regulations calling upon Advisory Committees to initiate and forward advice and recommendations to the Commission about matters studied by the State Committees. Incidental to advising the Commission on these matters, the Delaware Advisory Committee plans to share its findings and recommendations with pertinent State and local officials and the interested public.

Chapter 2.—Housing

Finding 2.1.—There is no accurate count of either the number of migrants in the State of Delaware or of the number of migrants in need of housing within the State on a seasonal basis.

Recommendation 2.1.—The Delaware Division of Public Health should require growers and/or crewleaders to provide the Division with the number of migrant workers actually employed during the calendar year.

Finding 2.2.—Delaware has pursued an aggressive policy with respect to upgrading and enforcing housing standards governing migrant labor camps.

Recommendation 2.2.—The Delaware Secretary of Health and Social Services and the Delaware Secretary of Labor should continue to utilize all available legal means to gain compliance with State migratory labor camp regulations.

Finding 2.3.—Eighty percent of all growers in Delaware utilize the clearance system administered by the State employment office to recruit migrant workers, thereby providing greater assurances with respect to the adequacy of available migrant housing.

Recommendation 2.3.—The Delaware Department of Health and Social Services and the Delaware Department of Labor, in conjunction with the U.S. Department of Labor, should continue their efforts to have growers utilize the clearance system.

Finding 2.4.—An undetermined number of migrant workers are housed in unlicensed camps within the State that do not provide decent, safe, and sanitary accommodations and that are beyond the scope of State and local regulations.

Recommendation 2.4.—The Delaware Division of Public Health and the State Department of Labor should make greater efforts to identify, locate, and inspect all migratory labor camps within the State. In addition, all facilities, including commercial housing, used to house migrant workers should be required to adhere to minimal standards established by the Division of Public Health.

Chapter 3.—Employment

Finding 3.1.—Approximately 80 percent of all growers in Delaware utilize the interstate clearance system to recruit migrant workers. Use of this system provides greater assurances for the protection of migrant farmworkers.

Recommendation 3.2.—The State Department of Labor should continue to encourage and assist growers in using the clearance system. In addition, the State Department of Labor and the Division of Public Health should increase efforts to monitor employment conditions among independent workers known as "freewheelers."

Finding 3.2.—In 1983 the wage and hour division of the U.S. Department of Labor found that 11 farm labor contractors violated provisions of the Migrant and Seasonal Agricultural Workers Protection Act. Among the violations, five contractors failed to disclose conditions of employment to workers, four failed to maintain required records, and three failed to provide wage statements to workers.

Recommendation 3.2.—The U.S. Department of Labor should increase the frequency of monitoring investigations under MSPA. Where frequent violations are found, the department should implement enforcement pursuant to subchapter V of the act.

⁵⁴ Stephens Interview.

Finding 3.3.—While Delaware continues to experience problems common to migrant employment, the frequency and severity of those problems are decreasing.

Recommendation 3.3.—The Governor should establish a commission on migrant and seasonal farm labor, with representation from governmental, social, and church agencies, as well as growers and migrants. This volunteer group should assist the State in identifying and resolving remaining problems concerning the employment of migrant and seasonal framworkers.

Chapter 4.—Health care

Finding 4.1.—Alcoholism is considered the major health problem among the Delaware migrant population. The high incidence of alcohol abuse is directly related to the lack of recreational opportunities available to migrant farmworkers.

Recommendation 4.1.—The State Division of Public Health, in cooperation with the State Department of Labor, should undertake efforts to monitor alcohol abuse among migrants and should support efforts by churches and other service organizations to provide recreational opportunities for migrants.

Finding 4.2.—While health care for migrants is less than optimal, Delaware does offer a progressive system of health care services through a network of public health clinics, Delmarva Rural Ministries, private doctors, and private hospitals, all of whom work in general cooperation to meet the health needs of migrant farmworkers.

Recommendation 4.2.—The network of health services available to migrants must be maintained, with the Delaware Division of Public Health supplementing as needed funding for the State's indigent migrant program.

Finding 4.3.—Private, nonprofit service organizations, such as Delmarva Rural Ministries and Casa San Francisco, perform essential and invaluable primary health care services for migrants. Many of these services are not available through public health clinics.

Recommendation 4.3.—Essential health care services provided by organizations such as Delmarva Rural Ministries must be continued, with the provider organization receiving adequate funding to fulfill its function. State funding for such programs should be commensurate with demonstrated performance and projected need.

Finding 4.4.—The inability to identify unlicensed migratory labor camps and the decreasing availability of physicians in rural communities poses a barrier to the delivery of health care services to Delaware's migrant population.

Recommendation 4.4.—The staff of the farm program coordinator in the Delaware Department of Labor should be increased to a size adequate to allow the Department to discharge effectively all of its functions, including that of inspecting unlicensed labor camps identified by Delta Rural Ministries and others. In addition, the National Health Service Corps should encourage more physicians to serve in rural communities.

AGENCY REVIEW REPLIES

STATE OF DELAWARE, DEPARTMENT OF JUSTICE,
Wilmington, DE, January 26, 1984.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: Thank you for sending the Delaware Advisory Committee report to the U.S. Commission on Civil Rights on migrant conditions in Delaware for my review and comment.

I have discussed the report with Charles A. Hatfield, Jr., and Sandra Land, both of the Division of Public Health, who were interviewed for the report.

Mr. Hatfield made the following comments:

1. Arthur S. Benson's example at page 3, paragraph 2 of the Housing chapter contained some inaccuracies and should be changed to read as follows:

"The camp consisted of three units. Unit 1 has two rooms with an area of 312 square feet/room and 10 single beds. Units 2 and 3 each have ten rooms with space for 20 people in each unit."

2. Chapter 1 Housing, Page 5—"Even among licensed migrant camps, some of Delaware's older camps were 'grandfathered' in and have no hot or cold running water."

There is no "grandfather" clause in our regulations. Further, all licensed camps have hot and cold running water.

3. Chapter 1, Housing, Page 6—"serious overcrowding existed." Mr. Hatfield writes: "Each of the camps are measured, and the number of beds per room is established before the crew arrives at the camp. . . We honor the privacy of the migrant and do not [ordinarily] inspect each bedroom after it is occupied."

Ms. Land offers the following regarding Chapter 3, Health Care:

1. Many services are available to migrant workers through Division of Public Health Clinics. The services offered to the public, including migrant workers.

2. Page 13—Indigent Migrant Program—funds for this program are available by fiscal year, from July 1 to June 30. Although it is true that Fiscal 83 funds were exhausted by February of 1983, that was an unusually early exhaustion of that funding, because of two persons with extended hospital stays and a larger number of total individuals.

As of mid-January of 1984, only about one-half of the available funding for Fiscal '84 has been used.

The following are my additional comments. It should be noted that in some areas, such as employment, or with regard to some specific findings, I do not have sufficient personal knowledge to comment.

A. Housing Chapter: 1. Page 8—I do not believe I characterized the State Board of Health regulations as "Federal OSHA regulations relating to migratory labor camps administered by the State Board of Health." I do not believe that I made any comparison of OSHA standards with State Health regulations. State Board of Health regulations pertaining to Migrant Labor Camps are promulgated pursuant 16 *Del. C. § 122*. The regulations should be cited in footnote 37 as "State Board of Health Migratory Labor Camp Regulations, Sections 47.01-47-13."

2. Page 11—top of page 12—The "county health teams" are staff of the County Health Units, which are a part of the State Division of Public Health. The "County" designation refers to location, not to governmental agency—thus, these inspections are done by the State's Division of Public Health.

3. Page 14—first full sentence—should read "actions," not "action."

B: Health Care: 1. Page 3—Although I did not interview Sister Bricketto, I would guess that she was not condoning drunkenness as a prerequisite to working, but was probably quoting some migrants who have made that assertion. When characterized as Sister Bricketto's assertion, the statement appears to represent her personal belief.

2. Page 12—first full paragraph—two of the hospitals referred to are misspelled. They should be "Beebe" and "Nanticoke."

Thank you for permitting me an opportunity to comment. Please feel free to contact me if you have any questions.

Very truly yours,

SUSAN H. KIRK-RYAN,
Deputy Attorney General.

STATE OF DELAWARE, DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SERVICES,
Newark, DE, January 25, 1984.

Mr. EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC 20037*

DEAR MR. RUTLEDGE: Thank you for your letter dated December 29, 1983 and the invitation to comment on relevant chapters of the Delaware Advisory Committee's report on the living and working conditions of migrant farm workers in Delaware. In response, I would like to offer the following comments for your consideration during the formulation of the final report.

Chapter 1.—Housing.

Page 1, the last sentence, which states "The reduction in the number of and capacity of these camps has been attributed to the increased use of automation in the harvesting of crops and to an overall reduction in the number and size of farms within the State." Actually, although the number of farms has decreased in Delaware since 1965, the average acreage per farm has increased from 163 in 1965 to 186 in 1981 (Source: Maryland-Delaware Crop Reporting Service).

Page 3, the example given of migrant housing available to members of registered crews in one camp in Kent County needs clarification. The source for the description of this camp was information submitted to your Commission on December 12,

1982, by Mr. Arthur S. Benson, at that time the Director of Employment Services in Delaware. The example cited in the report was apparently taken from page 1 of attachment 5 to the Clearance Order provided by Mr. Brenson and indicates a total area of only 1248 square feet. This equates to an average of less than 25 square feet for each of the 50 occupants when the camp is filled to capacity. The actual living area of this camp is represented by the aggregate total of square feet for each room as reflected on the three (3) pages of Attachment 5 to the Clearance Order. This total of 3005 square feet computes to an average of 60 square feet per occupant when the camp is filled to capacity, thus meeting minimum requirements of Federal Regulation at 20 CFR 653.407.

Page 5, where it's stated that some of Delaware's older camps were grandfathered" in and have no hot or cold running water, we have had reports of lack of hot water for short periods (a day or two) but these conditions were corrected upon notification. We have not found any licensed camps without running or hot water for prolonged periods of time.

Chapter 2.—Employment

Page 8, an average trailer load of potatoes consists of 42,000 to 45,000 pounds; labor requirements are for 18 to 25 workers to work on each grader and to load the potatoes. Social Security deductions are 6.7% not 5.5%. The information in the report that the crewleader received 46¢ per hundred pounds and employed 30 workers for 1½ hours @ \$3.35 per hour and 6.7% Social Security deduction, does not support the statement that the crewleader would lose money if he/she paid workers for 1½ hours work.

SAMPLE COMPUTATIONS

Example per load 50 lb. bags	40,000 (800 bags)	42,000 (840 bags)	45,000 (900 bags)
At 46 cents crewleader receives.....	\$184.00	\$193.20	\$207
Wages, 30 workers at \$3:35 p/h for 1½ hours.....	150.75	150.75	150.75
Social Security Tax at 6.7 percent.....	10.10	10.10	10.10
Crewleader cost per load.....	160.85	160.85	160.85
Crewleaders net profit per load.....	23.15	32.35	46.15
Number of loads per day depends on weather, potato market, availability of trailers, etc. Some large operations process 10 or more loads per day, but the overall average is estimated to be 6. Based on this estimate, the average daily wage is:			
At 46 cents crewleader receives.....	1,104.00	1,159.20	1,242.00
9 hours at \$3.35 for 30 workers.....	904.00	904.00	904.00
Social Security Tax at 6.7 percent.....	60.57	60.57	60.57
Crewleader cost.....	964.57	964.57	964.57
Crewleaders net profit per day based on 6 loads.....	139.43	194.63	277.43

Page 10, reference the statement "that most migrants are afraid to complain to Legal Aid and to State and Federal Officials for fear of reprisal by the crewleader." Upon arrival in Delaware, migrant workers are contacted by the Employment Service Outreach Workers who advise them of their rights and of the Employment Service Complaint System. During the season, many workers ask questions about their pay and other concerns. Most of these potential complaints are resolved informally, but on each occasion the workers are advised of their right to file an official complaint. In some instances we have found other jobs and transferred workers from one crew to another, not because of fear, but because they did not desire to continue working for the same crewleader. We have never been informed of any crewleader who mistreated or terminated his workers because they complained.

Sincerely,

MARCIE BIERLEIN,
Director, Division of Employment
Services.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT AND TRAINING ADMINISTRATION,
Philadelphia, PA, January 25, 1984.

Mr. EDWARD RUTLEDGE,
Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.

DEAR MR. RUTLEDGE: This is in response to your letter dated December 29, 1983, concerning a study of the living and working conditions of migrant farmworkers in Delaware. Thank you for giving us an opportunity to comment on this study before it is published. Overall, it appears to be a fair picture of the migrant farmworker situation in Delaware. We would submit the following comments, however, for your consideration before the final report is issued:

(1) Introduction

On page 3 of the introduction, it is noted that ". . . nor does there appear to have been much change in the nation's treatment of migrants since Edward C. Murrow's television documentary 'Harvest of Shame' aired more than 20 years ago." We believe that such a statement overlooks several pieces of social legislation that were directed wholly or partly to correct the situation that existed 20 years ago. Some of the legislation that has been enacted in this area includes:

(a) The Comprehensive Employment and Training Act (CETA) which in Section 303 provided funds to farmworker organizations to assist migrants in employment, social services, and many other areas. Although CETA expired in September 1983, the provisions to assist migrants continued in the Job Training Partnership Act (JTPA).

(b) JTPA has similar provisions (Section 402) to CETA. As of October 1, 1983, this Act continues to provide funding to farmworker organizations to assist migrant workers throughout the nation.

(c) Unemployment compensation coverage is now available to migrant workers to provide income during periods of unemployment which were so difficult in previous years.

(d) Social security taxes are now being deducted from migrants' pay in order to afford them the benefits of this protection. Social security benefits cover a wide range of assistance for disability, old age, etc.

(e) Legal services are provided through Federal grants to migrant and seasonal farmworkers. The Legal Aid Bureaus in many States are very active in assisting workers in a wide range of legal problems. Various court orders have resulted from this work to help remedy many injustices experienced by migrant workers.

(f) In Chapter 1—Housing, you have also noted three other pieces of social legislation which aid migrants. The Farm Labor Contractor Registration Act which has now been superseded by the Migrant and Seasonal Agricultural Worker Protection Act and the Wagner-Peyser Act all help to assist migrants in the housing, transportation, and employment areas. Since you have discussed this legislation, we will not elaborate.

(2) Chapter 2.—Employment

Federal regulations 20 CFR 651, 653, and 648, dated June 10, 1980, were specifically issued by the Employment and Training Administration to improve services and working conditions for migrant and seasonal farmworkers (MSFWs). Through these regulations, we have sought to insure that all State employment offices would provide services for MSFWs on a basis that is quantitatively proportionate to services provided to nonmigrants. To assure that these regulations are enforced, a review of State employment offices is conducted by Federal staff (Regional Monitor Advocate and Federal representatives) on a periodic basis. State employment agencies must also submit quarterly reports to the Employment and Training Administration to illustrate progress toward achieving specific objectives in serving migrant workers. All of those enforcement procedures help to assist migrants in Delaware and other States.

In sum, conditions for migrants have improved over the past 20 years due to the noted legislation. While conditions have improved considerably, we also recognize that additional efforts are necessary to assure further improvements in the plight of the migrant worker. All of our groups must work together to bring about further constructive changes toward assisting migrant workers.

Any questions you may have regarding this matter may be referred to Regional Monitor Advocate Albert Pinter at (215) 596-6368.

Sincerely,

WILLIAM J. HALTIGAN,
Regional Administrator.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT STANDARDS ADMINISTRATION,
Philadelphia, PA, January 19, 1983.

Mr. EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.*

DEAR MR. RUTLEDGE: This is in response to your letter dated December 29, 1983, enclosing a copy of the Delaware Advisory Committee to the United States Committee on Civil Rights report on the living and working conditions of migrant farm workers in Delaware.

The report in Chapter 1, Page 10, indicates that "Pursuant to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA), neither the crewleader nor the grower is technically required to provide rent free or public housing for migrant workers". While this is correct I would recommend adding: however if housing is provided to migrant workers, only the reasonable cost of furnishing such facility excluding profit is creditable as wages under the Fair Labor Standards Act.

The statement on Page 11 that "For the most part, monitoring and enforcement of these Federal regulations, FLSA and MSPA are referenced as two of the Federal regulations, is delegated in Delaware to the State Department of Labor and to the State Department of Health and Social Services" is misleading and not factually correct. The Employment Standards Administration, Wage-Hour Division, is responsible for the administration and enforcement of FLSA and MSPA.

I would also recommend adding a paragraph in the housing section that during 1983, the Wage-Hour Division conducted six housing safety and health inspections in the State of Delaware, which disclosed safety and health violations. Ten other investigations disclosed substantial compliance.

I would add a paragraph on Page 16 regarding MSPA enforcement that during 1983, the Wage-Hour Division conducted 16 investigations in Delaware under MSPA, 11 of which disclosed a violation of one or more provisions of MSPA.

Finally, I would add on Page 17 regarding FLSA, that one investigation disclosed underpayments of \$1,600 to nine employees of the minimum wage provisions, and this amount was recovered for the workers. All other FLSA investigations disclosed compliance.

Your invitation to comment in advance of publication of the report is appreciated.

Sincerely,

CHARLES M. ANGELL,
Regional Administrator for Employment Standards.

U.S. DEPARTMENT OF LABOR,
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Philadelphia, PA, January 13, 1984.

Mr. EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.*

DEAR MR. RUTLEDGE: Thank you for allowing us the opportunity to review and comment on the Delaware Advisory Committee's Study of the Living and Working Conditions of Migrant Farm Workers in Delaware.

The portions of the report relevant to OSHA are clear and factual with the exception of one small area which might be misleading to readers. Page 8 of Chapter I states "Within the State of Delaware, Federal OSHA Regulations relating to migratory labor are administered by the State Board of Health pursuant to the State Migratory Labor Camp regulations." State Board of Health has adopted Federal OSHA regulations as a guideline for their enforcement activity. This does not, however, diminish OSHA's responsibility in Delaware. Within the State of Delaware, Federal OSHA regulations relating to migratory labor are administered and enforced by OSHA.

Thank you again for allowing us the chance to comment on this document before its publication.

If we may be of further assistance, please do not hesitate to contact this office.
Sincerely,

LINDA R. ANKU,
Regional Administrator.

STATE OF DELAWARE, OFFICE OF THE SECRETARY,
DEPARTMENT OF HEALTH AND SOCIAL SERVICES,
New Castle, DE, January 12, 1984.

Mr. EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.*

DEAR MR. RUTLEDGE: We have reviewed the Delaware Advisory Committee report to the U.S. Commission on Civil Rights on migrant conditions in Delaware and it appears to be reasonably accurate on matters about which we have knowledge or information.

Housing conditions for migrants have improved in the registered camps and the public health staff watch these closely. The conditions outside these camps can at times be deplorable. The Division of Public Health, the Agriculture Department, and the Labor Department of the State of Delaware reviewed the camp regulations a year ago with the Attorney General's office. It was felt that any attempts to modify the existing regulations would be a problem in that it would make them intrusive into areas where no clearly defined authority was given.

The lack of statewide or local housing codes in lower Delaware also hampers effective control of substandard dwellings, and the Division of Public Health has been urging county governments to adopt such local ordinances.

When conditions are bad and the Division of Public Health becomes aware of these, nuisance regulations can be invoked; but this requires the cooperation of the local law enforcement and judicial agencies, and often the inhabitants are gone before any effective action can be taken. The residents then are simply forced from one substandard dwelling to another one that may be even less desirable.

The Departments of Agriculture and Labor are working to insure better hiring practices and registration of crew chiefs to insure more responsibility in housing and health care.

The Chapter on Health Care seems to understate the availability of public health services for migrants. Migrants are eligible for any of the public health clinics, not just hypertension and EPSDT. Other clinics such as tuberculosis, venereal disease, child health, immunization, family planning, elderly screening and crippled children's services are available to migrants. Clinic hours are often extended during migrant season to assist in the health care.

In addition, the statement is made by one witness on page 21 of the Health Care Chapter that migrants find it difficult to get Medicaid in Delaware because they have no tenure in the state. We are aware of no rules regarding tenure in the Delaware Medicaid Program, which is run by this Department. Thus, the statement would appear to be inaccurate.

Thank you for giving us an opportunity to comment on the report.

Sincerely,

PATRICIA C. SCHRAMM, *Secretary.*

STATE OF DELAWARE, DEPARTMENT OF HEALTH & SOCIAL SERVICES,
DIVISION OF PUBLIC HEALTH,
Dover, DE, January 3, 1984.

EDWARD RUTLEDGE,
*Regional Director, U.S. Commission on Civil Rights,
Mid-Atlantic Regional Office, Washington, DC.*

DEAR MR. RUTLEDGE: I have reviewed the report of the study of the living and working conditions of migrant farm workers in Delaware which was included with your letter of December 29, 1983.

Attached are my comments which I noted on page 7 of Chapter 3 on Health Care.

Sincerely,

LYMAN J. OLSEN, M.D.,
Director, Division of Public Health.

Attachment.

State officials described the following screening programs available to migrants:
 1 The Rural Hypertension Control Program provides screening, diagnostic, and prescriptive treatment.

2 The Early Periodic Screening, Diagnostic, and Treatment Program provides medical screening, diagnosis, and treatment for families with eligibility under aid to families with dependent children (AFDC) and medicare.

3 The Volunteer Services and Adult Crisis Intervention Programs provides counseling and emergency shelter for victims of domestic violence, destitution, or sudden catastrophe.

4 The Pharmaceuticals Assistance Program funded by the DeNemours Foundation (Delaware) assists needy patients with funds for prescription drugs.

The extent to which migrants avail themselves of existing medical services and screening may depend on several factors. Transportation is one factor, although it usually does not constitute a major barrier. According to DRM and State officials, migrant workers are bused from licensed camps to evening clinics for initial medical screening and diagnosis. In addition, DRM transports workers in DRM vehicles when necessary and some migrants have access to private vehicles.

Also available TB and VD Clinics, child health conferences, crippled children's service, speech and hearing programs.

MSPA VIOLATIONS

1. Fail to post housing conditions. Fail to ensure housing safety and health.
2. Fail to maintain records provided by FLC.
3. Fail to make/keep employer records.
4. Utilizing services of unregistered FLC.
5. Fail to disclose conditions to workers. Fail to post MSPA poster at worksite. Fail to make/keep employer records. Fail to provide wage statement to workers. Fail to provide records. Fail to provide safe transport vehicles. Fail to register employee. Transported workers w/o certificate auth.
6. Fail to disclose conditions to workers. Fail to make/keep employer records. Fail to provide wage statement to workers. Fail to post housing conditions. Fail to ensure driver has valid license. Fail to obtain prescribed insurance coverage. Fail to register employee. Transported workers w/o certificate auth. Fail to apply to amend certificates.
7. Fail to disclose conditions to workers. Fail to provide wage statement to workers. Fail to ensure housing safety and health.
8. Fail to ensure housing safety and health.
9. Fail to disclose conditions to workers. Fail to ensure housing safety and health.
10. Fail to ensure housing safety and health.
11. Fail to disclose conditions to workers. Fail to post MSPA poster at worksite. Fail to post housing conditions. Fail to ensure housing safety and health.

HOUSING VIOLATIONS

1. Less than 40 square feet per person for sleeping purposes in dormitory accommodations using double-bunk beds only. Showerheads at a ratio of one per every 15 persons not provided. Laundry trays or tubs not provided in the ratio of at least one per 25 persons (or washing machines in the ratio of 1 per 50 persons including 10 laundry trays per 100 persons).
2. Inadequate drainage facilities provided for overflow and spillage. Toilet tissue not provided in common-use toilet facilities. Cooking space not provided with a cook stove or hot plate with a minimum of two burners.
3. Inadequate arrangements for hanging clothes and storing personal effects for each person or family. Toilet tissue not provided in common-use toilet facilities.
4. Inadequate arrangements for hanging clothes and storing personal effects for each person or family. Toilet tissue not provided in common-use toilet facilities.
5. Less than 50 square feet per person for sleeping purposes in units containing single beds. Separate sleeping facilities not provided for each family. Toilet tissue

not provided in common-use toilet facilities. Privy structures and pits not fly-tight. Refuse not collected at least twice a week or more often if necessary.

6. Inadequate drainage. Less than 60 square feet of floor space per occupant for combined cooking, eating and sleeping purposes. Openings in shelter not screened with not less than 15 mesh material. Screen doors not in good repair or tight fitting. Toilets not constructed, located or maintained in a manner to prevent nuisance or public health hazard. Toilets not marked "men" and "women" and in native language of workers. Common use toilets and privies not well-lighted, ventilated or clean and sanitary. Showerheads at a ratio of one per every 15 persons not provided. Shower facilities for both sexes which are located in some buildings, not plainly marked "men" and "women" in English and the native language of the workers. Fly-tight 20 gallon refuse containers not provided adjacent to housing unit, in a ratio of one container per every 15 persons. Refuse not collected at least twice a week or more often if necessary. Housing not structurally sound. Housing not in good repair. Housing does not provide protection against the elements. Wiring and lighting fixtures in an unsafe condition. Walls in all cooking and eating areas not of non-absorbent, cleanable materials. Fire extinguishers not provided.

ENCLOSURE 3—QUESTIONNAIRE OF STATE ADVISORY COMMITTEES

FISCAL YEAR 1985 REVIEW OF FEDERAL ADVISORY COMMITTEE

1. Agency:
2. CMTE:
3. No.:

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year?
5. Current charter date:
6. Expected renewal date:
7. Expected termination date:
- 8A. Did CMTE terminate during fiscal year?
- 8B. Specific termination authority:
- 8C. Actual termination date:
9. Agency recommendation for CMTE for next fiscal year:
- 10A. Is legislation required to merge or terminate?
- 10B. Is such legislation pending or enacted?

SECTION B—COMMITTEE AUTHORITY AND TYPE

11. Establishment authority:
12. Specific establishment authority:
13. Effective date:
14. Committee type:
15. Description of committee:

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports:
- 16B. List report titles and dates:
17. Number of meetings: A. Open; B. Closed; C. Partially Closed; D. Total; E. Dates of all meetings (month, day):

SECTION D—COMMITTEE COST

18. Description:
19. Federal staff support years:

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. List and explain committee's accomplishments during the fiscal year. [Questionnaires with responses follow:]

FISCAL YEAR 1985 REVIEW OF FEDERAL ADVISORY COMMITTEE

1. Agency: CCR.
2. CMTE: District of Columbia Advisory Committee.
3. No. 0795.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 01/10/85.
6. Expected renewal date: 01/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year A. continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: Public Law 98-183.
13. Effective date: 11/30/1983.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 2. E. Dates of all meetings: 3/28, and 11/28.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal member (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$12,000	\$18,120	\$17,939
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,993	1,973
C. Travel and per diem:			
(1) Non-Federal members.....	500	110	99
(2) Federal members.....	0	0	0
(3) Federal staff.....	200	250	247
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	15,000	8,290	8,207
E. Total.....	27,700	28,763	28,465
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.08	.53	.52

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee's earlier report of police-community relations in the District of Columbia has affected Metropolitan (DC) police department training policy. Basic police training has been revised to include human relations courses and use of appropriate ways to react when officers encounter handicapped persons. The Committee obtained information which supports allegations that female householders with dependent children are more likely than other women in the District of Columbia to encounter housing discrimination. The information was provided by experts from the Greater Washington Research Center, the United Planning Organization, and Housing Consortium. As a result, the Committee developed a project on this issue which is designed to gather further evidence of discrimination and encourage increased attention to the problem by enforcement agencies. Information collected by the Committee was used to produce an annual status of civil rights reports to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Florida State Advisory Committee.
3. No. 0796.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year; A. continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority; P.L. 98-183.
13. Effective date: 11/30/85.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A Open 3. E. Dates of all meetings: 12/7/84, 4/26/85, 5/29-30/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$3,000	\$45,885	\$45,426
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		5,047	4,997
C. Travel and per diem:			
(1) Non-Federal members.....	2,600	3,845	3,807
(2) Federal members.....	0	0	0
(3) Federal staff.....	4,000	4,233	4,191
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,000	3,598	3,562
E. Total.....	14,600	62,608	61,983
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.02	1.34	1.34

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee prepared a briefing memorandum on its follow-up study to the Commission report, *Confronting Racial Isolation in Miami*. In addition, the Committee held a community forum in Miami designed to collect information and advise the Commission on the extent to which immigration laws and practices are impacting upon the South Florida community. Information collected by the Commission was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Georgia State Advisory Committee.
3. No.: 0797.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.

- 8A. Did CMTE terminate during fiscal year? No.
 9. Agency recommendation for CMTE for next fiscal year: A. Continue.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
 13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports 1.
 16B. List report titles and dates: Minorities and women in the Media in Atlanta 9/85.
 17. Number of meetings: A. Open 3. E. Dates of all meetings: 3/8/85, 5/10/85, 6/21/85.

SECTION D—COMMITTEE COST

*	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$19,500	\$22,800	\$22,572
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,508	2,483
C. Travel and per diem:			
(1) Non-Federal members.....	1,700	302	299
(2) Federal members.....	0	0	0
(3) Federal staff.....	0	75	74
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,300	3,598	3,562
E. Total.....	26,500	29,283	28,990
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.)			
	.11	.66	.66

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee completed its draft of the report, *Minorities and Women in the Media in Atlanta, Georgia*. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
 2. CMTE: Hawaii State Advisory Committee.
 3. No. 0798.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
 5. Current charter date: 01/10/85.
 6. Expected renewal date: 01/10/87.
 7. Expected termination date: 11/29/89.
 8A. Did CMTE terminate during fiscal year? No.
 9. Agency recommendation for CMTE for next fiscal year: A. Continue.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
 13. Effective Date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings: 3/18, 3/20-21, 5/16, 8/19.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$11,000	\$16,864	\$16,696
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,855	1,837
C. Travel and per diem:			
(1) Non-Federal members.....	5,500	1,330	1,317
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,500	5,560	5,504
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.....)	9,500	17,232	17,060
E. Total.....	28,500	42,841	42,414
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.06	.49	.48

20. The Advisory Committee has continued to conduct followup activities and monitor new developments regarding issues delineated in its earlier report, Breach of Trust? Native Hawaiian Homelands. During this fiscal year, the Advisory Committee met with officials of the state Department of Hawaiian Homelands to review progress in the homelands program. Members of the Advisory Committee toured homelands and homesteads on the Island of Molokai and gathered data on the problems experienced in the homelands program by Native Hawaiians. The Advisory Committee Chairperson and Vice-Chairperson testified on the State Advisory Committee's homelands study before the U.S. Senate Subcommittee on Native Hawaiians. As a result of the Advisory Committee's study and monitoring, Hawaii's governor has cancelled 16 of the 32 executive orders which had usurped homelands trust acreage. The Advisory Committee met with the Chairperson of the Hawaii State Board of Education regarding efforts of equal employment opportunity within the State Department of Education. The meeting was held as part of the followup to the Advisory Committee's study, Policy v. Results, Affirmative Action in the Hawaii State Department of Education (July 1983). As a result of the Advisory Committee's latest inquiry, the draft of the Board of Education's affirmative action plan was disseminated to community organizations for input. Information collected by the Committee was used to produce an annual status of civil rights report to advise the commission about civil rights and developments in the region.

1. Agency: CCR.
 2. CMTE: Idaho State Advisory Committee.
 3. No. 0799.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? Yes No.
 5. Current charter Date: 1/10/84.
 6. Expected renewal date: 1/10/87.
 7. Expected termination date: 11/29/89.

- 8A. Did CMTE terminate during fiscal year? No.
 9. Agency recommendation for CMTE for next fiscal year: A. Continue. B. Merge.
 C. Terminate.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: PL 98-183.
 13. Effective date: 11/30/85.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports 1.
 16B. List report titles and dates: Bigotry and violence (A) Idaho (5/85).
 17. Number of meetings: A. Open 3. E. dates of all meetings: 11/16/84, 4/26/85, 7/26/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
1118. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$8,400	\$6,4800	\$5,832
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		713	642
C. Travel and per diem:			
(1) Non-Federal members.....	800	1,760	1,742
(2) Federal members.....	0	0	0
(3) Federal staff.....	300	2,980	2,950
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	16,0000	4,269	4,226
E. Total.....	25,500	16,202	15,392
19. Federal staff years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.06	.19	.19

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Idaho Advisory Committee completed a report on Bigotry and Violence in Idaho and forwarded it to the Commission. The report contains an assessment of the extent of bigotry and violence within the State and includes specific recommendations for Federal, State, and local governments and others regarding appropriate action to address the civil rights issues outlined in the report.

1. Agency: CCR.
 2. CMTE: Illinois State Advisory Committee.
 3. No. 0800.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
 5. Current charter date: 1/10/85.
 6. Expected renewal date: 1/10/87.
 7. Expected Termination date: 11/29/89.
 8A. Did CMTE terminate during fiscal year? No.
 9. Agency recommendation for CMTE for next fiscal year: A Continue.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B.—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.

13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 10. E. Dates of all meetings: 5/31/85, 7/1/85, 8/9/85, 9/6/85, 10/5/84, 11/2/84, 12/14/84, 2/1/85, 3/8/85, 4/26/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$34,200	\$23,660	\$23,423
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,603	2,577
C. Travel and per diem:			
(1) Non-Federal members.....	5,000	5,430	5,376
(2) Federal members.....	0	0	0
(3) Federal staff.....	500	1,800	1,782
(4) Nonmember consultants.....		0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	9,000	7,834	7,756
E. Total.....	48,700	41,327	40,914
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.20	.69	.69

1. Agency: CCR.

2. CMTE: Indiana State Advisory Committee.

3. No. 0801.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.

5. Current charter date: 1/10/85.

6. Expected renewal date: 1/10/87.

7. Expected termination date: 11/29/89.

8A. Did CMTE terminate during fiscal year? No.

9. Agency recommendation for CMTE for next fiscal year: A. Continue.

10A. Is legislation required to merge or terminate? Yes.

10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.

13. Effective date: 11-30-83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 5. E. Dates of all meetings: 11/15/85, 2/23/85, 7/18/85, 9/19/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$50,500	\$38,766	\$38,378
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		4,264	4,221
C. Travel and per diem:			
(1) Non-Federal members.....	2,700	1,872	1,853
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,600	1,894	1,875
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, sailing, etc.)	9,500	7,834	7,756
E. Total.....	65,300	54,650	54,083
19. Federal staff support years (express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....	.30	1.13	1.13

SECTION E—COMMITTEE ACCOMPLISHMENTS, AND JUSTIFICATION

20. A briefing memorandum on equal opportunity issues in mental health was prepared for the Commission. This memorandum focused on equal employment opportunities and access to mental health services for language minorities in northern Indiana. The Indiana Committee also monitored State actions regarding equal opportunity in block grants. School desegregation efforts in Fort Wayne were studied as a follow-up activity connected to the findings and recommendations in an earlier Fort Wayne report. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Iowa State Advisory Committee.
3. No. 0802.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: Public Law 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: Implementation of the Surface Transportation Act of 1982. April 1985 (jointly with KS, MD, NE).
17. Number of meetings: A. Open 5. E. Dates of all meetings: 10/2-3, 2/19, 4/24, 6/7, 9/12.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$32,000	\$38,766	\$38,378
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		4,264	4,222
C. Travel and per diem:			
(1) Non-Federal members.....	2,500	2,182	2,161
(2) Federal members.....	0	0	0
(3) Federal staff.....	3,000	4,650	4,603
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, mailing, etc.)	5,000	4,344	4,301
E. Total.....	33,500	54,206	53,665
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.17	1.13	1.12

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. In response to complaints received by the Advisory Committee during a civil rights forum from the Indian community of Sioux City, the school district agreed to work with the Indian community either to revise or replace textbooks with derogatory reference to Native Americans.

1. Agency: CCR.
2. CMTE: Kansas State Advisory Committee.
3. No. 0803.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year?
5. Current chapter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8a. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? Yes.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: Implementation of the surface Transportation Act of 1982. April 1985 (Jointly with IA, MD, NE).
17. Number of meetings: A. Open 4. E. Dates of all meetings: 10/25, 10/26, 3/26, 6/20.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$24,000	\$29,666	\$29,369
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,263	3,230
C. Travel and per diem:			
(1) Non-Federal members.....	3,000	1,350	1,336
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,000	900	891
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	5,500	5,450	5,395
E. Total.....	34,500	40,629	40,221
19. Federal staff support years (express in person—years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3) above.).....			
	.18	.86	.85

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee was advised that as a result of its ongoing study of State and local civil rights agencies, the City of Wichita strengthened the investigative authority of the local civil rights agency.

1. Agency: CCP.
2. CMTE: Kentucky State Advisory Committee.
3. No. 0804.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings (month, day): 4/26/85, 5/20-21/85, 6/18/85, 9/18/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%).....	\$14,200	\$11,370	\$14,000
(4) Non-member consultants.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		0	1,400
C. Travel and per diem:		--	
(1) Non-federal members.....	300	2,937	2,908
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,100	3,316	3,283
(4) Non-member consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	4,500	3,598	3,562
E. Total.....	21,000	9,851	25,153
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.08	.33	.40

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Kentucky Advisory Committee held two community forums to receive information on discrimination/desegregation in the public housing projects in Louisville and Lexington. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Louisiana State Advisory Committee.
3. No: 0805.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 3. E. Dates of all meetings: 3/28/85, 6/6/85, 9/20/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Proprated salary if in excess of 10%).....	0	0	0
(3) Federal Staff (Proprated salary if in excess of 10%).....	\$19,500	\$34,602-	\$34,256
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,806	3,768
C. Travel and per diem:			
(1) Non-Federal members.....	3,100	1,988	1,968
(2) Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(3) Federal Staff.....	5,400	4,000	3,960
(4) Nonmember consultants			
D. Other (rents, user charges, graphics, printing, mailing, etc.)	9,800	8,206	8,124
E. Total.....	37,800	52,602	52,076
19. Federal staff support years (Express in person years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.13	1.01	1.01

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee continued to monitor school desegregation and other civil rights issues in Louisiana. It has also conducted a community forum on comparable worth which was convened in Baton Rouge in June 1985. The purpose of this forum was to examine the civil rights rights implications of comparable worth and its impact in Louisiana. The Committee also reviewed the status of the Consent Decree regarding the desegregation of public colleges and universities in Louisiana. During the year it has monitored the implementation of the decree. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Committee about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Maine State Advisory Committee.
3. No.: 0806.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 9/10/85.
6. Expected renewal date: 01/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending, or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings: (Month, day) 10/23, 12/11, 1/24, 8/13.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal Members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$2,900	\$11,115	\$11,004
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,223	1,211
C. Travel and per diem:			
(1) Non-Federal members.....	2,500	1,110	1,099
(2) Federal members.....	0	0	0
(3) Federal staff.....	100	1,150	1,138

	1985 estimate	1985 actual	1986 estimate
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	7,500	4,862	4,813
E. Total.....	13,000	19,460	19,265
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.10	.32	.31

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee completed and transmitted to the Commission a briefing memorandum describing the campaign for an Equal Rights Amendment to the Maine State Constitution. The memorandum outlined the arguments and strategies of the amendment's proponents and opponents. The amendment was defeated by a two-to-one vote in a referendum. The Committee continues to monitor status of Native Americans in Maine and visited the blueberry, potato and broccoli harvests which employ significant numbers of Indians. It identified differences in conditions of Federally recognized and unrecognized Indian groups which may be the subject of study in the next fiscal year. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the regions.

1. Agency: CCR.
2. CMTE: Maryland State Advisory Committee.
3. No. 0807.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 78-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 6. D. Total 6. E. Dates of all meetings: 10/24, 11/29, 12/18, 4/16, 5/23, 6/17.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$2,000	\$51,642	\$51,126
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		5,681	5,624
C. Travel and per diem:			
(1) Non-federal members.....	1,500	1,294	1,281
(2) Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(3) Federal staff.....	500	780	772
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	12,500	7,300	7,227
E. Total.....	16,500	66,697	66,030
19. Federal staff support years (Express in person—years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....	.04	1.51	1.49

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee's earlier report of working and living conditions in migrant farm labor camps on Maryland's Eastern Shore has been used as a source in news reports along with similar reports by Committees in the tri-state Delmarva region. Liaison between the Advisory Committee and the State's migrant labor commission has contributed to interstate cooperation and information sharing between the governors and executive departments of the relevant States. A community forum on handicap discrimination highlighted State and local barriers to full protection of handicapped persons in Maryland. State agency officials were informed of participants' recommendations and complaints. Committee is preparing to submit to the Commission its first survey of handicap discrimination issues in Maryland. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Massachusetts State Advisory Committee.
3. No. 0808.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority, (if by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 6; E. Dates of all meetings: 11/13, 11/15, 2/28, 4/18, 6/17, 9/26.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%).....	14,500	30,485	30,190
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,354	3,321

	1985 estimate	1985 actual	1986 estimate
C. Travel and per diem:			
(1) Non-Federal members.....	500	353	349
(2) Federal members.....	0	0	0
(3) Federal staff.....	0	25	22
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	9,000	4,866	4,813
E. Total.....	24,000	39,089	38,695
19. Federal staff support years (express in person-years using decimals to the nearest hundredth (e.g., 0.000). Figure should correspond to dollar cost in Item 18A(3), above.).....	.10	.89	.88

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee held a community forum in Lawrence, the site of two days of race rioting earlier in the year. The purpose of the forum was to hear from community leaders and public officials regarding the city's newly established Human Relations Committee. Participants included the chairperson of the Massachusetts Commission Against Discrimination, the mayor, and representatives from minority and civic organizations. A summary of the Committee's findings was contained in a briefing memorandum forwarded to the Commissioners. The Committee cosponsored a community forum on Confronting Racial Violence in Boston. Participants included victims of racial violence as well as the Assistant Attorney General responsible for civil rights, the Suffolk County District Attorney, the Chair of the Massachusetts Commission Against Discrimination, and the Boston police commissioner. Representatives of private civil rights and community organizations participated as well. A report of the forum is being prepared. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Michigan State Advisory Committee.
3. No. 1008.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No. X
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No. X
9. Agency recommendation for CMTE for next fiscal year: A. Continue. X
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No. X

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11-30-83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: tuition tax credits, 10/84.
17. Number of meetings: A Open 3. E. Dates of all meetings: 12/6/84, 1/8/85, 9/12/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$32,000	\$19,382	\$18,198
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,022	2,002
C., Travel and per diem:			
(1) Non-Federal members.....	3,000	402	398
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,000	2,500	2,475
(4) Nonmember consultants.....	0	0	0
D: Other (rents, user charges, graphics, printing, mailing, etc.).....	8,000	7,834	7,756
E. Total.....	45,000	31,140	30,829
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....			
	.19	.54	.54.

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee prepared a report for the Commission on tuition tax credits, based on a previous consultation and related field work. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Alaska State Advisory Committee.
3. No. 0788.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (if by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: B. Closed: C Partially closed. 2. E. Dates of all meetings: 11/19/84, 8/12/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$3,000	\$216	\$3,000

	1985 estimate	1985 actual	1980 estimate
(4) Nonmembers consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		24	350
C. Travel and per diem:			
(1) Non-Federal members.....	3,300	2,725	2,698
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,300	3,200	3,168
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, sailing, etc.).....	10,000	7,830	7,752
E. Total.....	18,600	13,775	16,948
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.02	.01	.08

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. In a continuing response to a report by the Alaska Advisory Committee on affirmative action in the seafood processing industry, the Alaska State Human Rights Commission has been working with the trade industry organization ASPI to establish a task force to create a model affirmative action plan for the seafood processing industry. The objective is to establish a plan prior to the beginning of the 1986 fishing season. In addition, the Human Rights Commission sent letters of inquiry to seafood processing industry firms in an effort to address the civil rights concerns raised in the Advisory Committee's report. The Committee also developed plans for future activities. The rechartering of the Committee and staff shortages in the Northwestern region prevented greater activity.

1. Agency: CCR.
2. CMTE: Alabama State Advisory Committee.
3. No. 0787.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: Police/community relations in Montgomery: 7/85.
17. Number of meetings: A. Open: 5. E. Dates of all meetings: 11/7/84, 11/20/84, 1/29/85, 6/9/85, 6/10/85, and 9/6/85.

SECTION D—COMMITTEE COST

	Prev FY 1985 estimate	Curr FY 1985 actual	FY 1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$62,500	\$55,860	\$55,301
(4) Nonmember consultants.....	0	0	0
Benefits (multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		6,145	6,083
C. Travel and per diem:			
(1) Non-Federal members.....	1,100	1,993	1,973
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,800	2,330	2,307
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	6,000	3,598	3,562
E. Total.....	71,400	69,926	69,226
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.34	1.63	1.63

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION (COMPLETE THIS SECTION FOR ALL COMMITTEES)

20. The Committee held a community forum in Prattville, Alabama on black participation in the electoral process as part of a study on redistricting. Also, the Committee completed a report entitled Police/Community Relations in Montgomery, Alabama. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Arizona State Advisory Committee.
3. No. 0789.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? (If "Yes", complete Items 8B and 8C).
No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/16, 4/19, 8/17, 9/27.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$22,000	\$4,712	\$4,665
(4) Nonmembers consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		518	513
C. Travel and per diem:			
(1) Non-Federal members.....	3,000	1,253	1,241
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,500	2,500	2,475
(4) Nonmembers consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	16,000	19,647	19,501
E. Total.....	43,500	28,680	28,395
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....			
	.13	.14	.13

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Arizona Advisory Committee held meetings in Flagstaff and Tucson to obtain data on the University of Arizona system. Members of the Arizona Board of Regents and university officials presented data on affirmative action at the three university campuses—Flagstaff, Tempe and Tucson. As a result of the Advisory Committee's monitoring, the Board of Regents approved a written policy on recruitment and retention of minorities and women. In addition, officials at Arizona State University at Tempe appointed a vice-president for recruitment and retention. The Advisory Committee held a one-day public forum April 19, 1985 in San Luis to gather data on immigration and educational issues. Complainants alleged harassment of individuals attempting to cross the Arizona-Mexico border legally, and border personnel confusion over Immigration and Naturalization Service (INS) regulations. As a result of the Advisory Committee's forum, the INS Port Director added personnel to the San Luis center and initiated retraining of staff. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Arkansas State Advisory Committee.
3. No: 0790.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 3/12/85, 4/23/85, 6/19-20/85, 9/27/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$42,900	\$44,793	\$44,345
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		4,927	4,878
C. Travel and per diem:			
(1) Non-Federal members.....	2,600	2,188	2,166
(2) Federal members.....	0	0	0
(3) Federal staff.....	7,200	2,400	2,376
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,600	8,266	8,183
E. Total.....	61,300	62,574	61,948
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.) .....	.30	1.31	1.31

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee continued to monitor equal employment opportunity in State government, the status of desegregation in State colleges and universities, and the Little Rock consolidation case during the past fiscal year. A briefing memorandum on higher education in Arkansas was prepared for the Commission. The Committee also reviewed the status of fair housing in Arkansas. As part of this effort it held a community forum in Pine Bluff in June 1985 to seek the views of Federal officials, community leaders, and experts in the housing area on issues relating to fair housing. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: California State Advisory Committee.
3. No. 0791.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 7. E. Dates of all meetings: 2/22-23, 6/15, 3/23, 7/19-20, 9/20, 10/26-27, 12/7-8.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%).....	\$42,000	\$41,168	\$40,757
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		4,528	4,483
C. Travel and per diem:			
(1) Non-Federal members.....	10,500	4,114	4,073
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,500	2,450	2,425
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	17,000	17,232	17,060
E. Total.....	71,000	69,492	68,798
19. Federal staff support years (Express in person, years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.25	1.20	1.19

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee met with Bill Honig, California Superintendent of Public Instruction, and members of his staff to discuss the various programs of the department to increase educational excellence statewide. During this meeting the Advisory Committee urged that the Superintendent rely more heavily on input provided by his existing Advisory Committees for statewide educational issues. Since the Advisory Committee's meeting, the Superintendent has reaffirmed the importance of these Ethnic Advisory Committees in the structuring of statewide educational policy. As a result of the Advisory Committee's reapportionment study, Los Angeles Reapportionment: Unfinished Business (Nov. 1983), staff of the U.S. Department of Justice Voting Rights Unit began an investigation in this fiscal year of Los Angeles' redistricting. The Voting Rights Unit was interested in the process utilized by the Los Angeles City Council to approve the councilmanic and school board districts created by the Council's Election and Reapportionment Subcommittee. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Colorado State Advisory Committee.
3. No: 0792.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
 13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 3. E. Dates of all meetings: 3/2/85, 7/15/85, 8/26/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$6,000	\$5,635	\$5,579
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		620	614
C. Travel and per diem:			
(1) Non-Federal members.....	1,400	2,182	2,160
(2) Federal members.....	0	0	0
(3) Federal staff.....	75	300	297
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	6,700	8,101	8,020
E. Total.....	14,175	16,838	16,670
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....			
	.04	.16	.16

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee held community forums and monitored information on the civil rights implications of proposed immigration legislation and comparable worth. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
 2. CMTE: Connecticut State Advisory Committee.
 3. No. 0793.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
 5. Current charter date: 1/10/85.
 6. Expected renewal date: 1/10/87.
 7. Expected termination date: 11/29/89.
 8A. Did CMTE terminate during fiscal year? No.
 9. Agency recommendation for CMTE for next fiscal year: A. Continue.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-18.
 13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.

16B. List report titles and dates: Battered women in Hartford, Connecticut six years after. April 1985.

17. Number of meetings: A. Open 6. E. Dates of all meetings: 11/15; 12/11; 11/17; 2/26; 7/12; 9/4.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$17,000	\$53,010	\$52,480
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		5,831	5,773
C. Travel and per diem:			
(1) Non-Federal members.....	800	346	343
(2) Federal members.....	0	0	0
(3) Federal staff.....	600	1,161	1,150
(4) Nonmember consultants	0	0	0
D. Other (rents; user charges, graphics, printing, mailing, etc.).....	7,500	4,862	4,814
E. Total.....	25,900	65,210	64,560
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.12	1.55	1.53

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee completed and sent to the Commission its report *Battered Women in Hartford, Connecticut: Six Years Later*, focusing on the police response to the problems of battered women. The report draws on interviews and data from police officials, advocacy groups and other relevant sources within the State. The Advisory Committee conducted two forums on the impact of proposed highway construction on an integrated neighborhood in Windsor. The two forums heard from residents and State and Federal officials and resulted in a briefing memorandum submitted to the Commission which was subsequently requested by the concerned parties and utilized efforts to resolve the disputes. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Delaware State Advisory Committee.
3. No. 0794.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? If "yes", complete Items 8B and 8C
Yes _____ No _____.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/19, 3/25, 5/20, 9/24.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$6,000	\$40,468	\$40,064
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, 10% to 14%).....		4,451	4,407
C. Travel and per diem:			
(1) Non-Federal members.....	2,000	610	604
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,000	1,000	990
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, Mailing, etc.).....	12,500	7,775	7,698
E. Total.....	21,500	54,304	53,763
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....	.04	1.18	1.17

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Delaware Advisory Committee met four times, sponsored a Statewide Conference, and issued a project report. The November 19, 1984 meeting came at the conclusion of a Statewide Conference, the first to be convened by the Committee. Fifteen guest speakers and panelists discussed civil rights issues affecting minorities, women, the elderly, and the disabled. Five lengthy articles and three others appeared in the major Wilmington dailies on the day prior to the Conference and afterward, with extensive TV and radio coverage on the Conference day itself. The March 25, 1985 meeting included pay equity presentations by the New Castle County Council Finance Committee Chairperson and by the Executive Assistant to the New Castle County Executive. Followup on education, housing, and criminal justice issues were recommended by the Committee for the Conference report. The May 20, 1985 meeting included an orientation for the rechartered Committee, review of a draft of the Conference report, and release of the migrant farmworkers report. Extensive coverage of the latter appeared in Downstairs dailies and led to subsequent discussions on the part of Committee members with the State Labor Department Secretary and other State officials who took steps to improve conditions of migrant farmworkers. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Minnesota State Advisory Committee.
3. No. 0809.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.

10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.

13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 5. E. Date of all meetings: 10/1/84, 11/19/84, 2/25/85, 6/3/85, 7/8/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$17,000	\$38,584	\$38,198
(4) Nonmember consultants	0	0	0
B. Benefits (multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		4,244	4,202
C. Travel and per diem:			
(1) Non-federal members.....	3,000	720	713
(2) Federal members	0	0	0
(3) Federal staff.....	3,000	2,600	2,574
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	4,000	7,834	7,756
E. Total.....	27,000	53,982	53,443
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.10	1.25	1.25

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee monitored equal employment opportunity in, and services of, mental health facilities for minority communities. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.

2. CMTE: Mississippi State Advisory Committee.

3. No. 0810.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.

5. Current charter date: 1/10/85.

6. Expected renewal date: 1/10/87.

7. Expected termination date: 11/29/89.

8A. Did CMTE terminate during fiscal year? No.

9. Agency recommendation for CMTE for next fiscal year. A. Continue.

10A. Is legislation required to merge or terminate? Yes.

10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority. (If by law, cite U.S.C.) P.L. 98-183.

13. Effective date. 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 5. E. Dates of all meetings: 2/21/85, 4/30/85, 5/28/85, 6/19-20/85, 8/5/85/

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$12,300	\$17,670	\$15,903
(4) Nonmember consultants	0		
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,944	1,749
C. Travel and per diem:			
(1) Non-Federal members.....	1,000	778	770
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,000	1,074	1,063
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	3,800	3,598	3,562
E. Total.....	18,100	25,064	23,047
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.21	.52	.52

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Mississippi Advisory Committee began developing plans for a community forum to assess the civil rights climate in Mississippi, and to determine the most compelling and/or pressing civil rights issues facing Mississippians. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Missouri State Advisory Committee.
3. No. 0811.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by laws, cite U.S.C.) P.L. 98-183.
13. Effective Date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports:
- 16B. List report titles and dates: Implementation of the Surface Transportation Act of 1982. April 1985 (jointly with IA, KS, NE).
17. Number of meetings: A. Open 5. E. Dates of all meetings: 11/13-14, 3/15, 4/26, 5/24, 7/18-19.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$15,000	\$22,386	\$22,162
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,462	2,438
C. Travel and per diem:			
(1) Non-Federal members.....	4,000	1,600	1,584
(2) Federal members.....	0	0	0
(3) Federal staff.....	4,000	2,800	2,772
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,500	4,284	4,205
E. Total.....	31,500	33,532	33,161
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.11	.65	.64

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. As a result of a community forum held by the Advisory Committee in the Bootheel (Hayti and Hayti Heights), Federal officials from the U.S. Department of Housing and Urban Development and the U.S. Department of health and Human Services melt with minority community leaders to explain changes in public housing policies and civil rights requirements of Federal block grant programs.

1. Agency: CCR.
2. CMTE: Montana State Advisory Committee.
3. No. 0812.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 5. E. Dates of all meetings: 2/16/85, 4/27/85, 6/22/85, 7/13/85, 9/21/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$10,600	\$11,730	\$11,613
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,290	1,277
C. Travel and per diem:			
(1) Non-Federal members.....	1,800	1,609	1,593
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,500	5,580	5,524
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,500	4,684	4,637
E. Total.....	19,400	24,893	24,644
19. Federal Staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.08	.34	.34

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. As a result of the Committee's community forum on Indian-Community relations in Montana's Harlem School District, school officials and tribal leaders identified problems encountered by Native American students in the school system and formulated proposals for their resolution. The Committee also received and reviewed information on the civil rights concerns of three of the State's Indian tribes. Utilizing information it gathered on jail conditions in the State, a research project was designed to investigate possible discriminatory treatment of Native American inmates. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Nebraska State Advisory Committee.
3. No. 0813.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/85.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: Implementation of the Surface Transportation Act of 1982. April 1985 (jointly with IA, KS, MO).
17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/28, 3/21, 5/16-17, 8/8.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$29,500	\$10,556	\$10,450
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,161	1,149
C. Travel and per diem:			
(1) Non-Federal members.....	2,500	2,065	2,045
(2) Federal members.....	0	0	0
(3) Federal staff.....	3,500	1,678	1,662
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,000	4,450	4,406
E. Total.....	40,500	19,910	19,712
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.)			
	.22	.31	.30

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee held a community forum in Scottsbluff as a follow-up to a report on equal employment opportunity for minorities in the Panhandle. As a result of the forum a group of leading citizens have come together to examine the problem of minorities in Scottsbluff and will make recommendations for change to city officials.

1. Agency: CCR.
2. CMTE: Nevada State Advisory Committee.
3. No. 0814.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE Terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 8. E. Dates of all meetings: 11/3, 11/10, 1/12, 3/1, 5/3, 7/12-13, 8/3, 9/14.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$9,000	\$11,160	\$11,048
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,228	1,215
C. Travel and per diem:			
(1) Non-Federal members.....	3,100	3,200	3,168
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,000	3,800	3,762
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	16,300	17,232	17,060
E. Total.....	30,400	36,620	36,253
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....			
	.05	.33	.32

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Advisory Committee conducted follow-up to its study of affirmative action at the University of Nevada, Las Vegas. The Advisory Committee held meetings with the Affirmative Action Officer and monitored progress and problems in equal employment opportunity for minorities and women. The Committee continued its monitoring of educational issues in Washoe and Clark Counties. The Advisory Committee collected data on student population and staff patterns in the Reno and Las Vegas area school districts. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: New Hampshire State Advisory Committee.
3. No. 0815.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected Termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate?
- 10B. Is such legislation pending or enacted?

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings: 10/30-12/1, 2/6 4/30, 9/11.

SECTION D.—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members	0	0	0
(2) Federal Members (prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (prorated salary if in excess of 10%)	\$3,000	\$9,975	\$9,875
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		1,097	1,086
C. Travel and per diem:			
(1) Non-Federal members	1,000	594	588
(2) Federal members	0	0	0
(3) Federal staff	200	300	297
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc)	7,000	4,862	4,813
E. Total	11,200	6,828	16,659
19. Federal staff support years (express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.02	.29	.29

20. The Committee held two community forums during the past fiscal year. The first addressed problems confronting the growing Southeast Asian refugee population in the State, and participants included officials from the Refugee Resettlement Office and the State Education Department as well as representatives from organizations concerned with Southeast Asians. The forum focused on the linguistic and cultural problems of Southeast Asians and efforts being made to address them. The second forum examined the racial climate in Portsmouth. The mayor and other city officials joined a number of local civil rights leaders and a representative from nearby Pease Air Force Base in discussing problems faced by Portsmouth's minority population. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: New Jersey State Advisory Committee.
3. No. 0816.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/85.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 10/24/84, 3/5/85, 5/28/85, 8/7/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$69,400	\$59,292	\$58,699
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		6522	6457
C. Travel and per diem:			
(1) Non-Federal members.....	600	617	611
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,200	2,690	2,663
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	24,000	24,053	23,812
E. Total.....	95,200	93,174	92,242
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.55	1.73	1.73

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. A briefing memorandum on Juvenile Justice was submitted to the Commission. As an indirect result of this project, contacts between New Jersey State officials and contractors for residential treatment programs for juveniles was increased. A briefing memorandum on Domestic Violence was also submitted to the Commissioners on the latest legal and judicial developments relating to the Prevention of Domestic Violence Act. A briefing memorandum on bigotry and violence in the state of New Jersey was submitted to the Commission. Following interviews in Princeton, New Jersey, the Committee arranged for a special public meeting to hear the issues on the recent New Jersey Division on Civil Rights ruling that Princeton University's three all male eating clubs violated state public accommodations law by denying women entrance to the clubs. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: New Mexico State Advisory Committee.
3. No. 0817.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommended for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings: 3/13/85, 5/2/85, 5/30/85, 8/8/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$15,300	\$45,741	\$45,284
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		5,032	4,982
C. Travel and per diem:			
(1) Non-Federal members.....	2,000	1,718	1,701
(2) Federal members.....	0	0	0
(3) Federal staff.....	5,400	8,809	8,721
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,000	8,431	8,347
E. Total.....	31,500	69,731	69,035
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.11	1.33	1.33

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. A briefing memorandum on voting rights was prepared for the Commission, based on previous monitoring. The Advisory Committee met in March in Santa Fe to obtain reports on legislative activities impacting on civil rights. A briefing memorandum to the Commission summarized this information. In May, the Committee convened a public forum in Albuquerque to gather information on the status of affirmative action at the University of New Mexico. A briefing memorandum was prepared for the Commissioners. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region. At a public forum held in August in Albuquerque, presentations were made by civil rights leaders and experts in the areas of voting rights, immigration, Indian issues, education and civil rights enforcement.

1. Agency: CCR.
2. CMTE: New York State Advisory Committee.
3. No. 0818.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/18/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/85.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 5. E. Dates of all meetings: 11/14/84, 3/6/85, 5/22/85, 7/2/85, 9/12-13/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$63,700	\$48,924	\$48,435
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		5,382	5,328
C. Travel and per diem:			
(1) Non-Federal members	5,700	3,340	3,307
(2) Federal members	0	0	0
(3) Federal staff	2,000	2,790	2,762
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	26,500	24,277	24,034
E. Total	97,900	84,713	83,866
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.50	1.43	1.43

SECTION E—COMMITTEE ACCOMPLISHMENT AND JUSTIFICATION

20. Two community forums were held during the fiscal year in Buffalo and Rochester. At both community forums, spokespersons from the public and private sector outlined their concerns in the area of bigotry and violence, housing, and employment. As a result of this exposure, contacts were developed between public and private officials. In Rochester, the sessions sparked an opening dialogue between the Private Industry Council and minority groups on ways of strengthening the Job Training Partnership Act in that city. A briefing memorandum on bigotry and violence submitted to the Commissioners in January 1985, included a summary of testimony received from New York State law enforcement officials and community spokespersons. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: North Carolina State Advisory Committee.
3. No. 0819.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date 11/29/89
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for Cmte for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 78-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 4. E. Dates of all meetings: 12/4/84, 3/11/85 3/12, 4/30/85, 6 /21-22/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....			
(2) Federal members (Prorated salary if in excess of 10%)			
(3) Federal staff (Prorated salary if in excess of 10%)	\$15,500	\$36,195	\$35,834
(4) Nonmember consultants			
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,981	3,941
C. Travel and per diem:			
(1) Non-Federal members.....	2,600	2,792	2,764
(2) Federal members.....			
(3) Federal staff.....	1,000	2,953	2,923
(4) Nonmember consultants			
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	3,500	3,728	3,691
E. Total.....	22,600	49,649	49,153
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.08	1.06	1.06

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The North Carolina Advisory Committee held a community forum to receive information on equal employment opportunity in the state government workforce. The Committee interviewed a number of state officials and reviewed the employment records provided by the state office of personnel. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR. [^]
2. CMTE: North Dakota State Advisory Committee.
3. No. 0820.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year?
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year?
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merger or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 12/3/84, 3/8/85, 6/7/85, 9/27/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal Members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$9,600	\$9,430	\$9,336
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,037	1,037
C. Travel and per diem:			
(1) Non-Federal members.....	1,500	850	841
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,000	3,750	3,112
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,900	8,775	8,687
E. Total.....	18,000	23,842	23,603
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.).....	.07	.27	.27

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. Through community forums and field research, the Committee collected information on the implementation and effectiveness of the North Dakota Human Rights Act. A briefing memorandum on this subject was forwarded to the Commissioners. Material gathered was used to design a study of this issue. The Committee also monitored the implementation of State policy concerning Social Security Disability reviews. Information collected by the Committee was used to advise the U.S. Commission on Civil Rights concerning civil rights developments in the state. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Ohio State Advisory Committee.
3. No. 0821.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority (If by law, cite U.S.C.): P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/17/84, 5/25/85, 7/12/85, 9/27/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$11,000	\$20,020	\$19,820
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,202	2,180
C. Travel and per diem:			
(1) Non-Federal members.....	6,500	4,223	4,181
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,000	13,900	13,761
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,500	7,834	7,756
E. Total.....	28,000	48,179	47,698
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.06	.58	.58

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee focused attention on educational problems of Hispanic students in two school districts. As a result of the Committee's work, the Department of Education, OCR, Cleveland office, has agreed to review one school district in the near future. Information collected by the Committee was used to produce an annual status-of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Oklahoma State Advisory Committee.
3. No. 0822.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 3. E. Dates of all meetings: 3/7/85, 6/21/85, 7/27/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$38,200	\$34,365	\$34,021
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,780	3,742
C. Travel and per diem:			
(1) Non-Federal members.....	1,600	876	867
(2) Federal members.....	0	0	0
(3) Federal staff.....	5,100	1,905	1,886
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,200	8,461	8,376
E. Total.....	53,100	49,387	48,892
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.26	1.00	1.00

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Oklahoma Advisory Committee held a forum on fair housing in Oklahoma City. The forum focused on Oklahoma's new fair housing law. A summary was prepared for the Commission in the form of a briefing memorandum. The Advisory Committee continued to monitor desegregation in public institutions of higher education and was briefed by staff of the State legislature on the work, findings and recommendations of the Oklahoma House of Representatives Special Committee on Affirmative Action in Higher Education. Information collected by the Commission was used to produce an annual status of civil rights reports to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Oregon State Advisory Committee.
3. No.: 0956.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11-30-83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 3. E. Dates of all meetings: 12/14/84, 3/8/85, 8/2/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$6,000	\$1,728	\$1,711
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), by 10% to 14%)		190	188
C. Travel and per diem:			
(1) Non-Federal members.....	1,200	500	495
(2) Federal members.....	0	0	0
(3) Federal staff.....	500	370	366
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	10,500	9,130	9,040
E. Total.....	18,200	11,918	11,770
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.04	.05	.05

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. In follow-up the Oregon Advisory Committee's community forum on Southeast Asian Refugee Civil Rights Issues in Portland, the Committee established a sub-committee to review the information obtained at the community forum and forward it to the Commission. A briefing memorandum summarizing this information and highlighting the Advisory Committee's specific concerns regarding civil rights in this regard was sent to the Commission.

FISCAL YEAR 1985 REVIEW OF FEDERAL ADVISORY COMMITTEE

1. Agency: CCR.
2. CMTE: Pennsylvania State Advisory Committee.
3. No.: 0823.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 01/10/85.
6. Expected renewal date: 01/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted?

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: P.L. 98-183.
13. Effective date: 11/30/1983.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 3.
- E. Dates of all meetings: 10/26, 4/26, 6/20.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal Members.....	0	0	0
(2) Federal Members (Prorated salary if in excess of 10%).....	0	0	0
(3) Federal staff Prorated salary if in excess of 10%.....	\$3,00	\$9,362	\$9,268
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,030	1,020
C. Travel and per diem:			
(1) Non-Federal members.....	1,700	1,678	1,602
(2) Federal members.....	0	0	0
(3) Federal staff.....	800	1,580	1,575
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.).....	13,000	6,400	6,336
E. Total.....	19,000	20,060	19,841
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.02	.27	.27

SECTION C—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Pennsylvania Advisory Committee met three times and held two community forums on violence and bigotry. The October 26, 1984 meeting in Pittsburgh featured a community forum on violence and bigotry in western Pennsylvania, while the June 20, 1985 meeting in Philadelphia featured a community forum on the same problem in eastern Pennsylvania. Federal agencies sent representatives of regional offices of the U.S. Attorney's Office, the Federal Bureau of Investigation, and the Community Relations Service. The State Police and the State Human Relations Commission as well as local police and human relations commissions commented on the severity of incidents and how their agencies respond. The State's Inter-agency Task Force on Civil Tension described its role and the Pennsylvania Ethnic Intimidation and Institutional Vandalism Act. Offering community perspectives were the American Jewish Committee, the Anti-Defamation League of B'nai B'rith, the NAACP, Hispanic and Asian organizations, voluntary service, and refugee relief agencies, and actual victims. The April 16, 1985 meeting provided an orientation for the newly rechartered members who decided to plan a Statewide Conference to discuss strategies for advancing civil rights in the '80s. One Advisory Committee member is an appointee on the Philadelphia Mayor's commission investigating the May police assault on MOVE cult members. A second is the commission's general counsel, who found a committee monitoring memorandum on the incident useful enough to share with the investigating commission. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Rhode Island State Advisory Committee.
3. No. 0824.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
 13. Effective date, 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open 6. E. Dates of all meetings: 10/22, 11/27, 3/4, 4/29, 7/29, 9/4.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (prorated salary if in excess of 10%).....	\$12,500	\$30,780	\$30,472
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		3,386	3,352
C. Travel and per diem:			
(1) Non-Federal members.....	600	50	49
(2) Federal members.....	0	0	0
(3) Federal staff.....	250	68	67
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	7,400	4,892	4,843
E. Total.....	20,750	39,176	38,783
19. Federal staff years (Express in person-years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in item 18A(3), above.).....	.09	.90	.89

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee conducted a study of redistricting and minority voting in Rhode Island. Following a forum on Voting Rights and Reapportionment which it cosponsored, the Advisory Committee monitored the activities of the Rhode Island Reapportionment Commission and the attention it paid to minority voters. The Committee monitored the reorganization of the State government under a newly elected governor, and attempts to subsume the Rhode Island Commission for Human Rights within a new administrative super-agency. The Committee met with the executive directors of both the Rhode Island and the Providence Human Relations Commissions. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE, South Carolina State Advisory Committee.
3. No. 0825.

SECTION A—COMMITTEE STATUS-

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
 13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 3. E. Dates of all meetings: 3/5/85, 4/30/85, 6/23/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$12,300	\$26,505	\$26,240
(4) Nonmember consultants	0	0	0
B: Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....	0	2,916	2,887
C. Travel and per diem:			
(1) Non-Federal members.....	1,000	1,729	1,712
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,900	1,735	1,718
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	4,200	3,598	3,560
E. Total.....	19,400	36,483	36,118
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.07	.77	.77

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee held a community forum in Georgetown, South Carolina on black participation in the electoral process as part of a project on that subject. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
 2. CMTE: South Dakota State Advisory Committee.
 3. No. 0826.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No. X
 5. Current charter date: 1/10/85.
 6. Expected renewal date: 1/10/87.
 7. Expected termination date: 11/29/89.
 8A. Did CMTE terminate during fiscal year? No. X.
 9. Agency recommendation and CMTE for next fiscal year: A. Continue.
 10A. Is legislation required to merge or terminate? Yes.
 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by less, cite U.S.C.) P.L. 98-183.
 13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 10/26/84, 3/1/85, 4/19/85, 7/19/85.

SECTION D—COMMITTEE COST

Description:	1985 estimate	1985 actual	1986 estimate
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$32,000	\$10,350	\$10,246
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above by 10% to 14%)		1,139	1,127
C. Travel and per diem:			
(1) Non-Federal members.....	2,300	5,400	5,346
(2) Federal members	0	0	0
(3) Federal staff.....	3,200	2,966	2,936
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,800	8,025	7,945
E. Total.....	43,300	27,880	27,600
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.24	.30	.30

20. By means of a community forum and interview with State and industry officials, information was collected by the Committee on the effectiveness of the disadvantaged business enterprise requirements of the Surface Transportation Act. Through its investigatory activities the Committee also collected information on the implications of block grant funding for Indian reservation programs. A briefing memorandum was submitted to the Commission on this subject. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Tennessee State Advisory Committee.
3. No. 0827.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year. A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 5. E. Dates of all meetings: 11/17/84, 4/7/85, 5/8/85, 6/14/85, 8/30/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$10,400	\$17,385	\$17,211
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3) and 18A(4), above, by 10% to 14%)	0	1,912	1,893
C. Travel and per diem:			
(1) Non-federal members.....	3,500	3,469	3,434
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,000	1,640	1,624
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	4,100	3,598	3,562
E. Total.....	19,000	28,004	27,724
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.06	.51	.51

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee began gathering data for an informational pamphlet for public dissemination on civil rights agencies in the state. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Texas State Advisory Committee.
3. No. 0828.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
8. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/30/84, 3/22/85, 5/9-10/85, 6/14/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0

	1985 estimate	1985 actual	1986 estimate
(3) Federal staff (Prorated salary if in excess of 10%)	\$23,400	\$81,291	\$80,478
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		8,942	8,853
C. Travel and per diem:			
(1) Non-Federal members	1,600	7,550	7,475
(2) Federal members	0	0	0
(3) Federal staff	800	9,550	9,455
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,200	11,441	11,327
E. Total:.....	34,000	118,774	117,588
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.16	2.37	2.37

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Texas Advisory Committee held a community forum in El Paso, Texas, dealing with the use of a combined U.S. Border Patrol and city police foot patrol in downtown El Paso. The Committee was briefed on the use and impact of the joint foot patrol from various community perspectives including elected officials, the business sector and community organizations. A briefing memorandum was prepared for the Commission on this topic. The Advisory Committee also held a forum on fair housing. This forum presented Advisory Committee members from Texas and representatives from other SAC's in the SWRO with information on fair housing. Presentations included the historical development of fair housing, legislative proposals to amend the Fair Housing Act, legal issues and recent lawsuits, Federal civil rights enforcement efforts, and local issues in fair housing. A briefing memorandum was prepared for the Commission on this forum. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Utah State Advisory Committee.
3. No. 0829.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/85.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 2/28/85, 5/2/85, 6/20/85, 9/12/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$27,200	\$10,580	\$10,475
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		1,163	1,152
C. Travel and per diem:			
(1) Non-Federal members.....	1,500	800	792
(2) Federal members.....	0	0	0
(3) Federal staff.....	2,100	900	891
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,500	8,085	8,004
E. Total.....	36,300	21,528	21,314
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.21	.31	.31

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee monitored the activities of governmental agencies and community organizations and conducted a community forum to gather information on civil rights developments in housing, employment and education. Through field investigations, the Committee also compiled information on the implementation of block grant funding on Indian reservation programs. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Vermont State Advisory Committee.
3. No: 0830.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. open: 2. E. Dates of all meetings: 11/26, 8/12.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
A. Compensation:			
(1) Non-Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$8,000	\$15,105	\$14,954
(4) Nonmember	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		1,662	1,645
C. Travel and per diem:			
(1) Non-Federal members	3,000	250	247
(2) Federal members	0	0	0
(3) Federal staff	700	450	445
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	7,300	4,862	4,813
E. Total	19,000	22,329	22,104
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.05	.44	.43

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee held a forum to explore the implementation of the New State education standards dealing with bias and stereotyping in the schools. The forum brought together minority group members and the State Commissioner of Education. Subsequently, the Committee's Education Subcommittee held follow-up meetings with Department of Education officials to monitor the Department's implementation of these standards. Preliminary research was conducted by the Committee on the adequacy of Vermont's anti-discrimination laws and machinery for enforcing them, and developed a project proposal for a formal study of this issue. Information collected by the Committee was used to produce an annual status of civil rights reports to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Virginia State Advisory Committee.
3. No. 0831.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

- 16A. Total number of reports: 1.
- 16B. List report titles and dates: Statewide Conference Report on Civil Rights Complaints and Enforcement in Virginia, April 1985.
17. Number of meetings: A. Open: 6. E. Dates of all meetings: 11/28, 3/4, 3/11, 5/17, 8/19, 9/29-30.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$14,000	\$24,160	\$23,918
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%).....		2,658	2,631
C. Travel and per diem:			
(1) Non-Federal members.....	3,000	1,583	1,567
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,200	1,400	1,386
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	12,500	8,815	8,727
E. Total.....	30,700	38,616	38,229
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.09	.70	.69

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. In reports submitted to the Commission between 1979 and 1985, the Virginia Advisory Committee has recommended that Virginia pass a human rights law and establish a commission to enforce it. These reports have been responsible for the introduction of a bill in the Virginia General Assembly to create such a law and commission, and for the establishment in January 1985 of a Virginia Human Rights Study Commission by the Virginia General Assembly. The Committee's Chair was invited in September 1985 to appear at a public hearing held by the Study Commission to present Committee findings and recommendations regarding the need for a Virginia human rights law and commission. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Washington State Advisory Committee.
3. No. 0832.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 3. E. Dates of all meetings: 12/10/85, 6/19/85, 9/18/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$15,000	\$11,988	\$11,868
(4) Nonmember consultants.....	0	0	0
B. Benefits (Multiply the sum of items 18A(2), and 18A(3), above, by 10% to 14%).....		1,319	1,305
C. Travel and per diem:			
(1) Non-Federal members.....	2,500	300	2,000
(2) Federal members.....	0	0	0
(3) Federal staff.....	1,000	55	1,000
(4) Nonmember consultants.....	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	9,500	7,830	7,752
E. Total.....	28,000	21,492	23,925
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in Item 18A(3), above.)			
	.11	.35	.35

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. In follow-up to the Washington Advisory Committee's report on Equal Employment Opportunity in Tacoma Area Local Government, a briefing memorandum updating this report was prepared and forwarded to the Commission. The memorandum highlights areas of apparent changes in employment opportunities for minorities and women in the Tacoma area.

1. Agency: CCR.
2. CMTE: West Virginia State Advisory Committee.
3. No. 0833.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 11/15, 3/27, 6/11, 9/27.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members.....	0	0	0

	1985 estimate	1985 actual	1986 estimate
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$9,000	\$17,516	\$17,341
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		1,927	1,907
C. Travel and per diem:			
(1) Non-Federal members	3,000	5,027	4,977
(2) Federal members	0	0	0
(3) Federal staff	1,800	3,390	3,356
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	12,500	6,400	6,336
E. Total	26,300	34,260	33,917
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.06	.51	.50

SECTION E—COMMITTEE ACCOMPLISHMENT AND JUSTIFICATION

20. The West Virginia Advisory Committee held four meetings in various parts of the State during fiscal year 1985. At three of the meetings, officials responsible for enforcement of State and local human rights laws were convened to: (1) provide information to the Committee on the civil rights concerns that led to two West Virginia Supreme Court decisions on State and local human rights commissions (Allen v. West Virginia Human Rights Commission decided December 5, 1984, and Huntington Human Rights Commission v. Realco, Inc., decided May 29, 1985) and their impact upon State and local human rights commissions in West Virginia; (2) describe problems they are encountering in receiving, processing, and resolving civil rights complaints; (3) identify resources (including Federal resources) to address these problems; and (4) recommend ways to strengthen State and local enforcement of civil rights laws. At one of its four meetings, held in Fairmont, the West Virginia Advisory Committee heard civil rights concerns of citizens. A complaint received from a handicapped resident of a Federally-funded housing unit in Fairmont which alleged discrimination based on handicap was referred by the Commission's Office of Complaint Referrals. The Commission referred the complaint to HUD and HUD has begun an investigation. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Wisconsin State Advisory Committee.. 3. No. 0834.
3. No. 0833.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1-10-85.
6. Expected renewal date: 1-10-87.
7. Expected termination date: 11-29-89.
- 8A. Did CMTE terminate during fiscal year No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11-30-83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 6. E. Dates of all meetings: 10-17-84, 12-7-84, 1-15-85, 2-27-85, 6-18-85, 8-14-85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members	0	0	0
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$4,000	\$12,922	\$12,793
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		1,421	1,407
C. Travel and per diem:			
(1) Non-Federal members	2,000	2,780	2,752
(2) Federal members	0	0	0
(3) Federal staff	600	1,600	1,584
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	8,400	7834	7,756
E. Total	15,000	26,557	26,292
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g. 0.00). Figure should correspond to dollar cost in item 18A(3), above.)			
	.02	.38	.38

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. The Committee examined the issues of harassment and intimidation of Indians in northern Wisconsin and prepared a briefing memorandum for the Commission on this topic. Information collected by the Committee was used to produce an annual status of civil rights reports to advise the Commission about civil rights issues and developments in the region.

1. Agency: CCR.
2. CMTE: Wyoming State Advisory Committee.
3. No. 0835.

SECTION A—COMMITTEE STATUS

4. Is CMTE new during fiscal year? No.
5. Current charter date: 1/10/85.
6. Expected renewal date: 1/10/87.
7. Expected termination date: 11/29/89.
- 8A. Did CMTE terminate during fiscal year? No.
9. Agency recommendation for CMTE for next fiscal year: A. Continue.
- 10A. Is legislation required to merge or terminate? Yes.
- 10B. Is such legislation pending or enacted? No.

SECTION B.—COMMITTEE AUTHORITY AND TYPE

12. Specific establishment authority: (If by law, cite U.S.C.) P.L. 98-183.
13. Effective date: 11/30/83.

SECTION C—COMMITTEE ACTIVITY DURING FISCAL YEAR

17. Number of meetings: A. Open: 4. E. Dates of all meetings: 1/19/85, 3/9/85, 6/1/85, 8/3/85.

SECTION D—COMMITTEE COST

	1985 estimate	1985 actual	1986 estimate
18. Description:			
A. Compensation:			
(1) Non-Federal members	0	0	0

	1985 estimate	1985 actual	1986 estimate
(2) Federal members (Prorated salary if in excess of 10%)	0	0	0
(3) Federal staff (Prorated salary if in excess of 10%)	\$12,100	\$10,925	\$10,816
(4) Nonmember consultants	0	0	0
B. Benefits (Multiply the sum of items 18A(2) and 18A(3), above, by 10% to 14%)		1,202	1,190
C. Travel and per diem:			
(1) Non-Federal members	1,700	1,580	1,564
(2) Federal members	0	0	0
(3) Federal staff	200	1,000	990
(4) Nonmember consultants	0	0	0
D. Other (rents, user charges, graphics, printing, mailing, etc.)	5,600	7,930	7,851
E. Total	19,600	22,637	22,411
19. Federal staff support years (Express in person-years using decimals to the nearest hundredth (e.g., 0.00). Figure should correspond to dollar cost in Item 18A(3), above.) .....	.09	.32	.32

SECTION E—COMMITTEE ACCOMPLISHMENTS AND JUSTIFICATION

20. Utilizing information gathered on the availability of athletic resources and programs to female high school students, the Committee designed a research project to inform the Commission about the degree to which high schools in the State provide equal educational opportunity for all students. Information collected by the Committee was used to produce an annual status of civil rights report to advise the Commission about civil rights issues and developments in the region.

APPENDIX 2—MATERIALS SUBMITTED BY TOM PUGH

ANNUAL STATE ADVISORY COMMITTEE CHAIRMEN'S CONFERENCE, U.S. COMMISSION ON CIVIL RIGHTS, WASHINGTON, DC, JUNE 26—JUNE 28, 1985

(Report submitted by Betty Babcock)

Wednesday, June 26, 1985

ADDRESS BY THE HONORABLE CLARENCE M. PENDLETON, JR., CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS

I would like to share with you some of my remarks—some things that I have been saying lately and then a little about where I think you are, and where we might be with you. Twenty-one years after the passage of the Civil Rights Act in 1964, the debate over what Congress intended still rages. During the longest debate in the Senate's history some 84 days, the underlying question was, is the intent of Congress to provide by this Act equality of opportunity or equality of results for the system.

Those arguing the equality of opportunity side which included many of today's leading civil rights organizations and leaders, were led by Senator Hubert Humphrey, and he assured his colleagues time and time again that group preferences were not to be tolerated. There is nothing in Title 7, he insisted, that will give any power to the Equal Opportunity Commission, or to any Court to require hiring, firing or promotion of employees in order to meet a racial quota, or to achieve a certain racial balance—that bug-a-boo has been brought up dozen's of times, but is non-existent.

The opposition believed that the intent of the bill might have been to mandate equality of opportunity, the effect would be equality of results, as interpreted by the enforcing agencies of the government. Certainly the Act was passed to substantiate the rights of blacks. However, Bill language insisted that race, color, religion and national origin were to limit no one's rights, and the Act follows the language and the spirit of the 13th, 14th and 15th Amendments to the Constitution.

It spoke of citizen's, individuals and persons—not blacks, not hispanics, not native Americans, or any other group that might be subject to discrimination. I quote, "In view of the Constitution in the eye of the law, there is in this Country no superior, dominate ruling class of Citizens. There is no cast here. Our Constitution is color-blind and neither knows or tolerates classes among it's Citizens. In respect of Civil Rights, all citizens are equal before the law, the humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings, or his color when his civil rights is guaranteed by the supreme law of the land."

American's thought that in 1964 that the eloquent words spoken by Dr. Martin Luther King, Jr., were now and forever more cast in stone—all people were to be judged by the content of their character and not by the color of the skin. America was thought to be well on its way to being a color-blind and gender-neutral society, and we were the envy of the rest of the world—a world that continues to watch, evaluate and copy our answers towards this goal. To believe that the last 21 years can be characterized as a period in which the color-blind society has been obtained, is to be sadly and grossly mistaken. The massive societal consensus that demanded the passage of the 1964 Civil Rights Act began to break down in the 1970's. The majestic national river began to break down into little racial and ethnic creeks, making the United States less a nation than an angry menagerie of factions scrambling for preference. It was in the 1970's when something quite unexpected happened, and what happened was the quick implementation and expansion of methods of enforcement of new legislation and executive orders that required local, state and federal authorities, major private employers, public and private institutions of higher education and any other institutions that were recipients of government funds, or government aid, or subject to government regulation to pay increasing attention to race. It was now necessary by decree to count how many of each government designated minority group were recruited, interviewed, trained, hired, admit-

ted, served, and/or enrolled. Twenty years later, it is still necessary to count noses to determine if there is discrimination. Equality of opportunity, so ardently fought for and won in 1964, has given way to equality of results through bureaucratic devices. What does all of this mean to you—why do we have you here today and tomorrow and the next day? We need your help in developing and promoting and implementing non-discriminatory public policy where people are judged based upon their merit, and where there is opportunity for all and preferences for none. Your record of participation as indicated by the roster here tonight, lets all know we picked the right group of people to help America to develop non-discriminatory public policy. You're lawyers, you're researchers; you're business people, you're everyday folks, and most of and what's important is that you're Civil Rights activists, and we need you to help us to carry out our mission. In no way, in spite of what the papers say, in no way do we want to muzzle our state advisory committees. We expect diversity of points of view, we expect good debate, we expect you to talk with one another, after you finish at one another; and come to some consensus about what are the issues that affect your states as they begin to affect this country; and undertake some of the same kind of roles and functions we undertake of monitoring, study, research, with our support and with our help. We need you to be the eyes and ears of this country's civil rights laws in every hamlet of this country, and making certain, once again, that there are opportunities for all and preferences for none.

In my travels around this country, I am disturbed by the kinds of things I see especially in major metropolitan areas, that seem to be going into the non-major metropolitan areas, and one that I am most concerned about is the high school and public school drop-out rate. One cannot take advantage of opportunities that have been created by civil rights laws and civil rights regulations, when one is not trained and not prepared.

In Chicago the drop-out rate for hispanic kids I understand is about 52%; for black kids it ranges over 60%. Then we get to the point in this country where one wants to substitute race and gender for standards, and that just doesn't work. Ask the folk in New York City about policemen's examinations for promotions to sergeant. They had to race-balance the work force of recruits several years ago. Under consent decree. Then came the time when the promotion to the rank of sergeant was 3% of blacks, 5% of hispanics, and some higher rate of whites passed the tests—and everybody cried discrimination. The test is discriminatory, and they spent millions of dollars getting what they thought a discriminatory-free test and the NAACP and the Mexican-American Legal Defense Foundation decided that the test was O.K., and what happened? The results were the same. This country will not become great while we try to balance the work force based upon race and gender and balance the work force on the backs of people who have been unprepared. What happens about those who are prepared? It is a shame that some 21 years later that a lot of us do not know if we made it on our own or because of some preferential treatment taken.

This country allows us to excel based upon our creativity and our imagination and our initiative. Finally, let me say to you, there where people in those all-black schools that demanded that excellence, and as Tom Soul writes, "my high school produced 27% of all black Ph.D's in America as of 1954, and we passed all of the white-folk's tests to go to college." Many other black and hispanic kids have done that. Until we return to that kind of excellence, where people get prepared to take advantage of opportunities created by those who marched and died and fought and preached and cajoled and pushed people in the 60's, we're in trouble. Affirmative action has got to be re-evaluated. We need you to help us in that re-evaluation, and definition process.

As Langston Hughes said, as I close, in his poem called "Freedom"—"Freedom is just the frosting on someone else's cake, and so must be until we learn how to bake it." Thank you and have a good two and one half days.

Wednesday, June 26, 1985

REMARKS BY THE HONORABLE MORRIS B. ABRAM, VICE CHAIRMAN, U.S. COMMISSION ON CIVIL RIGHTS

In the course of a lifetime, one finds that so many comrades in arms feel that you are out of step or you feel that they are out of step, it behooves any sensible or sensitive person to try and analyze the past and look at the present very carefully. That caused me today to spend most of the day on airplanes, writing out something I very seldom do—the remarks I would like to make tonight, because I try very hard

to unravel the puzzle, and I think I have done it to my satisfaction to some degree of precision.

In the mid 40's until the mid 70's, the Civil Rights movement grew into a broad coalition, united by moral principle and a shared vision of an American society without racial discrimination and with equal opportunity for all. A lot of people in this room were with me when I joined that movement with those goals. Then the movement, as the Chairman said—cracked, with many elements, including the one with which I was associated, alienated from some of the others. Now, I have searched for the core issues which have divided the Civil Rights movement, to identify which parties adhered to those great uniting principles, and which, if any, had departed. Professor James Lunstein, who is the Chairman of the Tennessee Commission, of Vanderbilt Law School, has characterized the current debate as between advocates of fair shake, and fair shares. Between the supporters of equal opportunity for all, they are the fair shakers, and those who believe in equality of result—they are the fair sharers. Now it was as an advocate first, and then a lawyer for the equal franchise in Georgia, that I joined the Civil Rights Coalition there. Then in the late 40's, all of us, blacks and whites, whether or not identified with desegregation, opposed policies of government which denied citizens at equal franchise, by either a weighted ballot, that is the county unit system in Georgia, or mal-apportioned, congressional or legislative districts. In terms of the fair shake/fair share analysis, all of us, who are for an equal franchise, were fair shake advocates. And those who would deny blacks any vote, or city folks and labor union members, a full franchise in Georgia, strongly resisted us fair shakers or equal opportunity characters on what they said were fair share grounds. From the view point of us fair shake liberals, the fair share defenders of the status quo, we said was unprincipled and were operating purely for their own selfish advantage. The fair share advocates were strictly a result oriented group, wishing to restrict blacks from participating in direct elections by the franchise as long as they could, and maintaining legislative and congressional directives composed so as to elect representatives favorable to their political views. Today's advocates of the fair shake models of civil rights are the legitimate heirs of a long and respectable American tradition which the Constitutional Convention of 1787 set forth in eloquent language, "dealing and opposing government preference for any religion," because then the issue which had divided the English and Colonial societies was religion. The founders, then of the American Republic were determined that our Constitution be blind as to religion.

Equal rights for citizens with government preference for no proof is thus a tradition as old as the Country, and which until the mid 70's was the guiding principle of the Civil Movement. Segregation, white supremacy, and black disenfranchisement levied a terrible political cost on black people. The affects of which are still present, showing up in less than proportionate registration and less than proportionate voting.

Fair shakers measure by equal standards. Fair sharers, or the result oriented people, on the other hand, are not satisfied with the results of the equal opportunity model, though for years they said that was all they wanted, yet the fair sharers cannot claim foul when an unqualified individual is denied an opportunity—they can't do it. So, now they redefine justice, so that it is no longer an individual plan, but is a goal measured by the results experienced in groups. Though individuals may vary in qualifications, diverse do not. To administer this new and defined group justice, it becomes necessary to abandon color-blindness. Judge Damon Keith of the Sixth Circuit Court of Appeals, writing in a law review of 1983 said this. "We cannot have representativeness, if we are color-blind, and we cannot have justice without representativeness." A civil rights staff attorney made a similar point to me in a 1981 letter, concerning the dismal results experienced by certain minorities on a 1980 civil service examination. This is what this brilliant lawyer wrote me, "Suppose that a hundred whites and a hundred blacks applied for 50 jobs in the federal civil service—including tax examiners, museum curators. If there was no adverse impact in examining procedure used to select for those jobs, we would expect to see 25 whites and 25 blacks hired. Justice on these principals cannot be color-blind, cannot be measured by equal opportunity, but is a color-coded group right, result oriented, and often violative of the individual rights of persons more qualified, more deserving, and actually maybe more needy. If the fair shaker system is justice, it is a type which is unknown previously to the American system. It is a prescription for government by group power and job sharers, and it will be one thing for sure—it will make a divided American society."

The fair shakers predicate is that white males, even the millions who have never finished high school, are the undeserving mandarins and exploiters of all others, and the fruits of their exploitation must be run from, regardless of the fact that Mr.

Justus Stewart said in a recent case, "79% of people who earn less in 1976 than \$5,000.00 a year were white." This ringing out from white males, their exploitation, the fair shakers say is the purpose of the Civil Rights Act. My fellow commissioners, and I honor them for candor, Berry and Ramiriz said it in recent documents that we published, "The Civil Rights laws were not passed to give Civil Rights protection to all Americans, as the majority of this commission seems to believe." I believe that with all my heart, and there we divide. They are entitled to their point of view, and I am entitled to mine and you're entitled to yours. The next few days I hope that the words of the Chairman will be discussed and analyzed and we will together try to find how we can do our parts to make this a country of equal opportunity for all, and special privileges for none, and to get rid of discrimination, but do it in the name of the Civil Rights Act, the language of which is clear as a bell.

Thursday, June 27, 1985

STAFF DIRECTOR'S REPORT: "THE SACS AND THE COMMISSION"

First let me contrast the present with the past. You probably know that the old commission considered itself as the cutting edge of the Civil Rights movement. It was also its credit to be in favor of Civil Rights, and I think it was not to its credit to be considered part of the movement. It was a very big price to pay for acceptance into the movement, and that price was the commission's independence. That way, in later years, the commission has become a mouthpiece for the movement. Its reports repeated that time and time, and time again, no matter what the subject, its line was always the same, the old commission was nothing, if not consistent. It was that America was, at its core, a racist, sexist society. It was that racism, sexism was the cause of all significant differences between ethnic and racial groups. It was finding that the federal government must close these gaps by whatever means proved necessary.

A report entitled, "Employment, Underemployment in Blacks, Hispanics and Women," issued in 1981, as in another report, "Social Indicative Report of 1978", both of these reporting on the economic conditions of blacks, hispanics and women, had not a single discussion of the terrible problems of teenage pregnancies and unwed mother's in the black community. This failure to discuss an important issue simply reflected the prevailing view of the Civil Rights Movement at the time that any discussion of any facet of a problem, over which individuals or communities had some control, was an exercise in "blamed victim". The approach of the new commission is not the mindless opposite of the old commission. We do not dismiss discrimination, as an explanatory factor, though, if truth be told, we do think it likely that court decisions, and equal opportunity laws in the 1960's have at least some affect, so that discrimination is less effective today than it was 30 years ago. In our research, we do not even assume that much. To do that research we have made every effort to bring on board the best researchers available, people like Dean O'Neill, who will be speaking later this morning, who is directing our income differences project, and others. In addition to full time and part time people who are directing projects, we are also using nationally known consultants. The idea is to do as sophisticated research as possible as objectively as possible. Not only the research studies are conducted with this view in mind, but in addition, the hearings and consultations are conducted in this manner. The consultation which was held last year on comparable worth was in marked contrast to the kinds of consultations which have been held in the past. At that hearing we had prominent experts on every aspect of comparable worth. What distinguished this consultation is the fact that we had an equal number of proponents and opponents on comparable worth. There was a panel on the legal aspects of affirmative action. Every single one of the members of the panel represented an advocacy group. Those groups should be represented in any consultation or hearing on affirmative action.

So should the other side as well, and we are making effort to present and to plan balanced hearings and consultations. This raises the question in my mind as to what the roles of the state advisory committees should be over the next two-year period. Should they consider themselves to be mini-commissions. Personally, I think that would be a mistake of the highest order. The fact is that the resources for the sophisticated kind of research we are now conducting at the commission, is simply not available to you in the regional offices. We have a few exceptions. We do not have top-flight researchers in our regional offices, and we don't have the computing facilities, that we do in Washington, so my advice as far as the research is concerned, research will be done by staff not by experts who happen to be members of the state advisory committee. My advice regarding the research which has to be done by staff, is to keep it relatively simple. A good rule of thumb might be, not to

ask staff to do any research that you would not be capable of doing yourself, if you had the time. Frankly I would make one more precautionary remark, which is that I think that it is important that the committees realize that their reports, which are going to be forwarded to the commission for review and approval, and therefore they have to be vigilant in making sure that those reports are bias free. Given the best will in the world, which I presume and expect from our staff, old habits are hard to break. One thing that I think that the new state advisory committees ought to do is to insure that it reports carefully both or all sides of every issue which are studied. As much as possible, staff should be providing you with information for you to analyze, and helping you to put on meetings, forums and conferences, where knowledgeable, people, if not experts can speak to you and to the public.

Two very good examples of this kind of activity have recently come to my attention. One is a recent conference held on voting rights, held by the recently chartered state advisory committee of South Carolina. Another such activity that I have been informed of is the series of forums which is being planned in the state of Florida. It seems to me that reviewing what it is that the state advisory committees can and cannot do as far as the research is concerned, is that there is simply no way of imitating what goes on at the commission, but as far as forums and meetings are concerned, there is no reason in the world why those forums and meetings can't be as good as anything that we put on in Washington, D.C.

A final thing which I want to address is a question which was raised last night and which was raised in the media recently: First, as you must already know from your experience at your meetings, we have made no attempt to fill the state advisory committees with people who will tow a new line. That was not the purpose in rechartering the state advisory committees and finding new people to serve on the state advisory committees. Each state advisory committee represents a diversity of opinion on civil rights issues, and that is as it should be. Second, we do not have a master list of acceptable issues for you to investigate and to study. We think that you should, and encourage you, to study any civil rights issue which you are interested in, so long as that issue is within the jurisdictional bounds of the commission.

For discussion of the jurisdiction of the commission, I would like Jay Mann now to speak to you.

Thursday, June 27, 1985

GENERAL COUNSEL'S REPORT: "JURISDICTION OF THE SACS"—JAY MANN

Let me start briefly with a few words on what the Office of General Counsel actually does. That office has two basic responsibilities. The first is that it provides legal analysis of current civil rights issues and cases to the members of the commission. The second responsibility is that we have the primary task of conducting hearings with respect to various issues that are selected by the commission. For example, last month the commission held a hearing on the issue of the severely handicapped newborn. We refer to it as the "Baby Doe" hearing. At that hearing the commission heard from various panels over the course of 2½ days. The panels came from various groups of doctors and advocacy groups and parents of children who had experience with the Baby Doe type of problem. Every effort was made to present a balanced group of witnesses on each panel to hear pros and cons on different facets of the issue. The Office of General Counsel was responsible for getting all of the witnesses to show up in Washington. The topic of the Baby Doe hearings brings me to the second issue that I wanted to speak about, which is the jurisdiction of the commission. The Baby Doe hearing is a good example of the type of issue that the new commission is getting involved in—which is not possibly the kind of issue the old commission would have wanted to hear about, I think. I think you should infer from that that there is a new approach in trying to reach out to new issues. I think that civil rights is a thing that all Americans have, not just certain groups; and as a result of that I'm fairly reluctant to stand here and tell you a list of issues you should or shouldn't study. Let me just give you the general guidelines, which is the law. 42 U.S.C. § 1975(c): The commission shall investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote, and have that vote counted by reasons of their color, race, religion, sex, age, handicap or national origin, which writing under oath or affirmation shall set forth the facts upon which belief or beliefs are based.

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

3. The commission appraise the laws and policies of the federal government with respect to discrimination or 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.

4. The commission shall serve as a national counselor in respect to (the list I just gave).

5. The commission shall investigate allegations made in writing or under affirmation that citizens of the United States are unlawfully being denied the right to vote or to have their votes counted in any election of the Presidential electors, members of the United States Senate or the House of Representatives, as a result of any pattern or practice of fraud or discrimination.

So that's basically it. We want to encourage all of you to undertake the sorts of projects you are interested in, and we think that you can do a great deal within the jurisdictional boundaries I just read to you. I will just make one further point about how the jurisdiction works. When you begin to undertake a project, you have to have at least some sort of a reasonable belief that there is some sort of discrimination, a denial of equal protection occurring. That does not mean that after you have conducted your study and looked into the facts of the issue that you have to conclude that there was a discrimination or denial of equal protection of the laws. All that I am saying is that as a threshold issue, there must be more idea that there might be a problem here. You do not have to conclude at the end that there was a problem. That type of conclusion is not necessary for you to have the jurisdiction to undertake the inquiry to begin with. That is an important point.

The last thing that I want to say is that when you come up with new ideas as a result of the first meetings that you have just had, or as a result of further meetings and discussions with your new committees, you should consult the regional staffs with respect to whether you have the jurisdiction to undertake the projects that you want to. They, in turn, will consult the Office of the General Counsel for advice on these jurisdictional issues.

In summary, I want to say that we do want to harness what obviously seems to be the energy, the intelligence, and the enthusiasm of this group of people, and I don't really want to be in the position to tell you how to channel the things you want to look into. We are here to help and to basically keep you within some sort of ballpark, but not to dictate any sort of agenda for you.

Thursday, June 27, 1985

PANEL DISCUSSION—"WOMEN'S ISSUES FOR THE 1980'S"—DR. JUNE O'NEILL, PROJECT DIRECTOR, U.S. COMMISSION ON CIVIL RIGHTS

Many statistics are very boring, but some statistics have a life of their own, and I think that one such statistic is the wage gap between women and men. It appears on buttons that many people wear—it says "59%", mean that women earn 50% out of every dollar that men earn. There is hardly a day that it doesn't appear somewhere in the media. It figures often in campaigns, and it is also the subject that concerns economists who have studied it.

One thing is that the 59¢ is really not correct. It refers to the ratio or to the annual earnings of women compared to the annual earnings of men in 1977. If you used the hourly rate today, there is a gap of about 28% in hourly earnings of men and women. Since 1980, although the wage gap had not changed for many years, since the early 1950's, the wage gap was about 40% different between men and women.

Recently, since 1980, there has been a sharp narrowing in the differential. I think that they are the same factors which explain the earning differential. That is, that women and men differ considerably in work experience and other factors that affect earnings. You can't talk about two groups without talking about differences in their work characteristics. During the past World War II period, women entered the labor force. There was really a profound occupational change for women, from being full time homemakers to really having a dual career, working part of the time in the home and part of the time for pay in the market. That meant, however, as more women entered the labor force, there were more women who were less experienced. Also, as it turned out, relatively less well educated, compared to women who had been in the labor force in the 1950's. In the 1950's, the labor force was dominated to a much greater degree than it later was, by single career women with a considerable education. The average education of women in the labor force in the 1950's was close to two years more than the average education of men. As a larger number of women entered the labor force, they were drawn from a less educated group, who

were married women who had less work experience, and the differential tended to widen.

Recently, all of the factors have been reversing. Enrollment in college for women has been increasing, while enrollment for men has been falling. Younger groups of women have gained in education, relative to men. Work experience of women is beginning to catch up to the work experience of men, particularly for the younger groups. In the younger groups the differential is smaller to start out with. In college students in recent years, there really is no differential at all.

Nonetheless, there is an earning differential that is on the order of 28%, without adjusting for any work experience or any factors like that. Using the 28%, if you can explain about half of the work experience, you arrive with a differential of about 14%. There are two possibilities. One relates to discriminatory factors that can explain it, and there can be nondiscriminatory factors that can explain. Of the non-discriminatory factors, it could be that there are differences in men and women which have not been measured by data. Differences of subjects taken in school may be a nondiscriminatory factor. Another factor would have to do with location and hours to which women may be tied. If women have a dual career, it is likely to affect the number of hours they have to devote to a career. Women work about 25 hours a week in the home, and their husband's work less than half that amount of time. Women, therefore, would have less time to devote to a career and to seek higher paying jobs. Women who have dual careers are generally unable to work as much overtime, or weekends as men. This would affect the types of positions they are available for.

There are discriminatory factors which could explain the differential between women and men, and those are the following: One is equal pay—the old fashioned type of discrimination is what usually comes to people's minds. I don't think that this accounts for any measurable part of the differential between men and women. Another form of discrimination would have to do with differences in the jobs. Men and women are in different jobs and occupations. To some extent it is true that the different jobs and occupations can explain the wage gap. Many women can't meet the hourly requirements of many industries, such as the construction trade. In the labor market, women undoubtedly have had some troubles in respect to promotions and entering managerial jobs. Women, many times, have to leave the labor force to raise a family, and this would make managers less likely to invest the training on women. Another factor is the stereotype discrimination of who can and can't be a boss. Comparable worth proponents have brought up a different type of discrimination other than those previously mentioned. That is, the underpaying of a whole occupation, simply because women are in those occupations. That is the basis of the comparable worth contention. If you look among women, those who are in predominately women's occupations do tend to earn somewhat less than women who are in mixed, or male occupations.

Also, it could be that non-discriminatory issues are affecting differentials at different times for occupations; for example, if large numbers of women are entering the labor force, and entering particular kinds of occupations, wages would be driven down for a period of time, and there would be a tendency for that to correct itself. However, there is certainly no evidence that predominately female occupations, for that reason alone, earn less than other occupations. But, comparable worth does address itself to that type of discrimination.

Comparable worth followers address this type of discrimination by saying that changing the way the wages are set will remedy the situation; because, the market place, left to its own devices would produce a discriminatory situation where pay in occupations that are predominately female are less than others. Therefore, we have to use some other mechanism to determine what occupations should be paid. That mechanism has been in all comparable worth cases or situations. Firms are questioning, what is the least that I can pay to get the most qualified people that I need to work for my operation.

It is sometimes said that comparable worth would solve the feminization of poverty; that is, women in poverty tend to have low levels of occupations and skills. I think that comparable worth does not make a great deal of economic sense, and I really do not see it as a way of addressing any of the real concerns of women. The problem is that women are having trouble gaining access as managers, or chemists or engineers. I really don't think that it will help to raise the wages of secretaries or librarians to achieve this. It really doesn't make good sense. I really don't think it addresses the issues of discrimination.

Thursday, June 27, 1985

"WOMEN'S ISSUES FOR THE 1980'S"—PROFESSOR BRIGITTE BERGER DEPARTMENT OF SOCIOLOGY, WELLESLEY COLLEGE.

Comparable worth has social roots, social meanings, social functions, and if enacted, it will have social consequences. For me it is very important to take the comparable worth issue of its' economic circle and locate it within the larger context of society.

My work in sociology involves taking often rather volatile, complex phenomena and relate them back again to individual actions; and then we can see that these individual actions have given rise to the phenomena in the first place. Now, what that means in terms of comparable worth is very simple. If we have anything to contribute as sociologists, we can show a number of things that really are at issue. Let me try to tell you what we can show easily and what we cannot show easily.

We can, I think show that the values, the hopes, and the expectations of ordinary women in American Society, are quite different attributed to them by proponents of comparable worth. I have used this kind of method which I have just described, and I think in the past year and a half I have come to the conclusion, and a very firm conclusion at that; that first of all the comparable worth activists have a very different gender from that of the wage majority—ordinary men and women. Secondly, what is really at issue, we are trying to locate the roots of the comparable worth movement, and with that the social roots of its proponents, and what really moves them. With this kind of method, which I think is responsible sociology, I can explain many more things. But, I will not bother you with these here. Let me just mention some which interests me at this point, very much.

Why does comparable worth get such a good hearing in the press, and the media. Why is it judges and why does the general public have such a weak spot towards this sort of strange proposition? I think I know, but it doesn't concern this commission. I think what is important to this commission is that most of the data which I have collected and which I have seen, clearly shows that the comparable worth proponents have a problematic research approach. That is an approach which collects data, out of context, and then leads it to rather erroneous conclusions. I do think that the premises on which comparable worth rests, is very much at odds with American reality. I think the problems with their research are that they revolve around the question of the meaning of work for women. Here, the activists of comparable worth attempt to make these major mistakes. First of all, they have a tendency to ignore the factor of life cycle. It is easily understandable that women, at different points in their life cycles, have different types of work and expectations. Secondly, comparable worth proponents tend to ignore the social cast issue. You don't have to be an expert to understand that middle class women have entirely different perceptions and expectations of the labor market than lower class women do. The most important factor, that comparable worth advocates tend to perceive of women, is one category. Women are no such thing. A small segment of women find their life's fulfillment in a career. Those who are totally dedicated to their careers don't have the problem of the wage gap. There is another segment, again a very small one, that can't do anything but participate in the race in the labor market. By far the vast majority of women, and the third category, these are the women who want to combine work with family life. It is this category that is of issue in the comparable worth argument. It is these women whom the comparable worth proponents have entitled "the pink collared ghetto".

All of my data, beyond any doubt, show that these admissions of the advocates of comparable worth indicate the most serious plot, mainly, the disregard for the importance of the family, and the lives of American women. Mainly the disregard for the influence of family life upon women's earning capacity, as well as upon their selection or choice in occupations. There is absolutely no doubt that American women are committed to entering the labor market and to stay in the labor market, but they are even more committed to having families. Some observers of this situation may applaud these rather old fashioned ways and practices—others may deplore it. My sentiment is that the simply reality is that this is what American women have done and continue to do, which I find fascinating.

Women have a double commitment. When you look at the statistics, in 1960, 14% of married women were in the labor market. In 1970, 50%; and by 1981, 62% of married women, with small children, were in the labor market. Millions of married women in the United States went to work, by their own choice, in order to supplement the family income. Although the primary allegiance of these women is to their families, there is no questions that their idea of what constitutes a good family life

requires the household economy of two wage earners. It is for that reason that they are engaged in what I call a rather heroic act of balancing the demands of work and demands of the household. They have been drawn to the opportunities of part time work and flexible hours work. Teaching, Nursing, clerical work and types of jobs at issue under the comparable worth debate, and are precisely the types of jobs that the "pink collar" workers are drawn to.

The bottom line, to my mind is, that the wage gap between the earnings of men and women is not simply due to wage discrimination. There are very powerful other factors at work, and most of the factors have very little to do with discrimination, but involve individual choice. I think that that is the issue which concerns this commission—the issue of choice. I would say that the claim that pink collared jobs discriminate against women, and that the government is obliged to enter into the issue, and determine the comparable worth of these jobs, is to my mind biased. What does sex discrimination mean—it means that women have made choices that are different from that of men. I would further claim that women are very well aware of that fact. After all, women are not dumb, and they are not ignorant. I would say that because they choose because of their larger life plans, they have made the choices themselves.

Some advocates today speak about psychological factors at work. The will to fail is one big argument, that compels them towards the lower-paying, pink-collared jobs. I find these theories to be interesting, but not relevant here, in my mind. What concerns sociology more is to ask why they have chosen these careers, and take their answers seriously. In our modern, western democratic societies, women have many more choices than they ever have had before. I would further argue that women have more choices than men have. Surely there are very few men who can choose to be housewives, and there are certainly no men who can choose to have children. I would then argue, the problem for American women in society today is not a shortage of choice, but rather many choices. Liberty does not come free—it always has its costs.

What is the role of the government in all of this? I think the most important role is to guarantee that the women do have real choices; and what I'm trying to get across here, is that no one, including the government and comparable worth advocates should have the right to superimpose their choices upon the rest. The issue, then, is basically this, that the priorities of some women should not become the priorities of all women. And again, to my mind, when it comes to comparable worth, it seems to me that American women, by their actions, as demonstrated in the job market, have clearly shown what their choice is.

What I want to talk about here in my last minutes is the subject of language, because it opens up a whole new dimension of debate. I think it is of utmost importance to understand that, in all matters of public discourse, language is used as a weapon. In coining the term "pink-collared ghetto", proponents of comparable worth have fashioned a powerful tool to influence public perception. Of course the public perception should go to their favor. At the same time, the users of the term "pink-collared ghetto", provides us with some revealing clues as to what is really at issue in this debate. To my mind, this debate has much less to do with economic equity, and the interests of American women, rather with the attempt of a small group of feminists who try to impose their vision upon American society. I think the term "ghetto" in America suggests the black situation. In linking the comparable worth issue to the imagery of the black ghetto, feminists try to make the claim that the situation of the women in America is analogous to that of blacks. In doing so, they hope to capture the moral appeal of the Civil Rights movement, for what they hope is going to be a new movement. To my mind, again, this is very inappropriate to compare the situation of American women to that of American blacks. Let me be quite clear about one thing, comparable worth is quite a middle-class preoccupation. Whatever the situation of American middle class women is, it certainly cannot be compared to the situation of American blacks. American middle-class women are perhaps the most privileged group of people in the world, and to insinuate that their lives can or should be compared to those of inner-city blacks seems to be preposterous to me.

Use of the term comparable worth, when you start to take it apart, in the end it doesn't mean comparable worth at all, but what it talks about is preferential treatment. If comparable worth is anything, it is the preferential treatment of certain kinds of jobs.

Friday, June 28, 1985

"THE REAGAN ADMINISTRATION CIVIL RIGHTS AGENDA." TERRY EASTLAND, DIRECTOR,
OFFICE OF PUBLIC RELATIONS, U.S. DEPARTMENT OF JUSTICE

What I thought what I would do is try to share with you, in the course of 15 or 20 minutes, what the administration's policies are, and what we have been doing regarding civil rights.

Civil rights has come to implicate so many subjects that we may feel somewhat responsible for almost everything we do in the administration. However my whole area of knowledge is primarily the Department of Justice—that's where I have been for the past two years, with the exception of several weeks spent at the Department of Education. However, as all of you here are quite well aware, the federal government has quite a few statutes regarding Civil Rights, and many of the federal departments and agencies have enforcement responsibilities, including the Department of Education, the Department of Labor and the Department of Transportation, to name just a few, and of course, the EEOC.

This morning I would like to focus on just the Department of Justice and what we have been doing in particular. Toward that end, I thought I would begin by going over some of the areas, and what we have been doing, just to try to give you a sense of some of the vital statistics. One of the areas in which we have been particularly active, has been in the area of criminal Civil Rights violations. This is an area in which we have been especially concerned since 1981. We have been more active in this area than in any previous administration. The area deals with racial violence, police misconduct, the abuse of aliens and migrant workers. We have brought 195 criminal civil rights prosecutions. The way our process works, our criminal section, as well as the U.S. Attorney's offices, screen about 10,000 complaints a year.

It is after this screening process that the FBI then will conduct investigations, and we routinely investigate I think 3,000 to 3,500 investigations each year. It's probably hard to make this a reality as to what we are doing by describing a case or two. One of the more dramatic instances of what the federal government can do and what we have done occurred a couple of years in a case involving a jazz musician, who happened to be black. He was in Kansas City, and was playing his instrument often at night in a city park, he happened to be accosted one night and was beaten and clubbed to death. The authorities there tried to prosecute those who did this, and they were acquitted of those charges. We were able to go in behind that and charge the individual and he is now serving a sentence of life imprisonment. Again, this is what the federal government is in the unique position to do—it is able to go in and see that justice is done. That is one example of our efforts in criminal civil rights hearings.

Another area of our responsibility is dealings with public employment. Sometimes people think that the Justice Department deals with all the employment cases. We do not, or least we don't have primary responsibility. We have primary responsibility for public employers, that is, government entities, state and local governments, i.e. police departments and fire departments, county governments, city governments, and not private employers, though we do get some private employee cases which come to us through other channels. In this area we have intervened since 1981 in 54 suits. This compares, favorably, to previous administrations, which had a level of activity which was comparable to 51 cases, 10 of those being court-participation. We don't know for example, how many violations total there happen to be in the country. Nonetheless, we have been as active as the previous administration has and I would like to point out several things that we have done in these cases. Our approach in each of these cases is to ask several things when we find a violation. The first, of course, is an immediate halt to all discriminatory conduct on the part of the employer. The second is that we want to see each individual put into the place where he or she would have been but for the discrimination. This has been the relief for individuals who have been subject to discrimination.

As well, we seek back pay. Here again, the effort is to find out how much pay might be awarded to a particular individual. Very importantly in this area, we have been seeking affirmative action, we have been seeking to make a difference in the personnel employment practices of the public employer. We are trying to make a permanent change, but as you all know in prior administrations, there was often an effort to use goals or quotas, in any event numerical devices. We have not sought that as a remedy for discrimination. The goals or quotas we believe are often temporary expedience. Most often, this is only a temporary expedience and we will abandon it at some point. It is often the easy way to go, just to pick out by numbers and by race, but we believe in making a permanent impact on the work force, and we

can do that by not going the easy route, and what we judge to be the moral route, but rather to go directly to the employment practices and try to change those. We insist on recruitment tests and try to seek out every individual who might be interested in the particular jobs which might be available. We have been trying to make sure that employers make this recruitment effort.

This again, is the basic facts and figures in the employment area. The other area I would touch on briefly is the voting rights area. As all of you are quite well aware, we have the authority in the Justice Department of enforcing the voting right, which was enacted in 1965, and then amended in 1982. We have several different types of enforcement activity and responsibilities under the act itself. Under Section 5, we must review the submissions by each of the covered jurisdictions in the country—the counties, the states, the cities.

Whatever changes they wish to make must be cleared through the Justice Department. We have had a tremendous volume in the Section 5 area. We have looked at 50,322 voting changes. We happened to object to the implementation of 266 of those changes. We are also active in the area of the new amended Section 2, where we have been involved both defending the act and enforcing the act. There is a unit of lawyers who have been very active in that act.

Let me move to the public education area. This is one area in which our filings are probably not as impressive in numbers as in some of the other areas. Many of the states where there have been problems in this area in the past twenty years have been litigated and come under court decree.

There is as well in this area, the remedies we have sought. In the area of public employment, we have tried to make a permanent change in the way in which schools approach the problem of desegregating a district. We have tried to bring about measures that would have a long-term effect.

Fair housing act is one act that we have some responsibility for. We, in this area, had an administrative problem that we had to correct early on. In the previous administration, because of some shifts of responsibility, housing cases were farmed out to the U.S. Attorneys toward the end of the Carter Administration, and were not done in our own office. It was determined that we should change that and bring the focus back into our office. The enforcement activity was slow in the first couple of years of this administration, but has been steadily increasing. In November of 1983, it was decided to reorganize our effort, and we have been well pleased with the results. During the last 16 months we have filed 29 new cases, and we have another 11 cases which need to be filed.

I might add, too, that in this area we see the need for more legislative change. We last year endorsed a fair housing bill. Our bill would give us the authority which we don't have, to sue. It would give us the ability to seek stiffer penalties for violations under the Fair Housing Act.

I would like also to talk a little bit about our responsibilities under what is known as the Institutionalized Person's Act. Under this Act, which was passed in 1980, the intent behind the act is to try and resolve problems short of going into Court.

Finally, I might add, that in addition to these areas of activities, we have in the Department a coordination and review section which works with other federal agencies—some 91 in all—in trying to develop and publish regulations that would protect the rights of handicapped individuals. We also have focused in particular on the enforcement of the Civil Rights laws as they relate to Native Americans. We have successfully challenged several voting systems in the southwest, where we believe they have resulted in discrimination.

I might add that we have an active appellant program in the Department. This is not a particularly active year for us in the Supreme Court, like last year which had a very heavy load. This is an area in which things seem to fluctuate according to what the business of the Court is.

I would like to point out several areas in which we have been enforcing Civil Rights laws. In Chicago, in this administration, we challenged the allocation of the resources within a public park system. We determined that the money was not being allocated in a fair manner. We managed to insure that the money would be allocated in an appropriate, fair manner. There have been many other areas of the country where we have instigated similar challenges.

One last thing, before I finish, there is one area of civil rights that I have a particular interest in. I feel one of the major accomplishments, we can brag about as people, was the passage of the child abuse act last year. In April of 1982, the Baby Doe case out in Indiana, and we saw considerable amount of debate regarding civil rights of handicapped newborn. The outcome of that particular case was that the infant was denied the surgery and died. The debate that followed that eventually led to the child abuse act which was passed last year. This Act will basically give

the state child protective agencies more authority in trying to make sure that there is not a quality of life standard imposed in such a manner that handicapped newborn are not treated and therefore dies from lack of treatment. I think that it is an important development. I think that there has come about a recognition in the country that these are difficult cases, but there are some areas in which we, as people, should not allow an infant who has a handicapped condition to die. It seems, too, widely agreed that we should not deny treatment to that child simply because of the handicapped condition. It seems also that we have a better understanding of the harder cases. The harder area of handicapped newborns, and that is the area involving the more severe problems. This is, I think, important civil rights activity. Handicapped newborns seem to be our most defenseless citizens, and they, too, need our protection.

PEORIA, IL, July 13, 1982.

RONALD REAGAN,
President of the United States of America,
Washington, DC.

DEAR MR. PRESIDENT: As your experience would probably certify much more eloquently than ours, some things just seem to take terribly long to do. The sending of this letter to you is one of those things. The first draft was composed in early April. Now, finally, after a tedious process of circulation, revision, and an unfortunate moment when it was alleged we did not even have the right to request a meeting with you, it is finished.

We, the signatories, listed alphabetically by state, were in April either chairpersons or acting chairpersons of our respective state advisory committees to the United States Commission on Civil Rights. We are all persons who are deeply committed to maintaining and securing the civil rights of all our fellow citizens, and we all have extensive experience in the field of civil rights. Our present or recent past roles in our respective state advisory committees testifies to this commitment and experience.

However, we are signatories to this letter as private citizens and not in our roles on state advisory committees. We respectfully request the opportunity to meet with you at your convenience so that we may inform you of our deeply-held concerns and fears.

I, the undersigned, have consented to serve as liaison for all signatories and would be pleased to receive your response to this request and to communicate that response to all the signatories.

Respectfully,

TOM PUGH.

President RONALD W. REAGAN,
The White House.

DEAR MR. PRESIDENT: We, chairpersons of state advisory committees to the United States Commission on Civil Rights, acting as individuals, express our deep concern regarding the dangerous deterioration in the federal enforcement of civil rights taking place in the nation today. Civil rights, the central issue of American history, must be reaffirmed at the highest level of our society. This reaffirmation must come clearly and without delay, and positive action must follow so that the nation may be assured that we shall not again be divided.

Our concern at the present moment is not with the politics of the day but rather with a potential crisis of a constitutional nature which has been provoked by a series of statements, interpretations, and actions that undermine the basic rights of Americans. These rights have been proclaimed and protected by the force of reason, resolution, and reconciliation since the adoption of the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution. We continue today to pay a heavy price for having largely ignored for a hundred years the intent of these Amendments.

We do not attempt in this statement of concern to argue the motives of your administration. Rather, it is the results of statements and actions of your administration that have led us to speak out. We ask that you as President assess the damage that has taken place in basic civil rights programs during your administration and that is projected to worsen. We believe that our nation, a society based on justice and decency, is in peril.

Recent events have forced us to the conclusion that the integrity, and indeed the future, of the basic civil rights agencies of the federal government are in grave doubt. With some exceptions, nominations and appointments to high positions in the leadership of the U.S. Commission on Civil Rights, the Equal Employment Opportunity Commission, and the Civil Rights Division of the Department of Justice, as well as others, are distressing. Persons without adequate professional training, background, and commitment are routinely appointed to the highest leadership positions of these vital agencies. In some instances nominations have been withdrawn because of the flagrant incompetence and inadequacy of nominees. This state of affairs in conjunction with severe reductions in the operating funds of the civil rights agencies guarantees the emasculation of vital programs and does a profound disservice to the needs of the American people.

Because of our official appointments as advisory committee chairpersons, representing bipartisan committees, we are especially concerned that the United States Commission on Civil Rights remain the truly independent, bipartisan agency it has been since it was established by Congress twenty-five years ago. It has been the conscience and prod of every President and Congress since then and it must remain so. The President's power to appoint members of the Commission, coupled with the resources that are available to the agency, determines the success of the Commission as it carries out its statutory duties.

Our state committees can give advice, if asked, in respect to appointments to the Commission of committed and capable citizens who will inform the President and Congress of the state of civil rights in America.

During the last decades of the nineteenth century, in the infamous years known as the Post-Reconstruction period, the great advances in constitutional law and social reform that were intended to create a just and compassionate society were nullified through judicial distortion, administrative acts, and violence. Historians of the future may well conclude that we have already begun a second Post-Reconstruction period; just as that first journey led to long-term disaster for much of the American people, there is every indication that a second Post-Reconstruction period will have the same dire consequences.

As President, you took an oath to defend and protect the Constitution. We now ask you to do just that. We believe that high purpose can best be served by protecting the rights of minorities, and by preventing the debasement of the institutions of law. The current dismantling of the civil rights agencies negates your oath of office and should be stopped. It is for these urgent reasons that we ask to meet with you. We hope and pray that you will address this concern.

Alabama
Arkansas
Colorado
Connecticut
Florida
Hawaii
Idaho
Illinois
Indiana
Kentucky
Louisiana
Maine
Michigan
Minnesota
Mississippi
Montana
Nevada
New Hampshire
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Utah
Vermont
Virginia
Washington

Marie Stokes Jemison
Marcia McIvor
Minoru Yasui
John Rose Jr.
Ted Nichols
Patricia K. Putman
Rudy Peña
Thomas Pugh
Lotte Meyerson
James M. Rosenblum
Louis C. Pendelton
Lois G. Reckitt
M. Howard Rienstra
Ruth A. Myers
Mary L. Ramberg
Angela V. Russell
Woodrow Wilson
Sylvia F. Chaplain
Robert A. Feder
Henrietta H. Looman
Earl D. Mitchell
Jerry F. Haggin
Grace Alpern
Dorothy D. Zimmering
Oscar P. Butler, Jr.
Marvin Amiotte
Linda Dupont-Johnson
Philip H. Hoff
Curtis W. Harris
Katharine M. Bullitt

West Virginia
Wisconsin
Wyoming

Donald L. Pitts
Herbert M. Hill
Jamie C. Ring

THE WHITE HOUSE,
Washington, August 18, 1982.

Mr. Tom PUGH,
Peoria, IL.

Dear Mr. PUGH: I have been asked to acknowledge your letter to the President requesting an appointment with him.

The President very much appreciates your willingness to meet and talk with him and would like to have the opportunity to see all who now are expressing this desire. He would be happy to meet with you, if circumstances allowed, but the heavy demands on his time just will not allow him to do so.

With the President's best wishes to you,

Sincerely,

WILLIAM K. SADLER,
Director, Presidential Appointments and Scheduling.

A RESOLUTION BY THE ILLINOIS ADVISORY COMMITTEE CONCERNING THE DIRECTION OF
THE U.S. COMMISSION ON CIVIL RIGHTS

We object to the U.S. Commission on Civil Rights' adoption of policies and rejection of projects which narrow the scope of the Commission's responsibility to study and comment on problems of discrimination in America. The Illinois Advisory Committee to the Commission favors the broadest possible interpretation of the jurisdiction of the Commission. Enough of America's problems fall through the cracks between Government agencies as it is; further retrenchment by the Commission will make matters worse, particularly in respect to Affirmative Action.

While President Reagan and his appointees to the Commission may favor reducing the role of the Commission, the Illinois Committee urges the Commission not to allow itself to be further politicized. We are concerned by recent statements by Democratic party Presidential candidates which reflect upon the integrity of the reconstituted Commission. We recommend that the Commission reexamine the direction it has taken since its reconstitution. The Commission has no business playing partisan politics, any candidate, any party.

The Illinois Committee generally agrees with criticisms which have been addressed to the Commission by State Advisory Committees from Nebraska, Colorado, North Dakota, Michigan, Indiana, North Carolina, and Kentucky. We suggest that the disappointment with the new direction of the Commission is generally shared by advisory committee members across the nation.

The Commission decision to cut the membership of SACs will hurt the Illinois Committee and committees in other states which are geographically large or heavily populated. The Commission decision to require "headquarters review" of State Advisory Committee reports prior to their release raises questions about integrity of state reports and will damage their value by making them less timely. Perhaps more important, the new system of review could be operated in such a way as to distort by censorship in Washington the independence of our grass roots committees. The Commission's simultaneous adoption of an "automatic removal" rule for State Advisory Committee members who speak "in their capacity as Advisory Committee members outside of established channels" adds to our concern about censorship and continued politicization of the Commission's work. Why cannot SAC members speak their minds as do Commission members? Why must we disclaim our positions when we speak when Commissioners do not disclaim their positions? We assume individual Commissioners and SAC members have the same rights to express their opinions as all citizens have. The Commission needs to clarify this issue of free speech.

Finally, we understand that the Commission has asked its staff to make a six-month study of SAC problems. We ask that the opinions of the Illinois SAC be included in this examination.

U.S. COMMISSION ON CIVIL RIGHTS,
Chicago, IL.

Date: August 21, 1984.

Reply to attention of: Illinois Advisory Committee to the U.S. Commission on Civil Rights.

Subject: Contract Compliance in Chicago.

To: Commissioners, U.S. Commission on Civil Rights.

The Illinois Advisory Committee submits this briefing memo on "*Contract Compliance in Chicago*" as part of its effort to inform the Commission of civil rights developments within the state.

The Committee found that state and local law require city contractors to provide equal employment opportunity, and to take affirmative action when necessary to achieve that objective. In addition, the city of Chicago is legally obligated to monitor the employment practices of city contractors to assure they meet their responsibilities under the law. However, the Committee also found that officials with contract compliance responsibilities were unfamiliar with their obligations, that current efforts were fragmented among several departments and predicated on incomplete information, and that contract compliance activities are simply inadequate for the task. Not surprisingly, the Committee found that in a sample of firms for which data were available minorities and women are underutilized in a substantial majority and that minority-owned firms obtain a miniscule proportion of city contracts.

The Committee concludes that only when the city develops a comprehensive contract compliance program will equal employment opportunity prevail among city contractors, and will minority-owned firms be provided the opportunity to participate on an equitable basis in city business.

We submit this briefing memo in hopes that the Commission will carefully consider its content in any future research it may do on this critical issue.

CONTRACT COMPLIANCE IN CHICAGO

Government contracts represent big business. The city of Chicago entered into more than 7,000 contracts totalling over \$331 million to purchase goods and services from private vendors in 1982.¹ In recent years the city has indicated an interest in using public contracts as vehicles for encouraging local economic development, creating jobs for Chicagoans, and opening up opportunities previously denied to racial minorities and women.

For example, the Chicago City Council passed the Chicago Public Works Hiring Ordinance in 1983 requiring that in all construction contracts funded or administered by the city worth \$100,000 or more, 40 percent of all project hours must be performed by city residents. This figure will increase to 50 percent in 1986. The ordinance also provides bid credits for firms that voluntarily set and then achieve hiring goals for minorities or women. The Mayor has also created an Equal Opportunity Committee of his Development Sub-Cabinet and charged it with the responsibility of developing proposals to increase minority and female participation in all city development projects. This committee consists of representatives of the following city departments: Purchasing; Public Works; Housing; Economic Development; Information and Inquiry (formerly Neighborhoods); and Planning.

The city already has a clear legal mandate to assure that all firms providing goods and services for the city are equal opportunity employers and take affirmative action where necessary to meet this obligation. However, many officials involved in negotiating and administering city contracts are not familiar with the city's legal responsibilities. Contract compliance activities are dispersed among several city agencies, and current efforts are simply inadequate for the task. Essential information for conducting a contract compliance program is not available and what information does exist on city contracts is not efficiently maintained in a manner that would permit effective monitoring. Not surprisingly, in a sample of firms receiving city contracts in 1982 that were reviewed by staff, racial minorities were underutilized in almost two-thirds and women were underutilized in over one-half of the firms. Available data also suggest that minority-owned businesses receive a disproportionately small share of city contract dollars.

This state of affairs is not inevitable. Implementation of a comprehensive contract compliance program by the city would remedy these deficiencies and assure equal opportunity for minority employees and businesses among firms receiving contracts from the city of Chicago.

¹ Data supplied by Hermine Wise, Director, Contract Monitoring and Compliance, Chicago Department of Purchases, Contracts, and Supplies.

The Legal Mandate

In 1945 the city of Chicago enacted a Fair Employment Practices Ordinance which stated, in part: "All contracting agencies of the city of Chicago, or any department thereof, shall include in all contracts hereafter negotiated or renegotiated by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of race, creed, color or national origin, and shall require him to include a similar provision in all subcontracts".²

The Illinois Human Rights Act, enacted in 1980, and subsequent implementing regulations reinforce and expand these legal obligations. According to the Act: "Every party to a public contract [which "includes every contract to which the State, any of its political subdivision, or any municipal corporations is a party"] shall:

"(1) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

"(2) Comply with the procedures and requirements of the Department's regulations concerning equal employment opportunities and affirmative action;

"(3) Provide such information with respect to its employees and applicants for employment, and assistance as the Department may reasonably request".³

The Public Contracts Sections of the Rules and Regulations of the Illinois Department of Human Rights prohibit employment discrimination among contractors and subcontractors on the basis of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or unfavorable discharge from military service. Each contractor and subcontractor is required to: ". . . examine all its job classifications to determine if minority persons or women are underutilized in any such classifications. If underutilization exists in any job classification, the contractor or subcontractor shall take appropriate affirmative action to rectify any such utilization".⁴

That these rules apply to contracts issued by the city of Chicago and other municipalities in Illinois, as well as to contracts issued by the state government, is explicitly indicated by the definition of the term "public contract" which according to the regulations means: ". . . any contract, purchase order, lease or other agreement or understanding, written or otherwise, between the State of Illinois, any of its political subdivisions or municipal corporations or any agent thereof and any other person, for the procurement of anything of service or value, such as for example any real or personal property, equipment, merchandise, goods, materials, labor or services for or by the State, such political subdivisions or municipal corporations."⁵

These rules establish specific responsibilities for contractors to assure that they provide equal employment opportunity and for public authorities, including the city of Chicago, to assure that these responsibilities are met. Contractors must submit periodic reports to the contracting agency indicating the race and sex profile of their employees in each major occupational classification.⁶ Such information must also be included as part of all bids for contracts. Access to all relevant books, records, accounts, and work sites must be provided to the contracting agency for monitoring purposes.⁷ Subcontractors and labor organizations must be notified by contractors of their obligations under the law.⁸

Affirmative action to eliminate underutilization of minorities or women is also required by these rules. Underutilization is defined as "having fewer minority [or female] workers in a particular job classification than would reasonably be expected by their availability."⁹ The critical elements of an affirmative action plan, according to these rules, are a description of the work force, which is used to identify any areas of underutilization, and goals and timetables for correcting such underutilization.¹⁰

Should a contractor or noncontractor be found in non-compliance with these requirements the contract can be cancelled or voided in whole or in part and the firm

² Chapter 198.7A, Fair Employment Practices Ordinance, August 21, 1945, Coun. J., P. 8876.

³ Illinois Human Rights Act, effective July 1, 1980, Sec. 1-103(M), Sec. 2-105(A)(1)(2)(3).

⁴ Public Contracts Section of the Rules and Regulations of the Department of Human Rights, effective September 17, 1980, Art. 7, Sec. 7.1(b).

⁵ *Ibid.*, Article 1, Sec. 1.1(13).

⁶ Art. 7, Sec. 7.4.

⁷ Art. 6, Sec. 6.1(6).

⁸ Art. 6, Sec. 6.1(4), Sec. 6.3.

⁹ Art. 7, Sec. 7.2(a)(b).

¹⁰ Art. 7, Sec. 7.3(a)-(f).

can be declared ineligible for future contracts with the state of Illinois or any of its political subdivisions or municipal corporations.¹¹

The Chicago Fair Employment Practices Ordinance and the Illinois Human Rights Act define legal obligations with which the city of Chicago and its contractors and subcontractors must comply. These are not simply guidelines for personnel practices that parties to a public contract can voluntarily choose to implement. Failure to comply with these requirements is a violation of law.

Implementation

Subsequent to passage of the city's 1945 Fair Employment Practices Ordinance, the Chicago Human Relations Commission was incorporated in 1947.¹² For several years the Commission monitored the employment practices of many city contractors, collecting information annually on the race and sex profile of each major occupational classification among 5,000 to 6,000 firms providing goods and services to the city. With a computerized data system reports were examined to assess current employment patterns and changes from previous years. These reports were also supplemented with on-site visits of selected businesses. Each year a list of firms in non-compliance was compiled. This included firms that did not report requested information, those demonstrating unreasonably deficiencies in their minority or female utilization and no evidence of addressing the deficiencies, and those submitting fraudulent data. This information was given to the Department of Purchases, Contracts and Supplies which during the 1970s disbarred from future city contracts most of the 2,500 firms that had been included on the lists.¹³

In 1979 Mayor Jane Byrne relieved the Commission of its contract compliance responsibilities and, in a 1981 policy statement, created a new structure for contract compliance.¹⁴ Under that reorganization primary responsibility for contract compliance monitoring was placed in each of the city's 17 major departments.¹⁵ Affirmative action officers were to be identified in each department and their efforts were to be coordinated by an Equal Opportunity Council, consisting of the heads of each department and the Commissioner of Personnel. The policy statement called for compliance activities similar to those mandated by the city's Fair Employment Practices Ordinance and the Illinois Human Rights Act including: submission of reports on race and sex employment patterns; implementation of affirmative action to assure equal employment opportunity; and debarment of firms in non-compliance.

One consequence of this fragmentation of contract compliance activities, the Chicago Urban League found, was that there no longer remained a department within city government that had comprehensive information on city contracts. Not only is information on the employment patterns of city contracts unavailable, but even more basic information like the number and dollar amounts of contracts is not readily available for monitoring purposes. Staff were generally unfamiliar with the city's legal obligations and knew little about activities in other departments.¹⁶ Perhaps most significantly, the Chicago Urban League found that only two departments had initiated any efforts to monitor contract compliance and even these two programs were severely limited in scope. The Division of Contract Monitoring and Compliance in the Department of Purchases is charged with monitoring projects funded by the U.S. Department of Housing and Urban Development and assisting minority-owned firms in bidding on city contracts. The Department of Public Works administers a voluntary program covering a portion of firms with which it issues city contracts.

¹¹ Art. 6, Sec. 6.1.

¹² Except where otherwise noted, the following discussion of the implementation of Chicago's contract compliance program is taken from the Chicago Urban League's 1984 report "Equal Opportunity in City Contracts: An Examination of Chicago's Contract Compliance Programs" (hereafter cited as "City Contracts").

¹³ Chicago Tribune, April 4, 1979.

¹⁴ Affirmative Action Plan, City of Chicago, March 4, 1981.

¹⁵ The departments included were: Police; Fire; Public Works; Streets and Sanitation; Water; Health; Human Services; Inspectional Services; Planning; Sewers; Chicago Public Library; Aviation; Housing; Personnel; Purchases, Contracts, and Supplies; Public Safety; and the Office for Senior Citizens and Handicapped. Not included were such quasi-city agencies like the Chicago Transit Authority, the Chicago Housing Authority, the Chicago Board of Education, and the Chicago Park District.

¹⁶ Among the city officials interviewed by the Chicago Urban League were: Henry Burwell—Affirmative Action Coordinator, Department of Personnel; Philip Clark—Affirmative Action Officer, Department of Public Works; Don Colona—Chicago Commission on Human Relations; Robert Hankin—Office of Corporation Counsel; Thomas Howe—Acting Purchasing Agent, Department of Purchases, Contracts, and Supplies; Hermine Wise—Director, Division of Contract Monitoring and Compliance, Department of Purchases, Contracts and Supplies.

Division of Contract Monitoring and Compliance

In 1980 the Department of Purchases, which executes virtually all city contracts for the purposes of goods and services, created the Division of Contract Monitoring and Compliance. This division was given the responsibility to monitor compliance with the affirmative action requirements of the U.S. Department of Housing and Urban Development's Community Development Block Grants (CDBG), and to assist minority-owned businesses in obtaining city contracts. A director and two assistants were assigned to this division.

Monitoring of CDBG programs is actually shared with several departments. Each department administering CDBG funds has an affirmative action coordinator who also has monitoring responsibility. The Division of Contract Monitoring and Compliance, therefore, reviews the monitors. The Division is charged with responsibility to assure that all grant specifications negotiated by each department contain required affirmative action commitments and that affirmative action coordinators maintain appropriate documentation to determine compliance. While the Division can delay contracts it determines are out of compliance, it does not have the authority to refuse contracts negotiated by other departments.

The Division's second responsibility is to increase the number of minority-owned firms that compete for city contracts. Information on contracting procedures is disseminated and workshops are conducted that describe procedures for bidding on city contracts. The Division also employs a minority business enterprise director that is used by city purchasing agents and contractors looking for minority subcontractors. No formal procedures for certifying minority-owned businesses has been established, however.

The Division prepares an annual report on minority participation for the Department of Purchases. Information is taken from tracking forms that buyers for the city are asked to submit to the Division. The following information is included for each contract: type of contract; dollar amount; number of bid invitations made by buyer; bid responses by race and sex of ownership; and race and sex of firm ultimately awarded the contract.

Reporting by various departments is somewhat haphazard. Some information, including contracts for professional services, are negotiated by each department and reported in aggregate rather than individual form. The Chicago Urban League found substantial discrepancies between data provided by the Division and other reports provided by the Department of Purchases. In 1982, for example, the Division reported 7375 total contracts compared to 3565 by the Department.¹⁷ The total dollar amounts were \$331,732,468.95 according to the Division and \$399,998,746.77 according to the Department. Minority-owned firms received 6 percent of all contracts totalling 6.7 percent of all contract dollars according to the Division reports. No minority data were reported by the Department. Citywide, blacks and Hispanics constitute 53.8 percent of Chicago's population.¹⁸

These discrepancies occurred, at least in part, because such information on city contracts is not maintained in a systematic computerized data system. When the Chicago Commission on Human Relations was relieved of its contract compliance responsibilities, the Commission offered its assistance in transferring the data files and systems it had previously used to monitor contractors to the Department of Purchases. The Purchasing Agent James Arnold declined the offer. As indicated above, the contract compliance responsibilities of his Department were far more limited than those previously exercised by the Commission. The current Purchasing Agent, William Robert Spicer, has promised to implement a computerized record-keeping system within two years and to try to implement a program that would set aside 20 percent of all city contracts for minority-owned firms.¹⁹

"Canvassing Program" of the Department of Public Works

The Department of Public Works provides an incentive for minority employment to firms bidding on architectural contracts worth \$100,000 or more. Such firms can, if they voluntarily choose to do so, set minority hiring goals for which they can re-

¹⁷ Data from the Division of Contract Monitoring and Compliance were supplied by Director Hermine Wise in a document entitled, "Total, \$ Amount and Number of Contracts and Purchase Orders During 1982." Data from the Department of Purchases were supplied by Thomas Howe, Acting Purchasing Agent, in a document entitled, "Distribution of 1982 Contract Volume by Types of Contracts."

¹⁸ U.S. Bureau of the Census, 1980 Census of Population, General Population Characteristics—Illinois, 1982.

¹⁹ "City vows 20 percent minority contracts," Chicago Defender, March 6, 1984.

ceive bid credits. A "canvassing formula"²⁰ is used to determine the extent of the bid credit based on the minority hiring goal for each of three job classifications: apprentices; laborers; and journeymen.

The maximum credit, which is available where minority hiring goals are set at 50 percent in each classification, is four percent of the total bid. That is, a firm submitting such goals will have its bid treated as if it were four percent lower than the actual bid figures. If the firm receives the contract but fails to achieve its stated goals, it is assessed penalties based on the extent of underachievement, but not exceeding the credits initially received.

The affirmative action officer of the Department of Public Works estimated that one-fourth of all contracts issued by his department are involved in the program and that half of these firms meet the goals. In its analysis of data made available by Public Works the Chicago Urban League found that 39 contracts were covered by the "canvassing formula" in 1983. Information on participants' goals and achievements was available for 26 of these contracts. Ten achieved their goals while 16 did not. Minority employment among goal achievers and non-achievers in the three job classifications was as follows:

[In percent]		
	Achievers	Non-Achievers
Apprentice.....	59	46
Laborers.....	66	54
Journeyman.....	43	28

The Department of Public Works has conducted no formal evaluation of this program. As the Urban League concluded, however, "This program to date cannot demonstrate that it has effected any increase in minority employment among participating firms."²¹ This program is voluntary. Available data apply to only a portion of program participants. It is highly conceivable that a process of self-selection is at work. That is those firms that normally employ a large number of minorities will participate because they can more easily obtain contracts. Rewarding such firms is certainly one objective of contract compliance. Other objectives, however, are to increase minority employment and assure that firms not providing equal opportunity do not receive city contracts. The former objective has not been demonstrated by this program, and the latter could not be achieved by this approach.

While the legal mandate for contract compliance is explicit, the implementation procedures are ambiguous. As the Chicago Urban League concluded: "Contrary to expectations engendered by the clear mandate provided by both state and local law, the current structure for implementing contract compliance in the city of Chicago is a kaleidoscope of shifting responsibilities, programs and statistics."²²

Minority and Female Representation Among City Contractors

To assess the effects of Chicago's contract compliance activities, minority and female utilization in a sample of contractor work forces was examined. Because such data were not available from the city, all EEO-1 reports submitted to the U.S. Equal Employment Opportunity Commission by a sample of city contractors were analyzed. EEO-1 reports indicate the race and sex profile of each major occupational classification of selected private sector employers. All firms receiving city con-

²⁰ Line 1. Base Bid, in figures.

Line 2. Percentage of the total Journeyman hours that the contractor proposes to be worked by minority Journeymen during construction of the project (Max. = .50).

Line 3. Multiply line 1 by line 2 by 0.04.

Line 4. Percentage of total apprentice hours that the contractor proposes to be worked by minority apprentices during construction of the project (Max. = .50).

Line 5. Multiply line 1 by line 4 by 0.03.

Line 6. Percentage of total laborer hours that the contractor proposes to be worked by minority laborers during construction of the project (Max. = .50).

Line 7. Multiply line 1 by line 6 by 0.01.

Line 8. Summation of lines 3, 5 and 7.

Line 9. Subtract line 8 from line 1 (Award Criteria Figure).

²¹ "City Contracts," pp. 19, 20.

²² "City Contracts," p. 20.

tracts in six selected months in 1982 were matched with a list of those firms filing EEO-1 reports in that year.²³ Because only larger firms—those with 100 or more employees or 50 or more employees and a Federal contract worth \$50,000 or more—are required to submit EEO-1 reports, only a sample of city contractors were included. Altogether 76 contractors accounting for 230 (15.5 percent) of the 1,464 contracts issued during the six months were included.

Table 1 reports the level of utilization of blacks, Hispanics, and women for all employees and for professional, technical, and managerial workers, among these contractors along with several standards of comparison for the city of Chicago, the suburban ring, and the entire metropolitan area. These data reveal that at the aggregate level this sample of city contractors employs minorities at levels comparable to their representation among all firms reporting to the EEOC and the civilian labor force generally. However, when the working age population is the standard, blacks, Hispanics, and women are underrepresented in the total work forces in all geographic locations, except for blacks and suburban contractor establishments.

²³ All contracts listed on the Daily Award Sheets for the months of January, March, May, July, September, and December were included. The Daily Award Sheets record contracts issued only by the seventeen departments of Chicago city government. Not included are contracts issued by separate authorities and quasi-city agencies like the Chicago Transit Authority, the Chicago Housing Authority, the Chicago Board of Education, and the Chicago Park District.

TABLE 1.—AVERAGE MINORITY EMPLOYMENT IN SAMPLED CITY CONTRACTING FIRMS COMPARED TO THREE INDICES OF AVAILABILITY

	Sampled firms			Working-age population (16+)			Civilian labor force			All EEOC reporting firms		
	City	Suburb	SMSA	City	Suburb	SMSA	City	Suburb	SMSA	City	Suburb	SMSA
All workers:												
Percent black	21.6	7.3	16.2	37.1	3.1	17.3	36.3	3.6	16.2	21.5	9.2	15.0
Percent Hispanic	4.8	4.8	4.8	N.A.	N.A.	5.6	N.A.	N.A.	5.8	8.5	6.7	7.5
Percent female	50.0	42.7	47.2	54.2	52.0	52.9	44.7	42.5	43.4	44.3	42.9	43.6
Professional/technical/managerial workers:												
Percent black	14.7	3.6	11.0	24.7	1.8	8.3				10.4	4.0	7.2
Percent Hispanic	2.2	1.7	2.0	N.A.	N.A.	1.9		N.A.		2.5	1.3	2.2
Percent female	42.4	20.8	35.4	50.9	31.4	37.0				35.3	30.6	33.0

Source: EEO-1 reports, U.S. Equal Employment Opportunity Commission Daily Award Sheets, city of Chicago, 1982.

These aggregate figures conceal, however, widespread underutilization of racial minorities and women among a large majority of sampled contractors. When compared with minority and female utilization among all Chicago area firms reporting to the EEOC (a very conservative standard since current representation figures reflect prevailing levels of discrimination as the basis for comparison) racial minorities are underutilized in almost two-thirds of all firms and women are underutilized in over 58 percent (see Table 2). These patterns prevail among those contractors located in the city as well as those in the suburban ring, and at all levels of the occupational structure.

TABLE 2.—FIRMS IN WHICH MINORITIES AND WOMEN ARE UNDERREPRESENTED

	Number of firms ²	Percent of all firms	Average percent employment
All workers:			
Minority underutilization:			
City	38	64.4	16.5
Suburb	25	78.1	11.4
SMSA	60	65.9	12.7
Female underutilization:			
City	30	50.9	32.3
Suburb	25	78.1	33.8
SMSA	53	58.2	32.7
Professional/technical/managerial workers:			
Minority underutilization:			
City	35	59.3	8.2
Suburb	18	56.3	7.1
SMSA	56	61.5	6.8
Female underutilization:			
City	36	61.0	20.6
Suburb	28	87.5	14.9
SMSA	62	68.1	17.4

² Among the 76 contractors, seven had multiple locations and submitted separate reports to the EEOC for each one. In some cases the contractor had both city and suburban locations. Therefore, a total of 91 locations are involved for the 76 contractor establishments.

Source: EEO-1 Reports, U.S. Equal Employment Opportunity Commission, 1982, Daily Award Sheets, city of Chicago, 1982.

Among contractor establishments where minorities and females were underutilized, the extent of that underutilization was substantial. Minorities accounted for 12.7 percent of the employees in these firms compared to 25.5 percent among all EEOC reporting firms in the metropolitan area. Comparable figures for women were 32.7 percent and 43.6 percent.

For racial minorities these patterns held among firms of all sizes and in all industries for which data were available. As Table 3 indicates the proportion of city contractors in which minorities were underutilized ranged from 53.1 percent in services to 93.0 percent in wholesale trade. The proportion of firms in which minorities were underutilized ranged in firms of different sizes from 56.3 percent in those with 501 or more employees to 75.0 percent in those with 251-500 employees. Data for small firms, generally those with less than 100 employees, of course were not available.

TABLE 3.—UNDERUTILIZATION OF RACIAL MINORITIES BY SIZE OF FIRM AND INDUSTRY

	Racial minorities underutilized	
	Number	Percent
Number of employees:		
Less than 100	30	68.2
101 to 250	15	65.2
251 to 500	6	75.0
501 or more	9	56.3
Industry:		
Construction	4	80.0
Manufacturing	16	76.2

TABLE 3.—UNDERUTILIZATION OF RACIAL MINORITIES BY SIZE OF FIRM AND INDUSTRY—Continued

	Racial minorities underutilized	
	Number	Percent
Wholesale trade	13	93.0
Services	26	53.1

Source: EEO-1 Reports, U.S. Equal Employment Opportunity Commission, 1982, Daily Award Sheets, city of Chicago, 1982.

Despite the limitations of the available data, the evidence strongly indicates that racial minorities and women are underutilized, and by wide margins, among a substantial majority of firms receiving city contracts in Chicago. These patterns prevail across the occupational structure, in all geographic locations, and, at least for racial minorities, within diverse industries and firms of all sizes.

Conclusions

Despite a clear and comprehensive legal mandate requiring city contractors to take affirmative action in order to assure equal employment opportunity in their work forces and obligating the city to enforce such requirements, effective contract compliance is non-existent in Chicago. City officials are unfamiliar with current legal requirements, the minimal contract compliance activities that are undertaken are predicated on inadequate information and are dispersed among several departments, and current efforts are simply inadequate for the task. As a result, minorities and women are underutilized in a substantial number of city contractor work forces and few minority-owned firms receive city contracts.

The city of Chicago could take several initiatives to assure that minorities and women participate on an equitable basis in the city's annual expenditure of over \$300 million in contracts for goods and services. A first step would be the passage of a city ordinance creating a contract compliance program in which the legal requirements are explicitly delineated. Those requirements would include affirmative action obligations for city contractors and comprehensive enforcement efforts by city officials. Contractors would be obligated to identify areas of underutilization and to develop plans to eliminate any underrepresentation of minorities or women. Detailed reports documenting progress towards elimination of any discriminatory employment practices would be submitted to the city on a regular basis. The city, in turn, would have to be prepared to carefully monitor such action and to take the necessary enforcement action to secure compliance.

A second step for the city of Chicago would be the establishment of a set-aside program to assure that minority and female contractors receive an equitable share of city contracts. While the city is already taking some action in this direction, a city ordinance specifying the legal requirements would enhance the likelihood of success.

These proposals are consistent with the policy objectives of the current administration in Chicago. Mechanisms for achieving these goals are currently under review. The sooner the city acts, the more effective it will be in assuring equal opportunity in city contracts.

U.S. COMMISSION ON CIVIL RIGHTS,
Chicago, IL.

Date: June 17, 1983

Reply to attention of: MWRO/Valeska S. Hinton.

Subject: Draft Industrial Revenue Bond Report.

To: Illinois Advisory Committee.

Enclosed for your information, review, and comments is a draft copy of the above-mentioned report. When you have made your comments on this draft (in writing) and returned them to us, we will finalize this report reflecting your comments and those we receive from other persons given an opportunity to comment on this draft. I will expect your comments no later than July 5, 1983. If we do not hear from you, we will assume you have no comments. It is important to remind you that this is a draft and as such is not for release. Please restrict this copy to yourself.

Thank you for your cooperation.

Enclosure.

For further information please contact: Gregory D. Squires, Staff, Midwestern Regional Office, U.S. Commission on Civil Rights, 230 S. Dearborn St., Rm. 3280, Chicago, IL 60604, (312) 353-7371, or J. Thomas Pugh, Chairperson, Illinois Advisory Committee to the U.S. Commission on Civil Rights, 500 W. Melbourne, Peoria, IL 61604, (309) 626-3121.

For Immediate Release

DISCRIMINATORY IMPACT OF INDUSTRIAL REVENUE BONDS TO BE DISCUSSED AT CIVIL RIGHTS MEETING

CHICAGO.—Rob Mier, Commissioner of Chicago's Department of Economic Development will meet with the Illinois Advisory Committee to the U.S. Commission on Civil Rights to discuss the Committee's findings that racial minorities and women do not share equitably in the benefits of the city's industrial revenue bond program. The meeting, which is open to the public, will be held on December 9, 1983 at 11:00 a.m., in room 3883 of the John C. Kluczynski Federal Building at 230 S. Dearborn Street.

Mayor Harold Washington was advised of the Illinois Advisory Committee's principal findings in a November 4th letter from Chairman Tom Pugh (see attachment). After receiving the letter, the Mayor directed Mr. Mier to attend the December 9th meeting. At that meeting the Committee will discuss the recommendations it is considering forwarding to the city. The Committee will also discuss the status of the project on contract compliance.

The Illinois Advisory Committee is one of 51 such units established in each state and the District of Columbia to advise the U.S. Commission on Civil Rights on civil matters in their communities.

The U.S. Commission on Civil Rights is a bipartisan, independent agency of the Federal government that was established to conduct investigations and advise the President and Congress on civil rights issues throughout the nation.

U.S. COMMISSION ON CIVIL RIGHTS,
Chicago, IL, November 4, 1983.

The Honorable HAROLD WASHINGTON,
City of Chicago, City Hall, Chicago, IL.

MY DEAR MAYOR WASHINGTON: As you know, the Illinois Advisory Committee to the U.S. Commission on Civil Rights is nearing completion of its study of equal opportunity in Chicago's industrial revenue bond (IRB) program. A draft of the report was forwarded to your office and to several other experts on economic development issues. Many helpful comments have been received and a revised draft has been prepared. In light of the city's desire to move as expeditiously as possible on a range of equal opportunity issues, we would like to share with you the major findings of our investigation and the Committee's principal recommendations.

Industrial revenue bonds have become an increasingly popular tool in Chicago and around the nation in efforts to stimulate economic development, stabilize state and local tax bases, and create jobs. In Chicago between 1977 when the city began its IRB program and June 1983 financing totalling \$197,863,000 was provided for 104 projects.

One expressed concern of the Department of Economic Development has been the extent of minority participation in the program. At the same time officials and staff under former administrations have stated there is no need for explicit equal opportunity or affirmative action regulations. Two basic reasons have been offered. First, because of the geographic location of most IRB projects, racial minorities will be well represented. Second, if there are problems of discrimination, that is the responsibility of other civil rights enforcement agencies. As a former interim commissioner argued, civil rights violations do not have "any implications for the design of local development programs."

In its research, the Illinois Advisory Committee to the U.S. Commission on Civil Rights has found that racial minorities were underutilized in 25 percent of those firms receiving IRB financing, women were underutilized in 45 percent, and either minorities or women were underutilized in 54 percent. Among banks that have purchased IRBs, minorities or women were underutilized in 85 percent. Such underutilization is even more widespread in the professional, managerial, and technical occupations. In addition, in 20 percent of all bond projects either the firm receiving the financing or the bank that purchased the bond has been found guilty of race or sex

discrimination, in violation of Title VII of the Civil Rights Act of 1964, by the U.S. Equal Employment Opportunity within the past seven years. Collectively, firms participating in the IRB program employ minorities and women at levels equal to or above their representation in the local labor market. This does not lessen the severity of the problem, however, indicated by the large number of firms receiving these subsidies in which equal employment opportunity does not prevail.

Another finding of the Committee is the fact that only four minority-owned businesses and no Hispanic-owned businesses received IRB financing. Interviews with directors of minority business associations indicated that minority-owned businesses are generally unfamiliar with the IRB program.

The Committee recommends that the city of Chicago enact rules requiring recipients of IRB financing to meet the same affirmative action obligations as federal contractors under Executive Order 11246. Essentially, this would require IRB firms to submit written affirmative action plans in which they identify areas of underutilization and develop specific programs, including numerical goals and timetables, for eliminating that underutilization. Failure to comply could result in a firm being declared ineligible for IRBs or even require repayment of a portion of the subsidy. The Committee also recommends that more comprehensive information on IRBs should be disseminated among minority-owned businesses.

The Committee also found that IRB firms are generally not meeting their initial job creation projections. In fact almost one-third of the businesses receiving this financing experienced a net reduction in employment since their projects began. And among Chicago firms within the same industries, minority employment increased faster among those that did not receive IRB financing than among businesses that received such assistance. The Committee's report recommends that the Department of Economic Development conduct a study to determine more precisely the job-generating impact of IRBs, particularly for minorities and women, and assess that impact relative to that of other economic development tools.

No position is taken on whether or not the city of Chicago should continue issuing IRBs. If it chooses to do so, however, these specific steps are recommended to maximize the impact of IRBs and to assure equal opportunity among program participants. The revised draft of the report is currently under review and will be discussed by the Committee at its next meeting on December 9. We invite you to attend this meeting and to share your thoughts with us. As soon as the precise time and place is determined we will notify your office.

If you would like any additional information or if we can be of any assistance, please do not hesitate to call me (217) 333-0709 or Clark Roberts, Director of the Commission's Midwestern Regional Office.

Sincerely,

TOM PUGH,
*Chairman, Illinois Advisory Committee
to the U.S. Commission on Civil Rights.*

[From the Chicago Tribune, May 24, 1984]

PERSPECTIVE—A FORUM—IDEAS, ANALYSIS, OPINION

HOW I-R-B SPELLS INEQUITY

(By Gregory D. Squires ¹)

Hispanics² have been locked out of what has been described as Chicago's main weapon in its economic development arsenal—the city's industrial revenue bond [IRB] program.

A recent study by the Illinois Advisory Committee to the U.S. Commission on Civil Rights found that Hispanic-owned businesses receive no IRB funding and most firms receiving such aid employed Hispanics [as well as blacks and women] at levels far below their representation in the Chicago labor market. Yet one of the principal justifications offered by IRB advocates is the presumed positive impact on lower-income minority communities in economically troubled urban areas.

The Illinois committee recommended stringent affirmative action requirements, similar to those that apply to federal contractors, for firms receiving IRB financing.

¹ Gregory D. Squires, who teaches in the sociology department at Loyola University, assisted the Illinois Advisory Committee in its study of Chicago's IRB program.

Support for such action is wide-ranging. Economic Development Commissioner Rob Mier has endorsed the thrust of the recommendations.

Basically, IRBs are low-interest loans that selected small businesses receive, primarily to retain and create jobs and to stabilize and increase the tax base. The city issues bonds which, due to their status as municipal bonds, are exempt from federal taxation. The proceeds received from bond purchasers, principally banks, go to finance the loans at below-market rates because of the tax exemption. In essence, the federal treasury subsidizes the borrowing costs of the businesses and the income of the bond purchasers.

Issuance of IRBs nationwide has mushroomed in recent years. Bond sales have jumped from \$100 million in 1960 to \$8.4 billion by 1980, raising concerns within the Reagan administration, Congress and elsewhere for the program's impact on the federal deficit. The Congressional Budget Office has estimated that the cost to the federal treasury could reach \$2.9 billion by 1986.

IRBs also have been criticized for providing an unnecessary subsidy to large corporations that can obtain credit through conventional loans.

For these and other reasons, use of IRBs has been restricted in recent years, and more restrictions may be imposed. Several economists and public officials have advocated elimination of IRBs and related tax-incentive programs. So have some representatives of the business community.

Many problems associated with IRBs have been widely publicized. What has not been generally recognized is the discriminatory way many programs have been implemented.

In Chicago, for example, among the 104 IRB projects—totaling almost \$200 million—initiated between inception of the program in 1977 and last June, not a single bond was issued for a Hispanic-owned business. Although, minority-owned businesses accounted for just four of these projects—three black-owned and one Asian-owned.

In addition, racial minorities and women have not enjoyed anything approximating equal employment opportunity among Chicago firms receiving such federal financial assistance. The Illinois study found that Hispanics were employed at levels below their representation in the available labor market in almost two-thirds of the firms for which data were available. Blacks were similarly "underutilized" in one-third of the firms and women in almost half of them.

Hispanics also were concentrated in the lower-paid positions in these businesses. Among these Chicago firms, 4.8 percent of all employees earned less than \$4 an hour. However, 14 percent of the Hispanic employees received such wages. More than half of all employees earned more than \$7 an hour, but just 33.5 percent of Hispanics were paid at that level.

In the Chicago banks that had purchased IRBs, Hispanics were underutilized by more than two-thirds, blacks by more than 57 percent and women by 38 percent.

More startling is that in 20 percent of all IRB projects, either the firm receiving the financing or the bank purchasing the bond had recently been found in violation of federal equal employment opportunity requirements by the U.S. Equal Employment Opportunity Commission.

Perhaps the most critical finding of the Illinois study is that one-third of the Chicago firms receiving IRB financing had a net decline in the number of people they employed since initiating their projects. This is a most troubling finding for a program that exists and receives federal subsidies for the purpose of creating jobs.

Precisely why minorities have been locked out of Chicago's IRB program is difficult to determine. Part of the reason may be that, as the Illinois study found, the directors of several minority business associations, including the Hispanic Chamber of Commerce and the Cosmopolitan Chamber of Commerce, simply were unfamiliar with the program.

Mayor Harold Washington has announced an economic development plan that would benefit communities that have not been served by IRBs. But long-standing racial divisions in the city and its government may block some of the mayor's initiatives.

Everyone with the best interests of Chicago at heart must hope, however, that the disruptive political dust will clear and the city will move on a progressive economic development agenda. A place to start would be the addition of a strong affirmative action component to its main weapon, the industrial revenue bond program.

[From the Chicago Tribune, Dec. 12, 1983]

CITY AIMS TO BOOST MINORITY HIRING—REVENUE BOND PROGRAM EYED FOR LEVERAGE

(By Christopher Drew)

Mayor Harold Washington's administration is examining ways to require companies that participate in the city's industrial revenue bond program to increase minority hiring and contracting, according to a top aide to the mayor.

Rob Mier, commissioner of the city's Department of Economic Development, said his office was working to set up a system of penalties and rewards to ensure that minorities get a bigger share of the benefits, including project ownership. Local and state governments issue the tax-exempt bonds to help companies in need of low-interest construction funds and to promote job creation.

"We're assuming that you have to have explicit goals," Mier said, but he cautioned, "We're just in a discussion stage on all this."

His deputy, Milam Pitts, said one option would be to increase bond interest rates to penalize companies that don't meet the minority-participation goals. "But we're not sure legally what we can do," he said.

In an experimental case, Mier said, the city is negotiating with the companies selected to redevelop a key block in the North Loop urban renewal area—The Levy Organization, JMB Realty and Metropolitan Structures—to include certain requirements for minority participation. He declined to discuss specifics of the negotiations, and the developers were unavailable for comment.

The city officials' comments came in response to charges by the Illinois Advisory Commission to the U.S. Commission on Civil Rights that racial minorities and women have not shared equitably in the bond program's benefits.

In a Nov. 4 letter to Mayor Washington, the committee expressed concern that only four of the 104 firms that had received financing under the program were owned by minorities. The committee said many of the firms had not met their initial job-creation projections and had "underutilized" minorities in their work forces. It also complained that city officials had not publicized the program enough in minority communities.

Mier and Pitts agreed that the program could be publicized better. They also pointed out, though, that there were other public financing programs more suited to helping minority-owned firms, and they noted that the recession contributed to some of the companies' problems in meeting job-creation projections.

Mier also expressed fear that legislation being considered in Congress could significantly reduce the amount of revenue bond money available to the city. Rep. Dan Rostenkowski [D., Ill.], chairman of the House Ways and Means committee, is fighting to restrict issuance of the tax-exempt bonds as a way of reducing the federal budget deficit.

U.S. COMMISSION ON CIVIL RIGHTS,
Chicago, IL, December 14, 1986.

Mr. JOHN HOPE III,
Assistant Staff Director, ORP,
U.S. Commission on Civil Rights, Washington, DC.

DEAR MR. HOPE: I want to thank you for your support of our efforts to share the critical findings of our industrial revenue bond study with Mayor Washington's office. On Friday, December 9, 1983 our Committee met with Rob Mier, the Commissioner of Economic Development for the City of Chicago. Mr. Mier expressed his strong support of our investigation, as he has on several occasions with the staff of the Midwestern Regional Office. He mentioned that our report can be quite helpful to his office and to the Mayor in pursuing equal employment opportunity objectives in the city.

One observation Mr. Mier offered was of particular importance. In light of legislative activities that will soon occur both locally and nationally, he said our report will be quite valuable if released within the next two months. He said that three months from now it would be virtually useless. He urged us to disseminate our current draft now if the official final report could not be made available in the near future.

Mr. Mier also stated that, in his opinion, our discussion of the report at a public meeting placed it in the public domain, and he intended to use it in his efforts to

strengthen local equal opportunity programs. At the same time he encouraged us to share our findings as broadly as possible.

We found our meeting to be most productive. It is a genuine pleasure to directly observe the turnaround that is occurring at the highest levels of Chicago's government. Hopefully this new direction among city leaders will be translated into more progressive public policy.

Sincerely,

J. THOMAS PUGH,
Chairperson, Illinois Advisory Committee.

Date: May 3, 1985.

Reply to attention of: OSD.

Subject: Illinois SAC Report

To: Bert Silver, Assistant Staff Director for Regional Programs.

I do not intend to recommend that the Commission publish the Illinois SAC report on Industrial Revenue Bonds (IRBs) for the following reasons:

The report fails to make out a strong case for widespread discrimination. Much is made of the fact that "in 20% of all IRB projects, either the bond purchases or the firm receiving has recently been issued reasonable cause determinations of race or sex discrimination . . ." by the EEOC. There is no proof, though, of any practice or pattern of discrimination. It may be that only a single probable cause determination was made by EEOC against any given firm and this for a possible inconsequential—e.g., paper—violation occurring perhaps on an activity totally unrelated to an IRB.

Moreover, a probable cause determination does not mean that the EEOC has concluded that an employer has engaged in unlawful practices. It only means that the EEOC staff has made such a finding, not that a firm has been proven to have violated the laws.

The report also cites "underrepresentation" of minorities and women by many firms participating in IRB programs as evidence of discrimination. Yet, as the report acknowledges: "Among firms receiving IRB financing alternatives, review minorities and women were employed at levels equal to or greater than their representation in the Chicago labor market." The report, discounts this citing "underrepresentation" of either blacks, minorities or women at a higher percentage of the firms.

But given completely, discrimination free hiring practices and absolutely no differences in ability between groups, one would expect "underrepresentation" and "overrepresentation" to occur in almost equal measure. Thus, the fact that blacks are underrepresented in 32.4 percent of the firms, or that Hispanics were underrepresented in the professional, technical and managerial positions are underrepresented in 46 percent is not evidence of discrimination.

MAX GREEN,
Acting Staff Director.

U.S. COMMISSION ON CIVIL RIGHTS,
Chicago, IL.

Date: May 13, 1985.

Reply to attention of: MWRO/Clark Roberts, Reg. Dir.

Subject: Illinois SAC Report.

To: Max Green, Acting Staff Director.

Through: Bert Silver, Asst. Staff Director, ORP.

Your memo of May 3, 1985 informed Bert Silver that you did not intend to recommend that the Commission publish the Illinois SAC report on "Industrial Revenue Bonds (IRBs)" for reasons stated.

I am aware that this report has been under discussion and review for some time. Portions of the report were revised and significant sections as originally written, were dropped. We cooperated with headquarters to do these revisions as requested with the understanding that the report would be published. If it was your intent not to publish this report even after revision, we would have appreciated being so advised. Time therefore could have been used on more productive matters.

The reasons, as stated by you, do not appear to be justification for not printing a report that is well written and within the jurisdiction of the U.S. Commission on

Civil Rights. Much staff and Committee work went into this report, and the information is accurate with excellent documentation. Therefore, in my opinion, to publish this report would be in the best interest of the government.

There is room for disagreement among reasonable people, because jurisdiction questions are sometimes a matter of emphasis, focus and explanation. I therefore request that you reconsider your intention not to publish the Illinois Advisory Committee report.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC.

Date: May 17, 1985.

Reply to attention of: ORP.

Subject: Chicago IRB Report.

To: Clark Roberts, Regional Director.

I have decided not to transmit your May 13, 1985 memorandum on the IRB report to the Acting Staff Director. I hope that after you reflect on my reasons you will agree that it should not be transmitted.

The revisions made in the report, including the portions dropped, were based on changes suggested by ORP headquarters, the Deputy Staff Director and the Office of General Counsel. The purpose of those revisions were to keep the report within our jurisdiction. There was never any implied promise by the Acting Staff Director that the report would be published if it was revised as suggested. As a matter of fact, the Acting Staff Director was not aware that changes had been suggested.

The changes achieved the purpose intended since the Acting Staff Director agreed that the report is jurisdictional. That is not the issue. You may not agree with them but the guidelines under which we now operate are that the Staff Director need not recommend to the Commissioners that they adopt a State Advisory Committee's report simply because it is jurisdictional. Neither do we have an assurance that the Commissioners will accept the recommendations contained in a State Advisory Committee report. SAC's were told that State Advisory Committee reports which are jurisdictional will be transmitted to the Commissioners for their consideration.

The Acting Staff Director has assured me that the IRB report will be forwarded to the Commissioners. He also told me that the memorandum transmitting it will state his objections and recommend that the report not be adopted and printed. The Commissioners can take any action that they wish.

If you have any further questions or concerns or feel you need additional information please contact me.

BERT SILVER,
Assistant Staff Director for Regional Programs.

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, DC.

Date: June 11, 1984.

Reply to Attention of: ORP.

Subject: Status of Illinois SAC Report on Industrial Revenue Bonds and Request for Reprints.

To: Clark Roberts, Regional Director.

The report on industrial revenue bonds in Chicago is currently under headquarters review along with five other unprinted reports that were put on hold by the Staff Director during the threatened shutdown of the agency last fall. Also placed on hold at the time were nine reports that were printed and released, but never forwarded to the Commissioners.

Approval to prepare the latter reports for transmittal on a staggered basis to the Commissioners was communicated several months ago along with a message that the process of Commission review of unprinted reports would begin after the Commission had dealt with those reports already printed. Upon completing consideration of the printed reports at the July meeting, the Commission will begin dealing with unprinted reports at the September meeting. (No meeting is scheduled for August.)

It is likely, therefore, that the Commissioners will review the industrial revenue bonds report at the September meeting. If publication is approved at that time, the report will be printed along with a statement indicating the degree to which the Commission endorses the report's findings and recommendations.

With respect to your inquiry about reprints, the warehouse can provide a supply of ABCs. If additional copies are needed, direct this and any other request for reprints to the Staff Director through John Hope. The request should detail appropriate justification of the need for further distribution.

If you have any questions, please call.

DONALD A. DEPPE,
Program Specialist.

PEORIA, IL., July 1, 1985.

Commissioner MARY FRANCES BERRY,
*U.S. Commission on Civil Rights,
Washington, DC.*

DEAR COMMISSIONER BERRY: A report by the Illinois Advisory Committee, "Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program?" will be received by the Commission soon, apparently with the recommendation of the Acting Staff Director that it is not published. Well over three years work has gone into this report and it bothers me very much to see it dumped along with most of the members of the Illinois Committee who worked on it. Since I was chairman of the Illinois Committee when it was conceived and produced, I tried to explain the background to the reconstituted Committee at its last meeting. It is my hope that you can either reverse the recommendation to kill the report when it comes to the Commission or at least delay action long enough so that Commissioners and the new members of the Illinois Committee can at least read it and make a decision based somewhat on facts.

My major concern today is the same one I expressed last year at the Nashville chairpersons conference—that state advisory committees be accorded the independence of publishing (or releasing) their own reports. It will be a shame if the politicized Commission goes ahead with what appears to be an effort to suppress reports its does not agree with from its state committees.

The Illinois IRB report has had two substantial rounds of revision which have simply delayed its publication by almost two years. Its major points, however, were made public in December, 1983, when John Hope III agreed with Mayor Harold Washington's request to release the second draft of the report, because it had some bearing on the City of Chicago's consideration of reform of its IRB program. Right now the city is doing precisely the kind of research that the Illinois Committee recommended. As you can see from the enclosed Chicago Tribune articles, we have gotten our message out to the local public. Under the current leadership of the Commission, I do not think other state committees will be able to do this unless the Commission addresses and adopts a policy guaranteeing some independence to the state committees. If the Commission does not do so, I suppose that Commissioner Abram's view that the state committees exist to carry out Commission policy set in Washington will become paramount.

Do what you can for the cause of preserving the independence of the state committees.

Yours truly,

TOM PUGH,
Member, Illinois Advisory Committee.

Enclosed IRB report and a few interoffice letters.

INDUSTRIAL REVENUE BONDS: EQUAL OPPORTUNITY IN CHICAGO'S IRB PROGRAM?—
APRIL 1984

A report of the Illinois Advisory Commission to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission, but only to the Illinois Advisory Committee.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the

United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

INDUSTRIAL REVENUE BONDS: EQUAL OPPORTUNITY IN CHICAGO'S IRB PROGRAM?

A REPORT OF THE ILLINOIS ADVISORY COMMITTEE TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS

Attribution: The findings and recommendations contained in this report are those of the Illinois Advisory Committee to the United States Commission on Civil Rights, and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and Congress.

Right of Response: Prior to publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or discriminated by any material contained in the report an opportunity to respond in writing to such material. All responses received have been incorporated, appended, or otherwise reflected in the publication.

[Letter of transmittal]

ILLINOIS ADVISORY COMMITTEE,
U.S. COMMISSION ON CIVIL RIGHTS,
April 1984.

Members of the Commission:
Clarence M. Pendleton, Jr., Chairman.
Mary Frances Berry.
Blandina Cardenas Ramirez.
Linda Chavez, Staff Director.

DEAR COMMISSIONERS: The Illinois Advisory Committee submits its report, "*Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program?*" as part of its responsibility to advise the Commission on civil rights problems within the state.

Industrial revenue bonds (IRBs) have become an increasingly popular economic development tool in recent years throughout the nation. (IRBs are tax exempt bonds which state and local governments issue to finance economic development. Because the interest on the bonds is exempt from Federal taxation, bond purchasers can offer private businesses below market rate loans). Between 1977 and June 1982 the city of Chicago issued bonds totalling \$197,863,000 to finance 104 projects. The primary objectives of Chicago's IRB program are to: (1) attract and retain jobs for the city; and (2) stabilize and increase the city tax base.

The Committee found that while, collectively, Chicago firms receiving IRB financing employ racial minorities and women at levels equal to or greater than their availability within their respective industries, a majority of these firms underutilize either minorities or women. Racial minorities are underutilized in 25 percent, women are underutilized in 45 percent, and in 54 percent either minorities or women are underutilized. In 20 percent of all bond projects either the firm receiving

the financing or the bond purchaser, has been found guilty of race or sex discrimination by the U.S. Equal Employment Opportunity Commission since 1977.

The Commission also found that among the 104 bond projects only four involved minority-owned firms (none were owned by Hispanics). One reason for this small participation rate by minority-owned firms is a lack of information about the IRB program among minority-owned businesses and trade organizations.

This report also raises serious questions about the job generating impact of Chicago's IRB program and of similar financial incentives provided in Chicago and around the nation. Collectively, Chicago firms receiving IRB financing experienced a net increase in total employment. However, almost one-third of the firms experienced a reduction in employment. Among those that did increase employment, there is little evidence that availability of the IRB was responsible for that growth.

The Committee found that tax reductions and financial incentive-industrial attraction strategies generally have not been successful in generating jobs or stimulating economic growth. And even where economic growth has occurred disparities in employment opportunities between racial minorities or women and white males have not disappeared.

In light of these findings the Committee offers four recommendations. First, Chicago's Department of Economic Development should promulgate affirmative action regulations for firms receiving IRB financing and bond purchasers similar to those that apply to federal contractors under Executive Order 11246 and to city contractors under Chicago's contract compliance program. Second, the Committee recommends that Congress enact legislation providing for similar rules applicable to IRB participants nationwide. Third, Chicago's Department of Economic Development should disseminate information about its IRB program among minority-owned businesses and trade associations more effectively than it currently does. Fourth, the U.S. Bureau of the Census should incorporate a racial identification in its economic censuses to facilitate analysis of minority-owned businesses in the U.S.

Full support of the Commission for these recommendations would assist the city of Chicago and communities around the country in their efforts to achieve equal employment opportunity.

Sincerely,

TOM PUGH,
Chairperson, Illinois Advisory Committee.

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

J. Thomas Pugh, Chairperson, Peoria.
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ACKNOWLEDGEMENTS

The Illinois Advisory Committee thanks the staff of the Commission's Midwestern Regional Office for its assistance in the preparation of this report.

This report was written by Gregory D. Squires, research analyst with the Midwestern Regional Office. Research assistance was provided by Thomas A. Lyson of Clemson University. Legal assistance was provided by Ruthanne DeWolfe, consultant/expert. Committee members Thomas L. Bradley, Milton E. Stinson Jr., and Thomas Pugh also contributed to the research and writing of this report. Valuable

editorial and production assistance was provided by Ada L. Williams, Mary K. Davis, and Delores Miller, staff members of the Regional Office.

This project was coordinated by Valeska S. Hinton, Civil Rights Analyst, and conducted under the overall supervision of Clark G. Roberts, Regional Director of the Midwestern Regional Office.

CHAPTER 1.—INTRODUCTION

In the spring of 1981 the Chicago Tribune launched its five-part series "Chicago: City on the brink" with this discomfiting observation: "The City of Chicago has become an economic invalid."¹ The story noted that Chicago had one-quarter fewer factories in 1981 than in 1970, almost 13 percent fewer private sector jobs in 1978 than 1957, and while the equalized assessed valuation of Chicago real estate increased by almost 3 percent between 1972 and 1979, the cost of city government rose by more than 30 percent. Although neighborhoods throughout the city have suffered, the Tribune asserted, "It is the black neighborhoods, though, where the devastation is worst. . . . If Chicago is dying, great chunks of it are already dead."² If a single explanation for the city's failure to reverse the decline can be identified, according to the Tribune, it is the absence of a coherent master plan.³ When asked "How much time do we have," George Ranney, Jr., chairman of the Task Force on the Future of Illinois, and a vice president of Inland Steel responded, "We have actually no time. We should have been thinking about these things 5 or 10 years ago."⁴

In October 1982 the city of Chicago did release a draft of a plan for citywide development strategies. A plan for the central area was released in June 1983 and plans for districts created under the master plan will be prepared in the near future.⁵ Other steps have been taken in recent years to revitalize the local economy. Early in 1982 the city's Economic Development Commission was transformed into the Department of Economic Development, its staff was doubled, and its budget was tripled. An Economic Development Commission was also created to direct the work of the department.⁶ The principal duty assigned to the department is "to develop programs and policies to encourage and promote the retention and expansion of existing commercial and industrial businesses within the City, and the attraction of new businesses to the City."⁷ Its "main weapon"⁸ is the industrial revenue bond (IRB).

Industrial revenue bonds are essentially below market-rate loans which Chicago, and municipalities in all 50 states provide to encourage industrial development and job creation. Because the interest on revenue bonds issued by the city is exempt from Federal taxation, bond purchasers—normally banks—are able to provide low-interest financing to assist firms in their relocation and expansion activities.⁹ Between 1977, when Chicago began its IRB program, and June 1983, financing totaling \$197,863,000 was provided for 104 projects.¹⁰

Given the particularly acute economic problems plaguing Chicago's minority population and the significance of the city's industrial revenue bond program as part of its effort to generate jobs for residents, the Illinois Advisory Committee to the U.S. Commission on Civil Rights examined the extent to which minority workers and minority businesses participate in the program. Members of the Committee and staff of the Commission met with officials of Chicago's Department of Economic Development, representatives of the business community, members of community organizations, and economic development researchers. Minority employment in a sample of firms participating in the IRB program was examined. In addition, literature on

¹ R.C. Longworth, "Chicago: City on the brink," Chicago Tribune, May 10-14, 1981.

² *Ibid.*, May 13, 1981.

³ *Ibid.*, May 14, 1981.

⁴ *Ibid.*, May 10, 1981.

⁵ Chicago 1992: Comprehensive Plan, Oct. 1982, Suhail al Chalabi, Interim Commissioner, Chicago Department of Economic Development, letter to Clark G. Roberts, Director, Midwestern Regional Office, U.S. Commission on Civil Rights, July 11, 1983.

⁶ R.C. Longworth, "City's development now in hands of go-getter agency," Chicago Tribune, Dec. 13, 1981.

⁷ Journal of the Proceedings of the City Council of the City of Chicago, Illinois, Chapter 15.2, Municipal Code of Chicago, p. 9363.

⁸ R.C. Longworth, "Fewer firms, fewer jobs, less revenue," Chicago Tribune, May 11, 1981.

⁹ "Report on Tax-Exempt 'Small Issue' Industrial Revenue Bonds," Subcommittee on Oversight of the Committee on Ways and Means, U.S. House of Representatives (Washington, D.C.: U.S. Government Printing Office, 1981), pp. 1, 10.

¹⁰ Small Issue Industrial Revenue Bonds: Status Report, City of Chicago, Economic Development Commission, June 30, 1983.

IRB programs nationwide was reviewed. This report contains the major findings and recommendations of this research.

BUSINESS INCENTIVES AND JOB CREATION

A central assumption underlying the IRB concept is that the key to economic revitalization is financial incentives that will encourage the private sector to initiate productive, job-generating investment activity. The twin pillars of this approach are tax reductions and deregulation.¹¹ Not only are such incentives essential for growth in general, but they are considered particularly important for the revitalization of minority communities and job creation for minority workers.¹² As one economic advisor to the president, Stanford University's Michael J. Boskin, stated, "The group in the population with the greatest stake in a pro-growth set of economic policies, even if that means temporary sacrifice by slowing social spending, is blacks."¹³

This is precisely the approach many municipalities and states have taken in their economic development efforts. The city of Chicago, under Major Jane M. Byrne, and the state of Illinois are no exception. A brochure published by the city of Chicago entitled "Chicago's Economic Incentives for Business" begins: "The Economic Development Commission, in a continuing effort to expand business activity in the City of Chicago, provides economic incentives to encourage local industrial development."

The first incentive described in this brochure is industrial revenue bonds. Others included are: revolving loans available at preferred rates for fixed asset financing; federally guaranteed loans, again at reduced interest rates; Urban Development Action Grants, another source of low interest loans; land cost write downs; property tax relief which can reduce by 60 percent the real estate taxes on new industrial construction or substantial rehabilitation; public works and infrastructure improvements provided by the city; job training funds which can compensate a company for half the wages of new trainees for up to one year; and Chicago's Foreign Trade Zone, the only free port in the metropolitan region.¹⁴

But Chicago's industrial revenue bond program is, as the Tribune stated in its special report, the city's "main weapon." The significance attached to this program by city officials was captured in the following testimony given by the former Executive Director of the Economic Development Commission, Charles C. Sklavanitis, before a subcommittee of the Ways and Means Committee of the U.S. House of Representatives: "The industrial revenue bond program has proved to be one of the most valuable tools available to us in our work to keep Chicago one of the nation's most vital industrial areas. The use of industrial revenue bonds as a means to access private capital markets appears to me to be crucial to the reindustrialization of America. It is imperative that we continue to encourage the private sector to invest in new plants and equipment, especially in the inner city."¹⁵

Officials of the State of Illinois which issued 258 bonds totalling \$1,148,702,000 between 1973 and July 1980, have expressed similar sentiments.¹⁶ John Castle, then Director of the Illinois Department of Commerce and Community Affairs told that same House subcommittee:

"Industrial revenue bonds (IRB) are essential in helping Illinois retain and attract business. Without this tool, many Illinois communities would have fewer new jobs and a slower expansion of their economic base.

"By making funds available at lower interest rates, revenue bonds provide companies with an incentive for enlarging and expanding their productive capabilities, which results in new jobs."¹⁷

¹¹ The Economic Plan, The White House, Feb. 18, 1981.

¹² Thomas Sowell, "Ethnic America" (New York: Basic Books, 1981). Walter Williams, "Government Sanctioned Restraints that Reduce Economic Opportunities for Minorities," Policy review, Fall 1977. "The Urban Jobs and Enterprise Zone Act: Some Questions and Answers" undated document supplied by the office of Rep. Jack Kemp. George Gilder, *Wealth and Poverty* (New York: Basic Books, Inc., 1981).

¹³ A Guide to Understanding the Supply-Siders," *Business Week*, Dec. 22, 1980.

¹⁴ Chicago's Economic Incentives for Business, Chicago Economic Development Commission (undated).

¹⁵ Small Issue Industrial Development Bonds," Hearings before the Subcommittee on Oversight of the Committee on Ways and Means, U.S. House of Representatives, Serial 97-14 (Washington, D.C. U.S. Government Printing Office, 1981) (hereafter cited as "Hearings"), p. 504.

¹⁶ Summary/Analysis IRB Bonds Issues, January 1973-July 1980, Illinois Department of Commerce and Community Affairs.

¹⁷ Hearings," p. 935.

In Chicago the IRB program is viewed as a particularly valuable tool for the creation of jobs for minorities. In many public statements, Sklavanitis maintained that a significant number of jobs have been created for minorities and in inner city communities with IRB financing.¹⁸ This contention is the subject of this inquiry.

The following chapter reviews the history of IRBs nationally and describes the Chicago program in greater detail. The controversies surrounding the IRB concept at the national and local levels are also reviewed. Chapter 3 examines the extent of minority participation in the Chicago IRB program. The major findings and recommendations of this study are reported in the concluding Chapter 4.

CHAPTER 2.—THE INDUSTRIAL REVENUE BOND DEBATE

HISTORY OF INDUSTRIAL REVENUE BONDS

Industrial revenue bonds (IRBs) are tax exempt bonds that state and local governments issue to provide financing for private sector investment in plants and equipment. Because the interest earned on the bonds is exempt from Federal taxation, purchasers of the bonds, generally banks, can offer low-interest loans to businesses to support expansion and relocation of their facilities, primarily for industrial development. In essence, the Federal government subsidizes the borrowing costs of private industry. While state and local governments issue the bonds, thus transferring their tax exempt status to private borrowers, funds are provided by private lenders and responsibility for repayment belongs to the businesses receiving the loans. If a borrower defaults, the loss is borne by the bondholder, not the unit of government that issued the bond.¹

Utilization of tax-exempt bonds to finance plant and equipment for private industry began in 1936 when the state of Mississippi passed legislation authorizing cities and towns to issue bonds to finance construction of manufacturing facilities for lease to private companies. The first bond, for \$85,000, was issued to Realsilk Hosiery Mills in Durant.² At first the growth of IRBs was slow. By 1950 only two additional states, Alabama and Kentucky, authorized their use. In 1960 only 17 states issued IRBs. During the 1960s, however, use of IRBs jumped as sales rose from \$100 million in 1960 to \$1.8 billion in 1968 and the number of states issuing them reached 40. Between 1975 and 1980 annual sales ballooned from \$1.3 billion to \$8.4 billion.³ Today all fifty states issue IRBs.⁴

While each state and municipality issuing IRBs administer their own programs, certain Federal regulations must be met for the bonds to maintain their tax exempt status. The principal Federal statute governing IRBs is the Revenue Expenditure and Control Act of 1968.⁵ In the late 1960's Congress became concerned with the sudden growth of IRBs primarily because of the resulting losses in Federal revenue, the criticism that public funds were often utilized for projects that would have otherwise occurred with conventional financing, fear that the proliferation of IRBs undermined a central purpose of such financing which was to attract industry to depressed areas, and fear that the costs of state and local borrowing for traditional purposes were increased by the overall growth in tax exempt bonds. As a result, Congress passed the 1968 Act that withdrew the tax exemption for IRBs except for those projects that met specific public purposes including: air and water pollution-control equipment; airports, docks, wharves, and related storage and training facili-

¹⁸ "Hearings," pp. 502-505. Charles C. Sklavanitis, "Industrial bonds vital tool in stoking economy," Chicago Sun-Times, Mar. 30, 1982. Charles C. Sklavanitis, personal interview with members of the Illinois Advisory Committee and staff of U.S. Commission of Civil Rights, May 18, 1982.

¹ Small Issue Industrial Revenue Bonds, Congressional Budget Office, Sept. 1981 (hereafter cited as CBO Report), p. 1. Alice M. Rivlin, Director, Congressional Budget Office, testimony before Subcommittee on Oversight of the Committee on Ways and Means, U.S. House of Representatives published in "Small Issue" Industrial Development Bonds, Serial 97-14 (Washington, D.C.: U.S. Government Printing Office, 1981) (hereafter cited as "Hearings"), p. 4.

² CBO Report, p. 7. Technically, this was an industrial development bond (IDB), a term generally used interchangeably with industrial revenue bond. While both refer to bonds issued by public agencies to finance facilities for private enterprises, one important distinction is that IDBs are backed by the public issuing authority while IRBs are backed by the business receiving the loan. IDBs were the precursors of IRBs but are used relatively less frequently today. CBO, p. 1.

³ CBO Report, pp. 2-9.

⁴ Alice Rivlin, Director, Congressional Budget Office, Statement before the Committee on Ways and Means, U.S. House of Representatives, June 15, 1983.

⁵ Pub. L. No. 90-364, 82 Stat. 251 (1968). John E. Chapoton, Assistant Secretary for Tax Policy, U.S. Department of the Treasury, testimony in "Hearings," pp. 24-26.

ties; facilities furnishing electric energy, gas, and water; land acquisition and infrastructure development for industrial parks; mass transportation and parking facilities; residential housing; sewage and solid waste disposal facilities; sports facilities; and trade show and convention centers. This Act also retained the tax exemption only for bonds not exceeding \$1 million. A few months later this ceiling was raised to \$5 million.⁶

In 1978 Congress raised the ceiling again to \$10 million primarily because inflation had eroded the value of the previous limitation. In addition, where the amount exceeds \$1 million, total capital expenditures on all the firm's facilities in the city or county cannot exceed \$10 million for the six-year period beginning from three years before the bond is issued to three years after the issue. But for those projects in distressed areas receiving Urban Development Action Grant (UDAG) funds under Section 119 of the 1977 Amendments to the Housing and Community Development Act of 1974,⁷ the IRB limit was placed at \$20 million.⁸

Despite current Federal restrictions, IRBs have been used to support private tennis clubs, ice cream parlors, fast food restaurants, commercial real estate development, ski lodges, and other types of private business enterprises.⁹ In the Tax Equity and Fiscal Responsibility Act of 1980,¹⁰ however, Congress eliminated the Federal tax exemption for bonds that finance such recreational facilities.¹¹

More than half of the states issuing IRBs place no restrictions on their use.¹² Among those states and municipalities that do restrict the use of IRBs, the restrictions vary widely. In many states IRBs are generally limited to manufacturing and related industrial development projects with strict limitations placed on commercial use. In others, including Minnesota and Pennsylvania, commercial uses predominate. North Carolina limits eligibility for IRB financing to those industrial projects where each \$7.5 million invested creates at least 100 jobs, the average wage in the project is above the county average or ten percent above the average manufacturing wage in the state, and there is no adverse environmental impact. Some states prohibit IRB financing for projects involving a relocation in the state. In Erie County (which includes the city of Buffalo) IRB projects are limited to specifically designated redevelopment areas and projects that could not be completed without the financing.¹³ In Indiana, among the factors state officials must consider is whether a proposed facility may have an adverse competitive effect on similar facilities already in operation.¹⁴

In several state programs, including Illinois, projects must be targeted to economically depressed areas. Among the criteria considered by the Illinois Industrial Development Authority (IIDA), which administers the state IRB programs, are the following:

1. The project must be located in an eligible area. Eligibility is determined by the unemployment rate, and is changed from time to time.
2. The project must be an industrial concern that is involved with manufacturing, processing, assembling, storing, repairing, altering, or distributing any products of agriculture, mining, or industry; or any industrial, service or commercial enterprise engaged in selling, servicing, providing, storing, shipping, warehousing, or distributing any product of agriculture, mining, or industry. (Commercial projects are eligible if they are directly related to industrial activity).
3. Only fixed assets (land, building, equipment and certain fees and charges directly connected with the financing of the industrial project) may be financed by the proceeds of the bonds.
4. New jobs must be created as a result of the financing of the industrial project.
5. The Authority is required to notify the governing body of the municipality where the project is to be located that they have passed a Memorandum of Agreement whereby they will issue the bonds on behalf of the project once all legal and technical requirements have been fulfilled. The authorities of the municipalities have 45 days from receipt of notice by IIDA to register objections to the project.¹⁵

⁶ CBO Report, pp. 9, 10.

⁷ Pub. L. No. 95-128, § 119.91 Stat. 1111. (1977).

⁸ CBO Report, pp. 3, 11, 12. "Hearings," pp. 25, 26.

⁹ *Ibid.*, pp. 18, 19.

¹⁰ Pub. L. No. 97-248, § 96 Stat. 324. (1982).

¹¹ 128 Cong. Rec. H6303 (daily ed. Aug. 17, 1982) (hereafter cited as *Congressional Record*).

¹² "Hearings," p. 5.

¹³ CBO Report, pp. 17-36.

¹⁴ Jacquelyn Harder, "Industrial Revenue Bonds: Regional and National Issues for Economic Development and Public Policy," Illinois-Indiana Bi-State Commission, Jan. 1983 (hereafter cited as *Bi-State Report*), p. 10.

¹⁵ *Ibid.*, p. 9. Under its home rule provisions the city of Chicago administers its own industrial revenue bond program and is not subject to the regulations of the state program.

At least one state has an equal opportunity requirement. Wisconsin state guidelines prohibit discrimination in employment and in subcontracting. They also prohibit the use of IRBs for construction of facilities that would be used to discriminate in access or employment on the basis of race, creed, sex, handicap, ethnic origin, age, or marital status. The non-discrimination clause can be waived, however, if the municipality issuing the bond provides a reason for the waiver.¹⁶

The basic procedure for implementing an IRB project is similar in all states and municipalities although there are some important differences in the specific administrative mechanisms. Generally, a private business will negotiate with a bank for the terms of the loan to be financed by an IRB. Once the bond purchaser is identified the business contacts the local or state governmental authority, often an economic development commission, to secure and complete an application. At this stage public hearings may be held. If that authority approves the application, it is forwarded to the official governmental unit, often a city council. Additional public hearings may be conducted. If approved, the governmental unit will authorize the preparation of a bond ordinance and related documents. As of 1982, bonds must be formally approved by the governmental unit issuing the bond after a public hearing is held.¹⁷ When these final documents are approved, the project goes forward. In some cases, the project will be monitored to assure that terms of the loan are met.

But the administration of these steps does vary. For example, some states, including Indiana, have long required public hearings before a bond can be approved. In others, including Illinois, there was no requirement for a public hearing before Congress established such a requirement in 1982.¹⁸ In some municipalities IRBs have been issued as a routine administrative matter with no public input though public hearings are now required. In some states, only state agencies can issue IRBs while in others only local municipalities have such authority, and in still others, including Illinois, they can be issued by both levels of government. Between 1975 and 1980, at least 128 Illinois municipalities issued IRBs with 340 projects totalling \$567 million launched during these years.¹⁹ Some jurisdictions have no review procedures and make no attempt to monitor IRB projects. In others, including Chicago, data are routinely collected on the dollar amount of issues, the bond purchaser, the purpose of the project, the number of new jobs projected, and related information. In 1982 Congress mandated that governmental units issuing bonds are required to report to the U.S. Department of Treasury the names of IRB users, the amount and interest rate of bonds, and descriptions of bond projects.²⁰

Nationwide, the primary objectives of IRB projects are to stimulate economic development and create jobs. Yet the specific uses and administration of bond projects differ dramatically. Below is a description of the Chicago industrial revenue bond program.

THE CHICAGO INDUSTRIAL REVENUE BOND PROGRAM

The two major objectives of Chicago's IRB program, governed by the city's own enabling ordinance,²¹ are: (1) to attract and retain jobs and (2) to stabilize and increase the financial base of the city.²² To meet these objectives the city issues IRBs which provide low interest loans, at least two points below the prime lending rate,²³ to finance the expansion or relocation of firms in the city of Chicago. For the past year the rate has been approximately 1 percent to 3 percent below the rate for conventional loans.²⁴ As indicated in the previous chapter, 104 projects providing

¹⁶ Wis. Stat. § 66.521(11)(b)1,2 (1983).

¹⁷ Congressional Record, p. 6303.

¹⁸ Ibid.

¹⁹ David R. Allardice, "Small Issue Industrial Revenue Bond Financing in the Seventh Federal Reserve District," Federal Reserve Bank of Chicago, 1982 (hereafter cited as Federal Reserve Reprint), p. 57.

²⁰ CBO Report, pp. 29-32, Bi-State Report, pp. 1-20. Congressional Record, p. 6303.

²¹ "Journal of the Proceedings of the City Council of the City of Chicago, Illinois," Chapter 15.2, Municipal Code of Chicago, pp. 9363-9367.

²² Myron D. Louik, Deputy Commissioner, Chicago Department of Economic Development, personal interview with Gregory D. Squires, Research/Writer, Midwestern Regional Office, U.S. Commission on Civil Rights, June 17, 1982 (hereafter cited as Louik interview—June). The Economic Development Commission IRB Program Policy Guidelines, undated document provided by the Chicago Department of Economic Development (hereafter cited as Guidelines), p. 1.

²³ City of Chicago Industrial Revenue Bonds, undated document provided by the Chicago Department of Economic Development (hereafter cited as Chicago Revenue Bonds), p. 2.

²⁴ Myron D. Louik, telephone interview, August 30, 1982.

\$197,863,000 in financing were approved between the beginning of the program in 1977 and June 1983. According to Chicago's Department of Economic Development which administers the program, these projects accounted for 16,423 jobs retained for Chicago and 7,454 new jobs projected by the IRB users.²⁵ The following projects illustrate the kinds of activities assisted by IRB financing in Chicago:

- A manufacturer and distributor of machine tools, accessories, cutting tools, and precision measuring tools received a \$750,000 IRB for the acquisition and remodeling of a plant and for the purchase of new equipment. The company projected an addition of 45 jobs to its current workforce of 69.
- A manufacturer of high precision, screw machine products received \$800,000 in IRB financing to construct a 5,000 square foot addition to its plant and to purchase related equipment. The company plans to add 24 jobs to its workforce of 86 employees.
- An airline received \$1 million in IRB financing to recondition hangar and office space at Midway airport. As a result of this project the company expects to add 150 new employees to the 180 currently employed at the Chicago facility.
- A reference, research, and rare book library received a \$5 million IRB to renovate its current structure and construct a 10-story book stack building adjacent to the property. The project will enable the library to retain its 133 employees.
- An Ohio firm received \$1 million in IRB financing to construct a cement handling facility near Lake Calumet. The company expects to employ two workers at the new terminal and generate 15 new jobs in the local trucking industry due to increased volume of shipments.
- A bank received \$1 million IRB financing to construct a 19,000 square foot addition to its main facility. The project is expected to increase deposits and employment by 7 to 10 percent with an initial addition of 9 people to its current workforce of 108.²⁶ (For a list of all bond projects see Appendix A. For a description of each project see, Small Issue Industrial Revenue Bonds; Status Report, City of Chicago, Economic Development Commission, 1983.)

Most users of IRBs are manufacturers financing real estate acquisitions, new construction, on-site expansion, rehabilitation or remodeling of production facilities, or the purchase of new capital equipment.²⁷ A few commercial projects have also been approved. The Economic Development Commission recently adopted a policy whereby commercial projects will be considered if they are located in an area with high unemployment and low investment, and a neighborhood impact assessment demonstrates the project will contribute to the economic revitalization of the neighborhood.²⁸

Given the major objectives of the IRB program, potential users must demonstrate "substantial employment benefits resulting from the proposed project."²⁹ While applicants must specify the number of jobs that will be created and/or retained, no minimum number is required and there is no obligation on the part of the user to meet the stated goals. Assuming applications meet the general policy guidelines, the principal if not sole criterion for evaluation is financial soundness of the firms. Though the bonds are issued by the city, the companies are responsible for repayment.³⁰ Six applications have been rejected by the commission, all but one for financial reasons. The exception was a proposal for a commercial project that did not comply with policy guidelines.³¹

While there is a conscious effort to direct at least some of the department's services to those neighborhoods with the greatest employment and investment problems, there are no specific equal opportunity regulations attached to the IRB program. According to Deputy Commissioner Myron D. Louik, There has been no need for such regulations because minorities constitute a large proportion of all employees among IRB users.³² (The percentage is approximately 58 percent.)³³ In addition,

²⁵ Small Issue Industrial Revenue Bonds: Status Report, City of Chicago, Economic Development Commission, June 30, 1983, p. 1.

²⁶ *Ibid.*, pp. 13-28.

²⁷ Guidelines, p. 2.

²⁸ *Ibid.*, p. 1.

²⁹ *Ibid.*, p. 3.

³⁰ Louik interview—June. Guidelines, p. 2.

³¹ Louik interview—June.

³² *Ibid.*

³³ Dennis McAvoy, Director of Research, Department of Economic Development, letter to Gregory D. Squires, Research/Writer, Midwestern Regional Office, U.S. Commission on Civil Rights, May 4, 1983.

four minority-owned businesses (businesses where minorities own more than 50 percent of all stock) have participated in the IRB program. Louik suggested that the dollar limits of the program may limit the number of minority-owned firms for which IRB financing is feasible.

There are both legal and practical limitations which restrict the feasibility of IRB financing for firms that are either very large or very small. As indicated above, Internal Revenue Service regulations generally limit the Federal tax exemption to bonds of no more than \$10 million. And where an IRB exceeds \$1 million, total capital expenditures within the city of Chicago cannot exceed \$10 million during the six-year period covering the three years before and three years after the bond issue.³⁴ Large firms, therefore, are discouraged from using an IRB. At the other end, IRB financing involves certain private costs not associated with conventional financing thus making \$500,000 the lower limit for an IRB to be feasible and discouraging participation by many small firms.³⁵ Louik estimated that of a total of approximately 6,000 businesses in Chicago, 500 would be ruled out because they are too large, and 2,500 to 3,000 would be too small. While recognizing a substantial number of minority-owned businesses operate in Chicago, he surmised that the small size of most such firms left few in the range for which IRB financing would be feasible.³⁶

Some of those firms seeking financing of less than \$500,000 are directed to the revolving loan fund which provides between \$75,000 and \$250,000 to eligible applicants. Participation is limited, however, with only eight firms currently receiving such financing. Six of the eight are minority-owned firms.³⁷

The department actively markets the availability of its services through its Business Assistance and Marketing Division which has a goal of contacting every manufacturing and industrial company in Chicago. Eight field representatives contact company executives for appointments at which they explain the function of the department and indicate how it can help the individual firm. In 1981, 3,511 companies were contacted. There are no outreach efforts directed specifically at minority communities or minority-owned firms.³⁸ The department has provided funding for the Cosmopolitan Chamber of Commerce, the Chicago Economic Development Corporation and other minority business organizations,³⁹ but little information on IRBs has been disseminated.⁴⁰

For businesses seeking IRB financing the initial step is a meeting with the staff of the department to determine if the proposal is consistent with the IRB program. If so, a complete application, along with a letter of commitment from a financial institution to purchase the bond, are submitted to the department. The application describes the specific project in detail, the number of people employed by the company and the racial composition of the workforce, employment gains projected by the IRB project, and other information about the business. (See Appendix B for a copy of the IRB application and supporting instructional information.)

The Industrial Revenue Bond Screening Committee then reviews the application and, if acceptable, forwards it to the Executive Committee of the Economic Development Commission. If approved at that level, an ordinance will be introduced in the Chicago city council for preliminary approval of the proposed bond. The council's Economic Development Committee reviews all proposals in a public meeting and reports to the full council. Upon passage of the ordinance the company may begin making commitments to the project. Following the drafting of a bond ordinance and related documents, they are introduced to the city council for final approval after which disbursement of the funds from the private lenders may proceed. In some cases even though a final ordinance is approved firms may never close their loan. When the company does proceed it must retain a bond counsel acceptable to the city and the bond purchaser who is responsible for drafting various legal documents and assuring the transaction complies with all legal requirements. After the IRB issue is closed the department will monitor the company for three years. Each year IRB users must complete a questionnaire indicating progress made towards completing

³⁴ Guidelines, p. 2.

³⁵ Louik, interview-June.

³⁶ Louik interview-June.

³⁷ Ibid.

³⁸ Ibid. Out-Reach Program, undated document provided by the Chicago Department of Economic Development.

³⁹ Suhail al Chalabi, Interim Commissioner, Chicago Department of Economic Development, letter to Clark G. Roberts, Regional Director, Midwestern Regional Office, U.S. Commission on Civil Rights, July 11, 1983 (hereafter cited as al Chalabi letter).

⁴⁰ Consuelo Williams, Executive Director, Cosmopolitan Chamber of Commerce, telephone interview, July 12, 1983.

the project, employment impact on the company including changes in the racial composition of the workforce, salary range of all employees, and other information related to the bond project.⁴¹ (See Appendix C for a copy of the monitoring instrument used in 1982.)

CONTROVERSIES

Industrial revenue bonds are viewed as essential for economic development by many supporters while critics contend such development would be furthered by the total elimination of IRBs. Public officials, researchers, and other community leaders have expressed strong opinions in support of and against industrial revenue bonds.

The basic argument of those who support the use of IRBs is that they constitute a vital tool in stimulating local economic development by attracting new business and encouraging the expansion of existing business. By providing affordable capital to small businesses more jobs are created, tax revenues are generated, and local economies are revitalized. From this perspective, IRBs are viewed as particularly valuable for minority neighborhoods and low-income communities generally.⁴²

To many state and local officials the authority to issue IRBs is critical if their communities are to remain competitive with others. The Director of the Business Assistance Division of North Carolina's Department of Commerce received written communications in the early 1970s from many blue chip industries stating they would not consider locating additional manufacturing plants in that state until it established an IRB program, which it did in 1975.⁴³ Such incentives are also endorsed as a cushion to help a community protect itself in a declining economy better than its neighbors can do. Chicago officials point to "an impressive list of investment incentives" as an important reason why "Chicago should fare better than most cities in the face of the deepening recession."⁴⁴ Wisconsin's Director of Administration stated simply, "You need it to compete, because everybody else has it."

Many advantages are attributed to IRBs. Small businesses receive financing at below market rates. Community residents receive jobs and enjoy the benefits of economic growth. Municipalities strengthen their tax bases. And bond purchasers receive tax exempt income from their investments. The following headlines from articles appearing in one major Chicago daily newspaper which has strongly endorsed IRBs illustrate the many benefits articulated by IRB advocates: "Bonds helped firm stay alive, ready to soar,"⁴⁵ "Good sense on urban growth bonds,"⁴⁶ "Keep city growth tool,"⁴⁷ "Industrial bonds prove their worth."⁴⁸

Despite the ardent support of IRBs around the country, that support is by no means unanimous. IRBs are criticized on several grounds. Perhaps the most fundamental critique is that IRBs simply do not accomplish their stated objectives. That is, they fail to attract new businesses or reduce unemployment in depressed areas or to contribute to the formulation of new business generally.⁴⁹

Among the specific criticisms, the one most frequently articulated is the drain on the Federal treasury, projected by the Congressional Budget Office to reach almost three billion dollars by 1986.⁵⁰ A related concern expressed by the Municipal Fi-

⁴¹ Guidelines, pp. 3, 4. Chicago Revenue Bonds, p. 4.

⁴² James A. Duerk, Ohio Director of Economic and Community Development, "Hearings," p. 129; Donald J. Cogsville, President, Harlem Urban Development Corporation, "Hearings," pp. 516, 617; "Report on Tax-Exempt 'Small Issue' Industrial Revenue Bonds," Subcommittee on Oversight of the Committee on Ways and Means, U.S. House of Representatives, July 9, 1981 (hereafter cited as "Oversight Committee"), p. 9; "Hearings," pp. 517, 128; John Fenner, attorney with the law firm of Gardner, Carton & Douglas, "Hearings," p. 741. John Fenner, "Industrial bonds should be for industrialists," *Crain's Chicago Business*, June 1, 1981; "Final Report: The Industrial Revenue Bond as a Financial Attraction Device," Economic Development Administration, U.S. Department of Commerce, Sept. 1978 (hereafter cited as "Commerce Report"), p. 138. Robert E. Patterson, "Industrial Revenue Bonds—A Cost Benefit Assessment," Commentary, July 1981.

⁴³ Thomas B. Broughton, Director, North Carolina Business Assistance Division, Department of Commerce, "Hearings," p. 237.

⁴⁴ Charles C. Sklavantis, "Guiding Hand Keeps Chicago Growing," *Commerce*, July 1980.

⁴⁵ *Chicago Sun-Times*, Mar. 29, 1982.

⁴⁶ *Chicago Sun-Times*, Oct. 23, 1981.

⁴⁷ *Chicago Sun-Times*, Oct. 6, 1981.

⁴⁸ Edwin Darby, *Chicago Sun-Times*, Oct. 1, 1981.

⁴⁹ Clay Myers, Treasurer, State of Oregon (hereafter cited as Myers testimony), "Hearings," p. 56. Jay Angoff, Public Citizen's Congress Watch (hereafter cited as Angoff testimony), "Hearings," p. 224. Commerce Report, pp. 5-7. Thomas A. Pascarella and Richard D. Raymond, "Buying Bonds for Business: An Evaluation of the Industrial Revenue Bond Program," *Urban Affairs Quarterly*, September 1982, pp. 73-89.

⁵⁰ CBO Report, p. 39. See also Wisconsin Report, p. 3.

nance Officers Association and others is that IRBs create competition within the municipal bond market which raises interest rates in the market generally, thus increasing the borrowing costs to government for more critical public purposes such as public education, road repair, and other infrastructure costs.⁵¹

Many are critical of IRBs because they provide an unintended subsidy to many large businesses that have no difficulty accessing credit through normal markets.⁵² In some cases, the Federal largesse has been utilized for private recreational facilities, adult book stores, and other ventures not related to the central objectives of the program.⁵³

To the extent that IRBs do affect location decisions, the result is primarily the pirating by one community of firms previously located in another, according to several observers.⁵⁴ Rather than creating new jobs, proliferation of IRB programs constitutes an unhealthy form of competition in which almost all municipalities and states lose. The recipient of a \$3.5 million IRB in Chicago defended the program on the grounds that it enabled him to purchase a New Hampshire business and move it to Chicago, thus preserving 500 jobs and adding 71 new ones for the city.⁵⁵ Without the financing, this business would probably have been moved to Tennessee.⁵⁶

Such developments have led some analysts to recommend that Congress abolish all small-issue IRBs. University of Illinois economist J. Fred Giertz noted that no individual community has an incentive to stop issuing IRBs since municipalities incur no direct costs and since neighboring, and competitor, communities offer the bonds. Yet Giertz concluded that all taxpayers would be better off if IRBs were eliminated. He stated, "No city can avoid playing the game, but they'd all be better off not playing the game."⁵⁷

Clay Myers, the state treasurer of Oregon, observed that unilateral abolition by a state would leave it at a competitive disadvantage. Therefore, Congress must eliminate the program nationwide in order to "eliminate the abuses, inequities, and public costs of the program, as well as to inspire the creation of new and efficient means of promoting economic development, particularly in depressed areas and those of high unemployment."⁵⁸

A serious problem encountered by virtually all researchers attempting to study IRBs is the paucity of information.⁵⁹ In many municipalities and states there is no central reporting of information on who is receiving IRBs, the amount, the purpose, the number of jobs (if any) to be created, and related concerns. Reporting requirements are more comprehensive in Chicago than in most jurisdictions. Yet, as the following chapter illustrates, data availability problems have not been eliminated. To some extent, these problems have been addressed by the reporting requirements established in the new tax law. But, developing public policies to change IRBs (if any change is required), to assure they meet the intended objectives, remains difficult in part because of the unavailability of information.

One issue on which information is most noticeably lacking is the impact of IRBs on minorities, which makes policy recommendations in this area particularly diffi-

⁵¹ Federal Reserve Report, pp. 22, 23. John T. Walsh, Chairman, Governmental Debt and Fiscal Policy Committee, Municipal Finance Officers Association, and Director of Finance, City of Hartford, Connecticut, "Hearings," pp. 211-217. Commerce Report, p. 138. Wisconsin Report, p. 2. "Oversight Committee," pp. 6, 7.

⁵² Henry B. Schechter, Deputy Director of Economic Research, AFL-CIO, "Hearings," pp. 363-371. Angoff testimony, "Hearings," 224. In Chicago over 50 percent of IRB projects involved firms with fewer than 100 employees at time of application while approximately 5 percent involved firms with over 300 employees, al Chalabi letter; James O'Shea, "Development bond use is expanding: so is controversy," Chicago Tribune, Nov. 2, 1980; Howard Metzenbaum (hereafter cited as Metzenbaum testimony) "Hearings," p. 349. See also Industrial Revenue Bonds, Wisconsin Legislative Audit Bureau, May 1981 (hereafter cited as Wisconsin Report), pp. 1, 2; Charles Nicodemus, "City gave Congress phony job figures," Chicago Sun-Times, Mar. 14, 1982.

⁵³ Metzenbaum testimony "Hearings," p. 350. "Bottled in bonds," Chicago Tribune, Jan 17, 1983 (hereafter cited as "Bottled in bonds"). "No subsidy for some," Chicago Sun-Times, Jan. 18, 1983.

⁵⁴ Federal Reserve Report, p. 23 Myers testimony, "Hearings," p. 57. Angoff testimony, "Hearings," p. 225. In Chicago less than 40 percent of IRB projects involved relocation and virtually all from other Chicago locations, al Chalabi letter.

⁵⁵ Calvin A. Campbell, Jr., letter to the editor, Chicago Sun-Times, Mar. 29, 1982.

⁵⁶ Louik interview—June.

⁵⁷ Phil Glende, "Tax Free Bonds For Business Up Dramatically," The Champaign-Urbana News Gazette, Oct. 10, 1982.

⁵⁸ Myers testimony, "Hearings," p. 57.

⁵⁹ Federal Reserve Report, p. 55. CBO Report, p. 12. Bi-State Report, 29-40. Wisconsin Report, p. 3. "Tax Dollars and Jobs in Chicago," Chicago Jobs Coalition, May 1982, pp. 1-4. "Industrial Revenue Bonds—Benefits and Abuses," Planning Reporter, Mar. 1982.

cult to develop. Most IRB programs, including that for the city of Chicago, have no components which address minority concerns specifically. One exception is the state of Wisconsin which has a non-discrimination clause in its authorizing legislation. But that clause has proven to be inadequate to assure participation by minorities on an equitable basis.⁶⁰ The following chapter examines minority participation in Chicago's IRB program. The basic question to be asked is: Do racial minorities share equitably in the benefits provided by industrial revenue bonds in the city of Chicago?

CHAPTER 3.—INDUSTRIAL REVENUE BONDS AND EQUAL OPPORTUNITY IN CHICAGO

A critical, but virtually ignored, dimension of the public policy implications of industrial revenue bonds is the impact on minority employment. Enabling ordinances and public pronouncements by IRB advocates occasionally refer to the assumed benefits that will accrue to minority neighborhoods, but rarely do such programs include equal opportunity or minority set-aside provisions, or evaluation components that focus on minority employment.

While containing no explicit equal opportunity provision in its program, Chicago's IRB program pays more attention to minority concerns than do most others. In Chicago, IRB applicants must indicate the number of total, black, Hispanic, and other minority employees by sex and by salary range. (See Appendix A for a copy of the application form). And, as of 1982, all recipients of IRB financing must submit a progress report indicating, among other information, their current race and sex profile. (See Appendix C for a copy of the progress report instrument used in 1982).

This chapter examines the issue of minority participation in Chicago's IRB program. The analysis is based on data provided by the city of Chicago's Department of Economic Development and the United States Equal Employment Opportunity Commission (EEOC). The city provided a list and brief description of all approved IRB projects from inception of the program in 1977 through June 1983.¹ This report covers 104 bond projects. The city also provided selected aggregate data from the 1982 progress report that covered projects approved between June 1979 and June 1982. A total of 70 firms responded to this 1982 survey.²

The EEOC provided computer tapes containing the EEO-1 reports (indicating the race and sex profile by major occupational categories) which most large firms are required to file annually.³ The EEOC also provided a list of all private employers in Chicago against whom the agency had issued reasonable cause findings of race or sex discrimination between 1977 and June 1982.

MINORITY EMPLOYMENT

Among firms receiving IRB financing collectively, racial minorities and women were employed at levels equal to or greater than their representation in the Chicago labor market.⁴ Yet in a large number of firms, racial minorities and women were substantially underrepresented and many IRB projects involve private businesses that have recently been found in violation of Federal equal employment laws by the U.S. Equal Employment Opportunity Commission.⁵

⁶⁰ Business Incentives and Minority Employment, Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, 1982.

¹ Small Issue Industrial Revenue Bonds: Status Report, City of Chicago, Economic Development Commission, June 30, 1983.

² Dennis McAvo, Director of Research, Department of Economic Development, letter to Gregory D. Squires, Research/Writer, U.S. Commission on Civil Rights, Midwestern Regional Office, May 4, 1983.

³ All private businesses with 100 or more employees or with 50 or more employees and Federal contracts worth \$50,000 or more must file annually an EEO-1 report. For additional information see: Standard Form 100, Employer Information Report EEO-1, (Washington, D.C.: Equal Employment Opportunity Commission) and, Illinois Advisory Committee to the U.S. Commission on Civil Rights, "Shutdown: Economic Dislocation and Equal Opportunity," 1981, pp. 30-32.

⁴ While representation of racial minorities and women in the Chicago labor market and within specific industries in Chicago is used as a benchmark in this study, it constitutes a very conservative barometer for several reasons. First to rely on current representation of racial minorities and women is to accept the current level of discrimination as a standard for comparison. Discriminatory barriers within the industries themselves which deny equal opportunity industry-wide, as well as discriminatory practices in other social institutions (like schools) that also deny entry into these industries and firms disproportionately for racial minorities and women, are not reflected when current representation is the measure by which underutilization is determined. Second, in many official published surveys of the labor force, minorities are more likely to be missed, thus resulting in an undercount of their actual representation.

⁵ Supporting documentation and elaboration provided below.

Racial minorities accounted for 57.9 percent of all employees in the 40 firms with completed IRB projects who responded to the 1982 survey. This compares with 47.3 percent for the Chicago labor force, according to the Department of Economic Development (see Table 1). Blacks were employed in these 40 firms at a slightly higher level than in the labor force generally while Hispanics were employed in substantially greater proportions among these IRB firms than the city generally. Interestingly, however, while blacks appear to receive approximately the same wages as all workers, Hispanics are heavily concentrated in the lowest paying jobs (see Table 2). According to the Department of Economic Development this reflects the lower educational attainment of Hispanics: 22 percent of Chicago's black adults have not gone beyond the eighth grade compared to 51 percent among Hispanics.⁶

TABLE 1.—LABOR FORCE CHARACTERISTICS

[40 firms with completed projects]

	Minority workers	Black	Hispanic	Other
Chicago labor force ¹ (percent).....	47.3	31.3	12.8	3.2
Firms with completed IRB projects ² (percent).....	57.9	33.0	22.0	2.9

¹ 1980 U.S. Census.² Four firms not included due to incomplete data.

Source: Chicago Department of Economic Development.

TABLE 2.—WAGES BY RACE/ETHNIC GROUPS

[40 firms with completed projects¹]

	Total		Black		Hispanic		Other minority ²	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Less than \$4/hr.....	307	4.8	53	2.5	195	14.1	10	5.5
\$4 to \$7/hr.....	2,779	44.2	1,007	48.5	724	52.4	92	50.8
Over \$7/hr.....	3,208	51.0	1,020	49.0	463	33.5	79	43.7
Total.....	6,294	100.0	2,080	100.0	1,382	100.0	181	100.0

¹ Does not include four firms due to incomplete data.² Represents Asian or Pacific Islander and American Indian or Alaskan Native.

Source: Chicago Department of Economic Development.

Women were employed among IRB firms at levels slightly above their representation citywide according to 1981 EEO-1 reports (see Table 3). Though based on a different, yet overlapping, set of firms, the EEO-1 reports reflect a similar pattern of minority employment.⁷

⁶ Suhail al Chalabi, Interim Commissioner, Chicago Department of Economic Development, letter to Clark G. Roberts, Director, Midwestern Regional Office, U.S. Commission on Civil Rights, July 11, 1983 (hereafter cited as al Chalabi letter).

⁷ Data from the 1975 and 1981 EEO-1 reports are utilized in this analysis. A total of 37 Chicago firms that received IRB financing are included in the 1981 reports. Unlike the 1982 survey cited above which covers firms receiving IRBs between June 1979 and June 1982, EEO-1 data cover those firms receiving IRBs since the inception of the program in 1977 through December 1981. This time frame was selected in order to include as many firms as possible and because the most current EEO-1 reports available at the time of the analysis were for 1981. Only 27 Chicago firms receiving IRB financing submitted EEO-1 reports in both 1975 and 1981. So where comparisons are made between these two years, the sample is 27 rather than 37.

The base for comparison in the analysis of EEO-1 reports is all EEO-1 reporting firms within the same industry in Chicago. For 1981, the 37 firms represent industries that include 527 firms which submitted EEO-1 reports that year. The 27 firms used in 1975-1981 comparisons represent industries that included 262 firms that submitted EEO-1 reports in both years. Specific industries are not identified because of confidentiality provisions established by the EEOC with which all EEO-1 data users must comply.

TABLE 3.—EMPLOYMENT OF RACIAL MINORITIES AND WOMEN IN FIRMS RECEIVING IRB FINANCING AND IN ALL CHICAGO FIRMS WITHIN THE SAME INDUSTRIES: 1981

	[In percent]			
	Minority (all non white)	Black	Hispanic	Female
IRB firms (37):				
Total employment.....	46.3	30.5	13.9	44.9
Professional, technical managerial occupations.....	26.6	21.2	3.1	43.2
All firms (527) (including IRB firms):				
Total employment.....	31.5	19.4	9.8	41.5
Professional, technical and managerial occupations.....	14.0	9.3	2.2	26.3

Source: Data derived from EEO-1 Reports.

The current high aggregate levels of minority employment among firms receiving IRBs, however, is clearly not a result of the bond program. Minority employment among those firms was high before Chicago's IRB program began. Minority employment has actually increased faster among firms that did not receive IRB financing than among those which did (see Table 4). For example, employment of racial minorities increased by 13.5 percent among IRB firms but by 32.0 percent among all firms within the same industries. For blacks, the increase was just 6.1 percent among IRB firms compared to 36.8 percent for all firms. This can be explained in part, to the fact that because minorities constituted a higher share of the work force in IRB firms, it would be more difficult to increase that share among IRB firms than in other companies. The picture was different for Hispanics. Among IRB firms Hispanic employment increased by 29.5 percent compared to just 14.3 percent for all firms. Female employment increased by virtually the same proportion in both groups.

TABLE 4.—EMPLOYMENT OF RACIAL MINORITIES AND WOMEN IN FIRMS RECEIVING IRB FINANCING AND IN ALL CHICAGO FIRMS WITHIN THE SAME INDUSTRIES: 1975 AND 1981

	[In percent]			
	Minority	Black	Hispanic	Female
1975—total employment:				
IRB firms (27).....	33.6	28.0	9.5	38.7
All firms (490).....	25.6	16.3	7.7	40.2
1981—total employment:				
IRB firms).....	43.8	29.7	12.3	43.9
All firms.....	33.8	22.3	8.8	47.3
Percent increase between 1975 and 1981:				
IRB firms).....	+13.5	+6.1	+29.5	+18.6
All firms.....	+32.0	+36.8	+14.3	+17.7

Source: Data derived from 1975 and 1981 EEO-1 Reports.

But once again, such aggregate data conceal as much as they reveal. Racial minorities were underutilized in 9 (24.3 percent) of the 37 firms receiving IRB financing for which 1981 data are available (see Table 5). Blacks were underutilized in 12 (32.4 percent), Hispanics were underutilized in 24 (64.9 percent) and women were underutilized in 17 (45.9 percent). Racial minorities or women were underutilized in over one-half of these firms (20-54.1 percent). In most of these cases the extent of underutilization was substantial. In those firms where blacks, Hispanics, or women were underutilized, the average level of employment of the group was approximately a third below the group's representation in the respective industry.⁸

⁸ These determinations were derived by summing the representation of each group within each IRB firm exhibiting a pattern of underutilization—calculated by dividing the percentage of each group in each firm by that group's percentage within the respective industry—and then dividing by the number of IRB firms.

TABLE 5.—NUMBER OF IRB FIRMS IN WHICH MINORITIES AND WOMEN ARE UNDERUTILIZED

IRB firms (37)	Total employment	Professional, technical and managerial occupations
All minorities (percent)	¹ 9 (24.3)	17 (46.0)
Blacks (percent)	12 (32.4)	16 (43.2)
Hispanics (percent)	24 (64.9)	17 (46.0)
Females (percent)	17 (46.0)	17 (46.0)
Minorities or females (percent)	20 (54.1)	27 (72.4)

¹ This indicates that in nine or 24.3 percent of the 37 firms included in this analysis that received IRB funding, minorities (all nonwhites including blacks and Hispanics) were employed in lower percentages than these groups are represented in the respective industries.

² This indicates that in 20 or 54.1 percent of these 37 firms either minorities or females were underutilized.

Source: 1981 EEO-1 Report.

In the professional, technical, and managerial occupations, minorities were underutilized in an even larger number of firms. Although collectively racial minorities and women were employed in greater proportions among IRB firms than in the respective industries (see Table 3), in 17 (46.0 percent) of these firms racial minorities were underutilized and in 27 (72.4 percent) either racial minorities or women were underutilized. Among these firms, the extent of underutilization among professional, technical, and managerial employees was greater than for all employees. At the higher level positions, racial minorities and women were employed in firms receiving IRB financing at approximately one-half their representation in such positions within the respective industries. That is, not only were racial minorities and women employed in lower proportions at the higher level jobs (which is generally the case throughout most industries) but the discrepancies between the utilization of these groups in the better jobs compared with their availability in the respective industries are even greater than the discrepancies for total employment in those IRB firms exhibiting a pattern of underrepresentation.

A similar though bleaker picture emerges in examining bond purchasers. In Chicago 21 of the 26 institutions that have purchased IRBs are banking institutions.⁹ Again, at the aggregate level, racial minorities and women were employed at levels comparable to or above their representation among the 83 Chicago banks that submitted EEO-1 reports (see Table 6). Yet racial minorities were underutilized in over 60 percent (see Table 7). In over 85 percent of these banks either racial minorities or women were underutilized. The extent of underutilization among these banks was much greater for racial minorities than women, however. Minority employment among these bond purchasers exhibiting patterns of underutilization was less than two-thirds their representation among Chicago banks generally while female employment reached over 90 percent. That is, even within those Chicago banks that purchased IRBs in which women were underutilized, they were employed at levels that almost reached their representation among banks generally.

TABLE 6.—EMPLOYMENT OF RACIAL MINORITIES IN BANKS THAT PURCHASED IRBS AND WITHIN ALL CHICAGO BANKS: 1981

	[In percent]			
	Minority	Black	Hispanic	Female
IRB purchasers (21):				
Total employment	35.2	27.6	5.0	61.7
Professional, technical and managerial occupations	16.6	12.1	2.2	40.5
All banks (85):				
Total employment	33.3	24.5	5.4	62.0
Professional, technical and managerial occupations	15.7	10.8	2.21	39.3

Source: 1981 EEO-1 Report.

⁹ Because of confidentiality provisions with which users of the EEO-1 tapes must comply, analysis of the remaining bond purchasers was prohibited.

TABLE 7.—NUMBER OF BOND PURCHASERS IN WHICH MINORITIES AND WOMEN ARE UNDERUTILIZED

Bond purchasers (21)	Total employment	Professional, technical and managerial occupations
All minorities (percent)	13 (61.9)	14 (66.7)
Blacks (percent)	12 (57.1)	13 (61.9)
Hispanics (percent)	14 (66.7)	14 (66.7)
Females (percent)	8 (38.1)	11 (52.3)
Minorities or females (percent)	18 (85.7)	19 (90.5)

Source: 1981 EEO-1 Report.

At the professional, technical, and managerial levels, again more IRB purchasers exhibited patterns of underutilization, despite aggregate employment levels of racial minorities and women that reflected their representation with Chicago banks generally in these occupations (see Tables 6, 7). Racial minorities were underutilized at these levels in two-thirds of the banks that purchased IRBs (representing less than half the proportion of minorities in such positions in Chicago banks generally) and either racial minorities or women were underutilized in over 90 percent—19 of the 21 banks.

Statistical discrepancies, alone, do not constitute proof of discrimination. Such information, however, often indicates the existence of underlying problems in a personnel system that results in the denial of equal employment opportunity. This appears to be the case among several firms participating in Chicago's IRB program.¹⁰

A most striking finding is the fact that in 19 of the city's 95 IRB projects, either the bond purchaser or the firm receiving the financing has been issued a reasonable cause finding of race or sex discrimination, in violation of Title VII of the Civil Rights Act of 1964, by the EEOC. That is, 20 percent of the projects receiving this particular form of public financial assistance involved a business that was discriminating against racial minorities or women in its employment practices.¹¹

PARTICIPATION OF MINORITY-OWNED BUSINESSES

A related issue is whether or not minority-owned businesses receive an equitable share of IRBs. An effort to assess the representativeness of such minority participation proved difficult due to the inadequacies of available information. Four IRB projects involved minority-owned firms.¹² Data are simply not available, however, that would permit a compilation and comparison of the total number of minority- and non-minority-owned businesses in Chicago or of those within industries and of the appropriate size that would make them eligible for IRBs.

The most complete surveys of business establishment have been conducted by the U.S. Census Bureau. Unfortunately, however, the economic censuses, which do not indicate the race of the owners of businesses included in the survey, are not comparable with the surveys of minority-owned businesses. For example, the unit of analysis in the economic censuses is "establishment" whereas the minority business surveys are based on firms, which may include several establishments. Another problem is the fact that within metropolitan areas certain industries are not covered in the economic censuses that are included in the minority business survey.¹³

It is difficult to assess the representation of minority-owned businesses among firms receiving IRB financing in Chicago. However, executives with leading minority business associations indicated little familiarity with the IRB program in recent interviews.¹⁴ And while four minority-owned firms have received IRB financing, no Hispanic-owned businesses have participated.

¹⁰ U.S. Commission on Civil Rights, "Affirmative Action in the 1980s: Dismantling the Process of Discrimination," 1981, pp. 30-37.

¹¹ Chicago Private Employers Against Whom EEOC Has Issued Reasonable Cause Findings Because of Race or Sex Discrimination, 1977-June 1982, data provided by EEOC.

¹² Information provided by Myron Louik, Chicago Department of Economic Development, information contained in Commission files.

¹³ U.S. Bureau of the Census, "History of the 1977 Economic Censuses," 1980, U.S. Bureau of the Census, "1977 Survey of Minority-Owned Business Enterprises," 1980. Steve Loue, U.S. Bureau of the Census, telephone interview, Feb. 25, 1983.

¹⁴ Consuelo Williams, Executive Director, Cosmopolitan Chamber of Commerce, personal interview with Valeska S. Hinton and Gregory D. Squires, staff members of the Midwestern Re-

Continued

JOB CREATION

Collectively, those firms which received IRB financing and were included in the city's 1982 progress report experienced an increase in employment. Given the nature of the available data, however, it is difficult to determine the extent to which the original job creation and retention goals are being met, though in a significant number of cases it is evident the goals are in fact not being achieved. More significantly, among those firms that did grow there is no evidence that the IRB was responsible.

The seventy firms that responded to the 1982 survey represented 44 completed IRB projects and 26 incomplete projects. These 70 firms reported an increase of 16.2 percent in employment (representing 1,683 new jobs) since they received their bonds. Among the 44 completed projects the increase was 26.2 percent (1,353 jobs) while the incomplete projects reported an increase of 6.3 percent (330 jobs).

According to Dennis McAvoy, Director of Research of the Department of Economic Development, the lower figures reported by the incomplete projects reflect more than the mere fact that the projects have not been completed. For many of these firms, business has been slower than anticipated so they have not proceeded as quickly with their bond projects and they have not increased their employment as quickly as originally intended.¹⁵ Merely the passage of time, therefore, will not bring the job creation figures of these firms up to the levels of those reporting to the city that completed their projects or up to the levels these 26 originally anticipated.

Determining whether or not initial job creation or retention goals are being met is difficult, given the type of information provided by the Department of Economic Development from IRB applications and the 1982 progress report. On the application, firms indicate the number of jobs they anticipate retaining and/or creating each year for three years after completion of the project. In most cases, goals for the entire project are projected to be met within three years after the project is completed. In fact in earlier years the application only asked for the final third-year projection. The data from the progress report are provided in aggregate form and include: initial Chicago employment, current Chicago employment, employment gain, original and revised third-year projections, and future growth projections from both the time of application to the third year of the project and from the current year to the third year. (See Table 8. This table was provided by the Department of Economic Development. The title of the table is a misnomer since, for reasons indicated below, data on changing employment levels and projections do not necessarily reflect the impact of IRBs.)

TABLE 8.—EMPLOYMENT IMPACT OF IRB PROJECTS

[40 firms with completed projects/20 firms with incomplete projects]

	Initial Chicago employment	Current Chicago employment	Employment gain (current-initial)	3d year projections		Future growth	
				Original	Revised	Initial to 3d year	Current to 3d year
Completed projects ¹	4,797	6,180	1,383	7,424	8,411	3,614	2,231
Incomplete projects ²	4,483	4,371	-112	5,747	5,712	1,229	1,341
Total projects ³	9,280	10,551	1,271	13,171	14,123	4,843	3,572

¹ Of the 44 firms with completed projects, projections data from 4 firms was inadequate and are not reported in this table. The initial employment for all 44 firms was 5,167 and their current employment is 6,520 for a total gain of 1,353 (26.2 percent).

² Of the 26 firms with incomplete projects, projections data from 6 firms was inadequate and are not reported in this table. The initial employment for all 26 firms was 5,207 and their current employment is 5,537 for a total gain of 330 (6.3 percent).

³ The initial employment of all 70 firms was 10,374 and their current employment is 12,057 for a total gain of 1,683 (16.2 percent).

Source: Chicago Department of Economic Development.

The problem that arises with this presentation is that firms at different stages of their projects are grouped together. It is possible, for example, to determine the number of jobs that were created by these firms between the time of their IRB application (some date between 1979 and 1982) and June 1982. But since the available figures include firms which both received their bonds and completed their projects

gional Office of the U.S. Commission on Civil Rights, and J. Thomas Pugh, Chairman of the Illinois Advisory Committee, Aug. 9, 1982. Jose Cardoso, President, Chicago Hispanic Chamber of Commerce, personal interview with Hinton, Squires, and Pugh, Aug. 8, 1982.

¹⁵ Dennis McAvoy, Director of Research, Department of Economic Development, telephone interview, May 4, 1983.

at varying times over the past three years, it is impossible to determine how much progress the firms collectively, or any individual or group of individual firms, are making towards their goals. That is, without analyzing individual IRB applications and progress reports it is impossible to compare a job retention or creation projection for a particular date with the actual employment at that date for any individual firm or group of firms.

Data provided from the 1982 progress report indicate that firms receiving IRB financing have revised their third year projections upward, but it is not clear that the original projections are being met. Table 8 indicates that among the 66 firms that reported initial and current employment as well as projection data, there has been an employment gain of 1,271. The original third year projection for these firms was 3,891 (13,171-9280). Therefore, 32.7 percent of the initial projections has been met. Completed projects have fared better, of course, having already met 52.6 percent of their initial projections even though none have reached the third year. The Interim Commissioner of the Department of Economic Development noted that these firms "already accomplished the majority of their expansion as originally projected."¹⁶ Again, however, it is impossible to determine whether even these more successful firms are ahead of schedule, behind schedule, or right on target.

While the aggregate data in the progress report indicate increases in employment among those 70 firms, such aggregate data can conceal as much as they reveal. For example, in 10 of the 44 completed projects firms actually lost employees, generally about 20 percent of the employees they had at the time of application. And among the 26 incomplete projects 13 have reduced employment.¹⁷ In this sample of firms, therefore, almost 33 percent have failed to provide the public benefit anticipated by the issuance of an IRB. Even if all other firms have met and will continue to meet their goals, these data suggest that the job creation and retention goals of the IRB program are not being met. It is possible that when these projects have been completed and three years have elapsed the picture may change. But, for the reasons indicated above, more than the passage of time will have to occur. None of these firms anticipated losing people as even an interim part of their project.¹⁸

More problematic is the fact that even in those firms that are achieving their goals, there is little, if any, evidence that the IRB is responsible. In some cases, it is entirely plausible to assume that firms were able to undertake a project to expand their business and add employees precisely because the availability of the bond made the project financially feasible. And in other cases firms were able to borrow more money, and therefore initiate a larger project and add more employees, than they would have with conventional financing. Others may have chosen to stay in Chicago or to expand in Chicago rather than in the suburbs or some other state because of the city's IRB program. (In these cases, of course, that simply means Chicago's gain came at someone's expense. No net increase in jobs could be attributed to the IRB program). But it is equally plausible to assume that many of these businesses intended to expand anyway—and to expand in Chicago—and the availability of an IRB simply reduced their borrowing costs.

While it may be impossible to determine exactly how many IRB projects fell in each category, it is possible to develop more precise estimates of the impact of IRBs on job retention and creation. As a first step, the city could compare employment trends in IRB firms with other Chicago firms in the same industries and at similar stages of development (e.g., size, age, technology). A more comprehensive approach would be to examine similarly situated firms with different performance records in order to determine why some grew and others did not, and therefore, gauge the applicability of IRBs. Research along these lines would reveal far more about the impact of IRBs already issued and how their impact can be maximized in the future,

¹⁶ al Chalabi letter.

¹⁷ Ibid.

¹⁸ One explanation that has been suggested for the failure of many firms receiving IRB financing to meet their original job creation goals is the poor state of the economy. Yet IRBs and other financial incentive tactics have been implemented precisely for the purpose of healing an ailing economy. If the policy does not work then either the problems have been misdiagnosed or the wrong remedy has been applied. The decline of the economy cannot justify the failure of the remedy purportedly designed to cure that every problem.

A related contention is that the city's economic decline would have been even worse if it were not for such economic development programs. If true, this makes IRBs and related efforts little more than temporary stopgaps rather than an effective recovery program. If Chicago has been able to hold on to a few jobs that would otherwise have gone to the suburbs or elsewhere, then Chicago's gain (or minimized loss) comes at the expense of another community. The result is no net job creation, but a very real reduction in Federal tax revenue.

than simple comparisons between initial employment and employment at a subsequent date.

Even if it can be demonstrated that the existence of an IRB program retained or created a given number of jobs, that alone would not justify such a public investment. The investment must be evaluated within the context of the opportunity costs (i.e., the benefits forgone by using the funds for IRBs rather than for another expenditure) and the expected return compared with other possible investments. As economist Michael Kieschnick state in reference to tax incentives generally: "When viewed as a public investment, a tax incentive should be provided when its expected return exceeds the return available on alternative investments. To determine the rate of return requires an estimation of the initial investment (the cost of the tax incentive), the annual return (the new income generated), and the probability that the new investment was induced by the tax incentive."¹⁹

IRBs represent a justifiable investment for job generation, therefore, to the extent that funds devoted for this purpose create more jobs than would be generated if the same dollars were used for alternative investments (e.g., public sector jobs, vocational training).

Because the immediate costs of IRBs are absorbed by the Federal government, in the short run it might be profitable for a state or local community to issue IRBs even if more jobs could be retained or created with an alternative investment. Since most alternatives would have to come from state or local sources, IRBs may be a very attractive investment for a community, at least in the short run. At the national level, however, and eventually at all levels, this may not be the case.

ECONOMIC DEVELOPMENT AND EQUAL OPPORTUNITY

Many of the firms receiving IRB financing do not provide equal employment opportunity for racial minorities and women. Yet, as indicated in Chapter 2, the city has established no equal opportunity requirements for participants in the IRB program. Geography is the principal reason suggested by city officials and IRB recipients for the absence of such regulations.²⁰ That is, since firms receiving IRB financing tend to be located in minority communities, they employ a large number of minority workers.

The president of one business that participated in Chicago's IRB program asserted that he was colorblind but, due primarily to his firm's southside location, he employed many minorities. He also noted that women were employed in non-traditional jobs.²¹ Yet the 1982 race and sex profile provided by the president himself reveals a different picture. Racial minorities accounted for 21 percent of all employees compared to 34 percent of Chicago's civilian labor force. Among officials, managers, professionals, and technical workers, minorities accounted for 17 percent compared to 32 percent citywide. Women accounted for 11 percent of all employees compared to 44 percent in Chicago generally. In the higher level positions women constituted 18 percent of this firm's employees compared to 48 percent citywide. Most of the women (73 percent) are employed in clerical positions which is comparable to citywide figures. Less than 2 percent are skilled craft workers compared to 7.3 percent in the city's civilian labor force.

This situation is not unique. As indicated in the previous pages, several Chicago businesses receiving IRB financing employ racial minorities and women at levels far below their representation in the local labor market and many have been found to be in violation of Federal law. Equal employment opportunity rarely occurs naturally or by change. Geography clearly does not assure non-discriminatory employment practices.

In response to similar findings regarding minorities and female employment in Milwaukee firms that received industrial revenue bonds, the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights suggested that any unit of government that provides financial assistance through contracts, tax credits, abatements, IRBs, or other forms should require recipients of that aid to comply with equal opportunity and affirmative action requirements similar to those which apply

¹⁹ Michael Kieschnick, *Taxes and Growth: Business Incentives and Economic Development* (Washington, D.C.: Council of State Planning Agencies, 1981), p. 78.

²⁰ Myron D. Louik, Deputy Commissioner, Department of Economic Development, personal interview with Gregory D. Squires, Research/Writer, U.S. Commission on Civil Rights, Midwestern Regional office, June 17, 1982. Calvin A. Campbell, Jr., personal interview with members of the Illinois Advisory Committee and Midwestern Regional Office of the U.S. Commission on Civil Rights (hereafter cited as Campbell interview).

²¹ Campbell interview.

to Federal contractors under Executive Order 11246.²² In response to that recommendation, the Commissioner of Milwaukee's Department of Development stated, "Overall, we can only agree with your conclusions that this business incentive and others need to be coupled with increased enforcement of equal opportunity laws, and he requested assistance in developing a monitoring program."²³

The Interim Commissioner of Chicago's Department of Economic Development offered a different perspective claiming:

"If violations of the law have occurred, it is strengthened enforcement, not new legislation that is required . . . It is not apparent that it has any implication for the design of local development programs."²⁴

The city of Chicago has already established such requirements for businesses that receive city contracts.²⁵ Chicago's affirmative action plan states that:

"The subcontractor or vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or handicap. The subcontractor or vendor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin or handicap. Such action shall include, but not be limited to, employment upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The subcontractor or vendor agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer, setting forth the provisions of this non-discrimination clause. . . .

"The subcontractor or vendor shall comply with all the provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"The subcontractor or vendor shall furnish all the information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain its compliance with all such rules, regulations, and orders."²⁶

Under Executive Order 11246 Federal contractors must make a written commitment not to discriminate against applicants or employees because of their race, color, religion, sex, or national origin and to take affirmative action to ensure equal employment opportunity.²⁷ All non-construction contractors with 50 or more employees and contracts worth \$50,000 or more in any twelve month period must develop and implement a detailed affirmative action plan. That plan must include a utilization analysis to determine whether or not minorities or women are underutilized in any major job category. If the proportion of minorities or women in the contractor workforce is below their representation in the relevant labor market from which employees are normally recruited, numerical goals and timetables must be established as part of the plan to eliminate that underutilization.²⁸ As with Federal contractors under Executive Order 11246, in Chicago subcontractors or vendors who do not comply with these requirements may have their city contracts terminated, cancelled or suspended and they may be declared ineligible for future city contracts.²⁹

²² Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, "Business Incentives and Minority Employment," 1982, pp. 100, 101.

²³ William Ryan Drew, letter to Clark G. Roberts, Regional Director, Midwestern Regional Office, U.S. Commission on Civil Rights, Jan. 4, 1983.

²⁴ al Chalabi letter.

²⁵ While the city does enter into contracts in the administration of the IRB program, Wayne Osterlin of the Corporation Counsel's office said the city's non-discrimination contract compliance regulations do not apply to bond projects. (Wayne Osterlin, telephone interview with Gregory D. Squires, July 5, 1983). Osterlin stated that IRBs are loan agreements that do not constitute formal city projects and do not involve city funds in a strict sense. Therefore, the contract compliance rules do not apply. No judicial interpretation of this issue has been provided. It is arguable, however, that IRBs do involve city contracts that are covered by the equal opportunity and affirmative action provisions of the city's contract compliance regulations.

²⁶ City of Chicago, Affirmative Act Plan, 2981, pp. 4, 5 (hereafter cited as Affirmative Action Plan).

²⁷ Exec. Order No. 11246, 3 C.F.R. 339 (1964-1965) as amended by Exec. Order No. 11375, 3 C.F.R. 684 (1966-70) and as amended by Exec. Order 12086, 3 C.F.R. 230 (1978) reprinted in 42 U.S.C. § 2000e, p. 1232-1236, hereafter cited as Exec. Order No. 11246, as amended. For exceptions see 41 C.F.R. § 60-1.4 (1980).

²⁸ 41 C.F.R. §§ 60-2.1-60-2.32 (1982).

²⁹ Affirmative Action Plan, pp. 5, 6.

John Coulter, Director of Economic Development with the Chicago Association of Commerce and Industry has stated that it would be appropriate for IRB recipients to be subject to the same affirmative action requirements that apply to government contractors.³⁰

Equal employment opportunity is not an inevitable by-product of economic growth or geographic location. As the U.S. Commission on Civil Rights found in its recent study, "Unemployment and Underemployment Among Blacks, Hispanics, and Women," disparities in various dimensions of unemployment and underemployment between minorities and white males persist in areas experiencing economic growth (e.g., suburbs and the "sunbelt"), as well as those suffering economic decline (e.g., central cities and the "frostbelt"). Such disparities persist in virtually all industries ranging from traditional manufacturing to "high-tech" firms. And they persist throughout all phases of the economic cycle including periods of growth and decline.³¹

Even if economic growth was the solution to employment discrimination, it can no longer be concluded that the financial incentive-industrial attraction strategy is effective in achieving that growth. As long as the principal duty of Chicago's Department of Economic Development is "to develop programs and policies to encourage and promote the retention and expansion of existing commercial and industrial businesses within the City, and the attraction of new businesses to the City"³² and the industrial revenue bond program remains the principal tool, Chicago's job creation efforts, particularly for minorities, will meet with limited success.

Newly elected Chicago Mayor Harold Washington has indicated that economic development and job creation efforts by the city may depart from the city's previous reliance on industrial attraction tactics. The Washington proposals include: a venture capital fund to assist small businesses and direct investment in new technology with the city assuming equity positions to assure greater public return; creation of neighborhood development boards to determine use of community development block grant funds; affirmative action in city hiring and targeting of city contracts to businesses located in the city including a set-aside for minority contractors; several private/public partnership programs to provide job training, infrastructure redevelopment, and neighborhood reinvestment; and other tactics in efforts to assure a coordinated, fair, and effective economic development program.³³

If job opportunities are to be created for racial minorities and women and equal employment opportunity is to be achieved, public officials at all levels must initiate efforts that focus directly on those disparities. Equal employment opportunity will not be achieved as an indirect result of efforts aimed at achieving some other objective, no matter how desirable that other objective may be. As the U.S. Commission on Civil Rights concluded in its recent study, "We cannot blame economic cycles . . . Instead, we must try to end discrimination directly by enforcing the law."³⁴

CHAPTER 4.—FINDINGS AND RECOMMENDATIONS

The following findings and recommendations are submitted under the provisions of Section 703.2(e) of the U.S. Commission on Civil Rights' regulations calling upon Advisory Committees to "initiate and forward advice and recommendations to the Commission upon matters which the State Committees have studied."

FINDINGS

1. Industrial revenue bonds (IRBs) have become an increasingly popular tool by which municipalities and states have attempted to attract new businesses and expand existing businesses. IRBs are frequently characterized by their supporters as particularly valuable for the revitalization of depressed urban (often minority) communities. Industrial revenue bonds are tax exempt bonds which state and local governments issue to finance private sector investment primarily for industrial purposes. Because the interest earned on the bonds is exempt from Federal taxation, bond purchasers can offer private businesses below market-rate loans to support expansion and relocation of industrial facilities.

³⁰ John Coulter, interview with Valeska S. Hinton and Gregory D. Squires, U.S. Commission on Civil Rights, Midwestern Regional Office staff, Sept. 2, 1982.

³¹ U.S. Commission on Civil Rights, "Unemployment and Underemployment Among Blacks, Hispanics, and Women," 1982 (hereafter cited as Unemployment).

³² Journal of the Proceedings of the City Council of the City of Chicago, Illinois, Chapter 15.2, Municipal Code of Chicago, p. 9363.

³³ Congressman Harold Washington's Working Paper on Jobs for Chicagoans, (undated).

³⁴ "Unemployment," p. 59.

2. Between 1977, when the city of Chicago began its industrial revenue bond program, and June 1983, financing totalling \$197,863,000 was provided for 104 projects. The primary objectives of Chicago's IRB program are: (1) to attract and retain jobs and (2) to stabilize and increase the tax base of the city.

3. Many IRB programs, but not Chicago's, require that funds be targeted to areas that are economically depressed. Some mandate that a specific number of jobs be created. In at least one program, the state of Wisconsin, racial discrimination is expressly prohibited. According to the Department of Economic Development, none of these requirements formally apply to Chicago's IRB program.

4. Chicago's IRB program is not achieving the intended results. A progress report prepared by the Chicago Department of Economic Development indicates that, collectively, firms that received IRB financing experienced a net increase in employment. However, in its analysis the Department collapsed firms at different stages of their bond projects making it impossible to compare initial projections for a specified date with actual employment at that time. Therefore, it is difficult to determine the extent to which firms are meeting their original job retention and creation goals. But the fact that almost one-third of these firms actually reduced total employment indicates that many beneficiaries of IRB financing, if not the program generally, are failing to provide the public benefit anticipated by the issuance of IRBs. Among those firms that did experience an increase in employment, there is little, if any, evidence that the IRB accounted for that growth, or that IRBs generally are an effective job retention or creation tactic.

5. Racial minorities or women are underutilized in a majority of firms that received IRB financing. Among these firms, collectively, racial minorities and women are employed at levels equal to or greater than their representation in the Chicago labor market. Yet, in almost 25 percent of the firms, racial minorities are underutilized and in over 45 percent women are underutilized, generally by substantial margins. In over half the firms (54 percent) either racial minorities or women are underutilized. Among professional, managerial, and technical professions racial minorities and women fare even worse. Though employed at or above their representation in these occupational classifications within the Chicago labor market among these firms collectively, racial minorities and women are each underutilized in 46 percent, and in 70 percent of these firms either racial minorities or women are underutilized.

6. Racial minorities or women are underutilized in a majority of banks that have purchased IRBs. Among banks, collectively, that have purchased IRBs, minorities and women are employed at levels approximating their representation among all Chicago banks. Yet in over 60 percent, racial minorities are underrepresented, in almost 40 percent women are underutilized, and in over 85 percent either racial minorities or women are underutilized. Among professional, technical, and managerial professions, racial minorities are underutilized in two-thirds of the banks, women are also underutilized in two-thirds of the banks, and either racial minorities or women are underutilized in over 90 percent.

7. IRBs have not contributed to an increasing level of minority employment. In those industries represented by Chicago firms receiving IRB financing, the increase in minority employment has been greater in Chicago firms that have not participated in the IRB program than in firms which have received such financial assistance.

8. Many IRB participants discriminate against racial minorities and women in their employment practices. In 20 percent of all IRB projects, either the bond purchaser or the firm receiving the financing has recently been found in violation of Title VII of the Civil Rights Act of 1964 by the U.S. Equal Employment Opportunity Commission. According to Suhail al Chalabi, the interim Commissioner of the Department of Economic Development, "It is not apparent that it [civil rights violations by IRB participants] has any implication for the design of local development programs."

9. Location of a firm does not guarantee equal opportunity. Contrary to the opinions of some administrators and beneficiaries of IRB projects, geographic location of a firm within a minority community does not assure that minorities will enjoy equal employment opportunity with that firm.

10. Few minority-owned businesses participate in Chicago's IRB program. Among the 104 IRB projects undertaken by the city of Chicago, four provided financing for minority-owned businesses. No Hispanic-owned firm has participated in the IRB program.

11. Lack of comparability among the various economic censuses published by the U.S. Bureau of the Census inhibits analysis that would permit precise assessment of the extent of participation by minority-owned businesses in Chicago's IRB program.

12. Many observers, including John Coulter, Director of Economic Development of the Chicago Association of Commerce and Industry, have recommended legislation at the Federal level banning industrial revenue bonds and other similar financial incentive programs.

13. Equal employment opportunity is not an inevitable by-product of economic growth. Disparities between minorities and white males in employment opportunities persist in those geographic locations and industries experiencing strong economic growth and in periods when the national economy is expanding.

14. Civil rights groups have advocated affirmative action requirements for IRB participants. The Wisconsin Advisory Committee to the U.S. Commission on Civil Rights has recommended that government agencies at the local, state, and Federal level that provide financial assistance to private sector firms in the form of contracts, tax credits, abatements, industrial revenue bonds, and others require recipients of that assistance to meet specific equal opportunity and affirmative action regulations similar to those that apply to Federal contractors under Executive Order 11246. Under Chicago's affirmative action plan, such requirements already apply to businesses that receive contracts from the city.

RECOMMENDATIONS

1. If Chicago's IRB program is to be continued, the city should promulgate affirmative action regulations for bond purchasers and firms receiving the financing similar to those that apply to Federal contractors under Executive Order 11246. Participants in the IRB program should be required to prepare written affirmative action plans identifying specific areas of underutilization and barriers to equal employment opportunity in their workforces (if any), numerical goals and timetables for eliminating problems uncovered in that analysis, and specific tactics to be implemented to achieve those goals. Failure to comply with such regulations should be grounds for declaring a firm ineligible for participation in the IRB program. In extreme cases the firm should be required to pay back a portion of the subsidy received through the IRB.

2. Affirmative action should be mandatory for all IRB participants nationwide. The U.S. Commission on Civil Rights should advise Congress to enact legislation establishing affirmative action requirements for all firms in the nation benefiting from IRBs similar to those that apply to Federal contractors under Executive Order 11246 since, due to the Federal income tax exemption on the bonds' earnings, the holders of the bonds and the firms receiving the subsequent loans at below market rates are federally subsidized. Written affirmative action plans should be required which identify any areas of underutilization and all barriers to equal employment opportunity that may exist; numerical goals and timetables for eliminating problems uncovered in the analysis; and programs that will be implemented to achieve the goals. The legislation should state that failure to comply with these requirements would make a firm ineligible for participation in an IRB program. The legislation should also provide for repayment of a portion or all of the subsidy received through the IRB in extreme cases.

3. If Chicago's IRB program is to be continued, the Department of Economic Development should disseminate comprehensive information among minority-owned businesses more effectively than it currently does, and provide whatever assistance is required that will enable minority firms to participate on an equitable basis.

4. The U.S. Commission on Civil Rights should advise the U.S. Bureau of the Census to incorporate a racial identification in its economic censuses to facilitate analysis of minority-owned businesses in the United States.

APPENDIX A.—SUMMARY AND LIST OF CHICAGO INDUSTRIAL REVENUE BOND PROJECTS

INDUSTRIAL REVENUE BOND SUMMARY—JUNE 30, 1983

	Number	Amount	Employment impact		
			Retained jobs	New jobs	Total
Your initiated:					
1977.....	1	\$2,400,000	163	37	200
1978.....	5	\$4,100,000	924	240	1,164
1979.....	22	\$43,775,000	2,903	2,270	5,173
1980.....	25	\$55,994,000	5,309	2,265	7,574
1981.....	29	\$45,694,000	4,679	1,634	6,313

INDUSTRIAL REVENUE BOND SUMMARY—JUNE 30, 1983—Continued

	Number	Amount	Employment impact		
			Retained jobs ¹	New jobs	Total
1982	18	1 30,800,000	2,109	887	2,996
1983	4	1 15,100,000	336	121	457
Total	105	1 197,863,000	16,423	7,454	23,877
Year closed:					
1977	1	2 2,400,000	163	37	200
1978	3	2 2,750,000	679	110	789
1979	15	2 25,300,000	2,230	1,890	4,120
1980	20	2 35,575,000	3,752	1,678	5,430
1981	23	2 44,953,000	2,921	1,746	4,667
1982	26	2 39,750,000	2,919	1,290	4,209
1983	3	2 6,400,000	1,375	172	1,547
Total	91	2 157,128,000	14,039	6,923	20,962

¹ Approved. ² Closed.

Note: Chart has been revised to reflect withdrawal of \$10,000,000 IRB project by Interstate Brands. Employment figures also reflect this withdrawal.

Chart has been revised to reflect withdrawal of \$625,000 IRB project by Seedburo Equipment Co., the withdrawal of \$900,000 IRB project by Mich. Ave. Jewelers, and the withdrawal of \$850,000 IRB project by Hydro, Inc. Employment figures also reflect these withdrawals.

Chart has been revised to reflect withdrawal of \$4,000,000 IRB project by Domtar Industries, Inc. Employment figures also reflect this withdrawal.

ECONOMIC DEVELOPMENT COMMISSION, CITY OF CHICAGO, INDUSTRIAL REVENUE BONDS

[Dollar amounts in thousands]

Company	I	F	C	Amount approved	Amount closed	Purchaser	Employment impact		
							Jobs retained	New jobs	Total
1977									
1. Kysor Industrial Corp	None	9/28	11/10	\$2,400	\$2,400	Harris Bank.....	163	37	200
1978									
2. Harco Aluminum, Inc.	None	12/04	1 04/12	750	750	Main Bank of Chicago	75	75	150
3. Strombecker Corp	None	11/14	11/28	1,000	1,000	Continental Bank.....	500	25	525
4. Triangle Home Prod., Inc.	None	11/29	1 02/20	600	600	Heritage-Pullman Bank.....	170	55	225
5. RTC Industries, Inc.	None	10/20	11/1	1,000	1,000	Continental Bank.....	110	40	150
6. Enco Mfg. Co.	None	7/7	9/21	750	750	Northwest National Bank.....	69	45	114
Total				4,100	4,100		924	240	1,164
1979									
7. OST Industries, Inc.	None	1/19	2/14	2,000	2,000	Mid-City National Bank and Harris Bank.....	179	120	299
8. Flexi-Mat Corp.	None	3/01	3/19	500	500	Mid-City National Bank.....	120	110	230
9. Nalco Chemical Co.	None	7/11	4/30	1,000	1,000	Morgan Guarantee Trust Co.	100		100
10. Goodman Equipment Corp.	None	8/10	9/12	3,500	3,500	Continental Bank.....	500	350	850
11. Pioneer Gen-E-Motor Corp.	5/23	6/01	7/05	1,000	800	American National Bank	200	50	250
12. Paul Krone Diecasting Co.	6/01	10/10	11/20	1,700	1,700	LaSalle National Bank.....	80	40	120
13. Biensfeld Glass Corp.	8/10	8/10	9/20	3,700	3,700	Continental Bank.....	135	100	235
14. The Willett Co.	None	6/01	6/26	1,000	1,000	Continental Bank.....	400	100	500
15. Power Parts Co.	5/16	9/12	12/04	600	600	Continental Bank.....	120	12	132
16. YMCA of Metropolitan Chicago.	None	6/29	10/31	4,600	4,600	Cosmopolitan National Bank.....		200	200
17. Comfort Lines, Inc.	6/29	9/12	11/02	1,250	1,250	Harris Bank.....	150	150	300
18. ABC Rubber Co., Inc.	10/10	10/10	11/29	1,500	1,500	First National Bank of Chicago.....	41	29	70
19. Metron Steel Corp.	9/26			3,000		LaSalle National Bank.....	195	200	395
20. Katalco Corp.	10/10	11/15	2 2/05	1,000	1,000	Continental Bank.....	70	13	83
21. National Can Corp.	9/12	1 10/5	1 10/23	9,000	9,000	First National Bank of Chicago.....	120		120

ECONOMIC DEVELOPMENT COMMISSION, CITY OF CHICAGO, INDUSTRIAL REVENUE BONDS—Continued

[Dollar amounts in thousands]

Company	I	F	C	Amount approved	Amount closed	Purchaser	Employment impact		
							Jobs re-tained	New jobs	Total
22. (*)									
23. Precision Universal Joint Corp.	8/10	2/29	4/10	2,200	2,200	Continental Bank.....	225	150	375
24. Arrow Handicraft Corp.....	8/10	4/28	6/05	1,000	1,000	New England Mutual Life Ins.	180	90	270
25. Ceres Terminals, Inc.....	11/28	12/2	12/14	1,800	1,800	Girard Bank, Philadelphia, Pa.		379	379
26. Crawford Steel Co., Inc.....	11/28	2/29	3/28	900	900	American National Bank.....	17	8	25
27. Cogle Commission Co.....	11/28	4/28	5/15	675	675	Mid-City National Bank.....	25	15	40
28. Duray Fluorescent Mfg. Co. ²	11/28	4/28	8/29	850	850	Northwest National Bank.....	58	25	83
29. Seaway National Bank of Chicago.	11/28	5/14	6/19	1,000	1,000	Continental Bank.....	108	9	117
Total.....				43,775	40,575		2,903	2,270	5,173
1980									
30. Selfix, Inc.....	1/21	2/29	3/14	4,000	4,000	Continental Bank.....	200	200	400
31. Armstrong Bros. Tool Co.....	1/21	5/05	6/16	1,000	1,000	Harris Bank.....	367	18	385
32. Bluebird of Illinois, Inc.....	1/21	12/19	2/04	6,000	1,000	First National Bank of Boston.	750	53	803
33. Plaskool, Inc.....	1/21	4/16	5/09	1,000	1,000	Continental Bank.....	1,156	446	1,602
34. Clark & Barlow Hardware Co.	1/21	4/16	4/22	1,100	1,100	Exchange National Bank.....	65	35	100
35. Colonial Hospital Supply Co., Inc.	2/29	4/16	5/20	1,800	1,800	Northern Trust Co.....	66	20	86
36. International Great Lakes Shipping.	2/29	4/28	5/05	2,000	2,000	Continental Bank.....		350	350
37. Reiters, Inc.....	4/16	9/24	12/11	600	600	Exchange National Bank.....	80	16	96
38. Independence Bank of Chicago.	4/16	6/27	7/03	4,300	4,300	Lehman Brothers Kuhn Loeb..	113	23	136
39. J & F Steel Corp.....	4/16	6/27	7/03	4,000	3,850	European American Bank Corp., New York, N.Y.	50	50	
40. (*)									
41. Publix Office Supplies, Inc...	4/16	9/24	11/21	1,000	1,000	First National Bank of Chicago.	131	45	176
42. J. F. Daley Incorporating Co., Inc.	5/07	9/24	12/15	400	300	Bank of Elk Grove.....	61	15	76
43. Metro Real Estate Investments Inc.	5/07	12/01	1/14	7,000	7,000	Continental Bank.....		200	200
44. (*)									
45. Midway Airlines, Inc.....	6/13	12/1	12/28	1,000	1,000	Shearson Loeb Rhoades Inc...	180	150	330
46. QST Industries Inc. ¹	6/13	11/14	1/16	750	750	Mid-City National Bank and Harris Bank,			
47. (*)									
48. Kimberly Rose Co., Inc.....	6/27	12/01	1/22	926	690	Exchange National Bank.....	74	90	164
49. Leaf Confectionary, Inc.....	6/27	11/14	12/17	2,000	2,000	American National Bank.....	697	150	847
50. Jacobs Twin Buick, Inc.....	9/10	11/13	12/31	2,000	2,000	American National Bank.....	150	50	200
51. EnBroc, Inc.....	9/10	8/19	12/31	1,368	1,368	Chicago City Bank and Trust Co.	238		238
52. Newberry Library.....	9/10	12/12	12/31	5,000	5,000	First National Bank of Chicago and The Northern Trust Co.	133		133
53. Replogle Globes, Inc.....	9/24	2/11	3/16	2,000	2,000	First National Bank of Chicago.	180		180
54. Meyer Steel Drum, Inc.....	12/12	8/12	9/25	800	800	Ford City Bank & Trust.....	112	40	152
55. Charles E. Larson & Sons....	12/12	5/29	6/16	2,500	2,500	Park Nat'l Bank of Chicago...	98	69	167
56. Consolidated Distilled Products.	12/12	5/29	8/5	750	750	American National Bank.....	233	20	253
57. Bloomer-Fiske, Inc.....	12/19	3/31	1/14	2,700	2,700	Mid-City National Bank.....	225	225	450
Total.....				55,994	50,508		5,309	2,265	7,574
1981									
58. Lake Shore Litho, Inc.....	3/06	8/12	8/12	9/24	500	Exchange National Bank.....	22	9	31
59. Orion Industries, Ltd.....	3/06	4/22	5/07	620	620	O'Hare International Bank.....	12	15	27

ECONOMIC DEVELOPMENT COMMISSION, CITY OF CHICAGO, INDUSTRIAL REVENUE BONDS—Continued

(Dollar amounts in thousands)

Company	I	F	C	Amount approved	Amount closed	Purchaser	Employment impact		
							Jobs retained	New jobs	Total
60. Chicago Metropolitan Mutual Assurance Company.	4/22			2,500		First National Bank of Chicago and Independence Bank of Chicago.	186	33	219
61. Harris Industries	5/13	11/13	12/2	900	900	Harris Bank	190	200	390
62. Homemakers Furniture, Inc.	5/13	¹ 3/30	¹ 5/13	5,000	5,000	First Chicago Realty Services Cor.		135	135
63. Hudson Technology, Inc.	5/13	12/18	¹ 1/18	800	800	American National Bank	86	24	110
64. Leaf Confectionery, Inc. ^{1,2}	5/13	¹ 10/15	¹ 12/6	4,000	1,000	American National Bank	117	100	217
65. (^{1,2})								22	22
66. Chem Clear, Inc.	6/26	10/6	10/27	2,500	1,500	Chicago Corporation			
67. Maryland Cup Corp.	6/26			1,000		Lehman Brothers, Kuhn Loeb.	2,000	25	2,025
68. Mah Chena Corp.	6/26	12/18	¹ 5/4	530	500	Harris Bank	28	15	43
69. Homak Mfg. Co.	6/26	11/13	12/31	500	500	Lake Shore National Bank	95	20	115
70. Zenith Controls	6/26	¹ 3/2	¹ 5/5	900	900	American National Bank	141	50	191
71. Dries and Krump.	7/16	10/06	12/15	1,000	1,000	Sears Bank	203	100	303
72. Farley Candy Co.	8/12	11/13	11/30	1,500	1,500	Natl. Blvd. Bank of Chicago	70	330	400
73. Pinkert Steel Co.	9/14			1,219		American National Bank	60	15	75
74. Inolux Chemical Co.	10/06	11/04	12/31	2,000	1,500	American Can Company	40	10	50
75. Medusa Corp.	10/06	¹ 5/5	¹ 5/20	1,000	1,000	Mellon Bank of Pittsburgh		2	2
76. Budget-Rent-A-Car	10/06	¹ 3/19	¹ 5/4	1,700	1,700	Chicago Corporation	170	34	204
77. John O. Butler Co.	10/06	11/13	12/21	5,500	5,500	American National Bank	214	140	354
78. Homaco, Inc.	10/06	12/18	¹ 2/16	800	800	Harris Trust & Savings	110	95	205
79. Automatic Spring Colling	10/06			1,000		Harris Trust & Savings	154	50	204
80. Unicut Corporation	11/13	¹ 3/2	¹ 4/6	1,000	1,000	1st Natl. Bank-Winnelka	60	50	110
81. Washtenaw Partnership/Darco, Inc.	11/13	¹ 3/19	¹ 4/22	500	500	American Natl. Bank	150	25	175
82. Publix Office Supplies, Inc. ^{1,5}	11/13	12/18	12/31	500	400	1st Natl. Bank, Chicago			
83. Ephraim, Inc./Modern Process Equipment.	11/13	12/18	12/31	475	475	American National Bank	15	15	30
84. R. J. Norris/Inland Midwest Corp.	11/13	¹ 1/21	¹ 3/15	500	500	American National Bank	76	20	96
85. Midwest Dock Corp.	12/3	12/18	¹ 1/6	3,250	3,250	American National Bank	64	20	86
86. Midwest Electric Manufacturing Co.	12/29	¹ 12/8	¹ 12/30	2,500	2,500	Chase Manhattan Bank-N.Y.	227	70	297
87. Harrington and King Perforating Co.	12/29	¹ 3/30	¹ 5/7	1,500	1,500	American National Bank	189	10	199
Total				45,694	35,345		4,679	1,634	6,313
1982 ^{1,6}									
88. Evans Transportation	3/2	¹ 3/25	¹ 3/29	2,300	2,300	George K. Baum Company	100		100
89. Florence Corporation	3/2	10/27	12/27	600	600	Harris Trust & Savings	49	21	70
90. Batchelder-Beilin	3/2	12/1	12/21	1,800	1,800	Manufacturer's Hanover Trust Co.		102	102
91. Alburn, Inc.	3/2			2,500		Chicago Corp.	14	46	60
92. Karoll's Inc.	3/2	5/5	8/20	1,000	1,000	American National Bank	48	10	58
93. Valley Candle Mfg. Co., Inc.	5/18	6/9	7/20	1,750	1,750	Lake Shore National Bank	240	80	320
94. Weil Pump Company	5/18	9/15	10/12	1,500	1,500	Slate National Bank of Evanston.	200	20	220
95. Fairmont Corporation	5/18			700		American National Bank	90	40	130
96. A. Epstein & Sons International.	7/23	11/12	12/20	3,500	3,500	Northern Trust Company	250	130	380
97. Rapid Mounting & Finishing Co.	7/23	10/15	12/28	3,000	3,000	American National Bank	222	25	247
98. Nation Enterprises	10/6	12/23	12/30	600	600	Capital Bank & Trust of Chicago.	32	20	52
99. Pentecost Bros. Inc.	7/23	11/23	12/23	700	700	Harris Bank	22	3	25
100. Harris II/Advanced Theatrical Co.	10/6	11/23	12/22	1,350	1,350	Van Kampen Merritt Inc.	160	19	179
101. C & K Distributors	10/27			2,100		Van Kampen Merritt Inc.	169	40	209
102. Gold Eagle Co.	10/27	11/23	12/28	2,000	2,000	Mid-City National Bank	98	60	158
103. Union Special Co.	12/28	¹ 3/25	¹ 3/29	2,500	2,300	Matthews & Wright, Inc.	500	93	593

ECONOMIC DEVELOPMENT COMMISSION, CITY OF CHICAGO, INDUSTRIAL REVENUE BONDS—Continued

[Dollar amounts in thousands]

Company	I	F	C	Amount approved	Amount closed	Purchaser	Employment impact		
							Jobs re-tained	New jobs	Total
104. Estate of Sam Rosen/ Frero Inc.	12/27			900		American National Bank	15	3	18
105. Reed Candy	12/27			2,000		Parkway Bank & Trust	0	75	75
Total				30,800	22,400		2,109	887	2,996
1983 ¹⁶									
106. MOI Realty/John S. Song	3/9	3/31	4/28	1,800	1,800	River Forest State Bank/ Elmhurst National Bank	75	12	87
107. Republic Aluminum	3/31			1,000		Western National Bank	73	27	100
108. AMGem	3/31			8,001		Continental Bank	50	50	50
109. The Reliable Corporation	3/31			4,300		American National Bank	188	32	220
Total				15,100	1,800		336	121	457

1 On April 8, 1981, Interstate Brands withdrew its request for IRB financing. All totals have been changed to reflect this withdrawal. Interstate Brands will not undertake the project at this time.

2 Duray Fluorescent Mfg Co., IRB amount increased to \$850,000 on 2/29/80.

3 1980.

4 1981.

5 No additional jobs will be created as a result of the \$750,000 bond issue. On March 23, 1981 Seedburo Equipment Co. withdrew its request for IRB financing. All totals have been changed to reflect this withdrawal. Seedburo Equipment Co. has indicated it will use other financing to undertake the project.

6 In April of 1982, Hydro, Inc. was denied extension of its \$850,000 IRB due to the expiration of its bank commitment, thus resulting in withdrawal of project. Employment figures also reflect this withdrawal.

7 OST Industries has asked for IRB financing to complete the project started in 1979.

8 On March 1982 Michigan Avenue Jewelers, Inc. withdrew its request for IRB financing. All totals have been changed to reflect this.

9 1981.

10 1982.

11 On April 22, 1981, Inducement Ordinance amended to increase project amount by \$500,000 to total of \$2,000,000 for the Jacob's Twin Buick project.

12 This is Phase II of the Leaf Confectionery, Inc. expansion project begun in 1980. Leaf currently employs 964 workers, 847 of these were included in the employment figures for 1980. Only the additional 117 employees are included in the figures for 1981.

13 On November 2, 1982, Domtar Industries, Inc., withdrew its request for IRB financing. All totals have been changed to reflect this withdrawal. Domtar Industries will not undertake the project at this time.

14 1982.

15 Phase II of Publix Office Supplies, Inc. Expansion project began in 1980. No additional in employment impact.

16 New Jobs—projected by company to be created within 3 years after completion of the IRB project.

17 1983.

Note: I=Inducement Ordinance; F=Final Ordinance; C=Closing Date.

¹ 1979.

Appendix B

Industrial Revenue Bond Application and Supporting Instructional Information

Economic Development Commission City of Chicago

APPLICATION FOR APPROVAL OF PROPOSED INDUSTRIAL REVENUE BOND FINANCING

1. Name and Address of Applicant: _____

2. Name and address of operating company (if different than above):

3. Type of Business: _____ SIC CODE: _____

4. Amount of proposed industrial revenue bond issue: \$ _____

5. Officer to contact regarding this application:

 name title phone

6. Proposed bond purchaser: _____
 Contact: _____
 name title phone

7. Proposed bond counsel: _____
 Contact: _____
 name title phone

8. Description of existing facilities in Chicago and the Chicago area.
 (Indicate location, function, size, and employment of each facility
 and whether owned or leased):

ECONOMIC DEVELOPMENT COMMISSION CITY OF CHICAGO

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APPLICATION FOR APPROVAL OF PROPOSED INDUSTRIAL REVENUE BOND FINANCING

Brief description of proposed project: _____

Cost Breakdown of IRB: _____

Acquisition of Land and/or Building: _____
 Construction: - - - - - : _____
 Rehabilitation: - - - - - : _____
 Machinery & Equipment: - - - - - : _____
 Miscellaneous: - - - - - : _____
 Total: - - - - - : _____

Current Employment Status for Facility Receiving IRB assistance:

Salary	Sex	Present Employees:			
Number of Employees Earning	Sex	Total Employees	Black	Hispanic	Other * Minority
Less than 4.00 per hr.	F				
	M				
Between 4.00/ hr. & 7.00/ hr	F				
	M				
More than 7.00 per hr.	F				
	M				
Sub Total	F				
	M				
Total					

*Other represents Asian or Pacific Islander and American Indian or Alaskan Nat.

Projected Employment at operating (applicant's) facility:

1 year after completion of IRB Project: _____
 2 years after completion of IRB Project: _____
 3 years after completion of IRB Project: _____

1. Describe Methodology used for employment projections: _____

ECONOMIC DEVELOPMENT COMMISSION CITY OF CHICAGO

APPLICATION FOR APPROVAL OF PROPOSED INDUSTRIAL REVENUE BOND FINANCING

- 13. Date on which projected employment figures are expected to be reached: _____
- 14. Projected completion date of IRB project: _____
- 15. Current Employment at other related facilities located in the City of Chicago:

	Full Time: _____	Part Time: _____
--	------------------	------------------

 NAME: _____
 ADDRESS: _____
 RELATIONSHIP: _____

 No. of Employees at other related facilities who are residents of Chicago: _____ (_____ % of total employment)

 No. of minorities employed at related facilities in the City of Chicago: _____ (_____ % of total employment)
- 16. Will the IRB project allow for employment to increase at any other related facility, other than the operating facility, located within the City of Chicago? Explain: _____

 If YES:
 1 Year after completion of IRB Project: _____
 2 Years after completion of IRB Project: _____
 3 Years after completion of IRB Project: _____
- 17. If proposed project involves a relocation, indicate any plans for alternative use or other disposition of any affected facilities:

- 8. If proposed project involves the purchase of realty, name of seller:

- 9. Operating company's form of organization: _____
- 0. State of incorporation: _____
- 1. Number of shareholders: _____

ECONOMIC DEVELOPMENT COMMISSION CITY OF CHICAGO

APPLICATION FOR APPROVAL OF PROPOSED INDUSTRIAL REVENUE BOND FINANCING

1. Are shares publicly traded? _____

2. Is this company wholly or partly owned by any other business organization? (If yes, explain briefly):

3. Does this company have any subsidiaries or otherwise have interests in any other business organization? (If yes, explain briefly):

4. Names of any other businesses wholly or partly owned by officers or directors of this company:

5. Banks with which the applicant or operating company has accounts or other business relationships:

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ECONOMIC DEVELOPMENT COMMISSION CITY OF CHICAGO

APPLICATION FOR APPROVAL OF PROPOSED INDUSTRIAL REVENUE BOND FINANCING

27. Names and titles of principal officers:

28. Names of directors or partners:

29. Names of principal shareholders (20% or more):

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND ANY SUPPLEMENTS OR ATTACHMENTS HERETO IS TRUE, COMPLETE, AND ACCURATE. I ALSO UNDERSTAND THAT THE DEPARTMENT OF ECONOMIC DEVELOPMENT WILL CONDUCT AN ANNUAL SURVEY CONCERNING THE USE OF INDUSTRIAL REVENUE BOND FINANCING. I HEREBY AGREE TO RESPOND FULLY TO SUCH REQUESTS FOR INFORMATION UPON APPROVAL OF THIS APPLICATION.

Signature

Title

Date Submitted

NARRATIVE SUPPLEMENTS, DETAILED INFORMATION, AND ATTACHMENTS

In addition to the completed application form, application packages must contain supporting material in narrative form, certain detailed information, and attachment of financial statements. The following list of supplementary items indicates required and optional material and gives suggestions for the possible treatment of each item. Treat individual items as briefly or extensively as the nature of the project or applicant suggests appropriate. In general, concise treatment of narrative items is suggested.

Letter of commitment from bond purchaser: A commitment in principle for bond placement must be obtained from a bank, investment banker, or underwriter before an application can be processed. Include a letter expressing such a commitment in the application package.

Nature of business (may be treated separately or discussed briefly with company history, below, as appropriate): Characterize the primary type of business conducted by the company. If the company's activities include several economic functions, characterize the primary type of business to be conducted at the facilities involved in the proposed project. Describe the principal products or services of the company. Name principal customers or suppliers in cases where a large amount of the company's business is attributable to one or a few of these. Discuss the industry generally and the company's function within the industry. Discuss economic trends in the industry generally and how these are likely to affect the company's growth or competitive position within the industry. Discuss the company's goals and plans as they are reflected in the proposed project.

Company history (required): Date of establishment and identity of original organizers; date of incorporation; year operations undertaken in Chicago; previous addresses in Chicago; expansion or contraction of operations in Chicago or elsewhere; growth or decline in employment in Chicago or elsewhere; dates of development of new operations or product lines; dates and descriptions of changes in ownership or management.

Company organization (where appropriate; see instructions, page 7): If the organization in whose name the proposed industrial revenue bond is to be issued (the applicant) is different than the company that will be operating the proposed project, fully describe the nature and purpose of the applicant organization, its formal relationship to the operating company, and the identities of interested persons. If the company is a subsidiary of another business organization, list all other subsidiaries of the parent. Otherwise, explain the organization of the company and any formal associations between the company and any related business organizations.

Principal personnel (optional): Brief resumes of principal personnel, particularly those with ownership interests.

Description of existing facilities (required): If the proposed project involves the expansion or relocation of an operation currently conducted in Chicago, fully describe the physical facilities involved. Include complete information regarding land areas and building sizes. If the proposed project involves relocation of any operations currently being conducted in Chicago, indicate plans or options for alternative use or other disposition of the facilities involved. Describe any other operations and physical facilities in Chicago or the Chicago area. If the company does not currently maintain operations in Chicago, describe existing facilities elsewhere in as much detail as appropriate. If the proposed project involves the relocation to Chicago of operations currently being conducted elsewhere, discuss in some detail.

Company employment (required): If the proposed project involves an expansion or relocation, specify the number of people currently employed at the facilities involved and the number of people currently employed at any other facilities in the City of Chicago. Provide a breakdown of employment into functional classifications. Discuss any enhancing features in the employment picture, such as skills training or minority opportunity. Discuss the pattern of growth in the company's employment. If proposed project involves an on-site expansion, specify the proportion of the company's employment currently accounted for by residents of the project area.

Complete description of proposed project (required): Discuss the reasons for undertaking the proposed project. If the project involves the acquisition of an existing building, specify its address, building size and type, land area, plans for physical modifications or repairs. The purpose for which the building is to be used, the amount of time for which the building has been vacant, the identity of the previous occupant, etc. If the project involves on-site construction, indicate the size of the proposed addition, its function and relationship to the existing plant, type of construction, etc. If the project involves the construction of an entirely new facility, discuss in detail. Attach simple plats or site plans, renderings, photographs, etc., if avail-

able. If the proposed project involves purchase of the assets of an existing business, indicate any proposed expansion of the business under new ownership or demonstrate that the proposed change in ownership is necessary to preserve the business as a going concern or prevent its relocation outside Chicago. In all cases, include specific employment projections and any other material indicating the public benefits of the proposed project in terms of the creation or retention of jobs in the City of Chicago and the vicinity of the project itself.

Breakdown of project costs (required): As completely as possible, break down the amount of the proposed bond issue (item #5 on the form) into specific component items and costs. If the total cost of the proposed project includes expenses that will not be covered out of bond proceeds, break these additional costs down separately and indicate how they are to be financed. Attach any available documentary material that verifies estimated values or costs, such as appraisals, real estate sales contracts, architects' or contractors' estimates, etc. *Note:* Items eligible for financing under industrial revenue bonds are limited to land and buildings and other depreciable assets as defined in the Internal Revenue laws. Costs incurred before obtaining an official expression of the City's approval of the proposed bond issue cannot be covered out of bond proceeds. Note item #5 on the attached instructions.

Financial statements (required): Attach financial statements for the company covering the past five years. Audited statements should be supplied if available; otherwise the statements should be certified over an officer's signature. Include interim statements, as available, to bring financial date down as close as possible to current data. If the applicant is a subsidiary of another company, include financial statements of the parent. If the company or its parent is required to file SEC form 10-K, attach the latest copy of this report. If the formal applicant is not the operating company, attach financial statements for both the applicant and the operating company.

Other material (optional): Catalogs, descriptive brochures, promotional material, etc. Additional narrative or documentary items as appropriate to the particular project or applicant.

INSTRUCTIONS, EXPLANATIONS, AND HINTS FOR SPECIFIC ITEMS

General instructions: Submit EIGHT COPIES of the complete application package for review by the Industrial Revenue Bond Screening Committee. Bound packages, rather than sheaves of paper, will be appreciated. Make a preliminary contact with the Economic Development Commission before submitting an application; the staff will want to discuss the proposal with principals of the company and see the project site.

Items:

1, 2 A distinction between the formal applicant and the operating company sometimes arises in applications by close corporations where a separate family-owned company exists for the sole purpose of holding title to realty occupied by the actual working concern. Do not apply in this way without previously having checked with the Economic Development Commission and bond counsel. In cases involving orthodox parent-subsidiary relationships (where the parent is a working entity) an application may be made either by the parent on behalf of the subsidiary or by the subsidiary in its own behalf. Where the parent is the applicant, name and describe the subsidiary under #9 and leave #2 blank. In all cases where two or more organizations are directly involved in the proposed bond issue, pay particular attention to company organization in the narrative supplements. *Note:* In all cases where the applicant is a subsidiary of another company, the parent will be expected to assume an obligation for repayment of the proposed bonds.

3 Characterize the business by function; e.g., "manufacturer of widgets" or "importer and distributor of gadgets".

4 Where the company has employees in Chicago and elsewhere, be sure that current employment in the City of Chicago is specified in #9.

5 Before filling in this amount, check with bond counsel as to items eligible for coverage in the proposed bond issue.

7 Give name of bank, investment banker, or underwriter and the name of a specific person to contact there.

8 Names of firms recognized in this specialty may be obtained upon request from the Economic Development Commission.

Appendix C

Monitoring Instrument Used by
Chicago Department of Economic Development in 1982

ECONOMIC DEVELOPMENT COMMISSION

CITY OF CHICAGO

INDUSTRIAL REVENUE BOND PROGRAM

PROGRESS REPORT

Company Name: _____

Bond Amount: _____

Bond Closed: _____

EMPLOYMENT AT DATE OF APPLICATION

EMPLOYMENT AT TIME OF APPLICATION

Number of Employees Earning	Sex	Total Employees	Black	Hispanic	Other Minority*
Less than 4.00 per hr.	F				
	M				
Between 4.00/ hr. and 7.00 /hr.	F				
	M				
More than 7.00 per hr.	F				
	M				
Sub Total	F				
	M				
Total					

*Other represents Asian or Pacific Islander and American Indian or Alaskan Nat.

- B. Of Total: Full Time _____ Part Time: _____
- C. Number of employees residing in City of Chicago. _____
- D. Number of employees residing within 5 miles of place of employment

Projected Employment at Operating (Applicant's) Facility

- 1 year after completion of IRB Project: _____
- 2 years after completion of IRB Project: _____
- 3 years after completion of IRB Project: _____

1. Respondent:

Name: _____

Title: _____

Phone: _____

2. The Industrial revenue bond project involves the following:
(Please check all that apply)

- a. Construction of new facility _____
- b. Construction of addition to present facility _____
- c. Purchase of new building _____
- d. Purchase of building and renovation _____
- e. Renovation of existing building _____
- f. Relocation _____
- g. Purchase of machinery and equipment _____

3. If project involves relocation, indicate status of old facility:

a. Facility has been sold: _____

b. Facility is for sale: _____

c. Facility has been leased: _____

d. Facility will be leased: _____

e. Facility is vacant: _____

f. Facility is occupied: _____

If the facility is occupied, indicate name of new tenant:

Name: _____

Address: _____

Phone: _____

g. Comments: _____

4. If project involves relocation, indicate status of employees at former facility:

a. Number of employees transferred to new facility _____

b. Number of employees hired by purchaser of the facility _____

c. Number of employees released _____

d. Comments _____

5. Current Employment Status for Facility Receiving IRS assistance:

a.

Salary	Sex	Present Employees:			
		Total Employees	Black	Hispanic	Other * Minority
Less than 4.00 per hr.	F				
	M				
Between 4.00/ hr. & 7.00/ hr	F				
	M				
More than 7.00 per hr.	F				
	M				
Sub Total	F				
	M				
Total					

*Other represents Asian or Pacific Islander and American Indiana or Alaskan Nat.

b. Of total: Full time _____ Part Time _____

c. Number of employees residing in City of Chicago _____

d. Number of employees residing within 5 miles of place of employment _____

6. Status of project:

a. Project is complete and fully operational: _____ If no go to 6B.

Date of Project Completion _____

Please answer the following

Anticipated or Actual (circle one) employment within twelve months of
project completion _____

Anticipated or Actual (circle one) employment within 2 years of project
completion _____

Anticipated or Actual (circle one) employment within 3 years of the
project _____

If these figures are different than the projected figures given at the
time of application please explain why they differ.

- B. Project is underway and will be complete by: _____
 Project has not begun but is anticipated to start by: _____
 Have you hired any new employees since the time of Application _____
 Number _____
 Are the employment projections submitted with your IRS application still
 appropriate? _____
 If no please explain _____

7. Current employment for other related facilities within City of Chicago (not including the IR3 facility):

a.

Present Employees				
Sex	Total Employees	Black	Hispanic	Other Minority*
M				
F				
Total				

*Other represents Asian or Pacific Islander and American Indian or Alaskan Nat.

8. Please indicate the sales volume for the current year:

Is this amount an increase or a decrease from the previous year?

Increase _____ Decrease _____

9. Would your firm have altered its investment if the industrial revenue bond was not available at the time of your expansion?

_____ Yes _____ No

If yes, how? Circle one a. Delay b. Expand less (approximately how much in % _____) c. Expand out of State d. Expand abroad e. Not expand.

10. What has been your experience with the Industrial Revenue Bond Program and its method of helping companies finance local expansion projects?

I hereby certify that to the best of my knowledge the figures given in this survey are accurate.

Signature

Title

Date

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