TO : Jerris Leonard
Assistant Attorney General
Civil Rights Division

DATE: January 22, 1971

FROM : Thomas R. Hunt, Chief
TRH Administrative Section

SUBJECT: Weekly Report

Following is a report of significant legal and legislative activities which have been brought to my attention by the various sections during the week of January 15 to 21, 1971.

A. Employment

1. Atlanta, Georgia: (Fletcher Farrington & Steven Glassman) On January 18, 1971, trial on the merits commenced in United States v. Georgia Power Co. In the first three days of trial we submitted the testimony of 42 witnesses including 19 rejected applicants and 21 employees, one research analyst and one testing expert and rested on Wednesday afternoon. The trial continued with the testimony of witnesses for the private plaintiffs, whose cases had been consolidated with ours for purposes of trial.

Our estimate is that the trial will be completed by the middle of next week.

2. East St. Louis, Illinois: (Andrew Ruzicho & Gerald George) On January 15, 1971, in the case of United States v. Carpenters Local 169, et al., we filed a notice of appeal to the Seventh Circuit from the denial by the district court on January 6th of our motion for a preliminary injunction to end the work stoppage. We filed the same day a designation of record. On January 19th the district court clerk forwarded the record to the Court of Appeals. On January 20, 1971, we lodged a motion with the Seventh Circuit for an injunction pending appeal ordering the defendants to direct their members to return to work.

The carpenters walked off a construction site on November 17, 1970, when an Ogilvie Plan trainee was hired, thereby precipitating this suit. By agreement of counsel, the defendants will file an answer to our motion and memorandum by 2:00 p.m., January 22, 1971.

3. New Orleans, Louisiana: (Herbert Goldsmith) Following hearings on January 13 and 15, 1971, in the consolidated cases of Vogler, et al. v. McCarty, Inc., et al. and United States v. Asbestos Workers Local 53, Judge Herbert W Christenberry granted the motion of the defendant Local to modify the February 19, 1970, Order of the Court to alter the system of registration for referral. Prior to the hearing, the Local had agreed to modifications of its proposal suggested by the government, and the plaintiffs in the private suit agreed to the Local's proposal as so modified.

Under the new procedure, the one-for-one referral of blacks and whites as mechanics (journeymen) and improvers (apprentices) will continue, but the registration books for those members of each race in each category will be broken down still further to give preference in referral within racial groups to those men with a higher level of experience.

Since the Court's Order of February 19, 1970, at which time no blacks had joined the Local, 35 blacks have become mechanic members and 24 blacks have become improver members in the 463-member Local.

4. Charlotte, North Carolina: (Stuart Herman & Harvey Knudson) On January 18, 1971, District Court Judge McMillan denied the motion for a continuance filed by the defendant Teamster's Union in United States v. Central Motor Lines, et al. Trial is set in this case for February 2, 1971.

5. Cleveland, Ohio: (David Rose & Robert Marshall) On January 18 and 19, 1971, in United States v. Cleveland Electrical Workers (Local 38, IBEW), the United States presented evidence in a hearing on a motion for entry of decree in accordance with mandate. The evidence presented consisted of testimony of journeyman electricians who had

the necessary electrical experience but had not passed a journeyman's examination administered by Local 38. The passage of this test was a difference between Group I referral status and Group III, and thus the difference between working and not working in the area. Testimony was also given by the Government's expert witness, an electrical engineer, who testified that the journeyman's examination previously given was not a fair measure of a man's ability to be a journeyman electrician, and that working successfully for four years in the electrical field would probably preclude the necessity of a written examination.

The Government also presented the grading sheets used in apprenticeship selection, and through the testimony of a research analyst, charts that illustrated the arbitrary and discretionary character of the selection procedures. The parties failed to agree on the forms of relief necessary because of the Union's refusal to depart substantially from its present selection standards and procedures.

The hearing will continue on January 27 when the Union will present its defense.

6. Lubbock, Texas: (Elihu Hurwitz) On January 14, 1971, the Department filed a Title VII suit against T.I.M.E.-D.C. Freight and the Teamsters International at T.I.M.E.-D.C.'s corporate headquarters, Lubbock, Texas, alleging discrimination in hiring and promotion against both blacks and Chicanos. T.I.M.E.-D.C. operates 49 terminals in 24 states and employs 6,500, including 265 blacks and 32 Chicanos. The suit alleges discrimination in both hiring, assignment and promotion, including the assignments of all but 21 blacks and 32 Chicanos to lower-paying jobs. The suit specifically asks that blacks and Chicanos be allowed to transfer to over-the-road driving, mechanic, sales and supervisory positions without loss of seniority or other benefits. It also asks for back pay for discriminatees.

B. Housing

1. Baltimore, Maryland: (Robert Wiggers) On January 18, 1971, this Department received a letter from the United States Attorney's office advising that a

Baltimore attorney, formerly with the Civil Rights Division, had filed a private suit against Scott Management Company and others. Possible consolidation of the private suit and the Government's Title VIII suit is being considered for purposes of discovery and trial, although negotiations towards settlement of our suit, filed September 24, 1969, may be close to fruition.

2. Bethesda, Maryland: (Robert Wiggers) In reply to a November 25, 1970, notice letter, Mr. Eugene Sobol, President of the Linden Corporation, advised that affirmative measures suggested by this Department will be implemented in order to assure that there is no racial discrimination in the rental of the McAlbert Apartments. Specifically, the resident manager has been informed that all rentals must be made on a non-discriminatory basis and that any violation will be grounds for discharge. All new employees will receive such instruction upon hiring. A notice of the corporation's non-discriminatory policy has been posted in the rental office of the McAlbert Apartments, and a written notice will be sent to all tenants. Further, the company has drawn up a statement of standards and procedures for the processing of applications which specifically notifies that all persons will be considered for an apartment without regard to race or color.

3. Kansas City, Missouri: (Francis Kennedy) On January 19, 1971, this Department received a response to our notice letter of January 5, 1971, from Eugene B. Thompson, President of High View Developers, Inc. He advised that a sign describing the property as "highly restricted" would be removed and no longer displayed anywhere in the subdivision. However, Mr. Thompson did not respond to our suggestion that the law also obliges that affirmative measures be taken in order to correct the effects of past discrimination. We are considering sending a second letter regarding affirmative steps.

4. Charleston, South Carolina: (Richard Master) On January 15, 1971, a Title VIII Complaint was filed against the John C. Calhoun Homes, Inc. and Helen R. Brock of Charleston, South Carolina. The corporation owns and rents 315 single family houses in a subdivision located two miles from the Charleston Naval Base in South Carolina.

In our Complaint we allege that the corporation maintains a policy of racial discrimination against black persons: (1) by representing apartments to be unavailable when in fact they are available; and (2) by refusing to rent apartments to Negroes. The complaint requests that the defendants be enjoined from the alleged practices and be ordered to take affirmative steps to correct the effects of past discrimination. The matter arises from alleged violations by defendant of their assurances of non-discrimination to naval authorities which were made to assure eligibility to house naval personnel.

5. Richmond, Virginia: (Carl Gabel) On January 18, 1971, this Department received a letter from the counsel of the Richmond Newspapers advising that they will discontinue the general heading "Houses for Sale (134)" in the real estate listing section of their newspapers. They advised that beginning February 1, 1971, Richmond Newspapers will use only the zone classification for houses for sale. We determined that many advertisers have listed houses for sale in Negro or racially changing neighborhoods in the general column (134) and have listed houses in white neighborhoods in one of the six zone columns. We determined that 95% of all listings in the general column were located in Negro neighborhoods.

In our letter of March 6, 1970, to the Richmond Newspapers, we advised that such a practice was, in our judgment, a violation of Section 804(c) of the Civil Rights Act of 1968 which prohibits discriminatory advertising. Subsequently, Judge Merhige in the Richmond school case made specific reference to the ill effects of the advertising practices used by the Richmond papers.

C. Schools

1. Alabama: (Ted Garrish)

(a) On January 8, 1971, in Lee v. Macon (Tallagega County) Judge Grooms entered an order requiring the school board to offer principalships to three demoted black elementary school principals and to allow them to accept or reject the offer within thirty days. The court also ordered the board to give to the one black principal demoted to "materials supervisor" a retroactive salary supplement equivalent to his salary had he remained a

principal. In addition the board was ordered to offer to reinstate a demoted black band director and to offer him a salary supplement.

(b) On January 20, 1971, in Lee v. Macon (Tarrant City) the United States filed a Rule 36, Request for Admissions, regarding a document reflecting the location of the residence and school attendance zone for 623 non-resident students whose attendance in Tarrant City schools has decreased the degree of desegregation. The defendants have thirty days in which to reply to this request.

(c) On January 8, 1971, in Brown and United States v. The City of Bessemer Board of Education Judge Lynn ordered the adoption of the government's alternate zoning plan. The plaintiffs have appealed this order.

2. Pine Bluff, Arkansas: (Joe Rich & John Conroy) On January 20, 1971, we filed an Application for an Order To Show Cause why the Watson Chapel School Board should not have sanctions imposed against them for failure to execute the Order of the Court in United States v. Cotton Plant School District No. 1, et al. (E.D. Ark.). The school board was due to implement a court-ordered desegregation plan on January 18, 1971, prusuant to the November 17, 1970 order. On January 18 they filed a motion for a stay with the Eighth Circuit. This motion was denied on January 20 prior to our filing the Application. Judge Harris signed the order to show cause and set it down for hearing on February 5. The school board has indicated that they will not purge themselves before the hearing.

3. Tallahassee, Florida: (Rod McAulay) On January 21, 1971, in United States v. Gadsden County, et al. (Jackson County) the United States filed a response to the school board's petition requesting the Court's approval to purchase a portable classroom in order to replace a similar classroom destroyed by fire. Upon determination that the purchase would not have an adverse effect on desegregation, we did not object to the defendants' request.

4. Louisiana: (Lloyd Parker) On January 19, 1971, the United States sent a letter to the West Carroll Parish School Board regarding a reduction of black teachers and segregated transportation in the district. We requested that the board inform us of its plans to correct its violations concerning bus transportation, as well as requesting further information on transportation, faculty assignments, dismissals, and hiring practices. We also requested the submission of written objectives, non-racial criteria used for hiring, firing, promotion and demotion of professional staff members.

5. Biloxi, Mississippi: (Dan Rinzel) On January 20, 1971, a hearing was held in Biloxi before Judge Nixon in United States v. State of Mississippi (Simpson County) pursuant to an Order to Show Cause. The order was issued in response to our application on January 13, 1971, requiring Simpson County officials to show why faculty members should not immediately be assigned in compliance with the Singleton provision of the Court's order of August 1970 and why students should not immediately be required to attend school in the zones in which they reside. No evidence was presented since the school board admitted their obligations in their pleading and our right to immediate relief. However, the district requested that the Court consider implementing a new plan which would provide for the closing of the majority black New Hymn school.

The Court issued Findings of Fact in accord with the allegations in our pleadings and instructed HEW to consult with the school board in an effort to agree upon a new plan within seven days. In the absence of an agreed upon plan, either party may submit a new plan to be considered by the Court at a hearing in Biloxi on February 22, 1971. Judge Nixon indicated that if no plan is agreed to, the Court will have no choice but to issued an order granting the relief which we requested.

6. Greenville, Mississippi: (Ben Krage and Lloyd Parker) On January 7, 1971, a hearing was held in United States v. Leflore County School District (N.D. Miss., J. Smith) on the United States' Application for an Order to Show

Cause why defendants should not be required to desegregate their faculties in accordance with the court's order of June 23, 1970. That order required standard Singleton relief.

Evidence at the hearing indicated that the school district made no reassignment of faculty members for the 1970-71 school year, but instead instructed the principals at each of the schools to achieve faculty desegregation by attempting to fill vacancies by hiring teachers in accordance with the Singleton ratio. As a result, little faculty desegregation ensued. We requested the court to immediately require the defendants to reassign teachers to each school in accordance with the district-wide faculty ratio: 73% black to 27% white.

On January 12, 1971, Judge Smith entered an order requiring the school district to assign faculty to each school in accordance with the faculty ratio district-wide by January 25, 1971, the beginning of the second semester. The Court further required the defendants to file an extensive report by February 5, 1971, as to their efforts at reassignment.

7. Lincoln County, Mississippi: (Dan Rinzel) On January 20, 1971, the United States sent a letter to the Lincoln County School District confirming their agreement to eliminate their segregated bus transportation and segregated classes. We requested the submission of a report indicating information reflecting their discontinuation of these discriminatory practices.

8. South Carolina: (a) (Dan Bell) On January 20, 1971, the United States sent a letter to the Fairfield County School District regarding its failure to comply with the Nesbit faculty assignment quota for each school. We requested that the board inform us of steps which it plans to take to correct this violation of the court order. We also requested that the board provide us with information regarding the method of student and faculty assignment in the Gordon School, a school which appears to operate segregated classes; educational background information for principals including certification and score on the NTE, and the method of selecting principals after the implementation of the desegregation plan;

information regarding interdistrict transfers to Chester County;and details regarding the alleged selling of a school bus to a segregated private academy.

(b) (Bob Dempsey) On January 11, 1971, the United States sent a letter to Florence County School District #1 to inform the district of its failure to comply with the *Nesbit* ratio regarding faculty assignments, and to request that the board inform us as to the steps which it plans to take to correct this violation.

(c) (Bob Dempsey) On January 11, 1971, the United States sent a letter to Orangeburg School District #3 informing it of its failure to comply with the *Nesbit* ratio regarding faculty assignments, and requesting that the board submit to us its plan to correct this violation by second semester. The government also noted the board's failure to include racial statistics by classroom in its report to the court and requested that these statistics be submitted to us. Furthermore, the United States objected to the board's operation of a transfer policy which allowed only whites and not blacks to transfer between zones.

9. Austin, Texas: (Alexandra Polyzoides) On January 14, 1971, the Texas Education Agency heard an appeal pursuant to state procedures from the approval of the de-annexation of a portion of the Wilmer-Hutchins I.S.D. by the Dallas County Board of Education. The result of the de-annexation would have been to change the racial make-up of this district from 66% black to over 90% black. We had written TEA a letter on December 28 reminding them that the November 24, 1970 order in United States v. State of Texas, et al., (E.D. Tex.), enjoined them from permitting or approving by any means the alteration or change of any school district which would reduce desegregation. After hearing the appeal, TEA disapproved the proposed de-annexation.

10. The following is a summary of the compliance activity for the 1970-71 school year as of a January 17 workload status report.

All 478 school systems involved in U.S. school desegregation suits have been reviewed. We have no information of non-compliance as to 162 systems. We have information which indicated 587 alleged violations in the remaining 316 systems involved in U.S. suits. 264 allegations relate to various types of faculty problems, 181 relate to various forms of in-school segregation and the remainder involve such things as the transfer of public property to private schools; inter and intra-districts student assignments or transfers, and general matters such as harassment, or discriminatory treatment.

Of the 587 violations alleged, 148 have been closed after investigation revealed that no violation existed or that action was not warranted. Intensive and detailed investigations are underway or scheduled as to 234 allegations (including FBI and attorney field reviews), 41 matters are in negotiation; 16 have been the subject of U.S. participation in private court action; 61 matters have been taken to court by the government; 12 have been successfully resolved out of court and 75 are currently being evaluated by our attorneys to determine appropriate action.

The 77 matters that have received court action (16 U.S. participation in private action and 61 U.S. court actions) involve the following:

Faculty discrimination	17
Faculty ratio	12
Classroom segregation	3
Transportation discrimination	27
Transfer of public property	3
Extra-curricular	5
Intra-district student assignment	7
Inter-district transfer	1
Miscellaneous	2
Total	77

D. Voting

1. Yalobusha County, Mississippi: (Richard Bourne) On January 15, 1971, the Yalobusha County Chancery Clerk was notified that the data included with the county's submission of its redistricting plan for the county Board of Supervisors was insufficient to properly evaluate the proposal. The materials supplied indicate the approximate population of the existing and proposed five districts but contain no facts as to the racial content or character of them.

Yalobusha County is a predominantly rural county in northwestern Mississippi, with roughly 11,548 people of whom about 44% are black. The county has three majority black beats, all of which will be changed in the proposed plan. The absence of any racial figures to support the redistricting plan leaves us with insufficient knowledge to determine whether the county plan has or lacks racial purpose or effect. The plan will be re-evaluated when such information is received.

E. Criminal

1. Phoenix, Arizona: (Carlton Stoiber) On January 20, 1971, a grand jury returned a one count indictment against Leonard T. Jackson charging him with a violation of 18 U.S.C. 242. On April 11, 1970, Jackson arrested Nelson Kee, a Navajo Indian male for a liquor law violation. After stopping to meet another officer the victim would

not move to another waiting police truck. At this point the subject allegedly hit Kee at least once in the face and several times in the stomach. After the victim complained of abdominal pains while being booked, he was brought to a medical clinic the following day and from there to a hospital for surgery which revealed that the victim's lower intestine had been severed in half, intestinal fluids were pouring into the abdominal cavity and peritonitis had developed. The victim died after surgery.

2. San Francisco, California: (Arthur Chotin) On January 19, 1971, a jury acquitted former deputy sheriff Gary R. Nelson on two counts charging him with beating inmates at the Santa Rita Rehabilitation Center in May of 1969. The victims in both counts had been arrested after a demonstration in downtown Berkeley one week after the People's Park incidents. One victim, Frederick Goss was allegedly punched for smiling at a remark made by Nelson while the other victim, James Price, had his face slammed into a wall and his hair pulled during the booking process.

Several jurors stated that Nelson was acquitted on the Price count because photos of the victim did not indicate that his injuries could have been caused in the manner alleged by the government. The initial vote was 7 to 5 for acquittal.

3. Asheville, North Carolina: (Tom Hutchison) On January 12, 1971, United States Attorney Keith S. Snyder filed an Information charging Robbinsville policemen Burder F. Shope and Samuel David Shope with violation of 18 U.S.C. 242. The Information alleges that the Shopes inflicted summary punishment upon Nelson Edward Rattler and Freddie Max Rattler, both Cherokee Indians. The incident took place August 8, 1970, on the steps of the Robbinsville City Hall where Freddie Max Rattler sustained serious injuries to his arm after being pushed through a glass door; a nurse estimated that 1,000 sutures were used to close his wounds. Nelson Edward Rattler was struck over the head with a loaded gun, which discharged. The bullet narrowly missed the victim and passed through his shirt.

F. Public Accommodations

1. Tampa, Florida: (Karl Shurtliff) On January 18, 1971, we filed a complaint in the United States District Court (M.D. Fla.) against Ramiro Herminio Posse, owner of the K. O. Stand Restaurant in Tampa, Florida. Reports of four separate incidents reveal that Negroes have been denied service at the restaurant when they sought to eat there. One of the incidents involved a white male accompanied by a Negro, both of whom were denied service. Negroes traditionally have been allowed to order food for carry-out service only. A waitress who has worked for Posse for nine years stated that she had been instructed by Posse to serve Negroes take-out orders only. The proprietor himself has admitted that he knew he was "breaking the law," but that he had to "watch out for my livelihood."

2. Newberry County, South Carolina: (Karl Shurtliff) On January 15, 1971, a complaint was filed in the United States District Court for the District of South Carolina against Luther Wonzel Collier, owner and operator of the Big Boy Private Supper, a restaurant which is operated in conjunction with a Pure Oil gasoline station near Whitmire in Newberry County. Our complaint grew out of an incident occurring on January 5, 1970, when two black customers requested service at a table in the front portion of the restaurant were told by Mr. Collier that if they wished service they would have to "go around and be served," pointing to the kitchen. When asked the reason for being refused service, Mr. Collier advised one of the victims that it was a private club and without membership they could only be served in the rear.

A Title II notice letter was sent to Mr. Collier on August 6, 1970, to which he did not respond.

G. Public Facilities

1. Lake County, Florida: (Samuel Reis) On January 18, 1971, a Title III complaint was filed in

the District Court (M.D. Fla.) against Willis V. McCall, Sheriff of Lake County, Florida, jail located in Tavares.

The jail has been and continues to be operated by the defendant as a racially segregated facility. Negro inmates are assigned to cells on one floor while white inmates are assinged to cells on another floor. Assignments are made to jail work crews on a racially segregated basis. The defendant maintains separate racially designated waiting rooms in the sheriff's outer public office located in the jail, with signs marked "White Waiting Room" and "Colored Waiting Room." Sheriff McCall has advised FBI agents that he would not remove the signs unless ordered to do so by a Court Order.