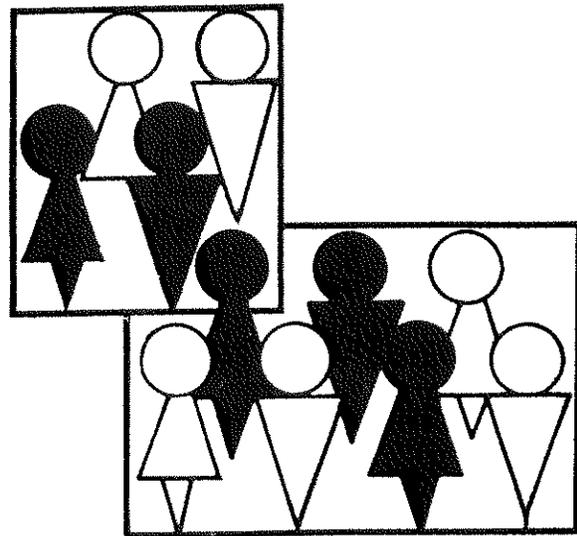


*West Virginia*

*Human Rights Commission*

**COMBINED ANNUAL REPORT**

**1981 - 82 & 1982 - 83**





**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 304-348-2616

JOHN D. ROCKEFELLER IV  
Governor

HOWARD D. KENNEY  
Executive Director

December 1, 1982

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

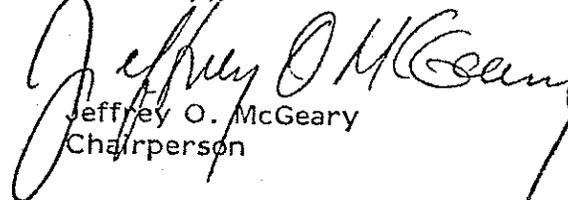
Dear Governor Rockefeller:

We have the honor to submit the following Annual Report of the West Virginia Human Rights Commission for the fiscal year 1981-1982.

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. McGearry  
Chairperson

JOM/rlj

## 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
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	
VACANCY	

## Forward

This year's annual report of the West Virginia Human Rights Commission raises serious concerns regarding an apparent resurgence of discrimination complaints by members of protected classes and a reluctance by respondents to settle or conciliate these complaints short of public hearing.

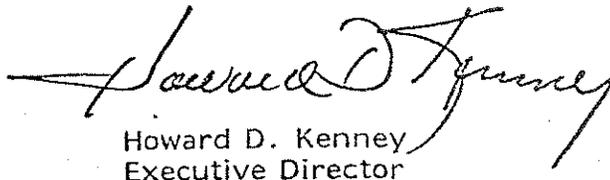
Fiscal year 1982 saw overwhelming evidence that, under severe economic and social stress, members of protected classes are victimized more in the denial of equal opportunity than the majority population. The state of the economy and conservative ground swells against the claims and gains of the sixties and seventies provided an excuse for those who would discriminate.

Paradoxically, this fiscal year saw increased termination complaints filed with the West Virginia Human Rights Commission as well as greater worker reluctance to file complaints on other issues, particularly terms and conditions of employment.

In fiscal year 1982, about a fourth of the cases closed during the year but docketed any time previously, were resolved to complainants' satisfaction after hearing or by settlement - for the largest monetary awards in the Commission's history.

I wish to express my gratitude to our commissioners and staff who, despite the difficult task of trying to handle an increased workload without increased resources, continue to be dedicated to the task of eliminating barriers of discrimination.

We solicit your continued support for the Commission in carrying out the mandate of the West Virginia Human Rights Act.



Howard D. Kenney  
Executive Director

## OVERVIEW

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." Since the Commission was established 21 years ago, 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.

In an effort to secure basic human and equal rights for all people in West Virginia, the original legislation has been amended several times and has progressed through many stages.

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 exofficio 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 the 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 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 the first year of receiving and processing complaints, only 50 charges of alleged discrimination were filed with the Commission. During fiscal year 1982 15 years, later, the number of complaints filed had increased to 643.

## STRUCTURE AND FUNCTION

The activities of the WV Human Rights Commission are divided into two major components: Compliance and Education. 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, activities consist of the processing of charges of discrimination through investigation, conciliation and public hearings. The education activities are designed to provide services to eliminate, prevent and curtail discrimination through education, public information, and 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.

### Compliance Program

While the Commission concentrates less on 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 complainants 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 174 preliminary inquiries by telephone, letters and walk-ins each month of fiscal year 1982. Of these, approximately one-third resulted in formal complaints. An average of 54 formal charges were notarized each month.

### 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 violation 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.

### HUD Deferral Agency

Another contractual arrangement with the federal government is a Housing and Urban Development (HUD) agreement for the processing of housing complaints on the basis of race, color, religion, sex and national origin.

Similar to the EEOC enabling legislation, HUD requires that a states' civil rights law regarding housing discrimination be substantially equivalent to the federal legislation. A complaint of housing discrimination filed with the West Virginia Human Rights Commission is simultaneously filed with HUD.

### 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 convenor 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.

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.

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 complaint 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. 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.

The Attorney General's staff also provides the Commission with other services such as subpoena and order enforcement, Circuit Court and Supreme Court Appeals, and other legal assistance necessary to the functioning of the Commission.

### 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 or 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. 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 effectively 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 in the appendix. 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 receptionist, and answering correspondence.

## PERFORMANCE

### Compliance Program

#### COMPLAINTS FILED DURING THE YEAR

The West Virginia Human Rights Commission received 643 complaints during fiscal year 1982. Of the charges received, 580 or 90% were allegations of employment discrimination. Charges of housing discrimination numbered 30 (4.7%) of the total filed while 33 (5.1%) were complaints of discrimination in places of public accommodation.

Race discrimination was the most frequent basis for filing a complaint, with 184 (28.6%) of the total number of charges filed during the fiscal year on this basis. Charges of discrimination on the basis of sex numbered 172, or 26.7% of the total number of complaints. Of the total number of charges 123 (19.1%) claimed discrimination because of age. Age, however, is a protected class only in the areas of discrimination in employment and places of public accommodation.

Complaints on the basis of handicap came under the jurisdiction of the Commission during fiscal year 1982. At the close of the fiscal year, discrimination on the basis of handicap was the fourth most frequently filed complaint and constituted 13.5% (87) of the total complaints filed.

Of the other charges received, 77 (12%) of the total were filed on the basis of discrimination because of religion, ancestry, color, national origin, blindness.

#### 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 580 charges of employment discrimination filed with the Commission during fiscal year 1982, 162 (27.9%) were based on sex. Charges claiming discrimination because of race in employment numbered 160 or 27.6% 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 122 such charges representing 21% of the total. Complaints of handicap discrimination numbered 83 or 14.3% of the total. The remaining 53 (9.1%) employment charges were based on national origin, ancestry, color, religion, blindness and reprisal.

Termination or discharge was alleged in 321 (55.3%) of the employment discrimination charges filed during the fiscal year. Failure to hire was cited in 108 (18.6%) of the employment complaints. Allegations of discriminatory treatment on the job (terms and conditions, demotions, failure to promote, and suspensions) constituted 151 of the 580 charges of employment discrimination complaints received.

#### 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 30 charges filed alleging discrimination in the area of housing during fiscal year 1982, 13 (43.3%) involved discrimination because of race.

During the fiscal year, refusal to rent was the allegation in 50% or 15 of the housing complaints filed. Twelve complaints involved harassment as a form of retaliation.

### 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 33 charges alleging discrimination in the area of public accommodations during the fiscal year, 11 (33.3%) were filed on the basis of race and 6 (18.2%) were filed on the basis of sex. There were four handicap complaints. The remaining 12 charges of discrimination in places of public accommodation were on the basis of age, color, religion and ancestry.

### 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, 39 (6%) of the total charges received alleged retaliation. The increase in these complaints (24 reprisal complaints were filed in fiscal year 1982, and 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, 440 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 a charging party who wishes to sue privately; withdrawal by the 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 1982, 97 settlements reached prior to the completion of formal investigations and the Probable or No Probable Cause 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 546 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 546 administrative closures, 343 consisted of cases that were withdrawn or dismissed; and 203 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.

During fiscal year 1982, the Commission accepted the declaration of bankruptcy by the respondent as a grounds for dismissal of a charge. However, these dismissals are handled on an individual basis and must be voted on by the Commission.

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 324 determinations during the fiscal year based on evidence gathered through investigations of charges.

Of the 324 determinations 203 or 63% were No Probable Cause determinations. A charging party may appeal the Commission's determination of No Probable Cause.

During fiscal year 1982, 121 of the 324 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 121 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 \$17,792.32 during fiscal year 1982. 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 fiscal year 1982, the Commission entered into contract with EEOC to hold public hearings in the backlog of over 200 unresolved complaints. The public hearing resulted from the 1980 West Virginia Supreme Court decision in Currey v West Virginia Human Rights Commission. In that decision, the Commission was ordered to hold public hearings in all complaints in which Probable Cause is found and conciliation fails.

A total of 11 public hearings were conducted by the Commission's legal staff. Seven of the complaints that went to public hearing alleged sex discrimination, two alleged race discrimination, and two alleged age discrimination. A list of the hearings held during fiscal year 1982 is contained in the appendix.

The largest settlement in the Commission's history was obtained during this fiscal year for 17 black men who worked for the Norfolk and Western Railroad and were members of the United Transportation Union. The men received a total of \$312,666 in settlements and retroactive seniority with the union and the company.

The Commission held a hearing on the complaints in 1975 and found both the union and the company guilty of discrimination. That decision was appealed to Kanawha County Circuit Court where the finding was set aside. In July 1981, the West Virginia Supreme Court reinstated the Commission's decision.

Other activities undertaken by the legal staff included three appeal hearings and one hearing and one writ of prohibition in the state Supreme Court. Three appeal hearings and three enforcement hearings were held in Circuit Courts during the fiscal year.

## Education Program

The educational activities of the Commission are designed to improve community understanding of the issues related to civil rights, to increase voluntary compliance, to enhance equal opportunity for all citizens, and perhaps even reduce discrimination complaints in the long run.

### INFORMAL HEARINGS: EQUAL HOUSING OPPORTUNITIES

In part to provide a forum to inform West Virginia residents of their legal redress if they encountered discrimination in seeking housing, the West Virginia Human Rights Commission initiated a series of hearings on Equal Housing Opportunities in the fall of 1981. Conducted in six regions representative of the demographic and topographic contours of the State, the hearings also sought to identify any discriminatory practices encountered by any protected class in violation of state or federal law. The state map in the appendix identifies the regions where the informal housing hearings were held.

These housing hearings also served to encourage community involvement in developing solutions for problems related to housing discrimination and to enhance public awareness of the factors that contribute, perpetuate, and frequently exacerbate disparate housing patterns and conditions.

Testimony at the hearings came from bankers and builders, borrowers and buyers, realtors, renters, and homeowners; the handicapped, the elderly, the single parents; and from representatives of the Farmers Home Administration and tenants' rights organizations. All these individuals brought important perspectives of how the availability, condition, and cost of housing impacts upon the handicapped, women, and minorities. Their testimony also revealed how the economy at large and the economics of the housing industry in particular impact disparately upon the poor; suggesting that vigorous enforcement of anti-discrimination laws, albeit important and necessary, is inadequate to alleviate the problems and to facilitate safe, decent, and affordable shelter for all.

### CIVIL TENSION TASK FORCE

The Civil Tension Task Force continued to meet in this fiscal year under the auspices of the governor's office 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.

A final report on a plan for implementation and recommendations pertaining to funding and operation was submitted to the governor during this fiscal year.

### 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.

### Interpretive Rules

The interpretive rules and regulations for the implementation of the handicap provisions of the Human Rights Act were developed during the past fiscal year. The rules were finalized during the Commission's May meeting and submitted for filing to the office of the Secretary of State.

Advocacy groups and interested individuals were sent copies of the interpretive rules and were asked to submit the comments to the Commission. Plans were finalized to hold a public hearing on July 1 on the interpretive rules as outlined in the West Virginia Administrative Procedures Act.

### COMMUNITY RELATIONS SERVICES

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

The Community Relations Specialist 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. The Commission worked with the community in the Princeton, Logan, Charleston, Fairmont, Parkersburg 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.

#### PUBLIC INFORMATION SERVICES

To augment training and assistance given by employers as well as to inform the public of their rights under the Human Rights Act, the Public Information Coordinator develops and disseminates brochures, pamphlets and reports dealing with specific as well as general issues.

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 the implementation of the handicap amendment, inequality of housing opportunities in West Virginia, availability of Commission services; and judicial decisions affecting the enforcement of the Human Rights Act.

APPENDIX



NATURE OF COMPLAINTS FILED IN FISCAL YEAR 1982

	<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>H</u>	<u>T</u>
<u>Employment</u>										
Discharges and Layoffs	87	85	91	4	1	7	0	0	42	317
Refusal to Hire	28	31	21	3	0	3	0	0	26	112
Terms and Conditions	36	29	6	3	1	3	0	0	14	92
Denied Promotion	2	11	2	0	0	2	0	0	1	18
Failure to Refer	1	1	0	0	0	0	0	0	0	2
Demotion	6	4	2	0	0	0	0	0	0	12
Failure to Represent Equally	0	1	0	0	0	0	0	0	0	1
	<u>160</u>	<u>162</u>	<u>112</u>	<u>10</u>	<u>2</u>	<u>15</u>	<u>0</u>	<u>0</u>	<u>79</u>	<u>554</u>
<u>Public Accommodations</u>										
Unequal Treatment	1	1	0	2	0	1	0	0	1	6
Denied Privilege	10	5	1	2	2	2	1	0	3	26
	<u>11</u>	<u>6</u>	<u>1</u>	<u>4</u>	<u>2</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>4</u>	<u>32</u>
<u>Housing</u>										
Evictions	0	1	0	0	0	0	0	0	0	1
Refusal to Rent	12	3	0	0	0	0	0	1	0	16
Refusal to Sell	0	0	0	0	0	0	0	0	0	0
Other	1	0	0	0	0	0	0	0	0	1
	<u>13</u>	<u>4</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>18</u>
<b>TOTALS</b>	<u>184</u>	<u>172</u>	<u>123</u>	<u>14</u>	<u>4</u>	<u>18</u>	<u>1</u>	<u>1</u>	<u>87</u>	<u>604</u>
Reprisals										39
Total Complaints										643

Abbreviation Code

R - Race  
 S - Sex  
 A - Age  
 NO - National Origin

Rel - Religion  
 An - Ancestry  
 C - Color  
 B - Blindness  
 H - Handicap

HEARINGS HELD

Curry v DuPont, ES 58-73, August & October 1981, Parkersburg, WV

(Bennett) Jones v City of Meadow Bridge, ES 47-77, April 1982,  
Meadow Bridge, WV

Thompson v Blount Brothers Construction, ER 293-75 & EA 292-75,  
April & May 1982, Charleston, WV

Alderson v Cedar Coal Company, ES 31-77, April & May 1982,  
Charleston, WV

(Farewell) Contois v Lincoln County Board of Education, ES 26-77, May  
1982, Hamlin, WV

Thaw v Charleston Area Medical Center, ES 9-78, May 1982,  
Charleston, WV

Hendricks v Teamsters Union Local #175, ES 357-76, June 1982,  
Charleston, WV

Lee v S. B. Nichols dba Nichols Discount City, ER 482-77 & EA 481-77,  
June 1982, Martinsburg, WV

(Evans) Franco v Montgomery General Hospital, ES 146-77, June 1982,  
Montgomery, WV

APPEAL HEARINGS IN CIRCUIT COURT

- Logan County Mental Health Agency v WV Human Rights Commission & Bradsher in Logan County Circuit Court
- PRIDE v Montgomery and WV Human Rights Commission in Logan County Circuit Court
- Berkeley Springs Volunteer Fire Department v WV Human Rights Commission & Younker, Swaim, & Van Goshen in Berkeley County Circuit Court
- City of Keystone v WV Human Rights Commission & Johnson in McDowell County Circuit Court
- Frank's Shoe Store v WV Human Rights Commission & Varney in Cabell County Circuit Court

ENFORCEMENT HEARINGS IN CIRCUIT COURT

- Garlitz v WFSP Radio in Preston County Circuit Court
- McColum v WV Department of Employment Security in Kanawha County Circuit Court
- Spurlock v WV Department of Employment Security in Kanawha County Circuit Court
- Steele v WV Department of Natural Resources in Kanawha County Circuit Court

STATE SUPREME COURT OF APPEALS

- Shepherdstown Volunteer Fire Department v WV Human Rights Commission & Waldeck & Pittinger, Appeal granted January 1982 from Circuit Court of Jefferson County
- Greyhound Lines v Berley Geiger, Jr. & WV Human Rights Commission Remanded to Kanawha County Circuit Court
- City of Charleston Police Department v Roberta Thompson & WV Human Rights Commission, Decision upholding WVHRC January 1982

PRE-HEARING SETTLEMENTS

- Dunham v Kanawha Valley Regional Transportation Authority - \$500.00
- Radford v Southwestern Community Action Program - Affirmative Action Program

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	643
1982-83	19	456,656	

## 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
- °Interpretive Rules Governing Discrimination on The Handicapped
- °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



**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

215 PROFESSIONAL BUILDING  
1036 QUARRIER STREET  
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE 304 348 2616

HOWARD D. KINNEY  
Executive Director

JOHN D. ROCKEFELLER IV  
Governor

December 2, 1983

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

Dear Governor Rockefeller:

We have the honor to submit the following Annual Report of the West Virginia Human Rights Commission for fiscal year 1982-83.

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,

A handwritten signature in cursive script, appearing to read "Russell Van Cleve".

Russell Van Cleve  
Chairperson

RVC/elm

Attachment 1

## TABLE OF CONTENTS

TRANSMITTAL LETTER	1
TABLE OF CONTENTS	2
COMMISSIONERS	3
FOREWORD	4
OVERVIEW	5
COMPOSITION OF THE COMMISSION	7
STRUCTURE AND FUNCTION	8
Compliance Program	8
Investigation Activity	8
Intake	9
Rapid Charge Processing	9
Fact-Finding Conference	10
Formal Investigation	11
Appeal Process	12
COMMUNITY SERVICES	13
Wheeling Hearings	13
TEN YEARS' OVERVIEW	15
PRELIMINARY INQUIRIES	17
CATEGORY OF CASES CLOSED	18
EMPLOYMENT COMPLAINTS BY COUNTY	19
EMPLOYMENT COMPLAINTS FILED & CLOSED	20
PUBLIC ACCOMMODATIONS COMPLAINTS BY COUNTY	21
PUBLIC ACCOMMODATIONS COMPLAINTS FILED & CLOSED	22
HOUSING COMPLAINTS BY COUNTY	23
HOUSING COMPLAINTS FILED & CLOSED	24
HUMAN RIGHTS DAY	25
CIVIL TENSION TASK FORCE	25

TABLE OF CONTENTS (Continued)

LEGAL ACTIVITIES	26
Cases Pending Before WV Supreme Court of Appeals	27
WV HRC Final Orders on Appeal Before State Judicial Circuits	27
Miscellaneous Actions Before State Judicial Circuits	28
Final Orders Issued	28
PUBLIC HEARINGS HELD	30
CONSENT ORDERS	32

COMMISSIONERS

	<u>Term Expires</u>
JEFFREY O. McGEARY, CHAIRPERSON Wheeling, WV	June 30, 1983
IRIS BRESSLER, VICE-CHAIRPERSON Fairmont, WV	June 30, 1985
MARJORIE CUNNINGHAM Welch, WV	June 30, 1984
ALLEN FISHER Charleston, WV	June 30, 1984
NATHANIEL JACKSON Elkins, WV	June 30, 1985
GEORGE RUTHERFORD Ranson, WV	June 30, 1985
BETTE THORNHILL Huntington, WV	June 30, 1983
RUSSELL VAN CLEVE Charleston, WV	June 30, 1983
VACANCY	

FOREWORD

Fiscal year 1983 can perhaps best be described as a year of change for the WV Human Rights Commission. For the first time since the prohibition against housing discrimination was added to the WV Human Rights Act in 1973, a major change in the Act was effected by the 1983 Legislature.

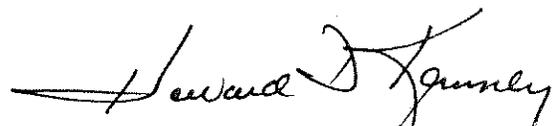
This change in the Act granted individuals aggrieved under the Act the right to seek a private right of action in the State court system. Commonly referred to as the "right-to-sue," sweeping changes in the implementation of the Act were required as a result of its inception and virtually every facet of the Commission's administrative and compliance activities have been affected and in some way altered.

Change was also noted in the types of charges received. Age discrimination complaints filed with the Commission increased drastically over those received in previous years and have equalled and at times surpassed the inventory of race and sex discrimination complaints which have perennially been the most common issues in charges of discrimination. A great many of the age discrimination complaints are related to the economic recession and employer efforts to reduce payroll costs. Complaints were filed by persons who believed their age to be a factor in the selection of employees for furlough or layoff or who were forced into early retirement.

Fiscal year 1983 brought the highest intake of new complaints in the Commission's history as just over 800 new charges were docketed. This trend is expected to continue as economic recovery appears to be very tentative.

I wish to express my gratitude to our Commissioners and staff who continue to be dedicated to the task of eliminating barriers of discrimination despite ever-increasing workloads without increased resources.

We solicit your continued support for the Commission in carrying out the mandate of the WV Human Rights Act.

  
Howard D. Kenney  
Executive Director

## OVERVIEW

The WV 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." Since the Commission was established 22 years ago, 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.

In an effort to secure basic human and equal rights for all people in West Virginia, the original legislation has been amended several times and has progressed through many stages.

In 1967, the WV 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.

A rapidly growing inventory of discrimination complaints requiring litigation before the Commission was an influencing

factor in the State Legislature's enactment of the "Right-to-Sue" amendment to the Act during the 1982-1983 session. In short, this new legislation granted a private right of action in the State courts to individuals aggrieved under the WV Human Rights Act. Prior to the effective date of this amendment, parties claiming a violation of the Act were required to file their charge with the WV Human Rights Commission exclusively for processing on the State level. Court action was available only on the federal level based on an alleged violation of one of the federal civil rights statutes. This situation served as an impediment to many charging parties and respondents alike in bringing disputed matters before some adjudicative body in a timely fashion. This latest amendment had an immediate effect both on the administrative operations of the Commission and the public in general. Within weeks of the amendment's effective date a noticeable number of civil actions were filed in circuit courts around the State. However, with all its impact to date, it is anticipated that the full effect of this amendment will not be known until early fiscal 1985.

## 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.

## STRUCTURE AND FUNCTION

The activities of the WV Human Rights Commission are divided into two major components: Compliance and Education. 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, activities consist of the processing of charges of discrimination through investigation, conciliation and public hearings. The education activities are designed to provide services to eliminate, prevent and curtail discrimination through education, public information, and 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.

### COMPLIANCE PROGRAM:

While the Commission concentrates less on 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.

<u>AREAS</u>	<u>PROTECTED CLASSES</u>								
	Race	Sex	Religion	Nat. Orig.	Color	Ancestry	Age	Blindness	Handicap
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.

## Rapid Charge Processing

The Commission began implementation of a procedure called rapid charge processing in fiscal 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.

One of the important steps 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 is not mandatory in every case investigation. There are several factors which may make a fact-finding conference impossible or unnecessary. Generally, the fact-finding conference is considered the first step in an investigation.

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 Compliance Section act as the convenor of all charges received by the Commission since the rapid charge process was implemented on a trial basis in October 1978. The process has also been used to reduce the Commission's inventory of unresolved charges pending investigation.

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.

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.

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 practice will be eliminated.

### Conciliation

When a determination of probable cause has been made, the complaint 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 the proposed terms of settlement.

A conciliation conference may be 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. Conciliation is a voluntary process. If attempts to conciliate fail and in the judgment of the Commission circumstances so warrant, the Commission may schedule the case for a public hearing to resolve the matter.

### Public Hearing

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 to 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 the prescribed

remedies to make the complainant whole. A final order of the Commission may be appealed to the circuit court to seek judicial review.

The Attorney General's staff also provides the Commission with other services such as subpoena and order enforcement, circuit court and supreme court appeals, and other legal assistance necessary to the functioning of the Commission.

#### 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.

## COMMUNITY SERVICES

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 are employed by the Commission's staff. These activities include disseminating information, providing technical assistance, and conducting research and gathering data. The staff 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 Commission's staff. 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 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 Commission's community services. Some local commissions have staff and strong enforcement powers while others have only volunteers with no authority. Upon request, the 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 Commission's staff is also responsible for responding to requests, both correspondence and telephone inquiries, for information about the Human Rights Act and Commission activities.

The educational activities of the Commission are designed to improve community understanding of the issues related to civil rights, to increase voluntary compliance, to enhance equal opportunity for all citizens, and perhaps even reduce discrimination complaints in the long run.

### The Wheeling Hearings

On April 14 and 15, 1983, The WV Human Rights Commission convened a hearing at Independence Hall in Wheeling, WV.

Racial tension had arisen in the Wheeling (Ohio County) area after news accounts were published that an Ohio County Deputy Sheriff had made racially derogatory remarks in the presence of an all-white jury empaneled in the trial of a black man.

Subsequently, there were cross burnings in black neighborhoods which brought charges from the black community that law enforcement agencies were unresponsive to their needs and concerns and showed no interest in preserving their safety. The situation appeared to be rapidly deteriorating. The Commission felt intervention was necessary to avoid a major confrontation. Therefore, the hearing was called for two reasons: (1) To provide a forum or outlet for the parties at controversy to air their positions and concerns; and (2) To obtain evidence in the disputed matters in an effort to formulate and extend recommendations to hopefully resolve the issues and alleviate future racial disruptions which could be injurious to the community as a whole.

In twelve hours of testimony, the Commission heard from concerned individuals, citizens and church groups, civic leaders, representatives of the City of Wheeling, the Wheeling Police Department, the Ohio County Commission, the Ohio County Sheriff, the U. S. Commission on Civil Rights and many others. The issue of police-community relations pervaded the entire hearing with testimony ranging from police brutality complaints to "no complaints" at all.

The Commission also heard from individuals concerned or connected with employment, housing, and education in the area.

The consensus of the hearing panel was that grave problems existed in Wheeling (Ohio County) between the black community and local government. Within twenty-four hours the Commission had issued a list of recommendations which, in its view, must be immediately implemented if future tensions are to be avoided. These recommendations included in-service training for law enforcement professionals emphasizing race relations, the establishment of a citizens complaint procedure insulated from law enforcement personnel, and an admonishment to the print and electronic media not to sensationalize matters of race and cultural differences in their coverage.

The immediate effect of the hearing appeared to be positive. Obviously, the problems did not arise overnight and will not go away overnight. However, the Commission intends to keep its finger on the pulse of this area and closely monitor its progress. It is mandatory that cool heads prevail for problems to be corrected while preserving life and property.

TEN YEARS' OVERVIEW

YEAR            FIRST HALF            SECOND HALF            TOTAL

NEW COMPLAINTS

1973-74	103	96	199
1974-75	141	174	315
1975-76	277	245	522
1976-77	219	301	520
1977-78	237	275	512
1978-79	301	282	584
1979-80	230	302	532
1980-81	313	267	580
1981-82	311	332	643
1982-83	410	399	809

CASES CLOSED

1973-74	31	107	138
1974-75	43	114	157
1975-76	144	162	306
1976-77	213	265	478
1977-78	160	224	384
1978-79	167	171	338
1979-80	210	248	458
1980-81	222	290	512
1981-82	264	404	668
1982-83	275	338	613

VOLUNTARY SETTLEMENTS

1973-74	5	10	15
1974-75	12	20	32
1975-76	40	54	94
1976-77	48	43	91
1977-78	37	59	96
1978-79	37	54	91
1979-80	69	64	133
1980-81	90	78	168
1981-82	54	63	117
1982-83	80	88	168

CASES PROCESSED BY STAFF

1976-77	287	333	620
1977-78	266	290	556
1978-79	219	243	462
1979-80	225	333	558
1980-81	288	434	662
1981-82	357	491	848

YEAR	FIRST HALF	SECOND HALF	TOTAL
------	------------	-------------	-------

PRELIMINARY INQUIRIES

1977-78	917	1,258	2,175
1978-79	1,336	1,959	3,295
1979-80	1,200	1,012	2,212
1980-81	1,003	924	1,927
1981-82	1,121	962	2,083
1982-83	848	804	1,652

PRELIMINARY INQUIRIES

FISCAL YEAR 1982-83

BY PHONE	1,291
WALK-INS	202
LETTERS	<u>159</u>
TOTAL	1,652

Approximately 48.9% of all Preliminary Inquiries received during the Fiscal Year 1982-83 resulted in formal complaints filed with the agency.

BASIS OF COMPLAINTS

Race	210
Sex	201
Age	193
Handicap	146
Religion	4
Ancestry	7
National Origin	7
Color	2
Blindness	2
Reprisal/Retaliation	<u>37</u>

TOTAL 809

EMPLOYMENT	743
PUBLIC ACCOMMODATIONS	39
HOUSING	<u>27</u>

TOTAL 809

FISCAL YEAR 1982-83

Total Cases Filed	809
Total Cases Closed	<u>-613</u>

TOTAL 196

Total Cases Unresolved as of June 30, 1982 1,345

Unresolved inventory as of June 30, 1983 1,541

CATEGORY OF CASES CLOSED

VOLUNTARY SETTLEMENTS		168
Pre-Determination	74	
Conciliations	29	
Pre-Hearing	8	
Withdrawals with	57	
NO PROBABLE CAUSE		190
ADMINISTRATIVE DISMISSALS		249
Withdrawals without settlements	174	
Complainant failed to cooperate	32	
No jurisdiction	15	
Unable to locate	8	
Civil suit filed	11	
Others	9	
ORDERS AFTER CONDUCT OF HEARING		6
No violation	5	
Cease and desist	1	
		<u>613</u>

EMPLOYMENT COMPLAINTS BY COUNTY

County	Race	Sex	Age	Rel	Anc	Nat Or	Blind	Hndcp	Rep
BARBOUR		1	1					1	
BERKELEY	4	1	1					1	
BOONE		1	4					3	
BRAXTON		1	2					1	
CABELL	29	18	45		1	*2		13	1
CALHOUN		1						2	
CLAY			1						
FAYETTE	8	3	1		1	1		6	
GILMER		1							
GRANT	1								
GREENBRIER	3	2	3					4	
HAMPSHIRE		1	1						
HANCOCK	1	2	2					3	
HARDY		1						2	
HARRISON	2	7	3					6	1
JACKSON		3	8					2	
JEFFERSON	3							2	1
KANAWHA	56	62	41	1	2	*3		35	13
LEWIS		2	1					1	
LINCOLN	3	1						1	
LOGAN	16	5	3					1	
MARION	7	2	4	1				2	
MARSHALL		3	7					1	1
MASON			1						
McDOWELL	5		2					2	
MERCER	11	11	12		1			10	4
MINERAL		1						2	
MINGO		4	4					3	
MONONGALIA	2	1	2					4	1
MONROE		1							
MORGAN		1	1					1	
NICHOLAS	1	3	3					4	
OHIO	4	1	3						1
PLEASANTS		1	1					1	
POCAHONTAS			2					2	
PRESTON		3	3						
PUTNAM	4							1	
RALEIGH	15	20	13	1	1	1		9	6
RANDOLPH		5	1					2	
SUMMERS		1	1					2	
TYLER								1	
UPSHUR		2						1	
WAYNE		1						1	
WEBSTER		2						1	1
WOOD	5	7	11		1	1	1	3	1
WYOMING		2	3						
<b>TOTAL</b>	<b>173</b>	<b>192</b>	<b>192</b>	<b>3</b>	<b>6</b>	<b>**8</b>	<b>1</b>	<b>135</b>	<b>33</b>

\*\*Includes two (2) Color complaints.

EMPLOYMENT

COMPLAINTS FILED:

NATURE OF DISCRIMINATION

Failure to hire	21
Terms & Conditions	131
Demotions	15
Failure to Promote	23
Discharge (Layoffs, etc.)	427
Failure to Represent	11
Failure to Refer/Training	<u>1</u>
TOTAL	743

BASIS FOR CHARGE OF DISCRIMINATION

Race	173
Sex	192
Age	192
Handicap	135
Reprisals	33
National Origin	6
Ancestry	6
Religion	3
Color	2
Blindness	<u>1</u>
TOTAL	743

COMPLAINTS CLOSED:

TYPES OF CLOSURES

Satisfactory Adjustments		161
Pre-Determination Settlements	70	
Conciliations	28	
Pre-Hearing Settlements	55	
Withdrawals with Settlements	1	
No Probable Cause		180
Administrative Dismissals		227
Withdrawals without settlements	160	
Complainant failed to cooperate	30	
No Jurisdiction	15	
Complainant filed civil suit	11	
Unable to locate complainant	5	
Others	6	
Orders After Conduct of Public Hearing		2
No Violation	1	
Cease & Desist	1	
TOTAL		570

PUBLIC ACCOMMODATIONS COMPLAINTS BY COUNTY

County	Race	Sex	Age	Rel	Anc	Nat Or	Blind	Hndcp	Rep
BARBOUR									1
BERKELEY		1							
BOONE								5	
CABELL	7	1							
FAYETTE	1								
GREENBRIER		1						1	
KANAWHA	6	3							1
LOGAN	1								
MERCER	1								
MINGO					1				
MONONGALIA	1								
OHIO	1		1					1	
SUMMERS	2								
UPSHUR		1							
WAYNE		1							
<b>TOTAL</b>	<b>20</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>2</b>

PUBLIC ACCOMMODATIONS

COMPLAINTS FILED:

NATURE OF DISCRIMINATION

Denied privileges	21
Denied services/accommodations	16
Unequal treatment	<u>2</u>
	39

BASIS OF CHARGE OF DISCRIMINATION

Race	20
Sex	8
Age	1
Handicap	7
Ancestry	1
National Origin	0
Color	0
Religion	0
Blindness	0
Reprisals	<u>2</u>
	39

COMPLAINTS CLOSED:

TYPES OF CLOSURES

Satisfactory Adjustments		3
Pre-Determination Settlements	2	
Conciliations	0	
Pre-Hearing Settlements	0	
Withdrawals with Settlements	1	
No Probable Causes		4
Administrative Dismissals		19
Withdrawals without settlements	13	
Complainant failed to cooperate	1	
No Jurisdiction	0	
Complainant filed civil suit	0	
Unable to locate complainant	2	
Others	3	
Orders After Conduct of Public Hearing		4
No Violation	4	
Cease & Desist	0	

TOTAL 30

HOUSING COMPLAINTS BY COUNTY

<u>County</u>	<u>Race</u>	<u>Sex</u>	<u>Age</u>	<u>Rel</u>	<u>Anc</u>	<u>Nat Or</u>	<u>Blind</u>	<u>Hndcp</u>	<u>Rep</u>
CABELL	4							2	
FAYETTE	1					1			
GREENBRIER	1								
HARRISON	1								
JEFFERSON	1			1					
KANAWHA	3	1					1	2	2
LOGAN	2								
MARION	3								
MINGO	1								
<b>TOTAL</b>	<b>17</b>	<b>1</b>	<b>NA</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>2</b>

HOUSING

COMPLAINTS FILED:

NATURE OF DISCRIMINATION

Refusal to Rent	11
Refusal to Loan	0
Evictions	13
Refusal to Sell	2
Other	<u>1</u>
	27

BASIS OF CHARGE OF DISCRIMINATION

Race	17
Sex	1
Blindness	1
Handicap	4
Religion	1
National Origin	1
Reprisals	<u>2</u>
	27

COMPLAINTS CLOSED:

TYPES OF CLOSURES

Satisfactory Adjustments		4
Pre-Determination Settlements	2	
Conciliations	1	
Pre-Hearing Settlements	0	
Withdrawals with Settlements	1	
No Probable Causes		6
Administrative Dismissals		3
Withdrawals without settlements	1	
Complainant failed to cooperate	1	
Unable to locate complainant	1	
Orders After Conduct of Public Hearing		<u>0</u>
	TOTAL	13

## HUMAN RIGHTS DAY

February 21, 1983, was proclaimed by Governor Rockefeller as West Virginia Human Rights Day in a ceremony at the Rotunda of the State Capitol.

Many dedicated, concerned citizens contributed their time and talent toward bringing Human Rights Day to reality. It is a day to be observed annually for both reflection and renewal: reflection on all that has been accomplished in the area of civil and human rights in the past and those who have literally given their lives in pursuit of those accomplishments; renewal of our resolve to continue to pursue the remaining goals, and there are many, with the same selfless commitment as these who have come before us.

The day was marked by ceremony, festivity, and hard work. Actually, the festivities began the previous night with a rally. But the day itself gave those concerned citizens in attendance a good opportunity and a good reason for approaching State Legislators and other government officials to "lobby" for human rights issues which are all too often pushed to the background amid the plethora of more pressing financial considerations.

It was a gratifying experience to see the number of people who believe human rights to be the supreme issue.

## CIVIL TENSION TASK FORCE

The Civil Tension Task Force continued to meet in this fiscal year under the auspices of the Governor's Office 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.

### Community Services

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

The Commission's 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. The Commission worked with the community in the Huntington, Wheeling, Beckley and Charleston areas in an effort to increase the communities' awareness of

both rights and responsibilities of West Virginians under the Human Rights Act.

#### Public Information Services

To augment training and assistance given by employers as well as to inform the public of their rights under the Human Rights Act, the Commission develops and disseminates brochures, pamphlets and reports dealing with specific as well as general issues.

New 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 the implementation of the handicap amendment, inequality of housing opportunities in West Virginia, availability of Commission services, and judicial decisions affecting the enforcement of the Human Rights Act.

#### Legal Activities

During fiscal year 1982-83 the Legal Division's inventory of cases awaiting public hearing exceeded 400 cases by June 30, 1983. The Commission proceeded with its contract with the U. S. Equal Employment Opportunity Commission to hold public hearings on its backlog of cases.

The increase in the number of cases awaiting public hearing can in large part be attributed to the decision of the WV Supreme Court of Appeals in the case of Currey v WV Human Rights Commission which mandated administrative hearings in all cases where a determination of Probable Cause is found and conciliation efforts have been unsuccessful.

Fiscal year 1983 proved to be the Legal Division's busiest year in its history. As of June 30, 1983, fourteen (14) cases were in the subpoena enforcement stage. During fiscal 1983, the Commission had seven (7) cases on appeal to the WV Supreme Court of Appeals from Circuit Court decisions on Commission rulings and final orders. The legal section also had ten (10) cease and desist orders on appeal before judicial circuits statewide. Another six (6) cases were pending decisions before the judicial circuits in connection with legal issues which arose during the public hearing stage. Ten (10) consent orders were entered between the Commission and employers prior to public hearing.

During fiscal year 1983, the Commission's Interpretive Rules and Regulations governing discrimination of the handicapped became effective on August 1, 1982, after a public hearing held at the State Capitol Building during July 1982. The Commission's attorneys provided extensive input in the promulgation of these Regulations. The Legal Division also provided extensive assistance in the enactment of the "Right-to-Sue" amendment to the WV Human Rights Act during the regular 1983 session of the WV Legislature.

The Legal Division provides legal advice and interpretations of State and federal court decisions to the Commissioners and staff. The attorneys' advisory activities involve lengthy legal research to assure that the Commission and its staff stay up to date on changing trends of civil rights issues and decisions.

A breakdown of the Commission's pre-hearing settlements, hearings, litigation, and appeals is listed as follows:

CASES PENDING BEFORE THE WV SUPREME COURT OF APPEALS

Judy Pittinger & Patricia Waldeck v Shepherdstown Volunteer Fire Department, PAS 483-77 & PAS 484-77

Judy Younker, Linda Van Gosen & Christine Swaim v Berkeley Springs Volunteer Fire Department, PAS 215-78, PAS 220-78, & PAS 213-78

Marshall Johnson v City of Keystone, ER 2-76

Rose Bradsher v Logan County Day Care Center, ER 41-77

WV HRC FINAL ORDERS ON APPEAL BEFORE STATE JUDICIAL CIRCUITS

- 12/82 Arthur Moss v St. Albans Civil Service Commission & St. Albans Police Department, ER 16-75 (Kanawha County Circuit Court)
- 6/83 Susan Jackson v Ohio Power Company, ER 512-79 (Marshall County Circuit Court)
- 3/78 Robert Powers v Kaiser Aluminum & Chemical Corporation, EAN 171-75 (Kanawha County Circuit Court)
- 3/83 Violet Whittington v Monsanto Company, ES 2-79 (Kanawha County Circuit Court)
- 9/82 Geraldine Murray v Jefferson County Board of Education, ES 178-78 (Jefferson County Circuit Court)
- Kathy Varney v Frank's Shoe Store, ES 222-77 & ES 298-77 (Reprisal) (Cabell County Circuit Court)
- 6/83 Pamela Evans Franco v Montgomery General Hospital, ES 146-77 (Fayette County Circuit Court)
- 1/81 Montgomery v Pride, ER 244-76 (Logan County Circuit Court)
- 12/78 Meredith Brown v Eugene Conley, H 49-73 (Kanawha County Circuit Court)

MISCELLANEOUS ACTIONS BEFORE STATE JUDICIAL CIRCUITS

State of WV ex rel. City of Martinsburg Police Department, City of Martinsburg Police Civil Service Commission v State of WV Human Rights Commission and David L. Redman, ER 96-78 (Writ of Prohibition in the Kanawha County Circuit Court)

7/79 Holyfield v Hall Motor Transit Company, ER 67-73 (Petition filed in Kanawha County Circuit Court to enjoin Commission from conducting administrative hearing)

3/83 Holbert v Laury's, ES 327-79 & EA 329-79; Kinder v Laury's, ES 331-79 & EA 330-79 (Writ of Prohibition filed in the Kanawha County Circuit Court)

FINAL ORDERS ISSUED

Janet Porterfield v Dunbar Police Department, ES 318-78 (Complainant received \$1,000 & Respondent complied with Affirmative Action provisions in the Order April 27, 1983)

Bonnie Currey v E.I. Dupont de Nemours & Company, ES 58-73 (Backpay, \$5,000 damages for mental anguish and humiliation, and attorney's fees, February 10, 1983)

Pamela Evans Franco v Montgomery General Hospital, ES 146-77 (\$26, 534 in backpay; \$6,072 interest; \$10,000 for emotional distress & embarrassment; \$768 for out-of-pocket expenses reflecting monetary loss; plus reinstatement to next pharmacy/technician clerk at Respondent's pharmacy department, May 25, 1983)

Ruby Bennett Jones v City of Meadow Bridge, ES 47-77 (Reinstatement to police officer upon reestablishment of Respondent's police force and \$1,000 damages for mental pain and anguish, March 24, 1983)

Geraldine Murray v Jefferson County Board of Education, ES 181-78 (\$2,701.75 in backpay + 6% interest per annum, and \$1,000 mental anguish and humiliation damages, August 21, 1982)

Arthur Moss v City of St. Albans Police Department/Police Civil Service Commission, ER 16-75 (Reinstatement as police officer plus \$1,657.70 backpay, October 26, 1982)

Bill Cooper v WV Department of Natural Resources, ER 355-77 (No violation order issued February 18, 1983)

Hendricks v Teamster's Local Union #175, ES 357-76 (No violation Order issued on December 9, 1982)

PUBLIC HEARINGS HELD

Phyllis Moore v Vitro Agate Company, ES 296-76 (September 30, 1982, Parkersburg)

Virginia Lucas v Food Store Employees' Union, Local #347, EA 369-79 & ES 368-79 (February 22, 1983, Charleston)

Virginia Lucas v Thorofare Markets, Inc., EA 366-79 & ES 367-79 (February 22, 1983, Charleston)

Marguerite Francisco v Pennyfare - St. Albans, ES 362-79 & EA 363-79 (February 22, 1983, Charleston)

Marguerite Francisco v Food Store Employees' Union, Local #347, ES 39-79 & EA 391-79 (February 22, 1983, Charleston)

Pamela Preston v Bloss & Dillard, Inc., ES 450-78 (November 8, 1982, Huntington)

Elva R. Hairston v J.C. Penney Company, ER 88-77 (November 12, 1982, Beckley)

Carolyn Phipps v Greenbrier County Board of Education, ES 110-77 (February 7, 1983, Lewisburg)

Alfred Hackley v WV Department of Highways, ER 237-78 (September 24, 1982, Charleston)

Charles Washington v Fourco Glass, Division of Rolland Glass, ER 226-79 (October 13, 1982, Clarksburg)

Charles Mosley v American Motors Corporation, ER 341-77 (August 25, 1982, Charleston)

Carolyn E. Mason v City of Martinsburg, Martinsburg Police Department, & City of Martinsburg Police Civil Service Commission, ES 251-79 (August 4, 1982, Martinsburg)

Edward Bedge, Sr. v WV Office of Adjutant General, Operation & Maintenance Division, EA 252-82 (April 18, 1983, Charleston)

John Saunders v Piedmont Airlines, ER 95-76 (October 19, 1982, Charleston)

Betty Richmond v WV Workers' Compensation Fund, ER 330-76 (March 23, 1983, Charleston)

William F. Cooper v WV Department of Natural Resources, ER 355-77 (September 1, 1982, Charleston)

Sarah Williams Welch v Boone County Sheriff, ES 156-77 (August 11, 1982, Madison)

Susan Jackson v Ohio Power Company, ER 562-79 (July 22-23, 1982, Moundsville)

CONSENT ORDERS

Eleanor Sell v Wheeling College, ES 21-77 (Complainant received \$4,000 & Respondent agreed to undertake Affirmative Action in all phases of its personnel practices, January 1983)

Mary V. Miller v Wood County Sheriff's Dept. & Wood County Commission, ES 451-79 (Amended on October 28, 1982. Respondent agreed to implement affirmative action in all of its personnel practices and complaint received \$10,000.)

Ruby Brantley v Black Knight Country Club, ER 38-77 (Respondent agreed to implement affirmative action in its personnel practices and Complainant received \$650.00 on May 23, 1983.)

David R. Lopez v B & O Railroad Company, EAN 398-76 (Complainant received \$572.00 and Respondent agreed to implement affirmative action in its employment practices April 21, 1983)

Alonzo Hilson v Alcan Sheet & Plate Division of Alcan Aluminum Corp., ER 459-79 (Complainant received \$2,500 and Respondent agreed to implement affirmative action in its employment practices January 11, 1983)

Herschel Page v Smith's Transfer Corp. ER 78-75 (Complainant received \$1,500 and Respondent agreed to implement affirmative action in its employment practices August 1983)

Thomas Santiago Cueto v City of Clarksburg, Clarksburg Police Department, & Clarksburg Police Civil Service Commission EAN 188-76 (Complainant received \$2,500 and Respondent agreed to implement affirmative action in its employment practices September 16, 1982)

John Jordan v Monsanto Company, ER 233-75 (Complainant received \$1,500 and Respondent agreed to implement affirmative action in its employment practices September 14, 1982)

John T. Petties v Red Roof Inn, ER 48-78 (Complainant received \$400 and Respondent agreed to implement affirmative action in its employment practices October 14, 1982)

Reed v Jarrett Printing Company, REP 326-79 (Complainant received \$750.00 and Respondent agreed to cease reprising against Complainant December 13, 1982)