

THE EMPLOYMENT OF MINORITIES AND WOMEN BY KENTUCKY STATE GOVERNMENT

KENTUCKY ADVISORY COMMITTEE TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS

This summary report of the Kentucky Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.

A SUMMARY REPORT

DECEMBER 1989

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THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957 and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the Act, the Commission is charged with the following duties pertaining to discrimination or denials of equal protection based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote, study of legal developments with respect to discrimination or denial of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denial of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denial of equal protection; and the investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105 (c) of the Civil Rights Act 1957 and section 6 (c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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Attached is a summary report of information received at a community forum conducted by the Kentucky Advisory Committee in Frankfort on the employment of minorities and women in State government. By a vote of 11 to 0, the Committee approved submission of this report to you with the request that you authorize publication. It is hoped that the information provided will be of assistance to the Commission in its program planning.

Participants provided information from a wide variety of viewpoints regarding achievements and barriers in the provision of equal employment opportunity. Though information received at the forum was not sufficient to enable a comprehensive analysis of the State's affirmative action efforts it did highlight issues which the Committee will continue to monitor.

/s/

Porter G. Peeples, Sr., Chairperson
Kentucky Advisory Committee

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CONTENTS

Introduction..... 1

Enforcement of the State Affirmative Action Plan..... 4

The Perspective of Employee Organizations..... 8

The Perspective of Community Organizations.....12

A Lawsuit and Its Aftermath.....14

The Perspective of State Agencies.....17

The Perspective of Enforcement Agencies.....20

Summary.....22

Table I.....24

Table II.....24

Table III.....25

Table IV.....25

Table V.....26

Table VI.....26

Table VII.....27

Table VIII.....27

Table IX.....28

Table X.....29

Appendix A.....30

INTRODUCTION

In keeping with its responsibility to monitor civil rights developments in the State, the Kentucky Advisory Committee to the U.S. Commission on Civil Rights conducted a community forum in Frankfort, Kentucky, on March 14, 1989, to gather information on issues, developments and programs concerning affirmative action and equal opportunity in State employment for minorities and women. Government agency representatives, attorneys, and leaders from employee and community organizations made presentations to the Advisory Committee, and an open session provided opportunity for the general public to participate. A summary of the information received at the forum is presented in this report.

Persons who participated in the forum were Commissioner Thomas C. Greenwell from the Kentucky Department of Personnel and who also represented the Governor's office; Arthur Hatterick, executive director of the State personnel board; Karla Walker, president of Blacks in Government; George Parsons, president of the Kentucky Association of State Employees; Charlesmarie Maxberry, president of the Women in State Government Network; William Coefield, president of the State NAACP; Dr. Betty Sue Griffin, representing the National Council of Negro Women; Daniel Goldberg, directing attorney for the Appalachian Research and Defense Fund of Kentucky, Inc. (APPALRED); Henry J. Curtis, attorney chief for the department of parks; Daniel F. Egbers, attorney for the office of general counsel, cabinet for human resources; Jack O'Nan, personnel branch manager for the natural resources and environmental protection cabinet; Louis Mathias, attorney for the department of State police; Phyllis Alexander, executive director of the Kentucky Commission on Women; Angela Koshewa, assistant compliance director for the Kentucky Human Rights Commission; and

Paul Gholston, Area Director for the Equal Employment Opportunity Commission (EEOC).

Kentucky State government, with more than 32,000 full-time employees, is the largest single employer in the State. It also receives a large amount of Federal money and is subject to Federal and State laws prohibiting discrimination in the disbursement of these funds and in its employment practices. A State affirmative action plan confirmed by Executive Order 84-549, continued in force by Executive Order 88-100 and incorporated into Senate Bill No. 163 in 1988, seeks to ensure equal employment opportunity on the basis of race, color, religion, national origin, handicap, sex, and age by requiring participation and compliance by government agencies. It specifies that the plan be implemented by the commissioner of personnel and that all cabinets, departments, and agencies of State government develop programs consistent with the plan and incorporating goals and timetables. (An organizational chart of State agencies is attached as appendix A.)

In addition, the plan provides for technical assistance in the accomplishment of its objectives, requires an annual analysis to assure that protected persons are not adversely affected by examination and selection procedures, and requires validation of examination procedures where practiced.

Information provided by the Kentucky Human Rights Commission (KHRC) shows that, though there was a steady increase in the percentage of full-time black employees in Kentucky State government between 1971 and 1981 from 4.9 percent to 7.2 percent, the proportion then remained relatively unchanged through 1987 (see table I). Thomas C. Greenwell, commissioner for the State department of personnel, reported at the Advisory Committee's community forum that as of February 28, 1989, nonwhite

employees accounted for 7.81 percent of the statewide work force.

The KHRC reported that, in 1987, the black labor force in Franklin County, where most government offices are located, was 7.5 percent. Table II shows that the proportion of black employees in individual cabinets varies widely. In 1987 the cabinet for natural resources and environmental protection had only 1.2 percent black employees, the lowest statistic for any of the large cabinets, whereas the cabinet of human resources had the highest proportion of black employees, 11.9 percent.

Table III shows that in 1987 there was also wide variation in the proportion of blacks employed in the various occupational services. In health services 19.4 percent of the employees were black, whereas in administrative services 5.8 percent were black, and in educational services 2.5 percent. Table IV shows that on average, black employees in 1987 received only 77.7 percent of the average white salary. This black-white salary gap varies considerably between cabinets as shown in table V. In 1987 the average annual salary for blacks in the transportation cabinet was 71.7 percent of that for whites, whereas in the commerce and labor cabinets it slightly exceeded that for whites.

The KHRC also reported that the proportion of State employees who are women reached the highest level ever in 1986, 48.2 percent. (See table VI.) Commissioner Greenwell said at the community forum that in February 1989 47.3 percent of the work force in State government were women, compared with 52 percent for the statewide work force. Table VIII shows that, as with the employment of blacks, the percentage of women employed varies widely from cabinet to cabinet. In 1986, for example, the transportation cabinet employed 17.2 percent women and the cabinet for human resources employed 71.5 percent. The KHRC also reported (table VIII) that women employed in State government earned an average of 81.8 percent

as much as men. This figure also varied widely among cabinets (table IX), ranging from 42.9 percent in the judicial branch to 89.4 percent in the corrections cabinet. Table X lists the State offices in which the average 1986 salary for women was at least \$10,000 less than that of the average salary for men.

ENFORCEMENT OF THE STATE AFFIRMATIVE ACTION PLAN

Thomas Greenwell, commissioner of the Kentucky Department of Personnel, is the chief enforcer of affirmative action plans in State government. He said that prior to the enactment of Senate Bill 168 in 1988, affirmative action in the public work force was largely voluntary. Until 1988, affirmative action constituted a formal policy only in the department of personnel, though Federal programs administered by the State required the adherence to guarantees and guidelines to provide for equal opportunity. The action of the State general assembly in 1988 placed responsibility for enforcing the law with the department of personnel and the Kentucky Personnel Board.

Mr. Greenwell explained that, though affirmative action had been law in Kentucky for almost a year, the timetable of the plan had only been in effect for three months. He felt that despite the short time since the plan took effect, it could be said that the plan was both comprehensive and effective, made so by the commitment of the Governor and general assembly to it and by its specific goals and timetable. The plan, he said, has virtually adopted the eight EEO occupational categories utilized by the Equal Employment Opportunity Commission (EEOC), and all 1,450 job classifications in Kentucky State government have been coded accordingly. The 13 governmental cabinets of the State are required to design and implement affirmative action plans which comply with State and Federal law with regard to recruiting, hiring, training, and promotion practices. The

responsibility for these practices, he said, lies with the 13 cabinet secretaries and their staffs.

Mr. Greenwell reported that parity for the employment of nonwhite minorities, and the plan's goal of 7.4 percent minority employees, had been achieved and exceeded. He said parity for the employment of women at 52 percent of the statewide work force had yet to be achieved and was presently 47.3 percent. He said that the 13 cabinets are largely in compliance with the State plan, having issued the required policy statements, made utilization reports to the department of personnel, and designated EEO coordinators and counselors. However, 10 of the 13 cabinets have not forwarded their plans to him as the State plan requires and he used the occasion of the forum to call those 10 cabinets to comply with the law and to direct them to submit their plans by April 1, 1989.

Mr. Greenwell said that the accountability process called for a report every six months from the State EEO coordinator in the department of personnel on the affirmative action record of each cabinet. Upon review and approval this is shared with the Governor. He said this report contains the current breakdown of all employees by race and sex, a statement on compliance with goals and timetables, and the number of women and minorities required for recruitment or promotion in order to be in compliance. He reported that there are 28,000 qualified applicants on job bank registers with Kentucky State government, and enough minorities within the work force to reach affirmative action goals in all categories.

Mr. Greenwell provided statistics showing that 52 percent of the 2,394 new State employees hired during fiscal year 1988 were women and 12 percent minorities. During the same period 4,196 incumbent employees were promoted, 52 percent of them women and 7 percent minorities. The greatest need, he said, is for training and educating incumbent minority workers for

jobs in the middle and upper EEO categories.

He reported that in 1988 supervisors, managers, and policymakers from State and local governments were familiarized with the State affirmative action plan. During the year, he said, the State EEO office within the department of personnel was restructured to elevate the State EEO coordinator to the commissioner's office, reporting directly to him. Deputy Commissioner of Personnel Raoul Cunningham was named to the position and a total staff of three persons work in the area of affirmative action and equal employment opportunity. Mr. Greenwell said that in connection with this restructuring he had appointed a citizen's advisory committee including the 13 cabinet EEO coordinators and representatives of hearing-, vision- and mobility-impaired State workers. He also reported that the employee grievance process, which accommodates EEO complaints, has been merged with the employee assistance program.

Mr. Greenwell said agency heads are given responsibility for identifying and correcting problems and barriers in the achievement of goals and timetables. Corrective action is triggered by any one of five characteristics with regard to target groups: underutilization, retarded vertical or lateral movement, elimination in the selection process, decreased participation in workshops and training events, and evidence of nonadherence to agency policy by managers and supervisors.

He said that a formalized system for resolving grievances and EEO complaints has been provided which brings the aggrieved employee and the immediate supervisor, and in some cases the appointed authority as well, face-to-face. If there is no resolution at this level appeal can be made to the Kentucky Personnel Board, which has authority to render a binding decision resolving the grievance.

Arthur Hatterick stated that the personnel board, of which he is the director, is an independent body designed primarily to hear employee appeals and complaints covered by the State merit system, chapter 18. The board, he said, has a large backlog of appeals and is almost a year behind in scheduling cases. He considered this to be unacceptable but the best that could be done with the present budget appropriation. He reported that, despite the limitations of funds, during the past fiscal year 300 appeals were heard and final orders issued on 500 cases. Six hundred appeals were filed during that year.

These appeals, he said, are all addressed on a first-come, first-served basis, which sometimes generates problems for complainants or for their witnesses because of the timing. He reported that about 10 percent of the appeals filed involve allegations of discrimination, and about half of those relate to race, sex, or age. Many of these involve charges of discriminatory disciplinary action or discrimination in promotion practices.

Mr. Hatterick was hopeful that the formalized procedure referred to above by Mr. Greenwell, which would resolve grievances and EEO complaints at lower levels, would solve a lot of problems for the personnel board by diminishing the number of adversarial confrontations and reducing the number of appeals.

Mr. Hatterick said that the jurisdiction of his board extends to the hiring process and job applicants, and that complainants can file complaints directly with the board, rather than waiting to appeal a decision made at a lower level. He said the board has authority to direct agencies to comply with remedies it prescribes. He went on to explain that either party can appeal decisions of the board to the circuit court within 30 days and, upon winning an appeal before the court, attorney fees may be

Mr. Hatterick reported that there are seven members on the board. Five members are appointed by the Governor, of which three are currently white males and two white females, and two are merit employees elected by the employees themselves. One of these is a white male and one a black male. The current appointed members are professional managers or attorneys and one is a former city mayor. The elected merit employees both have a background of personnel experience.

Mr. Hatterick explained that State employees can file a complaint, with either the personnel board or the KHRC. Filing with the board must be done within 30 days of the alleged action, or with the KHRC within 180 days. The board can enforce its own remedies, but the KHRC must rely on the court to do so.

THE PERSPECTIVE OF EMPLOYEE ORGANIZATIONS

Karla Walker, president of Blacks in Government (BIG), stated that her organization functions as an employee support and advocacy group for equal opportunity, and provides resources and information for black government employees. Ms. Walker stated that the effectiveness of the State's current affirmative action plan cannot be assessed at this point because it has not been fully implemented or enforced. Some agencies, she said, have attempted to meet Federal requirements but none have fully or adequately participated in the State's plan. She believed that if the plan is not enforced most agencies would do only a bare minimum. BIG has observed that, based upon information provided by the KHRC and comments by employees, no progress has been made in nondiscrimination for minorities. Specifically, she alleged that there is lack of opportunity for training, unequal treatment on the job, lack of opportunity for promotion or career development, and disproportionate disciplinary action for blacks.

Ms. Walker said that it should be thoroughly understood that the number of minorities and women hired is not the only determinant in assuring equal opportunity. She charged that no definite steps have been taken to promote minorities and women to upper levels, that blacks are disproportionately found in the lower salary positions, and that few are able to obtain upgrades to higher level positions for which they qualify. She also said that the discipline of black employees at a substantially higher rate than other employees had been reported to the EEOC, the KHRC and the personnel board, but no improvement has occurred. Legal action has not been pursued by black employees, she said, because of the inability to recover legal fees (Mr. Hatterick reported above that State law now allows court awards of attorney fees), and the personnel board provides no legal help for employees when complaints are brought to it.

Ms. Walker listed what she believed to be several problems and barriers in achieving the plan's goals: a lack of commitment by the government extending down through agency heads and department managers, a lack of funding and staff for State EEO programs, a lack of enforcement, a lack of training for employees regarding civil rights laws, and a lack of education in the area of civil rights in the Kentucky educational system. She said that because there was no enforcement there was a lack of adherence to goals and timetables, and lack of confidence in the effectiveness of the EEO system.

There is also, she said, a lack of knowledge and confidence in the complaint procedure which, because it has no legal standing, is inoperable. In her opinion the procedure depended upon good faith and commitment on the part of managers and was designed to frustrate or dissuade individuals from

filing complaints. She said that many employees, including management, are unaware that the EEO complaint procedure exists.

She asserted further that agencies are not trained with regard to the affirmative action plan, are not made to take responsibility for implementing the plan, and fear political retaliation if they set the pace for compliance.

Ms. Walker offered the following as specific recommendations for ending disparities or discrimination in State employment:

1. Staff, funds and implement needed civil rights and affirmative action programs.
2. Create an EEO compliance and enforcement office that reports directly to the Commissioner of Personnel with the required authority. (According to Commissioner Greenwell, such an office has been created.)
3. Identify and enforce goals and timetables according to the affirmative action plan.
4. Encourage Federal agencies to fulfill their responsibility to monitor and require compliance by State agencies.
5. Provide for the recovery of legal fees for those who successfully pursue civil rights claims before the Kentucky Personnel Board.
6. Provide sanctions against those who violate civil rights laws.

Ms. Walker felt that, although on paper Kentucky has an affirmative action plan, realistic implementation is improbable because of lack of enforcement. She said that her organization had not requested an opportunity to discuss its recommendations with the commissioner of personnel or his deputy but would be open to the opportunity to do so. In response to questions from Advisory Committee members she said that, to her knowledge, there were no black members on the citizen's affirmative action advisory committee.

Charlesmarie Maxberry, president of the Women in State Government Network, explained that her organization provides programs and activities designed to enhance the professional growth of women. With regard to employment in State government she said women experience discrimination beginning with the interview process where, for example, questions were asked about their plans for having children. Women and minorities, she said, are anxious to compete for jobs but some vacancies are never advertised. She reported that a survey of State employed women taken by her organization found that 80 percent of them felt that there were not adequate promotional opportunities in their agencies. Others who were classified as administrators said they were never given supervisory responsibility or allowed to participate in making decisions. She said that women do not file grievances because they feel intimidated and are afraid they will be labeled as troublemakers, especially when the problem involves their immediate supervisors.

Ms. Maxberry said that representatives from the Women in State Government Network had discussed their concerns with the commissioner of personnel and that he had explained the State guidelines under which he is working. She reported that he was receptive to their concerns and offered to continue communication with them.

George Parsons, president of the Kentucky Association of State Employees, stated that the State affirmative action plan has not been implemented, and that despite statements of commitment to equal opportunity, little effort has been made to recruit, hire, or promote minorities, women, and handicapped individuals to management positions. Few employees have seen the plan and few agencies have fully complied with it. He saw no clear policy or direction from the State's executive

staff to assure progress in nondiscrimination, and he charged that there was a lack of commitment, leadership, funds and staff to implement an effective effort in this direction.

Mr. Parsons listed three avenues open to State employees to pursue civil rights concerns: the Kentucky Personnel Board, the Federal EEOC, and the Kentucky Human Rights Commission. Each of these, he said, has serious drawbacks: the State personnel board is not staffed to investigate and monitor civil rights violations and does not provide for the recovery of legal fees by successful complainants, the EEOC cannot enforce a finding of discrimination against State agencies, and the KHRC is a State agency, and many women and minorities are reluctant to pursue complaints against the State with it.

Mr. Parsons suggested that the Governor and all executive officials be advised to implement the law, that all agencies be petitioned to carry out their enforcement and compliance responsibilities, that the reason for the unusually high number of disciplinary activities involving minorities be investigated and the problem remedied, and that all employees be given equal opportunity to achieve promotions and salary increases. He also suggested that jurisdiction of the KHRC be extended to include handicapping condition, though the commission has opposed this proposal because of the extra cost involved.

THE PERSPECTIVE OF COMMUNITY ORGANIZATIONS

William Coefield, president of the Kentucky NAACP, provided a comparative review of minority employment by the State of Kentucky in 1983 and 1988. He said that in 1983 there were four agencies which employed no minorities, and that there were no minority cabinet heads. Sixteen

agencies employed from 1 to 7 percent minorities, and nine agencies had more than 7 percent minority employees. In 1988 two agencies had no minority employees and a minority headed one cabinet. Twenty-two agencies had from 1 to 7 percent minority employees, and 10 agencies employed more than 7 percent minorities. In 1983, 6.8 percent of the State government work force was minority, and in 1988 it was 7.8 percent.

Mr. Coefield pointed out that the goal of the affirmative action plan for State government minority employment to achieve parity with the State work force had been achieved, and the proportion of minority employment had increased 1 percent since 1983. He believed that the State affirmative action plan had made a difference in achieving these gains and in the decrease in the number of agencies employing no minorities.

Mr. Coefield also provided comparative statistics of minority employees by job categories for those two years which showed that most minorities continue to be employed in the lower paying positions:

	<u>1983</u>	<u>1988</u>
Officials and Administrators	2.9%	3.0%
Professionals	4.7	5.2
Technicians	5.7	5.8
Protective Services	6.6	5.7
Paraprofessionals	13.4	12.6
Office and Clerical	8.1	7.3
Skilled Craft	4.1	6.2
Service and Maintenance	19.4	16.75

He pointed out that though the State affirmative action plan requires State agencies to develop action plans specifying how goals are to be attained, it does not specify sanctions for agencies that do not make good faith efforts to comply. He felt that without such an enforcement mechanism any gains made were tenuous.

Mr. Coefield said that employees have several avenues for filing complaints of discrimination. These are the State grievance and EEO

complaint process, the Kentucky Personnel Board, the KHRC and the EEOC. The latter three agencies, he said, are administrative bodies whose processes take a year or so, and the remedial avenues when State government agencies are not demonstrably reliable or effective.

Mr. Coefield suggested: (1) the State should devise, implement, and monitor a career advancement program to enhance the pool of qualified minorities; (2) a State EEO coordinator with strong experience in affirmative action and EEO should monitor the progress of each department toward goal achievement, assist with recruitment efforts, maintain current statistics, and make recommendations for correcting deficiencies (Personnel Commissioner Greenwell announced that this position, which had been vacant, was now filled.); (3) sanctions should be explored for agencies in noncompliance with the affirmative action plan; and (4) commitment to achieving results should start with the top officials and filter throughout the work force. Mr. Coefield said that, in the past, agency leaders have been responsive to suggestions from the NAACP.

Dr. Betty Sue Griffin, a representative from the National Council of Negro Women (NCNW), stated that there is a serious problem with State employment practices for minorities and women in Kentucky, and referred to statistics furnished by the KHRC which indicated lower average salaries for black employees than for those who are white. She reported that the NCNW attempted to rectify some of the problems by providing workshops to develop leadership skills and to provide employment information.

A LAWSUIT AND ITS AFTERMATH

Daniel Goldberg, directing attorney for the Appalachian Research and Defense Fund of Kentucky, Inc. (APPALRED), reviewed the particulars of a Federal court case in which Ms. Jo Ann Bowie had alleged that she was

denied advancement to a permanent position in the department of parks because of her race. Statistics presented to the court showed that the department employed 64 blacks (2.10 percent) in a total work force of 2,931 at the peak of the summer season in 1980. From 1978 to 1980, a three-year period, 269 full-time appointments were made, of which five, or less than one percent, were black. There were no blacks employed among officials in the 106 higher level positions who earned \$16,000 or more. At the initiative of the commissioner of parks and the department's attorney, a consent decree signed in 1987 had four key elements: an overall hiring percentage goal of 7.2 percent, a recruitment plan for disseminating job vacancy information with emphasis on minority recruitment sources, additional recordkeeping to maintain a list of black applicants, and a requirement that the plaintiff's attorney be notified of reasons why any black applicant within the top five names on the eligibility register is not hired.

Mr. Goldberg said that the message this case holds is that agencies must "clean up their acts" or expect action in Federal court. He said, however, that progress has been made in this case, not because the court compelled it, but because the responsible officials wanted to make it happen and were willing to do so. Despite initial contentions that blacks were not available for employment in the rural counties where parks are located, in the 1988 summer season the department placed 149 blacks out of 1,053 new hires, raising its seasonal work force to 14 percent black in a single effort. And despite a much slower rate in permanent job categories, black employment went from two percent to five percent in a little over a year. Mr. Goldberg felt that this is an example of what can be done if appointing authorities cease paying lip service to affirmative action and do what is in the public's interest because it is the right thing to do.

Mr. Goldberg indicated that funds for legal services to handle the complaints of poor people, who tend to need help the most in discrimination cases, are scarce. He said only half the number of attorneys needed to provide minimum access to the courts for poor people are available through his office.

Henry J. Curtis, attorney chief for the department of parks, said that the consent decree under which the department now operates resulted from negotiations started because of potentially huge attorney fees and the possibility of a Federal magistrate dictating personnel actions to the department. Implementation of the resulting consent decree has utilized recruiting, testing, and certification assistance from the departments of personnel and employment services. The consent decree, he said, is a simple, streamlined document requiring good faith efforts, with an extended recordkeeping system for use in reporting annually to the plaintiff's attorneys.

Mr. Curtis feels that an important feature of the consent decree is the communitywide effort involved in recruiting minorities. Assistance is provided by such entities as the Job Corps centers, the NAACP branch chapters, the Urban League agencies, vocational schools, and the six major State universities. This network is believed to be at the heart of the success which they have achieved. He reported that the department of parks is on schedule in terms of implementing affirmative action, and that for the first time the department has two black managers who have turned out to be super administrators. He was not certain, however, that the good faith effort involved would work as a voluntary measure by other agencies that are not under pressure by the Federal district court.

THE PERSPECTIVE OF STATE AGENCIES

Daniel F. Egbers, an attorney for the cabinet for human resources, said that over the years disparities have been found in hiring, promotions, salaries, and discipline practices, but that he has never had cause to admit that a complaint of discrimination against a supervisor or institution was well-founded. He said, however, that in several instances where allegations of racial and sexual discrimination were brought to his attention, disciplinary action was taken against supervisors for fostering hostile racial or sexual atmospheres in the workplace. It is the practice of the department, he said, to encourage employees to file legitimate grievances and to take prompt corrective action where evidence of discriminatory conduct is found.

Mr. Egbers stated that in his practice before the State personnel board the large backlog of cases was extremely frustrating to him, and that it had been recommended to the board that hearings be structured to hear cases first in which individuals have been removed from the payroll, rather than on a first-come, first-serve basis. He felt that frivolous civil rights complaints, of the use of minority status as an excuse for poor work performance or misconduct, was antithetical to the civil rights movement and only served to demean valid complaints. When reviewing a request to take disciplinary action, Mr. Egbers said, the practice has been to make no inquiry as to the race of the employee involved unless race itself was the issue.

It was his observation that due to their heavy workload, investigators for the KHRC may turn a jaundiced eye to some of the complaints or appeals they are asked to investigate because of their frivolous nature. He said that the personnel board, however, was required by statute to hear any

Mr. Egbers said that, though there are State job classifications in which minorities are underutilized, his department has opposed regulations that would limit consideration of outside applicants for vacancies as this would inhibit opportunities for recruitment of qualified minority applicants and institutionalize the inequity. He also said that he did not wish to suggest that the cabinet for human resources has been successful in meeting all of the affirmative action goals established by the Governor's plan, but that recent information indicated that minorities are underutilized in only one category, officials and administrators, and that women are underutilized in three categories, officials and administrators, protective service workers, and skilled craft workers. Mr. Egbers observed that most minorities employed by the cabinet are at the lower end of the pay scale and that the options available for correcting salary structure are rather limited. Supervisors are required to justify their actions if they do not elect to interview a minority candidate when there is a job opportunity at a higher classification.

Jack O'Nan, personnel branch manager for the natural resources and environmental protection cabinet, stated that his cabinet has a low percentage of minority employees compared to the rest of State government. He said that one of the biggest problems in trying to recruit minorities was the technical orientation of the cabinet in which seven percent of the positions require bachelor degrees, and they do not receive minority applicants as they had hoped. Furthermore, he said, 600 of the cabinet's 1,200 employees are located in small rural areas where it is difficult to recruit. Low salaries, he said, are another obstacle to recruitment. He felt, however, that progress was being made in hiring minorities and women, with a slight increase shown during 1988 for employment in both categories.

Mr. O'Nan reported that his cabinet has developed an affirmative action plan as required by the State plan and that they would like to see the personnel department work actively in helping them to meet the goals and timetables. In this regard, he would like to see full-time involvement by Commissioner Greenwell's office with all agencies.

Louis Mathias, attorney for the department of State police, sought to make it clear that his department is committed to affirmative action and has an affirmative action plan. EEO coordinators have been appointed at both the cabinet and department levels as well as an employee assistant counselor to assist employees with problems in the work force. With the assistance of the personnel department, the affirmative action plan and the tests and selection mechanisms are being reviewed to ensure equality. Currently, of the 890 sworn officers, 40 are minorities and 13 are women. A training class of 50 beginning in July will have 10 minorities and women. Among the 709 civilian employees, 20 are minorities, two of whom are supervisors, and 321 are women.

Mr. Mathias said that, despite an intensive recruitment process, a large number of applicants are lost to better paying jobs in the Louisville and Lexington Police Departments. He said also that it is difficult to get employees to take the test required for promotion, for a promotion would mean a transfer to another area for a rather small salary increment. Plans are in the works to raise the level of supervisory pay to increase the incentives for promotion.

Phyllis Alexander, executive director of the Kentucky Commission on Women, expressed her belief that the situation with regard to the hiring of women in State government has improved and the gap between the salaries of men and women is narrowing. Still, she said, it appears that, though some inroads are being made by women, traditionally male jobs go to men.

THE PERSPECTIVE OF ENFORCEMENT AGENCIES

Angela Koshewa, assistant compliance director for the Kentucky Human Rights Commission, said that though the State affirmative action plan does not directly involve the Commission in either an advisory or a monitoring capacity, through the years it has issued 13 reports on the status of blacks in State government and 8 reports on the status of women in State government. She was pleased with movement in decreasing the salary gaps between whites and blacks and increasing the number of black employees in State government. She said, however, that the overall picture masks problems in some cabinets which are not doing so well. She reported that in 1989 blacks earned 77.7 percent of the average white salary, compared with 76.8 percent in 1985. The percentage of blacks in State government remained unchanged from 1985-1987 at 7.3 percent, though blacks earn only 5.7 percent of the total State payroll, demonstrating that most of them are concentrated in low-paying jobs.

Ms. Koshewa cited the labor, commerce, corrections, and tourism cabinets as leading the way in narrowing the salary gap, while the finance and administration departments and the cabinet for natural resources and environmental protection have the greatest salary gap for white and black employees. She said that half of the State cabinets had black employment rates under 4 percent in 1987. The energy cabinet had no black employees, the cabinet for Natural Resources had 1.2 percent and the revenue cabinet had 2.5 percent. She reported also that the human resources cabinet was the leader in black employment with 11.9 percent blacks, and that the transportation cabinet had gone from the agency employing the lowest proportion of blacks in 1975 to the second best in 1987.

Ms. Koshewa said that the KHRC's main concern with the State affirmative action plan is that its statewide goal of over seven percent black employment allowed a proportion much lower than in some specific areas of the State. She showed that in Franklin County, where many State offices are located, the percentage of blacks employed is 5.4 percent, though the available work force is 7.5 percent. In contrast she said that in Jefferson County 21 percent of State employees are black, whereas the county labor force is 14.5 percent.

With regard to women in State government, Ms. Koshewa said that the gap between their salaries and men had narrowed only slightly between 1984 and 1986, the last reporting period. This reduction was helped by the addition of 2,100 women to professional jobs during that period. Very much of a concern, she said, was the lower salaries black females earn compared to white females, though that gap, too, is narrowing somewhat.

Another major concern, she said, is that more than one-third of all State job classes employ no women. She suggested that to improve that situation the State affirmative action plan should be revised to include some specific goals for recruiting and educating of existing employees, encouraging women to train for movement into different job grades and classifications that are traditionally male areas.

Ms. Koshewa commended those departments, like the parks department, that have made positive steps toward increasing the employment of blacks and narrowing the salary gaps, and encouraged the rest to do likewise. Overall she felt the outlook was good and that disparities among State agencies in the employment levels of minorities and women were due in part to differences in the individual efforts by the departments. She believed that the affirmative action plan itself is good but only as good as the

efforts of people who are implementing it. She said the actual number of complaints of discrimination received from State employees each year was low, approximately eight last year, which is, in part, a tribute to the internal grievance process.

Paul Gholston, Area Director for the EEOC, provided employment statistics for State and local governments showing that for the fiscal year ending September 1986 there were approximately 66,000 employees, of which 54 percent were white males, 5 percent black males, 36 percent white females and 3.7 percent black females. The median salary for all employees was \$15,676, whereas for black employees it was \$13,546. Women represented only 12 percent of persons employed in the top pay grade, and 53 percent of the black employees were assigned to the lowest three pay grades.

Mr. Gholston said that the number of employment discrimination complaints filed against the State with his agency in which the State was found to be at fault is privileged information and could not be disclosed. He said also that though the EEOC is available to provide technical advice in implementation of the State affirmative action plan, it has no official role in reviewing its implementation.

SUMMARY

Participants in the Kentucky Advisory Committee's March 14, 1989, forum were invited to provide information on the implementation of the State affirmative action plan and on issues related to equal employment opportunity for minorities and women in State government. The plan, which was incorporated into State law and includes provision for goals and timetables, was felt by most participants to be a good one with a resulting steady increase in the number of minorities and women employed. It was pointed out that the plan's goal of 7.4 percent minority employment has

been achieved and exceeded, and that the salary gap between black and white employees, and between women and men, was decreasing, albeit slowly in some agencies. The department of parks was commended as an agency which, operating under a consent decree in Federal court, has made remarkable progress in the hiring of minorities at a variety of job levels through the utilization of an extensive community recruitment network.

During the forum concern was expressed by a number of the participants on a variety of issues that included a lack of full compliance with the plan by some agencies and the lack of provisions in the plan for sanctions against agencies that do not make a good faith effort to comply, unevenness in the records hiring of minorities and women among State agencies, disparities in the average salaries earned by men and women in State employment and between those earned by minority men and white men, the low proportion of women and minorities employed in the higher job classifications in most agencies, and the large backlog of complaint appeals before the Kentucky Personnel Board.

This summary report does not purport to be an exhaustive review of issues related to the employment of minorities and women by State government. It does identify and provide information on concerns that the Advisory Committee may decide merit further investigation.

Table I
Number and Percent of Black Full-Time Employment
in Kentucky State Government
1967-1987

	Nov. 1967	Nov. 1971	Nov. 1975	Nov. 1977	Nov. 1979	Nov. 1981	Nov. 1983	Nov. 1985	Nov. 1987
Total Full-time Employees	26,708	31,263	34,924	35,328	40,927	35,832	34,715	36,446	37,504
Black Full-time Employees	1,408	1,540	2,023	2,125	2,707	2,567	2,520	2,667	2,751
Absolute Change in Black Employment	-	+132	+483	+102	+582	-140	-47	+85	+84
Percent Black Employment	5.3	4.9	5.8	6.0	6.6	7.2	7.3	7.3	7.3
Change in Black Share of Employment	-	-0.4%	+0.9%	+0.2%	+0.6%	+0.6%	+0.1%	-	-

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, page 5.

TABLE II

Number and Percent of Black and White
State Employees by Cabinet
November 1987

Cabinet	White	White	Black	Black	Total Black	1987	1985
	Male	Female	Male	Female		Percent Black	Percent Black
Legislative Research Commission	90	125	3	3	6	2.7	1.9
Judicial Branch	560	1,449	23	63	86	4.1	4.3
Revenue Cabinet	396	551	9	15	24	2.3	3.4
General Government	877	796	37	59	96	5.4	5.3
Justice Cabinet	1,274	366	41	18	59	3.5	3.3
Education and Humanities Cabinet	1,781	2,077	57	97	154	3.8	3.6
Cabinet for Natural Resources and Environmental Protection	884	396	6	10	16	1.2	1.0
Transportation Cabinet	5,196	1,147	451	123	574	8.3	7.7
Commerce Cabinet	62	62	6	4	10	7.5	4.8
Cabinet for Public Protection and Regulation	556	330	15	15	30	3.3	3.5
Cabinet for Human Resources	2,851	7,205	390	974	1,337	11.9	12.4
Finance and Administration Cabinet	691	547	40	46	86	6.5	7.5
Energy Cabinet	20	19	-	-	-	-	2.2
Corrections Cabinet	1,355	618	108	63	171	8.0	7.1
Tourism Cabinet	1,255	938	34	29	63	2.8	3.1
Labor Cabinet	141	205	6	9	15	4.2	4.1

TABLE III

Distribution of Black Employees
in Ten Service Groupings
November 1987

Code Range	Service Grouping	Total Black	Total Employees	Percent Black
0100-0999	Unclassified Service	43	1,081	4.0
1001-1735	Labor, Trades, Housekeeping and Food Service	557	6,196	9.0
2001-2492	Police and Public Safety Service	167	3,176	5.3
3001-3839	Inspection and Examination Service	41	1,488	2.8
4001-4559	Health Service	522	2,694	19.4
5003-5379	Education Service	52	2,006	2.5
6101-6401	Manpower Resources and Social Worker Services	445	5,226	8.5
7001-7238	Engineering and Scientific Group	76	1,145	6.6
8001-8335	Research, Economic Development and Tourism	20	362	5.5
9001-9854	Administrative Services	648	11,176	5.8

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 35.

TABLE IV

Average Annual Salaries for Black and White
State Employees, 1967-1987

Average Annual Salary	1967	1971	1975	1977	1979	1981	1983	1985	1987
White	5,532	6,995	8,580	10,236	12,198	13,289	17,718	18,579	19,956
Black	<u>3,564</u>	<u>5,010</u>	<u>6,924</u>	<u>8,124</u>	<u>9,509</u>	<u>11,935</u>	<u>13,411</u>	<u>14,253</u>	<u>15,501</u>
Black Salary Gap	1,968	1,985	1,656	2,112	2,689	3,354	4,307	4,316	4,455
Black Salary as a Percent of White Salary	64.4	71.6	80.7	79.4	78.0	78.1	75.7	76.8	77.7

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 3.

TABLE V

Average Annual Salaries for Black and White
State Employees by Cabinet
November 1987

Cabinet	White Salary	Black Salary	1987 Salary Gap	Black Salary as a % of White Salary	1985 Salary Gap
Legislative Research Commission	29,640	27,096	2,544	91.4	3,422
Judicial Branch	21,116	16,717	4,399	79.2	5,107
Revenue Cabinet	19,160	15,443	3,717	80.6	3,834
General Government	22,964	20,047	2,917	87.3	2,885
Justice Cabinet	22,680	18,032	4,648	79.5	4,063
Education and Humanities Cabinet	23,507	18,549	4,958	78.9	4,623
Cabinet for Natural Resources and Environmental Protection	22,478	17,142	5,336	76.3	5,502
Transportation Cabinet	18,226	13,071	5,155	71.7	4,958
Commerce Cabinet	27,389	27,536	-147	100.5	2,245
Cabinet for Public Protection and Regulation	25,491	21,214	4,277	83.2	4,802
Cabinet for Human Resources	18,862	15,123	3,739	80.2	3,443
Finance and Administration Cabinet	22,666	17,088	5,578	75.3	4,099
Energy Cabinet	32,555	--	--	--	3,894
Corrections Cabinet	18,481	18,177	304	98.3	-66
Tourism Cabinet	14,206	12,875	1,331	90.6	2,037
Labor Cabinet	21,868	22,814	-946	104.3	1,278

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 11.

TABLE VI

Number and Percent of Full-time Female Employment
in Kentucky State Government
July 1965 - November 1986

	July 1965	Nov. 1971	Dec. 1974	Nov. 1976	Nov. 1978	Nov. 1979	Nov. 1980	Nov. 1982	Nov. 1984	Nov. 1986
Total Full-time State Employees	24,280	31,286	32,231	34,615	38,703	40,927	37,938	35,179	33,311	37,353
Female Full-time State Employees	8,024	11,480	13,032	14,419	17,521	18,989	17,879	16,708	15,225	18,015
Absolute Change in Female Employment	NA	+1,439	+1,552	+1,387	+3,102	+1,468	-1,110	-1,171	-1,483	+2,790
Female Share of Total State Government	33.08	36.72	40.43	41.72	45.38	46.42	47.18	47.52	45.72	48.22
Change of Female Share of Total Employment	NA	+0.92	+2.08	+1.38	+2.62	+1.18	+0.78	+0.42	-1.82	+2.82

TABLE VII
Numerical and Percentage Distribution of Male and Female Employees
by Cabinet
November 1982, 1984, 1986

Department	1982		1984		1986		1986	
	1982 Female	Percent Female	1984 Female	Percent Female	1986 Male	1986 Female	1986 Total	1986 Percent Female
Legislative Research Commission	113	56.8	116	56.3	93	126	219	57.5
Judicial Branch	1,427	72.7	1,425	72.7	537	1,464	2,001	73.2
Revenue Cabinet	457	56.7	509	56.3	397	557	954	58.4
General Government	581	51.6	677	48.5	910	879	1,789	49.1
Justice Cabinet	497	24.9	350	20.9	1,355	369	1,724	21.4
Education and Humanities Cabinet	1,964	51.0	1,962	52.1	1,827	2,095	3,922	53.4
Cabinet for Natural Resources and Environmental Protection	341	30.5	344	30.9	865	394	1,259	31.3
Transportation Cabinet	1,007	15.1	1,173	17.0	5,939	1,230	7,169	17.2
Commerce Cabinet	1,246	44.3	156	37.7	67	67	134	50.0
Cabinet for Public Protection and Regulation	500	43.1	315	37.0	551	323	874	37.0
Cabinet for Human Resources	7,402	71.5	7,226	71.0	3,173	7,955	11,128	71.5
Finance and Administration Cabinet	582	42.7	566	42.8	783	582	1,365	42.6
Energy Cabinet	22	39.3	18	41.9	21	20	41	48.8
Corrections Cabinet	569	32.9	600	31.2	1,399	639	2,038	31.4
Tourism Cabinet			957	44.5	1,274	1,096	2,370	46.2
Labor Cabinet	218	56.0	211	58.1	147	219	366	55.8

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 18.

TABLE VIII

**Average Annual Salaries For Male and Female
State Employees, 1972-1986**

Average Annual Salary	1972	1974	1976	1978	1980	1982	1984	1986
Male Employees	8,224	8,550	10,200	12,251	14,937	17,962	19,992	20,733
Female Employees	<u>5,856</u>	<u>7,092</u>	<u>8,364</u>	<u>9,316</u>	<u>11,471</u>	<u>13,874</u>	<u>15,891</u>	<u>16,964</u>
Female Salary Gap	2,368	1,458	1,836	2,935	3,466	4,114	4,101	3,769
Female Percentage of Male Salary	71.2	82.9	82.0	76.0	76.8	77.1	79.5	81.8

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 3.

TABLE IX

Difference in Average Annual Salaries for Male and Female State Employees by Cabinet
November 1984 and November 1986

Department	1986 Average Male Salary	1986 Average Female Salary	1986 Salary Gap	1986 Female Salary as % of Male Salary +/-	1984 Salary Gap
Legislative Research Commission	31,261	25,342	5,919	81.1	6,040
Judicial Branch	34,469	14,791	19,678	42.9	18,562
Revenue Cabinet	23,273	15,221	8,052	65.4	8,025
General Government	24,842	19,202	5,640	77.3	7,271
Justice Cabinet	23,120	16,050	7,070	69.4	7,785
Education and Humanities Cabinet	24,628	20,229	4,399	82.1	4,565
Cabinet for Natural Resources and Environmental Protection	22,935	17,996	4,937	78.5	5,333
Transportation Cabinet	17,301	15,387	1,914	88.9	2,606
Commerce Cabinet	29,608	23,193	6,415	78.3	2,485
Cabinet for Public Protection and Regulation	28,562	18,508	10,054	64.8	9,975
Cabinet for Human Resources	20,177	16,966	3,209	84.1	3,134
Finance and Administration Cabinet	22,520	18,007	4,513	80.0	4,771
Energy Cabinet	34,382	25,416	8,966	73.9	10,434
Corrections Cabinet	18,649	16,670	1,979	89.4	2,270
Tourism Cabinet	14,633	11,185	3,444	76.5	3,445
Labor Cabinet	26,703	17,910	8,793	67.1	7,935

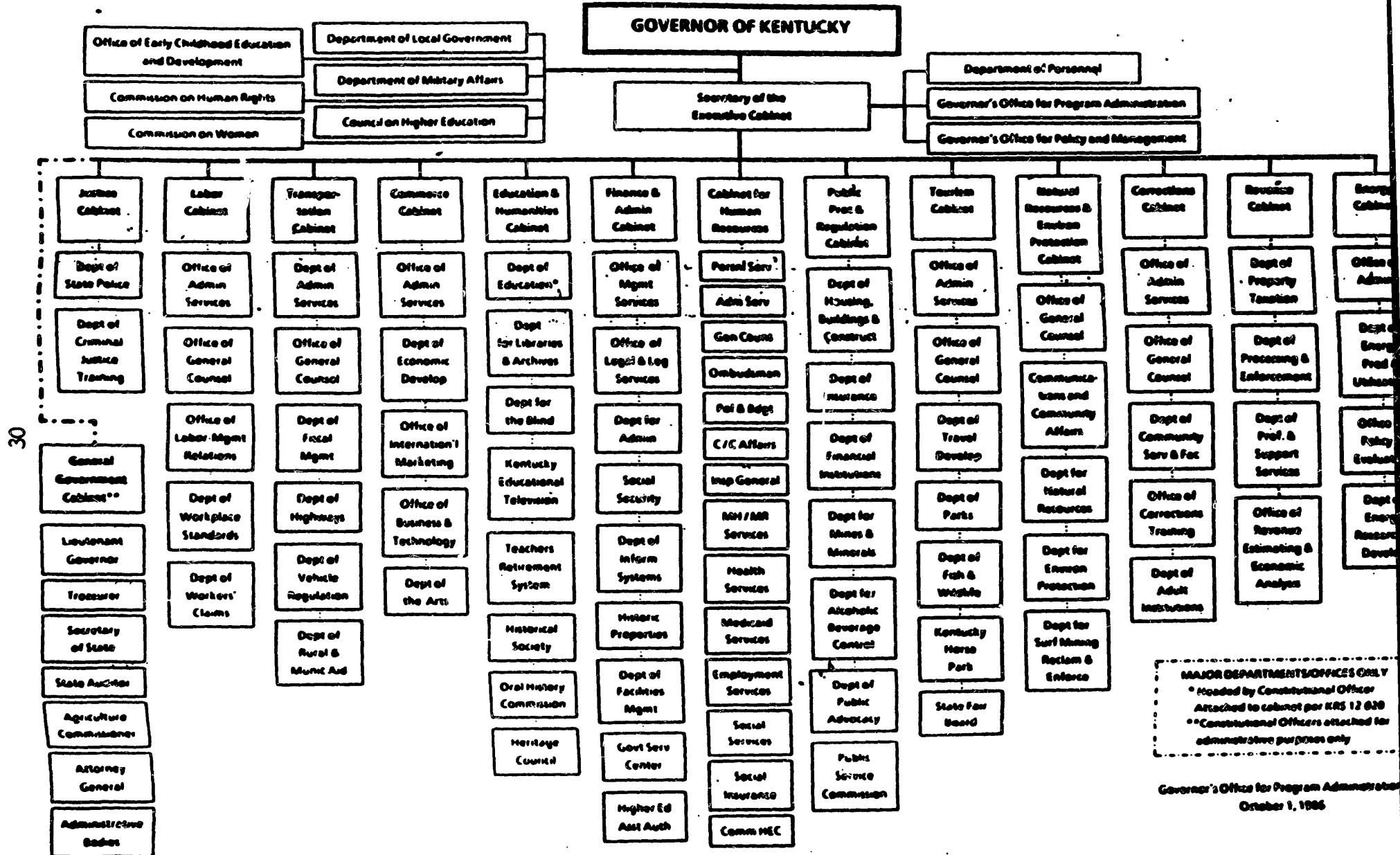
SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 11.

TABLE X
State Agencies With Salary Gaps Over \$10,000
November 1986

Department	Average Male Salary	Average Female Salary	Salary Gap	Female Salary as % of Male Salary
Administrative Office of the Courts	34,513	14,777	19,736	42.8
Revenue Office of the Secretary	62,536	36,486	26,050	58.3
Department of Professional and Support Services	27,888	17,375	10,513	62.3
Council on Higher Education	44,052	25,686	18,376	58.3
Department of Personnel	32,160	19,467	12,693	60.5
Kentucky Retirement Systems	26,749	15,542	13,207	54.1
Office of the Governor	40,263	27,005	13,258	67.1
Office of the Lieutenant Governor	34,565	22,200	12,365	64.2
Office for Policy and Management	34,587	23,024	11,963	65.8
Personnel Board	38,450	19,872	18,578	51.7
Secretary of the Cabinet	62,536	27,146	35,390	43.4
Secretary of State	33,366	16,139	17,227	48.4
Unified Prosecutorial System:	26,759	16,360	10,399	61.1
Department of Criminal Justice Training	29,744	16,374	13,370	55.1
KRER Office of Communications and Community Affairs	29,564	17,580	11,984	59.5
Transportation Office of the Secretary	33,500	22,719	10,781	67.8
Transportation Office of General Counsel	37,195	21,981	15,214	59.1
Commerce Office of the Secretary	39,519	25,722	13,797	65.1
Kentucky Development Finance Authority	35,804	20,526	15,278	57.3
PP&R Office of the Secretary	57,740	38,566	19,172	66.6
Department of Insurance	28,462	17,212	11,270	60.4
Department for Mines and Minerals	35,776	14,856	20,920	41.5
Registry of Election Finance	28,772	16,237	10,535	63.4
Human Resources Office of the Secretary	51,711	20,736	30,975	40.1
Human Resources Office of General Counsel	32,976	20,611	12,367	62.5
Human Resources Office of Personnel Management	32,552	19,779	12,773	60.8
Commission for Handicapped Children	32,785	16,619	14,170	56.6
Finance Office of the Secretary	35,465	21,435	14,054	60.4
Office of Governmental Services Center	34,632	18,605	16,023	53.7
Office of Legal and Legislative Services	39,666	25,566	14,102	64.5
Office of Management Services	29,911	16,033	11,878	60.3
Energy Office of the Secretary	49,844	34,932	14,912	70.1
Energy Office of Policy and Evaluation	32,952	21,832	11,120	66.3
Department of Energy Productions and Utilization	33,746	21,989	11,757	65.2
Department of Energy Research and Development	46,314	25,272	21,042	54.6
Corrections Office of the Secretary	47,091	20,817	26,274	44.2
Office of Corrections Training	31,946	18,135	13,811	56.8
Parole Board	36,943	22,811	13,132	63.5
Department of Worker's Claims	26,723	16,500	10,223	61.7

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 14.

APPENDIX A



30