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**WEST VIRGINIA ADVISORY COMMITTEE
TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

**IN THE MATTER OF THE FUTURE OF
HUMAN RIGHTS COMMISSIONS IN THE STATE
OF WEST VIRGINIA: PROBLEMS, ISSUES AND
POSSIBLE SOLUTIONS.**

**HEART-O-TOWN HOLIDAY INN
BROAD AND WASHINGTON STREETS
CHARLESTON, WEST VIRGINIA
FRIDAY, SEPTEMBER 27, 1985**

APPEARANCES:

**MR. ADAM R. KELLY, Chairman
West Virginia Advisory Committee;**

**MR. JOHN I. BINKLEY, Regional Director
Mid-Atlantic Regional Office (MARO)**

**MRS. WANDA HOFFMAN, Civil Rights Analyst
Mid-Atlantic Regional Office (MARO)**

**MR. BERNARD GOTTLIEB, Member
West Virginia Advisory Committee;**

**MR. CARL H. LEHMAN, Member,
West Virginia Advisory Committee;**

**MS. MARCIA POPS, Member,
West Virginia Advisory Committee.**

BEFORE: HOWARD D. KENNY, Member
(Contd.) West Virginia Advisory Committee

ANCELLA BICKLEY
West Virginia Advisory Committee

APPEARANCES: DAVID SOTAK, Executive Director
Beckley Human Rights Commission

MICHELE REED

SHIRLEY STAUNTON, Chairperson
Fairmont Human Rights Commission

DAN LOVE, JR., Director
Huntington Human Relations Commission

WILLIAM CONGLETON

GLORIA B. WOOD, Vice-President
St. Albans Human Rights Commission

CHAUNA BUCKLEW

WAYNE PATTERSON

P R O C E E D I N G S

(2:30 p.m.)

MR. KELLY: We'll begin even though we know at least two more participants in the roundtable discussion will be showing up a little later. We'll begin by introducing myself. My name is Adam Kelly. I am the state chairman of the West Virginia Advisory Committee to the United States Commission on Civil Rights.

Our committee met today at ten o'clock this morning and thus far it has been a very interesting and very fruitful few hours in Charleston. It is my hope the remainder of our session will be equally as informative.

I would like to introduce two of the staff members from Washington who are here with us, the people who really put the committee together and have been of great assistance to us. John Binkley, who is the Mid-Atlantic Regional Office Director, and Wanda Hoffman, who has been a civil rights analyst with the Commission on Civil Rights for several years.

At this time, I would like for the members of the State Advisory Committee who are here to introduce themselves. I am sure you know most of them. I'll begin with myself. I am Adam Kelly. I am from Sistersville, West

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Virginia. I am a country newspaper editor. Let's go around.

MS. BICKLEY: I am Ancella Bickley. I live at Cross Lanes and work at West Virginia State College.

MR. LEHMAN: Carl Lehman. I am from Charleston; a stock broker.

MR. KENNY: I am Howard Kenny. I work for the State Human Rights Commission.

MR. GOTTLIEB: Bernard Gottlieb, Clarksburg; semi-retired and still very active.

MS. POPS: Marcia Pops, chief probation officer in Morgantown, West Virginia.

MR. KELLY: Thank you. We'll begin now with the presentation. We're grateful, Emily, you took time out of what I know is a busy schedule to appear with us. At this time, Emily Spieler, who is the deputy attorney general for civil rights in West Virginia will discuss with us some of the implications of a case that has not only great implications for West Virginia, but also the entire nation. Emily has to leave at three o'clock, so when you get ready to go, take off.

MS. SPIELER: I hope I didn't misunderstand, but I understood those of you, especially who are here from

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the local human rights agencies were interested in knowing the implications of a decision that was made by the State Supreme Court with regard to your right to obtain subpoenas to do investigations of complaints!

I can't say I think it has ramifications beyond the state, but I do think it's a very important decision for local human rights agencies and local bodies. Let me give you a little background of it.

The case involved a Huntington human rights -- human relations commission. It was a situation --

MR. KELLY: Emily, we're having trouble hearing. Would you stand so we can hear better?

MS. SPIELER: Sure. It was a situation where the commission apparently had a complaint against Burger King. The investigator took a subpoena to the Burger King to get certain information, Burger King not having been willing to turn it over voluntarily. Burger King still didn't turn over the information, so the human relations commission tried to enforce the subpoena by having the Circuit Court find Burger King in contempt.

Burger King came in and said, "But the human relations commission doesn't have the power to subpoena documents to begin with, so you can't hold us in contempt,"

and the judge in the Circuit Court agreed with that. So, the case went up to our State Supreme Court.

Now, you have to understand it is true that you have to have the right given to you to be able to issue subpoenas. It's not something you or I as private individuals can assert, or in fact, any governmental body can assert unless you can point to something in the code passed by the legislature that says you have the right to do it.

Now, there is no question under our State Human Rights Act that the state commission has subpoena power, and it is explicitly laid out in that act. But the state act, which provides for the creation of the local commissions, the section of the act doesn't say anything about subpoena power for the local commissions. That's where the problem arose.

What that section of the law says, and the Supreme Court quoted it, is that the legislative body of a political subdivision may, by ordinance or resolution, authorize the establishment or membership in support of a local human relations commission and so on.

It talks about how it should be set up, but it doesn't talk anything about subpoena power. Now, what

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the court ended up saying is that, well, it may not be in that part of the law, but there is a part of the law that gives cities the right to seek information in investigations through use of subpoenas applied for from the Circuit Court and that the court felt the right of the local human rights commission to issue subpoenas could derive, not from the state human rights commission, but, in fact, from the city or local government that has the right to issue subpoenas and which explicitly says that right has to be exercised through application to the Circuit Court.

Then, the court turned around and did not enforce the subpoena that the Huntington Human Relations Commission had issued. And it's important to understand why they did that in terms of the lesson that can be drawn for the local human relations and human rights bodies.

The commission had failed to follow the explicit language of the delegation of the authority from the City of Huntington to the human relations commission and had failed to follow their own rules.

MR. LOVE: That's incorrect.

MS. SPIELER: That's what the Supreme Court said. Would you agree that's what the Supreme Court said?

MR. LOVE: That's what the court said.

MR. KELLY: For the benefit of the court reporter, please, anyone who has anything to say, please identify yourselves because he'll have a tough enough job the way it is.

MS. SPIELER: I stand corrected, perhaps. I don't know personally anything about the derivation of this case locally. All I know is what the Supreme Court said.

The Supreme Court said the local body had failed to follow the requirements in issuing the subpoena. Perhaps either the court was wrong or the court was -- didn't have before it something it needed to have before it.

But, be that as it may, I don't personally think the issue is now what occurred in Huntington around this particular subpoena, but the issue is that the local "human rights and human relations bodies can derive from their local political subdivisions the right to issue subpoenas if it is explicitly delegated to them.

The second lesson of it -- of the decision is it's important to follow, obviously, whatever the rules of that delegation are. Therefore if, for example, it says the subpoena has to be authorized by a certain number of people who are members of the commission, then, that is the procedure that has to be followed.

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Now, those of us who practice law know probably eight subpoenas out of ten, you serve them on someone and they comply with it because it looks serious. Will you agree with that?

MR. SOTAK: Yes. Personally, we haven't had any problems with it.

MS. SPIELER: The problem arises when you run into someone who is willing to contest it and you haven't done it right because, then, if you show up before the court and you're trying to get an enforcement of the subpoena and find the person who failed to comply with it in contempt, then, you can run into problems.

MR. LOVE: I feel like I have to clarify what took place. I am Dan Love, Jr., director of the Huntington Human Relations Commission. The way the court order reads, you would think the investigator took it upon herself to deliver the subpoena.

But we did get authorization from the commissioners to serve the subpoena, and it was done properly. How that got into the record, we don't know to this day. It should've been corrected, but it wasn't.

MS. SPIELER: So, you still feel that that subpoena -- given the decision, the subpoena should've been

enforced?

MR. LOVE: It should've been enforced. In fact, there is some question about the decision as to whether or not at this point we have to go through the Circuit Court to get the subpoenas authorized. Our attorney says we don't, so we re-served the subpoena on Burger King and they are again challenging it. So, the battle is still going on on that issue.

MS. SPIELER: That's interesting because I was mulling over on my way over here exactly what process it is that the court thinks they required in this decision, and I don't think it's at all clear.

They were for both to the State Administrative Procedures Act, which, really, is what covers, for example, state human rights commission subpoena procedures and to the subpoena power of the cities which clearly requires application to the Circuit Court.

I would hesitate to say there is a hard and fast rule that would clarify this for anyone. I think subpoenas can be obtained from the circuit clerk's office for matters that are pending, not before the court itself.

I mean they will be issued by circuit clerks, although I think that is fairly questionable, also. And

it might be the best procedure, perhaps, for a local agency that is trying to serve the subpoena to get the subpoena from the circuit clerk just because of the language of the decision.

Whether or not it actually requires any formal application to the circuit court, I think, is a question that will probably be resolved through the new litigation from the Huntington case.

I don't know how many of the local bodies now have explicit subpoena power through ordinance of the city, but that clearly -- if you don't have that, then, under this decision, it seems fairly clear to me that you cannot exercise subpoena power, and you need to have the ordinance from your local city first, then you need to set up your rules as to how you're going to engage in issuing subpoenas.

The only other word of warning I would add to that is that since there is this reference to the Administrative Procedures Act in the decision, the only thing that's fairly remarkable about the Administrative Procedures Act -- the State Administrative Procedures Act is that it requires five-day notice on a subpoena before you can be required to produce anything.

That's not usually the rule in matters that are pending before the Circuit Court. It can be less than that. And I think to be safe, it would probably be a good idea to give someone five days notice before they have to produce documentation.

Otherwise, again, you may have a legal issue you could've avoided by giving them an extra couple of days.

So, the first thing you have to do is get the express delegation from the city. The second thing you have to do, if you don't have it, is some kind of rules and regulations that govern the issuance of subpoenas. And then when you issue a subpoena, you should be sure to comply with the authorization from the city under the ordinance and your own rules and regulations, and also with the procedures that are set forth in the State Administrative Procedures Act governing subpoenas.

MR. CONGLETON: I have a question. Being our commission is an arm of the city and the City of Huntington has powers because of various reasons to do certain things --

MS. SPIELER: Under state law.

MR. CONGLETON: Basically, what I'm getting at is that we, being an arm of the city, also have subpoena

powers. Getting back to that case, the body voted, and I signed it as chairman, so I think there is a great misinterpretation on the part of the Supreme Court in regards to that case.

The language was perfectly clear. I don't see how they would come up with something like that.

MS. SPIELER: It must not -- either they just made a gross error --

MR. CONGLETON: They did.

MS. SPIELER: -- or for some reason, it wasn't in the record that was in front of them, which sometimes happens.

MR. CONGLETON: We have the document that I signed, and they had it.

MS. SPIELER: But, be that as it may, I think the Huntington commission has accomplished a very important thing, and even though you didn't end up with enforcement of that particular subpoena, I think the case resulted in clarification of a very important issue.

I understand you're still in litigation on it, and it gets tiresome after awhile, but, you know, for other commissions who have not exercised that power or who have had their power questioned in the past, I think it

gives them some authority to say if the ordinance says there is delegated subpoena power from the city to the commission, that indeed you do have that power, and at least as to whether or not that power exists at all, that question has now been laid to rest.

MR. CONGLETON: Thank you.

MR. SOTAK: Dave Sotak with the Beckley Human Rights Commission. We have subpoena powers and we have to get concurrence of five of our commissioners and we spell out specifically what we're asking for in the subpoena -- what information -- and that's what we can ask. Then, we can issue the subpoena.

The problem we have been running into, and we have prevailed in both instances, is they have entered writs of prohibition through circuit court because the laws in West Virginia changed, I think, four or five years ago whereby circuit judges can issue writs of prohibition.

So, we just had to go through the time delay. And at some point in time, if anybody has had any situation like that occur, I would definitely like some assistance on that because, like I say, it has been remanded back to us in both instances, but one took a year before we could get the judge to decide on the issue.

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MS. SPIELER: Next time, the same judge may be quicker. I think that obviously part of the problem is that when a writ is filed before a circuit judge and there is an issue the judge has not dealt with before, it can take quite awhile before they get around to actually dealing with it.

And the second or third or fourth time they have to deal with it, it can be quicker. But there are still going to be delays. If someone goes in to block the subpoena or if you have to go in to enforce it, you're talking about time.

There is no question about it, once it gets caught up in the processes of the circuit court, it can be anywhere from weeks to months to sometimes even years before an issue gets resolved.

If people don't have further questions, perhaps I should sit down. I'd be happy to participate in a discussion.

MR. KELLY: Thank you very much. That's informative. And my basis for saying the case might have national implications was based upon the statement made before you started talking by our regional director who, incidentally, has read the transcript of the case, and it

is a matter of interest on the national level -- the question of subpoena power for local agencies.

MS. HOFFMAN: The purpose of bringing the representatives here from the local commissions today was to discuss three or four items; one, the significance of the Huntington decision for local commissions, and Emily Spieler has just addressed that issue. It doesn't mean that's the end of the discussion, but we've at least put that issue on the table.

The other purposes were to have the local commissions take turns in describing the types of problems they're running into in trying to operate a local commission. That can cover a range of things such as an ordinance, staff problems, budget problems, problems with EEOC, problems with HUD.

Whatever your problems are, we want to surface those, put them on the table and see if there is a common element here among the local human rights agencies.

Another thing we wanted to look at are the various issues you feel need to be addressed to increase your effectiveness at the local human rights commissions. Then, we wanted you to then think about ways you could address the problems and issues you have just discussed.

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Hopefully, you would think in terms of ways that you might cooperatively work together to form an alliance, a consortium, an association or something that would bring all of you together in a concerted effort to address the problems and issues you have locally. So, there is no particular format in terms of who goes first.

We'd appreciate it if you would, now, for the purpose of the court reporter and others present, if you would simply identify yourselves and the agency you represent. We could start with Mr. Congleton.

MR. CONGLETON: Bill Congleton, Huntington Commission.

MR. LOVE: Dan Love, Huntington Commission.

MS. STAUNTON: Shirley Staunton, Fairmont Commission.

MR. SOTAK: Dave Sotak with the Beckley Commission.

MR. PATTERSON: Wayne Patterson with the South Charleston Commission.

MS. WOOD: Gloria Wood, St. Albans Commission.

MS. BUCKLEW: Chauna Bucklew, South Charleston EEO Officer.

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MS. REED: Michele Reed, Charleston Human Rights Commission.

MR. KELLY: Thank you very much. Well, I'll get it started quite simply. I have been associated with the Civil Rights people in West Virginia long enough to know the chairperson from Fairmont is never loath to discuss and express her opinion, so, Virginia, go ahead.

MS. STAUNTON: I would like to raise an issue that does fall in line with what Emily has told us, and I do appreciate her efforts because that is very significant in Fairmont.

We have a problem in Fairmont because we cannot expand to Marion County and be a joint commission, even though the law seems to specify to me that a joint commission can exist. And the reason the county gives to us is because they cannot grant us subpoena power.

So, I don't know if it's the case, and I'd like to ask Emily if she feels that county commissions have subpoena power, and if it arises from a state authority, and if now the case in Huntington would permit us to overcome that barrier.

Because I feel we would be much more effective if we were a city/county commission because of

the size of Marion County and Fairmont.

MS. SPIELER: The Huntington case specifically dealt with the state laws involving municipal corporations. I, quite frankly, am not familiar enough with the state law governing county government to know whether they have subpoena power.

If they do, I don't think there is any question that this same reasoning would be applicable to them. Had I been forewarned, I certainly would've checked.

MS. STAUNTON: Could I ask if any of our commissioners are county and city and could maybe shed some light on that?

(No response).

MS. SPIELER: I'd be more than happy to look into it for you and get back to you or somehow through this body to all of you.

MS. HOFFMAN: Emily, I'll be glad to be in touch with you by correspondence, and that way, I can make sure the rest of the representatives get copies of whatever you might find.

MS. SPIELER: Let me say, because I am going to have to leave, if there are other questions that come up which you think I could help you with, why don't you let

me know by letter after this meeting.

And if the local commissions have issues that come up that they think our office -- I can't offer for the commission, itself, but certainly those of us who are working out of the attorney general's office could help you. You should feel free to give us a call and we'll try.

We're busy, as you know, trying to finish the first set of backlog cases that have to be tried by the end of October, but hopefully when that's done, there will be a little more leeway in our office. Thank you for your time.

MR. KELLY: We really appreciate it. Thank you very much.

MS. HOFFMAN: Could we now address the issue of whether other local commissions would feel it's worth investigating, in terms of having the power to have city/county commissions?

MR. SOTAK: Speaking for Beckley, our commission has discussed this and they have wanted to move into the county and have a commission that was a county/city commission because we spend approximately thirty percent (30%), and maybe forty percent (40%) of our time, in

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taking complaints that are outside the city limits of Beckley or are in doughnut holes in the city of Beckley that we have to refer to the state.

And it would be greatly helpful to us, you know. There are a lot of B&O taxes. The city assesses businesses as one discouraging factor for -- even encouraging individuals or companies in the doughnut holes.

But we would definitely be interested in pursuing that. We just don't know what angles to take because the county is not necessarily inclined to be in favor of incorporating an agency that was a city/county agency.

MS. HOFFMAN: Have you discussed the issue with the EEOC or HUD to see if there has been any precedent for that kind of organization or if it would be a problem for you?

MR. SOTAK: I sent one of our investigators to a conference at the EEOC to discuss -- one thing, to clarify some of the problems that occurred when the Allen case came down and the communication lines broke down between the locals -- or it did for Beckley -- the locals, the state and the EEOC, and it was even more difficult to know who was doing what. And they offered no assistance

and did not want to discuss it.

HUD, on the other hand, is more inclined to at least discuss it and there are programs or funding proposals you can submit to obtain funds to create consortiums that could serve as a communication line between different agencies in a state or in a county or a portion of the state.

But we couldn't get any information from the EEOC. As far as the report I got back from my investigator, they weren't inclined to discuss it because when the laws changed that if the state was a 706 Agency, that was all they would deal with.

We weren't asking for payment on cases. We were just asking for an information line so we would know when the state closed out a case, if we could send information to them, copies of case records, just expenses for copying or mailing.

Because we're very limited on our budgets, and when you go running a couple a hundred pages and sticking it in the mail, it takes -- it mounts up to a good bit of money after awhile.

MR. LOVE: When you refer to a breakdown of communications after the Allen decision, what happened

there was prior to that, the Beckley Commission and the Huntington Commission co-docketed all their cases with the State Human Rights Commission.

After that, because of new procedures instituted by the state, we couldn't do that. They couldn't wait for us to do an investigation and put the case on the back burner. They had to complete their investigation within a certain amount of time.

So, following that, Dave said his investigator talked to EEOC. I contacted EEOC, too, about the possibility of co-docketing cases with them. Let me back up again.

Before, when we co-docketed with the state, the state would, in turn, co-docket the employment cases with EEOC. So, see, you had three agencies involved there -- triple protection for the complainant.

Whereas, after the Allen decision, the complainant would have to make a choice. In Huntington, for example, they would either file with our commission or file with the state.

If they filed with the state, the state would still, of course, file with the EEOC. In terms of the complainant's protection, we wanted to try to work out

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something with EEOC -- a co-docketing system. The way it is now, if somebody files with us, we just recommend they go ahead and file with the EEOC, also.

It would make things a lot better all the way around to be able to co-docket with them, but for some reason, we haven't been able to work anything out with them. And, as Dave says, we're not asking for payment.

The way the system works now, since the state receives funds from EEOC, local commissions aren't eligible to be paid on a per case basis under Title VII complaints. But again, we're not asking for money there. We just want to streamline the system a little bit.

The other problem with the local commissions getting money from EEOC is I think you have to process at least a hundred (100) cases a year, and for a local commission in West Virginia, that's near impossible.

We did ninety (90) cases last year in Huntington -- processed ninety (90) cases, and I doubt that figure will be topped in the near future. That was an unusually high number of cases for us to process.

MS. HOFFMAN: So, if you had a city/county commission, there would be some possibility the number of complaints would be larger and such an organization might

be able to qualify as a 706 referral agency.

MR. LOVE: Especially in Cabell County where you have the Huntington Mall, which is outside the city limits, which, we make numerous referrals to the state commission for the Huntington Mall:

MR. LEHMAN: Is there any county in West Virginia that has a county commission?

MS. HOFFMAN: No.

MR. SOTAK: No.

MR. GOTTLIEB: Do you feel there would be something to attempt to accomplish by setting up a countywide commission, or do you feel in some cities or -- let's say, do you feel there is some resentment among some of the smaller communities; that they feel they don't want to be part of the county setup if you'd attempt to go for it?

MR. LOVE: I don't know. I don't know if you're familiar with the City of Huntington --

MR. GOTTLIEB: The reason I ask that question. We'd like to be realistic if we can help solve it, but there is no sense in us reaching for the sky and the sky is down below us.

MR. LOVE: I know it would help ease the

burden on the state commission.

MR. KENNY: One of the things I've always felt was important, so far as local commissions to expand, is because most of the industries are outside of the city lines. I know when I lived in Fairmont, Westinghouse and several other plants were the major industries and the coal industry.

Within the city, you generally dealt with the smaller employers, retail and so forth. The majority of the complaints and problems were outside the municipal or city lines.

It's been one of my things to see the local commissions go into a countywide kind of situation which would really -- would really help them out. Now, it may not help in terms of getting EEOC money because EEOC has set a policy over the last several years that they would only fund the state agency first.

They have made exceptions in certain larger areas such as in Pennsylvania, besides the Pennsylvania Commission, they'll fund the City of Philadelphia and Pittsburgh; or in New York, they'll do New York State and the City of New York; or in California -- you follow what I'm saying.

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So, it's going to be rather difficult for Huntington, with seventy (70) or eighty thousand (80,000), to compete with like a City of Pittsburgh in getting those federal funds. So, it may be a long road before it would be available to them.

MS. HOFFMAN: Is it possible if you did not have a state human rights commission that each local human rights commission could get 706 referral?

MR. KENNY: Yes, then EEOC could then contract with the local commissions to process charges of discrimination for them if there were no state commission.

MS. HOFFMAN: Now, that's the situation we have in Virginia. Virginia is one of four states that does not have a state human rights commission, but there are three commissions -- local commissions in the state, two of which have 706 referral status because they do not have a state commission.

The purpose here, by the way, I hope we will understand that in throwing out suggestions and possibilities and alternatives, this is more in the way of brainstorming for possibilities than it is carrying us toward any particular idea.

MR. KENNY: Shirley may want to talk about

the legislation she's been pushing for the last couple of years. I think that would have an impact upon a city/county type agency.

MS. STAUNTON: Howard, you're talking about the change in Section 12 --

MR. KENNY: Right.

MS. STAUNTON: -- regarding human relations. That was another thing that our county -- and I can name you the three commissioners or two of the three who really don't want to have a human rights commission in Marion County.

One of the other pegs they put their hat on to say they don't have to legally have a commission in Marion County is because of the fact that Section 12 says -- all the rest of the act, the Human Rights Act, refers to human rights and human rights commission.

Section 12 says: "A local municipality may create a human relations commission." So, there was an attorney general's decision in about 1977 or 1978 that was relied on in Marion County that says we don't have to have a human rights commission. All we can have is a human relations commission, and interpreting that word to mean a non-enforceable agency, but more like an educational and

advisory group.

I don't think the statute says that, but I have been trying to get our legislators just to do a little bit of housekeeping and change the word "relations" -- which, I think, was just probably inadvertently put in the statute in Section 12 -- human relations commission as human rights commission because to me the words are interchangeable and I use them interchangeably.

But we do need to ask our legislators, and I think it would be a good project for your commission to ask our legislators statewide to change the housekeeping term, and therefore, we could open up a whole new aspect.

In our county, anyway, we would've taken away both of their arguments; the lack of subpoena power and the fact they can't create a human rights commission. And I'd like to go onto the subject of local enforcement.

I think it is a very good change not to do away with the human rights commission on a statewide level, but to have them have a more administrative rather than an enforcement capacity.

Because I had a case this morning; a woman called me and asked me about the status of her son's case. He had come to me personally about a year ago and said, "Do

I have a claim against Nichol's Bakery in Fairmont?"

The young man was working. He wanted to become a truck driver. They said, "Well, if you perform some janitorial services, maybe we'll promote you to truck driver."

He was a black young man and they later hired a white truck driver, and he did have a case in my opinion. We sent him to our secretary and she gave him an application which he filed with the state.

So, the mother called me today and I said, "I don't know anything about what has happened on that case; call the state," and I gave her the state agency's number. But when she did, she said, "The case has been dropped."

I said, "Without notice to you and without notice to me?" when she called me back. She said, "Yes, the case was dropped," and I don't know why he didn't get a right to sue letter, but the case was dropped and there was no probable cause found.

Now, locally, had we handled that investigation, I knew of two other complaints that had arisen in Nichol's Bakery. One was an elderly man -- he wasn't elderly in my opinion; he was in his fifties, which I don't think is old -- he was a young man, but he looked

much older.

And he was repairing the trucks. And this same manager that did the same discriminatory act to this young man I'm talking about to start with had really caused him some emotional problems. He had a nervous breakdown because of the pressure put on him with the repair of the trucks and probably had a sex discrimination -- or an age discrimination case.

And unbeknownst to the other two, another man had confronted me because the manager who sent his truck driving hourly record to their corporate headquarters in Ohio was not getting true reports on how many hours he was spending driving the truck.

So, I know of three complaints there, and had we handled that -- enforced that locally, we could've used some of our experience and knowledge, which would've been more helpful to those three people than it would've been to have been sent to the state.

Not to say that Howard's people don't do wonderful work or anything like that. It's just our local experience and knowledge would help us to have handled that case in a more expeditious way.

I have advised him -- because this manager,

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this nasty man called the mother of this young man today -- the mother has a heart condition -- and yelled and screamed at her and said, "If that young man isn't healthy enough to come to work, we're going to fire him," that kind of thing.

So, it is a person that does need the discipline of what the statute permits us to do. And I'm just giving a plug for local enforcement.

MR. SOTAK: To expound on that, I think in reference to what you said as advisory, the link that's been broken between the locals and the state and them advising the locals, we know the situation better, like you stated.

Where a local runs into a problem is in the legalities in the procedure and making sure that you're doing that correctly. And that's what bothers me most about the fact that we don't co-docket all the way up the line any longer.

Because if we screw something up procedurally, which does occur, then the person -- the complainant is out in the cold if they haven't filed with the EEOC or the state.

But, you know, if you can get the technical assistance from the state that you need and you know the

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situation and they can help guide you through those things, that would be much better all the way around.

MR. LOVE: The other major issue with co-docketing now is that local commissions cannot issue right to sue letters. So, you have to explain to the complainants, "If we do your case and find no probable cause, that'll pretty much be the end of it; whereas, if the state does the investigation, they will still issue the right to sue letter and you can file suit in circuit court in the county you live in." That's an option the state can give them that we can't.

MR. KENNY: Do you think your city councils will allow you to make that change in your ordinance to issue right to sue?

MR. SOTAK: I think ours would in Beckley. They'd do anything to get rid of the cases, you know. That's the other point; that at a local -- the state has enough problems politically, but locally, you have even more problems.

You have a city attorney who has a lot of other functions, and his expertise is not in civil rights. And even if they are sympathetic to civil rights, they may give you an answer that is not necessarily correct because

of that fact; whereas if you could rely on the state or there were some mechanism that you could get that information, it would be greatly helpful to the locals.

MS. REED: The problem I have had in the two years I have been employed with the Charleston Human Rights Commission is the state agency saying I have no jurisdiction even if they are located in the city. I've been working with Mr. Kenny, the people in his office, and they've helped me a great deal with my work.

When I go to investigate and get information, even with the subpoena, I haven't got anything. In one case, it's been almost two years.

So, I took it to our city attorney. He says I have to enforce it in circuit court. I have another agency that's a state agency. They will not give up any information. So, I am going to have to take another subpoena to the circuit court.

And there has been a problem -- as Mr. Kenny knows, before I started working for the human rights -- with who has jurisdiction and who has this case. I have tried closing cases -- no jurisdiction -- and sent it to the state agency.

I have tried closing a case. When I first

got started, I said, "Well, I'll just send all the state cases over there." A lot of these cases were city people, so I figured I could take it. A problem came up -- "Well, why did you close this case? We have jurisdiction."

Well, instead of me letting it linger on with the complainant, I'd rather close it with no jurisdiction and tell them to go to the state before their time is up because ours is ninety (90) days.

That's the real problem I'm having. They keep writing me letters back, "You have no jurisdiction. This is the state agency. The state human rights should handle this." We're not going to give you this or we're not going to give you that.

So, I might have three cases just lingering. I took the subpoenas to the commission -- Form 05. Our chairman, Dr. Shirley Hairston, she signed it and it was sent to the agency and I haven't gotten anything. And I have to keep telling the complainant, "I'm sorry, I haven't gotten this," so that's my problem.

But Mr. Kenny's employees, they do work with me a lot, help me out with a lot of the cases. We call each other. And if I had a case, I feel -- when the person comes in, I ask them if they have filed with the state

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agency, and if they have, I don't take it.

That's my main problem.

MR. KENNY: Let me ask a question. When your commission approves a subpoena and you send it to the company or the business or whatever, and they did not respond back to you, did you go to the city attorney and ask him or her to enforce the subpoena; to go into circuit court?

MS. REED: Yes.

MR. KENNY: What was their response?

MS. REED: Well, they had me waiting for awhile before I even knew what I was supposed to do next because I sent two -- our commission sent two subpoenas to the one company. And they'd keep saying, no, I have no jurisdiction because it's a state agency. But it's located in the city.

MR. LEHMAN: The company you sent the subpoena to?

MS. REED: It's a state agency, but it's located in the city. And I can take any complaints located in the City of Charleston.

MR. LEHMAN: You're talking about John Charnock? He won't back you up?

MS. REED: No, no. I'm not saying that. I'm saying the problem I had with the agencies that I'm trying to get information from --

MR. KENNY: But we want to move beyond that -- the agency -- to getting that subpoena enforced against the state agency.

MS. REED: He says I had to take it to circuit court, so that's my next step.

MR. KENNY: Who says that?

MS. REED: Mr. Charnock.

MR. KENNY: But Mr. Charnock should be the one to take that subpoena to the judge to seek enforcement.

MS. REED: Well, that's our next question. That's the next step is to take it back to Mr. Charnock and let him do that because it's been going on for almost two years, you know, back and forth, one case -- some lawyers hold things up longer than that.

And I'm the only staff there now. I have to do the housing, the intake, everything, public accommodations, the investigations, you know. I have to do it all. Like, I don't know which way to go some days, but I'm trying. My co-worker resigned and took employment somewhere else. So, that's my main problem.

So, what I've been doing, since I have been there two years and I know a lot more now, everything that is for the state, I refer to Mr. Kenny.

MR. SOTAK: In Beckley, our commission made that change just for the complainant's sake because we had a couple of instances against the sheriff's department there.

The courthouse is one block from our office, and their response was that we had no jurisdiction because they weren't in the city limits; they were a separate entity -- governmental entity larger than the city, than the municipality, which is a pretty good argument.

And, also, there are state agencies, state hospitals that are located in Beckley. So, we amended our ordinance and refer complaints against state agencies and county agencies to the state human rights commission.

MR. KENNY: It's probably an issue that I think if you followed through on would probably be upheld, if you would seek the enforcement of the subpoena.

MS. REED: That's Monday.

MR. KENNY: This may put Michele on the spot, and if you don't want to answer, you don't have to answer. What do you think has been the result of the changeover,

understanding you came in after the changeover in the city?

But what I'm saying is, at one time, the commission was a body with its own powers and did not have to report to anyone else, and under Mayor Smith's administration, he combined the commission and the affirmative action office and personnel together. So, if you don't want to answer, you don't have to answer.

MS. REED: Are you meaning by personal opinion of human rights in with personnel or affirmative action, insurance?

MR. KENNY: Yes. You might want to go off the record.

MS. REED: I probably would.

MS. HOFFMAN: We'll be off the record.

(WHEREUPON, discussion was
had off the record.)

MR. KENNY: Is Beckley or the City of Huntington facing a similar problem in that there has been discussion so far as the mayor or city council is concerned about combining your agency with another department to save money?

MR. SOTAK: Yes, the issue was raised in Beckley to bring our office down to city hall and our

arguments prevailed that it was better that we maintain a separate office in a separate location; that it was of benefit both to the complainant and to the respondent, and that rent was insignificant compared to the problems that would have occurred.

There was some discussion of moving us into the police department.

MR. KENNY: But what I'm asking, apart from that, is that, say, for instance, in Beckley, they would make you not only the director of the human rights commission, but also director of personnel and affirmative action.

MR. SOTAK: No. No. They want to keep that separate in Beckley.

MR. KENNY: That's what happened in Charleston.

MR. LOVE: The same is true in Huntington. The city policy right now is to keep us as an independent city agency, and there is no plans to combine us with any other function of the city.

The only connection we really have with any other local government offices is that in the past couple of years, our funding has gone away from the city general

fund and we get the majority of our funds from the community development block grant fund. We rely on them for our money, but we don't count on having any other connection with them other than funding.

MR. CONGLETON: We had that fight some years ago in the City of Huntington. We were combined -- there was too much involvement in the city government. Our good friend, Algie Gary, came down and demanded they take politics out of the commission. So, through various battles, we were able to do that.

MS. REED: In our agency, I guess an attempt is being made to move the commission out of personnel into another office and have a different human rights director. Our human rights director is also director of personnel, and it doesn't seem to me that it should be that way.

So, hopefully, if they get me out of there or put me just in an office it could be next door. I'd feel a lot better about a lot of things and feel more free to do my job. Then, also, hire someone else, another investigator to help me with the load I have.

He's only been gone a month, I guess. Hopefully, they'll get someone else to help out and move us out of there. I'm sure HUD knows that I shouldn't be

in the personnel office.

MS. BICKLEY: Do you refer all cases from the City of Charleston to the state agency or just those that are co-located with you?

MS. REED: That are co-located with me. I feel it's easier on myself to do the investigations, and the complainant, as well. I did that on my own because I've got no people. I don't want anyone asking me any questions because I won't answer.

If I did, I'm sure they'd come up. I don't feel I could be very fair. I may know something before it even happens. So, I usually, just in city hall, refer them on to the state agency. I feel it would be fairer to everyone.

MR. LOVE: We did the same thing in Huntington. Originally, with our ordinance, it didn't grant the commission the power to investigate city complaints. And I think it was amended back in 1980, that we could investigate complaints in city agencies.

But, to me, it was too much of a conflict of interest that you're investigating your boss, in effect, the mayor or city manager. You're damned if you do and damned if you don't in that kind of situation. So, I refer

those cases to the state.

MR. KENNY: I want you to know there are more state agencies than city agencies, and we get them all.

MR. LOVE: You're not all in the same building, though.

MS. POPS: I'm going to be leaving, so for my own education, I'd really appreciate it if we could go around and get for the benefit of each locality what the pressing civil rights issues have been just recently or in the recent past because I am new to the commission. If that's appropriate, I'd like to hear some of the civil rights issues that have been pressing recently.

We're thinking of a statewide forum or something in a couple of months, and that's one of the things we're really concerned about is just what kinds of issues are being raised around the state.

MR. KENNY: Pressing issues. Employment, race --

MS. POPS: Even more specific than that.

MR. KENNY: Age discrimination, sex discrimination.

MS. POPS: Not categories. I know the

categories.

MR. KENNY: The handicapped. Those are the pressing issues.

MS. POPS: But what within those areas? Are there any dominant issues within those areas?

MR. KENNY: It covers the ballgame from failure to hire through being promoted, and especially when the economy is bad. If you look at what Carbide will be doing pretty soon in terms of their cutback and what's going to happen is you're going to have older workers forced out.

They're really not going to have too many options. They're going to almost have to accept what the company offers or take the chance of losing their job and any benefits they may have accumulated over the last fifteen (15) or twenty (20) years. That's called forced early retirement.

We tend to overlook that, you know. We say, well, you know, we're all kind of feeling the effects of the economy and we're saying we hate to see that happen, but the lives of these people are going to be destroyed because they are going to be forced into early retirement; and that is against the law.

And you're talking about white males in middle management. And they are going to go back out into the work force and they are going to take those other jobs that blacks or women or handicapped may be competing for.

And they are not going to necessarily have the work experience -- the other minority groups are not going to have the work experience and it's going to be difficult. So, you're going to have these two groups competing for similar kinds of jobs.

Race and sex will always be with us in terms of magnitude. Age fluctuates; age only comes about when the economy gets bad. If it's good, age discrimination cases are down.

Education is a problem. I touched a little bit this morning about Princeton. We got a call yesterday from Logan County that things are beginning to rumble. But it's not only conflicts between black and white kids, but it's the fact of black kids getting quality education.

Mr. Keisic this morning made the comment, he said he found out a teacher did not call upon a black student. What does that say to that black student other than you're different or something is wrong with you.

And you can continue to go down the line

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and talk about the issues and problems. Housing is another big area. I'm sure I'm not saying anything different than some of the others.

MS. POPS: I haven't heard it, so I appreciate hearing it. I really want you to be specific. I'd really like to hear specifically what's going on in the state at each person's location.

MR. GOTTLIEB: I don't want to interrupt here, but, Howard, I think, has had the exposure and experience on all of it. What I'd like to do right now, since we have a chance to chat with Howard, and he's on the board, what about some of you from the other communities? You're bound to be frustrated on what is going on or what isn't going on.

We, as an advisory board, would like to hear what do you all feel where you need some help and whether our commission collectively could be of any assistance to you. That, to me, is the part I feel a statewide advisory commission can be of benefit to you.

MS. REED: Mine is educating the fast foods in Charleston, and also, handicap problems and the way people talk to handicapped people. They don't know how to approach them.

They say things like, "We don't have any positions for a man with one arm," or, "We don't have a position for a person who can't hear well." They don't realize -- they state they don't realize they are hurting someone's feelings by saying that. But they are so busy, and, "I just didn't realize that and I'm really sorry."

MR. GOTTLIEB: I started to say on the fast foods, most of the time, it's a young manager who is inexperienced.

MS. REED: Some of the owners, too.

MR. GOTTLIEB: Well, I feel some of it is --

MS. REED: Most of mine has been the younger black children coming in really hurt. These little jobs mean a lot to them.

MS. POPS: What has happened?

MS. REED: They were fired for something that perhaps a white has done as well. One problem, a black guy came in who worked at one of the fast foods. He stated he was tired of having to clean up the parking lot every day and no one else -- they never asked anyone else to do it. Their reason was that he was new.

Everyone is hired in -- they are told they are hired in for a cook or whatever, and when the meeting

comes around, no one has specific positions. Everyone is a crew member.

So, I think that's my problem. Most of all my cases are from fast foods. One after another. One one day; one the next day. You know, these people are tired of looking at me as much as I am tired of looking at them -- the same people, you know.

MR. LEHMAN: Have you ever tried to have a meeting with these managers in one place and you personally tell them what the law is?

MS. REED: We were going to do that in October, but I can't fit it in anywhere right now with all the other things I have to do. But we were going to hold a workshop for employers.

MR. LOVE: Another major problem with the fast food industry that we've seen in Huntington, in most cases, you're dealing with younger workers and you've got a young male in charge of a lot of young females and a lot of sexual harassment cases.

MR. KENNY: Let me just add one thing about what our commission talked about at our last meeting in terms of the whole fast food industry. I recognize it as a problem the same as some of the other folks.

When I was in Princeton, it was one of the problems that was discussed about jobs being available to young students in the black community. I think we went through and listed, just in Princeton, about twenty (20) fast food places, and they could only name -- or at least count four or five black students who may work in those twenty (20) different fast food businesses in Princeton.

We discussed this at the last commission meeting and we're going to focus on several of those fast food places. Whether it's McDonald's or Burger King or Long John's, we're not certain yet.

But we will get the EEO-1 Report back from EEOC and look at the hiring practices, say, for the last couple of years and try to not deal with the managers, but deal with the owners -- or at least deal with the franchises since they have some responsibility to insure that things are going to work right and the franchise is not going to be jeopardized with bad publicity.

So, if it's McDonald's or Burger King, we're going to deal with it on a national level as opposed to the local owners that might own two or three McDonalds or whatever. So, we will be looking into that area.

MS. HOFFMAN: Before we had this meeting

today, I did not know complaints against the fast food industry was a common problem among the human rights agency. Did you realize it? Did you, as administrators, know that throughout the state, it is the fast food industry that has been presenting most of the complaints?

MR. SOTAK: Yes.

MS. HOFFMAN: You did know. Okay.

If you wanted to do something about this issue, could you now, the way you're presently relating to each other, talking to each other, is there some way that you could work out a common education program to deal with that particular problem?

MS. REED: Seminars or something.

MR. SOTAK: Excuse me. Yes. We have tried to enter the school system. As far as what the commission -- or a suggestion maybe the commission might be able to do would be to contact the boards of education.

Because we've got films or access to them. Because a lot of these young girls are still in school that are working in these fast food places. And it's a big problem in Beckley. We get a lot of sexual harassment allegations.

A lot of them are not followed through. A

lot of them are occurring because the younger women are less apt, especially if they are just entering the work force and they are part time, they don't file complaints.

They put up with the pats and grabs. And the school systems won't let you -- or it's difficult in Raleigh County, anyway, to enter the school system.

Now, I know they've had some success in getting into the school system in Huntington. I don't know if it has been in reference to sexual harassment issues. But if there could be some support from the commission to the boards, that might be helpful.

Then, also, what Howard is saying of focusing on some specific McDonalds or whomever. That might gain some ground with the owners because it's the management -- it's the individual managers that cause these things.

And you settle -- even if there are complaints, they are resolved, then after the issue is conciliated, what the company does generally is not terminate the manager; they transfer him.

I know they transferred one from Beckley to Charleston. So, he's down here now. It's not Beckley's problem now; it's Charleston's, and I know it'll come up again.

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MR. GOTTLIEB: Would you all be in agreement in stating -- it's been alluded to -- one of the things we've got to do is prepare an educational program. I agree you start at the top with the big boys, try and familiarize them with the problem, then break it on down to local ownership of other ones because being a businessman, just to come in and find fault with fast foods, I think you're doing them an injustice. After all, fast foods has given more employment to more young inexperienced people than any other segment. So, I don't think we need them as a whipping boy.

I do feel -- and that's why I say young managers, they're so disrespectful, some of them. They've never been trained themselves, then later, as you say, they apologize to you; they didn't think they were saying anything wrong or doing anything wrong.

So, I think before we go on that, we try to coordinate. Now, this is a coordination, both of our state, individual ones, and I think between us, again, with the boards of education. Some boards of education are very understanding. I am sure if Cabell County and Harrison County and a few other counties do it, maybe Raleigh County won't sit back on their haunches and say, "We can't do

that." They might say, "Well, maybe we're missing the boat." Now, that's just a thought for future correction --

MR. LOVE: We're doing it now in Cabell County. Carol Boss (phonetic) of our staff developed a continuing education program now being used in Cabell County at the elementary, junior high and high school levels. It doesn't address what they were just talking about in terms of sexual harassment, but it does teach the students about prejudice and discrimination and civil rights laws and that kind of thing.

The other thing, on workshops, we tried to get the word out to employees that we're willing to come to their place of business and put on seminars or whatever -- in fact, put a little plug in for our commission. We're having a conference October 31st at Marshall University.

That is geared specifically toward employers -- although a lot of attorneys, I think, will be there, and members of HUD are invited, of course -- where we address specific issues such as sexual harassment, pregnancy discrimination, age discrimination, handicap discrimination and give them material so they can take it back to the work place.

We had one last year at the Civic Center,

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and I remember specifically saying at the close of the conference, "Now, if any of you want us to be consulted on an individual basis about what your rights or responsibilities are as an employer, we'll be glad to come to your work place and make a presentation."

Other than a few phone calls, we weren't asked to appear anywhere.

MS. STAUNTON: Before you leave, I'd like to tell you my specific problems in Marion County. I am an attorney, and I find a problem -- and since you're in this area, as well, in law enforcement -- it seems as though often when I am appointed to represent a black person, that bail is set higher, sentencing a little longer and I think that is an area which -- I think it's being studied, and I think it would be something your commission could look to. I am sure there are studies being made on that.

Also, in Marion County, we are a college town and we have two high schools. All of the black students in Marion County attend one high school in the City of Fairmont. That points out to me a very, very important fair housing problem.

We've applied for, and are attempting to get -- haven't got yet -- funding so we can hire staff

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persons to look into that. We also have no black persons on the city police force, even though we have about a six percent population rate in the city; maybe higher than that.

So, we attempted, as the human rights commission, to bring in some personnel from the Department of Justice to do a little bit of consciousness raising and some seminars with the police because we did have some definite problems of white policemen entering black neighborhoods on calls. Then the Department of Justice sort of let us down. They held one seminar and never came back.

So, we would like to know if you have any resource people or know of any or have anything you can offer us yourself to give us some help with the police problem we have in Fairmont.

Also, I remember the last time I met with Bill here from Huntington, he said something -- "I fought all my life to get this far, and I feel like we're sort of starting to backtrack a little."

And you probably don't remember saying it, but the statement has just stuck with me because that's how I feel in Fairmont, and that's how I feel regarding human rights because we done away -- the United States Civil

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Rights Commission has more or less taken a stand against affirmative action and against comparable work salaries.

I think it's something you need to study and look into again because I think affirmative action had -- I've seen it work in corporations. I think it's a fantastic idea to bring races up to parity. Then, if you don't want to have it any longer, that's fine.

Let's get equal first, then we can start doing away with the affirmative action program. And with comparable work salaries -- the United States Civil Rights Commission took a stand against that -- in our area, Valley Community Mental Health is starting to do that right now.

There is a new study to give comparable work to jobs, meaning they rate a job in a corporation as to its value to that corporation, then pay it what it's worth to that corporation.

That generally has a tendency to do away with sex and racial discrimination.

MS. POPS: The state is doing a study. You probably know of the pay equity task force that was appointed by the legislature. And in our particular community, I know Rusty Durnley from the university is on it and there are some legislative people. Shelby Larry

(phonetic) has been on it, but isn't on it any longer. State employees have been asked to fill out questionnaires.

I don't know what they intend to do with it. I do intend to meet with Rusty Durnley (phonetic). There will be some evaluation at least done as to different jobs and we'll just have to follow -- the whole state will have to follow what is going to happen in the area of comparable work.

MS. STAUNTON: I don't think your commission has to go along with what the state says about it. I think you can do your own study. Like I say, I think it's the main instrument we have to do away with sex and race discrimination in the marketplace.

MR. PATTERSON: In South Charleston -- we've got a lot of heavy industry in South Charleston. As you well know if you've been watching the papers, we're going to have two plant closings there. We've got the Volkswagen Plant that will be phased out and the FMC plant will close in South Charleston.

Basically, we've been pretty much referral people down there for the state. We don't have any enforcement power. We've had a little problem with housing in South Charleston; mostly in the rental category. We

don't have any black policemen, no black firemen.

MS. BUCKLEW: Excuse me. We have a black policewoman.

MR. PATTERSON: We have a black policewoman? Excuse me.

MS. BUCKLEW: She used to be with the county. She started probably three weeks ago.

MR. PATTERSON: Well, that's good because I think South Charleston has been aggressively seeking black people to fill these jobs, based on my own opinion.

But getting back to the heavy industry we have in South Charleston, there has been a lot of activity so far as I've been concerned -- I'm a steelworker. I belong to that union and through the steelworkers, I've met a lot of other people in the machinist's union and aerospace workers and various other unions that represent heavy industry around, and most of the problems have been in the area of promotion, in the area of hiring and training.

To give you one example, we had a situation at our FMC plant in South Charleston whereas we had approximately a six percent minority population in that plant, and over the past ten years, up until 1985 here, we

have had twenty-seven percent (27%) of the discipline that was meted out in the plant was given to the six percent minority.

And we've had a discharge rate of forty-one percent (41%) for the six percent minority population. So, we had problems there and I'm sure the state commission has been involved in a big way in trying to resolve those problems. South Charleston was an unusual city in that it was topheavy with industry.

I don't think we have the mechanism in place down there to handle things on a local basis. Just like she was talking about the bakery. I think we do have people in the community that are close to these situations that might occur in cases of discrimination, but we are forced in a way to refer them to the state for them to actually get relief or there would be justice.

I think we've got a problem with education in our community. We don't have the means -- or we haven't had, in the past, the means to let everybody know what their rights are and who they should go to for the relief they need.

MR. KENNY: Could I ask a question? Have you all approached the city council in terms of having an

organized funded commission?

MR. PATTERSON: Yes. We've gotten quite a bit of support from the mayor, but the city council -- it is a highly political situation in South Charleston. I don't have the experience of living in the surrounding communities, so I don't know how it is there.

But it's almost as if our city council wants to keep a hold on the power situation down there. They don't want to give anyone the power. That's the situation we're in down there. It's almost a Catch-22 situation.

MR. KENNY: What's your relationship?

MS. BUCKLEW: I'm the mayor's secretary and also the EEO officer. I'd like to say that we, "actively," recruited -- I was involved -- I met with the police civil service commission -- myself and the police chief, and I had borrowed Charleston's pictures for advertising and I made up fliers and sent them to places where women -- such as health clubs, different places throughout the Charleston/Kanawha Valley area that, you know, we could say we did try to get more women involved.

And we hired three people -- well, four people. One had been previously employed there and one was a black female that had been with the county. She had

already been through the academy. She did not have to go through the academy. She started one day, she qualified the next day, she got her uniform and she was put on the desk and to ride with someone just to learn the city.

She's the third female -- well, fourth. We had one that was not even qualified, which, there was a sex discrimination suit filed. She is no longer there. She was the third female and the first black female. We do have one of the females -- we have three females. One is a sergeant on the police force.

But like I said, the fact is it's political. It's really hard to break into.

MR. CONGLETON: I think this is one problem that Huntington could be facing. We will be going into the strong mayor form of government for the first time in about twenty-five (25) years. Adding to the budgetary problems that Huntington has had -- or does have now, whomever is the mayor, they can appoint a commission, they can appoint the staff.

And with that situation and with maybe certain debts that have to be paid to support people to get you in, a lot of people at City Hall, Huntington are shaking because of this internal -- and because of budgetary

problems because any time there is a problem with money in Huntington, the first thing they say is do away with the human rights commission -- okay? -- cut staff.

Well, we don't have no staff to cut. And as vindictive as some of the people are that I know that are running, they might come in and try to clean house. So, what I'm saying, Wayne, is come January when this new group comes on board, we might have to roll up our sleeves in Huntington and fight again.

MR. PATTERSON: We certainly have our budget problems. I think, you know -- I think basically they've been attacking city services. We don't have anything as a commission to attack. We don't staff anyone. And, like I say, basically we are referral. That has been our function.

MR. KENNY: How often do you all meet?

MR. PATTERSON: It varies.

MR. KENNY: Maybe three or four times a year?

MR. PATTERSON: I'd say we meet probably five or six times a year would be more accurate.

MR. LEHMAN: It seems to me we're getting off into a political discussion that's a little bit foreign from the things this committee is interested in.

MR. CONGLETON: You asked for problems.

MR. LEHMAN: These problems you're addressing are real problems. I don't doubt that, and I sympathize with you. But they are not the civil rights problems that we have to concern ourselves with because in a change of administration, you know, that happens with political patronage and there is nothing we can do to stop that.

I know in South Charleston you will face problems that you haven't faced before, and I was just curious to see whether you all have discussed anything about seeing that the cutdowns, if at all possible, can be done on an equitable basis.

MR. PATTERSON: I'd say that South Charleston has pretty much relied on the good faith of the mayor because we are powerless down there. It's always been that way, from what I can determine. The heavy industry, we have had to use the state. It's as simple as that. We don't have any means or vehicle to give anybody any satisfaction at all. And, really --

MR. LEHMAN: What I'm saying I think is that I can foresee a powder keg.

MR. PATTERSON: In South Charleston?

MR. LEHMAN: Yes. Anyplace where you have

high unemployment to start with and you have a shutdown of plants in general and you have forced retirements and you have the problems you're facing. We can be sitting on a powder keg. Unless we use a little bit of judgment forestalling these events, I think we will have shirked some of our responsibilities. I'm concerned about that aspect.

MR. PATTERSON: In my opinion, I think the state should brace for the storm because we're going to have a lot of activity in the area of age discrimination and the area of race discrimination, in particular. I think those will be the two categories that we're going to see come to the forefront.

And the reason I say that is because -- well, I can use FMC as an example again because I'm familiar with that situation. In management, we had two black employees. They were on the lowest level.

And I think overall, we had three hundred and some odd management employee -- supervisory employees, and out of that three hundred and some, we had two black at the lowest rung.

Now that the plant is closing, we all have to go into the job market and seek employment. There has

been a lot of grumbling down there about the fact that the training was given to the management people. They are better equipped to go out and seek jobs. We're going to have a lot of complex problems arise out of that.

I just don't think -- well, I know personally we are not equipped to handle these problems and we'll have to refer them to the state and they'll have to take the load. It's as simple as that.

MS. BUCKLEW: I just had a question. Public housing in South Charleston you mentioned. We have South Charleston Housing Authority that works, you might say, under conjunction of the Charleston Housing Authority. And the mayor does make appointments to that authority, but it seems we have no jurisdiction as a city over them.

I had, one day, a young black woman -- she was about to be evicted. She called up to the mayor. He happened to be out of town that day. I helped her to the best of my ability. I told her to get her receipts and everything, bring them up to me, I'd put them in order and see what I could do for her.

Well, he called in and I explained the situation to him and he said, you know, we just as a city had no jurisdiction over that. It's Parkland Terrace.

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They rule the roost down there and that's all there is to it.

I did what I could. I called Legal Aid for her and it turned out she won the case. Legal Aid took it, she won the case. It seemed like every -- not every day, but there for awhile, especially last year, people were just calling right and left about Parkland Terrace, "What are you going to do?"

They look upon it because it's city of South Charleston, you know, "What are you all going to do for us?" And we can't do anything. We just have no jurisdiction. We have to say, you know, "Well, we can refer you to someone else."

MR. CONGLETON: Getting back, if I could just clarify my point a little bit concerning the City of Huntington and budgetary problems. Right now, before the city manager or our council or maybe both, they're talking about firing fourteen (14) sanitation workers. Okay?

Now, this will impact the black community. Fourteen (14) heads of house will lose employment because of budgetary reasons there in the city.

MR. LEHMAN: I understand what you're saying, but I don't understand why that is a civil rights thing --

MR. CONGLETON: Let me further explain.

MR. LEHMAN: That's what I'm getting at --

MR. CONGLETON: To me, it's a civil rights thing because whenever there is a shortage of money, in my opinion, in my total life, that normally blacks are the first fired and last hired. They didn't say we're going to cut Dan and his staff; they didn't say we'll cut finance; they didn't say we'll cut anything else. Sanitation workers -- fourteen (14) -- you get your pink slips.

MR. LEHMAN: That's exactly why I asked the question. That's what I meant when I asked that question. I know we're going to have layoffs and firings and what is being done to see that it's being done equitably.

MR. PATTERSON: Are you talking about in the city or overall?

MR. LEHMAN: In general. In other words, it seems to me the human rights commission I've heard from today are putting out fires. What I'm talking about is can we do any fire prevention. That's what I'm asking.

MR. SOTAK: As a group -- I have to leave shortly -- I think there needs to be coordination and dissemination of information to individuals that are at this meeting and the other locals, if there are locals that

didn't make the meeting.

And the attention needs to be addressed to the legislature on educational issues that these, like you say, putting out fires, is what we have been speaking of. And as far as a long range answer, that is going to be the only solution I see.

And the solution is going to be through education and developing either a consortium of some sort through the state and developing some funding to do that.

You know, it's easy to say that you can train or educate employers or housing managers or whatever, but then you also have to have staff or you have to have a mechanism -- you've got to have the money to do it and you've got to have coordination between the groups.

MS. HOFFMAN: In that regard, I mentioned to some of you, but not all of you, during the past year, there was a pilot program called the Regional Fair Housing Consortium. It covers three states; Virginia, Maryland and the District of Columbia -- two states and the District of Columbia.

Now, the way that program has been funded is through writing a proposal that went to HUD and HUD provided the money for the consortium. The consortium is,

of course, unfair housing, but that doesn't mean it might not be worked out on some other basis for the human rights commissions.

That consortium is operating to carry out at least four functions. One is to train the personnel operating human rights commissions or other civil rights agencies handling complaints within those three states.

Two, they're trying to work out something in the way of uniformity, in the way a case is processed among all of the agencies within the consortium.

Three, they're trying to provide educational materials and funds that can be used to educate employers as well as people who may file complaints.

And four, to provide technical assistance where needed.

It also puts together model legislation to be offered to the legislative bodies within Virginia, Maryland and the District of Columbia. They provide technical assistance, for example, to any commission that wants to propose legislation and they get free legal assistance from the legal services committee in District of Columbia.

So, something of this nature might be

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possible for local commissions in this state to get funding, and it might be something you could do without necessarily having to go through the legislature or to the city council or whatever.

You might have some kind of working agreement that would allow you to apply for money and to work in concert with one another; to work mutually to survive, because, from what you're saying here, each one of you in one way or another is concerned with your vulnerability within the political process. And it might be that working collectively, you would be less vulnerable.

MR. BINKLEY: Could I ask a question before people start to leave? I gather from what some of you have said, there are cities that have a commission but no staff. Is that correct?

MR. PATTERSON: Yes.

MR. BINKLEY: Let's do a quick rundown and find out which cities have staff. Beckley?

MR. SOTAK: I have, counting myself, four staff persons.

MR. BINKLEY: Charleston?

MS. REED: One staff; one executive director.

MR. BINKLEY: Fairmont?

MS. STAUNTON: No staff people.

MR. BINKLEY: Huntington?

MR. LOVE: Three paid staff members.

MR. BINKLEY: Montgomery? No one is here from Montgomery. Do you know if they have staff?

MR. KENNY: No staff.

MR. BINKLEY: St. Albans?

MS. WOOD: No, but we have three hundred dollars (\$300).

MR. BINKLEY: Wheeling? No one is here from Wheeling? Does Wheeling have staff?

MR. KENNY: Wheeling did have a staff. They cut the staff back to half-time. They had one person. They cut it back to half-time. The last I heard, there was no staff.

MR. BINKLEY: South Charleston?

MR. PATTERSON: We have no staff.

MR. BINKLEY: One of the wild ideas that went through my mind as I heard you talk this afternoon, because I know one of Howard's problems has been lack of money, lack of staff to do the job, that has been building through the years.

It occurred to me -- and I suppose it would

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be a complicated thing to work out with the legislature -- that there are eight local human rights commissions. And rather than them trying to be funded and operated at the local level, there could be one statewide law, one statewide commission and the budget now from the local human relations commissions could be contributed to the state and there wouldn't be this worry about direct referral or whatever.

In other words, there would be one statewide commission. This is being done in some states, and they have field offices. All of you all would not move to Charleston. There would be field offices scattered around the state.

MR. LOVE: That would take care of the city/county problem, too.

MR. SOTAK: Right, because it's ridiculous for the state --

MR. PATTERSON: One problem with our city council has been the duplication question. You know, what I ran into, we got into an ordinance situation. We had this ordinance and we wrote it up and spent a lot of time preparing it. We took it to council and they said, "Well, this is just duplicating what we have at the state level; it's not necessary."

And I tried to remind them that we had state policemen, also, and we had county commissioners and legislators, so that's duplication, also. But that did not fly. We're very politically oriented there in South Charleston and we're just going to have a problem; that's all there is to it.

MR. CONGLETON: Getting back to what you were just saying, if such a proposal would be worked out, these people in South Charleston would have a staff.

MR. BINKLEY: Sure, in the area at least.

MR. CONGLETON: Possibly we'd have more staff --

MR. KENNY: Probably the thing that would happen is that the cities will slowly pull out, I would think, and would want to recapture that money and put it elsewhere, and say let the state take the responsibility.

MR. CONGLETON: Are you talking about a legislative act?

MR. LEHMAN: It seems to me from what I gather from all the various remarks that have been made is the various municipalities have been dragged into the human rights thing screaming and hollering all the way and they're really not behind it at all.

MR. PATTERSON: That's our situation.

MR. LEHMAN: That seems to me to be the crux of the problem. This might be the area that we, as a committee, might work --

MR. CONGLETON: You know that? The exact words you just said, we used in the Huntington newspaper a few years ago and they created a toothless tiger eleven (11) or twelve (12) years ago. And we've been hollering and screaming because we were a bastard child; nobody wanted us, and whatever we've been able to do, we've had to fight and scratch to get this done, to get this done, put out this fire, put out that fire.

MR. KENNY: Let me tell you why there are city agencies. The reason for city agencies --

MR. CONGLETON: The reason for Huntington or these other agencies having a vehicle wherein the cities could receive federal dollars.

MR. KENNY: That's it. If it weren't for the federal money, there would be no city agencies, you know. St. Albans; three hundred dollars (\$300). I don't know how many times you meet a year but the only reason they're there is to get the benefits of the federal dollars coming in. You know.

And I remember when the City of Huntington went through their fight and did away with the commission. HUD came in, said no more federal dollars, they put the commission back in. Charleston, the way; Beckley, all of them. And that's the real reason why they're here today.

MR. SOTAK: Exactly, and what has backfired on them is that in certain locales, there were enough interested people who stuck with the commission and started pressing the complaints and actually processing them, then that's when the politics from the municipalities came in.

MR. KENNY: There are municipalities in this state that I have not heard of, but they have a human rights commission. I've gotten letters from towns I've never heard of before saying, you know, "We want to become eligible to receive HUD funds. Would you help us in setting up, you know, a commission?" I'll tell them what to do and how to go about it and I never hear from them again. But that happens and that's the reason.

MR. BINKLEY: Then, there are more than eight local human rights commissions?

MR. KENNY: Sure.

MR. SOTAK: Sure.

MS. HOFFMAN: So, I'd have to write to all

the municipalities to find out if they have one?

MR. PATTERSON: They have to have one or falsify some kind of records.

MR. KENNY: HUD says there must be a mechanism for which a citizen can file a complaint if they feel there has been some discrimination, and that's the reason those municipalities create these commissions. They create them and they're on the books, but they will never meet or anything else.

MR. BINKLEY: Part of the problem is HUD not insisting there be a legitimate commission in operation before they grant the money.

MR. CONGLETON: Also, part of the problem are the citizens within that city. See, we hollered so loud in Huntington -- we said, "Well, if you don't want no commission, we'll see your money is cut off." We did a lot of writing and threatening.

And they'd come in and say, "You've got to have a vehicle or else your money will be cut off." We knew how to play the game.

MR. KENNY: The other thing that HUD says, and they said it in Huntington, the city has a responsibility to fund it. And right now, South Charleston

or St. Albans or Fairmont can have a staff. Any of those HUD moneys coming into that town can be used. Whatever tags they put on it, they can use any of that money to fund that agency if it's Charleston, St. Albans or whatever.

MR. BINKLEY: Well, Carl Lehman was concerned about the civil rights issue and we're always concerned when and if we think we can make a recommendation to a federal agency that is not doing its job, and we can look into it a little bit more and there may be a handle there for us there that is a clearcut civil rights issue.

MR. KENNY: We might want to bring in Algie Gary or some of those other people out of Pittsburgh that service West Virginia and ask them about that. They can probably give you more details and probably give you a list of all the places they have records of that have human rights commissions.

MR. SOTAK: Excuse me. I have to leave. I've enjoyed it.

MR. KELLY: On behalf of the advisory committee, thank you very, very much for coming. As I told Shirley, I make no promises about what we can or cannot do as a committee, but I do make one promise. Any specific item that requires following up will be followed up. I


guarantee it.

We will see all of you at our next meeting.
We'll let you know when it is, and you're welcome to attend
-- all of you. Thank you for coming.

(WHEREUPON, at 4:35 p.m.,
the hearing in the above-
entitled matter was closed.)

REPORTER'S CERTIFICATE

I, the undersigned, Everett W. Means, CVR,
do hereby certify that the foregoing is, to the best of
my skill and ability, a true and accurate transcript of
all the proceedings had in the aforementioned case, as set
forth in the caption hereof, on the 27th day of September,
1985.


Everett W. Means, CVR
Reporter

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