

Annual Report

Kentucky Commission on Human Rights

2005



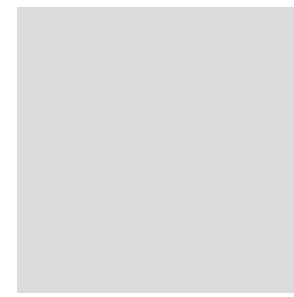
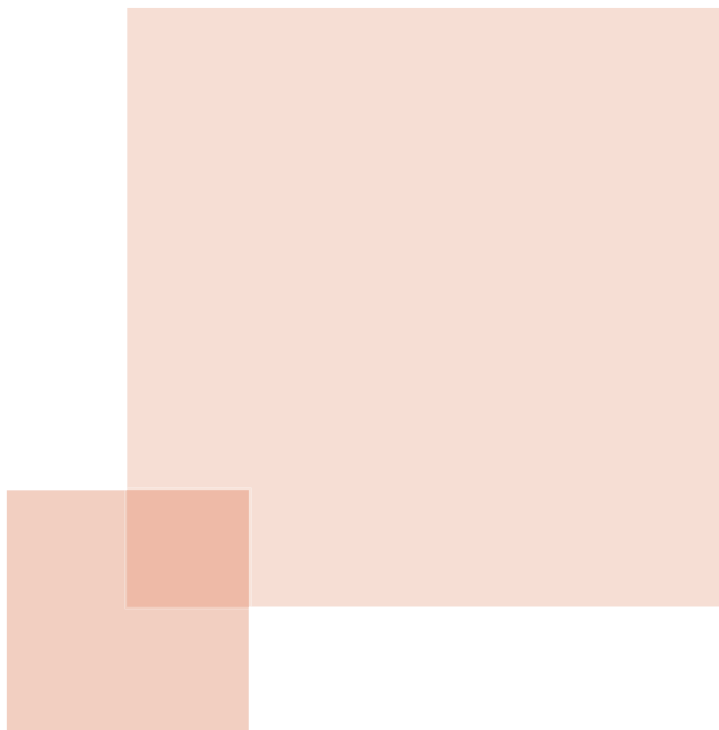
**Building for
Tomorrow**



2005 fiscal year, July 1, 2004 to June 30, 2005

Annual Report

Building for tomorrow



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Kentucky Commission on Human Rights

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2005 Annual Report



Dear Governor Ernie Fletcher, Kentucky General Assembly, and Citizens:

On behalf of the Board of Commissioners of the Kentucky Commission on Human Rights, it is with great pride that I commend to you the 2005 Annual Report, which covers the period of July 1, 2004, to June 30, 2005.

This was a challenging and exciting period in the commission's 45-year history. Our dedicated staff-members pressed into their work and continued to move forward while enduring significant staff shortages for long periods. They gave their support to Morgan Ransdell, who did an outstanding job doubling for five months as interim executive director and a staff attorney. In February, we welcomed our new executive director, Linda Strite Murnane, whose leadership and passion for human and civil rights is invigorating. We worked with the Governor's Blue Ribbon Panel as it undertook its stated task to study the organization and operations of the KCHR in order to support the commission's mission and enhance its capabilities.

Throughout this period of transition, the KCHR continued to focus on meeting its aim of eradicating discrimination in the Commonwealth of Kentucky, and the strength and expertise of our agency's new director is taking Kentucky's human and civil rights guardian, the Kentucky Commission on Human Rights, into a new day.

We remain at the service of the people of Kentucky.

Priscilla Johnson
Chair



Commissioners

Chair Priscilla Johnson, Lexington
Representing the State-at-Large

Robert Asseo, Florence
Representing the 6th Supreme Court District

Richard Brown, Owensboro
Representing the 2nd Supreme Court District

Thurmond Coleman Sr., Louisville
Representing the State-at-Large

Henry Curtis, Frankfort
Representing the 5th Supreme Court District

Ann Darragh, Bardstown
Representing the 3rd Supreme Court District

Todd Hollenbach IV, Louisville
Representing the State-at-Large

Deborah Kent, Louisville
Representing the State-at-Large

Anita Simmons, Hopkinsville
Representing the 1st Supreme Court District

Regena Triplett, Pikeville
Representing the 7th Supreme Court District

Y. Denise Payne Wade, Louisville
Representing the 4th Supreme Court District



The 11-member board of commissioners is appointed by the Kentucky governor to represent the state-wide population by supreme court districts.

The quasi-judicial board hears and rules on all discrimination allegations with the authority of a court of law.

On March 25, 2005, Gov. Ernie Fletcher appointed two new commissioners. Regena Triplett, a Pikeville attorney, represents the 7th Supreme Court District. She replaced Commissioner Sue Dowdy of Russell, whose term expired. Ms. Dowdy had served since 1999. In the photo at left is Robert Asseo, our first Hispanic commissioner, along with his wife, Millie Asseo, and Gov. Fletcher at the commissioner's oath of office ceremony. Mr. Asseo is a Delta Air Lines Cincinnati field service manager and a resident of Florence. He represents the 6th Supreme Court District. He replaced Commissioner William Cleves of Covington, whose term expired. Rev. Cleves had served since 2001. The new commissioners' terms will expire on Sept. 12, 2007. Recognition luncheons were held for Commissioners Dowdy and Cleves in their hometowns of Ashland and Covington, respectively. We thank them for their tireless work to eradicate discrimination in Kentucky.





Introducing the Executive Director

The Kentucky Commission on Human Rights proudly announced in January 2005 the appointment of its new executive director. Linda Strite Murnane is the fourth executive director in KCHR's 45-year history. Previously, she served in the military for 29 1/2 years, rising through the ranks of the U.S. Air Force from airman basic to colonel and from supply officer to chief circuit judge. During the last 10 years, she served as a judge and, in 2000, became the chief judge of the European Circuit. When she retired in June 2004, she was Eastern Circuit chief judge in Washington D.C.

"Her record of exemplary leadership, legal and public affairs expertise, and a diverse experience in human rights made Linda a clear choice for our board of commissioners," Chair Priscilla Johnson said.


In an editorial, The Courier-Journal newspaper in Louisville, Ky., said Ms. Murnane is a "strong leader at the helm," and, "She's about as tough and experienced as anyone could hope for."

When asked by the Associated Press about her plans for the commission, Ms. Murnane said: "What I think I bring is a steady hand to the boat. What's important is that the work the commission is doing continues because it improves Kentucky." In addition to overseeing daily operations of the agency, she met during the July 1, 2004 - June 30, 2005 reporting period with Gov. Ernie Fletcher, legislators, state civil rights leaders, local human rights commissions, and federal enforcement contractors. She spoke at public events and participated in television and newspaper interviews.

The Cincinnati, Ohio native earned an associate's degree in Liberal Arts and graduated magna cum laude from Thomas Nelson Community College in Hampton, Vir., and a bachelor's degree with Dean's Honors in Political Science from Christopher Newport College of the College of William and Mary, in Newport News, Vir. Selected to fill one of seven funded legal education slots in the Air Force in 1978, she graduated from the University of Cincinnati College of Law in 1980, where she was named one of the first six Urban Morgan International Human Rights Fellows. She received the American Jurisprudence Award for Excellence in Constitutional Law in 1978 from Loyola University in New Orleans, La.

In 2003, she received the Ohio State Bar Association Nettie Cronise Lutes Award for opening doors to women and girls in the field of law. She was an adjunct faculty member for the Defense Institute of International Legal Studies, teaching in Latvia, Argentina, Rwanda, and Papua New Guinea. In March 2005, she traveled to Zambia as a representative of the U.S. State Dept. and Department of Defense, to instruct a course on equal opportunity and treatment for women in the military.

She is the National Conference of Specialized Court Judges vice-chair and its Judges Diversity Committee chair. She is a member of the American Bar Association Judicial Division and its Judicial Network Committee. She is National Association of Women Judges Membership Outreach chair. She is a member of the American Judges Association and the Federal Bar Association Judicial Division, the Ohio State Bar Association, and the Commission on Women in the Profession of Law. She is admitted to practice law before the U.S. Supreme Court, Ohio Supreme Court, the Court of Appeals for the Armed Forces, and the U.S. Air Force and Army Courts of Criminal Appeals.



Message from Linda Strite Murnane

For the first time in my role as executive director of the Kentucky Commission on Human Rights, I am honored to present for your review the annual report for July 1, 2004 to June 30, 2005.

This report represents the best of Kentucky in that the 34 incredibly talented and dedicated staff members at the Kentucky Commission on Human Rights served thousands of customers over the past year, providing them with information about their rights and responsibilities under the Kentucky Civil Rights Act. They provided outreach programs and seminars, staffed booths at the Kentucky State Fair and at dozens of expos and displays throughout the state. In conjunction with our local human rights commissions and human relations councils, who are essential partners in our mission to eradicate discrimination in the Commonwealth of Kentucky, we processed complaints alleging discrimination, investigating, conciliating and litigating those complaints to ensure that all Kentuckians will have equal access to jobs, homes and public accommodations.

What is remarkable about this year's report is that, while the commission was authorized to be staffed with 38 people for the entire period reflected in this year's report, for the majority of this past year, the agency functioned at two-thirds of its authorized strength. For most of the year, only 24 people were on staff. For a good part of the year, they were under the able direction of an acting executive director, now our managing staff attorney, Morgan Ransdell. For nearly all of the year, the Legal Unit functioned with only one staff attorney, Alteata McWilliams, who pulled the weight of three full-time attorneys.

For all of the past year, the Enforcement Unit was short-staffed by at least one and for most of the year, two enforcement officers. For the entire year, the Research and Information Unit functioned without a research specialist, and was understaffed by one human rights field representative. And in our Budget and Administration Unit, for much of the year, one woman did the work of all four people in her unit.

The reasons for these staffing shortages were complicated, including, in part, the hiring freeze that was in place for much of the year as the legislature worked through the difficult process of reaching agreement on a biennium budget. There were other factors, all of which we addressed in very short order following my arrival as the new executive director for the agency.

In spite of these startling staffing statistics, workload did

not significantly decrease, and backlog did not significantly increase. However, this condition was not without consequences; we saw high turnover of our workforce continue as employees became exhausted by the press of doing 1 1/3 persons' work. What matters most about this year's report is the tremendous dedication of those employees who stayed, and whose commitment to the mission of the Kentucky Commission on Human Rights maintained the agency's high standards and commitment to serve all citizens of Kentucky.

Beginning in February 2005, a new day began at the Kentucky Commission on Human Rights, with a renewed commitment to the freedoms and rights earned through the often life-threatening and never easy toil of those who dared to believe that Kentucky could one day be a place where all people could expect to be treated fairly and equally. For those who seek housing, a right to be able to live where they choose, to be free from predatory lending practices, to the full enjoyment of their home without fear of being evicted, vandalized or fire-bombed due to race, national origin, skin color, or family status. For those who qualify for disability status, to be able to gain access to theaters, and stores, schools, and even their own homes. For those seeking jobs in Kentucky, to be able to know that they will be judged on the merit of their qualifications for a job rather than on race, color, age, gender, religion, ethnicity, disability status or whether they choose to smoke or not smoke. For Kentucky's disability community, we have placed renewed emphasis on services for the deaf and hard of hearing, accessibility issues in housing and public accommodations and reasonable accommodations in the workplace.

In a significant legal decision this year, the Kentucky Supreme Court ruled that the Kentucky Commission on Human Rights has the authority to investigate discrimination in those private clubs who extend tax relief to its members using provisions of the tax code. The commission also saw remarkable new progress in our outreach to the immigrant community and saw the appointment of the first Hispanic commissioner when Governor Fletcher appointed Robert Asseo to serve on the commission.

It has been a remarkable year for the Kentucky Commission on Human Rights. The inexhaustible efforts of the Chair, Priscilla Johnson, and the equally tireless efforts of the staff of this agency are responsible for the successes you will review in this report. I am honored to lead this team of exceptional professionals.

About Us



Kentucky Civil Rights Act (KRS 344) Mandate

To safeguard all individuals within the state from discrimination because of familial status, race, color, religion, national origin, sex, age 40 and over, or because of the person's status as a qualified individual with a disability as defined in KRS 344.010 and KRS 344.030; Thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state.



Kentucky was the first state south of the Mason Dixon Line to prohibit discrimination.

Kentucky has the oldest state human rights commission south of the Mason-Dixon Line. The Kentucky General Assembly created the Kentucky Commission on Human Rights in 1960. The state government agency was directed to encourage fair treatment, foster mutual understanding and respect, and discourage discrimination against any racial or ethnic group or its members.

In 1966, the commission role expanded with the passage of The Kentucky Civil Rights Act (Kentucky Revised Statute [KRS] 344). This law made discrimination illegal, and it named the Kentucky Commission on Human Rights as the statutory authority to enforce civil rights for the Commonwealth. The law also made Kentucky the first state in the south to prohibit discrimination.

With the 11-member board of commissioners, the executive director and 38 staff positions, the agency receives, initiates, investigates, conciliates and rules upon jurisdictional complaints alleging violations of the Kentucky Civil Rights Act. Certified with substantial equivalency to the U.S. Department of Housing and Urban Development and the U.S. Equal Employment Opportunity Commission, the Kentucky Commission on Human Rights also enforces the policies set forth in federal civil rights laws.

The KCHR is mandated to educate the public about the rights under the law to live free from discrimination in Kentucky. As such, the agency conducts a comprehensive program of education, training, outreach, partnership, and public awareness initiatives to vigorously carry out this task.

We are proud of our achievements in human rights, which stretch over the last 45 years. With headquarters in Louisville and the Northern Kentucky office in Covington, the KCHR has opened doors of opportunity for thousands of people.

Mission

To eradicate discrimination in the commonwealth through enforcement of the Kentucky Civil Rights Act.

Vision

A commonwealth united against discrimination. A commonwealth united for equality.

Enforcement



When The Kentucky Civil Rights Act was passed in 1966, it prohibited discrimination in employment and public accommodations against people based on their race, national origin, color and religion. In following years until most recently in 1992, the General Assembly passed amendments that expanded the protected classes and jurisdictions under the law.

Protected Classes

It is against the law to discriminate against people because of:

Race
Color
Religion
National Origin
Sex
Familial Status
Disability
Age
Smoker or Non-Smoker Status

Jurisdictions

People in Kentucky are protected from discrimination in the jurisdictions of:

Housing
Employment
Public Accommodations
Financial Transactions
Retaliation



Discrimination is defined in The Kentucky Civil Rights Act (KRS 344) as any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this law.

Employment

It is illegal for employers to discriminate based on race, color, religion, national origin, sex, disability, retaliation and age (40 and over). This applies in hiring, discharging, work conditions, union membership and advertising. Discrimination by employers against smokers or non-smokers is also illegal. The law applies to employers of eight or more people (15 in a disability claim), in employment agencies, labor organizations, licensing agencies, and the Commonwealth of Kentucky and its political subdivisions, including public schools.

Housing

Discrimination is illegal in the sale, rental, or financing of housing because of race, color, religion, national origin, sex, disability or familial status. The law covers financial institutions, real estate brokers, builders, operators, developers, insurance agents, owners or managers of rental units, and individual owners who place their property on the real estate market by advertising or displaying a notice.

Public Accommodations

It is illegal for public accommodations providers to refuse or deny the full and equal enjoyment of goods, facilities and accommodations based on race, color, religion, national origin, sex or disability. The law covers places that supply goods or services to the general public, such as restaurants and retailers; places that solicit or accept the patronage of the public; or places that are supported directly or indirectly by government funds.

Financial Transactions

The denial of credit or financing by a financial institution or person offering credit is illegal when based on race, color, religion, national origin, sex or disability.

Retaliation

It is illegal to coerce or retaliate against any individual who files a complaint with the Kentucky Commission on Human Rights.



The Enforcement Process

Filing a Complaint

A person who believes he or she has been illegally discriminated against may contact our office by phone, mail, e-mail, via our website or in person. This begins the complaint process. An intake or enforcement officer takes the complaint and asks questions.

Complaints must be filed on a timely basis. Complaints in public accommodations, employment, financial transactions and retaliation must be filed within 180 days of the incident. Housing complaints must be filed within 365 days of the incident. All complaints must be signed and notarized.

Conciliation

Our enforcement officers work to conciliate the complaint. Conciliation involves negotiating between the parties that have been charged with discrimination and the person(s) who made the complaint. Conciliation talks can lead to a settlement, which may include a monetary award.

Investigation

Once the complaint is filed, we undertake a thorough and impartial investigation. We conduct interviews and gather facts from the person making the complaint and those who have been charged with discrimination.

Findings

If, after investigating the complaint, the commission does not find evidence to support the complaint, the enforcement officer makes a no-probable-cause recommendation. The commission may dismiss the complaint.

The person who filed the complaint and those who have been charged with discrimination are notified.

When the evidence is strong enough to believe that illegal discrimination has probably occurred, a finding of probable-cause is recommended.

Litigation and Administrative Hearings

If investigation leads to a probable-cause recommendation, the complaint moves to the litigation phase.

Our staff attorneys work on behalf of the complainant to conciliate, persuade or litigate in matters concerning the discrimination complaint.

In the event that no conciliation settlement can be reached, the commission conducts a hearing. Attorneys in our office represent the person who is making the discrimination complaint and the agency at the hearing. Hearings are similar to civil trials.

The evidence and testimony are presented at the hearing. Commissioners make a final determination.

Enforcement

When the commission determines that discrimination has occurred, the parties charged with discrimination may be ordered to cease and desist from any further discrimination and to remedy past discrimination. A remedy can include a monetary award, policy change, employment reinstatement or an accommodation in housing.



Commission final orders have the authority of those by a court of law. The commission may ask a circuit court to enforce the order. A commission decision may be appealed to a circuit court within 30 days of the order.



Case Information

The Kentucky Commission on Human Rights handled 3,200 inquiries this year by people who were concerned they may have been victims of discrimination in Kentucky. Roughly one in every 10 of these intakes resulted in a new discrimination complaint being filed. The board of commissioners met monthly to hear and rule on all complaints. There were 343 new cases filed and a total of 677 cases processed by our investigators during the reporting period. The staff negotiated 26 conciliation agreements, which resulted in \$57,700 compensation for complainants. Eight of these agreements were reached after a probable cause determination was recommended, resulting in \$39,500 of the total compensation. Two hearings were conducted, and 15 were scheduled for the next reporting period. The agency maintains a successful federal government affiliation through partnerships with the U.S. Equal Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD).



NUMBER OF CASES FILED				
JURISDICTION	2004	PERCENTAGE OF CASES FILED 2004	2005	PERCENTAGE OF CASES FILED 2005
EMPLOYMENT	274	81	246	72
HOUSING	34	10	52	15
PUBLIC ACCOMMODATIONS	30	9	45	13
FINANCIAL TRANSACTIONS				
TOTAL	338	100	343	100

BASIS OF CASES FILED					
BASIS	EMPLOYMENT	HOUSING	PUBLIC ACCOMMODATIONS	FINANCIAL	TOTALS
RACE & COLOR	112	21	27		160
SEX	80	10	1		91
AGE	34				34
RELIGION	3				3
DISABILITY	28	14	14		56
NATIONAL ORIGIN	19	4	5		28
RETALIATION	45	10	1		56
FAMILIAL STATUS		10			10
SMOKER OR NON-SMOKER STATUS	3				3
TOTALS	324	69	48	0	441*

*Some complaints allege more than one basis of discrimination. Therefore, the total number of complaints filed does not equal the total number of basis for complaints filed.



NUMBER OF COMPLAINTS CLOSED

DECISION	LAST YEAR	PERCENT	THIS YEAR	PERCENT
NO PROBABLE CAUSE	263	75.7	257	83
CONCILIATION	40	12	26	8
WITHDRAWAL	27	8	20	6
WITHDRAW WITH SETTLEMENT	15	4	8	3
FINDING OF DISCRIMINATION	1	0.3	0	0
TOTALS	346	100	311	100
CONCILIATION AFTER PROBABLE CAUSE RECOMMENDATION	12	3.9	8	2.48





Kentucky Supreme Court Upholds Commission Decision to Investigate Private Clubs

The Kentucky Commission on Human Rights (KCHR) won a major victory on Nov. 18, 2004, in a court test of whether it has the power to investigate private clubs for discriminatory membership practices.

The Kentucky Supreme Court declared KCHR has statutory authority to investigate private clubs for this purpose. If prohibited discriminatory conduct is found, the court said, club members will be disallowed from deducting club payments on their state taxes.

KCHR asserts that the Pendennis Club of Louisville, the Louisville Country Club, and Idle Hour Country Club of Lexington, the three clubs named in the case, must now open their membership records for investigation. The commission is pushing for the clubs to turn over the racial and gender makeup of their memberships. The clubs have been unwilling to provide the information, and the matter continues in litigation.

The high court's decision reversed a series of lower court rulings and marks a major success in the 13-year legal battle for KCHR. There is no appeal from statutory construction decisions of the Kentucky Supreme Court.

The commission has long had jurisdiction to investigate places of public accommodation for discrimination, but private clubs are specifically exempt from being classified as a public accommodation in the Kentucky Civil Rights Act, Kentucky Revised Statute (KRS) 344.130.

In a 7-0 opinion, Chief Justice Joseph Lambert wrote that KCHR authority with regard to the clubs rests in another state statute, KRS 141.010(11)(d), part of 1990 amendments in Kentucky's state tax code.

The amendments prohibit taxpayers from taking: "[a]ny deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth,

not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex."

Without this decision, under state law, members of private clubs can deduct as business expenses at least a portion of payments made to their clubs for meals, entertainment and use of the club's facility.

Attorneys for the three prestigious clubs argued that KCHR was not specifically named in KRS 141 as the "agency" charged with enforcing the civil rights laws of Kentucky. However, the Supreme Court said the General Assembly's intention is clear and the commission's investigatory powers, though not explicitly created, exist by implication in the statute.

"Thirteen years ago the Kentucky General Assembly resolved that members of discriminatory clubs should have no sanctuary in the tax code," the chief justice wrote. "This court has now clarified KCHR authority to progress toward fulfillment of that public policy."

Furthermore, "KCHR can investigate any club – public, quasi-public, or private – to determine whether it denies full and equal enjoyment of its membership and benefits on account of race," Chief Justice Lambert wrote.

In addition to race, the decision authorizes the commission to investigate clubs with regard to the other protected classes listed in the amendments. However, there is a proviso that these sections of the revenue code don't apply to deny deductions for amounts paid to "any religious or denominational group or establishment or organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established or maintained."

The case originated in 1991 when

Louisville civil rights activist Rev. Louis Coleman filed complaints with KCHR, alleging membership practices at the three clubs were racially discriminatory. The commission dismissed the complaints, reasoning that the clubs were exempt from KRS 344. One month later, then State Rep. Anne Northup (now a U.S. representative), and a sponsor of the 1990 tax code amendments, asked the Attorney General's Office for an opinion. The opinion said the commission was not barred from investigating private clubs, although the clubs could not be held liable for damages under KRS 344. Two years later, then Commissioner Mae Cleveland filed complaints on behalf of KCHR alleging unlawful discrimination by the clubs. The clubs challenged the commission's authority to investigate the Cleveland complaints, and won in two lower courts. The Supreme Court decision reversed the rulings and sent the case back to Jefferson County Circuit Court for further proceedings.

Chief Justice Lambert wrote that the case was not about the rights of clubs or their members. He said that Kentucky private clubs do have the statutory right to discriminate in affording benefits of membership.

He said that private clubs must comply with The Kentucky Civil Rights Act when it comes to employment, however: "For example, while a private club that racially discriminates in affording full and equal enjoyment of its benefits may not be held liable for damages, a private club with eight or more employees could be civilly liable if it discriminated on the basis of race in its employment practices.

The court said the opinion did not deal with whether the three named clubs had been discriminatory, noting that no evidence had yet been heard and that it is unknown whether the clubs discriminate in membership practices.



KCHR files civil suit in cross-burning



The Kentucky Commission on Human Rights filed a civil action in Kenton Circuit Court November 29, 2004, against the defendants in the Boone County, Ky. cross-burning that occurred in July 2004.

The complaint asks the court for: (1) a declaration that the actions of James Foster of Independence, Ky., and Matthew Scudder of Hebron, Ky., constitute violations of the U.S. Fair Housing Act and the Kentucky Civil Rights Act; (2) a permanent injunction restraining and enjoining the defendants from engaging in unlawful acts of racially motivated coercion, intimidation or interference; (3) a requirement that the defendants undergo training on the subject of fair housing laws with emphasis upon housing laws that prohibit race discrimination; (4) and, monetary actual and punitive damages for Frederick and Tangela Mahone and their children.

KCHR filed an administrative complaint initiated by its chair, Ms. Priscilla Johnson, in July. Commissioner-initiated administrative complaints are expressly authorized by the state General Assembly to affect the purposes of the Kentucky Civil Rights Act, even where an aggrieved person has not come forward to file the complaint.

In October, KCHR determined that probable cause exists to believe that a discriminatory housing practice made unlawful under KRS Chapter 344 (The Kentucky Civil Rights Act) occurred. KCHR advised the Mahone family of their statutory right to have the claims made in the charge to

be decided in a civil action filed in lieu of an administrative hearing before the commission. The family decided to pursue the civil action.

The cross-burning occurred in front of the Mahone home in Burlington. The perpetrators also smashed car windows and yelled racial epithets. The KCHR complaint accused the respondents of conspiring to commit these acts. The Mahones moved from the neighborhood after the incident occurred.

A cross-burning last summer at the home of a Northern Kentucky African American family drove them away from their neighborhood.

Circuit Court upholds KCHR ruling

Henderson Circuit Court in January 2005 upheld a finding of the Kentucky Commission on Human Rights, which awarded a woman \$14,758 in damages in May 2003.

Ninfa Marruquin of Robards, Ky., filed a discrimination complaint in 1999 against Service Tools and Plastics Inc. of Henderson, Ky., alleging sexual discrimination and retaliation in

employment. A day after telling her employer that she had been sexually harassed by a co-worker, she was fired.

After KCHR found in favor of Ms. Marruquin, the company appealed the decision for judicial review, arguing that it had stated a legitimate business reason for terminating Ms. Marruquin, that of passing bad parts on the assembly line where she worked.

But, Judge Stephen Hayden said substantial evidence had been provided that passing bad parts was a common problem for company employees and no one had been fired for passing bad parts before. The court further said there was substantial evidence to support the commission's findings that Service had discriminated against Ms. Marruquin. The court affirmed the commission's findings and damages award.

Conciliations

Conciliation is reached through KCHR negotiations between complainants and respondents in consideration for the full and complete resolution of all claims of alleged discrimination. The agreements do not represent an admission by any of the respondents of violations of the law. Furthermore, the respondents denied any violations of the law. Most of the conciliation agreements below included clauses requiring the respondents to comply with civil rights laws, post notice of civil rights laws to potential clients or employees, undergo civil rights compliance training, and submit to monitoring by the Kentucky Commission on Human Rights with regard to civil rights law compliance for periods of up to three years.

KCHR Chair Priscilla Johnson, Tamera Thomas and Hettie Bell Oldham v. Newcomb Oil Company d/b/a Five Star Food Mart, in Frankfort: In a complaint alleging discrimination based on race in a place of public accommodations, and after a recommendation of probable cause, a conciliation agreement included compensation to the complainants in the amount of \$5,000, with \$2,175 each to Ms. Thomas and Ms. Oldham, and \$650 to KCHR to be used for civil rights education programs. The respondent agreed to discontinue making customers prepay for gas only one time of the year, (during the Kentucky State University homecoming week) without making customers prepay the rest of the year.

Edwina Sue McDonald v. Contours Express Inc., in Nicholasville: In a complaint based on disability in employment, and after a recommendation of probable cause, a conciliation included compensation to the complainant in the amount of \$1,500.

KCHR Commissioner Richard Brown v. Gateway Press, in Louisville: In a complaint alleging discrimination based on sex in employment, a conciliation agreement included compensation by the respondent in the amount of \$500.

Barbara Redmon v. C & L Restaurant Group Inc. d/b/a Burger King #1007, in Lexington: In a complaint alleging discrimination based on disability in a place of public accommodations, a conciliation agreement included

compensation to the complainant in the amount of \$1,000. The respondent agreed to modify the premises at Burger King #1007 to comply with the Standards for Accessible Design and the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities. The public rest rooms will be made accessible to customers who use wheelchairs.

Gavin Pritchett v. Champion Homes Inc., in Flemingsburg: In a complaint alleging discrimination based on race in employment and based on retaliation for complaining about the alleged discrimination, a conciliation included compensation to the complainant in the amount of \$3,500.

Jeanie Arnold v. Landmark Stone Products LLC., in Lexington: In a complaint alleging discrimination based on sex in employment, a conciliation agreement included compensation to the complainant in the amount of \$2,250.

John and Joni Sutherland v. The Mortgage Connection of Evansville Inc., in Owensboro: In two separate complaints alleging discrimination based on disability in housing, a conciliation agreement included compensation to the complainants in the amount of \$1,250.

KCHR Commissioner Richard Brown v. Vivid Impact, in Louisville: In a complaint alleging discrimination based on sex in employment, a conciliation agreement included compensation by the respondent in the amount of \$500.

Yolanda Nance Acosta v. James Wilson, in Fancy Farm: In a complaint alleging discrimination based on race in housing, and after a recommendation of probable cause, a conciliation agreement included compensation to the complainant in the amount of \$4,000.

Lexington Fair Housing Council and Arthur Crosby v. Robert Dickman, in Fort Mitchell: In a complaint alleging discrimination based on familial status in housing, a conciliation included compensation to the complainant in the amount of \$5,000.

Diana Napper v. MA & CFM Enterprises Inc., in Louisville: In a complaint alleging discrimination based on disability in employment, a conciliation included a pay raise by the respondent to the complainant in the amount of 10 cents per hour for the pay period ending July 25, 2004. The respondent agreed to redefine the complainant's job duties in order to meet the reasonable accommodation requirement for her disability, and in that context, to file a positive performance evaluation for the period of February through July 2004. The respondent agreed to provide interpreters for other deaf or hard-of-hearing employees when necessary for effective communication.

Delilah Brabson v. Phyllis Harper Cundiff d/b/a Marydale Apartments and Estate of Cundiff et al, in Somerset: In a complaint alleging discrimination based on race in housing, and after a recommendation of probable cause, a conciliation agreement included compensation to the complainant in the amount of \$13,000, and to the Lexington Fair Housing Council in the amount of \$2,000.

Carlos and Maribel Coutino v. James Gibbs, in Ashland: In two separate complaints alleging discrimination based on national origin in housing, a conciliation agreement included compensation to the complainants in the amount of \$2,200.

Short v Just Butcheries Inc. d/b/a Arby's Restaurants, in Versailles: In a complaint alleging discrimination based on sex and retaliation for complaining about sexual harassment in employment, a conciliation agreement included compensation to the complainant in the amount of \$750.

Teresa Newman v. Mike Peretz d/b/a Capital Lending, in Louisville: In a complaint alleging discrimination based on sex in housing, a conciliation agreement included compensation to the complainant in the amount of \$1,500.

Sharon Gillie v. Custom Food Products Inc., in Owingsville: In a complaint alleging discrimination based on sex in employment, and after a recommendation of probable cause, a conciliation

agreement included compensation to the complainant in the amount of \$8,000.

Linda Harris v. Beehive Homes of Carrollton, in Carrollton: In a complaint alleging discrimination based on race and retaliation in employment, a conciliation agreement included compensation to the complainant in the amount of \$3,000.

KCHR Commissioner Anita Simmons v. Challenger Lifts Inc., in Louisville: In a complaint alleging discrimination based on smoking status in employment, a conciliation agreement included a requirement that all job advertisements posted by the respondent shall contain the statement, "Equal Opportunity Employer – Hiring without regard to race, gender, religion, smoking class or other protected classification."

Lexington Fair Housing Council v. David Gundler, in Somerset: In a complaint alleging discrimination based on familial status in housing, a conciliation agreement included a clause requiring the respondent to place a right to fair housing advertisement in, "The Commonwealth Journal," a newspaper in Somerset.

Lexington Fair Housing Council v. Lake Cumberland Directory and Real Estate LLC., in Somerset: In a complaint alleging discrimination based on familial status in housing, a conciliation agreement included a clause requiring the respondent to provide free advertising space once a month for the next year to the complainant in the newspaper, "The Times Journal."

Kimberly Bullard v. One Force Staffing, in Louisville: In a complaint alleging discrimination based on sex in employment, and after a recommendation of probable cause, a conciliation included compensation to the complainant in the amount of \$500.

Sandra Meeks v. One Force Staffing, in Louisville: In a complaint alleging discrimination based on sex in employment, and after a recommendation of probable cause, a conciliation included compensation to the complainant in the amount of \$500.

Sheila Buehner, on behalf of her minor son v. Fiesta Rides, in Louisville: In a complaint alleging discrimination based on disability in a public accommodation, a conciliation agreement included compensation to the complainant in the amount of \$500.

Stephoe v. Mercantile Mortgage Company, in Louisville: In a complaint alleging discrimination based on disability in housing, a conciliation agreement included compensation to the complainant in the amount of 80 dollars for fee reimbursement, the amount paid by the complainant for an American Sign Language interpreter, used during a financial transaction with the respondent.

Education AND Outreach



Gallery of Great Black Kentuckians

Renowned Kentucky folk artist Helen LaFrance became the 38th member of the Gallery of Great Black Kentuckians, the educational poster and bookmark series produced by the Kentucky Commission on Human Rights.

Ms. LaFrance helped our agency unveil her poster at a special public ceremony on Nov. 5, 2004, at the LaFrance Art Gallery, 105 West Broadway, in Mayfield, Ky. The Mayfield Human Rights Commission hosted a reception, and Ms. LaFrance was on hand to autograph free posters. The event was attended by 50 people.

Born in 1919 in Graves County, the artist has been painting since she was 5 years old. She received no formal art instruction nor did she attend high school, she says. It was her mother who inspired the child. "She placed a pencil in my hand and instructed me to paint what I saw," said Ms. LaFrance, "then she would gently guide my hand across the paper."

The girl's first work was a large gray rabbit, which she painted on the back of a leftover piece of wallpaper, using watercolors given to her by an aunt. Later Helen's mother kept her supplied in paints by blending laundry bluing with dandelions and berries.



Mayor Arthur Byrn presented Ms. LaFrance with a key to the City of Mayfield at her poster unveiling.

The artist uses the "Memory Painting" folk art style, recording her autobiography in colorful images. For over 70 years, she has painted memories of Western Kentucky rural life from a now bygone era – these are Southern scenes – farmers plowing in the field, church picnics, cotton fields, river baptisms. Her signature piece, "Church Picnic," is of a time in her life that is dear to her, she says.

Her art has been on exhibit in galleries in Richmond, Ky., Columbus, Ga., and St. Louis, Mo. Her biography is listed in *Outsider Art Of The South*, an art reference book by Kathy Moses.

Of her talent, Ms. LaFrance speaks with modesty: "I just do what I do. I thought if I kept doing it, one day I'd do something worthwhile." Her gallery is located in the historic downtown district of Mayfield.

The commission introduced the Gallery series in 1970, to recognize the achievements of African Americans neglected in traditional histories of the state and to introduce Kentucky African American history into classrooms. The posters help the commission in its task to raise awareness of human and civil rights in the commonwealth.

Educators and libraries use the colorful, biographical-style posters as teaching tools. Posters and bookmarks are available to the public.



Helen LaFrance



Sharing information and raising awareness are essential to eradicating discrimination. To accomplish these objectives, the Kentucky Commission on Human Rights uses the tools of education, outreach and partnership networking. We work to reach people on a statewide basis about their civil rights, the responsibility of every citizen to comply with civil rights laws, and the benefits to all of equality, opportunity and diversity. This year, we distributed over 25,000 pieces of civil rights literature, participated in 200 civil rights partner meetings, provided 42 outreach activities for 6,185 participants, responded to 36 open records requests, and reached people across the state through media coverage of our activities on 150 occasions.



Murray Atkins Walls

The civil rights pioneer who helped integrate the Kentuckiana Girl Scouts became the 39th member of the Gallery of Great Black Kentuckians.

Executive Director Linda Strite Murnane and Fran Fach, CEO of the Girl Scouts of Kentuckiana, unveiled the poster of the late Murray Atkins Walls at a special ceremony on March 11, which was hosted by the Girl Scouts of Kentuckiana Council in its Louisville headquarters.

Born in 1899, in Indianapolis, Ind., Ms. Walls was a teacher and

developed an early black history program in Indiana. In 1935, she married Dr. John H. Walls and settled in Louisville. During the 1930s, she worked to secure public housing for African Americans in Louisville. In the 1940s, she led demonstrations at the whites-only main library and helped black clerks get jobs in a department store. She became a Girl Scout trainer and the first black woman to serve on the Girl Scout Board of Directors. She was the first black woman to serve on the Kentucky State Board of Education.

In 1954, she led the movement for a shared Girl Scouts Camp Shantituck, with black and white girls attending different sessions. It marked the first time in Louisville history that black and white Girl Scouts used the same camp. Two years later in 1956, she led the board in a vote for the integration of Camp Shantituck, one camp session for all girls. This is considered to be an early victory in the civil rights movement of the United States. Ms. Walls died in 1993.



Linda Strite Murnane (left) and Fran Fach of the Girl Scouts (right) unveiled the new poster.

Martin Luther King Leadership Awards

The annual Martin Luther King Legacy Celebration was held Jan. 21, 2005, at the University of Louisville Floyd Theatre. Joined by Kentucky Senator Gerald Neal, Chair Priscilla Johnson began the event by announcing the new executive director, Linda Strite Murnane, to the public.

The keynote speaker was Herman Daniel Farrell III, playwright, screenwriter, and a commissioner of the Midway-Versailles-Woodford County Human Rights Commission. He co-wrote the HBO movie *Boycott*, about the Montgomery, Alabama, bus boycott of 1955 and 1956, and its leadership by Rev. Martin Luther King Jr.

The Martin Luther King Emerging Leadership Award went to Shawnice Whitfield, a fourth grade student at Shyrock Traditional Elementary School in Louisville.

There were three recipients of the Martin Luther King Youth Leadership Award: Samuel Anshel Kaviar, a recent graduate of St. Francis High School, Carver Douglas Ealy, a senior at the Youth Performing Arts School, and John LaFollette, a senior at Trinity High School, all of Louisville.

The Martin Luther King Adult Leadership Award was presented to Faye Owens, a retired principal of Mill Creek Elementary School in Louisville. She is the director of educational programs for the Lincoln Foundation.

The Community Service Award went to the Black Achievers Program of the Chestnut Street Family YMCA. Now in its 25th year, it has inspired many African American students in Louisville to pursue a college education and meaningful careers.



10th Town Forum



Sixty people attended the 10th Kentucky Commission on Human Rights Town Forum on Oct. 29, 2004, at the Hyatt Regency Hotel in Louisville.

The two-hour program featured panel discussions on issues relating to the 50th anniversary of the Brown v. Board of Education decision that outlawed segregation in public schools, the appointment of federal judges, voting rights for former inmates, and the future of the civil rights movement.

Forum panelists were Gilberto Esparza, director of the Hispanic Resource Center in Covington; Judge Nathaniel Jones of Cincinnati, Ohio, who is retired from the U.S. Court of Appeals; Mardi Montgomery, deputy secretary of the Kentucky Education Cabinet; Kentucky State Sen. Gerald Neal of Louisville and Beverly Watts, the executive director of the National Fair Housing Training Academy in Washington, D.C. and former executive director of KCHR.

Jean West, a news anchor at WHAS TV in Louisville, served as moderator.

The event was co-sponsored by the Louisville Defender newspaper and the panel exchanged thoughts on a variety of topics, including the 50th anniversary of the Brown v. Board of Education decision that struck down segregation in public schools; Judge Jones, who served on the Kerner Commission, which studied urban problems during the 1960s and predicted that America was becoming "two societies, separate and unequal," said equal opportunities for minorities have eroded since Brown was decided in 1954.

"We are holding on to race now by our fingertips," Judge Jones said.

Esparza said Kentucky has only 108 certified Spanish-language interpreters for the judicial system, not enough for a state with 120 counties. He said Kentucky schools should include more curriculum for Latino students.

"My hope is that our school systems embrace our Latino students as our population grows," Mr. Esparza said.

Ms. Montgomery said the state wants more minority students to be enrolled in advanced courses and she asked residents to help their local schools.

Sen. Neal said, "We can close the achievement gap if we are determined to do it." He called on state and federal officials to ensure each student in public schools has a good education.

An audience member asked the panel about Gov. Ernie Fletcher's plan to require convicted felons to put in writing their reasons for wanting to regain their voting rights. Mr. Esparza, whose family has been victimized by crime, said he didn't have a problem with Gov. Fletcher's new requirement.

Judge Jones said he didn't think felons who had completed their sentences should face additional obstacles in having their voting rights restored.



Local Human Rights Commission Partnerships



Kentucky has a growing network of 18 local human rights commissions. These partners promote civil rights in their regions, forward intakes to our agency, and provide education and awareness throughout Kentucky.

From July 1, 2004 to June 30, 2005, KCHR made 444 contacts with local commissions, including visits to each commission, and participation and presentations at their meetings and education events.



We assisted with the formation of the new Lebanon Human Rights Commission and provided the new commissioners with orientation and KRS 344 training.

We conducted our new commissioner training program for members of the Versailles-Woodford County Human Rights Commission.

We held two Local Human Rights Commission Statewide Roundtables, one in Owensboro in August 2004, and the second in Richmond in March 2005. Roundtables give local commission officials the opportunity to address concerns and issues together and to share strategies.



We coordinated a police/community relations training seminar with the Danville-Boyle County Human Rights Commission in March 2005.

We coordinated farewell appreciation lunches for two long-serving members of the Kentucky Commission on Human Rights – Father William Cleves of Covington and Sue Dowdy of Russell.



Kentucky Local Human Rights/Relations Commissions



Ashland

Bardstown

Bowling Green

Covington

Danville-Boyle County

Franklin

Henderson-Henderson County

Hopkinsville

Lexington-Fayette Urban County

Louisville-Jefferson County

Mayfield

Midway-Versailles-Woodford County

Murray

Owensboro

Paducah

Russellville-Logan County

Richmond

Lebanon



Training

Fair Housing

Sessions designed for housing providers, realtors, financial lenders, advertisers, media, community groups and the public to outline fair housing rights and how to comply with fair housing law.

Cultural diversity

This training is designed to enlighten and educate employers and employees about the ins and outs of cultural diversity. Topics discussed include “Why diversity is important”, “How our views are formed” and “Fostering open communication”. Participants are encouraged to participate in open discussion and should leave training with a new or renewed sense of importance for diversity.

Building Culturally Sensitive Teams

This workshop uses the principles of the Cultural Diversity training to encourage building work teams that are culturally sensitive to and inclusive of all members of the team.

Sexual Harassment

This workshop discusses the particulars of sexual harassment law, including discussion of several “special topics” that differ from our traditional thoughts about what sexual harassment is. This workshop is important for employees because it teaches them what their rights are if they feel they’ve been harassed, and how to avoid being accused of sexual harassment. This is also important for employers as it explores how to address allegations of harassment and ways to foster harassment-free environments.

The Civil Rights Act (KRS 344)

This workshop is a general discussion of the Kentucky Civil Rights Act. This is a basic workshop, teaching about what the law protects, how to avoid breaking the law and how the law came to be.

KRS 344 and Filing a complaint with KCHR

This workshop tackles general topics about the Commission, how we enforce the law, how to file a complaint, what to do if you are served with a complaint, and other generalities of KRS 344.

Custom Training

Workshops can be created to fit the needs of any community or group. They can fit any and all of the above topics, as well as other civil rights issues, such as Fair Housing or how to start a local commission in a city, county or region. Those requesting training may call our agency with a “wish list”, and we will work with them to create the perfect workshop for their needs.

New Commissioner Orientation and New Commissioner Training

Orientation sessions introduce new local commissions to the Kentucky Commission on Human Rights partnership and discuss the roles of local commissions along with education and outreach options for their communities. New commissioner training provides KRS 344 and intake instruction.



We conducted 52 training sessions this year for groups, businesses, organizations and the general public with 1,280 participants.



Immigrant Outreach



The Kentucky Commission on Human Rights is entering into its fourth year with its proactive education and outreach activities for immigrant populations. In June 2002, KCHR received a 9 month grant from the U.S. Department of Housing and Urban Development to educate the Hispanic population about fair housing laws. The grant served as a ground for KCHR's ongoing education and outreach services for Kentucky immigrant populations. Last year, KCHR began to reach out to the Vietnamese, Chinese, Somali, and Arabic immigrant populations. KCHR conducted 36 civil rights workshops and booths during the 2005 fiscal year for Kentucky immigrants. The workshops educated immigrants about their rights and responsibilities under the Kentucky civil laws and how, when and where to complain when their rights have been violated. KCHR provided two fair housing trainings for social service providers so they can better inform their immigrant clients when they are discriminated against. The KCHR participated in 46 meetings and trainings as part of the immigrant outreach. KCHR has joined with other state agencies and local organizations to plan educational events. Through these activities, KCHR reached out during the year to over 4,117 immigrants across Kentucky and distributed over 8,399 KCHR materials.

On February 10, 2005, KCHR partnered with the HUD Kentucky Field Office for a meeting with representatives from the Hispanic media in Kentucky. The Meeting was held at the HUD Louisville Field Office. About seven representatives from different Hispanic media outlets came to the meeting to learn how they can access information from KCHR and HUD. The meeting strengthened the work between KCHR and Hispanic media representatives. KCHR has used every opportunity to involve Hispanic media to decimate information about KCHR and education outreach services for Hispanics. From July 1, 2004 to June 30, 2005, Hispanic media covered more than 21 separate KCHR topics. There are about twenty Spanish media outlets serving Kentucky.

In June 2005, KCHR submitted a Fair Housing Initiative Program grant proposal to the U.S. Department of Housing and Urban Development to double its education and outreach services for Kentucky immigrants. KCHR will hear about the application around November 2005.

In April 2005, KCHR completed a 30-second television commercial about the Kentucky Fair Housing Act. The commercial will be distributed to major television networks to play it on their public announcements space during fair housing month in April 2006.

Fair Housing

The agency conducted 12 certified Fair Housing sessions with 278 attending during the reporting period. Among the participants were real estate agents from A-Pass Weikel, Ashland Board of Realtors, and other real estate professionals who received credit toward their continuing education requirements for taking our course. Fair Housing training was provided to people like the homeless residents at Sanctuary House in Hopkinsville, professionals from Americorps, and the Bowling Green Human Rights Commission.

During the National and Kentucky official Fair Housing Month of April, Gov. Ernie Fletcher signed the Fair Housing Month Proclamation in the Capitol Rotunda, and the KCHR with its partners produced a number of special presentations and workshops to inform the public about their rights to housing, free from discrimination, in the Commonwealth of Kentucky. We provided to eight of our local commission partners a total of \$10,600 for their special April Fair Housing programs.

We were active members on a statewide, collaborative Predatory Lending Task Force. Headed by the Kentucky Housing Corporation in Frankfort, it addressed ways to confront this hard-to-prove discrimination, which preys on minorities and people with low incomes, charging them high interest rates, and adding in balloon payments and hidden fees and costs. We applied for \$10,000 federal funding in order to help the Don't Borrow Trouble anti-predatory lending campaign, a program to help families avoid scams and resolve financial problems in an informed manner.

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