

NUTRITION SERVICES

FOR MINORITY ELDERLY;

CENSUS DATA AND HISPANIC

ELDERLY; AND STATE

GRANT-IN-AID PROGRAM

DELAWARE ADVISORY

COMMITTEE TO

THE U.S. COMMISSION

ON CIVIL RIGHTS

This summary report of the Delaware Advisory Committee to the U.S. 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 the individual participants in the community for whom the information was gathered.

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UNITED STATES
COMMISSION ON
CIVIL RIGHTS

Eastern Regional Division
1121 Vermont Avenue, N.W. Rm 710
Washington, D.C. 20425

LETTER OF TRANSMITTAL

Delaware Advisory Committee to the
U.S. Commission on Civil Rights

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The Delaware Advisory Committee held a community forum on July 9, 1987, to review nutrition services for the minority elderly under the jurisdiction of the Office of Civil Rights (OCR) of the U.S. Department of Health and Human Services; services to the Hispanic elderly and deficiencies in the data on Hispanics in Delaware; and the status of Delaware's Grant-in-Aid projects not under OCR's jurisdiction. This report summarizes the proceedings. Background work carried out by staff preparing for the forum was aimed at assuring a balanced perspective on issues by inviting participation from representatives of government and community organizations and from knowledgeable citizens with differing points of view.

The July 1987 forum actually followed up on a December 1985 forum which focused more specifically on Delaware's publicly funded nutrition services for the minority elderly. At the same time, the July 1987 forum introduced questions related to the adequacy of decennial counts made by the U.S. Census Bureau and also sought to look more broadly at the issue of civil rights compliance in the State's Grant-in-Aid program.

At the close of the July 1987 forum, the Advisory Committee voted unanimously to close its review of public nutrition services for the minority elderly and Delaware's Grant-in-Aid program and to advise the Commission about them. The Committee approved this draft summary report by a vote of 8 in favor and 1 dissent, with the dissenting member casting his vote as a reminder that the U.S. Department of Health and Human Services' OCR had failed to provide statistics promised during the July 1987 forum. The Committee appreciates the Commission's subsequent followup on this matter with OCR headquarters.

Respectfully,

HENRY A. HEIMAN, Chairperson
Delaware Advisory Committee

III

**Delaware Advisory Committee to the
U.S. Commission on Civil Rights**

**Henry A. Heiman, Chairperson
Wilmington**

**Emily G. Morris, Vice Chairperson
Dover**

**Emperatriz Alaix
Wilmington**

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**Ralph A. Figueroa
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Acknowledgements

The Delaware Advisory Committee wishes to thank the staff of the Commission's Eastern Regional Division for its help in the preparation of this summary report. The forum and the report were the principal assignment of Tino Calabria with support from Linda Raufu and Tina James Martin. The project was carried out under the overall supervision of John I. Binkley, Director of the Commission's Eastern Regional Division.

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Background and Scope of Activities

The July 9, 1987, forum, held by the Delaware Advisory Committee in Wilmington, was a followup to the Advisory Committee's December 3, 1985, forum held in Dover. During the earlier forum, Federal officials represented the Administration on Aging and the Office of Civil Rights (OCR), both of which are units within the U.S. Department of Health and Human Services. During the first forum--focusing on nutrition services to downstate black seniors--OCR told the Advisory Committee that OCR had launched a review of Delaware's federally funded services. Also represented at the first forum were the Division of Aging and the Office of the Controller General, both units of the State of Delaware; it was at that time that OCR and the Advisory Committee heard some details from the State units about the parallel but separate services supported by the State Grant-in-Aid program.

The second forum was held in 1987 to obtain from OCR the results of its compliance review and to gain from the State Controller General clarification about civil rights compliance in the Grant-in-Aid program. Because OCR indicated earlier that questions on the size of the population of elderly Hispanics in Delaware had affected their review of services to those Hispanics, the head of the Wilmington-based Latin American Community Center (LACC) was invited to discuss her work on that question as well as the needs of elderly Hispanics and the services which LACC provides them. This summary report is based upon the transcript of the second forum and more recent articles or demographic documents on the Hispanic population in general and/or the Hispanic elderly in particular.

Compliance in Three Areas or Issues

Mr. Ivan Levin, supervisor in OCR's Voluntary Compliance Outreach Branch, summarized for the Advisory Committee his conclusions from the compliance review which OCR had begun when OCR Branch Director Samuel S. Parker met with the Advisory Committee at its December 3, 1985, forum. The OCR undertaking was a compliance review; it

differs from a complaint investigation in that a compliance review is carried out at OCR's discretion. A complaint investigation stems from a complaint and would be more limited in scope. As Mr. Parker wrote to Commission staff in February 1987, the OCR review resulted in findings of compliance in three areas.¹

According to Mr. Parker's letter and also Mr. Levin's remarks, the first area or issue dealt with those administrative methods, policies, and procedures meant to ensure that federally-assisted programs, operated by the Delaware Division of Aging (DOA) and its contractors, were in compliance.² The second issue involved the outreach intended to increase the participation of the minority disabled and the disabled elderly. And the third issue involved accessibility of DOA's services and programs to the disabled. OCR was generally satisfied with DOA's efforts in all three issues, though OCR noted that none of the federally assisted projects under DOA was designed to attract Hispanic persons to nutrition programs.

Services to Hispanics

There is a fourth issue, however, involving accessibility to DOA's services and programs for the limited-English-speaking elderly, Mr. Levin pointed out. He stated that OCR was "unable to establish sufficient information at that time to conclude that there was a violation or compliance. The problem was primarily one of establishing figures or data as to the number of Hispanic elderly . . . [i.e., those] 60 years and older specifically in the Wilmington community."³

¹Samuel S. Parker, Director, to John I. Binkley, Feb. 9, 1987 (cited hereafter as Parker Letter). This letter appears as Appendix A of this summary report.

²For an explanation of "compliance" and the issues examined by OCR, see Parker Letter.

³The Parker Letter states on p. 4 "that the participation rate for the Hispanic elderly in the congregate meal programs in Wilmington and Kent County is below their representation in the population; in addition, there has been a general decrease in overall Hispanic program participation in these areas. . . ." (Emphasis added.)

On the other hand, Mr. Levin also pointed out that in general

the minority elderly were, in fact, receiving services that represented a rate greater than the representation of that minority elderly population in the community. . . . [T]here's something like an 11 percent minority population in this State in total. And our information, in summary, revealed that services were being provided by the DOA to the minority elderly at a rate of something like 20 percent. We were not able to establish that meaningfully in terms of the Hispanic community, largely because we did not have available . . . the data that would indicate the proportion of Hispanic elderly population in Wilmington.

1980 Census Data Yield Inadequate Figures for Small Areas

OCR uses data from the 1980 census for its demographic analyses, but, Mr. Levin said, those data did not provide an adequate breakdown of the population in the city of Wilmington since the data covered the Standard Metropolitan Statistical Area embracing areas outside of Wilmington, including one county in southern New Jersey. Consequently, the data seemed "too diffuse for us to use in arriving at our conclusions . . . [and we] withdrew that issue from the investigation to treat it as a separate action because of the need to develop additional information specifically concerning the census or the population of the elderly Hispanics in Wilmington, the target area."

Mr. Levin also reported that, although the DOA's "effort to reach the minority population, that is, the black population, was very extensive, their effort to reach out to the Hispanic community was less. However, during the course of the investigation, the DOA provided a number of assurances and did, in fact, embark on a number of measures to try to correct that--I hesitate to use the word--inadequacy or deficiency, because we did not find it a basis for violation, but just a difference between the extent of the treatment they were able to afford the Hispanic community as compared with the black community. . . ."

Some Problems Remedied During OCR's Investigation

On the issue of the DOA's methods of administration, that is, on the policies, the practices, and the procedures by which the DOA

tries to operate in compliance with Title VI of the Civil Rights Act, OCR "found in all respects they were, in fact, complying with the requirements of the regulations," said Mr. Levin. At the same time, Mr. Levin stated that one of the differences in the treatment accorded Hispanics compared to the treatment accorded blacks had to do with language insofar as the DOA "did not disseminate a lot of the information in the Spanish language." Nevertheless, "some of these things were remedied in the course of [OCR's] investigation."

In summary, Mr. Levin noted that OCR is:

trying to resolve the problem . . . of establishing the precise census data concerning the Hispanic elderly in Wilmington. . . to determine if the Division on Aging in Delaware is justified in its present position of not doing more than the record would indicate it is doing, because the population participation would not be sufficient to warrant their investment of their resources in special programming.

Inaccurate Hispanic Count for Nation, State

Ms. Emperatriz Alaix, the executive director of the Latin American Community Center (LACC) of Wilmington, covered three areas: the inaccuracy of existing demographic information, her views about the nutrition program established for the Hispanic elderly, and gaps in services for them. She began by asserting that "there is really no accurate count, either nationwide or statewide, of the Hispanic population. I think it's commonly known that both the Hispanic and black populations have been undercounted by the Census [Bureau.]" According to 1980 census figures, the Hispanic population in Delaware was 9,540, of which 70 percent resided in New Castle County, reported Ms. Alaix.⁴

⁴A Washington Post editorial asserted that there are now many more Hispanics in the U.S. than were reported in 1980 in part due to the fact that the Bureau "has been changing its definition of 'Hispanic,' first in the 1980 Census, then in estimates it has just released for 1986 and 1987. The changes . . . have had the effect of spreading a wider net and increasing the number of residents classified as Hispanic; the latest figures even take into account the illegal migrants of the 1980s." See

At the same time, for the purpose of discussion, Ms. Alaix stated that, if 12 percent is accepted as a conservative undercount rate, the estimates would be 10,685 Hispanics in Delaware "and up to 3,676 for the city" of Wilmington. As for Hispanics 60 years and older, the 1980 census counted 402 in the State, or 4 percent of the total Hispanic population; but after the undercount adjustment, the Hispanic elderly would have numbered about 450 in the State, she noted. To go beyond 1980 and make an estimate of the 1987 population of Hispanics, she then took the rate of increase of that population over the 1970-1980 period--which was approximately a 96 percent increase--and assigned a 10 percent increase as the average rate of increase each year.

LACC "Guesstimate": Over 680 Hispanic Elderly in State

Applying 10 percent to each year until 1986, Ms. Alaix estimated that without adjusting for an undercount "approximately 15,000 Hispanics [resided] in the State and around 8,000 in the city and the immediate area." Applying a 12 percent adjustment figure to compensate for the undercount, Ms. Alaix' "guesstimate" was that there would have been 17,096 Hispanics in the State in 1986, over 11,900 in New Castle County, and over 5,800 in Wilmington.

As for the Hispanic elderly, Ms. Alaix pointed out that DOA gave 16 percent as the proportion of the State population considered elderly, although she acknowledged that the percentage was "considerably less" among the Hispanic population. Therefore, instead of 16 percent, Ms. Alaix selected 4 percent for an estimate of the segment of the Hispanic population that would have been elderly.⁵

 "Hispanic Americans," Washington Post, Sept. 14, 1987.

⁵A November 1986 estimate by the Bureau of the Census indicated that in 1982, Hispanics 65 and older made up 4.9 percent of the Hispanic population; by 1985, may have grown to as much as 5.1 percent of that population; and by 1995, may become as much as 6.5 percent of the total. See U.S. Department of Commerce, Bureau of the Census, Projections of the Hispanic Population: 1983 to 2080, by Gregory Spencer, (Wash., D.C., 1986), p. 6.

She then calculated that in 1986 there would have been "approximately 684 Hispanics over the age of 60 in this State, and 479 of those would be in [New Castle] county, 235 in the city [of Wilmington], roughly."

Ms. Alaix added that the LACC was launching a long-range planning process involving a further examination of the census data. The LACC has asked the University of Delaware to extract from the census tapes anything that could be used to make projections about population growth.

School Setting Proved Unsuitable for Hispanic Elderly

As for Delaware's nutrition program, she raised several questions about the one at St. Paul's School: "How was it determined what nutrition the Hispanic elderly needed? What kind of menu are they getting? What food are they getting? Who's planning the menus? The flexibility? How about transportation?" Ms. Alaix concluded that "the pitfalls . . . related to the fact that the program apparently was instituted under pressure . . . from the Office of Civil Rights because, apparently, nothing was being done, or very little was being done for Hispanic elderly in the State."

Ms. Alaix said that the DOA had approached LACC about providing nutrition services for the Hispanic elderly, but, since LACC did not have dining facilities, the DOA turned to St. Paul's. Selecting the school, however, meant that a condition set by the school had to be accepted, that is, that "the elderly would be provided the same lunch that the children were going to be provided. There were no adjustments made for ethnic foods or ethnic seasonings that would make the food more appealing to the population that was being targeted," asserted Ms. Alaix.

Moreover, the limitations inherent in a school setting resulted in no opportunity for the elderly to "also make of the meal time an

opportunity to socialize." According to Ms. Alaix, socializing is important because "the isolation that they feel, because of the language that they don't speak, because of the alien culture that they are in, translates into depression. So, the mealtime [offers a potential occasion during which] the Hispanic elderly could share with one another and get some soul food along with the body food."

In any case, the principal of St. Paul's ultimately wrote to the DOA that it would no longer be able to continue the program at the school, saying that "[e]ight months into the program, things have escalated and it is becoming more apparent that we are unable to keep up with the reporting system required, the further development of programs that is proposed, and the necessity of asking for a definite amount as donation." Other reasons were offered by the principal, and Ms. Alaix added an observation of her own--the lack of transportation compounded by the school's hilly location, making it difficult for the elderly to walk to the program.

LACC Recommendations and LACC's Own Limited Resources

To reestablish a program, Ms. Alaix recommended that consideration be given to the:

ethnic background of the elderly in terms of foods and seasoning. The meal needs to be part of a socializing experience. Transportation must be provided for, or arrangements made for it. And adequate staffing for reporting, for serving, for cleaning, for outreach, for publicizing, for coordinating. I don't think that the burden can be laid on a school like St. Paul or any existing program that works on . . . limited budgets [and] expect them to assume responsibility for additional functions without additional staffing to do that. . . . [T]he services that the division contracts for in case management, in transportation, homemaker respite care, is not accessible to [limited-English speaking persons] unless they have someone that will be able to provide the transportation as well as the language linkage in order to be able to access those providers.

At that, Ms. Alaix judged that one person alone would be insuffi-

cient to provide outreach, case management, interpreting as well as coordinating transportation services for "close to 500 elderly in New Castle County. . . . [W]hether there's 200 or 500 or 327, the fact is, whatever number there are, they are in need. And we at the Latin American Community Center again have limited resources and could not address the needs of the elderly. For instance, taking an elderly person to a medical appointment at one of the clinics, oftentimes including transportation and waiting time at the clinic, will eat up 3 to 4 hours of a worker's time, and we only have two community workers, who cannot really meet the needs."

Assess Needs, Pool Resources, Earmark Percentage for Hispanics

To identify needs⁶ more accurately, Ms. Alaix recommended that the DOA "play more of an active role and an advocate role in assessing the level of . . . primary need of the Hispanic elderly . . . and a leadership role in convening the different organizations that service the Hispanic community, that can be resources to supplement what the Division of Aging does. . . . [I]f we pool together the resources, we will be able to perhaps get three- and four-fold . . . instead of duplicating or recreating the wheel, by helping each other out." She also proposed that the division "allocate a percentage of the monies that are distributed for each of the service categories to be earmarked to serve the Hispanic elderly."

Mr. James C. Walker, executive director of the United Methodist Action Program (MAP), described himself as having worked for 10 years in Chicago, New Orleans, and Rhode Island among Hispanics. Having now worked in Wilmington with Hispanics, he asserted that "The problems I have encountered here have not been unique,

⁶A 1987 United Press International report quoted a study by the National Council of La Raza as stating that "Elderly Hispanics in the United States, the fastest growing segment of those 65 years and older, have a poverty rate double that of whites but are less likely to receive Social Security. . . ." "Hispanics Found Less Likely to Receive Social Security," Washington Post, Oct. 21, 1987, p. A-4.

unfortunately, but are serious." MAP has operated in Wilmington for approximately 21 years, and Mr. Walker became its executive director a year ago. Its basic goals include developing the strength of local churches, including the Hispanic congregation in Wilmington's hilltop area; providing social services to the nutrition program and a social service center; and representing the Methodist Church.

As part of MAP's outreach program, Mr. Walker devotes at least 10 to 15 percent of his time to Hispanic interests. Meanwhile, one MAP worker has identified about 125 Hispanic elderly, tried to maintain contact with them, and in the last quarter, made 60 trips accompanying a few to the hospital. A hospital trip can require a worker to remain with a patient up to 4 or 5 hours. For examples of problems that occur, Mr. Walker contended that the Housing Authority has communicated with the Hispanic elderly by letter only in English, resulting in their missing appointments, and that hospitals have told Hispanic patients that they must be accompanied by an interpreter, even though the hospitals may have also told MAP's outreach worker that interpreters are available at those hospitals.

MAP Head Faults Census Count, Lack of Political Clout

Regarding nutrition services, Mr. Walker explained that MAP was developing a drop-in center which would offer special DOA-funded meals on a trial basis one or two mornings a week. Working with Mr. Levin, MAP has also developed a questionnaire to attempt to document needs. But in the long run, Mr. Walker concluded that "we are dealing with a small minority, Hispanic elderly, . . . and we got cheated. And if I was going to start where we got cheated was in 1979 when the Census Bureau didn't do a decent count. . . . It's not all bad will, but if we don't figure out some way to document it," matters may have to wait until the 1990 census, a situation which he found unfortunate.

Mr. Walker stated that without new demographic documentation there may be no resolution of the matter through the DOA, that the DOA is "not going to try and figure out and go beyond what the census data says." He added that the politics of funding in the State Grant-in-Aid program would make it unlikely to find relief there. Regarding the latter source, "in the end you're talking about lobbying the legislature that represents roughly 600,000 people, for a group that we estimate might be 450." Although Mr. Walker could call upon a network of churches to generate support for MAP's programs, MAP received no funds for the Hispanic elderly from the State Grant-in-Aid program. He believed that "it would take you again, the way the process works, a good 5 years, be it [the Latin American Community Center], or be it us, to begin to get the funding through the [Grant-in-Aid program] up to the level" adequate to the needs of the Hispanic elderly.

Controller General Unavailable, Sends Letter

With respect to the State Grant-in-Aid program, Advisory Committee Member Henry A. Heiman entered into the record a letter received the day before the forum from the State Controller General, Don Dryden. Mr. Dryden had been represented by his Senior Legislative Fiscal Management Analyst, John Frazer, at the Advisory Committee's December 3, 1985, forum on nutrition services and the black elderly; Mr. Dryden was invited but unable to attend the July 9, 1987 forum to discuss any civil rights compliance provisions that might serve as a safeguard against discrimination in the Grant-in-Aid program.

According to Mr. Dryden's letter, the Chairman and Vice Chairman of the Legislative Joint Finance Committee met on June 25, 1987, to consider Grant-in-Aid requests for Fiscal Year 1988, and they also discussed the May and June 1987 correspondence from the Eastern Regional Division of the Commission. Mr. Dryden summarized the Joint Finance Committee members' discussion as follows:

It is the members' experience that when a constituent has a problem, the first person contacted is the state representative or senator. The Committee members could not recall any contacts regarding discrimination in the Grant-in-Aid program.

Senator Herman M. Holloway, Sr., a member of the Legislature for 25 years, chairman of the Senate Health and Social Services/Aging Committee, and a long-time Joint Finance Committee member asserted that during his length of service on the Committee, he could not recall a single complaint regarding discrimination in the Grant-in-Aid program.

The members' consensus is that any change in the Grant-in-Aid application process or Act is not necessary.⁷

OCR Sought Federal Link to Grant-in-Aid Program

Mr. Levin mentioned to the Advisory Committee that after the first forum in December 1985, OCR looked into the possibility of connections between Federal funding and any Delaware operations funded by the State Grant-in-Aid program. He reported that OCR's investigation failed to disclose any connection either through Federal funds going to centers supported by the Grant-in-Aid program or through the "utilization of any personnel by the Delaware Division on Aging to participate in any managerial, administrative, or program way, which would have given [OCR] jurisdiction. . . ." He elaborated on this, saying:

We did look . . . at the utilization of their office personnel, particularly in terms of processing Grant-in-Aid applications, to see if they advertised for the Grant-in-Aid applications; if they in fact received the applications; if they then reviewed and assessed the applications and then made judgements as to awards to be based on their review. That would have provided a very substantial administrative function with our money, and would have given us entree into the investigation of those State-funded centers, and we couldn't establish that.

⁷Don Dryden, Controller General, State of Delaware, letter to John I. Binkley, Director, Eastern Regional Division, U.S. Commission on Civil Rights, July 2, 1987.

Mr. Walker observed that the demographic inadequacies meant "number one . . . , the feds blew it on the census and didn't do anything. . . . What you are finding is at a second level, despite some enforcement at a Federal level, there seems to be no policy in the State [regarding State Grant-in-Aid monies.]" He noted, too, that "if you added in [the Latin American Community Center's] Grant-in-Aid, and put that against all the Grants-in-Aid in the State, there is no way that [the LACC's] \$25,000 represents" the proportion of the Grant-in-Aid dollars that could be awarded to Hispanics in Delaware.

To Advisory Committee Chairman Heiman's query about what steps are being taken to make the 1990 census more accurate, Mr. Walker said that he has focused more on "how to do a better job of documenting in the interim." Ms. Alaix stated that LACC has already set up linkages with the Regional Office of the Census Bureau and intended to maintain an active role in its deliberations and in issues related to convincing people to complete and send back the 1990 census questionnaires. Such issues include "finding census takers that are bilingual, bicultural, that are known in the community, that are not feared, that can relate, that can encourage people" to cooperate and to understand that the data are crucial in terms of political representation and services.

Issue in Context of Commission's 1982 Report

Advisory Committee member Glover A. Jones pointed out that the present "question boils down to--aside from the issues of census and Grant-in-Aid--whether or not Federal law prevails as the Delaware standard." He displayed a copy of a statutory two-part report issued by the U.S. Commission on Civil Rights in 1982. In that report, according to Mr. Jones' interpretation, the Commission agreed:

that the Congress itself, though not receiving specific discrimination complaints, that is, individual members of the Congress nevertheless felt compelled to issue stronger regulations governing the Older Americans Act The issue essentially is whether or not Federal law ought not be the standard of compliance for State programs for older

Americans, for the Aged Americans. . . . And, if Federal law then prevails, then the State itself finds itself in violation of these items which [were addressed during the Advisory Committee's December 1985 forum.]⁸

Mr. Jones requested that Commission attorneys be asked if his belief is correct that Federal compliance standards apply both to federally funded services as well as to services funded solely out of the State Grant-in-Aid program. Advisory Committee member Emily G. Morris asked OCR representative Levin, if the administrative methods, policies, and procedures, which he mentioned, had been implemented by the DOA before or after the Advisory Committee's December 1985 forum. Mr. Levin answered that the DOA's actions had probably been taken before that forum and added that he did not recall "that there was anything specific that led [OCR] to the Delaware Division on Aging in terms of previous complaints that suggested that there were sufficient violations to warrant our attention. I do not think that was the case."

OCR Initially Unaware of Separate State-funded Services

Mr. Levin further noted that OCR "didn't know initially that there were different kinds of services being provided down here in terms of the congregate meals--those funded by Grant-in-Aid State funding and those through the . . . Federal Government. . . ." Commission regional staff representative Tino Calabria reminded the Committee that in 1985, after receiving allegations from a former senior center director, who had been in charge of a center in New Castle County, and the director of a component program in Downstate Delaware,

during the December 1985 meeting, we began to clear away some of that confusion, and that's when we learned all of this, that there had been no review of civil rights compliance in the State Grant-in-Aid programs. And all of us learned for the first time, I think, that there are no civil rights compliance provisions for any Grant-in-Aid project or program.

⁸U.S. Commission on Civil Rights, Minority Elderly Services, New Programs, Old Problems (1982), Part I, containing six case studies, and Part II, containing analyses of the information received from Federal, State, and local officials.

So, the problems originally addressed to us may have emerged out of activities in some of the other nonfederally funded centers.

Ms. Morris observed that a "splinter group" can break off from a larger center. Of several examples, she mentioned one federally funded senior center in Dover from which a group split off to form a new center, adding that "I think that all one would have to do is organize a nonprofit board, hire a director, get funding from Grant-in-Aid, and you're set and ready to go." Mr. Heiman stated his belief that "one of the purposes of the Grant-in-Aid program is to get around the question of the Federal standard. What [the program] does is give to the State, without Federal restrictions, the ability to disseminate funds."

Undecided on Creating State Compliance Provisions

Asked to assume that Federal civil rights compliance standards may not apply to Delaware's Grant-in-Aid program, Mr. Jones said that, as a "bare minimum," the State of Delaware ought to incorporate compliance provisions in programs it supports out of its own funds. Mr. Heiman demurred, saying that he would see a problem in State-level compliance provisions if the results included establishing another level of bureaucracy in Delaware and increasing taxes.

Advisory Committee member Lynn D. Wilson asked if there were any Federal policy against serving ethnic food. Mr. Levin said that, to his knowledge, there is no problem in doing so. Mr. Heiman inquired as to what Federal initiatives are being taken to assist Southeast Asian refugees and other Asians who, he speculated, may encounter problems stemming from greater cultural differences than the cultural differences affecting Hispanics. Mr. Levin answered that there are some 43,000 agencies which receive funds from the U.S. Department of Health and Human Services and that an effort is being made to identify situations in which the recipients may not be adequately serving new Asian refugees and immigrants. HHS will then help those institutions to overcome the problems so as to

improve their assistance to the Asians in the communities served by those institutions.

Committee Votes Closure to Review

Before the forum ended, the Advisory Committee unanimously voted to close its review of public nutrition services for the minority elderly and Delaware's Grant-in-Aid funding and to submit a report to the Commission. The report would be based on the information obtained on both topics during the forum and earlier and also on the discussion concerning Census Bureau statistics on Hispanics in Delaware as occurred during the July 1987 forum.

However, Mr. Jones' question on how Federal compliance standards may apply was to be held open until a reply is received from the Commission's attorneys on that question.⁹

Summary

In 1987 OCR completed its compliance review of federally funded nutrition services for Delaware's minority elderly. During the Advisory Committee's July 1987 followup forum, OCR reported that the State is generally in compliance in those services. Questions remained, however, about the level of services for the Hispanic elderly, an OCR representative told the Committee. The LACC head asserted that the Census Bureau's count of Hispanics is low and estimated over 680 elderly Hispanics in Delaware in 1986, compared to the 402 usually cited on the basis of the 1980 census. The executive director of MAP described how MAP serves Hispanics and

⁹During its Sept. 15, 1988, meeting, the Advisory Committee heard a report from the Commission's Eastern Regional Division staff who summarized a telephone discussion with an attorney in the Commission's Office of the General Counsel (OGC) regarding OGC's September 1988 opinion on Mr. Jones' question. OGC's opinion is that Federal compliance standards do not apply to programs or services not supported by Federal funds in any way. The opinion remains on file in OGC.

observed that the Hispanic elderly constitute a group that is undercounted and lacks political "clout;" this also affects their access to the State's Grant-in-Aid program.

The State Controller General had been invited to discuss civil rights compliance in the Grant-in-Aid program and also what State agency monitors that program for compliance. Without answering whether compliance provisions exist or whether monitoring has been carried out by any agency, the Controller General wrote that no complaint of discrimination has been lodged and that the consensus of the State Legislative Joint Finance Committee is that no change in the Grant-in-Aid application process or act is necessary.

Discussion by the Committee and its panelists and guests suggested that the lack of compliance provisions in the Grant-in-Aid program leaves the potential for discrimination with impunity. One member of the Committee believed that Federal compliance standards should prevail in that program also. However, after a request from the Advisory Committee, the Commission's General Counsel formulated an opinion indicating that Federal standards apply only where Federal funds are involved.

In September 1988, the member who believed that Federal compliance standards ought to apply also dissented in voting upon the summary report. He cast his dissenting vote as a reminder that regional staff of OCR failed to provide the statistics it had promised during the July 1987 forum.

The Commission may wish to refer this report, if published, to the U.S. Department of Health and Human Services and the Census Bureau for comment with respect to pertinent sections.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
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EE 1987

Mr. John Binkley
 Director
 Eastern Regional Division
 U. S. Commission on Civil Rights
 1121 Vermont Avenue, N. W., Room 710
 Washington, D. C. 20425

Dear Mr. Binkley:

We have completed our review of the Delaware Division of Aging's (DOA) compliance with Title VI of the Civil Rights Act of 1964 and its implementing regulation, 45 CFR Part 80; and Section 504 of the Rehabilitation Act of 1973 and its implementing regulation, 45 CFR Part 84 (Case No. 03857011). The DOA is part of the Delaware Department of Health and Social Services located at 1901 North DuPont Highway in New Castle on the grounds of the Delaware State Hospital. Our authority for this review was based upon DOA's receipt of Federal funds under Title III of the Older Americans Act.

Our investigation started in August 1985, and was completed in December 1986. It included interviews with officials of Federal and State programs, community and advocacy groups, and program participants, as well as the examination and collection of records from various sources pertaining to the establishment, operation and results of DOA's activities. The scope of our review was limited to those activities, senior centers and nutrition sites that received Federal financial assistance. Our jurisdictional limitation precluded the examination of other similar programs supported by State grants-in-aid. The specific issues, findings of fact and conclusions are summarized below and furnished in accordance with our agreement to provide the results of our investigation.

Issue 1 - Whether the Delaware Division of Aging has developed Methods of Administration/policies and procedures which assure that the programs operated by the Division and its contractors comply with the requirements imposed by the regulations. (45 CFR 80.4, 80.6(d), 84.4(a) and (b), 84.5, 84.6(c), 84.7, and 84.8)

We found that DOA has implemented the following administrative methods, policies and procedures:

- Designated a management official to coordinate Title VI and Section 504 compliance efforts;
- Required signed assurances of compliance with Title VI and Section 504 of contractors who provide services to beneficiaries;
- Established and publicized a civil rights complaint process;
- Monitored projects and contractors and maintained records of minority participation in Federally-funded programs;
- Provided notice to clients and beneficiaries that services shall be provided in a nondiscriminatory manner;
- Advised employees of their responsibilities under Title VI and Section 504;
- Included elderly and minority representatives on the advisory board;
- Established an Affirmative Action Plan and require that service providers complete an AAP to ensure that equal employment opportunities are provided; and,
- Completed a self-evaluation consistent with the requirements of Section 504.

These facts indicate that the Delaware Division of Aging is operating in compliance with the requirements of 45 CFR 80.4, 80.6(d), 84.4(a) and (b), 84.5, 84.6(c), 84.7, and 84.8.

Issue 2 - Whether the Delaware Division of Aging maintains outreach programs designed to increase the participation of the minority elderly and the disabled elderly in Federally assisted programs.
(45 CFR 80.3(b)(1)(iv))

With regard to the minority elderly, we found that DOA has developed approaches to informing Blacks and Hispanics of available Federally assisted programs and services. These efforts include giving preferences to minority contractors, disseminating requests for proposals statewide in the major newspapers (although none of these were prepared in Spanish), utilizing outreach workers and newsletters at some program

sites, and publishing various brochures and handouts in English and Spanish. The Methodist Action Program, in particular, is involved with the Hispanic community in Wilmington; however, we noted that neither MAP, nor any other project, is designed to attract Hispanic persons to nutrition programs. These activities indicate that DOA is conducting outreach to the Black elderly concerning all available services, and only limited outreach to the Hispanic community.

In addition, concerning the disabled elderly, we found that efforts are made to advise the disabled community of DOA's services. Further, we found no evidence to indicate that DOA's outreach efforts were ineffective in communicating with and increasing the services to the Black and disabled communities.

Issue 3 - Whether the Delaware Division of Aging has developed means for ensuring that its services/programs are accessible to mobility-impaired beneficiaries. (45 CFR 84.21 and 84.22(a))

The Division of Aging has taken positive steps to remove barriers from facilities that were inaccessible. Currently, 41 of the Division's 43 centers/sites meet barrier-free standards, and the two sites that are not completely accessible are in close proximity to accessible sites. In addition, mobility-impaired clients are attending the sites. Transportation is available for physically disabled persons within each of the service areas, and a variety of in-home services are provided for those senior citizens who are unable to come to one of the centers/sites.

Based on this information, we have concluded that the Division of Aging's program, when viewed in its entirety, is accessible to mobility-impaired beneficiaries, and that the Division is in compliance with 45 CFR 84.21 and 84.22(a).

Issue 4 - Whether the Delaware Division of Aging assures participation of the minority elderly and the disabled elderly within its service area, and whether effective communication is provided to limited-English-speaking beneficiaries to assure such persons equal opportunity to participate in and benefit from those services provided under

the Division's Federally assisted programs.
 (45 CFR 80.3(a) and (b)(1)(i), (iv) and (vi); and
 84.4(a), 84.4(b)(1)(i), 84.52(a)(1) and (4))

A. Minority Beneficiaries

We found that the Black elderly population in the state of Delaware is utilizing social and nutrition services at a rate that is higher than its representation in the State's population. There appeared to be no significant discrepancies in participation rates for Black beneficiaries in the nutrition program within each of the Federally-assisted program service areas in Delaware. In fact, those areas with the highest percentage of Black elderly residents, and/or the highest percentage of Black elderly poor, have one or more nutrition sites or are in very close proximity to a nutrition site. Accordingly, we conclude that DOA assures the participation of Black elderly within its service area.

However, we found that the participation rate for the Hispanic elderly in the congregate meal programs in Wilmington and Kent County is below their representation in the population; in addition, there has been a general decrease in overall Hispanic program participation in these areas. While the Hispanic population is about 1% in Wilmington, New Castle County and Kent County, and 0.4% in Sussex County, Hispanic participation has decreased during the period 1982 to 1986 from 38 (.8%) to 14 (.3%) in Wilmington and from 13 (.3%) to 7 (.2%) in Kent County. These rates of decrease are 63% and 46%, respectively.

B. Disabled Beneficiaries

We found that the services/programs provided by DOA are accessible and provided to the mobility-impaired elderly. As indicated under the accessibility issue, transportation is available for the mobility-impaired, facilities are accessible, and in-home services are provided to those seniors unable to come to the centers/sites.

However, we found that the sensory impaired clients did not have the same assurance. DOA, and each of the sites our investigators visited, have access to a telecommunications device for the deaf, but we found that this information is not advertised. We also found that procedures for accommodating the sensory-impaired client have not been issued to the site/center managers. Some were unaware of available resources and the procedures for obtaining them.

These circumstances deny the deaf community equal access to DOA's programs/services and constitute a violation. However, DOA took sufficient corrective actions in the interim to remedy the problem and we, therefore, found them in compliance with 45 CFR 84.52(a)(2), (3), (4).

C. Limited-English Proficiency (LEP)

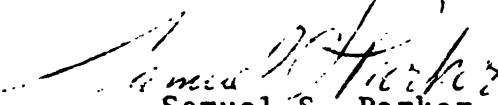
There is insufficient data for the LEP population to determine if there is a significant percentage of elderly persons participating in this category and to determine if effective communication is being provided to these persons. Consequently, we expect DOA to collect these data so that it can make this determination in the future.

Based on our discussions with representatives of the Bureau of Census, we have strong reason to believe that the Hispanic population in the state is higher than the 1980 census report indicates. Our studies and surveys regarding the Hispanic population in the DOA service area reveal that they are underserved with specific regard to nutrition programs. However, since the data at this time are inconclusive, we are working with the Census Bureau and other sources to finalize this information. Therefore, we have reserved our final conclusion on this matter until we have had an opportunity to completely validate all pertinent information.

Accordingly, we closed our review with a finding of compliance with the requirements of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 regarding the issues in this case as they pertained to the Black and disabled communities. The resolution of matters involving service to the Hispanic community will be treated under separate action.

We hope this summary of our investigation will be useful in connection with your recent State Advisory Committee hearing in Dover. Should you require more detailed information about this case, please contact me.

Sincerely,


Samuel S. Parker
Director
Voluntary Compliance and
Outreach Division



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July 2, 1987

Mr. John I. Binkley, Regional Director
 Eastern Regional Division
 United States Commission on Civil Rights
 Mid-Atlantic Regional Office
 1121 Vermont Ave., N.W., Rm. 710
 Washington, DC 20425

Dear Mr. Binkley:

On Thursday, June 25, 1987, the Legislative Joint Finance Committee met to consider Grant-in-Aid requests for Fiscal Year 1988.

During the session, the Chairman and Vice Chairman addressed your May and June, 1987 letters to me.

The Committee members' discussion is summarized as follows: It is the members' experience that when a constituent has a problem, the first person contacted is the state representative or senator. The Committee members could not recall any contacts regarding discrimination in the Grant-in-Aid program.

Senator Herman M. Holloway, Sr., a member of the Legislature for 25 years, chairman of the Senate Health and Social Services/Aging Committee, and a long-time Joint Finance Committee member stated that in all of his service on the Committee, he could not recall a single complaint regarding discrimination in the Grant-in-Aid program.

The members' consensus is that any change in the Grant-in-Aid application process or Act is not necessary.

Sincerely,


 Don Dryden
 Controller General

DD/clc

cc: Members, Legislative Joint Finance Committee