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In the matter of: )  
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KENTUCKY SAC FORUM ON THE )  
EMPLOYMENT OF MINORITIES AND )  
WOMEN IN KENTUCKY STATE )  
GOVERNMENT )

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DATE: Tuesday, March 14, 1989

1 UNITED STATES COMMISSION ON CIVIL RIGHTS

2

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4 KENTUCKY SAC FORUM ON THE )  
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7 GOVERNMENT )

8

Tuesday, -  
March 14, 1989

9

Capital Plaza Hotel  
405 Wilkinson Boulevard  
Frankfurt, Kentucky

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The above-entitled forum came on pursuant to  
notice, at 9:00 a.m.

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PORTER PEEPLES, SR., CHAIRMAN

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I N D E X

1	
2	Porter Peeples, Sr., Chair
3	Kentucky Advisory Committee
4	William F. Muldrow, Acting Director
	Central Regional Division
5	Office of the Governor and Department of Personnel:
6	Thomas C. Greenwell
7	Commission
8	State Personnel Board:
9	Arthur Hatterick
	Executive Director
10	Employee Organizations:
11	Karla Walker, President
12	Blacks in Government
13	George Parsons, President
	Kentucky Association of State Employees
14	Charlesmarie Maxberry, President
15	Women's Network
16	Community Organizations:
17	William Coefield, State President
	NAACP
18	Dr. Betty Sue Griffin
19	National Council of Negro Women
20	Legal Services:
21	Daniel Goldberg, Directing Attorney
	Appalachian Research and Defense Fund of Kentucky, Inc.
22	State Agencies:
23	Henry J. Curtis, Attorney Chief
24	Department of Parks
25	

1 Daniel S. Egbers, Attorney  
2 Office of General Counsel  
3 Cabinet of Human Resources

4 Jack O'Nan, Personnel Branch Manager  
5 Natural Resources and Environmental Protection Cabinet

6 Louis Mathias, Attorney  
7 Department of State Police

8 Phyllis Alexander, Executive Director  
9 Kentucky Commission on Women

10 Enforcement Agencies:

11 Angela Koshewa, Assistant Compliance Director  
12 Kentucky Human Rights Commission

13 Paul Gholston, Area Director  
14 Equal Employment Opportunity Commission

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P R O C E E D I N G S

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MR. PEEPLES: Good morning everyone.

We are going to call to order this meeting of the Kentucky Advisory Committee to the U.S. Commission on Civil Rights.

For the benefit of those of you in the audience I want to introduce myself. My name is Porter Peeples, and I am the Chairperson of the Kentucky Advisory Committee.

Members of the Committee with us today are Robert Scwemm, Paul Oberst, James Stewart, Douglas Den Uyl, James Rosenblum, and Ms. Thelma Clemons will be joining us.

We are here today to conduct a committee forum for the purpose of gathering information on the employment of minorities and women in the Kentucky state government, with special attention to the implementation of the state affirmative action plan, and efforts to assure equal opportunity in recruiting, hiring, training, and promotion.

The jurisdiction of the Commission includes discrimination, or denial of equal protection of the law because of race, color, religion, sex, age, handicapped, or national origin within the Administration of Justice.

Information which relates to the topic of the forum will be especially helpful to the advisory committee.

The proceedings of this forum, which are being recorded by a public stenographer, will be sent to

1 Commission for its advise and consideration.

2 Information provided may also be used by the  
3 advisory committee to plan future activities.

4 At the outset I want to remind everyone present of  
5 the ground rules. This is a public meeting open to the  
6 media and the general public. We have a very full schedule  
7 of people who will be making presentations within the  
8 limited time we have available. The time allocated for each  
9 presentation must be strictly adhered to. This will include  
10 a presentation by each participant followed by questions  
11 from the committee members.

12 To accommodate persons who have not been invited  
13 but wish to make statements, we have scheduled an open  
14 period on our agenda at 5:00 p.m. Anyone wishing to make a  
15 statement during that period should contact a staff member  
16 for scheduling.

17 Written statements may be submitted to committee  
18 members, or staff here. Or, by mail to the U.S. Commission  
19 on Civil Rights, 911 Walnut Street, Suite 3100, Kansas City,  
20 Missouri, 64126.

21 The record of this meeting will close on  
22 March 31, 1989.

23 Though some of the statements made today may be  
24 controversial, we want to insure that all invited guests do  
25 not defame, or degrade any person or organization. In order

1 to insure that all aspects of the issues are represented  
2 knowledgeable persons with a wide variety of experience and  
3 viewpoints have been invited to share information with us.

4 Any person or any organization that feels defamed  
5 or degraded by statements made in these proceedings should  
6 contact our staff during the meeting so that we can provide  
7 a chance for public response.

8 Alternately, such persons or organizations can  
9 file written statements for inclusion in the proceedings. I  
10 urge all persons making presentations to be judicial in your  
11 statements.

12 The advisory committee appreciates the willingness  
13 of all participants to share their views and experiences  
14 with the committee.

15 Mr. Muldrow will now share some opening remarks  
16 with you.

17 MR. MULDROW: I would like to extend my welcome  
18 to all of you. I am the acting Regional Director of the  
19 Commission's office in Kansas City. I express my own  
20 appreciation to the committee for those of you who have  
21 agreed to participate with us here today. We are looking  
22 forward to hearing your remarks, and receiving the  
23 information that you have for us.

24 This forum is typical of others conducted by  
25 advisory committees throughout our region on various topics

1 related to Civil Rights concerns of minorities and women.

2 As Mr. Peeples has explained the information which  
3 is received here today, and which is being transcribed by a  
4 public stenographer, will eventually be summarized in a  
5 written report to our commissioner's, and with their  
6 authorization it will be published and distributed to the  
7 public for anyone who would like to have a copy free of  
8 charge.

9 So again, welcome to all of you, and we look  
10 forward to a very profitable and satisfying time together  
11 today.

12 Thank you very much.

13 MR. PEEPLES: Thank you very much, Bill.

14 We will now proceed with the agenda as printed.  
15 Our first presenter today representing the Office of the  
16 Governor, and Department of Personnel, Commissioner  
17 Thomas C. Greenwell.

18 MR. GREENWELL: Mr. Peeples, Mr. Muldrow,  
19 distinguished members of the committee, bringing warm and  
20 sunny greetings from the Commonwealth's Governor,  
21 Governor Wallace Wilkinson, to welcome you. Those of you  
22 who have traveled from out-of-state to our bluegrass state,  
23 we hope that your stay is enjoyable and pleasurable.

24 He asked me today to represent him at this public  
25 forum due to the fact that I am the chief enforcer of



1 affirmative action plans in the Kentucky state government.

2 Kentucky is known as a uncommonwealth. As  
3 Governor Wilkinson said in Louisville at last years minority  
4 exposition, Kentucky's greatest wealth is her people.

5 I welcome this opportunity to share with you this  
6 morning the information on Kentucky's affirmative action  
7 plan.

8 We might say this morning that the plan is an  
9 investment plan for the uncommonwealth of Kentucky. The  
10 people themselves.

11 Just under one year ago, as a matter of fact on  
12 March 31st of last year, Governor Wilkinson signed Senate  
13 Bill 163 into statutory form. A piece of legislation that  
14 was sponsored by former Senator Georgia Powers and guided it  
15 through successfully the 1988 General Assembly.

16 Prior to that date affirmative action in the  
17 public work force was largely voluntary. As you know, the  
18 Federal Government does not the several states to enact  
19 affirmative action statutes.

20 Certain Federal programs administered in the  
21 states do provide for guarantees and guidelines that must be  
22 adhered to, to provide for equal employment opportunity.

23 But, by and large the initiative for assuring  
24 equal opportunity rests with the states themselves.

25 I am glad to be able to report to you this morning

1 that Kentucky is among those states committed to equal  
2 employment opportunity through affirmative action.

3 In the Commonwealth of Kentucky affirmative action  
4 is no longer just a good idea worthy of voluntary  
5 cooperation. It is the law requiring compliance.

6 Since 1972 every Kentucky governor issued an  
7 executive order outlining his or her affirmative action  
8 plan. Those individual and successive efforts forged a  
9 chain of policy continuity in the absence of law.

10 But, on March 31, as no governor before him,  
11 Governor Wallace Wilkinson made history, and forever changed  
12 the direction of affirmative action in Kentucky.

13 The difference between the Governor's policy and  
14 the law of the Commonwealth is not subtle, it is  
15 substantial. Prior to 1988 the Kentucky Personnel Board  
16 would not have heard appeals on affirmative action because  
17 affirmative was only a policy issue for the Department of  
18 Personnel.

19 After the action of the General Assembly in 1988,  
20 and the action of the Governor following that legislative  
21 session, the Department of Personnel and the Kentucky  
22 Personnel Board have assigned the responsibilities for  
23 enforcing that law.

24 Scheduling, as you have, this forum on this date  
25 limits to some degree the quantity of information available

1 to share with you today.

2 I do think, however, you will not be disappointed  
3 by the end of my remarks by either the quantity of what I  
4 have to share, or the quality of what I do share.

5 As of this date, what we have at best are early  
6 indicators, and some hard facts. Some statistics based on  
7 very limited experience. While the indicators are important  
8 I am much more interested in the evaluations we will make  
9 after one full year of the plan's implementation.

10 As I have indicated we are about two weeks shy of  
11 celebrating the first anniversary of affirmative action as  
12 law in Kentucky. That is, of course, cause for celebration,  
13 and I am grateful for you for giving us this highly  
14 publicized occasion to celebrate that first anniversary.

15 In fact, in a few moments I will be going to use  
16 this occasion to make some timely announcements about  
17 Kentucky's affirmative action plan. You can draw a bigger  
18 crowd, quite frankly, than we are capable of doing in the  
19 Department of Personnel.

20 The Government, as you all know, does not  
21 ordinarily work at break neck pace. So, we are approaching  
22 the first anniversary. We are, in fact, only three months  
23 into the time table of the plan itself. It is hardly enough  
24 time to get our feet wet, much less enough time to make a  
25 comprehensive report based on a complete year of

1 administration and compliance with the plan.

2 Since December last, when the time table began to  
3 tick, every day has been a new day for affirmative action in  
4 the state work place. Day in, and day out we are  
5 establishing our benchmark year. The standards by which our  
6 success for the future leans.

7 This I can say without reservation. The state  
8 plan is effective. It is by design, and I believe, one of  
9 the best plans in the fifty states. The government of  
10 Canada has asked for a copy of it.

11 Undoubtedly, it is the most comprehensive plan in  
12 the commonwealth's history. What makes it effective? Aside  
13 from the commitment of the Governor and the General Assembly  
14 is this, its specific goals and time tables.

15 Kentucky civil rights advocate, Galen Martin, has  
16 said of the plan. "The plan is an improvement because there  
17 is a clear call for each agency to set goals and time tables  
18 for affirmative hiring".

19 I can, and I shall report to you this morning that  
20 the goals and time tables in Kentucky's plan have produced  
21 compliance and results in a timely manner.

22 As we develop the plan we relied heavily on the  
23 Federal Government, and especially the EEOC. We virtually  
24 adopted the eight EEO categories utilized by EEOC in its  
25 annual report.

1 All one thousand, four hundred-and-fifty job  
2 classifications in the Kentucky state government have been  
3 coded according to these eight EEO categories. The thirteen  
4 cabinets which shape Kentucky state government, in their  
5 recruiting, hiring, training, and promotions, practice that  
6 design and implement affirmative action plans that mirror  
7 and comply with state law and federal design.

8 What I am saying is this, as we speak the same  
9 language we can talk to each other and understand where we  
10 are and where we need to act next. This too, is an  
11 essential characteristic inherent to the Kentucky  
12 affirmative action plan. The share of responsibility.

13 Except for its own one hundred and twenty-five  
14 employees, the Department of Personnel does not singularly  
15 recruit state workers, nor does the Department of Personnel  
16 unilaterally, or arbitrarily hire, train, or promote state  
17 employees in the thirteen cabinets. It is not our  
18 responsibility. We do not have such broad authority.

19 These responsibilities we share with the cabinet  
20 secretaries and their staffs. I, for one, believe that this  
21 approach of shared responsibility is effective. Insuring  
22 that Kentucky's affirmative action plan is in service to  
23 equal employment opportunity for all Kentucky people.

24 To tell you the truth, parity with regard to  
25 non-white minorities has been achieved in the overall work

1 force. The plan has a goal of 7.4%. As of February 28,  
2 1989, non-white workers accounted for 7.81% of the statewide  
3 work force in Kentucky state government.

4 Parody for women at 52% of the statewide work  
5 force remains to be achieved. As of February 28, 1989,  
6 women constituted 47.3% of the work force in state  
7 government. Up from the end of the previous administration.

8 Overall, we have made a good start. That is my  
9 assessment as we come together today. Almost one year after  
10 we received the mandate and the authority to enforce the  
11 affirmative action law and three months into the  
12 administration of the plan itself.

13 I am happy to report to you this morning that as  
14 late as the close of business yesterday the thirteen  
15 cabinets are largely in compliance with the state plan. The  
16 thirteen cabinets have issued the required policy  
17 statements. The thirteen cabinets have made their  
18 utilization reports to the Department of Personnel. All  
19 thirteen cabinets have designated an EEO coordinators and  
20 counselors.

21 Where there is noncompliance is in the issuance of  
22 cabinet plans. Ten of the thirteen cabinets have not  
23 forwarded their plans to me as the state plan requires.

24 If I may, Mr. Chairman, I would like to use your  
25 forum to call those ten cabinets to compliance with the

1 statute. Your plan was due on February 1, 1989. This is  
2 March 22nd. I expect your plan on my desk by April 1st.

3 In the policy memo I issued along with Governor  
4 Wilkinson and the state plan I said, " All agencies within  
5 the state government are accountable for their participation  
6 in affirmative action". I meant that then, and I mean it  
7 today.

8 Already I have indicated the Governor's leadership  
9 in the implementation of the plan. I might add that he  
10 exercised his unprecedented leadership in the first one  
11 hundred days of his administration.

12 I assure those of you who are not blessed to call  
13 Kentucky your home that the Governor's leadership in  
14 affirmative action has made all the difference in the world,  
15 and its implementation in state agencies.

16 The Governor holds me chiefly responsible, and  
17 accountable for implementing the plan. As I just said, it  
18 is my job on the Governor's behalf to hold the agencies  
19 equally accountable.

20 The plan provides for means of accountability.  
21 Every six months the state EEO coordinator in the Department  
22 of Personnel compiles the affirmative action record of each  
23 cabinet. The report is given to me and upon my review and  
24 approval is then forwarded to the Governor. I can assure  
25 you that no one alone is accountable. It is simply to say

1 that what goes around comes around. What started with the  
2 Governor returns to the Governor.

3 The Governor then shares the report with the  
4 cabinet secretaries, and they in turn share their report  
5 with the EEO coordinators of their respective cabinets.

6 This report contains these indisputable facts.  
7 The current breakdown on all cabinet employees by race and  
8 sex. Whether or not the cabinet is in compliance with the  
9 plans goals and time tables. The number of women and  
10 minorities the cabinet needs to recruit or promote in order  
11 to be in compliance.

12 There are, it seems to me, to be two basic ways an  
13 agency to meet its basic affirmative action obligation.  
14 Recruitment of new employees and promotion of incumbent  
15 employees.

16 As the Commissioner of personnel I am firmly  
17 convinced, based on seventeen personnel management  
18 experience, that both work. It does in fact take both, a  
19 balance of both. The plan mandates that we use both.

20 Prevailing circumstances in hiring in state  
21 government makes internal promotions a more viable outlet  
22 for achieving the goals of the affirmative action plan at  
23 this time.

24 Of course, state government like any employer must  
25 recruit from its work force from without. I am committed to



1 recruitment among Kentucky's private and public colleges,  
2 and universities and vocational schools. But, I would not  
3 hold out false opportunity for any one of those for the sake  
4 of appearances today.

5 The simple and astonishing fact is that there are,  
6 today, 28,000 qualified applicants on our job bank registers  
7 for positions with Kentucky state government. We have  
8 within the work force more than enough non-white minorities  
9 to reach our affirmative action goals in all eight EEO  
10 categories.

11 As of February 28, 1989, we actually had  
12 one hundred-and-fifty-eight more non-white minority  
13 incumbent workers in the state work force than would be  
14 necessary to achieve parity in the eight EEO categories.

15 The opportunity I would suggest to us all is  
16 promotion of incumbents through education and training. Of  
17 course there are specific categories and classifications  
18 with categories which can not wait for 541 people to receive  
19 training, certification, and qualification. But, I believe  
20 those to be the exceptions instead of the rule.

21 The cutting edge for affirmative action in state  
22 government today is to achieve parity within each eight EEO  
23 categories. We need to look within and promote within. We  
24 are doing just that.

25 According to the most current data for fiscal year

1 1987, we appointed 2,394 new employees to the thirteen  
2 cabinets. 52% of these new employees were women. 12% were  
3 non-white minorities. At the very same time we promoted  
4 4,186 incumbent employees. 52% of these promotions went to  
5 women. 7% went to non-white minorities. In other words,  
6 for every new employee added to the work force we promoted  
7 1.7 employees. Almost two to one.

8 I do not know of another employer in Kentucky who  
9 has that kind of a record. As good as the record is I think  
10 with redirected effort we could be even better. We could  
11 provide more opportunity to women and to non-whites in the  
12 Kentucky state work force.

13 According to data compiled in our Department, as  
14 of February 28, 1989, we had added an additional 541  
15 non-white workers in five of the eight EEO categories to  
16 meet parity in all eight categories. On the other hand we  
17 have in three of the eight EEO categories 699 non-white  
18 incumbents above parity.

19 In other words, as I suggested to you previously,  
20 we have more than achieved statewide parity in non-white  
21 employment. What this points out is a great deal of effort,  
22 and must be waged by state employees and state agencies to  
23 train, educate incumbent non-white minority workers for jobs  
24 in the middle and upper EEO categories. The need is at the  
25 top and not at the bottom.

1 I am very encouraged by the interest of First Lady  
2 Martha Wilkinson in this regard. She is, members of this  
3 advisory committee and distinguished visitors to Kentucky,  
4 the commander in chief of Martha's army. An all out battle  
5 to arm 100,000 Kentuckians with their GED certificates.

6 Among the state work force there may be as many as  
7 3,500 workers who have not earned their GED. It takes very  
8 little analysis to conclude that these 3,500 employees  
9 congregate in the eight EEO categories located at the  
10 bottom.

11 If affirmative action is to extend equally to all  
12 workers in Kentucky, then we must be as diligent in  
13 training, educating, and promoting workers at the lower end  
14 of the scale, as we are in recruiting outsiders to the top  
15 positions. To do otherwise defeats our purpose.

16 In order to encourage and enable just about every  
17 single eligible state employee to get their GED, the  
18 Governor and I have issued an emergency administrative  
19 regulation. Reporting authorities, personnel  
20 administrators, and EEO coordinators should welcome this as  
21 an important tool in every affirmative action plan.

22 So, while we only have a three month indicator of  
23 the agencies compliance, and I find the record to be a good  
24 one so far, it is much to early for me to draw conclusions  
25 for you this morning.

1           At this point I see nothing but a willingness on  
2 the part of compliance on the part of the thirteen cabinet  
3 secretaries as they continue to implement the state  
4 affirmative action plan.

5           It was Herbert Spence, the English philosopher who  
6 said, "Progress therefore is not an accident, but a  
7 necessity". As I reviewed the affirmative action indicators  
8 from the state government in preparation for this forum, I  
9 found progress necessary to the erasure of discrimination  
10 from the public work force in Kentucky.

11           As I have indicated earlier, it is our efforts to  
12 insure equal opportunity for all state workers. We have the  
13 support of the General Assembly, the Governor, his cabinet  
14 and their agencies.

15           In addition to that basic level of assurance and  
16 progress I want to report other reassuring indicators of  
17 progress this morning.

18           In 1988, just prior to the issuance of the plan,  
19 the Governor asked me to walk the cabinet secretaries  
20 through the plan. At that time it was not statutory but by  
21 executive order. I did that in September. We exposed 350  
22 supervisors, managers and policy makers from state and local  
23 governments of Kentucky to the plan in our state EEO  
24 conference in Louisville last September. The theme of that  
25 conference was captured in the poster, "Erase

1 Discrimination".

2 In December of 1988 I restructured the existing  
3 state EEO office within the Department of Personnel. Again,  
4 Mr. Chairman, I want to announce the significant actions,  
5 the affirmative actions we have taken in the state EEO  
6 office. Actions, which I believe, speak louder than words  
7 that I might say about affirmative action this morning.

8 When affirmative action was at the Governor's  
9 discretion, and not the law of the commonwealth the state  
10 EEO office vacillated in its visibility. Until January of  
11 this year the state EEO coordinator worked within a branch,  
12 within a division, within the Department of Personnel. That  
13 has changed.

14 We have elevated the position of the state EEO  
15 coordinator to the Commissioner's office, reporting directly  
16 to me. This move sends a clear signal to workers and  
17 cabinet secretaries, and the like, that affirmative action  
18 is a visible priority in Kentucky state government.

19 I fear that prior to this action, and despite  
20 thirteen years of faithful service by Joseph Humphrey, our  
21 previous state EEO coordinator, the location of the state  
22 EEO function indicate as something less than the kind of  
23 commitment the law now requires.

24 So, I have moved the role of the state EEO  
25 coordinator for all to see, and all to respect. I have made

1 Deputy Commissioner of Personnel Ralph Cunningham as the  
2 state EEO coordinator. Mr. Cunningham has been Deputy  
3 Commissioner of personnel for nearly three years. He came  
4 to the Department from the staff of former United States  
5 Senator Walter D. Huddleston. I am persuaded that he is the  
6 right person for the job of assisting me in implementing the  
7 plan during this administration.

8 I have done more to restructure the state EEO  
9 office. The plan grants me the authority to appoint a  
10 citizens advisory committee. I have done so. The members  
11 of the committee include the thirteen cabinet EEO  
12 coordinators who share the primary responsibility for making  
13 the plan work. That is another acknowledgement of inherent  
14 sharing of responsibility of affirmative action in  
15 Kentucky's plan.

16 This advisory committee is an indispensable part  
17 of our overall design for achieving parity in the state  
18 government work force, and insuring equal employment and  
19 economic opportunity for every applicant and employee alike,  
20 with no regard to race, color, religion, national origin,  
21 handicapped, sex, or age.

22 That is one of the elements of restructuring that  
23 could have the greatest impact on the progress and success  
24 of affirmative action. I have merged the employee grievance  
25 process which can, and frequently does accommodate EEO

1 complaints with the employee assistance program.

2           While I will elaborate on this in a few moments, I  
3 do believe that this action is without precedent in the  
4 fifty states. With Mr. Cunningham, I have met with the  
5 cabinet secretaries as the plan calls for. To review  
6 progress to date. I will meet with every cabinet secretary  
7 as the year continues for the specific purpose of reviewing  
8 their progress.

9           We also have begun with the plan this year is an  
10 EEO conference. Early in February I convened key personnel  
11 leaders in my office to discuss concrete and specific ways  
12 to build on the success of the previous conference, and to  
13 broaden the context of this years conference within the  
14 fabric of the work force.

15           My commitment and my vision shared with the  
16 Governor, such that I want all facets of the work force, is  
17 to insure greater access to equal employment opportunity.  
18 That, I believe, is affirmative action.

19           I have persuaded for reasons already mentioned  
20 that affirmative action is weaving its way into the  
21 structures of Kentucky state government, above and beyond  
22 our expectations. In other words, our task here is more to  
23 provide leadership on the front end than to coerce after the  
24 fact.

25           Here is a case in point. In 1986 the General

1 Assembly of Kentucky substantially lowered the number of  
2 years necessary to be certified as a career state employee.  
3 Instead of twenty years it is now only a required sixteen  
4 years. There are legal rights and privileges accorded to  
5 career employees of state government.

6 Despite the fact that white males constitute the  
7 majority of the work force, the obvious primary  
8 beneficiaries of this action are women and non-white  
9 minority incumbent employees. I am especially encouraged by  
10 this action.

11 For those among us who prefer hard facts to the  
12 indicators I have enumerated, let me share this information.  
13 Based on the last data available from fiscal year 1987, we  
14 are making progress in affirmative action in two critical  
15 actions. New hires or appointments, and promotions.

16 As I reported earlier, in fiscal year 1987 there  
17 were 2,394 appointments to the classified service. 52% of  
18 these were women, 12% of these were non-white minorities.  
19 In that same year, fiscal year 1987, we promoted 4,186 state  
20 workers to higher paying jobs, and 52% of these promotions  
21 went to women, and 7% of these promotions went to  
22 non-white minorities.

23 In other words, since the beginning of the present  
24 administration the statistics, only one indicator I might  
25 add, point to the progress in state government in insuring



1 non-discrimination in hiring and in promoting within the  
2 work force.

3           It was Franklin Roosevelt who said, "The test of  
4 our progress is not whether we add more to the abundance of  
5 those who have much, it is whether we provide enough for  
6 those who have too little". I would like to add enough  
7 action and enough opportunity.

8           There is every indication that we are making the  
9 effort, and we are making progress in our efforts across the  
10 board to provide equal employment opportunity for those who  
11 have little or no access in the past.

12           We are, of course, without problems and barriers  
13 as we work to achieve our goals and time tables. Even the  
14 plan recognizes that there will be problems along the way.

15           Section IV entitled, "Problem Area  
16 Identification", gives the prime responsibility for  
17 identifying problems and barriers to the agency heads. At  
18 any time one of the five characteristics is found, a high  
19 priority for corrective action is required. The five alarms  
20 are underutilization or concentration of specific work  
21 categories of target groups, retarded vertical and/or  
22 lateral movement among the target groups, eliminating the  
23 target groups in selection, decreased participation in  
24 workshops and training events by the target groups, and  
25 evidence of nonadherence to agency policy by managers and

1 supervisors.

2           These are problem areas that would preclude  
3 achievement of our goals. We are on the alert to  
4 recognizing, to identify, and resolve such problems.  
5 Barriers to progress include limited financial resources,  
6 and I would call individual perception.

7           By constitutional mandate we must live within our  
8 means. Like every person and organization in the world, if  
9 there were unlimited human and financial sources we could do  
10 everything all at once. At least in theory. But, we must  
11 focus on what is possible within our means, and as we are,  
12 and as I have indicated, so close to achieving the goals of  
13 the time tables in the plan.

14           One additional possible barrier I generally fear  
15 is the perception among women, non-whites and handicap, that  
16 despite the law, despite the plan, despite the total  
17 responsibility and commitment from the top, the pace of  
18 affirmative action is not swift enough to accommodate the  
19 immediate needs and agendas of individual workers.

20           I fear that the very groups of individuals who  
21 have the most to gain will become discouraged, and that will  
22 drop out from the work force. That would be a tragedy. A  
23 tragedy for each one of them, and a tragedy for the people  
24 of the Commonwealth who would be robbed of their energy,  
25 skill, ambition, and their wisdom.

1 I hope that whatever I have shared with you this  
2 morning in this forum will keep state workers from  
3 surrendering to despair and defeat.

4 I offer as well the life experiences of none other  
5 than the Governor and Mrs. Wilkinson. Neither the Governor  
6 nor Mrs. Wilkinson was born into privilege. They were  
7 handicapped by growing up in poor rural homes. They worked  
8 in factories, warehouses, and in the fields. But, they did  
9 not drop out, they did not give up. Today, they are living,  
10 quite frankly, in a fine home with fine jobs.

11 This is the testimony, real life experiences to  
12 the belief. As the Governor says himself, that anybody can  
13 make it if they do not despair.

14 I see these barriers to our success in affirmative  
15 action, and while they have the potential I share a strong  
16 belief in the power of human nature to overcome every  
17 obstacle, every barrier.

18 If we have anticipated problems and barriers then  
19 it stands to reason that we have provided a system for  
20 filing and resolving complaints of discrimination and  
21 unequal treatment. One of the very best aspects of the  
22 grievance procedure is, it is a formalized process that  
23 brings the aggrieved employee and the immediate supervisor  
24 face to face. In many instances the appointing authority as  
25 well.

1           Grievances first, last, and always are best  
2 settled at the lowest level. They are essentially the  
3 responsibility of the aggrieved employee and the respective  
4 agency. If, however, there is no resolution to the  
5 grievance, then the aggrieved employee has every right and  
6 opportunity within the parameters of the procedure to make  
7 an appeal to a third party, namely the Kentucky Personnel  
8 Board.

9           The Board has the authority to render a decision  
10 to solve the grievance with the effective law. This entire  
11 procedure costs the aggrieved employee no money. Every  
12 aggrieved employee has equal access to the grievance  
13 procedure. The grievance procedure assures the employee the  
14 opportunity to clarify, record, and resolve the conflict.  
15 To make the employee whole if you will.

16           Instead of the current practice among many  
17 agencies of the government I would prefer, and so would the  
18 Governor, that the original philosophy behind the grievance  
19 procedure be recaptured by the various agencies heads and  
20 personnel administering.

21           Currently too many aggrieved employees end up  
22 before the Personnel Board by default rather than earned  
23 appeal. Let me be clear about this. The very best place to  
24 resolve any and all grievances and complaints from state  
25 workers is at the lowest possible level. Between the

1 aggrieved employee and his or her immediate supervisor.

2           Only the most extreme cases should ever be  
3 compelled to seek assistance beyond the cabinet or agency  
4 level.

5           Speaking of grievances and complaints, department  
6 personnel has also made some significant changes in the  
7 defining and processing of both. Over the last decade the  
8 distinction between EEO complaints and general grievances  
9 has blurred. The department personnel and the Personnel  
10 Board share a responsibility for this blurring along with  
11 the expedient agencies.

12           The current backlog of grievances before the  
13 Personnel Board is the result of the lack of distinction.  
14 The plan is very specific about what constitutes an EEO  
15 complaint. I urge all personnel administrators and EEO  
16 coordinators to become familiar with the plans definition.

17           I further recommend that the administrators and  
18 coordinators become practiced at counseling state employees  
19 on the proper procedure to use such a plan if necessary.

20           As I announced earlier in these remarks department  
21 personnel, in a major shift, has not only sharpened the  
22 definition of an EEO complaint in the accompanying EEO  
23 procedure, we have also merged grievance counseling with the  
24 state employee assistance program.

25           It stands to reason that an aggrieved employee is

1 an unproductive employee until his or her grievance is  
2 resolved. More often than not the same behavior is  
3 exhibited by a troubled employee as an aggrieved employee.

4 For that reason we have merged these two  
5 functions. Before, employee assistance programs were seen  
6 as a tool of management, and grievances were perceived as a  
7 tool of the employees.

8 What we have done, among things, in our  
9 restructuring is to bring state governments tools for  
10 resolution together for the good of all.

11 As never before in state government, we have  
12 today, at the disposal of every state employee the most  
13 comprehensive system for resolving complaints, of  
14 discrimination or unequal treatment in the work place.

15 I began these remarks by saying that while I  
16 welcome the opportunity to share the information I have so  
17 far, it is a little premature for me to be making an  
18 absolute complete evaluations of the effectiveness of  
19 Kentucky's affirmative action plan. Soon enough, we will be  
20 doing just that according to the plan and its time tables.

21 There are, in this audience today, others who  
22 without the cumbersome task of enforcing the entire plan,  
23 will nonetheless be eager to share their opinions,  
24 suggestions and recommendations based on their own personal  
25 experiences with the plan.

1           Like you, I want to hear what they have to say. I  
2 intend to invite them to come tell me what they tell you  
3 today when the plan's time table requires that we comply  
4 with that schedule.

5           Experience is the valuable teacher of life. With  
6 the plan mine is unfortunately limited. I have shared with  
7 you as best as I could this morning. I realize that I have  
8 shared information today for which, to the most part, was  
9 favorable. Rather than plow through the field of  
10 perceptions, I have relied on facts. Admittedly premature,  
11 but nonetheless hard facts.

12           At this point, as the chief enforcer of the plan,  
13 I am encouraged, if not satisfied with our progress to  
14 date. In images any Kentuckian would understand it seems to  
15 me that we are rounding the first pool of a mile and a  
16 quarter track. Most of the race and the action are still  
17 before us.

18           I have given you, ladies and gentlemen, as honest  
19 and accurate a snapshot of affirmative action in Kentucky  
20 today as the available facts allow.

21           Others who will follow me today may indulge their  
22 perceptions. They will be no less valuable to you, I am  
23 sure, in your quest for the true picture of affirmative  
24 action in the public work place in Kentucky.

25           As we affirm the equality and opportunity in

1 Kentucky state government, I am reminded of the American  
2 naturalist and author, my favorite, Henry David Thoreau. He  
3 spent two years, two months, and two days at Waldon Pond.  
4 In Waldon you may remember the quote. "It is never too late  
5 to give up our prejudices".

6           Whatever injustice may lie in the past we shall  
7 have the opportunity at hand to move justice forward.  
8 Affirmative action is a step in the right direction.

9           Thank you for allowing me this opportunity this  
10 morning to be with, and share with you where I believe we  
11 are in Kentucky state government.

12           Thank you very much.

13           MR. PEEPLES: Thank you very much Commissioner.

14           Now, we will open up with questions from the  
15 panel. Are there any questions?

16           MR. MULDROW: You indicated that overall state  
17 employment of minorities and women has more or less reached  
18 parity with the labor force, but there is a tremendous  
19 variation among cabinets. One major cabinet has only 1%  
20 minority employment I understand. Whereas another one has  
21 almost 12%.

22           How do you account for this variation, and do you  
23 see as part of your responsibility of implementing the plan  
24 to address this diversity of employment levels? Is that  
25 included in the goals of the affirmative action plan, or how



1 will that problem be addressed?

2 MR. GREENWELL: Yes, sir, it is the  
3 responsibility of the plan. The responsibility of the plan  
4 is such that it requires in all eight EEO categories.

5 As I indicated in my remarks we are troubled by  
6 the fact that the highest concentration of that 541  
7 employees that we really need to be in compliance with the  
8 eight EEO categories, are located at the bottom of the first  
9 categories. They are service, maintenance type categories.

10 Through internal promotion, through retraining we  
11 have made some strides in doing that. I think our record of  
12 two promotions for every single outside hire will address,  
13 in the future I think, our efforts towards GED award. GED  
14 encouragements will allow those employees at the bottom the  
15 opportunity to seek advancement for themselves.

16 There are obvious job classifications at the top  
17 that we will have to recruit for. It is going to be  
18 difficult to take a janitor and make him into a lawyer. Or  
19 take a cook and make her into a general counsel in an  
20 agency. So, those kinds of recruitment efforts will always  
21 have to be present at the top.

22 What we are primarily emphasizing and hoping, that  
23 we can take the higher concentration of minorities in the  
24 bottom categories of the eight EEO categories and move them  
25 up as best we can.

1 MR. MULDROW: Still, the diversity of obtaining  
2 parity would not be resolved by promotion within. It would  
3 seem to me to be requiring intensive recruiting efforts, and  
4 hiring efforts on the part of some cabinets.

5 Are the goals that are set, are they across the  
6 board goals for all cabinets, or does each cabinet set its  
7 own hiring goals?

8 MR. GREENWELL: The goals are for state  
9 government as one employee. 7.4% for minorities, and 52%  
10 for women. It applies to all eight EEO categories in all of  
11 the thirteen cabinets.

12 We have participated in career days at  
13 universities. We last year participated for the first time  
14 in blacks in higher education. We intend to do that again  
15 this year.

16 We learned as recent as last week of a new Masters  
17 degree program at Murray State University, that the cabinet  
18 for natural resources have been recruiting from. We intend  
19 to participate in their career day this year for the first  
20 time. We did not, quite frankly, realize that is where they  
21 were going for recruitment purposes.

22 The Kentucky Commission on Human Rights every year  
23 publishes a directory, if you will, of black graduates of  
24 Kentucky state colleges and universities. We have always  
25 contacted those individuals advising them of opportunity for

1 employment in Kentucky state government. We will continue  
2 to do that in the future.

3 We will make those recruitment efforts in those  
4 career day visits as visible and successful as we possibly  
5 can, while at the same time not overlooking what I consider  
6 to be a very important element of our program and our plan.  
7 That is to try to take care of those who are already on the  
8 work force and provide them with upward mobility  
9 opportunities to at least another EEO category that may be  
10 just right above them.

11 MR. PEEPLES: You made a comment that you had  
12 provided us with some facts, and that we could pretty much  
13 look forward to some perceptions later. To me, it came off  
14 as the facts versus the perceptions position.

15 Could you give me, even if it may be hypothetical,  
16 what you perceive as the specific facts that show that you  
17 have achieved versus what we might look forward with coming  
18 on as some perceptions?

19 MR. GREENWELL: If I could, Mr. Chairman, maybe I  
20 can give you two. One would be on the fact that employees,  
21 unfortunately, feel that promotional opportunities are not  
22 as available as they would like for them to be.

23 They think that often times that a new  
24 administration often only goes out and hires new employees,  
25 new appointees, and that is simply not substantiated by

1 .facts.

2           The fact is that for every single new employee we  
3 hire we have promoted 1.7 state employees. That is a fact  
4 versus a perception on the part of the employees.

5           Another example, I think, would be is that the  
6 plan, as I see it, affirmative action as a whole, is often  
7 perceived as being too slow. The grievance procedures seen  
8 as being something that you really do not want to get  
9 involved in because of problems that may occur after your  
10 complaint has been resolved, either to your satisfaction or  
11 not to your satisfaction on the part of the fear.

12           Hopefully, we have resolved that by streamlining  
13 that and keeping the grievance procedure at the lowest  
14 possible level where that the employee, and their immediate  
15 supervisor are resolving the very complaint that probably  
16 was created those two individuals.

17           MR. PEEPLES: Your affirmative action plan, as  
18 you stated, will be a year old the end of this month, and  
19 you went through a series of presentations to various  
20 department heads, and persons who are going to carry the  
21 hiring responsibility.

22           MR. GREENWELL: That is correct.

23           MR. PEEPLES: What was the basic general  
24 receptivity? I mean, how well the affirmative action plan  
25 itself received by those persons who were going to have this

1 responsibility?

2 It has been my experience with the urban league  
3 that people basically come kicking and screaming when they  
4 are told that is what they are to be in compliance with.

5 MR. GREENWELL: I would prefer to call it this  
6 way, that it was received and perceived, received with good  
7 feeling. Perceived with some fear because of the historic  
8 and non-traditional obstacles that I think they realized  
9 they faced.

10 The Cabinet for Natural Resources for example,  
11 historically has been a non-traditional curriculum for  
12 females to go through mining technology. For the Cabinet  
13 Secretary across the state government, it has been  
14 non-traditional for white males to go through secretarial  
15 science.

16 Traditionally across the state government is has  
17 been non-traditional for women to take electricity,  
18 plumbing, and carpentry work. Industrial work in college,  
19 or even in vocational school.

20 It is that fear, I think, that they all were  
21 concerned about. How do we find 7.4 percent minorities to  
22 do this type of work? How are we ever going to get, instead  
23 of having 95% female secretarial support, how are we going  
24 to reduce that to 52%? How are we going to get 52% of our  
25 women to be carpenters, electricians, plumbers, truck

1 drivers, to be females? It is that, I believe, that scares  
2 them more than anything else.

3 As I told them at the point in time that we  
4 discussed that, that we have, in fact, inherited the  
5 historic problem. That it is the educational system, the  
6 non-traditional education system that we must overcome.  
7 That we must make work for us for the first time in order to  
8 be in compliance in that specific way. It is going to take  
9 an amount of time to do that.

10 It is going to require a great deal of effort on  
11 the part of recruiting, and on re-training those kinds of  
12 individuals, and those kinds of employees who are willing to  
13 cross career paths after a period of time.

14 MR. ROSENBLUM: Mr. Greenwell, for about ten  
15 years several members of this panel worked very closely with  
16 the Kentucky State Police. Do you have any statistics  
17 today, if not today you could send them to us, indicating  
18 what the female employment and black employment is in the  
19 State Police?

20 MR. GREENWELL: I do not have that today. As a  
21 matter of fact I cannot even get it at my office.

22 The State Police is not a part of our personnel  
23 system in state government. They have a separate  
24 independent personnel system, but I can, however, get that  
25 from them to provide to the committee.

1           MR. ROSENBLUM:    I wish you would.  You were not  
2 in compliance the last time we checked, after ten years of  
3 tracking this.  We would like to know.

4           MR. GREENWELL:    We will just have to acquire that  
5 from them for you all.

6           MR. DEN UYL:     You mentioned two or three times  
7 the importance of education for promotion and so forth.  
8 Perhaps I missed it, but could you be more specific exactly  
9 what programs you have for getting people not only their  
10 GED's but perhaps other more advanced educational training  
11 to prepare them for promotions?

12          MR. GREENWELL:    Yes, sir.  We have a number of  
13 things, but first let me address the GED, if you will, and  
14 then we will address the higher education program.

15                 The GED, we will provide for a 10% one time lump  
16 sum payment of their annual salary for any employee who  
17 received their GED.  It used to be 5% percent of their  
18 annual salary, and it has stayed there for a number of  
19 years.

20                 We felt that the program needed a fresh kick, a  
21 new start, and we decided to double that amount of money.  
22 It now provides for a 10% lump sum, one time annual payment  
23 for every employee who receives their GED.

24                 On the other end of the spectrum we provide for an  
25 educational increase.  After an employee has completed 260

1 classroom hours of higher education, we have a program that  
2 will provide to an extent educational leave with pay. It is  
3 not granted often, but it is available for selective  
4 classification where we are having difficulty in recruiting,  
5 and/or retaining a particular job classification.

6 We have educational leave without pay where the  
7 employee, on the approval of their appointing authority, may  
8 be given as much as two years to pursue higher education.

9 We also have available a tuition assistance  
10 program where the employee who is not able, on the front  
11 end, to be able to purchase supplies and pay their tuition,  
12 we will do that.

13 We feel like that we have a fairly broad spectrum  
14 for any employee who wants to better themselves. Either  
15 through the high school education equivalency, or through  
16 higher education.

17 MR. SCHWEMM: Could you briefly explain why the  
18 state police in not a part of your system, and are there any  
19 other groups that might be considered by people like me who  
20 are outsiders of the state government as naturally within  
21 your group, and would be surprised to learn, as I am, that  
22 the state police are not in your system?

23 MR. GREENWELL: Historically the state police,  
24 and when I say historically I cannot tell you this morning  
25 for how many years, have been independent. An independent



1 agency of the personnel system.

2 The Department of Personnel was established in  
3 1960 by then Governor Combs. It has always primarily been  
4 referred to as Chapter 18 in the statutes. The state police  
5 has always been found in Chapter 16.

6 It would be my suggestion to you, and that is all  
7 it is, is that they go back that far, at least from the  
8 previous twenty-nine years, that they have not been a part  
9 of state government personnel. They are not merit  
10 employees, but an independent agency.

11 The state police employees, the non-uniform  
12 employees, many of those are found, if not all of them are  
13 found in Chapter 18. The only exception would be the policy  
14 making employees.

15 But the uniformed personnel, which I believe this  
16 gentleman is specifically talking about, are not to my  
17 knowledge ever been located in the merit system, nor under  
18 personnel statutes.

19 MR. SCHWEMM: Just briefly, without going through  
20 this whole Charter. Are there others, like the state  
21 police, that are not under Chapter 18?

22 MR. GREENWELL: There will be a few but they will  
23 not be of the size of the state police. That looks like an  
24 organizational chart showing the thirteen cabinets. All of  
25 those are going to be within the personnel system. There

1 will be some small agencies on there that will not have any  
2 classified employees, merit system employees if you will,  
3 but they will be an office with maybe a half dozen employees  
4 or something like that.

5 MR. OBERST: Is the situation with the state  
6 police typical nationally, or just a Kentucky peculiarity?  
7 Do you know?

8 MR. GREENWELL: No, sir, I do not. I do not know  
9 if that is a national problem or not.

10 MR. MULDROW: You have a very large job,  
11 Commissioner, implementing the plan for twenty-five thousand  
12 employees. Is that what it is in the State of Kentucky?

13 MR. GREENWELL: Some thirty-two thousand.

14 MR. MULDROW: What kind of staff do you have to  
15 help with job? What kind of resources are assigned to this  
16 task?

17 MR. GREENWELL: This specific task?

18 MR. MULDROW: Yes.

19 MR. GREENWELL: As I said, it used to be in a  
20 branch within a division within the department. We have  
21 just moved it to the Commissioner's office.

22 We have a staff assigned specifically to this  
23 program of three employees that work solely in the area of  
24 affirmative action and equal employment opportunity.

25 MR. MULDROW: Three employees?

1 MR. GREENWELL: Yes, sir. We only have a  
2 hundred-and-twenty-five in the whole agency.

3 MR. MULDROW: Do you consider that to be adequate  
4 for the job?

5 MR. GREENWELL: It took a pretty good hit. I do  
6 not know how many of you are familiar with health insurance  
7 in state government, but it took a pretty good hit because  
8 last September we found out that we were not going to have a  
9 carrier who was going to underwrite, or offer us an  
10 indemnity package.

11 State government in November, for the first time,  
12 was forced to go to a self-insured program. We had a  
13 consultant come in and tell us what we needed to do for a  
14 short period of time.

15 One of the first criticisms that they had of the  
16 Department was the fact that we only had 2.4 people assigned  
17 to the health insurance program. The Department I think  
18 historically has not been blessed with a great many  
19 employees.

20 I am not one for hiring people just for the  
21 purpose of hiring staff, or having them available. I like  
22 the people to work, and I like them to be busy. I think  
23 people are happier when they have something to do. Quite  
24 frankly, I do not necessarily believe that we need to hire  
25 anybody else. We have coordinators in each cabinet. We

1 have expertise available to us and are called from any  
2 cabinet that we want.

3 I do not see that the Department of Personnel has  
4 suffered, or will suffer in the future as a result of not  
5 increasing the size of that staff like we did in the  
6 insurance program.

7 MR. PEEPLES: Commissioner, thank you very much  
8 for your time.

9 MR. GREENWELL: Thank you and this committee very  
10 much. I appreciate the opportunity.

11 MR. PEEPLES: We will next hear from the  
12 Executive Director of the State Personnel Board,  
13 Mr. Authur Hatterick.

14 MR. HATTERICK: Good morning, Mr. Peeples,  
15 Director Muldrow, members of the committee. It is a  
16 pleasure to be with you today.

17 I would put you on notice probably that if someone  
18 is wanting to get a few words in I am not going to take a  
19 half a hour.

20 It is nice to be with you this morning. The  
21 Kentucky Personnel Board, for what some of you might be more  
22 familiar with, is as a civil service commission. In most  
23 states they are referred to as civil service commissions.  
24 In Kentucky the State Personnel Board and the Personnel  
25 Department, since the inception of the merit system in 1960,

1 they were basically one.

2 In 1982 the Personnel Board was carved out and it  
3 was designated as an independent body to serve primarily as  
4 a quasi judicial body to hear appeals, and complaints  
5 relating to employees covered by the state merit system,  
6 Chapter 18.

7 Chapter 16, which the earlier question was  
8 referring to the state police, I believe at the time that  
9 the state police, who at that time I believe they were  
10 attached to the Department of Highways, they were the old  
11 highway patrol, and at the time that they were singled out  
12 and separated from the Department of Highways, I believe  
13 then Chapter 16 was promulgated and enacted.

14 They have been separate and have their own  
15 separate board, similar to our board, that serves the  
16 Chapter 18 employees, the merit employees.

17 But, that has been some time ago that the highway  
18 patrol was carved out, certainly in excess of thirty years I  
19 would imagine.

20 The Personnel Department, at that time, was part  
21 of the old Finance Department. I would prefer that this  
22 committee be an appropriations and revenue committee because  
23 I would like to be here asking for more money.

24 The Personnel Board's situation today is that we  
25 are considerably backlogged. In fact, as of today we have

1 approximately 350 appeals, if you will, of all types that  
2 are backlogged. We are scheduling cases today that were  
3 filed with the Board last April. We are almost, at this  
4 point in time, running a year behind.

5 That is unacceptable., I think that is  
6 unacceptable to the employees, and it is unacceptable to the  
7 agencies, and it is not fair to all of those that are  
8 involved. However, that is the situation as a result of the  
9 amount of appropriation that the Board has been allotted to  
10 accommodate the appeals that have been filed.

11 But, at the same time the Board has been rather  
12 productive in the number of actions that it has been able to  
13 address, and I would just like to give you a few short  
14 figures in reference to the 1987-88 fiscal year that ended  
15 last June. There were 300 appeals that were held. We had a  
16 carry over at the beginning of that fiscal year of 250.  
17 During that year there were an additional 611 appeals filed.  
18 We were able to get out appeals totaling 498. Meaning that  
19 we were able to enter final orders on almost 500 cases,  
20 which still left us a carry over 363 cases.

21 The appeals this year are running at about the  
22 same level, a little bit more. As of today we have  
23 received, this fiscal year, since last July 1, we received a  
24 total of 520 filed appeals.

25 Now, I am sorry that I did not have an opportunity

1 in which to break them out with some more meaningful figures  
2 in reference to the types. I do have some general, but  
3 maybe not as far as you might have preferred, that I would  
4 prefer. I just did not have an opportunity to go through  
5 and analyze them individually.

6 But, some statistics that I believe might be  
7 useful to you. That is, approximately 10% of those that  
8 have been filed relate to charges of alleging  
9 discrimination. Of that 10% approximately half of those  
10 would relate to the protected class categories; race, sex,  
11 age.

12 The other half primarily allege political  
13 discrimination. I do not believe you would like to discuss  
14 that today, but if you would I am sure we could.

15 So, really the Board addresses all types of  
16 appeals, whether it is for a routine dismissal, demotion,  
17 suspicions, allegations of discrimination or whatever it  
18 might be. The Board addresses them on a first come first  
19 serve basis. First in, first out. That sometimes generates  
20 some problems for the employees, for their witnesses.

21 As to the effectiveness of the system for the  
22 filing and resolving complaints of discrimination, as to  
23 your requested suggestions, your recommendations relating to  
24 any disparities and discrimination in state government, I  
25 think the procedure that the Commissioner was eluding to

1 this morning of the EEO complaint procedure, hoping that  
2 that will kick in and will work.

3 It should resolve a lot of problems for the Board.  
4 It should also resolve more timely complaints and grievance  
5 relating to questions that the Commissioner's program should  
6 address and would never have to get to our adversary  
7 situation. Because when it comes to the Board it certainly  
8 is one of an adversary relationship, and anything that can  
9 be resolved at that lower level, less adversarial, everyone  
10 would be better off we would think.

11 I would be glad to try to respond to any questions  
12 that you may have in reference to the Board's normal  
13 activities, or historical experience.

14 That is all that I have of my presentation at this  
15 time.

16 MR. PEEPLES: Questions?

17 MR. MULDROW: I think we would be especially  
18 interested in the roughly 5% of the appeals that you handle  
19 which relate to discrimination. I wonder if you could give  
20 us some indication as to what those involve, what types of  
21 complaints are coming forward involving discrimination?

22 MR. HATTERICK: Several types. One would be  
23 those individuals who feel that they have received  
24 disciplinary action different than males, and/or whites.

25 We have received many non-white appeals eluding to



1 the fact that they have received disciplinary action more  
2 harsh than their counterparts in the same facilities, the  
3 same agencies. They have gotten a thirty day suspension,  
4 and other individuals have received on week suspension. Or,  
5 they were dismissed, and somebody else was suspended. That  
6 is a common kind.

7 We have a few where females are eluding to the  
8 fact that the last supervisors that have been appointed for  
9 years have always been males. We are receiving a few more  
10 of those than we used to in the past.

11 Probably those are the ones that hit me the most  
12 number wise.

13 MR. MULDROW: Would you handle appeals dealing  
14 with hiring discrimination in the hiring process?

15 MR. HATTERICK: Our jurisdiction goes to not only  
16 employees, but also applicants and eligibles for positions.  
17 Whether they are current employees or not.

18 MR. MULDROW: Do you receive complaints directly,  
19 or only at the appellate stage? In other words, can an  
20 employee complain to you directly in the initial stages of  
21 an action?

22 MR. HATTERICK: An employee, or an applicant who  
23 feels that they have been discriminated against, penalized  
24 or whatever, can file directly with the Board.

25 MR. MULDROW: So, you do not deal only with

1 appeals then? You would be the investigative authority,  
2 procedures?

3 MR. HATTERICK: They file directly with the  
4 Board, and that then develops into the appeal hearing.

5 MR. SCHWEMM: To carry that through. After your  
6 decision, if it is favorable to the employee, do you have  
7 the power to direct the agency to change its position about  
8 the employee?

9 MR. HATTERICK: Yes, we do that. I believe I am  
10 safe in saying this. We are the only agency in state  
11 government that has the authority to direct agency  
12 compliance. Other agencies such as the Human Rights  
13 Commission, they have to go to the court to get one of their  
14 orders enforced. But, the Personnel Board has the ability  
15 to directly order an agency to comply.

16 Once that has been done, once the final order has  
17 been issued either party has thirty days to appeal that  
18 circuit court.

19 One of the new provisions of the last session, or  
20 the session before last of the General Assembly provides  
21 that if an employee wins on appeal before circuit court, if  
22 it goes that far, they can get attorney fees. Normally,  
23 with the Board, and now with the Board, cases before the  
24 Board, the prevailing employee cannot receive attorney fees.  
25 They can now if it is appealed to circuit court, and they

1 win at the circuit level. That was a recent addition.

2 MR. ROSENBLUM: Would you briefly describe, or  
3 sketch the outline of your Board, the composition of the  
4 Board?

5 MR. HATTERICK: Yes. We have five members that  
6 are appointed by the Governor. Two are elected by the merit  
7 employees themselves. The five that are appointed by the  
8 Governor we have three males, three white males, two white  
9 females. Of the two merit employees, one white male, one  
10 black male. The black male is a recent selection as a  
11 result of a vacancy, and was selected by the other members  
12 of the Board to fill out that remaining term.

13 But, those are the seven members of the personnel  
14 Board.

15 MR. ROSENBLUM: Do they have a personnel  
16 background?

17 MR. HATTERICK: Most of them are management type  
18 people. Two of the Governor appointees are attorneys. One  
19 is a President of a bank, and also happens to be President  
20 of the Kentucky Bankers Association. One is a executive,  
21 and she is vice-president of a radio station, and an  
22 ex-mayor of one of our communities. One is a professional  
23 insurance, home builder.

24 The two merit employees both have considerable  
25 personnel background experience, probably ten to twenty

1 years experience each.

2 MR. MULDROW: As an outside I find the complaint  
3 processes available a little confusing. It is my  
4 understanding that each cabinet, or agency has an internal  
5 complaint procedure. Individuals can also complain to the  
6 state Human Rights Commission, and from what you are saying  
7 they can also complain to you. How do they know which  
8 avenue to follow, or is it optional?

9 MR. HATTERICK: I think it depends on who they  
10 talked to last. State employees do have a unique situation  
11 in as much as there are two agencies that they can file an  
12 appeal, regardless of the grievance or complaints. There is  
13 a difference there on what they can file with the Kentucky  
14 Commission on Human Rights or the Personnel Board. There  
15 are different benefits. There are different time frames as  
16 to when those must be done.

17 The Chapter 18 specifically provides a set  
18 procedure for those employees who are covered by Chapter 18,  
19 the merit system law.

20 The Kentucky Commission law covers basically all  
21 employers/employees in the Commonwealth. Yes, employees can  
22 file with the Commission, and they can file with the Board  
23 also if it is something that the Board has jurisdiction for.

24 Most areas of filing under our law is thirty days  
25 from the date of the alleged action. With the Commission,

1 180 days maybe. In some cases the Commission can do its  
2 actions, get certain benefits for the complainant. The  
3 Board cannot. It might provide services that the Board  
4 cannot.

5 The Commission has to go to court maybe if they  
6 cannot reconcile with everybody's agreement. Whereas with  
7 the Board, the Board can give a direct order for payment or  
8 whatever. There has been some success as far as the Board  
9 is concerned, because in the last twenty or some years the  
10 Board has been involved in back awards to the tune of about  
11 twenty million dollars. So, it has had a considerable  
12 amount of exposure that way.

13 But, the grievance that you talk about, as I  
14 understood the question, is really different from the  
15 complaint that they can file with the Kentucky Commission,  
16 and/or the appeal, if you will, that they can file with the  
17 Personnel Board.

18 The Department of Personnel earlier eluded to the  
19 EEO complaint procedure. That is something that we have not  
20 had a lot of experience with yet, as the Commissioner  
21 indicated. That is kind of early on. That is in addition  
22 to these other statutory provisions that we are referring  
23 to.

24 MR. OBERST: As I understand it, ninety-five of  
25 your business does not overlap?

1 MR. HATTERICK: That is correct.

2 MR. STEWART: The statutory regulations relative  
3 to the appeal process as well as compensation for the  
4 attorneys at the circuit court level, if he wins his  
5 attorney gets paid, is that true?

6 MR. HATTERICK: Yes, sir, that is all statutory.  
7 There is no attorneys fees to a normal appeal process,  
8 normal Board hearing. But, as a result of a Board order  
9 that is appealed to circuit court and the employee prevails  
10 at the circuit court level or above, then there can be an  
11 award of the attorney fees to the employee.

12 Not through the services rendered before the  
13 Board, but for the circuit court and above.

14 MR. MULDROW: From your perspective is the  
15 affirmative action plan in the state working? I mean, it  
16 has been in place almost a year now. What are your  
17 observations? Is progress being made in overcoming the  
18 problems?

19 MR. HATTERICK: I would say this. It is working,  
20 it can always work better. It is like the questions that  
21 you were asking of the Commissioner earlier, some of the  
22 agencies apparently are doing better than others in some of  
23 the higher categories. Those areas, certainly, will be able  
24 to place more emphasis on their needs I believe.

25 The statistics that the Commissioner shared with

1 you this morning I think indicate an increase of previous  
2 years, and previous years from that. In 1972, I helped  
3 prepare the first affirmative plan for state government, and  
4 I know what was involved at that time in getting the first  
5 one drafted. I have seen it change a little bit each time,  
6 and see a little different emphasis placed on it. Also to  
7 the point that the Commissioner indicated earlier, the time  
8 tables and goals that have been added now with the recent  
9 legislation.

10 Those are all pluses, and I would like to think  
11 that it will lead to better gains in future years.

12 MR. STEWART: The Commissioner of state police,  
13 who does he answer to and is there statutory regulations  
14 regarding his procedures?

15 MR. HATTERICK: The Commissioner of the state  
16 police, I think at this time, is also the Secretary of the  
17 Justice Cabinet. But, Chapter 16 is a specific law that  
18 addresses all of the circumstances of the state police. The  
19 hiring, their board, their review process, their appeals,  
20 their compliment direction of how many of certain types of  
21 ranks there is to be in the state police work force.

22 But, all of that is covered specifically in  
23 Chapter 16, including any authority to promulgate  
24 regulations.

25 MR. STEWART: But, the affirmative action plan

1 that was adopted by the state does not cover the state  
2 police, is that right?

3 MR. HATTERICK: I do not know. I am sorry.

4 MR. OBERST: Has there not been a long standing  
5 tradition of non-civilian participation in police department  
6 matters?

7 MR. HATTERICK: All of the employees in the state  
8 police department who are non-uniformed type, they are  
9 covered by the state affirmative action plan. They are  
10 covered by Chapter 18. It is only the uniformed personnel  
11 that are exempt.

12 MR. PEEPLES: Any further questions?

13 Mr. Hatterick, thank you very much for your time.

14 We will now move to the segment of our program  
15 where we are going to have employee organizations, and the  
16 first employee organization to address us today will  
17 represent Blacks in State Government. Its President,  
18 Ms. Karla Walker.

19 MS. WALKER: On behalf of the Kentucky Blacks in  
20 Government, now referred to as BIG, I want to thank the  
21 Kentucky advisory committee of the U.S. Commission on Civil  
22 Rights for the opportunity to participate in this community  
23 forum on the employment of minorities and women in Kentucky  
24 state government.

25 BIG, a national organization conceived in 1975 by



1 black federal employees, was incorporated as a non-profit  
2 organization under the District of Columbia jurisdiction in  
3 1976.

4 It functions as an employee support group, and  
5 advocacy group for equal opportunity, and a resource for  
6 black government employees.

7 The Kentucky chapter of BIG, in accordance with  
8 its national philosophy, functions as an advocate of equal  
9 employment opportunity for blacks in government thereby  
10 encouraging agencies to promote blacks when vacancies occur,  
11 and assist in recruiting blacks for all job categories,  
12 especially managerial and administrative positions.

13 We also attempt to provide a mechanism for the  
14 synthesis, dissemination, and coordination of information  
15 for blacks in government, as well as identify issues of  
16 concern to black employees, and explore methods to address  
17 these concerns.

18 Attached to the materials that you have before you  
19 is a fact sheet with additional information on our  
20 organization.

21 I will now address the issues as outlined in your  
22 March 1, 1989 letter. The basis of our statements are the  
23 staff reports of the Kentucky Commission on Human Rights,  
24 and interviews with state government employees.

25 It is our belief that Kentucky's affirmative

1 action plan, prior to its being signed into law by Governor  
2 Wallace Wilkinson on March 31, 1988, referring to Senate  
3 Bill 163, cannot be assessed as to its effectiveness yet,  
4 because it has not been fully implemented and enforced.

5 Even though some agencies have attempted to meet  
6 the federal mandates as required, no agency has fully or  
7 adequately participated in the State's plan. So, it has  
8 never been fully implemented and enforced.

9 Most state agencies tend to be reactionary.  
10 Therefore, if the plan is not enforced they would only do  
11 the bare minimum.

12 Our observation is that no progress has been made  
13 in non-discrimination for minorities. We have come to this  
14 conclusion based upon information provided by the Kentucky  
15 Commission on Human Rights, and specific comments by  
16 employees concerning the equal opportunity.

17 That is, lack of opportunity for training.  
18 Unequal treatment on the job. Lack of opportunity for  
19 promotion on career development. Lack of an open promotion  
20 system, and a disproportionant disciplinary action among  
21 blacks.

22 There needs to be a thorough understanding that  
23 the number of minorities and women hired is not the only  
24 determinate in assuring equal opportunity.

25 We looked also at what types of jobs that are

1 being recruited, hired, trained and promoted in. Generally,  
2 no definitive steps have been taken to recruit or promote  
3 minorities or women to upper levels.

4 Black employees are found in disproportionate  
5 numbers in the lower salaried positions, and few are able to  
6 obtain upgrades to the higher level positions for which they  
7 qualify.

8 Black employees are disciplined in a substantially  
9 higher rate than other employees with similar work records,  
10 and offenses. This inequity has been reported to the EEOC,  
11 the State Commission on Human Rights, and to the Kentucky  
12 Personnel Board.

13 No improvement in this area has occurred. No  
14 legal action has been pursued by black employees due to the  
15 inability to recover legal fees if the matter is  
16 successfully litigated by the employee. If an employee goes  
17 to the Personnel Board and is not accompanied by an  
18 attorney, unless that employee is also sophisticated enough  
19 so that he can handle the legalities of the problem, they  
20 may not win their case as the Personnel Board does not help  
21 you prove your case.

22 There are some specific problems and barriers in  
23 achieving the plan's goals. A lack of commitment at the  
24 executive level that stems not only from the government, but  
25 on down through the agency heads and managers in the

1 different departments.

2 A lack of funding and adequate staffing of state  
3 EEO programs. A lack of strength of regulation and full  
4 enforcement of civil rights law. A lack of adequate  
5 training on civil rights laws for state employees. A lack  
6 of education in the area of civil rights in the Kentucky  
7 educational system.

8 Because there is no enforcement there is a lack of  
9 confidence in the application of the effective EEO system.  
10 There is also a lack of adherence to goals and time tables  
11 set within the plan. There is a lack of knowledge and  
12 confidence in the complaint procedure, and I am speaking  
13 particularly of the EEO procedure.

14 There is also inadequate training for agencies on  
15 affirmative action, and the affirmative action plan.  
16 Agencies are not made to take responsibility to implement  
17 the plan, and thereby identify needs.

18 There is also a fear of political retaliation, if  
19 it complies accordingly, or if they set the pace for  
20 compliance. Agencies are also reactionary. Many fail to  
21 take a pro-active approach in this matter.

22 The EEO complaint procedure that is identified in  
23 the plan does not fall under the jurisdiction of the  
24 Kentucky Personnel Board.

25 Last, minorities have little political power to

1 demand a share of high paid political positions.

2 In regard to the effectiveness of the system for  
3 filing and resolving complaints of discrimination or unequal  
4 treatment, the one in the plan, because of its lack of legal  
5 standing, is inoperable. It is based upon good faith and  
6 commitment which indicates that it is designated to  
7 frustrate or dissuade individuals from filing complaints.

8 Also many employees, including management, are  
9 unaware that the EEO complaint procedure exists.

10 In order to alleviate disparities, or  
11 discrimination in state employment we recommend the  
12 following. Staff, fund and implement the needed civil  
13 rights and affirmative action programs. Create an EEO  
14 compliance and enforcement office which reports directly to  
15 the Commissioner of Personnel and that has the necessary  
16 authority to perform his duties.

17 Enforce, identify goals and time tables that is  
18 listed in the plan. Encourage the federal agencies to  
19 fulfill their responsibility to monitor and require  
20 compliance by the state agencies. Provide the recovery of  
21 legal fees for those who successfully pursue civil rights  
22 claims before the Kentucky Personnel Board.

23 Publicize the need for equality in all personnel  
24 activities, especially discipline towards lower level  
25 employees. Require government agencies to carry the burden

1 of proof in discrimination cases. Provide penalties for  
2 those who wilfully violate and refuse to comply with civil  
3 rights laws.

4 Provide training or education in the area of civil  
5 rights. Provide a salary improvement fund for black  
6 employees. Recruit, hire and promote blacks in management  
7 positions, both merit and non-merit. Enforce sanctions with  
8 state employees who fail to comply with federal civil rights  
9 laws. Penalize agencies that fail to comply with Kentucky's  
10 affirmative action plan. Revise and utilize the State's  
11 skills bank in recruiting and hiring practices.

12 Create a clearing house for all professional and  
13 managerial position openings which would disseminate the  
14 information to minorities and women in a timely manner.

15 Allow the active involvement of blacks in  
16 government, and the creation and implementation of an  
17 effective affirmative action compliance program.

18 In closing, I would like to reiterate that  
19 although on paper Kentucky has an affirmative action plan,  
20 realistic implementation and compliance by Kentucky state  
21 government agencies is improbable because of the lack of  
22 complete implementation and enforcement.

23 MR. PEEPLES: Thank you very much.

24 Any questions from the committee?

25 MR. MULDROW: You have been very helpful,

1 Ms. Walker, in presenting specific recommendations regarding  
2 problems that your organization sees.

3 Have you had the opportunity to discuss these with  
4 the Commissioner of Personnel, or any other official  
5 responsible for implementing the plan?

6 MS. WALKER: We have not had an opportunity to  
7 discuss this particular thing with them. We have talked  
8 with the Commissioner of Personnel, we have talked with the  
9 Deputy Commissioner of Personnel on various topics, but not  
10 all of these things in specifics.

11 We do offer, and are open to the opportunity to do  
12 that.

13 MR. MULDROW: You have not specifically  
14 requested, in other words, a discussion with the  
15 Commissioner of Personnel who is responsible for  
16 implementing the plan?

17 MS. WALKER: We have not done that this year, no.  
18 We have, last year, made attempts to speak with either the  
19 Commissioner or his Deputy, and they have been favorable in  
20 terms of speaking with us on a one to one basis.

21 We have invited the Deputy Commissioner as well as  
22 the Commissioner to come and talk to our organization about  
23 our particular concerns in these particular areas.

24 We have also addressed the Personnel Board in  
25 terms of administrative regulations in regard to promotion.

1 MR. PEEPLES: Is there a possibility for a black  
2 in state government to participate on the affirmative action  
3 committee that was mentioned earlier this morning by the  
4 Commissioner?

5 MS. WALKER: To my knowledge we are not on that  
6 committee. We do have, and I think to my knowledge, unless  
7 he has appointed someone within our ranks, that I am not  
8 aware of that. There is a member who is an EEO coordinator.  
9 So, we may have some representation, but no specific  
10 representation

11 MR. PEEPLES: I ask that because having sat in  
12 this position for the last several years I am a step forward  
13 in saying that this is probably the best documented and  
14 prepared testimony that I have seen brought to us that  
15 addresses the issues, and has taken the time to go a step  
16 further and say, "We recommend", based on our experiences.

17 I am thoroughly pleased with this, and I am also  
18 pleased to note that Ralph has said they will take that  
19 under advisement.

20 MR. STEWART: You stated that you have reported  
21 discrimination to various agencies, the EEOC and the  
22 Commission on Human Rights. Have you sent in a response,  
23 and if you have, have you received a response?

24 MS. WALKER: To my knowledge we have not had a  
25 response. Also those inequities have been reported not only



1 by use, but by other individuals as well. They are aware of  
2 them, I believe. Mr. Hatterick eluded to the fact that they  
3 were aware of the disparities in terms of disciplinary  
4 actions.

5 I have spoken and they have talked with me, but we  
6 have not had any particular conversation.

7 MR. PEEPLES: No other questions?

8 Thank you very, very much.

9 Next, George Parsons, President of the Kentucky  
10 Association of State Employees. I do not see Mr. Parsons  
11 nor Ms. Maxberry. So, what we are going to do is take a  
12 fifteen minute recess to see if either of our next  
13 presenters come in.

14 (Whereupon, short recess taken.)

15 MR. PEEPLES: We will now call this hearing back  
16 in session.

17 We will call on Ms. Charlesmarie Maxberry,  
18 President of Womens Network.

19 MS. MAXBERRY: I am Charlesmarie Maxberry,  
20 President of Women in State Government Network. Our  
21 organization is about three hundred strong here in  
22 Frankfurt, and about a hundred throughout the state.

23 We are women that are concerned about the plight  
24 of other women, of all women. Most of the programs and  
25 activities are designed to enhance the professional growth

1 of women.

2 Most of us have met through the organization,  
3 however, when we discuss our plight in state government or  
4 our experiences, our experiences are quite similar. In  
5 fact, alarmingly similar.

6 An example of the similarities came up recently at  
7 a discussion of women being interviewed, job interviews.  
8 Two women related that during an interview they were asked  
9 if they intended to become pregnant in the near future.  
10 This apparently was the criteria for receiving the job. One  
11 woman was asked if she was using birth control pills.  
12 Several women have been asked if they are still in their  
13 child bearing years.

14 These things are repeatedly happening. No one was  
15 surprised in the room. We were in the room with about  
16 seventy-five women, and no one was surprised. You would  
17 think that these were questions that were asked twenty years  
18 ago. These are questions that were asked in 1987, and 1988.

19 You wonder why these women have not filed  
20 complaints about this unequal treatment. The reason is,  
21 they do not want to become known as trouble makers, or if  
22 they were believed at all, many times it is a long process,  
23 they cannot afford it if they have to have it inside the  
24 grievance procedure within state government.

25 These are things that really do not come out, or

1 you will not find anyone that is going to come here and  
2 stand, and explain that knows a lot about it. But, you can  
3 get it from the average employee that you talk to on the  
4 street.

5 You have asked for suggestions on how certain  
6 things can be done. It is my opinion that in terms of how  
7 the affirmative action program is working, the  
8 implementation throughout state government, and the results  
9 and things, I think you would get better answers if you took  
10 maybe a hour at each state office building, and just stopped  
11 people on the streets and ask them.

12 What do you know about the plan in your agency, in  
13 your cabinet? Have you been approached, have you seen the  
14 plan? Have you been told about it? Who is your EEO  
15 coordinator? Things like that.

16 That is I think, in my opinion, where you really  
17 get answers. The people that are here today have been asked  
18 to come. We have prepared comments, and we have probably  
19 geared them at being tactful.

20 But, these people would at least say, "No, I don't  
21 know about the plan". "Yes, I do know about the plant", and  
22 go from there.

23 So, in my opinion that is where you get your real  
24 answers.

25 Like I say, I am here representing women in state

1 government. However, as you see I am a minority also. Many  
2 times we discuss our plight in state government, and the  
3 thing that you hear most is, that women and minorities want  
4 an opportunity to compete. They want to know about job  
5 vacancies. That is the number one comment. People want to  
6 know about job vacancies. Some areas do advertise job  
7 vacancies, others you never hear anything about it. So,  
8 that is a major concern.

9 Our organization recently did a promotional  
10 opportunity survey. I have the results here today, and I am  
11 going to pass our copies. One of the things that women  
12 said, the majority of the people that were surveyed said  
13 that they were classified as professional or administrative.  
14 However, they did not feel that they were supervisors or  
15 managers.

16 In my opinion I think that they are not considered  
17 when decision making takes place. So therefore, they never  
18 feel like they are in the positions they have been put in.

19 Another sad part of it is that eighty percent of  
20 those surveyed felt there are not adequate promotional  
21 opportunities in their agencies, and in state government.  
22 Some feel like that they are even willing to take a cut in  
23 pay or demotion to be able to get into an area where they  
24 can move higher. So, these are things that we concern  
25 ourselves with in the Network.

1           Some other major themes that we do discuss is the  
2 operation of the affirmative action plan, or just the  
3 treatment of women, or whatever, throughout state  
4 government. We, at least, have a member in every cabinet,  
5 every constitutional office, so we all get together and  
6 compare notes.

7           One major cabinet is conducting training sessions  
8 for their EEO staff and their management staff. Not many  
9 others are doing that at this time. In my opinion it should  
10 be done. It would prevent a lot of things from happening  
11 that do happen.

12           For instance, one person mentioned that at the  
13 meeting that she was told the reason she did not get a  
14 certain job and a man did, which would have been a promotion  
15 to her, was that he had a family to support, and he needed  
16 the money.

17           Another person stated that a cabinet secretary  
18 told her that if she was interested in more money why did  
19 she not get a husband. The same cabinet secretary said that  
20 women that are secretaries should not aspire to be anything  
21 but secretaries. Yet, these women do not want to do  
22 anything about it. They fear doing anything about that.

23           The affirmative action plan says that we should  
24 feel free to file grievances. That we should not be  
25 intimidated. However, there must be some problems out there

1 that the people do feel intimidated because they are  
2 reluctant to do this.

3 With that I think I have completed my comments.

4 MR. PEEPLES: Thank you.

5 Are there any questions from the committee for  
6 Ms. Maxwell?

7 MR. MULDROW: I was surprised to hear you say  
8 that it is difficult to learn of job openings. How are the  
9 job openings made known? Does each agency announce its own  
10 positions, or is this done through a central office? How  
11 does it work?

12 MS. MAXBERRY: I do not know a lot about that.  
13 However, in my agency we do post them. However this is only  
14 open to those within the agency unless you have a networking  
15 group that gets the word out to others. This is what we are  
16 asking for, is that these jobs somehow or another be  
17 circulated throughout state government, and people be  
18 permitted to compete for them.

19 MR. MULDROW: How about women applying for jobs  
20 from outside of the government. How do they learn of  
21 openings?

22 MS. MAXBERRY: Through advertisement mostly, I  
23 would say.

24 MR. MULDROW: The jobs are advertised in the  
25 newspaper?

1 MS. MAXBERRY: Right. However in state  
2 government there is not a vehicle for this, and this is what  
3 we are asking. Possibly someone from that area could answer  
4 it better than I, but this is something that our  
5 organization has repeatedly asked for.

6 MR. MULDROW: One of the striking statistics that  
7 has been given to us is that disparity in the wage level of  
8 women and male employees. Is this because most women are  
9 employed at the lower job levels, or is there a disparity in  
10 salary levels within the same job classifications?

11 MS. MAXBERRY: I would say both, and I would say  
12 that has to do with accountability in a sense. In that  
13 these things are happening, and we as women, as I said  
14 before, some actually leave their jobs, they are not going  
15 out on a limb and call attention to inadequacies that they  
16 know about.

17 MR. MULDROW: You have listed quite a few  
18 perceived problems in the system with women.

19 MS. MAXBERRY: Well, I think they are more than  
20 perceived.

21 MR. MULDROW: Has the Womens Network done  
22 anything systematically in bringing these to the attention  
23 of the Commissioner of Personnel, or any other responsible  
24 authority?

25 MS. MAXBERRY: On the 28th of last month we met

1 with the Personnel Commissioner, and discussed these things  
2 with him and are following up our comments, and his comments  
3 with a letter to him this week.

4 MR. MULDROW: What was his response to your  
5 negotiation or discussion?

6 MS. MAXBERRY: Well, he tried to address the  
7 areas that we brought before him, and discussed guidelines  
8 that he is working under, that the state is under. He gave  
9 us suggestions on how we can go about improving the  
10 situations. We will continue to communicate with him.

11 MR. STEWART: Could you give us a little more  
12 information on specifics in regard to the filing of  
13 grievances and appeals, and why there is a feeling of  
14 despair. What is the reason for the despair? Is it because  
15 of the time it takes for grievances? We heard earlier that  
16 they are approximately a year behind on grievances and  
17 appeals.

18 MS. MAXBERRY: Well, one procedure is that you go  
19 to your immediate supervisor, and it goes through the  
20 levels. If that grievance had anything to do with your  
21 immediate supervisor you do not really go to a person to  
22 complain about that person. Some people have had some  
23 problems with doing that I am told. Or with complaining  
24 about how things are.

25 As you know, it is sort of human nature, that you



1 become known as the trouble maker, and you are ostracized  
2 and the word gets around, and things are not so good for you  
3 after that.

4 MR. STEWART: So, the fear of repercussion is  
5 present?

6 MS. MAXBERRY: Causing people not to complain.  
7 To accept it and try to get around it through other means.  
8 But, these are things we are working towards trying to  
9 alleviate.

10 MR. OBERST: As I understand it, the whole  
11 personnel system depends on your dealing with your immediate  
12 supervisor?

13 MS. MAXBERRY: Right. That is where the problem  
14 is.

15 MR. OBERST: You are saying that is a hopeless  
16 effort to have a grievance?

17 MS. MAXBERRY: In some instances, yes.

18 MR. OBERST: How high do you think you ought to  
19 go? How far away from your office?

20 MS. MAXBERRY: Well, I would say start with that  
21 person's supervisor rather than the immediate supervisor.  
22 Your second line supervisor possibly.

23 As I say the Personnel Commissioner has been quite  
24 receptive to our comments, and at this time we will present  
25 him a letter and continue to communicate with him.

1 MR. SCHWEMM: Do you know if there is any way,  
2 following up on your examples of these interview questions,  
3 that someone such as the Personnel Commissioner, or somebody  
4 else in state government, even though there was not an  
5 individual complaint, might send out a newsletter or  
6 something of that nature for people who are in the  
7 interviewing position?

8 To say for instance, "It has come to my attention  
9 that these examples take place, and I am telling you that  
10 they are inappropriate".

11 I mean, part of what is going on, it seems to me,  
12 is you have individual isolated examples that your group  
13 shares with each other, but there is never any person either  
14 through the complaint process or anywhere else telling the  
15 offending individual that you should stop doing that.

16 Now, I think one of the things we would be  
17 interested in hearing is if you have any ideas as to how we  
18 can past this kind of stuck position that we seem to be in?

19 MS. MAXBERRY: Well, we have not arrived at that  
20 point yet ourselves. But, we are open for suggestions also.

21 MR. SCHWEMM: The picture that I am seeing you  
22 paint is that the person who is asking these questions must  
23 not think that they are inappropriate questions.

24 MS. MAXBERRY: True.

25 MR. SCHWEMM: The only way that person is going

1 to be educated, if you will let me use that word in a very  
2 broad sense, is if there is some mechanism to call  
3 inappropriateness to those questions to, I assume, his  
4 attention.

5 So, you are still working on how to do that I  
6 assume?

7 MS. MAXBERRY: Well yes, we are. As tactfully as  
8 possible. But, we are working on it.

9 MR. SCHWEMM: You did not mention it, but do you  
10 see any evidence of increased or decreased sexual harassment  
11 on the job with your perspective as the leader of this  
12 group?

13 MS. MAXBERRY: No. We have not had that.  
14 However, in Commissioner Greenwell's talk with us one of the  
15 members did ask him at the meeting if he would have someone  
16 to come there and discuss that, and tell us in terms of what  
17 our rights are, how to avoid it, or how in many instances to  
18 detect that is actually going on. Things like that.

19 But, we have not really discussed that.

20 MR. OBERST: One of the things that the Human  
21 Rights Commission has done is prepare or buy films which  
22 explain just exactly what people's rights are, and all that  
23 is improper. Maybe that kind of thing would help you with  
24 your questions and interviews.

25 MR. PEEPLES: Any other questions of

1 Ms. Maxberry?

2 Thank you very much for your presentation.

3 Our next presenter is Mr. George Parsons who is  
4 the President of the Kentucky Association of State  
5 Employees.

6 Welcome Mr. Parsons.

7 MR. PARSONS: I am George Parsons, Kentucky  
8 Association of State Employees.

9 Concerning a request for information pertinent to  
10 implementation of the affirmative action plan and efforts to  
11 insure equal opportunity in state recruiting, hiring,  
12 training, and promotional practices the Kentucky Association  
13 for State Employees offers the following response.

14 The number one topic addressed in the letter was  
15 an assessment of the plans effectiveness. The response is  
16 that the state affirmative action has not been implemented.  
17 The state agencies have tried to send out public statements  
18 indicating commitment to equal opportunity, but little  
19 effort has been made to recruit, hire, or promote minorities  
20 to management positions. The same holds true for women and  
21 handicapped applicants and employees.

22 Next is implementation by the various state  
23 agencies in their compliance with the provisions of the  
24 plan. Few employees have seen the state affirmative action  
25 plan, and few state agencies have fully complied with it.

1           An indication of what progress has been made  
2 toward assuring non-discrimination and how this is  
3 evaluated, we have seen little indication of progress toward  
4 assuring non-discrimination. We have found no clear policy  
5 or direction from the State's executive staff.

6           What problems and barriers are there in the  
7 achievement of goals? There has been a lack of commitment,  
8 leadership, funds and staff to implement an effective effort  
9 to provide for those protected by the many civil rights  
10 laws.

11           The effectiveness of the system for filing and  
12 resolving complaints of discrimination or unequal treatment.  
13 There are three basic avenues for state employees to pursue  
14 civil rights concerns. The Kentucky Personnel Board, the  
15 Federal EEOC, and the Kentucky Commission on Human Rights.  
16 Each of these avenues has serious drawbacks.

17           The State Personnel Board is not staffed to  
18 investigate and monitor civil rights violations, and the  
19 Board will not allow a successful complainant to recover  
20 legal fees. Consequently the cost of those civil rights  
21 actions before the Board must be borne by the complainant.

22           The Federal EEOC cannot enforce the finding of  
23 discrimination against state agencies, therefore state  
24 agencies feel little need to feel concerned about them.

25           The State Commission on Human Rights does not have

1 any of the above problems, but they are a state agency.  
2 Many women and minorities indicate that they are reluctant  
3 to pursue complaints against the state. The Human Rights  
4 Commission seems to have authority to choose the  
5 complainants to be assisted.

6           Suggestions or recommendations for alleviating any  
7 disparities or discriminations in state employment, we  
8 recommend that the Governor and all executive officials be  
9 advised and implement the law.

10           We recommend that the state and federal civil  
11 rights enforcement agencies, and state federal grant  
12 agencies be petitioned to carry out their enforcement and  
13 compliance responsibilities.

14           We recommend that the state hire on the basis of  
15 merit in an open and competitive manner. We recommend that  
16 the reason for the unusual number of disciplinary actions,  
17 disciplinary activities toward minorities be investigated,  
18 and that some remedial action be taken.

19           We recommend that all employees be given an equal  
20 opportunity for promotions and other salary increases.

21           I hope that this information will be of assistance  
22 to you. I would like to point out one personal note if I  
23 may. In working with handicapped people as a vocational  
24 rehabilitation counselor in addition to working with the  
25 Kentucky Association of State Employees, it was an idea of

1 our professional association that perhaps the authority of  
2 the Human Rights Commission should be extended to cover  
3 handicapped. It does not address handicapped in the  
4 Kentucky civil rights legislation.

5 We recommend that the one word be added,  
6 "Handicapped" to the civil rights legislation. That was met  
7 with some very serious, very strong opposition. The  
8 Executive Director indicated that that would cost a lot more  
9 in staff. They were not qualified to handle that sort of  
10 thing, and that it would better suited in the Department of  
11 Labor.

12 The Department of Labor will not, and it cannot do  
13 anything about discrimination in housing, voting, education  
14 and so forth.

15 In addition to, and I want you to understand that  
16 in addition to the Human Rights Commission, being able to  
17 select which complainants they will assist, they are also  
18 able to avoid any provisions in the law to assist the  
19 handicapped.

20 Can I answer any questions?

21 MR. MULDROW: Mr. Parsons, could you give some  
22 background on your organization. Who belongs to the  
23 Association of State Employees?

24 MR. PARSONS: The Kentucky Association of State  
25 Employees is open to all classified employees. We are

1 trying to expand membership to part-time and so on.  
2 Preferably those who are not management oriented. But it is  
3 an association who is affiliated with AFL-CIO, so ours is a  
4 union.

5 MR. MULDRON: Is affirmative action specifically  
6 a part of your organization's agenda, or are the points you  
7 are making growing out of your general experience with the  
8 association, and general involvement with the State? What  
9 connection does your association have specifically with the  
10 affirmative action plan?

11 MR. PARSONS: Just from working with state  
12 employees. We are a small organization and probably not a  
13 significant forum for complaints in that we probably do not  
14 have any authority to resolve. We do hear complaints, and  
15 those complaints where the management people, or Civil  
16 Rights Commission has declined to act, then those things are  
17 brought to our attention.

18 But, my concern has just been in working with  
19 state employees, and listening to the concerns that they  
20 bring to me, and trying to address those concerns.  
21 Recommendations to the Personnel Board, the Commissioner.  
22 We  
23 try to attend the public hearings, present information,  
24 facts and so, before various legislative committees.

25 So, the Association is just concerned with



1 employee problems. We do not have an affirmative action  
2 plan, we do not have that many employees. We only have  
3 three employees. My largest concern is the issues and  
4 concerns employees bring to me.

5 MR. MULDROW: How do you deal with complaints  
6 that are brought to you which are not handled by the  
7 Kentucky Commission or internal offices?

8 MR. PARSONS: Our assistance is pretty well  
9 limited to helping the person file the grievance, and go  
10 through the appropriate channels. We do have a legal  
11 defense fund that is certainly limited, and we try to  
12 restrict that to people who have some severe disciplinary  
13 action.

14 But, it is a matter of concern. I do not know how  
15 much assistance we can be if this individual likes to go on  
16 past the grievance, through the administrative channels and  
17 go into court. I am not sure that we have the funding to  
18 assist them any more than that.

19 MR. SCHWEMM: You mentioned that you thought most  
20 of the state employees had not even seen the affirmative  
21 action plan. How large physically is that? I am leading up  
22 to the question, why does not state government make a copy  
23 of that available to each individual employee? How large is  
24 the affirmative action plan information?

25 MR. PARSONS: It is a booklet. I would say fifty

1 or sixty pages, something like that.

2 MR. SCHWEMM: That may be part of the answer. I  
3 guess the crux of my question is I think it is terribly  
4 important, that comment that you made, be addressed, because  
5 people cannot very well understand what their rights are if  
6 they are not able to see it.

7 I am sure there would be some cost to distributing  
8 it to every employee, but I like the idea. Is it available  
9 upon request, or all the materials are at each agency?

10 MR. PARSONS: I am sure it would be available on  
11 request. You would have to know who to request it from. It  
12 is a matter of finding it, and if you have a request from  
13 all the different employees that I would that there would be  
14 some reluctance to furnish that many copies. If I requested  
15 it, and if I could find the proper person to address that  
16 request to, that I have been able to get copies of what I  
17 have needed.

18 MR. STEWART: One other question. Do you have  
19 any problems getting recognized by the State Personnel Board  
20 in presenting your grievances, or when you do present them?

21 MR. PARSONS: I am not putting the grievance in  
22 for myself.

23 MR. STEWART: No. When you said you would assist  
24 them in filing the grievance, some of the employees.

25 MR. PARSONS: Well, the grievance procedure was

1 promulgated as an administrative regulation by the Kentucky  
2 Personnel Board as an administrative channel. It goes only  
3 to the appointing authority. After that the employee, if he  
4 is still dissatisfied, can appeal before the Personnel  
5 Board. At that point he can only be represented by an  
6 attorney, or represent yourself before the Personnel Board.

7 So, we are not able to represent them or assist  
8 any further than the grievance procedure, unless we can  
9 provide legal assistance for the person going before the  
10 Personnel Board.

11 MR. STEWART: My last question would be, do you  
12 have an agreement for your organization with the State  
13 Personnel Board?

14 MR. PARSONS: We have no formal agreement, no.  
15 Any other questions?

16 MR. SCHWEMM: One other question. By coincidence  
17 I happen to be the Vice-Chair of the State Human Rights  
18 Commission, and I thought I would share with you what my  
19 understanding is of how we choose complaints, because I  
20 think it might be a little different than what I have heard  
21 you say.

22 My understanding is that we do not have a policy  
23 against, or in any way choose what cased to hear except on  
24 the basis of whether or not there is evidence of probable  
25 cause. If that is different I certainly would like to be

1 informed of that. I mean, you are suggesting to me some of  
2 your members think that the Commission, as a matter of  
3 policy, does not want to hear from you folks, and I  
4 certainly do not know of that policy and I wanted to share  
5 that with you.

6 I would be happy to have them make whatever  
7 complaints that I think are appropriate, and if there is  
8 probably cause found that is the only barrier to proceeding.  
9 Is there is not evidence of probable cause we cannot  
10 proceed. But, if there is evidence of probable cause I  
11 assure you that we will either proceed, or I will find out  
12 why we are not proceeding. I certainly do not want your  
13 membership to misinformed.

14 MR. PARSONS: I am certainly going to relay that  
15 to them. But again, it does not address any handicapped  
16 issues.

17 MR. SCHWEMM: That is right. Now, let me make  
18 one other comment about that, and I am sure that even my  
19 Executive Director would agree with.

20 I do not know of any success in civil rights that  
21 ever happens without a struggle. I suggest to you that if  
22 you feel strongly about this, and if there has been a set  
23 back once, you try it again.

24 MR. PARSONS: I will.

25 MR. SCHWEMM: I think you might find some allies,

1 even amongst the Human Rights Commission.

2 MR. PEEPLES: Any other questions?

3 Thank you very much. ..

4 We have exhausted the morning agenda. We want to  
5 thank all persons who have made presentations to us, and  
6 would invite you back to join us when we reconvene in this  
7 room at 1:00 p.m.

8 Thank you very much.

9 (Whereupon, lunch recess taken.)

10 MR. PEEPLES: Now that the members have taken  
11 their places we are going to call to order our afternoon  
12 session which begins with community organizations.

13 Our first presenter is Mr. William Coefield, state  
14 President, NAACP. Welcome, Mr. Coefield.

15 MR. COEFIELD: Mr. Chairman, I must admit that  
16 the last communication I received said that I was to make my  
17 presentation at 12:45 p.m. I must say to you that I was in  
18 here at 12:45 p.m. and made my statement. I hope that you  
19 enjoyed it. Just a little humor there.

20 I do have prepared remarks for you. I represent  
21 an organization that is the, as we look at it, the most  
22 loved and of course the most hated. The most feared,  
23 revered, the largest, and oldest. We think also the best.  
24 The most talked about, the strongest civil rights  
25 organization in the world.

1           In this country there is over twenty-five hundred  
2 branches and a few units in foreign countries. In Kentucky  
3 alone there are sixty-five adult units, college chapters and  
4 youth counselors representing thousands of concerned  
5 citizens both black and white in this Commonwealth.

6           We are now celebrating our 80th anniversary. We  
7 were founded in 1909 in the State of New York by white  
8 liberals and black militants.

9           We are meeting in a regional convention in  
10 Louisville starting on the 16th of this month, and going  
11 through the 19th. We are inviting all of you to come and  
12 share with us. We are bringing all of our staff in, the  
13 national staff, because it is one of our training sessions  
14 that we have every year. Ben Wilson will be there on  
15 Saturday evening to give the Freedom Fund attest.

16           I must say in Kentucky, because of the fact that  
17 our Governor, or cannot succeed themselves at this point, we  
18 do a little research in the second year of each Governor's  
19 term, and our present Governor is in his second year now,  
20 and so we during our convention in October we will paying  
21 him a visit, as well as the cabinet secretaries, and each  
22 division of the cabinets as best we can. We will be willing  
23 to share whatever we find at that time.

24           The Kentucky's affirmative action plan acts to  
25 identify the administration's commitment to insuring that

1 employment opportunities in state government are free of  
2 discrimination.

3 The major thrust of an affirmative action plan  
4 must be recognition and removal of all barriers to equal  
5 employment opportunity.

6 The credibility of this plan is predicated upon  
7 the adherence to the goals the affirmative action plan  
8 establishes.

9 The current Kentucky affirmative action plan  
10 became effective July 15, 1988. Its time tables call for  
11 full implementation of its program by June 1989. The plan  
12 instructs each governmental agency to formulate its own  
13 affirmative action plan compatible with the state plan.

14 These agency plans were to contain measurable  
15 goals and time tables, and this way implementation of the  
16 state plan objectives would be most effective in employment  
17 practices, especially recruitment, hiring, training and  
18 promotional efforts and could be monitored toward  
19 achievement in a specific manner.

20 A review of the status of minority employment,  
21 before and after implementation of the plan, shows as  
22 follows.

23 We are talking in terms of two years here, 1983,  
24 prior to the affirmative action plan, and of course 1988,  
25 with the current plan.

1 In 1983 there were four agencies that employed no  
2 minorities which represented 13.8%. Also at that time we  
3 had no minority cabinet heads, and we know that in  
4 Corrections at that time Mr. Wilson was heading it, but  
5 there was some controversy relative to Mr. Welch's position  
6 as opposed to Mr. Wilson's.

7 There were sixteen agencies that employed a 1% to  
8 7% of minorities, and that represented about 55.2%. Nine  
9 agencies employed greater than 7%, and that was 31%.

10 However, in 1988 two agencies employed with this  
11 plan zero minority, that is 5.7%. Of course we have one  
12 minority cabinet head which is 2.9%, and twenty-two agencies  
13 employed 1% to 7% minority, and that is 62.9%. Ten agencies  
14 employed greater than 7% minority, which is 28.6%.

15 The work force in 1983, minority composed 6.8%,  
16 and of course in 1988, it is 7.8%.

17 The goal of the affirmative action plan, the  
18 Kentucky state government minority work force, is that  
19 Kentucky state government minority work force be  
20 representative of the State's work force was achieved. The  
21 gains of minority employment are represented by an increase  
22 of 1%. The goals of the affirmative action plan made a  
23 difference in this regard.

24 There are other gains to be noted that were not  
25 specifically addressed as goals of the affirmative action



1 plan, which nonetheless are brought about by deliberate  
2 equal employment efforts. As noted, the number of agencies  
3 employing no minorities decreased with implementation of  
4 this plan.

5 These agencies are slowly making their way toward  
6 compliance with the State's goal of 7.4% minority work force  
7 as evidenced by the increase of agencies employing 1% to 7%  
8 minority after implementation of the plan.

9 The number of agencies employing greater than 7%  
10 minority increased by one. Indications are that this goal  
11 is slowly progressing toward actuality.

12 The plan also established goals of 7.4% minority  
13 employment in each of eight job categories. A further  
14 review of available information did tell us the status of  
15 these goals. Again, I will use the 1983, and the 1988.

16 Job categories of officials and administrators, in  
17 1983 we had 2.9%, and in 1988 3.0%. Professionals 4.7% in  
18 1983, and 5.2% in 1988. Technicians 5.7% in 1983, and 5.8%  
19 in 1988. Protective services 6.6% in 1983, and 5.7% in  
20 1988. Paraprofessionals 13.4% in 1983, and 12.6% in 1988.  
21 Office and clerical, 8.1% in 1983, 7.3% in 1988. Skilled  
22 craft 4.1% in 1983, 6.2% in 1988. Service and maintenance  
23 19.4% in 1983, and 16.75% in 1988.

24 Minority employment decreased in four of the eight  
25 categories from 1983 to 1988. This trend does not suggest

1 individual agency efforts toward achievement of these goals.

2 The plan does not define non-compliance, nor does  
3 it speak to any actions to be taken toward agencies which  
4 are not demonstrating a good faith effort toward achievement  
5 of the goals. In this one regard the plan lacks direction.

6 State agencies are required by the affirmative  
7 action plan to develop agency plans with action plans  
8 specifying how goal attainment is to be accomplished.

9 The action plan is to include a sequence of  
10 activities, date of projected completion, and person  
11 responsible for completion.

12 As mentioned before, without an enforcement  
13 mechanism gains made are on tenuous ground.

14 Most minorities in state government, according to  
15 the above cited information, are employed in the job  
16 categories of protected services, paraprofessional,  
17 office/clerical, and service maintenance, with the majority  
18 in the last category.

19 These jobs are the lowest paying ones being such  
20 positions as library assistants, medical aids, messengers,  
21 clerks, custodial workers and general laborers.

22 According to a 1986 Kentucky Commission on Human  
23 Rights report although minorities were comprising 7.4% of  
24 the work force they received 5.6% of the payroll. Surely  
25 imbalances such as this are affected by the types of jobs

1 performed by minority employees.

2 The plan should address this concern by devising,  
3 implementing, and monitoring a career advancement program.  
4 Increase emphasis and support on training, particularly  
5 along a specific career path will enhance the pool of  
6 qualified minority applicants.

7 The suggestion is not for a program solely for  
8 minorities, but for any fully utilized career development  
9 employment will aid in career progression for all employees,  
10 including minorities.

11 The Commissioner of Personnel assisted by the  
12 state EEO coordinator is responsible for the implementation  
13 of the State plan. The agency EEO coordinators under his  
14 direction are to communicate the State's commitment to equal  
15 employment opportunity to every manager and supervisor,  
16 making them accountable for attainment of the goals. It is  
17 the manager or supervisor who is usually regulating every  
18 day employment activities.

19 For the past two years the Department of Personnel  
20 had coordinated training conferences for EEO workers and  
21 management personnel. The last conference was a collective  
22 effort of several of the state government largest employers.  
23 This encouraged participation from all levels of government.  
24 Training in human relations and affirmative action trends  
25 are some of the topics that were presented.

1           Although some progress has been made by  
2           implementation of the plan there are areas of concern. An  
3           employee has several avenues for filing and resolving  
4           complaints alleging race discrimination. The grievance  
5           procedure, state EEO complaint process, the Personnel Board,  
6           Kentucky Commission on Human Rights, and the Equal  
7           Employment Opportunity Commission.

8           The latter three agencies are administrative  
9           bodies who processes can take a year or more. The state  
10          remedial avenues are the most swift for an appealing party.

11          The Department of Personnel does not keep records  
12          regarding the number of grievances filed alleging race  
13          discrimination. The system is an important one, but its  
14          reliability and effectiveness is not demonstrable at  
15          present.

16          A state EEO coordinator with strong experience in  
17          affirmative action, equal employment opportunity is  
18          necessary for the cohesiveness of the State's affirmative  
19          action plan. A liaison is needed to monitor the progress of  
20          each cabinet toward goal achievement.

21          To assist in recruitment efforts, maintain current  
22          statistical data on the plans effectiveness in all areas,  
23          including upward mobility, disciplinary actions, and  
24          dismissals. Note deficiencies and offer recommendation  
25          toward correcting deficiencies.

1           The position of the EEO coordinator is currently  
2 vacant.

3           The issues of actions toward agencies in—  
4 non-compliance should be explored. For example the Natural  
5 Resources cabinet and Legislative Research Commission  
6 maintain a minority work force of less than 3%. However,  
7 the Energy cabinet has zero minority according to the latest  
8 report available.

9           Commitment to achieving results is the key to the  
10 success of an affirmative action plan. The commitment must  
11 start with the chief official and filter throughout the work  
12 force. Without the commitment of top officials the  
13 effectiveness of the plan is nullified. The commitment of  
14 Kentucky's top officials was demonstrated by Senate Bill  
15 163, which makes the affirmative action plan law.

16           We wish to thank this committee for convening to  
17 discuss the issues presented here today. The efforts and  
18 interest such as yours are needed to boost state  
19 government's upwards to creation of a discrimination free  
20 work environment with periodic focus monitoring of the  
21 goals, and achievement of the plan.  
22 The continuation of the good faith efforts demonstrated thus  
23 far by Kentucky state government, the idealism embodied in  
24 the plan, will reach completion.

25           Again, thank you very much for allowing me to come

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1 and make these few remarks.

2 MR. PEEPLES: Thank you very much Bill.

3 Are there questions of Mr. Coefield from the  
4 committee?

5 MR. STEWART: You made a statement that the EEO  
6 coordinator office is vacant at the present time. How long  
7 has that been vacant, or has it been appointed to?

8 MR. COEFIELD: I would imagine it has been vacant  
9 two months at the most.

10 MR. PEEPLES: We might be able to ask Ralph. Was  
11 the information we were given this morning regarding that  
12 position, was that the announcement of the filling of that  
13 position?

14 MR. HATTERICK: Yes.

15 MR. MULDROW: Mr. Coefield, a couple of the  
16 presenters this morning voiced complaints about difficulty  
17 in knowing about job openings, and implying some deficiency  
18 in the recruitment process.

19 Does the NAACP assist in this effort in any way?  
20 Are they problematically geared to helping to provide  
21 applicants for state jobs in any way?

22 MR. COEFIELD: We can assist and we do in certain  
23 situations. Of course, if we know about them. Even from  
24 the national viewpoint we have John Johnson, who heads up  
25 our labor area, who sends periodically to us jobs that have

1 submitted to him. Of course, we disseminate that material  
2 to our membership.

3 If there are those positions that are there, and  
4 we know about them most assuredly we do inform our people.

5 MR. MULDROW: I guess what I am getting at. Does  
6 the State in any systematic way contact your organization as  
7 part of a recruitment network?

8 MR. COEFIELD: Systematically no. Because of the  
9 fact that I do know people in personnel, in many instances  
10 have some knowledge of what is there. We are able to  
11 contact our members throughout the state.

12 MR. MULDROW: In talking with you on the  
13 telephone prior to this conference did I understand you to  
14 say that you have had some discussions with agency leaders  
15 regarding affirmative action and equal opportunity?

16 MR. COEFIELD: We go back over each  
17 administration, which we do our study of each  
18 administration, that kind of thing. That is what I was  
19 referring to.

20 MR. MULDROW: What has been the results of those?  
21 Have they receptive, responsive to your suggestions?

22 MR. COEFIELD: Most assuredly. What has  
23 happened, it has kind of tightened them up to the extent  
24 that they have moved forward. In each administration you  
25 see a degree of improvement, and I think you can attribute

1 part of that to the fact we do a monitoring process.

2 MR. PEEPLES: Any other questions. Thank you  
3 very much, sir.

4 Representing the next community organization,  
5 Dr. Betty Sue Griffin, National Council of Negro Women.

6 MS. GRIFFIN: On behalf of the National Council  
7 of Negro Women I would like to thank Mr. Muldrow and the  
8 members of the advisory commission for inviting us to share  
9 information with you this afternoon.

10 I have come to do two things. The first is to  
11 share with you the fact that we recognize that there is a  
12 serious problem when it comes to employment practices,  
13 policies, and the way in which they are implemented.

14 Secondly to talk about what the National Council  
15 of Negro Women is designed to do on a national level, and  
16 what it is doing locally to try to fill in the gap.

17 I suppose we are very proud of the fact that there  
18 is an annual conference each year, among many other  
19 activities that take place in Louisville.

20 We just finished with the sixth annual conference,  
21 and those conferences are designed to do several things.  
22 This year we have two major focuses, and one of those was  
23 employment, what could we do to try to address the issues,  
24 and second, which is not totally alienated from the first as  
25 an objective, what can we do to prepare our youngsters to



1 enter the employment work force.

2 It was very interesting when we were educated as  
3 members of the organization to the problem that existed.  
4 Not just here in Kentucky but nationally. Most of us are  
5 native Kentuckians, so we are very proud of what we  
6 represent, and many times we feel very uncomfortable when we  
7 find that we are still in trouble.

8 We discovered, unfortunately, that of the 37,000  
9 employees in state government, many of them located in  
10 Louisville, that only 2,751 were black.

11 We were equally shocked when we discovered that  
12 for new hires who happen to be black, they make on the  
13 average of \$1,400.00 and \$8,600.00 less per year that has  
14 nothing to do with degree status, or the amount of previous  
15 experience that they bring.

16 One of the interesting things about the council is  
17 its creation of a data base from surveying its members  
18 relative to the amount of experience they have, what they  
19 bring to a job, their degree profile. We discovered some  
20 very shocking and disturbing facts that some of the people  
21 with the highest degrees and the greatest number of  
22 experience was making the fewest number of dollars.

23 In order to try to see if we had some one that  
24 agreed, we discovered that our data was not as complete as  
25 it should be. We looked at two sources of data compiled by

1 the Human Rights Commission here in Kentucky. One of those  
2 is the status of women in Kentucky state agencies, that I am  
3 certain you are familiar with, and the other is black  
4 employment in Kentucky state agencies.

5 From those reports we discovered that we are not  
6 getting better, that we were getting worse. As it relates  
7 to black females, of the 1,815 females employed by state  
8 government there are only 493 who represent the gender or  
9 the race of black.

10 Again, the average black female makes in state  
11 government \$14,000.00 a year, while the average white female  
12 makes \$17,000.00 a year for the same job.

13 Now, this is not new. This is not new data, and  
14 as I said, our data was not as recent or current as we  
15 thought it was, and we were shocked at ours. So, when we  
16 picked up the reports we discovered that we needed to do a  
17 little bit more in this regard.

18 Again, it is not new. I think Dr. Bethune  
19 recognized this years ago when she founded the organization.  
20 She said simply your legacy is to do something to fill in  
21 the gaps, not just when it comes to education, but when it  
22 comes to employment, when it comes to keeping your members  
23 current, and doing something for self.

24 That conference in Louisville is a prime example  
25 of what the organization is doing to overcome these

1 problems. Several of the work shops were designed with  
2 these very topics in mind. To provide leadership skills, to  
3 provide information about jobs through networking. —

4 As an example, one of the conference work shops  
5 was entitled, "The Skies the Limit, Breaking the Glass  
6 Ceiling". This was designed for those individuals who  
7 happen to be in management positions, saw the top but could  
8 not get there.

9 So there, techniques, ideas and strategies  
10 relative to what one needs to do in order to network within  
11 the corporate structure, or state government structure as  
12 well as how one deals with stress.

13 Another topic that I think you might find most  
14 interesting that took place was called, "Reaching Back,  
15 Leave No One Behind", which incidently was Dr. Bethune's  
16 motto when it comes this. Under that guise not only were  
17 there five hundred young people there on a Saturday morning  
18 that we involved in career leadership kinds of things, but  
19 also to talk about developing skills in mentoring.

20 Improve the wage earning power was another topic  
21 that addressed specifically what is happening in state  
22 government. Not necessarily from the standpoint of having  
23 to go out and moonlight.

24 Office protocol and imaging was most interesting,  
25 and certainly working with difficult. Attitudes, politics

1 and other hidden agendas that provide barriers to employment  
2 success.

3           It was decided in many of those work sessions that  
4 one of the things that we needed were the dollars, or  
5 grants. Monies that would come into the organization that  
6 would allow for a complete data base. Monies that would  
7 come in that would allow for youth employment from  
8 individuals that we could screen and refer for summer  
9 employment, especially in state government.

10           Our compliment of young minorities in state  
11 government, and especially female is unacceptable. At the  
12 same time we are most concerned with continuing the kinds of  
13 activities that the council is now involved with.

14           I will be happy to try and answer any questions  
15 that you may have about anything that I have said, or  
16 something that I have left out that maybe you are interested  
17 in relative to the council activities.

18           MR. PEEPLES: Thank you very much for your  
19 presentation.

20           Are there any questions?

21           MS. CLEMONS: I would like to ask you about the  
22 statistics that you gave on the female employment within the  
23 state. I was not quite clear. Are we speaking of 1,800 or  
24 18,000.

25           DR. GRIFFIN: 18,000. Thank you.

1 MS. CLEMONS: So roughly half of the employees in  
2 the state are white females?

3 DR. GRIFFIN: Yes.

4 MR. STEWART: I have been kind of skeptical.  
5 Would you be afraid to say that one of the criteria for  
6 employment in state government is political activities? Is  
7 there favoritism?

8 DR. GRIFFIN: On a personal level I could not  
9 agree with that. I am from Kentucky. I returned five years  
10 ago. I have no political affiliations. In fact, I did not  
11 even know who the Governor was at that particular time.

12 One of the things that I have discovered, however,  
13 it was not so much political affiliation as it was just  
14 general information about how one goes about applying for a  
15 job in state government, which is totally different than  
16 anything that I have experienced before.

17 Prior information is certainly helpful in that  
18 regard, and that is one of the things the council has  
19 attempted to do.

20 Most of the employees that work in the particular  
21 cabinet that I represent as a state government employee,  
22 were hired through the system. They were not appointed to  
23 the position. So, I am afraid that on a personal and  
24 professional level I could not speak to that.

25 MR. MULDROW: Does the council in any way have a

1 systematic tie with state government in terms of assisting  
2 with the recruiting process, or for women, especially  
3 minority women in state government?

4 DR. GRIFFIN: There is no formal system that is  
5 designed at this particular time. However, through the  
6 individuals who work with state government I am called quite  
7 frequently and asked about available positions. I call  
8 individuals quite frequently.

9 MR. PEEPLES: Thank you very much.

10 I would like to just speak for a minute, a  
11 question to you Bill about the state recruitment process, or  
12 any systematic methods of doing that.

13 I am of the contention that it takes creativity  
14 and innovative methods to deal with problems of recruitment,  
15 the kind of problems that we have in state government. I  
16 would like to give testimony just to one.

17 Recognizing just several years ago when the  
18 Department of Transportation in connection with some of its  
19 recruitment efforts with the Urban League realized a  
20 deficiency they had with particularly black females.

21 We put together an internship program. First, we  
22 had women who graduated from our computer training  
23 operation, and they created positions within the department  
24 for them to do a ten week internship with the anticipation  
25 of the enrollment into permanent jobs. We had a high degree

1 of success with that.

2 The Department of Transportation, in its own  
3 wisdom, decided to fund that and they provided a grant to  
4 the Urban League that we used to defray the travel expenses  
5 of the young ladies, to assist them with their babysitting  
6 and to provide them minimum wage for the ten week period.

7 We found that this has been beneficial to all  
8 concerned. They win because they got access to employees,  
9 we win because they get an opportunity to work, and we found  
10 it to be a very good program that is now probably about five  
11 years old.

12 We are now trying a pilot of that with another  
13 department. I say this just to say that when you recognize  
14 those kinds of problems you have to put your creative hats  
15 on and let your creative juices flow to make those things  
16 happen. When you want to do it I think there are ways to  
17 make it happen.

18 Next, we are going to move to the section of our  
19 program of legal services. We will have  
20 Mr. Daniel Goldberg, who is the directing attorney for the  
21 Appalachian Research and Defense Fund of Kentucky.

22 Mr. Goldberg.

23 MR. GOLDBERG: I am here to discuss my  
24 involvement in the federal court case of JoAnn Bowe vs. The  
25 Department of Parks, that culminated in the entry of a

1 consent decree in November 1987.

2 I am the directing attorney of the Columbia office  
3 of the Appalachian Research and Defense Fund, and I have  
4 been working on the Bowe case since I joined the  
5 organization in January 1982.

6 Applered, as we are sometimes known, is a rural  
7 legal services program funded by the Legal Services  
8 Corporation. Before coming to Applered I was employed by  
9 the Kentucky Commission on Human Rights for three years as a  
10 field investigator and staff attorney.

11 In July of 1980, JoAnn Bowe, with the assistance  
12 of my office and Robert Bertram, a private attorney in  
13 Jamestown, Kentucky filed a complaint of employment  
14 discrimination in the U.S. District Court in Bowling Green.

15 Ms. Bowe, a black woman worked in the laundry at  
16 Lake Cumberland State Resort Park for the previous four  
17 years as a seasonal employee. In 1980 the park at Lake  
18 Cumberland had no blacks on permanent status year around, as  
19 opposed to just a seasonal work force.

20 Ms. Bowe alleged in her complaint that she had  
21 been denied advancement to a permanent position because of  
22 her race, and her complaint was later joined with the  
23 complaint of Wilbur Wooldridge, who was in a similar  
24 situation.

25 Through discovery and other information we learned



1 that at the peak of the summer season in 1980, the  
2 Department of Parks statewide employed sixty-four out of a  
3 work force of 2,931. 2.18%.

4 In a three year period, 1978 to 1980, out of 268  
5 individuals who received permanent full-time appointments  
6 five were black. Less than one half of one percent.

7 In the higher positions officials earning  
8 \$16,000.00 or more, professionals, technicians,  
9 paraprofessionals, there were zero blacks out of a 106  
10 positions. It seemed that the few blacks who were employed  
11 by the Department were relegated to a relatively few job  
12 categories, and according to a report of the Kentucky  
13 Commission on Human Rights in 1979 blacks occupied positions  
14 in only twelve of the 165 total job classifications.

15 Armed with these figures we asked the court to  
16 certify these two individuals, Ms. Bowe and Mr. Wooldridge  
17 as representative plaintiffs in a class action so that we  
18 could challenge the under representation of blacks  
19 throughout the Department's statewide work force.

20 It may surprise you to learn that the District  
21 Court never did certify that class, and in 1987, after seven  
22 years of filing motions and responses, and Motions to  
23 Reconsider, and expert data analysis and so forth on the  
24 class certification issue, we were faced with the prospect  
25 of going to trial on the two individual cases, and having to

1 litigate the issue of class certification in an appeal to  
2 Sixty Circuit.

3 Then something unexpected happened. Henry Curtis,  
4 the Department's attorney, and June Hudson who was  
5 Commissioner of Parks must have come to the conclusion that  
6 the Department's employment of blacks, which was still stuck  
7 at the 2% level, was a disgrace.

8 Finally, as a result, in November 1987 we signed  
9 off on a consent decree in which the Department of Parks  
10 promised to increase black employment from 2% to 7.2% with  
11 all deliberate speed.

12 The plan seems to be working, and it is working  
13 without strict hiring quotas or rigid time tables. The  
14 plan, and this is somewhat of an oversimplification, but  
15 basically has four key elements.

16 First, and overall, the hiring percentage goal of  
17 7.2%. The second, a recruitment plan for disseminating  
18 information about job vacancies to the general public with  
19 emphasis on minority recruitment resources.

20 Third, implementation of additional record keeping  
21 at the individual park sites with each park maintaining a  
22 list of black applicants.

23 Fourth, something we call the special notice  
24 provision for permanent positions, and what this provision  
25 says, and in effect it creates a preference for hiring

1 blacks because it requires that if a black applicant is  
2 within the top five names on the eligibility register for a  
3 permanent job and is rejected, then the plaintiff's attorney  
4 has to be notified of the reasons for the rejection.

5 Finally, the decree will terminate when the hiring  
6 goal has been reached, or in five years, if despite good  
7 faith efforts, the goal cannot be reached in that period of  
8 time.

9 The only monitoring of the decree that we  
10 anticipate consists of our reviewing the annual reports that  
11 are to be submitted under the decree with the possibility  
12 that we could then go back to court if reasonable progress  
13 is not being made, or if it appeared that a particular with  
14 a particular job category was still closed to black  
15 employment.

16 What message does the Park's experience hold for  
17 other state agencies? As a plaintiffs attorney perhaps I  
18 should say to those agencies, if you do not clean up your  
19 act bad things are going to happen to you in Federal Court.

20 My experience in this case, however, is that  
21 progress has been made. Not because the court was going to  
22 compel it, but because the responsible official wanted to  
23 make it happen, and were willing to make it happen.

24 Prior to the welcome arrival of Mr. Henry Curtis  
25 on the scene two propositions were taken to be true by the

1 attorneys representing the Department. First, that there  
2 were hardly any blacks available for employment in the rural  
3 counties where the parks are located. Second, that there  
4 was nothing that the Department was doing, or could do in  
5 Frankfurt that could possibly have an affect on hiring  
6 around the state.

7 To illustrate these attitudes let me quote  
8 directly from a brief that was filed in the Bowe case in  
9 June of 1982. "Because the resort parks are located in  
10 remote areas of the state where few blacks reside, and  
11 because the pay available for park employees offers little  
12 incentive for relocation, few blacks have applied for  
13 positions in the state park system, see Exhibit B showing  
14 availability of blacks in counties where resort parks are  
15 located."

16 The next quotation, which is really stunning and I  
17 do not even know what he meant to say, but his is what it  
18 says. "Mr. Faust is the personnel director for the  
19 Department of Parks, and in that capacity has absolutely no  
20 input into, or involvement with the hiring, promotion, or  
21 firing of park employees."

22 Yet, when the Department got serious about hiring  
23 blacks, and hiring for the 1988 summer season it placed 149  
24 blacks out of the 1,053 new hires, thereby raising its  
25 seasonal work force in one stroke of 14%.

1           Similar progress has occurred in the permanent job  
2 categories in which despite a much slower rate of job turn  
3 over, black employment has gone from 2% to 5% in just a  
4 little over a year.

5           These results, I think, offer proof that the  
6 previous excuses that had been given were false. That  
7 blacks are available for the jobs, and that actions taken in  
8 Frankfurt can make the difference.

9           For years, it seems to me, Frankfurt has paid lip  
10 service. You might have had a dose of that this morning to  
11 the notion of affirmative action. Now, Henry Curtis, who I  
12 think does deserve most of the credit, has shown that it is  
13 possible to do something, and I am certain that taking on  
14 this new project has not made Henry's life any easier, but  
15 as he knows, and as I think the people here would agree, the  
16 appointing authority should do the public's work in the  
17 public's interest, and not because it is the expedient thing  
18 to do but because it is the right thing to do.

19           Thank you.

20           MR. PEEPLES:   Any questions?

21           MR. MULDROW:   That is a very encouraging picture  
22 you outlined there of what has happened. I am wondering,  
23 Mr. Goldberg, are there incidents of this nature that you  
24 have dealt? I mean, is it a rare thing for you legal  
25 services to deal in matters involving state employment? If

1 someone has a legal problem can they come to your  
2 organization for help in this regard?

3 MR. GOLDBERG: My office is just a two attorney  
4 office, and we represent a six county area, and we have to  
5 handle the routine divorces, consumer complaints, social  
6 security cases, and everything else that there is.

7 So, it is pretty rare that we can take on a major  
8 case of this nature. Generally, if someone comes to us at a  
9 minimum we try to steer them in the right directions. If it  
10 is employment discrimination we refer them to the State  
11 Commission, or to the EEOC to file a complaint, and then in  
12 some cases we would follow-up on it, or pick it up later  
13 after they receive a right to sue letter.

14 But, there really have only been a handful in the  
15 seven years that I have been there. We have had three or  
16 four federal court cases involving job discrimination.

17 MR. MULDROW: One of the concerns raised by a  
18 previous speaker was the lack of legal resources to pursue  
19 complaints beyond the initial stages. I am just wondering  
20 if there are resources that are available which might not be  
21 well known, including those of your organization.

22 Are there other sources that you know of that  
23 would help?

24 MR. GOLDBERG: To pursue court action?

25 MR. MULDROW: Yes. Or even legal representation

1 of the appeal process in the processing of a complaint?

2 MR. GOLDBERG: Well, of course the legal services  
3 community is complaining about a lack of funds, and that is  
4 real. Of course we deal with poor people, but in the job  
5 discrimination cases the people who need help tend to be  
6 poor.

7 There is a minimum access idea that if you had two  
8 attorneys for every ten thousand poor people then you could  
9 give minimum access to the courts.

10 At this point, after Mr. Reagan's cuts, we are at  
11 about half that level at my office. I think that is a  
12 problem.

13 There is a possibility of a court awarded attorney  
14 fee in these kinds of cases, so there are a few private  
15 attorneys who will take these on in hopes of getting a fee  
16 down the road. But, I think you will find there probably  
17 are not the resources available, and that before any private  
18 attorney is likely to take the case they are going to have  
19 to be convinced that it is a real strong case, and I suspect  
20 a lot of people get lost in that process.

21 MR. PEEPLES: Did I hear you say that at the time  
22 of the decree the percentage was 2%, and in a years time it  
23 jumped to 5%?

24 MR. GOLDBERG: Henry Curtis would be the one who  
25 would have the exact, up to the minute figures. But, that

1 is about right. I think I read the figure from 1980 where  
2 it was 2.18%, and I am pretty sure it never got higher than  
3 that. In later years, before the decree, it was 1.9%. It  
4 was still right around 2%.

5 MR. PEEPLES: It just appears to me that that is  
6 a model that should be repeated.

7 MR. GOLDBERG: I think it just simply depends on  
8 the attitude of the people who are doing the hiring. If  
9 they want to do it responsibly and in the public's interest  
10 there is nothing preventing them.

11 Now, maybe we helped facilitate parks because they  
12 had this class action sitting there, so they could therefore  
13 justify it to personnel or whoever, to say we need to do  
14 this because we are in court.

15 MR. PEEPLES: It may have been generated for the  
16 wrong reason, but it worked for the right reason. That is  
17 what I am saying, it should be able to work for the right  
18 reason for everybody else.

19 MR. GOLDBERG: I think that is right, although it  
20 is not going to be entirely without pain, because I think  
21 Henry has had to face reverse discrimination complaints, and  
22 what not. But basically what is required is the commitment,  
23 and I think if you have that everything else should follow.

24 MR. STEWART: Was there any increase in the  
25 percentage of areas that was alleged to be non-existence of



1 blacks in some of the rural counties? Was there any  
2 increase in summer hiring in those areas, or do you have  
3 anything on that?

4 MR. GOLDBERG: I cannot not quite say I do not  
5 have the figures because I have been delivered a printout of  
6 the entire work force. But, we have not had a chance to go  
7 through that to really see. That is one of the things we  
8 really want to look at, is to see whether any areas that are  
9 being left out.

10 MR. SCHWEMM: How do you get what Mr. Curtis did,  
11 and he may be able to answer this, how do we get that into  
12 the other leadership positions? Do you have any suggestions  
13 as to recommendations that you might make, or other people  
14 might make?

15 MR. GOLDBERG: I really do not know what I can  
16 say on that.

17 MR. PEEPLES: Thank you very much.

18 We now move to the category of state agencies, and  
19 we will move on to the next presenter, and pick up with  
20 Mr. Curtis when he comes in.

21 Mr. Daniel Egbers, attorney of the General Council  
22 Cabinet for Human Resources.

23 MR. EGBERS: Good afternoon, Mr. Chairman.

24 In Henry's defense I should say that the reason he  
25 is probably late is because I sold him my car a couple of

1 years ago, and he brings that point to my attention every  
2 now and then.

3 I would also just like to follow-up on something  
4 that Dan mentioned before. My cabinet is a party in a way  
5 to the consent decree because one of the functions of the  
6 Cabinet for Human Resources is in manpower services  
7 throughout the state, and Henry, I can recall, sat in my  
8 office on many occasions brow beating me until I agreed to  
9 recommend that my cabinet facilitate the implementation of  
10 his consent decree.

11 I do not mind telling you I was a little reluctant  
12 to do it because of the two Supreme Court cases that say  
13 that you cannot have these extra special circumstances in  
14 the absence of a finding or a showing of historic race  
15 discrimination, and to that point there was no formal  
16 finding that the court had made.

17 Nevertheless, because of Henry's persistence I  
18 finally caved in and as I understand it we have a symbiotic  
19 relationship, and I am glad to here that it is having good  
20 results.

21 I am Daniel Egbers, and I am an attorney for the  
22 Cabinet for Human Resources. Dr. Cowherd, who is our  
23 secretary, has asked me to represent him here today. Also  
24 to express his regrets about not being able to appear in  
25 person.

1 I have represented the Cabinet for approximately  
2 eight years in civil rights and personnel matters. I have  
3 to confess that I am a little uncomfortable in standing up  
4 here before you simply because as a defense lawyer I suppose  
5 it is possible that one might question my perspective on  
6 some of the issues that you are discussing today.

7 I will admit that in the numerous position papers  
8 and pleadings that I have filed with the EEOC, and other  
9 agencies over the years I have never had occasion to admit  
10 that the complaint of discrimination against an institution,  
11 or an individual supervisor was well founded. This is not  
12 to suggest that in investigations that we have conducted  
13 over the years we have never found disparities in hiring or  
14 promotion, salary, discipline, reclassification, or other  
15 areas of employee movement or individual attitude.

16 But there have been instances in my experience in  
17 which allegations of racial and sexual discrimination were  
18 brought to our attention, and in which we made an attempt to  
19 address. There have been several instances in which we have  
20 taken disciplinary action against supervisors, and their  
21 supervisors for fostering what we believe to be hostile  
22 racial and sexual atmospheres within the work place.

23 So, it has been our practice, I believe of the  
24 years which I have been associated with the Cabinet, to  
25 encourage people to go ahead and file their grievance if

1 they have a legitimate basis for it, and to take prompt  
2 action upon those allegations. I am rather proud of our  
3 record in doing so.

4 Every cabinet secretary under whom I have served  
5 has charged my office with one guiding principal. That has  
6 been that where we find evidence of discriminatory conduct  
7 we are to take action to correct, and take no action to  
8 justify it.

9 The attorneys on the panel know, there is a  
10 special provision in the Code of Ethics for attorneys that  
11 charges them to seek justice rather than to use the superior  
12 force of their public trust in order to delay or suppress  
13 it. That has been our charge, and my personal philosophy in  
14 the cases in which I have been involved.

15 Discrimination in all of its forms is wrong  
16 because it is profoundly illogical to assume that any person  
17 is inclined to act, or fail to act in any given way merely  
18 because he is white, black, Irish, male, female, gay,  
19 handicapped or otherwise.

20 It is a deep and abiding concern to me when people  
21 are not judged on their individual merit. In my judgement  
22 few things in the types of cases in which I have been  
23 associated, however have done more to suppress the  
24 advancement of the civil rights movement, and civil rights  
25 litigation than the frivolous filing of civil rights

1 complaints.

2           You heard Mr. Hatterick this morning telling you  
3 about the backlog that he has with the Personnel Board, that  
4 it takes a year to get a case to trial. That there is a 350  
5 case backlog, and that is true. I practice primarily before  
6 the State Personnel Board, and it is extremely frustrating  
7 to listen to the cash register continue to jingle while  
8 these cases fall back upon one another.

9           We have recommended, and I believe that the Board  
10 is looking at the possibility of structuring there order of  
11 hearings in such a way that they no longer take cases on a  
12 first come first serve basis, but rather take and hear cases  
13 first in which individuals have been removed from the  
14 payroll. I think that is an appropriate way to go, and I  
15 hope the Board will see fit to do that in the future.

16           There have been occasions in which individuals  
17 have attempted to use minority status of one sort or another  
18 either as an excuse for poor work performance or misconduct  
19 in disciplinary cases, or to gain an advantage over others  
20 in promotional decisions.

21           I believe that to be empathetical of the civil  
22 rights movement, and suggest that it only serves to demean  
23 valid complaints. What we wind up doing because of the  
24 tremendous numbers that we have to investigate is shove some  
25 of the legitimate ones on to the back burner. They are not

1 given the full treatment that they deserve, and frivolous  
2 complaints just tend to log jam the process.

3 In my cabinet when a request to take disciplinary  
4 action is reviewed in Frankfurt, the practice has been to  
5 make no independent inquiry as to the race of the employee  
6 making the request for disciplinary action, or the employee  
7 who is the subject of the request.

8 The final decision in Frankfurt is based upon the  
9 written reports, and we do not know nor do we want to know  
10 what the race of the accused, or the accuser is unless, of  
11 course, race has been an issue in the case itself.

12 For example the ones I mentioned before when we  
13 took disciplinary action against a supervisor for fostering  
14 a hostile atmosphere. It is a little sad to me when on  
15 occasion I am served with notice that we have been accused  
16 of discriminating in discipline cases, and to hear some of  
17 the comments that I have heard this morning, that rather in  
18 glittering generality terms suggested that is all  
19 discriminatory in character.

20 There is a lot more things that have to be looked  
21 at in discipline cases that do not lend themselves very well  
22 to statistical analysis. It has been our practice to  
23 address those types of cases on an individual basis, color  
24 blind to the individuals concerned.

25 The problem that I have seen is that in dealing

1 with investigators for the Human Rights Commission over the  
2 years some of them have been overburdened, and I am afraid,  
3 although they probably would not admit it if you asked them,  
4 may turn a jaundice eye towards some of the complaints that  
5 they are asked to investigate just because of the tremendous  
6 numbers that are involved and the frivolousness of some of  
7 the appeals.

8           The Commission has an advantage over the Personnel  
9 Board in that respect. In 1986 the Legislature amended the  
10 State Personnel Board statute to prohibit the Board from  
11 dismissing any appeal unless it was based on a failure to  
12 file on a timely basis.

13           The Personnel Board may not consider from an  
14 agency a motion to dismiss the appeal based on a failure to  
15 stay the claim, or grounds that it is legally insufficient.  
16 What this does is force the Personnel Board to hold a full  
17 evidentiary hearing on every case that comes before it, and  
18 I suggest to you that that tends to delay the process.

19           In theory, if you do not like the color of your  
20 desk and you are a state employee, you can get a full  
21 evidentiary hearing with the State Personnel Board if you  
22 are willing to wait for a year or so.

23           As far as the Human Rights Commission is  
24 concerned, in the past, I know I have signed off on twelve  
25 sometimes more consecutive time waivers because the staff is

1 so overburdened that they could not get their job done  
2 within the period that they had to. That time waiver  
3 business has now gone by the wayside due to a Court of  
4 Appeals case. So, hopefully they will begin to move a  
5 little bit quicker.

6 I wanted to give you a few examples because I  
7 think my client has done so to take action in the area of  
8 eliminating discrimination.

9 I mentioned before the park situation in which we  
10 agreed, despite my initial disinclination to cooperate with  
11 the Parks Department in recruiting to solve their problems.

12 The U.S. Department of Labor has ordered the  
13 Cabinet for Human Resources to screen job corp applicants  
14 for Aids. We have steadfastly refused to do that, and have  
15 risked the loss in federal funds in doing so because it is  
16 our position that CDC in Atlanta indicates that there is no  
17 reason whatsoever for screening job corps applicants, and  
18 that there is a problem with placing the stigma on an  
19 applicant who answered the question honestly. So, I think  
20 we have done something in that area.

21 There is currently pending litigation in which a better  
22 qualified white applicant has brought an action the Cabinet  
23 and the State Personnel Board alleging that he was passed  
24 over in favor of a less programmatically qualified but more  
25 senior black applicant, and we are in the process of



1 litigating that particular issue.

2 I mentioned earlier that we have disciplined  
3 supervisors in the past for failure to maintain the proper  
4 atmosphere. This is by no means a comprehensive list, and  
5 as my position would suggest I cannot be a font of  
6 information, for information derogatory to my client. But,  
7 I think that this is indicative of the actions that we are  
8 trying to take.

9 As an agency we have gone on record as opposing  
10 what we perceive to be protective regulations which would  
11 prohibit consideration of outside applicants for agency  
12 vacancies, and to limit the availability of those positions  
13 to people who are already inside the agency. This is  
14 because there are classifications in which, as you know,  
15 minorities are underutilized, and we recognize that as long  
16 as they are underutilized as a whole, strict limitation of  
17 opportunity to those already within the state government  
18 would inhibit opportunities for recruitment of qualified  
19 minority applicants and would only serve to institutionalize  
20 the inequity.

21 This is not to suggest or to claim that the  
22 Cabinet has been successful in meeting all of the  
23 affirmative action goals established by the Governor's plan.  
24 I am not an expert on it, and I cannot speak very well to  
25 the imperial statistical data which you should have before

1 you.

2 But, from this recent information that was  
3 presented to me was that in terms of minorities the Cabinet  
4 has underutilized in one category, and that is officials and  
5 administrators. Out of the 11,599 employees, we have 12.26%  
6 minorities. We are underutilized in terms of female  
7 employment in three categories, that is officials and  
8 administrators, and also protective service workers and  
9 skilled craft workers. I believe the tendency has been to  
10 close that gap somewhat.

11 I think I have probably just about run out of my  
12 time. If there is any at all left I would be happy to  
13 answer any questions.

14 MR. PEEPLES: Questions?

15 MR. SCHWEMM: I have a question. Referring to  
16 the Personnel Board, do they hear all cases as a full Board?

17 MR. EGBERS: No, sir, they assign a hearing  
18 officer. They could, in theory, hold two or three hearings  
19 in one day. The hearing officer then makes a written report  
20 to the whole Board, and the Board votes on that.

21 MR. SCHWEMM: The hearing officer is a Board  
22 member?

23 MR. EGBERS: Not always. They have some contract  
24 attorneys. They have a statutory general counsel. The  
25 Executive Director is also empowered to hear cases, and any

1 Board member except the voting members may hear a case.

2 MR. OBERST: I do not mean to minimize the  
3 consideration of cost when it comes to state government  
4 because they are very important, but the system implies to  
5 me that if there were more dollars for more hearing officers  
6 that the backlog could be brought up.

7 MR. EGBERS: Absolutely. What the Legislature  
8 did in 1986, in my estimation, was attempt to correct what  
9 they saw to be some abuses in the system. In the past you  
10 could make a Motion to Dismiss an appeal for lack of subject  
11 matter, jurisdiction, or any number of other things, and  
12 those motions were frequently successful. They cannot do  
13 that anymore. Now there has to be a full blown hearing on  
14 every issue.

15 The next thing that they did in 1986 was allow an  
16 employee to appeal directly to the Board if they did not  
17 like their evaluation. So, you may have an evaluation where  
18 you are rated as being superior in four out of five  
19 categories, and "meets" in the last category, you can get a  
20 full blown evidentiary hearing to the Board to contest the  
21 judgement of your supervisor on that point.

22 So, what the Legislature did was tremendously  
23 expand the Board's jurisdiction. Prohibit them from weeding  
24 out, and they did not give them any money.

25 MR. PEEPLES: Would that fall into the category

1 that you used several times as frivolous?

2 MR. EGBERS: In my judgement, yes, sir.

3 MR. PEEPLES: Cite for me just a few more  
4 examples of what would be frivolous.

5 MR. EGBERS: Well, the incident with the  
6 evaluation is one. We have frequent use of misnomers with  
7 the term discrimination tagged to it. For example, recently  
8 we gave a class grade increase to RN's and psychologists  
9 because they are extremely difficult to recruit, and we were  
10 loosing them. In the same hospital you had some social  
11 workers. There was not enough money to give a class grade  
12 change to the social workers.

13 I know have sitting on my desk nine brand new  
14 appeals from social workers who claim that they have been  
15 professionally discriminated against because they did not  
16 get the same grade change as the other folks did. They  
17 brought it all the way through the grievance process, and  
18 that will go to the Board.

19 Recently we had thirty-seven appeals. Individuals  
20 who had gotten exceeds on their evaluations. At one point  
21 there was a million dollar pot that was to be divvied up  
22 among everybody that got a year-end exceeds. But, because  
23 of the budgetary shortfall the Governor, and the Secretary  
24 of Finance and Administration recaptured that money, and I  
25 did not get mine either. It was done in a proper legal way.

1 Nobody argued about that. They are just made as hell, and  
2 they wanted to appeal to the Board.

3 So, we have thirty-seven cases, and incidently,  
4 you cannot consolidate cases unless everybody agrees to it.  
5 So each one of them has to be heard individually on the same  
6 legal basis.

7 I said at the time when the Legislature passed the  
8 statute that it was insane, but they did not listen to me.  
9 Maybe they will the next time around.

10 MS. CLEMONS: It is interesting to me some of the  
11 things that you have mentioned. Your report is a very  
12 excellent report as for the gentleman who preceded you, his  
13 report was very good.

14 I wish that some of these people that work for  
15 state government would come and work for the proper world.  
16 Where the people that get the money are the ones that are  
17 supply and demand.

18 But, I would like to ask who wanted the job corps  
19 people tested for Aids?

20 MR. EGBERS: The U.S. Department of Labor. They  
21 did not want them tested, they wanted them screened and  
22 there is a big difference.

23 MS. CLEMONS: What is the rationale behind that?

24 MR. EGBERS: Well, because these job corps  
25 applicants were going to be living in a dormitory during the

1 initial phase of their employment, and there was some  
2 concern that there would some sexual hanky panky, and if  
3 they had Aids they would spread it around.

4 MS. CLEMONS: I see. I happen to be on the Job  
5 Corps Board out at Whitney Young, and there are enough girls  
6 around there. Are they going to test the girls also?

7 MR. EGBERS: Every applicant for Job Corps is to  
8 be screened according to this Directive. We refused to do  
9 it, and they wrote us and threatened us. But they have not  
10 followed up on it just yet.

11 MR. MULDROW: Mr. Egbers, according to the  
12 statistics which have been given us, and some of which you  
13 have indicated also, the Cabinet for Human Resources stacks  
14 up very well in terms of its overall employment level of  
15 minority employees. It is higher, by far, than any other  
16 cabinet.

17 On the other hand the salary differential between  
18 black and white employees is considerable in your  
19 department, and the gap has worsened over the past two  
20 years. How do you account for that diversity?

21 MR. EGBERS: Well, clearly the majority of the  
22 minorities employed within the cabinet, in terms of just raw  
23 numbers, are at the lower end of the pay scale. You have  
24 quite a bit of turn over at that level so they may not stay  
25 in very long and get the increases as they go along.

1           The top end of the pay scale generally are career  
2 employees. You have a considerable number of career  
3 employees there who just by virtue of annual increments over  
4 twenty years of more, that gap widens.

5           I think that the Commission on Human Rights did a  
6 study on that a year or two ago, and certainly they would be  
7 more expert on why that occurs than I would. I believe that  
8 that was one of the findings that they made.

9           MR. MULDROW: Statistics do not tell everything  
10 of course, but it is puzzling as to why apparent progress,  
11 or the success in the overall employment level is so great,  
12 and yet is such regression in terms of salary differential.

13           Is there an effort to upgrade to minority  
14 employees? Is there an affirmative effort in the cabinet to  
15 upgrade or promote employees? To overcome the reason for  
16 the salary differential?

17           MR. EGBERS: I am not familiar with the formal  
18 program if that is what you mean. We are rather limited in  
19 our ability to change salary structure. For one thing, that  
20 is controlled by the Department of Personnel. There are  
21 three basic ways to do it, reclassification, promotion, and  
22 reallocation. You can only reclassify an employee if there  
23 has been a permanent, material change in his duties and  
24 responsibilities.

25           I do not know of any authority that we have now

1 that would allow the Commissioner of Personnel to put  
2 something in the compensation plan to close that gap.

3 MR. MULDROW: In your experience is the state  
4 affirmative action plan being aggressively implemented in  
5 your cabinet as well as in others? If so, how does this  
6 enforcement or implementation manifest itself?

7 MR. EGBERS: Well, in terms of promotion, and I  
8 have litigated a number of cases where that has been an  
9 issue, the practice has been and the directive has been from  
10 my office, that as between equally qualified candidates the  
11 key word is opportunity. You may have where you have one  
12 position and twenty applicants for it, and they try and  
13 break that down to maybe the last top five on paper that  
14 they are going to interview.

15 We have made it known to the supervisors that they  
16 are going to have to justify to us why they did not elect an  
17 interview, or at least give the opportunity to a minority  
18 for a particular classification.

19 MR. PEEPLES: Thank you very much.

20 We will take a ten minute break at this time, and  
21 allow our other participants to catch up with us. We will  
22 reconvene at 2:30 p.m.

23 (Whereupon, short recess taken.)

24 MR. PEEPLES: We will go to Jack O'Nan, Branch  
25 Manager, Natural Resources and Environmental Protection



1 Cabinet.

2 MR. O'NAN: I will be very brief. Our Cabinet,  
3 unfortunately, had a very lower percentage of minorities as  
4 compared to the rest of the state government.

5 When I came to the cabinet in 1977 one of my main  
6 goals was to recruit minorities, and help build those  
7 percentages up. They have come up some, but not nearly as  
8 much as we would have hoped to.

9 One of the biggest problems we have encountered in  
10 trying to recruit minorities is that our cabinet is very  
11 technically oriented, and even though we go out and try and  
12 recruit, try and bring minorities to state government and  
13 test for positions, it just does not seem like those names  
14 appear in our cabinet. We just do not get the minority  
15 applicants like we had hoped to.

16 That is where we are going to have to rely on the  
17 Department of Personnel and work with them in trying to  
18 build those numbers up, and try to attract people that we  
19 need to get into state government.

20 Our cabinet has got 1,400 employees, eight hundred  
21 of them are here in Frankfurt, and that leaves six hundred  
22 of them out in our field offices, and most of those are in  
23 eastern Kentucky and fairly small rural areas. That makes  
24 it tough to recruit people in those areas.

25 In our cabinet we have over 7% of our positions

1 that require at least a Bachelors degree, or some type of  
2 technical training, or professional management experience.  
3 Again, it is hard to attract enough people to fill those  
4 positions.

5 But, there has been some improvement. By the end  
6 of 1988 our cabinet total for minorities was up to 2.23%, up  
7 from 2% in June of 1988. For women the increase was 2%, up  
8 to 34.89%. During the last six months of 1988 we hired two  
9 hundred five people. Of those 4.3% were minorities, and 44%  
10 were females.

11 Again, we have tried to recruit, go to colleges,  
12 to career days to try and attract minorities and females to  
13 our cabinet. When we go and recruit we have just not seen  
14 that many minorities, but we are going to try to do other  
15 things besides just going to colleges and participating in  
16 career days.

17 We are going to start working with the local  
18 employment offices. Work with other minority groups to try  
19 and get minorities in our cabinet, and just do whatever it  
20 takes to try and build our numbers up.

21 We are very low, we do not like being low and we  
22 are going to changed that hopefully in this year. It is not  
23 something we are very proud of. But, we do make an effort  
24 and sometimes it just takes awhile to show any results of  
25 that.

1 I will answer any questions.

2 MR. PEEPLES: Define or describe for us some of  
3 the technical jobs?

4 MR. O'NAN: The majority of our positions are  
5 either engineering types, or they require a Bachelors in  
6 some type of natural physical science, or BA in forestry, or  
7 a BA in soil science. The main categories is natural or  
8 physical sciences. Like I said, 7% of the positions in our  
9 cabinet require at least some type of degree in one of those  
10 sciences.

11 MR. PEEPLES: Who would you compete against in  
12 the private sector?

13 MR. O'NAN: It's consulting firms, just any of  
14 your bigger names companies. Ashland, or anybody doing any  
15 type of technical work. It is awfully tough to compete with  
16 those guys.

17 MR. PEEPLES: Salary then?

18 MR. O'NAN: Salary is just incredible. When I  
19 first started recruiting in 1977 I went to the universities  
20 to try and recruit engineers at \$862.00 a month, and we got  
21 a couple. They are still with us. But, it was not easy  
22 going in there and offering \$10,000.00 a year.

23 Now, we have improved. We are starting people out  
24 at anywhere from \$15,000.00 to \$18,000.00. But, as we  
25 increase so does private industry. We have made significant

1 progress, but still did not get some numbers.

2 MR. OBERST: Do you not have support personnel in  
3 the cabinet?

4 MR. O'NAN: Yes. But again, the support  
5 personnel either have to have the technical experience, and  
6 we have a few jobs that require an Associate degree. It is  
7 very technically oriented because we deal solely in  
8 environmental regulations, and this takes some kind of  
9 science background just to be familiar with it.

10 MR. DEN UYL: Is there any way to offer  
11 internship for something like that, where maybe people who  
12 are still college students, or interested possibly in  
13 science, or want this kind of background could come in and  
14 maybe over time through this process be employed?

15 MR. O'NAN: We do that. We work in conjunction  
16 with the Department of Personnel in identifying co-op names.  
17 We have had a number of co-ops from Kentucky State, U of L,  
18 and a few of those have come back to full time employment  
19 with us. The problem is they come and get co-op experience  
20 with us, and go over to Ashland Oil, or Dupont, or something  
21 like that.

22 MR. DEN UYL: Is there a significant number of  
23 minorities in these co-op programs?

24 MR. O'NAN: I am not sure how much the population  
25 is, but we do get a few persons who are involved with that

1 with Kentucky State.

2 MR. MULDROW: You use a lot of technical  
3 personnel which presents, perhaps, a different kind of  
4 recruitment problem. Do you not also have a large  
5 supporting staff? How do you fair in that area? Is it  
6 easier, and are you doing better in that area?

7 MR. O'NAN: Well, that is somewhat easier only  
8 because the bulk of those positions are here in Frankfurt,  
9 and there are just more people applying here in the  
10 Frankfurt area. We have a lot of field offices.  
11 Unfortunately out there you are either an inspector with  
12 some type of science background, or you are a secretary.  
13 There is not much in between.

14 We do have some lower level jobs in forestry, like  
15 forest guard, and forest ranger which just requires some  
16 experience in forestry. But, there is very, very few jobs  
17 that we have that do not require either a degree, or  
18 specifically related experience to that job.

19 MR. MULDROW: Has your agency developed an  
20 affirmative action plan as required by the State plan?

21 MR. O'NAN: Yes.

22 MULDROW: Are they able to provide you any  
23 assistance? How do you tie into them in terms of the  
24 implementation of that plan?

25 MR. O'NAN: Well, we adopt Governor Wilkinsons'

1 affirmative action plan, and we have sent a copy of that to  
2 all employees. We have told them about grievance  
3 procedures, told them who the EEO counselors are, tried to  
4 give them the same information everybody in Frankfurt has.

5 We sent this to every employee in our cabinet, all  
6 1,400 of them. They know what their rights are, who they  
7 should contact if they have a problem. Since I have been in  
8 the cabinet since 1977 I do not know of any EEO  
9 discrimination grievances that have been filed.

10 MR. MULDROW: Well, I was not thinking so much of  
11 complaints. I was just thinking of the total implementation  
12 of the plan in terms of goals, time tables, recruitment  
13 efforts. Do you get guidance from the Personnel Department  
14 in this area?

15 MR. O'NAN: Well, we are working closely with  
16 them. But, we are going to rely on the Department of  
17 Personnel to do the things that we need to be doing.  
18 Getting out and recruiting more. I think they are going to  
19 start getting out more.

20 What we would like to see is just a very active  
21 part from Commissioner Greenwell's office in helping us meet  
22 these goals and time tables. We all get busy doing other  
23 things, and do not always get to do everything that we need  
24 to do. But, that is the one suggestion I would make is full  
25 time involvement from his office with all the agencies.

1 MR. MULDROW: We heard this afternoon some of the  
2 things that the Parks Department is doing. It seems to me  
3 they are in a similar situation in terms of employment in  
4 some isolated areas, and also technical personnel. They  
5 have considerable success, I understand, in their  
6 recruitment program.

7 MR. O'NAN: One of the other things that we have  
8 been doing is posting vacancies. To make sure that  
9 everybody has an equal opportunity to apply for these  
10 vacancies. It may get to the point where we will have to  
11 post those vacancies in local employment offices, or  
12 colleges to help attract minorities.

13 As I understand it, the Parks is under a different  
14 mandate, a court order if you will.

15 MR. MULDROW: Who is responsible for your hiring  
16 and recruitment? Is that your responsibility?

17 MR. O'NAN: Well, it comes under my  
18 responsibility that we implement the Governor's affirmative  
19 action plan. But, I do not have the say so as to who we  
20 hire. That is up to our cabinet secretary. We work  
21 together on that.

22 MR. STEWART: You say that the information is  
23 assimilated and distributed to college campuses?

24 MR. O'NAN: I say we may get to the point where  
25 we may have to post vacancies at colleges, or at local

1 employment offices.

2 Now, summer employment they always find us. When  
3 May or June rolls around everybody knows to contact a state  
4 agency somewhere. That has really never been a problem that  
5 I know of.

6 MR. MULDROW: Do you get many calls from  
7 minorities, or do you have those statistics?

8 MR. O'NAN: Well, we do not get that many calls  
9 from minorities.

10 MR. MULDROW: Well, maybe that is my point. They  
11 are not getting the information.

12 MR. O'NAN: It could be. At this point we try  
13 and get that out with whatever means we have. There are so  
14 many applicants, probably two or three hundred this summer.

15 MR. MULDROW: That would come through the  
16 Department of Personnel?

17 MR. O'NAN: Through Personnel and through people  
18 contacting us directly. They come both ways.

19 MR. PEEPLES: If I may be allowed to build on  
20 that point. It seems pretty obvious to me that most of the  
21 kids who are probably you, and you said they are calling you  
22 in bunches, are probably calling you because of some direct  
23 ties that they already have through family or friends who  
24 lets them know about the system?

25 MR. O'NAN: Right.



1           MR. PEEPLES:    In that way you are building,  
2 basically, a future work force.  If there was some way that  
3 we could not start getting to the minorities at that age,  
4 and start building a future work force in that particular  
5 group, you would probably find yourself with not in the same  
6 situation with the empty reservoir.

7           I just think that we have to have creative ways of  
8 developing the pools, because obviously the traditional  
9 system of reaching out is not enough.  We probably got to  
10 educate some high school students as to the kinds of jobs  
11 that are available in the area.  It is probably totally  
12 foreign to them as to what may be available.

13          MR. O'NAN:    It probably is.  Most of it is relied  
14 upon just friends, or they have known somebody that has  
15 worked in a particular office, or relatives.  But, we do  
16 need to get more than we have been.

17          Any suggestion would be helpful to us, because we  
18 are trying to do our best.

19          MR. SCHWEMM:   Of the 1,400 employees  
20 approximately how many each year turn over?  Do you know  
21 that?

22          MR. O'NAN:    No, I do not.  A ballpark figure  
23 would probably be fifteen to twenty percent.

24          MR. SCHWEMM:   You mentioned the Parks experience  
25 and the fact that they were under somewhat different

1 circumstances because of the court order. If your personal  
2 goal was to increase minorities and women in the Natural  
3 Resources Cabinet would you be helped by being sued, and  
4 this is hypothetical, so that you could be then under the  
5 same situation as the Parks Department found itself?

6 MR. O'NAN: A hypothetical answer. I suppose we  
7 could.

8 MR. SCHWEMM: You understand why I asked the  
9 question. The way you came through in comparing yourself to  
10 the Parks Department was in a way they had a certain odd  
11 advantage that you do not have.

12 MR. O'NAN: The advantage that Parks has over us,  
13 though, is that they have so many jobs located throughout  
14 the state government that are not technically required.

15 MR. SCHWEMM: Right, that is another difference.  
16 But the difference that you mentioned, that I have heard, is  
17 in addition to all that they have the advantage of having  
18 been sued.

19 MR. O'NAN: Right. But, if we were sued, we were  
20 required to go through the process that they were, if we had  
21 to fill a number of vacancies out in our field offices it  
22 would slow things down considerably.

23 MR. SCHWEMM: It is kind of an irony that you  
24 might be helped in an odd way by being able to involve  
25 yourself with the court.

1 MR. O'NAN: I know Parks has increased their  
2 statistics, but it is unfortunate that you have to go that  
3 way.

4 MR. PEEPLES: Thank you very much.

5 I would like to take a moment here to introduce  
6 another member of the committee who has come in,  
7 Mr. Ron Nash, who has joined us.

8 I also want to announce that on the agenda you see  
9 for 5:10 p.m. we have an open session. That is for anyone  
10 who is not listed on the program who has an interest in  
11 addressing the committee. You should either contact  
12 Mr. Muldrow or register with the young lady out front in  
13 preparation for that time period.

14 I think we now have Mr. Curtis, attorney chief,  
15 Department of Parks.

16 MR. CURTIS: Chairman Peeples, Director Muldrow,  
17 and ladies and gentlemen of the committee and the  
18 Commission, thank you for the opportunity to come and thank  
19 you for allowing me to come out of time.

20 I had a JCC Board meeting and I missed a few  
21 meetings prior to today, and I looked in the statute and  
22 found I had a duty, so I thought I had better get down to  
23 Louisville and touch bases there.

24 The Parks Department consent decree is the  
25 outgrowth of the law suit filed in 1980, and a second law

1 suit filed in 1981, by plaintiff's Bowe and Wooldridge.

2 The Department of Parks litigated for  
3 approximately seven years. In the meantime the case had not  
4 come to trial. Circumstances in the Commonwealth had  
5 changed somewhat so that by the time I arrived at the  
6 Department of Parks we had adopted in the Department a  
7 departmental affirmative action plan effective  
8 October 15, 1984, pursuant to the Commission of Parks order  
9 of August 30, 1984, which was pursuant to the Secretary of  
10 Tourism's order of July 30, 1984, to implement the  
11 Governor's executive order of July 1, 1984, which required  
12 goals and time tables, and the affirmative employment of  
13 ethnic minorities and women.

14 So, the time was right to take a look at the  
15 possibility of not litigating any further, and we knew that  
16 if Parks lost we were going to have a huge attorneys fee,  
17 and we knew that we possibly could have had a federal  
18 magistrate sitting in the Department of Parks telling us  
19 what the next personnel actions would be.

20 So, we decided that we would begin to negotiate.  
21 Our negotiations began about 1985, and we negotiated and  
22 litigated, and eventually signed the final order in the  
23 United States District Court sitting at Bowling Green on  
24 November 16th and it was entered November 19th. So, we have  
25 been under a consent decree from that period to the present

1 time.

2 The key features that we were able to achieve in  
3 our negotiations were that we brought in third parties, and  
4 those third parties were two state agencies. The Department  
5 of Personnel, and the Department of Employment Services of  
6 the cabinet for Human Resources. Those two agencies have  
7 given us recruitment assistance, have given us technical  
8 assistance in testing and advising applicants, and  
9 certifying the list of eligible minority and female  
10 candidates for open positions.

11 The Department for Employment Services has  
12 twenty-eight regional substations, or outposts, or offices  
13 in the community where they normally do some recruiting for  
14 corporate agencies. They test, and they hand out employment  
15 insurance, and hold hearings.

16 So, they allowed us to plug into their existing  
17 standing operation in the field, and posted our  
18 announcements when open positions were available. They  
19 tested for us and did a multitude of things that helped to  
20 establish our network.

21 So, the consent decree is a simplistic document,  
22 we feel, as streamlined as possible with as few details as  
23 possible, just a few extremely important provisions.

24 First of all, from the Parks point of view it has  
25 an escape mechanism, and it is the defense called the good

1 faith effort. In the event we fail to do any of the things  
2 that we have committed ourselves to do we are entitled to go  
3 back to the United States District Court, and say that we  
4 did the best we could and we have documentation and records  
5 which will show that we have made a good faith effort.

6 To that extent the record keeping is a second  
7 major consideration. We are required, under the consent  
8 decree, to keep records at the Park level, at the central  
9 office level, and then to report to the plaintiff's  
10 attorneys annually, on July 15th, of our results and our  
11 progress.

12 The next interesting feature is that, again this  
13 is a community wide effort, and so paragraph No. 7 of the  
14 consent decree has what we call, "The Outreach Agencies", or  
15 the recruiting agencies. These agencies consist of such  
16 entities as the Job Corps centers, and there are five in  
17 Kentucky. The NAACP branches, and there are some  
18 thirty-five or more active branches. There are two urban  
19 league agencies in Kentucky. There are sixteen regional  
20 vocational schools, and we have used six major state  
21 universities. We have some special interest groups which  
22 may be one of a kind.

23 So, that in every instance where there is an open  
24 position we send a copy of the job announcement to each of  
25 these agencies. We ask these agencies to help us identify

1 the eligible candidates for open positions, and to help  
2 people looking for work, looking for state government  
3 employment match up with these open positions.

4 We feel that the network that we have created is  
5 probably the second most important feature of the consent  
6 decree.

7 Our numbers were roughly 1.96% ethnic minorities  
8 at the beginning of our implementation of the consent  
9 decree. We are now somewhere in the range of 5% ethnic  
10 minorities. We feel that we are on schedule in terms of  
11 being able to complete our goal of implementing affirmative  
12 action in the Department of Parks.

13 I will stop here and yield to any questions.

14 MR. PEEPLES: Mr. Curtis, let me tell you that  
15 Mr. Goldberg has already pretty much said he praises you  
16 before this group on your improvements.

17 One of the things that certainly impressed me is  
18 this record, this movement from 1.9% to 5%. One of things  
19 that I think I asked him, and I would talk to you about is  
20 will it be your recommendations as the attorney of record  
21 for the state that what you all had to go through could be  
22 replicated such that it becomes a good faith effort for  
23 everybody in state government?

24 MR. CURTIS: If you are asking, perhaps, the same  
25 question that the speaker heard, whether he ought to be

1 sued, I would say, no, sir.

2 MR. PEEPLES: No, that is not what I am talking  
3 about. I am saying that your good faith effort as a result  
4 of being sued could become everybodys good faith effort  
5 without being sued.

6 MR. CURTIS: The good faith effort was to keep me  
7 from getting shot if this did not work, as I hoped it would,  
8 and I had to have an escape route because I had my top  
9 administrators hanging out there a little bit.

10 This is kind of new, and I asked them to trust me  
11 because I thought I saw a possibility here. It is kind of  
12 scary. So, the good faith effort could work in an  
13 affirmative sense, but it was purely defensive from our  
14 point of view at that time.

15 I am not smart enough to see whether or not it  
16 would work for those agencies that do not have the leverage  
17 of the Federal District Court. So, I am ducking that  
18 question. I do not know the answer.

19 MR. MULDROW: Would you say the heart of your  
20 success is the recruiting network that you have built up?  
21 Is that the basis for your success?

22 MR. CURTIS: It is probably the heartbeat. We  
23 could not make it work if the folks were not calling, and  
24 saying that they were interested and heard about the job.  
25 So, we believe that those agencies that we have been sending



1 those job announcements to must be doing something really  
2 good for us.

3 We could not have made it without the Department  
4 of Personnel. We could not have made it without our sister  
5 agency, DES. The administrators of the Department have  
6 sincerely said, "We are going to give this a fair try". So,  
7 we could not have made it without those top administrators  
8 telling me to show them.

9 We have been pleasantly surprised. We have two  
10 black park managers for the first time in the history of the  
11 Department, and these guys turned out to be really super  
12 administrators.

13 MR. PEEPLES: Are they in rural areas?

14 MR. CURTIS: They are in rural areas. All of our  
15 parks are in rural areas except one recreation park.

16 MR. MULDROW: What are the educational  
17 requirements? What is the level for that position?

18 MR. CURTIS: Well, both these gentlemen happened  
19 to have Masters degrees, but they were walking around out  
20 there without jobs at the time that we put this decree into  
21 affect, and we preached the idea that ethnic minorities  
22 should not have to take their college degrees and experience  
23 and go to Los Angeles or Detroit to get a decent job.

24 The feedback that I am getting from my top  
25 administrators is that they are extremely pleased with these

1 two park administrators, who have to function independently  
2 who have to make decisions without help sometimes, and have  
3 to be good in public relations, and keep up with money.

4 One more thing I am awfully proud of is that we  
5 have added two ethnic minority business administrators, and  
6 we have a history of promoting from within, and so that  
7 means that these two accountant trainees, or business  
8 trainees who are business managers, number two in command at  
9 major parks, are now well on their career tracks for  
10 advancement in the Department.

11 We feel that is consistent with our personality,  
12 so this thing kind of fits us.

13 MR. PEEPLES: What would the average educational  
14 level of the park managers be?

15 MR. CURTIS: The two we have I have happen to  
16 have tracked a little bit because I was kind of interested  
17 in seeing that they got a shot at it, and I happen that they  
18 have got extremely good credentials.

19 I have not looked at the files of the other park  
20 managers.

21 MR. MULDROW: Could you just briefly elaborate on  
22 your network. What agencies are you contacting in your  
23 recruiting efforts specifically?

24 MR. CURTIS: The Urban League has two agencies in  
25 Kentucky. One in Lexington and one in Louisville. There

1 are five Job Corps centers. There are vocational schools by  
2 regions, and I believe there are sixteen of them. So, we  
3 send our announcements to the top administrators of sixteen  
4 regions in the vocational school system.

5 The six major universities that we send these  
6 announcements to are UK, U of L, Kentucky Westland,  
7 Moorehead, Eastern, and Western.

8 There are special interest groups such as  
9 Roundtable in Louisville, and that is an interesting network  
10 of a cross section of ethnic minority activists and  
11 administrators, so we send a copy to them.

12 There are junior colleges throughout the state and  
13 we send a copy to each of the junior colleges. I do not  
14 remember how many we have.

15 MR. STEWART: When you were naming colleges you  
16 missed Murray. Do you contact Murray?

17 MR. CURTIS: Yes, sir. We do send Murray. I  
18 have had some extensive discussions with the administrator  
19 about his placement officer being a little more active in  
20 participating.

21 That reminds me of some of the other groups. We  
22 have identified major universities that have special  
23 minority retention, recruitment, or support programs such as  
24 UK, Western, and U of L. So, in addition to the main  
25 placement officer we also send to the minority specialist

1 placement officers. We get excellent feedback.

2 MR. SCHWEMM: I would like to ask a little bit  
3 about your own background. Were you a long time employee of  
4 the Department of Parks, or did you come from a different  
5 part of the state government to the Department of Parks, or  
6 from private practice?

7 MR. CURTIS: I came from the cabinet of Human  
8 Resources. I was associated with Mr. Dan Egbers, and one  
9 day my boss told me that he had something for me to do, and  
10 he told me he wanted me to go over and be Parks counsel. I  
11 came over to Parks in late 1985, and I had been there about  
12 three months, and an assistant Attorney General came in and  
13 brought me two large boxes, and this was about April. I was  
14 told that I was about the fifth lawyer on this case, and it  
15 had been litigating for six years, and he told me he was  
16 retiring in August and thought I would like to have the Bowe  
17 and Wooldridge case.

18 MR. OBERST: When you use the term junior  
19 colleges does that include community colleges as well?

20 MR. CURTIS: I should have said community  
21 colleges. That is what our Kentucky colleges are.

22 MR. PEEPLES: Mr. Curtis, thank you very much.

23 Next is Mr. Louis Mathias, attorney for the  
24 Department of State.

25 MR. MATHIAS: Commission, Mr. Director,

1 commission members. On behalf of Michael Troop who is the  
2 Secretary of Justice and the acting Commissioner for the  
3 Kentucky State Police I wish to thank the commission for the  
4 opportunity to make this presentation.

5 As some of you the Department of State Police is  
6 both a Chapter 16 agency, and a Chapter 18 agency. We have  
7 two separate types of personnel governed by two separate  
8 statutes and policies.

9 I want to go through first here and answer some  
10 questions that have been raised earlier in the day.  
11 Initially I want to make it clear that the Department of  
12 State Police is committed to affirmative action, and we have  
13 an affirmative action plan.

14 Commissioner Troop has by memorandum and through  
15 the department newsletter informed all employees of the  
16 State Police and the Justice Cabinet of the plan. In  
17 addition to that he has appointed EEO coordinators at both  
18 the cabinet and department level.

19 In addition to that he has also appointed what is  
20 known as an employee assistance counselor, and the duties of  
21 this individual is to aid and assist all employees with  
22 problems of whatever nature they might have. As an  
23 assistance between the EEO coordinator and the supervisor  
24 level personnel.

25 The present EEO coordinators are reviewing the

1 affirmative action plan which we have, and also old tests  
2 and selection mechanisms to insure equality. We are being  
3 assisted in this endeavor by the able assistance of  
4 Lynette Taylor and Mr. Cunningham over at the Department of  
5 Personnel. We hope to issue a revised plan with a clear and  
6 definite breakdowns within the next several weeks.

7 The Department of State Police presently has 1,600  
8 employees. 890 of these are sworn officers, or Chapter 16  
9 personnel. Of this 890 we presently have forty minority  
10 offices, and thirteen female officers. We have one minority  
11 officer holding the rank of Lieutenant at this time.

12 Additionally, we have 544 civilian employees, and  
13 of this number there are twenty minorities, and 321 females  
14 and I believe we have two minorities at a supervisory level

15 In doing the affirmative action plan we have  
16 conducted a review of our recruitment, promotion, and  
17 disciplinary process. For the sworn personnel we have a  
18 recruitment team, and this team consists of two white males,  
19 two females, and two black officers of the department. They  
20 are assigned to go to the various areas of the state and  
21 contact the schools, the churches, the minority groups and  
22 seek out candidates for the position of sworn officer in the  
23 state police.

24 They also send letters to all colleges,  
25 universities, minority groups in the area, and the

1 surrounding state areas to get minority applicants.

2 The only problem in reviewing the affirmative  
3 action that we noted, is that we loose a large number of  
4 applicants to better paying jobs in other departments in the  
5 large city of Louisville and Lexington.

6 We have a Chapter 16 class beginning in July, and  
7 at the present time we hope to have ten minorities in that  
8 class out of a class of fifty. There will be five black  
9 males, two black females, one white female, and I believe  
10 two others for a total of ten.

11 In the promotion area, in review of that, we noted  
12 one distinct problem and that problem is getting the people  
13 to take the test. An explanation of that simple sounding  
14 remark, the officers when they have been on the department  
15 for a year or so they get seated into an area. They know if  
16 they are promoted that means they are going to be  
17 transferred to another area where there is a supervisory  
18 vacancy to be filled.

19 Many of them, rather than get the small increment  
20 after promotion, would rather stay where they are at and not  
21 take the test.

22 Commissioner Troop has attempted to overcome this  
23 to some degree by making available some training sessions at  
24 each post. Make it a little easier on the individual. He  
25 does not have to study himself, he can study with groups.

1           We also have some plans in the works, depending  
2 upon budgetary problems, we would like to see if we cannot  
3 get some of the supervisory level positions raised in pay to  
4 make it more attractive so some of our officers, including  
5 our minority officers, will be willing to take the test and  
6 seek the promotions.

7           We also reviewed our disciplinary area for the  
8 prior year, and we find no indication of any problem there.  
9 The majority of the disciplinary actions taken were  
10 reprimands, and there are very few of those. Maybe one or  
11 two are minorities, and I have included a breakdown of that  
12 in the handout.

13           Commissioner Troop has not actually placed any  
14 limitations on the EEO coordinators. He has indicated  
15 clearly that he is dedicated to the affirmative action plan,  
16 and he has indicated that whatever resources are required  
17 will be made available, and he wants a meaningful plan in  
18 place, and he wants to strive to achieve reasonable goals.

19           MR. ROSENBLUM: Are you working out of this  
20 proposal for developing selection? Has that been adopted?

21           MR. MATHIAS: Yes, we have a contract with that  
22 company, and they are going to redo all of our testing  
23 procedures, and hopefully tell us where they find any  
24 weaknesses, and is there anywhere that we can improve on the  
25 overall of the minority recruitment.



1 MR. ROSENBLUM: I ask that question because in  
2 tracing the history of the state police we found that  
3 recruiting is not the problem as it is elsewhere, but the  
4 oral examination tended to wash out an awful lot of people.  
5 Is that continuing?

6 MR. MATHIAS: No. I think since your meeting  
7 that has been resolved. They have created panels, and most  
8 of the panels we have, in the oral portion, we have a  
9 minority representation on that panel. I think that is not  
10 a problem anymore. The big problem is getting people to  
11 come and take the test.

12 MR. PEEPLES: Any other questions?

13 Thank you very much.

14 Next we will hear from Angela Koshewa.

15 MS. KOSHEWA: Good afternoon.

16 On behalf of Galen Martin and the Commissioner on  
17 Human Rights I am very pleased to be here before this  
18 committee to address the issues of women and minorities in  
19 state government.

20 The State affirmative action plan, which was  
21 finally officially enacted into law in 1988, does not  
22 directly involve the Commission in either an advisory or  
23 monitoring capacity.

24 However, as many of you are aware, the Commission  
25 has taken that role upon itself long before the State

1 affirmative action plan came into being, and has issued  
2 thirteen reports on the status of blacks in state  
3 government, and eight reports on the status of women in  
4 state government.

5           The most recent of those two reports, they are  
6 done now every other year, on blacks in state government was  
7 in 1988 based on data as of November 1, 1987, and the most  
8 recent report on women in state government is a little bit  
9 older, it was the year before. A 1987 report based on data  
10 as of November 1, 1986.

11           Our research department is currently in the  
12 process of preparing the latest report on the status of  
13 women in state government, which will be based on the data as  
14 of November 1, 1988, and that report should be out within  
15 the next few months. But, we do not anticipate there will  
16 be any great moves one way or the other in that report.

17           I would like to comment some first on the area of  
18 blacks in state government, and say that overall we are  
19 pleased with what has happened in the movement in narrowing  
20 the salary gaps between blacks and whites in state  
21 government, and also in increasing the numbers of black  
22 employees in state government.

23           However, the overall picture perhaps masks some  
24 problems that we do perceive, and that is that there are  
25 some cabinet agencies that are doing remarkably well, and

1 others that are not.

2 In general, the salary gap between blacks and  
3 whites, the actual dollar amount increased from 1985 to  
4 1987, but so far as the percentage of white income blacks  
5 had moved a little bit closer with blacks earning 77.7% of  
6 the average white salary, which is an improvement from 76.8%  
7 in 1985.

8 The percentage of blacks in the work force has  
9 remained essentially unchanged from 1985 to 1987. I know  
10 Mr. Curtis was in here talking about some of the strides  
11 that the Parks Department has made, and that we are hoping,  
12 of course, be reflected in our next years report, and we are  
13 very pleased and encouraged by the efforts that Henry,  
14 himself, had made in the numbers of that particular cabinet.

15 The percentage of black females has dropped  
16 slightly in the state work force. Not significantly  
17 however. There have been some increases in the numbers of  
18 blacks as officials and managers, but most of the blacks are  
19 still concentrated in the low paying jobs as is demonstrated  
20 by the fact that while 7.3% of the state work force is  
21 black, they earn approximately 5.7% of the total state  
22 payroll.

23 Of the sixteen cabinets in state government, so  
24 far as salary goes, the Labor Cabinet, Commerce Cabinet,  
25 Corrections Cabinet, and Tourism Cabinet have led the way in

1 narrowing the salary gap. In some cases no gap at all, and  
2 we are very encouraged by that.

3 The Energy Cabinet, as of our statistics in 1987,  
4 had no black employees. It is a very small cabinet and it  
5 employs thirty-nine person. So, there were no black  
6 employees in 1987. That is also the cabinet which has the  
7 highest annual salary averaging around \$25,000.00 a year.

8 The worst cabinets so far as the salary gap goes  
9 were the Finance and Administration Department, the Cabinet  
10 for Natural Resources and Environmental Protection.  
11 Transportation, while it was good on salary gap, it is low  
12 numbers of employees in that they are concentrated in the  
13 low paying areas.

14 Half of the state cabinets had employment rates of  
15 under 4% of their total work force. The Energy Cabinet, as  
16 I have said previously, had none. The Cabinet for Natural  
17 Resources had a black employment force of 1.2%. The Revenue  
18 Cabinet had 2.5% percent, which is a decline from their 1985  
19 numbers. So, we are somewhat concerned there.

20 In the Human Resources Cabinet it continues to be  
21 the leader in black employment in state government, with  
22 approximately 11.9 % of its work force being black. There  
23 was a slight decline from 1985, but not significantly so.

24 Also blacks in the Human Resources Cabinet earn  
25 80.2% of the average white salary, which is better than the

1 overall state average.

2 The Transportation Cabinet, which has made  
3 significant gain since 1985, and should be applauded for  
4 that when it was the worst employer of blacks. It has come  
5 to be the second best employer of blacks. The salary gap,  
6 however, is still a bit of a problem.

7 Our main concern with the affirmative action plan  
8 and blacks in state government probably lies in the fact  
9 that the overall goal of in excess of 7% of blacks in the  
10 employment force for the state at large allows areas where  
11 the work force is greater than that percentage to under  
12 employ blacks.

13 One of the most notable examples is Franklin  
14 County, right here in Frankfurt where many state offices are  
15 located. The work force in Franklin County for the state  
16 government is approximately 5.4%, but the actual percentage  
17 of blacks in the work force is 7.5%. There could be an  
18 additional two hundred plus blacks employed in Franklin  
19 County to bring that up to the actual level of blacks in the  
20 available work force here.

21 This is one concern about having statewide quota  
22 for blacks in state government, because obviously in some  
23 areas of the state there are very few blacks in the  
24 available work force, and areas such as Jefferson County,  
25 Franklin County, Fayette County, Christian County, there are

1 a lot more blacks in the work force.

2 Now, the state black work force in Jefferson  
3 County exceeds the percentage of blacks in the work force.  
4 Our work force in Jefferson County is 21%, while the county  
5 labor force so far as blacks is concerned is 14.5%.

6 The same is true in Fayette and Christian  
7 counties. The Employment of blacks by the state in those  
8 two counties actually exceeds the percentage of blacks in  
9 the work force.

10 Moving on to the area of women in state  
11 government. As I stated the report will be coming out. We  
12 do not see any major movement one way or the other. The  
13 salary gap, as of our last report, had narrowed slightly.  
14 But, at the rate that it was narrowing, it would take at  
15 least twenty years for that gap to close entirely.

16 So far as improvement in narrowing the salary gap  
17 the General Government Cabinet was the number one agency,  
18 followed by Energy and Justice.

19 In the Transportation Cabinet the gap was later,  
20 as was failure to utilize women in certain areas.

21 What does remain, and is still very much of a  
22 concern to us is that black females are still making the  
23 lowest salaries. They are making lower salaries as compared  
24 to white females. That gap is narrowing somewhat, but it  
25 still exists.

1           The new hire salary gap has narrowed between  
2 females and males. To females being hired in at 86.9% of  
3 what male new hires are paid, that is up from 81.8%. That  
4 is a significant improvement.

5           One of the things that contributed significantly  
6 to reducing the salary gap in state government, so far as  
7 women are concerned, was the adding between the years 1984  
8 and 1986, the adding of 2,100 women to professional jobs.  
9 That did help significantly to reduce the salary gap.

10           Our major concern in the area of women and state  
11 government is that more than one third of all state job  
12 classes employ no females.

13           Our suggestions for improvement in that area first  
14 would be to revise the state affirmative action plan to  
15 include some specific goals for recruiting, and education of  
16 existing employees. Encouraging women to train, and to take  
17 tests if necessary. To move different job grades and  
18 different job classifications.

19           The areas are traditionally male areas, Fish and  
20 Wildlife, and some of the areas in the Transportation  
21 Cabinet like highway workers. Some are entry level jobs for  
22 which there is no real barriers.

23           We think that if the movement is made, and it is a  
24 positive one, much as has been done with the Parks  
25 Department, that state government can certainly improve the

1 under representation and frequently non-representation of  
2 women in some of these traditionally all male areas.

3 Overall the outlook is good. We are encouraged  
4 and applaud those cabinets that have made very positive  
5 steps towards narrowing both the salary gaps and increasing  
6 the employment of blacks, and the full utilization of the  
7 female work force.

8 We would encourage those who are not quite as  
9 progressive to get a move on, and join the rest of the  
10 cabinets in making these strides forward.

11 But, overall we are pleased. I would be happy to  
12 answer any questions if I can.

13 MR. PEEPLES: Any questions?

14 MR. MULDROW: How do you account for the  
15 difference in the employment levels of minorities and women  
16 in the various agencies? There are dramatic differences  
17 ranging from 12% down to zero.

18 Since there is one state affirmative action plan,  
19 why are there such wide diversities?

20 MS. KOSHEWA: The report does not address that,  
21 but I will take a shot at it. Part of it, I would think in  
22 looking at Natural Resources, which is very low on employing  
23 minorities, some of it might be that the jobs, many of the  
24 jobs are concentrated in areas where there are larger black  
25 populations.



1 I think that part of it, though, just has to be  
2 that it is not that some jobs are traditionally white jobs  
3 or black jobs, that it really is the individual efforts of  
4 those people in those cabinets. Once you do as the Parks  
5 Department, you can achieve what you decide to do if you set  
6 the goals. I think the goals are maybe not being set as  
7 high as they should be, and maybe it is not as top a  
8 priority.

9 Some very well, though, may have to do with  
10 geographic locations, and not so many blacks in the  
11 population in those areas.

12 MR. MULDROW: That kind of leads me into the next  
13 question. The viewpoints of the affirmative action plan  
14 have been very diverse. On viewpoint is very optimistic in  
15 that it is really a fine plan, and it is well on the way to  
16 implementation, and that good things are going to result  
17 from it.

18 The other view we get from the employee  
19 organizations is that it looks good on paper, but it is not  
20 being put into effect. There is a lack of effort by  
21 individual state agencies to implement it and to incorporate  
22 it.

23 What is your view on this? How effective is the  
24 plan, and how well is it being implemented? What kind of  
25 effort is being made? How is it being evaluated? You must

1 have some feel as to how this is going.

2 MS. KOSHEWA: Well, as I have said, I think that  
3 the plan itself is good, and has already in some areas led  
4 to some very positive results.

5 But, it is only as good as those people who are  
6 implementing it. The Human Rights Commission is not  
7 directly involved in the day to day implementation. We can  
8 only look at the numbers and go back and hindsight.

9 I think that it is more the efforts of the  
10 individuals implementing it that we need to look at, and at  
11 this point I would say it is premature to say it is not  
12 working, because we have seen improvements. The gaps are  
13 narrowing.

14 There are still those cabinets that we have  
15 concern about, and I think that should be concerned about  
16 themselves. But, I think overall the plan is a good one.

17 MR. MULDRON: How can this diversity exist? Is  
18 there a defect in the plan? If the plan is being enforced  
19 how can this diversity exist? I mean, is it being enforced  
20 unequally?

21 MS. KOSHEWA: Well, we are seeing improvement.  
22 When I say that one cabinet is not as good as another  
23 cabinet, that is obviously on a comparative basis.

24 But, there is positive movement. There are  
25 sometimes declines where work forces are just cut back, and

1 that would cause a temporary decline. But there is some  
2 positive movement overall, which is why we are encouraged.

3 The disparities that have existed between the  
4 cabinets, and among cabinets, are not going to magically  
5 disappear. They are going to stay and gradually, we would  
6 hope, narrow.

7 So, I do not think that we are going to have an  
8 overnight solution here.

9 MR. MULDROW: What kind of complaints do you  
10 receive in terms of state employment? What is the basis for  
11 them, and give us some idea of the volume and the issues  
12 that are involved?

13 MS. KOSHEWA: We process in a year an average of  
14 112 to 120, somewhere in there. Of those, and this is going  
15 to be a rough estimate, I would say maybe three of those  
16 would be from state employees.

17 Now, realizing of course that every complaint that  
18 is filed is not necessarily one in which we determine that  
19 there is evidence to support the allegations of the  
20 complaint. About half of our complaints do eventually get  
21 dismissed.

22 Of the complaints, just thinking back over the  
23 last couple of years, we have had some sex discrimination,  
24 some race discrimination, and some of those have been  
25 dismissed.

1 As I say, we have had race and gender complaints  
2 filed. I do not think we have had pregnancy discrimination.

3 MR. MULDROW: You said you have had three  
4 complaints? It is a very small number really.

5 MS. KOSHEWA: It is very small. I think that is,  
6 in part, a tribute to the internal grievance process that is  
7 available.

8 Also, sometimes people will call us and tell us  
9 that they are having a problem, and they think it is because  
10 they are black, or because they are a woman. We will  
11 encourage them, if they feel that they can, to go back and  
12 talk with the supervisor about a problem, and things  
13 frequently get resolved that way.

14 So, I think the message is out, and people are  
15 trying to be more cooperative and work together so  
16 complaints do not have to be filed with us.

17 Now, I have no idea about numbers of internal  
18 grievances that have been filed, but we are sort of a last  
19 resort, because in the state system people do have the  
20 grievance process that they can go to.

21 MR. PEEPLES: Thank you very much.

22 We will next call on Ms. Phyllis Alexander,  
23 representing the Executive Director on the Kentucky  
24 Commission on Women.

25 MS. ALEXANDER: Thank you for inviting me to

1 address the committee today, and a couple of you I know and  
2 it is nice to see friendly faces.

3 I tried to direct my answers to the questions that  
4 were in the letter that you sent me, Mr. Muldrow, and I too  
5 studied and read the report from the Human Rights  
6 Commission, and feel that probably you all know what is in  
7 there, and I was encouraged by some of the things that I did  
8 read of the progress that is being made for women, and I am  
9 specifically addressing women right now.

10 I think the hiring of women has improved,  
11 particularly over the 1984-86 period of time this book  
12 addresses.

13 I have talked with the Labor Secretary,  
14 Carol Palmore, and we do not have a lot of real recent  
15 statistics. I was trying to ask around and get information  
16 from other people as to what is going on in their agencies.

17 As some of you may know the Kentucky Commission on  
18 Women is an agency of four people at this time, and I am new  
19 to this job and I had to do a little digging as well. So, I  
20 may not be as versed on some of these questions as maybe I  
21 will be this time next year if we do this again.

22 But I think that the gap between mens salaries and  
23 womens salaries is narrowing, however I think it is  
24 distressing that it is not closer, and that is nation wide  
25 and not just in Kentucky. I would like to see that.

1 I think most cabinets are hiring women. I think  
2 what we are seeing overall in state government is that the  
3 jobs that have traditionally been male jobs are pretty much  
4 remaining male jobs, such as state troopers, highway and  
5 construction jobs.

6 From what I am understanding I think there are  
7 inroads that women are making into these categories, but  
8 again, probably not enough yet.

9 I do not know how to answer the question about how  
10 non-discrimination is assured, or evaluated in the cabinets.  
11 I think that there are many women in the traditionally  
12 female roles.

13 You were asking, Mr. Muldrow, about complaints. I  
14 have had two women call me, and both of them were older  
15 women, and I spoke with both of them about their problems on  
16 their jobs. Both of them had, what they felt, legitimate  
17 complaints and talked to me about the appeal process.

18 What I recommended to each of them was to go to  
19 their immediate supervisors, talk with them, and then go  
20 through the appeals process step by step with the chain of  
21 command if they remained dissatisfied.

22 One had lost her job, but had been off the job for  
23 more than a year for medical reasons, and did not fall  
24 within the categories of her particular area and had even  
25 talked with the attorney of the cabinet in the area which

1 she worked.

2 I felt like they were taking the right direction,  
3 but did call the Commission on Women to ask if this was  
4 something that we could help them with.

5 At this time I do not know what we are going to be  
6 able to do. I hope that we see things that we are going to  
7 be able to deal with, and things that we can do possibly in  
8 the future.

9 I do think progress is being made, and I like that  
10 part of it. I think not only Kentucky, but nationally I  
11 think women are making improvements, making strides but have  
12 a long way to go at the same time.

13 As far as recommendations I think the educational  
14 process, much like we are doing here today, is probably as  
15 effective a way as any we have right now to get the word  
16 out. That we need more women. That we need to get them  
17 into professional positions, managerial positions, and  
18 positions where they get paid more money.

19 I think it is a little bit misrepresented to say  
20 that 48%, wherever women are in state government today, as  
21 far as numbers of women in the work force, we are not making  
22 fifty percent of the take home pay, and I think that is  
23 where we need to look at the differences and work on those.

24 I was thinking about your questions on how do we  
25 evaluate, how do we get the people to do what they are not

1 doing? Again I think educating them, having maybe a watch  
2 dog group or organization, perhaps a central place to  
3 address complaints may be perhaps what we could be using.

4 But I think it is not only important but  
5 imperative to high women, and hire them in jobs where the  
6 pay is better, the position is better. As long as they can  
7 do the job I would like to see them there. This is black  
8 women, white women, just all of us.

9 Can I respond to questions? I am not sure I can  
10 give answers, but maybe respond to them.

11 MR. MULDROW: I realize that your appointment is  
12 fairly recent to the Commission. But, I would ask you  
13 general impression as to the reason for the salary gap. Is  
14 this because women are being employed generally at lower  
15 paying levels, or is there an element of inequity in there  
16 in terms of comparable work or pay equity? The ones that  
17 are employed, are they getting equal pay for the skills that  
18 they have equivalent to men?

19 MS. ALEXANDER: I think probably, as far as a  
20 cabinet such as Human Resource, they all get paid the same.  
21 I do not imagine that a man comes into that position and  
22 gets paid anymore than a woman to do the same job.

23 I think jobs that are defined exactly the same,  
24 and a man or woman can fill that job, I think probably the  
25 pay is the same.



1 I do not know the reason for the wage gap. Maybe  
2 we have settled for less. As far as comparable work, as far  
3 as I know, if a job description is the same then I think the  
4 pay is the same. I do not know of any discrepancies there.

5 I do not think that jobs such as clerical jobs, as  
6 opposed to someone who works on a highway job, I do not know  
7 how those can be compared and addressed exactly the same. I  
8 think that would be much more difficult, and I am not sure  
9 what the answer is to that.

10 MR. MULDROW: I think it is significant that  
11 Kentucky does have a Commission on Women. How do you feel  
12 about it? What kind of support do you get for your agency?  
13 Do you have a free hand in dealing with issues that you feel  
14 should be of concern?

15 MS. ALEXANDER: So far. Actually, every state  
16 does have a Commission on Women. Some are called Commission  
17 for the Status of Women. Some states such as California  
18 will have seven, or eight, and some will have three or four.

19 We have only one Commission on Women in Kentucky,  
20 and through this office I think we can address a lot of  
21 women's issues. I feel that the office has a lot of  
22 autonomy, and I also feel that we have a lot of support from  
23 this administration. From the Governor, and from the people  
24 with whom we have to work. I am feeling very positive.

25 Again, I knew that so far I feel good about what

1 we are doing.

2 MR. ROSENBLUM: What kind of response are you  
3 getting from the administration not filling the gap of the  
4 diversity of you Commission, which I understand is short  
5 handed?

6 MS. ALEXANDER: We have everyone on staff now.

7 MR. ROSENBLUM: The compliment of Commissioner's,  
8 is that not short changed?

9 MS. ALEXANDER: Yes, we are. I think we are. I  
10 would like to see more women commissioner's.

11 MR. ROSENBLUM: There are thirteen or fourteen  
12 allowed? Commissioners?

13 MS. ALEXANDER: Board people, we have  
14 twenty-five positions and those are all filled. Those were  
15 filled before I came on board.

16 MR. PEEPLES: Thank you very much.

17 We now come to the last presenter in the  
18 enforcement agency category, Mr. Paul Gholston, area  
19 director of the Equal Employment Opportunity Commission.

20 MR. GHOLSTON: Mr. Chairman, Mr. Regional  
21 Director, and ladies and gentlemen, good afternoon.

22 The Equal Employment Opportunity Commission was  
23 created by the passage of the Civil Rights Act of 1964 as  
24 amended. Its mission is to eliminate and prevent employment  
25 discrimination.

1           The Commission enforces Title VII of the Civil  
2 Rights Act, the Age Discrimination Act, and the Equal Pay  
3 Act.

4           The Commission has the power to accept and  
5 investigate charges and complaints against branches and  
6 divisions of state and local government.

7           The Louisville office of the Equal Employment  
8 Opportunity Commission is responsible for the enforcement of  
9 the above cited statutes within the State of Kentucky.

10           At this time I would like to cite for you some  
11 statistics regarding the employment of blacks and females  
12 state and local government within the State of Kentucky.

13           The statistics that I shall review were developed  
14 by the Equal Employment Opportunity Commission based on  
15 information provided to the Commission by various branches  
16 of state and local government.

17           The statistics are based on information submitted  
18 to the Commission for fiscal year ending September 1986.  
19 That is the latest batch of statistics that we have compiled  
20 so far.

21           We examined the eight general categories of  
22 employment which are designated as officials and managers,  
23 professional workers, technical workers, protective service  
24 workers, paraprofessional workers, office and clerical  
25 workers, skilled craft workers, and service and maintenance

1 workers.

2 We analyzed these figures in some of the  
3 categories based on white male representation, black male  
4 representation, white female representation, black female  
5 representation, white representation as a whole, and black  
6 representation as a whole.

7 We also made some comparisons with respect to  
8 median salary, and the representation in the different pay  
9 grades within some of those categories.

10 We found that there were a total of 66,689 persons  
11 employed at the time this survey material was presented.  
12 Over 60,000 of those persons are about ninety percent of the  
13 total employment of white males. While roughly 5,920 or  
14 8.9% were found to be black. 36,000 or 54% of the employees  
15 were identified as white females. While 3,431 or 5.1% were  
16 identified as black males.

17 Approximately 24,000 or 36% of the group were made  
18 up of white females, while 2,489 or 3.7% consisted of black  
19 females.

20 The median salary for all employees was \$15,676.00  
21 per year. For white employees it was \$15,959.00 per year,  
22 and for blacks the median salary was \$13,546.00 per year.

23 We also looked at the different job  
24 classifications within government from the standpoint of the  
25 highest level of management. We found that the highest

1 level management classification was that of officials and  
2 managers. There were a total of 4,387 persons working in  
3 that classification as of September of 1986. 4,178 or 95.2%  
4 were white males. While 199, or 4.5% were identified as  
5 black. Females, as a whole, accounted for only 29.6% of the  
6 total employees in the officials and managers category.

7 We also took a look at the highest pay grade in  
8 the officials and managers category. 84.7% of white males  
9 were employed in the top pay grade, while only 11.5% of the  
10 females were employed in that particular pay range.

11 Of course, only 3.0% of the black males were in  
12 the top pay grade, and only one half of one percent of the  
13 black females were employed in the top pay grade.

14 Next we looked at the job category that had the  
15 highest representation of blacks and women. First we looked  
16 at one that appears to have the highest representation of  
17 women, and that brought our attention to the area of office  
18 and clerical. In that category there were 14,032 people  
19 employed. The median salary was \$13,829.00 for all  
20 employees. For white employees it was \$13,594.00. For  
21 black employees the median salary was \$12,932.00 per year.

22 We found that women accounted for 11,272 of the  
23 14,032 positions, or 80% of the people employed in the  
24 clerical and office category. A total of 1,117, or 8.0% of  
25 the total employees in this category were black.

1           Finally we took a look at the top pay grade in  
2 this category. We found that 85.2% of the employees within  
3 the top pay grade were white males. While only 14.8% of the  
4 females employed in that category were paid in the top  
5 grade. Black males were represented by 1.1%, and black  
6 females were not represented in the top pay grade.

7           The median salary for all employees in the office  
8 and clerical category was \$13,829.00 per year. For whites  
9 it was \$13,937.00, or about a \$100.00 higher than the  
10 median. For blacks it was \$12,914.00 per year.

11           Finally it should be noted that while over 73% of  
12 the employees in the office and clerical category were  
13 females, only 19.7% of the employees in that category were  
14 males, and males received the highest amount of pay. As wa  
15 stated above, 84% of the male employees were in the top pay  
16 grade, while only 14.8% of females were in the top pay  
17 range.

18           The next interesting category that we looked at  
19 was the professional category. We noted that females made  
20 up 45% of the employees in that category, while males made  
21 up 54.9%. That is a pretty good ration. White males  
22 represented 52.4%. White females were represented by 42%.  
23 Black males with 2.3%, and black females with 3%.

24           The median salary for all of the employees in this  
25 group was \$20,847.00 per year. White males, it was

1 \$22,385.00 per year. For white females it was \$19,585.00  
2 per year. For black males it was \$19,061.00 per year, and  
3 for black females it was \$18,000.00 per year.

4 In our examination of the service and maintenance  
5 category we found that the highest concentration of blacks  
6 appeared to exist there. For example, 16.5% of the total  
7 employees within the service and maintenance category were  
8 black. While blacks made up only 8.9% of the total  
9 employees in the survey.

10 However, the majority of the blacks were  
11 concentrated in the lower three pay grades, and that pay  
12 range extended from \$8,000.00 to \$11,900.00 per year. 53%  
13 of the blacks were assigned to that pay range.

14 However, in the top three pay grades beginning  
15 with \$25,000.00 and topping out at \$43,000.00, we found that  
16 a total of six blacks were represented there, as compared to  
17 a 112 white males.

18 To summarize briefly, 54% of the 66,000 employee  
19 reported in the survey were identified as white males. A  
20 bit over 36% were identified as white females. Right around  
21 5% were identified as black males. 3.7% were identified as  
22 black females.

23 The median salary for all employees, according to  
24 that survey, was \$15,676.00. The median salary for black  
25 employees was approximately \$2,000.00 less, or \$13,546.00

1 per year.

2 The highest ratio of female representation to male  
3 representation, of course, was in the professional category.  
4 As we stated earlier, males represented 54.9% of the persons  
5 employed, and females represented 45.1% of those employees.

6 However, only 12% of the females were represented  
7 in the top pay grade while males made up 87% of the people  
8 represented in the top pay grade.

9 In the service and maintenance category we stated  
10 that the highest percentage of blacks are represented there.

11 But, the interesting fact is that 53% of the  
12 blacks were assigned to the lowest three pay grades ranging  
13 from \$8,000.00 per year, to \$11,900.00 per year. There were  
14 only six blacks in the top pay grade as compared to 112  
15 whites in the top pay grade.

16 Ladies and gentlemen, that is my testimony.

17 MR. PEEPLES: Thank you.

18 Are there any questions?

19 MR. MULDROW: During the past year how many  
20 complaints of employment discrimination against the State of  
21 Kentucky have been sustained by your agency?

22 MR. GHOLSTON: By sustained do you mean that we  
23 found a violation?

24 MR. MULDROW: Yes.

25 MR. GHOLSTON: I simply cannot give you that



1 information. I wish I could.

2 MR. MULDROW: It is privileged information?

3 MR. GHOLSTON: Yes, sir.

4 MR. MULDROW: Let me ask you another question.

5 Do you have any role in reviewing the implementation of the  
6 State affirmative action plan for the State?

7 MR. GHOLSTON: No, we do not. We are available  
8 to provide technical assistance if we are asked. But, our  
9 office does not have an official role in that. That is  
10 relegated to our Washington office.

11 MR. MULDROW: Do they have a role in Kentucky?

12 MR. GHOLSTON: Yes, they do. However, I believe  
13 it is strictly voluntary. If a state agency would request  
14 information they have an entire division that is available  
15 to provide whatever assistance is needed. I do not believe  
16 there is any monitoring process or things of that sort.

17 MR. MULDROW: Are there federal guidelines that  
18 the State is required to follow in developing and  
19 implementing the plan? Is it not the federal requirement  
20 that the state have such a plan?

21 MR. GHOLSTON: I am afraid I am unable to answer  
22 your question. I simply would be getting into an area that  
23 I am not entirely familiar with. My area is primarily  
24 enforcement. I do not know whether there is a federal  
25 requirement.

1 MR. MULDROW: Can you tell us what kind of  
2 complaints? What is the nature of the complaints that you  
3 may handle with regard to state government?

4 MR. GHOLSTON: What comes to mind is complaints  
5 alleging discrimination based on age, and discrimination  
6 based on race. Those appear to be the majority of the types  
7 of complaints that we receive.

8 MR. MULDROW: Do you have a work-share with the  
9 State of Kentucky?

10 MR. GHOLSTON: Not a work share agreement. We do  
11 defer by law, in accordance with Section 706(b) of the  
12 statute, we are required to defer to the State and we do.

13 MR. MULDROW: What do you mean by defer to the  
14 State?

15 MR. GHOLSTON: Any charge found under Title VII  
16 of the Civil Rights Act that we receive is required to be  
17 referred to the State for a period of at least sixty days  
18 for the State to determine whether or not it wishes to  
19 process that complaint.

20 MR. MULDROW: If they do not choose to process  
21 it, then it comes back to you for processing?

22 MR. GHOLSTON: Right.

23 MR. MULDROW: They can opt out of processing? It  
24 is a voluntary decision on their part?

25 MR. GHOLSTON: That is correct.

1 MR. SCHWEMM: State law does not address  
2 handicapped discrimination in employment, and I was  
3 wondering whether you had an opinion if it would be a wise  
4 thing if the state law did, in fact, address handicapped  
5 individuals?

6 MR. GHOLSTON: Yes. My opinion would be in the  
7 affirmative.

8 MR. SCHWEMM: Do you sense, or have any  
9 information that there is a problem with respect to  
10 handicapped discrimination in Kentucky in employment?

11 MR. GHOLSTON: I do not have hard statistical  
12 information, but based on telephone calls that we receive in  
13 our office, letters that we receive, I think that there are  
14 problems that certainly are hoped to be addressed.

15 MR. ROSENBLUM: In that category of professionals  
16 where the ration was pretty good. Could you name what is  
17 responsible for what kinds of jobs?

18 MR. GHOLSTON: It is strictly a guess on our part  
19 because these broad categories were developed some years ago  
20 by the Joint Reporting Committee, and it is my belief that  
21 the agencies that report pretty much decide what  
22 classifications they will lump into the various broad  
23 categories.

24 What comes to mind is, of course, attorneys and  
25 jobs of that nature.

1 MR. PEEPLES: Thank you very much.

2 We will now go to our open session, and we have  
3 Rev. Godfrey Kaufman who has asked to address.

4 REV. KAUFMAN: Mr. Chairman, committee persons.  
5 My topic for you is pitfalls and stumbling blocks. There is  
6 a law on the book that says, "Positions, when they become  
7 vacant, must be posted for competitive bidding". That is  
8 the law on the book.

9 When a position becomes vacant someone fills that  
10 position before it is posted as being vacant. What criteria  
11 is used in selecting that person for that position? The law  
12 says open bidding and best qualified.

13 Temporary positions are acting positions. They  
14 call it acting. The state says we do not have acting  
15 positions. What criteria is used in selecting acting  
16 persons? There is a law on the book that says that  
17 divisions and departments can raise its salaries.

18 Pitfalls and stumbling blocks. To the committee I  
19 ask that you can address the issue. Somewhere I know that  
20 you can do something or say something that will allow  
21 persons in certain positions to do their job without fear  
22 and reprisal from the people they work for.

23 MR. PEEPLES: Is there anyone else that is  
24 interested in addressing us in this open session.

25 There being none we are officially be adjourned.

1 I want to thank all of you who have come and participated  
2 with us today.

3 I want to thank my fellow committee members who  
4 have put forward the presentations and listened.

5 We will be performing our role as committee  
6 members to have this report put together and forwarded to  
7 Mr. Muldrow's office and the Washington office.

8 Thank you very much.  
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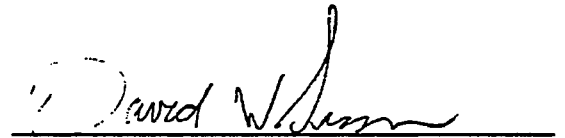
CASE TITLE: Kentucky SAC Forum on the Employment of  
Minorities and Women in Kentucky State  
Government

FORUM DATE: Tuesday, March 14, 1989

LOCATION: Frankfort, Kentucky

I hereby certify that the proceedings and evidence herein are contained fully and accurately on the tapes and notes reported by me at the hearing in the above Forum of the United States Civil Rights Commission and that this is a true and correct transcript of the Forum.

Date: March 14, 1989



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