

**STATE OF WEST VIRGINIA**

**PRELIMINARY PERFORMANCE  
REVIEW OF THE**

**HUMAN RIGHTS COMMISSION**

Case Backlog  
Inadequate Management Information  
Organizational Conflict of Interest  
Commissioners' Inactive Role  
Confidentiality of Records & Safety  
No Annual Reports

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December 6, 1995

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The Honorable Joe Martin  
House of Delegates  
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Gentlemen:

Pursuant to the West Virginia Sunset Law, we are transmitting this Preliminary Performance Review of the Human Rights Commission, which will be reported to the Joint Committee on Government Operations on Monday, December 11, 1995. The issues covered herein are "Case Backlog, Inadequate Management Information, Organizational Conflict of Interest, Commissioners' Inactive Role, Confidentiality of Records & Safety, and No Annual Reports."

Sincerely,

A handwritten signature in black ink, appearing to read "Antonio E. Jones".

Antonio E. Jones

AEJ/wsc

Enclosure



## Table of Contents

Executive Summary . . . . .	iii
Review Objective, Scope, Methodology . . . . .	3
Background and Mission . . . . .	4
<b>Issue Area 1: Backlog Violates <i>Allen</i> Mandate</b> . . . . .	<b>5</b>
Recommendations 1 and 2 . . . . .	9
<b>Issue Area 2: Inadequate Management Information System</b> . . . . .	<b>11</b>
Recommendation 3 . . . . .	14
<b>Issue Area 3: Organizational Conflict of Interest</b> . . . . .	<b>15</b>
Conclusion and Recommendation 4 . . . . .	16
<b>Issue Area 4: Commission Has Not Played Active Role</b> . . . . .	<b>19</b>
Recommendation 5 . . . . .	20
<b>Issue Area 5: Confidentiality of Records and Staff Safety</b> . . . . .	<b>21</b>
Recommendation 6 . . . . .	21
<b>Issue Area 6: Annual Reports</b> . . . . .	<b>22</b>
Recommendation 7 . . . . .	22
Appendix A: Letter from Mr. Herman Jones, Executive Director, HRC . . . . .	23
Appendix B: Agency Response . . . . .	27
Appendix C: Gap Analysis prepared by IS&C Consulting Services Center . . . . .	35

## Table of Tables

Table 1: Off-Premises Management Duties . . . . .	7
Table 2: Number and Types of Cases Filed Against DHHR by HRC . . . . .	17



# West Virginia Human Rights Commission

## Executive Summary

### ISSUE AREA 1: BACKLOG VIOLATES ALLEN MANDATE

In the 1984 class-action suit *Allen v. State of West Virginia Human Rights Commission*, the Supreme Court of Appeals ruled that the HRC (Human Rights Commission) must hold adjudicatory hearings within 180 days, and that final orders must be issued within one year. In 1984, the Court authorized an expenditure of \$500,000 to hire attorneys to eliminate the 1,200-case backlog; however, subsequent backlogs have occurred, and on October 30, 1995, there were **1,094 active cases--670 (or 61%) of which have exceeded the 365-day resolution period.** This is reminiscent of the adage, "Justice delayed is justice denied."

There are many reasons for the perennial backlog of cases at the Human Rights Commission. Beginning at the point of intake, there are claims which escape the criteria set forth in the *West Virginia Code* simply because some staff members are not adequately trained. A lack of internal management controls, lack of computer technology, insufficient clerical staff, time-consuming investigative techniques, and delays in hearings and scheduling have contributed to the longevity of cases on the docket. Additionally, there is the unseen factor of restrictive Equal Employment Opportunity Commission (EEOC) contracts which act as artificial inflators of the backlog.

### ISSUE AREA 2: INADEQUATE MANAGEMENT INFORMATION SYSTEM

During the course of the evaluation, there were many times in which PERD (Performance Evaluation and Research Division) requested information that was either difficult or impossible to obtain. Statistics dealing with active caseload and resolution periods were extracted manually, and the executive director has been unable to do analyses and trend predictions to present to the Commission board of directors.

The management information system which is supplied by the Equal Employment Opportunity Commission is called "HERO," and the complex array of codes in this national database does not always lend itself to the needs of the local Human Rights Commission. This liability is compounded by the fact that HERO is not compatible with the Commission's main computer system, the IBM AS/400. In its own right, the AS/400 was a sensible choice when it was acquired, but it quickly became an insufficient tool--both in memory and in functions. Last year, the HRC's purchase agreement with IBM was refinanced to include a program called JALAN, a complex case tracking system with specific applications for prosecutors, public defenders, and similar regulatory policing agencies.

The Attorney General's office paid for JALAN with funds which, if not used, would have reverted to the general revenue account on June 30, 1994. **On June 22, 1994, \$18,400 was spent for this software; it has now been 17 months, and JALAN has not one shred of data in it.** Notwithstanding JALAN'S inoperative status, however, one person from the Attorney General's office and two employees of the Human Rights Commission were sent to Spokane, Washington from July 11-16, 1995 to attend a "user group" meeting. Although arrangements were made for the West Virginia contingent to be taken aside for special attention beyond the agenda of a typical user group meeting, it still cannot be considered formal training with the system.

More recently, in an effort to determine whether JALAN could be adapted or salvaged, IS&C (Information Services and Communications) conducted a "needs assessment" for the HRC's computer systems. The supervisor in charge of this assessment says that "JALAN is not user-friendly, and the personnel at HRC are not computer literate." It appears that these impairments are nonetheless irrelevant since no one has been successful in customizing the software to design tables and various other essential operations. **Despite more than \$30,000 in documented costs, IS&C determined that the best long-term plan for the Human Rights Commission is to "phase out" the IBM AS/400 which houses JALAN.**

### **ISSUE AREA 3: ORGANIZATIONAL CONFLICT OF INTEREST**

PERD agrees with a 1993 Task Force Report which found that placement of the Human Rights Commission under the jurisdiction of DHHR created an organizational conflict of interest. The current structure lends itself to conflicting lines of authority, and the Commission is obliged to sue its own department. There have been more than 40 known cases filed against DHHR in recent years, and some of these have exacted sizeable awards--one of which was over \$50,000.

Members of the public have expressed the opinion that the HRC cannot objectively decide the merits of a case against its own department (the same people who control the Commission's purse strings) and a number of HRC employees believe that DHHR has taken retribution against them in times past. It goes without saying that the mere perception of a conflict of interest in this agency constitutes an undesirable characteristic. Ideally, the Human Rights Commission should be an autonomous regulatory agency under the direct auspices of the Governor.

### **ISSUE AREA 4: COMMISSIONERS HAVE NOT PLAYED AN ACTIVE ROLE**

The Commissioners have not taken an active role in the promotion of human rights in the state, and they have abdicated the authority granted them by the *WV Code*. Concentration has been directed to appellate duties, and members have been out of touch with day-to-day functions and requirements of HRC operations. Education and outreach have been sorely neglected, and this, in turn, reflects the negative connotations and low visibility which have been associated with the Human Rights Commission in West Virginia.



## **ISSUE AREA 5: CONFIDENTIALITY OF RECORDS AND STAFF SAFETY**

The Human Rights Commission is located at Plaza East in a reconfigured department store where individual offices are separated by low partitions. Files have to be stored on desk tops, bookcases, and a limited number of locking cabinets. Cleaning personnel and any employee with a key to the main entrance has access to these records. Barriers or similar devices need to be erected within HRC offices to control public movement. This type of preventive measure would then correct another harsh reality--that being the physical safety of Commission employees. The executive director states that the Human Rights office is frequented by "disgruntled and aggrieved clients whose actions are threatening, unpredictable and uncontrollable," and that staff safety is "constantly put in jeopardy."

## **ISSUE AREA 6: ANNUAL REPORTS**

The *West Virginia Code* requires the Human Rights Commission to file annual reports with the governor's office, but none have been done since 1989, the year DHHR gained jurisdiction over the HRC. Not only is this a clear violation of law, but information about the activities of the HRC is not available to policy makers and citizens.



# **WEST VIRGINIA HUMAN RIGHTS COMMISSION**

## **Review Objective, Scope, and Methodology**



## Review Objective, Scope, and Methodology

This review of the Human Rights Commission was conducted in accordance with the West Virginia Sunset Law, Chapter 4, Article 10, Section 11 of the West Virginia Code as amended. Preliminary performance reviews are intended to assist the Joint Committee on Government Operations in making one of five recommendations. The authorized options suggest that the department, agency, or board be:

- terminated as scheduled;
- continued and reestablished;
- continued and reestablished, but the statutes governing it be amended in specific ways to correct ineffective or discriminatory practices or procedures, burdensome rules and regulations, lack of protection of the public interest, overlapping of jurisdiction with other governmental entities, unwarranted exercise of authority either in law or in fact or any other deficiencies;
- scheduled for a performance audit after a preliminary review has been completed;
- continued for a period of time not to exceed one year for the purpose of completing a full performance audit.

In Chapter 4, Article 10, Section 3 of the West Virginia Code, as amended, a preliminary performance review is conducted to determine the goals and objectives of the Human Rights Commission, and the extent to which its operations are meeting those goals and objectives. The criteria for a preliminary performance review set forth in Chapter 4, Article 10, Section 11 of the West Virginia Code, as amended, enable these determinations to be made:

- whether the board or agency was created to solve a problem or provide a service;
- if the problem has been solved or the service has been provided;
- the extent to which board or agency activities, accomplishments, current projects, operations, planned activities, and goals are or have been effective;
- whether there would be significant adverse effects on public health, safety, or welfare if the Human Rights Commission was abolished; and/or
- whether the board or agency operates in a sound fiscal manner.

The time frame selected for this preliminary review was 1989 to present, the six-year period during which the Human Rights Commission has been operating under the Department of Health and Human Resources. However, the review may include events prior to this time if they more effectively help answer the five criteria for a preliminary performance review.

The preliminary performance review of the Human Rights Commission began with a planning process which has many times been tried and tested. The first step is to identify the agency's mission and study the **West Virginia Code**. A risk analysis was then prepared to determine factors which might impede accomplishment of the mission. The audit plan examines whether the risks were, in fact, realized.

## **Background and Mission**

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, and its sole office is located at 1321 Plaza East in Charleston.

The "declaration of policy" is found in Chapter 5, Article 11, Section 2 of the **West Virginia Code**:

It is the public policy of the State of West Virginia to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental, and financing of housing accommodations or real property. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or familial status. The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or familial status is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

Based on the declaration of policy cited above, the following mission statement was established at the September 21, 1995 HRC board meeting. It delineates actions necessary to fulfill statutory mandate:

To promote understanding, respect, and equality for all West Virginians through education and communication;

To eliminate discrimination on the basis of race, gender, age, handicap, national origin, ancestry, or religious beliefs in employment, housing and public accommodations through effective enforcement of the West Virginia Human Rights Act and the West Virginia Fair Housing Act.

**ISSUE AREA 1: As of June 30, 1995, a Backlog of 549 Cases Exceeded the 365-day Resolution Period Mandated by the Supreme Court.**

In the December 1984 decision *Allen v. State of West Virginia Human Rights Commission*<sup>1</sup> (hereinafter referred to as *Allen*), the Supreme Court of Appeals held that the HRC has:

**a mandatory duty to hold adjudicatory hearings within 180 days, and to issue final orders within one year from the date of filing complaints upon which it was determined (that) probable cause existed for substantiating their allegations.**

Although the Human Rights Commission processed 790 cases in FY 1994-95 (closing 525 of these), there continues to be a sizeable backlog. On October 30, 1995 the HRC had 1,094 cases open. Each year, the Commission adds about 450 new cases.

Virtually every person (eleven in all) from the Human Rights Commission who was interviewed by PERD spoke of the troublesome backlog. At their July 13, 1995 board meeting, the Commission's Acting Director reported that the **average length of time to determine probable cause is 27 months**--four and a half times the period mandated by *Allen*. Lawyers in the Attorney General's office are equally concerned: one expressed a constant fear of being sued because "the court's statute of limitations usually runs out well before the HRC gets a case processed for hearing."

Notwithstanding the legal and moral obligations of *Allen*, there are substantial financial risks to consider. A decade ago the Supreme Court spent more than half a million dollars hiring lawyers to eliminate a 1,200-case backlog; should this procedure bear repeating, today's costs would be appreciably more. Since *Allen*, there have been two lawsuits filed which cite the Supreme Court's decision and charge the Commission with ignoring "the specific constitutional, statutory, and regulatory requirements for timely resolution of discrimination claims." Although both petitions were ultimately withdrawn on questions which became moot, there is the possibility that equivalent proceedings may occur. **Of the 1,094 active cases as of October 30, 1995, 670 of them--or 61%--have exceeded the 365-day resolution period.**

There are numerous reasons why the Human Rights Commission is perennially plagued by case backlog, and it begins when a claimant walks through the door--with the intake of complaints.

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<sup>1</sup> *Cite as 324 S.E. 2d 99 (W. Va. 1984)*

## Lack of Management Policies and Procedures

In the initial survey submitted to PERD, the Human Rights Commission states that it has "no written strategic plan." Board minutes discuss **"not having set procedures and ways to do investigation which bogs down cases and causes backlogs."** Interviews with HRC staff conducted just five months ago reveal that changes in management have imposed undue hardship on the Human Rights Commission. There were supervisors who didn't "hold people accountable," managers who weren't "equally forceful," investigators with "no work plans nor goals," and "legal processes intertwined with intake"<sup>2</sup> all of which contributed to "no one knowing who was in charge." Only this year was a "case compression program" aggressively pursued. This method prohibits investigators from ending the quarter with more cases than the amount with which they started. One manager lamented that it has also been difficult to supervise some staff members since no written policies and procedures are in place. More recent interviews with both management and staff indicate that earlier dissensions have given way to effective reform. Employees are now more enthusiastic, and managers have praised the reorganization efforts of the new executive director and his grassroots approach to winning the confidence of the staff.

Perhaps one of the greatest encumbrances to a smooth-running office is the absence of key management personnel. With a permanent executive director now in place, oversight is less of a concern. However, there have been many times in the past when managers were obliged to act as lobbyists, marketing specialists, and educational outreach representatives, resulting in a considerable amount of time being spent away from the Commission. As shown on the shaded area of Table 1, two of three managers were largely absent from HRC premises during the first six months of 1994.

However, the same board that encouraged this onslaught of outreach questioned the wisdom of training the State Police during the 1994 Legislative Session when the remaining manager had to spend so much time at the Capitol. Board minutes which were systematically specific and rich with detail suddenly failed to mention the disappearance of its executive director from one set of records to the next; further, **the new acting executive director informed the board that he was not going to do anymore training sessions even though he had received five requests in one day.**

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<sup>2</sup> Staff member is referring to disputes between intake managers and legal counsel.



**TABLE 1**  
**OFF-PREMISES MANAGEMENT DUTIES**

<b>1994 DATES</b>	<b>MGRS.</b>	<b>ABSENT FROM COMMISSION OFFICES DUE TO:</b>
January 13	2	Board meeting in Huntington
<b>February, March, April, May</b>	<b>2</b>	<b>In-service training for State Police -- <u>most of 4 months</u></b>
1st wk. of March	1	Spoke before Finance Committee
March 10	1	Legislative Session
April	1	Affirmative Action meetings on two occasions
May 24	1	All day at Poca H.S. helping "sensitize" students
May 25, 26, 27	1	Sensitivity and cultural diversity training in Greenbrier County
June 27, 28	2	EEOC Regional meeting in Philadelphia

**EEOC Regulations and Contract Hold up Case Closure**

Some of HRC's backlog is directly related to methods of taking evidence which are stipulated by the Equal Opportunity Employment Commission (EEOC). Guidelines have specified lengthy, full-blown investigations that have caused backlogs in every state which has a human rights agency. However, EEOC recently decided to begin prioritizing cases. Although the law states that an investigation has to be performed, allegations will now be more closely scrutinized to determine whether there is sufficient proof "early on."

Another sizeable chunk of the HRC's backlog results from their work contract with EEOC. Although the HRC has met its quota for the year, it is holding closure on another large segment until EEOC either renews the contract or modifies it upward. **Because the Human Rights Commission is not paid for work unless it is covered under contract, approximately 250 cases are being stockpiled until the next budgetary year. Justification for this procedure is strictly monetary: EEOC pays \$500 for each completed, contracted case, and the Commission cannot afford to lose the substantial portion of its budget which is generated from**

these additional funds. The Human Rights Commission is powerless to rectify this situation since its fiscal year begins July 1 and EEOC's begins on October 1st. Consequently, the HRC is both meeting and exceeding its contract with EEOC, but would be punished for submitting these cases ahead of time. They have already lost well over **\$100,000** this year for cases completed beyond the terms of the contract. **Although claimants have been sent letters of determination so they can appeal or take any other action they would choose, these stockpiled cases serve as an artificial inflator of numbers involved with backlog.**

### Time is Wasted on Intake and Processing of Meritless Cases

*West Virginia Code §5-11-10* states that **the Human Rights Commission has a mandatory duty to place on its docket all complaints tendered that meet five criteria:**

- 1) **verification;**
- 2) **name and address of the respondent;**
- 3) **description of the alleged discriminatory action or practice;**
- 4) **other information as required in rules and regulations promulgated by the Commission; and**
- 5) **filing within one year after the alleged act of discrimination.**

Although this may seem fairly clear-cut, there are sometimes finer points of law which may appear ambiguous. There is indication that some intake personnel may need instruction on how to better use their time, and training to better recognize **meritless cases** or those which do not meet jurisdiction. It has been suggested by some HRC members that the expertise of a staff attorney would likely cut the caseload by 20% if periodic intake reviews are conducted. It was not possible for PERD to determine the extent of meritless cases, due to the inadequacy of HRC's management information system.

Two cases in point were appealed to the West Virginia Supreme Court after "no probable cause" (NPC) recommendations were rendered. Below is an excerpt from the May 31, 1994 Human Rights Commission Minutes:

One of the cases contains allegations that the complainant was refused admission to a flying saucer because of her race. The complaint was against the Huntington Bank, and an allegation was that the Bank held up money which she had coming because she had a Korean genius child.

The other case was filed by a complainant in Hancock County who alleged she was denied preferential treatment in the scheduling of bus routes.

The flying saucer case involved a woman who "obviously was in need of mental health help," according to Human Rights personnel. However, EEOC regulations require that all claims be fully investigated, so 40-60 hours were spent on this case. Once the federal guidelines are relaxed, intake personnel will be afforded more independence to apply footnote 15 of *Allen* to their decision-making. It specifically states that "findings of probable cause may, in some instances, be made on the face of the complaint, without resort to further investigation."

## *Conclusion*

Speedy justice is not possible if case backlogs continue to plague the HRC. Citizens, employees, and other entities must tolerate a long, arduous process to seek justice, or else defend themselves. The applicable adage here is "Justice delayed is justice denied."

Some of the Human Rights Commission's problems **have been and continue to be** outside its reach, while others are clearly fixable. EEOC contracts are dependent upon federal funding which is ungovernable and apparently unalterable. Last summer, the EEOC relaxed some of its rigid investigative procedures, and this benevolence, combined with the Commission's own compression and incentive programs, should do much to improve overall production levels. There is a bit of irony in the fact that last year when the Commission was without a permanent director, the active caseload was reduced by 52%. Certainly the acting director and staff are to be commended.

### *Recommendation 1*

*Because reasons for the backlog vary and are somewhat in dispute, the Performance Evaluation and Research Division recommends that the HRC present a plan to pare the backlog at the first 1996 meeting of the Joint Committee on Government Operations.*

### *Recommendation 2*

*The HRC should provide training for intake personnel, and consider when it is necessary to consult with supervisors or attorneys at that stage of the process.*



## **ISSUE AREA 2: Inadequate Information System, And Failure of JALAN**

During the course of the evaluation, there were many times in which PERD requested information that was either difficult or impossible to obtain. For example, the statistics dealing with active caseload and resolution periods which were quoted in **Issue 1** were "physically extracted with some effort," according to the executive director. In further response to some of our requests, he writes: (See appendix A).

**For the information requested, you would expect to find it residing on an automated data base for easy retrieval and analysis. However, my current capability is limited to committing staff members to manually research individual files.**

The Commission's new director learned earlier about the HRC's computer pitfalls when he attempted to do statistical analyses to classify information and determine categories of discrimination. He had hoped to be able to make predictions and identify trends to curb future problems; instead he informed members at the September 21, 1995 board meeting that the **Commission did not have the computer capability to accomplish what he would like to do.**

This management information system is called HERO, and both HUD and EEOC require its use. HERO's disadvantages are specified in a May 2, 1995 communication from the Human Rights Commission to PERD regarding their national charge data system:

**It (HERO) does not always meet the needs of the contracting agencies because all the jurisdictions and regulations are different. There are times when the Commission needs a code for its purposes that EEOC does not; and, unless they provide the code, we cannot make changes to the software.**

Barring the inherent liabilities of HERO, there is another drawback which is far more disconcerting: it is incompatible with the Human Rights Commission's main computer system, an IBM AS/400. However, the AS/400 has also proven to be a less-than-perfect tool. Upon acquiring it, it seemed a sensible choice; but before long, it became apparent that a memory upgrade was inevitable. Since the Human Rights Commission did not have the money for this unexpected expenditure, funding was provided by the Attorney General's office. The purchase agreement with IBM was refinanced to upgrade the AS/400 and to incorporate JALAN, a complex case tracking system with specific applications for prosecutors, public defenders, police departments, and investigative agencies. The software has proven to be much more complicated than anyone imagined, so the HRC enlisted the help of Information Services and Communications (IS&C) to determine how the Commission can best use its computer equipment.

The acquisition of a case tracking system began approximately 20 months ago when the chairmen of the Commission and the "Task Force to Study the Human Rights Commission" approached the Attorney General for "additional support and resources to assist in the backlog of complaints to be investigated." The Attorney General's office agreed to pay for the software, provided the HRC could have a contract in hand by June 30, 1994. A letter to PERD from the

Attorney General's office dated November 20, 1995 states that his staff "concluded that the software was a necessary resource if the tremendous backlog in the Commission was to be reduced," and that "the JALAN system met the identified needs of the Human Rights Commission staff." However, IS&C found that although "JALAN has been in place for over a year, there is nothing in the system that is currently being used," and that "none of the data tracked is on a platform accessible by the Attorney General's office." It appears, then, that rather than allocate the funds for something else, or allow them to expire, an end-of-the-year rush to spend money resulted in the purchase JALAN. The hastiness of this decision is reflected in an excerpt from the board minutes of May 31, 1994:

{A person in the AG's office} thinks we are stonewalling. . .but we are not. We have to get computer experts in here, because we are not computer experts. There is no sense in rushing into something which will not meet our needs just because someone is offering us money.

Nonetheless, 22 days later, a contract for \$18,400 was signed. It has now been 17 months since JALAN was installed, and no data has been entered. The supervisor from IS&C in charge of the needs assessment stated that "JALAN is not user-friendly, and the personnel at HRC are not computer literate." His instinct is that "it was a lot more complicated than they thought it would be."

Regardless of JALAN's inoperative status, one person from the Attorney General's office and two employees of the Human Rights Commission were sent to Spokane, Washington five months ago to a "user group" meeting. The Attorney General's office said their staff person received "extensive training on the JALAN system," and HRC personnel likewise reported that employees had gone to Spokane for "training." Subsequent conversations with IS&C, however, revealed that while the West Virginia contingent was "taken aside. . .and provided with some special attention that went further than what might have been expected to get from a user group meeting. . .this special attention still falls short of formal training with the system." Furthermore, one of JALAN's own representatives stated that the user group meetings "were not designed to be training sessions."

In a questionnaire sent to the Human Rights Commission last month, PERD asked, "Was it ever the intention of the HRC or the Attorney General's Office to link HERO with JALAN?" The Commission responded:

Yes. It was the intent of both the Attorney General's Office and the Commission to integrate the JALAN system in order to have one computer tracking system. The Attorney General's Office cannot access the HERO system, but they would be able to access the JALAN system.

Ten days later, on the first page of IS&C's Gap Analysis, there is this statement:

And, finally, none of the data tracked is on a platform accessible by the Attorney General's office.\*

\* Underlines added.

In a follow-up interview at the Human Rights Commission on October 1, PERD was told that IS&C was "doing a gap needs assessment to try to determine how the HRC can obtain the best use from their computer equipment and programs." The results of that appraisal can be found in a "Gap Analysis" which was submitted to the Commission last week (and is included as Appendix C). The IS&C supervisor's "gut feeling" a few weeks ago that it might be "considerably cheaper to scrap the system they have and start over" was borne out in their final report: "The best long-term plan for {the} HRC would appear to be phasing out the AS/400 and migrating to a PC LAN environment."

If indeed another system is purchased, the costs involved will not be confined to money *spent*; there is also money *committed*. The Commission is locked into a 5-year lease-purchase agreement with IBM, with payments of approximately \$700 a month. **Therefore, the total known (or documented) costs incurred exceed \$45,000: \$32,544.22 (which includes roll-over financing of \$11,099) to IBM for upgrading the AS/400; \$16,000 for the JALAN package; an additional \$4,800 in user fees; and more than \$3,000 to send three people on a 6,000-mile round-trip meeting to the Northwest. Intangible costs include the HRC's inability to do 17 months' worth of data input and the valuable time spent by IS&C trying to find out why.**

Because the HRC does not own JALAN, the \$2,400 maintenance fee must be incurred annually for as long as the Human Rights Commission has possession of the software. This fee remains in effect through June 30, 1996, then will increase at least 5% for fiscal year 1997. IS&C contacted JALAN to ask how much it would cost to do an analysis of the changes which need to be made, but the software company refused to be pinned down. However, they did quote rates of \$800 a day plus expenses. When asked about the cost of modifications, JALAN's original estimate was from \$9,000 to \$90,000, but this was later revised to "not to exceed \$30,000." Further conversations with JALAN produced a "better estimate," according to IS&C: "The State of North Carolina undertook a comparable effort and the total cost was around \$70,000."

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PERD received the Gap Analysis on November 28, 1995--*after* most of the performance review text was written and could logically incorporate sections of IS&C's report. Therefore, excerpts are included below:

The {JALAN} software has not been customized at all. HRC is searching for ways to put the data they need into fields not designed for this information.

There are no graphics capabilities.

JALAN, even with double entry, was not designed with the functionality that HRC requires.

Since some of the employees also use their own tracking method because CDS/JALAN does not do what they need, in some cases this becomes triple entry. This is not a desirable requirement from either the employee or management perspectives.

### **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 on 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. EEOC estimated that training would take 2-5 days, and it can be scheduled any time.
- 2) The EEOC is also willing to produce ad hoc reports within 24 hours 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 the debt on the AS/400 and pay for the 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 have the alternative of phasing-in the LAN, with only a few employees initially being connected to the new database; others could then be added as funding becomes available.



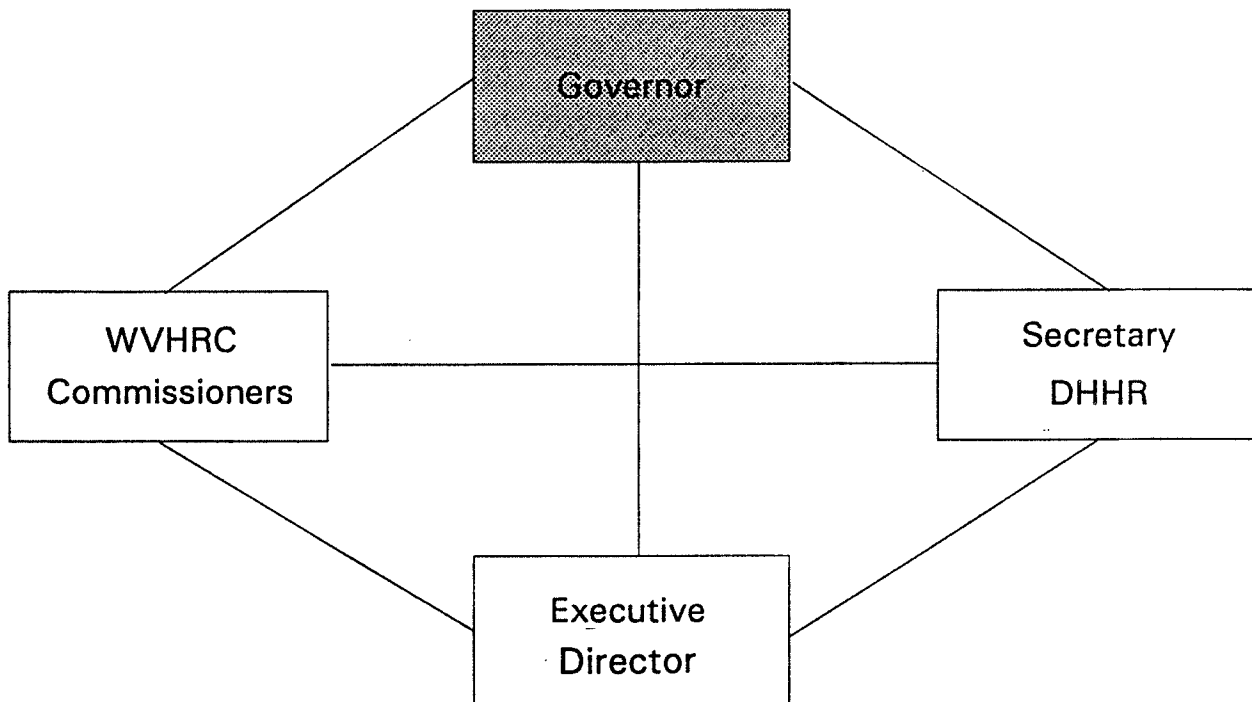
### **ISSUE AREA 3: Placement of the Human Rights Commission Under DHHR Created A Conflict of Interest**

In 1989, the Human Rights Commission was placed under the jurisdiction of the Department of Health and Human Resources. Subsequently, a "Report of the Task Force to Study the West Virginia Human Rights Commission" dated September 9, 1993, states on pages 12 and 14, respectively:

**When the West Virginia Code and *Allen* were amended to place the Human Rights Commission under the jurisdiction of and subject to the supervision by the Secretary of Health and Human Services Department, an existing state of confusion, misunderstanding, and lack of direction was exacerbated.**

**The Task Force believes that ideally the structure of the Human Rights Commission should be that of an autonomous, independent Commission similar in concept to federal independent regulatory agencies.**

The Task Force concluded that *West Virginia Code §5F-2-2* "empowers the Super Secretary with the same type of authority as the Commissioners" and that authority relationships were "clearly one of the most misunderstood issues found." Below is the existing structure:



The Task Force report states that when a new layer of authority is applied to the "already confusing amalgam of chain-of-command, the problems multiply." They concluded that crossing areas of authority "negatively affects the leadership. . .and coherence within the Commission."

The most blatant manifestation of the problem occurs when the HRC must file suits against its own department. There have been over 40 cases filed by the Human Rights Commission against DHHR, and several are pending closure at this time (See Table 2). Furthermore, the Commission has been successful in winning sizeable monetary awards in some of these cases. In 1993, for example, the HRC obtained judgments against DHHR for \$51,763 and \$8,554 for claims filed in Raleigh and Kanawha counties. Subsequently, Commission minutes dated September 8, 1994, indicate that members of the HRC staff--rightly or wrongly--believed that employee merit raises were being denied them due to retaliation by DHHR. Interviews conducted by PERD nearly a year later reveal that some employees still felt they were being penalized by their parent department. Additionally, when asked whether DHHR's dominion over the Human Rights Commission could affect its funding, a representative of the Attorney General's office said that "since the HRC sues its own department, there is the potential for purse strings being affected."<sup>1</sup> However, the new executive director of the Commission has since obtained pay increases through the Secretary's office.

### Conclusion

The placement of the Human Rights Commission in the DHHR structure creates an **inherent conflict of interest**, and the independence of the HRC in such an organizational structure cannot be guaranteed. Therefore, more than 5,000 employees in the Department of Health and Human Resources, and an inestimable number of potential applicants cannot be assured that they will receive due process and equal protection under the various discrimination statutes enforced by the Human Rights Commission.

### Recommendation 4

*The Performance Evaluation and Research Division recommends that the Legislature consider making the Human Rights Commission an independent agency under the auspices of the Governor.*

<sup>1</sup> Upon returning the signed copy of the document, the interviewee included this hand-written phrase after the word, *affected*: " but this has never happened."

**TABLE 2**

**Number and Types of Cases Filed Against DHHR by HRC**

State Facilities	Type	Basis	Number of cases	Total
Huntington State Hospital	Employment	Handicap	2	4
	Employment	Blind	1	
	Public Accommodation	Race & Reprisal	1	
Pinecrest Hospital	Employment	Race	1	1
Welch Emergency Hospital	Employment	Race	2	3
	Employment	Sex	1	
Weston State Hospital (Currently William R. Sharpe, Jr.)	Employment	Blind	1	8
	Employment	Handicap	4	
	Employment	Race	1	
	Employment	Sex	1	
	Public Accommodation	Race & Reprisal	1	
Colin Anderson Center	Employment	Age	1	5
	Employment	Sex	1	
	Public Accommodation	Race & Reprisal	2	
	Employment	Sex Reprisal	1	
Field Offices	Employment	Race	5	18
	Employment	Handicap	4	
	Employment	Sex	2	
	Employment	Age	3	
	Public Accommodation	Handicap	2	
	Public Accommodation	National Origin	2	
State Office	Public Accommodation	Race & Reprisal	3	12
	Employment	Race	4	
	Employment	Age	1	
	Employment	Blind	2	
	Employment	Sex	2	
			<b>Total</b>	<b>51</b>



#### **ISSUE AREA 4: The Commission Has Not Played an Active Role in the Promotion of Harmonious Relationships Among Disabled, Racial, Ethnic, Religious, and Other Groups.**

The Legislature provided a legal mandate that the Human Rights Commission take an **active role in the promotion of human rights** through public education, creation of advisory and conciliatory councils, and the fostering of goodwill among groups and elements of the population in the state. This legislative mandate was reiterated by the Supreme Court in *Allen* as follows:

**. . . being a Commissioner is not a token of honor to be taken lightly. The absence of commissioners at important agency functions has also contributed to the lack of expeditiousness. The Legislature has imposed substantial duties upon the commissioners.**

In interviews conducted by PERD, Commission members and staff lament that the HRC has little visibility in the state. Board members, supervisors, and employees say that many who do know of the Commission think of it as a "black agency," when in fact more than half the claims filed last year were based on sex and handicap charges. Education and outreach are vital to promoting tolerance, then acceptance, and eventually, respect for other people. Specifically, the *West Virginia Code* §5-11-8 (a), (b), and (i) states; with regard to the duties of the Commission:

- (a) To **cooperate and work** with federal, state, and local government officers, units, activities, and agencies in the **promotion and attainment** of more harmonious understanding and greater equality of rights between and among all racial, religious and ethnic groups in this state;
- (b) To **enlist the cooperation** of racial, religious and ethnic units, community and civic organizations, industrial and labor organizations and other identifiable groups of the state in programs and campaigns devoted to the **advancement of tolerance, understanding and the equal protection of the laws** of all groups and peoples;
- (i) To **create such advisory agencies and conciliation councils**, local, regional or statewide, as in its judgment will aid in effectuating the purposes of this article, to **study the problems of discrimination** in all or specific fields or instances of discrimination because of race, religion, color, national origin, ancestry, sex, age, blindness, handicap, or familial status; to **foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements** of the population of this state, and to **make recommendations** to the commission for the development of policies and procedures, and for programs of formal and informal education, which the commission may recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens serving without pay. The commission may itself make the studies and perform the acts authorized by this subdivision. It may, by voluntary conferences with parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all elements of the population of the state (emphasis added).

The Commission has not adhered to *West Virginia Code* §5-11-8(f) which states that it is authorized and empowered to **delegate to its executive director such powers, duties and functions as may be necessary and expedient in carrying out the objectives and purposes of this article**. The aforementioned Task Force found that "the Commissioners have confined their role to that of an appellate body and have abdicated responsibility for both strategic planning and operations to the Executive Director."

PERD notes a new positive direction for the Human Rights Commission with the recent summit held in Charleston on November 13-14, 1995. The two-day conference included reports and seminars on various topics relating to human rights issues. The Commission hopes to kick off "a new era of tolerance in West Virginia."

### **Recommendation 5**

*The Human Rights Commission should become more active in the prevention of discrimination complaints through community involvement and other activities specified in the West Virginia Code.*

## **ISSUE AREA 5: Confidentiality of Records and Safety of Staff**

In the Commission board minutes of August 10, 1995, security containers for case files was discussed. Although the Human Rights Commission needs to have locked file cabinets to protect confidential information, there are no resources to purchase the containers.

The following excerpts are taken from a letter to PERD dated November 3, 1995 from Herman Jones, Executive Director of the HRC:

As you pointed out, the Human Rights office is one of many state offices located in this reconfigured department store where individual offices are separated only by erected partitions that were not designed to deny access to any office. . . .

This condition, I'm afraid, makes it is nearly impossible for me to provide any appreciable level of protection and security for the record number of confidential investigative files generated within my office over recent years.

Currently, there is an insufficient number of locking file containers to store and safeguard the estimated 140 linear feet of investigative files. This condition no doubt emerged during periods of reduced resources allocation and inadequate funding. Consequently, files are stored on desk tops, bookcases, and in a limited number of locking cabinets. For the most part, however, files are stored in cabinets that cannot be locked. It is during non-business hours when file security is compromised the most. That is when uncleared and unknown cleaning personnel are the sole occupants in the building with complete unrestricted access to records, reports, files, and documents. . . {this is} not to mention the fact that any employee of this building who has an entrance door key to the main entrance door has undeniable access to these same records.

Mr. Jones continues with a separate but related safety concern--this one regarding the well-being of employees:

There is also a need to erect barriers or other devices within the Human Rights office to control public movement throughout the office. It is not unusual for the Human Rights office to be frequented by disgruntled and aggrieved clients whose actions are threatening, unpredictable, and uncontrollable. Since there is no full-time security force on the premises and my staff is not trained to provide physical security, office records and files, as well as staff safety are constantly put in jeopardy.

### **Recommendation 6**

*The Human Rights Commission should obtain file cabinets which protect the safety of records by lock and key, and control who has access to keys and files.*

## **ISSUE AREA 6: Annual Reports**

*West Virginia Code §5-11-8(g)* requires the Human Rights Commission to **prepare a written report on its work, functions and services for each year, ending on the thirtieth day of June, and to deliver copies thereof to the governor on or before the first day of December next thereafter.** In the period covering this review, no annual reports were filed by the HRC. Moreover, the evaluation team requested a copy of the latest DHHR annual report at the office of the secretary and was told "we have not had one [annual report] in several years." It was expected that a section of such report may have been devoted to the accomplishments of the HRC. The failure to publish annual reports is not only a clear violation of the law, but lawmakers and the public are not informed of the activities of the Human Rights Commission.

### **Recommendation 7**

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



## **APPENDIX A**





**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

1321 Plaza East  
Room 104/106

Charleston, WV 25301-1400

TELEPHONE (304) 558-2616  
FAX (304) 558-0085  
TDD - (304) 558-2976

Gaston Caperton  
Governor

Herman H. Jones  
Executive Director

October 30, 1995

Antonio E. Jones, Ph.D., Director  
Building 5, Room 751A  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0592

Dear Mr. Jones:

As we discussed this date, I can only provide a partial response to your request for information on active human rights discrimination complaint cases. For the information requested, you would expect to find it residing on an automated data base for easy retrieval and analysis. However, my current capability is limited to committing staff members to manually research individual files.

The following information was physically extracted with some effort.

- \* Number of cases (to date): 1094
- \* Number of cases past 180 days without PC/NPC determinations: 188
- \* Number of cases past 365 days which have not been closed: 670

It will be impossible to obtain other information without devoting a significant percentage of the workforce to file searches.

I hope the information provided will be of some use to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Herman H. Jones".

Herman H. Jones  
Executive Director



## **APPENDIX B**





**STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION**

**1321 Plaza East  
Room 104/106  
Charleston, WV 25301-1400**

**TELEPHONE (304) 558-2616**

**FAX (304) 558-0085**

**TDD - (304) 558-2976**

**Gaston Caperton  
Governor**

**Herman H. Jones  
Executive Director**

**December 5, 1995**

Dr. Antonio E. Jones, Director  
West Virginia Legislature  
Performance Evaluation &  
Research Division  
State Capitol Building 5, Room 751A  
Charleston, WV 25305-0592

Dear Dr. Jones:

Thank you for sending me a copy of the Preliminary Performance Review of the West Virginia Human Rights Commission and for giving me this opportunity to respond.

I appreciate the diligence with which this review has been conducted and the attention which your reviewers have given to my concerns and perspectives as well as those of my staff. My comments are enclosed.

Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Herman H. Jones".

Herman H. Jones  
Executive Director

HHJ/elm

Enclosure





**REPLY OF THE HUMAN RIGHTS COMMISSION TO  
THE PRELIMINARY PERFORMANCE REVIEW**

**Background and Mission**

The Summary of the background and mission of the Human Rights Commission (HRC) state well the central purpose of the Commission. However, as a footnote to your recitation of the statutory policy and the Commission's mission statement, I think it is worth pointing out that the increasing number of loathing events occurring in our state and around our nation in past years suggests that the purpose and mission is more important today than ever. That it is crucial we vigorously attempt to engage society through persuasion or conciliation, and to foster goodwill and cooperation among all citizens. Otherwise, we run the grave risk of moving further in the unsavoring direction of a violent and divided society. A public attitude of tolerance, as well as both the perception and the reality of equal opportunity are essential to protecting what is best in our society.

**ISSUE AREA 1: BACKLOG VIOLATES ALLEN MANDATE**

The observation that the HRC has suffered a chronic backlog is correct. However, in order to understand the true nature of this problem, it is important to discuss the matter in a broad and comprehensive context.

The primary reason for the backlog of cases stems from the fact complaints received at the Commission exceed the resources capability of the Commission to adequately process complaints in a timely fashion. The State Supreme Court of Appeals correctly ruled in the interest of justice that the HRC has: "a mandatory duty to hold adjudicatory hearings within 180 days, and to issue final orders within one year from the date of filing complaints" to expedite closure for those cases in which a probable cause decision had been rendered. Although the court authorized an expenditure of \$500,000 to hire attorneys and legal clerks around the state to reduce the backlog of approximately 350 cases awaiting adjudicatory hearings (not for the purpose of eliminating the alleged 1200 case backlog), there were no follow-on legislative appropriation increases or increases in HRC staffing levels to effectively manage the increasing number of complaints received yearly and simultaneously manage the ever regenerating backlog.

Each of the seven (7) HRC investigators is assigned an average monthly case workload of approximately sixty (60) cases - nearly twice the number that an investigator can reasonably be expected to manage effectively. Moreover, a compression program was initiated that prohibits investigators from ending the quarter with more cases than the amount with which they started. Although no additional resources were provided during fiscal

1994-95, the Commission reduced its active case load from 1,523 case to 733 cases, a reduction of 52%.

In those cases where a probable cause determination has been made and the matter is not resolved through conciliation, the West Virginia Code requires the case be adjudicated through the Commission's administrative hearing process. Currently, there are only two (2) dedicated Administrative Law Judges (ALJ) and one (1) part-time ALJ who possess the requisite civil rights law expertise, which are available to preside over the increasing number of hearings. Each ALJ is responsible for conducting their own individual law research, arrange hearings, coordinate hearing participation, travel throughout the state to conduct hearings, and perform other related duties without the aid of a legal clerk and a dedicated legal staff. Two additional ALJ's, four additional investigators, and a legal clerk would be the minimum additional staffing required to effectively stabilize the flow of hearings, permanently reduce the backlog to a management level, and bring the Commission into compliance with the "Allen" decision.

In the late Fall of 1989, the Commission moved to its present location. In preparation for the move, the Commission identified closed cases located at its old location. These cases were shipped to the State central records holding facility for storage and subsequent destruction in accordance with applicable records management policies. The staff person responsible for this function resigned from the Commission the following year. After this employee departed, the Commission was unable to locate the logs for cases forwarded to central storage. Files for thirteen open cases could not be located. However, the Commission was able to reconstruct these files with the cooperation of the parties involved in the cases.

## ISSUE AREA 2: INADEQUATE MANAGEMENT INFORMATION SYSTEM

Recognizing that current computer capability is insufficient to meet the needs of the Commission, assistance was requested from the Information Services and Communications Division (IS&C) to assist in conducting a complete "gap and need" assessment to determine how best to automate files, records, and mission activities within the Commission. Previously, in developing affordable alternatives to finding a critical needed case management system which would operate on the existing AS/400 system, the decision was made in Summer 1994 to purchase the JALAN software package. At that time and after consultation with several computer experts, the Commission was advised that with some emulation equipment, the Civil Rights Division could have access to the JALAN system, even if it would not be fully compatible with their system. It turns out the sophistication and complexities associated with the desired computer capability were not sufficiently addressed and understood. Now that the management information issue has been thoroughly researched and analyzed, the recommendation made by IS&C to acquire a

completely integrated system is the preferred alternative and will be pursued providing adequate funding is made available.



## **APPENDIX C**



**WEST VIRGINIA HUMAN RIGHTS COMMISSION**

**GAP ANALYSIS**

**NOVEMBER, 1995**

Prepared By:  
IS&C Consulting Services Center  
Mike Morris  
Dawn George

## TABLE OF CONTENTS

Executive Summary .....	i
Introduction .....	1
Current Environment .....	1
Problems .....	2
Summary .....	5
External Considerations .....	6
EEOC .....	6
Attorney General's Office .....	7
Human Resources Information System .....	7
Proposed Solutions .....	8
PC LAN .....	8
AS/400 Database .....	14
UNIX Database .....	17
NCR Tower Solutions .....	19
Possible Workflow .....	20
Summary .....	22
Summary of Cost Estimates .....	24



# WEST VIRGINIA HUMAN RIGHTS COMMISSION GAP ANALYSIS

## EXECUTIVE SUMMARY

The West Virginia Human Rights Commission (HRC) receives and investigates complaints of discrimination in employment, housing and public accommodation. They wish to become more involved in the prediction and prevention of discrimination through education. In order to do this, they must be able to analyze the data that they have collected on previous complaints and use this to predict future problem areas.

In their current environment, there is no single platform where all of the information tracked by HRC is available. They have no equipment capable of providing the ad hoc reports for generating statistics or the graphics which are desired for predicting trends and making presentations. And, finally, none of the data tracked is on a platform accessible by the Attorney General's office. An upcoming complication is the mandatory implementation of the statewide Human Resources Information System (HRIS) which will require anyone accessing personnel records for payroll, hiring, promotions, etc., to have a PC with Windows. See pages 1-8 for more details.

When decisions regarding the design of the new database (or changes to be made to an existing database) are made, representatives from each section of HRC and Paul Sheridan of the Civil Rights Section of the AG's Office should be included. Their input on what information they collect, what information they need to track, and what information passed on (or not passed on) from previous sections they use in performing their jobs should be the driving force behind decisions of what to include in the new database.

## RECOMMENDATIONS

### Short Term:

1. The EEOC Information Resources Management Services indicated that they will provide training for two employees on 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. They estimated training would take from two to five days. It can be scheduled at any time by contacting Leo Sanchez.
2. The EEOC Information Resources Management Services is also willing to produce ad hoc reports within 24 hours if detailed requests are made. Norman Lindell tried it out and they came through within the indicated time frame. This should be viewed as an interim solution.
3. HRC needs a permanent, full time, experienced employee whose primary responsibility is maintaining the commission's office automation environment, including hardware, software, communications, and databases. Without this person, who is held responsible for implementing and maintaining the system, and management insistence that all employees keep the information in the database current and accurate no new system will

work. Once the commission makes a decision regarding the general direction in which they wish to move for their long term solution, the network administrator/database manager/programmer should be hired. This position needs to be tailored to provide experience on the specific platform chosen. The administrator can then coordinate the development and hardware/software procurements. See pages 3, 10, and 14-17.

#### Long Term Solutions:

1. Given the current capabilities of personal computers, and the extra costs associated with use of the AS/400 as a database platform, the best long term plan for HRC would appear to be phasing out the AS/400 and migrating to a PC LAN environment. An upgraded EEOC UNIX PC could be connected to the LAN for transfer of data. This is also more in sync with the stated long term plans of the EEOC to migrate to a client/server Oracle platform. A DOS based PC LAN should readily be modifiable to interact with the client/server system. It would also provide HRC with the PC's needed to access HRIS. Implementation of this plan would require an appropriation that would pay off the debt on the AS/400 and pay for the hardware, software and development of the new system. While the initial cost for installing a LAN would be higher than for upgrading the AS/400, the long term costs in terms of personnel and maintenance should be less. HRC does have the alternative of phasing in the LAN, with only a few personnel initially provided with PC's and connected to the new database. Others could be added over time as funding becomes available. See pages 8-14 for more details.
2. Should HRC determine that they cannot afford to abandon the AS/400, there are several alternatives. All of the AS/400 solutions involve additional investment in upgrades to the AS/400 and they all require that HRC hire someone who is familiar with the chosen application. This Database Administrator would be responsible for maintaining the database and related hardware, keeping the CDS updated via an electronic transfer of data, and writing queries and reports.
  - a. HRC could hire a contractor to set up an AS/400 database application and write the program to allow the electronic transfer of data to the CDS. Experienced AS/400 programmers are in short supply and, therefore, expensive. Once the application is installed, the Database Administrator would be able to make future changes since HRC would own the actual program code. See pages 14-18.
  - b. HRC could keep the JALAN software and pay JALAN to customize the software and provide training. This would also require an upgrade to the AS/400 for communication with the EEOC database. If this option is chosen, HRC would have to hire JALAN to make any future changes that are deemed necessary. This appears to be more expensive than developing a whole new application. See pages 3-4, 14.
3. Regardless of what platform is chosen, major investment in the NCR tower will be required in order to make it communicate or it will have to be replaced. There is no way to make the NCR, as it currently exists, communicate with any other platform. IS&C agrees with EEOC that the most reasonable alternative from both a functional and a financial point of view is to replace the NCR tower. See pages 2, 6-7, 19.

# WEST VIRGINIA HUMAN RIGHTS COMMISSION GAP ANALYSIS

## INTRODUCTION

The West Virginia Human Rights Commission (HRC) receives and investigates complaints of discrimination in employment, housing and public accommodation. They wish to become more involved in the prediction and prevention of discrimination through education. In order to do this, they must be able to analyze the data that they have collected on previous complaints and use this to predict future problem areas.

## CURRENT ENVIRONMENT

HRC utilizes a FilePro Plus v 4.1 database on a NCR UNIX 2.01.02 (based on AT&T 5.2) Model 32/600 tower with 10 Mb RAM and a 140 Mb hard drive. The database, Charge Data System (CDS), is maintained by the EEOC Information Resources Management Services. It is a federal mandate that they continue to maintain this database for federal reporting. Although cable has been laid so this machine can be accessed from multiple locations, at this time there are only 2 centrally located terminals and 1 laser printer connected to it.

HRC maintains an Model 9404-200 (Advanced Series) AS/400 which was recently upgraded to V3 R0 M5 with 24 Mb of memory and four slots. There is currently one open slot. It is used for word processing, calendaring, and e-mail. There is also a Prosecutor version of JALAN loaded on this computer. There are 4 PC's, 1 Laser Printer, 2 dot matrix printers, and 19 dumb terminals connected to this computer. HRC is currently paying \$667.70/ month on the upgrade under a 60 month lease purchase agreement effective February 28, 1995. There is an additional maintenance charge of \$176.75 per month.

HRC accesses the IS&C mainframe via a cable connecting them to the Employment Security Office. This connection is used for state-wide e-mail and accessing WVFIMS (the state accounting database). There are 2 PC's (also on the AS/400) and 1 dedicated laser printer on this connection.

PC's currently in use include:

- 1 - 386, color monitor
- 2 - 286, color monitors
- 1 - 286, black & white monitor

These PC's do not have Windows. One 286 has a Q&A database. No other PC software was identified. They operate primarily as dumb terminals.

Printers currently in use include:

- 1 - Laser Printer used exclusively for FIMS

HUMAN RIGHTS COMMISSION GAP ANALYSIS  
PAGE 2

- 1 - Laser Printer, used exclusively for CDS
- 1 - Laser Printer, IBM 3812 (will not print envelopes? other problems?)
- 2 - Dot Matrix Printers, very old with lots of problems

**PROBLEMS WITH THE CURRENT ENVIRONMENT**

**NCR TOWER:**

The machine is very old, very slow, and the model has been discontinued by NCR. There is little software available for it. Upgrades are expensive and parts are often hard to find.

It does not have any networking hardware or software and in order to add these you would first have to upgrade the operating system and add more read only memory (ROM). Richard Koplow and Wilbert Brown of EEOC do not advise doing this because it is very expensive and the machine is very slow.

**CDS:**

The system is awkward to use and is not very flexible or user friendly.

Employees must physically move to one central location to update the database or check the status of a case. This discourages updating the database when there are only a couple of pieces of information to enter and is unwieldy when there is someone on the phone at the employee's desk asking for information about the status of a case.

Reports in the system do not arrange the data in a way that makes it useful for all of the processes desired and ad hoc reporting on this system is well beyond the capabilities of current HRC staff.

All of the fields needed to create the desired reports are not accessible for sorting in the current database. All fields included in the database are accessible to a programmer. However, all data on the cases that is needed for reporting is not included in the one database.

There are no graphics or spreadsheet capabilities.

The information in the system is not kept current.

**AS/400:**

Word processing on this is not user friendly and the help is difficult to understand.

The memory is limited (24 Mb) and only one of the four slots is open. Another upgrade would be needed to enable direct communications with CDS or any other platform.

HUMAN RIGHTS COMMISSION GAP ANALYSIS  
PAGE 3

The built-in database is Query/400 (now called DB2/400). This database is not an end user product. It is not user friendly and requires a programmer to do reports. AS/400 programmers are in short supply and very expensive.

JALAN:

JALAN was paid for by the Attorney General's Office because their Civil Rights section becomes involved in cases when they reach the Administrative Law Judge (ALJ) stage or if there is an appeal of the probable cause finding. They would like to have access to an electronic file. The AG did not choose or recommend the specific software.

JALAN has been in place for over a year. There is nothing in the system that is currently being used; no data has been entered. One person has attended two User Group Meetings and another person has attended one User Group Meeting. According to Cindy Barton, a JALAN representative, these were not designed to be training sessions. Some private training was provided while the employees were at the meetings.

The sw has not been customized at all. HRC is searching for ways to put the data they need into fields not designed for this information. For example, all of the terminology related to defendant and complainant is backwards to the way HRC sees things.

Query 400 queries can be run against the JALAN database. Therefore, if there were an employee at HRC familiar with Query 400 and JALAN, ad hoc reporting would be available. There are concerns about this impairing the AS/400's performance on other applications.

There are no graphics capabilities.

Communication with the CDS would involve: solving the AS/400 to CDS communication issues; paying JALAN to write the code for the extract from the JALAN database into a neutral database (the best estimate provided by Trish Lane, JALAN, was \$5000 to \$10,000, but the possible range was \$3000 to \$30,000); and paying someone else to write the code for moving the data between the neutral database and the CDS.

Using this system without the communication with the CDS would mean double entry. Since some of the employees also use their own tracking method because CDS/JALAN does not do what they need, in some cases this becomes triple entry. This is not a desirable requirement from either the employee or management perspectives.

Even if the databases were made to communicate, the problem with information which is not located in either database needing tracked would not be resolved. JALAN has indicated that there is a limited capacity for adding fields to their database. They were not able to provide any estimate for these charges, but they considered it an expensive

modification.

JALAN would be willing to consult with HRC to determine exactly what would need to be done to make the system work for HRC. Their charges for this service would be the same as for training: \$600/day plus expenses for on site under the contract HRC currently has, \$300.00/day at the JALAN offices in Washington. These charges were recently raised to \$800 and \$400 respectively and the change will be reflected in future contracts. This would take a minimum of two days and would result in a list of specific changes to be made. HRC would have to provide dedicated, knowledgeable staff to work closely with JALAN during this process. JALAN would then prepare a detailed proposal outlining the charge for each change. It should be noted that there are some things that JALAN will not change (field size or description for fields already in the database for example) and other things that they limit the users options on (what existing labels on screens can be changed to for example).

Trish Lane of JALAN indicated that they customized a system for North Carolina last year that appears to have about the same scope as what would be required for HRC. North Carolina provided two individuals, a data processing person and a process person who was familiar with all of the work, data and paper flows, to work with JALAN on the design. These two individuals traveled to Washington state for the two days it took to design the system and were available for consultation throughout the development. North Carolina paid JALAN about \$70,000 for their system, including the original sw and all modifications. This figure includes approximately \$15,000 for the original software but it does not include the costs for the personnel they provided to work with JALAN. Also, this system did not involve creating any extracts for updating other databases.

Cindy Barton and other JALAN representatives also strongly encouraged that HRC get formal training for at least four employees on the system if it is to be actually implemented. JALAN charges \$600/day plus expenses for on site training under the contract HRC currently has. Training at the JALAN offices in Washington is \$300.00/day plus expenses for the trainees. These charges were recently raised to \$800 and \$400 respectively and the change will be reflected in future contracts. Ms Barton said that they can train four to six users at a time in about five days. This training is most effective if it is done after the customization to the system. The persons trained must immediately put what they learn to work or it is lost.

Maintenance costs for JALAN are \$210.00/month. The current agreement is in effect through June 30, 1996. In November JALAN increased maintenance charges by 5% across the board on new agreements, so this amount will increase by at least 5% for fiscal year 1997.

PC's and Printers:

HUMAN RIGHTS COMMISSION GAP ANALYSIS  
PAGE 5

The PC's currently in place are very out of date. They are extremely limited in hard drive capacity and RAM. They do not operate under Windows and most do not have enough memory to run it.

The dot matrix printers have many problems and are on their last legs.

The laser printer attached to the AS/400 is several years old, has very limited capabilities, and is seriously overworked. It carries the bulk of the printing load for the entire office.

### SUMMARY OF CURRENT ENVIRONMENT

CDS is required for federal reporting but is not adequate for internal processes. It must be maintained and updated at least at the time the case is filed and at the time the case is closed. These are the times at which the case information is downloaded by the EEOC.

The AS/400 word processing package is difficult to learn and does not have the functionality of Windows based word processing packages, but it is functional and HRC employees are used to it.

It would be expensive and complicated to make the NCR tower communicate with any other platform. At a minimum you would have to purchase a new version of the operating system, additional read only memory (ROM) chips, TCP-IP communications software, a network card and drivers, and the cabling. Any upgrade is complicated by the fact that this model has been discontinued by the manufacturer. Also, the machine is so slow (it uses an 8 bit bus instead of the standard 16 bit or improved 32 bit) that it will bring whatever it is communicating with to a virtual standstill. EEOC recommends purchasing a new 486 or Pentium PC to replace the NCR instead of attempting an upgrade. If nothing is done to the NCR, double entry will be a given regardless of what else is done. Double entry is not a desirable alternative given current work loads and the difficulties with keeping the one CDS database up to date.

Communication between the CDS (on either an NCR or UNIX PC platform) and the AS/400 would be complicated to establish. It would include installation of TCP-IP (available through an upgrade to V3 R1 which is available free from IBM) and a network card in the AS/400 and installation of a multiple access unit (MAU). Any AS/400 based database would therefore require either additional investment in the AS/400 or double entry of the case information. As is noted above, double entry is not a desirable alternative given current work loads and the difficulties with keeping the one CDS database up to date.

JALAN, even with double entry, was not designed with the functionality that HRC requires. Graphics is not an option and ad hoc reporting requires the use of Query 400. If this database is retained, it will have to be supplemented with additional software for graphics and some report data will have to continue to be tabulated manually. Should a decision be made to attempt to use JALAN, an AS/400 Query programmer/database administrator should be hired, the company

should be contracted to customize the software to a better fit for HRC rather than the current approach of attempting to make HRC fit the software, and HRC should invest in formal training for at least four employees. As noted in detail above, JALAN has indicated that there would be a \$600/day (\$300/day if HRC can provide people with intimate knowledge of all office processes to travel to Washington) consulting fee for working with HRC to determine exactly what changes can or should be made before they can provide any estimate on the costs for the modifications. There also needs to be a concentrated effort made to actually begin using the software.

The AS/400 database, which would also require double entry in the current environment, is an option. A PC based front end could be used to translate the AS/400 commands into something non-programmers may be able to use but these programs are very expensive and it would still be necessary to invest in PC's. Another alternative would be to use the DB2/400 database (it used to be called Query/400) that is on the AS/400. This is very new and IS&C has not had any actual experience with it. It is our understanding that, if you add SQL development tools, any experienced mainframe DB2 programmer should be able to use it to develop a database application. Graphics software would have to be purchased separately.

The four PC's currently owned by HRC are outdated and do not have the processing power or memory required to run the modern database, word processing, and graphics software. They are acceptable alternatives for accessing the AS/400 and the mainframe.

The one laser printer attached to the AS/400 is seriously overworked and very old. It is at this time serving its purpose, but it may die at any time. It is not capable of printing the color graphics needed for presentations but they cannot be produced on the AS/400 anyway.

No specific use for the dot matrix printers was identified. The implication was that they are an alternative to the laser printer for producing documents from the AS/400. They probably will not survive much longer.

The dumb terminals access the AS/400. They cannot, in this setting, be used for anything else. They serve their purpose of providing word processing for most of the HRC employees. If a DB2/400 application is developed, they could be used to access it also.

## EXTERNAL CONSIDERATIONS

### EEOC

Federal reporting requirements mandate that the CDS database be maintained, in its present form, without modification to the database. The commission must dial up EEOC two times every night, once to download data on newly opened cases and closed cases and the second time to upload information to update the minifile which is also located on the NCR UNIX tower or receive cases transferred from another office.



EEOC has indicated that they are developing a PC UNIX version of the database and are encouraging offices to migrate off of the old NCR towers. They are unable to provide direct financial assistance with such a move at this time or in the foreseeable future, but they will provide support, assistance in installation, and the new software free of charge. Travel expenses for EEOC personnel would have to be reimbursed by HRC. The new software should be available very soon.

EEOC is working on migration to a client/server platform using Oracle. The latest estimate from them on the time frame for implementation of the new software is five years or longer.

#### **ATTORNEY GENERAL'S OFFICE/CIVIL RIGHTS SECTION**

There are two situations under which the Civil Rights Section of the AG's Office must review all of the information collected by HRC with regards to a case.

- 1) If HRC finds no probable cause, the Complainant has the right to appeal to the AG.
- 2) If HRC finds probable cause, the Investigative File is sent to the AG. They review the file to see if there are any independent interests they wish to represent at the ALJ hearing. They also either notify the Complainant's attorney or appoint a member of their staff to represent the Complainant. If an AG attorney becomes involved in the hearing, either to represent an independent interest or the Complainant, the Investigative File becomes part of their records.

HRC investigators may also, during their investigation, request the AG's Office to provide legal advise.

The AG has expressed a desire to be able to share information electronically with HRC. Being able to exchange requests for information and their responses electronically, as well as the AG being able to view the information in the database in order to ascertain relevant facts, would be of value to both the AG and HRC.

If a new database is established, Paul Sheridan of the AG's Office would like to be included in the database design. There are some pieces of information that are not currently tracked by HRC that later become important to the AG.

The AG's office has a Novel LAN. A few, but not all, of the users have Windows. Software currently in use includes Barrister, Q & A, SuperCalc, WordPerfect 5.0 for DOS, and QNA dBase.

#### **HUMAN RESOURCES INFORMATION SYSTEM (HRIS)**

The Division of Personnel is in the process of implementing a new, automated personnel system. This system will be integrated with WVFIMS. Participation by all agencies and

commissions will be mandatory. The system will control payroll, leave tracking, and personnel actions such as hiring, raises and promotions. Therefore, any person involved in reviewing applications or WV-11's, or any aspect of payroll reporting, will require access to the system. Access will require a PC running Windows and a connection to the IS&C mainframe.

## PROPOSED SOLUTIONS

**SOLUTION #1:** Migrate to a PC based LAN and phase out the AS/400.

Network licenses for the software can be procured and the database stored on the server for access by anyone with a PC. This would provide multiple points of access for the PC database, eliminating some of the backlog in updating information and enabling more work to be produced using the database information. The level of access (view only, use but not update, or update) can be controlled for each individual, so the integrity of the contents of the database can be maintained.

The word processing, e-mail and calendaring functions can be migrated to the LAN. Windows based word processing is much easier to use and is able to do things you cannot do with the AS/400 word processing. You also add spreadsheet and graphics capabilities with the available Windows based programs.

The UNIX PC could be directly attached to the LAN, greatly simplifying the administrative side of transferring files between the internal database and CDS.

This move would be in line with EEOC's migration to the client/server Oracle platform. When the new software is implemented, only software changes should be required to establish communication with the new system.

It will also eliminate the need to buy separate PC's for those needing access to HRIS. HRC would only need the PC software portion of the system and a communications link to the mainframe to be up and running on the personnel system.

ARC can assist in installation and training on the LAN and software.

**Full Implementation Estimated Cost: \$65,000\* in hw/sw & \$42,000\*\* in development**

\*This estimate was provided by Frank Berry, ARC

\*\* This rough estimate, which includes development, programming, installation, training and support, was provided by the IS&C Development Center PC programming staff based on 1200 hours at \$35.00/hour.

Install a Local Area Network (LAN) and connect everyone in the office via PC's.

**HARDWARE REQUIREMENTS**

ITEM #	ITEM	SPECIFICATIONS
1	Local Area Network (LAN)	server (PC); cabling; controller; MAU
2	24 PC's	486DX2 66 Mhz or faster, 8 Mb RAM, 540 Mb Hard Drive, Windows 3.x, DOS v 6.0 or greater, 15" color monitor, mouse, 101 key keyboard, Network cards (Token Ring or Ethernet)
3	1 Laser Printer	HP Laserjet IV or equal
4	1 Color Inkjet Printer	

**SOFTWARE REQUIREMENTS \***

ITEM #	ITEM	DESCRIPTION	EST. COST
1	Perfect Office Professional	Includes WordPerfect (word processing), Quatro Pro (spreadsheet), Presentations (graphics), Paradox (database), Groupwise (E-mail and Calendar), InfoCentral, Envoy, Apware	\$540/each stand alone or \$510/each network licenses
2	WordPerfect	word processing	\$240/each
3	Paradox	database	\$350/each
4	Presentations	graphics	\$320/each

\* Choice of Item #1 only or Item #s 2, 3, & 4

There are other database alternatives. A final decision would have to be made after consultation with the developer.

**PERSONNEL REQUIREMENTS**

ITEM #	DESCRIPTION
1	<p>A full time employee (network administrator) responsible for network operations, administration, and programming would have to be hired by HRC. Responsibilities would also include transferring data between CDS and the PC database. Responsibility for the NCR/UNIX PC administration could be incorporated into this position also.</p> <p style="text-align: center;">Recommended Classification: Information System Coordinator I (advanced) or Information System Coordinator II</p> <p style="text-align: center;">Pay Grade: 11/13</p>
2	<p>Setting up the extract programs to transport data between the PC database and CDS, customizing the database, and customizing the applications would require professional development. The exact amount of outside assistance required would depend on the abilities of the network administrator. These services could be provided by the IS&amp;C Development Center or contracted out under competitive bid. If IS&amp;C develops the database, we can support it more fully and assist with reports, etc., until in-house staff becomes proficient with the application. Regardless of who develops the database, support and training on any software supported by IS&amp;C can be provided by the IS&amp;C Automation Resources Center.</p>
3	<p>Installation of the LAN equipment. This may be included in the specifications, contracted with ARC, intrusted to the network administrator, or a combination of the three.</p>
4	<p>Training for current employees on the new environment and software. The network administrator should be able to provide some of this training. This training would also be available through the Automation Resources Center or it could be included in the specifications. Costs would depend on how much training ARC or the vendor is actually required to provide. ARC charges \$30/person/class. They will come on site, and group rates are available.</p>

Advantages of full implementation include:

- 1) A fully functional system gets installed and in production throughout the entire office, with all of the benefits of the new system immediately available to everybody.
- 2) The total final costs will be less if everything is purchased and all of the training is completed at one time.
- 3) The AS/400 can be phased out in a very short period of time, eliminating those maintenance costs and eliminating the need for maintaining the second platform. There will still be a period of time where employees will require access to both systems because of ongoing cases.

- 4) All information on ongoing cases will quickly get migrated to the new system, so there will be less confusion.
- 5) It will be easier to get everybody motivated if it is one big push and everybody is involved.

Disadvantages of full implementation include:

- 1) There will be a short period of time, during the training phase, where the office will not be very productive. This can be minimized if schedules are carefully coordinated. A two phase training plan, with some training shortly before installation and additional training during and shortly after installation, may minimize this disruption.
- 2) A lump sum appropriation would be required in order to pay for a complete installation.
- 3) Unless some arrangements are made, it will be necessary to continue payments on the upgrade to the AS/400.

**Phased Implementation: Estimated Cost: \$38,000 in hw/sw & \$42,000 in development**

Install the LAN and connect three or four employees. PC's can be purchased for the other employees and connected to the LAN over time as funds are available. Gradually the AS/400 could be phased out.

Changes in requirements from full implementation would be:

- Reduce the number of PC's purchased to three (or four),
- Add 5250 cards to the PC's for AS/400 access until such time as it is phased out,
- Reduce the number of software licenses, and
- Training costs would be spread over time.

The network administrator (Information System Coordinator) should be hired. This person would be responsible for the LAN and its database and software, the UNIX box and its database, and the AS/400 and its software, as well as all of the offices PC's, printers, and dumb terminals.

Advantages of a phased implementation include:

- 1) The new database system gets installed and is accessible by multiple employees at a lower initial investment.
- 2) Employees migrated to the LAN later could take advantage of the knowledge gained by those who have been working with the system longer.

Disadvantages of a phased implementation include:

- 1) It would not be possible to take full advantage of the increase in functionality since all employees would not be able to access the database for updating forms and letters and answering inquiries regarding status or details of the case from their desk.
- 2) It would be necessary to continue to maintain the AS/400 until all applications are completely migrated to the LAN.

## HUMAN RIGHTS COMMISSION GAP ANALYSIS

PAGE 12

- 3) The cost per PC would increase because fewer are purchased at a time and the 5250 card has to be added.
- 4) The momentum of the project may slow down and the project never get finished. This leaves the office with an additional system to maintain.

If this approach is chosen, we would suggest that the first employee connected be the network administrator who is responsible for maintaining the database, running ad hoc reports, and producing the graphic presentations. We recommend that additional personnel connected, in prioritized order, be Leona (if it is determined that data should be entered into the PC database and then transferred to the NCR Tower), Paul Cook (so the data he currently has in a separate Q&A database can be incorporated in the PC database), and Monia Turley (so her ALJ tracking information can be incorporated in the PC database).

### **Single Workstation Implementation with future installation of the LAN:**

**Estimated Cost: \$3500.00 in hw/sw + \$42,000 in development**

Install the database, with the ad hoc reporting and graphics capabilities, on a single workstation. The applications could gradually be migrated to a LAN.

Changes in requirements from full implementation would be:

- Reduce the number of PC's purchased to one with 16 Mb RAM and a 750 Mb Hard Drive.
- Add a 5250 card to the PC for AS/400 access.
- Remove the network card from the PC, but specify that the PC be networkable.
- Item #s 1 and 3 from the Hardware Requirements chart can be postponed until the LAN is installed.
- Software purchased would be single workstation rather than network version.
- Initial training would be for fewer personnel (probably the same as for phased implementation).
- One person would have to have primary responsibility for maintaining the database, including transferring data between the EEOC database and the PC database. This would require special training and a considerable percentage of the employee's time. We recommend that HRC proceed immediately with hiring the network administrator because of the variety of platforms and communications requirements of the office.
- Item # 3 from the Personnel Requirements chart can be postponed until the LAN is installed.

Advantages of a single workstation implementation include:

- 1) HRC gets the ad hoc reporting and graphics capabilities with minimal expense.

## HUMAN RIGHTS COMMISSION GAP ANALYSIS

PAGE 13

Disadvantages of a single workstation implementation include:

- 1) Only one person at a time can access the database and/or use the graphics software. If all of the information currently tracked in the office is included this may create backlogs even more serious than are now experienced.
- 2) Paul Cook and Monia Turley would probably end up maintaining their separate databases. This would result in them doing double entry. Their information needs to be in the new database in order for it to be able to produce all of the reports desired.
- 3) It would not be possible to take full advantage of the increase in functionality since all employees would not be able to access the database for updating forms and letters and answering inquiries regarding status or details of the case from their desk.
- 4) It would be necessary to continue to maintain the AS/400 until all applications are completely migrated to the LAN.
- 5) The total cost of the project would be increased.
- 6) The momentum of the project may slow down and the project never get finished. This leaves the office with an additional system to maintain.

If a person with practical experience working with Paradox and developing databases is hired, it would be possible for them to set up a simple Paradox database on the stand alone workstation. They may need help with the extract for sharing data with the CDS. This would almost eliminate the development costs. However, it would not provide a database solution that could be migrated to a LAN because it would not address level of access issues and would not protect the database integrity in a multi-user setting.

### **Partial Solution:**

**Estimated Cost: \$3000.00**

Purchase hardware and software to provide the graphics capabilities without immediately addressing the database issues. When the database is designed and the LAN installed this PC could be attached to the network.

Hardware, Software, and Personnel requirements:

Purchase a new PC (486DX2 66 Mhz or faster, Windows, 8 Mb RAM, 540 Mb Hard Drive, 5250 card, networkable, 15" color monitor), a color inkjet printer, and a graphics presentation software package (Harvard Graphics, Freelance Graphics, or Presentations for Windows). Purchase of a word processing and a spreadsheet package would add to the benefits to be attained from the equipment. At least two employees should be trained on the software selected.

Advantages of this solution include:

- 1) The graphics capabilities are provided at the absolute minimum cost.
- 2) The database could be added to this hardware at a later date, and, when the move to a network is made, the PC and printer can be attached to it.

Disadvantages of this solution include:

- 1) The ad hoc reporting issue is not addressed. The current process for getting the statistical data would have to be continued.
- 2) The database issue is not addressed. It would continue to be necessary to maintain the separate databases that are currently in place, so all of the information would not be available from any single source. Also, the problems with the CDS database not being kept up to date would continue.

**SOLUTION #2:** Utilize the AS/400 as the database platform and server.

All of the AS/400 solutions require, at a minimum, an upgrade of the AS/400 for communications with the CDS, the contracting of an AS/400 programmer for design and development of the database and extract, the addition of a full time database administrator familiar with the AS/400 and Query, and the purchase of a PC and software for graphics. Based on recent experiences of the Department of Health and Human Resources and the Department of Education, experienced AS/400 personnel are very expensive. According to Dave Mooney, if SQL programming tools (\$1800) are purchased for the AS/400 then a person experienced with mainframe DB2 would be able to develop and maintain the application with little to no additional training.

Dave Mooney of Software Systems provided the following information regarding the upgrade to the AS/400 for communications. The upgrade would involve several things. First, it would be necessary to upgrade the operating system to V3 R1 for the TCP-IP communications software. Because HRC has a current maintenance contract, it is our understanding that IBM will provide the software for this upgrade free of charge. There will be an installation charge of \$78/hour if HRC wants IBM to install the software. There are some administrative issues and changes involved in this upgrade; it took DHHR's support staff over 18 working hours to install this upgrade on their AS/400. It is important to note that once the process to install the upgrade is begun, the AS/400 cannot be used for anything until the upgrade is complete. Then it would be necessary to install a network (Ethernet or Token Ring ) card and software (\$2500 or \$3500) in the AS/400.

It would also be necessary to purchase at least one PC as described above under the partial solution for the LAN alternative for preparation of the graphics presentations. According to Dave Mooney, it would be possible to use the PC Client Access software that HRC acquired with their last upgrade to access the information in the AS/400 database with EXCEL, a PC based spreadsheet. Data in the spreadsheet can be manipulated to some extent for reports and graphical presentations. There are also graphics presentations software packages available that are compatible with EXCEL. Microsoft PowerPoint is one.

In order to access the database, the AG's Office would also have to have the PC Client Access software and EXCEL, or a copy of the access software (such as QPORT discussed below), and a



## HUMAN RIGHTS COMMISSION GAP ANALYSIS

PAGE 15

modem line or a direct communication line with the AS/400.

*Therefore, \$54,000\* for development of the application, \$5000 for the upgrade to the AS/400, \$3000 for the PC (if a PC interface is not used for everything), \$34,000/year for an additional employee and possibly \$1800 for the SQL programming tools and compiler should be added to all of the estimates for an AS/400 solution.*

\* This estimate is based on a \$45.00/hour figure for AS/400 contract programmers provided by Dave Mooney and the IS&C Development Center's estimate of 1200 hours of work.

**Option 1:** Use a software based front end, such as IQ Query/PORT or SEQUEL, to access data in an AS/400 Query database. Information in this section was provided by Mike Popp, Sharpe State Hospital, who recently completed a detailed evaluation of the products discussed.

IQ Query, which costs about \$9000.00, is a report writer that goes on the AS/400. It would not require an investment in PC's. It does not provide a GUI front end and is only minimally easier to use than Query 400. It does not retain all of Query 400's ad hoc reporting capabilities.

Estimated cost: \$9000 in sw + \$54,000 in development

QPort, which requires IQ Query on the AS/400, loads on the PC through Windows and allows shared resources. It provides screens that look like Windows for the client access. It allows you to design queries and reports using a Windows environment. In practice the front end is not all that different than the basic Query 400 front end and, as noted above in the discussion of IQ Query, a lot of the functionality of Query 400 is lost. Even with this GUI front end, in order to get full use of the database a programmer would be required for writing queries and reports.

Estimated cost: \$9000 in sw for AS/400 + \$55,000 in hw/sw for PC's + \$54,000 in development

### HARDWARE REQUIREMENTS

ITEM #	ITEM	SPECIFICATIONS
1	24 PC's	486DX2 66Mhz or faster, 8 Mb RAM, 540 Mb Hard Drive, Windows 3.x, DOS v 6.0 or greater, 15" color monitor, mouse, 101 key keyboard, Network cards (Token Ring is recommended by ARC)
2	1 Laser Printer	300 dpi or greater, 60 ppm (HP Laserjet IV or equal)
3	1 Color Inkjet Printer	

**SOFTWARE REQUIREMENTS**

ITEM #	ITEM	DESCRIPTION	EST. COST
1	24 QPort	for user friendly database access	\$13,800
2	IQ Query	AS/400 portion	\$ 9,000
3	1 Perfect Office Professional	Includes WordPerfect (word processing), Quatro Pro (spreadsheet), Presentations (graphics), Paradox (database), Groupwise (E-mail & Calendar), InfoCentral, Envoy, Apware (for the graphics)	\$540.00

**PERSONNEL REQUIREMENTS**

ITEM #	DESCRIPTION
1	<p>A full time employee responsible for network operations, administration, and programming would have to be hired by HRC. Responsibilities would also include transferring data between CDS and the AS/400 database. Responsibility for the NCR Tower administration could be incorporated into this position also.</p> <p>Recommended Classification: Database Administrator (Pay Grade 17) or Programmer Analyst II (Pay Grade 15) with AS/400 programming experience (see comment above about higher costs for AS/400 experienced personnel.)</p>
2	<p>Professional development would be required to set up the extract programs to transport data between the AS/400 and CDS, to set up the Query database on the AS/400, and to customize the software on the PC's. The IS&amp;C Development Center does not have any AS/400 programmers on staff, but they could assist with other phases of development. The AS/400 development could be contracted out under competitive bid or provided by the programmer hired by HRC.</p>
3	<p>Training for current employees on the new environment and software. The network administrator should be able to provide some of this training. This training would also be available through the Automation Resources Center or it could be included in the specifications. Costs would depend on how much training ARC or the vendor is actually required to provide. NOTE: HRC does not provide AS/400 specific training.</p>

## HUMAN RIGHTS COMMISSION GAP ANALYSIS

PAGE 17

SEQUEL is another available report writer that loads on the AS/400 and can be accessed via PC or dumb terminal. It provides a user front end that is Windows-like and retains a lot more of the functionality of Query 400 than IQ Query/QPORT. SEQUEL is purchased in modules which cost about \$8000.00 each for unlimited licenses. The kernel consists of three modules, for an actual minimum investment of \$24,000. Once again, in order to get full use of the database, a database administrator or a programmer would be required for writing queries and reports.

Estimated cost: \$24,000 in sw + \$54,000 for development

**Option 2:** Install a FSIOP card on the AS/400 to enable it to act as a file server.

The AS/400 currently in place does not have the necessary slots to install this card. It would require a major upgrade in order for the card to fit. The card basically allows the AS/400 to be used as a file server for a LAN and includes the network card for communications. If HRC decides to use an AS/400 database the only part that they need is the network card. If they decide on PC applications, it would be less expensive, given the upgrade requirement on top of the costs for the card, to just buy a PC server. It should be noted that the FSIOP is not designed to work as an applications server. You cannot buy network licenses of the software; it has to be actually loaded on each individual PC.

**Option 3:** Set up a database using the Query 400 (DB2/400) software already resident on the AS/400. The only initial investment in hardware or software would be those noted above for any AS/400 solution. A database administrator or a programmer would be required to set up and maintain the database and write queries and reports. Additional development would be required to set up the extract/import to share data with the CDS.

If SQL programming tools were purchased, estimated cost \$1800, a programmer with mainframe DB2 programming experience could be hired. Because there are many more individuals with this experience, the position should be much easier to fill and the pay scale should be lower.

**SOLUTION #3:** As an alternative to adding a database on another platform, HRC could hire an experienced FilePro programmer (Recommended Classification: Database Administrator I with additional requirement of experience with FilePro/UNIX Pay Scale: 17).

This person could set up additional databases with information currently tracked on other platforms and write ad hoc reports as required. This would require that the CDS be migrated to a PC UNIX platform. A word processing package such as WordPerfect for UNIX could also be placed on the machine, the terminals could be connected to it rather than the AS/400 so everyone has some level of access to the database, and the AS/400 could be phased out. There are graphics presentations software packages available for UNIX.

Costs of this solution would be the upgrade of the NCR to a Pentium PC, additional software, and development.

HUMAN RIGHTS COMMISSION GAP ANALYSIS  
PAGE 18

IS&C's Automation Resources Center does not support UNIX or FilePro. They do not provide training on any UNIX software.

The advantages of this solution are that you eliminate the communications issues and make maximum use of the hardware which is required by the EEOC.

The major problem with this is that it entails a major investment of time, effort, and funds in a platform that the EEOC has already announced they are going to abandon. In order for the AG's Office to view the data, there would have to be special arrangements for some type of an extract/translation into a form that they can use. It is not possible, with the information currently available, to make any estimate of the cost or difficulty of this.

## SOLUTIONS TO THE NCR TOWER COMMUNICATIONS

**PREFERRED SOLUTION:** Purchase a PC with a SCO UNIX operating system version that includes TCP-IP support and the PC/UNIX version of FilePro, and work with EEOC to replace the existing NCR UNIX box.

Estimated Cost: \$6000 for the PC + \$2500 for SCO and FilePro

The following specifications were provided by Wilbert Brown, EEOC:

100 MHz Pentium, 32 Mb RAM (2 SIMMS), 512 K Cache, 512 K VRAM, (2) 1 Gb SCSI Hard Drives, (1) 3.5" disk drive, (1) 5.25" disk drive, (?) expansion slots, 15" Monitor with .26 dot pitch, 104 Key Keyboard, DOS 6.2

The specifications should also include an external modem, the SCO UNIX operating system version including TCP-IP support, and a networking card and software for communications with the AS/400. An upgrade of the current FilePro software to the PC/UNIX version would also have to be purchased.

Richard Koplow, EEOC, has indicated that they will provide the new version of their application software free of charge and will assist with installation of the PC for reimbursement of travel costs.

Before purchasing this PC, we recommend further contact with EEOC to verify the specifications and peripherals.

**ALTERNATE SOLUTION:** Upgrade the existing NCR tower to allow communications with other platforms. Estimated Cost: *these estimates are not available*

This alternative is not recommended by either EEOC or IS&C.

This would involve, at a minimum, the purchase of: a new version of the operating system; additional read only memory (ROM) chips; TCP-IP communications software; a network card and drivers; and cabling. Any upgrade is complicated by the fact that the machine has been discontinued by the manufacturer so parts are hard to find and expensive. Also, the machine is so slow (it uses an 8 bit bus instead of the standard 16 bit or improved 32 bit) that it will bring whatever it is communicating with to a standstill.

## POSSIBLE WORKFLOW

With a new database in place, HRC should be able to consolidate all of their information in one place and eliminate a lot of the duplicate entry. All databases would be in one format and in one location and they would be kept up to date since the database could be accessed from each employee's desk and the information would actually be used in completing their tasks. The EEOC database would be kept up to date via daily transfers of information from the working database. These transfers would have to be timed to avoid the calls to the EEOC. From EEOC's point of view, nothing would change. Reports currently done on the CDS would continue to be created as they are now. Additional reports can be designed and run as desired on the new database. There are many options for how this may actually work with the processes currently in place. One is:

1. An inquiry is received. The intake clerk enters the basic information in a database specifically designed for the initial inquiry (replaces the current paper log) and a questionnaire is mailed out.
2. When the questionnaire is returned, information in the database is updated to include additional information provided (this includes information currently in Paul's Q&A database) and the complaint is written and mailed to the complainant.
3. The signed, notarized complaint is returned. The complaint goes to the docket clerk who pulls the information from the inquiry database into the active file database (no retyping necessary) and adds additional tracking information, assigns an investigator and a WVHRC case #.
4. Documents are created using word processing forms linked to the database to notify all parties that the case has been served. These form the basis of an electronic file on the case that is associated with the database.
5. Every evening a query is run to pull information out of new, updated, and closed files and update CDS for EEOC.
6. The next day, a Form 212 is produced from the CDS for each new complaint and sent to the Philadelphia Regional Office.
7. The investigator can view the information in the database, pull that information into word processing documents, and add additional information as determined to be necessary. When a decision is reached regarding probable cause, a notation is made in the database and a message or some other predetermined document is forwarded to the supervisor.
8. The supervisor reviews the information in the database and any investigator created documents which are located in the electronic file associated with the case, and makes a recommendation which is entered in the database. A message or other document is then forwarded to the assistant director.
9. The assistant director reviews the electronic file and either returns it to the investigator for further information or notes his approval in the database.
10. The assistant director's secretary generates a letter notifying the complainant of the HRC finding regarding probable cause.
11. If there is a finding of no probable cause:

1. A query is run daily (or on some other predetermined schedule) to generate a list of files where probable cause was not found and more than 10 days have passed without an appeal being filed or where an appeal was filed and the AG did not find probable cause. The docket clerk uses this list to update the database with closing information (this could actually be done automatically) and generate the closing order or any other necessary documents.
2. If an appeal is received, the assistant director's secretary updates the information in the database and generates a document for the AG. The AG then accesses the electronic file, reviews the information, makes a decision regarding probable cause, and notifies the secretary.
3. The secretary updates the database information.
12. If there is probable cause, the secretary for the Legal Division is notified. She then sends notification to the AG's Office who accesses the electronic file and database to determine whether they need to participate in the hearing and they notify any private counsel.
13. The legal division secretary creates documents for an electronic hearing file, assigns an ALJ, schedules a Public Hearing, uses the electronic calendaring to enter the hearing on all relevant calendars, and updates the database.
14. Once the Public Hearing is held and a decision is reached, this information is updated on the database and all parties are notified of the ALJ decision and their right to appeal.
15. A query is run daily (or on some other predetermined schedule) to generate a list of files where an ALJ decision has been reached and more than 30 days have passed without an appeal being filed. This list goes to the Assistant Director for a final review of the files and then to the docket clerk who uses it to update the database with closing information (this could actually be done automatically) and generate the closing order or any other necessary documents.
16. If an appeal is filed, the assistant director's secretary enters the appeal information in the database and the case is presented to the Commissioners for review. When a decision is made, the database is updated and all parties are notified of the Commissioners' decision and their right to appeal.
17. A query is run daily (or on some other predetermined schedule) to generate a list of files where the Commissioners' decision has been reached and more than 30 days have passed without an appeal being filed. This list goes to the Assistant Director for a final review of the files and then to the docket clerk who uses it to update the database with closing information (this could actually be done automatically) and generate the closing order or any other necessary documents.
18. If an appeal is received, the information in the database is updated, any necessary paper documents are prepared and printed, and the case is forwarded to either the Kanawha County Circuit Court or the State Supreme Court.
19. When notification of the court decision is received, the file is reviewed by the assistant director. After his review, the information goes to the docket clerk who updates the database with closing information.

### SUMMARY

The EEOC Information Resources Management Services indicated that they will provide training for two employees on the 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. They estimated training would take from two to five days. It can be scheduled at any time by contacting Leo Sanchez.

The EEOC Information Resources Management Services is also willing to produce ad hoc reports within 24 hours if detailed requests are made. Norman Lindell tried it out and they came through within the indicated time frame. This should be viewed as an interim solution.

HRC needs a permanent, full time, experienced employee whose primary responsibility is maintaining the commission's office automation environment, including hardware, software, communications, and databases. Without this person, who is held responsible for implementing and maintaining the system, and management insistence that all employees keep the information in the database current and accurate no new system will work.

Once a decision is made regarding the direction in which the commission wishes to move, the next step should be to hire the network administrator/database manager/programmer. This position needs to be tailored to provide experience on the specific platform chosen. The administrator can then coordinate the development and hardware/software procurements.

When decisions regarding the design of the new database (or changes to be made to an existing database) are made, representatives from each section of HRC and Paul Sheridan of the Civil Rights Section of the AG's Office should be included. Their input on what information they collect, what information they need to track, and what information passed on (or not passed on) from previous sections they use in performing their jobs should be the driving force behind decisions of what to include in the new database.

Given the current capabilities of personal computers, and the extra costs associated with use of the AS/400 as a database platform, the best long term plan for HRC would appear to be phasing out the AS/400 and migrating to a PC LAN environment. This is also more in sync with the stated long term plans of the EEOC to migrate to a client/server Oracle platform. A DOS based PC LAN should readily be modifiable to interact with the client/server system. Implementation of this plan would require an appropriation that would pay off the debt on the AS/400 and pay for the hardware, software and development of the new system.

Should HRC determine that they cannot afford to abandon the AS/400, there are several alternatives. It is even an option to keep JALAN and pay JALAN to customize the software, but this appears to be more expensive than developing a whole new application. All of the AS/400



solutions involve additional investment in upgrades to the AS/400 and they all require that HRC hire someone who is familiar with the chosen application. This could mean hiring a contractor to set up the application and then hiring a Database Administrator to maintain the database and related hardware, keep the CDS updated via the extract, and write queries and reports.

Regardless of what platform is chosen, major investment in the NCR tower will be required in order to make it communicate or it will have to be replaced. IS&C agrees with EEOC that the most reasonable alternative from both a functional and a financial point of view is to replace the NCR tower.

**SUMMARY OF ESTIMATED EXPENSES  
FOR THREE MAJOR APPROACHES**

**INSTALLING A LAN**

Replace NCR with UNIX PC	\$ 8,500.00
HW/SW/Installation/Training	65,000.00
Development of Application	<u>42,000.00</u>
TOTAL	\$115,000.00

EST. SALARY FOR NEW EMPLOYEE: \$22,000/YR

**UTILIZING THE AS/400 USING DB2/400**

Replace NCR with UNIX PC	\$ 8,500.00
Upgrade AS/400	5,000.00
Additional HW/SW/Training	4,800.00*
Development of Application	<u>54,000.00</u>
TOTAL	\$72,300.00

EST. SALARY FOR NEW EMPLOYEE: \$30,000 TO \$35,000/YR

\* This includes only one PC with Windows. Additional PC's will have to be procured for HRIS at \$2500 each.

**UTILIZING THE AS/400 AND JALAN**

Replace NCR with UNIX PC	\$ 8,500.00
Upgrade AS/400	5,000.00
Additional HW/SW/Training	7,700.00
Development	<u>70,000.00</u>
TOTAL	91,200.00

EST. SALARY FOR NEW EMPLOYEE: \$30,000/YR