

Equality in Municipal Services in Mullins, South Carolina

January 1979



A report of the South Carolina Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the South Carolina Advisory Committee.

Equality in Municipal Services in Mullins, South Carolina

—A report prepared by the South Carolina Advisory
Committee to the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the South Carolina Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and Congress.

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Letter of Transmittal

SOUTH CAROLINA ADVISORY COMMITTEE TO
THE U.S. COMMISSION ON CIVIL RIGHTS
January 1979

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Sirs and Madam:

The South Carolina Advisory Committee submits this report, *Equality in Municipal Services in Mullins, South Carolina*, as part of its responsibility to advise the Commission about civil rights developments within this State.

This report deals with the extent to which selected public services in Mullins, South Carolina, are provided on an equitable basis. The condition and provision of roads, storm drainage, water and sewer services, and sidewalks were reviewed. In three out of these five major services, we found disparities between the black and white households served. Blacks were often served by poorly paved roads, inadequate drainage systems, smaller water pipes, and fewer sidewalks than were whites.

For the most part, the Advisory Committee concludes that the disparities in services are the lingering result of the segregation of and discrimination against blacks that has historically existed in the South. Despite some recent improvements and the fact that such disparities were created in the past, the city of Mullins is not relieved of its responsibility to eradicate the disparities. This is particularly true because Federal monies are available and, as warranted, mandated to be used for the purpose of equalizing services. In every municipal service studied, public money—Federal, State, local, or combinations thereof—has been used at some time to build or expand the services in question. On occasion, property owners paid part of the cost.

While the South Carolina Advisory Committee does call upon the officials of Mullins, in cooperation with minority residents, to achieve parity in the provision of crucial services, the implications of this Advisory Committee study extend beyond Mullins. Equity in public services is a vital issue to other residents of South Carolina where 78 percent of the population lives in towns of 10,000 or less. Indeed, throughout the South, hundreds of thousands of Americans live in small towns where the legacy of racism still exists in the form of inadequate public services. For this reason, the Advisory Committee urges the Commission to undertake a national study of public services in rural and other nonmetropolitan areas. The focus of the national study should be Federal programs and policies that affect the provision of services. In particular, the need for legislation designed to require amelioration of *all* discriminatory provision of services as a condition of receiving revenue sharing funds should be considered.

The Advisory Committee also believes that the Office of Revenue Sharing, under

the existing authority of the State and Local Fiscal Assistance Act, as amended, should improve its efforts in implementing the nondiscrimination and public involvement requirements of the law. Accordingly, the Advisory Committee urges the Commission to recommend to the Secretary, U.S. Department of the Treasury, the following actions: The Office of Revenue Sharing should issue regulations that clearly *require*, rather than *encourage*, recipient governments to overcome service disparities due to past discrimination in any programs or activities funded in whole or in part with revenue sharing funds. In addition, guidelines by which cities and other recipients can determine if inequities exist should be developed. The guidelines would serve as a measuring stick of equality and as such would aid cities as well as Federal agencies in their efforts to assure equal treatment for all. In addition, guidelines for making the required public hearing a *meaningful* opportunity for citizen involvement should be developed.

We hope that the Commission will concur in the findings and recommendations of this report of the South Carolina Advisory Committee and will promote the achievement of equality in public services not only in Mullins, South Carolina, but throughout the country.

Sincerely,

Keller H. Bumgardner, *Chairperson*
South Carolina Advisory Committee

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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 of 1957 as amended. 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.

ACKNOWLEDGMENTS

The South Carolina Advisory Committee wishes to thank the staff of the Commission's Southern Regional Office in Atlanta for coordinating the study of and preparing this report on municipal services in Mullins.

The study was the principal staff assignment of Courtney Siceloff, equal opportunity specialist. The report was written by Katie Harris, research specialist, with legal review and contributions by Mark Schneider, regional attorney. Portia Raby, Joan Harper, and Emma Allen provided support throughout the study. All worked under the supervision of Bobby Doctor, Director, and Idalia Morales, Deputy Director, of the Southern Regional Office.

The staff of the Publication Support Center, Office of Management was responsible for final preparation of the document for publication.

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Chapter 1

Introduction

Approximately 70 percent of the almost 2,600,000 people who live in South Carolina live outside the urbanized areas of Augusta, Charleston, Columbia, and Greenville. A full 78 percent, or approximately 2,000,000, live in towns with less than 10,000 residents.¹ The South Carolina Advisory Committee to the U.S. Commission on Civil Rights decided to conduct a project that would have implications for the majority of South Carolina's citizen—a project which deals with the quality of life in small towns: equity in municipal services for black and white residents.

Mullins, South Carolina, was chosen for the Advisory Committee study after a careful review of approximately 18 other towns of similar size. Considered in the selection of Mullins were its large percentage of black residents and the deficiencies in municipal services that were noted in the 1970 Census. Forty-eight percent of Mullins' 6,000 residents are black. Over half of the black families live below the poverty level; one-fourth of all Mullins' families do likewise. The median income for blacks is \$3,493 compared to \$6,177 for all Mullins residents;² therefore, it is reasonable to assume that virtually all of Mullins poorest residents are black. The 1970 Census also revealed that there were significant disparities in water and sewer services to black and white households.³ Mullins has received a significant amount of Federal money since 1970 to correct some deficiencies in those services. However, a visit to Mullins by members of the Advisory Committee and staff of the Commission's Southern Regional Office showed clearly that there were still unpaved streets

and open ditches within the original 1-mile square city limits. Minority residents pointed out to the Advisory Committee that they felt blacks were discriminated against in the provision of municipal services and that they would welcome a study of conditions in Mullins.

The Advisory Committee's review of municipal services in Mullins included a street-by-street survey of conditions and a determination of the race of occupants who lived on each street. Interviews were conducted with residents of Mullins as well as city and State officials; various city documents and maps were reviewed. In addition, a registered professional engineer with expertise in sanitary and municipal engineering was retained by the U.S. Commission on Civil Rights to make an onsite survey and review technical documents and maps related to the city's water, sewer, and storm drainage systems. The provision of sidewalks, storm drainage, water, sanitary sewer, and paved streets in black and in white neighborhoods was examined. The methods of financing city services and neighborhood improvements were analyzed by the Advisory Committee and Commission staff. These analyses were critical to determine if tax money of all the people has been used to benefit some and at the same time to exclude others. If the race of the persons denied equal services differs from that of persons receiving adequate services then racial discrimination does indeed exist in the provision of municipal services.

Equity in the provision of municipal services is not only a worthy goal, it is a constitutional imperative.⁴

¹ U.S., Department of Commerce, Bureau of the Census, *General Social and Economic Characteristics*, 1970 Census of Population, no. PC(1)-C42, p. 129.

² *Ibid.*, pp. 247, 254, and 295.

³ U.S., Department of Commerce, Bureau of the Census, *Detailed Housing Characteristics*, 1970 Census of Housing, HC(1)-B42, p. 113.

⁴ See *Hawkins v. Town of Shaw*, 437 F.2d 1286 (5th Cir. 1971) *aff'd en banc*, 461 F.2d 1171 (1972).

Note that in *Hawkins* the court's finding of 14th amendment equal

protection violation was based on the racially disparate impact of services to black residents of Shaw. The U.S. Supreme Court, in a factually unrelated case, subsequently ruled that a racial discrimination challenge under the 14th amendment must include proof of *intent* to discriminate as well as a racially disparate impact. *Washington v. Davis*, 426 U.S. 229 (1976). The *Davis* decision may mean that future public services equalization suits under the 14th amendment will require proof of intent to discriminate as well as a demonstration of service disparities.

The 14th amendment to the U.S. Constitution as well as the Federal law⁵ that provides for the sharing of Federal revenue with municipalities forbid discrimination against any racial or ethnic group in the provision of municipal services.

The Advisory Committee wishes to thank Mayor J.L. Hardwick, Jr. and other city officials and personnel for their cooperation throughout this study.

⁵ The State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*

Chapter 2

Roads

Conditions Found

Seventeen of Mullins' approximately 136 streets were unpaved as of January 1978. Of the 17 streets, 12 are occupied exclusively by black residents (51 households); 2 are all white (7 households);¹ black and white residents are located on 1 of the unpaved streets (7 black households and 2 white); and two of the streets have no buildings or houses located on them. A total of 58 black owned or occupied houses or businesses are located on unpaved streets compared to 9 white owned or occupied units.²

Four additional streets in Mullins are covered with a loose mixture of soil and cement. Three of those streets serve 25 black households and one street serves 4 white households.³

When members of the South Carolina Advisory Committee and staff of the Commission's Southern Regional Office conducted a windshield survey of Mullins in March 1977, more than 30 streets were unpaved. Substantial amounts of paving have taken place since. In April of 1977 alone, authorization was given by the State highway department for paving eight streets⁴ after the appropriate request was submitted by the city through the Marion County legislative delegation. White occupied homes were located on four of those streets; black occupied homes on the other four.

¹ J.L. Hardwick, Jr., mayor of Mullins, letter to Bobby D. Doctor, Regional Director, Southern Regional Office, USCCR, June 21, 1978 (hereafter cited as Hardwick Letter.) In his comments on the draft report, the mayor said:

Please note that if the necessary right of way could be obtained from the residents that reside on the twelve black streets and on the two white streets, the streets would have been paved.

² The streets are: West Wine, Clark, Davis, Buck, Floyd, Davis Lane, Park Extension, Smith Alley, East Seaboard, Hodge Alley, White Oak Lane, Platt, Bundy Rogers Marion Bridge, Maple, McDaniel, Owens, and West Market. These 17 streets were among the 30 unpaved streets identified by members of the Advisory Committee and Commission staff who participat-

The conditions of the paved roads varies widely. Rendering a judgment as to the conditions of the pavement—good, fair, and poor—was not a goal of the windshield survey. However, persons who conducted the survey agree that pavement in less than good condition was found on black occupied streets more often than on those streets occupied by whites. This opinion appears accurate according to a letter dated April 27, 1976, from City Supervisor William S. Bryan to then State Senator Ralph Gasque, in which Mr. Bryan listed streets in Mullins that needed resurfacing. Of 23 streets listed, all black households were located on 15, all white households on 4, and 4 streets had both black and white households.

Financing and Responsibility for Construction, Improvements, and Maintenance

Mullins streets, with notable exceptions, found within the city limits in black neighborhoods are maintained by the South Carolina Highway Department.⁵ This fact is fundamental to an understanding of the nature and extent of financing and responsibility for construction, improvement, and maintenance of streets in Mullins. Because virtually all Mullins streets are within the jurisdiction of the State

ed in the March 1977 windshield survey. In conversations with City Supervisor William S. Bryan (January 1978), Commission staff member Courtney Siceloff determined that the 17 streets named above were still unpaved.

³ Wine (one block), Gerrald and Smith Alleys, and part of Carolina Ave.

⁴ South Carolina, Department of Highways and Public Transportation, "Summary of Apportionments for Construction of Program C, Mar. 31, 1977, Marion County, Schedule 2—Projects Programmed But Not Yet Let to Contract. Item 22514."

⁵ South Carolina, Department of Highways and Public Transportation, Map of State Highways in the City of Mullins, Mar. 12, 1976.