

LOCAL IMPLEMENTATION: MILWAUKEE, WISCONSIN

Response to the Periodic Report of the United States
to the United Nations Committee on the Elimination
of Racial Discrimination

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**SHADOW REPORT OF THE
GREATER MILWAUKEE HUMAN RIGHTS COALITION
CONCERNING COMPLIANCE WITH
THE INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION**

**The Status of Racial Discrimination
in Criminal Justice, Employment, and Housing
in Milwaukee, Wisconsin**

Submitted to the United States Human Rights Network

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Committee on the Elimination of Racial Discrimination

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GREATER MILWAUKEE HUMAN RIGHTS COALITION SHADOW REPORT

Compliance with ICERD in Milwaukee, Wisconsin: The Status of Racial Discrimination in Criminal Justice, Employment, and Housing

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Executive Summary

We welcome the April 2007 US Periodic Report to the UN Committee concerning its compliance with the Convention. This shadow report provides information on US implementation of the provisions of the Convention at state and local levels of government in the state of Wisconsin, particularly in the city and county of Milwaukee. The report focuses on compliance with articles of the Convention that relate to racial discrimination in the areas of criminal justice, employment, and housing. Generally, the US report does not sufficiently address the government's obligations to be proactive in vindicating the rights guaranteed by the Convention. We therefore also address deficiencies in proactive measures to reduce racial discrimination.

Racial discrimination and disparities are apparent within the criminal justice system in Wisconsin. This report explores recent incidents of police brutality and misconduct against people of color in the Milwaukee area. In addition, African Americans are incarcerated at much higher rates in the state than non-Hispanic whites,¹ likely due largely to racial profiling and racial disparities in prosecuting and sentencing. As a result, poor prison conditions disproportionately affect people of color. Moreover, the State of Wisconsin's low indigency threshold² to qualify for public defense also has a disparate impact on minorities. Disfranchisement of individuals with felony convictions who have completed their prison terms also occurs at a disparate rate for people of color.³

Significant racial disparities in unemployment rates between people of color and whites exist in Milwaukee County,⁴ particularly in the city.⁵ Racial discrimination continues to occur in employment practices in Milwaukee, as well,⁶ but the city currently has no formal mechanism for investigating patterns of discrimination. People of color are also less likely to be able to access higher-paying jobs,⁷ and one study found that the city underuses African American-owned contractors, based on their numbers in the market.⁸ In addition, African-American families in the state are more likely than any other group to participate in the Wisconsin Works (W-2) welfare program, which is fraught with inadequacies.⁹ African-American and Latino participants in the W-2 program are also more likely than white participants to face sanctions for alleged violations of program requirements.⁹

¹ US Department of Justice, Bureau of Justice Statistics Bulletin, *Prison and Jail Inmates at Midyear 2005*.

² Lola Velazquez-Aguilu, *Not Poor Enough*, 2006 Wisconsin Law Review 193.

³ American Civil Liberties Union of Wisconsin, *Voter Fraud is Red Herring Hiding Voter Disfranchisement* (June/July 2007 newsletter).

⁴ Bureau of Labor Market Information and Office of Economic Advisors, Demographic Services Center, and US Census Bureau, *Milwaukee County Projected Unemployment and Employment Rates 2008-2009*.

⁵ University of Wisconsin-Milwaukee Center for Economic Development, *After the Boom* (2004).

⁶ Devah Pager, *The Mark of a Criminal Record* 30-62 (2002); University of Wisconsin-Milwaukee Employment and Training Institute and the Milwaukee Branch of the NAACP, *Report Card on Minority and Female Participation in Construction Trade Apprentices in the Milwaukee Area* (2006); University of Wisconsin-Milwaukee Employment and Training Institute, *Who Gets Construction Jobs and Where?* (2006).

⁷ US Census Bureau, *Equal Employment Opportunity Residence Data Results for Milwaukee County* (2000).

⁸ Mason Tillman Associates, Ltd., *City of Milwaukee Study to Determine the Effectiveness of the City's Emerging Business Enterprise Program* (2007).

⁹ Institute for Wisconsin's Future and University of Wisconsin-Milwaukee Center for Economic Development, *Unfair Sanctions*, available at http://www.uwm.edu/Dept/CED/publications/race_report.pdf (last visited October 10, 2007).

With respect to housing issues, the lack of affordable housing in Milwaukee disproportionately affects people of color, who are more likely to live in poverty.¹ Homeownership rates are indeed lower for people of color than for whites in Milwaukee,² and minorities face discrimination in obtaining mortgage loans and homeowners insurance,³ placing many people of color at the mercy of a tight rental market. Federal housing discrimination complaints for Milwaukee County have been rising since 2003, as well, with racial discrimination accounting for about half the complaints.⁴

We conclude by offering a number of recommendations for policy changes in the state of Wisconsin and in the Milwaukee area which are consistent with the US government's obligations under article 2 of the Convention to "review governmental, national and local policies" and to take proactive measures to address and eliminate racial discrimination. Recommendations related to criminal justice include raising the Wisconsin indigency threshold to qualify for public defense and passing state legislation to restore voting rights post-incarceration.

To address disparities in employment, the state should reform the W-2 state welfare program. For example, the state should mandate that all case managers and W-2 supervisory staff be trained in diversity issues and civil rights requirements.⁵ At the city level, Milwaukee should establish a funded entity to safeguard human rights. The City of Milwaukee should also fund a comprehensive disparity study of racial discrimination in contracting as a potential basis for improvement of the Emerging Business Enterprise Program.¹

Housing-related recommendations include increasing funding at city and federal levels for landlord fair housing training and post-purchase counseling services for home buyers, to combat predatory lending. The city should also increase budget funding for the city's Housing Trust Fund to a meaningfully substantial level. In addition, the Wisconsin Housing Economic and Development Association (WHEDA) should amend its allocations of low-income housing tax credits to prioritize projects that would encourage improved racial equity within the Milwaukee metropolitan area.

¹ Mason Tillman Associates, Ltd., *City of Milwaukee Study to Determine the Effectiveness of the City's Emerging Business Enterprise Program* (2007).

² City of Milwaukee Urban Atlas, *Summary of Population and Housing Characteristics* (2000).

³ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing*, (2005); Gregory D. Squires, *Organizing Access to Capital* 43-54 (2003).

⁴ Milwaukee Journal Sentinel, *Bias complaints for housing rise in '06* (October 7, 2007).

⁵ Institute for Wisconsin's Future and University of Wisconsin-Milwaukee Center for Economic Development, *Unfair Sanctions*, available at http://www.uwm.edu/Dept/CED/publications/race_report.pdf (last visited October 10, 2007).

Introduction

1. We welcome the April 2007 US Periodic Report to the Committee concerning its compliance with the Convention. However, the experiences of people of color in Wisconsin, especially the Milwaukee area, differ in important ways from the State report's conclusions on the status of racial discrimination.
2. Discriminatory government policies and private industry practices have contributed to highly segregated housing patterns in the Milwaukee metropolitan area. (We define the Milwaukee metro area as the counties of Milwaukee, Waukesha, Washington, and Ozaukee.¹) Appendix 1 lists the racial composition of Wisconsin, the Milwaukee metro area, Milwaukee County, and the city of Milwaukee.
3. In this report, we evaluate patterns of local racial discrimination in the areas of criminal justice, employment, and housing. The focus is on discrimination against people of color as an entire group and against three large groups in the area—African Americans, Latinos, and Hmong refugees. We conclude with several policy recommendations to improve the problems identified. Whether policy changes occur may depend in part upon whether changes occur in attitudes toward race.
4. “If the most visible victims of the Depression were African Americans and Hispanics, would we have had the New Deal programs?” asks Jack Murtaugh, board member of the UN Association-Greater Milwaukee Chapter. He continues, “If the most visible returnees from World War II were African Americans and Hispanics, would we have had the GI bill? What role is racism playing in our unwillingness to implement government-sponsored programs to address joblessness and education inequalities among African Americans and Hispanics?”
5. We hope that the illumination of the dire social and economic conditions that people of color currently face will inspire a sense of urgency for change—the same sense of urgency that similar conditions of the past, which affected people of all races, inspired.

General Considerations

6. Article 1.1 indicates that racial discrimination has either the purpose *or effect* (emphasis added) of negatively affecting human rights and fundamental freedoms. Similarly, Article 2.1 imposes on States Parties a responsibility to promote understanding among all races. Both of these statements call for measures not only to prevent discrimination, but also to proactively work to reduce discrimination.
7. Significantly, the US report states (at ¶ 148) that “[A]rticle 5 does not affirmatively require States Parties to provide or to ensure observance of each of the listed rights themselves, but rather to prohibit discrimination in the enjoyment of those rights to the extent they are provided in domestic law.” The State report further indicates that some of the enumerated rights listed under Article 5 are not explicitly recognized as legally enforceable rights under US law.
8. These statements appear to renounce government responsibility for proactive measures in reducing discrimination, which is a requirement of the Convention, articles 1 and 2. This report will attempt to fill gaps in the State report created by its more narrow definition of responsibility for the elimination of racial discrimination under Article 5.

¹US Bureau of the Census, *Geographic Boundaries of Metropolitan Areas* (2000).

Criminal Justice Issues

9. **Right to counsel.** As noted by ¶ 152 of the Periodic Report, the Sixth Amendment to the US Constitution provides for the right to counsel in all criminal prosecutions that carry a sentence of imprisonment¹ for indigent defendants.² However, states have wide discretion in the execution of this law.³ The state of Wisconsin has a very low indigency threshold to be considered statutorily indigent (meeting legislative criteria for state public defense). The Wisconsin threshold is set at an appalling 33 percent of the federal poverty guideline.³ (Other states, such as Florida, have indigency thresholds of up to 250 percent of the federal poverty guideline.³) Wisconsin defendants with incomes above the state indigency threshold may still be considered constitutionally indigent by county trial courts, which evaluate the ability to retain private counsel based on the federal poverty guideline and fees charged by trial attorneys in similar cases.³ However, the provision of public defense by trial courts lacks any guidelines, resulting in varied provision of public defense by counties.³ An estimated 2,600 people were denied public defenders in Milwaukee County in 2001.⁴

10. This lack of adequate access to public defense disparately affects people of color in Wisconsin. The poverty rate for African Americans, at 34.9 percent in 2006, was four times greater than for whites (8.5 percent), and the poverty rate for Latinos was three times greater, at 26.8 percent.⁵ The poverty rate for Hmongs in 2000 was also higher, at 26 percent,⁶ than the white poverty rate at the time of 6.8 percent.⁷ The child poverty rate is also much higher for children of color, with 52 percent of African American children, and 36 percent of Latino children in the state living in poverty, compared to nine percent of white children.⁸

11. In metropolitan Milwaukee, the racial gap in poverty rates in 2000 was the largest of any metro area in the country, and twice the national gap.⁹ The racial gap between African Americans and whites in income in metropolitan Milwaukee in 2000 was the second worst gap among the nation's 50 largest metropolitan areas (Appendix 2). Median annual household income for Hmongs also lagged behind the general population in Wisconsin by \$7,893.⁶ Since Wisconsin has the third largest population of Hmong residents in the country, with 23 percent of the Wisconsin Hmong population living in Milwaukee County,⁶ this economic disparity is significant.

12. **Representation in the Criminal Justice System.** The Committee expressed particular concern regarding the stark racial disparity in incarceration rates in the United States in its 2001 concluding observations. Wisconsin has the second highest African American incarceration rate

¹ US Constitution, amendment VI.

² Gideon v. Wainwright, 327 US 335, 339 (1963).

³ Lola Velazquez-Aguilu, *Not Poor Enough*, 2006 Wisconsin Law Review 193.

⁴ American Civil Liberties Union of Wisconsin, *Inadequate Indigent Defense Undermines System's Fairness*, (October 10, 2002).

⁵ Center on Wisconsin Strategy, *State of Working Wisconsin: Update 2007*.

⁶ University of Wisconsin Extension and University of Wisconsin Applied Population Laboratory, *Wisconsin's Hmong Population: Census 2000 Population and Other Demographic Trends*.

⁷ Census 2000 Supplementary Survey, *Poverty Status in the Past 12 Months by Age (White Alone)*, and *Race* (2000).

⁸ National Center for Children in Poverty, *Wisconsin Statistics* (2006).

⁹ University of Wisconsin-Milwaukee Center for Economic Development, *The Two Milwaukees* (2003).

in the US—4,416 per 100,000 African Americans in the state are incarcerated.¹ Wisconsin also has the fifth highest black-to-white ratio of incarceration at 10.6 to 1.¹

13. Paragraph 165 of the 2007 US report cites two dated research studies² suggesting that these disparities are primarily related to differential involvement in crime by various racial/ethnic groups, rather than to differential handling in the criminal justice system. However, the same issue of one of the journals containing these studies also contains a research study which found that African Americans receive comparatively harsher sanctions than whites for similar offenses.³ Another study from that issue points out that differing research methodologies evaluating the topic have yielded widely differing results.⁴ A recent review of social psychological research found that race continues to influence individuals' decision-making and behavior in the areas of racial profiling, the use of lethal force, and criminal sentencing.⁵ Discrimination in prosecution could also contribute to the disparity.⁶

14. Discrimination by Law Enforcement: Racial Profiling. Racial profiling plays an important role in increasing minority arrest rates. A recent example of racial profiling in Wisconsin is local law enforcement officials' practice of stopping drivers perceived to be immigrants (almost exclusively Latinos).⁷ During the past five years, local law enforcement officials in communities such as Sauk Prairie, Whitewater, and Stratford have at times inquired about the immigration status of those they stop, and they have contacted immigration officials regarding alleged violations of immigration laws. Almost all violations of immigration law are civil, rather than criminal, and enforcement of civil immigration laws exceeds the authority of local law enforcement.⁷

15. Discrimination in Prosecution of Cases. Another potential contributor to the racial disparity in Wisconsin prisons is prosecutors' ability to exercise wide discretion over whether to charge a defendant, and to select which specific charges the defendant receives.⁶ On a positive note, The Vera Institute of Justice will be working with the chief prosecutors and their staffs in three jurisdictions, including the Milwaukee County District Attorney's Office, to track various race-based indicators.⁶ Such research could be the basis for reforms.

16. Discrimination in Sentencing. Racial disparities in sentencing are also evident in Wisconsin, with a higher percentage of black and Latino/a offenders receiving prison sentences (versus probation) than whites.⁸ In Wisconsin, the disparity in new prison sentences in 1999 was 20.4 to 1 for African Americans compared to whites.⁹ The disparity in Wisconsin prison admissions is especially high for young people with drug offenses, with African American youth

¹ US Department of Justice, Bureau of Justice Statistics Bulletin, *Prison and Jail Inmates at Midyear 2005*.

² Alfred Blumstein, *Racial Disproportionality of US Prison Populations Revisited*, 64 U. Colo. L. Rev. 743 (1993); Michael Tonry, *Racial Disproportion in US Prisons*, 34 Special Issue Brit. J. Criminol. 97 (1994).

³ Debra L. Dailey, *Prison and Race in Minnesota*, 64 U. Colo. L. Rev. 761 (1993).

⁴ Samuel L. Myers, Jr., *Racial Disparities in Sentencing*, 64 U. Colo. L. Rev. 781 (1993).

⁵ R. Richard Banks, et al., *Discrimination and Implicit Bias in a Racially Unequal Society*, 94 Cal. L. Rev. 1169 (2006).

⁶ Vera Institute of Justice, *Prosecution and Racial Justice* (April 2007).

⁷ American Civil Liberties Union of Wisconsin Foundation, Current Litigation Docket, *Immigration Enforcement by Local Law Enforcement* (August 2007).

⁸ Wisconsin Sentencing Commission, *Race & Sentencing in Wisconsin* (2007).

⁹ Pamela Oliver, *Racial Disparities in Criminal Justice in Wisconsin*, available at www.wispsd.org/html/training/ProgMaterials/Conf2005/Oliver/Disparities.pdf (last visited October 2, 2007).

receiving more prison admissions for drug offenses.¹ New sentences for whites are primarily for violent offenses, while new offenses for African Americans are primarily for drug offenses.² Federal cocaine sentencing policy,³ which provides for significantly harsher prison sentences for crack cocaine than for powder cocaine,⁴ could contribute to these disparities.

17. **Treatment of Prisoners.** Wisconsin's large racial disparity in incarceration rates leads to racially disparate impacts from prison conditions in the state. Two cases in Wisconsin demonstrate abuses that are occurring in corrections facilities.

18. First, in 2004 the Milwaukee County Circuit Court found that Milwaukee County and the Sheriff's Department had violated a court-ordered settlement agreement by holding as many as 13,000 people for days in crowded, degrading and dangerous conditions in the county jail's booking room.⁵ A 2001 court-ordered settlement requires that Milwaukee County not keep arrested citizens in the booking room or without a bed for more than 30 hours, and to maintain a limit of 110 people in the booking room. The violations of the settlement, documented between 2002 and 2004, subjected those in the booking room to inhumane conditions, such as needing to sleep on a concrete floor next to a toilet, being packed into holding cells with up to 15 other people, and waiting for three days for a shower.⁵

19. Secondly, the Wisconsin prison system provides grossly deficient health care to prisoners, especially for women.⁶ In February 2000, a 29-year-old prisoner with asthma in Taycheedah Women's Prison in Fond du Lac collapsed and died gasping for air in the cafeteria, after repeated requests for medical help.⁶ In June 2005, an 18-year-old suicidal prisoner hanged herself in her cell, while she was allegedly under observation in the mental health unit of Taycheedah.⁶ Taycheedah has no inpatient mental health care, while men with severe mental health issues may be assigned to the Wisconsin Resource Center, an inpatient psychiatric facility.⁶ The Civil Rights Division of the US Department of Justice subsequently investigated conditions and practices at the facility, concluding that the facility has deficiencies in mental health care.⁷ The Civil Rights Division informed Governor Doyle that it would work cooperatively with the state to remedy those deficiencies.⁷ The 2007-2009 budget that the governor recently signed into law provides additional resources for the facility to improve mental health and medical treatment.⁸

20. **Police brutality/misconduct.** The 2007 US report fails to substantively address the serious issue of police brutality and misconduct against people of color. Nationally more use of force incidents occurred against African American subjects than against white subjects in 1995-

¹ Wisconsin Sentencing Commission, *Race & Sentencing in Wisconsin* (2007).

² Pamela Oliver, *Racial Disparities in Criminal Justice in Wisconsin*, available at www.wisspd.org/html/training/ProgMaterials/Conf2005/Oliver/Disparities.pdf (last visited October 2, 2007).

³ Pub. L. No. 99-570, 100 Stat. 3207 (1986).

⁴ 21 USC, § 841, USSG § 2D1.1(c), (2003), (Amended 2007).

⁵ American Civil Liberties Union of Wisconsin, *Court Finds Milwaukee County Violated Agreement and Court Order to Run Jail Safely and Humanely* (November 2004).

⁶ American Civil Liberties Union of Wisconsin Foundation, regarding docket C537, *Flynn v. Doyle* (2006).

⁷ Wan J. Kim, *Letter from the Assistant Attorney General to Governor Jim Doyle Regarding Investigation of the Taycheedah Correctional Institution* (May 1, 2006).

⁸ Governor Jim Doyle, *Full Veto Message*, <http://www.doa.state.wi.us/docview.asp?docid=6531&locid=3> (October 26, 2007).

2000.¹ The highest percentage of use of force (44 percent) involved white officers and African American subjects.¹

21. The largest criminal case against the Milwaukee Police Department involved police brutality of a biracial man, Frank Jude, Jr., and violation of the civil rights of Jude and his friend, Lovell Harris, an African American man.² In October 2004 Andrew Spengler, a white police officer hosting an off-duty party, discovered his wallet and badge were missing. He suspected Jude and Harris of stealing the articles. According to Jude and witnesses, Spengler and an all-white group of police officers repeatedly punched and kicked Jude in the head and body, pulled back his fingers, put a knife to his neck and anus, cut off his pants, and jammed objects into his ears. They cut Harris in the face before he broke free and fled the scene.³ Four of the former officers pled guilty to federal crimes in the case. In addition, Spengler and two other former officers were found guilty in federal court, after an initial acquittal by a state jury.²

22. Another example of police misconduct occurred in September 2002, in which Milwaukee police officers raided two Latino grocery stores during business hours for allegedly selling antibiotics without prescriptions.⁴ The officers entered the store with weapons pointed at employees and customers, forcing employees, including two pregnant women, to lie on the ground, and detaining several employees in handcuffs for hours.⁴

23. Twenty-five employees filed complaints with the Milwaukee Fire and Police Commission, which stated it did not have authority to investigate the matter and sent the complaint to the Milwaukee Police Department. In July 2007, the Wisconsin Supreme Court ruled that state law requires the Milwaukee Fire and Police Commission to investigate serious citizen complaints.⁵ In addition, a Common Council resolution passed in November 2006 established a special purpose account for monitoring and auditing the Fire and Police Commission, to increase its accountability to the public.⁶ Appendix 3 details another case study of an incident involving potential police misconduct, as well as inhumane prison conditions for Latinos.

24. **Felony Disfranchisement:** The Committee expressed concern regarding the impacts of felony disfranchisement on people of color in the US in ¶ 397 of its 2001 Concluding Observations. Wisconsin law prohibits individuals with felony convictions from voting until they have fully completed their sentences, including probation, parole, and/or extended supervision.⁷

25. In addition, a state requirement has the potential to further deter former felons from voting. Since the 2006 fall elections, the state requires that municipalities check the names of people attempting to register to vote on Election Day against a “Felon Ineligible List.” This list includes the names of those whose terms of confinement have expired, noting that their terms of

¹ International Association of Police Chiefs, *Police Use of Force in America* (2001).

² John Diedrich, *3 Ex-Officers Guilty*, Milwaukee Journal Sentinel (July 27, 2007).

³ Milwaukee Journal Sentinel, *Off-Duty Cops’ Party Turned Violent For Jude* (April 15, 2006).

⁴ American Civil Liberties Union of Wisconsin, *ACLU Condemns Milwaukee Police Antibiotic Raids on Latino Businesses* (September 2002).

⁵ American Civil Liberties Union of Wisconsin, *Wisconsin Supreme Court to Milwaukee Fire & Police Commission: Investigate Citizen Complaints* (July 2007).

⁶ Milwaukee Common Council, *Legislative File Number 060960* (November 9, 2006).

⁷ Wis. Stat. 302.078, *Restoration of Civil Rights of Convicted Persons* (2005-2006).

confinement have been completed.¹ However, the list has the potential for confusion that could lead to inaccurate prevention of registration or to deterrence of former felons from attempting to register.

26. The City of Milwaukee has further promoted stereotypes of Milwaukee voters as being more likely than other voters in the state to have criminal records. The City of Milwaukee Election Commission began posting large, visible signs starting with the November 2006 elections, stating that certain felons were ineligible to vote.¹

27. These policies have a disparate impact on African-American voters. One out of nine African-American voters is disfranchised in Wisconsin compared to one out of fifty voters overall.² African Americans comprise 39 percent of the disfranchised population, even though they make up only 5 percent of the voting population.² In June, a bill was introduced in the Wisconsin legislature which, if passed, would restore the right to vote to those who have completed their term of incarceration for an offense.³

Employment Issues

28. **Employment disparities.** Paragraph 398 of the Committee's 2001 Concluding Observations note a concern for persistent disparities in access to equal opportunities for employment. This concern continues to be relevant, since nationally the unemployment rate for African Americans in 2006, at 9.5 percent, was over double that of white Americans, at 4 percent.⁴ At state and local levels, employment disparities are even more pronounced. Wisconsin unemployment rates in 2006 were highest for African Americans at 12.3 percent, compared to 4.2 percent for whites.⁵ Both African-Americans (17.6 percent) and Latinos (13.5 percent) also have higher underemployment rates than whites (7.3 percent) in the state.⁵ (Unemployment rates include only individuals of working age who are seeking employment, while underemployment rates also include discouraged individuals who have stopped seeking jobs, workers with part-time jobs who are seeking full-time work, and workers reporting a specific barrier to getting a job, such as lack of transportation or child care.⁵) Hourly wage disparities exist, as well, with African American women averaging \$2.15 less (at \$10.89) than white women, and African American men averaging \$3.79 less (at \$13.40) than white men in Wisconsin.⁵

29. In Milwaukee County, official 2008-2009 projections of unemployment rates are higher for every minority racial/ethnic category (Appendix 4). African Americans are projected to experience the highest unemployment rates at 14.1 percent, nearly nine times that of whites. In 2006, 46.8 percent of working-age African American men in metro Milwaukee were jobless (which includes all those over 16 years of age who were not in the workforce, for any reason),

¹ American Civil Liberties Union of Wisconsin Foundation, Current Litigation Docket, *Complaint Against City of Milwaukee Election Commission, et al.* (August 2007).

² Jeff Manza & Christopher Uggen, *Locked Out 251-253* (2006).

³ State of Wis. Assembly Bill 390 (2007).

⁴ Bureau of Labor Statistics, *Unemployed Persons by Marital Status, Race, Hispanic or Latino Ethnicity, Age, and Sex* (2006).

⁵ Center on Wisconsin Strategy, *The State of Working Wisconsin: Update 2007*.

compared to 17.9 percent of white working-age men.¹ This racial gap in male joblessness is the widest of the 16 large metropolitan areas in the Northeast-Midwest “Frostbelt.”¹ The situation is particularly grim in the city of Milwaukee, in which 58.8 percent of black men were jobless in 2002, 25.7 percent more than white men.²

30. A sharp rise in African-American unemployment occurred after the decline of manufacturing jobs in Milwaukee County.³ During the late 1970s and 1980s, the city of Milwaukee lost 27,500 high-paying manufacturing jobs while gaining 19,000 low-paying service jobs.⁴ The metro Milwaukee area lost an additional 30,000 manufacturing jobs between 1999 and 2003.⁵ The area therefore has insufficient jobs for the number of jobless, with nine jobless individuals for every available full-time job.¹

31. Unemployment rates are also slightly higher for Hmong men in Wisconsin (7 percent) than for the general population of men (4 percent), and for Hmong women (4 percent) than for the general population of women (3 percent).⁶ The unemployment rate is more disparate in the Milwaukee area, with Hmong community unemployment estimated at 12.4 percent versus overall unemployment at 5.2 percent.⁷

32. Appendix 5 demonstrates that people of color are also less likely to be in higher-paying positions, such as managerial and professional jobs. While people of color comprise approximately 40 percent of the population in Milwaukee County, they only hold 19 percent of managerial and professional jobs. Despite some progress in the 1990s, metropolitan Milwaukee ranks near the bottom of 50 US metro areas (48th in 1999) in the proportion of African Americans holding management jobs in large private-sector enterprises.⁸

33. **Employment discrimination.** Sections 111.31-111.395 of the Wisconsin Statutes provide that it is unlawful for employers, employment agencies, labor unions and licensing agencies to discriminate against employees and job applicants because of race, color, national origin or ancestry, among other factors. Similarly, the Fair Housing and Employment Ordinance, chapter 109 of the Milwaukee Code of Ordinances, prohibits private employers, unions, and employment agencies from making employment-related decisions based on these factors. On a positive note, this ordinance was amended in August to include protection from discrimination on the basis of gender identity or expression, past and present military service, and association with a member of a protected class.⁹

¹ University of Wisconsin-Milwaukee Center for Economic Development, *The Crisis of Black Male Joblessness in Milwaukee*, 2006.

² University of Wisconsin-Milwaukee Center for Economic Development, *After the Boom* (2004).

³ University of Wisconsin-Milwaukee Center for Economic Development, *The Two Milwaukees* (2003).

⁴ Michael Bonds, *Race, Politics, and Community Development Funding* 29 (2004).

⁵ Wisconsin Policy Research Institute & University of Wisconsin-Milwaukee Center for Urban Initiatives and Research, *Jobs in the New Millennium: Wisconsin's Regional Economies 1999-2003* (2004).

⁶ University of Wisconsin Extension & Applied Population Laboratory, *Wisconsin's Hmong Population: Census 2000 Population and Other Demographic Trends*.

⁷ Will Ashenmacher, *Dealing with Cultural Barriers*, Business Journal of Milwaukee, available at <http://milwaukee.bizjournals.com/milwaukee/stories/2006/09/25/story9.html> (September 25, 2006).

⁸ Center on Wisconsin Strategy, *The State of Working Wisconsin: Update 2007*.

⁹ Milwaukee Code of Ordinances, Vol. 1, Chapter 109, *Housing and Racial Discrimination*, (amended August 17, 2007).

34. Those who have experienced racial discrimination in employment can file complaints with the state Equal Rights Division, or for those whose employer has more than 15 employees, with the federal Equal Employment Opportunity Commission. The Wisconsin Equal Rights Division received 833 complaints of discrimination based on race in 2006, and averaged 937 racial discrimination complaints annually since 2001.¹

35. The disparities in unemployment rates suggest that racial discrimination persists notwithstanding these legislative measures and complaint processes. A recent study conducted in Milwaukee supports this contention.² Equal numbers of white and African American job applicants presented comparable resumes. Equal numbers of applicants in each group presented themselves as either having a criminal record or not having a criminal record. Thirty-four percent of whites that did not indicate a criminal record were called back for interviews, versus 14 percent of African Americans that did not indicate a criminal record (Appendix 6). More whites that claimed they *did* have a criminal record were called back (17 percent) than African Americans who claimed they did *not* have a criminal record. Only 5 percent of African Americans who presented themselves as having a criminal record were called back for interviews. Appendix 7 details a case study of a Hmong woman who has experienced discrimination in retention of employment, as well as obstacles in obtaining governmental support when she is not employed.

36. One hindrance to reducing racial discrimination in Milwaukee is a lack of proactive measures to prevent and identify its existence. Chapter 109-15 of the Milwaukee Code of Ordinances stipulates that a seven-member mayor-appointed Equal Rights Commission (ERC) is charged with receiving discrimination complaints and attempting to eliminate or remedy violations. However, the commission has not met since 2003, and the terms of all the commissioners have expired. The responsibilities of the ERC were transferred to the Department of Employee Relations, where complaints of discrimination are now referred to state and federal entities, as the sole means of fulfilling ERC functions.³ In contrast, an active Equal Rights Commission in the 1990s investigated and addressed patterns of discrimination. However, two of its then five members resigned in 2000 out of frustration over decreased funding and lack of city support for the commission.⁴ Appendix 8 details the testimony of one of these members.

37. The Mayor's Office and the Department of Employee Relations are aware of the current situation and are assessing ways to reinvigorate the ERC to more effectively address discrimination. Initial discussions of a draft proposal for revamping the ERC appear to emphasize promotion of human relations over enforcement functions.⁵

38. When it was more proactive in the 1990s, one of the functions of the Equal Rights Commission was to monitor city compliance with two race-neutral ordinances that require city construction contractors to "give fair consideration to all segments of the population including women and minorities." One of these ordinances, the Resident Preference Ordinance, Chapter

¹ LeAnna Ware, Acting Administrator, State of Wisconsin Division of Equal Rights (October 30, 2007).

² Devah Pager, *The Mark of a Criminal Record* 30-62 (2002).

³ Legislative Reference Bureau, City of Milwaukee, November 2, 2007.

⁴ Ruth Zubrensky, former member of the Equal Rights Commission, 10/11/07.

⁵ Legislative Reference Bureau, City of Milwaukee, November 8, 2007.

309-41 of the Milwaukee Code of Ordinances, requires that for all construction contracts through the Department of Public Works, unemployed residents of the Community Development Block Grant area of the city must perform 25 percent of the worker hours. An internal audit of program compliance found that while the Department of Public Works achieved the required resident participation for overall contracts in 2004 (28 percent), only 64 percent of individual contracts met the 25 percent requirement.¹

39. The other ordinance, the Apprentice Ordinance, Chapter 309-38 of the Milwaukee Code of Ordinances, requires that for every city construction contract in excess of \$100,000, the contractor must employ the maximum number of apprentices allowable by the Wisconsin Department of Workforce Development guidelines. (The number of apprentices allowed per the number of journey workers is established for occupations that are overseen by state committees.)² In addition, a Wisconsin statute requires affirmative action in the recruitment, selection, employment, and training of apprentices for apprenticeship sponsors with more than four apprentices.³

40. Despite these laws, the Milwaukee metro area utilizes primarily white male apprentices.⁴ In September 2005, 85 percent of construction trade apprentices were white men. African Americans comprised 7.8 percent of apprentices, Latinos comprised 5.9 percent, and Asians comprised less than one percent (0.6 percent),⁴ disproportionately less than their representation in the population (Appendix 1). Less than 2 percent of the apprentices were women.⁴

41. At all levels of skilled construction in the Milwaukee metro area, only 11 percent of workers are from minority groups, as are 7 percent of construction industry supervisors and managers.⁵ Women of color only occupy 0.6 percent of construction occupations in the metro area.⁵ Although African Americans comprised 34 percent of the city of Milwaukee's working-age population in 2000, they held only 8 percent of construction jobs at work sites within the city, and only 5.9 percent of the construction jobs in the Milwaukee metro area.⁵ Latinos held 5.1 percent of the construction jobs in the Milwaukee metro area.⁵

42. The lack of oversight and enforcement of civil rights laws is a problem nationally, as well. As stated in ¶ 62 of the Periodic Report, the Department of Justice Civil Rights Division is charged with authority to investigate and challenge patterns or practices of employment discrimination. With the exception of one year, however, the Division has managed to file only one case per year for the entire country, which represents a 40 percent decline in Justice Department prosecution of racial and gender discrimination cases between 1999 and 2004.⁶ The

¹ City Comptroller, City of Milwaukee, *Audit of Department of Public Works Emerging Business Enterprise and Residents Preference Program Compliance* (2006).

² Wisconsin Department of Workforce Development, *Apprenticeship: It Makes Good Business Sense* (2006).

³ Wis. Adm. Code, Chapter DWD 296.04, *Federal Equal Opportunity Standards for Apprenticeship Programs* (2007).

⁴ University of Wisconsin-Milwaukee Employment and Training Institute and the Milwaukee Branch of the NAACP, *Report Card on Minority and Female Participation in Construction Trade Apprentices in the Milwaukee Area* (2006).

⁵ University of Wisconsin-Milwaukee Employment and Training Institute, *Who Gets Construction Jobs and Where?* (2006).

⁶ Hanes Walton, Jr. & Robert C. Smith, *American Politics and the African American Quest for Universal Freedom, Fourth Edition* 248 (2008).

reason is, according to the report, “Such suits are complex, time consuming and resource-intensive.” Such a statement reflects a blatant disregard for the government’s obligations under the Convention.

43. **Minority-owned businesses.** According to ¶ 235 of the 2007 US State report, minority-owned businesses represent the fastest-growing segment of the nation’s economy. Unfortunately, the picture is not as positive locally. Milwaukee lags behind most of the 50 largest metro areas in the country in terms of rates of African American business ownership, ranking 48th in 1997.¹

44. In addition, under Milwaukee’s ostensibly race-neutral Emerging Business Enterprise (EBE) Program, minority-owned contractors are underutilized compared to their market share.² The EBE Program works to meet the city’s requirement that 18 percent of city contracts go to disadvantaged firms that struggle with capital, credit, and bonding problems and/or whose owners are at a disadvantage based on education, place of residence, or business training.

45. A recent study on the effectiveness of the EBE Program found the greatest disparities were for African American-owned EBEs, which only represented 0.6 percent of construction prime contracts in 2005, despite accounting for 18.2 percent of the construction firms in the city’s market area.² African American-owned EBEs only had 2.3 percent of the professional services prime contracts, despite accounting for 7.1 percent of the professional services firms in the city’s market area.² And African American-owned EBEs only had 2.9 percent of the goods and other services prime contracts, despite accounting for 13.2 percent of the goods and other services firms in the city’s market area.²

46. Hispanic American-owned EBEs fared somewhat better, but still showed disparity with 6.5 percent of construction prime contracts, despite owning 12.3 percent of the construction firms in the city’s market area, with less disparity in the areas of professional services, and goods and other services.² The other notable disparity was that Asian American-owned EBEs accounted for 2.6 percent of the construction firms in the city’s market area, but they had no construction contracts during the 2005 study period.³ One potential source of these disparities is the spending of the majority of the city’s contract dollars on construction contracts in Waukesha County (62.1 percent) instead of Milwaukee County (23 percent).²

47. **Wisconsin Works Disparities.** People of color therefore face disparate economic conditions in both Milwaukee and in the state as a whole. By 2001, white families were no longer the largest category of participants in the state assistance program, as they had been in 1995.³ (In 1997, Wisconsin initiated a stringent, time-limited, work-focused assistance approach—Wisconsin Works.⁴) African-American families comprised over half the families receiving this assistance in 2001.³

¹ University of Wisconsin-Milwaukee Center for Economic Development, *The Two Milwaukees* (2003).

² Mason Tillman Associates, Ltd., *City of Milwaukee Study to Determine the Effectiveness of the City’s Emerging Business Enterprise Program* (2007).

³ University of Wisconsin-Milwaukee Center for Economic Development and Institute for Wisconsin’s Future, *Unfair Sanctions*, available at http://www.uwm.edu/Dept/CED/publications/race_report.pdf (last visited October 10, 2007).

⁴ Maria Cancian, et al., *Before and After TANF*, 76 *Social Service Review* 603 (2002).

48. Wisconsin Works (W-2) provides assistance only for adults with children, and the support is frequently inadequate.¹ Enrollment in W-2 is also difficult. The limited available data about enrollment suggests that less than 50 percent of those that inquire about W-2 are scheduled for an appointment, because of agency rewards of higher profits for diverting applicants.¹ In addition, W-2 participants may have to wait 6-8 weeks to receive a full benefits check, with few applicants aware of or able to access the emergency assistance that is available.¹

49. W-2 participants have limited access to education and training—only 14 percent receive any job skills training.¹ One third of participants do not transition into work after they leave the program, and only 17 percent of those leaving W-2 have earnings out of the poverty level.¹

50. People of color are not only more likely to participate in the W-2 program, but also face racial discrimination in the imposition of adverse actions, such as monetary sanctions, for alleged violations of program requirements.² Between October 2001 and March 2002, 42 percent of African-American participants and 45 percent of Latinos were sanctioned, while only 24 percent of white participants were sanctioned.²

Housing Issues

51. **Homeownership.** Persistent disparities in the right to adequate housing also concerned the UN Commission in 2001. The history of discriminatory housing practices in the Milwaukee metro area has contributed to extensive segregation in the area.³ No other metropolitan area in the country has a smaller percentage of minority residents in its suburbs.⁴ Minorities comprise 50 percent of the city of Milwaukee's population, but only 3 percent of the outlying suburban population.⁵

52. Homeownership rates increased for all racial and ethnic groups in the 1990s, but a sizable racial disparity still exists. Fifty-six percent of white households owned their housing units in Milwaukee in 2000, whereas only 33 percent of African American and Latino households and approximately 30 percent of other minority group households owned their housing units.⁶ This disparity is even greater when evaluating the entire Milwaukee metro area, in which the homeownership rate for whites is 67.1 percent, while the homeownership rate for African Americans remains at 33.3 percent.⁷ In addition, the median value of white-owned homes in 2000 in the Milwaukee metro area is almost 2.5 times greater, at \$140,000, than African-American owned homes, at \$57,600.⁷

53. **Affordable housing.** Since people of color are more likely to live in poverty in the Milwaukee area, they are more likely to be affected by the inadequacy of the housing supply.

¹ Institute for Wisconsin's Future, *W-2 Fails to Meet the Needs of Low-Income Families*, available at <http://www.wisconsinsfuture.org/workingfamilies/w2policy/W2summary.pdf> (last visited October 10, 2007).

² Institute for Wisconsin's Future and University of Wisconsin-Milwaukee Center for Economic Development, *Unfair Sanctions*, available at http://www.uwm.edu/Dept/CED/publications/race_report.pdf (last visited October 10, 2007).

³ Ruth Zubrensky, *A Report on Past Discrimination Against African-Americans in Milwaukee* (1999).

⁴ University of Wisconsin-Milwaukee Employment and Training Institute, *Racial Integration in Urban America* (2003).

⁵ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing* (2005).

⁶ City of Milwaukee Urban Atlas, *Summary of Population and Housing Characteristics* (2000).

⁷ University of Wisconsin-Milwaukee Center for Economic Development, *The Two Milwaukees* (2003).

Because of a lack of affordable housing, overcrowded housing has become more prevalent in the city, especially for new immigrant families.¹

54. In addition, an increasing number of households nationally are paying more than 30 percent of their incomes on housing costs.² Federal housing assistance reaches only one in four income-eligible households nationally.² The proportion of households obtaining federal assistance in Milwaukee appears consistent with the national proportion. Milwaukee, in fact, has a closed waiting list for the federal rental assistance program (Section 8 vouchers), because of inadequate funds. The city of Milwaukee Housing Authority last opened the application process for Section 8 vouchers on May 5-7, 2006. It received approximately 17,000 phone applications (although those included duplicate and incomplete calls, and assistance-ineligible callers).³ The Housing Authority randomly chose 4,000 of the eligible applicants from these calls to put on a waiting list for assistance. The Housing Authority has now processed approximately 3,200 of these applications. The last time the Housing Authority was able to open the application process was in 2000, at which time they received approximately 15,000 calls.³ Once an applicant obtains a voucher, he/she must also find a housing unit in which the landlord accepts vouchers, since acceptance of vouchers is not mandated.

55. The largest financing source for the construction and rehabilitation of affordable housing nationally is the Low Income Housing Tax Credits program (LIHTC). The LIHTC program provides tax credits to investors in and/or owners of developments in which a portion of units are made available for low-income renters.⁴ Although this program has better geographic distribution than previous housing policies, its projects remain concentrated in some of the most distressed neighborhoods.⁵ The Wisconsin Housing and Economic Development Association (WHEDA), which administrates the program in the state, has “local support” as one of its criteria for awarding tax credits. Such criteria can serve to encourage community discrimination against minority and low-income populations.

56. Lack of resources and incentives for affordable housing developers contributes to the problem of inadequate affordable housing supply.¹ To address this problem, a Housing Trust Fund was established in the city of Milwaukee in 2007 to provide gap funding for developers with affordable housing projects, with start-up funding of \$2.5 million in general obligation bonds.⁶ Unfortunately, Mayor Tom Barrett provided significantly less funding in the 2008 budget than the grassroots Housing Trust Fund Coalition expected—only \$400,000, instead of an anticipated \$1-2 million.⁷

57. **Sales and rental discrimination.** The Wisconsin Fair Housing Law (Section 106.50 of the Wisconsin Statutes) makes it unlawful to discriminate against a person in housing, even in part, because of that person’s protected class, including race, color, family status, sex, national

¹ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing*, (2005).

² Joint Center for Housing Studies at Harvard University, *The State of the Nation’s Housing: 2007*.

³ Pooja Dhaliwal, City of Milwaukee Housing Authority Program Management Specialist (October 30, 2007).

⁴ The Funders’ Network for Smart Growth and Livable Communities and PolicyLink, *Regional Equity and Smart Growth* (2004).

⁵ Brookings Institution Center on Urban & Metropolitan Policy, *Siting Affordable Housing* (2004).

⁶ Milwaukee City Code of Ordinances, Chapter 316, *Housing Trust Fund* (2007).

⁷ Heather Dummer Combs, Housing Campaign Director at Interfaith Conference of Greater Milwaukee (September 27, 2007); Bethany Sanchez, Vice Chairwoman of the Housing Trust Fund Advisory Board (November 27, 2007).

origin, marital status, ancestry, or sexual orientation, among other factors. Wisconsin law extends beyond federal law in identifying marital status, ancestry, and sexual orientation as protected classes. The Fair Housing and Employment Ordinance, chapter 109 of the Milwaukee Code of Ordinances, also prohibits providers of housing in the city of Milwaukee from making discriminatory sales or rental decisions. Victims of housing discrimination have the options of filing a complaint either with the Equal Rights Division of the Wisconsin Department of Workforce Development or with the US Department of Housing and Urban Development.

58. Nonprofit services related to housing discrimination are also available through the Metropolitan Milwaukee Fair Housing Council, Inc. (MMFHC), which can assist victims of discrimination in filing discrimination complaints, among many other services. The MMFHC handled 54 complaints of housing discrimination based on race in 2006, and averaged 50 racial discrimination complaints annually between 2001 and 2006.¹

59. An example of a racial discrimination case that MMFHC recently filed was against James Krahn, the owner of apartment buildings in West Allis, and the managers of the buildings, Patrick and Theodora Syzdel. The MMFHC sent four pairs of African American and white testers to inquire about housing opportunities at the building over the course of four months in 2003. All of the African American testers received information indicating that no apartments were available, while all of the white testers were informed that units were available.²

60. The Wisconsin Equal Rights Division received 30 complaints of housing discrimination in 2006 based on race, and has averaged 30 complaints annually of racial discrimination in housing since 2001.³ (Complaints to state and federal entities may overlap with complaints that the MMFHC handled.) Federal housing discrimination complaints for Milwaukee County increased by more than 50 percent from 2005 to 2006, when 47 complaints were filed. Racial discrimination accounted for about half of these complaints. The number of federal complaints for Milwaukee County has risen steadily since 2003. The rate of complaints per 100,000 households in Milwaukee County, at 6.8 complaints, is higher than the national rate of 4.5 complaints.⁴

61. **Mortgage lending discrimination.** Milwaukee has the largest mortgage loan denial rate disparity of the 50 largest US metropolitan areas.⁵ Non-Hispanic whites in Milwaukee County experienced a 36.3 percent loan denial rate in 2006, while Non-Hispanic blacks experienced a 58.1 percent loan denial rate (Appendix 9). The denial rates for Hispanics, American Indians/Alaskan Natives, and Asians/Pacific Islanders all approached 50 percent (Appendix 9).

62. Minority homeowners in the Milwaukee metro area also report paying higher interest rates on their current home loans, which results in African Americans paying 28 percent more in interest than whites, and Latinos 9 percent more than whites for the same mortgage amount.⁶

¹ Carla Wertheim, Executive Director of the Metropolitan Milwaukee Fair Housing Council (October 8, 2007).

² Metropolitan Milwaukee Fair Housing Council press release, *West Allis Race Discrimination Lawsuit Settles* (September 13, 2007).

³ LeAnna Ware, Acting Administrator, State of Wisconsin Division of Equal Rights (October 30, 2007).

⁴ Milwaukee Journal Sentinel, *Bias complaints for housing rise in '06* (October 7, 2007).

⁵ City of Milwaukee, *Annual Review of Lending Practices of Financial Institutions* (2006).

⁶ Public Policy Forum, *Housing, Diversity and Choices: A Metro Milwaukee Opinion Survey* (2004).

Lack of Spanish- and Hmong-speaking lenders create challenges in obtaining loans for non-English speaking individuals and those more comfortable speaking another language, as well.¹

63. Nationally, lenders gave subprime loans to 39 percent of minorities, but only to 18 percent of whites. Wisconsin had the second highest percentage of subprime loans in 2006 to African-Americans, at 61.6 percent.² The high cost loan disparity was even greater in Milwaukee County, where 70.3 percent of Non-Hispanic blacks who received home loans received high cost loans, compared to 20.9 percent of Non-Hispanic whites (Appendix 9). In 2004, a positive policy change occurred when Governor Doyle signed the Homeowner Protection Act (2003 Wisconsin Act 257), which prohibits some abusive lending practices that are typically associated with high-cost loans. However, more consumer protection is needed.

64. **Homeowners insurance discrimination.** Since homeowners insurance is required to obtain a mortgage loan, discrimination in the provision of homeowners insurance indirectly affects homeownership for minorities. Insurance company redlining (refusing to insure or providing inferior terms for individuals from certain neighborhoods or races) persists in the Milwaukee area, according to a number of studies.³ However, the extent of the problem is difficult to define since systematic disclosure is not currently required for property insurers.⁴

65. Unfortunately, individual complaints of homeowners insurance discrimination have been relatively rare, most likely because of difficulty in detecting the presence of discrimination without specific knowledge of underwriting policies and/or rate standards.² A shortage of Hmong- and Spanish-speaking insurance agents can compound the difficulty in obtaining insurance coverage for those with limited English proficiency.¹ Lawsuits against eight insurance companies through the NAACP and the MMFHC, however, have forced some positive changes in the manner in which these companies provide insurance.³

Recommendations

66. **ICERD National Implementation.** We recommend that the US federal government create a national commission or other appropriate body to promote respect for the enjoyment of rights set out in Article 5, as recommended by CERD in 2001 in its general recommendation 17. Such an institution or task force should have ICERD in its name as a means to educate the public on its existence. Such a body should be comprised of both Office of Civil Rights staff and racial justice advocates.

67. **Criminal justice recommendations.** In the arena of criminal justice, State of Wisconsin policy makers should raise the indigency threshold to qualify for public defense. They should also mandate that a Racial Impact Statement accompany all legislation that would affect the prison population, with projected consequences for people of color.⁵ In addition, the Wisconsin Legislature should pass Assembly Bill 390, which was introduced in June 2007, to restore voting rights post-incarceration. The state should also implement ways to enhance the quality and

¹ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing* (2005).

² Compliance Technologies and Genworth Financial, *2007 Annual Minority Lending Report*.

³ Gregory D. Squires, *Organizing Access to Capital* 43-54 (2003).

⁴ Gregory D. Squires, *Racial Profiling, Insurance Style*, 25 J Urban Affairs 391 (2003).

⁵ The Sentencing Project, *Uneven Justice: State Rates of Incarceration by Race and Ethnicity* (2007).

scope of information provided to the courts to assist judges in setting more equitable sentences.¹ Creation of criminal justice councils at the state and county levels, as recommended by the Effective Justice Strategies Subcommittee, would facilitate shifting the focus from a law enforcement-centered approach to a prevention and treatment-focused approach to social problems.¹

68. Local law enforcement agencies should revise their policies to avoid racial profiling of Latino immigrants, which violates Title VI and equal protection, and they should require documentation of officers' actions.² Milwaukee police officials have recently adopted a policy that prohibits officers from asking immigration questions or alerting federal immigration officials.³ The American Civil Liberties Union of Wisconsin is currently working on seeking revision of other local law enforcement agency policies and on identifying trainers to improve police practices.² Federal legislation is also needed to eliminate racial profiling nationwide.⁴ While the Department of Justice recently issued guidelines on the use of race in law enforcement, the guidelines lack an enforcement mechanism.⁴ New legislation could create an enforcement mechanism and require data collection on all law enforcement encounters.⁴

69. State of Wisconsin policy makers should review the final recommendations of Governor Doyle's Commission on Reducing Racial Disparity in Wisconsin's Criminal Justice System, to be completed on January 31, 2008. The Milwaukee County District Attorney's Office should evaluate the Vera Institute's study of various race-based indicators in the Milwaukee County jurisdiction, upon completion of the study.⁵

70. **Employment recommendations.** To address disparities in employment, the State of Wisconsin should make changes in the W-2 program. For example, the state should mandate that all case managers and W-2 supervisory staff be trained in diversity issues and civil rights requirements.⁶ The State of Wisconsin should also restore the Fair Hearing process to provide W-2 participants with access to neutral decision-makers for those with potentially mishandled cases.⁶ It should eliminate sanction-rate targets for W-2 agencies until it investigates the racial/ethnic dimensions of sanction practices.⁶ Ideally, the federal government should implement a program that guarantees income for all children, similar to the child/family allowances in all European countries and to the US Social Security Survivors Benefits.⁷

71. Staff from the Equal Rights Division of the state should give presentations to refugee and immigrant communities to ensure awareness of rights to fair treatment in employment.⁸ To improve the representation of minorities in construction trades, the state Bureau of

¹ Planning and Policy Advisory Committee of Wisconsin Supreme Court, Effective Justice Strategies Subcommittee, *Phase I: June 2004-June 2007 Insights and Recommendations*.

² American Civil Liberties Union of Wisconsin Foundation, Current Litigation Docket, *Immigration Enforcement by Local Law Enforcement*, (August 2007).

³ Milwaukee Journal Sentinel, *Police Urged Not to Check Legal Status*, October 8, 2007.

⁴ American Civil Liberties Union, *Letter to Congress Urging Co-Sponsorship and Support of End Racial Profiling Act of 2007* (June 20, 2007).

⁵ Vera Institute of Justice, *Prosecution and Racial Justice* (April 2007).

⁶ Institute for Wisconsin's Future and UWM Center for Economic Development, *Unfair Sanctions*, available at http://www.uwm.edu/Dept/CED/publications/race_report.pdf (last visited October 10, 2007).

⁷ Pat Gowens, Director of Welfare Warriors and Editor of *Mother Warrior Voices* (October 19, 2007).

⁸ Brenda Bell-White, Director of the Milwaukee Family Service Integration Office, State of Wisconsin (October 11, 2007).

Apprenticeship Standards (BAS) needs to monitor and enforce Governor Doyle's Executive Order #108 from 2005, which promotes apprenticeships in state contracts.¹ The BAS should also report annually on the number of Milwaukee area apprentices, including the racial/gender composition of the pool of applicants from which Joint Apprenticeship Committees recruit.¹

72. The City of Milwaukee should fund a comprehensive disparity study of past racial discrimination in contracting as a potential basis for improvement of the Emerging Business Enterprise Program.² Changing the city's ordinance to require a race-based contracting program would likely be beneficial, but a Supreme Court ruling in 1989 requires that to do so, a history of discrimination in an area must be documented.² The city should also spend more of its contract dollars on construction contracts in Milwaukee County, the location that the EBE program is servicing.²

73. The city should also take actions that would improve both employment and housing issues. It should establish, and adequately fund, an entity to safeguard human rights. Such a commission should enforce protective legislation and require transparent performance evaluation as a means of accountability.³

74. The city, county, or region should fund a Regional Equity Audit to research and investigate procedural and/or policy actions taken by surrounding communities that have resulted in reinforcement of racial and economic segregation.⁴ Since 90 percent of the region's entry-level job openings are in Milwaukee's suburbs,⁵ various regional policies must change. The region must improve transportation between the city and surrounding areas, suburban communities must increase the supply of affordable housing, and the city and region should shift focus from job training to job creation.⁵ A combination of these efforts would provide better access to employment for central city residents.

75. **Housing recommendations.** The city of Milwaukee should increase Community Development Block Grant (CDBG) awards and/or general funding for education and outreach on fair housing training for landlords. The MMFHC currently offers such training for landlords at least twice a year through its Rental Management in Fair Housing Training. The training sessions are well attended, with at least 50 participants at each session, but the MMFHC has needed to turn down requests for additional training sessions because of lack of financial resources.⁶ MMFHC employees have also donated the resources necessary to offer a training session in Spanish, since the organization lacks budget funding to do so.⁶ HUD should also increase its funding for the Fair Housing Education and Outreach Initiative, to provide more CDBG funds to cities regarding this topic. The federal government should in turn provide increased funding to HUD for this initiative.

¹ NAACP, *A Dream Deferred: NAACP Cover Memorandum on Apprenticeship Report Card* (2006).

² Mason Tillman Associates, Ltd., *City of Milwaukee Study to Determine the Effectiveness of the City's Emerging Business Enterprise Program* (2007).

³ Harvard University Kennedy School of Government, Executive Session on Human Rights Commissions and Criminal Justice, *Performance Measures for Human Rights Commissions* (2007).

⁴ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing*, (2005).

⁵ University of Wisconsin-Milwaukee Center for Economic Development, *The Crisis of Black Male Joblessness in Milwaukee*, 2006.

⁶ Margaret Bowitz, Director of Case Management and Training Services, Metropolitan Milwaukee Fair Housing Council (October 30, 2007).

76. The City of Milwaukee should identify an ongoing dedicated revenue source for the city's Housing Trust Fund to allow meaningfully substantial funding. Surrounding counties and/or cities, the state of Wisconsin, and the federal government should also establish housing trust funds to create more affordable housing. Governor Doyle's budget proposal for 2007-2009 would have created a state housing trust fund within the Department of Commerce with initial funding of \$2 million, but the final budget passed by the legislature did not contain this provision.¹ Sen. Russ Feingold introduced the Affordable Housing Expansion and Public Safety Act (S. 427) this year, which if passed would include the establishment of a national housing trust fund.

77. Suburban cities and/or counties should eliminate exclusionary zoning codes that effectively exclude low-income individuals and families from these communities.² The State of Wisconsin should eliminate a state statute that prohibits municipal rent control³ and develop a mandatory inclusionary zoning policy.⁴ The City of Madison attempted to create inclusionary housing through an ordinance passed in 2004, which would have required developments with ten or more rental units to provide at least 15 percent of its units as inclusionary units for families with an annual median income at or below 60 percent of the area median income (whenever a development required a new zoning map amendment, subdivision or land division).⁵ However, a Wisconsin Court of Appeals decision⁶ in 2006 ruled that the ordinance was pre-empted by the state statute that prohibits municipal rent control.³

78. The state of Wisconsin Housing and Economic Development Association (WHEDA) should eliminate the criteria of local support as one of its criteria for awarding tax credits. WHEDA should also amend its allocations of federal low-income housing tax credits (LIHTC) to prioritize projects that encourage improved regional equity in the Milwaukee metropolitan area, such as those close to employment opportunities and/or mass transit.⁴

79. The federal government should provide more funding to the federal rental assistance program, so that more income-eligible households nationwide receive the housing assistance they need. To increase the availability of affordable housing, local activists should encourage the conversion of rental units to cooperative housing developments for low- to moderate-income individuals and families.⁷ (In cooperative housing developments, each member shares in the ownership of the whole development with the exclusive right to occupy a specific portion of it.)⁸

80. To address predatory lending, policy makers in the city of Milwaukee should give lenders incentives to use more flexible standards in scoring credit ratings and to offer nontraditional applicants the same interest rates and terms that prime market borrowers receive.⁹ The city

¹ Bill Perkins, Executive Director, The Wisconsin Partnership for Housing Development, Inc. (November 7, 2007).

² Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing* (2005).

³ WIS. STAT. Section 66.1015 (2003-2004).

⁴ The Funders' Network for Smart Growth and Livable Communities and PolicyLink, *Regional Equity and Smart Growth: Opportunities for Advancing Social and Economic Injustice in America* (2004).

⁵ Madison, Wis., Ordinance Section 28.04(25) (February 15, 2004).

⁶ WI APP 192, Apartment Association of South Central Wisconsin v. City of Madison (August 10, 2006).

⁷ Roger Willcox, *Successful Cooperative Conversions* (2006).

⁸ US Department of Housing and Urban Development, *Mortgage Insurance for Cooperative Housing*, available at <http://www.hud.gov/offices/hsg/mfh/progdsc/coop213.cfm> (last accessed on November 11, 2007).

⁹ Public Policy Forum, *Housing, Diversity and Choices: A Metro Milwaukee Opinion Survey* (2004).

should also increase CDBG and/or general funding for post-purchase counseling services to combat predatory lending.¹ In addition, state and federal governments should amend current legislation to further protect consumers from abusive lending practices.

81. Enacting a federal disclosure requirement for property insurers would be a first step in combating insurance redlining. Under such a policy, insurers would have to publicly report annually on applicant information, including the race and gender of applicants, information on the type and amount of insurance applied for, and the resulting insurance policies issued.²

Conclusion

82. Racial discrimination and racial disparities persist in Wisconsin in the areas of criminal justice, employment, and housing, particularly in the Milwaukee area. The Greater Milwaukee Human Rights Coalition hopes that this report will shine greater light on the US government's failure to meet its obligations to take proactive measures to prevent and eliminate racial discrimination at the state and local levels.

¹ Metropolitan Milwaukee Fair Housing Council, *City of Milwaukee Analysis of Impediments to Fair Housing* (2005).

² Gregory D. Squires, *Racial Profiling, Insurance Style*, 25 J Urban Affairs 391 (2003).

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- American Civil Liberties Union of Wisconsin-Milwaukee Area Chapter
- Greater Milwaukee United Nations Association
- Hmong American Women's Association
- Justice 2000
- Metropolitan Milwaukee Fair Housing Council
- National Association for the Advancement of Colored People-Milwaukee Branch
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