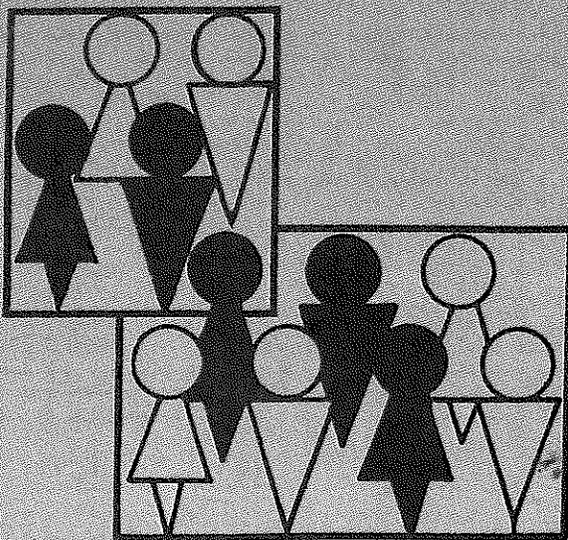
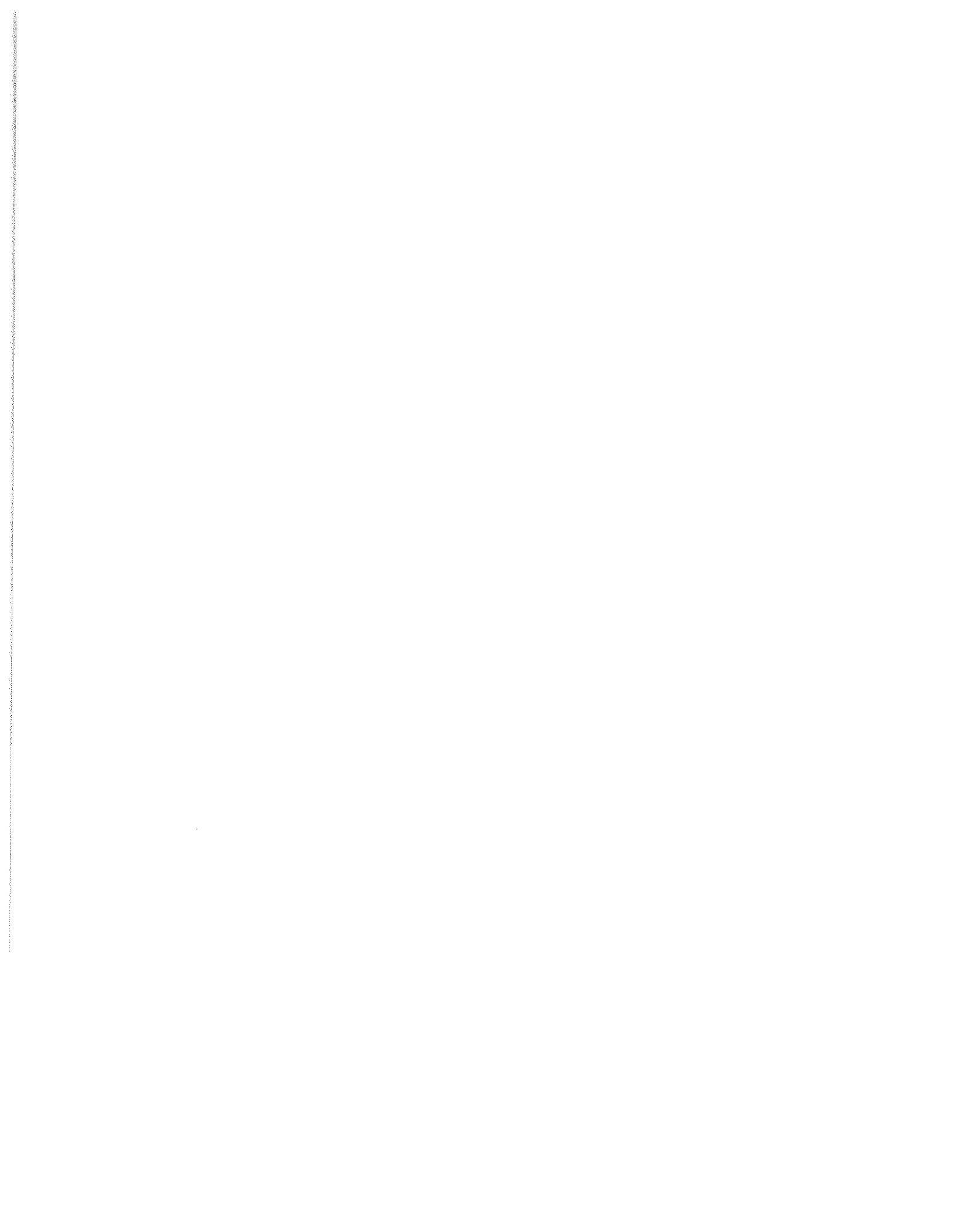


West Virginia Human Rights Commission

Annual Report 1980-81







STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

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JOHN D. ROCKEFELLER IV
Governor

HOWARD D. KENNEY
Executive Director

December 1, 1981

Honorable John D. Rockefeller, IV
Governor of the State of West Virginia
State Capitol
Charleston, West Virginia 25305

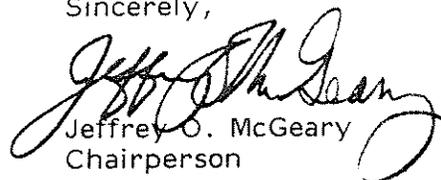
Dear Governor Rockefeller:

We have the honor to submit the following Annual Report of the West Virginia Human Rights Commission for the fiscal year 1980-1981.

This report of the activities of the Commission fulfills the requirements of Chapter 5, Article 11, Section 8, of the West Virginia Code.

The Commission strives to implement the public policy of the State of West Virginia which prohibits the denial of human rights or civil rights to persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness or handicap.

Sincerely,


Jeffrey O. McGeary
Chairperson

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Commissioners

	<u>Term Expires</u>
Jeffrey O. McGeary, Chairperson Wheeling 1st. Congressional District	6/30/83
Iris Bressler, Vice-Chairperson Fairmont 1st Congressional District	6/30/82
Marjorie Cunningham Welch 4th Congressional District	6/30/81
Allen Fisher Charleston 3rd Congressional District	6/30/81
Delbert Horstemeyer Weirton 1st Congressional District	6/30/81
Nathaniel Jackson Elkins 2nd Congressional District	6/30/82
George Rutherford Ranson 2nd Congressional District	6/30/82
Russell Van Cleve Charleston 3rd Congressional District	6/30/83
VACANCY	

Forward

I am pleased to present the 1980-81 Annual Report of the West Virginia Human Rights Commission. This report highlights some of the important work that the Commission has done in the past year. As you will note, the past year has included major changes and added responsibilities in the operation of the agency.

In the future we can expect to see an increase in the number of persons who believe they have been victims of unfair discrimination. We will also see a heightened awareness of the value and strength of a truly diverse society. However, the most important aspect of human rights legislation is the cooperation and goodwill of all people so that everyone can be treated with equality and dignity despite the manifold differences between individuals. We are living in a complex and stressful society.

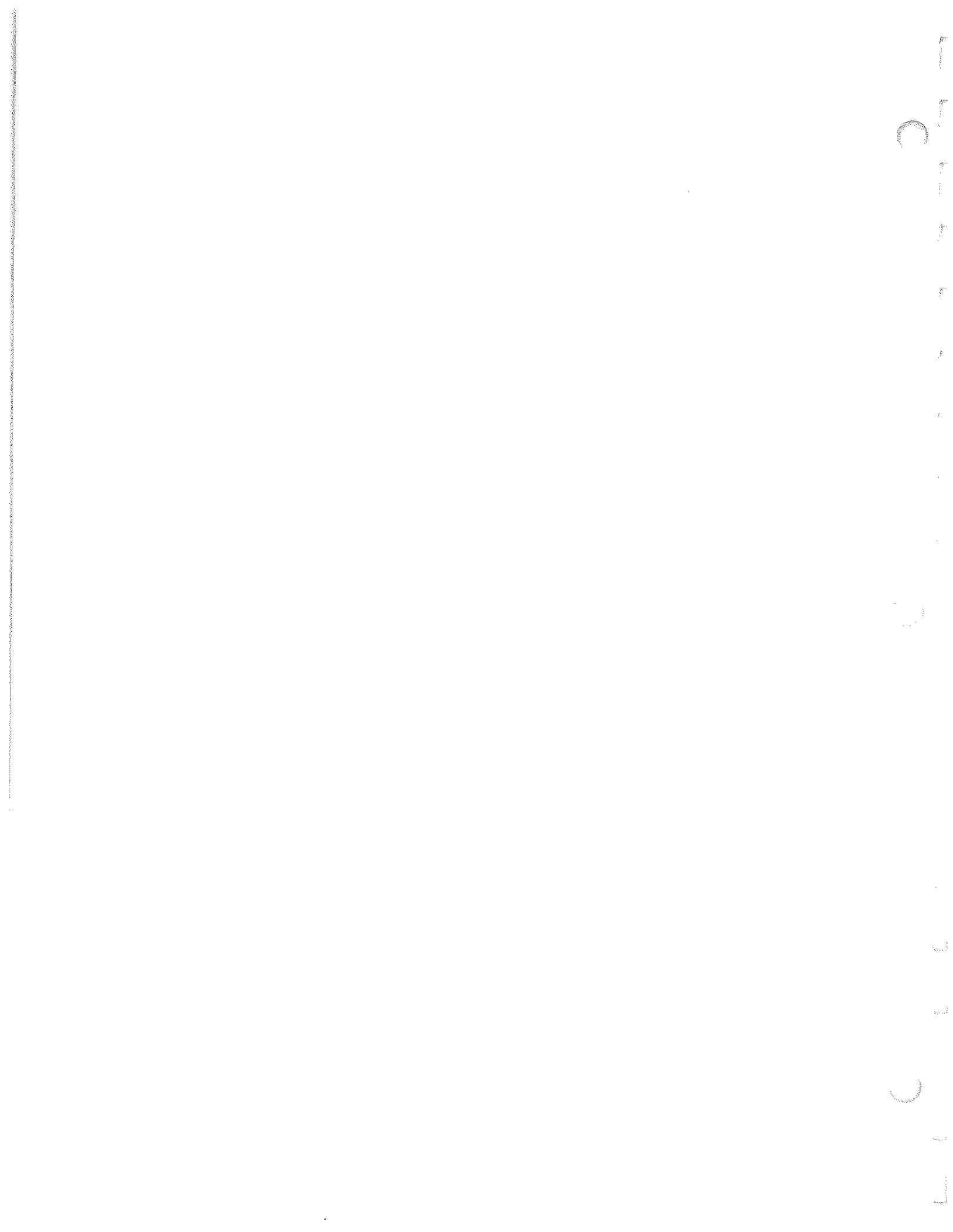
No human rights code or commission can be expected to create a society of equality and social justice on its own. If legislation is to succeed in this area, it must be reinforced by deliberate programs of voluntary action by government, business, industry, community organizations and individuals. The West Virginia Human Rights Commission is but a tool --- the work must be shouldered by all of us.

I wish to express my deep admiration and gratitude for the tremendous efforts and quality of work of our commissioners and our staff, who have coped with an increasing workload in an area of endeavor which requires both hard work and excellent human relations skills.

Please read this report carefully and give us your comments about what we can do to become more effective in carrying out our mandate to serve the people of West Virginia.



Howard D. Kenney
Executive Director



OVERVIEW

The West Virginia Human Rights Commission observed its 20th Anniversary in 1981. In the 20 years that have passed since the Commission was established, innumerable West Virginians have benefitted from the Commission's services. We have come from a day when Blacks, women, older people and the handicapped had basically no legal safeguards for the protection of their constitutional rights, to a time when West Virginia law guarantees these protections.

The Constitution of West Virginia, as ratified in 1872, declared that "all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity, namely: the enjoyment of life and liberty, with the means of acquiring and possessing property, and of pursuing and obtaining happiness and safety."

Since that time, the effort to secure basic human and equal rights for all people in West Virginia has progressed through many stages. The West Virginia Human Rights Commission was established in 1961 to "encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the State, and to eliminate all discrimination in employment and places of public accommodation by virtue of race, creed or religious belief."

In 1967, the West Virginia Human Rights Act (Chapter 5, Article 11, West Virginia Code) was amended to "prohibit discrimination in employment and places of public accommodation based on race, religion, color, national origin or ancestry." The language of the amendment clearly altered the role of the Commission from one of seeking voluntary cooperation to deal with racial and religious discrimination to one of enforcing the legal prohibitions against discrimination as described in the Act. A means by which victims of discrimination could obtain legal redress was proscribed as the Commission was granted powers as an enforcement agency.

The State Legislature has consistently passed measures to broaden the scope of West Virginia's anti-discrimination law. The Human Rights Act was amended in 1971 to make discrimination on the basis of sex and age in employment and places of public accommodation illegal. Since that time, additional amendments have made it unlawful to discriminate in housing on the basis of race, religion, color, national origin, ancestry or sex as well as prohibiting discrimination on the basis of blindness in employment, places of public accommodation and housing.

During the 1980-81 session of the West Virginia State Legislature the Human Rights Act was amended to prohibit discrimination on the basis of physical or mental handicap in employment, in places of public accommodation, or in housing. Further, the amended act provides for reasonable accommodation for protected classes. While we are presently at our strongest point thus far in the continuing war against discrimination, there remains much for all concerned West Virginians to do to assure effective enforcement of that law.

Composition Of The Commission

The Commission, as prescribed by the Act, is composed of nine members, all residents and citizens of the State of West Virginia and broadly representative of the several racial, religious and ethnic groups residing in the State. The Commissioners are appointed by the Governor, by and with the advice and consent of the Senate. Not more than five members of the same political party and at least one member but not more than three members shall be from any one congressional district.

Members of the Commission are appointed for terms of three years beginning on the first day of July of the year of their appointments, except that appointments to fill vacancies are for the unexpired term thereof. Commission members are eligible for reappointment.

The Governor, by and with the advice and consent of the Senate, is responsible for the appointment of the Executive Director to serve at his will and pleasure. The Executive Director serves as secretary to the Commission and is responsible for the day-to-day operations of the agency. The Executive Director of the Commission also serves as an ex officio member of the West Virginia Women's Commission. He is also a member of the West Virginia Advisory Committee to the U. S. Civil Rights Commission.

Under the Act, the Commission may call upon other officers, departments and agencies of state government to assist in its hearings, programs and projects. The Attorney General of the State is directed by the Act to render legal services to the Commission upon request made by the Commission itself or its Executive Director. Since 1971, the Attorney General has assigned an Assistant Attorney General to the Commission.

Duties Of The Commission

The Commission has, over the years, been committed to carrying out the legislative mandate to eliminate and prevent discrimination through education, information dissemination, and research as well as

through the actual enforcement of the law. Programs aimed at eliminating prejudiced attitudes, policies, and practices have been implemented. Projects have been initiated to expose individuals to the basic concepts of human rights and the law; to encourage individual commitment to human rights; and to personally involve people from every sphere of community life in efforts to bring about change in behavior and attitude.

Expansion of protections provided under the Act and its amendments has caused substantial increases in the number of complaints filed since 1967. In its first year of receiving and processing complaints, only 50 charges of alleged discrimination were filed with the Commission. During fiscal year 1982, 14 years later, the number of complaints filed had increased to 572.

STRUCTURE AND FUNCTION

The WV Human Rights Commission is organized into two major components: the Compliance Division and the Education Division. This structure is based upon the two types of responsibilities outlined in the WV Human Rights Act. The Commission, charged with eleven functions, is primarily responsible for eliminating discrimination through enforcement of the law and through education and research.

The enforcement, or compliance, program processes charges of discrimination through investigation, conciliation and public hearings. The education program is designed to provide services to eliminate, prevent and curtail discrimination through education, public information, technical assistance and research.

The Human Rights Commission, itself, consisting of nine members appointed by the Governor, exists to advise the Executive Director and his staff by recommending programs, ruling on complaints, issuing cease and desist orders, and setting policy in furtherance of the purposes of the WV Human Rights Act. (Current members of the Commission, their places of residence, and expiration of terms are listed on page III.)

Compliance Program

While the Commission concentrates less of the issue of legal guilt than on the issue of bringing about a fair and satisfactory resolution, the core principle of compliance activities is to restore the complainant to the position he or she would have enjoyed had the discriminatory acts not taken place.

It is also through the compliance process that the Commission attempts to ensure that the respondent to a complaint undertakes action to eliminate any practices which deny equality of opportunity to persons protected under the code.

Where investigation reveals no violation of the code, but where a misunderstanding between the parties or an unfair practice related to the complaint has been found, the Commission aims to clarify the basis for the misunderstanding, and to effect any changes in those practices or policies that may create a perception that unlawful discrimination is taking place.

Three separately staffed activities constitute the compliance program. They are investigation, conciliation and litigation.

INVESTIGATION ACTIVITY

The investigation activity receives complaints of discrimination filed with the Commission. Charges of discrimination are either investigated or resolved through pre-determination settlements, agreements, reached prior to formal investigation.

Intake

When a person wishes to file a charge of discrimination, he or she contacts the intake officer who determines whether the Commission has jurisdiction to process the complaint under the provisions of the WV Human Rights Act.

The Commission can accept charges alleging unfair practices which occurred in West Virginia and are prohibited by the Act within ninety (90) days from the date of the alleged discriminatory practice. The following chart indicates the jurisdictional areas and protected classes designated by the Wv Human Rights Act.

PROTECTED CLASSES	Race	Sex	Religion	Nat. Orig.	Color	Ancestry	Age	Blindness	Handicap
AREAS									
Employment	X	X	X	X	X	X	X	X	X
Public Accommodations	X	X	X	X	X	X	X	X	X
Housing	X	X	X	X	X	X		X	X
Reprisal	X	X	X	X	X	X	X	X	X

When a person contacts the Commission to file a charge, the intake officer obtains preliminary information concerning the allegation. An interrogatory, or questionnaire, is given to the complainant to be completed and returned to the Commission. Upon return of this form, a decision on jurisdiction is made. If the charge is within the jurisdiction of the Commission, a formal complaint is drawn up and returned to the complainant for his or her signature and notarization of that signature. When complaints are not within the jurisdiction of the Commission, the intake officer often refers people to other agencies and organizations that can provide assistance. Complaints are also received by mail and by telephone. Forms and interrogatories are mailed to individuals who are unable to file charges in person.

The intake section received an average of 85 preliminary inquiries by telephone, letters and walk-ins each month of fiscal year 1981. Of these, approximately one-half resulted in formal complaints. An average of 48 formal charges were notarized each month. (See pages 11, 12 and 13 for more information about complaints received during the fiscal year.)

706 Deferral Agency

Many charges of employment discrimination filed with the State Commission are also within the jurisdiction of a federal civil rights agency, the Equal Employment Opportunity Commission (EEOC), which receives and processes charges alleging violations of Title VII of the Civil Rights Act of 1964.

According to Section 706 of the EEOC's enabling legislation, allegations of unfair employment practices that are within the jurisdiction of the EEOC and also fall within the jurisdiction of a state which has a law substantially equivalent to the federal law may be processed by the state agency rather than by the federal commission. Such state human rights agencies may receive charges of employment discrimination on behalf of the EEOC. The federal commission defers processing of the charges to the state civil rights enforcement agency.

The WV Human Rights Commission is recognized as a 706 Deferral Agency. A person who files a charge of employment discrimination with the Commission may simultaneously file the charge with the EEOC. The EEOC defers processing of these charges to the State Commission but may assume jurisdiction if it wishes to do so.

Rapid Charge Processing

The Commission began implementation of a procedure called rapid charge processing in fiscal year 1979. Viewed as a method to shorten the length of complaint processing time by at least two-thirds, and

based upon the Equal Employment Opportunity Commission's successful utilization of rapid charge processing, the WV Human Rights Commission committed itself to providing this alternative method of resolving charges prior to investigation, conciliation, or litigation.

Once the Formal Complaint is received and docketed, the respondent, the party against whom the complaint is filed, is notified of the charge and is given fifteen days in which to respond. Both parties are informed that a no-fault settlement, the outcome of a charge resolved through the rapid charge process, is reached through negotiation between the parties involved. Following an explanation to both parties of the rapid charge process, a fact-finding conference, the forum through which negotiation occurs presided over by a member of the investigation staff, is scheduled if both the charging party and the responding party agree to participate in the process.

Investigation

A complaint is forwarded for investigation after basic information is entered in the docket book maintained by the Commission and after notice that the charge has been filed is sent to the respondent.

The first step in the investigative process is the fact-finding conference--the basic element of the rapid charge process--intended to clarify the issues contained in the charge, obtain evidence, and determine whether a no-fault settlement, a resolution of a charge reached prior to formal investigation, is possible. When settlement is not possible as a result of a fact-finding conference, a charge is formally investigated.

The Fact-Finding Conference

The fact-finding conference provides a forum in which a charging party and a respondent can present evidence and confer upon the allegations contained in a charge before formal investigation is undertaken by the Commission. Investigations are time-consuming and costly for the State, charging parties, and the respondents. All parties concerned benefit when a charge is resolved expeditiously. A no-fault settlement can provide for timely and effective resolutions of charges in many instances.

A fact-finding conference is held by a convenor. Staff members assigned to the New Charge Unit act as the convenors of all charges received by the Commission since the rapid charge process was implemented on a trial basis in October 1978. The process, also being used to reduce the Commission's inventory of unresolved charges pending investigation, has been implemented by staff members assigned to the Backlog Unit as well. These investigators convene fact-finding conferences, where appropriate, for charges included in the backlog.

In attendance at a fact-finding conference is the convenor, and/or a recorder, the charging party and the respondent. Legal representatives for either party may attend. Both parties are encouraged to bring documents, witness statements, or other evidence that should be presented to substantiate their positions.

The convenor acts as an objective facilitator who attempts to negotiate a settlement of the charge through the conference. The parties receive encouragement and assistance in reaching a voluntary settlement which is mutually acceptable. If a resolution is reached, a no-fault settlement containing the terms agreed upon in resolution of the charge is drawn up and signed by both parties and approved by the Executive Director. When a settlement is not reached, a formal investigation is conducted.

Formal Investigation

When a settlement cannot be reached through the rapid charge process, an investigator is assigned to gather all information and evidence pertinent to the basic issues raised by a charging party's allegations. When the basic issues have been identified, an investigator may interview the complainant, the respondent, or any witness who can provide relevant information. Records, documents, and other data may be requested or subpoenaed, if necessary, from a respondent or charging party.

After all of the evidence has been gathered and analyzed, an investigator prepares a summary and recommendation of determination based upon the information contained in the case file. (See page 6 for information about investigative activities in fiscal year 1981.)

If it is determined that there is no probable cause to believe that a discriminatory practice occurred, the complainant may appeal that determination. The appeal process, or administrative review, handled by the Chairperson of the Commission or his or her representative provides for submission of additional information by the complainant and reconsideration of the case file. (See page 8 for a description of the appeal process.)

When the determination states that evidence supports a charging party's allegations, the case is forwarded for conciliation activity where attempts are made through conference and discussion to resolve the charge in a just and equitable manner and to obtain assurances that the unlawful practices will be eliminated.

CONCILIATION ACTIVITY

When a determination of probable cause has been made, the com-

plaint progresses to the conciliation stage of case processing where proposed terms are developed. During conciliation the issues are analyzed to assess damages and establish remedies or measures of relief designed to make a charging party whole. The respondent is notified of the determination, invited to conciliate, and provided with proposed terms of settlement.

A conciliation conference is held to discuss the proposed terms of agreement. Counterproposals may be made and, if acceptable, the proposed terms are modified. In this manner agreements may be reached. (See page 3 for information about compliance activity during fiscal year 1981.) Conciliation is a voluntary process. If attempts to conciliate fail and in the judgement of the Commission circumstances so warrant, the Commission may schedule the case for a public hearing to resolve the matter.

LITIGATION ACTIVITY

When conciliation is unsuccessful, the case is then forwarded to an Assistant Attorney General assigned to the Commission and scheduled for public hearing. A public hearing presided over by a hearing commissioner and a hearing examiner is held to settle a case and make conclusions based upon the facts. Following the hearing, the examiner submits a proposed order and decision accompanied by findings of fact and conclusions of law to the Commission. If the Commission accepts these findings and recommendations, it may issue an order requiring the respondent to cease and desist from such unlawful discriminatory practices and to comply with prescribed remedies to make the complainant whole. A final order of the Commission may be appealed to the Circuit Court to seek judicial review. (See page 27 for information about cases litigated during the past fiscal year.) The Attorney General's staff also provides the Commission with other legal services such as drafting rules, guidelines and contracts.

THE APPEAL PROCESS

A charging party may request an administrative review of the dismissal of the complaint by the Commission or the terms of a proposed conciliation agreement. Within ten days of receiving a notice of dismissal or the terms of the proposed agreement, the charging party must make this request in writing to the Chairperson of the Commission.

The charging party is given ten days' written notification of the time and place for a review hearing. Based on the information presented during the review hearing and a thorough review of the case file, the determination or the proposed conciliation agreement is upheld, reversed or remanded for further conciliation attempts.

During the review process the charging party has the burden of showing that the dismissal of the complaint is arbitrary, capricious, or not in accordance with the law; or that the proposed conciliation agreement fails to provide an adequate remedy.

Education Program

The Commission is mandated to promote a more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in the State. In addition, the Commission is authorized and empowered to enlist the cooperation of racial, religious and ethnic groups, community and civic organizations, industrial and labor groups and other identifiable groups in programs and campaigns devoted to the advancement of tolerance, understanding and the equal protection of the laws of all groups and peoples.

To achieve these goals, three primary activities exist within the Commission's education program. These activities include disseminating information, providing technical assistance, and conducting research and gathering data. The education division performs these functions in a variety of ways, including but not limited to those which follow.

Programs and projects to study and prevent discriminatory practices are developed and undertaken by the education division's staff of four. Community outreach is provided to make the Commission's presence felt throughout the State. Workshops, seminars and conferences to eliminate discrimination and to foster goodwill and cooperation among all elements of the population of the State are conducted by the education staff. Printed literature in the form of annual reports, news releases, pamphlets, brochures, program and workshop flyers, and study and research reports are prepared to keep the public abreast of Commission activities and items of operational interest. Press conferences, television and radio appearances and announcements, and a speakers' bureau are used to inform citizens of the services which are available through the Commission.

Liaison activities with local human relations commissions are another important function of the education division. Some local commissions have staff and strong enforcement powers while others have only volunteers with no authority. Upon request, the education staff coordinates training workshops and provides individual instruction to local commissions in areas such as investigations, conciliations and public hearings. In addition, assistance in drafting proposed legislation and testifying in support of stronger legal authority for local jurisdiction is provided.

The education division is also responsible for responding to requests, both correspondence and telephone inquiries, for information about the Human Rights Act and Commission activities.

Administrative Services

Administrative services provide executive, personnel, fiscal and office management for the Commission. The Commission's computerized case-tracking system, managed through word processing equipment, is one of the administrative services activities. Clerical members of the administrative services staff provide support through coding and input of data on all complaints received by the Commission.

Information Management

This word processing equipment was initiated as part of a management information system in the fall of 1979. Basic information about all charges received by the Commission is entered into the system. As a result of this data entry, caseload summaries containing information about charges filed with the Commission are generated by the system regularly and distributed for use by management and staff. An important function of the system currently in operation is the automatic generation of all standard letters of notification sent to charging parties and respondents. When in full operation, the system will be capable of providing information about the status of any complaint that is active and on the file with the Commission. Another service to be generated by the system is a continually updated profile of the Commission's caseload by types of complaints, protected classes, geographical locations and disposition of cases.

Ultimately, the management information system will relieve the Compliance Division from some of the burdens of day-to-day case control administration and more efficiently utilize staff time by providing continual and comprehensive case control coverage, equal distribution of work responsibilities, and a decrease in time required for docketing and case processing.

Budget and Fiscal Management

The functions and responsibilities of staff in the area of budget and fiscal management include the preparation of the budget, accounting, purchasing, maintenance of equipment and supplies, payroll preparation, fiscal reporting, and record keeping, and all other fiscal and budgetary matters associated with the operation of the agency. The budget history summary is listed on page 28. The decrease in the Commission's personnel allocation since 1976 attests to an increase in the duties and responsibilities of staff assigned to this agency.

Personnel Services

Chief among the activities associated with personnel management and practices are hiring, maintaining attendance and personnel records, developing and complying with affirmative action plans and handling other personnel actions such as promotions, reassignments, leaves of absence and terminations.

Other administrative services activities include the clerical responsibilities of typing, filing, serving as receptionists, and answering correspondence.

PERFORMANCE

Compliance Program

COMPLAINTS FILED DURING THE YEAR

The West Virginia Human Rights Commission received 572 complaints during fiscal year 1981. Of the charges received, 500 or 87.4% were allegations of employment discrimination. Charges of housing discrimination numbered 21 (3.7%) of the total filed while 27 (4.7%) were complaints of discrimination in places of public accommodation. The remaining 24 charges (4.2%) were allegations of reprisal. (See page 25 for more detail.)

Sex discrimination was the most frequent basis for filing a complaint, with 231 (40.4%) of the total number of charges filed during the fiscal year on this basis. Charges of discrimination on the basis of race numbered 199, or 34.8% of the total number of complaints. Of the total number of charges, 95 (16.6%) claimed discrimination because of age. Age, however, is a protected class only in the areas of discrimination in employment and places of public accommodation.

Of the other charges received, 47 (8.2%) of the total were filed on the basis of discrimination because of religion, ancestry, color, national origin, blindness, and reprisal.

Employment Charges Filed

The WV Human Rights Act prohibits employers, employment agencies, or labor organizations from discriminating against persons on the basis of race, religion, color, national origin, ancestry, sex, age, blindness or handicap.

Of the 500 charges of employment discrimination filed with the Commission during fiscal year 1981, 220 (44%) were based on sex. Charges claiming discrimination because of race in employment numbered 167 or 33.4% of the total employment charges received by the Commission. Discrimination on the basis of age was the third most frequent type of charge in the employment category. There were 93 such charges representing 18.6% of the total. The remaining 20 (4%) employment charges were based on national origin, ancestry, color, religion and blindness.

Termination or discharge was alleged in 263 (52.6%) of the employment discrimination charges filed during the fiscal year. Allegations of discriminatory treatment on the job (terms and conditions, demotions, failure to promote, and suspensions) constituted 99 of the 500 charges of employment discrimination complaints received. (See page 25 for more detail.)

Housing Charges Filed

The Human Rights Act prohibits discrimination by owners, managers, or agents of real property or housing accommodations on the basis of race, religion, color, national origin, ancestry, sex, blindness or handicap. Of the 21 charges filed alleging discrimination in the area of housing during fiscal year 1981, 20 (95%) involved discrimination because of race.

During the fiscal year, refusal to rent was the allegation in 52% or 11 of the housing complaints filed. There were 6 charges involving evictions which represented 28.6% of the charges of housing discrimination received and four charges of refusal to sell. (See page 25 for more detail.)

Public Accommodation Charges Filed

It is an unfair discriminatory practice under the Human Rights Act to refuse, withhold from or deny to any individual because of race, religion, color, national origin, ancestry, sex, age, blindness or handicap any of the accommodations, advantages, facilities, privileges or services of such place of accommodation.

Of the 27 charges alleging discrimination in the area of public accommodations during the fiscal year, 12 (44%) were filed on the basis of race and 10 (3.7%) were filed on the basis of sex. Of the remaining five charges of discrimination in places of public accommodation, two were on the basis of age, one was on the basis of ancestry, and two were on the basis of blindness.

Reprisal Charges Filed

Retaliation against a person who has filed a complaint, testified, assisted with or participated in an investigation, proceeding, or hearing under the Human Rights Act is forbidden by the law. Employers, labor organizations, employment agencies, owners, real estate brokers, real estate salesmen or financial institutions are prohibited from engaging in reprisals.

During this fiscal year, 24 (4.2%) of the total charges received alleged retaliation. The increase in these complaints (15 reprisal complaints were filed in fiscal year 1980) reflects the trend toward discrimination to be increasingly systemic and pervasive throughout the employment organization. Many reprisal complaints are filed when an employee who has brought a complaint against the employer is subjected to penalties for small infractions of company rules, or experiences harassment from the employer or supervisor that is designed to force resignation. Others find that new employees are instructed not to discuss company policy with the complainant, who is labeled a troublemaker.

CASES CLOSED DURING THE FISCAL YEAR

During the fiscal year, 488 charges were closed at the investigative stage. Two types of investigative closures exist: Pre-determination Settlements and Administrative Closures. Pre-determination Settlements are agreements reached to resolve charges prior to a formal investigative ruling of Probable Cause or No Probable Cause.

Administrative Closures occur for the following reasons: Dismissal by the Commission because of inability to locate a charging party; failure on the part of the charging party to cooperate; or a lack of jurisdiction under the Human Rights Act; withdrawal by the charging party who wishes to sue privately; withdrawal by a charging party who no longer wishes to pursue the complaint; withdrawal by a charging party who has reached an independent settlement; and No Probable Cause determination when evidence gathered during investigation does not support a charging party's allegations.

Pre-Determination Settlements

A procedure specifically designed to provide for resolution of charges prior to a formal investigation was implemented during fiscal year 1979. This procedure, known as rapid charge processing, often enables the charging party and the respondent to reach a mutually agreeable settlement prior to a formal investigation.

During fiscal year 1981, 142 settlements reached prior to the completion of formal investigations and the Probable of No Probable

ause determinations were formalized in Pre-determination Settlements which are three-party written agreements containing stipulations designed to resolve the issues raised in the complaints. One such stipulation is that the agreement has been reached voluntarily and prior to the completion of a formal investigation. A standard conciliation agreement is normally reached following investigation and the determination that there is reason to believe a discriminatory practice occurred.

Administrative Closures

During this past fiscal year, 342 cases concluded as administrative closures. This category includes withdrawals, dismissals, and No Probable Cause determinations regardless of whether the closure occurred during investigation, conciliation or litigation.

Of the 342 administrative closures, 226 consisted of cases that were withdrawn or dismissed; and 116 were closed as a result of No Probable Cause determinations.

Dismissals include cases closed due to an inability to locate a charging party, failure on the part of a charging party to cooperate, or lack of jurisdiction.

The number of complainants who withdrew their charges during the investigation process has shown an increase over the past few years, which reflects the fact that more persons than formerly are taking action on their own to deal with the discriminatory conduct of employers. In addition to reaching independent settlements and seeking independent remedies through the federal court system, withdrawals also include those complainants who no longer wish to pursue their complaints.

No Probable Cause Determinations

A No Probable Cause determination is issued when evidence gathered during the investigation does not support a charging party's allegations of discrimination. The Commission issued 203 determinations during the fiscal year based on evidence gathered through investigations of charges.

Of the 203 determinations, 116 or 57% were No Probable Cause determinations. A charging party may appeal the Commission's determination of No Probable Cause. (See page 8 for more information about appeals.)

During fiscal year 1981, 87 of the 203 determinations issued by the Commission on cases investigated were determinations of Probable Cause. A respondent is invited to enter into conciliation proceedings

when notified of a Probable Cause determination. The 87 cases in which Probable Cause was found were forwarded to the conciliation unit for further processing.

Conciliation Activity

During the fiscal year, 20 cases were resolved through conciliation activities. The number of complaints conciliated reflects a recent tendency for respondents to be less amenable to settlement and for complainants to resist remedies which they consider inadequate.

Total monetary awards obtained for charging parties through conciliation efforts were \$19,905.49 during fiscal year 1981. Where appropriate, agreements contained offers of employment and promotion as well as restoration of seniority rights and other fringe benefits. Finally nondiscriminatory and affirmative action language were included in each of these agreements.

Litigation Activities

During the fiscal year, six public hearings were conducted by the Commission's legal staff. Two of the complaints alleged race discrimination, two alleged sex discrimination, one alleged age discrimination and one alleged discrimination on the basis of national origin. (A list of hearings held during the fiscal year is on page 27.)

Four cases were closed through consent orders totalling \$95,260.48. All four of these complaints alleged employment discrimination on the basis of sex dealing with the central issue of refusal to hire. In addition, where appropriate, these agreements contained offers of employment, restoration of seniority and other fringe benefits, as well as the appropriate affirmative action language.

During the fiscal year, four appeal hearings were held in circuit courts and two were held in the West Virginia Supreme Court of Appeals.

As a result of the December 1980 decision in *Bonnie Curry v. West Virginia Human Rights Commission*, the West Virginia Supreme Court of Appeals ordered the Commission to hold public hearings in all complaints in which Probable Cause is found and conciliation fails. Consequently, the Commission is currently facing a hearing backlog of approximately 200 complaints. Consequently, the Commission is currently facing a hearing backlog of approximately 200 complaints.

Education Program

INFORMAL EDUCATION HEARINGS

Equal Educational Opportunities in West Virginia Public Schools

During the months of September and October, 1980, the Commission, through its Education Division, conducted a series of nine regional hearings involving 26 county school systems. The state map on page 30 identifies the counties that participated in the hearings, all of which were chosen due to the significant percentage of minorities enrolled within these particular school systems. The purpose of these informal hearings was to ascertain the quality of education for minorities and females in these jurisdictions and the ease with which programs that enhance Equal Educational Opportunity can be shared and replicated.

There were three principal objectives for these hearings. The first was to gather information relevant to employment practices of minorities and females as professional and support staff. The second was to ascertain if there are problem areas for minority and female students in various aspects of the total school program. The final, and perhaps the most important, objective was to create an awareness of the dimensions and the implications of any problems identified and of avenues available to remedy situations.

Following the completion of the hearings, the Education Division prepared a report on the findings and recommendations. The report summarizes the findings and recommendations by issues. While on the surface, the identified issues may appear to be independent of one another, careful analysis points to an interrelationship and interaction of the issues. Those identifiable issues addressed through the hearings and their final report are student behavior/student rights, teacher training, curriculum, school administration, counseling, employment, parental involvement, school desegregation, and special education.

The commitment to equal educational opportunities must be measured as much by the efforts as by the achievements. In matters of employment, teacher training, school administration, and ultimately, school desegregation, the magnitude of the problem is dramatically illustrated. The deficiencies in one area compound and exacerbate problems in another, i.e., student behavior and drop-out problems with teacher/counselor sensitivity or inequitable practices. The hearings, however, did find isolated effective initiatives in various county systems that are worthy of attention and adaptation in other counties.

While these hearings pertained to Equal Educational Opportunities and the Commission recognized its limitations in redressing the systemic problem, segregated housing patterns appear to emerge as a pervasive and underlying problem. Intergregated equal educational opportunity in a segregated unequal economic milieu seems impossible and contradictory; but educators and citizens concerned about our future as individual citizens and as a nation must work within the contradictory structure and utilize schools to achieve every increment of improvement possible.

CIVIL TENSION TASK FORCE

With the increase in civil tensions as a result of the growth of groups advocating and/or condoning bigotry and violence, a broadly constructed civil tension task force was established during this past fiscal year. The first meeting to the task force was called by Governor Rockefeller and held in September 1980.

The purpose of the Governor's Civil Tension Task Force as outlined by Governor Rockefeller, is to develop and implement a supportive network to prevent and/or deal with incidents of hate and violence.

Designated members of the Governor's Civil Tension Task Force include, but are not limited to, representatives of religious institutions, municipal councils, law enforcement agencies, community based organizations, the Governor's Office and other relevant state offices, local human relations commissions, and the West Virginia Human Rights Commission. The Commission's role in the task force is, more or less, one of coordinator. Commission staff in turn has worked with the Governor's Office in establishing the goals and objectives of the task force, assisting it in identifying its terms of reference, and providing the necessary consultation on specific issues and concerns of the Civil Tension Task Force.

School Incident

When tensions arose between Black and White students and faculty in a high school in the southern part of the state, the Commission's Executive Director and education staff members, on behalf of the Civil Tension Task Force, intervened in an effort to resolve the problems and reduce the tension which the situation generated. Meetings of Black parents, White parents, school administrators and community representatives were convened in an effort to arrive at a satisfactory solution to the problem. Various options were discussed and agreed to by the parties in an effort to reduce the most immediate problems, and a communications network was established among parents, school administrators and the community in order that future problems would not develop but instead be resolved through established channels.

Housing Incident

In another race related situation with the potential for violence present, the Governor's Civil Tension Task Force intervened in an effort to prevent violence and alleviate racial tensions and fears. The home of a Black family who had recently moved into an all-white neighborhood was shot into on two occasions. In addition, the family members were victims of racial slurs warning them to move from the previously all white neighborhood. After attempts failed by the family to remedy the situation on a local level, the commission staff on behalf of the Civil Tension Task Force met with the family, their neighbors, local law enforcement and community based groups to develop a supportive network to aid the family in dealing with their fears and to assist in the apprehension of the perpetrator of the hate and violence. As a result the Commission assisted in the formation of a local a task force to help prevent any future tension situations and provide a mechanism for resolution.

HANDICAP LEGISLATION

The 1980-81 session of the West Virginia State Legislature amended the West Virginia Human Rights Act to include the mentally and physically handicapped as a protected class in the prohibition of discrimination in employment, places of public accommodation and housing. However, the amendment specified that it would not be an unlawful discriminatory act for any person, employer or owner to refuse to make any unreasonable capital expenditure to accommodate the physical or mental impairment of any handicapped person.

For purposes of this legislation, the term "handicap" means any physical or mental impairment which substantially limits one or more of an individual's major life activities.

Activity During the Session

Senate Bill No. 388 was introduced by Senators Orton Jones, Mario Palumbo and Robert Holliday and assigned to the Senate Judiciary Committee. However, an attempt was made to diminish the Commission's enforcement authority by amending S. B. 388 to provide for de novo proceedings with trial by jury and prohibiting the Commission from awarding any form of damages except out of pocket expenses. A coalition was immediately formed between the Human Rights Commission, the West Virginia Advocates for the Developmentally Disabled, Retarded Citizens Associated, other groups representing the handicapped, women's organizations, minority organizations, Council of Churches and organized labor.

As a result of the lobbying efforts of these groups, the enforcement powers of the Commission remained intact and the handicapped were added to the Human Rights Act as a protected class. Revised Senate Bill No. 388 passed April 7, 1981, and became effective ninety days from passage.

Activity Following Session

Following passage of the legislation, the Education Division instituted staff training on issues related to discrimination against the handicapped. Advocacy groups were contacted to serve as resources in the training of staff and the community in the implementation of this legislation. Work was begun on developing guidelines for processing complaints of the basis of mental or physical handicap and for dealing with the issues of "unreasonable capital expenditure."

COMMUNITY RELATIONS SERVICES

Neighborhood Relations

The education activities and community services encompass the technical assistance and training given to local commissions and community based groups interested in human rights.

The Education Staff continued to assist these various individuals, groups, community organizations and associations throughout the state in order to improve the human relations climate at the community level. Staff worked with the community in the Princeton, Logan, Charleston, Weirton and Williamson areas in an effort to increase the communities' awareness of both rights and responsibilities of West Virginians under the Human Rights Act. Training was also held in Beckley and Huntington as the Commission cooperated with local human relations commissions which have been reestablished in those two cities.

Educational Relations

The Commission continued its liaison with the State Department of Education. Specific cooperative projects included work on the development of a non-sexist multi-cultural curriculum and the recruitment of female and minority students in nontraditional vocational curricula.

In addition, the Commission continued to work with various boards of education throughout the state. An example of this activity includes the Commission's participation in Kanawha County Schools in-service training for all school personnel on multi-cultural education. Training was also provided to principals and supervisors in Wood County Schools on achieving a non-sexist, multi-cultural climate within the school community.

Generally training and workshops sponsored by the Commission for educational personnel include a review of curriculum bias, teacher training in multi-cultural education, proper placement and assessment of students to ensure that race, sex, socio-economic level or ethnicity do not become determining factors, and employment and promotion practices of the board to ensure compliance with the principle of equal employment opportunity.

When problems occurred between Black and White students in high schools regarding the treatment of the Black students in the school, the Commission, on behalf of the Civil Tension Task Force, was able to assist the community to resolve the conflict and establish a liaison between the school's administration and the Black community so that immediate action could be taken to resolve the grievances and preventive efforts could be designed to avoid future conflicts.

Business and Industry Relations

The education staff continued to work closely with the City of Charleston and the Women and Employment Project staff to determine if the specified number of women and minorities are being used to fill training and employment slots allocated by Charleston Town Center. In addition, the education staff has provided training for the Women and Employment Project participants on the applicant's and the employee's rights and responsibilities under the Human Rights Act, pre-employment inquiries and the application process, and how to handle sexual harassment on the job.

The West Virginia Construction Advisory Committee, an outgrowth of informal hearings on Women and Minorities in the Construction Industry and Building Trades Unions conducted by the Commission in December 1979, continued to work toward solutions for problems related to women and minorities in this industry. This advisory group is composed of contractors, union representatives, outside regulatory agencies, and a representative from the Human Rights Commission.

Advising and educating employers on the ever-changing facets of civil rights law as well as providing technical assistance are major components of the Commission's program of preventive discrimination. Under this program, the education staff conducted a workshop on employment discrimination and sexual harassment for a major fast food chain operating in West Virginia, provided training for personnel managers in several hospitals throughout the state on avoiding charges of discrimination in the interview process, and provided training on employment discrimination for a glass company in the state.

Public Information Materials

To augment training and assistance given to employers as well as to inform the public of their rights under the Human Rights Act, the education staff develops and disseminates brochures, pamphlets and reports dealing with specific as well as general issues. (For more information on printed materials available from the Commission see the publications list on page 31.)

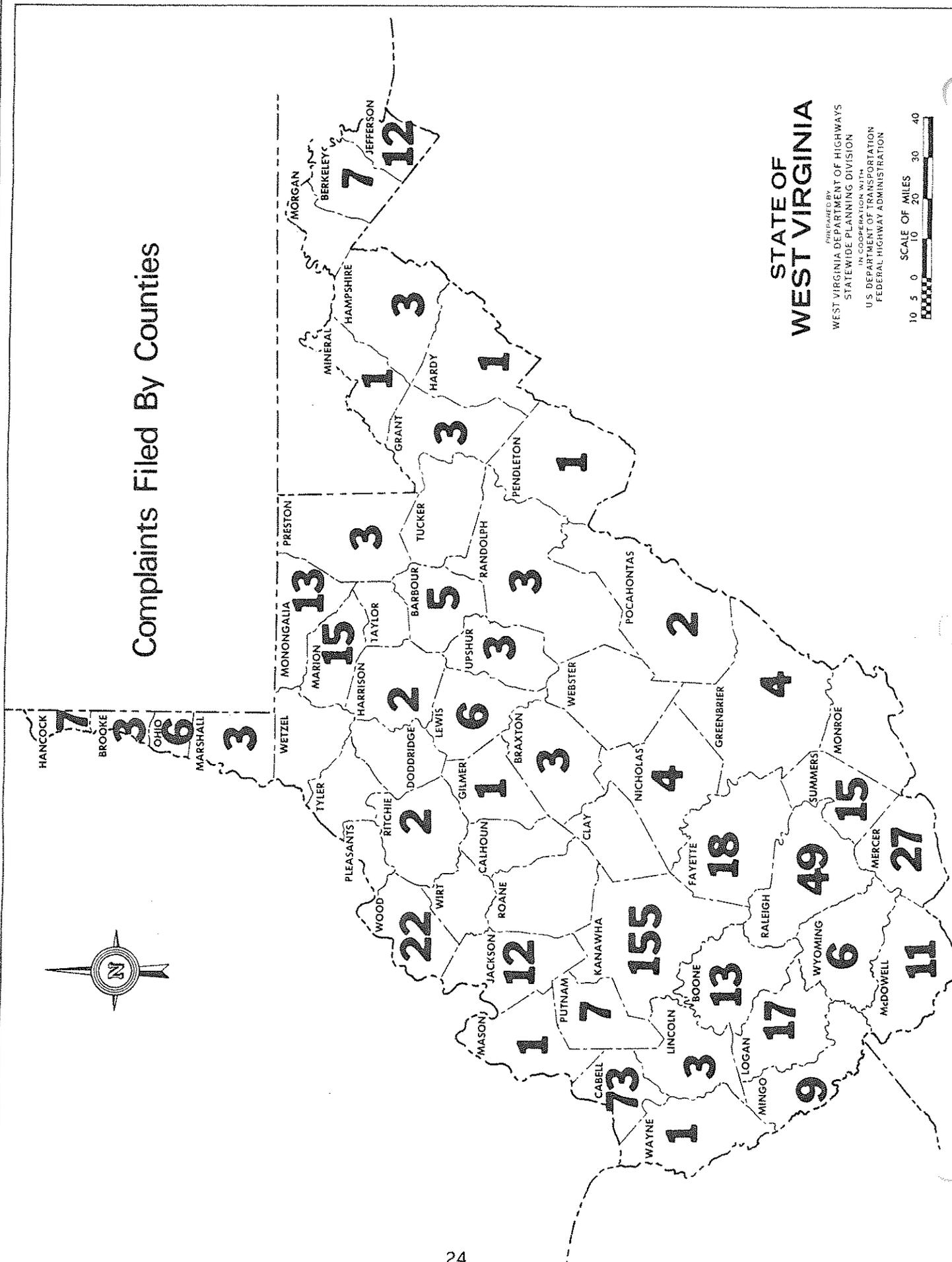
News releases announcing activities of the Commission were distributed to the news media throughout the year. These announcements included public hearings; Commission meetings; workshops; and special concerns of the Commission such as inclusion of the handicapped as a protected class under the Human Rights Act, inequality of educational opportunities in West Virginia public schools; availability of Commission services; and judicial decisions affecting the enforcement of the Human Rights Act.

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APPENDIX

Complaints Filed By Counties



STATE OF WEST VIRGINIA

COMPILED BY
 WEST VIRGINIA DEPARTMENT OF HIGHWAYS
 STATEWIDE PLANNING DIVISION
 IN COOPERATION WITH
 U.S. DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION



NATURE OF COMPLAINTS FILED IN FISCAL YEAR 1981

Employment	<u>R</u>	<u>S</u>	<u>A</u>	<u>NO</u>	<u>Rel</u>	<u>An</u>	<u>C</u>	<u>B</u>	<u>T</u>
Discharges and Layoffs	89	109	54	4	3	4	0	0	263
Refusal to Hire	34	44	20	0	2	1	0		101
Terms and Conditions	27	45	11	1	2	1	1		88
Denied Promotion	8	18	2	1				0	29
Failure to Refer	1	1	0						2
Demotion	4	1	4						9
Failure to Represent Equally	4	2	2						8
	<u>167</u>	<u>220</u>	<u>93</u>	<u>6</u>	<u>7</u>	<u>6</u>	<u>1</u>	<u>0</u>	<u>500</u>
<u>Public Accommodations</u>									
Unequal Treatment	1		1					1	3
Denied Privilege	11	10	1	0	0	1	0	1	24
	<u>12</u>	<u>10</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>2</u>	<u>27</u>
<u>Housing</u>									
Evictions	6	0							6
Refusal to Rent	10	1							11
Refusal to Sell	4	0							4
	<u>20</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>21</u>
TOTALS	<u>199</u>	<u>231</u>	<u>95</u>	<u>6</u>	<u>7</u>	<u>7</u>	<u>1</u>	<u>2</u>	<u>548</u>
Reprisals									24
Total Complaints									572

Abbreviation Code

R - Race	Rel - Religion
S - Sex	An - Ancestry
A - Age	C - Color
NO - National Origin	B - Blindness

DISPOSITION OF CHARGES/FISCAL YEAR 1980-1981

Employment

	<u>NPC</u>	<u>PDS</u>	<u>C</u>	<u>W</u>	<u>D</u>	<u>NJ</u>	<u>O</u>	<u>T</u>
Race	36	42	11	42	16	5	0	152
Sex	44	63	7	85	9	4	4	216
Age	24	13	0	31	1	0	0	63
N.O.	4	2	0	1	0	0	0	7
Ancest.	0	3	0	3	0	0	0	6
Rel.	0	3	0	6	0	0	0	9
Color	1	1	0	0	0	0	0	2
	<u>111</u>	<u>125</u>	<u>18</u>	<u>168</u>	<u>26</u>	<u>9</u>	<u>4</u>	<u>461</u>

Public Accommodations

	<u>NPC</u>	<u>PDS</u>	<u>C</u>	<u>W</u>	<u>D</u>	<u>NJ</u>	<u>O</u>	<u>T</u>
Race	1	3	0	2	1	0	0	7
Sex	0	0	0	3	0	1	0	4
Age	1	0	0	0	0	0	0	1
Blindness	0	0	0	1	0	0	0	1
	<u>2</u>	<u>3</u>	<u>0</u>	<u>6</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>13</u>

Housing

	<u>NPC</u>	<u>PDS</u>	<u>C</u>	<u>W</u>	<u>D</u>	<u>NJ</u>	<u>O</u>	<u>T</u>
Race	0	6	0	7	4	0	0	17
Sex	0	1	0	2	1	0	0	4
	<u>0</u>	<u>7</u>	<u>0</u>	<u>9</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>21</u>
Reprisals	<u>3</u>	<u>7</u>	<u>2</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>17</u>
	<u>116</u>	<u>142</u>	<u>20</u>	<u>188</u>	<u>32</u>	<u>10</u>	<u>4</u>	<u>512</u>

Abbreviation Code

- NPC - No Probable Cause
- PDS - Preliminary Determination Settlement
- C - Conciliation
- W - Withdrawal
- D - Dismissal
- NJ - No Jurisdiction
- O - Consent Order

PUBLIC HEARINGS HELD

Thomas Cueto v. Clarksburg Police Civil Service Commission, EAN-188-76,
- Hearing Held - December 18, 1980, in Clarksburg

Fleming v. Marion County Board of Education, EA-172-77,
- Hearing Held - April 16, 1981, in Fairmont

Arthur Moss v. St. Albans Civil Service Commission,
St. Albans Police Department, ER-16-75,
- Hearing Held - March 19, 1981, in Charleston

Geraldine Murray v. Jefferson County Board of Education, ES-181-78,
- Hearing Held - December 8-9, 1980, in Charles Town

Janet Porterfield v. Dunbar Police Department, ES-318-78,
- Hearing Held - September 19-20, 1980, in Charleston

Jayne Stinson v. Jefferson County Board of Education, ER-242-76,
- Hearing Held - December 7-8, 1980, in Charles Town

CONSENT ORDERS

Leslie Dudley, Nancy Bowen and Deanna Collins
v.

U. S. Steel Corporation

ES-111-77, ES-178-77, ES-179-77

Complainants received \$20,000.00 each. Collins received retroactive seniority and Bowen and Dudley to receive offers of employment and retroactive seniority when Respondent begins hiring. Complainants' Attorney fees of \$25,000.00 were also paid by Respondent - September 1980.

Dorothy Cline

v.

City of Nitro and Nitro Police Department

ES-220-77 - Complaint received
\$7,560.48 - September 1980

APPEALS

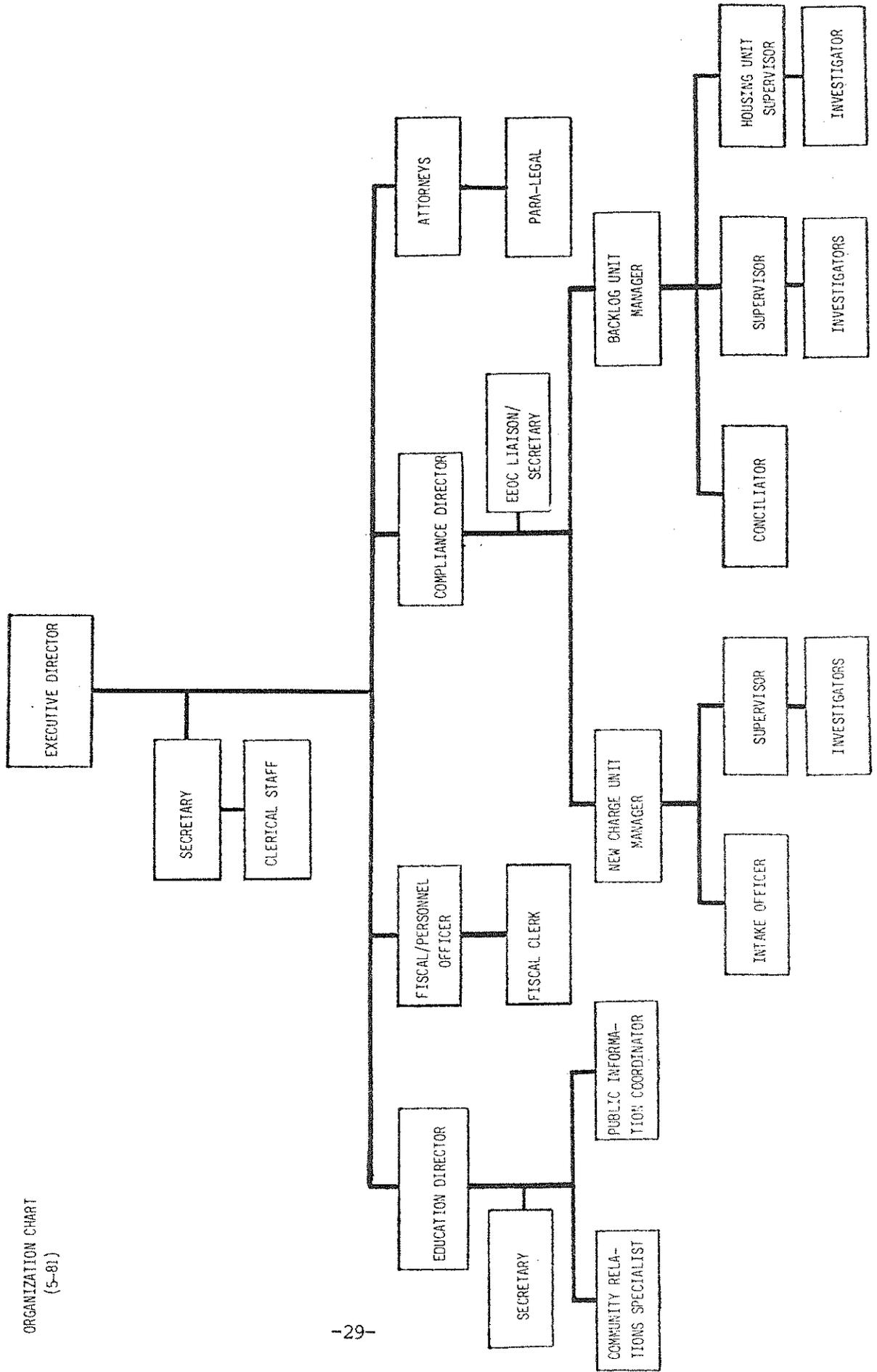
9/80 Judy Pittinger & Patricia Waldeck v. Shepherdstown
Volunteer Fire Department, PAS-483-77 and
PAS-484-77, Orders on Appeal to Jefferson
County Circuit Court.

BUDGET
LEGISLATIVE ALLOCATIONS

<u>FISCAL YEAR</u>	<u>AUTHORIZED EMPLOYEES</u>	<u>APPROPRIATION</u>	<u>CASES FILED</u>
1967-68	8	78,900	50
1968-69	10	102,425	79
1969-70	9	110,200	60
1970-71	9	110,200	180
1971-72	13	175,335	
1972-73	16	200,000	167
1973-74	18	222,052	199
1974-75	21	249,513	315
1975-76	23	319,599	522
1976-77	22	359,000	520
1977-78	21	372,450	512
1978-79	20	399,500	584
1979-80	20	424,611	531
1980-81	20	418,715	572
1981-82	20	456,656	

WEST VIRGINIA HUMAN RIGHTS COMMISSION

ORGANIZATION CHART
(5-81)



PUBLICATIONS LIST

PAMPHLETS

- °You And The Law
- °Danger: Discrimination in Housing
- °Do You Have A Complaint?
- °Guidelines for Employers: Pre-Employment Inquiries
- °Guidelines for Employers: Interviewing Women Candidates
- °Guidelines for Employers: The Blind Applicant
- °Guidelines for Employers: Affirmative Action/Equal Employment Opportunity
- °Guidelines for Employers: Pregnancy Discrimination as Sex Discrimination
- °The WV Human Rights Act

REPORTS

- °WV Human Rights Commission Annual Report
- °Women and Minorities in the Construction Industry-Hearing Report
- °Women and Minorities in the Construction Industry-Abridged Report
- °Administrative Rules and Regulations
- °Equal Educational Opportunities in West Virginia

POSTER

- °WV Human Rights Act Poster

OTHER COMPILED INFORMATION

- °Federal and State Sources of Civil Rights Information
- °Glossary of Civil Rights Terminology
- °Summary of Federal Civil Rights Laws
- °Bibliography: Laws and Affirmative Action

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