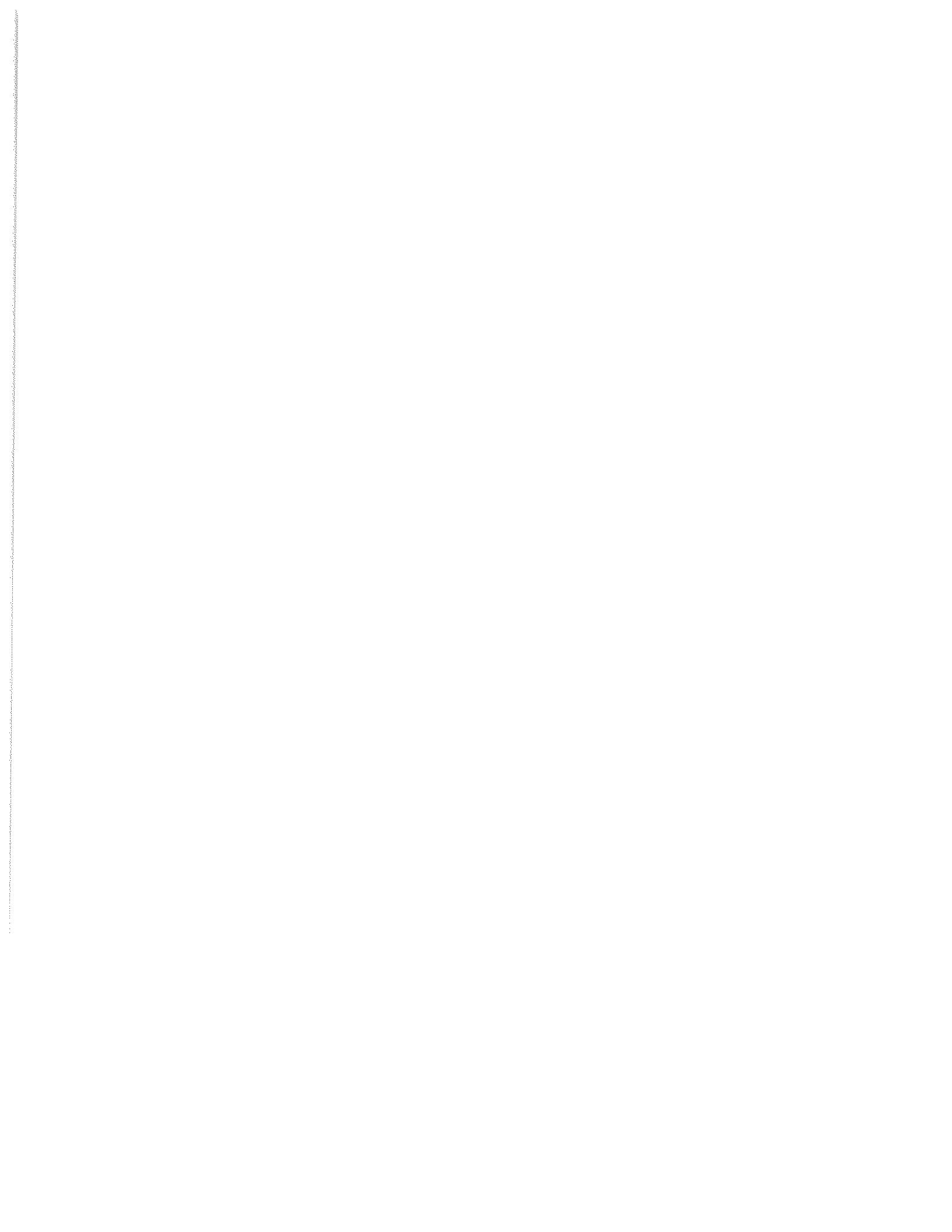


**West Virginia
Human Rights Commission
Annual Report**

**1978-
1979**





STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

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JOHN D. ROCKEFELLER IV
Governor

HOWARD D. KENNEY
Executive Director

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Ranson

January 14, 1980

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

Dear Governor Rockefeller:

We have the honor to submit the following Annual Report of the West Virginia Human Rights Commission for the fiscal year 1978-1979.

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

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

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey O. McGeary".
Jeffrey O. McGeary
Chairperson

COMMISSIONERS

	Term Expires
Russell Van Cleve, Chairperson Chemical Engineer Charleston	6/30/80
Ancella Bickley, Vice-Chairperson College Administrator Charleston	6/30/78
Iris Bressler Homemaker Fairmont	6/30/79
Delbert Horstemeyer Steel Company Community Relations Manager Weirton	6/30/81
Nathaniel Jackson College Administrator Elkins	6/30/79
Arne Maxwell Personnel Consultant Huntington	6/30/80
George Rutherford Program Analyst Ranson	6/30/79
Jeffrey McGeary Attorney Wheeling	6/30/80

VACANCY

INTRODUCTION

The West Virginia Human Rights Commission is charged with the responsibility of enforcing, in an effective and efficient manner, the West Virginia Human Rights Act. The scope of the Act is broad, touching the lives of all citizens in some way.

In 1961, the State Legislature created the Human Rights Commission to "encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the state, and to eliminate all discrimination in employment and places of public accommodation by virtue of race, creed, or religious belief."

At that time, West Virginia had chosen the path of voluntary cooperation to deal with racial and religious discrimination. The Commission was directed by West Virginia laws to combat prejudice, discrimination and segregation by receiving, initiating, investigating and mediating complaints of unfair practices, undertaking research, working with community groups and individuals who were seeking knowledge about ways to be helpful in the Commission's areas of interest; and initiating programs of public information and intergroup education.

By 1967, it became obvious that the elimination of discrimination could and would not be achieved on a strictly voluntary basis. In that year, the Legislature gave the West Virginia Human Rights Commission the powers of enforcement against those who discriminated. The amended Human Rights Act was recognized as a workable, enforceable law against discrimination on a case-by-case basis.

Since 1967, the Commission has had its role considerably expanded until today it is one of the most powerful agencies of its type in any state. The professional staff has expanded as its scope of responsibilities have entered into new areas of discrimination.

In 1969, the Human Rights Act coverage prohibited discrimination in employment and public accommodations based on race, religion, color, national origin and ancestry. In 1971, the Act was broadened to prohibit discrimination in employment and public accommodations based on age and sex. In 1973, discrimination in housing was prohibited on the basis of race, religion, color, national origin and ancestry.

Also in 1973, the Act was expanded to include protection for the blind in employment, public accommodations and housing. In 1977, discrimination in housing based on sex was prohibited.

COMPLIANCE

The West Virginia Human Rights Commission is a law enforcement agency. The Primary responsibility for administering and enforcing the West Virginia Human Rights Act lies with the Compliance Division, whose work over the period of a year is reflected in its statistics on complaints.

The investigations unit accepts and investigates complaints of discrimination in employment, housing and public accommodations. Cases are filed by individuals directly with the Commission, initiated by the Commissioners, deferred to the Commission under Title VII (employment) by the Federal Equal Employment Opportunity Commission (EEOC) or deferred to the Commission under Title VIII (housing) by the Federal Department of Housing and Urban Development (HUD).

The conciliation unit receives cases where investigation indicates that there is probable cause to believe a discriminatory act has been committed, and attempts to eliminate the discrimination through negotiation. If the negotiation is successful, a conciliation agreement is prepared and designed to remedy those conditions found to be discriminatory. This unit also monitors and reviews the agreements.

As a method for ensuring more timely solutions for new complaints of discrimination, the Commission implemented Rapid Charge Processing during fiscal 1979.

Viewed as a method to shorten the length of complaint processing time by at least two-thirds, Rapid Charge Processing makes possible the settling of complaints within 30 days as compared to a minimum of 90 days when a complaint is processed in the traditional manner.

The first step taken during Rapid Charge Processing after a complaint is filed is the Notification of Charge. The respondent, the party against

whom the complaint is filed, is notified of the complaint and is given ten days in which to respond to that charge.

Upon receiving the response from the party charged in the complaint, the Commission's Management Review Group evaluates the case for Fact Finding based on the complexity of the issues involved. If the case appears to be amenable to Fact Finding, a meeting of the complainant and the respondent is arranged.

Scheduled within 30 days of the date of the complaint, Fact Finding meetings are designed to bring the complainant and the respondent together voluntarily in order for both parties to present their sides of the issue supported by documentary evidence and to answer direct questions from the Commission on the issue.

This meeting between the respondent and the complainant is not for the purpose of making a determination on the case, but possibly to obtain a pre-determination settlement or to gather sufficient information to determine if the case can be investigated rapidly.

When a pre-determination settlement is obtained during the Fact Finding meeting, the case is closed. If a voluntary agreement is not reached at this time, the case is returned to the Management Review Group for investigation and processing in the traditional manner. However, as a result of the information obtained during Fact Finding, the amount of time required in traditional case processing is reduced considerably.

Despite this impressive improvement in the Commission's case handling techniques, the flood of incoming complaints continued unabated during the year, and the number of complaints pending resolution at the close of the fiscal year rose to 1,230, or 246 more than the previous year.

In addition, staff handled more than 2700 preliminary inquiries which did not result in formal complaints.

The number of sex discrimination complaints filed outnumbered the race discrimination complaints in employment, making sex discrimination in employment the largest category of complaints filed during the fiscal year. Of the 486 employment discrimination complaints filed with the Commission during fiscal year 1979, 169 were filed on the basis of sex, while 160 were filed on the basis of race.

However, of the total number of complaints in employment, public accommodations and housing, charges of race discrimination outnumbered charges of sex discrimination by 43. There was a total of 584 new complaints filed during fiscal year 1979; 229 were race complaints, 186 were sex complaints, and 94 were age complaints.

The charts contained in this report detail the number of cases docketed under each area of the Commission's jurisdiction, the basis of complaints, the number of cases filed in each county, and the basis for disposition of the cases closed.

Overall, the compliance activities of the Commission during the past year produced jobs, reinstatements, promotions or other employment gains for 110 individuals, whose back pay, other benefits and new salaries at a projected estimate total \$210,000. Total monetary awards reached \$83,598 during fiscal year 1979.

EMPLOYMENT COMPLAINTS

Employment discrimination continues to comprise the majority of complaints filed with the West Virginia Human Rights Commission. In fiscal year 1979, there were a total of 486 employment complaints filed; the previous year there were 444 such complaints filed.

<u>Basis for Discrimination</u>	<u>1977-1978</u>	<u>1978-1979</u>
Race	166	160
Sex	194	169
National Origin	2	11
Religion	1	8
Color	0	2
Age	65	93
Ancestry	0	6
Blindness	5	3
Reprisal	11	34
Totals	<u>444</u>	<u>486</u>

Nature of Discrimination

Hire	100
Discharge	253
Terms & Conditions	77
Other	56

Classification of Employer Respondents

Banks	3	Manufacturers	121
Construction/Contractors	9	Medical Services	
Education	17	(hospitals, etc.)	23
Government		Mining Industry	61
State	36	Club/Restaurants	30
County	14	Retail Sales/Service	79
City	20	Transportation	13
Insurance Companies	7	(railways, airlines, etc.)	
Trade/Labor Unions	16	Utilities	13
		Other	19

Summary of Cases Processed

Satisfactory Adjustment	81
No Probable Cause	102
No Jurisdiction	8
Withdrawals	73
Other	30
Public Hearing	2
Total	<u>296</u>

	Fiscal 1977	Fiscal 1978	Fiscal 1979
Total Monetary Awards	\$47,708.23	\$75,916.56	\$83,592
Total Projected Annualized	\$180,000.00	\$206,900.00	\$210,000

PUBLIC ACCOMMODATION COMPLAINTS

Whereas employment discrimination remains the major focus of the Commission's compliance activities, discrimination by places of public accommodations takes on an increasingly important role as more and more women and minorities apply for credit, insurance, training and education, and memberships in organizations and clubs.

<u>Basis for Discrimination</u>	<u>1977-1978</u>	<u>1978-1979</u>
Race	22	37
Sex	13	15
National Origin	2	0
Religion	0	1
Color	0	1
Age	0	1
Blindness	0	1
Reprisals	3	3
	<u>40</u>	<u>59</u>

Nature of Discrimination

Denial of Services	16
Denial of Privileges	14
Unequal Treatment	20
Other	9
Total	<u>59</u>

Classification of Employer Respondents

Clubs/Restaurants	8	Education	9
Banks	1	Retail Sales/	
Insurance Companies	4	Services	7
Government		Prison	5
State	8	TV Station/	
County	5	Newspaper	4
City	1	Other	9

Summary of Cases Processed

Satisfactory Adjustment	4
No Probable Cause	5
Withdrawals	3
Others	3
Public Hearings	0
	<u>15</u>

HOUSING COMPLAINTS

Housing discrimination is quite often subtle. With the housing shortages that are being experienced throughout the state, the discrimination in housing increases. Prior to the West Virginia Supreme Court of Appeals decision to uphold the Commission's authority to grant compensatory damages, victims of housing discrimination were only awarded monetary compensation for out-of-pocket expenses which often resulted in little or no redress.

<u>Basis for Discrimination</u>	1977-1978	1978-1979
Race	21	32
Sex	7	2
National Origin	0	2
Blindness	0	1
Reprisals	0	1
Totals	<u>28</u>	<u>39</u>

Nature of Discrimination

Refusal to Rent	17
Refused Loan	2
Evicted	15
Disparate Treatment	2
Refusal to Sell	3
Total	<u>39</u>

Classification of Respondents

Property Owners	22
Realtor and/or Property Owner	15
Savings & Loan Companies	2

Summary of Cases Processed

Satisfactory Adjustment	6
No Probable Cause	6
No Jurisdiction	2
Withdrawals	5
Others	8
Public Hearings	0
Total	<u>27</u>

LEGAL

The Legal Division carried out a heavy load of diversified activities in guiding the efforts of a quasi-judicial law enforcement agency-- from providing interpretations of law to directing the handling of cases as they progress from investigation to public hearing, and where necessary, through court appeal. However, the workload of the legal staff is great in both amount and complexity, but crucial to the Commission's effectiveness.

During fiscal year 1979, there were five public hearings held. Three involved charges of employment discrimination; two on the basis of sex and one on the basis of race. The remaining two public hearings were against volunteer fire departments as a public accommodation and were filed on the basis of sex. The listing of public hearings follows this section.

Pre-hearing settlements were negotiated by the legal staff in four complaints posted for public hearings. These four settlements yielded a total of \$18,000.00 to the complainants. Three were charges of sex discrimination in employment and one was a charge of race discrimination in employment.

Based on the findings of the hearing examiners, the Commission accepted orders prepared by the legal staff in five cases following public hearings. These orders are legally binding unless reversed by appellate decisions. During the fiscal year, only one order was appealed in circuit court by the respondent.

HEARINGS HELD JULY 1, 1978 THROUGH JUNE 30, 1979

Brown v. The City National Bank of Charleston, ER-51-77, March 15th and 16th, 1979, Charleston.

Yunker, Swain & Van Gosen v. Berkeley Springs Volunteer Fire Dept., PAS-213-78: PAS-214-78 and PAS-216-78, March 26th and 27th, 1979, Berkeley Springs.

Pittinger & Waldeck v. Shepherdstown Volunteer Fire Dept., PAS-484-77 and PAS-483-77, March 29th and 30th, 1979, Shepherdstown.

Varney v. Frank's Shoe Store, ES-222-77 and ES-298-77 (Reprisal), April 19th and 20th, 1979, Huntington.

Strain v. Vecellio & Grogan, ER-167-76, May 9th and 10th, 1979, Princeton.

PRE-HEARING SETTLEMENTS

Arnold v. Super S. Discount, ER-104-74, scheduled for hearing February 14-15 1979, in Princeton. Settled for \$1,000.

Browning v. City of Hamlin, ES-173-77, Scheduled for hearing March 22-23, 1979, in Hamlin. Settled for \$3,500.

David v. Legal Aid, ES-152-75, scheduled for hearing April 11-12, 1979, in Charleston. Settled for \$500.

Mullens v. Sewell Coal Company, ES-185-76, scheduled for hearing June 6-7, 1979, in Summersville. Settled for \$13,000.

FINAL ORDERS

3/29/79 Baker v. Kanawha County Board of Education, ES-96-73

11/9/78 Brown v. Conley, HR-49-73

11/30/78 Ferguson v. City of Montgomery, ER-140-75

3/29/79 Stover v. Consolidation Coal Company, ES-47-73

3/29/79 Whittington v. Monsanto Corporation, ES-2-77

APPEALS BY RESPONDENTS IN CIRCUIT COURT

Abnathy v. Western Electric, ER-103-73

SUPREME COURT APPEALS

9/14/78 Geiger v. Greyhound Amalgamated Transit Union, ER-213-72

3/8/79 West Virginia Human Rights Commission v. Greyhound Lines East,
Docket No. 14442

EDUCATION

The West Virginia Human Rights Commission is mandated to promote better human relations. Following years of experience in dealing with discrimination, the Commission has broadened its philosophy and has directed a major effort in developing a program of "preventive discrimination."

One primary objective of this "preventive program" has been for the Commission to reach out to citizens and employers advising and educating them of the ever-changing facets of civil rights law. Informing citizens and employers of their rights and responsibilities under the law has resulted in a major improvement in voluntary compliance in all sectors of the state.

In contrast to the Commission's compliance activities which focuses on obtaining redress for those persons involved in discriminatory acts, the educational activities and community services focuses on the elimination of discrimination through mutual understanding and cooperation.

Community outreach is provided to make the Commission's presence felt in the West Virginia community. Printed literature in the form of annual reports, newsletters, news releases, and pamphlets and brochures are prepared to keep the public abreast of Commission activities and items of operational interest.

The West Virginia Human Rights Commission's official presence on and participation in workshops and conferences and decision making organizations help to impact on the lives of persons who are protected by the Human Rights Act. During fiscal year 1979, the Education staff of the Commission has held workshops and public meetings throughout the state. Revision and reactivation of local human relations ordinances to prohibit discrimination has been a major focus of the education staff during the past year.

Liaison with local human relations commissions is considered an important activity of the education staff. Some of the local commissions have staff and strong enforcement powers while others have only volunteers with no authority. Upon request, staff coordinate training workshops and provides individual instruction to local commission staffs and commissioners in areas such as investigations, conciliations, and public hearings. In addition, assistance in drafting proposed legislation and testifying in support of stronger legal authority for local jurisdictions is provided.

In Fairmont, a local ordinance was passed which created a Human Relations Commission in that city. With assistance and encouragement from the State Commission, the Fairmont-Marion County Human Rights Interest Group was formed and through this group the ordinance was drafted and passed by the city council.

Meetings were held with interested citizens and members of local commissions in Clarksburg, Williamson, Bluefield and Martinsburg.

The education staff participated in and conducted workshops on the topics of employment, discrimination and affirmative action, as well as workshops on women's rights, housing discrimination and fair housing laws.

In June, a workshop was held in Elkins which focused on Women and Employment. As an outgrowth of that workshop, the Commission initiated a project dealing with the lack of adequate child care as a sexual barrier to employment for women.

Assistance was provided by the education staff for a national meeting of women coal miners held in West Virginia in June. Previous support work had

been done with the organizing group to educate them on their rights and responsibilities as employees in a nontraditional field.

On-going training was provided for participants in a CETA-funded program entitled "Jobs for Women." This training consisted of outlining the basic rights guaranteed through the Human Rights Act and what to do if these rights are abridged or denied.

The Commission held its annual conference in October at Institute. Its theme, "Public Forum for Women," was selected to provide participants with an overview of the status and progress of civil rights for women as employees, employers, and consumers. Major topics covered during the forum included "Women and Credit," "Women and Health Care," "Problems of Minority Women," and "Women and Employment."

On-going staff training and enrichment programs were provided through the Commission to ensure that all staff members have a current working knowledge of civil rights legislation and court decisions. These sessions were conducted by personnel from the U.S. Department of Housing and Urban Development, the U.S. Equal Employment Opportunity Commission, civil rights lawyers, as well as by staff personnel.

Commission personnel served on various interagency boards, community task forces and local human rights commissions, in addition to maintaining memberships in organizations whose focus is human rights.

SPECIAL STUDENT CONCERNS PROJECT

The Special Student Concerns Project of West Virginia, A federally funded pilot program designed to reduce the disproportionate number of minority group student suspensions within public schools, began its fifth and final year of operation in October 1978. Initially, the project included two school districts within the state and anticipated joint cooperative efforts between Cabell and Kanawha County School Boards.

However, Kanawha County had participated within the program since October 1975 and decided to initiate a county-wide "in house suspension" program geared toward the elimination of suspensions for non-violent activities of students such as truancy and class skipping. Therefore, they did not participate in the 1978-1979 Special Student Concerns Project. Schools within Cabell County included Huntington High School, Cammack Junior and Lincoln Junior High Schools.

The main objectives of the project were the development of an effective Human Relations Program for the promotion of positive interaction among all persons involved in the total school community, the increased awareness of student rights and responsibilities for all persons associated with the school through the use of student handbooks and workshops, and to provide for positive involvement of minority students in the total school experience and to advance equal educational opportunities for minority students along with the establishment of a media system.

Some of the findings from data collected indicated a definite correlation between low (and failing) grades and suspensions. Many students failed all or most of their classes during the school year. While the great majority of suspensions at the high school level for truancy-skipping incidents, most of the junior high suspensions were grouped under disrespectful class room be-

havior. Most of the suspended students interviewed by the school specialist felt that their suspensions were unfair and that the suspensions harmed their educational advancement. Also, a majority felt that alternatives to suspensions were needed.

Another noteworthy finding was the lack of involvement in extra-curricular activities of suspended students. Virtually all of the students suspended were not members of any school clubs, organizations or sports teams.

The Special Student Concerns Project made every effort to provide services deemed necessary by the school district as long as those services were designed to assure that all students received a total education with limited interruptions caused by suspensions and other disciplinary actions.

During the 1978-1979 school year additional identified areas of concern were explored. Some of these areas were more communication between home and school; more intensive counseling programs that attempt "preventive techniques;" clarity and uniform interpretations of many school policies and procedures from all levels; and more minority participation in extra-curricular activities especially non-athletic types.

The Special Student Concern Project explored the following models; Parent/Teacher Workshops to enhance communications that also include students and administrators; School/Home Information Person to provide volunteer parent services to be used as the school assigned to relay non-confidential information; Peer Counseling to allow some students to develop and utilize certain counseling skills and techniques through training which will enable them to better relate with their own classmates who experience difficulties but prefer not dealing with adults; and the Peer Tutoring Program.

Pilot programs are designed to produce models that are easily replicated and that can readily be followed through once the original program is defunct. The Special Students Concerns Project attempted to establish only

Models that fulfill the above-mentioned guidelines and thus the schools can continue to seek alternatives to suspensions as well as to assure its populace that efforts will be made to include all students, black and white, in the total socialization process.

LEAA PROJECT

The Law Enforcement Assistance Administration Project is special program which is designed to assist law enforcement agencies in developing effective Equal Employment Opportunity guidelines and to increase the number of minority and female applicants for positions with law enforcement agencies and encourage them to accept positions in law enforcement agencies.

The responsibility for implementation of this project lies with the West Virginia Human Rights Commission and the Governor's Committee on Crime, Delinquency and Corrections.

The EEO Coordinator/Advisor monitors the progress of those criminal justice agencies required to meet LEAA guidelines. Also, under the project seminars and workshops for law enforcement departments are held throughout the state as deemed necessary.

At the request of state, county, city and other law enforcement departments, the EEO Coordinator/Advisor has reviewed and analyzed their respective equal employment opportunity programs and policies during the past fiscal year.

Open lines of communication have been maintained between the West Virginia Human Rights Commission and the Governor's Committee on Crime, Delinquency and Corrections on the progress of the program and the criminal justice agencies required by law to adhere to LEAA rules and regulations.

Most of the assistance provided through the project has been on-site, however, on problems common to all agencies such as recruitment, a central location has generally been selected and seminars, conferences, and workshops have been provided for all interested agencies.

At the State level, there are four law enforcement agencies required to develop EEO programs, four county law enforcement agencies and seven municipal agencies are included for a total of 15. In 1978, the number of

sworn personnel for this group totaled approximately 37. Sworn females totaled 97 of the 2,614 officers, indicating a need for assistance in developing improved recruiting and selection programs designed to increase representation of minorities and women in sworn positions in criminal justice agencies. At the end of fiscal year 1979, the number of sworn female personnel had increased to 128 and the number of sworn minority personnel had increased to 68, indicating an improved condition.

The agencies listed below are those to whom the LEAA Project provides assistance under the LEAA guidelines:

State Agencies

Department of Public Safety
Department of Natural Resources
State Supreme Court of Appeals

County Agencies

Cabell County Sheriff's Department
Kanawha County Sheriff's Department
Raleigh County Sheriff's Department
Wood County Sheriff's Department

City Agencies

Beckley Police Department
Charleston Police Department
Fairmont Police Department
Huntington Police Department
Parkersburg Police Department
Weirton Police Department
Clarksburg Police Department

The criminal justice agencies throughout the State have supported this project as indicated by their cooperation in establishing and implementing Equal Employment Opportunity Programs. Wheeling Police Department, Cabell County Sheriff's Department, Beckley Police Department, Department of Natural Resources, Department of Corrections, Huntington Police Department and the State Supreme Court of Appeals have requested and received assistance.

Others, such as Wood, Raleigh, and Kanawha County Sheriff's Departments, Fairmont, Weirton, Charleston and Parkersburg Police Departments and the West Virginia Department of Public Safety have received technical assistance in varying degrees.