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REPORT OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS '63

Errata Sheet - 1963 Report, U.S. Commission on Civil Rights

Voting

P. 18. Footnote 20: Page cited as "484" should be "474".

P. 20. Fourth line: "three" should be "two".

P. 20. Second full paragraph: "2800" should be "3250"; "534" should be "984".

P. 33. Georgia totals: The 1962 total number of white voters registered in the Georgia counties should be "63,360" instead of "69,360".

P. 34. Mississippi Counties: There should be no asterisk after "Rankin".

Employment

P. 77. Footnote 10: Citation should read "319 F. 2d 571".

P. 81. Lines 9 and 10: Should be deleted.

P. 82. Second full paragraph: "333 or 8.3 percent" should be "353 or 8.8 percent"; "333" should be "353".

P. 86. Last paragraph: "October 1963" should be "October 1962".

CIVIL RIGHTS '63

1963 Report of

the United States Commission

on Civil Rights

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Members of the Commission

JOHN A. HANNAH, *Chairman*
ROBERT G. STOREY, *Vice Chairman*
ERWIN N. GRISWOLD
REV. THEODORE M. HESBURGH, C.S.C.
ROBERT S. RANKIN
SPOTTSWOOD W. ROBINSON, III

Staff Director, BERL I. BERNHARD

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LETTER OF TRANSMITTAL

THE UNITED STATES COMMISSION ON CIVIL RIGHTS,
Washington, D.C., September 30, 1963.

THE PRESIDENT
THE PRESIDENT OF THE SENATE
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

SIRS:

The Commission on Civil Rights presents to you its report pursuant to Public Law 85–315, as amended by the 87th Congress. Interim reports and transcripts of proceedings have been submitted previously.

This report is the culmination of 2 years of factfinding and investigation by the Commission. A number of subject areas vital to the Nation's safety and well-being have been reviewed. While the Commission has found hope in the civil rights progress that has been made, there remain serious matters of concern that can be corrected only by executive or legislative action.

We urge your consideration of the facts presented and of the recommendations for corrective action.

Respectfully yours,

JOHN A. HANNAH, *Chairman*
ROBERT G. STOREY, *Vice Chairman*
ERWIN N. GRISWOLD
REV. THEODORE M. HESBURGH, C.S.C.
ROBERT S. RANKIN
SPOTTSWOOD W. ROBINSON, III
BERL I. BERNHARD, *Staff Director*

ACKNOWLEDGMENTS

Without the cooperation of many private citizens and organizations, and of government agencies and officials, Federal, State, and local, this report would not have been possible. It would be futile to attempt to list all to whom we are indebted. To single out some for recognition would be a disservice to the many.

It is appropriate, however, that we thank President John F. Kennedy and the officials of his administration who have supported our activities and made available information essential to the completion of our task.

Also appropriate for recognition here is the work of members of the State advisory committees constituted by the Commission in each of the 50 States and the District of Columbia. Many of these private citizens have given generously of their time and energy to aid the Commission in its fact-gathering activity. Numerous committee reports have added greatly to the understanding of State and local civil rights problems.

Lastly, but with the deepest sense of gratitude, we acknowledge the efforts of our able and dedicated staff. Under the distinguished and dynamic leadership of the Staff Director, Berl I. Bernhard, the program of the Commission has been carried forward with strength, comprehension, and dignity.

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CHALLENGE AND RESPONSE

The Commission issues its third biennial report to the President and the Congress at a time of increased awareness of the Nation's civil rights problems. Sharpened controversy and quickened hopes have accompanied this new awareness. A sense of futility has given way in recent months to indignation and an avowed determination to see revered principles translated into the practices of everyday life without further delay.

Long before this Commission was established in 1957, the doctrine of equal opportunity had been firmly embedded in the law. It was eloquently stated in the Declaration of Independence and reaffirmed in the Bill of Rights and the 13th, 14th, and 15th amendments to the Constitution. It has since been implemented in a series of judicial decisions which affirm without qualification that racial segregation in any aspect of public life violates the Constitution. Federal executive action and State and local legislative action during and following World War II further enlarged its application and, for the first time, established administrative machinery to implement it.

Yet, as the Commission was to learn from 6 years of study and investigation in all sections of the Nation, the civil rights of citizens—particularly of Negro citizens—continued to be widely disregarded. The Commission also learned that the long denial of equal opportunity has inflicted deep wounds upon the Negro community. Until recently, however, the growing discontent of Negroes did not manifest itself in overt action compelling the Nation's attention. Thus it was possible for other Americans to believe that the activities of civil rights organizations did not reflect any strong dissatisfaction on the part of the Negro community at large. The events of 1963 have shattered this illusion. Negroes through-

out the Nation have made it abundantly clear that their century-old patience with second-class citizenship is finally at an end. The Nation, in turn, gives evidence of recognizing that the current civil rights crisis constitutes a grave challenge.

This Nation was founded on the ringing affirmation that all men are created equal. It has traditionally served as a haven of freedom in a world plagued by oppression. It gave freely of its sons to "make the world safe for democracy," and again to save it from the racial madness of Hitler and his allies. It assumed the leadership of the free world in the perilous postwar era. Clearly such a Nation cannot continue to deny equality to Negro and other minority groups without compromising its integrity and eroding the moral foundation that is its greatest strength.

Although the Nation's struggle to redeem the promise of its ideals is primarily a domestic problem, it is also of worldwide concern. To our friends, the vitality of our ideals is a measure of the strength and reliability of the Nation whose leadership they have accepted. To the new and uncommitted nations, most of which are nonwhite, America is what it practices, not what it professes. To our enemies, our civil rights record provides a wealth of propaganda to help persuade neutral nations that America practices hypocrisy.

America needs a rededication in deeds, not in words, to the basic principles upon which it was founded. It is now 100 years since this Nation, lagging behind other civilized countries, abolished slavery. Yet today, the descendants of those freed slaves still suffer from customs, traditions, and prejudices that should have died with the institution in which they flourished.

The Nation now appears to be moving toward the eradication of slavery's lingering aftereffects. There is a growing realization that a great effort will have to be made to achieve this end. At the government level, such an effort must embrace action against all phases of racial discrimination in public life. As the Federal Government has learned, the civil rights problem cannot be solved piecemeal. The studies and reports of this Commission have provided much material to show that all facets of the civil rights prob-

lem are inextricably interrelated, and that none can be solved in isolation.

When the Commission was established there was some hope that voting would prove to be the key to the other aspects of civil rights. Some felt that the Federal Government could, by vigorously enforcing the constitutional prohibition against all forms of racial discrimination in the electoral process, discharge its main responsibility in this area. This hope was implicit in the Civil Rights Acts of 1957 and 1960, but it has proved to be an oversimplification. The Commission has found that the right to vote alone cannot break the vicious cycle in which Negro Americans have so long been trapped. To a northern Negro, born in a segregated, overcrowded neighborhood, educated in inferior, virtually segregated schools, and employed—if at all—in one of our economy's lowest paying jobs, voting may appear to be a futile exercise. To a southern Negro, born in a sharecropper's cabin, educated in segregated schools designed to prepare him for a Negro's traditional station in life, and wholly dependent economically on the white community, the right to vote may be nonexistent in practice, even though it may have been repeatedly vindicated in legal theory.

The President's latest civil rights proposals deal with education, employment, and public accommodations, as well as with voting. They give evidence that the executive branch recognizes the imperative need for dealing with the civil rights problem as a whole. Furthermore, there appears to be an increasing determination on the part of the Federal Government to use all the instruments at its disposal to secure the rights of citizens. A start has been made toward assuring that public money will not be spent in ways which foster and support racial discrimination. Affirmative programs are being considered which would enlarge educational and economic opportunity for all.

State and local governments have also been increasingly active in the protection of the rights of their citizens. Laws, ordinances, and executive orders now protect various aspects of civil rights in 34 States and numerous cities. All this the Commission views with gratification.

Yet government alone, at whatever level, cannot hope to solve the Nation's civil rights problem. The issue is too fraught with moral implications to be capable of exclusively legal solutions. A full mobilization of America's moral resources is required at this crucial time. The Commission firmly believes that the Nation has a great store of latent good will on the subject of civil rights. If this good will can be made effective, our civil rights problem can be solved. At this time, there is indication that the Nation at large is awakening to its responsibilities in the current crisis. An increasing number of religious and civic leaders have clearly expressed their views and those of their organizations. The President has provided guidance in public speeches and private meetings with leaders of business, labor, the professions, and women's organizations. These efforts have evoked some positive response, and the Commission urges that they be continued and increased.

For the first time, then, the Commission is able to report an atmosphere of genuine hopefulness. But if there is reason for hope, there is no cause for complacency. There is a broad gulf between the abandonment of enforced segregation and the achievement of a society in which race or color is not a factor in the hiring or promotion of an employee, in the sale of a home, or in the educational opportunity offered a child. The present conflict has brought about some progress, but it has also created the danger that white and Negro Americans may be driven even further apart and left again with a legacy of hate, fear, and mistrust.

These new hopes and new dangers have transformed the American civil rights problem. Since its organization, this Commission has gathered the facts about denials of civil rights and suggested remedial actions. Now more is required. Many communities are bewildered by the magnitude of their civil rights problems, the existence of which was officially denied or only dimly realized in the recent past. Many seek guidance and assistance in developing corrective programs and establishing the lines of communication that make such programs possible. A number of this Commission's State advisory committees have rendered highly effective assistance to their communities despite a lack of staff and funds,

but this is not enough. Guidance and assistance are urgently needed. If this Commission is assigned the function of a national civil rights clearinghouse, in accordance with the President's request, it will be able to offer such help.

In the present circumstances, the need is to translate findings into effective action at the local, State, and Federal levels. The Commission believes, therefore, that its factfinding and reporting functions must become a part of a larger and more comprehensive effort to meet this Nation's most urgent domestic problem.

At this time in our history, we must fulfill the promise of America to all this country's citizens, or give up our best hope for national greatness. The challenge can be met if the entire Nation faces its responsibilities.

UNIVERSITY OF MARYLAND
SCHOOL OF LAW
BALTIMORE, MARYLAND

THE COMMISSION

The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;
- Appraise Federal laws and policies with respect to equal protection of the laws; and
- Submit interim reports and a final and comprehensive report of its activities, findings, and recommendations to the President and the Congress.

At the end of its first and second 2-year terms, the Commission submitted comprehensive reports. Each report contained detailed recommendations in the several areas of Commission study. Summaries of these recommendations and action taken on them are printed as appendix I. During its three terms, the Commission has issued many publications in addition to its two final reports. A list of these documents is found in appendix II.

COMMISSION ACTIVITY

During its third and present 2-year term, the Commission submitted three interim reports to the President and the Congress. At President Kennedy's request, the Commission surveyed the his-

tory of civil rights during the century that has elapsed since the Emancipation Proclamation. A report on this subject, entitled "Freedom to the Free," was presented to the President on February 12, 1963. The Commission's hearing on housing problems in Washington, D.C., provided the occasion for another interim report. The third interim report concerned civil rights denials in the State of Mississippi.

The Commission's third comprehensive report consists of nine parts. The first five of these contain additional information in the subject areas that were covered in the 1961 Report: voting, equal protection of the laws in public education, employment, housing, and the administration of justice. In the sixth part the Commission reports on access to publicly supported or provided health facilities and services. The seventh part is devoted to a synthesis of the civil rights conditions that the Commission found in the course of its hearings in selected urban areas. The eighth part deals with the conditions under which Negroes serve in the Armed Forces. The final part reviews the activities of the Commission's 51 State advisory committees during the past 2 years.

This report is based on information developed from many sources. During the past 2 years, the Commission held urban area hearings in Phoenix, Ariz.; Memphis, Tenn.; Newark, N.J.; and Indianapolis, Ind. The Washington, D.C., housing hearing has been mentioned. In cooperation with other Federal agencies a number of statistical surveys were conducted. The Commission also conducted independent surveys and field investigations. A fourth annual education conference on problems of school desegregation was held in Washington, D.C. Under contract with the Commission, experts from many sections of the Nation produced reports on public education in their localities, many of which have been published. A contract report on the status of civil rights for the Nation's Spanish-speaking population is also in the process of publication. The Commission again received invaluable cooperation in data gathering from its 51 State advisory committees.

The Commission staff has produced detailed reports on most

of the subject areas that are reported here. It is the Commission's intention to publish a number of these documents as staff reports to the Commission so that this valuable research material will be available generally to the public.

COMMISSION MEMBERSHIP

In 1959, at the time of its first statutory report, the Commission on Civil Rights was composed of John A. Hannah, Chairman, president of Michigan State University; Robert G. Storey, Vice Chairman, head of the Southwestern Law Center, former dean of Southern Methodist University Law School, and past president of the American Bar Association; John S. Battle, former Governor of Virginia; Doyle E. Carlton, former Governor of Florida; Rev. Theodore M. Hesburgh, C.S.C., president of the University of Notre Dame; and George M. Johnson, professor of law and former dean of Howard University Law School.

When Governor Battle resigned in late 1959, President Eisenhower nominated Robert S. Rankin, chairman of the Department of Political Science at Duke University to take his place. Dr. Rankin's nomination was confirmed in July 1960. When Doyle E. Carlton and George M. Johnson resigned in March 1961, President Kennedy nominated Erwin N. Griswold, dean of Harvard University Law School, and Spottswood W. Robinson, III, dean of Howard University Law School, to fill their places. These nominations were confirmed by the United States Senate in July 1961. No changes in Commission membership took place during the current term.

After Gordon M. Tiffany's resignation as Staff Director on January 1, 1961, President Eisenhower appointed Berl I. Bernhard, then the Deputy Staff Director, to be Acting Staff Director. In March 1961, President Kennedy nominated Mr. Bernhard for the position of Staff Director. This nomination was confirmed by the United States Senate in July 1961.

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VOTING

1963 Report of

the United States Commission

on Civil Rights

VOTING

For most citizens of the United States, the exercise of the right to vote is the only personal participation they have in political self-government. Yet, for almost 100 years, this fundamental right has been denied to many Americans on the wholly arbitrary and irrelevant ground of race.

When Congress established the Commission on Civil Rights in 1957, it directed the Commission to investigate formal allegations that citizens were being denied the right to vote by reason of their color, race, religion, or national origin. In the 6 years since 1957, the Commission has conducted hearings, investigations, surveys, and related research. Its findings reveal clearly that the promise of the 14th and 15th amendments to the Constitution remains unfulfilled.

In its 1959 Report, the Commission noted the lack of vigorous enforcement of Federal laws designed to eliminate racial restrictions on voting. The Department of Justice since 1960, has initiated and sustained a determined attack on voter discrimination. The President, in public pronouncements, has made clear the immorality of denying the ballot to American citizens simply because of color. Yet, while few persons have sought to justify such discrimination on either moral or legal grounds, the right to vote is still denied many Americans solely because of their race.

After 5 years of Federal litigation, it is fair to conclude that case-by-case proceedings, helpful as they have been in isolated localities, have not provided a prompt or adequate remedy for widespread discriminatory denials of the right to vote. Two recent cases, as yet undecided, are aimed at discriminatory practices in the entire State of Mississippi and a large portion of Louisiana.[1] If

[1] *United States* v. *Mississippi*, Civ. No. 3312, S.D. Miss., complaint filed Aug. 28, 1962; *United States* v. *Louisiana*, Civ. No. 2548, E.D. La., complaint filed Dec. 28, 1961.

decided in favor of the Government, they will represent a major step forward. Even then, however, enforcement and registration will have to proceed on a county-by-county basis with many of the same difficulties manifested in the more limited suits.

In 1957, Congress enacted the first Civil Rights Act since 1875.[2] One salient provision authorized the Federal Government to bring civil suits to end discriminatory voting practices. The Civil Rights Act of 1960[3] strengthened the earlier act by providing that States, as well as registrars, could be sued. It also required the preservation of voting records for 22 months and permitted the appointment of Federal referees to register voters. To implement the referee provisions, a judicial finding of a "pattern or practice" of discrimination by registration or election officials is required. Even where a "pattern or practice" is found, the court still has full discretion to leave the registration process in the hands of the officials who have discriminated in the past. If the court does appoint a referee, the local registrar would not be displaced, since the referee can only register applicants who have applied to the registrar and been rejected.

In 1961, this Commission found that substantial numbers of Negro citizens had been denied the right to vote in 100 counties of 8 Southern States.[4] However, it was too early at that time to make a meaningful evaluation of what the new laws could accomplish in those counties.

That evaluation is the subject of this chapter of the 1963 Commission report. In 1956, the last year before the passage of legislation to secure the right to vote, about 5 percent of the voting-age Negroes in the 100 counties were registered to vote.[5] Despite the subsequent passage of two civil rights acts, the institution of 36

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[2] Civil Rights Act of 1957, 71 Stat. 634. (Codified in scattered sections of 5, 28, and 42 U.S.C.)

[3] Civil Rights Act of 1960, 74 Stat. 86. (Codified in scattered sections of 18, 20, and 42 U.S.C.)

[4] U.S. Commission on Civil Rights, *1961 Final Report: Voting*, 135–36. (Hereinafter cited as *1961 Voting Report.*)

[5] See table A for all registration data.

voting rights suits by the Department of Justice,[6] and the operation of several private registration drives,[7] Negro registration in these counties has risen only to 8.3 percent. The most recent reliable statistics indicate that only 55,711 of the 668,082 voting-age Negroes in the 100 counties have access to the ballott.[8]

The reasons for the low rate of increase in Negro registration appear to include the high cost of litigation, the slowness of the judicial process on both the trial and appellate level, the inherent complexity of supervising the enforcement of decrees, intimidation and reprisals against Negroes who seek to vote, and the employment of diverse techniques by State and local officials to subvert the Constitution of the United States.[9]

The 100 counties in which the Commission found voting denials in 1961 amounted to but 9 percent of the total number of counties in the 11 States of the former Confederacy. However, these 100 counties contained nearly a third of all Negroes of voting age in the 11 States.[10] In view of the present evidence, the Commission was overly conservative in finding denials in only these areas. Eleven of the 40 counties in which the Department of Justice has filed suits alleging discrimination or intimidation by individual

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[6] See table B for a summary analysis of all Federal litigation. The Department of Justice has filed 33 actions under 42 U.S.C. 1971(a) (discrimination in the electoral process) and 12 actions under 42 U.S.C. 1971(b) (intimidation and reprisals). Of these, 25 subsec. 1971(a) suits and 11 subsec. 1971(b) suits are based on discrimination and intimidation in the 100 counties.

[7] E.g., The Voter Education Project of the Southern Regional Council reports that as of Nov. 1, 1962, 140 registration drives were being conducted as part of its overall program.

[8] See table A.

[9] See *1961 Voting Report* 135–38.

[10] Computed from: U.S. Bureau of the Census, *U.S. Census of Population: 1960 General Population Characteristics, Alabama, Final Report PC(1)–2B*, pp. 74–91 (1961); *id., Arkansas, Final Report PC(1)–5B*, pp. 88–106 (1961); *id., Florida, Final Report PC(1)–11B*, pp. 89–105 (1961); *id., Georgia, Final Report PC(1)–12B*, pp. 97–137 (1961); *id., North Carolina, Final Report PC(1)–35B*, pp. 95–122 (1961); *id., South Carolina, Final Report PC(1)–42B*, pp. 58–69 (1961); *Id., Tennessee, Final Report PC(1)–44B*, pp. 82–106 (1961); *id., Texas, Final Report PC(1)–45B*, pp. 181–244 (1961); *id., Virginia, Final Report PC(1)–48B*, pp. 75–107 (1961); *id., Louisiana, Final Report PC(1)–20B*, pp. 74–90 (1961); *id., Mississippi, Final Report PC(1)–26B*, pp. 61–81 (1961).

defendants are not within the 100.[11] In addition, the broad-gage litigation in Louisiana and Mississippi challenges the application of certain State laws and regulations in all 82 counties in Mississippi and in 21 of Louisiana's 64 parishes. Proposed legislation authorizing the appointment of Federal voting referees where less than 15 percent of the Negro voting-age population is registered would cover 900,000 potential voters in over 250 counties.[12]

ANALYSIS BY STATE[13]

An examination of the 100 counties where denials of voting rights were indicated in the *1961 Voting Report* compels the conclusion that racial discrimination persists and the policy of the Civil Rights Acts has been frustrated.

Thirteen of the 100 counties were in Alabama, where 10 Federal voting rights suits have been instituted. In three, decrees favorable to the Government were issued. But in two, the court ruled adversely to the Government's contentions. No disposition has been made of the other five. Only 8 of the 13 have shown increases in registration. In two counties, the registration is unchanged, and in the remaining three, it has decreased. In 1956, about 13,500 Negroes were registered in the 13 counties. Today there are about 26,000 registered, or about 12 percent of voting age Negroes. This doubling of registration cannot be attributed solely to the civil rights acts. About one-third of the new registrants are in Jefferson County, which includes the city of Birmingham. The increase in Birmingham is primarily attributable to an extremely active Negro voter registration drive con-

[11] Choctaw, Elmore, and Perry Counties, Ala.; Bibb and Jones Counties, Ga.; Washington Parish, La.; and Claiborne, Coahoma, George, Greene, and Hinds Counties, Miss.

[12] *Congressional Quarterly, Weekly Report,* July 5, 1963, p. 1086. The figure is obtained by adding the total number of the voting-age nonwhites in each of the 251 counties and subtracting the nonwhites already registered.

[13] The summary discussion of registration and the status of litigation may be amplified by referring to specific counties and cases in tables A and B, which are arranged by State.

ducted by the Jefferson County Voters Campaign in the face of discrimination by local registrars. On July 31, 1963, the Department of Justice filed a voting discrimination suit requesting the immediate registration of 2,032 Negroes rejected since 1960. Upon filing the suit, the Attorney General stated:[14]

> We sought—as has been our policy—to resolve these problems by consulting informally with local officials. This suit was filed only after we were unable to secure guarantees from them that past discriminatory conduct would be rectified and that all citizens would be permitted to register and vote without regard to race.

Florida contained 5 of the 100 counties. No litigation has occurred in the State. Registration has increased in two counties and remained virtually unchanged in the other three. Though the number of voters in these counties has increased from 76 in 1956 to 512 in 1962, fewer than 5 percent of the voting-age Negroes are registered.

In Georgia, discrimination was found in 15 counties in 1961. The Justice Department has filed four voting suits in the State, but only one was aimed at discrimination in registration.[15] Two actions have succeeded in desegregating polling facilities and ballot counting.[16] The other was directed against intimidation of registration applicants.[17] In Baker County, 1 of the 15, the Department has successfully carried on negotiation with the local registrars. Registration has increased in 10 counties. It has remained the same in three and has dropped in the remaining two. Prior to the acts, there were 3,740 Negro registrants in these counties; 5 years later, there were 5,234. Half of the increase came not from a county in which the act had been invoked, but in Dougherty County, the home of the Albany movement. There, some access

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[14] Department of Justice Press Release, July 31, 1963.

[15] *United States* v. *Raines*, 172 F. Supp. 552 (M.D. Ga. 1959) *rev'd.*, 362 U.S. 17 (1960), 189 F. Supp. 121 (M.D. Ga. 1960) (Terrell County).

[16] Bibb and Jones Counties.

[17] *United States* v. *Mathews*, Civ. No. 516, M.D. Ga., filed Aug. 13, 1962 (Terrell County).

to the ballot had already been gained and a vigorous private drive had been carried on. Despite the almost 20-percent Negro registration in Dougherty County, only about 14 percent of the voting-age Negroes in these 15 counties are presently registered, as compared to 9.5 percent in 1956.

Georgia was the site of the first voting-rights suit to be brought by the Department of Justice under the 1957 Civil Rights Act.[18] When the Government's lawsuit against the registrars of Terrell County was filed September 4, 1958, exactly 48 Negroes were registered. Seven months later, the district court dismissed the case, saying that the Civil Rights Act was unconstitutional. This judgment was reversed by the Supreme Court in 1960 and a final decree was entered in the case on September 13 of that year. Since the 1960 act had been passed in the interim, the Department requested a finding of a pattern or practice of discrimination. The district court refused to make such a finding. It felt that its order would be effective without removing the registration process from the hands of the State registrars.

Yet 5 years after the suit was filed and 3 years after the decree, a total of only 133 Negro voters were registered in Terrell County. By contrast, there were 2,900 white registrants. In terms of voting-age population, only 3.4 percent of the eligible Negroes are registered while over 95 percent of the eligible whites are registered. In the summer of 1962, the Department of Justice filed another suit in Terrell County—this time to enjoin the sheriff and his deputies from intimidating Negroes seeking the right to vote.[19] This case is still pending.

In Louisiana, the Commission in 1961 found discrimination in 15 parishes. The Department of Justice has filed 11 suits in the State. Of these, nine were instituted against parish registrars and one against the State voting laws themselves. The 11th was based on intimidation of a witness who had testified at the Commission's Louisiana hearings.[20] Three of the suits have proceeded to a final

[18] *United States* v. *Raines, supra,* note 15.

[19] *United States* v. *Mathews, supra,* note 17.

[20] *United States* v. *Deal,* Civ. No. 8132, W.D. La., Feb. 3, 1961, 6 *Race Rel. L. Rep.* 484 (1961).

decree favorable to the Government. Two of these involved the purging of the names of voters from the rolls,[21] and the other attacked discrimination against Negro applicants in a "cipher" (no Negro voters) county.[22] In the 15 parishes as a whole, Negro registration declined from about 11,500 to 8,001 in the 5 years following passage of the 1957 act. This decrease is all accounted for in four parishes where the voter registration rolls were purged and reregistration required. Registration increased or remained the same in the other 11 parishes.

In the purged parishes, the names of both white and Negro voters were stricken from the rolls [23] and both races were required to reregister. Even today, in each of the four parishes, white registration is smaller than it was in 1956. The Negro voter rolls, however, have suffered far heavier losses. Negro registration has declined by more than 90 percent since 1956. White registration in the four parishes has declined by less than 30 percent. In the 15 parishes, only about 7 percent of the eligible Negroes are registered today. The largest single numerical gain occurred without benefit of a Federal suit or negotiation in Caddo Parish (which includes Shreveport). Here, too, some degree of access to the ballot had already been obtained in 1956.

The bulk of the 100 counties were located in the State of Mississippi. There, 38 counties were found to discriminate by the *1961 Voting Report.* Subsequent investigation has indicated that this finding was conservative. The Justice Department has brought 16 suits in the State, of which 9 are directed toward registrar discrimination. Six others involve intimidation, and one attacks the entire system of registration in Mississippi as being inherently discriminatory. Only two cases have reached a final decision. One was decided against the Government on all counts.[24] In the second, the court issued an injunction but refused to find a pattern or prac-

[21] These cases arose in Bienville and Washington Parishes where the Citizens' Council had caused the purging of Negroes from the registration rolls.

[22] East Carroll Parish.

[23] In these parishes, the purging is a periodic practice aimed at eliminating those who are dead, no longer resident, and the like.

[24] *United States* v. *Duke,* Civ. No. 4561, N.D. Miss., June 25, 1963 (Panola County).

tice of discrimination or to accept the Government view that the registrar should hold future Negro applicants only to the standards he had applied to whites in the past.[25] Both cases have been appealed. Preliminary injunctions have been obtained in three cases in the district court [26] and one in the court of appeals.[27]

The court of appeals' injunction was issued in the case of Theron Lynd, registrar in Forrest County. The Department filed suit against Lynd in July 1961. Eight months later, the district court refused to grant an injunction. Within 5 weeks, however, the Fifth Circuit Court of Appeals ordered Lynd to stop discriminating. When he refused to register several Negro applicants, the Department applied to the court to issue an order to show cause why Lynd should not be cited for contempt. Over a year later, and more than 2 years after the initial filing, Lynd was cited for contempt.[28] The circuit court stayed its order to allow Lynd to apply to the Supreme Court for review. Despite 2 years of intensive litigation and great effort by the Department, fewer than 1 percent of the voting-age Negroes in Forrest County are registered.

Registration is minimal in the other 37 counties as well. In the gubernatorial primary of 1955, about 2,800 Negroes were registered in the Mississippi counties studied. The best estimate of 1962 registration indicates a drop in registration of 534. Only about 1 percent of all voting-age Negroes in these counties are registered.

Seven of the 100 counties were in North Carolina. The Justice Department has filed no voting suits in the State. The most recent figures available for these seven counties indicate a marked increase in Negro registration. Voters rose from 2,500 in 1956 to at least 6,500 in 1962. This latter figure represents slightly more than 15.5 percent of the voting-age Negroes in these counties. Although no Federal suits have been filed, private litigation has

[25] *United States* v. *Ramsey*, Civ. No. 1084, S.D. Miss., Feb. 5, 1963, 8 *Race Rel L. Rep.* 156 (1963) (Clarke County).

[26] *United States* v. *Daniel*, Civ. No. 1655, S.D. Miss., Jan. 4, 1963, 8 *Race Rel. L. Rep.* 154 (1963); *United States* v. *Green*, Civ. No. 2540, S.D. Miss., Apr. 24, 1962.

[27] *United States* v. *Lynd*, 301 F. 2d 818 (5th Cir. 1962).

[28] *United States* v. *Lynd*, Civ. No. 19576, 5th Cir., July 13, 1963.

resulted in the outlawing by the Supreme Court of North Carolina of the use of an orally dictated literacy test.[29]

In South Carolina, discrimination was found in five counties. The Justice Department has brought no suits in the State. It has, however, negotiated with election officials in one county and obtained a speedup in the processing of applicants. Negro registration in these 5 counties declined between 1956 and 1962 from 2,500 to 2,000. The 1962 figure represents about 7.5 percent of the total Negro citizens of voting age.

Tennessee contained 2 of the 100 counties; in both, the Department of Justice has filed suits to prevent intimidation. In one, it also sued to outlaw a white primary. Intensive registration drives have been going on in both counties for some years. Registration increased from 58 in 1956 to 4,800 in 1962. Since nearly 40 percent of voting-age Negroes are registered, Tennessee may be dropped from the list of eight States in which Negro access to the ballot was said to be impeded in the *1961 Voting Report.* The difference between the situation in these two counties and in those of the other seven States is significant. The Tennessee counties experienced both intensive litigation by the Department of Justice and a massive voter registration drive that was unparalleled in the South. However, an additionally important element lay in the fact that the obstacles to Negro voting were not created by the registration officials. None of the four Federal suits was directed toward discrimination by registrars or other public officials. One was aimed at the Democratic Party's white primary,[30] and three sought to stop economic reprisals against Negroes who were fully able to register.[31] The State has no restrictive registration laws, the only requirements being age, residency, U.S. citizenship, and nonconviction of a felony.

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[29] *Bazemore* v. *Bertie County Board of Elections,* 254 N.C. 398, 119 S.E. 2d 817 (1961).

[30] *United States* v. *Fayette County Democratic Executive Committee,* Civ. No. 3835, W.D. Tenn., Apr. 25, 1960, 5 *Race Rel. L. Rep.* 421 (1960).

[31] *United States* v. *Atkeison,* Civ. No. 4131, W.D. Tenn, July 27, 1962, 7 *Race Rel. L. Rep.* 484 (1962); *United States* v. *Barcroft,* Civ. No. 4121, W.D. Tenn., May 2, 1962, 7 *Race Rel. L. Rep.* 484 (1962); *United States* v. *Beaty,* Civ. No. 4065, W.D. Tenn., May 2, 1962, 7 *Race Rel. L. Rep.* 484 (1962).

TECHNIQUES OF DISCRIMINATION

The practices used by voter registrars today to prevent Negro enfranchisement are the same as those described in the *1961 Voting Report.* An examination of voting complaints filed with the Commission during 1962 and 1963 demonstrates this, as do Justice Department voting suits filed during the intervening period.

Several methods were cited in 1961.[32] One was the discriminatory application of legal qualifications, such as literacy tests, constitutional interpretation tests, calculation of age to the exact day, and requirements of good moral character. Others involved the use of plainly arbitrary procedures. These included requirement of vouchers or some other unduly technical method of identification, rejection for insignificant errors in filling out forms, failure to notify applicants of rejection, imposition of delaying tactics, and discrimination in giving assistance to applicants.

The Commission pointedly warned of a third possible form of discrimination. This has occurred in areas where virtually all the voting-age whites have been registered regardless of qualifications while Negroes have been systematically rejected. If litigation or a change in policy should result in the adoption of strict standards and procedures which would be equally applied to all applicants, the results of past discrimination would be perpetuated by virtue of the fact that the burden of the new requirements would fall on Negro applicants.[33]

During 1962 and the first 7 months of 1963, the Commission received 104 voting complaints. No novel techniques of discrimination were involved. All of those cited in the *1961 Voting Report* were included except the requirement of calculating age to the precise day. The most common were the discriminatory application of legal standards, especially interpretations of "good moral character," and arbitrary procedures such as delay and refusing to

[32] *1961 Voting Report* at 137–38.
[33] *Id.* at 138.

notify applicants of their success or failure. Several complaints involved reprisals or intimidation by private citizens and public officials.

During 1962 and 1963, the Justice Department filed 22 voting suits. Of these, eight were directed at reprisals or intimidation. The remaining 14 were based on practices described in the *1961 Voting Report.* One challenged the registration laws as being inherently discriminatory in nature. The others alleged unequal application of standards to whites and Negroes and in some cases resort to delaying tactics.

The danger foreseen by the Commission that prior discrimination might be perpetuated where extremely strict standards are adopted has materialized. To counteract this "freezing" of the rolls, the Department has asked in every appropriate suit for decrees which would require registrars to apply the same standards to future Negro applicants that they had applied to whites in the past. Encountering a reluctance on the part of the district courts to issue such orders, the Department has appealed adverse rulings in three States to the Fifth Circuit Court of Appeals.[34]

The constitutional argument for refusing to allow past discrimination to be permanently frozen into the rolls has been articulated by the Fifth Circuit Court of Appeals: [35]

> Obviously a blanket requirement that all persons who have never paid the poll tax before, that being a relatively small percentage of white people and all Negroes, who now desire to pay their poll tax for the first time must see the Sheriff personally operates unequally and discriminatorily against Negroes. . . . Sheriff Dogan's new instructions by necessary result re-creates and perpetuates the very discrimination which prevailed under his former instructions and practices.

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[34] The three suits are: *United States* v. *Ramsey, supra,* note 25 (Clarke County, Miss.); *United States* v. *Majors,* Civ. No. 2584, S.D. Ala., Nov. 10, 1962 (Dallas County, Ala.); *United States* v. *Fox,* 211 F.Supp. 25 (E.D. La. 1962) (Plaquemines Parish, La.).

[35] *United States* v. *Dogan,* 314 F. 2d 767, 772–73 (5th Cir. 1963).

DIFFICULTY IN ENFORCEMENT

It is apparent from examination of the meager increases since 1956 in registration in the 100 counties, and in the slow course of Federal litigation efforts, that present legal remedies have proven inadequate. Their specific weaknesses are cited in the following paragraphs.

The Justice Department has been able to achieve totally effective results in two classes of suits—those involving purges and segregated polling facilities. Where, however, denials of the ballot are based on less blatant discrimination, on restrictive laws, and on the "freezing" of the rolls, success has proven considerably more difficult to achieve. It is apparent that so long as prejudiced registrars have access to a variety of discretionary registration criteria—literacy and citizenship tests, good moral character requirements, constitutional interpretation tests, and the like—they can practice discrimination in a variety of forms. The only way to eliminate the practices by litigation is to win comprehensive decrees with intensive reporting requirements so that literally every act of every registrar is known to the court. Even in such cases, complex and varying registration standards make enforcement burdensome. Enormous efforts must be made by the Department to follow up rejections by those registrars against whom strong decrees have been issued.

The Department has been able to win comprehensive orders only in the middle district of Alabama.[36] There, broad decrees have ordered the registration of 58 Negroes in Macon County and 1,140 Negroes in Montgomery County. In these two counties and in Bullock County, the court has required monthly reports detailing the disposition of all applications, both whites and Negroes.[37]

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[36] The registrar of Jefferson Davis County, Miss., has also been ordered to report on his rejections of Negro applicants. *United States* v. *Daniel, supra* note 26.

[37] *United States* v. *Alabama,* 192 F. Supp. 677, M.D. Ala. 1961, *aff'd* 304 F. 2d 583 (5th Cir. 1962) (Macon County); *United States* v. *Penton,* 212 F. Supp. 193 (M.D. Ala. 1962) (Montgomery County); *United States* v. *Alabama,* Civ. No. 1677N, M.D. Ala., Sept. 13, 1961, 7 *Race Rel. L. Rep.* 1146 (1962) (Bullock County).

The reason for any rejections also must be indicated in the reports. In Macon County, where the order has been most effective, the Government has agreed to a request by the registrars to suspend the reporting requirements. Bullock County also has opened the ballot to Negroes under the pressure of injunction. Seven months after the decree in Montgomery County, however, the Department was impelled to move for the appointment of referees because of continued rejection of Negro applicants on overly technical grounds. Since the reporting requirements had been complied with, the burden imposed on the Government in evaluating the registrars' adherence was eased somewhat. Thus, even in this district, where the strongest judicial action has been taken, impediments remain. Elsewhere, the situation is less hopeful.

A second factor which has prevented a greater increase in Negro registration during the life of the civil rights acts is the delay in reaching final decision in the courts. In some instances, as in the *Lynd* case, trial courts have refused to rule on injunctions. Where the Government loses or obtains an order it considers ineffective, further delay is encountered in seeking reversal. On the appellate level, the timelag for civil-rights suits has been no greater than for any other class of cases. However, a year spent in seeking reversal of a district court decision is a long time when the subject of litigation is the right not to be denied the franchise on the basis of race—a right not openly challenged by any responsible person, North or South.

A third handicap to the effective implementation of the policy of the civil rights acts is the inadequate staffing of the Civil Rights Division. There are 20 lawyers charged with the responsibility of enforcing the voting provisions of the civil rights acts. This small staff has brought all the litigation discussed above. In addition, it is conducting negotiations in several counties, in some instances with success. The Division is investigating the status of the right to vote in many other areas as well. Such investigation frequently involves the examination of thousands of registration applications in a single county. Much of its time is spent in studying dozens of specific incidents of intimidation and reprisal.

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Yet it must follow up all incidents of reprisal against its witnesses or those whose rejected applications have been the subject of Federal litigation if it is to afford protection to those whom it has put in the limelight. It is impossible therefore for the Division as presently constituted to administer effectively the Federal voting laws.

The Department has sought to overcome these obstacles by two primary means: The institution of the broad-gage suit and the application of the theory that "freezing" is a violation of the civil rights acts. Broad-gage relief is sought because the application of one decree to an entire State or a substantial portion of it tends greatly to systematize and speed enforcement. As noted earlier, actual enforcement still will depend on county-by-county scrutinies for substantial periods following the decree. Successful application of the "freezing" theory would insure that, within each county, registration standards for all voters would be truly uniform. This would accomplish, on a case-by-case basis, the policy articulated in the Commission's 1961 recommendation that only uniform and minimal registration requirements be permitted by Congress.

SUMMARY

The conclusion is inevitable that present legal remedies for voter discrimination are inadequate. In many instances, litigation has not secured to qualified American citizens the right to vote. Further, the narrowly drawn commands of voting decrees often are evaded. In other instances, private intimidation—both before and after registration—frustrates the ultimate exercise of the right. In seven States, the right to vote--the abridgment of which is clearly forbidden by the 15th amendment to the Constitution of the United States—is still denied to many citizens solely because of their race.

RECOMMENDATIONS

Abridgment of the right to vote on the grounds of race persists in the United States in direct violation of the Constitution. In fulfillment of its statutory obligation, the Commission has previously recommended to the President and the Congress a variety of corrective measures. In 1963 the continuing discriminatory denial of the right to vote has led this Commission to reexamine and reconsider each of its prior voting recommendations. The Commission now believes that the only effective method of guaranteeing the vote for all Americans is the enactment by Congress of some form of uniform voter qualification standards. The Commission further believes that the right to vote must, in many instances, be safeguarded and assured by the Federal Government. Adequate legislation must include both standards and implementation.

The Commission recognizes and applauds the sustained efforts of the Department of Justice to assure that the right to vote not be denied on grounds of race. The Department has instituted numerous suits based on the 1957 and 1960 acts. It has entered into negotiations in many counties seeking agreements to eliminate unconstitutional registration practices. All too often it must devote significant effort to protect from intimidation its witnesses as well as those whose applications have been the basis for suits against registrars. The frustration of these efforts to eradicate discriminatory practices is due to factors beyond the control of the Department. Yet, the Commission is satisfied that prosecution of voting cases under the 1957 and 1960 Civil Rights Acts must continue and even be accelerated. The Commission is satisfied that litigation, negotiation, and investigation cannot be carried on effectively in literally hundreds of counties with the present inadequate staffing and budget of the Civil Rights Division. The Commission urges the Congress to recognize that enforcement of voting rights will require substantially more manpower and increased appropriations for the Division.

Even with a full staff, other methods of enforcement of the guarantees of the 14th and 15th amendments must be provided (in addition to present judicial remedies) if success in eliminating discrimination in voting is to be achieved.

All present methods having proved ineffective, and in view of the continued failure of some States to take appropriate steps to solve the problem, the Commission again asks that Congress act to establish uniform voter qualifications in order to enforce the provisions of the 14th and 15th amendments. The Commission recommends:

Recommendation 1.—That Congress, acting under section 2 of the 15th amendment and sections 2 and 5 of the 14th amendment (*a*) declare that voter qualifications other than age, residence, confinement, and conviction of a crime are susceptible of use, and have been used, to deny the right to vote on grounds of race and color; and (*b*) enact legislation providing that all citizens of the United States shall have a right to vote in Federal or State elections which shall not be denied or in any way abridged or interfered with by the United States or by any State for any cause except for inability to meet reasonable age or length-of-residence requirements uniformly applied to all persons within a State, failure to complete six grades of formal education or its equivalent, legal confinement at the time of registration or election, judicially determined mental disability, or conviction of a felony; such right to vote to include the right to register or otherwise qualify to vote, and to have one's vote counted.

Recommendation 2.—That Congress enact legislation providing that upon receipt by the President of the United States of sworn affidavits by 10 or more individuals from any district, county, parish, or other political subdivision of a State, alleging that the affiants have unsuccessfully attempted to register with the duly constituted State registration office, and that the affiants believe themselves qualified under State law to be electors, but have been

denied the right to register because of race, color, or national origin, the President shall refer such affidavits to such officer or agency of the United States as he shall designate.

A. Such officer or agency shall—
   1. Investigate the validity of the allegations.
   2. Dismiss such affidavits as prove, on investigation, to be unfounded.
   3. Certify any and all well-founded affidavits to the President and to such temporary registrar as he may designate.

B. The President upon such certification may designate an existing Federal officer or employee in the State from which complaints are received, to act as a temporary registrar.

C. Such registrar-designee shall administer the State qualification laws and issue to all individuals found qualified registration certificates which shall entitle them to vote in any Federal or State general, special, or primary election.

D. The registrar-designee shall certify to the responsible State registration officials the names and fact of registration of all persons registered by him. Such certification shall permit all such registrants to participate in the elections previously enumerated.

E. Jurisdiction shall be retained until such time as the President determines that the presence of the appointed registrar is no longer necessary.

Recommendation 3.—That, if the steps previously recommended prove ineffective, Congress further act to assure the attainment of uniform suffrage qualifications as contemplated by section 2 of the 14th amendment, through enactment of legislation proportionately reducing the representation in the House of Representatives in those cases in which voter qualifications continue to be used as a device for denying the franchise to citizens on the grounds of race, color, or national origin.

CONCURRING STATEMENT OF VICE CHAIRMAN STOREY AND COMMISSIONER RANKIN

The right to vote is the cornerstone of our democratic society. A citizen's respect for law rests heavily on the belief that his voice is heard, directly or indirectly, in the creation of law. And his sense of human dignity depends on his receiving the same treatment at the registrar's office and at the voting booth as is accorded to his fellow citizens. Yet, today, thousands of citizens—of the United States and their respective States—have no effective right to vote in parts of seven Southern States.

We have never questioned the legal and moral right of qualified citizens to vote. Our past disagreement with proposals such as those in which we now join was concerned only with means, not ends. In 1959, and again in 1961, there was reason to believe that the right of every qualified citizen to vote, irrespective of his color, race, religion, or national origin, could become a reality without disturbing, even temporarily, our longstanding Federal-State relationships. We had hoped that an increasing awareness of the 14th and 15th amendments would bring about a greater acceptance of their commands. Moreover, new legislation embodied in the Civil Rights Acts of 1957 and 1960 remained at that time untested.

Now, 2 more years have passed since the most recent of these acts. The evil of arbitrary disfranchisement has not diminished materially. The responsibility which must march hand-in-hand with States rights no less than with civil rights has, as to the right to vote, often been ignored. Progress toward achieving equal voting rights is virtually at a standstill in many localities. For these reasons we have concluded sadly, but with firm conviction, that without drastic change in the means used to secure suffrage for many of our citizens, disfranchisement will continue to be handed down from father to son.

The present proposals set exacting standards at the same time as they provide for a flexible attack on discrimination in voting so that the disruption of traditional Federal-State relationships will

be only so great as is necessary to achieve the necessary constitutional goal of equal voting rights for all our citizens.

Recommendation 1 limits voting qualifications to those which are as objective as is possible in dealing with such a complex matter. At the same time it recognizes most of the qualifications which the individual States have found necessary to preserve the sanctity of the ballot. Thus, in contrast to the similar proposal made in 1961, recommendation 1 permits States to exclude as electors persons who have not achieved a sixth grade education or its equivalent, and persons who have been judicially declared mentally incompetent.

Recommendation 2 provides for the appointment of *local* Federal officials as temporary voting registrars in localities in which 10 or more individuals state in writing and under oath that they have actually attempted unsuccessfully to register to vote, and that they believe that they were denied registration because of their race, color, religion, or national origin. Significantly, these registrars would serve only so long as the President deems necessary.

Recommendation 3, calling for enforcement of the representation provisions of section 2 of the 14th amendment, is expressly made a last resort. We are fully aware of the apparent unwillingness of Congress to make use of this provision of the Constitution, and we pray that this recommendation will never have to be acted upon. We do think, however, that the voting problem is sufficiently urgent today to warrant its consideration.

Finally, we must state that survival of the honorable doctrine of States rights imposes coterminous obligations. It is shortsighted indeed to force citizens of the State to look to the Central Government alone for vindication of rights about which there is no substantial disagreement. As we have said on so many occasions: Civil rights carry with them civil responsibilities. So, too, States rights carry with them State obligations to all its citizens.

Table A

VOTER REGISTRATION STATISTICS[1]

County	1956 registration				1962 registration			
	White		Negro		White		Negro	
	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age
Alabama[2]								
Autauga	4,405	77	73	1.9	5,500	98	72	2.0
Barbour	6,315	79	220	3.5	6,431	87.6	600	10.9
Bullock*	2,250	87	6	.1	2,100	88	1,075	26.3
Dallas*	7,213	57	275	1.7	8,953	63	242	1.7
Greene	1,637	89	157	2.8	1,979	125	300	6.4
Jefferson ‡*	105,839	47	8,386	7.1	113,500	44	13,500	11.7
Lowndes	2,252	102	0	0	2,250	118	0	0
Macon*	2,700	87	1,100	8.5	3,426	122	3,240	28.5
Monroe	6,360	89	140	2.6	7,371	112	650	13.9
Montgomery*	27,359	53	2,176	6.5	29,515	47	5,704	17.4
Pickens	4,240	58	763	15.8	5,581	75	553	13.4
Sumter	3,259	91.3	295	3.9	2,600	84	475	7.4
Wilcox*	2,877	94	0	0	2,810	108	0	0
Total	176,706	53	13,591	5.8	192,016	51	26,411	12.1
Florida[3]								
Flagler	1,465	115	64	7.5	1,718	96	133	15.8
Gadsden	6,391	57	5	.04	7,235	62	373	3
Lafayette	1,755	103	0	0	2,000	130	0	0
Liberty	1,593	107	1	.4	1,968	129	0	0
Union	2,501	66	6	.4	1,978	69	6	.6
Total	13,705	70	76	0.5	14,899	77	512	3.5
Georgia[4]								
Baker	.....	.....	0	0	1,649	144.8	300	25
Bleckley	.....	.....	39	2.7	3,346	73.8	45	3.4
Chatahoochie	.....	.....	8	.5	338	4	17	.9
Dougherty ‡	.....	.....	2,130	16.1	12,161	41	2,858	19.5
Early	.....	.....	300	7.7	3,729	92.9	261	8.8
Fayette	.....	.....	11	.9	2,760	77	31	2.6

See footnotes at end of table.

VOTER REGISTRATION STATISTICS[1]—Continued

County	1956 registration				1962 registration			
	White		Negro		White		Negro	
	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age
Georgia—Continued								
Gwinnett	.....	.....	1,000	55.4	20,628	84.9	1,301	70.0
Lee	.....	.....	29	1.4	1,417	99.3	150	6.0
Lincoln	.....	.....	3	.2	2,800	141.3	3	.2
Marion	.....	.....	126	7.0	1,508	111.4	55	4.0
Miller	.....	.....	6	.5	3,220	104	6	.7
Seminole	.....	.....	22	1.6	3,500	132	29	2.5
Terrell*	.....	.....	48	1.1	2,900	95	133	3.4
Treulten	.....	.....	18	1.8	2,638	106.7	45	4.7
Webster	.....	.....	0	0	766	98.8	0	0
Total	.....	.....	3,740	9.6	69,360	69	5,234	14.3
Louisiana[5]								
Bienville*	5,282	86.3	35	.8	4,663	83	500	12.5
Bossier	9,475	59	516	7.5	12,923	55	542	7.9
Caddo	49,095	67	3,615	9.0	58,523	67	4,420	10.4
Claiborne	5,874	76	17	.3	5,212	81	34	.7
East Carroll*	3,000	93	0	0	1,259	42	89	2.3
East Feliciana	2,817	45	1,319	21.5	2,515	36	85	1.4
Jackson*	5,534	86	167	6.8	5,587	85	499	19.3
Madison*	3,058	91	0	0	1,859	56	211	4.3
Ouachita*	24,154	75	956	6.1	25,073	62	1,038	6.2
Plaquemines*	5,031	91	46	1.6	6,731	78	94	3.2
Red River*	3,616	100	1,360	55	3,055	93	36	1.8
St. Helena	2,615	100	1,614	77.5	1,715	73	224	10.8
Tensas	2,053	79	0	0	1,236	54	0	0
Webster*	12,957	95	1,776	25.8	8,548	54	229	3.2
West Feliciana	1,290	60	0	0	1,093	39	0	0
Total	135,851	74	11,421	10.03	139,992	64	8,001	6.9

See footnotes at end of table.

VOTER REGISTRATION STATISTICS[1]—Continued

County	1955 registration				1962 registration			
	White		Negro		White		Negro	
	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age
Mississippi[6]								
Amite*	.....	.....	1	.03	3,553	79.8	1	.03
Attala	.....	.....	34	.7	5,311	70.6	61	1.5
Bolivar	.....	.....	511	2.8	4,603	45.8	612	4.1
Carroll	.....	.....	0	0	2,720	91.6	3	.1
Chickasaw	.....	.....	0	0	4,522	70.7	0	0
Clarke*	.....	.....	0	0	5,000	83	1	.04
Clay	.....	.....	12	.3	3,382	60.9	10	.2
Copiah	.....	.....	16	.2	5,056	62	20	.3
DeSoto	.....	.....	0	0	3,551	66.5	1	.01
Forrest*	.....	.....	12	.2	12,665	55.9	22	.3
Grenada	.....	.....	39	.9	3,591	61.9	135	3.2
Holmes	.....	.....	45	.4	3,497	73.2	41	.5
Humphreys	.....	.....	37	.6	2,465	73.7	2	.04
Issaquena	.....	.....	0	0	621	97	0	0
Jasper	.....	.....	9	.2	4,113	77.2	6	.2
Jefferson	.....	.....	0	0	1,643	98.6	0	0
Jefferson Davis*	.....	.....	1,246	35.6	3,600	98.2	76	2.5
Leflore*	.....	.....	400	2.6	7,168	69.5	258	2
Lowndes*	.....	.....	151	1.7	8,312	51	95	1.2
Marshall	.....	.....	15	.2	3,409	78.5	90	1.5
Monroe	.....	.....	18	.3	7,389	55	9	.2
Montgomery	.....	.....	0	0	3,964	84.3	11	.4
Noxubee	.....	.....	0	0	2,225	74.2	0	0
Oktibbeha	.....	.....	128	2.5	4,306	51.1	107	2.2
Panola*	.....	.....	1	.01	5,000	65	2	.03
Pike*	.....	.....	93	1.3	7,986	65.6	150	2.2
Rankin*	.....	.....	33	.4	12,000	90.9	94	1.4
Sharkey	.....	.....	1	.03	1,522	80.8	3	.1
Sunflower*	.....	.....	114	.7	4,500	51	114	.9
Tallahatchie*	.....	.....	1	.01	4,334	84.7	5	.08
Tate	.....	.....	0	0	3,134	69.5	0	0
Tunica	.....	.....	29	.4	1,441	71.6	37	.7
Walthall*	.....	.....	0	0	4,217	92.8	2	.1
Wayne	.....	.....	0	0	4,548	77.3	0	0
Wilkinson	.....	.....	43	1	2,438	104.1	60	1.5
Winston	.....	.....	30	.8	4,764	69.9	57	1.6
Yalobusha	.....	.....	9	.3	3,086	67.4	4	.2
Yazoo	.....	.....	223	2.3	7,230	95.1	178	2.2
Total	.....	.....	3,251	1.4	172,866	69	2,267	1.1

See footnotes at end of table.

VOTER REGISTRATION STATISTICS[1]—Continued

County	1956 registration				1962 registration			
	White		Negro		White		Negro	
	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age	Number	Percent of voting age
North Carolina[7]								
Bertie‡	.....	.....	400	6.1	6,242	101.4	713	11.7
Franklin	.....	.....	0	0	8,600	87.4	1,600	30
Graham	.....	.....	0	0	4,025	121.1	0	0
Greene	.....	.....	0	0	4,882	101.9	385	12.1
Halifax	.....	.....	950	6.8	15,406	93.4	1,954	14.3
Hertford	.....	.....	700	11.4	6,415	144.4	537	8.8
Northampton	.....	.....	500	6.5	4,700	76.1	1,300	18.2
Total	.....	.....	2,550	5.8	50,270	96	6,489	15.6
South Carolina[8]								
Calhoun	.....	.....	0	0	.....	.....	179	5.8
Clarendon	.....	.....	1,200	14.4	4,211	80.6	486	6.5
Hampton	.....	.....	350	8.2	3,210	68.1	652	16.5
McCormick	.....	.....	0	0	1,399	73.1	200	9.2
Williamsburg	.....	.....	900	8.1	7,347	97.2	480	4.7
Total	.....	.....	2,450	8.2	16,167	83	1,997	7.4
Tennessee[9]								
Fayette	.....	.....	58	.7	3,200	72.1	2,800	40.8
Haywood	.....	.....	0	0	5,619	97.8	2,000	33.5
Total	.....	.....	58	.4	8,819	89	4,800	37.4
Total, 100 counties[10]	.....	.....	37,137	5.1	667,007	89	55,481	8.3

*Department of Justice Suit.
‡ Private voter right suit.

[1] Registration information for all counties is the most recent available. Only for Louisiana, however, are all figures for 1963. The inability to obtain precise registration data in many areas, short of photocopying all registration records and conducting intensive investigation, is a handicap to both the Department of Justice in litigation and the Commission in reporting. The estimate of the Negro voting-age population for each county in 1956 and 1962 was derived by summing weighted averages based on population

changes indicated by the 1950 and 1960 census reports. The white voting-age population for both years is assumed to be that given in the 1960 census.

[2] 1956 registration: Department of Justice. Exceptions: Jefferson County—McLeod, *A Study of Voter Registration in Jefferson County, Alabama*; Macon County—report of Southern Regional Council, printed at 103 *Cong. Rec.* 12794 (1957). 1962–63 registration: Department of Justice. Exception: Jefferson County—obtained from county registrar by Jefferson County Voters Campaign.

[3] 1956 registration: Report of Secretary of State, Department of Justice files. 1962 registration: *Ibid.* Exception: Flagler County—report of county registrar to Bureau of Census survey conducted at request of Commission.

[4] 1956 registration: Report of Southern Regional Council, printed at 103 *Cong. Rec.* 8611 (1957). 1962–63 registration: Department of Justice. Exception: Bleckley—registrar's response to Bureau of Census questionnaire; Fayette—Georgia Advisory Committee.

[5] 1956 registration: Report of State Board of Registration, in Commission files. 1963 registration: Report of State Board of Registration for June 30, 1963, in Justice Department files.

[6] 1955 registration: Estimates in *1959 Report* at 578–80. 1962–63 registration: Department of Justice.

[7] 1956 registration: Report of Southern Regional Council printed at 103 *Cong. Rec.* 8612 (1957). 1962 registration: Not available. Data from *1961 Voting Report.*

[8] 1956 registration: Report of Southern Regional Council, printed at 103 *Cong. Rec.* 8612 (1957). 1962–63 registration: White—South Carolina Progressive Democrats; Negro—responses of county registrars to South Carolina Advisory Committee questionnaire.

[9] 1956 registration: Not available. Data is for 1958, *1961 Voting Report* at 348. 1962 registration: Report of Voter Education Project of Southern Regional Council, in Commission files.

[10] 1962 white registration for 99 counties, excluding Calhoun, S.C.

Table B

FEDERAL LITIGATION BY JUDICIAL DISTRICT

PART I: Subsection 1971(a) Suits (Discriminatory Registration and Election Practices)

DISTRICT	DATE FILED	COUNTY	REMARKS
Northern district, Alabama.	July 31, 1963	Jefferson.....	Discrimination in registration. Private litigation in county on similar facts.
Middle district, Alabama...	Feb. 5, 1959	Macon.....	Discrimination and slowdown in registration. Injunction, Mar. 17, 1961, ordering registration of 58 Negroes. Power to order registration upheld, June 1, 1962. Over 2,000 Negroes registered since decree.
	Jan. 19, 1961	Bullock.....	Voucher requirement. Injunction, Sept. 13, 1961. Pattern and practice found. Over 1,000 Negroes registered since decree.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART I: *Subsection 1971(a) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Middle district, Alabama—continued	Aug. 4, 1961	Montgomery	Discrimination in registration. Decree, Nov. 20, 1961. Court ordered registration of 1,140 Negroes. 868 registered. In August 1963, court ordered registrars to stop rejections on overly technical grounds or referees would be appointed.
	July 19, 1963	Elmore	Discrimination in registration. In pretrial stage.
Southern district, Alabama	Apr. 13, 1961	Dallas	Discrimination in registration. Court denied injunction, finding of pattern or practice, and order to register specific Negroes. Government appealed. Argument, June 4, 1963. Decision pending. Registrars applying standards strictly.

	June 15, 1962	Choctaw	Discrimination in registration. Trial, Feb. 20, 1963. No decision.
	Aug. 27, 1962	Perry	Discrimination in registration. Preliminary injunction, Nov. 15, 1962. Government filed contempt citation and 173 Negroes applied for registration by court on Jan. 9, 1963. No action by court. Only 2 Negroes registered in 1963.
	July 19, 1963	Wilcox	Discrimination in registration. In discovery process.
Middle district, Georgia	Sept. 4, 1958	Terrell	Discrimination in registration. Decree, Sept. 13, 1960. No finding of pattern or practice. 50 Negroes registered since decree. Registrars have adopted slowdown tactics.
	May 16, 1962	Bibb	Segregation in voting facilities and counting ballots. Injunction, Feb. 5, 1963.
	June 18, 1963	Jones	Segregation in voting facilities and in counting ballots. Consent decree, June 26, 1963.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART I: *Subsection 1971(a) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Eastern district, Louisiana..	June 29, 1959	Washington.....	Purge of Negro electors. Injunction, Jan. 11, 1960. 1,377 Negroes restored to rolls. No significant registration gains since.
	Oct. 16, 1961	Plaquemines.....	Discrimination in registration. Injunction, Nov. 2, 1962. Court refused to find pattern or practice, register 40 Negroes, or allow Negroes to register on same basis as whites had in the past. Registrar using new strict State-wide standards. 45 Negroes registered since trial. Government has appealed decision on pattern or practice and freezing.
Western district, Louisiana..	June 7, 1960	Bienville.....	Purge of Negro electors and discrimination in registration. Injunction, Nov. 3, 1960. 420 Negroes restored. No significant registration gains since. Registrar applying standards strictly.

Apr. 28, 1961	East Carroll.....	Voucher requirement. Injunction, May 30, 1962. Registrar resigned, June 14, 1962. Negroes applied for registration by court, June 19, and court stayed injunction, June 20. Circuit court lifted stay, July 3. District court registered 26 Negroes on July 24. Registrar cited for contempt and resumed office to purge himself. Since decree, court has registered 17 more Negroes, and registrar, 42.
July 11, 1961	Ouachita.....	Purge of Negro electors and discrimination in registration. Not tried. Most recent copying of records, March 1963.
Oct. 26, 1961	Madison.....	Voucher requirement. Trial, Dec. 5, 1962. No decision. 211 Negroes registered since trial.
Feb. 21, 1962	Jackson.....	Purge of Negro electors and discrimination in registration. Trial, Dec. 1962. No decision. Since filing case, 28 Negroes registered.

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FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART I: *Subsection 1971(a) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Western district, Louisiana—Continued	Feb. 18, 1963	Red River	Discrimination in registration. Freezing case against new State application form. Preliminary injunction denied. Tried, July 24, 1963. No decision.
	Feb. 18, 1963	Webster	Discrimination in registration. Freezing case against new State application form (99 percent white registration). Preliminary injunction denied. Trial, July 22, 1963. No decision.
3-judge court	Dec. 28, 1961	State of Louisiana	Constitutional challenge of statute providing for constitutional interpretation test. Trial in March 1963. Decision deferred on State allegation that use of test discontinued. Reopened in April when test used in Webster Parish. No decision.

Northern district, Mississippi.	Oct. 26, 1961	Panola	Discrimination in registration. Court found against Government on all issues, June 25, 1963. Government appealed, July 1963.
	Nov. 17, 1961	Tallahatchie	Refusal to accept poll tax payments and discrimination in registration. Preliminary injunction denied, January 1962. Circuit court reversed, Jan. 28, 1963. No trial date set. Between 5 and 10 Negroes have been registered.
	Jan. 26, 1963	Sunflower	Discrimination in registration. Not tried.
Southern district, Mississippi.	July 6, 1961	Clarke	Discrimination in registration. Injunction, Feb. 5, 1963. Court refused to order Negro registration on same basis as prior white registration. Government has appealed denial of finding of pattern or practice and allowing freezing of rolls. 40 Negroes registered.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART I: *Subsection 1971(a) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Southern district, Mississippi—Continued	July 6, 1961	Forrest.....	Discrimination in registration. When court refused to rule on injunction in March 1962, circuit court issued injunction. Registrar cited for contempt, May 1, 1962. Contempt found, July 13, 1963. Court ordered 43 Negroes registered and limited registrar to use of 13 sections of Constitution for constitutional interpretation test. Stay granted pending petition to Supreme Court.
	Aug. 3, 1961	Jefferson Davis.....	Discrimination in registration. Interlocutory order, Jan. 4, 1963, requiring monthly reporting. Registrar applying standards strictly. 35 Negroes registered.

	Aug. 3, 1961	Walthall.....	Discrimination in registration. Tried in April 1963. No decision but court has told registrar to remove from rolls illiterate white voters called as witnesses by Government. 3 Negroes registered.
	Apr. 13, 1962	George.....	Discrimination in registration. Temporary restraining order, Apr. 24, 1962. Government requested tightened injunction in April 1963. Court has given defendants opportunity to reconsider rejected applications before issuing new injunction. Only 5 Negroes registered since suit filed.
	July 13, 1963	Hinds.....	Discrimination in registration. Court held that closing of books was nondiscriminatory, but did require that when books opened, applicants be served on a first-come, first-served basis. Jurisdiction retained.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART I: *Subsection 1971(a) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
3-judge court	Aug. 28, 1962	State of Mississippi, plus Amite, Claiborne, Coahoma, Leflore, Lowndes, and Pike.	Constitutional challenge of 2 constitutional amendments and 5 statutes dealing with registration requirements and procedures plus discrimination by 6 registrars. Case still in discovery stage.
Northern district, Tennessee	Nov. 16, 1959	Fayette	White primary. Abandoned by consent decree, Apr. 25, 1960.

Southern district, Alabama..	June 26, 1963	Dallas.....	Intimidation of voter registration workers by sheriff and county prosecuting attorney by means of baseless arrests. Incompleted hearing to be resumed on Oct. 3, 1963.
Middle district, Georgia....	Aug. 13, 1962	Terrell.....	Intimidation of SNCC workers by local police officials and private citizens. Temporary restraining order denied Aug. 14. Consent decree being negotiated.
Western district, Louisiana..	Jan. 19, 1961	East Carroll.....	Intimidation by cotton ginners and merchants against Negro who testified before Civil Rights Commission. Stipulation signed by defendants Feb. 3, 1961, agreeing to cease boycott. Court has retained jurisdiction.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART II: *Subsection 1971(b) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Northern district, Mississippi.	Mar. 30, 1963	Leflore	Intimidation of voter registration workers by Greenwood city officials. Court denied application for a temporary restraining order. Government withdrew motion at April 4, 1963, hearing after local officials agreed to release workers. Trial pending in Oct. 1963.
	June 28, 1963	Leflore	Intimidation by means of baseless arrests of Negro residents who had attended voter registration meeting and were seeking police protection. District court ruled followng hearing that a 1971(b) violation had not been established. Government has appealed.
Southern district, Mississippi.	Dec. 31, 1962	Walthall	Intimidation by registrar, sheriff, and city attorney of unregistered voters through use of State criminal process

		against registration worker. Criminal prosecution deferred pending hearing on preliminary injunction.
June 16, 1962	Greene.....	Intimidation of schoolteacher whose registration rejection had been used in 1971 (a) suit by refusal of local school officials to renew contract. Complaint dismissed Aug. 29, 1962. Government has appealed.
May 6, 1963	Rankin.....	Physical intimidation of Negro applicants for registration by sheriff and deputies. In August 1963, district court refused to issue injunction despite finding that beatings had occurred.
May 11, 1963	Holmes.....	Intimidation of voter registration workers and Negro farmer by deputy sheriff and constable by means of baseless arrests. Hearing on preliminary injunction held on May 22, 1963. No decision.

FEDERAL LITIGATION BY JUDICIAL DISTRICT—Continued

PART II: *Subsection 1971(b) Suits*—Continued

DISTRICT	DATE FILED	COUNTY	REMARKS
Western district, Tennessee.	Sept. 13, 1960 Dec. 1, 1960	Haywood.....	Intimidation of Negro registrants by 50 private citizens and 4 corporations. Cases consolidated, Dec. 23, 1960. Consent judgment entered on May 2, 1962, against all individuals and 1 corporation.
	Dec. 14, 1960	Fayette.....	Intimidation by 80 private citizens and 1 bank. Consent decree entered July 27, 1962, against 74 citizens.

EDUCATION

1963 Report of

the United States Commission

on Civil Rights

EDUCATION

Nearly 10 years after the Supreme Court decision in the *School Segregation Cases,* Negro schoolchildren still attend segregated schools in all parts of the Nation.

In the South, most schools continue to be segregated by official policy, notwithstanding the Supreme Court's finding that segregation on the basis of race cannot constitutionally be enforced. But in the North and West, school segregation is widespread because of existing segregated housing patterns and the practice of assigning pupils to neighborhood schools. Whether this northern-style segregation is unconstitutional has yet to be considered by the Supreme Court, but the contention that it runs counter to the equal protection clause is being vigorously asserted.

PROTESTS IN THE NORTH AND WEST

In the North and West, Negro protests until recently took the form of petition and personal appearance before school boards. However, segregated schools have now become targets of public demonstrations. The metropolitan area of New York City, which includes northern New Jersey, has been the center of demonstrations, picketing, sit-ins, and school boycotts since the summer of 1961. Englewood, N.J., has had periodic rallies featuring Negro celebrities, sit-ins in the school superintendent's office, picketing of the Governor's office in Trenton, school boycotts, and sit-ins in a white school by Negro children assigned to a nearby Negro school. Negroes have picketed in suburban Philadelphia and in Boston, Chicago, and St. Louis. In Boston, some 3,000 junior

and senior high school students stayed out of school for a day and attended workshops in neighborhood churches and social centers where they were instructed in Negro history, U.S. Government and civil rights, and the principles of nonviolence. In St. Louis, 30 parents and ministers blocked the departure from a West End school of 12 buses containing about 500 children who were being transported to under-utilized white schools miles away, where they would attend all-Negro classes. Two weeks later, 2,000 Negroes marched on the board of education headquarters carrying signs saying "Freedom Now" and "Don't Teach Segregation."

The increase in the nonwhite population in the cities of the North and West since 1950 has had a severe impact on the public school systems. Besides a higher birth rate [1] and the white exodus to the suburbs where housing is not generally available to Negroes, the factors creating school segregation include the arrival of nonwhite newcomers who tend to settle in those parts of the city where nonwhites already live. This is due partly to low economic status, partly to a desire to be near friends or relatives, and partly to their inability to find housing elsewhere. An additional factor in some places is the large and disproportionately white enrollment in private and parochial schools. All these factors make it difficult to achieve racial heterogeneity in the public schools even when a school board desires to do so.

In the 16 school systems in the North and West on which the Commission assembled data, the percentage of nonwhite pupils greatly exceeded the proportion of nonwhites in the total population. On the whole, the percentage of minority-group children in the public elementary schools is about double the percentage of nonwhites in the total population.

The proportionate size of the minority group enrollment does not entirely determine the percentage of segregated schools. At the elementary level, Chicago, with the same proportional minority group enrollment as New York, has over 60 percent more

[1] In the United States in 1960, there were 32.1 live births per 1,000 nonwhites as against 22.7 live births per 1,000 whites. U.S. Dept. of Health, Education, and Welfare, 1 *Vital Statistics of the United States*, sec. 1, table 1A (1960).

segregated schools. Chicago has tenaciously confined its Negro pupils to neighborhood schools, refused to rezone attendance areas on the fringes of the concentrated Negro residential areas, and declined to relax its rules forbidding transfers from area of residence.[2] In contrast, New York City has made strenuous efforts to limit segregation in its schools. Its open enrollment program enables Negro and Puerto Rican pupils to transfer out of schools in which they are enrolled in excessive proportions to predominantly white schools. It also provides transportation for those electing to do so.[3]

PROBLEMS OF LEGAL DEFINITION

The term "racial imbalance" is one employed by the New York Commissioner of Education and others to denote the existence, however innocently caused, of that degree of racial homogeneity in a given school which interferes with the achievement of equality of educational opportunity for Negro pupils. There is no consensus on a mathematical definition of imbalance. There has been no conclusive decision that racial imbalance is or is not in itself unconstitutional or that a school board does or does not have a duty under the Federal Constitution to alleviate it.

The existence of marked racial imbalances in public schools promises to pose thorny problems for the courts. If such imbalance is found to fall within the principles declared in the *School Segregation Cases,* then the courts will have to decide what concentration of minority pupils within a school is illegal.

The California Supreme Court has said that "improper discrimination may exist notwithstanding attendance by some white chil-

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[2] U.S. Commission on Civil Rights, *Civil Rights U.S.A., Public Schools North and West 1962,* 177–248. The limited transfer rule effective in September 1962, discussed pp. 191–94, is reported to have resulted in only 32 transfers of Negro pupils out of zone. Chicago Defender, Dec. 1–7, 1962.

[3] See *Conference in Washington, D.C., Before the U.S. Commission on Civil Rights, Education* 126–29 (1962) (hereinafter cited as *Washington Conference*).

dren at a predominantly Negro school or attendance by some Negro children at a predominantly white school."[4] In addition, some public school administrators have found schools with less than 100-percent Negro enrollment to be segregated. Assignment to such schools has been found to violate State laws requiring non-discrimination. For example, the New York Commissioner of Education found three elementary schools, one of which had 75 percent, and two of which had 14 percent Negro enrollments, to be segregated and to require redistribution of the school population. The New Jersey Commissioner of Education granted relief where school populations were found to be 96 to 99 percent Negro. Local boards have found lower ratios to be reasons for instituting plans to prevent an anticipated racial imbalance. The New York commissioner has called upon all local boards to report to him by September 1, 1963, their plans to eliminate imbalance in their schools. To fix the duty of the boards, the commissioner defined a racially unbalanced school as one having 50 percent or more Negro pupils.[5] Another formula which has been suggested for determining racial imbalance would require that the proportion of Negro pupils in any school should fall within the range of one-third more or one-third less than the percentage of Negroes in the entire system.[6]

Whatever rule is adopted, the New Jersey Commissioner of Education has warned that "reasonable means consistent with sound educational and administrative practices" must be employed to eliminate or reduce racial imbalance.[7] The California Supreme Court has stated that school authorities should not be required to attain and maintain mathematically exact racial proportions in all schools. They should consider in each school the degree of racial imbalance, the extent to which it affects educational opportunity,

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[4] *Jackson* v. *Pasadena City School District,* 382 P. 2d 878, 882 (Calif. 1963).

[5] Memorandum to All Chief Local School Administrators and Presidents of Boards of Education from James E. Allen, Jr., Commissioner of Education, June 14, 1963.

[6] See *Bell* v. *School City of Gary,* 213 F. Supp. 819, 829 (N.D. Ind. 1963).

[7] *Fisher* v. *Board of Education* (Orange), No. M–7042 (C–42), N.J. Comm'r. of Education, May 15, 1963.

and the difficulty and effectiveness of revising school boundaries, the court said.[8]

PUPIL ASSIGNMENT PRACTICES

School boards operating more than one school for pupils of the same grade have long been recognized to have the power to designate the school each child shall attend. The most common method of pupil assignment has been to divide the school district into attendance areas and assign all elementary pupils to the schools located within their residential zones. This is popularly called the neighborhood school plan. Secondary schools are often zoned geographically or graduates of certain elementary schools are assigned to specified high schools under a feeder system. Yet even this method of pupil assignment is not as simple as it seems, since many school buildings still in use were built 50 to 75 years ago and their size and location were determined by the needs of the time in which they were built. Changes in population density have made many older schools in large cities inadequate for the present school population of the geographical area they serve. However, the neighborhood school policy has had its greatest effect at the elementary school level, since those schools usually serve smaller residential areas than do secondary schools; the smaller the geographical area, the more apt it is to be inhabited predominantly by one race.

Gerrymandering of school attendance boundaries for the purpose of confining Negroes to one school has been held by Federal courts to violate the 14th amendment,[9] as has the manipulation of

[8] *Jackson* v. *Pasadena, supra,* note 4.

[9] *Clemons* v. *Board of Education* (Hillsboro), 228 F. 2d 853 (6th Cir. 1956), and *Taylor* v. *Board of Education* (New Rochelle), 191 F. Supp. 181 (S.D.N.Y. 1961), *aff'd.* 294 F. 2d 36 (2d Cir. 1961). The case of *McNeese* v. *Board of Education* (Cahokia, Ill.), 373 U.S. 668 (1963), *dismissal reversed,* has yet to be heard on its merits. The complaint there alleges gerrymander of the attendance area boundaries in 1957 to make the Chenot school a Negro school. It also alleges the transfer of white pupils to the school to relieve overcrowding in an adjacent school and the segregation of the white pupils transferred in separate classes. In *Bell* v. *School City of Gary, supra,* note 6 and in *Downs* v. *Board of Education* (Kansas City), Civ. No. KC-1443, D. Kans., July 9, 1963, the issue of gerrymander was decided in favor of the school board.

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pupil transfer privileges.[10] The creation or continuation of optional areas within school attendance zones to permit white pupils to transfer out of a school attended by Negroes also may place culpability on the school boards.

Thus, any official rule, designed to create, promote, or preserve racial segregation in the public schools appears to contravene the Supreme Court's warning that "no official transfer plan or provision of which racial segregation is the inevitable consequence may stand under the 14th amendment." [11]

MEASURES TO REDUCE URBAN SEGREGATION

One major hindrance to desegregation in many cities is the increasing proportion of nonwhites in the total school enrollment. In many large cities this proportion is approaching or exceeds 50 percent. The second limiting factor is the size of the monolithic residential concentrations of nonwhites within the cities.

In particular areas, rezoning plans would change the racial composition of elementary schools on the periphery of nonwhite resi-

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[10] *Taylor* v. *Board of Education* (New Rochelle), *supra*, note 9.

In the *New Rochelle* case the court found that during the period 1934–49 the school board permitted white but not Negro pupils to transfer out of the Lincoln School, thus purposely maintaining segregation in the Lincoln School.

A similar situation appears to exist in Coffeyville, Kans. Coffeyville maintained a segregated school system by permission of State law in 1954. (See So. School News, Oct. 1954, p. 16.) The Cleveland Elementary School was one of its Negro schools. Until May 1962 the school board permitted white children living in the Cleveland district to transfer to predominantly white schools. As in New Rochelle, all white pupils elected to do so. In May 1962 the board adopted a resolution requiring all kindergarten children to attend school in their districts beginning with the school year 1962–63. The rule is applicable to the next higher grade each year. White children above the kindergarten grade who had previously transferred from Cleveland were permitted to complete the elementary grades in the school to which they had transferred. In September 1962 eight white kindergarten children were enrolled at Cleveland. The NAACP branch is opposing this gradual elimination of what it claims to be discriminatory use of a transfer rule to perpetuate segregation. Letter from Leonard H. Carter, field secretary, Region IV, NAACP, to this Commission, May 14, 1963.

[11] *Goss* v. *Board of Education* (Knoxville), 373 U.S. 683 (1963).

dential areas. At the secondary level, changes in districting or feeder patterns would move some nonwhite pupils into predominantly white schools. But the racial composition of the schools in the center of Harlem, in the inner part of the central district of Detroit, in the middle of Chicago's South Side, or in the core of St. Louis' central and West Side districts, cannot be changed by any of these means.

The changes put into effect by school boards in September 1962 were made, for the most part, in small school districts. In only 2 out of 13 situations studied by the Commission did a change from a segregated system to geographical zoning make a material difference in school assignment, and in 1 of the 2 the Negro school previously serving the entire community was closed. A number of districts have adopted the so-called "Princeton plan," named for the New Jersey city which employs it. The essential feature of the Princeton plan is that the attendance areas of two or more schools are combined and all children living in the area are assigned by grade to one of the schools. Thus, one school may serve grades kindergarten to three and the other school, grades four to six.

Other districts have adopted open enrollment plans under which the pupils are allowed free or limited transfer to other schools in the district. A universal limitation is the ability of the school chosen by the parents to accommodate the transferring pupils. In some plans, the schools from and to which transfer is allowed are limited by the racial composition of the enrollment in the schools involved. The Commission found that transfers under the open enrollment plans studied had little effect on the racial composition of schools, even when transportation was provided by the school system.

In spite of all efforts to achieve racially heterogeneous schools, it seems inevitable that many, particularly in the large cities, will retain a large degree of racial imbalance until discrimination in housing and employment are things of the past.

STATE POLICIES AGAINST RACIAL IMBALANCE

Four States have adopted broad policies aimed at the reduction of racial imbalance in public schools.

The New York Board of Regents stated in January 1960 that even adventitious segregation of Negro pupils in public schools may adversely affect their motivation to learn and is, therefore, a denial of equal educational opportunity under State law. This declaration was followed by a more precise statement by the New York Commissioner of Education. The two documents officially committed New York to bring about a maximum degree of desegregation in its public schools.[12]

In the spring of 1962, California became the second State to take a position on the educational undesirability of grossly disparate concentrations of minority group pupils in public schools. The California State Board of Education adopted a policy statement affirming its agreement with the principle announced in the *School Segregation Cases* that racial segregation in the schools "even where physical facilities and other tangible factors are equal, inevitably results in unlawful discrimination," and further stated that:[13]

> We fully realize that there are many social and economic forces at play which tend to facilitate *de facto* racial segregation, over which we have no control, but in all areas under our control or subject to our influence, the policy of elimination of existing segregation and curbing any tendency toward its growth must be given serious and thoughtful consideration by all persons involved at all levels. Wherever and whenever feasible, preference shall be given to those programs which will tend toward conformity with the views herein expressed.

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[12] Quoted in part in *Washington Conference* 67.

[13] See U.S. Commission on Civil Rights, *Civil Rights U.S.A., Public Schools North and West 1963, Oakland,* app. D.

In October 1962, the California State Board, in implementation of its earlier policy statement, adopted an amendment to the California administrative code for the purpose of avoiding "insofar as practicable the establishment of attendance areas which in practical effect discriminate upon an ethnic basis or which in practical effect tend to establish or maintain segregation on an ethnic basis." [14]

The New Jersey State Commissioner of Education, though lacking the support of the State Board of Education but enjoying that of the Governor, has held that enforced assignment of Negro children to a virtually all-Negro school engendered feelings and attitudes which handicapped learning. The commissioner declared that extreme racial imbalance (which amounted to 99 percent in one school directly affected) "at least where means exist to prevent it, constitutes under New Jersey law a deprivation of educational opportunity for the pupils compelled to attend the school." [15] In another case, the New Jersey Commissioner stated that: [16]

> [E]ven though the underlying cause [is racial imbalance] and the final answer do[es] not lie with the Board of Education the school district is in no way thereby relieved of its responsibility to take whatever reasonable and practicable steps are available to it to eliminate, or at least mitigate, conditions which have an adverse effect upon its pupils.

And again: [17]

> [C]ompulsory attendance at an all-Negro school . . . at least where appropriate means can be found to avoid it, constitutes a denial of educational opportunity under New Jersey law which the school district is required to correct.

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[14] Calif. Adm. Code, tit. 5, ch. 1, subch. 8, art. 5, effective Nov. 22, 1962.

[15] *Fisher* v. *Board of Education* (Orange), *supra*, note 7.

[16] *Booker* v. *Board of Education* (Plainfield), No. C–424, N.J. Comm'r of Education, June 1963.

[17] *Spruill* v. *Board of Education* (Englewood), No. C–425, N.J. Comm'r of Education, July 1963.

Illinois has joined New York, California, and New Jersey in taking a stand against racially unbalanced schools. While in New York and California the State boards initiated the action, and in New Jersey the State Commissioner set State policy, it was the legislature that acted in Illinois. In June 1963, the Governor signed into law legislation requiring all school boards in the State to review school attendance areas as soon as practicable and to change or revise existing school zones to eliminate segregation in the public schools. The law further requires avoidance of segregation "in erecting, purchasing or otherwise acquiring buildings for school purposes." [18]

So far as the Commission has been able to determine, the Illinois legislation is the first of its kind to place an affirmative duty on each school board to change existing attendance boundaries in order to prevent segregation in public schools.

A few lower Federal courts and one State supreme court have been presented with the question: Does a school board have a duty under the 14th amendment to eliminate or at least reduce racial imbalance not caused by deliberate policy or purposeful action? In several instances Federal district courts have found in favor of the school board view that no such duty exists.[19] On the other hand, the California Supreme Court recently held that "where . . . [residential] segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the child will be reflected and intensified in the classroom if school attendance is determined on a geographical basis without corrective measures." [20]

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[18] House bill 113, Ill. 73d Gen. Assembly 1963, signed by Governor June 13, 1963.

[19] *Bell* v. *School City of Gary, supra,* note 6, *Evans* v. *Buchanan,* 207 F. Supp. 820 (D. Del. 1962), *Brown* v. *Board of Education* (Topeka), 139 F. Supp. 468 (D. Kans. 1955). But see *Branche* v. *Board of Education* (Hempstead), 204 F. Supp. 150 (E.D.N.Y. 1962).

[20] *Jackson* v. *Pasadena City School District, supra,* note 4.

DESEGREGATION IN THE SOUTH

While housing patterns create segregation in the North and West, most schools in the South continue to be segregated by official policy. Even in ostensibly desegregated school districts, most schools are still segregated.

There are 6,196 school districts in the 17 Southern and Border States. Of these, 3,052 have both Negro and white students. A total of 979 or 32.1 percent of these biracial districts have policies or practices permitting the admission of Negroes to formerly all-white schools. Yet only 8 percent of the Negro pupils in the South attend schools with white children.

In the fall of 1962, 52 districts were desegregated for the first time. There were 31 in the previous year. Thirteen of the newly desegregated districts acted under court order, although, in many of the others, legal action was pending or threatened.

The Border States (Delaware, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia) and the District of Columbia account for the bulk of desegregation to date. Of the 979 desegregated school districts, 702 lie in the border areas. Similarly, over 251,000 (94.7 percent) of the approximately 265,000 Negro students who attend school with whites in the South do so in the border areas. South Carolina, Alabama, and Mississippi, by contrast, have no Negroes attending school with white students below the college level.

Progress continues to be slow in the South. The Supreme Court's warning [21] that a pace found acceptable for desegregation 9 years ago will not necessarily satisfy the Court today soon may be reflected in lower court rulings. Similar changes may flow from the Court's declaration of June 1963 that "no official transfer plan or provision of which racial segregation is the inevitable consequence may stand under the Fourteenth Amendment." [22]

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[21] *Watson* v. *City of Memphis, Tenn.*, 373 U.S. 526 (1963).

[22] *Goss* v. *Board of Education* (Knoxville), *supra*, note 11.

Table 1.—*Status of Desegregation of School Districts, 1962–63*[1]

	Total school districts 1962–63	Total with white and Negro pupils 1962–63	School districts desegregated	School districts segregated
Alabama	114	114	0	114
Arkansas	416	228	12	216
Delaware	87	87	87	0
District of Columbia	1	1	1	0
Florida	67	67	10	57
Georgia	198	182	1	181
Kentucky	205	166	149	17
Louisiana	67	67	1	66
Maryland	24	23	23	0
Mississippi	150	150	0	150
Missouri	1,607	[2] 213	[2] 203	[2] 10
North Carolina	173	173	18	155
Oklahoma	1,180	241	196	45
South Carolina	108	108	0	108
Tennessee	154	143	26	117
Texas	1,461	919	177	742
Virginia	130	128	32	96
West Virginia	55	43	43	0
Total	6,197	3,053	979	2,074
Percent	.....	.....	32.1	67.9

[1] Southern Education Reporting Service, *Statistical Summary*, November 1962, revised especially for the U.S. Commission on Civil Rights to Aug. 1, 1963.

[2] Estimated.

Table 2.—*Status of Segregation-Desegregation, 1962–63, in 17 States and District of Columbia* [1]

	Enrollment			Negroes enrolled in desegregated schools	Percent of total Negro pupils enrolled in desegregated schools
	Total	White	Negro		
Alabama	[2] 807, 287	[2] 527, 075	[2] 280, 212	0	0
Arkansas	448, 616	331, 552	117, 064	247	.211
Delaware	90, 761	73, 769	16, 992	9, 498	55.9
District of Columbia	132, 900	22, 141	110, 759	87, 749	79.2
Florida	1, 183, 714	956, 423	227, 291	1, 551	.682
Georgia	987, 385	662, 244	325, 141	44	.014
Kentucky	655, 000	[3] 610, 000	[3] 45, 000	24, 346	54.1
Louisiana	759, 990	[3] 458, 270	[3] 301, 720	107	.035
Maryland	667, 528	[4] 514, 313	[4] 153, 215	69, 147	45.1
Mississippi	590, 000	[3] 300, 000	[3] 290, 000	0	0
Missouri	857, 620	[3] 767, 620	[3] 90, 000	[3] 35, 000	38.9
North Carolina	1, 141, 641	800, 289	341, 352	879	.258
Oklahoma	560, 000	[3] 515, 200	[3] 44, 800	[3] 10, 557	23.6
South Carolina	630, 628	[3] 365, 340	[3] 265, 288	0	0
Tennessee	829, 686	[3] 670, 387	[3] 159, 299	1, 810	1.14
Texas	2, 255, 593	[3] 1, 951, 613	[3] 303, 980	[3] 7, 000	2.30
Virginia	933, 830	[3] 704, 725	[3] 229, 105	[3] 1, 230	.537
West Virginia	438, 128	[3] 412, 878	[3] 25, 250	[3] 15, 500	61.4
Total	13, 970, 307	10, 643, 839	3, 326, 468	264, 665	8.0

[1] Southern Education Reporting Service, *Statistical Summary*, November 1962, revised especially for the U.S. Commission on Civil Rights to Aug. 1, 1963.

[2] 1961–62.

[3] Estimated.

[4] Official total; racial breakdown estimated.

Case by case, the Federal courts are striking down segregation devices of southern school boards, but such litigation is a slow and costly process.

EDUCATIONAL IMPROVEMENT PROGRAMS

Programs designed to deal with the educational problems of low-income, "culturally deprived" children have been a concomitant of the drive to desegregate schools.

Pioneers in such efforts have been the Higher Horizons program of the New York City school system and the Great City Gray Area projects financed by matching grants from the Ford Foundation in a number of large cities. These programs are chiefly concerned with remedial instruction, particularly in the language arts, in developing a rapport between the parents and the school, in guidance and counseling, and in providing culturally enriching experiences.

Two States, New York and California, have adopted legislation providing State financial support for local school districts initiating and carrying out programs for culturally deprived children in their schools. Upon recommendation of the New York Board of Regents, New York enacted legislation in 1961 "providing for an appropriation of $200,000 a year for each of five years to be distributed as matching special grants to school districts." [23]

In the spring of 1963, California became the second State to sponsor compensatory education programs to aid culturally deprived children. The maximum rate of reimbursement is fixed by law at $24 for each child who participates in a program for the entire school year.[24]

Since 1960, a voluntary group in Norfolk, Va., has developed a three-faceted program to raise the educational performance of

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[23] Ewald B. Nyquist, Deputy Commissioner of Education for the State of New York, *Washington Conference* 69.

[24] *Integrated Education*, June 1963, p. 48.

Negro pupils. One of these, a Higher Horizons type of program, is sponsored and carried out within a Negro junior high school by the faculty of the school.

Other volunteer programs have been organized in New Orleans, Philadelphia, Washington, and Chicago.

Providing the deprived preschool child with the experiences and background that middle-class family life usually gives its children—so that he may enter school on an equal basis—is a relatively new idea. A demonstration project for preschool children is being conducted in New York City schools by the Institute of Developmental Studies, an interdisciplinary unit of the Department of Psychiatry of New York Medical College. This is only one of the institute's programs to delineate the effects of social deprivation on the school experiences and general learning abilities of children. It is the institute's belief that "if methods of identifying and alleviating such deprivation can be developed, then the cycle of . . . retardation carried from one generation to the next may be interrupted." [25]

The program, called Early Childhood Enrichment, provides preschool and kindergarten children with experiences to prevent the kinds of social disabilities which develop before age 6 in children from culturally deprived backgrounds. Closely allied is a program to work with the parents of these children to stimulate their interest in and understanding of the school experience of the children; inservice courses also are provided for elementary school teachers.

Previously, such programs were centered primarily on the child, his handicaps, and what had to be done to and about him to make him learn. Attention now is being given to training and helping teachers meet the needs of the children they face in the classroom.

Such training, conducted in a number of teachers colleges, helps teachers and other school personnel to recognize their own bias as middle-class people against the lower-class child; to learn the strengths and weaknesses of the subculture which is the child's

[25] Institute for Developmental Studies, *A Brief Overview of Research and Service Program*, April 1962, p. 1.

heritage; to adapt teaching techniques to these needs; and to bridge the gap from the environment of the home to that of the school.

The prevailing notion that teachers and administrators in predominantly white schools have no need to be concerned with preparing their pupils for a multiracial society is being vigorously protested by many educators and civil rights leaders. One says: [26]

> They [the white teachers in white schools] forget that relatively few of the white pupils who are living in . . . exclusive communities will remain there, that many will move to places in which racially different people do live. . . . Moreover, they forget the danger of teaching about ideal democracy without presenting the realities of our national life, in which the democratic principles and values are not yet fully implemented.

Attention to this alleged inadequacy of the Nation's public schools is both a result of and a spur to the drive for desegregation.

Schools segregated in fact teach only subject matter and fail to fulfill one of the traditional goals of public education; they fail to prepare youth to function in a multiracial society as participating citizens.

SUMMARY

The determination of most southern school boards to employ every contrivance to evade or avoid desegregation continues to thwart implementation of the *School Segregation Cases*. Even token desegregation usually has come only after a lawsuit is threatened or prosecuted. The Commission has found no evidence that this resistance is dissipating.

In the North and West, commitment to the neighborhood school plan for both theoretical and practical reasons is being pitted against

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[26] Noar, *Teaching and Learning the Democratic Way* 138–39 (1963).

Negro demands for the end of *de facto* segregation. Although the resolution of this conflict must ultimately come from the Supreme Court, four States have adopted policies to reduce school segregation which results from segregation in housing. Meantime, programs aimed at alleviating educational problems of minority group children as well as at educating white children to live more usefully in a multiracial society hold a great deal of promise.

RECOMMENDATIONS

Recommendation 1.—That the Congress enact legislation requiring every local school board which maintains any public school to which pupils are assigned, reassigned, or transferred on the basis of race, to adopt and publish within 90 days after the enactment of such legislation a plan for prompt compliance with the constitutional duty to provide nonsegregated public education for all school-age children within its jurisdiction. The Congress should authorize the Attorney General, in the event the board fails to adopt or to implement a plan, to institute legal action to require the adoption or implementation of such a plan or any other plan the court finds more appropriate and consistent with the equal protection clause of the 14th amendment.

Recommendation 2.—That the Congress authorize the U.S. Commission on Civil Rights to provide technical and financial assistance to those school districts in all parts of the country which are attempting to meet problems resulting from school segregation or desegregation. Such technical assistance should include the results of long range research on the development of methods and techniques to meet the educational needs of all underprivileged public school pupils. This would include the development of appropriate classroom materials and curricula to meet the needs of minority groups. As a part of such a program the Federal Government should sponsor teacher training to develop understanding of the problems of underprivileged pupils.

Recommendation 3.—That the President call a White House conference of distinguished educators and experts in civil rights in the field of education to discuss how the Federal Government can assist State and local school boards in solving the problem of how to give all American children an equal opportunity for an education.

Recommendation 4.—That the Congress remove from the urban renewal law* the requirement that a community facility (such as a school) shall benefit the renewal area to an extent of at least 80 percent in order for the municipality to receive full credit for the cost of the facility against its share of the total cost, where such restriction works as a Federal impediment to voluntary local action aimed at eliminating or reducing racial imbalance in schools in or near the renewal area; and further, that the President direct the Administrator of the Housing and Home Finance Agency to consider the probable effect of urban renewal plans submitted for his approval upon the racial composition of schools, to the end that Federal funds for urban renewal shall not be used in a manner to promote racial segregation in the public schools.

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*The most acute problems of *de facto* segregation in the public schools of the North and West are in the large cities. The schools in these areas are the oldest and are properly considered part of the slum blight which urban renewal was designed to help eliminate through Federal assistance. The Federal urban renewal law requires a city to pay part of the cost of each renewal project. The city may earn credit toward its obligation by constructing new public facilities, such as schools. But if these facilities derive more than 20 percent of their use from people living outside of the renewal area, the city loses part of the credit toward its obligation. This discourages any local policy to locate and district a school to promote a racially heterogeneous school population, if, to achieve this objective, more than 20 percent of the pupils would have to live outside of the renewed area and be included in the school's attendance area.

It has also been found in earlier reports that urban renewal projects (and Federal highway construction projects) have, by design or accident, become natural barriers between neighborhoods, thus rendering school desegregation impracticable. See U.S. Commission on Civil Rights, *Civil Rights U.S.A., Southern Schools 1962* at 183–84 (1962).

EMPLOYMENT

1963 Report of

the United States Commission

on Civil Rights

EMPLOYMENT

Today's complex economy places a premium on skill. The need for manual and semiskilled labor is diminishing; the demand for technicians grows. The vast majority of Negroes are unskilled and semiskilled workers. Displaced by machines, they swell the ranks of the unemployed. In almost every way that unemployment is measured and charted Negroes are among those who suffer the heaviest.[1] Without adequate job retraining, Negro hopes of leaving the ranks of the unemployed are slim. Without adequate vocational education in skills that are in demand, their chances of adding to the jobless ranks are great. Access to vocational and employment training programs is therefore of crucial importance to Negroes.

In this chapter the Commission attempts to determine whether the Federal Government and the States have equitably discharged their responsibilities under these job training, and job generating programs. Insistence on nonsegregation in vocational education and manpower training programs is one measure of how well that responsibility has been discharged. Another is the absence of discrimination in hiring and in the selection and referral of trainees. A third is the degree and kind of Negro participation.

It was to ease the related problems of unemployment and technological change that the Federal Government established the

[1] In 1962, one out of 9 nonwhites (90 percent of whom are Negroes) were unemployed compared to 1 out of 20 whites. Among male adults, the nonwhite rate of unemployment was almost 2½ times the white rate. In not one of the past 5 years was the nonwhite rate of unemployment less than double the white rate. In every occupational group, from laborer to professional, the nonwhite jobless rate never failed to exceed the white. Among teenagers, nonwhite unemployment is dangerously high; 21 percent of all nonwhite teenage boys, and 28 percent of all nonwhite girls were jobless in 1962. U.S. Dept. of Labor, *Manpower Report of the President and A Report on Manpower Requirements, Resources, Utilization, and Training* 43, 145 (1963) (hereinafter cited as *Manpower Report*).

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specific programs studied in this report. Title VIII of the National Defense Education Act (NDEA) deals with the shortage of technicians. The Manpower Development and Training Act (MDTA) is concerned with retraining the unemployed. The purpose of the Area Redevelopment Act (ARA) is to help communities which are suffering from substantial and persistent unemployment. The Public Works Acceleration Act (APW) was enacted to provide immediate work for jobless persons in distressed areas. The Small Business Act (SBA) although not geared specifically to ease unemployment, generates jobs by giving loans and technical assistance to small businesses.

The Commission found that Negro participation in title VIII programs for the 1961–62 school year amounted to 3.2 percent of all enrollees as reported by questionnaire.[2] Although Negroes and other nonwhites in ARA and MDTA programs represented 18.8 percent of all trainees—a participation close to their proportion of the unemployed in 1962—Negroes and whites were trained in segregated classes in some Southern States.[3] Concerning the Government's job-generating programs, the Commission's study indicated that Negro participation nationwide was 20.5 percent. Seven out of 10 of the Negroes hired, however, were hired as laborers. Although the number of jobs made available for Negroes

[2] The Commission's study of Negro and white participation in title VIII technician training programs was undertaken by questionnaire—"Survey of NDEA, Title VIII Programs—Status of White and Negro Participation, 1962." In addition, California, Florida, and New Jersey were the subject of field investigations. In each of the three States, the Director of Vocational Education was interviewed, and Commission personnel visited a number of schools offering title VIII programs. These States were selected because each has a large Negro population, a large NDEA enrollment, and because of their desirable geographic distribution—South, West, and North. Prepared jointly by the Commission and the Vocational and Technical Education Division of the Department of Health, Education, and Welfare (HEW), and approved by the Bureau of the Budget, (No. 51–6303), the title VIII questionnaire was sent by HEW to the State directors in each of 46 States and the District of Columbia whose schools offered technical training programs. (South Dakota had no programs; North Dakota had only one, and was not surveyed.) Not included in the study were Alaska, Hawaii, and the territories. State Directors of Vocational Education were asked to send the questionnaire to the local schools, collect and review them upon completion, and return them to HEW.

[3] U.S. Department of Labor, Office of Manpower, Automation and Training, *Report on Racial Composition of ARA and MDTA Training Programs* (June 1963). Data on segregation obtained by staff field investigations and by State advisory committees.

was greater in the South, Negroes generally found better jobs in the North.[4]

TECHNICIAN TRAINING UNDER TITLE VIII, NDEA

Of all federally assisted vocational education programs, the one that seems most attuned to current and anticipated manpower needs is title VIII of NDEA. Title VIII provides assistance to States and territories in training individuals "for useful employment as highly skilled technicians in recognized occupations requiring scientific knowledge . . . in fields necessary for the national defense." It is administered by the Department of Health, Education, and Welfare (HEW) in conjunction with State Boards for Vocational Education.[5] No statutes explicitly outline Federal policy regarding the availability of vocational training for minority groups. An HEW regulation issued in 1948, however, provides that, in the administration and expenditure of federally aided vocational programs, "there shall be no discrimination because of race, creed, or color." Yet, as construed and applied by HEW, this does not preclude the granting of funds to segregated secondary schools.[6] Nor does it ensure that students in Negro schools are offered the same level of programs taught by competent teachers.

Of more than 20,000 enrollees in the South in 1961–62,[7] 927 or 4.5 percent were Negroes. (Responses to the questionnaires covered approximately three-fourths of the estimated enrollments.) Eighty-two percent of all the Negro enrollments, however, were

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[4] Data obtained by questionnaire in conjunction with the agencies responsible for the administration of the several programs.

[5] Annual Federal appropriations of $15 million, matched by the States, may be spent for the salaries and travel expenses of teachers, State and local vocational personnel, and for the purchase, maintenance, and repair of instructional equipment and teaching aids.

[6] 3 *1961 Report of the U.S. Commission on Civil Rights, Employment* 97.

[7] Unless otherwise noted, the South is defined in this report as the 11 States of the Old Confederacy: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

in Louisiana, Texas, North Carolina, and Tennessee. In Arkansas, South Carolina, and Virginia, no Negro enrollments were reported. In Alabama only 5 out of 1,032, and in Mississippi only 27 out of 2,220 enrollees were Negroes. All of them were in segregated schools. Of the 159 southern schools that reported 1961–62 enrollments, only 14 were Negro schools. These 14 accounted for 552 of the 927 enrollees. Almost all of the remaining Negro enrollees were in three nonsegregated schools.

More than 90 percent of all the Border State [8] schools with title VIII programs answered the questionnaire. This covered 84 percent of the 1961–62 estimated enrollments. By race, enrollments were 4,899 whites and 220 Negroes. More than half the Negro enrollees, however, were in the District of Columbia. Excluding the District of Columbia, Negro enrollments were less than one percent of the Border States total. There were no all-Negro schools offering title VIII programs in the Border States.

The poorest response came from northern [9] schools. Omitting Washington and California, only 62 percent of 1961–62 estimated enrollments were reported. Counting these two States, which have large title VIII enrollments but from which few schools responded, only 27 percent of 1961–62 estimated enrollments were reported.

Of 32,222 northern enrollees, only 729 or 2.3 percent were Negroes. Even excluding the 18 Northern States with less than 4 percent Negro populations, the Negro proportion of enrollees remained substantially unchanged (3.2 percent). And about one-third of the total Negro enrollment for the remaining 11 States attended schools in New Jersey.

Among the reasons for low Negro enrollments in Southern States are the slow process of school desegregation and the fact that title VIII courses are not offered in Negro schools to the same ex-

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[8] Unless otherwise noted, Border States are defined in this report as Delaware, Kentucky, Maryland, Oklahoma, Missouri, West Virginia, and the District of Columbia.

[9] Unless otherwise noted, the North is defined in this report as all States other than the Southern and Border States. South Dakota, which had no programs, and North Dakota, which had only one, are excluded from the discussion of title VIII programs.

tent they are in white schools.[10] Both North and South, Negroes were sometimes "counseled out," or advised against technician training courses by vocational personnel because of employer and union discrimination. Negroes, it was said, would have little chance of getting jobs as technicians once training was completed. In many cases, Negroes did not apply for admission to schools or to technician programs. Many Negro leaders interviewed by Commission staff were unaware of technician training programs. It was also reported by some educators that Negroes who otherwise qualified for technician training preferred academic education, looking upon vocational education as a confession of second-class citizenship.

The type of courses offered under title VIII requires of applicants a higher degree of academic preparation than do most other vocational programs. To be accepted, applicants must have a good grasp of mathematics as well as a reasonable command of the English language. Negroes were often reported to be lacking in both.

RETRAINING THE UNEMPLOYED: ARA AND MDTA

ARA occupation training provisions are part of a long-range program of assistance to economically distressed areas, of which there are more than 1,000. Training programs are generally limited to 16 weeks, the period for which subsistence payments are allowed. The cost is borne entirely by the Federal Government.

Of wider scope than ARA, MDTA is primarily a job-training program. It is not restricted to redevelopment areas, as is ARA. Since many of the occupations in which there are labor shortages

[10] A recent case illustrates this point. In *Mapp* v. *Board of Education* — F. 2d — (6th Cir. 1963) Negro plaintiffs sought desegregation of exclusively white technical schools in Chattanooga, Tenn. The Court of Appeals for the Sixth Circuit accepted 1968 as the time for desegregation of the vocational high school and 1969 for desegregating the technical institute. In its decision the court noted that certain vocational training courses at white vocational schools were not given at the Negro school. The court also said that the courses in Negro schools were restricted to those vocations for which local employment opportunity was likely to exist.

require greater skills and thus, longer training periods, MDTA permits training allowances of up to 52 weeks. Although MDTA gives priority to unemployed heads of households with at least 3 years' experience in the labor force, youth and farm workers in families with less than $1,200 annual net income may also qualify. The Federal Government presently bears the entire cost of MDTA training. Beginning in June 1964, States will be required to match most training costs.

Administration of ARA and MDTA training programs is vested jointly in the Departments of Labor and HEW. The Labor Department is responsible for assessing occupational needs and for selecting trainees. This is accomplished through the Federal-State employment security system. HEW is directed to provide for training and must rely, to the maximum extent possible, on State vocational education agencies. HEW may, however, contract with other public or private schools if existing facilities are inadequate.

Programs are initiated by local State employment offices, which establish occupational needs; screen, counsel, test, and select applicants for training; and place them when training is completed. Local public vocational education personnel plan the courses and provide the instruction and facilities. Programs are reviewed first by State and then by Federal authorities before they are approved. Both ARA and MDTA operate under one major restriction: A reasonable expectation of employment in a given occupation must exist before a person is selected for that type of training.

Neither the ARA nor MDTA statutes contain explicit provisions respecting nondiscrimination. HEW's "Training Program Agreement" with State vocational agencies does not contain an explicit nondiscrimination provision. However, article 1(a) of the agreement states that "the State agency, in accordance with the Act and the rules and regulations approved by the Secretary, shall provide the training needed." Section 160.3(b) of HEW's regulations, which specifies that "Training under the Act shall be

given without distinction because of race, creed, color or national origin," [11] is thus incorporated by reference into the agreement. The regulation appears to have received no more than nominal recognition and to have been enforced with no more than nominal effect.

The Labor Department's training agreements with State employment security offices contain no explicit nondiscrimination provision, although State offices are agencies of the Federal Government. The Labor Department's manpower training regulations are likewise devoid of explicit nondiscrimination provisions. The Labor Department's manpower regulations do state, however, that "Selection and referral of applicants shall be made in accordance with the policies and regulations of the United States Employment Service . . . ." Among the policies and regulations of the U.S. Employment Service are those forbidding State employment services from maintaining racial identification records and from making discriminatory job referrals. These nondiscriminatory policies and regulations, however, have not been very effective in curbing discrimination and segregation in manpower training programs, as the Commission found and as subsequent actions taken by the Labor Department indicate.

Since March 27, 1963, the Labor Department reports, the approval of MDTA and ARA programs has been contingent upon the receipt of assurances from the States that the training programs would be conducted without discrimination or segregation. On June 6, 1963, the Secretary of Labor, testifying before a House Committee, said: "I am proceeding currently to assure complete compliance with these operating rules. . . . It is a prior condition of approval of training programs that the trainees will be selected and referred for training without regard to race, creed, color, or national origin." As of June 28, 1963, this Labor Department policy became binding on all State employment security offices.[12]

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[11] 45 CFR sec. 160.3(b) (1962).

[12] 28 Fed. Reg. 7221 (1963); Letter From Dept. of Labor to this Commission, Sept. 3, 1963.

THE NATIONAL PICTURE

On June 19, 1963 the Department of Labor, Office of Manpower, Automation and Training (OMAT), provided the Commission with data on 25,930 ARA and MDTA trainees. Racial data were obtained on 24,613 of them: 19,969 (81.1 percent) were whites; 3,995 (16.2 percent) were Negroes; and 649 (2.6 percent) were nonwhites other than Negroes. Negroes and other nonwhites thus represented 18.8 percent of the trainees, a degree of participation close to the nonwhite proportion of the total unemployed in 1962 (22 percent).[13]

Most encouraging was the high proportion of Negroes in MDTA. Not only were Negroes well represented (19.5 percent of MDTA trainees were Negroes as compared to 6.2 percent in ARA), but they were also favorably distributed throughout broad job categories. A more detailed analysis, however, reveals that few MDTA Negroes were trained as professional nurses, surveyors, programmers, store buyers, and department managers. Although many Negroes were trained in some occupations in the clerical and sales fields, comparatively few were trained as bookkeepers and accountants; as private, legal, and police secretaries; or as salespersons. In the skilled occupations, there were only three Negroes of 263 electrical, plumbing, and carpentry trainees. In the service category, however, more than 40 percent of the trainees were Negroes.

The low participation rate of Negro trainees in certain programs cannot be explained solely by lack of education. Proportionately more Negroes (61.2 percent) had at least high school educations than did whites (59.6 percent), and proportionately fewer Negroes had completed eight or less years of school.

Negroes participating in MDTA and ARA represented 11.7 percent of the total enrollment in the South. In no Southern State did the proportion of Negro MDTA trainees equal or approach the State's 1960 urban nonwhite unemployment rate. While the pro-

[13] *Unless otherwise noted, the figures cited in the remainder of this section of the report deal with whites and Negroes only in the 47 continental States and the District of Columbia which had programs. Louisiana had none.*

portion of Negroes in southern ARA programs was slightly higher than in MDTA more than 90 percent of ARA Negro trainees were in the State of Arkansas. Nearly 85 percent of all ARA Negro trainees were enrolled in agricultural courses. There were no ARA Negro trainees in Alabama, Florida, Georgia, South Carolina, Tennessee, and Virginia—States where nonwhite unemployment in 1960 ranged from 19.6 to 40.5 percent of jobless persons. Louisiana and Mississippi had no ARA training programs. Georgia, Louisiana, and Mississippi had no ARA training programs in fiscal 1963.

In the Border States, 15.9 percent of all trainees were Negroes, a percentage that compared favorably with the 16.7 percent 1960 nonwhite unemployment rate. The percentage of Negroes in MDTA programs (24.9 percent) was considerably higher than in ARA (2.6 percent). However, nearly one-third of the Negroes enrolled in Border State MDTA programs were in the District of Columbia.

In the North,[14] of 16,240 trainees, 2,939 or 18.1 percent were Negroes. Excluding 20 Northern States with less than 4 percent Negro populations, the degree of Negro participation was 24.2 percent, more than twice that of the South. It was also higher than the 1960 northern nonwhite unemployment rate. As in the other regions, there were more Negro enrollees in MDTA than in ARA programs—20.6 percent in MDTA and 5.9 percent in ARA. Three States—California, Illinois, and Pennsylvania—accounted for 71.4 percent of the northern Negro MDTA trainees.

FIELD STUDIES OF FOUR SOUTHERN STATES

The Commission examined the operation of ARA and MDTA[15] programs in Alabama, Arkansas, North Carolina, and Tennessee. Additional data were also received for South Carolina and Mis-

[14] Excluding Alaska and Hawaii.

[15] Commission staff investigations were made in Ala., on Apr. 1, 1963; and in Ark. on Apr. 24 and Apr. 25, 1963. Data on N.C. were supplied by the North Carolina Advisory Committee to this Commission on May 10, 1963; data on Tenn. were supplied by the Tennessee Advisory Committee on May 9, 1963.

sissippi.[16] The purpose of the Commission's study of these States was to determine the extent of segregation in training programs, to examine whether the provision requiring reasonable expectation of employment was interpreted to exclude Negroes from programs, and to assess the degree of Negro participation in selected com munities and specific courses in greater detail.

Negroes in North Carolina and Tennessee were trained on a desegregated basis. All of Alabama's and Mississippi's training programs were segregated. In Arkansas, all ARA programs were segregated and Negroes were excluded from some MDTA programs. Little Rock's MDTA courses were desegregated. In South Carolina, this Commission's State Advisory Committee reported that "there is a large measure of discrimination against Negroes." The reasonable expectation of employment provision has been strictly interpreted against Negroes, the Committee stated. It was also stated that Negroes were excluded from 9 of 12 available courses because State law still forbids desegregated classes in public schools.

The degree of Negro participation in Alabama, Arkansas, North Carolina, and Tennessee was not extensive. Of a total of 4,002 persons approved for training, 333 or 8.3 percent were Negroes. In 1960 nonwhite unemployment in these States was 31.8 percent of jobless persons. Although Negroes in these States were scattered through the many different types of occupational courses, over half of the 333 were trained in farm machinery operation.

There were no Negroes among Alabama's 423 ARA trainees, although many of Alabama's redevelopment areas had large Negro populations. Eight of these areas would probably not have been designated as low family income areas were it not for low nonwhite income. There were no training programs in any of these eight at the time of the Commission's investigation. In Winston County, however, training programs were offered in eight different occupations. Less than one percent of Winston County's population were nonwhite.

[16] Commission staff investigations were made in Miss. on Feb. 5 and Feb. 7, 1963. Data on S.C. were supplied by the South Carolina Advisory Committee on July 15, 1963.

In nine Alabama urban areas where MDTA courses were offered, 53.5 percent of all unemployed persons in 1960 were nonwhites. As of May 31, 1963, proposals had been submitted to train some 1,500 persons, Negroes representing less than 10 percent of the total. Ninety-five of the Negroes were to be trained as clothing pressers and auto mechanics in Birmingham.

FIELD STUDIES OF TWO NORTHERN CITIES

Detroit and Pittsburgh, two of the three large cities declared redevelopment areas by ARA, were the northern cities selected for study. Here, the Commission's study dealt with the degree of Negro participation and with the factors that inhibit Negroes from taking advantage of job retraining. In both cities, the study included NDEA technician training as well as ARA and MDTA programs.

Since 1955, Detroit has experienced severe unemployment. Although 1962 brought signs of recovery, the unemployment rate of almost seven percent was still above the national average of about 5½ percent.[17]

Detroit's nonwhites, who comprised 29 percent of the central city's population, have borne a disproportionate share of unemployment. According to the 1960 Census, 7.3 percent of the white and 17.4 percent of the nonwhite labor force were unemployed. Of 44,000 nonwhites who had worked in the automotive industry, 19.8 percent were unemployed, as compared to 5.8 percent of whites. Other industries showed a similar pattern of male unemployment, a rate two to three times greater for nonwhites than for whites. A major reason for continued high nonwhite unemployment is the sharply decreased demand for unskilled and semiskilled labor.

As of January 1963, nine ARA programs and three MDTA programs were either completed or underway in Detroit. Of the nine ARA programs, eight had at least one Negro student. All

[17] *Manpower Report* 3,174 (table D6).

MDTA programs reported Negro class members. The break down of students selected for training was as follows:

	White	Negro
ARA Programs		
Nurse's aid	*18	*85
Clerk-typist	*63	39
Clerk-stenographer	*57	*42
Motor adjuster	14	1
Transmission and differential repairman	13	2
General bookkeeper	23	2
Clerk-typist	24	2
Ignition and carburetion mechanic	14	.....
Brake mechanic	12	1
Total	*238	*174
MDTA Programs		
Transmission and differential repairman	10	9
Auto body repairman, metal	10	10
Automatic screw machine set-up man	18	4
Total	38	23

*Estimate.

One reason for low Negro participation in certain skilled training programs was found to be employment discrimination. The course for automatic screw machine set-up man, for example, required 1 year of experience as a machine operator with a knowledge of blueprint reading and ability to use measuring instruments. About 15 percent of the applicants were Negroes, but few qualified for the course. A Michigan Employment Security Commission (MESC) representative explained it this way: "The experience requirement is one that is more difficult for Negroes than whites to fulfill because of extant discrimination in places where such experience is gained." The instructor in the automatic screw machine course stated: "[A Negro] would have to be better than average. I've never seen a 'colored' in a screw machine shop."

Another problem is poor education. One MESC office reported that of 2,500 applicants, 115 were so poorly educated they could not

fill out a check list indicating their interests. Sixty to seventy percent of these were Negroes. Test examiners also stated that Negro applicants generally scored lower than white applicants.

Title VIII NDEA courses in Detroit were limited to extension programs. These require that a trainee be already employed in the field for which he seeks instruction. The extension programs were given at the Cass Technical High School, and all but one were confined to apprenticeable trades. A count made in 1961 revealed the following breakdown in enrollment:

Course	White	Negro
Carpentry	1	0
Diecaster	2	0
Diemaker	279	4
Die model maker	10	0
Die Sinker	3	0
Electrician	72	0
Hardware sample maker	8	0
Jig and fixture builder	19	0
Machinist	9	0
Machine repairman	40	0
Metal model maker	13	0
Metalworker	11	0
Millwright	44	0
Moldmaker	1	0
Pipefitter	28	0
Plastic model maker	1	0
Sheet metal worker	8	0
Tinsmith	7	0
Tool and die maker	140	0
Toolmaker	158	0
Wood model maker	52	0
Wood pattern maker	22	0
Total	928	4

Employer and union discrimination were among the reasons given for the scarcity of Negroes in title VIII courses. Other reasons cited were lack of qualifications, poor counseling, and lack of information on course availability.

Like Detroit, Pittsburgh is a one-industry city. Like Detroit, it has suffered from serious and continuing unemployment. Eighty-seven thousand persons, 9.3 percent of the labor force, were reported to be unemployed in the Pittsburgh Labor Market Area in 1962. Unlike Detroit, unemployment rates have remained constantly high. Between 1958 and 1962, the rate never fell below 9.0 percent. It reached a peak in 1961 when 11 percent of the work force were unemployed.[18]

The steel industry is basic to the economy of the Pittsburgh region. When it operates at sharply reduced volume, as it has in recent years, the effect is immediate. Not only are job opportunities in steel curtailed, but severe cutbacks in local trade and commerce follow.[19]

According to 1960 Census data for the city, 17 percent of the nonwhite male and 11.1 percent of the nonwhite female work force were unemployed in contrast to 7.6 percent of the white male and 5.4 percent of white female work force. The occupational distribution of the nonwhite labor force showed that 44 percent were unskilled. Poor education was one reason for the concentration of nonwhites in lower skills. Of Pittsburgh's 56,030 Negroes 25 years old and over, 41,942 had not completed high school. Nearly half had eight years or less of elementary school.

Five ARA retraining programs begun in Pittsburgh in May 1962 were completed in October 1963. Negroes were enrolled in all five of the following courses:

Course	White	Negro
Appliance repairman	21	4
Typewriter repairman	21	4
Ignition and carburetion mechanic	19	6
Stationary engineer	21	4
Building maintenance man	19	6
Total	101	24

[18] *Id.* at 175 (table D6).

[19] Mon-Yough Community Advisory Committee on Training, *A Proposal for a Vocational and Technical Center for Adults in the Mon-Yough District* 7 (1962).

As of January 4, 1963, 20 Pittsburgh area MDTA projects involving 518 trainees had secured Federal approval. Five of these were functioning at the time of the Commission's field study. The enrollment data were as follows:

Course	School	White	Negro
Electronics mechanic	Forbes Trail Area Technical School.	24	1
Electronics mechanic	Connelley Vocational School	23	2
Electronics mechanic	McKeesport Vocational School	22	3
Electronics mechanic	Turtle Creek Vocational High School.	23	2
Operating room technician	St. John's Hospital	20	5
Total		112	13

No evidence of overt discrimination was found in the administration of Pittsburgh's job retraining programs. As in Detroit, lack of qualification was offered to explain the relatively low Negro enrollment in some skilled programs. Failures in qualification tests for such courses as electronics mechanic were more numerous among Negroes than whites. These courses required a high school education and some mathematical ability.

Three schools in the Pittsburgh area offered title VIII courses. In the three, enrollments for 1962–63 included 339 whites and 17 Negroes. One reason given for low Negro enrollment was that school counselors tended to discourage Negro students from pursuing careers in certain fields. A second reason was a lack of basic education prerequisites, particularly in mathematics and reading.

GENERATING JOBS IN REDEVELOPMENT AREAS

Three Federal programs currently function as job-generating vehicles in redevelopment areas. Some of these areas would probably not have been designated for redevelopment but for the presence

of sizeable numbers of unemployed and low-income Negro families.

The Area Redevelopment Act (ARA) was enacted to relieve unemployment in areas of persistent and substantial labor surplus through job-generating loans and grants (administered by the Department of Commerce), and by training and retraining of the unemployed. The job-generating provisions of the act seek to encourage the location and expansion of industrial and commercial enterprises in depressed areas by providing employers with long-term loans and by making grants for public facilities such as sewers, access roads, and water systems.

Eligibility for ARA assistance is based upon two broad sets of criteria. The first has to do with the degree and persistence of unemployment; the second with a series of factors including low family income, low farm income, and unemployment.[20] About two-thirds of the 853 rural redevelopment areas are in the South, and Border States, many in counties with heavy concentrations of Negroes. Most of the 147 urban redevelopment areas are outside the South; one-third are in the railroading, coal mining, steel producing States of Pennsylvania, Kentucky, and West Virginia.[21]

Another job-generating program was established by the Public Works Acceleration Act (APW). Enacted in 1962, its purpose is to provide jobs through the initiation and acceleration of worthy local, State, and Federal projects in areas eligible for assistance under ARA, and in other areas of substantial unemployment. Six Federal agencies and the ARA administer the APW programs.

Although not among the Federal programs designed to revitalize depressed areas, the Small Business Act (SBA) provides for loans to small businesses throughout the country, thereby adding to the flow of Federal funds into depressed areas for job-generating purposes.

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[20] Before a community in a redevelopment area may qualify for aid, an Overall Economic Development Program (OEDP) must be submitted to a State agency named by the Governor, and then to ARA.

[21] As of February 1, 1963, 1,052 areas in the 50 States and territories had been designated as redevelopment areas. These included 147 urban areas, 853 rural areas and 52 Indian reservations.

None of the legislation establishing these programs contains provisions requiring nondiscrimination in employment practices. APW programs, however, must be administered on a nondiscriminatory basis where the Federal Government is the employer or one of the contracting parties as required by Executive Order No. 10925.[22] On June 22, 1963, Executive Order No. 11114[23] was issued requiring nondiscrimination in *all* construction contracts emanating from Federal programs, whether by grant, loan, contract, insurance or guarantee.

To determine the degree of Negro participation in projects financially aided by job-generating programs, the Commission undertook a survey of a selected sample of projects with the cooperation of ARA, APW agencies, and SBA.

A total of 3,897 jobs was generated in 121 projects studied throughout the country. Negroes were placed in 797 or 20.5 percent of the total jobs created. However, 70.1 percent of all Negroes placed were hired as laborers. Only 14.5 percent of whites were hired for this type of work. Few Negroes were hired for skilled and white collar jobs.

Quantitatively, Negroes fared better in the South than in the Border and Northern States. Southern projects created jobs for 659 Negroes, representing 30.4 percent of the jobs generated in the South. Twenty-six Negroes were hired in Border State projects to account for 8.4 percent of the Border State jobs so created. Northern areas hired 112 Negroes or 7.9 percent out of a total of 1,418 jobs created.

Qualitatively, Negroes have obtained better and more lucrative jobs in northern projects. In the South and border regions, three of every four Negroes hired were hired as laborers. In the North, this was true of only one in five. One-third of all Negroes in northern projects were classified as trainees; another third secured operative and semiskilled positions.

Analysis of the data by program reveals that APW projects have hired a much larger proportion of Negroes than have ARA and

[22] 26 Fed. Reg. 1977 (1961).
[23] 28 Fed. Reg. 6485 (1963).

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SBA projects. Nearly half of those hired on APW projects were Negroes; only 4.6 percent of those hired on ARA projects were Negroes. However, the vast majority of persons hired for APW projects were in southern areas, and most of those were hired as laborers. Negroes represented 13.3 percent of the total hired for SBA-assisted projects.

SUMMARY

More than any other group of Americans, Negroes suffer from unemployment in the Nation's increasingly complex economy today. The reasons include inadequate education, inferior job training, discrimination by private employers, and discrimination in the State and local administration of Federal programs.

Concerned with the seriousness of high Negro unemployment and by Negro unrest, the Federal Government has begun to demand administration of its job-generating and job-retraining programs in a manner consistent with the concept of equal opportunity. Although not well represented in some of the professional and technical courses, Negro participation in both programs is generally favorable. Much of the employment generated by ARA, APW, and SBA is now covered by Executive orders requiring equality of opportunity. And while there has been segregation in some ARA and MDTA job retraining programs in Southern States, the Department of Labor has taken a firm stand against such practices. It will not approve training programs unless trainees are selected and referred for training without regard to race, creed, color, or national origin.

Federal administration of vocational education programs has not evidenced the same concern for constitutional principle. In much of the South, Negroes and whites are still offered technician training on a segregated basis. Moreover, throughout the Nation, Negro participation in this important vocational program is meager. Thus, while the Federal Government has succeeded in reducing the ranks of Negro unemployed through job retraining,

it has been slow to insist that Negroes be given adequate vocational education opportunities in skills that are in current demand.

While the economic plight of the Negro has its roots in segregation and discrimination, it will not be improved by desegregation and nondiscrimination alone. To eliminate the deep-rooted economic disadvantages to which Negroes have been subjected—among them a lack of basic educational training for entry into the labor market—remedial Federal programs are required.

RECOMMENDATIONS

Recommendation 1.—That Congress enact legislation establishing a right to equal opportunity in employment when that employment is assisted by the Federal Government or affects interstate commerce, with authority to institute action and to issue appropriate orders vested in a single administrator located in the Department of Labor, and provision for appeal to an independent authority.

Recommendation 2.—That the President direct the Secretary of Health, Education, and Welfare to:

(a) Require of State bodies that administer vocational education programs, as a condition of Federal assistance, that programs be nonsegregated and be made available on a nondiscriminatory basis;
(b) Conduct periodic investigations to assure compliance;
(c) Terminate the assistance in the event the Secretary finds segregation or discrimination to exist.

Recommendation 3.—That the President direct the Secretary of Labor and the Secretary of Health, Education, and Welfare to:

(a) Take vigorous steps to enforce their recently adopted policies of nondiscrimination in the selection and referral of trainees and nonsegregation in training classes;
(b) Conduct periodic investigations of selection and training under the programs in order to determine whether they are being conducted in compliance with such policies;
(c) Terminate all assistance in the event either Secretary finds noncompliance.

Recommendation 4.—That the Congress provide:

(a) Vocational funds to establish programs for persons who lack the educational prerequisites needed to qualify for technician and other vocational courses;
(b) Manpower funds to permit training in functional literacy and basic work skills.

Recommendation 5.—That the Congress amend the manpower and vocational education legislation to permit the Secretary of Health, Education, and Welfare to make direct arrangements for manpower training and for training in literacy and basic work skill programs through education agencies other than State vocational agencies in the event the latter are unable or unwilling to provide such training on a nonsegregated basis.

Recommendation 6.—That the agencies responsible for administering Federal loan, grant or aid programs be directed by the President to take affirmative steps to ensure that employment directly or indirectly generated thereby be open at all levels to qualified persons without regard to race, creed, color, or national origin.

HOUSING

1963 Report of

the United States Commission

on Civil Rights

HOUSING

Shelter is the one necessity of life which some Americans, by reason of their color, race, religion, or national origin, cannot purchase freely. From its beginning, this Commission has studied and collected information concerning legal developments in the field of housing. It has appraised Federal laws and policies with respect to housing. It has held many hearings and gathered volumes of materials from public and private agencies. Evaluating these facts in terms of equal protection of the laws under the Constitution, the Commission has concluded that Federal, State, and local governments are still promoters of residential segregation.

In its two previous biennial reports, the Commission presented a comprehensive analysis of the governments' role in housing discrimination. Directing its attention to a single metropolitan area, the Commission published an interim report in September 1962 detailing the operation of housing discrimination in Washington, D.C., and environs. In that report, the Commission reaffirmed its recommendation made first in 1959 and broadened in 1961 that the President issue an Executive order on equal opportunity in housing. Two months later, on November 20, 1962, President John F. Kennedy issued Executive Order No. 11063,[1] saying "it is sound, public, Constitutional policy and we have done it." This major civil rights development is the subject of this report.

The order has been called too little, too much, and not responsive to the problem. Only time will tell what its ultimate effect will be. While the order extends to FHA- and VA-insured mortgages, it fails to include conventional mortgage activities of federally assisted lenders. Purely as a practical matter, the competitive advantage

[1] Exec. Order No. 11063, 27 Fed. Reg. 11527 (1962), 7 *Race Rel. L. Rep.* 1019–22 (1962).

that the present order gives to certain types of lending institutions argues strongly for a comprehensive order.

The order, as drawn, is a logical extension of its historical antecedents.

ORIGINS OF THE ORDER

Two 1948 Supreme Court decisions [2] recognized a principle of real property law which had long been developed but had never been precisely articulated: The public policy of this land prohibits not only governmentally initiated residential segregation but also governmental enforcement of racially restrictive covenants against the use of housing by nonwhite families. While the Court did not expressly conclude with the Department of Justice that only "those actions of individuals which are in *no respect* sanctioned, supported, or participated in by any agency of government are beyond the scope of the Fifth and Fourteenth Amendments," [3] it did reaffirm the blanket unreasonableness of color-conscious real property law.

Fourteen months later, Congress, declaring that the general welfare and security of the Nation require "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family," entered upon a course which was to lead to Federal involvement in all segments of the housing industry. The 1962 order is a logical extension of the 1948 decisions.

THE INTERIM YEARS

1949. The Federal Housing Administration (FHA), which formerly encouraged racially restrictive covenants, ruled that "un-

[2] *Shelley* v. *Kraemer,* 334 U.S. 1 (1948); *Hurd* v. *Hodge,* 334 U.S. 24 (1948). See also Henkin, "*Shelley* v. *Kraemer:* Notes for a Revised Opinion," 110 *U. of Pa. L. Rev.* 473 (1962).

[3] Brief for the U.S. Department of Justice as amicus curiae, p. 52, *Shelley* v. *Kraemer, supra* note 2. (Emphasis added.)

derwriting considerations shall recognize the right to equality of opportunity to receive the benefits of the mortgage insurance system. . . ." New regulations were adopted making property on which racial restrictive covenants were filed after February 15, 1950, ineligible for insurance. The regulations also required insured mortgagors to certify and covenant that none would be executed or filed during the life of the mortgage.

1954. FHA ordered its local offices to take "active steps to encourage the development of demonstration open-occupancy projects in suitable key areas." Congress created the joint government-industry Voluntary Home Mortgage Credit Program to assist minority families in obtaining mortgages.

1955. A U.S. district court ruled that it could not require FHA to stop doing business with a builder who discriminated nor compel the builder to sell to a minority family.[4] A U.S. Court of Appeals ruled that a U.S. district court could require a local public housing authority to desegregate (for reasons established long before the *School Segregation Cases*) and to stop discriminating.[5]

1957. FHA agreed that it could stop doing business with builders who refused to comply with a State antidiscrimination law.

1959. FHA advised its field offices of its "long established policy" of dealing "with the public without distinction as to race, creed, or color in the rental and sale of properties acquired by FHA."

1960. The Housing and Home Finance Administrator required that, after March 1, 1961, communities applying for loans, grants, or contributions for urban renewal and public housing establish citizens' advisory committees representing principal minority groups. These committees were to work "for full opportunity in housing for all groups." FHA ruled that it could stop doing business with real estate brokers who discriminated in selling and renting acquired property.

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[4] *Johnson* v. *Levitt & Sons,* 131 F. Supp. 114 (E.D. Pa. 1955). *Contra, Ming* v. *Horgan,* No. 97130, Sacramento County Super. Ct., Cal., June 28, 1958; 3 *Race Rel. L. Rep.* 693 (1958).

[5] *Detroit Housing Commission* v. *Lewis,* 226 F. 2d 180 (6th Cir. 1955). *Accord, Heyward* v. *Public Housing Administration,* 238 F. 2d 689 (5th Cir. 1956).

1961. The Federal Home Loan Bank Board resolved that, "as a matter of policy," it opposed discrimination against borrowers by Federal savings and loan associations. It asked its examiners to report discriminatory practices.

1962. FHA agreed that it could require builders and ask lenders to certify that they understood that FHA could stop doing business with them if they refused to comply with State antidiscrimination laws.[6] The Urban Renewal Administration directed communities to require redevelopers to agree and covenant that they would comply with State antidiscrimination laws "in the sale, lease, or occupancy" of residential property and related facilities.[7]

THE EVE OF DECISION

By the eve of the order, government on all levels had acted against discrimination in housing. While the Federal Government had not been inactive, by far the bulk of the activity came from the 19 States and more than 55 communities that had taken some steps to equalize housing opportunities. Early State statutes had been confined in scope to public and urban renewal housing. The year 1955 marked the beginning of broadened legislation which included private housing encumbered with federally insured mortgages. Then, beginning in 1959, State laws were expanded to cover other private housing.[8]

In many areas, Federal assistance was being granted in a discriminatory manner and the Federal Government was doing little to remedy the situation. In 1958, the business-oriented, privately organized Commission on Race and Housing had recommended

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[6] Letter From FHA Commissioner to Pennsylvania Human Relations Commission, Feb. 23, 1962, 7 *Race Rel. L. Rep.* 625 (1962).

[7] URA, Local Public Agency Letter No. 236, Feb. 15, 1962, 7 *Race Rel. L. Rep.* 628 (1962). The General Services Administration required that landlords receiving more than $10,000 yearly for renting office space to the Government desegregate all building facilities. GSA Order, PBS 1600.4, June 21, 1962.

[8] See HHFA, *State Statutes and Local Ordinances and Resolutions Prohibiting Discrimination in Housing and Urban Renewal Operations* (1961). See also Alaska Laws 1962, ch. 49, 7 *Race Rel. L. Rep.* 935 (1962). In 1963, California, Connecticut, Massachusetts, and New York strengthened their laws.

the formation of a Presidential committee to formulate "a complete program and time schedule looking toward the elimination of discrimination in the distribution of Federal housing benefits." [9] An anxious housing industry, over which the possibility of many courses of Executive action had long been poised, waited uncertainly. So did those whose grievances the order was to redress.

SCOPE AND IMPLEMENTATION OF THE ORDER

At his November 20, 1962, press conference, the President announced that he had signed the Executive Order on Equal Opportunity in Housing. Members of the housing industry settled back to evaluate what had finally happened and to determine what it would require of them.

The order directed Federal agencies to act to prevent discrimination in the sale or rental of "residential property and related facilities" owned by the Federal Government, or aided or assisted by it after November 20, 1962. To this end agencies were ordered to issue regulations, adopt policies and procedures, and enforce nondiscrimination—first through conciliation, then through the imposition of sanctions—with the following results:

- FHA prohibited persons and firms receiving its benefits from discriminating; not affected by its action was one- or two-family owner-occupied housing. FHA required insurance applicants to agree in writing to comply and corporations owning FHA-insured apartment houses to guarantee nondiscrimination in their charters. FHA provided for discrimination complaints to be heard by local directors with, if necessary, appeals to Washington. It also provided that offenders could be denied future FHA benefits.[10]

[9] Commission on Race and Housing, *Where Shall We Live?* 64 (1958).

[10] 2 *FHA Manual,* secs. 200.300–200.355, 27 Fed. Reg. 12126, 11548, 11802 (1962), 28 Fed. Reg. 1540 (1963), 7 *Race Rel. L. Rep.* 1282–84 (1962). The Veterans Administration (VA) also prohibited discrimination and, provided that violators could be denied future VA benefits. 27 Fed. Reg. 11669 (1962), 7 *Race Rel. L. Rep.* 1281–82 (1962). Because of discriminatory practices, VA stopped doing business with a Chicago real estate broker in Apr. 1963 and a Florida builder in July 1963.

• The Public Housing Administration required local public agencies contracting for loans or annual contributions after November 20, 1962, to agree contractually to operate low-rent housing projects and related facilities on a desegregated basis.[11]

• The Urban Renewal Administration (URA) required local public agencies to agree in loan and grant contracts entered into after November 20, 1962, not to discriminate. These agencies were also required to agree to place in deeds conveying project land a restrictive covenant prohibiting discrimination. Violators were made subject to contract cancellation, denial of future benefits, or court action for covenant enforcement. URA later required local public agencies to develop affirmative programs to expand housing opportunities for minority groups.[12]

• The Community Facilities Administration strengthened the nondiscrimination provision in its senior housing loan agreements and added a clause in its college housing loan agreements.[13]

• The Department of Defense required nondiscrimination clauses in leases for military housing and limited listings of off-base housing to open occupancy units.[14]

• The Farmers Home Administration, Department of Agriculture, required that mortgages closed after December 14, 1962, contain a nondiscrimination covenant, violation of which "shall constitute default under the mortgage." [15]

• The Department of Health, Education, and Welfare required applicants for surplus property to be used for housing to agree not to discriminate.[16]

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[11] PHA Circular Letter, Nov. 28, 1962. Under the provisions of the order, 2,859 existing projects were exempted.

[12] URA, Local Public Agency Letter No. 256, Nov. 30, 1962; URA, *Equal Opportunity in Housing; Policies and Procedures,* Apr. 24, 1963, p. 7; URA, Local Public Agency Letter No. 273, July 22, 1963. Under the provisions of the order, 552 existing projects were exempted.

[13] HHFA, CFA News Release No. 62–1396, Dec. 5, 1962.

[14] Memorandum From Secretary of Defense Robert S. McNamara to the Secretaries of the Army, Navy, and Air Force, Mar. 8, 1963, 8 *Race Rel. L. Rep.* 325 (1963).

[15] 27 Fed. Reg 12611 (1962), 7 *Race Rel. L. Rep.* 1280–81 (1962).

[16] 27 Fed. Reg. 12753 (1962).

• The Area Redevelopment Administration, Department of Commerce, required that applicants agree not to discriminate in housing and related facilities, with the exception of hotels and other transient facilities.[17]

Existing housing, not directly subject to the order's prohibitions except when Government-owned, is covered by a provision enjoining agencies "to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required," to abate discrimination. Two complaints filed with FHA under this provision were rejected without further action after attempts at conciliation failed.[18] A private suit against the owners of an allegedly "white only" motel built on urban renewal land was decided on July 30, 1963, in favor of the Negro petitioner. A Federal district court ruled that, because of the significant extent of government involvement in urban renewal, the existing privately redeveloped housing and related facilities must be available on an equal basis.[19] The Department of Justice has yet to institute litigation under this provision of the order.

One direct action taken in the order was the creation of the President's Committee on Equal Opportunity in Housing, composed of the heads of affected agencies, a chairman-executive director from the White House staff, and public members. The Committee's job is to promote coordination of agency activity in implementing the order and to encourage educational programs. Appointment of the Committee's public members was announced 6 months after the order's issuance.

CONVENTIONAL FINANCING

Mortgage lenders hold the key to the housing market. To the extent that they deal in lower downpayment, longer-to-pay FHA-

[17] 28 Fed. Reg. 119 (1963).

[18] Letter from FHA Commissioner to Roland E. Barnes, Jan. 11, 1963; Letter from FHA Commissioner to Karl D. Gregory, Mar. 29, 1963.

[19] *Smith* v. *Holiday Inns of America,* Civ. No. 3409, M.D. Tenn., July 30, 1963.

and VA-insured mortgages, they are bound by the order.[20] To the extent they are able to rely on conventional substitutes, they may continue their widely prevalent practice of refusing to grant mortgages to Negroes wanting to buy in non-Negro areas.[21] This is true even though they may be federally chartered and supervised or receive other tangible Federal benefits. The order's failure to include conventional mortgage activities of federally assisted lenders has given rise to industry criticism.

Mortgage bankers have claimed that the order has given savings and loan associations an unfair competitive advantage, since these associations are able to make lower downpayment, longer-to-pay *conventional* mortgages while other lending institutions require FHA- or VA-insurance to give these benefits.[22] The executive secretary of a local builders' association told the Commission, "the Executive Order is, in itself, discriminatory for the reason that it is limited only to FHA- and VA-insured financing." The president of Indianapolis' largest savings and loan association said that, to preserve competitive equality, if savings and loan associations are brought within the order, other federally assisted lenders should also be brought within it.[23]

At a recent conference, Deputy Attorney General Nicholas deB. Katzenbach said that the order was limited because Executive power is clear in the areas covered. "However," he continued, "I am not saying we don't have the authority to expand it to in-

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[20] See, *e.g., FHA Manual,* secs. 200.300–200.315, 200.345, 27 Fed. Reg. 12126, 11548, 11802 (1962), 28 Fed. Reg. 1540 (1963), 7 *Race Rel. L. Rep.* 1282–84 (1962). Recent data indicate that 15 percent of savings and loan association residential mortgage holdings, 65 percent of mutual savings bank residential mortgage holdings, 39 percent of commercial bank residential mortgage holdings, and 53 percent of life insurance company residential mortgage holdings are federally insured.

[21] See Wall Street Journal, Oct. 25, 1962, p. 1; Chicago Commission on Human Relations, *Mortgage Availability for Nonwhites in the Chicago Area, A Report,* Apr. 1963, pp. 16–17; *Hearings in Washington, D.C., Before the U.S. Commission on Civil Rights, Housing* 342, 467 (1962); Hearings in Indianapolis, Ind., Before the U.S. Commission on Civil Rights 95 (1963) (hereinafter cited as Indianapolis Hearings) (unpubished transcript in Commission Library).

[22] Indianapolis Hearings 76. See also *The Mortgage Banker,* Dec. 1962, pp. 26–27.

[23] Indianapolis Hearings 91, 116.

clude . . . banks insured by the Federal Deposit Insurance Corporation or federally insured savings and loan companies." [24]

SUMMARY

This report appears within 1 year after the issuance of Executive Order No. 11063. Within so short a period, a definitive assessment of the order's effectiveness is not possible. Little has been done to implement it so far. At the same time, there now exists a greater potential for achieving equal opportunity in housing than has previously been the case. There continues to be a need for Commission appraisal of the laws and policies governing all Federal departments and agencies whose functions relate to the provision, rehabilitation, or operation of housing and related facilities. Policy has not yet been effectively translated into practice. Consequently, the Commission will continue its investigation of Federal housing programs to determine how, when, and in what degree the agencies concerned will implement the President's policy.

[24] Washington (D.C.) Post, Apr. 26, 1963, p. 2B. As of Dec. 31, 1962, 97 percent of all incorporated domestic banks of deposit and over 90 percent of all savings and loan associations had their deposits or accounts federally insured.

JUSTICE

1963 Report of

the United States Commission

on Civil Rights

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JUSTICE

The rights of citizens to speak freely, to assemble peaceably, and to petition government for the redress of grievances are guaranteed by the first amendment to the Constitution. These rights are protected against State encroachment by the 14th amendment. Official actions taken to stop recent civil rights protest demonstrations in the name of peace and order often have infringed upon these protected rights.

To determine the extent of these infringements, and to study the dilemma often caused by the need to guarantee private rights while maintaining public order the Commission focused its administration of justice study on five cities where protest demonstrations have taken place. They are Birmingham, Ala.; Cairo, Ill.; Baton Rouge, La.; Jackson, Miss.; and Memphis, Tenn. In its study, the Commission found that existing legal remedies for blocking official interference with legitimate demonstrations are insufficient and that protests against civil rights deprivations are being frustrated. The study also demonstrated that effective legal remedies must be fashioned if unwarranted official interference is not to result in the total suppression of constitutional rights to protest.

During its current term, the Commission also investigated the participation of Negroes in the administration of justice. The Commission found that in many places, Negroes have been discriminated against as lawyers; as law enforcement, court, and prison employees; and as prisoners. The results of this study also are presented in this chapter.

CIVIL RIGHTS PROTESTS AND STATE ACTION

On February 1, 1960, four college students in Greensboro, North Carolina, entered a variety store, made several purchases, sat down

at the lunch counter, ordered coffee, and were refused service because they were Negroes. They remained in their seats until the store closed. In the spring and summer of 1960, young people, both white and Negro, participated in similar protests against segregation and discrimination wherever it was to be found. They sat in white libraries, waded at white beaches, and slept in the lobbies of white hotels. Many were arrested for trespassing, disturbing the peace, and disobeying police officers who ordered them off the premises. Thus began the sweeping protest movement against entrenched practices of segregation.[1]

Since the equal protection clause of the 14th amendment prohibits State-enforced segregation, it is clear that convictions under a statute or ordinance requiring segregation cannot be sustained.[2] In general, officials who acted to suppress demonstrations in the cities studied did not attempt to apply such laws directly. But any arrest, even without a conviction, operates as a sanction, since the imprisoned protester still must stay in jail or post bail, retain counsel, and defend himself.

The Supreme Court, following the *School Segregation Cases*,[3] has consistently held that State and local governments may not segregate publicly owned or operated facilities.[4] It has recently held that a municipality may not arrest and prosecute Negroes for peaceably seeking the use of city-owned and -operated facilities.[5] But in both Jackson and Memphis, police arrested protesters seeking desegregated use of public facilities. The charge in most of these cases was breach of the peace or disorderly conduct. In finding the protesters guilty, a city judge in Jackson found that, while they had been orderly, their conduct could have provoked a breach of the peace by others.[6] However, the mere "possibility of disorder by others cannot justify exclusion of persons from a place if they

[1] For a brief history of civil rights protest movements in America, see U.S. Commission on Civil Rights, *Freedom to the Free* (1963).

[2] See, *e.g.*, *Gayle* v. *Browder*, 352 U.S. 903 (1956).

[3] 347 U.S. 483 (1954).

[4] *E.g.*, *Watson* v. *City of Memphis*, 373 U.S. 526 (1963); *Holmes* v. *City of Atlanta*, 350 U.S. 879 (1955); *City of Baltimore* v. *Dawson*, 350 U.S. 877 (1955).

[5] *Wright* v. *Georgia*, 373 U.S. 284 (1963).

[6] N.Y. Times, Mar. 30, 1961, p. 20.

otherwise have a constitutional right (founded upon the Equal Protection Clause) to be present."[7] The exercise of the first amendment freedoms of speech and assembly cannot be abridged "unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."[8]

The right to use vehicles and terminal facilities in interstate commerce on a nonsegregated basis is another right that has been established by Federal court decisions and specific orders of the Interstate Commerce Commission.[9] In Baton Rouge, Memphis, Jackson, and Birmingham, when protesters sought to use such facilities, they were arrested. They were charged, not with violation of segregation laws, but with breach of the peace. In Jackson, more than 300 demonstrators were arrested during the 1961 Freedom Rides. Local authorities claimed that they committed a breach of the peace by refusing to obey police commands to leave the interstate bus terminal's segregated waiting rooms. The riders claimed their Federal rights peaceably to seek and obtain unsegregated service as did protesters in the other cities. An early application to the Supreme Court for an injunction to stay the State criminal prosecutions in Jackson was denied.[10] The lengthy route through the Mississippi courts is still being pursued some two and a half years later.

The constitutionality of arrests and prosecutions of those who seek desegregated service at privately owned facilities open to the public has also been questioned. These protests have included lunch counter sit-ins, which have occurred throughout the country

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[7] *Wright* v. *Georgia, supra* note 5, at 293; *Taylor* v. *Louisiana,* 370 U.S. 154 (1962); *Garner* v. *Louisiana,* 368 U.S. 157, 174 (1961). See also *Buchanan* v. *Warley,* 245 U.S. 60, 80, 81 (1917).

[8] *Edwards* v. *South Carolina,* 372 U.S. 229, 237 (1963) (quoting *Terminiello* v. *Chicago,* 337 U.S. 1, 4 (1949)).

[9] *E.g., Turner* v. *City of Memphis,* 369 U.S. 350 (1962); *Bailey* v. *Patterson,* 369 U.S. 31 (1962); *Boynton* v. *Virginia,* 364 U.S. 454 (1960); *Morgan* v. *Virginia,* 328 U.S. 373 (1946); *Mitchell* v. *United States,* 313 U.S. 80 (1941); 49 CFR 180a (1961) (ICC regulations).

[10] *Bailey* v. *Patterson,* 368 U.S. 346 (1961). One of the issues was whether the complainants had "standing" in the court to challenge the arrests since they, themselves, had not been arrested.

and in four of the five cities studied by the Commission. While this type of demonstration has formed only a part of the total civil rights protest movement, it has presented one of the most difficult constitutional problems arising from protest activities. The question these cases raise is whether the arrest and conviction of protesters peacefully seeking such desegregated service represents unlawful "State action" under the 14th amendment.

Having disposed of the first sit-in cases [11] on other grounds, the Supreme Court in May 1963 approached the question in a series of sit-in cases from Greenville, S.C.; New Orleans, Birmingham, and Durham.[12] The protesters had been convicted, not for breach of the peace, but for trepass on the private property of those who operated restaurants and lunch counters. Confronted with an apparent conflict between the proprietors' property rights and the protesters' right to be free from State-enforced segregation, the Court found that State action was involved and reversed the convictions.

The Greenville and Birmingham cases involved ordinances requiring operators of eating places to segregate. Although not directly invoked, these ordinances were found to have left such operators no choice but to segregate. The Court held that the use of the State's criminal processes to arrest and convict the protesters had the effect of enforcing the segregation ordinances and was consequently prohibited State action in violation of the equal protection clause of the 14th amendment. In New Orleans, where there was no law requiring segregation in eating places, the Court ruled that city officials' public statements that attempts to secure desegregated service would not be permitted had the same effect as segregation ordinances.

These decisions have removed virtually all doubt about the validity of trespass convictions in situations such as Birmingham, where there are laws requiring segregated eating facilities. Moreover, the principle of the New Orleans case apparently applies to

[11] *Taylor* v. *Louisiana, supra* note 7; *Garner* v. *Louisiana, supra* note 7.

[12] *Peterson* v. *City of Greenville,* 373 U.S. 244 (1963); *Lombard* v. *Louisiana,* 373 U.S. 267 (1963); *Gober* v. *Birmingham,* 373 U.S. 374 (1963); *Avent* v. *North Carolina,* 373 U.S. 375 (1963).

situations such as the Commission found in Baton Rouge and Jackson, where city officials were publicly committed to using State criminal processes to maintain segregation. But the applicability of the 1963 sit-in decisions to situations such as Cairo is not clear. Here, the voice of the State has clearly spoken for desegregation. The Mayor of Cairo has personally urged proprietors to obey the Illinois law prohibiting discrimination in places of public accommodation. Yet students were arrested for trespass when they sought service at a private restaurant.

Many cities either do not have or have repealed segregation ordinances. Many officials either have never made or have stopped making public statements committing the State to maintenance of segregation. This has brought to the Court the broad question of whether the State has any right to arrest and prosecute protesters for seeking equal access to places of public accommodation.[13]

In these situations, the protesters acted to secure immediate desegregated use of a facility. But different problems may be presented when protesters engage in street demonstrations against discrimination in general. One such incident occurred in March 1961, when 187 Negro students marched on the South Carolina State House to make their grievances known to the public and the legislature, which was then in session. Refusing to disperse, they were arrested and convicted for breach of the peace. Their appeals were decided by the Supreme Court in February 1963. The Court found that the protesters had been orderly, that they had not obstructed pedestrian or vehicular traffic, and that there had been no clear and present threat of violence by bystanders which the police were unable to control. Reversing the convictions, the Court held that "in arresting, convicting, and punishing the petitioners under the circumstances disclosed by this record, South Carolina infringed the petitioners' constitutionally pro-

[13] The following cases presenting this issue are now pending before the Court: *Griffin* v. *Maryland*, 373 U.S. 920 (1963); *Barr* v. *City of Columbia* (S.C.), 374 U.S. 804 (1963); *Bouie* v. *City of Columbia* (S.C.), 374 U.S. 805 (1963); *Bell* v. *Maryland* (Baltimore), 374 U.S. 804 (1963); *Robinson* v. *Florida* (Miami), 374 U.S. 803 (1963).

tected rights of free speech, free assembly, and freedom to petition for redress of grievances." [14]

Application of this Supreme Court decision to events in the five cities is difficult because the material facts differ in each case. On many occasions Memphis and Cairo officials did not interfere with mass demonstrations on public streets. Cairo police arrested protesters under an ordinance requiring parade permits which was enacted after the demonstrations started. The Illinois attorney general joined in an NAACP suit challenging the constitutionality of the ordinance. State and local officials and protest leaders later consented to dismissal of the suit on the understanding that the charges against the arrested protesters would be dismissed and the ordinance would not again be invoked against peaceful street demonstrations. Baton Rouge officials did not interfere with mass street demonstrations during the 1960 protests. In 1961, official policy changed. Conduct that had been permitted in 1960 resulted in arrests.

The official policy in both Jackson and Birmingham, throughout the period covered by the Commission's study, was one of suppressing street demonstrations. While police action in each arrest may not have been improper, the total pattern of official action, as indicated by the public statements of city officials, was to maintain segregation and to suppress protests. The police followed that policy and they were usually supported by local prosecutors and courts.

DISCRIMINATION IN PROCESSES OF JUSTICE

Denials of equal protection may arise not only from attempts by officials to enforce segregation but also in the processes of justice

[14] *Edwards* v. *South Carolina, supra* note 8, at 235. For a case involving protest demonstrations in the downtown business district of another city in South Carolina, see *Fields* v. *South Carolina,* 126 S.E. 2d 6 (S.C. 1962), *vacated and remanded,* 372 U.S. 522 (1963), *affirmed,* 131 S.E. 2d 91 (S.C. 1963), *pet. for cert. filed,* 32 *U.S.L. Week* 3070 (1963).

when an official treats a person differently because of his color, race, religion, or national origin.

In civil rights demonstrations, the role of the policeman has been significant; his actions often speak for the community. When a policeman acts to deprive a person of his constitutional rights, he violates Federal law. Moreover, police inaction which results in a failure to provide adequate protection to persons asserting their constitutional rights may also constitute a violation of Federal law. When Montgomery police failed to provide protection for the Freedom Riders in 1961, a Federal district judge declared, "The failure of the defendant law enforcement officers to enforce the law in this case clearly amounts to unlawful State action in violation of the Equal Protection Clause of the Fourteenth Amendment." [15]

Testimony at the Commission's Memphis hearings disclosed that none of the protesters there was subjected to physical mistreatment by the police. Nor were there any allegations of lack of police protection for demonstrators. On one occasion in Cairo, protesters complained of police beatings and the use of tear gas. They also charged that State police and sheriff's deputies failed in another instance to protect demonstrators against a crowd of violent whites. Commission investigations found some evidence to support these allegations; however, such instances were not part of a pattern of action by law enforcement officials in those cities.

There have been few complaints of police mistreatment of protesters in Baton Rouge. In fact, a leader of the 1960 protests praised the police for their conduct. But in 1961, students complained of police misconduct in dispersing a protest assembly and of mistreatment of arrested demonstrators by jail guards.

The situation was different in Jackson and Birmingham. There, the Commission found a pattern of police abuse of civil rights protesters. In Jackson, there were continuing police efforts to disperse by force many forms of demonstrations and there was evidence of mistreatment of students, both in the county jail and State penitentiary.

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[15] *United States* v. *U.S. Klans*, 194 F. Supp. 897, 902 (M.D. Ala. 1961).

Evidence also showed there was continuing abuse of protesters by Birmingham police. In 1963, dogs, clubs, and firehoses were used to disperse mass demonstrations. Violent reaction by Negroes followed. The reaction was directed not against white bystanders, but against the city police.

Prosecutors claimed that Negro students received the same treatment in the criminal process as anyone else. But in October 1962 the district attorney in Baton Rouge told Commission investigators:

> I'm going to make it just as hard on these outside agitators as I can. And I don't know a judge or official [in Baton Rouge] who doesn't agree with me.

His statement was addressed primarily to the fixing of bail requirements for arrested demonstrators. Discriminatory use of bail requirements raises a question of denial of equal protection.

In neither Memphis nor Birmingham did bail requirements present a serious problem, although the aggregate bond cost was high when mass arrests were made. In Cairo, most students were released on their own recognizance. The 1961 mass arrests of Freedom Riders in Jackson presented a serious bail problem. Surety bonds were required, and exhaustive efforts by protest leaders were unsuccessful in finding a company anywhere in the country to write the bonds. The result was that most of the riders spent extended periods in the county jail and State penitentiary.

HUMAN RELATIONS AGENCIES

State and local human relations agencies are important instruments for orderly resolution of civil rights problems. These organizations which employ the techniques of persuasion and mediation to solve racial problems are increasing in number throughout the Nation. The President has called upon the Na-

tion's mayors to establish biracial human relations committees in every city, and he has asked Congress to create a Federal Community Relations Service to provide mediation guidance to communities. The usefulness of mediating agencies, both to eliminate discrimination in places of public accomodation and to control possible civil rights violations by justice officials, is illustrated by the experience of Cairo, Ill.

There, a State agency was available as a mediating force from the time demonstrations began. Supported by the Governor and State attorney general and bolstered by a broad public accommodations law, the Illinois Commission on Human Relations investigated complaints of discrimination and mediated differences between protesters and local officials and proprietors. Pending prosecutions against the demonstrators were dropped and discrimination in all places of public accommodation in the city was ended, largely because of the work of the agency.

In Memphis, a private biracial group—the Memphis Committee on Community Relations—performed an important service in promoting negotiations to end discrimination in many facilities. Although it operated without support from the city administration, it was able to bring about a peaceful change in the city's tradition of segregation by maintaining communications between Negro leadership and the management of places of public accommodation.

A similar contribution was made during the Birmingham disorders by the Civil Rights Division of the Department of Justice. Mediation has its limitations, however. Where protest demonstrations continue to be met with repressive official action, legal remedies are needed to protect protesters and to prevent invasions of their civil rights.

STATE AND FEDERAL LAWS

Under State law, legal remedies are available for assault and battery, false arrest, or malicious prosecution. These laws were not effectively utilized to curb alleged official abuses in any of the

five cities studied. None of these remedies is generally effective where the prevalent official attitude is one of antagonism to the protesters' aims.

Federal law provides both civil and criminal sanctions against unlawful official action. Sections 241 and 242 of the Federal Criminal Code make it a crime for officials, those acting with official assistance, or, in some instances, private persons, to violate constitutional rights of individuals. These sanctions might be invoked against officials who violate the rights of protesters. In its *1961 Report,* the Commission reviewed these laws and their administration with regard to unnecessary official violence and found that "Federal criminal sanctions for such misconduct have not proved to be effective remedies." Nothing discovered during the Commission's present study contradicts this conclusion.

Federal civil statutes, comparable in scope to the criminal sections, permit actions for money damages to be instituted by the victims of civil rights violations. As pointed out in the Commission's *1961 Report,* these civil remedies have been neither widely nor effectively used. Further, it is often unlikely that an individual defendant will have the financial resources to satisfy any substantial judgment that might be entered against him.

Among the Federal civil remedies presently available is a private suit for injunction against unlawful official action. It permits protesters to seek relief in a Federal court against the action of local officials who, by intimidation, arrest, and prosecution, interfere with the right to seek desegregated service in public facilities and with the first amendment rights of speech, assembly, and petition. But injunctive relief is an extraordinary remedy. Federal courts are extremely hesitant to interfere with the operations of State agencies of justice. The most significant limitation on this remedy, however, is its availability only to private parties. This places the burden of seeking such relief on private persons who are limited to their own resources and whatever assistance they may be able to get from civil rights organizations.

The power of the United States Government to obtain Federal injunctions prohibiting civil rights violations by local officials is

clear only in the areas of voting and interstate commerce. However, there is evidence that the rights of free speech, assembly, and petition, and the right to equal protection of the laws also have been frequently violated by local officials.

Another Federal statute (28 U.S.C. sec. 1443) permits a defendant in a State civil or criminal case to remove the action to a Federal district court for trial when he cannot enforce his rights in the State court. This statute, however, has proved to be virtually useless as a remedy. Federal courts have interpreted it as requiring the denial of equal rights to be apparent in the laws of the State,[16] but such State laws are rarely employed against protesters.

PARTICIPATION IN AGENCIES OF JUSTICE

Participation by Negroes in the agencies of justice as police officers, prosecutors, judges, jurors, and other officials and employees has often been prohibited or limited. This exclusion raises equal protection issues; so does segregation of Negroes in justice facilities such as police stations, court houses, jails, and prisons. Such segregation has been widely practiced in many parts of the country. Concerning such practices, the Commission pointed out in its *1961 Report:* "This can hardly contribute to impartiality in the administration of justice or to respect for the agencies of law on the part of those who are excluded."

The Negro protest movement also has highlighted the inequalities suffered by Negro lawyers in the administration of justice. Thousands of demonstrators have required the services of legal counsel. The greatest burden of providing these services has fallen upon local Negro lawyers.

In order to determine whether counsel was available to civil rights protesters and whether their counsel suffered any special difficulties because of involvement in civil rights litigation, the Commission conducted a study based upon a questionnaire survey of 17 Southern and Border States and upon field investigations in

[16] *Virginia* v. *Rives,* 100 U.S. 313 (1880); *Hull* v. *Jackson County Circuit Court,* 138 F. 2d 820 (6th Cir. 1943).

the five cities where large-scale protest demonstrations had occurred. Questionnaires were sent to 3,555 lawyers, of whom about one-eighth were Negroes. There were 242 responses from Negro lawyers and 1,081 responses from whites, constituting a total return of 37.2 percent. Among the respondents, only 14 percent (184 lawyers) answered that they had represented Negro clients in civil rights cases within the preceding 8 years. One-third of this group reported having suffered threats of physical violence, loss of clients, or social ostracism as a result.

The Commission's study shows that Negro lawyers have played an active role far out of proportion to their numbers in handling civil rights cases in the South in recent years. Many have suffered reprisals as a result.

In those same States, Negro lawyers have faced difficulty in gaining admission to law schools, impediments to admission to the bar, and severe limitations on their professional association and contacts.

In the five cities where the Commission conducted field investigations, protesters who were arrested and prosecuted were in most cases represented by Negro lawyers. The Commission's survey disclosed that, among the respondents who had taken civil rights cases, 86 percent were Negroes.

Between 1940 and 1960, the number of Negro lawyers in the Southern and Border States increased by 75 percent. Yet, in proportion to the total Negro population, the number is still very small. Several factors appear to contribute to this situation. Until World War II, nearly all of these States not only excluded Negroes from publicly supported law schools, but also failed to establish segregated institutions. They provided funds for a limited number of qualified Negroes to receive their legal education elsewhere, mainly in the North.

Twenty-seven percent of the questionnaire responses from Negro lawyers claimed that "occasionally" or "infrequently" Negroes were excluded from admission to the bar on racial grounds. Most complaints referred to the discriminatory screening of bar examination applicants or to examination grading based upon a racial

quota. However, only 6 percent of the white respondents indicated that racial discrimination has been a factor in limiting Negro admissions to the bar. Most of these answers cited inadequate educational and economic backgrounds as the underlying factor.

Most of the Negro lawyers are almost entirely dependent on Negro clientele. The economic position of the rural Negro is such that it is often impossible for a Negro lawyer to subsist professionally in smaller southern towns. Added to this is the problem, related by many of the Negro respondents, that Negro clients often seek out white lawyers because they feel them to be more capable, or because they feel that Negro lawyers are at a disadvantage against a white adversary and before a white judge and jury.

The opportunities for professional contacts and continuing legal education that attend bar association membership appear to be severely limited for Negro lawyers. Except where State bar association membership is a prerequisite to practice, exclusion of Negroes from State and local associations seems to be common throughout the Southern and Border States. Even where Negroes are admitted to membership, they are usually excluded or discouraged from participation in social and educational programs sponsored by the associations.

NEGRO EMPLOYMENT BY AGENCIES OF JUSTICE

To determine the extent of Negro employment in agencies of justice, the Commission sent questionnaires to the chief justice of the State's highest court, to the attorney general, to the superintendent of State police and to the administrators of the State's prison and parole agencies in every State in the Nation. Questionnaires were sent to the court of original criminal jurisdiction, the prosecutor, and the sheriff in each county in the United States with a Negro population of over 5,000. Questionnaires also were sent to police departments in all cities with a Negro population of over 5,000.

Police departments of 124 Southern and Border State cities responded, as did 106 departments in Northern and Western States. The responses show that, on the basis of population proportion, relatively few Negroes are employed in northern and western departments. In southern and border departments, their participation is generally token.

In its study of Negro employment by the county sheriffs' departments the Commission received questionnaire responses from 170 departments in Southern and Border States and from 102 departments in the North and West. The questionnaires disclosed a common practice in the South of assigning Negro sheriff's deputies, as was the case with Negro police officers, to law enforcement duties in segregated areas. Many departments also place limitations on the Negro deputy's authority to apprehend white suspects. Such limitations were found to be almost nonexistent in the North and West.

State police and highway patrols employed almost no Negroes. One Negro officer was reported in the 12 Southern and Border States which responded. There were 33 Negro officers found in 19 Northern and Western States.

The Commission's survey disclosed that Negro employment in county prosecutors' offices throughout the country was extremely limited. In 289 counties in Southern and Border States, only 7 Negro lawyers, 3 investigators, and 2 stenographers were reported. Among the Northern and Western States, 103 prosecutors responded. Their offices employed 35 Negro investigators and 88 secretaries. Twenty-seven counties employed Negro lawyers. Many with substantial Negro populations employed no Negroes in any professional or administrative capacity.

The Department of Justice serves the Federal Government as prosecuting agency. There are U.S. attorneys' offices in each Federal judicial district. Three Negroes were serving as U.S. attorneys. At the close of 1962, 35 of 778 assistant U.S. attorneys were Negroes. Other offices in the Department employed 1,372 attorneys, of whom 34 were Negro. While Negro participation is low, it has increased substantially since 1960.

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Negro employment in State courts was rare in the Southern and Border States. No Negro judges or court clerks were reported. Among the positions of jury commissioner, bailiff, and secretary, Negroes occupied 3 percent or fewer of the jobs. For probation officers, the percentage was slightly higher.

In the North and West, Negro employment in State courts was considerably higher. This was especially so in California, Indiana, Iowa, Minnesota, and New Mexico. In probation positions, Negro representation was particularly high.

The Commission also surveyed Negro employment in Federal courts. The Administrative Office of the United States Courts advised that "each court has its own employment practices." In all Federal courts responding from Southern and Border States, no Negro judges or Negro court employees were found with the exceptions of one probation officer in the Southern District of West Virginia and a few court criers. In courts in the District of Columbia, Negroes served as judges, clerks, secretaries and clerical workers, bailiffs, and probation officers. However, among Federal courts reporting from the North and West, little Negro employment was found.

At State adult correctional institutions in Southern and Border States, Negro employment was rare. Two-thirds of the small number reported served in Maryland. In Arkansas, Alabama, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee, no Negroes were found in administrative, professional, or clerical positions or as correctional officers. At juvenile institutions—where separate facilities are more often established for each race—Negro employment was considerably higher. Among adult institutions reporting from Northern and Western States, about one-thirtieth of the administrative, professional, clerical, and correctional officer positions were filled by Negroes. Negro employment at juvenile institutions accounted for about 12 percent of the positions tabulated.

Token employment of Negroes also was found at Federal correctional institutions in Southern and Border States. The Commission received data from 15 facilities with 2,390 employees, of

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whom only 70 were Negro. At 18 Federal institutions in the North and West, Negro employment was slightly lower. Only at the facilities operated by the Bureau of Prisons, the Department of Correction, and the Department of Public Welfare in the District of Columbia was there substantial Negro employment.

SEGREGATION IN FACILITIES

While discrimination exists in employment, segregation occurs in the facilities of justice. Criminal suspects are usually first detained in police department jails or lockups. Of 114 departments in Southern and Border States responding to the Commission survey, 83 percent reported racial segregation in these facilities. In contrast to this were the responses of 105 northern and western departments, 95 percent of which reported no segregation.

Comparable figures were received on segregation in county jails, which are customarily used for the detention of persons awaiting trial or serving short sentences. Of 152 responses from Southern and Border States, 87 percent reported segregated facilities; 83 percent of the respondents in the North and West (99 counties) reported no segregation.

Responses also were received from State adult and juvenile correctional institutions throughout the country. These included reception and assignment centers, prisons, work farms and camps, reformatories and training schools. A total of 145 institutions reported from Southern and Border States. Of these, 93 were completely segregated. Forty-one institutions maintained partial segregation in housing and in one or more other areas such as dining facilities and work details. Only 13 institutions reported no segregation. All of these are in the States of Delaware, Kentucky, Maryland, Missouri, Virginia, and West Virginia. Of 236 institutions reporting from Northern and Western States, 220 were totally desegregated. The remainder segregated living quarters.

As late as 1954, inmates were segregated throughout the Federal correctional system, particularly in the use of living quarters, dining areas, and auditoriums. Today, all Federal institutions are completely desegregated with the exception of a single cell block at the U.S. Penitentiary in Atlanta, where desegregation is underway. Administrators of Federal facilities in the South reported that very few problems attended desegregation and that the process has assisted in rehabilitation.

Clerks of criminal courts of original jurisdiction in the counties surveyed reported on racial segregation in courthouse facilities. In Southern and Border States, courtroom segregation was reported in 17 percent of the returns, waiting room segregation in 14 percent, segregation in jury boxes in 5 percent, and segregation of rest rooms in 63 percent. In responses from counties in the North and West, no racial segregation in any courthouse facilities was reported.

In April 1963, the Supreme Court reversed the conviction of a Negro found guilty of contempt in a Richmond, Va., traffic court for refusing to sit on the side of the courtroom reserved for Negroes. The Court said: [17]

> Such a conviction cannot stand, for it is no longer open to question that a State may not constitutionally require segregation of public facilties. . . . State-compelled segregation in a court of justice is a manifest violation of the State's duty to deny no one the equal protection of its laws.

SUMMARY

The right of citizens to assemble freely and to express grievances is a fundamental guarantee of the Constitution. In recent years persons concerned with civil rights have exercised their first amendment rights to assemble and protest against segregation and discrimination. In some circumstances, demonstrations may exceed

[17] *Johnson* v. *Virginia*, 373 U.S. 61, 62 (1963).

the boundaries of free speech and interfere unduly with public peace and order. In the cases studied by the Commission, however, protests, with few exceptions, have been peaceful and orderly and well within the protective guarantees of the first amendment.

Where protests such as sit-ins involve entry into places of public accommodations, other issues may arise. The Commission's study reveals that breach of peace and trespass ordinances, on their face unrelated to the preservation of segregation, have been employed by local officials to maintain it. That this use of breach of the peace and trespass ordinances may be prohibited by the 14th amendment has now been recognized by the Supreme Court in a series of cases decided in 1963.

The Commission's statistical survey establishes that law enforcement agencies throughout most of the Nation are staffed exclusively or overwhelmingly by whites. This fact may influence the administration of justice, but, whether it does or not, the attitude of the Negro toward local law authorities is affected.

RECOMMENDATIONS

Recommendation 1.—That Congress empower the Attorney General to intervene in or to initiate civil proceedings to prevent denials to persons of any rights, privileges or immunities secured to them by the Constitution or laws of the United States.

Recommendation 2.—That Congress enact a program of grants-in-aid to assist State and local governments, upon their request, to increase the professional quality of their police forces. Such grants-in-aid should be conditioned upon nondiscriminatory administration by the recipient and might apply to the development and maintenance of (1) programs to encourage applications by qualified persons for appointment as police officers; (2) recruit selection tests and standards; (3) training programs in scientific crime detection; (4) training programs in constitutional rights and

human relations; (5) college level schools of police administration; and (6) scholarship programs that assist policemen to receive training in schools of police administration.

Recommendation 3.—That Congress amend section 1983 of title 42 of the United States Code to make any county government, city government, or other local governmental entity that employs officers who deprive persons of rights protected by that section, jointly liable with the officers to victims of such officers' misconduct.

Recommendation 4.—That Congress amend section 1443 of title 28 of the United States Code to permit removal by the defendant of a State civil action or criminal prosecution to a district court of the United States in cases where the defendant cannot, in the State court, secure his civil rights because of the written or decisional laws of the State or because of the acts of individuals administering or affecting its judicial process.

HEALTH FACILITIES AND SERVICES

1963 Report of

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on Civil Rights

HEALTH FACILITIES AND SERVICES

Negroes are denied access to or are segregated in many of the medical care facilities which have received Federal grants under the Hospital Survey and Construction Act of 1946. Such practices by facilities which have received Federal grants constitute denials of equal protection of the laws under the Constitution. More, these practices adversely affect the Nation's health standards and serve to deny medical training to Negro professionals.

These conditions are being financed by the Nation's taxpayers. Since 1946, the Federal Government has become the largest single financial investor in the health of the Nation. The amount spent on medical care facilities reached nearly $2 billion in May 1963.[1] The basis for Federal activity in this program is the Hospital Survey and Construction Act of 1946, popularly known as the Hill-Burton Act.[2]

Under its aegis, substantial progress has been made toward providing health care facilities for American citizens. Yet the evidence shows that Negroes do not share equally with white citizens in the use of such facilities. As patients and as medical professionals, they are discriminated against in their access to publicly supported health facilities.

Commission investigation also shows that the Federal Government, by statute and administration, supports racial discrimination in the provision of health facilities.

The extent of the problem created by these denials is indicated by lawsuits filed in many areas of the Nation, by the volume of complaints received by the U.S. Public Health Service and the

[1] U.S. Dept. of Health, Education, and Welfare, Public Health Service, *Hill-Burton Project Register*, May 1963.

[2] Hospital Survey and Construction Act of 1946, 60 Stat. 1041, as amended, 42 U.S.C. sec. 291–291y (1958).

U.S. Commission on Civil Rights, and by numerous reports in newspapers and professional journals. Commission studies suggest that these lawsuits, complaints, and reports have a foundation in fact.

THE HILL-BURTON CONTRADICTIONS

The Hill-Burton Act and its amendments authorize Federal grants to assist in the construction and equipment of public and voluntary nonprofit general, mental, tuberculosis, and chronic disease hospitals, nursing homes, diagnostic and treatment centers, rehabilitation facilities, and public health centers. Funds are also granted to conduct research, experiments, and demonstrations which seek the effective utilization of hospital services, facilities, and resources.

The act does not authorize direct construction by the Federal Government. Administrative responsibility is vested in the Surgeon General of the U.S. Public Health Service under the supervision of the Secretary of Health, Education, and Welfare. Applications for Federal funds must be submitted to the Surgeon General through the State agency established to administer the Hill-Burton program in the State. The act sets forth in detail the requirements of applications. Such requirements include description of the site, plans, and specifications for proposed construction. It also requires that the Surgeon General insure that State plans provide for "adequate hospital facilities for the people residing in a State without discrimination on account of race, creed, or color."

However, the act provides an exception to the nondiscrimination assurance "in cases where separate hospital facilities are provided for separate population groups, if the plan makes equitable provision on the basis of need for facilities and services of like quality for each such group." Under this "separate-but-equal" provision, 14 States—Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, and West Virginia—have planned

separate hospital facilities.[3] The Public Health Service has stated that, from the inception of the Hill-Burton program in 1946 until December 31, 1962, grants have been made to aid in the construction or remodeling of 89 medical facilities intended for the exclusive use of either white or Negro persons. The Federal contribution to these projects totals $36,775,994; of this amount, Federal contribution to the 13 projects intended for the use of Negroes is $4,080,308.[4]

Under the regulations of the Public Health Service, a State agency which plans racially separate medical facilities is required to submit to the Public Health Service a form showing the "white" and "other" population of the area to be served and the number of hospital beds available and projected in the area for "white" and "other."[5]

The sponsors of all hospital projects are required to submit as part of their application for funds a form which recites:[6]

> No person/certain persons (cross out one) in the area will be denied admission to the proposed facilities as patients because of race, creed, or color.

If the words "no person" are crossed out, the State agency must indicate on a separate form that:[7]

> The requirement of nondiscrimination has been met because this is an area where separate facilities are provided for separate population groups and the State plan otherwise makes equitable provision, on the basis of need, for facilities and services of like quality for each such population group in the area.

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[3] Letter from the chief of the Division of Hospital and Medical Facilities, U.S. Public Health Service, to this Commission, Mar. 18, 1963.

[4] *Ibid.*

[5] U.S. Dept. of Health, Education, and Welfare, Public Health Service, *Health Grants Manual* pt. 23–2.

[6] *Ibid.*

[7] *Ibid.*

In authorizing "separate-but-equal" facilities under the Hill-Burton Act, the Congress nevertheless intended that the benefits of the Federal program would be equally available to all. The extent to which this objective has been achieved is illustrated by the application of the Hill-Burton program in North Carolina, where the Federal Government has helped build more racially separate [8] hospitals than in any other State. Under the "separate-but-equal" provision of the State plan, 31 racially separate facilities have received grants. Four are for Negroes.[9]

In each revision of the State plan, the North Carolina Hill-Burton agency supplies information to the Surgeon General on the number of hospital beds currently available and planned in the State. Both available and projected beds are classified by race. The report submitted annually by the North Carolina Hill-Burton agency includes beds available in all hospitals, including those which have not received Hill-Burton grants and have no relation to the State other than through licensing. Each year, the total number of beds in each reporting area of the State is found to be proportionately equal to the division of the population by race.[10]

It is questionable, however, whether the U.S. Public Health Service can determine the extent to which this proportional "equality" is provided in fact. The act requires only that the State plan *show* equality in number of beds; it does not require the Public Health Service to establish the validity of the plan. In the absence of such a provision the Service has not administered the "equal" aspect of the "separate-but-equal" phase of the program.

APPARENT CONSTITUTIONAL CONFLICT

If the Supreme Court of the United States had decided the *School Segregation Cases* of 1954, eight years earlier, or if the Hill-Burton

[8] The term "racially separate" facilities describes one available either to whites or Negroes, but not both. A "segregated" facility refers to separation of the races within a hospital.

[9] Letter, *supra* note 3.

[10] North Carolina State Hill-Burton Plans.

Act of 1946 had been enacted after 1954, it is unlikely that the act would authorize the use of Federal funds for racially separate medical facilities. The opinion of the Supreme Court in *Bolling v. Sharpe,*[11] although aimed at segregation in the District of Columbia schools, supports the proposition that no Federal program may include racial exclusiveness as a permissible standard. The Constitution imposes no lesser duty on the Federal Government than on the States, and the Supreme Court has held that the States may not provide segregated facilities through "any arrangement, management, funds or property." [12] Yet, in 1961 and 1962, grants were approved for two governmentally owned hospitals which are listed in the North Carolina State plan as providing accommodations for white persons only.[13]

This apparent constitutional conflict may soon be resolved. The constitutionality of the "separate-but-equal" provision of the Hill-Burton Act and the use of its funds for voluntary facilities to be operated on a racially exclusive basis are being tested in the Federal courts in *Simkins* v. *The Moses H. Cone Memorial Hospital,*[14] and a companion case.

In these cases, physicians, dentists, and two of their patients—all of them Negro residents of Greensboro, N.C.—contend that the hospitals pursue "a policy, practice, custom and usage of barring plaintiff physicians and dentists from admission to staff privileges . . . on the grounds of race. . . ." and that "Negro patients cannot enter the . . . [hospitals] on the same terms and conditions as white persons and, if admitted, cannot be treated by their own physicians or dentists solely on the basis of race. . . ."

The plaintiffs assert that the policy of the hospitals discriminates against them and violates their right to equal protection of the laws under the 5th and 14th amendments to the Constitution. They seek a determination of whether they have a constitutional right of access to the defendant hospitals, and whether the Hill-Burton

[11] *Bolling* v. *Sharpe,* 347 U.S. 497 (1954).
[12] *Cooper* v. *Aaron,* 358 U.S. 1, 19 (1958).
[13] Letter, *supra* note 3.
[14] 211 F. Supp. 628 (M.D.N.C. 1962).

Act is unconstitutional insofar as it authorizes grants of Fec funds to create racially separate medical facilities.

The U.S. district court decided in favor of the hospitals in 1 The court did not find sufficient State involvement in the op tion of the hospitals to warrant a holding that the hospitals v subject to the equal protection clause of the 14th amendment. district court thus found it unnecessary to reach the constituti question. The case is now on appeal to the Court of Appeals the Fourth Circuit.[15] In both the district court and the cour appeals, the United States has intervened in the *Simkins* case questioned the constitutionality of the "separate-but-eq provision.

The nondiscrimination assurance of the act has been interpr by the Department of Health, Education, and Welfare as follow

(1) The authority of grant recipients to administer t hospitals includes the authority to segregate patients the basis of race. Federal officials have no authorit interfere in such practices.
(2) The assurance of nondiscrimination extends only to admission of patients to the facility and does not re to medical practitioners.
(3) To the extent that the Department recognizes a resp sibility for procuring compliance it has delegated it to State agencies.
(4) The assurance of nondiscrimination filed by the g applicant requires that only "essential" services (wl must mean something other than all services) need provided without discrimination.

In keeping with this interpretation, HEW is granting F Burton funds to support segregation in hospitals. Although tl

[15] *Simkins* v. *The Moses H. Cone Memorial Hospital*, No. 8908, 4th Cir. The case argued before the court on Apr. 1, 1963. Decision has not yet been rendered.

[16] These interpretations are derived from letters included in complaint files v the U.S. Public Health Service furnished to the Commission under an assurance tc Service that names of persons or institutions involved would not be revealed in Commission publication.

are numerous reports that racial segregation of patients has resulted in denials of admission to persons needing care, the frequency of these experiences is unknown to the Commission. More significant, however, the Public Health Service apparently does not, and cannot, under its current administrative policies, know to what extent segregation of patients results in such denials.

HOSPITAL POLICIES AND PRACTICES

Information on discrimination against Negroes as a result of hospital policies and practices was gathered by means of Commission hearings in Memphis and Indianapolis, staff field studies in the District of Columbia and Chicago, reports of State advisory committees to this Commission, and a questionnaire survey of 398 hospitals in 34 States.

Of the four cities where hearings or field studies were conducted only Indianapolis appears to have eliminated the problems of access to health facilities which Negroes generally experience as patients and as physicians.[17] The comparatively small Negro population, the limited number of voluntary hospitals, and the absence now of hospitals for Negroes undoubtedly have contributed to the favorable situation in Indianapolis. Officials of two of the city's three voluntary hospitals stated at the hearings that Negroes are admitted to their institutions without racial distinction. While all persons are admitted to all areas of one hospital, the administrator indicated that it is hospital policy not to assign Negro and white patients together in a 2-bed room. Moreover, if because of an emergency a Negro and a white patient are assigned to the same room, a request by either patient to be moved is always honored. A spokesman of the other hospital represented at the hearings said that the policy of that hospital is to assign patients without regard to race.

[17] Hearings in Indianapolis, Ind., Before the U.S. Commission on Civil Rights 238–94 (1963) (unpublished transcript in Commission library).

The two Indianapolis hospitals represented at the hearings als have open medical staff policies, which means, generally, that an qualified physician in the city may be admitted to the staff if h has a satisfactory professional record. Negro physicians hold stai appointments at both hospitals. One Negro physician said tha any Negro physician in the city who wishes hospital affiliatio may obtain it.

Springfield, Mass., with a population that is less than 8 percen Negro, has no facilities solely for Negroes.[18] All of the six hospital in the city reportedly accept persons without regard to race, creec or color. One hospital reported that color is not considered at th time of room assignment, but that the hospital does honor raciall motivated requests for room changes. However, the administrato reported that requests for transfer on a racial basis are unusual.

All four Negro physicians in Springfield said health facilitie and services are available on a nondiscriminatory basis. None o the physicians reported instances of discrimination against them

Similar situations were reported for Providence, R.I.; Omaha Nebr.; Sioux Falls, S. Dak.; and Wichita, Kans.[19]

Despite its location, culture, and tradition, Gainesville, Fla., i somewhat similar to Indianapolis with respect to the availability o medical facilities for Negroes.[20] There are two hospitals in th area and Negroes are admitted to both of them. There is on Negro physician and one Negro dentist in the area; both have stai appointments at the county hospital.

The Gainesville report states that the county hospital make available 47 of its 200 beds for Negro patients. The University o Florida Teaching Hospital admits Negro patients to all floors of th hospital, though Negro and white patients are not assigned tc gether in multiunit bedrooms. The report states that adequate hos pital facilities are available for Negro residents.

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[18] Massachusetts Advisory Committee Report (1963) (unpublished document in Con mission files).

[19] Rhode Island, Nebraska, South Dakota, and Kansas Advisory Committee Repor (1963) (unpublished documents in Commission files).

[20] Florida Advisory Committee, *Report on Florida* (1963).

Both the Commission studies and the reports of the Commission's state advisory committees indicate that the presence in a community of special hospital facilities for Negroes influences the extent to which other community health facilities are available to Negroes. A 128-bed Negro hospital in Memphis is the only general, accredited facility in the city available to Negro paying patients and Negro physicians.[21] The hospital is a city-owned facility built partly with Federal Hill-Burton funds. Negroes are excluded as inpatients and no Negro physician has ever been permitted staff privileges at any of the three large, church-related hospitals in Memphis, which have a combined total of 2,082 beds. The only other local hospital facilities available to Negroes in Memphis on an inpatient basis include about 90 percent of the beds at the city hospital for indigent and part-paying patients; 48 beds at another "Negro hospital" which is unaccredited by the American Hospital Association; and 20 beds at an Eye, Ear, Nose and Throat Hospital.

The number of Negro physicians in Memphis is declining. In the past few years, none of the graduates of the medical school for Negroes located in Tennessee (Meharry Medical School) has chosen to remain in Tennessee to practice. The State of Tennessee thus receives no apparent benefit from the financial aid it contributes to the medical school and the tuition grants made by the State to Tennessee residents. The lack of opportunity for affiliation with the University of Tennessee Medical School which is located in Memphis, and the unavailability to them of the major public and private hospitals in Memphis may be significant in discouraging Meharry graduates and other Negro physicians from entering practice in Memphis.

The problems of securing hospital services for Negroes in Chicago and the District of Columbia are no less severe than in Memphis, though they stem from different causes.

The situation is especially acute in Chicago, where the public hospital is utilized by Negro indigent as well as paying Negro patients. The evidence shows that many Negro patients with the

[21] *Hearings in Memphis, Tenn., Before the U.S. Commission on Civil Rights* 7–82 (1962).

ability to pay for hospital service go to Cook County Hospital because they are unable to secure facilities elsewhere. Yet there are 69 voluntary and proprietary hospitals operating in the city.

The three hospitals in Chicago with predominantly Negro patients are Provident, a 206-bed voluntary hospital which was established in 1913 especially for the use of Negroes; Ida Mae Scott, a proprietary hospital with 15 beds; and Louise Burg, a voluntary hospital with 108 beds. These institutions have a substantial number of Negro staff physicians. All three are general hospitals accredited by the American Hospital Association, although the Illinois Hill-Burton plan for 1963 lists 72 out of 108 beds at Louise Burg and 169 out of 206 beds at Provident as "unsuitable." The administrator of Provident Hospital has stated that the hospital was originally designed as a lying-in hospital, and was not intended for treatment of nonmaternity patients. The hospital has long since become outdated because of old plumbing and other outmoded facilities, he said.

Freedmen's Hospital in Washington, D.C., a community hospital operated by the Federal Government, is the only institution of its kind in the country. Its patients are almost entirely Negroes. It was established by the Bureau of Refugees, Freedmen and Abandoned Lands, commonly called the Freedmen's Bureau, in 1863, and is reputed to be the oldest institution in the world dedicated to the medical care and professional training of Negroes. It has been the teaching hospital for Howard University Medical School since the school opened in 1871. Since 1952, Negro physicians have been granted staff privileges at all of the city's voluntary hospitals. Prior to that time Freedmen's Hospital and other now-defunct Negro hospitals were the only facilities available to Negro physicians for their private patients. Today, most of the Negro physicians in the city have staff privileges at the hospital. It is one of the oldest hospital buildings in the city. It has a large indigent patient load, and its 382 beds are almost always fully occupied. It has become grossly inadequate to accomodate all of the Negro physicians in the District of Columbia and their private patients.

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Nashville, Tennessee, has a Negro medical school, Meharry Medical College, and an associated teaching hospital.[22] Nashville's Negro population represents 37.8 percent of the city's total. Approximately 50 Negro physicians reside in Nashville. The Tennessee Advisory Committee has reported that Negro patients generally receive medical care superior to that given them in other cities of similar size. However, Negro citizens who desire private accommodations and treatment by Negro physicians can be accommodated only at Hubbard Hospital (which has only 30 beds for private patients) or one of the smaller private hospitals catering to Negroes. Hubbard Hospital, the Meharry teaching hospital, is a 185-bed institution whose patient load is almost exclusively Negro.

There are four other general hospitals in the city, two of which are church-related. It is reported that no beds are available to Negro patients at either of the two church-related institutions, except for the infrequent admission of a Negro patient to a special treatment facility of one of these institutions. One of these institutions has received Hill-Burton funds under the nondiscrimination assurance provision of the act.

Another hospital has received approximately $2 million in Hill-Burton funds. Although the pediatrics and nursery facilities at this institution accommodate patients without regard to race, separate ward facilities are provided for adult Negro patients. The city-county hospital has received local public funds and Hill-Burton funds for construction. It is reported that Negro patients are assigned to a wing of one ward which has 28 medical and surgical beds. Private rooms are available for Negro obstetrical and gynecological patients. Since there are no Negro physicians on the staffs of these hospitals, patients admitted to them may not utilize the services of Negro physicians.

[22] Tennessee Advisory Committee, "Health Facilities and Services and Professional Opportunities for White and Nonwhites, Davidson County, Tennessee" (1963) (unpublished at this date, the document is in Commission files).

In Charleston, S.C., 36 percent of the total population is Negro Six hospitals serve the local community. One is a 31-bed count owned hospital used almost exclusively by Negroes. The 1 Negro physicians in Charleston have staff privileges only at th county hospital. Of the five nursing homes in Charleston, thr serve only white patients.

Negroes are excluded as inpatients from the three voluntar general hospitals, one of which is church-related. One of the institutions is a recipient of Hill-Burton funds. Another hospit admits Negroes on a segregated basis. Separate entrances, waitin rooms, floors, wards, and rooms are provided for Negro and whi patients at this institution. Sixty-six percent of the initial cost fc the construction of this hospital came from Hill-Burton funds. tuberculosis hospital assigns 45 of its 80 beds to Negroes.

Kansas City, Kans.,[24] has a population which is 23 percent Negr There are five general hospitals, one of which is utilized excl sively by Negroes. All hospitals in the area except the hospit for Negroes have received Hill-Burton funds. The three pr dominantly white hospitals which provided information to tl State advisory committee admit Negroes as patients but do n assign white and Negro patients to the same wards or semiprivat rooms. Most of the paying Negro patients are required to obtai private rooms. Those who cannot pay for a private room a nevertheless assigned to one, but are charged at the semiprivat room rate. Indigent Negro patients are assigned private room which are paid for by the county welfare department at the privat room rate.

There are 12 Negro physicians in the city, 6 of whom have sta privileges at 2 of the large voluntary hospitals. Often, they mu refer their patients to a white physician who has staff privileges a the hospital of the patient's choice.

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[23] South Carolina Advisory Committee Report (1963) (unpublished document i Commission files).

[24] Kansas Advisory Committee Report (1963) (unpublished document in Commissio files).

SURVEY OF HOSPITALS IN SELECTED COUNTIES

To gather information on policies and practices, the Commission conducted a mail survey of counties. The survey sought to cover a broad geographical distribution of hospitals in areas where there are concentrations of Negroes. The 1960 census figures were used in the selection of counties. The sample covered all hospitals except Federal civilian and military institutions. The counties selected had at least 5,000 Negro residents in a total population of 250,000. A maximum of five counties in any single State, with geographical distribution within the State, were covered by the survey.

In this way, 398 hospitals in 34 States were sent questionnaires. On a regional basis, 130 hospitals were in Southern States, 45 in Border States, and 214 in Northern and Western States. Of the 398, 219 or 55 percent returned the questionnaire.

One hundred and seventy-five of the responses indicated a policy of admission without regard to race. Eleven hospitals reported servicing only one racial group; one, Indian patients only; five, Negro patients only; and five, white patients only. Twenty-nine hospitals did not respond to this question. Many hospitals that reported admitting patients without regard to race also reported that separate facilities were provided for Negroes.

Eighty-four and one-half percent of the 64 hospitals which responded from southern counties reported some type of racial segregation or exclusion; 42.9 percent of the 22 responses from hospitals in border counties admit to such practices. From northern and western counties, only 2 of 133 hospitals reported any type of racial segregation.

Few hospitals in any region reported segregation in operating and X-ray rooms, ambulances, and other specialized facilities.

The majority of the hospitals reported some type of connection with State, local or Federal governments. Fifty-nine of the 60 hospitals with policies of exclusion or segregation stated they were licensed by the State or another political subdivision. Forty-five reported incorporation under the laws of the State. Twenty hospital administrators reported that State or local public funds were

used in the building or remodeling of the hospitals. Elev received subsidies or grants from the State or Federal Governmer

Thirty-six of the 60 institutions received Hill-Burton gran Only 3 of the 36 obtained funds under the "separate-but-equa provision of the act. The remaining 33 had filed assurances of nc discrimination with their applications for Hill-Burton funds. T types of racial distinctions practiced in these 33 institutions we mainly segregated living accommodations, but segregated medi facilities were also reported. All 33 are located in southern a border counties. The frankness with which officials of the ins tutions admitted to segregation practices demonstrates their bel that they are complying with the law.

SUMMARY

Racial discrimination, resulting in denials of equal protection the laws, plays a significant role in the area of health facilit and services. The nature of the discrimination encountered physicians and by persons in need of care includes total exc sion from and segregated accommodations within hospitals whi have received aid under a major Federal program. Among otl factors contributing to such denials of equal protection of the la are the terms of the Federal Act creating the program and t very narrow interpretation given to the legislation by the F eral agency charged with its administration.

Racially discriminatory policies and practices are found in ev region of the Nation. They are prevalent to a greater degree those areas where racial segregation is a basic factor in other aspe of community life. To the extent that such policies and practi limit the provision of medical care to persons in need, the hea of the Nation is adversely affected.

RECOMMENDATIONS

Recommendation 1.—That the President direct the Secretary of Health, Education, and Welfare and the Surgeon General, U.S. Public Health Service, to refuse to approve applications for grants submitted under the separate-but-equal provision of the Hospital Survey and Construction Act of 1946.

Recommendation 2.—That the President direct the Secretary of Health, Education, and Welfare, and the Surgeon General, U.S. Public Health Service, to refuse to approve applications for Federal funds under the Hospital Survey and Construction Act of 1946 when the plans for the proposed construction provide for duplicate facilities to be used on a racially segregated basis.

Recommendation 3.—That the President direct the Secretary of Health, Education, and Welfare, and the Surgeon General, U.S. Public Health Service, to assure that grant recipients comply with the nondiscrimination requirements of the Hospital Survey and Construction Act of 1946, to achieve the objective of nondiscriminatory use of such facilities by patients and medical practitioners.

URBAN AREAS

1963 Report of

the United States Commission

on Civil Rights

URBAN AREAS

Civil rights denials exist in all areas of the Nation, but their interrelationships are more apparent in the heavily populated urban areas. For this reason, the U.S. Commission on Civil Rights undertook a study of four representative metropolitan areas sufficiently similar to make apparent the dissimilarities in their treatment of minority groups.

During 1962 and 1963, hearings were held in Phoenix, Ariz.; Memphis, Tenn.; Newark, N.J.; and Indianapolis, Ind. The results of these hearings and staff field investigations form the basis for this report. Other sources have been drawn upon where necessary to supplement and broaden its perspective.

Each hearing site had a central city population of 200,000 to 500,000 and was situated in a standard metropolitan statistical area with approximately 500,000 to 1,500,000 people. With the exception of Phoenix, chosen for the comparability of its problems and its western location, at least 20 percent of each central city population and 12 percent of each area population was nonwhite.

Phoenix is a young and growing State Capital. In the past decade its population has quadrupled and its area has increased elevenfold. More than one-fifth of the nonwhite residents of the Phoenix metropolitan area are Indian. The area's Spanish-surnamed minority is about twice as large as its nonwhite minority. Phoenix, in the heart of the Southwest's agricultural area, has attracted considerable industry since World War II.

Memphis—the cotton capital of the country—is a traditional southern city. In the last two decades it has witnessed an immigration of industry and an emigration of Negroes. (Since 1940, the Negro proportion of its population has declined from 42 to 37 percent.)

Newark is an old, fixed component of the industrial Northeast. It has witnessed an upsurge in Negro residents since 1950 and is deeply involved in urban renewal.

Indianapolis is a conservative State capital—agricultural by tradition, increasingly industrial. In the past decade its Negro population has increased by half.

In its study, the Commission found that one line of questioning quickly led to others. Questions of education led to questions of housing, which involved employment opportunities, which involved the administration of justice, and so on in a tight circle. The evidence also shows that only an all-encompassing attack upon civil rights problems will bring about their solution.

The mayor of Phoenix, for example, held that voluntary efforts by private citizens there offered a satisfactory approach to the city's civil rights problems. This was disputed by a witness who pointed out that, in each case where a civil rights gain was made, it was prompted by legal processes. As a labor union witness said in the same hearings on the subject of a State fair employment practices act, "if you rely on individuals . . . to be fair in this field, I don't think it is always carried out." [1]

This conclusion was concurred in at the Newark hearings by an official of the New Jersey Division on Civil Rights, who pointed out that antidiscrimination laws were one of the factors instrumental in improving Newark's civil rights picture during the preceding 15 years.

Witnesses at the hearings also were quick to point out that laws alone are not an adequate remedy for such problems. Solutions to such problems require respect, understanding, and cooperation between majority and minority groups. As one witness stated: "To alleviate problems of racial discrimination in Phoenix, we feel it necessary for the city and State to establish human relations commissions. These commissions could serve to alert the community and State to problems affecting minorities and could effect a posi-

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[1] *Hearings in Phoenix, Ariz., Before the U.S. Commission on Civil Rights* 107, 132 (1962) (hereinafter cited as *Phoenix Hearings*).

tive, creative program for the solution of these, utilizing the full resources of the community." [2]

Newark and Indianapolis have had human relations commissions since 1952 and 1953, respectively, although they appear to have been hampered by inadequate budgets and staffs. The Indianapolis commission, for example, operated without any funds from 1953 to 1959. A Newark community leader argued strongly that "the most important immediate thing that needs to be done is to strengthen the mayor's commission on group relations." [3]

The U.S. Commission on Civil Rights has for some time recognized the value of such groups. In 1959, it recommended the establishment of "appropriate biracial" commissions "in every city and State with a substantial nonwhite population." [4] In June 1963, President Kennedy similarly recommended that "every city . . . preferably through official action by the Mayor or the governing body . . . establish a Human Relations Committee." [5]

Yet even comprehensive antidiscrimination laws, human relations commissions, and the sincere commitment of all public officials are not enough. The study shows that resolution of civil rights problems requires the active concern and support of individuals and private organizations throughout the community.

The substance of this report is an examination of the degree to which Phoenix, Memphis, Newark, and Indianapolis—as representative of many American cities—have denied citizens the free exercise of their civil rights in public education, the administration of justice, employment, housing, and in governmental facilities and privately owned places of public accommodation.

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[2] *Id.* at 63. In July 1963, Phoenix established a human relations commission.

[3] *Hearings in Newark, N.J., Before the U.S. Commission on Civil Rights* 487 (1962) (hereinafter cited as *Newark Hearings*).

[4] *Report of the U.S. Commission on Civil Rights 1959* at 536. This recommendation was directed primarily to problems of discrimination in housing.

[5] Address by President Kennedy, 30th Annual Convention, U.S. Conference of Mayors, Honolulu, Hawaii, June 9, 1963 (reprinted in 21 *Cong. Q.* 974 (weekly ed. June 14, 1963)).

At the end of World War II, school districts in three of these four cities were either required or permitted by State statute to maintain segregated schools.

Phoenix desegregated its schools in 1953 without incident as the result of two State court decisions. High schools were desegregated almost immediately and Negro teachers were placed in other schools, including all-white ones. However, as the Commission was told in 1962 by an Urban League official, because of residential segregation "a condition of *de facto* segregation" existed in Phoenix elementary schools, forcing most Negro students "to spend their first 8 years of education in predominantly Negro schools staffed largely by Negro teachers." [6]

The first legal attack on Memphis' segregated school system came in March 1960, with the filing in a Federal court of a suit by NAACP lawyers on behalf of Negro parents. When the district court ruled that the State's pupil assignment law was an adequate desegregation plan,[7] the case was appealed and 42 Negro children applied for desegregated assignments under the pupil assignment law. Thirteen applicants were approved. They were peacefully admitted in the fall of 1961 to the first grade in four previously all-white schools. It was the first school desegregation in Memphis.[8]

In March 1962, the court of appeals held that the Tennessee pupil assignment law could not serve as a desegregation plan and the district court was instructed to adopt a plan looking toward the reorganization of the schools on a desegregated basis.[9] As a result, the Memphis school board in September 1962 admitted 53 Negro pupils to first, second, and third grade classes at seven previously

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[6] *Phoenix Hearings* 44.

[7] *Northcross* v. *Board of Education* (*Memphis*), Civ. No. 3931, W.D. Tenn., May 2, 1961, 6 *Race Rel. L. Rep.* 428 (1961).

[8] *Hearings in Memphis, Tenn., Before the U.S. Commission on Civil Rights* 84–86 (1962) (hereinafter cited as *Memphis Hearings*).

[9] *Northcross* v. *Board of Education* (*Memphis*), 302 F. 2d 818 (6th Cir.), 7 *Race Rel L. Rep.* 40, *cert. denied*, 370 U.S. 944 (1962).

white schools.[10] On May 24, 1963, the district court rejected :quest by Negro parents for complete desegregation of students faculties within 2 years and adopted a "grade-a-year" plan mitted by the school board. There were no provisions in the ı for teacher desegregation. The attorney for the petitioning ents noted that, "If America's space program proceeds on sched- we will put a man on the moon by 1970. This is a year before city's plan would complete desegregation of Memphis ›ols." [11]

y 1953, Indianapolis had completed the desegregation :s school system, including pupils and faculties. However, the 's Negro elementary schools were in Negro neighborhoods and actual amount of elementary school desegregation was imal.

ıdianapolis' superintendent of schools testified that segregated ›ols were a result of residential segregation and that the "School rd and the school people cannot control where people live." [12] was opposed to an open enrollment plan because it would tax ting school facilities and cost too much to transport Negro dren to schools outside their neighborhoods. The principal Indianapolis' predominantly Negro high school disagreed: on't think we can afford to wait in some cases until integrated sing occurs, and I suggest that perhaps the path through inte- ed schools might lead to integrated housing." [13]

ewark eliminated its official policy of segregated schools in). Since World War II, New Jersey has enacted legislation ıibiting segregation and discrimination in public schools. In fall of 1961, however, a suit was filed in Federal court against Newark Board of Education alleging that Negro pupils

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o. School News, Apr. 1963, p. 6.

Iemphis (Tenn.) Commercial Appeal, May 25, 1963, p. 3. Catholic elementary ls in Memphis and Shelby County will make their first move Sept. 1963 in a desegregation plan. Memphis (Tenn.) Commercial Appeal, Apr. 1, 1963, p. 1.

Iearings in Indianapolis, Ind., Before the U.S. Commission on Civil Rights 152) (hereinafter cited as Indianapolis Hearings) (unpublished transcript in Commis- ıbrary).

I. at 188.

were in large part required to attend schools which were not only segregated but inferior.[14] This suit was settled out of court with a plan for optional transfers from 16 elementary schools with a Negro population in excess of 88 percent. Parents were obliged to pay for transportation. The 8 schools receiving them were able to accommodate 690 pupils in 1962–63; 464 applications for transfer were made.[15]

Complaints, Federal court suits, and petitions to the New Jersey Commissioner of Education alleging *de facto* segregation were registered against other school boards in the Newark metropolitan area, including those of Montclair, Orange, and Plainfield. In Orange, a drive led by the NAACP to relieve alleged racial imbalance in two schools resulted in the filing of a lawsuit and a simultaneous petition to the Commissioner of Education. On May 15, 1963, the Commissioner ruled that a school board "must take into account the continued existence or potential creation of a school populated entirely, or nearly so, by Negro pupils." The school board was ordered to submit a desegregation plan by July 1 and to "implement its plan as approved with the beginning of the 1963–64 school year." [16]

ADMINISTRATION OF JUSTICE

An exclusive and essential function of government is the maintenance of law and order and the provision for the administration of justice. Equal protection is denied when the law is not enforced and administered impartially.

Prehearing investigations by the Commission found a number of complaints of police misconduct against Negroes in Newark. A Newark attorney for several Negroes who alleged police brutality testified that "there have been situations in which police

[14] *Beale* v. *Board of Education* (Newark), Civ. No. 839–61, D.N.J., Oct. 6, 1961; *Newark Hearings* 382, 388, 428.

[15] *Newark Hearings* 440–41. Of these applications, 347 were approved but approximately 182 pupils took advantage of this transfer opportunity. *Ibid.*

[16] *Fisher* v. *Board of Education* (Orange), No. M–7042 (C–421), Comm'r of Education, N.J., May 15, 1963.

officers have in fact, used far greater force than the situation required." [17] These allegations were denied by the police director. The New Jersey regional director of the National Conference of Christians and Jews, who had conducted an inservice police community relations course for Newark's high ranking officers, testified that "the treatment of minority groups on the part of the personnel of the Newark Police Department is as good as you could expect through their limited training in community relations." [18]

Another aspect of the problem of the administration of justice in cities is the disproportionately high crime rate and other manifestations of social disorganization among some urban Negroes. A demographer has predicted that throughout the 1960's "it must be expected that the newest newcomers [to the cities], like the immigrants who preceded them, will in disproportionate number require health and welfare services; occupy the jails, reformatories and prisons; fill hospitals and morgues; and, in general, provide the greatest evidences of personal and social disorganization." [19] As Detroit's police commissioner told the Commission: [20]

> It's understandable that persons who have spent their youth and much of their adult life in nonurban areas are confronted with a problem of adjustment when they move into a city such as ours. In the first place, newcomers are faced with crowded housing conditions and a great deal of competition in securing employment unless they possess special skills.

The fact that, until World War II, the Negro was primarily a rural southern dweller [21] further complicates the situation. In

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[17] *Newark Hearings* 446.

[18] *Id.* at 470.

[19] Hauser, "Urban Boom and Crisis in the 60's—Population and Community Changes," in U.S. Conference of Mayors, *City Problems of 1960* at 14, 27 (1960).

[20] *Hearings in Detroit, Mich., Before the U.S. Commission on Civil Rights* 391 (1960).

[21] In Newark 42.9 percent of all nonwhites were born in the South (the 11 States of the Old Confederacy, the Border States (excluding Missouri), and the District of Columbia); Phoenix 41.3; Indianapolis 37.5; Memphis 95.3; nationally 69.1. 1960 Census, PC(1).

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that environment, the instrumentalities of the administration of justice often were employed to enforce segregation and to keep Negroes "in their place." Fear, distrust, and resentment of policemen resulted.[22]

A third aspect of the problem is presented by the fact that, in general, few Negroes are employed by the agencies that administer justice. In the four metropolitan areas, a 1962 survey of city police departments and county sheriff's offices revealed the following employment data:

Participation of Whites and Negroes in Law Enforcement Agencies

	City			
	Phoenix	Memphis	Newark	Indianapolis
Whites without rank	415	455	970	519
Whites with rank	112	183	206	239
Negroes without rank	3	23	88	60
Negroes with rank	1	4	5	19
	County			
	Maricopa	Shelby	Essex	Marion
Whites	209	(1)	98	126
Negroes	4	(1)	12	16
Other nonwhites	9	(1)	0	0

[1] No response to Commission questionnaire received.

In three of the four areas (Memphis excluded) a 1962 survey of certain county and city courts showed that 2 of 55 judges were Negroes, as were 35 of 293 bailiffs and probation officers.

EMPLOYMENT

Employment is a crucial civil rights problem. A nationwide survey by *U.S. News & World Report* in June 1963 reported that the "key to success in dealing with the race problem of this coun-

[22] *Newark Hearings* 471.

try more and more is being found to center in one thing—jobs." [23] A public official noted: "The chief victims of automation are the unskilled worker, the young worker, and the untrained older worker. Minority groups furnish an outsized proportion of all three groups." [24]

The following chart showing median family income and percent of unemployment in the civilian labor force in the Commission's four metropolitan areas and nationally is of interest.

	Phoenix		Memphis		Newark		Indianapolis		U.S. (Urban)	
	W	NW	W	NW	W	NW	W	NW	W	NW
Median family income	$6,016	$3,260	$6,031	$2,666	$7,503	$4,807	$6,923	$4,390	$6,433	$3,711
Percent unemployed	4.3	9.1	3.0	7.2	3.8	9.3	3.2	8.5	4.6	9.0

W—White.
NW—Nonwhite.
Source: 1960 Census, PC (1).

In Phoenix, the mayor told the Commission that the "greatest [civil rights] problem is in the area of private employment." [25] Another witness said, "the gravest problem remaining in the city of Phoenix is the problem of employment. This is the nexus . . . of all other civil rights problems." [26] In Memphis, the Commission heard that the "employment situation is our number one problem, and it's the byproduct of a lot of the other evils that we sometimes talk about." [27] In Indianapolis, the deputy director of the commission that administers Indiana's fair employment practices law testified that "one recent complainant with two years of college

[23] *U.S. News & World Report*, June 24, 1963, p. 37.

[24] "Equal Employment Opportunities for Minorities—A Social Dilemma Requiring an Honest Identification of Goals and Values," Address by New York City Civil Service Commissioner George Gregory, Jr., 35th Eastern Regional Conference, Public Personnel Association, Washington, D.C., Apr. 22, 1963.

[25] *Phoenix Hearings* 16.

[26] *Id.* at 133.

[27] *Memphis Hearings* 235.

could only find employment as a day worker. Facing such a discouraging picture, the minority youth finds it easy to drop out of school." [28]

One portion of the study dealt with government as an employer. A Phoenix witness told the Commission that "Negroes are conspicuously absent in the work force of Federal agencies, except for a very few in certain menial capacities, and a few others in semi-skilled and professional categories who have been transferred from other States." [29]

In Memphis and Indianapolis, the Commission heard testimony concerning civilian employment practices in Federal military installations. Practices in the two cities were in marked contrast. In Memphis, the military installation work force was 36 percent Negro (the nonwhite metropolitan population was 36.4 percent). Four of 619 Negroes employed there were foremen.[30] In Indianapolis, with a nonwhite metropolitan population of only 14.4 percent, 50 percent of Federal installation employees were Negro.[31] Regarding the number of Negro employees at supervisory levels, the Indianapolis civilian personnel director testified that, "we have a good population of Negro supervisors in our first and second level, and they are preparing themselves quite well for the high-level supervision." [32]

Other testimony dealt with contractors and unions engaged in Federal work. Federal contractors are subject to mandatory nondiscrimination clauses. At the Commission's Memphis hearings, the division personnel manager of a public utility [33] doing business with the Government testified: [34]

> [T]he customs of the community and the employment practices in the Memphis area indicate that we would have

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[28] Indianapolis Hearings 436.

[29] *Phoenix Hearings* 46.

[30] *Memphis Hearings* 244.

[31] Indianapolis Hearings 297.

[32] *Id.* at 303.

[33] Charges of job discrimination by public utility companies were heard in Phoenix (*Phoenix Hearings* 50–51 ("one company uses a Negro with a BA degree in clinical psychology as a ditch filler")) and in Newark (*Newark Hearings* 12).

[34] *Memphis Hearings* 304.

compatibility problems, customer resentment and endanger the service if we assigned Negro employees to some job classifications at this time.

In addition to being subject to these clauses, many Federal Government contractors have voluntarily signed "Plans for Progress." Under these special statements the contractor pledges to take affirmative action to promote equal employment opportunities. However, the Commission's hearings showed that these pledges have not significantly increased nonwhite employment opportunities. For example, among "Plans for Progress" firms: [35]

- A Phoenix plant employed 2 Negroes among 142 workers;
- Two Indianapolis firms had 4.3 and 3.5 percent nonwhite employees, respectively;
- A Newark firm had no Negroes among 90 officeworkers.

Labor unions which have collective-bargaining agreements with Federal contractors are discouraged from engaging in discriminatory practices.[36] However, a Phoenix witness said, "While there have been some gains in the acceptance of Negroes in the labor unions, there are still certain locals which continue to discriminate against Negroes in accepting them, or by limiting the areas of their work." [37]

The Commission found in its four hearings that these "certain locals" were invariably craft unions and generally were in the construction or building trades. In Memphis, the electricians, ironworkers, sheet metal workers, and plumbers locals had no Negro members, and an all-Negro carpenters local had declined in membership from 300 to 53 since 1946 "because of the monopoly

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[35] *Phoenix Hearings* 104; Indianapolis Hearings 307, Letter for the Record, May 27, 1963; *Newark Hearings* 11.

[36] Exec. Order No. 10925, secs. 304–305, 26 Fed. Reg. 1977 (1961), 6 *Race Rel. L. Rep.* 9 (President's Committee on Equal Employment Opportunity). On June 22, 1963, President Kennedy extended the authority of this committee to cover any federally assisted construction project and empowered it to withhold Federal funds from any project in which workers are discriminated against. Exec. Order No. 11114, 28 Fed. Reg. 6485 (1963).

[37] *Phoenix Hearings* 51.

of practically all construction jobs" by the all-white carpenters local.[38] In Newark, an electricians local had one Negro member, and the ironworkers and plumbers, none. When the Commission heard from a panel of representatives of these three locals and a panel of three representative contractors, each blamed the other for the dearth of Negro construction workers.[39]

The Commission's investigation of governmental involvement in private employment in the four urban areas included an examination of local administration of Federal programs. The Federal Government aids private employers by providing funds and technical assistance for the vocational training of high school students and adults and for the maintenance of State employment agencies. The vocational training made available in the public schools through Federal grants is often the chief means for many to acquire certain basic skills. But the Commission heard that, when a federally assisted training course was offered at both Negro and white schools in Memphis, the equipment available at Negro schools was sometimes so inferior that the students could not be adequately trained to meet the demands of today's labor market. In many instances, the vocational training courses offered at the Negro schools were limited to the lower-level occupations traditionally open to Negroes.[40]

Management and labor voluntarily participate in the Federal program to stimulate apprentice training activity and provide technical assistance to apprenticeship groups. No program can be registered with the Government unless it includes a nondiscrimination clause. Approximately 1 percent of the 470 apprentices in Memphis were Negroes; about 6 Negroes were participating in the more than 35 apprenticeship programs in the Phoenix area; 14 of the 3,600 apprentices in the State of New Jersey were Negroes; and in Indianapolis some 20 programs with over 300 apprentices did not include a single Negro.[41]

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[38] *Memphis Hearings* 345–46. The number of Negro brick masons had similarly dwindled over the past 20 years. *Id.* at 235, 237.

[39] *Newark Hearings* 58, 61, 62, 73, 69–80.

[40] *Memphis Hearings* 126, 187, 189, 235–36.

[41] *Memphis Hearings* 235, 237; *Phoenix Hearings* 51; *Newark Hearings* 92–93; Indianapolis Hearings 439.

In those States that have prohibited discrimination by private employers, emphasis is now being placed on creating equal employment opportunities in those industries traditionally closed to Negroes. The director of the Indiana Civil Rights Commission was concerned about the insurance industry: "Go through the large insurance offices that employ thousands of clerical workers and you will be lucky if you find three who are nonwhite." [42]

Concerning the banking industry, a Newark Urban League official told the Commission: [43]

> [O]f the approximately 4,000 employees in the Essex County banks, only 150 are Negroes, and all of these, except 3 or so who are tellers . . . either hold custodial, messenger, or menial task jobs. Seven of these banks do not employ any Negroes at all.

The personnel officer of one of Newark's banks testified that the "fact that few apply, coupled with the difficulty of finding qualified people for job openings, accounts for the lack of Negroes in many job classifications." [44] A representative of the New Jersey Division on Civil Rights commented, however: "Negroes do apply, and they haven't always been given jobs." [45]

HOUSING

Government at all levels is directly involved in public low-rent housing and urban renewal. Local governments are also directly involved in such matters as condemnation, zoning, and building codes. The Federal Government is involved in private housing to a significant extent when it assists in or insures mortgage financing. With the issuance of President Kennedy's Executive Order on Equal Opportunity in Housing on November 20, 1962, the Gov-

[42] "Indianapolis' Problem of Underemployed Negroes," Statement submitted by Harold Hatcher, Director, Indiana Civil Rights Commission, to this Commission, Mar. 1963.

[43] *Newark Hearings* 12.

[44] *Id.* at 43.

[45] *Id.* at 202.

ernment joined the 19 States and more than 55 communities that had taken some steps to equalize housing opportunities. Federally assisted public housing and urban renewal programs are peculiar to cities and, like other Federal housing benefits, for the most part are designed to aid urban dwellers.

At the end of World War II, virtually all public housing in America was segregated. Though a matter of local option, segregation was condoned by the Federal Government. Three of the four cities visited by the Commission participated in federally assisted public housing. Newark voluntarily desegregated its public housing in 1950 and Phoenix acted similarly in 1955.[46] Public housing in Memphis was still segregated in 1962, notwithstanding two decisions by courts of appeals holding that such segregation is unconstitutional.[47]

In communities that have abandoned *de jure* segregation in public housing, such factors as site selection and the traditional association of projects with one racial or ethnic group tend to maintain segregation. For example, all public housing projects in Phoenix were situated in one school district and attempts by the local housing authority to locate sites outside of this district were objected to by an affected school board and homeowners.[48]

In federally assisted urban renewal programs, major civil rights problems are: (1) nonwhite representation on local citizens' advisory committees required by Federal regulations; (2) site selection of the project areas for slum clearance, rehabilitation, or conservation; (3) relocation of displaced nonwhite families; and (4) equal access to redevelopment housing and related facilities. The housing Executive order explicitly covers the last if the Federal assistance was contracted for after November 20, 1962.

"We do not have an advisory committee," the director of Newark's housing authority told the Commission, and "we have never failed to secure money or approvals."[49] Memphis' director said that it had a committee of 15 members, including 8 nonwhites,

[46] *Newark Hearings* 108; *Phoenix Hearings* 39.

[47] *Memphis Hearings* 359; *Detroit Housing Commission* v. *Lewis*, 226 F. 2d 180 (6th Cir. 1955); *Heyward* v. *Public Housing Administration*, 238 F. 2d 689 (5th Cir. 1956).

[48] *Phoenix Hearings* 38.

[49] *Newark Hearings* 115, 116.

"and they represent a good cross section of the citizens of Memphis. Their advice is good." [50]

Newark's 12 urban renewal projects were "concentrated in a ring of blight around the central business district of the city occupied predominantly by nonwhite families." [51] Six Memphis projects were similarly located in the downtown predominantly Negro area.[52]

Relocation of Negroes displaced from urban renewal sites into decent, safe, and sanitary housing as required by Federal statute is a problem in Newark and Memphis, the Commission was told, partly because "access to good private housing for [nonwhites] . . . is severely restricted." [53] Equal access to redevelopment housing and related facilities in Newark's 12 urban renewal projects is assured by State law and nondiscrimination clauses in the land disposition contracts between the Newark housing authority and private redevelopers. Equal access to Memphis' six project areas, which now or in the future will include housing, hospitals, hotels, motels, and schools, is not assured.[54]

The Commission also found that local government's power to condemn and zone real property and to prescribe building requirements has been used to exclude Negroes from certain neighborhoods and communities.[55] A Memphis builder charged that the planning commission condemned a subdivision tract for park purposes when it learned that the tract was intended for Negro housing. Although the land was condemned in 1960, a

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[50] *Memphis Hearings* 355.

[51] *Newark Hearings* 107.

[52] *Memphis Hearings* 360–63.

[53] *Newark Hearings* 107; *Memphis Hearings* 354.

[54] On July 30, 1963, a Federal district court in Nashville (a district other than Memphis) ruled that, because of the significant extent of government involvement in urban renewal, a motel built on an urban renewal site must make its facilities available on a nondiscriminatory basis. *Smith* v. *Holiday Inns of America,* Civ. No. 3409, M.D. Tenn., July 30, 1963.

[55] See, *e.g., Deerfield Park District* v. *Progress Development Corp.,* 186 N.E. 2d 360 (Ill. 1962), 7 *Race Rel. L. Rep.* 1192, *cert. denied,* 374 U.S. 818 (1963); *Googer* v. *City of Atlanta,* Civ. No. A–97679, Fulton County Super. Ct., Atlanta Jud. Cir., Ga., Mar. 1, 1963, 8 *Race Rel. L. Rep.* 179; *Wiley* v. *Richland Water District,* Civ. No. 60–207, D. Oreg., June 30, 1960, 5 *Race Rel. L. Rep.* 788.

member of the planning commission has since stated that the "property has not been developed as a park." [56]

Other sources of discrimination were found to be the many lending institutions which are approved by FHA and VA to qualify for mortgage insurance benefits and the many which are federally chartered or have their accounts or deposits insured by the Federal Government. These institutions exert a "powerful influence" in the creation and maintenance of segregated housing patterns despite this relationship with the Federal Government.

In Phoenix, a Negro real estate broker said "you have difficulty in finding someone who will give you the mortgage." [57] Officers of several lending institutions told him that "we cannot salt and pepper the community." [58] In Indianapolis, the president of a federally chartered savings and loan association said his institution has never made a loan to the first Negro family moving into an all-white neighborhood.[59]

Real estate brokers also represent a source of discrimination. Newark real estate brokers dealing with housing covered by New Jersey's fair housing law are specifically prohibited from engaging in discriminatory practices. However, the Commission heard testimony about the letters "PATO" (Purchaser Acceptable to Owner) appearing on certain listing agreements of the Newark, Irvington, and Hillside Real Estate Board. The president of the board testified that "'purchaser acceptable to owner' can mean several things. It can mean that they don't want people with children. It can mean they don't want to sell to people with dogs. It can mean they want to discriminate against race, color, or creed." [60] The New Jersey Division on Civil Rights investigated the use of "PATO" and one broker indicated to them that it was used "to keep out nonwhites and Jews." [61] In another investigation by the Anti-Defamation League of Essex County, a seller

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[56] *Memphis Hearings* 354, 397, 398, 423, 428.
[57] *Phoenix Hearings* 47.
[58] *Id.* at 48.
[59] Indianapolis Hearings 94–95.
[60] *Newark Hearings* 173.
[61] *Id.* at 206.

was asked what PATO meant to him: "I don't know what PATO stands for, but I did tell the realtor I didn't want to sell to colored." [62]

The president of the Newark, Irvington, and Hillside Real Estate Board also told the Commission that, "we have never discriminated against any applicant. . . . [A]t the present time we have three Negro active members." [63] The president of the Indianapolis Real Estate Board said, "Membership is restricted to white citizens. It still says that in our bylaws." [64]

One of the direct results of housing discrimination is residential segregation. The Commission heard that: [65]

- In Phoenix, "97 percent of practically all the Negroes live within a radius of 1 mile of the railroad tracks or the riverbed";
- In Newark, "approximately 83 percent, are concentrated in 6 of Newark's 12 delineated neighborhoods. Three of these are the most deteriorated neighborhoods in the city";
- In Indianapolis, "89 percent of the Negroes . . . live in an area called Center Township. This is considered the inner city . . . and the structures there run from 75 years to a 100 years old";
- In Memphis, where traditional housing patterns have *not* been segregated, the Commission was told that "we are developing a situation where our slightly integrated neighborhoods are now becoming completely segregated."

The consequences of residential segregation appear manifold. As a Phoenix witness said: [66]

> [T]he significance . . . can be realized as we see the separation into rigid community patterns, resulting in a

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[62] *Id.* at 212.

[63] *Id.* at 172.

[64] Indianapolis Hearings 57.

[65] *Phoenix Hearings* 47; *Newark Hearings* 101; Indianapolis Hearings 479; *Memphis Hearings* 379.

[66] *Phoenix Hearings* 44.

> blockage of effective communication between various community groups. These walls also serve as deterrents to building the type of community solidarity which sees the Negro not only enjoying equality of opportunity in terms of education, housing, and employment, but also equality in accepting the opportunity to share in his community's plans, programs, and progress.

A Newark witness concluded: [67]

> Housing touches those areas that are presently our great social problems today, creating the segregated schools and the segregated recreation and the segregated churches, and we find that juvenile delinquency and health standards and other social evils come about in these crowded ghettos where these minorities are forced to live.

GOVERNMENT FACILITIES AND PRIVATELY OWNED PUBLIC ACCOMMODATIONS

The Supreme Court in three 1963 decisions again reaffirmed that no municipally owned and operated facilities may be segregated and no unreasonable delay will be allowed in effectuating their desegregation. In *Johnson* v. *Virginia,*[68] the Court said that "it is no longer open to question that a State may not constitutionally require segregation of public facilities," and in *Wright* v. *Georgia,*[69] the Court held that a municipality cannot arrest and prosecute Negroes for peaceably seeking the use of city-owned and -operated recreational facilities.

In a third case, *Watson* v. *City of Memphis,*[70] a desegregation plan was submitted by the Memphis Park Commission and approved by a lower court. The plan provided for the gradual

[67] *Newark Hearings* 163–64.
[68] 373 U.S. 61 (1963).
[69] 373 U.S. 284 (1963).
[70] 373 U.S. 526 (1963).

desegregation of Memphis' recreational facilities, including parks, swimming pools, and playgrounds, over a period of 10 years. The Court rejected the plan and ordered prompt desegregation declaring that the "basic guarantees of our Constitution are warrants for the here and now and, unless there is an overwhelmingly compelling reason, they are to be promptly fulfilled." [71] Three days after this decision, Memphis ordered all recreational facilities immediately desegregated except its swimming and wading pools, which it closed.[72] Lawsuits, preceded by demonstrations, led to the desegregation of other facilities in Memphis. These included public libraries, restaurant facilities in the airport and in bus terminals, and local buses.[73]

In a series of four cases involving the sit-in movement, the Supreme Court in 1963 held that where a municipality makes segregation a policy by law or public official pronouncements, it cannot arrest and prosecute Negroes for peaceably seeking service at privately owned places of public accommodations.[74] In Memphis, which had an official policy of segregation, the first sit-ins and arrests occurred in March 1960. They were conducted by a group of Negro college students "who felt that open and direct protests were the most effective way to show disapproval of segregation." [75] The movement continued into 1961 with more than 300 demonstrators arrested and 163 convicted. Lunch counters in most of the downtown department and chain stores were desegregated by negotiation in December 1961.[76]

Places of public accommodation and some public facilities in Phoenix were segregated by custom at the close of World War II. Theaters were voluntarily desegregated in 1949, as was the

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[71] *Id.* at 533.

[72] Memphis (Tenn.) Commercial Appeal, May 31, 1963, p. 1.

[73] *Turner* v. *Randolph,* 195 F. Supp. 677 (W.D. Tenn. 1961), 6 *Race Rel. L. Rep.* 825; *Turner* v. *City of Memphis,* 369 U.S. 350 (1962); *Evers* v. *Dwyer,* 358 U.S. 202 (1958); *Memphis Hearings* 103, 111, 112.

[74] *Peterson* v. *City of Greenville,* 373 U.S. 244 (1963); *Lombard* v. *Louisiana,* 373 U.S. 267 (1963); *Gober* v. *Birmingham,* 373 U.S. 374 (1963); *Avent* v. *North Carolina,* 373 U.S. 375 (1963).

[75] *Memphis Hearings* 95.

[76] *Id.* at 112, 113.

municipal airport restaurant in 1951.[77] The chairman of the Phoenix All-American Council for Equality explained that "pressure had been brought to bear through civil government, and it responded appropriately."[78] When sit-in demonstrations occurred in Tucson in 1960, the Arizona Restaurant Association adopted an open-door policy "to prevent a similar occurrence in the city of Phoenix."[79]

New Jersey and Indiana statutes prohibiting discrimination by proprietors of privately owned public accommodations were enacted in the 19th century. However, these laws were not vigorously enforced until after World War II.[80]

SUMMARY

The Commission through its urban-area hearings has collected information concerning denials of equal protection in four representative American cities. This information has served as the basis for this study. Since it was collected in public hearings extensively covered by the mass media of newspapers and television, it has also served to advise the people of these communities of the facts of civil rights denials in their areas. The Commission cannot know with precision what role this public disclosure played in events that followed. But it has learned that, in each area in which it held hearings, significant civil rights advances have followed.

For example, in Phoenix, where witnesses testified as to the need for a representative citizens' group to consider civil rights problems, the mayor has established a human relations commission. In Memphis, where a previously all-white motel accommodated

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[77] *Phoenix Hearings* 27.

[78] *Ibid.*

[79] *Id.* at 28–29.

[80] The New Jersey Division on Civil Rights received 52 complaints statewide of such discrimination from July 1961 to June 1962; the Indiana Civil Rights Commission received 43 from 1961 to 1963. *Newark Hearings* 213–14; *1963 Indiana Civil Rights Commission Report* 13.

the Commission staff on a desegregated basis—the first experience of its kind for Memphis—one of the city's leading hotels has since registered its first Negro guest. Early in 1963, many Memphis motion-picture theaters were desegregated. Newark's human relations commission has been given additional staff. New Jersey's Civil Rights Division has been transferred from the State's Department of Education to its Department of Law and Public Safety to change its emphasis from education to enforcement.

The Indiana Civil Rights Commission, shortly after this Commission's hearings were announced, was for the first time given enforcement powers. Since the hearings, the Indiana Civil Rights Commission met informally with those members of the housing and home finance industry who had testified at the hearings. Out of this meeting grew the Governor's housing conference, which met on September 10, 1963. More than 150 bankers, builders, real estate brokers, and representatives of the chamber of commerce and other business groups participated in this conference. A conference was also held between the State and city civil rights commissions and several Indianapolis employers. In addition, the Governor and Indianapolis' Mayor have issued executive orders directing licensing agencies to take steps to end discrimination by licensed businesses.

Yet this progress represents only a first step toward the ultimate solution of one of the Nation's most pressing problems. The complexity and interdependence of civil rights problems in the Nation's urban areas dictate the necessity for increasing efforts to bring about progress in all areas of such denials. This is the challenge of the sixties.

RECOMMENDATION

The urban-areas study disclosed civil rights denials in each of the subject areas studied—public education, administration of justice, employment, housing, governmental facilities, and privately owned places of public accommodation. In other chapters of

this report, relating to each of these subject areas, similar denials have been found and remedial recommendations made. The urban-areas findings support these recommendations—and the recommendations in turn are appropriate for dealing with denials in urban areas.

Beyond the need for Federal remedial action and basic to a solution to the civil rights dilemma is a greater assumption of responsibility at the local level. Those who lead the way in this difficult task deserve recognition. The Commission therefore makes the following recommendation, designed to recognize such local leadership.

Recommendation. That the President encourage the resolution of civil rights problems at the local level by recognizing the initiative and civic responsibility of persons and organizations whose work has resulted in significant civil rights advances in their communities. This recognition might appropriately take the form of Presidential Awards of Merit presented annually to persons and organizations selected from a list of nominees submitted to the President by the United States Commission on Civil Rights.

THE NEGRO IN THE ARMED FORCES

1963 Report of

the U.S. Commission

on Civil Rights

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THE NEGRO IN THE ARMED FORCES

Fifteen years ago, President Truman decreed an end to racial segregation in the Armed Forces.[1] In doing so, he brought to a close a chapter in American history in which Negro citizens were called upon to fight for their country in time of emergency but were excluded or had their participation severely limited when the emergency was over.[2]

The order presented the Armed Forces with an enormous job of implementation. After demobilization at the end of World War II, Negroes were represented in relatively small numbers in the Armed Forces, particularly in the ranks of officers and supervisory personnel.[3] They were largely excluded from professional and technical careers, and were shunted into unskilled and menial occupations.[4]

The purpose of the Commission in making this 1963 report has been to assess the status of the Negro in the Armed Forces today. It has been aided by a large body of statistics provided by the Department of Defense, and analyzed for the Commission by the Conservation of Human Resources Project of Columbia University.

The status of equal opportunity in the Armed Forces also involves the treatment accorded Negro personnel and their families on military installations and in the communities where installations are located. Whether a military career is an attractive opportunity for Negroes and members of other minority groups depends in large part on whether they have access to decent housing, schools, and public accommodations in the areas where they may

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[1] Executive Order 9981, 13 Fed. Reg. 4313 (1948).

[2] See, generally, Franklin, *From Slavery to Freedom* (2d ed. 1956); Byers, *A Study of the Negro in Military Service* (1947); Myrdal, *An American Dilemma* (1943).

[3] See table III at 221 *infra*.

[4] *Freedom to Serve: Report of the President's Committee on Equality of Treatment and Opportunity in the Armed Services* 17, 34, 55 (1950). Also see Byers, note 2, *supra*.

be assigned. This portion of the study is based upon a series of field surveys of major military installations conducted by the Commission staff in Alabama, Colorado, Florida, Georgia, Mississippi, North Carolina, North Dakota, South Carolina, South Dakota, Texas, and Virginia; data gathered by the Commission's State advisory committees in communities neighboring military installations; an analysis of Department of Defense policy; and interviews with Pentagon officials.

When the unsatisfactory conditions revealed by these investigations were brought to the attention of the Department of Defense by the Commission and by the President's Committee on Equal Opportunity in the Armed Forces, prompt corrective measures were undertaken. In fact, changes in policy are still being made and it is yet too early to assess their effect. The Commission issues this report in order to be of further assistance to responsible military officials in Washington and throughout the country in completing a job which now is underway.

EQUAL OPPORTUNITY IN THE ARMED FORCES

In reviewing the status of the Negro in the Armed Forces, the Commission examined the following issues:

- The extent to which Negroes now participate in the Armed Forces;
- How the status of Negroes in the services compares with that of whites in terms of rank, skill level, occupational areas, and career fields;
- Relevant comparisons of the performance of each of the services in carrying out the policy of equal opportunity;
- The extent to which the status of Negroes in the Armed Forces has been affected by such factors as length of service, prior preparation in civilian life, and performance on aptitude and mental examinations;

- Whether Negroes find the Armed Forces an attractive career as compared with civilian employment opportunities, including relevant comparisons of the occupational status of Negroes in the Armed Forces with their status in the civilian work force;
- The extent to which the policies of the Armed Forces with respect to recruitment, selection, assignment, and promotion affect the integration of Negroes into the services.

Data supplied by the Department of Defense helped answer many of these questions. The information includes the numbers of Negroes and whites in each of the services, their geographical location, their assignments by rank and grade, by particular career fields and occupational specialties, their lengths of service and their reenlistment rates, and, for the Navy and Marines, their "mental" classifications. Selected tables are included in the appendix.

Opportunities for service in the Armed Forces depend at any time upon the overall size of the Military Establishment. In 1948, at the time of the President's integration order, the services had been reduced to 1.4 million men.[5] Since then, national policy has created a large standing military force, drawn in part through the Selective Service System. During the Korean conflict, service strengths rose to 3.7 million. Today, our Armed Forces stand at 2.8 million men and women. During this 15-year period, with a generally higher level of total military strength and changing occupational needs, the Armed Forces have had ample opportunity to comply with Presidential policy.

A decade ago, Negroes constituted 8 percent of the Armed Forces.[6] Today, while Negroes in the United States represent 10.5 percent of the total population, they continue to constitute 8 percent

[5] Statistics in this paragraph on the size of the Military Establishment are drawn from *Selected Manpower Statistics,* P 22.2, Directorate for Statistical Services, Office of the Secretary of Defense, Feb. 1, 1963.

[6] Data in this paragraph on the percentages of Negroes in the Armed Forces are based on information supplied by the Defense Department.

of the Armed Forces. They represent 1.6 percent of officers and 9 percent of enlisted men. Though the overall percentage of Negroes in the several services is the same today as a decade ago, this has been a period of considerable change and improvement in occupational status for Negro servicemen.

After the Korean war, there was a slow decline in the size of the Armed Forces until 1962 when action was taken to expand the services.[7] During this period of declining manpower needs, the manpower supply available to the Armed Forces has greatly expanded due to the increased pool of young men available for military service. With so many men eligible, the services have been able to be more selective in their recruitment than in the past. The available data suggest that, since the Korean conflict, the Negro proportion of total strength tended at first to decline but more recently has increased.[8]

Until 1948, when a series of committee findings, the President's directive, and administrative implementations started the process of desegregation, the Armed Forces lagged far behind the rest of the country in the assignment of Negroes to occupational specialties. Prior to that time, Negroes in all services were confined largely to heavy-duty labor, food preparation and service, and other menial and noncombatant assignments.[9] Today there is evidence that Negroes in the Armed Forces have a greater opportunity than in the civilian economy to acquire skills and to make effective use of the skills and professional training they have acquired.

Further, while the Negro proportion of officers in the Armed Forces is still relatively small, 1.6 percent, it represents a substantial increase since 1948. It is approximately the same as that which prevails among civilian managerial and professional occupations, where Negroes constitute 1.9 percent of all workers.[10] In 1962, there were 765 Negro officers with the rank of major and above.[11] This compares favorably with the 1,406 Negroes in the entire Fed-

[7] See note 5, *supra*.

[8] Chargeable Enlistments and Inductions by Service and Race for Fiscal Year 1953 to May 1962. Table prepared by the Defense Department.

[9] See historical sources cited in notes 2 and 4, *supra*.

[10] Interim Report to the Commission from Conservation of Human Resources Project, Columbia Univ. (1963).

[11] See table II, at 219 *infra*.

eral civil service and the 679 in the Department of Defense who are in the more responsible positions—grade GS-12 through 18.[12]

COMPARISON AMONG THE ARMED FORCES

Although the extent of Negro participation in the Armed Forces is encouraging, the individual services present diverse and conflicting patterns of Negro utilization.

The Army relies on Negro manpower to a greater extent than the Air Force and the Marines and to a considerably greater extent than the Navy.[13] Negroes in the Army account for more than 11 percent of its total personnel; in the Air Force and Marines they account for 8 and 7 percent respectively. In the Navy, Negroes comprise less than 5 percent of all servicemen. The position of the Army is in part explained by its unique reliance on selective service for a considerable proportion of its total manpower. During the past 3 years, Negroes have totaled over 12, 14, and 15 percent of the Army's draftees.[14] The other services meet their manpower needs through the enlistment of volunteers.

Even more striking differences exist in the proportion of Negroes among the officers in the four services.[15] Again, the Army presents the most favorable picture, with Negroes constituting slightly more than 3 percent of all Army officers in comparison to about 1 percent in the Air Force and only 0.3 and 0.2 percent, respectively, in the Navy and Marines. Of the Negroes in each service, the proportion who are officers is 1 in 30 in the Army; 1 in 80 in the Air Force; 1 in 300 in the Navy; and 1 in 500 in the Marines. Expressed another way, the Army has proportionately 10 times as many Negro officers as the Navy and 15 times as many as the Marines.

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[12] "Negro and Total Employment by Grade and Salary Groups, June 1961 and June 1962," mimeographed Report of the President's Committee on Equal Employment Opportunity. Starting salary for GS-12 is $9,475 and for GS-18 is $20,000 per year.

[13] Data in this paragraph on the numbers and percentages of Negroes in each service are based on tables I and II, at 218 and 219 *infra*.

[14] See note 8, *supra*.

[15] See note 13, *supra*.

The Navy and Marines lag behind the Army and Air Force not only in the numbers of Negro officers, but also in the ranks Negroes have achieved.[16] The highest-ranking Negroes in the Navy are 3 commanders and 17 lieutenant commanders. The Marines have no Negro officer with rank of colonel, lieutenant colonel, or major; their highest ranking Negroes are seven captains. The only Negro officer of general rank in any service is a major general in the Air Force. Of the 765 Negro officers in the Armed Forces at higher levels of command, 547 are in the Army, 198 in the Air Force, 20 are in the Navy, and none are in the Marine Corps.

Among enlisted men, Negroes are under-represented in the top three enlisted ranks in the Army and Navy and in the top four ranks in the Air Force and Marines.[17]

An assessment of trends reveals that the Army has consistently had a higher proportion of Negro personnel than the other services.[18] In 1941, fewer than 6 percent of all Army personnel were Negro; by the end of the war, 9 percent were Negro. The proportion changed relatively little during the immediate postwar period, but jumped to 13 percent during the Korean war. As Army strength was reduced during the post-Korean period, the number of Negroes declined even more rapidly than white personnel. The most drastic reduction in Negro personnel in the Army occurred in 1957 and 1958, when Negro strength declined by 26 and 11 percent, respectively, while all other personnel declined by only 5 and 2 percent. During these 2 years, Negroes accounted for more than 40 percent of the net reduction in Army personnel.

This reduction was part of an Army program to discharge persons of limited potential with a view to raising the quality of the

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[16] Data in this paragraph on the numbers and percentages of Negro officers by rank in each service are presented in table II, at 219 *infra*.

[17] Data on the numbers and percentages of Negro enlisted men by rank in each service are presented in table II, at 219 *infra*.

[18] Data in this paragraph on percentages of Negro Army personnel are based on information supplied by the Defense Department.

entire service.[19] In the selection of those for discharge, the results of aptitude tests were given great weight. While the program achieved the desired results, many men who had performed satisfactorily in the past, as shown by their continued retention and promotion, were discharged on the basis of tests which predicted performance only on the average.[20] Subsequently, the Army's reliance on Negro manpower increased and the proportion of Negro enlisted men to total strength in 1962 approached that prevailing late in the Korean war. The percentage of Negro Army officers rose from 1.7 percent at the close of World War II to its high of 3.2 percent in 1962.[21]

Data available on the other services are less detailed. They indicate, however, that the Air Force and Marines, as did the Army, increased their reliance on Negro enlisted personnel to a significant extent during the Korean war, and both services have continued to improve in this regard since that date.[22] Between 1949 and 1962, the proportion of Negro enlisted men in the Air Force and Marines rose from 5 to 9 percent and from 2 to nearly 8 percent, respectively. Among officers, the Air Force has increased from 0.6 to 1.2 percent. In the Marines, the increase was negligible—from 0.05 to 0.2 percent.

Only the Navy relied less on Negroes during the Korean war than it had during World War II.[23] While the other services were improving their utilization of Negro personnel, the position of the Navy, in this respect, continued to deteriorate. Although the proportion of Negroes in the Navy has increased since the Korean war to a high of 5.1 percent in 1962, it is still only slightly above the level that prevailed at the end of World War II. Today the Navy ranks last of all the services in its reliance on Negro enlisted men.

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[19] Semiannual Report of the Secretary of the Army, Jan. 1–June 30, 1958.

[20] See note 10, *supra*.

[21] See table III at 221 *infra*.

[22] *Ibid.*

[23] Data in this paragraph on percentages of Negro personnel in the services are presented in table III, at 221 *infra*.

The increase in Negro officers in the Navy since the end of World War II has been insignificant. The percentage rose from less than 0.05 to 0.3 in 1962.

While the proportion of Negroes among new Army enlisted personnel has remained fairly constant at about 10 percent, their rate of entry into the Air Force, Navy, and Marines has slipped considerably in recent years.[24] The Negro's rate of entry into the Navy between 1958 and 1961 dropped to the lowest level of all the services, 3 percent or less of all new personnel.[25]

The key selection factor that tends to reduce the flow of Negroes into the enlisted ranks is the aptitude test administered at induction or enlistment.[26] These tests are an attempt to estimate a person's suitability for training and later performance. As such, they are used to raise acceptance standards at a time when the manpower supply exceeds the demand. For convenience, those who take the test are ranked in five mental groups: I—superior; II—above average; III—average; IV—below average; and V—far below average. By legislation and administrative action, the Armed Forces are permitted to reject all who score far below average, and to limit their intake of men who score below average.

To some extent, the low rate of entry by Negroes into the Navy and Marines reflects differences in the manpower policies of the various services. However, a detailed analysis of the data [27] reveals that at each level of mental ability, the Navy and Marines consistently take in smaller percentages of Negroes than do the Army and the Air Force.

The proportion of Negroes in the Armed Forces recently has increased, despite their declining entry rate.[28] The reason is that the reenlistment rate of Negro servicemen is higher than for whites.

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[24] Data on percentages of nonwhite inductees and enlistees from 1953 to 1962 presented in table IV at 221 *infra*.

[25] *Ibid.*

[26] Information in this paragraph is based on interviews conducted by Conservation of Human Resources Project, Columbia University, with service representatives, Washington, D.C., Apr. 30, May 7 and 28, 1963.

[27] Data furnished by the Defense Department.

[28] Data in this paragraph based on reenlistment information submitted by the Defense Department. Also see note 8, *supra*.

Although the proportion of Negroes eligible to reenlist is slightly smaller than for whites, many more Negroes who are eligible do, in fact, reenlist. This suggests that Negro servicemen believe on balance that the Armed Forces offer them greater career opportunities than they can find in the civilian economy.

OCCUPATIONAL ASSIGNMENTS [29]

While there are many pitfalls in comparing civilian and military occupations, the evidence shows that both Negro enlisted men and officers have attained higher occupational levels than have Negroes in the civilian employment market. Negro enlisted men enjoy relatively better opportunities in the Armed Forces than in the civilian economy in every clerical, technical, and skilled field for which the data permit comparison. These include such jobs as electronic, medical and dental, drafting, and other kinds of technicians; aircraft and automotive mechanics; electricians and communications linemen; construction and related craftsmen; and printing craftsmen. In addition, Negro enlisted men constitute 9 percent of those who could be considered to be ranked as craftsman or foreman, while Negro civilians constitute only 5 percent of these occupational categories in the general economy.

With some exceptions, a similar pattern holds true for officers as a whole. Negroes comprise a smaller proportion of military than civilian personnel in such fields as law, medicine, dentistry, nursing, and the clergy—possibly because in civilian life they have the opportunity to serve the Negro community in these fields. However, they represent a larger proportion than Negro civilians in a number of fields which have been traditionally closed to them by historical patterns of discrimination. These include engineering, the applied sciences, finance and accounting, aviation, navigation, and a wide variety of management fields.

[29] This section on occupational assignment of Negroes in each service is based on data presented in table VII, at 223 *infra*.

However, these generalizations hide the existence of marked differences among the services. The better opportunities enjoyed by Negroes in various military occupational fields primarily reflect patterns in the Army and Air Force. The record of the Air Force is substantially better than the civilian economy, and the performance of the Army in utilizing Negro manpower is outstanding. In nearly all of the clerical, technical, and skilled fields studied, the Army's proportion of Negroes is two, three, or even four times higher than the proportion of Negroes in the discriminatory environment of the civilian economy.

Neither the Navy nor the Marine Corps relies as heavily as the civilian economy on Negroes for electronics technicians or automobile mechanics. In addition, the Navy is the only service that does not utilize Negroes as extensively as does the civilian economy for medical and dental technicians, general mechanics and repairmen, administrative and clerical personnel, and construction and utility craftsmen. In the remaining fields, the record of the Navy is only slightly better than the civilian economy.

Similar patterns prevail among officer occupational categories. The Army and the Air Force have a higher proportion of Negroes than the civilian market in most professional, scientific, and managerial categories. In each of these categories, the Navy utilizes Negro officers to a lesser extent than does the civilian economy.

The major reasons for the strong showing of the Army and Air Force are that they both contain relatively large numbers of Negroes, and their assignment policies are essentially nondiscriminatory.[30] On the other hand, the numbers of Negroes in the Navy, particularly as officers, are so small that they do not comprise a significant proportion of those in a broad range of occupations.[31] Moreover, 23 percent of the Negroes in the Navy are concentrated in the food service field,[32] although this historical pattern may be undergoing change. There is no evidence that those few Negroes who enlist in the Navy receive markedly unequal treat-

[30] See tables II and VI, at 219 and 222 *infra*.

[31] See table II, at 219 *infra*.

[32] See table VI, at 222 *infra*.

ment with respect to rank in comparison to whites with similar test scores and length of service.[33] The problems of the Navy are the severely limited number of Negroes enlisting and the lasting effects of the traditional assignment of Negroes to food service jobs.

RECRUITMENT AND PROMOTION PROCEDURES[34]

The extent to which Negroes enjoy equal opportunity in the Armed Forces depends, at the outset, on whether they are accepted for duty. The Armed Forces have elaborate policies governing recruitment and promotions of officer and enlisted personnel. To the extent that these policies meet the primary objectives of the Armed Forces, the services are understandably reluctant to make changes simply to improve the utilization of Negro manpower. On the other hand, a critical evaluation of some policies suggests that improvements in the utilization of Negro personnel may, in fact, contribute to the more effective realization of manpower objectives.

For the recruitment of officers, the Army relies heavily on its extensive Reserve Officers' Training Corps program (ROTC). It has units at approximately 250 colleges, of which 12 are institutions attended predominantly by Negroes. It uses the Officer Candidate School program (OCS), which permits the promotion of enlisted men, especially those new to the service, to officer rank, as a supplemental device to meet officer needs not fulfilled by the ROTC program. The Air Force also uses ROTC with units at approximately 190 colleges, of which 5 are at institutions attended predominantly by Negroes. But it has abolished its OCS and is relying on the Officer Training School program (OTS) to which only college graduates are admitted. The Navy relies heavily on its officer schools, which also accept only college

[33] Based on data submitted by the Defense Department.

[34] See note 26, *supra*.

graduates. In addition, it maintains ROTC units at 52 colleges, none of which has a predominantly Negro student body. The Navy has two ROTC programs, one of which is similar to that of the Army and Air Force. In its second program, where the Navy pays the tuition of the successful candidates for 4 years, it selects them on the basis of written examinations, board review, and final determination by the Bureau of Personnel. State quotas and State selection boards are used in the administration of this program. Of the 5,000 men currently in the two programs, only 5 are reported to be Negroes.

All three services have ROTC programs at colleges or universities which refuse to admit Negroes.

The service military academies play only a small role in terms of the numbers of officers obtained, though they are more important in supplying men who advance to command positions.

These recruitment patterns affect in several ways the ability of the Negro to qualify for officer status. Each service prefers college graduates for its officers. The Air Force has recently limited its officer opportunities to college graduates. In a few years, only college graduates may be able to become officers in any service. This trend has the effect of reducing the number of Negro officers because Negroes are proportionately less well represented among all male college students.

Each of the services also makes use of written qualifying examinations, with passing scores adjusted upwards or downwards depending on the number of candidates taking the test and the number of officers needed. Because of cultural differences and educational deprivation, Negroes tend to score below the average on written aptitude and other tests, and fewer are, therefore, accepted. However, the screening tests have not been shown conclusively to be reliable instruments for predicting successful performance. It has been suggested that the tests should be used simply to establish a minimum acceptable score for officer selection rather than as a major instrument to balance manpower supply and demand.

Each of the services makes use of review boards to screen officer candidates, and race is an item of information which candidates must answer on their application forms.

The above findings and questions apply to all services. The officer recruitment methods of the Navy raise special questions. Negroes represent a very small proportion of the student population at institutions where the Navy has its ROTC units. Moreover, the State quota and State board systems used by the Navy in selecting candidates for its regular ROTC program may operate to limit the number of Negroes who can enter the program.

With respect to officer promotions, each of the services relies on proficiency ratings which reflect primarily the assessments of the candidate by his immediate commanding officers, his educational background, and other materials in the officer's personnel file. The officer's race is stated in his file and may be revealed by his photograph or biographical information. The promotional selection boards are placing increasing emphasis upon college training.

With respect to the acceptance of enlisted men, the individual service has considerable discretion. Each relies on one or more written aptitude or "mental" tests as well as on other screening criteria, including a physical examination, a psychiatric evaluation, and an assessment of moral behavior. Thus far no test has been developed which takes into account special background factors of different cultural groups and which accurately estimates the potential learning capacity of the candidates. Nor is there evidence that the tests currently in use are reliable instruments for predicting successful performance.

It is not clear whether the recruitment process itself operates to exclude Negroes. This applies particularly to the issue of why so few Negroes enter the Navy. Questions which require further study are whether recruitment is relatively more active in geographical areas in which there are few Negroes, and whether equal efforts are made to locate and encourage potential white and Negro applicants.

TREATMENT OF SERVICEMEN AND FAMILIES

Progress toward equal opportunity in the Armed Forces has brought into sharper focus other aspects of racial discrimination against servicemen—particularly the treatment accorded Negro personnel and their families on some military installations and in neighboring communities.

The opportunity to enlist, to be trained, to find an occupation, and to advance is of critical importance to anyone considering a career in the Armed Forces. But for the Negro serviceman this opportunity may be all but nullified if he is forced to accept substandard housing at exorbitant rents or leave his family at home because of the racially restrictive practices of landlords; if he must send his child to a segregated school because of the refusal of local school districts to comply with the Constitution; or if he must limit his social and recreational activities to the installation because of barriers erected by merchants and proprietors who otherwise thrive on military trade.

In recent years, the Commission and other Federal agencies have received an increasing number of complaints from Negro servicemen that they have been subjected to these and other embittering experiences.[35]

DISCRIMINATION ON BASE

Shortly after the directive to eliminate segregation in the Armed Forces,[36] steps were initiated to establish equal treatment in facilities on military installations.[37] The Department of Defense decided that all housing units constructed on base would be

[35] In addition to congressional and Senate offices, complaints have been received by the President, the Secretary of Defense, the Secretaries of the services, and the President's Committee on Equal Opportunity in the Armed Forces. Complaints have also been received from servicemen by a number of private civil rights and veterans' organizations.

[36] See note 1, *supra*.

[37] *Freedom to Serve: The Report of the President's Committee on Equal Treatment and Opportunity in the Armed Forces* (1950).

available solely on the basis of rank and seniority and that racial considerations would be excluded.[38] In 1954, before the Supreme Court ruled that the separation of children by race in public schools violated the Constitution,[39] the Department decided to desegregate school facilities on military bases.[40]

Today, as a result of these policies, the operation of military installations is generally free from the taint of racial discrimination.[41] White and Negro servicemen not only work side by side, but spend much of their off-duty time together. They use the same stores, eat at the same snackbars and cafeterias, play on the same ball teams and attend the same on-base chapels. Families of both races are neighbors in the same military housing areas. Their children are classmates in integrated schools, and use the same playgrounds, swimming pools, and hobby shops.

But, although the on-base community today is in many respects a model of the harmonious relationships which can prevail when racial restraints are removed, some problems remain. At many installations, for example, employment at military exchanges, clubs, and shops offers supplementary income for service families. However, at some southern bases, the employment pattern of these facilities reflects the racial practices of the community. White personnel are hired as salesclerks, cashiers, and waitresses; Negroes as dishwashers, busboys, and janitors.[42] At one installation where

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[38] Commission staff interviews with Department of Defense and service representatives, Washington, D.C., June 29 and July 2, 1963.

[39] *Brown* v. *Board of Education of Topeka,* 347 U.S. 483 (1954).

[40] Memorandum of Secretary of Defense, on Schools on Military Installations for Dependents of Military and Civilian Personnel, Jan. 12, 1954.

[41] Commission staff visits to military installations in Alabama, Oct. 29–Nov. 9, 1962; Colorado, June 5–7, 1962; Florida, Jan. 31–Feb. 8, 1963; Georgia, Dec. 4–12, 1962; Mississippi, May 25–June 3, 1962; North Carolina, Feb. 18–22, 1963; North Dakota, June 17–19, 1962; South Carolina, Aug. 22–31, 1962; South Dakota, June 8–16, 1962; Texas, May 21–24, 1962, and Dec. 12–20, 1962; Virginia, Jan. 21–30, 1963.

[42] Commission staff interviews with Negro servicemen and civilian employees in Alabama, Nov. 4, 1962; Florida, Feb. 5, 1963; Georgia, Dec. 4, 6, and 11, 1962; North Carolina, Feb. 18, 1963; South Carolina, Aug. 27 and 28, 1962; Texas, Dec. 20, 1962; Virginia, Jan. 29 and 30, 1963. Affidavit of Negro serviceman in Florida, Jan. 28, 1963, copy retained in Commission files. Letter from Negro servicemen in Georgia, January 1963, copy retained in Commission files.

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on-base schools are operated by the local school district, wives of Negro servicemen have had difficulty in obtaining employment as teachers.[43]

The services encourage social activities at installations as a factor in maintaining morale.[44] For Negro servicemen who may be barred from using community facilities because of race, entertainment provided on base is of greater importance. But, at some posts, recreational facilities such as noncommissioned officers' clubs are segregated and Negro servicemen are dissuaded from using the main club.[45] Considerable effort is made to enlist community cooperation in staging base dances, which includes making arrangements for inviting and transporting "junior hostesses" to the installation. But, at these posts, Negro junior hostesses are not brought to the bases for dances.[46]

At one base, public buses which travel between the military installation and the surrounding community pick up servicemen on base but require Negro personnel to move to the rear of the bus when it leaves the installation.[47] Taxi companies at several installations refuse to pick up Negro servicemen in town, but are permitted to carry white passengers to and from the base.[48]

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[43] Commission staff interview with military installation official in Texas, Dec. 20, 1962.

[44] Commission staff interviews with service representatives, Washington, D.C., April 22, 24, 26, and 30, 1963. See also service recreational publications *e.g.*, Air Force Reg. 34–36 and 215–1.

[45] Frequently, white managers and white personnel are employed in the main clubs and Negro managers and Negro personnel are employed at branch annexes. Negro servicemen are also dissuaded from using the main clubs by occasional instances of preferential treatment for white personnel. Commission staff interviews with Negro servicemen in Alabama, Nov. 4, 1962; Florida, Feb. 5, 1963; Georgia, Dec. 11, 1962; Mississippi, May 29, June 1 and 3, 1962; South Carolina, August 29, 1962; Texas, Dec. 20, 1962.

[46] Commission staff interviews with Negro servicemen in Alabama, Oct. 31, Nov. 5 and 7, 1962; Mississippi, May 29, June 1 and 3, 1962.

[47] Commission staff interviews with Negro servicemen in Mississippi, May 29, June 1 and 3, 1962.

[48] Commission staff interviews with Negro servicemen at two Florida military installations, Feb. 5 and 6, 1963. Commission staff interview with service representatives, Washington, D.C., Apr. 25, 1963.

In part, these practices are the legacy of an era when all aspects of military activity were segregated.[49] But today, discrimination on base results largely from the impingement of community customs and attitudes upon the operation of the military installation.

OFFICIAL RELATIONS WITH THE COMMUNITY

Cooperative activities between the military and neighboring civilian communities are supported by all of the services to establish a relationship based upon respect, acceptance, and appreciation.[50] Local commanders are encouraged to seek out opportunities to participate in community activities. They are also encouraged to make base facilities available to the community.

The services consider harmonious base-community relations as the sign of an effective and successful local commander. The goal is to get along with the community. But the Department of Defense has not supplied its commanders with guidance on how to deal with the racial implications of a community relations program. As a result, the responses of local commanders have varied with their personal views and local pressures.

From a review of the incidents occurring at installations throughout the country, a clear pattern emerges of military accommodation to the discriminatory practices of local communities.

One facet of the problem is the policy of permitting segregated groups to avail themselves of military facilities not otherwise available in town. Under this policy, segregated athletic teams and clubs, segregated Boy Scout and Girl Scout troops and segre-

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[49] For example at one military installation in Georgia, the all-Negro-staffed exchange at one time served only segregated units. At the present time, the all-Negro staff continues, despite the fact that the Negro units have been integrated. Commission staff interview with Negro civilian employee in Georgia, Dec. 6, 1962.

[50] Information in this and the following paragraph is drawn from Defense Department Directives Nos. 5410.6 and 5410.7 and service directives.

gated professional groups are allowed free use of Federal facilities.[51]

At the same time, an interracial commission on human relations in a southern State and a servicemen's chapter of the NAACP in a northern State were denied use of installation meeting facilities because of their "controversial nature." [52] In Mississippi, a commercial sightseeing bus operation is allowed to tour one military base even though it excludes Negro tourists.[53]

A second facet of the problem is the activity of servicemen in the community. At some installations, Negro servicemen are excluded from bands, choral groups, and demonstration teams which perform at parades, concerts, and other local functions where local commanders determine that Negro participation would violate local customs.[54] Moreover, bands, demonstration teams, and military speakers lend prestige and support to public functions despite the fact that the audiences are segregated or Negroes are excluded entirely.[55] The same policy of accommodation results at some bases in the segregation of Negro servicemen in funeral details.[56]

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[51] Commission staff interviews with Negro servicemen in Alabama, Nov. 5, 1962; and with military installation official in Georgia, Dec. 4, 1962. Letter of Assistant Secretary of Defense to Commission, July 17, 1961, copy retained in Commission files.

[52] Commission staff interviews with military installation officials in Georgia, Dec. 11, 1962, and in South Dakota, June 11, 1962.

[53] Commission staff interviews with military installation officials in Mississippi, May 29–June 4, 1962.

[54] Commission staff interviews with Negro servicemen in Alabama, Nov. 3, 4, 5 and 7, 1962; Georgia, Dec. 10 and 11, 1962; Mississippi, May 29, 1962; South Carolina, Aug. 22 and 28, 1962. Defense Department memorandum concerning practices at military installations in Kentucky, Nov. 7, 1961. Letter to Commission from military installation official in Georgia, May 28, 1963, copies of memorandum and letter retained in Commission files.

[55] Commission staff interviews with Negro servicemen in Mississippi, May 29, 1962; and with the Defense Department representative, Washington, D.C., May 22, 1963; and Winston Salem (N.C.) Journal, May 16, 1963. Also see Defense Department memorandum concerning racial restrictions in Kentucky, Nov. 7, 1961, copy retained in Commission files.

[56] Commission staff interviews with Negro servicemen in Alabama, Nov. 3–5, 1962; Georgia, Dec. 11, 1962; South Carolina, Aug. 27 and 28, 1962; and with service representatives, Washington, D.C., Apr. 25, 1963. Letter from Army, Oct. 2, 1958, copy retained in Commission files.

Negro personnel are commonly excluded from military police patrols in town or are restricted to patrols in Negro areas.[57] At one post where duty at the gate results in contact with white local citizens, Negro military police have been moved to traffic-duty assignments within the installation.[58]

When the military athletic team of one service played off the post, the Negro member was "forgotten."[59] At another location, Negro WAVES were not permitted to go and cheer for the team when it performed off base.[60]

When troops are being transported by military vehicles, they may stop at segregated restaurants where the Negroes remain on the bus or truck and have food brought to them by white troops who have been served at tables or counters.[61] Some Negro recruits are exposed to segregation early when they find themselves eating in the kitchens of civilian restaurants en route to their training camps.[62]

When one military unit decided to use base exchange profits for a group picnic, a Navy supervisor gave each Negro serviceman a few dollars and told the Negroes to have their own picnic since the community park area was open only to whites.[63] When at one base, personnel received an "Airman of the Month" citation for meritorious service, the award included a weekend at a

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[57] Commission staff interviews with Negro servicemen in Alabama, Oct. 31–Nov. 3–5, 1962; Florida, Feb. 6, 1963; South Carolina, Aug. 26 and 28, 1962; Texas, May 21–24, 1962; with service representatives, Washington D.C., Apr. 24 and 25, 1963. Letter from Negro servicemen in Georgia, March 7, 1963, copy retained in Commission files.

[58] Commission staff interview with military installation officials in Georgia, Dec. 11, 1962.

[59] Commission staff interview with Negro servicemen in South Carolina, Aug. 27 and 28, 1962.

[60] Commission staff interview with military installation official in South Carolina, Aug. 24, 1962.

[61] Commission staff interview with Negro servicemen in Georgia, Dec. 11, 1962, and Mississippi, May 29, 1962.

[62] Commission staff interviews with service representatives, Washington, D.C., Apr. 24 and 25, 1963.

[63] Commission staff interviews with Negro servicemen in Florida, Feb. 5, 1963.

segregated hotel in town. Until recently no Negro had ever won the award.[64]

When the wives' clubs or other base groups meet in town at segregated facilities, Negroes and their dependents are excluded.[65] When Negro servicemen have been physically mistreated by local police, some base officials have not demanded disciplinary action.[66] Even fundraising for local charities poses racial problems when Negro personnel are put under pressure by their superiors to contribute to organizations whose largess is reserved for whites.[67]

The pattern of military accommodation to the racial practices of the community extends to the formal channels of communication with local leaders. Under directives from the services, most commanders have taken the initiative in establishing "command-community relations" committees to deal with a wide variety of matters requiring military-civilian cooperation.[68] Generally, the civilian community is represented by local government officials, officers of the chamber of commerce, and other business representatives.[69] Negro community leaders are rarely represented on

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[64] Commission staff interview with Negro serviceman in Mississippi, June 3, 1962. In August 1963, Commission staff was advised by a Defense Department representative that a Negro had won the award and was given a trip to New Orleans.

[65] Commission staff interviews with Negro servicemen in Alabama, Nov. 5, 1962; Mississippi, May 31 and June 1, 1962; South Carolina, Aug. 29, 1962.

[66] Summary of Air Force investigation of civilian arrest of Negro serviceman in Alabama, Mar. 9, 1960, copy retained in Commission files; letter of Negro servicemen in Louisiana, to U.S. Representative, June 1961, and summary of Air Force investigation, Aug. 3, 1961, copies retained in Commission files; Commission staff interviews with Negro servicemen in Mississippi, May 31 and June 3, 1962. Also see Army letter to U.S. Senator, concerning assault of Negro serviceman by civilian police on military installation in Georgia on Jan. 16, 1960.

[67] Commission staff interviews with Negro servicemen in Alabama, Nov. 3 and 5, 1962; Mississippi, June 1 and 3, 1962. Letter from Negro servicemen in North Carolina, copy retained in Commission files.

[68] Department of Defense Directive No. 5410.7, "Community Relations," Nov. 9, 1956, and service implementing regulations and manuals; for example, see Army Regulations 360–55, par. 4, Civilian Advisory Committee; Air Force Manual 190–4, ch. 5, sec. C., Base-Community Council; and Navy Public Information Manual, ch. 13, art. 1304.3(a), Command Responsibility-Joint Advisory Board.

[69] Commission staff interviews with military installations officials in Mississippi, May 30, 1962; North Carolina, Feb. 20, 1963; South Carolina, Aug. 28, 1962; South Dakota, June 12, 1962.

the committees; and only occasionally have local commanders selected Negro military personnel as delegates for the installation.[70] The committees rarely, if ever, discuss problems of discrimination against Negro servicemen.[71]

Continued subjection to racial insults and indignities has had a demoralizing influence on many Negro servicemen. Time and again they have expressed dismay and resentment at being subjected to local prejudice and at the failure of their military superiors to take any corrective action.[72] But installation officials frequently have professed ignorance of such problems.[73] Most of those who have acknowledged that such problems exist said they were helpless to do anything about them.[74]

HOUSING DISCRIMINATION

Military owned and controlled housing, as noted previously, is generally free from any taint of racial discrimination.[75] But such

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[70] Commission staff interviews with military installation officials in Alabama, Oct. 29, Nov. 7 and 9, 1962; Mississippi, May 30, 1962; Virginia, Jan. 25 and 31, 1963; and service representatives, Washington, D.C., Apr. 24 and 25, 1962.

[71] Commission staff interviews with military installation officials in Georgia, Dec. 4 and 10, 1962; South Carolina, Aug. 28, 1962; South Dakota, June 12, 1962; Texas, Dec. 19, 1962; Virginia, Jan. 25 and 31, 1963.

[72] Commission staff interviews with Negro servicemen in Alabama, Nov. 5, 1962 and South Carolina, Aug. 27 and 28, 1962. Commission staff interviews and complaints, note 97, *infra*.

[73] Commission staff interviews with military installation officials in Alabama, Oct. 29, Nov. 7 and 9, 1962; Florida, Feb. 6 and 8, 1963; Georgia, Dec. 4, 1962; Mississippi, May 28 and 30, 1962; North Carolina, Feb. 20 and 22, 1963; South Dakota, June 11, 1962; Texas, Dec. 19, 1962; Virginia, Jan. 25, 28, 30, and 31, 1963.

[74] Commission staff interviews with military installation officials in Alabama, Nov. 5, 1962; Georgia, Dec. 4 and 10, 1962; Mississippi, June 4, 1962.

[75] Commission staff interviews with Negro servicemen in Alabama, Nov. 3–4, 1962; South Carolina, Aug. 26 and 29, 1962; Texas, Dec. 18, 1962; and Virginia, Jan. 26 and 29, 1963. At the time of the Commission field visits, even installations at which segregated housing had been the rule had removed all vestiges of housing discrimination. Commission staff interview with Defense Department official, Washington, D.C., Mar. 11, 1963.

housing, which now numbers 375,000 units,[76] meets only a small part of the military housing requirement.[77] Moreover, its value to Negro servicemen is even more limited because as a group they do not possess sufficient rank to be assigned to such units under the existing priority system.[78]

Recognizing that there is an acute housing shortage for military personnel and that many families are sheltered in inadequate, deterioriating, or overpriced units,[79] the Department of Defense has assumed the responsibility for helping servicemen meet their housing needs.[80]

Throughout the Nation, however, Negroes have been denied adequate shelter by the racially restrictive practices of landlords who refuse to rent or sell to them; by real estate brokers who reflect or even stimulate the prejudices and fears of property owners; and by the homebuilders who say they must maintain

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[76] "Compilation of Military-Owned and Controlled Housing Units," table prepared by Directorate for Statistical Services, Office of the Secretary of Defense, Oct. 16, 1962.

[77] Statement by Deputy Assistant Secretary of Defense (Family Housing), *Hearings on S. 2841 Before the Military Construction Subcommittee of the Senate Committee on Armed Services,* 88th Cong., 1st sess., 376 (1963). Hereinafter cited as *Senate Hearings.* Most of the military housing needs are met through privately owned dwellings within the civilian community. As a result, some 487,733 officers and enlisted men are occupying private housing units in the areas surrounding installations. Reports of the Services to Defense Department, Fiscal Year 1964, Military Family Housing Programs.

[78] Rank is the key factor most often determining the assignment of Government-owned housing. Commission staff interviews with Defense Department officials and service representatives, Washington, D.C., June 29 and July 2, 1963. See also Memorandum of the Assistant Secretary of Defense (Installations and Logistics) to Service Secretaries on Fiscal Year 1964 Military Family Housing Programs, June 4, 1962, attachment 1, p. 2. In all of the services Negroes are concentrated in the lower officer and lower enlisted men ranks. See table II, at 219 *infra.*

[79] Over 250,000 private housing units occupied by military personnel have been declared "inadequate" by the Defense Department. Reports of Services to Department of Defense, Fiscal Year 1964 Military Family Housing Programs. On housing criteria see Memorandum of the Assistant Secretary of Defense (Installations and Logistics) to Service Secretaries on Fiscal Year 1964 Military Family Housing Programs, June 4, 1962, attachment 1, p. 3.

[80] Testimony of the Secretary of Defense, *Hearings Before the House Armed Services Committee,* 88th Cong., 1st sess., No. 9, at 2754 (1963). Hereinafter cited as *House Hearings.* Also see testimony of the Deputy Assistant Secretary of Defense (Family Housing), *Senate Hearings* 376.

racially segregated developments.[81] This discrimination has an even more severe impact upon the Negro serviceman than it does upon the Negro civilian. The military man serves where ordered and thus does not choose the community in which he will live. He must move within 2 or 3 years [82] to a new location and find housing within a short period of time or not at all. Because he changes location so frequently, housing discrimination is an experience the Negro faces repeatedly during his term of service.

The net result is that the housing occupied by Negro personnel is usually grossly inferior and inadequate.[83] The choice frequently is either to accept inadequate shelter or to endure a family separation.

Although faced with this situation, the Department of Defense until now has recognized only a limited obligation to secure equal treatment for servicemen. Until 1963, in fact, military authorities were active partners in the discriminatory practices of the housing industry. This was reflected in the leased housing program, under which the services lease private housing facilities near defense missile sites when there is a lack of adequate facilities at the installation.[84] These leases are negotiated with local landlords by Government representatives who then assign personnel essential to the operation of the missile site.[85] Although the landlord does

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[81] *U.S. Commission on Civil Rights Report, Housing* 2, 3 (1961). Also see *Report of the Commission on Race and Housing: Where Shall We Live?* 1 (1958).

[82] Data submitted to the Commission by the services indicate that Army personnel are moved on the average every 2½ years and Navy personnel every 3 to 3½ years. Data submitted by Navy, Mar. 13, 1963; data submitted by Army, June 15, 1963.

[83] Commission staff inspections of housing in Alabama, Nov. 4 and 5, 1962; Mississippi, June 2, 1962; and Texas, Dec. 17 and 20, 1962; Commission staff interviews with military installations officials in South Carolina, Aug. 29, 1962; Texas, Dec. 13, 1962; and Virginia, Jan. 23, 1963; Forbes Air Force Base, Kans., Report of Housing Assigned Negro Personnel, March 1961; Report Revised, August 1961; Report Rerevised, June 1962. These reports indicated that the percentage of Negroes residing in substandard housing was nearly twice that for white airmen. Also see *Report of the Commission on Race and Housing: Where Shall We Live?* 4 and 5 (1958).

[84] Defense Department Instruction, Leased Family Housing, No. 4165.22, Oct. 31, 1961, as modified Sept. 5, 1962. See also Public Law No. 161, ch. 368, sec. 515, 84th Cong., 1st sess., approved July 15, 1955.

[85] "Installations, U.S. Army Air Defense Command Family Housing" ARADCOM Memorandum No. 210.1, March 30, 1962 (hereinafter cited as ARADCOM Memorandum), pp. 7, 12.

not ordinarily select the tenant, where Negro personnel were involved the Army followed different practices. While special efforts were ordered to locate nearby housing for Negro personnel,[86] Negroes were not assigned to leased housing units if, in the judgment of the Army, the landlord or the community might object.[87] This was done even where, for the safety and security of the defense area, local commanders had required that personnel live within 5 or 10 minutes' traveling time of the installation.[88] In these cases, waivers were secured which permitted Negroes to locate in more distant areas.[89] Thus, when racial practices clashed with national security directives, racial practices prevailed.

In 1963 the Department of Defense began to disengage itself from the discriminatory housing practices of the community. It has done this by prescribing that, when the Government leases property for occupancy by servicemen, the lease must contain a nondiscrimination clause.[90] Moreover, housing referral services formerly were operated in conformity with the racially restrictive preferences of private landlords.[91] A new policy requires that

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[86] Memorandum of Army Adjutant General on discrimination in ARADCOM leased housing, Oct. 27, 1961.

[87] Memorandum of Commanding General, 47th Artillery Brigade, to Commanding General, 6th Region, USARADCOM, Nov. 1, 1960.

[88] Standard Operating Procedures for Leased and MCA Housing, 47th Artillery Brigade, Fort MacArthur, San Pedro, Calif., Reg. 210–3, March 7, 1961, p. 1. Also see letter from Commanding General ARADCOM, June 29, 1961, on Philadelphia area requirements.

[89] *Ibid.*

[90] Memorandum of the Secretary of Defense, Mar. 8, 1963.

[91] Commission staff interviews with military installation officials in Alabama, Oct. 29 and 30, 1962; Florida, Feb. 7, 1963; Georgia, Dec. 5, 1962; Mississippi, May 28, 1962; South Carolina, Aug. 29, 1962; South Dakota, June 13, 1962; Texas, Dec. 13, 1962; and Virginia, Jan. 25, 1963. Statements presented by military personnel before open meetings of the Commission State advisory committee in Maine, Mar. 25, 1963; and New Hampshire, Apr. 16, 1963. Correspondence with the Commission from the Colorado Antidiscrimination Committee, Oct. 4, 1962; Nebraska State Advisory Committee, Jan. 30, 1963; and New York State Commission Against Discrimination, June 22, 1962, copies retained in Commission files.

only listings available to all personnel be processed.[92] This has purged the lists of housing restricted to white personnel.[93]

Although these are noteworthy first steps, the Department of Defense has not yet developed an affirmative program of encouraging the community to open housing opportunities.

When the Negro encounters racial discrimination in private housing adjacent to a military installation and occupied predominantly by military personnel, the services rarely have taken corrective action.[94] The President's housing order directs all executive departments to promote the abandonment of discriminatory practices in federally aided housing.[95] It has not yet been implemented by the Department of Defense.[96] Even in States where housing discrimination is in violation of local laws, the Department has taken no steps to insure that the legal rights of servicemen are protected.[97]

Finally, in planning for the construction of additional military housing units, Defense officials reduce the number of units to be

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[92] See note 90, *supra*.

[93] Removal of discriminatory listings has left few units on the lists, and consequently the base housing list is falling into disuse. Installation report to service headquarters, Apr. 15, 1963, copy retained in Commission files. Commission staff interview with service representative; Washington, D.C., July 3, 8, 1963.

[94] Commission staff interviews with military installation officials in Alabama, Nov. 5, 1962; Florida, Feb. 8, 1963; and Virginia, Jan. 28 and 31, 1963.

[95] Executive Order 11063, 27 Fed. Reg. 11527–30 (1962). In the order all executive departments and agencies are directed "to use their good offices and to take other appropriate action permitted by law, including the institution of appropriate litigation, if required, to promote the abandonment of discriminatory practices with respect to residential property and related facilities heretofore provided with Federal financial assistance."

[96] Commission staff interview with Defense Department officials, Washington, D.C., July 10, 1963.

[97] Letters to the Commission from State antidiscrimination agencies in Colorado, Mar. 11, 1963; Kansas, Mar. 4, 1963; Illinois, Mar. 13, 1963; Missouri, Mar. 22, 1963; New Jersey, Mar. 20, 1963; Ohio, Apr. 8, 1963; Pennsylvania, Mar. 25, 1963; Rhode Island, Apr. 25, 1963; and Washington, Apr. 12, 1963. These letters indicate that no procedures have been devised for referring to the State agencies complaints of discrimination against military personnel in areas protected by State law. Copies of these letters and other submitted information are retained in Commission files. Correspondence from State antidiscrimination agencies in New York, Apr. 17, 1963, and Massachusetts, Mar. 14, 1963, indicate that only the Air Force has taken advantage of this opportunity for utilizing the services of State agencies in assisting servicemen to find housing. See the Air Force Policy Statement Concerning Violations of Antidiscrimination Laws, ALMAJCOM (SJA), Feb. 2, 1962.

built on post to meet military needs by the number of private housing units available to servicemen.[98] In estimating these available units, however, the Department counts housing which is unavailable to Negro servicemen by virtue of discrimination.[99] The result is the construction of less on-post housing than is needed.

DISCRIMINATION IN EDUCATION

Since 1954, schools operated on military installations have been open to all eligible children regardless of race.[100] The Defense Department, however, never has attempted to provide educational facilities for all or even a large number of dependents of military personnel.[101] Thus, schools located on military installations do not meet the needs of all of the children living on post[102] or the more than 1 million children of service families who reside in the surrounding community.[103]

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[98] The Defense Department, in its proposal to Congress for fiscal year 1964, first estimated its total housing need and then reduced its request for Government-owned family units by 37.4 percent, or 383,200 units, on the assumption that local communities would make "available" to servicemen an equal number of adequate, private housing accommodations. Statement of the Secretary of Defense. *House Hearings* 2760 and 2774.

[99] Defense Department officials have repeatedly asserted that racial factors and discrimination are not taken into account and in no way influence the study, planning or projecting of family housing construction. Commission staff interviews with Defense Department officials and service representatives, Washington, D.C., Mar. 8 and 11, 1963. Also see Reports of Services to Department of Defense, Fiscal Year 1964, Military Family Housing Programs.

[100] Memorandum from Secretary of Defense, Jan. 12, 1954, to the Service Secretaries.

[101] Commission staff interview with Defense Department officials, Washington, D.C., Apr. 2, 1963.

[102] Of some 70,000 children residing on Federal installations in the 17 Southern States, only 11,500 attend schools on base. *Hearings on H.R. 9824, H.R. 10056, H.R. 10783 before the Subcommittee on Integration in Federally Assisted Programs of the House Committee on Education and Labor, 87th Cong.*, 2d sess., 655 (1962). Hereinafter cited as *House Education Hearings.*

[103] *Administration of Public Laws 874 and 815; Twelfth Annual Report of the Commissioner of Education,* Office of Education, U.S. Department of Health, Education, and Welfare, p. 1 (1962). Hereinafter cited as *Twelfth Annual Report of the Commissioner of Education.*

These families must rely upon the educational offerings of the school district in which the installation is located. For the children of Negro military personnel in most of the Southern States, this means racially segregated public schools operated in violation of the Constitution of the United States.[104]

This has been an embittering experience for many Negroes. For some Negro families, assignments to southern installations require them to expose their children for the first time to segregated schools.[105] In some cases, children must travel up to 40 miles each day to and from the nearest Negro school.[106] They frequently find rundown buildings with obsolete textbooks and equipment, and overcrowded classrooms maintained by inadequately trained teachers.[107] In States such as Mississippi, where 357 of 642 Negro elementary schools do not meet minimal State accreditation standards,[108] the quality of the education may be so inferior as to jeopardize the student's chances of acceptance when he seeks to enroll at another institution. Segregation has an added impact on both white and Negro families living on military installations. They see their children, who live and play together on base, line up by race to await the arrival of segregated schoolbuses to take them to their segregated schools.[109] In cases where there is only an elementary school on base, Negro and white chil-

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[104] In the 17 Southern and Border States, 92.1 percent of approximately 3,326,398 Negro schoolchildren attend all-Negro schools. Southern School News, June 1963, p. 1.

[105] Commission staff interviews with Negro servicemen in Alabama, Nov. 4, 1962; Florida, Feb. 2, 1963; South Carolina, Aug. 29, 1962.

[106] Commission staff inspection of route taken by high school military dependents from base to the Negro high school in Florida, Feb. 4, 1963. Commission staff interviews with Negro servicemen in Florida, Feb. 4 and 5, 1963; North Carolina, Feb. 19, 1963; and South Carolina, Aug. 26 and 29, 1962.

[107] Commission staff inspection of Negro elementary and secondary schools in Alabama, Oct. 30, 1962, and in Florida, Feb. 5, 1963. Commission staff interviews with Negro servicemen in Alabama, Nov. 4 and 5, 1962; Florida, Feb. 5, 1963; North Carolina Feb. 19, 1963; and South Carolina, Aug. 22 and 29, 1962.

[108] Biennial Report of Mississippi State Superintendent of Public Instruction for Scholastic Years 1959–60 and 1960–61, p. 137.

[109] Letter from white serviceman's wife stationed in Alabama to U.S. Senator, Mar. 4, 1962, copy retained in Commission files. Commission staff interviews with Negro servicemen in Alabama, Nov. 4 and 5, 1962; Georgia, Dec. 11, 1962; North Carolina, Feb. 19, 1963; South Carolina, Aug. 22, 1962.

dren attend school together, only to be separated when they graduate and are assigned to segregated off-base high schools.[110]

Faced with a situation in which the education and lives of their children may be irreparably damaged by segregated schools, some Negro servicemen have chosen to endure separation from their families.[111]

The Federal Government is more than casually involved in the perpetuation of the segregated schools systems which serve military personnel. Recognizing a responsibility to assist in the education of children in places where there is substantial Federal activity, Congress in 1950 enacted two laws designed to alleviate the burden of local school districts in these areas.[112] Under these laws, the U.S. Commissioner of Education is authorized to provide almost all the funds needed to build elementary and secondary schools for federally connected children and to pay a substantial portion of the costs of educating children in these local public schools.[113]

Since 1950, more than $1 billion has been appropriated for school construction and another $1 billion for the maintenance and operations of such schools.[114] Since a disproportionately high number of military personnel are stationed in the South,[115] a large

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[110] This is a frequent occurrence since there are only six on-base high schools on military installations in the 17 Southern States. *House Education Hearings*, 657–72.

[111] Commission staff interviews with Negro servicemen in Florida, Feb. 5, 1963, and Texas, Dec. 16, 1962.

[112] Public Law No. 874, as amended, 64 Stat. 1100 (1950), 20 U.S.C., sec. 236–44 (1961); Public Law No. 815, as amended, 72 Stat. 548 (1958), 20 U.S.C., sec. 631–45 (1958).

[113] See note 112, *supra*. For example, in one Alabama school district, Madison County, Federal funds paid 100 percent of the construction costs at three schools; 95 percent at one school; and 80 percent at another. In another Alabama school district, city of Huntsville, Federal funds paid 100 percent of the construction costs at six schools; between 90 and 95 percent of the construction costs at three schools; and between 80 and 85 percent of the construction costs at three schools. Plaintiff's complaint, *United States* v. *Madison County*, Civ. No. 6323, N.D. Ala., dismissed May 29, 1963.

[114] *Twelfth Annual Report of the Commissioner of Education*, table 10, p. 100, and table 2, pp. 86–7.

[115] Defense Department data disclose that 46.3 percent of the Armed Forces personnel in the continental United States are stationed at installations in 17 Southern and Border States.

portion of these sums go to districts which maintain segregated schools.[116]

Although the Department of Health, Education, and Welfare is authorized by statute to prescribe minimum standards and conditions for dispensing these funds,[117] until 1962 the Secretary had not construed his authority as being broad enough to require that federally supported schools must be operated in compliance with the Constitution.[118] The result has been that there are schools adjacent to military installations which are built, maintained, and operated almost entirely with Federal funds and attended almost exclusively by the children of military families, which exclude Negro children.[119] At one Air Force base in Alabama, Negro children bypass such a school every day on their way to the more distant Negro school.[120] Not only is the school operated with Federal funds; it was built upon property deeded by the Federal Government to the school district in 1955 soon after the Defense Department's policy of integration of on-base educational facilities went into effect.[121] The deed did not require that the school be operated for the benefit of all children.[122]

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[116] Allotments to local education agencies in the 17 Southern and Border States for 1951–62 accounted for better than one-third of the nationwide disbursements. *Twelfth Annual Report of the Commissioner of Education,* table 15, p. 166.

[117] Public Law No. 815, sec. 12(b), 72 Stat. 554 (1958), 20 U.S.C., sec. 642(b) (1958).

[118] On Feb. 27, 1962, Secretary Ribicoff stated that ". . . I think we are completely without authority to act . . ." on this issue. *House Education Hearings* 18.

[119] Such schools have been constructed and operated near the Redstone Arsenal in Alabama, Washington (D.C.) Post, Mar. 4, 1959, p. 9; the Little Rock Air Force Base in Arkansas, Washington (D.C.) Post, Aug. 24, 1958, p. 4; and at installations visited by Commission staff in Alabama, Nov. 5, 1962, and in South Carolina, Aug. 22 and 29, 1962.

[120] Maps of Maxwell Air Force Base, Gunter Air Force Base, and city of Montgomery, Ala., copy retained in Commission files. Commission staff interview with Negro serviceman in Alabama, Nov. 5, 1962.

[121] Quitclaim deed, contract No. SA-IV-18, Sept. 19, 1955, between the Secretary of Health, Education, and Welfare and the Board of Education, Montgomery County, Ala., copy retained in commission files. Base officials knew that the school would exclude children of Negro personnel when they recommended the transfer of land to local education authorities. Letter from Acting Commander, Air University, Maxwell AFB, to Headquarters USAF, June 14, 1955, copy retained in Commission files.

[122] *Ibid.*

However, on March 30, 1962, the Secretary of Health, Education, and Welfare decided that some protective measures could be adopted for the benefit of children who reside on Federal property.[123] He ruled that, beginning in September 1963, segregated schools would not be considered "suitable" within the meaning of the statute and that their eligibility for continued Federal financial assistance would be jeopardized.[124] As a result of this ruling, 15 school districts agreed to accept all military children residing on post without regard to color.[125] Several of these agreed to put into effect desegregation plans which eventually will benefit all children in the district.[126] At 8 of the larger installations where negotiations with the 11 school districts involved proved unsuccessful, plans were made to build elementary schools on the installation to accommodate the children who live there.[127]

Thus, some progress has been made. Up to September 1963, however, the HEW ruling has affected only 26 of the 242 southern school districts where children reside on Federal property and

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[123] Statement by the Secretary of Health, Education, and Welfare, *House Education Hearings* 456.

[124] Public Law No. 874, sec. 6(a), 64 Stat. 1107, as amended, and Public Law No. 815, sec. 10, 72 Stat. 554, as amended (1958). This "suitable" ruling permits the Commissioner of Education on a case-by-case basis to rule that a particular local segregated school attended by children residing on base is not "suitable." He is then authorized to make other arrangements, including the construction of school facilities on base, for the education of these children. When the children residing on base withdraw from the local segregated school to attend the school on base, the amount of Federal financial assistance to the school district is reduced accordingly. The school district continues to be eligible for Federal financial assistance for the education of any other federally connected children, including those residing off base, who continue to attend its segregated schools. Statement of Secretary of Health, Education, and Welfare, Mar. 5, 1963, copy retained in Commission files.

[125] Memorandum from Office of Education, Department of Health, Education, and Welfare, to the Commission, Apr. 2, 1963, copy retained in Commission files.

[126] One school district voted to desegregate all its schools in September 1963, while several other districts determined to make all 1963 school assignments without regard to race or color.

[127] Federally operated elementary schools will begin operation in September 1963 at Fort McClellan, Ala.; Fort Rucker, Ala., Maxwell Air Force Base, Ala.; Fort Stewart, Ga.; Robins Air Force Base, Ga.; England Air Force Base, La.; Fort Jackson, S.C.; and Myrtle Beach Air Force Base, S.C. Statement by Commissioner of Education, Apr. 2, 1963, copy retained in Commission files.

attend schools in the community.[128] And, for the most part, the ruling will redound only to the benefit of children living on base. They constitute only 10 percent of all military dependents in the South.[129]

For the great majority of children who live off base, only piecemeal efforts have been made. In July 1963, the Department of Defense issued a directive instructing local commanders to ascertain the procedures for obtaining nonracial assignment to public schools and advise parents accordingly.[130] This memorandum will be most applicable to localities where children are assigned initially to segregated schools, but are permitted to transfer if they satisfy local authorities that they meet a series of "pupil placement" standards which, on their face, do not include race. Court decisions have cast considerable doubt on whether these devices for limiting desegregation to token numbers of children are any legal substitute for a plan in which race is not a factor at any stage.[131]

In the past, base education officials have cooperated with local school authorities in facilitating the assignment of students through these procedures. At one North Carolina installation, school authorities allegedly induced children to sign pupil-placement forms which contained a waiver of their right to appeal an assignment which they considered to be discriminatory.[132] Under the July 1963 Department of Defense policy, however, parents will

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[128] A complete list of the 242 districts will be found in *House Education Hearings* 657–72.

[129] Of the approximately 564,000 military children located in 15 Southern States some 58,000 residing on base and attending school off base are affected by the ruling of the Department of Health, Education, and Welfare. Commission staff study of materials on file at the Office of Education, Department of Health, Education, and Welfare, Washington, D.C.

[130] Memorandum to the Service Secretaries from the Assistant Secretary of Defense (Manpower) on Assignment of Dependents of Military Personnel to Public Schools, July 14, 1963.

[131] E.g., *Gibson* v. *Board of Public Instruction of Dade County,* 272 F. 2d 763 (5th Cir. 1959); *Mannings* v. *Board of Public Instruction of Hillsborough County,* 277 F. 2d 370 (5th Cir. 1960).

[132] Commission staff interviews with wives of Negro servicemen and military installation official in North Carolina, Feb. 19 and 20, 1963.

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be advised of the constitutional rights of their children to be assigned to school without regard to race, and of the availability of court proceedings as a means for redress if all else fails.[133] In the absence of Federal sanctions, however, this policy is not likely to alter the picture significantly.

Of potentially greater significance are five lawsuits instituted by the Department of Justice in which the Department has asked Federal courts to order the desegregation of local schools for the dependents of all military personnel whether they reside on or off the installation.[134] Thus far, Federal courts in Alabama, Mississippi, and Louisiana have dismissed the suits on the grounds that the Government had no standing to sue.[135] Appeals in the three cases have been taken. In a fourth case, a Federal court in Virginia sustained the assertion that, since children of military personnel were involved, the Justice Department did have standing.[136] If the Department's legal position is eventually sustained, it will make possible negotiations and litigation in a great many districts.

But lawsuits take time. In the interim, thousands of children residing in communities because their fathers have been ordered there continue to attend racially segregated schools. The Federal Government continues to pay millions of dollars in subsidies without requiring that such schools be operated in a constitutional manner.

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[133] Memorandum, note 130, *supra*.

[134] *United States* v. *Madison County Board of Education,* Civ. No. 6323, N.D. Ala. (serving the Redstone Arsenal); *United States* v. *Mobile County Board of Commissioners,* Civ. No. 2964, S.D. Ala. (serving Brookley Air Force Base); *United States* v. *Bossier Parish School Board,* Civ. No. 9282, W.D. La. (serving Barksdale Air Force Base); *United States* v. *Biloxi Municipal Separate School District,* Civ. No. 2643, S.D. Miss. (serving Keesler Air Force Base); *United States* v. *County School Board of Prince George County,* Civ. No. 3536, E.D. Va. (serving Fort Lee).

[135] *United States* v. *Madison County,* Civ. No. 6323, N.D. Ala., dismissed on May 29, 1963, copy of order retained in Commission files. *United States* v. *Biloxi Municipal Separate School District,* Civ. No. 2643, S.D. Miss., dismissed as to codefendant Gulfport Municipal Separate School District on May 16, 1963, copy of order retained in Commission files. *United States* v. *Bossier Parish School Board,* Civ. No. 9282, N.D. La., dismissed on August 20, 1963, copy of order retained in Commission files.

[136] *United States* v. *County School Board of Prince George County,* Civ. No. 3536, E.D. Va., June 24, 1963, copy of order and memorandum of the court retained in Commission files.

EDUCATION OF SERVICEMEN

As previously noted, the services have been attaching great importance to a college education as a qualification for officer training and for technical assignments. Through a variety of programs, servicemen are encouraged to continue their education.[137] But when Negro servicemen located in the South have sought to take advantage of extension courses at nearby universities they have often found that only white military personnel are admitted.[138] With few exceptions, military authorities have not responded to the educational needs of the Negro serviceman.[139] Despite discrimination, the Armed Forces continue to pay such educational institutions substantial sums for the tuition expense of personnel.[140] Alternative facilities are not provided on post and continuing efforts have not been made to encourage the colleges to admit all personnel without regard to color.[141]

PROBLEMS IN PUBLIC ACOMMODATIONS

Just outside most of the larger military installations are located used car dealers, bars, pizza and hamburger joints, pawnshops, dry cleaning, laundry, and locker rental shops. All of these establishments are heavily dependent for their existence upon military

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[137] The tuition-assisted off-duty education programs of the Armed Forces in fiscal year 1961 enrolled approximately 184,000 servicemen at a cost of some $8,276,000. Data drawn from materials furnished the Commission by the Office of the Assistant Secretary of Defense (Manpower), retained in Commission files.

[138] Commission staff interviews with Negro servicemen in Alabama, Nov. 3–5, 1962; Florida, Feb. 5, 1963; Mississippi, June 3, 1962, and with civilian clergyman in Florida, Feb. 6, 1963.

[139] Commission staff interviews with military installation officials in Alabama, Oct. 29, Nov. 7, 9, 1962; Florida, Feb. 8, 1963. An exception is a Georgia installation where American University was invited to conduct an extensive desegregated, on-base educational program.

[140] See note 137, *supra*.

[141] See note 139, *supra*.

trade. Yet in many areas of the South and in parts of the North as well, these establishments, with few exceptions, are closed to the Negro.[142] The shoppers' guide, distributed on base, may advertise "white customers only, please."[143] In some of these establishments, military personnel employed at part-time jobs enforce the racially restrictive practices of the proprietors against their fellow servicemen.[144]

An alternative source of recreational activity is the United Services Organization (USO), a voluntary civilian agency which operates 139 clubs in the United States.[145] Until recently, Negroes were subject to some form of racial discrimination in the majority of clubs located throughout the Nation.[146] In some communities, Negro servicemen were entirely excluded from the facilities and functions of the organization.[147] In others, only makeshift quarters were made available to them.[148] In a few where there was no overt policy of discrimination, Negroes were nevertheless prevented from attending certain social functions.[149] These conditions have prevailed even though the USO operates under an agreement with the Department of Defense,[150] has military representa-

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[142] Commission staff interviews with Negro servicemen in Georgia, June 11, 1963; North Carolina, Feb. 19, 1963; South Dakota, June 10 and 12, 1962.

[143] Shoppers' Guide distributed on military installation in North Carolina, copy retained in Commission files.

[144] Commission staff interviews with Negro servicemen and military installation officials in South Dakota, June 10, 11, and 16, 1962.

[145] USO Annual Report, 1961, p. 8.

[146] Commission staff interviews with National USO officials, in New York City on Oct. 17 and 19, 1962.

[147] See note 146 *supra* and Commission staff interviews with Negro servicemen in Florida, Feb. 2 and 5, 1963; and South Carolina, Aug. 27 and 28, 1962.

[148] See note 146 *supra* and Commission staff interview with Negro USO club director in North Carolina, Feb. 21, 1963.

[149] See note 146 *supra* and Commission staff interviews with Negro servicemen in Florida, on Feb. 5, 1963, and Texas, Dec. 20, 1962; with local USO officials in Florida, Feb. 2, 1963, and in Texas on Dec. 17, 1962; and with National USO officials, Nov. 27, 1962, and with local USO officials in Texas, on Dec. 17, 1962.

[150] Memorandum of Understanding Between the Department of Defense and the United Service Organizations, Inc., Nov. 28, 1960, copy retained in Commission files.

tion on its national board,[151] and, in some cases, leases facilities at nominal cost from the services.[152]

The board of governors of the USO has long had a policy of nondiscrimination,[153] but it has been frequently ignored by the local constituent organizations which operate the facilities.[154] Late in 1962, when the Commission and the President's Committee brought these matters to the attention of Federal officials, the USO decided to take more aggressive action in seeking compliance with its policy.[155] As a result, a number of clubs have integrated their facilities and programs.[156] Some, however, still operate on a segregated basis.[157]

Barred from service at the "gate" establishment, and still, on occasion, from the local USO, the Negro serviceman fares no better when he seeks access to the public accommodations of the nearest community. In many parts of the South, and in parts of the North, hotels and motels, taverns and restaurants, movies, plays and concerts, bowling alleys, skating rinks, swimming pools, and beaches are closed to Negro personnel, their wives, and their children.[158]

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[151] The Assistant Secretary of Defense (Manpower) and the Chairman of the Armed Forces Chaplains' Board are ex-officio members of the USO Board of Governors. By-laws of the United Service Organizations, Inc., art. VII, sec. 1(c), p. 8.

[152] There are 11 such clubs in the United States. List of leased properties furnished by the USO to Commission on Oct. 25, 1962, copy retained in Commission files. A sample lease for USO facility No. DA-09-133-ENG-4091 is retained in Commission files.

[153] Policy statement No. 22, approved by USO Executive Committee, Dec. 12, 1951.

[154] See notes 146–149 *supra*.

[155] Report made to the USO board of governors, March 14, 1963, by the associate executive director, copy retained in Commission files.

[156] Five separate facilities for Negroes have been merged and discussions on desegregation of facilities in 14 other locations are continuing. USO Report, note 155 *supra* at 2, 3, and 4.

[157] *Ibid.*

[158] Commission staff interviews with Negro servicemen and civilians in Alabama, Oct. 30 and 31, Nov. 3, 4, 5, and 7, 1962; Florida, Feb. 4 and 5, 1963; Mississippi, June 1, 1962; North Carolina, Feb. 19 and 20, 1963; South Carolina, Aug. 26, 27 and 28, 1962; South Dakota, June 10 and 12, 1962; Texas, Dec. 18–20, 1962. Letter from Negro servicemen in New Mexico, June 22, 1962; complaints about practices in Texas from white ex-servicemen dated July 12 and December 3, 1961, and February 2, 1962, copies retained in Commission files; State advisory committee meeting in South Dakota, Dec. 11, 1962.

Faced with this situation, Negro servicemen have few alternatives available. In the absence of any overall policy, resort to the traditional channels of complaint is generally unavailing. Negro military personnel are often reluctant to bring grievances to the attention of their superiors or the Inspector General.[159] This reluctance is based on the failure of local commands to indicate any real concern with these problems and on the generally held fears, justified or not, that those who complain will be subject to reprisals.[160]

Excluded from the major places of public accommodation, Negro servicemen have found themselves relegated to the few eating places, movie houses, and hotels operated exclusively for Negroes. Many of these facilities are grossly inferior and fail to maintain proper sanitary and health standards.[161] In some cases, they are breeding grounds for prostitution and gambling.[162] Negro servicemen allege and installation officials concede that such establishments, if frequented by white servicemen, would be declared "off limits" to military personnel as a threat to their "health, welfare, and morals."[163] However, aware that these are the only establishments open to nonwhite personnel, military authorities have applied a double standard of inspection and allowed them to continue in operation as a means of meeting the needs of Negroes.[164]

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[159] Commission staff interviews with Negro servicemen in Alabama, Oct. 31, Nov. 1, 4, and 5, 1962; Florida, Feb. 2 and 4, 1963; Georgia, Dec. 4, 1962; Mississippi, May 29 and June 1, 1962; North Carolina, Feb. 18 and 19, 1963; South Carolina, Aug. 29, 1962; Texas, Dec. 18 and 20, 1962. Letter from Negro servicemen aboard U.S.S. *Yorktown*, Dec 19, 1961, copy retained in Commission files.

[160] *Ibid.*

[161] See note 158 *supra;* and Commission staff inspections of public accommodations in Alabama, Nov. 5, 1962; Florida, Feb. 7, 1963; Georgia, Dec. 4, 1962; Mississippi, June 1, 1962; South Carolina, Aug. 27 and 28, 1962; South Dakota, June 13–15, 1962; Texas, Dec. 17, 1962; Virginia, Jan. 24, 1963.

[162] Commission staff interviews with Negro servicemen in Alabama, Nov. 1, 3, 4, and 7, 1962; Mississippi, June 1, 1962; South Dakota, June 12, 1962.

[163] Commission staff interviews with military installation officials in Georgia, Dec. 4 and 10, 1962; South Carolina, Aug. 30, 1962; and Texas, Dec. 19, 1962; and with Negro servicemen in Alabama, Nov. 1 and 5, 1962.

[164] Commission staff interviews with military installation officials in Georgia, Dec. 4, 1962; and South Carolina, Aug. 30, 1962.

In some cases, servicemen have rebelled against the racial practices of the community by seeking service, either alone or in groups, at places known to accommodate whites only.[165] The results of these efforts have generally been the intervention of local police charged with enforcing local segregation ordinances and customs, and the eviction, arrest, and occasional prosecution of the offending servicemen.[166]

Many military commanders are aware of the plight of Negro personnel. With few exceptions, however, their policy has been to yield to the racial practices of the community.

One installation in Alabama is faced with a delicate problem because it trains foreign nationals as well as Americans. The military authorities have solved it by issuing "passports" to colored foreigners to enable them to travel unmolested in the community.[167] For the American serviceman, no such protection is afforded.[168]

At one base in Mississippi, the commander has advised base personnel that they are required to "conform to and abide by all the laws, rules, regulations, and policies of the community in which they reside or visit." [169] Servicemen have been furnished with a list of local segregation ordinances which prohibit equal access to almost all public places.[170] They have not been advised that the Supreme Court has declared such ordinances in violation of the

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[165] Commission staff interview with military installation official in Texas, Dec. 20, 1962. Also see order of South Dakota Base Commander, May 17, 1963, and Commission staff interviews with Negro servicemen in South Dakota, June 10, 1962; Army letter to U.S. Representative concerning participation in demonstration by white servicemen in Missouri, June 18, 1962.

[166] Commission staff interview in Texas, see note 165 *supra,* concerning military police who took protesting serviceman into protective custody; Army letter, see note 165, *supra,* concerning arrest of protesting white serviceman in Missouri; (Greenville, Miss.) Delta Democrat Times, Nov. 6, 1962, for an account of arrest and conviction of white military personnel who sought service at Negro establishment; also see affidavit of Negro serviceman in Mississippi, Mar. 26, 1962, concerning arrest for inadvertently seeking service at segregated white establishment.

[167] Commission staff interviews with military installation officials in Alabama, Oct. 31 and Nov. 6, 1962, and with African air force officer in Alabama, Nov. 7, 1962.

[168] Commission staff interviews with Negro servicemen in Alabama, Nov. 3 and 5, 1962.

[169] Memorandum from commanding general at military installation in Mississippi on segregation as it affects Service personnel, Oct. 27, 1960, p. 1.

[170] Memorandum, note 169 *supra,* attachment 1.

Constitution or that in some facilities, such as transportation terminals and municipally operated accommodations, Negroes have an unqualified right to be served.[171] It has been made clear at this base that servicemen who violate local ordinances are not only without protection but may receive additional disciplinary action at the hands of military authorities.[172]

These practices have survived an attempt by the Department of Defense to define policy along more affirmative lines. In June 1961, Deputy Secretary of Defense Roswell Gilpatric issued a memorandum reaffirming the policy of equal treatment for all members of the Armed Forces and outlining steps which local commanders should take in an effort to secure voluntary desegregation of public accommodations.[173] These included instructions that military police not be employed to support enforcement of racial segregation, that legal assistance be provided where appropriate in criminal actions against servicemen growing out of racial segregation, and that local commanders undertake negotiations for desegregation through their command-community relations committees.[174]

But visits to a dozen installations 18 to 22 months after the issuance of the Gilpatric memorandum revealed that, for all practical purposes, it was a dead letter. In many cases, local commanders and their subordinates said they had not received service directives

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[171] Commission staff interviews with military installation officials in Mississippi, May 25 and June 3, 1962. Memorandum, note 169 *supra*.

[172] Commission staff interviews with military installation official in Mississippi, May 29, 1962, and with Negro servicemen in Mississippi, May 31 and June 3, 1962. Also see memorandum, note 169 *supra*.

[173] Memorandum to the Service Secretaries from the Deputy Secretary of Defense on the Availability of Facilities to Military Personnel, June 19, 1961. Army Communication AGAM–P (M) 250 DCSPER, on Availability of Facilities to Military Personnel, Sept. 6, 1961. Navy SECNAV Instruction 5350.2, on Availability of Facilities to Military Personnel, Sept. 19, 1961. Air Force Communication on Availability of Facilities to Military Personnel, Aug. 11, 1961.

[174] *Ibid.*

implementing the memorandum.[175] Where officers acknowledged receipt of directives, they admitted that they had taken no implementing action.[176]

With the failure of the Gilpatric memorandum, local commanders have had to deal with the consequences of continued racial discrimination. Servicemen have continued to protest against off-base discrimination by participating in sit-ins and public demonstrations.[177] In a memorandum issued in July 1963, the Secretary of Defense prohibited participation in civil rights demonstrations, when, among other things, the activities of servicemen "constitute a breach of law and order or when violence is likely to result." [178]

Protest activities pose difficult problems for military authorities, including the possibility that the safety of personnel will be endangered or that they will be involuntarily detained from performing their duties. However, unless this policy is coupled with affirmative efforts to open places of public accommodation, the result inevitably will be the further frustration of the Negro serviceman. The first steps toward developing such an affirmative program were taken on July 26, 1963, by the Department of Defense with the announcement that local commanders have the responsibility to foster equal treatment for servicemen and their dependents off as well as on military installations.[179]

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[175] Commission staff interviews with military installation officials in Alabama, Nov. 5 and 7, 1962; Georgia, Dec. 4, 1962; North Carolina, Feb. 20, 1963; South Carolina, Aug. 28, 1962; South Dakota, June 12, 1962; and Texas, Dec. 19, 1962.

[176] Commission staff interviews with military installation officials in Alabama, October 29, Nov. 5, 7 and 9, 1962; Florida, Feb. 8, 1963; Georgia, Dec. 10, 1962; North Carolina, Feb. 22, 1963; South Carolina, Aug. 30, 1962; and Virginia, Jan. 25 and 30, 1963.

[177] Commission staff interviews in South Dakota, note 165 *supra;* Army letter concerning demonstration in Missouri, note 165 *supra;* also see account of arrest and conviction of white military personnel in Mississippi, note 165 *supra,* and order of base commander in South Dakota, note 165 *supra.*

[178] Memorandum to the Service Secretaries from the Secretary of Defense on participation by military personnel in civil rights demonstrations, July 16, 1963, copy retained in Commission files.

[179] Defense Department Directive No. 5120.36, Equal Opportunity in the Armed Forces, July 26, 1963.

The failure of the Defense Department's first efforts to secure equal treatment for all members of the Armed Forces is attributable in large measure to the way in which commanders interpret their responsibilities. Most commanders and installation officials see the issues of equal treatment as outside the military mission. They recognize that all servicemen must be dealt with equally while on a military installation, but believe that this responsibility ends "at the gate." [180] To the extent that they must deal with the community beyond the gate, these officers understand their objective to be the attainment of harmonious relations, a goal which will probably be impaired by conflict over race relations.[181] Viewing their position as that of being guests in the community, they believe it inappropriate for the military to serve as a "battering ram" for effecting changes in local customs and mores.[182] And even those who concede that efforts at amelioration are desirable frequently do not believe that they have the necessary authority.[183]

These views of installation commanders are entitled to some weight. But in the United States of 1963, the military mission is not defined in such narrow terms. Today, as Gen. Maxwell Taylor, Chairman of the Joint Chiefs of Staff, has said, "The national security program must include national programs in political, diplomatic, military, economic, psychological, and cultural fields which contribute to the stature and prestige of the United States and to the attainment of its national objectives." [184]

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[180] Commission staff interviews with military installation officials in Alabama, Oct. 29 and Nov. 5, 1962; Florida, Feb. 8, 1963; Mississippi, May 29 and 30, 1962; North Carolina, Feb. 22, 1963; Texas, Dec. 19, 1962.

[181] Commission staff interviews with military installation officials in Alabama, Nov. 7, 1962; Florida, Feb. 8, 1963; Georgia, Dec. 4, 1962; North Carolina, Feb. 22, 1963; Texas, Dec. 19 and 20, 1962; Virginia, Jan. 25, 1963.

[182] Commission staff interviews with military installation officials in Alabama, Oct. 29, 1962, Nov. 7 and 9, 1962; Georgia, Dec. 4 and 11, 1962; North Carolina, Feb. 22, 1963; and Texas, Dec. 19, 1962.

[183] Commission staff interviews with military installation officials in Florida, Feb. 8, 1963; and Virginia, Jan. 28 and 30, 1963.

[184] Taylor, *The Uncertain Trumpet* 30–31 (1959).

The evidence shows that racial discrimination against members of the Armed Forces interferes with the performance of this mission. In a few cases, the conflict is direct and obvious—as when toleration of discriminatory housing practices compels Negro servicemen to live further away from tactical missile sites than security regulations ordinarily permit. But it is equally evident that our foreign policy interests are ill served by toleration of overt acts of discrimination against American servicemen while makeshift efforts are made to accord special treatment to nonwhite foreign nationals. Also, there is interference with the effective and efficient use of personnel when members of the Armed Forces are denied the educational means to promotion because of their race or when local racial practices are permitted to limit the assignment and utilization of Negro servicemen. Finally, racial discrimination in housing, education, and public accommodations has a debilitating effect upon the morale of Negro servicemen and impairs their efficiency and effectiveness in performing the military mission.

Nor can the military installation be viewed merely as an appendage of the civilian community which must be subservient to its racial practices. The relationship of military installations to their neighboring communities has changed radically since World War II, when the post was considered a temporary intruder in the life of the community. Today, service installations represent major long-term investments of the Government in plant, facilities, and equipment.[185] Rather than providing a temporary boom to the local economy, the post frequently serves as a permanent and major employer of the civilian population and often the single largest contributor to the economic and social well-being of the community. The military and civilian payroll frequently consti-

[185] As of June 30, 1961, Defense Department properties in the 50 States encompassed 27,846,000 acres. The cost of that land and the structures and facilities thereon totaled $39,244 million. The *Statistical Abstract of the United States* 194, table 247 (83d ed. 1962).

tutes 25 percent, 50 percent, and even 75 percent of the total payroll of the county or area surrounding the installation.[186]

In some places, the civilian community has taken root only after the military installation was established and thus it cannot be claimed that racial practices are protected by traditions which antedate the arrival of the military post.[187]

Finally, the Department of Defense has ample instruments to attain the objective of equal treatment for all servicemen. It makes decisions on opening, closing, and reactivating military installations. However, in making these determinations it does not discuss with community leaders any steps to prevent discrimination.[188] With respect to existing installations, more flexible instruments are available to base commanders. There is evidence to suggest that where affirmative and imaginative programs of education, persuasion, and negotiation are entered into, they are likely to produce successful results. In North Dakota, for example, a base

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[186] See the following table:

Installation:	*Percentage of total annual payroll of county or metropolitan area derived from military installation*
Redstone Arsenal; Huntsville, Ala	48.39
Naval Air Station; Pensacola, Fla	36.32
Fort Benning; Columbus, Ga	36.61
Keesler Air Force Base; Biloxi, Miss	30.18
Cannon Air Force Base; Clovis, N. Mex	55.65
Fort Bragg; Fayetteville, N.C	70.10
Grand Forks Air Force Base; Grand Forks, N. Dak	42.74
Ellsworth Air Force Base; Rapid City, S. Dak	34.59
Naval Installations and Air Force Base; Charleston, S.C	44.84
Fort Hood; Killeen, Tex	77.46
Naval Installations; Norfolk, Va	29.56

Source: Data furnished the Commission by the Office of Economic Adjustment, Department of Defense, and the Business Division, U.S. Bureau of the Census. The data do not include defense contract spending, so that in many cases the total economic involvement of the military in the area is even higher than indicated.

[187] Commission staff interview with military installation official in Texas, Dec. 20, 1962.

[188] Commission staff interviews with Defense Department officials and service representative; Washington, D.C., Feb. 13, 21, and 26 and Mar. 6 and 8, 1963.

commander who was disturbed about continuing incidents of discrimination against his men protested to civilian authorities who then worked to secure passage of a public accommodations law.[189] But most base commanders have not apprised servicemen of their rights under State laws barring discrimination in public accommodations, or in private housing.[190]

Since racial discrimination has an impact on the health, welfare and morale of servicemen at least equal to other unethical or immoral practices, negotiations with local businessmen to attain desegregation can legitimately be backed by the "off limits" sanction. Where businesses, such as the gate establishments, are heavily dependent on military trade, it is unlikely that it will ever be necessary to employ the sanction. In other cases, the negotiating efforts of military commanders will be part of a national campaign for equal access to public accommodations.

Thus, a policy of securing equal treatment for all servicemen is an essential part of the military mission and commanders have both the responsibility and the means for carrying out such a policy. In the past, they have been hampered by a lack of overall direction from the Department of Defense. Now, however, the Secretary of Defense has taken steps to provide guidance to base commanders. As noted previously, the directive issued on July 26, 1963, assigned to local commanders the responsibility of fostering equal treatment for servicemen off base.[191] Specific responsibility was placed upon the military commander to oppose discriminatory practices and to recommend use of the off-limits power. As part of this directive, the Assistant Secretary of Defense for Manpower was authorized to establish an office to give direction and guidance and to monitor the results of a program designed to achieve this objective.

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[189] Commission staff interviews with military installation officials and civilian leaders in North Dakota, June 18 and 19, 1962.

[190] See note 97, *supra*.

[191] See note 179, *supra*.

SUMMARY

Since President Truman's 1948 Order desegregating the Armed Forces, the status of the Negro serviceman has improved considerably. The Army, Air Force and Marine Corps have increased their utilization of Negro enlisted men and the Army and Air Force have a growing number of Negro officers. Only the Navy has shown little or no improvement, relying less on Negro personnel during the Korean war than during World War II.

Negroes in the Army and Air Force are used in a wide variety of occupational areas and in higher proportions than in the civilian economy. However, in the Navy Negroes are generally used less in clerical, technical, and skilled occupations than is the case in the civilian economy. The problems of the Navy are the severely limited number of Negroes enlisting and the lasting effects of the traditional assignment of Negroes to food service jobs.

With an increasing pool of available manpower, the several services are becoming more selective in their recruitment policies and are using aptitude tests as one means for screening candidates. As yet no test has been developed which takes into account the special background factors of different cultural and economic groups.

With the desegregation of the services, all but a few aspects of racial discrimination were abolished from the military installation. Housing, schools, clubs, stores, and churches on post are all open to personnel without regard to race or color. However, in neighboring communities the Negro serviceman and his family still encounter the traditional patterns of discrimination and segregation. These practices in housing, education, and public and recreational facilities are galling reminders that second-class citizenship has not been completely eradicated, and have a detrimental impact on military morale and efficiency. Despite this, military officials traditionally have not considered community racial practices as matters within their concern although in some cases racial discrimination has been financed, supported, or accepted by the Federal government.

In 1963, however, the Department of Defense recognized the adverse affect of these practices on the accomplishment of the military mission and began to assume responsibility for protecting service personnel and their families from segregation and discrimination on and off military installations.

RECOMMENDATIONS

The Commission recommends:

Recommendation 1.—That the President direct that corrective action be undertaken in the Department of the Navy to assure equality of opportunity for Negroes to serve as officers and enlisted men and to broaden their occupational assignments and promotional opportunities.

Recommendation 2.—That the President request the Secretary of Defense to reappraise testing procedures currently used by all services in the procurement of enlisted and officer personnel so that they will be validated for performance both in general and for persons differing in educational, economic, regional, and other background factors.

Recommendation 3.—That the President request the Secretary of Defense to undertake periodic reviews of recruitment, selection, assignment, and promotion policies, and of procedures governing reductions in force for officers and enlisted men in each of the services, and to develop such affirmative programs as are required to utilize fully both Negro and white manpower resources. For this purpose, racial statistical data should be maintained for use in electronic data processing equipment. Racial identification on personnel records should be deleted unless necessary and only then maintained under proper safeguards.

Recommendation 4.—That the President request the Secretary of Defense to discontinue ROTC programs at any college or uni-

versity which does not accept all students without regard to race or color.

Recommendation 5.—That, in view of the Defense Department's firm commitment to a policy of equal treatment off base for all members of the Armed Forces and its establishment of an office to carry out this objective, the Department direct its attention to the following problems:

a. *The removal of all vestiges of racial discrimination from military installations,* including segregated NCO clubs, segregation and differential treatment of Negroes in social activities, segregated transportation, discriminatory employment patterns in base facilities, and the use of military facilities and services by community organizations which discriminate.

b. *Insuring that in dealings with local communities the policy of the Armed Forces of equality of treatment prevails,* particularly in areas such as Armed Forces participation in public events or ceremonies, the activities of base social and recreational organizations in the community, the assignment of military police and other base units to duty in the community, the treatment of servicemen by local law enforcement officials, and the use of segregated facilities in connection with troop movements.

c. *The adoption of an affirmative program to encourage the expansion of housing opportunities available to all military personnel.* The program should include direct negotiations by local commanders for the desegregation of housing developments predominantly occupied by military personnel; cooperation with private fair housing organizations; utilization of the resources of public agencies enforcing Federal, State, and local anti-bias laws and referral of servicemen to housing covered by such laws; initiation of lawsuits pursuant to the housing Executive order to desegregate projects receiving Federal financial assistance; and revision of the procedures for planning additional military units to take

into account discriminatory practices which reduce the supply of housing available to all personnel.

d. *The adoption of an affirmative program to assure equal treatment for all service personnel at places of public accommodation.* The program should include the reorganization of command-community relations committees so that they will be of a more representative character; negotiations with business leaders for desegregation of public accommodations patronized by military personnel; use of the off-limits power where negotiations fail; utilization of State and local anti-bias laws; informing servicemen of their rights as well as their responsibilities and of command efforts to secure desegregation.

e. *The need for prudent negotiations with community leaders to reach agreements assuring equality of treatment for all servicemen before installations are opened, expanded or reactivated.*

Recommendation 6.—That the President and the Secretary of the Department of Health, Education, and Welfare, in the granting of funds for the construction and operation of schools under the impacted area program, condition such grants upon the receipt of adequate assurances that all children in the district will be assigned to schools without regard to race.

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TABLES

Table I.—*Negroes in the Services, by Grade and as a Percent of Total Personnel in Each Grade for Each Service (1962)*

Grade	Army	Air Force	Navy	Marines
	Number reported			
Officer	3,150	[1] 1,300	174	32
Warrant officer	321	[1] 28	7	4
Enlisted	103,603	[1] 46,564	30,408	13,351
Total	107,074	[1] 47,892	30,589	13,387
	As a percent of total reported in grade			
Officer	3.2	1.2	0.3	0.2
Warrant officer	3.3	1.2	0.3	0.3
Enlisted	12.2	9.2	5.2	7.6
Total	11.1	7.8	4.7	7.0

[1] Represents approximately 75 percent of total personnel strength.
Source: Based on data supplied by the Department of Defense.

Table II.—*Total and Negro Personnel by Grade, and Negro Personnel as a Percent of Total Personnel in Each Grade, for Each Service (1962)*

Pay grade	Army			Air Force [1]		
	Total personnel	Negro personnel	Percent Negro	Total personnel	Negro personnel	Percent Negro
Officers:						
General	15	.....	.....	6	.....	.....
Lieutenant general	35	.....	.....	27	.....	.....
Major general	197	.....	.....	142	1	0.7
Brigadier general	248	.....	.....	172	.....	.....
Colonel	5,127	6	0.1	4,066	6	0.1
Lieutenant colonel	12,309	117	1.0	12,337	67	0.5
Major	17,100	424	2.5	20,395	124	0.6
Captain	29,397	1,532	5.2	35,180	615	1.7
1st lieutenant	14,978	650	4.3	20,292	317	1.6
2d lieutenant	18,559	421	2.3	11,664	170	1.5
Total	97,965	3,150	3.2	104,281	1,300	1.2
Warrant officers:						
Chief (W-4)	1,140	28	2.5	383	.....	.....
Chief (W-3)	2,674	102	3.8	969	15	1.5
Chief (W-2)	4,383	158	3.6	1,058	13	1.2
Warrant officer	1,523	33	2.2	1	.....	.....
Total	9,720	321	3.3	2,411	28	1.2
Sergeant major	2,549	76	3.0	3,813	32	0.8
Master or 1st sergeant	10,239	586	5.7	8,358	140	1.7
Platoon sergeant or sergeant 1st class	41,107	3,143	7.6	24,629	616	2.5
Staff sergeant	82,951	10,496	12.7	50,374	2,115	4.2
Sergeant	134,457	21,892	16.3	110,152	10,287	9.3
Corporal	173,188	21,133	12.2	114,768	14,321	12.5
Private first class	226,597	26,985	11.9	124,158	11,505	9.2
Private	102,332	10,836	10.6	67,921	6,951	10.2
Recruit	75,778	8,456	11.2	3,476	597	17.1
Total	849,198	103,603	12.2	507,549	46,564	9.2
Grand total	956,883	107,074	11.2	614,241	47,892	7.8

[1] Represents 75 percent of total strength.

Source: Based on data supplied by the Department of Defense.

Table II.—*Total and Negro Personnel by Grade, and Negro Personnel as a Percent of Total Personnel in Each Grade, for Each Service (1962)*—Continued

	Navy [2]			Marine Corps [2]		
	Total	Negro	Percent Negro	Total	Negro	Percent Negro
Officers:						
Admiral	10	.....	.....	1	.....	.....
Vice admiral	34	.....	.....	5	.....	.....
Rear admiral (upper)	97	.....	.....	22	.....	.....
Rear admiral (lower) and commodore	159	.....	.....	29	.....	.....
Captain	3, 978	.....	.....	587	.....	.....
Commander	7, 984	3	(3)	1, 371	.....	.....
Lieutenant commander	11, 626	17	0. 1	2, 361	.....	.....
Lieutenant	19, 210.	68	0. 4	3, 999	7	0. 2
Lieutenant (j.g.)	14, 384	57	0. 4	3, 576	16	0. 4
Ensign	12, 690	29	0. 2	3, 202	9	0. 3
Total	70, 172	174	.2	15, 153	32	.2
Warrant officers:						
Commissioned (W-4)	764	.....	.....	89	.....	.....
Commissioned (W-3)	699	.....	.....	153	.....	.....
Commissioned (W-2)	1, 064	7	0. 7	274	.....	.....
Warrant officer	3	.....	.....	816	4	0. 5
Total	2, 530	7	.3	1, 332	4	.3
Enlisted:						
Petty officers:						
Master chief	1, 688	22	1. 3	701	5	0. 7
Senior chief	7, 247	89	1. 2	2, 338	19	0. 8
Chief	40, 528	984	2. 4	6, 697	142	2. 1
1st class	64, 064	2, 843	4. 4	10, 607	417	3. 9
2d class	86, 181	5, 370	6. 2	17, 212	1, 490	8. 7
3d class	102, 684	6, 771	6. 6	29, 957	2, 663	8. 9
Seaman	146, 655	7, 502	5. 1	38, 074	3, 101	8. 1
Seaman apprentice	103, 367	5, 396	5. 2	46, 504	3, 727	8. 0
Seaman recruit	29, 973	1, 431	4. 8	23, 646	1, 787	7. 6
Total	582, 387	30, 408	5. 2	175, 736	13, 351	7. 6
Grand total	655, 089	30, 589	4. 7	192, 221	13, 387	7. 0

[2] The indicated grades for the Navy are the equivalent to those presented for the Army and Air Force on the previous page. The Marines use the same grade titles as the Army and Air Force.

[3] Less than 0.05 percent.

Table III.—*Negroes as a Percent of Officers and Enlisted Personnel for Each Service, for Selected Dates (1945, 1949, 1954, and 1962)*

	1945	1949	1954	1962
	Officers			
Army	0.7	1.7	2.9	3.2
Air Force		0.6	1.1	1.2
Navy	(1)	(1)	0.1	0.3
Marines	N.A.	(1)	0.1	0.2
	Enlisted personnel			
Army	10.3	9.6	12.3	12.2
Air Force		5.1	8.6	9.2
Navy	4.8	4.5	3.6	5.2
Marines	N.A.	2.1	6.5	7.6

[1] Less than 0.05 percent.

N.A.—Not available.

Source: Based on data supplied by the Department of Defense.

Table IV.—*Nonwhite Personnel as a Percent of Total Inductions and Enlistments in Each Service (1953–62)*

Year	Army	Air Force	Navy	Marines
1953	14.5	11.1	4.3	8.0
1954	10.7	11.0	4.0	7.8
1955	10.2	13.5	9.0	5.4
1956	12.2	12.2	9.3	10.6
1957	10.4	9.7	3.6	9.5
1958	10.7	7.1	2.8	5.1
1959	9.3	6.5	2.4	5.0
1960	10.3	8.4	3.0	7.9
1961	10.4	9.5	2.9	5.9
1962	12.6	8.6	4.1	6.5

Source: Based on data supplied by the Department of Defense. Only data on nonwhites, rather than Negroes, was available.

Table V.—*Negroes as a Percent of Total Enlisted Personnel in Each Occupational Area for Each Service (1962)*

Occupational area	Army	Air Force	Navy	Marines
Ground combat	15.7	.....	.....	9.7
Electronics	8.8	4.8	2.0	1.9
Other technical	12.1	6.5	4.8	3.4
Administration and clerical	10.0	14.2	4.6	6.2
Mechanics and repairmen	9.6	5.3	3.7	4.8
Crafts	11.5	10.7	4.8	6.3
Services	15.6	15.4	22.9	15.6
Miscellaneous	9.4	8.2	5.5	5.7
Total service	12.2	9.2	5.2	7.6

Source: Based on data supplied by the Department of Defense.

Table VI.—*Occupational Distribution of All Enlisted Personnel and Negro Enlisted Personnel, for Each Service (1962)*

	Army		Air Force		Navy		Marines	
	Total	Negroes	Total	Negroes	Total	Negroes	Total	Negroes
Ground combat	26.0	33.4	.....	.....	.....	.....	36.4	46.8
Electronics	7.7	5.6	17.3	9.1	14.4	5.5	10.0	2.5
Other technical	7.2	7.2	7.5	5.3	6.0	5.5	2.1	0.9
Administration and clerical	17.2	14.1	25.8	40.1	7.0	6.2	17.1	14.7
Mechanics and repairmen	13.6	10.7	27.0	15.6	29.5	21.0	14.6	9.3
Crafts	4.5	4.2	5.2	6.1	8.5	7.8	1.7	1.4
Services	13.0	16.5	10.7	18.0	5.3	23.0	8.7	17.7
Miscellaneous	10.8	8.3	6.5	5.8	29.3	31.0	8.9	6.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Based on data supplied by the Department of Defense.

Table VII.—*Negroes as a Percent of Total in Selected Fields, for Civilian Employment Compared to Armed Forces*

	Male [1] civilian employment, 1960	Armed Forces, 1962				
		Total	Army	Air Force	Navy	Marines
	Professional and managerial versus military officers					
1. Legal	1.0	0.7	1.0	0.8	.....	N.A.
2. Chemical and scientific	2.0	2.8	5.1	1.7	.....	.....
3. Electrical engineers, signal, electronics, etc	0.7	2.2	3.1	1.8	0.1	0.2
4. Civil, aeronautical, and other engineers	0.6	1.4	2.6	1.0	0.1	.....
5. Finance, accountants, auditors, etc	0.9	1.5	1.8	1.4	N.A.	0.5
6. Supply, transportation, and miscellaneous managers	0.9	2.2	3.8	1.6	0.1	0.4
7. Physicians, medical corps	2.0	1.2	1.7	1.2	0.6	N.A.
8. Dentists	2.5	1.6	1.9	2.4	0.4	N.A.
9. Nurses	[1] 5.4	3.4	3.8	4.5	1.3	N.A.
10. Clergymen, chaplains	7.1	1.9	3.2	1.6	0.4	N.A.
11. Air pilots and navigators	0.4	0.7	N.A.	0.4	0.2	0.2
12. Policemen, etc.; officers in military police, etc	[2] 3.4	3.2	3.7	1.8	N.A.	.....
	Technicians, craftsmen, clerical, and service, versus enlisted men					
1. Electronic technicians including television repair	2.9	4.7	8.8	4.8	2.0	1.9
2. Other technical	[1] 3.1	8.5	12.1	6.5	4.7	3.4
a. Medical and dental	[1] 7.1	11.0	16.0	8.6	5.2	N.A.
b. Draftsmen and related	1.1	5.4	4.4	7.1	2.9	6.6
3. Clerical and related	[1] 3.9	10.6	10.0	14.2	4.6	6.3
4. Mechanics and repairmen	4.4	5.8	9.6	5.3	3.7	4.8
a. Aircraft and engine	2.9	4.6	4.6	4.9	3.8	3.9
b. Electricians, linemen, etc	1.4	9.9	12.4	7.2	1.5	7.9
c. Automotive	6.5	8.4	8.6	8.4	2.5	6.1
5. Miscellaneous craftsmen	5.7	8.4	11.5	10.7	4.8	6.3
a. Construction and related	6.2	10.1	12.1	13.5	3.9	7.0
b. printing	2.2	9.6	6.0	11.1	3.3	5.3
6. Service occupations	[1] 18.9	16.6	15.6	15.4	22.9	15.6
a. food service	[1] 11.5	19.9	17.7	18.4	23.9	20.3

Footnotes on page 224.

[1] Most figures for civilian occupations include males only; noted figures include females on the assumption that a significant number of the Armed Forces personnel in the field are female.

[2] The civilian figure includes all policemen, sheriffs, and marshals and would undoubtedly be much smaller if it included only those in grades of lieutenant and above, or equivalent, as do the military figures.

N.A.—Not available or not applicable.

Blanks indicate no Negroes in these occupational fields.

THE STATE ADVISORY COMMITTEES

1963 Report of

the United States Commission

on Civil Rights

THE STATE ADVISORY COMMITTEES

The Civil Rights Act of 1957 authorized the Commission on Civil Rights to establish advisory committees in the States. By 1960, the Commission had set up 50 such committees of responsible citizens with enough dedication to the American principle of equal rights to serve without compensation. In May 1962, the Commission created the District of Columbia Advisory Committee.

Together the 51 advisory committees constitute a unique network that affords the Commission insight into every part of the country and, at the same time, carries the Commission's presence into every State of the Union.

Serving on the State advisory committees are approximately 485 citizens representing both sexes, both major political parties, and numerous religions and races. In May 1963, the membership lists included, among others, 11 university presidents, 7 academic deans, 97 attorneys, 78 businessmen, 5 bishops and 52 other clergymen, 31 journalists, 9 judges, 20 labor leaders, 5 mayors, 10 physicians and dentists, and 2 Indian tribal leaders.

Within limits set by the Commission, the advisory committees vary widely in their approaches, methods, and levels of activity. To a large extent, these variations reflect the infinite variety of the American scene, which ranges from the all-pervasive racial tension of Mississippi to the multiracial harmony in Hawaii, and from the Indian problems of South Dakota to Eskimo problems in Alaska. In recognition of these facts of American life, the Commission grants considerable autonomy to its advisory committees.

The committees generally employ open meetings, conferences, and special committees to gather facts. Open meetings are informal sessions to which the public is invited. Since the committees

have no subpena power, participation is voluntary. The committees have found such meetings to be an excellent method of bringing knowledgeable persons as well as representative citizens together to discuss civil rights matters and to bring to light information and data of interest to the Commission.

Special committees are *ad hoc* groups that may be formed by any advisory committee to conduct specific studies. Only the chairman of the special committee has to be a member of the parent advisory committee; the others may be freely drawn from citizens of the State who possess special knowledge of the subject to be studied. Most advisory committees that produced extensive reports used either of the above methods. Some used both.

During the current term of the Commission's existence (1961–63), advisory committee activities fell into two categories: projects initiated by the committees themselves, and projects undertaken at the request of the Commission. In general, studies initiated by the various committees arose from early committee decisions that certain civil rights problems were of particular importance in their respective States. Summaries of some of the most significant reports in the category of self-initiated projects follow:

APPRENTICESHIP TRAINING

When, in late 1961 and early 1962, the advisory committees in Connecticut, the District of Columbia, Florida, Maryland, New Jersey, New York, Ohio, Tennessee, and Wisconsin, were planning projects to be reported on in the current Commission term, considerable interest centered on employment barriers in the skilled trades that might be attributable to exclusion of Negroes from apprenticeship programs. These nine committees decided to investigate only the apprenticeship problem, or to explore apprenticeship as part of a broader survey of employment or of training opportunities generally. With such a general interest in

apprenticeship as a civil rights problem, it was decided to coordinate the studies and to publish them, together with requested reports on important developments in California and Colorado. This one volume compilation is scheduled for publication in the fall of 1963.

The Maryland, Ohio, and Wisconsin committees conducted open meetings on apprenticeship, inviting spokesmen for labor, management, the schools, and government agencies to present fact and opinion. The District of Columbia, Florida, and New Jersey committees set aside time to discuss apprenticeship in open meetings on the general subject of employment discrimination. The New York Advisory Committee utilized the services of a research expert to conduct interviews with leaders in the building trades industry, with spokesmen for civil rights groups, and with apprenticeship applicants in New York City. California, Colorado, Connecticut, and Tennessee used the research and interview method rather than public meetings. The completed reports were submitted to the Commission. In concert they provide valuable insight into a problem of national scope.

In all sections of the country, the artisans of the skilled trades are overwhelmingly of the white race. Apprenticeship programs are maintained jointly by unions and employers to sustain the pool of skilled craftsmen; they contain almost no Negroes. The causes for lack of participation by Negroes cited in the advisory committee reports vary, but most important are: Traditional racial patterns of the skilled crafts; lack of encouragement and motivation of Negro youth to aspire to these occupations; discriminatory practices by unions and employers; and practices that have the effect of excluding Negroes, such as family preference in selections by joint apprenticeship committees. These factors, singly or in combination, have resulted in an almost complete exclusion of Negroes from employment in the skilled trades where a labor shortage almost always exists. Consequently, Negroes are forced to seek the dwindling opportunities for unskilled labor. The apprenticeship problem contributes to the Negro unemployment rate, which is over twice that of the white.

The participating advisory committees' findings on apprenticeship follow:

1. The Bureau of Apprenticeship and Training of the U.S. Department of Labor has reported a decline in registration of apprentices despite the increased demand for trained workers. The contraction of training facilities compounds the difficulty of opening facilities previously closed to Negroes.
2. The need for new and more vigorous Federal initiatives is urgent. This need is amplified by the Bureau's failure effectively to promote opportunities for Negroes in apprenticeship. The Bureau's policy until 1961 was that the availability of the programs to Negroes was of no special concern to it. Since 1961, the Bureau and the President's Committee on Equal Employment Opportunity have taken some appropriate steps; however, basic reforms in the apprenticeship structure are needed.
3. Both labor and management are responsible for the racially exclusive skilled work force through their failure to support and promote the aspirations of young Negroes to apprentice for the trades. An exceptional example of an enlightened labor-management effort is California's Statewide Committee on Equal Opportunity in Apprenticeship and Training for Minority Groups, which brings minority group organizations into the joint apprenticeship structure with labor and management.

EDUCATION

The Louisiana Advisory Committee submitted a report on the school situation in New Orleans as a sequel to *The New Orleans School Crisis* published in 1961. In general, the committee found an improved situation in 1963; yet its overall finding is that progress

toward equality has been slow. Only token desegregation has taken place.

Negroes represent slightly more than 1 percent of the children in Louisiana's desegregated schools. Many Negro youngsters are denied the opportunity of attending kindergarten. The technical training available for Negroes is far inferior to that available to whites, and the advisory committee has decided to look into this situation more deeply in coming months.

The committee further found that the Negro schools are greatly overcrowded and have more acute staff shortages than do white schools. More than 42,000 Negro youngsters attend schools intended for 36,000 pupils. On the other hand, only 22,000 white children occupy space intended for 32,000. In many instances, Negro youngsters living within walking distance of partly empty white schools are transported many miles to overcrowded Negro schools.

Despite these inequalities and the still-present threat from diehard segregationists, the Louisiana committee's report is more encouraging than its report for 1961. Tulane University has opened its doors to qualified Negroes. The Catholic Church has successfully overcome much of the opposition to its efforts to desegregate parochial schools. The committee stressed the need for more positive leadership from civic and business groups in New Orleans to achieve genuine school integration.

In September 1962, the Virginia Advisory Committee established a special committee on education to study the effect of 4 years of closed schools in Prince Edward County. Field research on this project was completed in May 1963. A full report on this subject will be submitted to the Commission by the Virginia Advisory Committee in the early fall of 1963. It will describe the setting, list the chronology of events leading up to and following the closing of Prince Edward County's public schools, explore the background of the decision to close the schools, inquire into local attitudes toward this decision, and attempt to gage the effect that

4 years of closed schools have had on the social, economic, and political life of the county.

The Oklahoma Advisory Committee submitted a report on the extent and pattern of segregation in the public schools of that State. The report is based on questionnaires that were mailed to the superintendents of all school districts in which Negroes reside. The committee's principal finding was that Oklahoma's public schools continue to be predominantly segregated; in several instances, they have been resegregated. The advisory committee further found that school segregation in Oklahoma is increasingly an urban problem, and that employment opportunities for Negro teachers vary in direct proportion to the degree of segregation in the State's school districts.

EQUAL EMPLOYMENT OPPORTUNITY

The District of Columbia Advisory Committee decided, shortly after it was formed in May 1962, to conduct an inquiry into employment discrimination in the National Capital area. A special committee, consisting of 5 advisory committee members and 20 other representative citizens, was formed to undertake this project and to draft a report. After considerable preparation, the special committee conducted a 3-day public meeting during which it heard statements from 72 persons representing Federal and local governments, the business community, labor organizations, schools, civil rights organizations, and civic organizations. Subsequently, the special committee prepared a 56-page report which was adopted by the full advisory committee and submitted to the Commission. The report contained 40 findings, among the most important of which were the following:

1. A factor common to all aspects of the problem of securing equal employment opportunity is the demand for "qualified

applicants only." In many cases, the demand is merely a cover for discriminatory practices.

2. Although progress has been achieved through sincere private efforts, it appears that meaningful solution of the problems which remain can only come through Government action. Such action has so far been too limited.
3. In certain fields—notably banking, finance, communications, insurance, and real estate—and with only a handful of exceptions, discrimination in employment has gone on virtually unchanged for decades. In some of these fields, discrimination is directed against Jews as well as Negroes.
4. Where union membership is a factor in employment, discriminatory practices of local unions are as pernicious a barrier to Negro employment as are the practices of employers. Such labor practices as exist in connection with the apprenticeship programs—namely, exclusive family preferences and secretive selection procedures—and in the hiring halls with arbitrary referral of all-white work crews, have been effective in excluding Negroes from many highly paid jobs.
5. Discrimination in apprenticeship is one of the most serious problems encountered. Its impact upon Negro youth should not be underestimated.
6. Government is a partner in apprenticeship through the D.C. Apprenticeship Council, but the inadequacy of its program, as well as lack of coordination between the schools, other governmental agencies, and the joint apprenticeship committees themselves is to a great degree responsible for the lack of integration in the apprenticeship programs.
7. Discrimination in hiring office help, or filling so-called "white collar" jobs, is still extensive. Employment agencies, both governmental and private, report frequent requests by employers for "white workers only," and for "gentiles only."

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GENERAL SURVEY

The Florida Advisory Committee undertook a general survey of civil rights conditions in that State, with particular emphasis on employment opportunities. To this end, the committee conducted public meetings in Miami, Jacksonville, Daytona Beach, Tampa, and Tallahassee. It also distributed questionnaires regarding Negro employment to 114 State agencies. On the basis of its inquiries, the Florida Committee submitted a report covering education, public and private employment, apprenticeship training, and health facilities. It found segregated Negro schools vastly inferior to their white counterparts, and little school desegregation beyond token compliance with specific orders of the courts. The committee also found that the State of Florida rarely employs Negroes in other than menial positions, and that the higher-level jobs that are available to Negroes usually involve dealings with a segregated Negro public. In the area of employment by defense contractors, on the other hand, the committee found a general willingness to employ Negroes at all levels, offset by an acute shortage of Negro applicants for the highly skilled jobs. The committee attributed this shortage to the continuing inadequacy of educational and training opportunities for Negroes in Florida. In the area of health facilities, the committee concluded that segregation continues to be prevalent. It found little or no evidence that Negroes are receiving inferior medical care, but noted that segregation severely limits the professional training and opportunities of Negro doctors, dentists, and nurses.

The North Carolina Advisory Committee completed 3 years of extensive civil rights studies in 1962, and submitted a 251-page report to the Commission. The report, which was based on open meetings in all parts of the State and studies by numerous subcommittees, covered the following aspects of equal protection of the laws: voting, the administration of justice, employment, education, housing, medical care, and compulsory segregation.

Among the Committee's most important conclusions in each of these areas were the following:

1. The registered electorate of North Carolina remains overwhelmingly and disproportionately white.
2. The procedures followed by registrars to determine literacy vary widely from registrar to registrar, and from county to county. There is no standardized procedure for administering this test throughout the State.
3. Negro participation in the administration of justice nowhere approaches the proportion of the Negro population of the State. It is confined almost entirely to participation as attorneys, as policemen in the city police departments of the larger cities, and as deputy sheriffs in a few of the most heavily populated counties.
4. Registration in the industrial education centers in North Carolina is disproportionately in favor of white students, who make up 91.2 percent of the total enrollment.
5. In the expenditure of public funds for education, there has been discrimination against nonwhite pupils. The gap has been narrowed in recent years.
6. With notable exceptions, North Carolina school authorities have followed a course of token integration.
7. The houses in which the people of North Carolina live are in worse condition than those in more than 80 percent of the other 49 States; the houses of nonwhite North Carolinians are on the average in far worse condition than those of their white fellow citizens.
8. Nonwhites have very little representation on governing boards and planning, zoning, housing, or redevelopment commissions in North Carolina.
9. There is greater racial segregation in housing now than there was before the turn of the century.
10. Although the health conditions of all North Carolinians have greatly improved in recent years, there still remains

a substantial difference between the health of whites and nonwhites in the State.

11. Except for veterans and military hospitals, racial segregation is widespread in government-owned and supervised medical facilities in North Carolina.
12. Statutes and ordinances requiring segregation were never as widespread in North Carolina as in some other States; many have been repealed; but a number of them remain on the books, even though they are clearly unconstitutional.

HOUSING

The Massachusetts Advisory Committee conducted an open meeting in Boston on March 5, 1963, to inquire into housing discrimination in that metropolitan area. Government officials, spokesmen for civil rights organizations and members of the real estate industry, as well as individual citizens participated. In the course of the open meeting, which lasted half a day, 19 participants were heard. The committee concluded that housing discrimination exists in Boston. As a result, a ghetto—known as the "black boomerang"—is being created as the Boston area's Negro population grows within the tight confines of the city and continues to be excluded from access to suburban housing. The committee also found that Negroes not only inhabit a disproportionate share of the city's substandard dwelling units, but that they are forced to pay unconscionably high rents for such units. In its report, the committee "identified patterns of discrimination" among real estate brokers, developers, landlords, and home owners, and analyzed the effectiveness of public and private actions that have been taken against housing discrimination. The committee concluded that, although the Massachusetts fair housing practices law covers 90 percent of the housing in the Boston area, its effectiveness was limited by cumbersome procedural and substantive provisions and by the inadequacy of the enforcement powers of the administering

State agency, the Massachusetts Commission Against Discrimination.

Discrimination in housing was also the subject of extensive inquiries by the advisory committees in the District of Columbia, Michigan, New Hampshire, New Jersey, New Mexico, Rhode Island, and Washington. In spite of the wide geographical distribution, the committees came to very similar conclusions. All of them noted a continuing pattern of housing segregation, resulting in the larger cities in crowded, unsanitary ghettos in which housing is substandard and overpriced. Although some progress has been made, it is negligible when compared to the magnitude of the problem. Most of the committees also reported a widespread lack of understanding on the part of the real estate industry for the significance and urgency of the problem. Committees in northern States with small Negro populations reported incidents of housing discrimination in communities that considered themselves free of race prejudice. It would appear from these inquiries that housing discrimination is perhaps the most ubiquitous and deeply rooted civil rights problem in America.

POLICE BRUTALITY

In January 1963, the Mississippi Advisory Committee issued a brief report covering its activities during the preceding 14-month period. These activities included public meetings in Jackson, Clarksdale, Greenville, and Meridian, during which approximately 150 complaints of alleged denial of equal protection of the laws were received. Since the overwhelming majority of these complaints charged police brutality, the committee limited its report to this subject, which is regarded as the most urgent civil rights problem in Mississippi. After citing eight representative cases of alleged police brutality, the committee concluded that Negro Mississippians do not enjoy the justice under law that is guaranteed to their white fellow citizens. The committee also found that the State of Mississippi is indifferent to the rights of its Negro citizens,

and that the Federal Government, although acting in good faith, has not done enough to protect the American citizenship rights of Mississippi Negroes.

POLICE-COMMUNITY RELATIONS

The California Advisory Committee decided at its organization meeting in June 1962 to investigate the police-community relations aspect of the administration of justice. It started its inquiry in Los Angeles, where it held a public meeting on this subject in September 1962. The chief of the Los Angeles Police Department and the sheriff of Los Angeles County, as well as representatives of civic and civil rights organizations, participated.

In January 1963 the committee held two further open meetings, one in San Francisco and one in Oakland, covering the Bay Area including Contra Costa County, Richmond, Berkeley, San Mateo County, and Menlo Park. The mayors of San Francisco and Oakland headed a list of participants that included law enforcement officials, attorneys, social scientists, civil rights spokesmen, and civic leaders. In its report, the California Advisory Committee concluded that the public image of the police among members of minority groups, especially those that live in virtual ghettos, is vitally important to law and order. Even a mistaken conviction that law enforcement is not evenhanded—if widely held among members of a minority group—can destroy confidence in the police and create situations of great potential danger. The committee found a lack of rapport between the police and the Negro community in Los Angeles. At the time of the committee's meeting in that city, Negroes appeared to feel very strongly that race was a factor in police practices and that little or no real recourse was available to victims of police abuse. This, in turn, created an atmosphere in which law enforcement became difficult. In contrast, highly effective channels of communication between Negro communities and law enforcement agencies were found to exist in the San Francisco Bay Area.

URBAN RENEWAL

Relocation under urban renewal was chosen as a major subject of study by the Connecticut Advisory Committee. Two primary methods of inquiry were used by the subcommittee that was established to undertake this study: extensive interviewing and a week-end conference of urban renewal directors and relocation officers. In the course of the inquiry, interviews were conducted with relocation officers in all major cities in Connecticut that are currently involved in federally financed urban renewal projects, and with 351 relocated families. A report, based on this research, was issued by the committee in July 1963. It indicated, among other things, that " . . . such integrated communities as existed prior to relocation were rarely preserved during the [urban renewal] process, and that, more often, a polarization took place, with whites using this opportunity to flee from racially mixed neighborhoods into ones which are either all white or mostly white in composition, while the overwhelming majority of Negroes ended up being relocated in neighborhoods having 50 percent or more Negroes." The committee concluded that a shift in mood was required from one of near-compliance with minimal standards to one of active utilization of relocation as an opporportunity for achieving more genuinely diversified, residentially desegregated communities.

A similar although somewhat less ambitious study was undertaken by the Iowa Advisory Committee, which conducted public meetings in Des Moines, Waterloo, and Sioux City. Its findings regarding the effect of urban renewal on Negro communities substantially parallel those of the Connecticut committee.

VOCATIONAL EDUCATION

In the fall of 1962 the Kansas Advisory Committee held a series of three open meetings in Topeka, Lawrence, and Wichita to

probe minority access to vocational education. The committee concentrated its attention on business training (distributive education and office practices) and trade and industrial training. Although it found little evidence of active discrimination in vocational training programs in Kansas, the committee concluded that too few positive steps are being taken to break down traditional discriminatory patterns. Negro and Mexican-American youngsters, who very rarely see members of their own race in positions above the menial level in business and industry, lack incentive and encouragement to train for careers in these areas of the economy. Those who do have the fortitude and perseverance to attempt to pioneer, all too often find their training useless in the face of racially discriminatory hiring policies. The committee found a reluctance on the part of counselors and teachers to take a leading role in helping minority group students to overcome the obstacles that racial discrimination puts in their way. In fact, the Committee concluded that:

> Nobody takes it to be his responsibility, neither the schools nor the employers nor the Chambers of Commerce nor the community human relations agencies, to do something about this particular problem, despite its high cost to the individuals and to the local community.

A similar inquiry was undertaken by the Kentucky Advisory Committee, which constituted a special committee to study youth employment and the practices of the State employment service, with particular reference to available facilities in guidance and vocational training. Preliminary reports of the special committee indicate that guidance and counseling problems in Kentucky are similar to those in Kansas.

The Louisiana Advisory Committee decided in May 1963 to look into Negro vocational training problems in New Orleans. A public meeting of the Committee was scheduled and held for this purpose in July. A report based on the transcript of this meeting will be submitted to the Commission in the fall of 1963.

COMMITTEE SUPPORT OF COMMISSION PROGRAMS

In the course of Commission staff activities, frequent requests go out to the advisory committees for specific items of information. In this manner, the committees have been involved in the preparation of all studies undertaken. The advisory committees have also submitted numerous recommendations based on their studies and inquiries. These have been taken into account by the Commission in making its recommendations to the President and Congress.

The Commission staff received widespread State advisory committee support in its study of discrimination in access to health facilities and services. On the basis of a study outline prepared by the staff, 13 advisory committees undertook comprehensive studies of this subject in one or more communities in their respective States. Seventeen such studies from every part of the country were submitted to the Commission. The value of these studies was enhanced by the specialized knowledge of the committee members, a number of whom are practicing physicians.

As part of its larger study of civil rights aspects of Defense Department activities, the Commission staff sought information regarding off-base discrimination against Negro servicemen. Selected advisory committees assisted in this effort by exploring conditions in towns adjacent to military installations within their respective States. Public meetings concerned exclusively with off-base discrimination against Negro servicemen were held in Grand Forks, N. Dak., Rapid City, S. Dak., and Colorado Springs, Colo. The subject also arose in the course of more general open meetings held in Hawthorne, Nev., Portsmouth, N.H., Meridian, Miss., Portland, Maine, and Charleston, S.C. The pattern of discrimination that emerged varied in intensity, but the complaints were similar in all States but Mississippi, where police brutality was alleged. Off-base housing was reported to be a problem everywhere, regardless of region and even of State laws against housing discrimination. The refusal of restaurants, bars, barber shops,

motels, and trailer courts to serve Negro servicemen and dependents was also found to be a frequent source of complaints, although this problem does not seem to arise in States with effective and vigorously enforced laws against discrimination in public accommodations.

In some instances, the committees found that the advent or expansion of military facilities had brought racial discrimination to localities where none had existed before. Thus, the Nevada Advisory Committee reported that there was little, if any, racial tension in Hawthorne before the expansion of the nearby naval ammunition depot during World War II. Yet, today, tension, discrimination, and segregation exist to the extent that members of the biracial Nevada State Advisory Committee, accompanied by representatives of the Commission and of the Governor of Nevada, were refused service in the town's leading restaurant. Similarly, the South Dakota Advisory Committee, after enumerating various representative instances of discriminatory treatment of Negro airmen in Rapid City, stated that it had ". . . no reason to believe that [the city] was other than a normal and typical northern community prior to the establishment of the air base in 1942."

OTHER COMMITTEE FUNCTIONS

The advisory committee activities enumerated in the foregoing are illustrative of the level of activity that these unpaid citizen groups sustained during the current term of the Commission's life. The list itself is not exhaustive. All advisory committees performed an important function in carrying the Commission's presence into every part of the country. Thus, when the President asked the Commission to assume responsibility for the stimulation and coordination of celebrations commemorating the centennial of the Emancipation Proclamation, the Commission relied heavily on the advisory committees for effective liaison with State and local governments and civic organizations. Numerous advisory committees

distinguished themselves in planning and carrying out such commemorative events in cooperation with Governors, mayors, and other leading officials of their respective States and communities.

Furthermore, the advisory committees assure the existence of at least one official civil rights body in every State of the Union. With rare exceptions, the committees are biracial. In all States, the membership is as representative as possible of the community at large. In a number of States, they have been and still are the only officially sponsored, biracial groups that deal with civil rights issues. As such they provide channels of communication in areas in which rising racial antagonisms threaten to block any interracial dialogue that may lead to an understanding not based on an outmoded master-servant relationship.

APPENDICES

Appendix I. Action Taken on Recommendations of the U.S. Commission on Civil Rights[1]

RECOMMENDATIONS	ACTION TAKEN
I. VOTING	
1961 Report	
No. 1. That Congress declare that voter qualifications other than age, residence, confinement, and conviction of a crime are susceptible of use, and have been used, to deny the right to vote on discriminatory grounds; and enact legislation providing that all citizens shall be secure in their right to vote in Federal and State elections and that such right shall not be denied, abridged or interfered with on a discriminatory basis.	Legislation submitted by the President in 1963 contains provisions partially embodied in this recommendation. In his first Civil Rights Message in February 1963, the President urged that "the law should specifically prohibit the application of different tests, standards, practices, or procedures for different applicants seeking to register and vote in Federal elections." The legislation provides for general tightening of registration loopholes.
No. 2. That Congress enact legislation establishing a sixth grade education as satisfactory proof of qualification in States which impose literacy or educational tests.	Proposed in modified form in legislation submitted by the President in 1963.

[1] Almost all of the Commission's recommendations for legislation have been submitted as bills by Members of Congress. Several of these bills have had congressional hearings and a number have been reported by committees of the Senate or House. For the purpose of this summary, however, "action" upon the Commission's legislative recommendations is listed only if the substance of the recommendation has been enacted into law, proposed by the President at the current session of Congress or reported by a committee of Congress during the current session.

RECOMMENDATIONS	ACTION TAKEN
No. 3. That Congress amend subsection (b) of 42 U.S.C. 1971 to prohibit any arbitrary action or (where there is a duty to act) arbitrary inaction which deprives or threatens to deprive any person of the right to register, vote, and have that vote counted in any Federal election. (Reaffirms recommendation No. 3 in the *1959 Report.*)	Proposed in modified form in legislation submitted by the President in 1963.
No. 4. That Congress consider the advisability of enacting legislation (*a*) requiring that where voting districts are established they shall be substantially equal in population; and (*b*) specifically granting the Federal courts jurisdiction of suits to enforce the requirements of the Constitution and of Federal law with regard to such electoral districts; but explicitly providing that such jurisdiction shall not be deemed to preclude the jurisdiction of State courts to enforce rights provided under State law regarding such districts.	The issue of Federal jurisdiction was discussed by the Supreme Court in *Baker* v. *Carr* (1962). Since then, a number of Federal and State courts have ruled that State voting districts must be substantially equal in population.
No. 5. That Congress direct the Bureau of the Census promptly to initiate a nation-	

RECOMMENDATIONS	ACTION TAKEN
wide compilation of registration and voting statistics to include a count of persons of voting age in every State and territory by race, color, and national origin, who are registered to vote, and a determination of the extent to which such persons have voted since January 1, 1960. (Reaffirms in principle recommendation No. 1 of the *1951 Report.*)	
1959 Report	
No. 2. That Congress require that all State and territorial registration and voting records shall be public records and must be preserved for a period of 5 years, during which time they shall be subject to public inspection, provided that all care be taken to preserve the secrecy of the ballot.	A modified version of this proposal, making voting records public and available for 22 months, was enacted into law by the Civil Rights Act of 1960.
No. 5. That Congress provide for a system of temporary Federal registrars appointed by the President to register persons in districts where registrars have discriminated by race in denying the right to vote.	The proposal to appoint temporary voting referees and otherwise expedite the registration process forms an important part of the legislation submitted by the President in 1963. A modified version of this recommendation, calling

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RECOMMENDATIONS	ACTION TAKEN
	for judicially appointed referees, was a major part of the 1960 Civil Rights Act.
II. EDUCATION	
1961 Report	
No. 1. That Congress enact legislation making it the duty of local school boards which maintain policies of racial segregation to file desegregation plans with a designated Federal agency, and authorizing the Attorney General to enforce this obligation.	Legislation to authorize the Attorney General to institute school desegregation suits was submitted by the President in 1963.
No. 2. That Congress provide for a formula of reduction of grants-in-aid to school districts maintaining segregation.	A proposal that Federal agencies withhold financial assistance in programs where discrimination is practiced was included in the legislation submitted by the President in 1963.
No. 3. That Congress consider the advisability of adopting measures to expedite the hearing and final determination of actions brought in Federal courts to secure admission to publicly controlled educational institutions without regard to race, color, religion, or national origin. (Reaffirms in principle recommendation 2 of the *1960 Higher Education Report.*)	

RECOMMENDATIONS	ACTION TAKEN
No. 4. That Congress authorize Federal funds and technical assistance for local districts involved in implementing desegregation plans.	Proposed in legislation submitted by the President in 1963.
No. 5. That Congress authorize loans to school districts embarking on desegregation which have lost State or local financial aid as a result of such embarkation.	Proposed in legislation submitted by the President in 1963.
No. 6. That Congress authorize the Commission or an appropriate Federal agency to act as a clearinghouse for school desegregation developments and to establish an advisory and conciliation service to aid in the process of desegregation. (This recommendation is similar to recommendation 1 of the *1959 Report.*)	The Commissioner of Education of the Department of Health, Education, and Welfare has established an office to perform the clearinghouse function. A proposal to authorize HEW to serve as a clearinghouse and provide technical assistance with respect to education and to authorize the Commission on Civil Rights to perform these functions with respect to matters within its jurisdiction is embodied in legislation submitted by the President in 1963.
No. 7. That Congress authorize protection to school officials and citizens in areas newly desegregating.	

RECOMMENDATIONS	ACTION TAKEN
No. 8. That the President direct the Department of Defense to make a survey of the segregated-desegregated status of all public schools attended by dependents of military personnel. That where dependents are attending segregated schools, HEW make arrangements for their education in schools operated without discrimination.	The Department of Health, Education, and Welfare in cooperation with the Department of Defense conducted a survey limited to schools attended by children residing on military installations. For these children as of September 1963, segregated schools will not be deemed "suitable." Negotiations have been undertaken to effect desegregation and were successfully concluded in 15 school districts. Plans are underway to construct schools on 8 installations where school districts have refused to accept all children residing on base without regard to color. The Department of Justice has brought five suits seeking desegregation of schools attended by military dependents residing both on and off base. Legislation was reported by the House Committee on Education and Labor in 1963 requiring as a condition to financial assistance for the education of all federally connected children that the schools be desegregated.

RECOMMENDATIONS	ACTION TAKEN
No. 9. That the President direct the Office of Education of HEW to survey practices of public libraries receiving Federal aid to determine whether service is being offered to all as required by law. That funds be withheld from States not serving all residents without discrimination.	The Office of Education has completed a survey of public libraries receiving Federal assistance and has announced that to be eligible for continued assistance libraries must be available to all persons without discrimination.
No. 10. That the Federal Government sponsor in the several States, upon their application therefor, educational programs designed to identify and assist teachers and students of native talent and ability who are handicapped professionally or scholastically as a result of inferior training or educational opportunity. (This reaffirms recommendation 3 of the *1960 Higher Education Report.*)	Proposed in modified form in legislation submitted by the President in 1963.
No. 11. That Congress or the President assure that Federal assistance to higher education be dispensed only to publicly controlled colleges and universities which do not discriminate. (This affirms	The Department of Health, Education, and Welfare included in its contracts for National Defense Education Act summer institutes a clause requiring nondiscrimination which was accepted by 20

RECOMMENDATIONS	ACTION TAKEN
without change recommendation 1 of the *1960 Higher Education Report.*)	southern schools, including six which formerly excluded Negroes. The National Science Foundation has adopted a similar policy for its 1963 institutes. Legislation submitted by the President in 1963 would delete the "separate but equal" clause from the Land Grant College Act. A proposal to authorize Federal agencies to withhold financial assistance in all programs where discrimination is practiced was included in the legislation submitted by the President in 1963.
No. 12. That an annual survey of all public educational institutions on the basis of a numerical and ethnic classification be authorized. (This reaffirms recommendation 2 made in the *1959 Report.*)	Several States have completed such surveys.
III. EMPLOYMENT	
1961 Report	
No. 1. That the Congress give statutory authority to the President's Committee on Equal Employment Oppor-	Proposed in modified form in legislation submitted by the President in 1963.

RECOMMENDATIONS	ACTION TAKEN
tunity and authorize it to take steps to effectuate equal employment opportunities in all Federal employment, federally assisted training programs and labor unions operating under federally assisted projects.	
No. 2. That the President issue an Executive order providing equality of opportunity for all members of the Armed Forces including the National Guard; and directing that a survey be made of Negro membership in the Reserves.	The Secretary of Defense has directed that a survey be made of discrimination in the Reserves and that all-white and all-Negro units be desegregated. The President on June 24, 1962, established a President's Committee on Equal Opportunity in the Armed Forces to report on remaining problems of discrimination in the Armed Forces, including the National Guard, and make recommendations for corrective action. On June 22, 1963, this committee reported to the President that conditions of discrimination in off base facilities continue to impair the morale of Negro servicemen. The President directed the Secretary of Defense to investigate this situation and report back within 30 days. The Department of Defense has since

RECOMMENDATIONS	ACTION TAKEN
	promulgated regulations designed to eliminate discrimination in off base facilities.
No. 3. That the President issue an Executive order making clear that employment supported by Federal grant funds is subject to the same nondiscrimination policy and the same requirements as those set forth in Executive Order 10925 applicable to employment by Government contractors.	On June 22, 1963, the President issued Executive Order 11114 requiring nondiscrimination provisions in federally assisted construction contracts and providing for the termination of such Federal participation when compliance is not achieved.
No. 4. That Congress and the President encourage equal opportunity for minority groups by: (*a*) Expanding Federal assistance to vocational education and apprenticeship training; (*b*) Providing for retraining and relocation of jobless workers; (*c*) Assuring nondiscrimination in the administration of these programs; and (*d*) Amending present vocational education regulations to make training available based on national occupational needs rather than traditional and local opportunities.	Congress passed the Manpower Development and Training Act of 1962 which provided for the retraining of jobless and other workers and the Secretary of Labor has stated that this program and the apprenticeship program would be administered in a nondiscriminatory manner. Expansion of vocational education and retraining programs was proposed in legislation submitted by the President in 1963. The Department of Health, Education, and Welfare has advised State vocational education boards that where employment opportunities justi-

RECOMMENDATIONS	ACTION TAKEN
	fy the offering of training, training must be available to all.
No. 5. That Congress enact legislation designed to afford minority youth opportunities for training and education through Federal programs and assistance.	Proposed in legislation submitted by the President in 1963.
No. 6. That the President direct that an affirmative program of dissemination of information be conducted to make known the availability of Federal and Federal contract employment on a nondiscriminatory basis and to encourage persons to apply and train for such jobs.	The Civil Service Commission has undertaken special recruiting visits to predominantly Negro colleges to disseminate information and encourage applications for Federal employment. Other agencies have supplemented this program with similar visits or conferences of their own.
No. 7. That the Bureau of Employment Security's policy of encouraging merit employment be strengthened in various ways.	Responsibility for implementing this program has now been assigned to minority group representatives in the eleven regional offices of the Department of Labor.
No. 8. That the President direct the Secretary of Labor to grant Federal funds for the operation of State employment offices only to offices which operate in a nondiscriminatory manner and	The Secretary of Labor has required State employment services to hire and recruit their own staff in a nondiscriminatory manner and has negotiated the termination of segregation in nearly all local

RECOMMENDATIONS	ACTION TAKEN
which refuse to process discriminatory job orders.	employment offices. Departmental regulations now require local offices to refuse to accept or process discriminatory job orders.
No. 9. That Congress amend the Labor-Management and Disclosure Act of 1959 to include in title I a provision that no labor organization shall refuse membership to, segregate, or expel any person because of race, color, religion, or national origin.	The National Labor Relations Board is now considering whether discriminatory policies of unions are unfair labor practices. At the direction of the President, the Department of Justice is participating in these cases to urge the NLRB to take appropriate action against discrimination in unions.
IV. HOUSING	
1961 Report	
Nos. 1, 2, and 3. That the President issue an Executive order barring discrimination in federally assisted housing and home finance and that certain specified steps be taken to implement such an order. (This reaffirmed in more detailed form a broad recommendation for an Executive housing order made in the *1959 Report.*)	In November 1962, the President issued Executive Order 11063 prohibiting discrimination in the sale, lease, or use of housing owned or constructed in the future by the Federal Government or guaranteed under Federal Housing Administration or Veterans Administration programs. A President's Committee on Equal Housing Opportunity was created to implement the provisions of the order which embodied

RECOMMENDATIONS	ACTION TAKEN
	almost all of recommendations Nos. 1 and 2, but which did not cover housing financed by conventional loans as the Commission recommended in No. 3.
No. 4. That the Federal Government take steps to require communities to assure that there is decent housing for persons displaced by urban renewal and to provide sufficient relocation facilities for such displacees.	The Urban Renewal Administration has revised its regulations to require more specific planning to assure the availability of decent housing at the time diplacement begins.
No. 5. That the President direct URA to require that each contract entered into between local public authorities and redevelopers contain a nondiscrimination provision assuring access to reuse housing to all applicants.	The Housing Executive order prohibits discrimination in housing constructed under the urban renewal program.
No. 6. That Congress amend the Highway Act of 1956 so that in the administration of the interstate highway program, States must assure persons displaced by construction of adequate housing and so that Federal financial aid to displaced families is available.	The Highway Act of 1962 permits reimbursement to States for relocation expenses.

RECOMMENDATIONS	ACTION TAKEN
No. 7. That the President require appropriate Federal agencies to gather information on the availability of mortgage money to nonwhites and their participation in Federal housing programs.	
1959 Report	
No. 5. That the Public Housing Administration encourage the selection of sites outside the present centers of racial concentration.	
No. 6. That the Urban Renewal Administration assure the participation of minority groups in the preparation of urban renewal plans.	The Housing and Home Finance Agency now urges broad community participation, including minority groups, in the development of overall community urban renewal plans.
District of Columbia Housing Report—1962	
No. 1. That the District of Columbia Board of Commissioners issue and effectively implement an appropriate regulation prohibiting discrimination on the basis of race, color, religion, or national origin in the sale, rental, or financing of housing within the District of Columbia.	The District of Columbia Corporation Counsel has informed the District of Columbia Commissioners that they have the authority to issue a regulation, and the Commissioners have said they would issue such a regulation.

RECOMMENDATIONS	ACTION TAKEN
No. 2. That the District of Columbia Board of Commissioners require where persons engage in acts prohibited by such regulation as may be promulgated in accordance with recommendation 1: (*a*) The suspension or revocation of any license to act as a real estate broker or salesman issued under District of Columbia law; and (*b*) the suspension or revocation of any license to provide housing accommodations issued under District of Columbia law.	
No. 3. That the District of Columbia Board of Commissioners issue a regulation declaring racial and religious restrictions contained in instruments affecting the title to real property to be void and of no effect.	
Nos. 4, 5, 6. That the National Capital Regional Planning Commission establish a standing committee on minority housing problems; that the Congress establish a central relocation service for the District of Columbia for families displaced by public construction work; that the President,	

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RECOMMENDATIONS	ACTION TAKEN
through the Department of Justice, investigate possible violations by the housing and home finance industry of the antitrust laws.	
V. JUSTICE	
1961 Report	
No. 1. That Congress consider a program of grants-in-aid to the States and local governments to increase the professional quality of their police forces.	
No. 2. That Congress consider enacting a statute which would make the criminal penalties of 18 U.S.C. 242 applicable to certain specified acts, if maliciously performed.	
No. 3. That Congress consider the advisability of amending section 1983 of title 42 of the United States Code to make any county, city or other local government unit that employs officers who deprive persons of rights protected by that unit jointly liable with the officers to victims of such officers' misconduct.	

RECOMMENDATIONS	ACTION TAKEN
No. 4. That Congress consider the advisability of empowering the Attorney General to bring civil proceedings to prevent the exclusion of persons from jury service on account of race, color, or national orgin.	

VI. GENERAL

1961 Report

General recommendation that the President utilize the influence of his office in support of equal protection of the laws: By explaining the legal and moral issues in civil rights crises; by reiterating his support for the Supreme Court's desegregation decision; by stimulating the exercise of the right to vote, and by marshaling the good will of the Nation in support of the national goal of equal opportunity.	The President has used the influence of his office toward the attainment of each of these objectives.

VII. MISSISSIPPI INTERIM REPORT—1963

No. 1. That the President formally reiterate his concern over the Mississippi situation by requesting all persons in that State to join in protecting the rights of United States	The President has urged the people of Mississippi to recognize the benefits that come with the Union as well as their responsibilities to live up to the Constitution.

RECOMMENDATIONS	ACTION TAKEN
citizens, and, in accordance with his duty to take care that the laws be faithfully executed, by directing them to comply with the Constitution and laws of the United States.	
No. 2. That the President continue and strengthen his administration's efforts to suppress existing lawlessness and provide Federal protection to citizens in the exercise of their basic constitutional rights.	
No. 3. That the Congress and the President consider seriously whether legislation is appropriate and desirable to assure that Federal funds contributed by citizens of all States not be made available to any State which continues to refuse to abide by the Constitution and laws of the United States; and, further, that the President explore the legal authority he possesses as Chief Executive to withhold Federal funds from the State of Mississippi, until the State of Mississippi demonstrates its compliance with the Constitution and laws of the United States.	A proposal that Federal agencies withhold financial assistance in programs where discrimination is practiced was included in the legislation submitted by the President in 1963.

Appendix II. List of Publications
(as of September 30, 1963)

BIENNIAL STATUTORY REPORTS

**1959 Report of the U.S. Commission on Civil Rights*, 668 pp. ($2).

*Abridgment of the Report of the U.S. Commission on Civil Rights 1959, *With Liberty and Justice for All*, 201 pp. ($0.60).

**1961 Report of the U.S. Commission on Civil Rights* (5 vols.):

- **Voting*, vol. 1 (includes Introduction and Civil Rights in Black Belt Counties), 380 pp. ($1.25).
- **Education*, vol. 2, 254 pp. ($1).
- **Employment*, vol. 3, 246 pp. ($1).
- **Housing*, vol. 4, 206 pp. ($1).
- **Justice*, vol. 5 (includes Indian Study, Commissioner Hesburgh's Statement, and the General Conclusion), 307 pp. ($1).

**Civil Rights, Excerpts From the 1961 U.S. Commission on Civil Rights Report* (contains conclusions, findings, and recommendations from the 5 volume statutory report), 119 pp. ($0.45).

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*Publications available for purchase by check or money order through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

INTERIM REPORTS

**Equal Protection of the Laws in Public Higher Education 1960,* 355 pp. ($1).

**Civil Rights U.S.A., Housing in Washington, D.C.* (1962), 45 pp. ($0.45).

Special Report with respect to the status of equal protection of the laws in Mississippi (1963), 5 pp. Mimeographed.

**Freedom to the Free, Century of Emancipation, 1863–1963* (1963), 246 pp. ($1).

STAFF REPORTS

Problems of Segregation and Desegregation of Public Schools: Synopsis of Conference Before the U.S. Commission on Civil Rights, Washington, D.C. (1962), 70 pp.

**Civil Rights U.S.A., Public Schools North and West 1962,* 309 pp. ($2).

**Civil Rights U.S.A., Public Schools Southern States 1962,* 217 pp. ($0.75).

Civil Rights U.S.A., Public Schools North and West 1963, Camden and Environs, 55 pp.

Civil Rights U.S.A., Public Schools North and West 1963, Oakland, 76 pp.

STATE ADVISORY COMMITTEE REPORTS

Reports of the State Advisory Committees, 1959, 433 pp.

**50 State Report,* Reports of the State Advisory Committees (1961), 687 pp. ($2.50).

New Orleans School Crisis, by the Louisiana Advisory Committee to the U.S. Commission on Civil Rights (1961), 83 pp.

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*Publications available for purchase by check or money order through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

Report on Mississippi, by the Mississippi Advisory Committee to the U.S. Commission on Civil Rights (January 1963), 33 pp.

**Equal Protection of the Laws in North Carolina,* by the North Carolina Advisory Committee to the U.S. Commission on Civil Rights (2d ed. March 1963), 251 pp. ($1).

Report on Rapid City, by the South Dakota Advisory Committee to the U.S. Commission on Civil Rights (March 1963), 50 pp.

Report on Washington, D.C.: Employment, by the District of Columbia Advisory Committee to the U.S. Commission on Civil Rights (July 1963), 52 pp.

Report on Connecticut: Family Relocation Under Urban Renewal, by the Connecticut Advisory Committee to the U.S. Commission on Civil Rights (July 1963), 74 pp.

Report on California: Police-Minority Group Relations, by the California Advisory Committee to the U.S. Commission on Civil Rights (August 1963), 40 pp.

Report on Florida, by the Florida Advisory Committee to the U.S. Commission on Civil Rights (August 1963), 51 pp.

Report on New Jersey, by the New Jersey Advisory Committee to the U.S. Commission on Civil Rights (September 1963), 62 pp.

Report on Arkansas: Education, Still Separate and Still Unequal, by the Arkansas Advisory Committee to the U.S. Commission on Civil Rights (September 1963), 30 pp.

TRANSCRIPTS OF HEARINGS AND CONFERENCES BEFORE THE U.S. COMMISSION ON CIVIL RIGHTS

Hearings in Montgomery, Ala., Voting (1958–59), 179 pp.

Conference in Nashville, Tenn., Education (March 1959), 197 pp.

Hearings in New York City, Atlanta, and Chicago, Housing (February, April, May 1959), 911 pp.

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*Publications available for purchase by check or money order through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

Hearings in Washington, D.C. (*Conference with Federal Housing Officials*), *Housing* (June 1959), 239 pp.
Hearings in Los Angeles and San Francisco (January 1960), 902 pp.
Conference in Gatlinburg, Tenn., Education (March 1960), 249 pp.
Hearings in Detroit (December 1960), 511 pp.
Conference in Williamsburg, Va., Education (February 1961), 242 pp.
Hearings in New Orleans, La., Voting (1960–61), 848 pp.
Hearings in Phoenix, Ariz. (February 1962), 149 pp.
Hearings in Washington, D.C., Housing (April 1962), 478 pp.
Conference in Washington, D.C., Education (May 1962), 200 pp.
Hearings in Memphis, Tenn. (June 1962), 490 pp.
Hearings in Newark, N.J. (September 1962), 510 pp.

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