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# **Fair Housing Enforcement in North Carolina**

## **Presence of Local Agencies to Investigate Fair Housing Complaints Substantially Increases Complaint Filings**

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**November 2008**

**A Report of the North Carolina Advisory Committee  
to the United States Commission on Civil Rights**

This is the work of the North Carolina Advisory Committee to the United States Commission on Civil Rights. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the State Advisory Committee members and do not necessarily represent the views of the Commission, its individual members, or the policies of the United States Government.

## **The United States Commission on Civil Rights**

The U.S. Commission on Civil Rights is an independent, bipartisan agency established by Congress in 1957, reconstituted in 1983, and reauthorized in 1994. It is directed to investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices; study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice; serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin; submit reports, findings, and recommendations to the President and Congress; and issue public service announcements to discourage discrimination or denial of equal protection of the laws.

## **The State Advisory Committees**

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

## Letter of Transmittal

### North Carolina Advisory Committee to the U.S. Commission on Civil Rights

Martin Dannenfelser, *Staff Director*

The North Carolina Advisory Committee submits this report, *Fair Housing Enforcement in North Carolina: Presence of Local Agencies to Investigate Fair Housing Complaints Substantially Increases Complaint Filings*, as part of its responsibility to study important civil rights issues in the state and report on its findings to the Commission and the public. The North Carolina Advisory Committee is a bipartisan federal advisory committee that operates under the Federal Advisory Committee Act, and this report was unanimously adopted by all members of the Committee by a vote of 11 yes, 0 no, and no abstentions.

Even though decades have elapsed since the passage of the 1968 Fair Housing Act, African Americans and other minorities can still expect to encounter discrimination when looking for a home to either rent or buy. It is estimated that nearly 4 million instances of housing discrimination occur annually against African Americans and Latinos alone, but less than 1 percent of violations are reported or even detected. Rental cases have been and continue to represent the largest source of housing complaints. Adding to the high numbers of reported incidents of fair housing discrimination is the troubling fact that many victims may have no idea that they have been discriminated against because of the lack of comparable evidence.

The U.S. Department of Housing and Urban Development (HUD) is the primary federal agency responsible for the enforcement of federal fair housing laws. The Office of Fair Housing and Equal Opportunity (FHEO) in HUD receive about 8,000 complaints of discrimination a year. To assist HUD in enforcing fair housing, the Fair Housing Assistance Program (FHAP) provides funding to state and local agencies so that housing discrimination investigations can be conducted at the local level.

In North Carolina, seven local agencies qualify to participate in the FHAP program, the most of any state in the nation: (1) Asheville/Buncombe County Community Relations Council, (2) City of Charlotte/Mecklenburg County Community Relations, (3) Durham Human Relations Commission, (4) Greensboro Human Relations Commission, (5) New Hanover Human Relations Commission, (6) Orange County Human Relations Commission, and (7) Winton-Salem Human Rights Commission.

The North Carolina Advisory Committee examined the number of reported fair housing rental complaints on the basis of race & ethnicity and disability filed in North Carolina during the 2-year period, 2005-2006. Our study found that the presence of a local FHAP agency significantly increases the total number of rental housing complaints. However, comparing investigations of rental housing discrimination by the local FHAP agencies with investigations conducted by HUD shows an investigation by HUD is three times more likely to result in a finding of probable cause. The results of this study suggest that although the presence of local FHAP agencies seem to induce a higher number of complaints, local investigations may not be “equivalent” to investigations conducted at the federal level.

The results of this study suggest—as evidenced by the higher number of complaints—that although locally conducted investigations may offer additional benefits in terms of convenience and outreach, there may be programmatic compromises stemming from decentralization. Such compromises may infringe on the ability of victims to obtain restitution for acts of discrimination. The North Carolina Advisory Committee acknowledges that this study was conducted using data for a specific timeframe and the particular cases at the time of the Committee’s examination may have skewed the results. Still, the findings are substantive enough to call for ongoing assessment of FHAP agencies with respect to complaint investigations.

At present, all FHAP-certified local agencies undergo an annual onsite Fair Housing Assistance Program Review (FHAP Review) by HUD and these agencies must also prepare and submit to HUD a Fair Housing Plan. To help ensure that HUD and FHAP-certified local agency housing discrimination investigations are equivalent, the North Carolina Advisory Committee recommends that as part of the FHAP Review HUD officials formally compare the results of investigations HUD conducted during the previous year in the FHAP's area of jurisdiction with those conducted by the FHAP agency. Where significant disparities in resolution are noted, the Committee calls for specific analysis be conducted to determine the reasons for the disparity and mandate the results of the analysis be set out in the FHAP's annual fair housing plan.

In addition, the North Carolina Advisory Committee understands that the Commission intends to undertake a nationwide study of fair housing practices in fiscal year 2009. Recent studies by HUD report that 14 percent of the adult public, or nearly 28 million Americans, believe they have experienced illegal housing discrimination. In North Carolina, all of the directors of the local commissions thought housing discrimination remained a significant problem and was generally under-reported by victims. Realtors in the state with whom the Committee talked, however, did not think that housing discrimination was that extensive. As the Commission plans to undertake a nationwide study of fair housing practices in 2009 and in view of the disparity of opinion regarding the extent of housing discrimination, the North Carolina Advisory Committee recommends to the Commission that it undertake an objective analysis of the extent of housing discrimination as part of its nationwide study of fair housing practices.

Kevin Leonard, *Chairman*  
North Carolina Advisory Committee

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## Part I—Introduction

The United States Commission on Civil Rights (Commission) was established in 1957 and among its responsibilities is the duty to study issues relating to discrimination or a denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin. As part of the structure of the U.S. Commission on Civil Rights, state advisory committees are established in each of the 50 states and the District of Columbia. These state advisory committees are charged to independently study pressing civil rights issues in their individual states and inform the public and the Commission about their findings and recommendations. This is a report of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights (Committee).

Federal and state law mandates that individuals have the right to equal access to housing free from discrimination on the basis of race, color, religion, sex, disability, familial status, or national origin. The first modern federal fair housing legislation was Title VIII of Civil Rights Act of 1968, commonly known as the Fair Housing Act of 1968.<sup>1</sup> The act banned discrimination on the basis of race, color, religion, and national origin in most housing transactions. Although housing discrimination was made illegal by the Fair Housing Act, it did not provide an administrative mechanism for redressing acts of discrimination. Over the course of the ensuing two decades, the lack of an administrative mechanism to resolve housing complaints raised serious concerns about the realistic applicability of the legislation.

In response to these concerns, Congress rewrote the Fair Housing Act and in 1988 passed the Fair Housing Amendments Act (FHAA).<sup>2</sup> FHAA allowed individuals to file complaints directly with the Department of Housing and Urban Development (HUD), and empowered the Secretary to seek appropriate preliminary or temporary relief pending the final disposition of the complaint. In addition to expanded enforcement provisions, FHAA also expanded housing discrimination prohibitions in two respects. First, the new legislation prohibited discrimination on the basis of family status, so landlords could not discriminate against a person with dependent children.<sup>3</sup> Second, FHAA proscribed housing discrimination on the basis of disability, and under the new law it also became unlawful to refuse to permit at the expense of handicapped persons any reasonable modifications that might allow convenience of the premises.<sup>4</sup>

Over the course of the past several decades, the Commission has been active in studying issues related to housing discrimination and fair housing enforcement. In its first report on fair housing, *The Federal Fair Housing Enforcement Effort (1970)*, the Commission advocated the creation of an Equal Housing Administration within HUD to handle individual complaints of discrimination, a recommendation that was implemented with the passage of the Fair Housing Amendments Act. In the mid-1980s, the Commission held expansive hearings with fair housing experts, which are summarized in the reports, *Issues in Housing Discrimination (1985)* and *A Sheltered Crisis: The State of Fair Housing in the Eighties (1983)*.

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<sup>1</sup> Pub. L. No. 90-284, 82 Stat. 73. In *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, the U.S. Supreme Court held that the Thirteenth Amendment can be construed to ban racial discrimination by housing providers, and that power has been vested in Congress to enforce the Amendment by appropriate legislation to include the power to enact laws regardless of whether such is sanctioned or prohibited by state legislation.

<sup>2</sup> Pub. L. No. 100-430, 102 Stat. 1619 (codified as amended at 42 U.S.C. §§ 3601-3619, 2631 (1988)).

<sup>3</sup> Id. § 3604(f)(3).

<sup>4</sup> Id. § 3604(f)(3)(A).

**Table 1: Total Number of Households in North Carolina by Race and Ethnicity**

	Households	Percent
White-Non Hispanic	2,327,753	74.3
Black-Non Hispanic	622,456	19.8
Hispanic	89,055	2.8
Other	92,749	2.9

Source: North Carolina Advisory Committee from 2000 Census.

In the 1990s, the Commission issued the report, *Prospects and Impact of Losing State and Local Agencies from the Federal Fair Housing System*, which assessed the consequences of the failure of state and local jurisdictions to meet the requirement for processing fair housing complaints contained in the Fair Housing Amendments Act of 1988. Later, in 1994, the Commission issued the report, *The Fair Housing Amendments Act of 1988: The Enforcement Report*. The report found substantial segregation between the races existed in most urban areas with residential segregation between whites and African Americans in several Midwestern cities approaching 100 percent, as well as finding that federal enforcement fell short of what was necessary to ensure access to equal housing opportunity.<sup>5</sup> In 2009 the Commission intends to undertake a nationwide study of fair housing practices.

As part of its responsibility, the Committee decided to examine the effect of local human rights agencies on fair housing enforcement. The population of North Carolina exceeds 8 million persons and encompasses more than 3 million households.<sup>6</sup> Non-white households are about one-fourth of all households in the state, with African American households about 20 percent and the growing Latino population nearly 3 percent. (See Table 1.)

The purpose of this study by the Committee was to examine the effect of local fair human rights commissions in the enforcement of fair housing. Not all counties in North Carolina have local human rights commissions, and even in those areas where this a local human rights commission the agency is not certified by HUD to investigate allegations of housing discrimination. Specifically, the Committee sought to learn whether the presence of a human rights agency in a local community affected the number of fair housing complaints filed. In addition, the Committee was interested in knowing if differences exist between HUD and local human rights agencies with respect to the results of fair housing investigations.

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<sup>5</sup> U.S. Commission on Civil Rights, *The Fair Housing Amendments Act of 1988: The Enforcement Report* (Washington, D.C.: September 1994), p. 4

<sup>6</sup> 2000 Census.



## Part II—Housing Discrimination and Fair Housing Enforcement

Studies by HUD and other research groups find that although about 14 percent of the adult public believe they have experienced housing discrimination, less than one percent of all these incidents result in the actual filing of a complaint. HUD is the federal agency charged with the responsibility to investigate complaints of housing discrimination, and has the authority to contract with local human rights agencies for these services. Seven local human rights agencies in North Carolina have contracts with HUD to investigate allegations of housing discrimination.

### *1. Studies Suggest That Housing Discrimination Is Under-Reported*

Even though decades have elapsed since the passage of the 1968 Fair Housing Act, studies suggest that African Americans and other minorities still encounter discriminatory housing practices when looking for a home to either rent or buy. To measure the degree housing discrimination is reported, HUD authorized a study in 2002, “How Much Do We Know?” The 2002 report found that 14 percent of the adult public, which is equivalent to nearly 28 million Americans, believed that they had experienced illegal housing discrimination.<sup>7</sup>

In 2006 HUD did a follow-up study, “Do We Know More Now?” According to the second study, 80 percent of those surveyed who believed they had experienced housing discrimination did not take any action in response. Further, the study found that even among those who had the highest levels of fair housing knowledge, only a small percentage decided to take action when confronted with housing discrimination. Many respondents believed that it was not worth the time and/or fruitless, while others stated that they did not know where to complain and lacked the resources to do so.<sup>8</sup>

In addition to the two HUD studies, the persistence of housing discrimination and its under-reporting has been measured by other studies in recent years that compare the treatment of prospective buyers and renters of different backgrounds. These studies consistently show substantial and ongoing discrimination, but relatively few formal complaints. It is estimated that more than two million incidents of discrimination occur annually, yet less than 1 percent of all these incidents result in the actual filing of a complaint.<sup>9</sup>

Information collected by the National Fair Housing Alliance reported that in 2006 private fair housing groups reported nearly 17,000 complaints of housing discrimination. The vast majority of these allegations, more than 14,000, were rental cases) including such practices as: (1) denying the availability of units, (2) higher rents or security deposits, and (3) the steering of

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<sup>7</sup> U.S. Dept. of Housing and Urban Development, *How much Do We Know?* (Washington, D.C.) April 2002, p ix.

<sup>8</sup> U.S. Department of Housing and Urban Development, *Do We Know More Now?* (Washington, D.C.) February 2006, p iii, (Hereafter referred to as *HUD, Do We Know More Now*).

<sup>9</sup> U.S. House of Representatives, Subcommittee on Oversight and Investigations and Subcommittee on Housing and Community Opportunity, Committee on Financial Services, *FIGHTING DISCRIMINATION AGAINST THE DISABLED AND MINORITIES THROUGH FAIR HOUSING ENFORCEMENT*. (Washington, DC.) June 2002, p. 10; The Civil Rights Project at [http://www.civilrights.org/research\\_center/civilrights101/housing.html](http://www.civilrights.org/research_center/civilrights101/housing.html); National Fair Housing Advocate Online at [http://www.fairhousing.com/index.cfm?method=page.display&pagename=advocate\\_april-may03\\_page3](http://www.fairhousing.com/index.cfm?method=page.display&pagename=advocate_april-may03_page3); Fair Housing Law at [http://www.fairhousinglaw.org/resources/Demystifying\\_Housing\\_Discrimination.pdf](http://www.fairhousinglaw.org/resources/Demystifying_Housing_Discrimination.pdf), Michael Allen and Susan Ann Silverstein, *Preserving elders' housing rights: elderly people who have suffered discrimination are increasingly turning to federal law to secure greater housing opportunities and protect their rights*, October, 2003. Cited by both parties of the House and Senate as a principal reason for strengthening the government's fair housing enforcement (Statement of Senator Kennedy, Congressional Record S 10465 (August 1, 1988)).

minority renters to certain buildings.<sup>10</sup> In addition to the high number of complaints, another troubling aspect of housing discrimination is that many victims may have no idea that they have been victims of discrimination because there is no identifiable comparison group as a point of reference.<sup>11</sup>

In recent years the General Accountability Office (GAO) has also conducted studies of fair housing and its enforcement. According to the GAO, although there were a total of nearly 8,200 fair housing complaints filed in 2003, that number is far fewer than the estimated 2 million cases estimated to occur each year.<sup>12</sup> In addition, GAO reported that individuals alleging discrimination in housing sometimes face a lengthy wait to have their complaints investigated and decided.<sup>13</sup>

An article published in *USA Today* also reported on the significance of housing discrimination as a problem. “Nearly 40 years after a national law banned housing discrimination, an increasing number of complaints are alleging unfair treatment of minorities, the disabled, families and other groups. The Department of Housing and Urban Development and housing assistance agencies logged 10,328 complaints last year, a 12 percent jump from 2005. That is the highest number since HUD started keeping track in 1990, when it included complaints from the disabled and families with children. A Gannett News Service analysis of 44,000 housing discrimination complaints filed between 2002 and 2006 with HUD and its contract agencies shows allegations of unfair treatment are widely dispersed across the nation.”<sup>14</sup>

Housing discrimination also affects residential segregation. An analysis by the Lewis Mumford Center of 2000 Census data shows deep residential segregation patterns in the country, despite the nation's growing racial and ethnic diversity. The study noted that “[t]he average white person continues to live in a neighborhood that looks very different from those neighborhoods where the average black, Hispanic, and Asian live.... The average white person in metropolitan America lives in a neighborhood that is almost 83 percent white and only 7 percent black. In contrast, a typical black individual lives in a neighborhood that is only 33 percent white and as much as 54 percent black.”<sup>15</sup>

In an attempt to hear local opinion, the Committee interviewed representatives from a selected number of local human rights commissions in North Carolina as well as executives of realtor boards regarding the problem of housing discrimination in their communities. All of the directors of the local commissions thought housing discrimination remained a significant problem and was generally under-reported by victims. Realtors surveyed, however, did not hold housing discrimination as prevalent.

Yvonne Pena, director of the Durham County Human Relations Commission, told the Committee that “housing discrimination continues to be a major concern and is very prevalent, but many people may not know that the actions of the landlords, property managers, or realtors are illegal unlike other types of discrimination that they may recognize.” As to the lack of reporting, she said, “based on feedback on survey forms, some persons do not report

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<sup>10</sup> National Fair Housing Alliance, *2007 Fair Housing Trends Report*, Apr. 30, 2007.

<sup>11</sup> See for example, Veronica Reed, “Civil Rights Legislation and the housing status of black Americans, Evidence from Fair Housing,” *Review of Black Political Economy*, Winter/Spring 91, vol. 19, no. 3, p. 29.

<sup>12</sup> GAO-04-463, *Fair Housing: Opportunities to Improve HUD's Oversight and Management of the Enforcement Process*, (Washington, D.C.) May 2004, p 58 (hereafter referred to as GAO report).

<sup>13</sup> *Ibid.*, p. 2.

<sup>14</sup> Donna Leinwand, “Housing complaints increase,” *USA Today*, May 27, 2008, p. 1.

<sup>15</sup> The Lewis Mumford Center at <http://www.albany.edu/mumford/census/magazine/> (last accessed on December 1, 2007).

discrimination because they believe that their complaints will not change anything. Another reason that it is underreported is due to the fact that they do not want to jeopardize their housing situation by complaining formally about it. We estimate that only about 35 percent of all victims actually come to the agency to file a formal complaint.”<sup>16</sup>

Shoshannah Smith, director of the Orange County Office of Human Rights, spoke of the importance of fair housing. “Housing discrimination is one of the most important civil rights issues because (it) is related to so many other aspects of a person’s life. For example, access to housing is directly linked to access to a quality public school system. Access to housing is also directly related to access to public transportation, which in turn determines whether lower-income families that may not have a car will be able to get to work, healthcare appointments, the grocery store, and other essential destinations. Living in segregated neighborhoods allows the myths and stereotypes at the root of racism to fester behind closed doors, and a segregated neighborhood often means assignment to segregated ‘neighborhood schools.’”<sup>17</sup>

Hardy Watkins, Director of Community Services for Raleigh, NC, said, “anecdotal information from homeowners and prospective ones indicates that we have problems with steering when attempting to purchase homes. In addition, landlord and tenant relations’ issues have also been brought forward to our agency. Typically our office does employ an individual that is certified in fair housing regulations, and as a result our office receives quite a few calls regarding landlord/tenant issues, and neither our state human relations commission nor HUD addresses these issues.”<sup>18</sup>

In contrast, two executives with local realtor boards were not so certain about the prevalence of housing discrimination.<sup>19</sup> Timothy Kent, executive vice-president of the North Carolina Association of Realtors, said: “It would be naive to think that housing discrimination does not exist in our state. Even a single instance of housing discrimination is unacceptable. Unfortunately, it is difficult, if not impossible, to opine with any degree of confidence whether the housing discrimination problem is significant because I have neither seen nor am I aware of any reliable studies measuring housing discrimination in North Carolina. Available anecdotal evidence tends to indicate that housing discrimination is not prevalent. For example, I understand from the North Carolina Association of Realtors (NCAR) legal counsel that very few of the thousands of calls and e-mails received annually from NCAR members relate to fair housing issues.”<sup>20</sup> Mary Jordan, an executive with Apple Realty, Charlotte, North Carolina, concurred with this sentiment. She remarked, “I don’t see (housing discrimination) in my area, at least not in any of the transactions with which I have been involved.”<sup>21</sup>

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<sup>16</sup> Yvonne Pena, director, Durham Human Relations Commission, interview, Mar. 10, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files (hereafter referred to as Pena Interview).

<sup>17</sup> Shoshannah Smith, director, Orange County Office of Human Rights, interview, Mar. 7, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files (hereafter referred to as Smith Interview).

<sup>18</sup> Hardy Watkins, director, Raleigh Office of Community Services, interview, Mar. 7, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files (hereafter referred to as Watkins Interview).

<sup>19</sup> Interviews were attempted with 39 executives of local realtor boards in the state, and only two agreed to be interviewed as part of this study.

<sup>20</sup> Timothy Kent, executive vice-president, North Carolina Association of Realtors, interview, Mar. 7, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files (hereafter referred to as Kent Interview).

<sup>21</sup> Mary Jordan, executive, Apple Realty, Charlotte, North Carolina, interview, Mar. 9, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files (hereafter referred to as Jordan Interview).

## *2. Local Agencies Can Be Certified by HUD to Investigate Fair Housing Complaints*

The Office of Fair Housing and Equal Opportunity (FHEO) is the internal section of HUD that is responsible for processing and investigating complaints of housing discrimination. The section receives inquiries from complainants to determine whether their claim involves a violation of the Act. After a complaint is filed, an investigation is performed to collect evidence in order to determine whether reasonable cause exists to believe that discrimination occurred. If a violation is found to exist, the matter can be resolved through conciliation or adjudicated by an administrative law judge, an administrative entity, or court trial to remedy the illegal action.<sup>22</sup>

To assist HUD in enforcing fair housing, the Fair Housing Assistance Program (FHAP) was designed to provide incentives to state and local agencies to assume greater responsibility for administering fair housing laws. Under the program, HUD provides funding to local agencies to allow housing discrimination investigations to be conducted at the local level. Under the FHAP program, HUD contracts with “substantially equivalent” local agencies in the enforcement of fair housing laws. Substantial equivalency certification is granted to an applying state or local agency when HUD determines that the agency enforces a law that provides substantive rights, procedures, remedies and judicial review provisions are substantially equivalent to the federal Fair Housing Act.<sup>23</sup>

HUD has developed a two-phase procedure for the determination of substantial equivalency certification. In the first phase, the Assistant Secretary for FHEO determines whether, on its face, the state or local law provides rights, procedures, remedies and judicial review provisions that are substantially equivalent to the federal Fair Housing Act. An affirmative conclusion that the state or local law is substantially equivalent on its face will result in HUD offering the agency interim certification. Interim certification is for a term of three years, and an agency must obtain interim certification prior to obtaining certification.<sup>24</sup>

In the second phase, the Assistant Secretary for FHEO determines whether the state or local law provides rights, procedures, remedies and the availability of judicial review that are substantially equivalent to the federal Fair Housing Act. An affirmative conclusion that the state or local law is substantially equivalent both on its face and in operation will result in HUD offering the agency certification. Certification is for a term of five years. During the five years of certification, the agency's ability to maintain certification will be assessed. After the five years of certification, if the Assistant Secretary determines that the agency still qualifies for certification, HUD will renew the agency's certification for another five years.<sup>25</sup>

Substantial equivalency certification results in housing discrimination cases having the benefit of state or local complaint processing. At the same time, the process is intended to assure that the substantive and procedural strength of the federal Fair Housing Act will not be compromised. Under FHAP, when HUD receives a complaint and the complaint alleges violations of a state or local fair housing law administered by a certified agency, the complaint is referred to the local agency for investigation, conciliation, and enforcement. A surmised benefit of FHAP is fair housing professionals being based in the locality where the alleged

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<sup>22</sup> U.S. Department of Housing and Urban Development, <http://www.hud.gov/offices/fheo/partners/FHAP> (last accessed March 27, 2008).

<sup>23</sup> U.S. Department of Housing and Urban Development, <http://www.hud.gov/offices/fheo/partners/FHAP>, (last accessed March 27, 2008).

<sup>24</sup> 24 C.F.R. § 111.103 (1993).

<sup>25</sup> *Id.*

discrimination occurred. These individuals often have a greater familiarity with local housing stock and trends, and the fair housing professional's closer proximity to the site of the alleged discrimination may lead to greater efficiency in case processing.

HUD also requires of FHAP agencies submit fair housing plans to the agency on an annual basis. These plans provide an historical analysis of fair housing in the local area, as well as demographic information such as population, median household income, and housing characteristics. The plan also is required to set out an analysis of impediments to fair housing that may exist in the local area. This analysis would include public policy, residential segregation patterns, mortgage lending, and emerging fair housing issues.<sup>26</sup>

As a corollary to effective enforcement of fair housing laws, Congress in 1987 created the Fair Housing Initiatives Program (FHIP) to provide grants to private and public fair housing agencies. The Reagan administration and the National Association of Realtors (NAR) sought to constrain FHIP by barring grants to agencies that engaged in systematic "testing." Testing is a method by which two persons, differing only on a single characteristic that is being tested (e.g., race), independently inquire about an advertised housing unit. Each of the testers independently records his or her experience, and difference in treatment is often only apparent when the analysts compare their resulting information. Congress rejected the Reagan-NAR guidelines, but a 1992 report found the Department of Housing and Urban Development "has not made any progress in utilizing this important investigative technique in evaluating the complaints it receives."<sup>27</sup>

In recent decades, however, HUD has utilized this tool through its Office of Systemic Investigations (OSI). OSI investigates housing providers or other entities that it suspects of engaging in unlawful discrimination through a technique called paired testing.. The disparity between the number of complaints filed with HUD and FHAP agencies and the frequency of discrimination found in OSI's housing discrimination studies indicate that the victims themselves are often unaware that they have been discriminated against, a further indication that discrimination is greatly underreported.<sup>28</sup>

In addition, since 1991 the Department of Justice (DOJ) Civil Rights Division has operated a testing program dedicated to proactively uncovering housing discrimination.<sup>29</sup> As recently as February 2006 then Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative is intended to implement improved targeting of discrimination tests, increased testing, and public awareness efforts.

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<sup>26</sup> See for example, City of Durham, "Analysis of Impediments Study and Fair Housing Plan," October 2006. Similar fair housing reports were prepared by all local FHAP-certified agencies in North Carolina.

<sup>27</sup> Civil Rights.org at [http://www.civilrights.org/research\\_center/civilrights101/housing.html](http://www.civilrights.org/research_center/civilrights101/housing.html) (last accessed on December 1, 2007).

<sup>28</sup> Charlotte/Mecklenburg County Human Relations Committee, *Analysis of Impediments to Fair Housing Choice*, Charlotte, NC, March 2007, p. 21.

<sup>29</sup> U.S. DOJ Press Release # 07-769: 09-26-07 Operation Home Sweet Home.

### *3. Seven Local FHAP Agencies in North Carolina Certified by HUD as “Substantially Equivalent”*

Despite the implementation of the FHAP program to provide incentives to state and local agencies to assume greater responsibility for administering fair housing laws, there are less than 50 local FHAP agencies nationwide. In North Carolina, there are 47 local human rights commissions operating in 44 counties of the state.<sup>30</sup> Only seven local agencies, however, have been certified by HUD as “substantially equivalent” FHAP agencies. The seven local FHAP agencies are:

- (1) Asheville/Buncombe County Community Relations Council,
- (2) Charlotte/Mecklenburg County Human Relations Committee,
- (3) Durham Human Relations Commission,
- (4) Greensboro Human Relations Department,
- (5) New Hanover County Human Relations Commission,
- (6) Orange County Department of Human Rights and Relations, and
- (7) Winston-Salem Human Relations Commission.

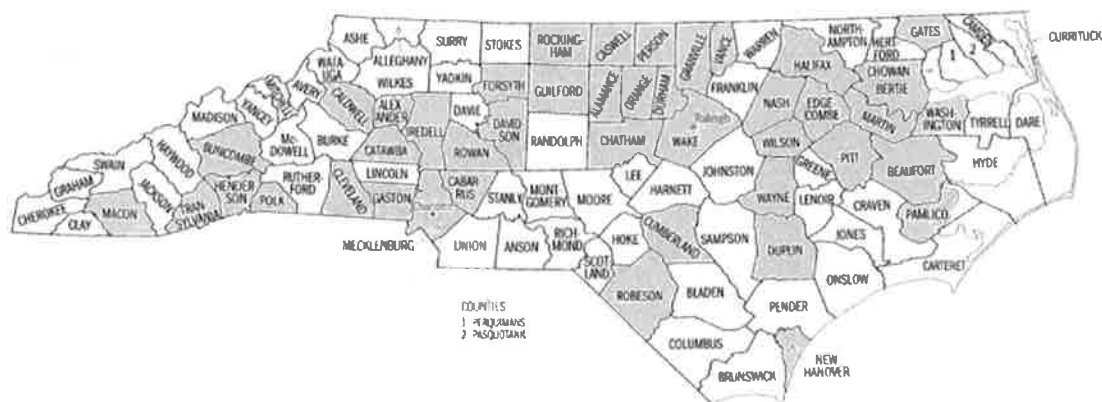
These seven local FHAP agencies have full authority to process, investigate, and adjudicate complaints of housing discrimination under federal fair housing laws. In the 37 counties of the state with a non-FHAP local human rights agency, there is paid staff in 20 locations while in the other 17 locations the local agency is staffed by volunteers. Housing complaints received in these offices are referred to the state or federal agency for investigation and resolution. (Figure 1 shows the counties in North Carolina with a local human rights agency.)

It should be noted, however, that the number of local certified FHAP agencies in North Carolina is the most of any state along with Florida and Iowa. Only nine other states: Iowa, Indiana, Kentucky, Massachusetts, Nebraska, Ohio, Pennsylvania, Tennessee, Texas, and Washington, have more than one local FHAP agency. In 11 states, the only FHAP certified agency is the state-level human rights agency; and in 11 other states there are no FHAP agencies—not even at the state level.

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<sup>30</sup> In North Carolina, local human rights commissions have many different nomenclatures, to include *community relations council*, *human relations department*, *human rights and relations*, etc. For purposes of this study, the term human relations commission applies to all local human rights offices.

**Figure 1: North Carolina Counties with Local Human Rights Commissions**



Counties with FHAP Certified Local Commission	Counties with a Local Commission		Counties with No Local Commission	
Buncombe Durham Forsyth Guilford Mecklenburg New Hanover Orange	Alamance Alexander Beaufort Bertie Cabarrus Caldwell Caswell Catawba Chatham Cleveland Cumberland Davidson Duplin Edgecombe Gaston Gates Granville Halifax	Henderson Irdell Macon Martin Nash Pamlico Person Pitt Robeson Rockingham Rowan Transylvania Vance Wake Washington Wayne Wilson	Alleghany Anson Ashe Avery Bladen Brunswick Burke Camden Carteret Cherokee Chowan Clay Columbus Craven Currituck Dare Davie Franklin Graham Greene Harnett Haywood Hertford Hoke Hyde Jackson Johnston Jones Lee	Lenoir Lincoln Madison McDowell Mitchell Montgomery Moore Northampton Onslow Pasquotank Pender Perquimans Polk Randolph Richmond Rutherford Sampson Scotland Stanly Stokes Surry Swain Tyrell Union Warren Watauga Wilkes Yadkin Yancey

Note: Shaded counties indicate the presence of a local human rights commission. Only seven local human rights commissions, however, are certified by HUD as a “substantially equivalent” FHAP agency, and local commissions may include commissions with paid staff and volunteer staff.

Source: North Carolina Human Relations Commission.

### **Part III—Presence of HUD Certified FHAP Agencies Significantly Increases Number of Fair Housing Complaints**

Nationwide, about 90 percent of all fair housing discrimination complaints are filed on the basis of either disability, race, or ethnicity. Fair housing enforcement officials believe that the presence of local human rights agencies affects the number of fair housing complaints. In counties where there is a local HUD-certified FHAP human rights agency to investigate fair housing complaints, a significantly higher number of complaints are filed.

#### *1. Disability, Race, and Ethnicity Are the Most Common Fair Housing Complaints*

HUD reports that in FY 2005 local FHAP agencies nationally received roughly the same number of complaints as they did in FY 2004, for a combined total of about 10,000 complaints. FHAP agencies investigated over 70 percent of the complaints made in their areas, and disability was the most common basis of discrimination for the first time surpassing race discrimination as the most frequent allegation in complaints.<sup>31</sup>

In North Carolina, during the 2-year period 2005 through 2006, there were 283 fair housing complaints that alleged discrimination in the renting of housing on the basis of disability or race & ethnicity. Of these, about two-thirds of the complaints, 200, alleged discrimination on the basis of race or ethnicity, while 83 complaints alleged discrimination on the basis of disability—a trend at variance from the pattern of complaints at the national level.

Mecklenburg County, the most populous county and home to the state's largest city, Charlotte, as well as the county with the largest minority population in the state, generated the highest number of fair housing complaints during that 2-year period. However, only six counties in the state including Mecklenburg, registered more than 10 fair housing rental complaints on the basis of disability or race and ethnicity—an average of just five housing complaints made to each of these five agencies per year.<sup>32</sup> In five of those counties, Buncombe, Durham, Forsyth, Guilford, and Mecklenburg, there is a local HUD-certified FHAP human rights agency with authority to investigate and adjudicate complaints of housing discrimination.

As part of their contract with HUD, FHAP agencies are obligated to perform outreach and awareness programs. Stemming from this obligation, officials at HUD thought that it likely that complaints in a community would increase if there was a local FHAP-certified human rights agency, but the effect of a non-FHAP local agency on the number of complaints was not as certain.

As one HUD official stated, “The education and outreach efforts of the local human rights agencies assist HUD to promote the requirements of the Fair Housing Act. As these local government FHAPs assist HUD by accepting and investigating complaints filed by housing discrimination victims, HUD in turn assists them by offering a comprehensive range of support initiatives to help them explain to the general public and housing providers what equal opportunity in housing means and what housing providers need to do to comply with the Fair

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<sup>31</sup> U.S. Department of Housing and Urban Development, *The State of Fair Housing, FY2005*, available at <http://www.huduser.org>.

<sup>32</sup> The number of housing discrimination complaints in North Carolina by county on the basis of race and ethnicity and disability in 2005 and 2006 is set out in Appendix II.



Housing Act. Individuals who contact the HUD office to file a complaint will often report that they learned about their housing rights through one of HUD's FHAP or FHIP partners."<sup>33</sup>

Local officials both at FHAP and non-FHAP human rights agencies, generally thought that the mere presence of a local human rights agency did increase the number of housing complaints. As Shoshannah Smith stated, "Without the extensive community outreach and education done by our office, I believe that even fewer people would know that they have a right to equal access to housing. Without the necessary knowledge, far fewer complainants would be likely to come forward. And without a local, accessible venue to make their report, even the few people who might want to file housing discrimination complaints would likely be dissuaded by having to drive to Raleigh to speak with the North Carolina Human Relations Commission."<sup>34</sup>

Yvonne Pena had a similar sentiment. "We feel that through the fair housing outreach that has been done by our department, we have increased the awareness of this issue and we have educated the community about the mission and role of our department as it relates to fair housing investigation. If our agency did not exist, many complaints might not have been heard because so many residents do not want to file directly with HUD. The closest HUD office is in Greensboro, and that would create a problem for Durham residents. We have found that persons want to come in and meet directly with someone instead of talking on the telephone."<sup>35</sup>

Individuals from the realty profession also indicated that a local human rights agency likely increased the number of fair housing complaints, but the higher number of complaints might not be an accurate reflection of fair housing compliance in a community. Mary Jordan conceded that the presence of local human rights agency office does help in conducting necessary outreach. However, she expressed the concern that if a community does not have a large number of fair housing problems, the introduction of a local human relations commission or other type of fair housing office in a metropolitan area might raise concerns and problems where none really exist.<sup>36</sup>

Timothy Kent also thought the presence of a local commission would likely increase the number of housing discrimination complaints but his reasons were more complex than simply as a result of more outreach. "I think it is logical to assume that the presence of a local human rights office would result in at least some increase in the number of fair housing complaints. However, I also think it is logical to assume that a person who felt as though he or she had been the victim of housing discrimination would be more likely to file a fair housing complaint with a local human rights office if they felt confident that the complaint would be handled promptly and fairly. If this assumption is correct, I would conclude that the number of fair housing complaints and resulting investigations in a particular community would be positively affected more by the effectiveness of the local office's operations, for example the quality of staff, relationships with community leaders, etc., rather than by the mere presence of an office or the sheer number of staff working in that office...."<sup>37</sup>

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<sup>33</sup> Linda S. Connelly, public trust officer, U.S. Department of Housing and Urban Development, interview, Mar. 10, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files.

<sup>34</sup> Smith Interview.

<sup>35</sup> Pena Interview.

<sup>36</sup> Jordan Interview.

<sup>37</sup> Kent Interview.

## *2. Number of Fair Housing Complaints Significantly Higher in Counties Where There Is a Local FHAP Agency*

The number of rental housing complaints filed varies widely among the counties in the state. In 54 of the 100 counties in North Carolina, there were no rental housing complaints filed during the 2-year period 2005-2006. In another 17 counties, there was only one rental housing complaint. Only six counties, Buncombe, Durham, Forsyth, Guilford, Mecklenburg, and Wake, registered more than 10 rental housing complaints, and five of those counties have FHAP agencies.

As previously noted, there are three types of areas in the state with respect to local human rights commissions: (1) counties with a HUD-certified FHAP agency, (2) counties with a non-FHAP certified agency, and (3) counties with no local human rights commission.<sup>38</sup> To test whether the presence of a local FHAP agency was related to a higher number of housing discrimination complaints, statistical analysis was employed to determine if there were significant differences in the number of complaints between the three different types of county structures.<sup>39</sup>

From the collected data, complaints on the basis of color, ethnicity, or race were combined into one category of complaints, while complaints on the basis of disability were coded separately. Two separate analyses were conducted, one for housing complaints on the basis of disability and one for complaints on the aggregated basis of race, color, or ethnicity.

To control for population differences, the analysis 'weighted' the number of complaints to account for population differences among the counties. That is, complaints were analyzed as a ratio of the number of complaints filed in a county divided by the number of individuals that were members of the particular class of people under examination. For example for disability complaints, the 'weighted' number of complaints in the analysis was the number of persons with disabilities in a particular county filing a complaint divided by the total number of persons in that county with a disability. A similar procedure was followed for complaints on the basis of race.

According to the 2000 Census, the seven North Carolina counties with a local FHAP agency have 220,415 adults with disabilities.<sup>40</sup> In the 2-year period 2005 to 2006, there were 46 complaints in these seven counties from persons with disabilities alleging rental housing discrimination. That translates into about 2.1 complaints for every 10,000 disabled adults. With respect to race and ethnicity, the minority population in these seven counties is 733,555 and there were 144 complaints on the basis of race or ethnicity,<sup>41</sup> or about 2 complaints per 10,000 minority persons. (See table 2.)

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<sup>38</sup> As previously noted, non-FHAP local human rights agencies in some counties have paid staff while others have only volunteer staff. For purposes of this study, all non-FHAP counties were combined into one group regardless of whether staff was paid.

<sup>39</sup> Formally,  $H_0: \check{N}_{F,i} = \check{N}_{H,i} = \check{N}_{V,i}$  against  $H_A: \check{N}_{F,i} \neq \check{N}_{H,i} \neq \check{N}_{V,i}$  where,  
Fi is a county with a FHAP local human rights agency,  
Hi is a county with a non-FHAP local human rights agency, and  
Vi is a county without a local human rights agency.

<sup>40</sup> 2000 Census.

<sup>41</sup> Ibid.

**Table 2: Total Number of Disability and Race & Ethnicity Rental Housing Complaints and Total Adult Disabled Population for North Carolina in Counties by Type of Local Human Rights Commission**

<b>AREA TYPE</b>	<b>Number of Counties</b>	<b>Disability Housing Complaints</b>	<b>Total Adult Disability Population</b>
Counties with Local FHAP Agency	7	46	220,415
Counties with Local non-FHAP Agency	35	23	417,406
Counties with no Local Agency	58	14	331,873

<b>AREA TYPE</b>	<b>Number of Counties</b>	<b>Race/Ethnic Housing Complaints</b>	<b>Total Race &amp; Ethnic Population</b>
Counties with Local FHAP Agency	7	144	733,555
Counties with Local non-FHAP Agency	35	33	1,058,286
Counties with no Local Agency	58	23	608,519

Source: North Carolina Advisory Committee.

The proportion of fair housing complaints filed in counties with a local human rights agency that is a non-FHAP agency was much lower. In the 35 counties with a local non-FHAP agency there are a total of 417,406 adults with disabilities,<sup>42</sup> and 23 complaints were filed in these counties from persons with disabilities alleging rental housing discrimination. That is less than 1 complaint for every 10,000 adults with a disability. Similarly, the minority population in the 35 non-FHAP counties is 1,058,286 and there were 33 complaints alleging housing discrimination on the basis of race or ethnicity,<sup>43</sup> which is less than 1 complaint per 10,000 minority persons. (See table 2.)

In the 58 counties with no local human rights agencies, there were 14 complaints on the basis of disability and 23 complaints on the basis of race or ethnicity. The adult disability and minority populations in these counties is 331,873 and 608,519 persons respectively.<sup>44</sup> As with the counties in which the local human rights agency is not a certified FHAP agency, that translates into a complaint ratio of less than 1 fair housing complaint per 10,000 adults with a disability and less than 1 complaint per 10,000 minorities. (See table 2.)

Analysis of variance (ANOVA) was employed to determine if the above noted differences between the three groups of counties in the number of fair housing complaints filed were significant.<sup>45</sup> ANOVA is a statistical procedure that can evaluate the differences between multiple groups created by a number of independent or grouping variables.<sup>46</sup> The grouping variable for the analysis was the county type, i.e., (1) counties with a local FHAP human rights agency, (2) counties with a local human rights agency but not-FHAP certified, and (3) counties with no local human rights agency.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> This is based upon a level of significance of 0.05.

<sup>46</sup> See StatSoft, General Conventions and Statistics, vol. I, the ANOVA/MANOVA module, p. 1444. This is in contrast to a t-test that is restricted to a test of differences of means between two groups.

**Table 3: ANOVA Results for Differences in Number of Fair Housing Disability Complaints and Race & Ethnicity Complaints**

<b>Disability</b>					
Effect	MS Effect	df Error	MS Error	F	p-level
Group 1	12.837	97	1.410	9.098	0.000*
<b>Race &amp; Ethnicity</b>					
Effect	MS Effect	df Error	MS Error	F	p-level
Group 1	23.769	97	1.083	21.932	0.000*

Note 1: Group 1 is comprised of seven counties with a local FHAP certified human rights agency.

Note 2: “\*” indicates significance at the 0.05 level.

Source. North Carolina Advisory Committee.

The average number of complaints per 10,000 disabled persons in the seven FHAP counties was 2.45, whereas the average number of complaints per 10,000 disabled persons in the 35 non-FHAP counties and the 58 counties without a local human rights agency were 0.54 and 0.43 respectively. These differences are significant and imply that the presence of a local FHAP-certified human rights commission with the authority to investigate and adjudicate fair housing complaints significantly increases the number of housing discrimination complaints filed by persons with disabilities. (The results of the analysis are set out in table 3.)

A similar result was found for housing complaints on the basis of race and ethnicity. The average number of complaints per 10,000 minority persons in the seven FHAP counties was almost 3.0, whereas the average number of complaints per 10,000 minority persons in the 35 non-FHAP counties and the 58 counties without a local human rights agency were 0.22 and 0.32 respectively. These differences are significant and imply that the presence of a FHAP-certified local human rights agency significantly increases the number of housing discrimination complaints on the basis of race and ethnicity. (See table 3.)

In summary, the presence of a local HUD-certified FHAP human rights agency is found to be positively related to an increase in the number complaints filed both on the basis of disability as well as race and ethnicity.

### *3. HUD More Likely to Find Probable Cause than Local FHAP Agencies*

Investigations may be completed in several ways, each leading to a particular outcome. First, an investigation is considered complete when it is closed administratively—for example, the complainant withdraws the complaint or staff are unable to locate the complainant. Second, an investigation may be considered complete when the complainant is transferred to the Department of Justice because of FHEO’s agreement to do so in certain instances. Third, FHEO or the FHAP agency may complete the investigation through conciliation with the parties, or the parties may settle among themselves. Fourth, FHEO or the FHAP agency may determine that reasonable cause may exist to believe that a discriminatory housing practice has occurred, i.e., find cause. Finally, FHEO or the FHAP agency may determine that there is not reasonable cause (no cause).<sup>47</sup>

<sup>47</sup> GAO report, p. 32.

**Table 4: Number of Probable Cause Findings for Rental Housing Complaints in the Same Geographic Area by HUD and Seven Substantially Equivalent Local Human Rights Commissions on the Basis of Race, Color, & Ethnicity and Disability**

INVESTIGATION AGENCY	Number of 'Probable' Cause Findings for Race/Ethnicity Complaints	Number 'No Probable' Cause Findings for Race/Ethnicity Complaints	Total
U.S. Department of Housing and Urban Development	4	3	7
Local FHAP Agencies	23	111	134
<b>Total</b>	<b>27</b>	<b>114</b>	<b>141</b>

INVESTIGATION AGENCY	Number of 'Probable' Cause Findings for Disability Complaints	Number 'No Probable' Cause Findings for Disability Complaints	Total
U.S. Department of Housing and Urban Development	8	5	13
Local FHAP Agencies	5	24	29
<b>Total</b>	<b>13</b>	<b>29</b>	<b>42</b>

Source: North Carolina Advisory Committee from U.S. Department of Housing and Urban Development, Lexington Human Rights Commission, and Louisville Human Rights Commission data.

A study by the GAO established that regional differences were apparent in complaint investigations by HUD. In particular, the GAO study reported that investigations completed in Region 4, the Atlanta Region, were more likely to end in no-cause determinations—53 percent—than investigations in any other HUD region. The study did not, however, report on regional differences between FHAP investigations and those of HUD.<sup>48</sup>

GAO also reported that the most frequent outcome of investigations completed was a determination that there was no reasonable cause to believe that discrimination occurred. The share of investigations resulting in this outcome rose from just over 40 percent in 1996 to around 48 percent in 2003. Conversely, the share of investigations completed through successful conciliation or settlement declined somewhat during the same period, but this outcome remained the second most frequent—about one-third of all investigations completed during the period.<sup>49</sup>

Under the regulations governing FHAP, when HUD receives a complaint in an area administered by a locally FHAP-certified agency the agency is obligated to refer the complaint to the local agency for investigation and enforcement activities, unless there is a conflict of interest or the property is federally-subsidized public housing. In the 2-year period, 2005-2006, the seven local FHAP commissions in the state completed 134 rental housing complaints on the basis of race and ethnicity and 29 on the basis of disability. Although far fewer, HUD still did 20 rental housing discrimination complaints in those seven counties during that period, 7 on the basis of color and 13 disability complaints.<sup>50</sup> (See table 4.) To test whether there may be differences in the results of investigation of housing discrimination complaints between HUD and local FHAP

<sup>48</sup> Ibid., p. 36.

<sup>49</sup> Ibid.

<sup>50</sup> For purposes of this study and to enhance the efficiency of the statistical analysis, complaints on the basis of race and ethnicity were combined into one category.

agencies in North Carolina, the Committee compared the probable cause findings of rental housing investigations conducted by HUD in the seven counties with a FHAP agency with the results found by the seven local commissions.<sup>51</sup>

As noted above, often allegations of discrimination are conciliated prior to the completion of a full investigation. Usually, conciliation results in a settlement for the person making the allegation. For purposes of this study, “probable cause” includes: (1) a finding of probable cause, (2) conciliation agreement between the parties, and (3) formal adjudication of the matter.

With respect to complaint investigations on the basis of race and color, the local commissions found probable cause in 23 of their investigations (17 percent). HUD, meanwhile, found probable cause in 4 of its 7 investigations (57 percent). Regarding complaint investigations on the basis of disability, the local FHAP agencies found probable cause in 5 of their 29 investigations (17 percent), while HUD found probable cause in 8 of the 13 cases it investigated (61 percent).

The Fisher’s Exact Test was employed to test whether the results of the investigations were independent of the investigation being conducted at the local or federal level.<sup>52</sup> Essentially, the test for independence statistically tests whether the observed differences between two groups differs significantly from what would be expected if the two groups behaved identically.

In the matter under study, i.e., whether the likelihood of a probable cause finding is related to the investigation being conducted locally, the *p-value* indicates that a significant relationship does exist. Employing the Fisher’s Exact Test to the data for race & ethnicity complaints, the *p-value* is 0.025, which is statistically significant. Similarly for disability complaints, the *p-value* is 0.009, also statistically significant. These results imply that housing discrimination investigations conducted at the federal level are more likely to result in a finding of probable cause, as defined for purposes of this study, than those conducted at the local level.

However, the results of the analysis are not straightforward. This finding is only made on the basis of case outcomes; the individual cases were not able to be examined by the Committee. The type of the individual housing complaints might be an underlying cause for the observed differences in investigation outcomes, independent of the investigating agency. Other causes as well may play a role in the difference in investigation results, to include the obvious differences in particular cases.

Interested to learn why HUD selected complaints for investigation in FHAP areas and whether the selection might have skewed the findings, HUD responded:<sup>53</sup>

During the period under study by the Carolina Advisory Committee, FHEO in Region IV investigated complaints of housing discrimination that involved properties in the State of North Carolina, if the complaints were against recipients of HUD funds. In these complaints, the allegations are jurisdictional under the Fair Housing Act, as amended and as well as one or more other civil rights statutes as outlined in the agreements between HUD and the recipients of the HUD funds. During June 2007, the policy was discontinued. Since that time, the FHAP Agencies handle the fair housing complaints

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<sup>51</sup> Although the seven FHAP agencies are “substantially equivalent” local human rights commissions, there are still housing complaints that accepted and investigated by HUD in those counties and this analysis examines the differences in those investigations.

<sup>52</sup> A description of the Fisher’s Exact Test is in Appendix II.

<sup>53</sup> James N. Sutton, Region IV Director, FHEO, to Peter Minarik, Regional Director, SRO, USCCR, June 19, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files.

jurisdictional under their respective fair housing laws and FHEO concurrently investigates the cases under the statutes for which HUD maintains responsibility.

Furthermore, state and local governments participate as FHAP Agencies in a manner consistent with the terms and conditions recited in several documents that recognize and implement the FHAP certification process, including a Memorandum of Understanding (MOU). The MOU establishes the working relationship between HUD and a FHAP Agency and describes occasions under which cases may be retained by HUD for investigation. Such exceptions include but are not limited to the following situations:

1. The respondent is a federal, state, or local government agency;
2. The respondent has properties outside the jurisdiction in which the agency operates;
3. The case involves systemic issues;
4. The agency's handling of the case would give the appearance of a conflict of interest;
5. The complaints involve USDA funded properties.

Several local officials confirmed HUD's statement. Ledger Morrisette from the Charlotte-Mecklenburg County Community Relations Committee, stated: "There can be fair housing cases that need to be referred to HUD because the cases are complex and involve patterns and practices of discrimination against groups of people. In those cases, HUD can bring its federal resources, including the Department of Justice, to bear to resolve the cases."<sup>54</sup> Shoshannah Smith, director of the Orange County Office of Human Rights, expressed a similar view saying that housing complaints in her jurisdiction are only referred to HUD if it involves a conflict of interest, systemic issues, or public housing property administered by HUD."<sup>55</sup>

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<sup>54</sup> Ledger Morrisette, community relations supervisor, Charlotte-Mecklenburg County Community Relations Committee director, Durham Human Relations Commission, to Peter Minarik, Regional Director, SRO, USCCR, June 19, 2008, Southern Regional Office, U.S. Commission on Civil Rights, files.

<sup>55</sup> Smith Interview.

## Findings

1. Four decades have elapsed since the passage of the 1968 Fair Housing Act, and still many African Americans and other minorities can expect to encounter discrimination when looking for a home to either rent or buy.
2. It is estimated that nearly 4 million instances of housing discrimination occur annually against African Americans and Latinos alone, but less than 1 percent of violations are reported or even detected.
3. Rental cases have been and continue to represent the largest source of housing discrimination complaints. Adding to the high numbers of reported incidents of fair housing discrimination is the troubling fact that many victims often have no idea that they have been discriminated against because of no comparable evidence.
4. The U.S. Department of Housing and Urban Development (HUD) is the primary federal agency responsible for the enforcement of federal fair housing laws. The Office of Fair Housing and Equal Opportunity (FHEO) within HUD receives about 8,000 complaints of housing discrimination each year.
5. To assist HUD in enforcing fair housing, the Fair Housing Assistance Program (FHAP) provides funding to state and local agencies so that housing discrimination investigations can be conducted at the local level.
6. In North Carolina, seven local agencies qualify to participate in the FHAP program, the most of any state in the nation.
7. The presence of a local FHAP agency significantly increases the total number of rental housing complaints. However, comparing investigations of rental housing discrimination by the local FHAP agencies with investigations conducted by HUD shows an investigation by HUD is three times more likely to result in a finding of probable cause.
8. The findings of this study suggest that although the presence of local FHAP agencies may induce a higher number of complaints to be filed, local investigations may not be “equivalent” to investigations conducted by federal enforcement agencies.



## **Recommendations**

Federal and state law mandates that individuals have the right to equal access to housing free from discrimination on the basis of race, color, religion, sex, disability, familial status, or national origin. HUD is the federal agency charged with the responsibility to investigate complaints of housing discrimination, and has the authority to contract with local human rights agencies for these services. Seven local human rights agencies in North Carolina have contracts with HUD to investigate allegations of housing discrimination.

The results of this study suggest that although locally conducted investigations may offer additional benefits in terms of ease proximity and outreach, there may be programmatic compromises stemming from decentralization of the complaint process as local agencies are shown to be less likely to find probable cause of discrimination. These compromises may retard the rights of victims to obtain restitution for acts of discrimination. The North Carolina Advisory Committee understands that this study was conducted over a specific time and the particular cases before local and federal agencies at the time of the study may have affected the results. Still, the findings are substantive enough to call for ongoing assessment of the effectiveness of FHAP agencies with respect to complaint investigations.

At present, all FHAP-certified local agencies undergo an annual onsite Fair Housing Assistance Program Review (FHAP Review) by HUD and these agencies must also prepare and submit to HUD a Fair Housing Plan. To help ensure that HUD and FHAP-certified local agency housing discrimination investigations are equivalent, the North Carolina Advisory Committee recommends that as part of the FHAP Review HUD officials formally compare the results of investigations HUD conducted during the previous year in the FHAP's area of jurisdiction with those conducted by the FHAP agency. Where significant disparities in resolution are noted, the Committee recommends that additional analysis be conducted to determine the reasons for the disparity and the results of the analysis set out in the FHAP's annual fair housing plan.

At the national level, the North Carolina Advisory Committee understands that the U.S. Commission on Civil Rights intends to undertake a nationwide study of fair housing practices in fiscal year 2009. Recent studies by HUD report that 14 percent of the adult public, or nearly 28 million Americans, believe they have experienced illegal housing discrimination. In North Carolina, all of the directors of the local commissions interviewed thought housing discrimination to be a significant problem and generally under-reported by victims. Realtors surveyed, however, did not hold housing discrimination to be as prevalent. As the Commission plans to undertake a nationwide study of fair housing practices in 2009 and in view of the wide disparity of opinion regarding the extent of housing discrimination, the North Carolina Advisory Committee recommends to the Commission that it undertake an objective analysis of the extent of housing discrimination as part of its nationwide study of fair housing practices.

**Appendix I--Housing Discrimination Complaints in North Carolina by County on the Basis of Race & Ethnicity and Disability in 2005 and 2006**

County	Race & Ethnicity	Disability	Total
<i>Alamance County</i>	0	6	6
<i>Alexander County</i>	0	0	0
<i>Alleghany County</i>	0	0	0
<i>Anson County</i>	0	0	0
<i>Ashe County</i>	0	0	0
<i>Avery County</i>	0	0	0
<i>Beaufort County</i>	2	0	2
<i>Bertie County</i>	0	0	0
<i>Bladen County</i>	0	0	0
<i>Brunswick County</i>	1	2	3
<b>Buncombe County</b>	<b>27</b>	<b>7</b>	<b>34</b>
<i>Burke County</i>	0	1	1
<i>Cabarrus County</i>	1	0	1
<i>Caldwell County</i>	0	0	0
<i>Camden County</i>	0	0	0
<i>Carteret County</i>	1	1	2
<i>Caswell County</i>	0	1	1
<i>Catawba County</i>	1	0	1
<i>Chatham County</i>	2	1	3
<i>Cherokee County</i>	0	0	0
<i>Chowan County</i>	0	0	0
<i>Clay County</i>	0	0	0
<i>Cleveland County</i>	0	0	0
<i>Columbus County</i>	0	0	0
<i>Craven County</i>	0	0	0
<i>Cumberland County</i>	3	4	7
<i>Currituck County</i>	0	0	0
<i>Dare County</i>	0	0	0
<i>Davidson County</i>	0	0	0
<i>Davie County</i>	0	0	0
<i>Duplin County</i>	0	0	0
<b>Durham County</b>	<b>19</b>	<b>7</b>	<b>26</b>
<i>Edgecombe County</i>	0	4	4
<b>Forsyth County</b>	<b>22</b>	<b>10</b>	<b>32</b>
<i>Franklin County</i>	1	1	2
<i>Gaston County</i>	2	1	3
<i>Gates County</i>	0	0	0
<i>Graham County</i>	0	0	0
<i>Granville County</i>	0	0	0
<i>Greene County</i>	0	0	0
<b>Guilford County</b>	<b>13</b>	<b>9</b>	<b>22</b>
<i>Halifax County</i>	0	0	0
<i>Harnett County</i>	1	0	1
<i>Haywood County</i>	0	1	1
<i>Henderson County</i>	1	1	2
<i>Hertford County</i>	0	0	0
<i>Hoke County</i>	0	0	0
<i>Hyde County</i>	0	0	0
<i>Iredell County</i>	0	0	0

Jackson County	0	0	0
Johnston County	1	0	1
Jones County	1	0	1
Lee County	1	0	1
Lenoir County	0	1	1
Lincoln County	3	0	3
<i>Macon County</i>	0	0	0
Madison County	0	0	0
<i>Martin County</i>	0	0	0
McDowell County	0	0	0
<b>Mecklenburg County</b>	<b>51</b>	<b>9</b>	<b>60</b>
Mitchell County	0	1	1
Montgomery County	0	0	0
Moore County	1	1	2
<i>Nash County</i>	1	0	1
<b>New Hanover County</b>	<b>8</b>	<b>0</b>	<b>8</b>
Northampton County	0	0	0
Onslow County	2	0	2
<b>Orange County</b>	<b>4</b>	<b>4</b>	<b>8</b>
<i>Pamlico County</i>	0	0	0
Pasquotank County	0	0	0
Pender County	0	0	0
Perquimans County	0	0	0
<i>Person County</i>	0	0	0
<i>Pitt County</i>	2	0	2
Polk County	0	0	0
Randolph County	0	0	0
Richmond County	2	1	3
<i>Robeson County</i>	0	0	0
<i>Rockingham County</i>	1	0	1
<i>Rowan County</i>	0	3	3
Rutherford County	2	0	2
Sampson County	2	0	2
Scotland County	0	1	1
Stanly County	0	1	1
Stokes County	0	0	0
Surry County	2	0	2
Swain County	0	0	0
<i>Transylvania County</i>	0	0	0
Tyrell County	0	0	0
Union County	2	0	2
<i>Vance County</i>	1	0	1
<i>Wake County</i>	9	8	17
Warren County	0	2	2
<i>Washington County</i>	0	0	0
Watauga County	0	0	0
<i>Wayne County</i>	1	0	1
Wilkes County	0	0	0
<i>Wilson County</i>	0	0	0
Yadkin County	0	0	0
<i>Yancey County</i>	0	0	0

Source: North Carolina Advisory Committee from U.S. Department of Housing and Urban Development, North Carolina Human Rights Commission, and North Carolina local human rights commissions. Counties with FHAP-certified agencies are in bold. Other counties with local human rights agencies are in italics.

## Appendix II--Fisher's Exact Test

Fisher's exact test is a statistical test used to determine if there are nonrandom associations between two categorical variables. For example, let there exist two such variables  $X$  and  $Y$  with  $m$  and  $n$  observed states, respectively. Now form an  $m \times n$  matrix in which the entries  $a_{ij}$  represent the number of observations in which  $x = i$  and  $y = j$ . Calculate the row and column sums  $R_i$  and  $C_j$ , respectively, and the total sum of the matrix.

$$N = \sum_i R_i = \sum_j C_j$$

Then calculate the conditional probability of getting the actual matrix given the particular row and column sums, given by

$$P_{\text{cutoff}} = \frac{(R_1!R_2!\dots R_m!)(C_1!C_2!\dots C_n!)}{N! \prod_{ij} a_{ij}!}$$

which is a multivariate generalization of the hypergeometric probability function. Now find all possible matrices on non-negative integers consistent the row and column sums  $R_i$  and  $C_j$ . For each one, calculate the associated conditional probability using the second equation above, where the sum of these probabilities must be 1.

To compute the P-value of the test, the tables must then be ordered by some criterion that measures dependence, and those tables that represent equal or greater deviation from independence than the observed table are the ones whose probabilities are added together. The test is most commonly applied to  $2 \times 2$  matrices, and is computationally unwieldy for large  $m$  or  $n$ . For tables larger than  $2 \times 2$ , the difference in proportion can no longer be used, but the other measures mentioned above remain applicable and in practice, the Pearson statistic is most often used to order the tables. In the case of the  $2 \times 2$  matrix, the P-value of the test can be simply computed by the sum of all P-values which are  $\leq P_{\text{cutoff}}$ .<sup>56</sup>

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<sup>56</sup> Source <http://mathworld.wolfram.com/FishersExactTest.html>, (last accessed March 20, 2008).