

STATE OF WEST VIRGINIA

**Update of the Preliminary Performance Review
of the**

HUMAN RIGHTS COMMISSION

**The Human Rights Commission
is in Full Compliance with
all Recommendations**

**OFFICE OF LEGISLATIVE AUDITOR
Performance Evaluation and Research Division
Building 1, Room W-314
State Capitol Complex**

**CHARLESTON, WEST VIRGINIA 25305
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September 2000

PE00-22-180

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September 2000

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Antonio E. Jones, Ph.D.
Director

September 10, 2000

The Honorable Edwin J. Bowman
State Senate
129 West Circle Drive
Weirton, West Virginia 26062

The Honorable Vicki V. Douglas
House of Delegates
Building 1, Room E-213
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting an **Update of the Preliminary Performance Evaluation of the Human Rights Commission**, which will be presented to the Joint Committee on Government Operations on Sunday, September 10, 2000. The issue covered herein is *"The Human Rights Commission is in Full Compliance with all Recommendations."*

We conducted an exit conference with the Human Rights Commission on August 29, 2000. We received the agency response on September 1, 2000.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia
Acting Director

JS/wsc

TABLE OF CONTENTS

Executive Summary	3
Objective, Scope and Methodology	5
Background	7
Issue Area 2: Lack of an Adequate Management Information System, and Failure of JALAN	9
Issue Area 6: Annual Reports	11

List of Tables

Table 1: Levels of Compliance	5
Table 2: Human Rights Commission Total Budget	7
Table 3: Caseload Description	8
Appendix A Transmittal Letter to Agency	13
Appendix B Agency Response	19

Executive Summary

This is the third update of the preliminary performance review of the **Human Rights Commission** originally reported in December 1995. The original performance review identified *case backlog* and *inadequate management information* as major findings. The first update to that report found the Human Rights Commission had reduced its backlog but was unable to track cases and identify its own performance because of the lack of a workable computer system. The second update found that the Commission was in full compliance with all previous recommendations, except for two, with which it was in planned compliance. This report finds that the Commission is now in full compliance with the remaining two recommendations relating to Issue Areas Two and Six in the 1995 report. This is a result of the Commission's installation of a management information system and the publication of annual reports.

The Commission currently maintains an annual budget of around \$922,000. It received a supplemental appropriation of \$139,500 in FY 1997 to purchase hardware and software for a new management information system.

This update finds that the Human Rights Commission followed the recommendations of the Legislative Auditor to develop an integrated management information system with the advice of the Department of Administration's *Information Systems and Communications Division* (IS&C). IS&C confirmed at the time of the October 1997 Update Report that the new management information system was designed to allow case tracking, networking and reporting as well as to simplify data entry and to eliminate the duplication which characterized the Human Rights Commission's previous management information system. The new system was operational by the end of 1997.

As a result of the case tracking system installed by the Commission, the Human Rights Commission knows how many cases it has, what their status is, and the number of decisions rendered without doing a hand count of case folders. Finally, the new management information system has permitted the Human Rights Commission to produce annual reports of its activities as required by statute.

Issue Area One in the November 1995 report found that the Commission had a backlog of cases that were not processed within the 365-day time frame required by *Allen v. State of West Virginia Human Rights Commission*. The February 1997 Update Report noted that the Commission's number of open cases fell from 1,517 to 716 during FY 1996. This number fell to 637 cases by FY 1999. The Commission has consistently maintained a much smaller case inventory than was the case at the time of the original 1995 report.

The remaining issue areas from the 1995 report have been addressed in various ways in order to bring the Commission into compliance with the report's recommendations. Issue Area Three relating to the Commission's placement under the Department of Health and Human Resources was not addressed to the agency, but rather to the Legislature. The Commission, therefore, was not required to act on the accompanying recommendation. Issue Area Four regarding the Commission's lack of an activity in promoting harmonious relations among various groups in the community was addressed by the creation of community action programs. Issue Area Five concerning the

Commission's need for more secure arrangements for the storage of records was addressed by the use of locked storage containers and the erection of a security wall and door.

Objective, Scope and Methodology

The Human Rights Commission was created by the Legislature in 1961 to enforce the West Virginia Human Rights Act. It was transferred to the Department of Health and Human Resources in 1989. In 1995 PERD conducted a preliminary review on the HRC which resulted in the following issues.

1. As of June 30, 1995, a backlog of 549 cases exceeded the 365-day resolution period mandated by the Supreme Court.
2. Inadequate information system, and failure of JALAN.
3. Placement of the Human Rights Commission under DHHR created a conflict of interest.
4. The Commission has not played an active role in the promotion of harmonious relationships among disabled, racial, ethnic, religious, and other groups.
5. Confidentiality of records and safety of staff.
6. Annual Reports have not been filed.

This update uses the following designations of levels of compliance.

Table 1
Levels of Compliance

<u>In Compliance</u> - The HRC has corrected the problems identified in the 1995 audit report.
<u>Partial Compliance</u> - The HRC has partially corrected the problems identified in the 1995 audit report.
<u>Planned Compliance</u> - The HRC has not corrected the problem but has provided sufficient documentary evidence to find that the Commission will do so in the future.
<u>In Dispute</u> - The HRC does not agree with either the problem identified or the proposed solution.
<u>Non-Compliance</u> - The HRC has not corrected the problem identified in the 1995 audit report.
<u>Requires Legislative Action</u> - The recommendation was intended to call to the attention of the Legislature to one or more statutory issues.

The objective of this report is to determine if the Commission is now in compliance with the recommendations of Issue Areas Two and Six from the 1995 report. At the time of the October 1997 update report, the Commission was in planned compliance with the recommendations of both issue areas. The Commission was found to be in compliance with the recommendations of the other issue areas. The scope of this report is the time frame extending from FY 1997 to FY 2000.

Background

The West Virginia Human Rights Commission was created in 1961. It was transferred to the Department of Health and Human Resources in 1989. It is composed of “nine members, all residents and citizens of the state of West Virginia and broadly representative of the several racial, religious and ethnic groups residing within the state.” No more than five members may be from the same political party and at least one member, but no more than three, can be from any one congressional district. Members are appointed by the Governor to three-year terms with the advice and consent of the Senate. According to WVC §5-11-4:

The commission shall encourage and endeavor to bring about mutual understanding and respect among all racial, religious and ethnic groups within the state and shall strive to eliminate all discrimination in employment and places of public accommodations by virtue of race, religion, color, national origin, ancestry, sex, age, blindness or disability and shall strive to eliminate all discrimination in the sale, purchase, lease, rental or financing of housing and other real property by virtue of race, religion, color, national origin, ancestry, sex, blindness, disability or familial status.

Table 1 shows the Commission’s budget since FY 1997. The budget has grown somewhat during this four-year period to a level of just under one million dollars for FY 2000. The table also lists the supplemental appropriation for the management information system which was purchased in response to the recommendations of Issue Area Two of the 1995 Preliminary Performance Review Report.

Table 2
Human Rights Commission Total Budget

	General Revenue Appropriations	Supplemental Appropriation
FY 1997	\$838,354	\$139,500
FY 1998	\$832,792	\$0
FY 1999	\$922,201	\$0
FY 2000	\$985,332	\$0

Issue Area One of the November 1995 report found that the Commission had a backlog of cases that were not processed within the 365-day time frame required by *Allen v. State of West Virginia Human Rights Commission*. The February 1997 Update Report noted that the Commission’s number of open cases fell from 1,517 to 716 during FY 1996. This number fell to 637 cases by FY 1999 (see Table 2). Table 2 illustrates that the Commission has consistently maintained a much smaller case inventory than was the case at the time of the original 1995 report. In FY 1997 the number of cases filed slightly exceeded the number closed. The Commission

received fewer new cases during the following two years. This allowed the number of cases closed to begin to exceed case filings. A reduction in the case inventory has resulted. The category "Cases Closed" does not include all cases investigated by the Commission during the course of a given year. In FY 2000, for example, approximately 90 more cases were processed by the Commission than were actually closed during the same period. If a case results in litigation, it may delay closure of a case, thereby accounting for the difference in the number of cases processed versus the number closed.

Table 3
Caseload Description

FY	Cases Processed	Cases Closed	Cases Filed	Case Inventory
1997	464	492	501	751
1998	487	478	386	694
1999	452	440	423	637
2000	511	421	427	659

The remaining issue areas from the 1995 report have been addressed in various ways in order to bring the Commission into compliance with the report's recommendations. Issue Area Three relating to the Commission's placement under the Department of Health and Human Resources, was not addressed to the agency, but rather to the Legislature. The Commission, therefore, was not required to act on the accompanying recommendation. Issue Area Four regarding the Commission's lack of an activity in promoting harmonious relations among various groups in the community was addressed by the creation of community action programs. Issue Area Five concerning the Commission's need for more secure arrangements for the storage of records was addressed by the use of locked storage containers and the erection of a security wall and door.

Issue Area 2: Lack of an Adequate Management Information System, and Failure of JALAN

Recommendation 3:

The Human Rights Commission should follow both the "Short Term Recommendations" and "No. 1" under "Long Term Solutions" in the Executive Summary of IS&C's Gap Analysis (as summarized below).

Short Term:

- 1) *The EEOC Information Resources Management Services indicated that they will provide training for two employees of their FilePro database (CDS) at no cost to HRC. Because the CDS must continue to be maintained, regardless of what other efforts are undertaken, this would seem to be a part of any solution. The only associated costs would be for transportation, housing, and food. The EEOC estimated that the training would take 2-5 days, and it can be scheduled any time.*
- 2) *The EEOC is also willing to produce ad hoc reports if detailed requests are made.*
- 3) *HRC needs a permanent, full-time, experienced employee whose primary responsibility is to maintain the Commission's office automation environment, including hardware, software, communications, and databases. Without this person, no new system will work.*

Long Term:

- 1) *The best long-term plan for HRC would appear to be phasing out the AS/400 and migrating to a PC LAN (Local Area Network) environment. An upgraded EEOC UNIX PC could be connected to the LAN for transfer of data. This would be more in sync with the long-term plans of the EEOC to migrate to a client/server Oracle platform, and it would also provide the HRC with the PC's needed to access HRIS (Human Resources Information System), the upcoming mandatory implementation of a statewide network. This plan would require an appropriation to pay off debt on the AS/400 and pay for hardware, software, and development of the new system. While the initial cost for installing a LAN would be higher than upgrading the AS/400, the long-term costs in terms of personnel and maintenance should be less. HRC does not have the alternative of phasing-in LAN, with only a few employees initially being connected to the new database; others could then be added as funding becomes available.*

Level of Compliance: In Compliance

This update finds that the Human Rights Commission followed the recommendations of the Legislative Auditor to develop an integrated management information system with the advice of the Department of Administration's *Information Systems and Communications Division (IS&C)*. IS&C confirmed at the time of the October 1997 Update Report that the new management information

system was designed to allow case tracking, networking and reporting as well as to simplify data entry and to eliminate the duplication which characterized the Human Rights Commission's previous management information system.

Regarding the "Short Term Recommendations," the Commission withheld making arrangements for personnel to receive recommended training primarily as a cost effective measure. Instead, IS&C concurred and opted to work with EEOC and develop a data transfer system between the UNIX PC and the LAN systems that would make recommended training unnecessary. The Commission hired a full-time Information System Coordinator.

Regarding the "Long Term Solutions," the Commission received a Supplemental Appropriation of \$139,500 for the purchase of hardware and software that provided for the migration to a PC LAN environment. The PC LAN system software was installed by the Information Services and Communications Division (IS&C) and was operational by the end of 1997, as was anticipated by the October 1997 Update Report. Since this system was designed, the Commission has opened branch offices in Huntington and Buchanan. The LAN was modified to incorporate the satellite offices.

The Human Rights Commission now knows how many cases it has, what their status is, and the number of decisions rendered without doing a hand count of case folders. The case tracking system used by the Commission, which was also developed by IS&C as a separate project from the LAN, cannot be used by the satellite offices because it was designed for use by the Charleston office prior to their existence. This system was installed in the Commission's central office in March 2000. The projected costs of incorporating the other offices have not been appropriated to the Commission. There are, therefore, no plans to modify the case tracking system since the Commission does not currently have the funds to purchase the additional hardware and software necessary to connect the satellite offices.

Issue Area 6: Annual Reports.

Recommendation 7:

An annual report should be submitted to the Governor beginning with FY 1996-97 and continuing each year thereafter.

Level of Compliance: In Compliance

The Commission filed its latest Annual Report to the Governor in January 2000. The Commission filed an annual report for FY 1998 as part of its planned compliance with the recommendations of the October 1997 Preliminary Performance Review Update Report. Although the Commission has complied with the requirement to file annual reports, the reports lack financial information on the Commission, such as a balance sheet outlining the agency's budget. Financial information is generally included in annual reports prepared by other state agencies and would be a useful addition to future reports submitted by the Commission.

APPENDIX A
Transmittal Letters to Agency

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Antonio E. Jones, Ph.D.
Director

August 28, 2000

Ms. Joan E. Ohl, Cabinet Secretary
Department of Health and Human Resources
Building 3, Room 206
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Ohl:

Enclosed is a draft of the Update to the Preliminary Performance Evaluation of the Human Rights Commission. We have scheduled an exit conference with Executive Director Ivan Lee on Tuesday, August 29, 2000 at 10:00 a.m. at the Joint Committee Conference Room: Room W-330. Since the Human Rights Commission by statute falls under the Department of Health and Human Resources, we would like to invite you or your assignees to attend.

If you have any questions please contact me or Russell Kitchen, Research Analyst.

Sincerely,

A handwritten signature in cursive script that reads "Brian Armentrout".

Brian Armentrout
Research Manager

cc: John Bianconi, Director, Office of Behavioral Health Services

_____ *Joint Committee on Government and Finance* _____

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Antonio E. Jones, Ph.D.
Director

August 28, 2000

Ms. Ivan B. Lee, Executive Director
West Virginia Human Rights Commission
1321 Plaza East, Room 108
Charleston, West Virginia 25301-1400

Dear Ms. Lee:

Enclosed is a draft of the Update to the Preliminary Performance Evaluation of the Human Rights Commission. This letter confirms the scheduled date of the exit conference for Tuesday August 29, 2000 at 10:00 a.m. At that time we can discuss any concerns you may have with the draft report. Please respond in writing to this draft by Friday, September 1, 2000 so that your response may be printed in the final report.

If you have any questions please contact me or Russell Kitchen, Research Analyst.

Sincerely,

A handwritten signature in cursive script that reads "Brian Armentrout".

Brian Armentrout
Research Manager

cc: John Bianconi, Director, Office of Behavioral Health Services

Joint Committee on Government and Finance

APPENDIX B
Agency Response



STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

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Cecil H. Underwood
Governor

Ivin B. Lee
Executive Director

August 31, 2000

Antonio E. Jones, Ph. D., Director
Performance Evaluation and Research Division
WEST VIRGINIA LEGISLATURE
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

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RESEARCH AND PERFORMANCE
EVALUATION DIVISION

Dear Dr. Jones:

The West Virginia Human Rights Commission accepts the preliminary performance review completed by the Office of the Legislative Auditor. This report has proven to be most valuable to the WV HRC in its effort to improve its performance. This Commission continues to review the recommendations and analyses contained in the report.

GENERAL COMMENTS:

During the past year, this Commission has vigorously continued to safeguard the fundamental rights afforded every individual within the State of West Virginia by administering and enforcing the West Virginia Human Rights Law which delegates that responsibility to the WV HRC.

The Commission has established two satellite offices (Upshur and Cabell Counties) in an effort to be more visible and accommodating to the citizens of West Virginia. The WV HRC has hired additional investigators to promote a more efficient flow of cases from the investigatory to the adjudicatory processes and to ease the burden of the heavy caseload previously existing through the establishment of investigation teams.

This Commission has initiated a Conciliation Project which is designed to encourage settlements early in the investigatory process and which has proven to be most effective in case processing. A Mediation Project has been revived and is proving to be

an efficient and extremely worthwhile tool in arriving at settlement of Probable Cause Determinations. Sixty-five percent of cases directed toward mediation have been processed out of the WVHRC either by settlement or by averting the public hearing phase and proceeding to the Kanawha County Circuit Court.

The Commission has reached out to the community by (1) inviting minority groups to come before it to express any concerns which the WV HRC could possibly address, (2) hosting very well-attended community workshops to educate citizens in the area of available resources, and (3) having publicized town meetings throughout the state.

ISSUE AREA NO. ONE: Inadequate information system, and failure of JALAN.

This update finds that the Human Rights Commission followed the recommendations of the Legislative Auditor to develop an integrated management information system with the advice of the Department of Administration's *Information Systems and Communications Division* (IS&C). IS&C confirmed at the time of the October 1997 Update Report that the new management information system was to be designed to allow case tracking, networking and reporting as well as to simplify data entry and to eliminate the duplication which characterized the Human Rights Commission's previous management information system.

JALAN was the software to our old AS/400 system which does not currently exist. Since the time of the last audit, an information system has been implemented. As noted in the PERD report, our case tracking system is crucial to the Commission's case tracking production.

Since the inception of the case tracking system, the Commission has opened field offices in Upshur and Cabell counties. In the present design, the case tracking system is not accessible to these field offices. Additional software and hardware are needed to update the tracking system to make it available to the field offices. The case tracking system is crucial to the Commission's case production to allow the staff to track and maintain control over the constant flow of cases throughout the entire investigative process. As the three offices are not hooked up, we are preparing a request to establish an adequate information system connection between the Central Office and two satellite offices.

ISSUE AREA NO. TWO: Lack of financial information in Commission's annual report.

The Commission acknowledges and accepts that it has not included budgetary and/or financial information in its annual reports.

The Commission will include a balance sheet reflecting budgetary and financial information pertaining to the Commission in its Annual Report to the Governor, the

August 31, 2000

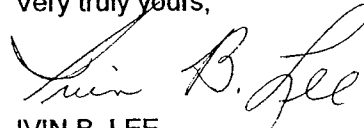
Secretary of the Department of Health and Human Resources, the Secretary of State and the Clerks of the House and Senate.

CONCLUSION:

The West Virginia Human Rights Commission expresses appreciation to the Office of the Legislative Auditor for this report. The report's thoroughness with recommendations for improvement identify areas which require review and correction. The WV HRC is in the process of implementing the report's recommendations.

This Commission appreciates being given the opportunity to respond to the report and its recommendations prior to its release. The West Virginia Human Rights Commission is rigorously committed to steadfastly retaining its commitment of guaranteeing equal opportunity to every resident of the State of West Virginia and providing the best possible services to its citizens.

Very truly yours,



IVIN B. LEE
Executive Director

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