



VOLUME XII

STUDY OF HISPANICS IN BUSINESS PARTICIPATION:

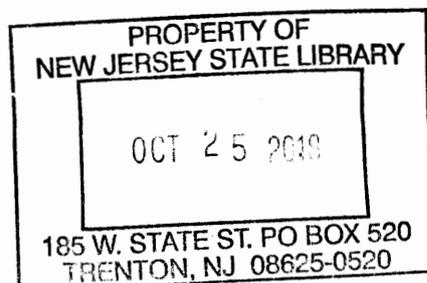
HISTORICAL RECORD OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES IN PUBLIC AND PRIVATE CONTRACTING IN NEW JERSEY

A Report Submitted to
NJ TRANSIT
and the

Governor's Study Commission on Discrimination in
Public Works Procurement and Construction Contracts

by

The Afro-American Studies Program
University of Maryland at College Park



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EXECUTIVE SUMMARY
STUDY OF HISPANICS
IN
PUBLIC AND PRIVATE CONTRACTING IN NEW JERSEY

I. General Population - Demographics

According to the census¹, New Jersey's Hispanic population of 739,861 is the fastest growing minority group within the state. The population is young with more than one-third under 21 years old. As of 1990, Puerto Ricans accounted for the vast majority (43.27%) of the state's Hispanic population (320,133) "other" Hispanic groups (i.e., Dominicans, and other Central and South American Hispanics) ranked second largest (305,591) Cubans comprised 85,738, or 11.54% and Mexican-Americans amounted to 28,759.

The majority of New Jersey's Hispanics reside in nine cities where they are residentially isolated and segregated. In fact, Paterson and Newark were found to be among the nation's most segregated Hispanic urban areas.²

II. Hispanic Businesses

There are approximately 18,000 Hispanic businesses in New Jersey,³ responsible for generating 20% of the state's total business revenue. Although the current published image of the state's Hispanic businesses is one of growth and success,⁴ a closer look at business performance by Hispanic subgroups reveals that this image is most applicable to Cuban-owned firms, but inaccurate regarding Puerto

¹ The New Jersey State Data Center, 1990 Census Publication, Population by Race and Hispanic Origin, New Jersey Counties and Selected Municipalities 1980 and 1990 (April 1991) reports the total Hispanic population as 739,861 (hereinafter, "New Jersey Census")

² Douglas Massey and Nancy Denton, "Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions", 26 Demography, No.3, August 1989.

³ Annual sales and receipts from the state's Hispanic businesses total approximately \$900,000,000.

⁴ See, e.g., "Hispanic Firms Move Ahead", The Star Ledger, June 4, 1991, Business Section, col. 3-4.

Rican businesses.⁵ Despite representing 11.5% of the Hispanic population, Cubans owned almost one-third of all Hispanic businesses; had the highest participation rates higher business participation rates (37.4 per 1,000) and generated almost half of the total Hispanic sales and receipts(46%). Puerto Rican's who represent the majority of the state's Hispanics, accounted for 21.99% of the Hispanic businesses, had the lowest business participation rate (with 9.9 per 1,000) and generated about 18.45% of total receipts.

A. Differences Between Cuban and Puerto Rican Businesses

Although there are many disparities between various Hispanic subgroups businesses, nowhere is the disparity more pronounced and extensive than that which exists between Cuban and Puerto Ricans. Many theories are offered to explain the disparity among Cuban and Puerto Rican firms. To begin with, Cubans who came to the U.S. in the 40's and 50s in an effort to avoid the socialist revolution led by Fidel Castro were elites; mostly wealthy and highly educated. Many were successful professionals and/or entrepreneurs in Cuba. Even during recent the more influx of less wealthy, less educated Cubans, including those from the Mariel boatlift, distinct and community enclaves and extensive entrepreneurial networks had already been established wherein recent immigrants could readily find housing, jobs and friends.⁶

The initial major influx of largely poor, unskilled and uneducated Puerto Ricans to New Jersey's urban centers occurred at a time when the unskilled labor market was shrinking and many major industries were relocating from both urban areas and the state in general⁷. Having the bad luck of coming to the wrong place at the wrong time, these Puerto Ricans, were unprepared to adapt to other kinds of work. Unemployment was rampant, (exacerbated by the nature of Puerto Rican sex roles, family life, circular migration and cultural commingling) and a great many Puerto Ricans in New Jersey became entrapped in a cycle of poverty and dependence on governmental assistance (as citizens, Puerto Ricans are welfare eligible).⁸

In addition to the barriers created by discrimination and the cycle of poverty,

⁵ U.S. Department of Commerce, Bureau of the Census, 1987 Economic Census, Survey of Minority-Owned Enterprises, Hispanic, April 1991.

⁶ Alejandro Portes and Min Zhou, "Gaining the Upper Hand: Perspectives in the Study of Foreign-Born Minorities", Poverty, Inequality and The Crisis of Social Policy, Conference Papers prepared for Joint Center for Political and Economic Studies as part of a research project, 1991 (hereinafter, "Portes/Zhou study")

⁷ The state lost much of the garment industry due to relocations to the southern U.S.

⁸ Linda Chavez, Out of the Barrio: Toward a New Politic of Hispanic Assimilation

one feature of the Puerto Rican population which affects business performance is in the lack of commitment to residential permanency in the state. Compounding a tendency toward transience among the state's Puerto Ricans is a pattern of relocation by Puerto Rican professionals out of the state's urban centers. Such "flight" is motivated by the superior quality of housing, education, etc. available in the suburbs, compared to urban areas. Puerto Ricans tend to assimilate at a faster pace into New Jersey's more integrated suburban neighborhoods than they do in the cities. Likewise, there is a great deal of migration back and forth from the island and a common objective of many Puerto Ricans is to eventually return, purchase property and settle in Puerto Rico.⁹

The consequences of movement by more successful Puerto Ricans out of Puerto Rican communities, including remigration to the island are twofold: first there is an outflow of capital from Puerto Rican communities and second there is a distinct lack of an identifiable Puerto Rican middle-class in New Jersey. A community of transients, very few Puerto Ricans consider residences in the inner city to be their permanent homes. Sixty percent of the Hispanic business owners in the LAEDA study did not live in the inner city where their businesses are located; (43% maintained bank accounts outside the city).¹⁰ The outflow of capital and lack of commitment from successful professionals and entrepreneurs compares unfavorably to the experience of Cubans who are very committed to, and tend to re-invest in Cuban communities. Cuban communities have established, successful entrepreneurial role models, Cuban-owned and operated enterprises provide important sources of jobs for Cuban immigrants whereby work experience and trades are passed on to other Cubans. Successful Cuban entrepreneurs operate credit networks whereby aspiring entrepreneurs can obtain start-up financing. The overall affect are the presence of more cohesive and economically healthy Cuban communities throughout the state.

III. Employment

Nationally, Hispanic workers tend to be in low-wage service jobs or as laborers and, as of 1989, Hispanic's earnings trailed the incomes of non-Hispanics. The median income for Hispanics rose about 12 percent between 1982 to 1989, from \$19,500 to \$21,900. But the 1989 median income for non-Hispanic households was far higher, at \$29,500.¹¹

Among all Hispanic subgroups in the tri-state region, Puerto Ricans and Dominicans had the lowest earning profile while Mexicans, Cubans and other Hispanic

⁹ Nicholas Lehmann, *The Other Underclass*, supra.

¹⁰ LAEDA study, supra.

¹¹ Tri-State study, supra.

subgroups had the highest.¹² Striking earning differentials between Puerto Ricans and white males have been documented. Even among comparably educated workers, Puerto Rican men earned approximately \$6,000 less than their white male counterparts. Earning gaps by education levels show there is evidence that the differentials between Puerto Rican and white men increase rather than decrease at higher levels of completed schooling. The presence of these differentials are partially attributed to discrimination.¹³

Of all Hispanic subgroups, Puerto Ricans had the lowest ratio of earnings to the average for whites regarding self-employment and wage and salary ratios.¹⁴

In 1987, Hispanics comprised seven percent of the state's labor force and seventeen percent of its unemployed.¹⁵ Unemployment rates for adult Hispanics fell from 16.5 in March of 1983 to 8.2 percent in March 1990, but the non-Hispanic rate at the end of the same period was 4.2. Most notably, unemployment for Hispanic youth rose to an unprecedented 19.5% in 1990.¹⁶

Hispanic employees in New Jersey, particularly women, are concentrated most heavily in manufacturing. Services and retail trades are also heavily populated by Hispanics. When broken down according to subgroups, more Puerto Ricans than Cubans are employed in manufacturing. Cubans outnumber Puerto Ricans and other Hispanic subgroups in real estate and retail trades. Puerto Ricans dominate the service industry.¹⁷

If statistics for Hispanic-owned firms by industry are compared to the figures for employment distribution by industry, it appears that there is a relationship between employment in certain industries and entrepreneurship in those same industries. Hispanic-owned firms in New Jersey are largely service, retail, whereas Hispanic employment in the service and retail industries are the second and third largest employment industries. Although there is a large pool of employees in manufacturing, there are only nominal amounts of Hispanic owned manufacturing firms. This is

¹² Tri-State Report, supra.

¹³ 1980 PUMS 5% A Files, found in Dr. Marta Tienda, *The Puerto Rican Worker: Current Labor Market Status and Future Prospects*, supra.

¹⁴ U.S. Economic Census, supra.

¹⁵ Tri-State study, supra.

¹⁶ U.S. Department of Labor, Bureau of Labor Statistics, Bulletin #2307 and unpublished data from the Current Population Survey (CPS)

¹⁷ Id.

probably attributable to the fact that Hispanics who work in manufacturing are largely unskilled and manufacturing firms require immense amount of capital to establish, of which New Jersey entrepreneurs do not have ready access.¹⁸

Despite some gains in increased salaries, and improvements in representation among professional and technical workers, there is a disappointing participation rate of Hispanics in managerial and professional jobs. In fact, Hispanics' participation in among officials, managers and professionals is worse than blacks.¹⁹ From this data, the conclusion is that Hispanics are not receiving promotions at a rate which would compensate for their severe under representation in executive positions. Consequently, they are denied better paying jobs and those positions with advancement opportunities.²⁰

The state has also been guilty of under-employing Hispanics, according to a Department of Community Affairs study which documented the dearth of Hispanics in the state's employ.²¹ Despite these calls to action, and notwithstanding the state's knowledge of repeated findings of Hispanic under representation²², a 1990 Task Force report concluded that Hispanics have continued to fare poorly in achieving equitable representation under both Republican and Democratic administrations. The report is a stinging indictment of the state of New Jersey's inaction with respect to the employment of Hispanic at all levels of the state work force. The report also concludes that Hispanics are "nearly invisible in the echelons of state government and have been systematically denied [their] fair share of equal employment opportunity."²³

Among the Task Force's most significant findings are that while Hispanics represent 10 percent of the state's total population, they represent only 3.9 percent of 76,121 state employees. Of these, almost three quarters occupy low level clerical, maintenance and other similar positions. In their official/administrator category,

¹⁸ *Id.* and U.S. Economic Census, *supra*.

¹⁹ Equal Employment Opportunity Commission, Employer Information Reports (EEO-1)

²⁰ U.S. Department of Labor, Bureau of Labor Statistics, *supra*.

²¹ Nelida Valentin, "Where Are They? Hispanics in New Jersey Government", Department of Community Affairs, Center for Hispanic Policy, Research and Development (1987)

²² The initial notice of underrepresentation of Hispanics in state government was alleged in a 1984 Report by the Puerto Rican Congress of New Jersey.

²³ The Task Force to Address Under Representation of Hispanics in New Jersey State Government, 1991

Hispanics hold only 1.1 percent of all senior state official positions.²⁴

IV. Studies on Hispanic Businesses In New Jersey

Although there is a definite lack paucity of research analyzing Hispanic businesses in New Jersey, a review of two studies, combined with data from the census and other sources²⁵ reveal two common obstacles which restrict Hispanic business performance: access to financing and access to information regarding business opportunities and assistance.²⁶

Of the problems encountered by the LAEDA study business owners when starting their businesses, 43% reported trouble in raising initial capital.²⁷ The Sanchez study reports the following as the most frequently reported areas where respondents needed assistance, in order of recurrence: obtaining credit, business financing; marketing; keeping up with tax related information; understanding the law and business expansion and planning matters.²⁸

Many Hispanic firms believe traditional private lending institutions discriminate against them, i.e., deny them business loans because they are Hispanic and this belief has been documented in several studies.²⁹

Due to the effects of historical barriers of discrimination in education, employment, housing, Hispanics have not been able to secure equity for businesses from traditional sources, i.e., family, friends, associates, and home ownership.

²⁴ Id., at p.3

²⁵ Lois E. Athey, Ph.D., "Community Economic Development In Puerto Rican Neighborhoods", The National Puerto Rican Coalition, Inc., 6th Annual Conference, Economic Development Report: A Framework; Bates, Timothy, "Discrimination and the Capacity of Minority and Women-Owned Businesses to Compete Successfully for New Jersey Procurement Contracts", (1991); and JACA Corporation, "Capital Issues and the Minority-Owned Business, MBDA/ARI Research Report, November 1986.

²⁶ Sanchez and LAEDA studies.

²⁷ LAEDA study, supra.

²⁸ Sanchez study, supra.

²⁹ See, e.g., Bates, "Discrimination and the Capacity of Minority and Women-Owned Businesses to Compete Successfully for New Jersey Procurement Contracts", Statement of Purpose for Dover Spanish American Credit Union; Interview with John Sanchez, Vice President Statewide Hispanic Chamber of Commerce; See also, "Hispanics; Struggle for Success", Business Section, The Star Ledger, August 12, 1991, p.19.

Hispanics in New Jersey have a dismally low rate of home ownership. In 1980, only 27.3% of Hispanic housing was owner-occupied. Low home ownership rates for Hispanics is largely due to the present affects of current and past discrimination via zoning ordinances³⁰. The ability to use capital from mortgaged property is crucial to business formation, survival and expansion.

Eighty percent of all Hispanic households nationally are renters. Half of home ownership is concentrated among those Hispanic households earning more than \$35,000 (1985 dollars), or about one in five of the tri-state region's Hispanics. In the Northeast, Cubans, Mexicans and Colombians are most likely to own a home and Dominicans and Puerto Ricans are the least likely.³¹

Only one in seven Hispanics in the tri-state region lives in a single-family house. One half of all non-Hispanics live in single family homes. Multiple-family housing is least common among Cubans, South Americans and "other" Hispanics, but far more prevalent among Puerto Ricans and Central Americans.³² Consequently, the wealth holdings of Hispanics lag dramatically behind those of non-minorities (Puerto Ricans showed a ratio of .6 to those possessed by whites, Cubans showed a ratio of assets of .8 to those of whites).³³ These barriers effect Hispanics entrepreneurs with lower business formation rates than non-Hispanics and higher business failure rates than non-Hispanics.³⁴

The differences in financial capital inputs at business start-up are among the most important single determinant of business viability for young firms.³⁵ Hispanic businesses are disadvantaged by the obstacles of financing in that they are smaller

³⁰ See e.g., Mt. Laurel. Southern Burlington County N.A.A.C.P v. Township of Mt. Laurel, 67 N.J. 151 (1975), and Southern Burlington County N.A.A.C.P, 92 N.J. 158 (1983), "hereinafter, Mt. Laurel."

³¹ Tri-State Report, supra.

³² Id.

³³ U.S. Dept. of Labor, Bureau of Statistics

³⁴ U.S. Economic Census, supra.

³⁵ MBDA Study, Characteristics of Business Owners Based on Census Bureau Data (1987), JACA Corporation, "Capital Issues and the Minority-Owned Business, supra.; See also, Bates, Timothy, "Entrepreneur, Human Capital Inputs and Small Business Longevity," The Review of Economics and Statistics, (November 1990); and Bates, Discrimination and the Capacity of Minority and Women-Owned Businesses to Compete Successfully for New Jersey Procurement Contracts:

(85% are sole proprietorships)³⁶; concentrated in retailing and services (traditionally areas requiring less capitalization); are limited in their ability to compete/bid for prime and sub-contracts.³⁷

As a result of the discrimination by private banks and the flight of many local banks from the downtown areas, and failure to secure loans from of private banks, Hispanic credit unions have emerged in New Jersey which cater to Hispanics as follows:

- 1) Use of bilingual staff;
- 2) Use of non-traditional indicators for credit extension; and
- 3) Provide essential financial information networking functions.³⁸

The state's two Hispanic credit unions are only capable of serving a nominal portion of the entire state's Hispanic population's credit needs.

V. Discrimination

A. Complaints

According to the state's Division on Civil Rights, the Division received an unprecedented 353 complaints in fiscal year 1991, claiming national origin as the basis for discrimination (the majority of which involved claims of employment discrimination).³⁹ The Division estimates that "98% of the national origin claims are from person of Hispanic origin" (two-thirds of the national origin claims are from

³⁶ The fact that many Hispanic (Puerto Rican) firms are small (sole proprietorships) and remain small has also been attributed to a lack of technical sophistication in leveraging public and private resources. The amount of financial capital input is directly related to firm size. Their relative size implies they have been unable or unwilling to build up a sufficient amount of owner's equity and collateral normally needed for a loan approval to finance expansion. See, Lois Athey, "Community Economic Development In Puerto Rican Neighborhoods," The National Puerto Rican Coalition, Inc. (February 1991)

³⁷ Id.

³⁸ Dover Spanish American Credit Union, Casa de Don Pedro Community Credit Union.

³⁹ Statistical Summary of Complaints Received with National Origin As a Basis of Discrimination in Fiscal Year 1991, Department of Law and Public Safety, Division of Civil Rights.

Puerto Ricans).⁴⁰

B. Housing

Recently, the results of the largest study of housing discrimination ever completed for the federal government were released.⁴¹ The study's methodology included the use of "testers".⁴² Among the conclusions was the fact that Hispanics were most often subject to victimization among all minority groups. The study found that Hispanics experienced discrimination 61% of the time when trying to buy and 53% of the time when trying to rent houses or apartments in the New York City area (blacks experienced discrimination 44% for purchases and 40% when attempting to rent).⁴³

The regional office of Housing and Urban Development (HUD) report its complaints of housing discrimination in New York and New Jersey nearly doubled in the fiscal year which ended June 31, 1991.⁴⁴ From this information we can conclude that housing discrimination against Hispanics in New Jersey is on the rise. Discrimination is no doubt a major contributing factor to the low home ownership rates and the residential segregation, concentration and isolation of Hispanics in impoverished, urban areas.

C. Education

Puerto Ricans fare the worst among the major Hispanic groups on many measures of education, and as a group, Puerto Ricans have lower high school completion rates than blacks. In 1980, Puerto Rican students graduating from central city high schools in New Jersey amounted to an average of 35%. The combination of white and black students graduating from central city high schools averaged about

⁴⁰ Interview with Roberto Rodriguez, Supervisor for Research and Statistics Management Information Systems, Division of Civil Rights, April 1992.

⁴¹ The New York Times, New York Ranks Highest in Housing Bias, November 3, 1991, Section 12, New Jersey Weekly, p.1

⁴² The use of "testers" or "auditors" is instrumental in documenting discrimination in housing against Hispanics. Testers are pleasant, well groomed, white, black and Hispanic agents who pose as prospective purchasers/renters of advertised properties. Their experiences are compared, using the white tester as the control group.

⁴³ The study was the largest study of housing discrimination ever completed for the federal government conducted by H.U.D

⁴⁴ New York Times article, "New York Ranks High in Housing Bias", supra.

the same 48%.⁴⁵

1. Hispanics Most Segregated and Isolated

In a prestigious report to national school boards, the executive summary concludes that segregation for Hispanics has increased dramatically during a period when the nation's Hispanic enrollment has soared. The data clearly demonstrates that Hispanics are now significantly more segregated than blacks. Since 1970, the percent of whites in the school of the typical Hispanic student has fallen by 12% while the level has remained relatively stable for blacks.⁴⁶ Throughout the period of the NSBA report,⁴⁷ by far the most severe segregation for Hispanic students existed in the Northeast where Hispanic students have generally attended schools with three-fourths minority enrollment. In the Northeast, more Hispanic students were in segregated schools (78.6 in 1986; 79.7% in 1988) and almost half (in 1986, 46.4%; in 1988, 44.2%) were in schools with virtually no white students (90-100% minority schools).⁴⁸

New Jersey's segregated schools⁴⁹ are not working well for Hispanics. Research has demonstrated a direct relationship between segregation, economic isolation, low school achievement levels and high drop out rates.⁵⁰

2. Inferior Quality of Education for Hispanics

The state of New Jersey had breached its duty to provide inner city students (the vast majority of the state's Hispanic student population) with a "thorough and

⁴⁵ Bean and Tienda, 1987

⁴⁶ Gary Orfield and Franklin Monfort, "Status of School Desegregation: The Next Generation", Report to the National School Boards Association, Metropolitan opportunity Project, Harvard University, January 8, 1992, Pre-Publication Copy, (hereinafter, "the National School Board Report")

⁴⁷ 1986-1989, *id.*

⁴⁸ NSBA Report, *id.*

⁴⁹ In 1989, in New Jersey, the Hispanic students comprised approximately 11.9% of the total student enrollment. In 1980, there was 29.9% white students in the school of a typical Hispanic student; in 1988, 28.3, representing a change of -1.3%, *id.* at Table 2 at p.8

⁵⁰ Espinosa and Ochoa, 1986, Arias, 1986

efficient" education is well-documented in judicial findings.⁵¹ Abbott demonstrates beyond a doubt that a thorough and efficient education does not exist in the poorer urban districts, no matter what test is applied.⁵² These students simply do not receive the quality of education needed to equip them as citizens and competitors in the market, especially when compared to the education given in the affluent suburbs.⁵³

The following factors have been sufficiently shown and dramatically contrasted with the situation of students in richer districts: a disparity of funding, its relationship to poverty, the critical needs of its pupils, the practical inability to raise further funds through local taxation..., the likelihood of permanence of these factors, an inferior level of substantive education actually being given, the failure rate of its students, their dropout rates.⁵⁴

Inactions, failure to take initiatives (as evidenced by the conservative and restrictive posture) of the Commissioner of Education⁵⁵ in combination with the failure of the state to legislate and to ensure implementation of its programs indicate the extent of New Jersey's breach of educational duty to its Hispanic citizens. Where the legislature has provided enabling statutes, the administrative authorities have persistently failed to interpret, act upon their authority and duty, or monitor compliance with the necessary assertiveness and conviction, particularly in the area of interdistrict segregation.

New Jersey's legislative efforts to implement the state's education clause of the constitution is being challenged as inadequate (fourth challenge in twenty-one years.)⁵⁶ The legislative actions which have been made however, have been nullified by administrative inaction.

The state's most serious shortcomings regarding effectuation of state responsibilities in the education of Hispanics involve funding issues. The fact that financial commitment is an essential element to effectuate educational objectives makes such objectives no less a priority or important to Hispanic students. In fact, due

⁵¹ Abbott v. Burke, 119 N.J. 287 (1990).

⁵² Id., at 358.

⁵³ Id., at 381.

⁵⁴ Id., at 346-7.

⁵⁵ See Morean and Jenkins, supra.

⁵⁶ Abbott, 346-7.

to the poverty attributes of the state's Hispanic population, Hispanics are that much more dependant upon the state to implement objectives involving funding issues as the community itself cannot be depended upon as an alternative source for such funding.

Abbott's findings are of tremendous importance in that they provide a public record documenting the shortcomings of the state's actions in providing constitutionally mandated education. Thus, the Abbott court establishes that the state has been an active participant in denying educational rights to a disproportionate number of Hispanic students both in the past, ("...for ten years and more") and in the present (as of the date of court's 1990 decision and findings). In addition, the court concluded that the state will not cease being an active participant in denying educational rights of a disproportionate number of its Hispanic students in the reasonable future, due to the extent of damage ("the present system is so embedded in failure that there is no likelihood of achieving a decent education tomorrow, or in the reasonable future, or ever..") until the present system is completely overhauled.⁵⁷

3. Impact of State's Educational System Failures

As minority and inner-city residents, Hispanics are disproportionately affected by the state's segregated, inferior school systems. The consequences of the state's well-documented failures are: a) the total inability of most students from poorer urban districts to enter the same market or the same society as their peers educated in affluent school districts; b) the consequent isolation, physical and psychological, devastation and hopelessness of students in poorer urban school districts; c) their astronomical drop-out and failure rates; and d) ultimately, the negative impact on the entire state and its economy.

The effect of the state's educational inadequacies upon employment, including Hispanic businesses is significant and devastating. As a poor community, with very few capital assets, Hispanics are particularly dependent upon investment in human capital, ie. public education to as a means for economic improvement.

New Jersey's labor statistics paint a dismal picture of the extent the state's public schools have met their obligation in preparing Hispanic students with the ability to achieve the skills necessary for effective competition in the contemporary labor market. Disproportionately high drop out rates, combined with disproportionately low college entrance rates among New Jersey's publicly educated Hispanic students are indicative of the State's inadequacies.

⁵⁷ Id., at 287.

The state's educational failures impact upon Hispanic businesses in that Hispanic students, as victims of an inferior quality of public education are disadvantaged in their ability to compete, in the same labor/ professional/ commercial markets as their white/suburban counterparts.

Inadequate elementary and secondary school foundations of Hispanic students (including drop out rates) impede access to higher education. Lack of higher education credentials leads to lower personal incomes. Lower personal incomes prevents Hispanics from acquiring homes and businesses. The combination of lesser educational credentials, lesser personal income and lesser access to financial capital contribute to both a much lower rate of Hispanic self-employment and poorer performance by Hispanic businesses.⁵⁸

The goal (in remedying State educational system's failures) is to provide mechanisms which compensate for the disadvantages.⁵⁹ The state has a special obligation to remedy the damages to Hispanic students which its longstanding misbehavior has at least compounded. Even under the best case scenario of equalized funding, urban students will continue to labor under at least some of the same economic and societal disadvantages that marred the lives and limited contributions of their older siblings and perhaps their parents.

D. State Contracting

According to the consensus of the Kean College Committee to Assist Hispanic-Owned Businesses, Hispanic businesses have been "relatively deprived in the area of government contracts". Further, at least in some cases, this underrepresentation is attributed to "discrimination".⁶⁰ The Committee also found that of the many contracts set aside for minority owned businesses, "Hispanics account for an insignificant proportion of recipients." Further, this underrepresentation has been attributed to "a lack of viable networks and of viable contacts with institutions

⁵⁸ Timothy Bates, "Entrepreneur Human Capital Inputs and Small Business Longevity", *The Review of Economics and Statistics* (November 1990)

⁵⁹ Abbott, supra., 396

⁶⁰ Kean College Committee To Assist Hispanic-Owned Small Businesses, (Formed to implement findings from Sanchez, Jose E., Ph.D., Summary Research Report: A Needs Assessment Survey of Hispanic-Owned Businesses in New Jersey: A Look at Union and Hudson Counties, The Kean College School of Business, Government and Technology's Small Business Development Center, May 1991).

awarding these contracts."⁶¹ Among the recommendations of the Committee, is that the state adapt a "proactive approach" toward outreach to Hispanic businesses including initiatives designed to explore networking opportunities.⁶²

Two characteristics of Hispanic businesses found in studies are a general mistrust of government and the tendency self-rely in overcoming business problems. Self-reliance is at least partially a result of frustration and discouragement encountered from past experiences involving discrimination, no doubt compounded by language and communication barriers. State initiatives or outreach efforts to communicate information regarding state contracting and other business assistance programs are essential to assist Hispanic businesses in overcoming self-reliance. The state has thus far, been unsuccessful in helping Hispanic firms overcome this obstacle,⁶³ although there is some evidence of past initiatives during the mid-80's⁶⁴. There is no method for assessing the extent or success of outreach efforts to Hispanic businesses, but the fact that mistrust continues as an attribute of Hispanic businesspersons is evidence that outreach efforts have been ineffective. The tendency of Hispanic business owners self-rely would likewise be overcome with implementation of effective business assistance programs. If anything, the state's activities have exacerbated isolation of Hispanic businesses. Due to the state's failure to monitor its various business assistance programs, it cannot be determined whether Hispanic firms have been the participated in of or benefitted from any such programs.

The existence of discrimination in employment, housing, financing, and

⁶¹ Kean College Committee To Assist Hispanic-Owned Small Businesses, (Formed to implement findings from Sanchez, Jose E., Ph.D., Summary Research Report: A Needs Assessment Survey of Hispanic-Owned Businesses in New Jersey: A Look at Union and Hudson Counties, The Kean College School of Business, Government and Technology's Small Business Development Center, May 1991).

⁶² Id., accord, Recommendations from: MNVREP, An Hispanic Agenda for New Jersey, (October 1989) and.; National Puerto Rican Coalition, "Economic Development Report: A Framework", (September 1986)

⁶³ The New Jersey Department of Community Affairs, Center for Hispanic Policy, Research and Development recently was forced to abandon a study assessing Hispanic initiatives on behalf of the various state agencies, departments, offices, authorities, colleges and universities due the "futility" of such a study, e.g., many questionnaires were ignored or returned with comments to the extent that the subject matter of the study, i.e., Hispanic initiatives was not relevant to the agency. Apparently many offices do not consider themselves "service-oriented". Interview with Nelida Valentin, Program Development Specialist (March 1992)

⁶⁴ Roland Alum is noted for his outreach initiatives directed at Hispanic businesses in 1985-6.

education are manifested as barriers hindering Hispanic business performance.⁶⁵ Despite documentation as to the fact that discrimination against Hispanics continues to affect Hispanics and Hispanic businesses in particular, the extent of discrimination is only a conservative estimate. Relying on complaints as an accurate measure of discrimination is inappropriate as complaints only measure but a small percentage. Culturally, because of the language and consequent communication handicap, Hispanics do not aggressively pursue discrimination through the process of formal complaints. Due to the low level of education and formalized training among Hispanics in New Jersey, many are not cognizant of their rights. Hispanic businesspersons are even less likely to report instances of discrimination due to their attributes of governmental mistrust and self-reliance but also due to the lack of resources (i.e., time and money). Further, many believe their business would suffer if they were to pursue a formal complaint against the state or another business.⁶⁶

VI. Inadequate Tracking System

Due to inadequate information tracking systems, it is impossible to determine whether Hispanic businesses are receiving a fair share of the prime and/or sub-contracts with the state or the amount of set-aside contract dollars received by Hispanic firms. Further, given the significant differences in business performance by Hispanic subgroups, it is not possible to determine whether there is under utilization of any particular subgroup. Through its failure to monitor program implementation, the state has obstructed the ability to determine whether and to what extent discrimination exists against Hispanic businesses, thereby frustrating the objectives of the report. Conclusions can only be estimated regarding the extent of discrimination affecting and against Hispanic businesses.

⁶⁵ Timothy Bates, *Discrimination and the Capacity of Minority and Women-Owned Businesses to Compete Successfully for New Jersey Procurement Contracts* (1991)

⁶⁶ Interview with Daniel Jara, President, and John Sanchez, Vice President State-Wide Hispanic Chamber of Commerce, (March 1992).

STUDY OF HISPANICS IN BUSINESS PARTICIPATION
IN
PUBLIC AND PRIVATE CONTRACTING IN NEW JERSEY

I. Introduction

This paper presents a brief overview of issues which affect the ability of Hispanic businesses to procure contracts with the State of New Jersey. Section II contains demographic statistics and a descriptive summary of the state's Hispanic population in general. Section III combines the results of available studies with census data in describing the unique attributes of New Jersey's Hispanic businesses. The section identifies various obstacles faced by New Jersey's Hispanic businesses, highlighting the fact that Puerto Rican businesses are the among the most severely disadvantaged of all minorities. The following sections examine how systemic discrimination is perpetuated to present obstacles which interfere with the formation, growth and performance of Hispanic businesses throughout the state:

- IV. Financing;
- V. Business Assistance;
- VI. Education;
- VII. Employment; and
- VIII. Housing

Finally, Section IX discusses how discriminatory patterns against Hispanics are found to be both unique and pervasive notwithstanding the limited availability of research and the inadequacy of the state's current information tracking systems. The conclusion analyzes the state's role in contributing to these findings and how a more comprehensive study would more accurately document existing discrimination and the effects of past discrimination according to the standards established in City of Richmond v. J.A. Croson Co.⁶⁷

II. Demographics

⁶⁷ City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (hereinafter, "Croson")

The Hispanic population of New Jersey is estimated to be 750,000⁶⁸, representing approximately 10% of the state's population. Hispanics reside in each county throughout the state but are primarily concentrated in Hudson, Passaic, Essex, Union, Middlesex, and Camden counties. In descending order, Hispanics are found in Monmouth, Cumberland, Morris, Mercer, Burlington, Ocean, Atlantic, Somerset, Gloucester, Cape May, Sussex, Salem, Warren and Hunterdon counties.⁶⁹

A. Hispanics As Diverse Subgroups

The definition of a person of Hispanic origin is subject to wide variation. This report will use the definition of "Hispanic Origin" consistent with that used in the New Jersey Set-Aside legislation:

"Hispanic American: a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race."⁷⁰

Hispanic origins can derive from no less than twenty-one nations. Diversity is further pronounced by variation in culture, language dialect, citizenry status, religion and race. The following are the eight most populated Hispanic subgroups in New Jersey: Puerto Rican, Cuban, Dominican, Mexican, Colombian, Central American, South American and "other" Latinos.⁷¹ The New Jersey Census tracks the populations in only four categories: Puerto Rican, Other, Cuban and Mexican.⁷² The U.S. Economic Census data includes two additional sub-categories of Hispanics

⁶⁸ Actually, the total Hispanic population in New Jersey as of 1990 was 739,861 according to New Jersey State Data Center, 1990 Census Publication, Population By Race and Hispanic Origin New Jersey, Counties and Selected Municipalities 1980 and 1990, April 1991 (hereinafter, "New Jersey Census")

⁶⁹ New Jersey Census, *id.*

⁷⁰ 21 N.J.R. 3545, Section 17:14-1.1, November 6, 1989

⁷¹ Outlook - The Growing Latino Presence in the Tri-State Region, Latino Commission of Tri-State, United Way of Tri-State and Regional Plan Association, December, 1988 (hereinafter, "Tri-State Report")

⁷² New Jersey Census, *supra.*

entitled, "Other Central or South American" and "European Spanish" in addition to "Other Hispanic" category.⁷³ Differences in subgroup divisions between the New Jersey Census and the U.S. Economic Census complicate interpretation. Due to limitations in Hispanic subgroup classification by both censuses, in combination with the fact that both censuses depend upon self-categorization by Hispanics, it is impossible to accurately assess or analyze subgroups populations.

Censuses are probably the most important and frequently cited source of information regarding Hispanics. Many Hispanic leaders claim census data seriously underestimate the actual Hispanic population.⁷⁴ Due to the paucity of data regarding Hispanic businesses, the deficiencies of the census have considerable affects on the estimates of disparities in the state's utilization of Hispanic contractors by subgroup.

The vast majority of New Jersey Hispanics are Puerto Rican. Puerto Ricans account for 43.27% (320,133) of the state's total Hispanic population of 750,000. The category including "other" Hispanic groups ranked second largest with 305,591. The specific population breakdown of "Other" Hispanic subgroups is essential to a thorough understanding of Hispanics within the state especially because the combined total population of "Other" (Hispanics) comes closer to meeting the large number of Puerto Ricans than the combined Cubans and Mexican-America populations. Included among the state's Hispanic subgroups comprising "Others", Dominicans, Colombians and other South Americans are the most prevalent populations. Approximately 85,378 Cubans (11.54% of the Hispanic population) reside in New Jersey and 28,759 Mexican-Americans.⁷⁵

B. Growth

⁷³ U.S. Department of Commerce, Bureau of the Census, 1987 Economic Census, Survey of Minority-Owned Enterprises, Hispanic, April 1991, (hereinafter, "U.S. Economic Census")

⁷⁴ See, e.g., "Hispanics See Biggest Growth in 1990 Census", Trenton Times, quoting Carlos Pacheco, Affirmative Action Officer for City of Trenton, Former Chairman Puerto Rican Congress of New Jersey (1991)

⁷⁵ New Jersey Census, supra.

Hispanics are the fastest growing minority group in the New Jersey. Whereas the state's Hispanic population increased 50.4% from 491,883 in 1980 to 739,861 in 1990 (at 4.7% per year), the state's total population increase over the same ten year period was only 5% (.49% per year), while nationally Hispanics increased by 7%.⁷⁶

While the 1990 censuses reveal the state's black population grew at a rate nearly double that of New Jersey's total population, the Hispanic population grew at a rate nearly double that of blacks.⁷⁷

The twin forces of legal migration and natural increase account for the substantial growth of Hispanics in the state. A third factor is illegal immigration which cannot be overlooked despite the lack of accurate information documenting the entry of Hispanic aliens in New Jersey.⁷⁸

The Hispanic population in the tri-state area is a young one. Two of every five Hispanics are under twenty years old while only one in twenty is elderly. The non-Hispanic community is experiencing the opposite trend, growing proportionately older with fewer than 30 percent of all persons under twenty years old and thirteen percent classified as "elderly".⁷⁹

Fifty-five percent of all Hispanics in the tri-state region are of working age (between 20 and 65 years old), yet significant variations exist by subgroup. Puerto Ricans and Mexicans tend to be the most youthful, while a greater percent of Cubans are older.⁸⁰

⁷⁶ New Jersey Census, supra.

⁷⁷ Hughes, J.W., "What We Can Expect from the 1990 Census: New Jersey's Changing Demography and Economy", Paper presented at the Tenth Annual New Jersey State Data Center Conference.

⁷⁸ Studies suggest that nationally, illegal immigration represents the addition of one million persons since 1980, or 23% of the Hispanic population increase. Hughes, id.

⁷⁹ Tri-State Report, supra.

⁸⁰ Tri-State Report, supra.

C. Dominicans

Between 1980 and 1987, an estimated quarter of a million Hispanic immigrants arrived in the tri-state region, one-fourth or 62,500 of whom located in New Jersey, a great many of them from the Dominican Republic.⁸¹

During the 1980's, the Dominican Republic became the sixth largest subgroup of legal immigrants to the United States, displacing Cuba as the principle source from the Caribbean. According to the 1980 censuses, 86 percent of Dominicans in the continental United States were living in the tri-state region.⁸² Dominicans are the fastest-growing Hispanic subgroup in New Jersey. Although 1990 New Jersey Census does not break down sub-groupings by Dominican origin, Dominican populations are represented in the Hispanic sub-category entitled, "Other". The population of "Other" Hispanics for 1990 is 305,591 (almost as high as the state's 320,133 Puerto Rican population).⁸³

A combination of heavy immigration and rapid natural growth are expected to account for an estimated four-fold expansion of the Dominican community by the year 2000, possibly outnumbering the state's current largest Hispanic subgroup, Puerto Ricans.⁸⁴ The state's Dominican population promises to be an important Hispanic subgroup whose unique experiences and contributions to the Hispanic and state business community warrants further research.⁸⁵

D. Urbanites

Hispanics in New Jersey are concentrated in a relatively small number of New

⁸¹ Tri-State Report, supra.

⁸² Tri-State Report, id.

⁸³ New Jersey Census, supra.

⁸⁴ Tri-State Report, supra.

⁸⁵ See, e.g., A. Portes and M. Zhou, "Gaining the Upper Hand: Old and New Perspectives in the Study of Ethnic Minorities", (1991) (Prepared at the Johns Hopkins University, Dept. of Sociology as part of a research project of the Joint Center for Political and Economic Studies)

Jersey's 567 municipalities. More than half (51.3%) of the state's Hispanic population is concentrated in nine municipalities, while these nine municipalities contain only 13.4% of the state's total population. In fact, more than two-thirds (67%) of the state's Hispanics are concentrated in 23 municipalities which contain only 22.1% of the state's total population.⁸⁶

Puerto Ricans, Dominicans and Central Americans are the most urbanized of all New Jersey Hispanics. Almost one-third (100,075) of all New Jersey Puerto Ricans (320,133) reside in three New Jersey cities (Newark: 41,545, Jersey City: 30,950; and Paterson: 27,580). The state's 85,378 Cubans are the least likely to settle in large cities, with the majority in the tri-state region residing in suburban areas throughout the state, (although Union City boasts a 17.6% of the state's Cuban population or 15,054).⁸⁷

E. Isolated and Segregated

Aside from being concentrated in the state's municipalities, Hispanics are residentially isolated from the state's non-Hispanic population. Thus, three-fifths (61%) of the Hispanic population live in communities where the proportion of Hispanics (to non-Hispanics) is twice as high as in the state as a whole. More than 35%, (35.2%) of the state's Hispanics live in communities where the proportion of Hispanics is four times as high as in the state as a whole, and more than one-sixth (16.8%) live in communities where a majority of the population is Hispanic.⁸⁸

Although segregation of Hispanics is the exception rather than the rule nationally, New Jersey is one of a handful of states where there are striking patterns of residential segregation. In considering residential segregation of Hispanics, Newark

⁸⁶ New Jersey State Data Center, 1990 Census Publication Profiling New Jersey and Counties: 1990, November 1991

⁸⁷ Tri-State Report, supra.

⁸⁸ See generally: Tables on Residential Concentration and Isolation of Hispanics in New Jersey, (Prepared from 1990 Census data by Stephen Eisdorfer, Available from the Department of the Public Advocate, Division of Public Interest Advocacy); See also, New Jersey Census, supra.

and Paterson are among the nation's four most hyper-segregated metropolitan areas.⁸⁹ Newark and Paterson have the largest and second largest concentrations of Hispanics of all New Jersey cities. Together, Newark and Paterson comprise almost twenty percent of the state's total Hispanic population and almost one-third of the state's Puerto Rican population.⁹⁰

F. Poverty

In 1988, 27% or 5.4 million persons of Hispanic origin were living in poverty. In contrast, the poverty rate for non-Hispanics was 12%. Seventy-nine percent of all adult-age Hispanics in the tri-state region have annual incomes of less than \$1500 annually. Median incomes of Hispanic families in the area were roughly half (55% that of non-Hispanics). Only two percent of the region's Hispanics earned \$35,000 or more yearly. About one out of every six persons living in poverty was Hispanic.⁹¹

Consequently, Hispanics were twice as likely as non-Hispanics to receive government assistance (Aid to Families With Dependent Children, General Assistance, Supplemental Security Income, Medicaid, food stamps and/or housing assistance). One-third of all Hispanics in the tri-state region received some type of benefits between 1984 and mid-1986 and fifteen percent received assistance each month. If the value of foodstamps is added to money income, then one out of every five Hispanics experienced one or more months when at least half of their income derived from cash assistance and/or food stamps.⁹²

Puerto Ricans are singled out as the most socially and economically disadvantaged Hispanic subgroup. In 1980, Puerto Ricans had the lowest household

⁸⁹ Douglas S. Massey and Nancy A. Denton, "Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions", 26 *Demography*, No.3, August 1989. The study shows Newark and Paterson demonstrate simultaneous segregation in three categories of segregation measures (evenness, centralization and concentration) of five segregation dimensions (evenness, exposure, clustering, centralization and concentration).

⁹⁰ New Jersey Census, supra.

⁹¹ Tri-State Report, supra.

⁹² Tri-State Report, supra.

income levels of all Hispanics, averaging between \$16,000 and \$14,200. In 1980, one in four Puerto Ricans born on the mainland had incomes which were on or below poverty levels.⁹³

G. Demographic Summary of New Jersey's Hispanics

Hispanics in New Jersey are comprised of, and characterized by, a variety of sub-nationalities or subgroups. Puerto Ricans are the largest subgroup, accounting for about one-half of the state's Hispanic population. An accurate breakdown of subgroup populations in the category of "Other Hispanics" is not available, but this population is significant to any analysis of the state's Hispanics since the cumulative total of Hispanics in this category, i.e., Dominicans, Colombians, Salvadorians, etc. exceeds that of the state's combined population of Cubans and Mexicans.⁹⁴

Hispanics are the fastest growing minority in the state, the majority of which are poor, urban, isolated and segregated in nine cities.

A major problem with existing studies, statistics, programs and policies involving Hispanics is the failure to compare and to analyze findings in terms of each subgroup. Unlike the state's black population, the majority of whom are American born, Hispanics are more heterogeneous, deriving from many nations, living and working in separate and distinct communities of subgroups, each with their own cultural characteristics, interests and issues. Moreover, the Hispanic population is further fragmented with certain subgroup populations located in distinct and isolated areas throughout the state.

III. Hispanic Businesses in New Jersey⁹⁵

⁹³ Dr. Marta Tienda, "The Puerto Rican Worker: Current Labor Market Status and Future Prospects", Puerto Ricans in the Mid '80's: An American Challenge, National Puerto Rican Coalition, Inc., January 1985

⁹⁴ New Jersey Census, supra.

⁹⁵ This section combines data and the findings of the following sources: New Jersey Census, supra.; U.S. Economic Census supra. and Sanchez, Jose E., Ph.D., "A Needs - Assessment Survey of Hispanic-Owned Businesses in New Jersey: A Look at Union and

A. New Jersey's Hispanic Businesses Described Generally

In 1982, New Jersey had approximately 6,466 Hispanic businesses generating almost \$465 million in annual sales. Since then, Hispanic businesses have more than doubled, and sales receipts have tripled. According to the 1987 Economic Census, New Jersey had 12,094 Hispanic firms with sales and receipts totalling approximately \$900,000,000.⁹⁶ Today, New Jersey has approximately 18,000 Hispanic-owned businesses which are responsible for generating 20% of the state's total business revenue.⁹⁷

Of the total 12,904 Hispanic firms in the state, one-third are owned by Cubans (4,188). Cuban-owned firms generate about 46% of the total Hispanic sales receipts or \$410,798,000. Central and South American firms (including Dominicans) total 3,489 with \$187,925,000 in sales and receipts. There are 2,837 Puerto Rican firms in the state with sales and receipts amounting to \$167,272.00, accounting for 18.45% of the total Hispanic sales receipts.⁹⁸

A comparison of the number of firms with paid employees, by subgroup shows Cuban-owned firms total 838 with sales receipts of these firms totalling \$291,720,000; Other South and Central American Hispanics accounted for 571 firms with sales receipts totalling \$105,162,000 and Puerto Ricans owned 541 such firms, accruing \$98,376,000.⁹⁹ Assuming ownership of multiple-paid employees firms and sales receipts as indicators of success, Cubans fared the best, with the most amount

Hudson Counties", Summary Research Report prepared for The Kean College School of Business, Government and Technology's Small Business Development Center, May 1991 (hereinafter, "Sanchez study"; and "The Assessment of Minority Owned Businesses in the City of Camden", Latin American Economic Development Association, Inc., December, 1991, (hereinafter, "LAEDA study")

⁹⁶ Economic Census, supra. note ____ Table 5 at p.30

⁹⁷ Elizabeth Daily Journal, February 18, 1991, according to Daniel H. Jara, Hispanic Chamber of Commerce

⁹⁸ U.S. Economic Census, supra.

⁹⁹ U.S. Economic Census, supra.

of firms; the highest per firm average yearly earnings (approximately \$100,000) and the most firms with paid employees. Between the three primary Hispanic subgroups, (i.e, Cubans, Central and South American and Puerto Ricans), Puerto Ricans firms fared the worst with an average of \$6,000 in annual sales receipts per firm.¹⁰⁰

Union City accounts for the largest number of the state's Hispanic firms, with 1,057 firms located there, although it is only the state's fourth largest Hispanic populated city.¹⁰¹ Union City also claims the largest concentration of the state's Cuban population, with 15,000 of the total 85,000 or about one in five Cubans residing there.¹⁰²

B. Differences Between Cuban and Puerto Rican Businesses

Deriving mostly from the census data,¹⁰³ the current public image of Hispanic businesses is one of growth and success.¹⁰⁴ A closer look at Hispanic businesses in New Jersey reveals that this image is overstated and inaccurate, especially regarding the performance of the states' largest Hispanic subgroup, Puerto Ricans. In fact, a significant proportion of respondents from the two New Jersey studies on Hispanic businesses reported dramatically lower sales over the past three years with poor profitability. Several expected to be out of business within the next three years.¹⁰⁵

The increase in the state's Hispanic business is directly attributable to the increase in the state's Hispanic population. Due to the heterogeneity of the State's Hispanic population, some Hispanic subgroups are more endowed than others, and the

¹⁰⁰ U.S. Economic Census, supra.

¹⁰¹ Id.

¹⁰² New Jersey Census, supra.

¹⁰³ U.S. Bureau of the Census, U.S. Small Business Administration, 1982-1987

¹⁰⁴ See, e.g., "Hispanic Firms Move Ahead", The Star Ledger, June 4, 1991, Business Section, col. 3-4

¹⁰⁵ Sanchez study, supra.

respective businesses are more successful, by traditional measures. For example, Cuban owned businesses have enjoyed much more success than Puerto Rican businesses. Cubans made up 33.3% of all Hispanic firms yet, aside from Mexicans, Cubans are the smallest Hispanic subgroup in the state, with a state total of 85,378 or 11.54% of the state's Hispanic population. In comparison, Puerto Rican firms accounted for 21.99% of the state's Hispanic businesses, but Puerto Ricans are the largest Hispanic subgroup in New Jersey with a total of 320,000, representing 42.27% of the state's Hispanic population.¹⁰⁶

In terms of business participation, in 1985, Cubans had the highest rate of all Hispanic subgroups at 37.4 per 1000 whereas Puerto Ricans had the lowest with 9.9 per 1000. The average business participation rate among whites of five European ancestries (German, Irish, Italian, Polish, and Russian is 59.16 per 1000).¹⁰⁷

Although there are many disparities between various Hispanic businesses by subgroups, nowhere is the disparity more pronounced and extensive than that which exists between Cuban and Puerto Ricans. Many theories are offered to explain the disparity among Cuban and Puerto Rican firms. To begin with, Cubans who came to the U.S. in the 40's and 50's in an effort to avoid the socialist revolution led by Fidel Castro were elites; mostly wealthy and highly educated. Many were successful professionals and/or entrepreneurs in Cuba. Even during recent the influx of less wealthy and less educated Cubans, (e.g., those from the Mariel boat lift) distinct Cuban community enclaves and extensive entrepreneurial networks are already established wherein recent immigrants can readily find housing, jobs and social and financial networks.

The initial major influx of largely poor, unskilled and uneducated Puerto Ricans to New Jersey's urban centers occurred at a time when the unskilled labor market

¹⁰⁶ New Jersey Census and U.S. Economic Census, supra.

¹⁰⁷ Frank A. Fratone and Ronald Meek, "Business Participation Rates of the 50 Largest U.S. Ancestry Groups", Research Division, Minority Business Development Administration ("MBDA"), U.S. Department of Commerce, June 1985.

was shrinking and many major industries were relocating from both urban areas and the state in general.¹⁰⁸ Having the bad luck of coming to the wrong place at the wrong time, these Puerto Ricans, were unprepared to adapt to other kinds of work. Unemployment was rampant, (exacerbated by the nature of Puerto Rican sex roles, family life, circular migration and cultural commingling) and a great many Puerto Ricans in New Jersey became entrapped in a cycle of poverty and dependence on governmental assistance (as citizens, Puerto Ricans are welfare eligible).¹⁰⁹

In addition to the barriers perpetuated by discrimination and the cycle of poverty, one feature of the Puerto Rican population which affects business performance is the lack of commitment to residential permanency in the state. Patterns of relocation by Puerto Rican professionals out of the state's urban centers compounds transience among this population. Such "urban flight" is motivated by the superior quality of housing, education, etc. available in the suburbs, where, once relocated, these "upper class" Puerto Ricans tend to assimilate at a faster pace into New Jersey's more integrated suburban neighborhoods than they do in the cities. Likewise, there is a great deal of migration back and forth from the island and a common objective of many Puerto Ricans is to eventually return, purchase property and settle in Puerto Rico.¹¹⁰

The consequences of movement by more successful Puerto Ricans out of Puerto Rican communities, including remigration to the island are twofold: first there is an outflow of capital from Puerto Rican communities and second there is a distinct lack of an identifiable Puerto Rican middle-class in New Jersey. A community of transients, very few Puerto Ricans consider residences in the inner city to be their permanent homes. Sixty percent of the Hispanic business owners in one study did not live in the inner city where their businesses are located; (43% maintained bank

¹⁰⁸ The state lost much of the garment industry due to relocations to the southern U.S.

¹⁰⁹ Linda Chavez, *Out of the Barrio: Toward a New Politic of Hispanic Assimilation*

¹¹⁰ Nicholas Lehmann, *The Other Underclass*, *supra*.

accounts outside the city).¹¹¹ The outflow of capital and lack of commitment from successful professionals and entrepreneurs compares unfavorably to the Cuban experience. The majority of the original Cuban immigrants were committed to settling in New Jersey and, consequently, re-invested earnings in Cuban communities. With the Cuban socialist revolution in place, Cubans did not have the option (or cultural obligation) of transferring money back to Cuba, whereas many Puerto Ricans routinely send money home to family networks in Puerto Rico. Cuban communities took root in New Jersey wherein Cuban-owned and operated enterprises provide economic benefits. In addition to providing employment, Cuban owned firms provide "their own" immigrants with work experience, and an opportunity to learn and pass on crafts, skills and trades. Additionally, business owners serve as successful entrepreneurial role models, for incoming Cuban immigrants. In exchange, the newly arrived immigrants provide established Cuban entrepreneurs with a ready source of unskilled labor. The reinvestment of capital by successful Cuban entrepreneurs also allows for the operation of Cuban-controlled credit networks whereby aspiring entrepreneurs can obtain start-up financing. The overall effect of the Cuban business experience in New Jersey has been the presence of more cohesive and economically healthy Cuban communities throughout the state.¹¹² ..

C. Hispanic Business Obstacles

Studies on the issues of Hispanic businesses in New Jersey are rare and studies focusing on Puerto Rican businesses in New Jersey are nonexistent. Notwithstanding the fact that participation by subgroups must be examined separately to assess the relative success of Hispanic firms in New Jersey, various studies conducted throughout the state have identified some issues which are common to all Hispanic

¹¹¹ LAEDA study, supra.

¹¹² Alejandro Portes and Min Zhou, "Gaining the Upper Hand: Perspectives in the Study of Foreign-Born Minorities", Poverty, Inequality and The Crisis of Social Policy, Conference Papers prepared for Joint Center for Political and Economic Studies as part of a research project, 1991 (hereinafter, "Portes/Zhou study")

businesses.¹¹³

1. Size and Areas of Concentration

Most Hispanic businesses are small; 83% are sole proprietorships.¹¹⁴ Between 1982 and 1987, a greater percentage of New Jersey Hispanic firm's remained sole proprietorships than expanded, despite a doubling of the number of the state's total Hispanic firms.¹¹⁵ The majority of Puerto Rican firms are small (sole proprietorships) and remain small. Initial capital input is directly related to firm size.¹¹⁶ Firm size and age has also been established as a variable in firm success with smaller, younger firms more vulnerable to failure.¹¹⁷

One study, using characteristics of business owners statistics based on Census Bureau data compiled in 1987 found the differences in financial capital inputs at business start-up to be "the most important single determinant" of business viability for young firms." Other types of investment, working capital, expansion financing and secure debt are all linked in part to equity investment.¹¹⁸

¹¹³ New Jersey Census, supra.; U.S. Economic Census supra.; Sanchez, Jose E., Ph.D. Summary Research Report: "A Needs - Assessment Survey of Hispanic-Owned Businesses in New Jersey: A Look at Union and Hudson Counties, The Kean College School of Business, Government and Technology's Small Business Development Center, May 1991 (hereinafter, "Sanchez study"); and The Assessment of Minority Owned Businesses in the City of Camden, Latin American Economic Development Association, Inc., December, 1991, (hereinafter, "LAEDA study")

¹¹⁴ Economic Census, supra.

¹¹⁵ U.S. Economic Census, supra.

¹¹⁶ Timothy Bates, "The Role of Black Enterprise in Urban Development, New York University Press of America, (1991a forthcoming) cited in Timothy Bates, "Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses", report presented to Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts, August, 1991 at p. 33

¹¹⁷ Evans, David, "The Relationship Between Firm Growth, Size and Age: Estimates for 100 Manufacturing Industries", The Journal of Industrial Economics, (June, 1987) and Bates, Timothy, "An Econometric Analysis of Lending to Black Businessmen, The Review of Economics and Statistics (August 1973)

¹¹⁸ JACA Corporation, "Capital Issues and the Minority-Owned Business, supra.

The fact that the state's Hispanic businesses are mostly small accounts for their inability to bid for prime contracts and hinders their propensity to compete for state contracts. The fact that Hispanic firms are small and remain small is due primarily to obstacles in obtaining capital.

The interests and needs of Hispanic businesses vary according to the size and age of the firm. For instance, obtaining venture capital or start-up financing is an essential issue for entrepreneurs seeking to form a business. Obtaining working capital or "survival financing" during the recession is as much a priority for young firms as accessing information regarding new sources of business (e.g., state contracts) is for secure businesses. The financing interests of older, more established businesses is often oriented toward expansion issues, i.e., positive imaging; marketing expansion; tax and business planning.¹¹⁹ There is a notable lack of Hispanic entrepreneurs in the large industrial and manufacturing businesses. Most Hispanic firms concentrate in the retail trade and service industry. Both the Sanchez and LAEDA studies reported Hispanic firms are primarily involved in the service and retail sales sectors.¹²⁰ As a result, many Hispanic firms are ineligible for funding from economic revitalization and/or development plans.¹²¹ Likewise, the underrepresentation of Hispanic construction firms and the concentration in the retail and service industries affects the ability of Hispanic businesses to receive prime contracts.¹²²

Obstacles involved in accessing capital are the foremost explanation for the

¹¹⁹ Interview with Daniel H. Jara, President Statewide Hispanic Chamber of Commerce, March 1992. Accord, Sanchez study, supra.

¹²⁰ Sanchez study, supra. and LAEDA study, supra. (LAEDA's firms broke down as follows: 57% retail business; 34% service industry; 5% in the professional service area; 4% engaged in manufacturing.)

¹²¹ Lois E. Athey, Ph.D., Community Economic Development in Puerto Rican Neighborhoods, National Puerto Rican Coalition, Inc., February, 1991.

¹²² Utilization Study, supra.

concentration in retailing and the service sector of New Jersey's Hispanic businesses.¹²³

The greatest proportional returns of capital are found in those sectors where the state's Hispanic firms are least concentrated, such as manufacturing. Entry into service industries is relatively easy in that requirements for capital are less than for many other sectors, e.g., manufacturing, construction.¹²⁴

2. Self-Reliance and Government Mistrust

The tendency towards self-reliance and a mistrust of government are perhaps the two most common operational attributes of the state's Hispanic owned businesses.¹²⁵

Nearly one-third of all respondents from the Sanchez study replied that they would confront a business problem by themselves, rather than consult an external source.¹²⁶ The preference for personal control by Hispanic firm owners over business-related matters has been offered as an explanation for the preponderance of Hispanic businesses organized as sole proprietorships.¹²⁷

Self-reliance is a defensive reaction to the failures of past experience. Of those business owners in the LAEDA study who were aware of business assistance programs and used them, most of the business owners were disappointed by the programs and the way in which they were treated.¹²⁸

A common response among Hispanic entrepreneurs regarding government-

¹²³ Id. and Sanchez and LAEDA studies, supra.

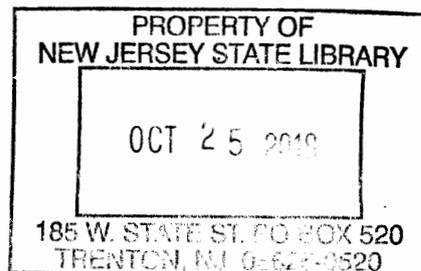
¹²⁴ "Strategies for Hispanic Business Development", Trends and Implications, A Series of Three Reports About Hispanic Business in the United States, National Chamber Foundation, 1984

¹²⁵ Id.

¹²⁶ Sanchez Study, supra. at p.9-10

¹²⁷ Sanchez study, supra. at 2, citing to Thompson (1987)

¹²⁸ LAEDA study, supra., p.11



funded business assistance is that it is "more trouble than it is worth".¹²⁹ One Hispanic businessman recounted the origin of his discouragement in contracting with the state. Apparently, notification of upcoming state contracts was unfair in that it came too close to the deadline for him to prepare and submit a competitive bid. Inadequate communication of information, compounded by language differences is an established obstacle to participation in state contracting for Hispanic businesses.¹³⁰

Hispanics traditionally perceive the "state" in negative terms due largely to personal experiences originated from other regimes. While many Hispanics view the role of government as intrusive; i.e., it exists to tax, to police one's life, to refuse requests, they are also unyielding in their defense of the value of capitalism and the democratic process. It is difficult for most Hispanics to visualize the government as an agent of progress or beneficence in their lives. Government intrusion is accepted as an inevitable part of the human condition and many Hispanics acquiesce.

Further many Hispanic entrepreneurs, whose self-image is of having achieved a measure of success, have created elaborate coping mechanisms for dealing with governmental intrusion. Only two percent of the respondents from the Sanchez study considered making exclusive use of a government agency for consultation and furthermore, only two percent would consult a government agency in conjunction with other resources. This is significant in that it highlights a relationship gap between Hispanic business owners and the state.

At minimum, Hispanic entrepreneurs do not perceive state programs as a resource. There are substantial ideological impediments to full acceptance by many Hispanics of both federal and state initiatives designed to assist Hispanic businesses. The result has been a noted failure of New Jersey Hispanic businesses to participate

¹²⁹ National Chamber Foundation Study, Morrison, 1984; and Interview with Francisco DeJesus, Sr., President and Founder, Dover, N.J. Spanish-American Credit Union (April 1992); and Interview with Deborah Aguiar-Velez, proprietor, Sistemas Corporation, former Director, Division of Development of Small Business and Women and Minority Business (April, 1992)

¹³⁰ Jose E. Sanchez, Ph.D., Assisting Hispanic Small Businesses: An Action Plan, Kean College Committee to Assist Hispanic-owned Small Businesses, (1991)

in and benefit from various business assistance programs.¹³¹

Governmental mistrust, when combined with the Hispanic firm management ethic of self-reliance are obstacles which limit a great many Hispanic small businesses from growth. Isolated in a void, without access to state and other information/resources, Hispanic businesses are disadvantaged, limited participants in state business assistance programs and underrepresented in state contracting.

IV. Finance

Findings from studies on Hispanic businesses in New Jersey identify access to financing and access to information networking on the availability of government assistance programs and contracting opportunities as the most prominent obstacle affecting Hispanic business performance.¹³²

A. Access to Capital

Of the problems encountered by Hispanic business owners when starting their businesses, the LAEDA study found that 43% of its respondents reported trouble in raising initial capital.¹³³ The Sanchez study found the following to be the most frequently reported problem areas, in order of recurrence: obtaining credit, business financing; marketing; keeping up with tax related information; understanding the law and business expansion and planning matters.¹³⁴

Access to capital has surfaced as the priority issue of concern common to studies, reports and agendas involving Hispanic businesses.¹³⁵ According to a

¹³¹ See, "Strategies for Hispanic Business Development", supra., and Interview with Mira Kostak, Director, Kean College Small Business Development Center, April 1992.

¹³² Accord, Sanchez study, supra. and LAEDA study, supra.

¹³³ LAEDA study, supra.

¹³⁴ Sanchez study, supra.

¹³⁵ See, e.g., Sanchez study and LAEDA study, Louis E. Athey, Ph.D., "Community Economic Development In Puerto Rican Neighborhoods", The National Puerto Rican Coalition, Inc. 6th Annual Conference, "Economic Development Report: A Framework", supra.

study commissioned by the U.S. Dept. of Commerce's Minority Business Development Agency, lack of capital is a major impediment to minority enterprise development.¹³⁶ Again, in a report about Hispanic business, the National Chamber Foundation concludes, "... many Hispanic businesses are not finding capital".¹³⁷

Of the factors which contribute to the financing obstacles of Hispanic businesses, the fact of disproportionate poverty and the consequent low wealth holdings of Hispanics is perhaps the most typical response offered by traditional lending institutions.

The low equity level of most Hispanic firms stems from the lack of wealth among individuals in minority communities.¹³⁸ A cycle is born wherein Hispanics cannot readily secure equity for business formation from traditional sources due to the prevalence of poverty in Hispanic communities, i.e., friends, family and associates and poverty continues to prevail among Hispanics who are unable to secure investment capital. Wealth holdings of Hispanics predictably lag dramatically behind those of non-minorities. Puerto Ricans showed a ratio of .6 in assets to those possessed by whites. Other Hispanics seem to be on parity to whites regarding assets,¹³⁹ however the Cuban ratio of assets is .8 to those of whites.¹⁴⁰

Home ownership, also a common source of capital for businesses, is not readily available to the state's Hispanics. New Jersey Hispanics have a dismally low rate of home ownership. In 1980, only 27.3% of all Hispanic housing was owner-occupied. Low home ownership rates for Hispanics is largely due to the present affects of

¹³⁶ JACA Corporation, "Capital Issues and the Minority-Owned Business", MBDA/ARI Research Report, November 1986

¹³⁷ "Strategies for Hispanic Business Development", Trends and Implications, A Series of Three Reports About Hispanic Businesses in the United States, National Chamber Foundation, (1984) at p.29.

¹³⁸ See, "Employment" and "Housing" sections, infra.

¹³⁹ But see, Mexicans in New Jersey (a relatively small population, a long way from their homeland) enjoy a ratio of assets that is almost 1.1 to that of whites.

¹⁴⁰ U.S. Department of Labor, Bureau of Labor Statistics, supra.

current and past discrimination via state-wide zoning ordinances.¹⁴¹

The ability to use capital from mortgaged property is crucial to business formation, survival and expansion. The low level of wealth holdings among Hispanics results in lower business formation and higher business failure rates for Hispanic entrepreneurs than non-Hispanics.

For their part, few traditional financial lending institutions have an accurate view of Hispanic businesses. The all too common impression, perpetuated by the media, is that Hispanics are uniformly poor and unsuccessful financially. This inaccurate perception has led to an extremely damaging form of discrimination by private banks. Hispanic business loan applicants are unfairly pre-judged to be higher financial risks than non-minorities others because of a false impression that Hispanic businesses are more likely to fail. Another cycle perpetuated by discrimination is born where, because of the failure to secure start-up capital, many Hispanic businesses are disadvantaged with inadequate capitalization and are hence, more likely to fail.¹⁴²

Small business investment companies have not, by and large, been receptive to the few requests received from Hispanics.¹⁴³ With the high degree of competition for funds, any discordant factors such as a language or cultural barrier lead to prompt rejection. The National Chamber Foundation, citing the authors of a highly regarded venture capital handbook states,

¹⁴¹ See, e.g., Mount Laurel cases. Southern Burlington County N.A.A.C.P v. Township of Mt. Laurel, 67 N.J. 151 (1975), and Southern Burlington County N.A.A.C.P v. Township of Mt. Laurel, 92 N.J. 158 (1983), "hereinafter, Mt. Laurel."

¹⁴² See generally, Bates, "Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses", Chair, Urban Policy Analysis and Management, Graduate School of Management and Urban Policy, New School for Social Research, (Available through the Office of the Executive Director, Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts) (August 1991)

¹⁴³ "Strategies for Hispanic Business Development", Trends and Implications, A Series of Three Reports About Hispanic Business in the United States, National Chamber Foundation, (1984) at p.29.

"...illiteracy in a business proposal will condemn it to rejection no matter how good the basic idea may be."¹⁴⁴

A breakdown of the English language proficiency by New Jersey's Hispanic business-owners is not available. However, the majority of the Sanchez study respondents (only 35% had not attended college; 21% held post-graduate degrees) had more education than most Hispanics. To the extent language skills are associated with higher education, they are also a positive factor among Hispanic a majority of businesspersons.

Many Hispanic firms believe traditional private lending institutions discriminate against them, i.e., deny them business loans because they are Hispanic and this belief has been documented in several studies.¹⁴⁵

The Sanchez study reported 62% of its respondents relied solely on their own savings as the source of start-up funding. Twenty-four percent reported they borrowed the total amount of start-up capital (from family, banks or the Small Business Administration) and the remaining thirteen percent relied in part on their own capital and in part on borrowed funds.¹⁴⁶ Despite these higher educational levels, a majority of Hispanic businesspersons did not receive start-up financing from banks.

B. Hispanic Community-Sponsored Credit Resources

As a reaction to discrimination by traditional, private lending institutions, and a need for banking and credit services among Hispanics, New Jersey's first Hispanic credit union was formed in 1969 by seven members with an initial combined

¹⁴⁴ "Strategies for Hispanic Business Development, *id.* at p.30

¹⁴⁵ See, e.g., Statement of Purpose for Dover Spanish American Credit Union; Interview with John Sanchez, Vice President Statewide Hispanic Chamber of Commerce; See also, "Hispanics; Struggle for Success", Business Section, The Star Ledger, August 12, 1991, p.19.

¹⁴⁶ Sanchez study, supra., at page 25

investment of \$55.¹⁴⁷ Continued discriminatory lending practices against Hispanics (for both business loans and accessing home mortgages) coupled with the flight of many local banks out of the inner city created a need for and the establishment of New Jersey's second Hispanic credit union in Newark.¹⁴⁸

New Jersey's most established Hispanic credit union, the Spanish American Federal Credit Union of Dover, prides itself on maintaining a close-knit family atmosphere with bilingual tellers. New Jersey's two Hispanic credit unions operate by offering membership through a small share deposit which guarantees depositors eligibility for all credit union services. The credit union pay dividends on a quarterly basis and offer various money saving services, options, and loans at cheaper rates than local banks.¹⁴⁹

Because aspiring Hispanic proprietors often lack "traditional" collateral, flexibility in considering inventory and receivables or other untraditional resources as acceptable loan collateral is an essential and valuable element of this institution for Hispanic entrepreneurs. One feature common to Hispanic credit institutions involves the use of "character loans" which substitute a person's known reputation in place of other collateral. Often, a person's reputation in the community is more important than his/her credit history. This feature of relying on one's reputation has been described as an important element of the Dominican and Cuban business communities in establishing successful albeit informal lending networks.¹⁵⁰

Hispanic credit unions serve as a building block for economic independence (recycling their members' savings for loans to promote neighborhood revitalization) while simultaneously allowing Hispanics to preserve their ethnic identity. There is a

¹⁴⁷ Interview with Francisco DeJesus, Sr., President and founder, Spanish-American Federal Credit Union of Dover, New Jersey, April 1992.

¹⁴⁸ La Casa de Don Pedro Credit Union

¹⁴⁹ Casa de Don Pedro in Newark also has established an Hispanic community credit union

¹⁵⁰ Alejandro Portes and Min Zhou, "Poverty Inequality and The Crisis of Social Policy", supra.

severe shortage of Hispanic credit unions given the state's Hispanic population. Although the state's Hispanic community is to be commended in responding to the need for community-based banking services,¹⁵¹ access to financing remains a major barrier to Hispanic businesses. Despite the fact that Dover's Spanish-American Credit Union has allocated \$40 million in loans since its inception, its limited capitalization does not enable it to begin to meet the financial demands of the state's Hispanic businesses. In fact, its relatively small size requires heightened conservatism in its lending policies and many Hispanic entrepreneurs are turned away.¹⁵² The formation, expansion and success of the two Hispanic credit unions are indicative of the failure of the state and private, non-Hispanic lending institutions to adequately meet the needs of Hispanic businesses.

C. Leveraging

Another identified barrier of Puerto Rican businesses, which is partially attributed to difficulties in obtaining financing, is the tendency to respond conservatively in leveraging property and assets.¹⁵³ The hesitancy of Puerto Rican firms to leverage is a major distinguishing factor from other economically competitive and successful subgroups i.e., Cubans. Puerto Ricans are resistant to aggressive leveraging and fully committed re-capitalization precisely because of the difficulties experienced in overcoming obstacles which lead to the initial property/firm acquisition. It is no wonder Puerto Ricans respond conservatively to leveraging. Consequently, business expansion and growth of Puerto Rican firms lags behind that of others. As

¹⁵¹ Another creative source of venture capital available to Hispanics in New Jersey is evidenced in Rutgers Minority Investment Company. President Oscar Figueroa started the company, which invests solely in small minority businesses and uses the talents of Rutgers School of Business students, in 1970 and is to be commended with the success of this unique entity.

¹⁵² Interview with Francisco DeJesus, supra.

¹⁵³ Gavin M. Chen and John A. Cole, "The Myths, Facts, and Theories of Ethnic, Small-Scale Enterprise Financing", The Review of Black Political Economy, Spring 1988; and Dr. Lois E. Athey, Community Economic Development in Puerto Rican Neighborhoods, supra.

risk-taking is a necessary element of business success, implicit in state contracting, Puerto Rican firms are that much less likely to be awarded the more competitive, yet financially rewarding contracts. Proportionately higher returns are among the rewards of contracts which require aggressive leveraging, re-capitalization, and/or financial risk.

D. Insurance

Another obstacle to the success of Hispanic businesses, is the availability of affordable insurance. Undercapitalization being a problem of immense proportion to Hispanic businesses, owners are frequently forced to minimize expenses, including insurance. The result is a large percentage of non-insured or underinsured Hispanic firms.¹⁵⁴ The recent insurance reform plan, presently being implemented, is sure to have a significant impact on the Hispanic business community. Moreover, the recently formed New Jersey Hispanic Network has placed review of these reforms on its agenda.¹⁵⁵

E. Summary of Financing Obstacles

The consequences of problematic access to financing and the lack of viable business networks has resulted in the heavy concentration of disadvantaged, small, sole proprietorship Hispanic businesses in non-capital intensive industries without much success in procuring prime contracts or in participation in state business assistance programs.¹⁵⁶

¹⁵⁴ The tragedy of underinsurance was recently highlighted by the destruction of a Hispanic newspaper office by fire. The proprietor of La Tribuna, Ruth Molenaar of Union City, was forced to stop paying insurance premiums because of financial problems. In April of 1991, her entire newspaper office was destroyed by fire. In an attempt to salvage her business, Ms. Molenaar sought to raise capital through traditional sources, approximately seven banks, none of which approved her loan request. Iris Taylor, "Hispanics Struggle For Success", The Star Ledger, Business Section, August 12, 1991

¹⁵⁵ Press Release, New Jersey Hispanic Network, April 8, 1992.

¹⁵⁶ In comparison to the financial difficulties experienced by Hispanic businesses in general and Puerto Rican businesses in particular, one of the most valuable features of Cuban businesses has been the establishment of an extensive network of Cuban-oriented, sometimes informal, but highly effective lending mechanisms. The distinguishing advantage of the Cuban

V. Business Assistance

Studies regarding the state's Hispanic businesses lead to the inescapable conclusion that Hispanic businesses face various discriminatory barriers in accessing capital and networking which result in the attributes of self-reliance, governmental mistrust and inhibited performance.¹⁵⁷ Given these findings, it is not surprising that several committees, commissions and other investigatory bodies have found an overwhelming need for assistance to Hispanic businesses.

In terms of economic development, the state's interest in assisting the largely urban, poor, uneducated Hispanic population seek economic self-sufficiency would seem to be a priority. The Hispanic population is in need of state supported promotion and implementation of a viable economic development plan to address the unique needs and interests of the Hispanic population. A priority among these needs and interests is assessing, assisting and encouraging the development and growth of Hispanic businesses.

Despite the recent efforts of the New Jersey Urban Development Corporation, the New Jersey Development Authority for Small Businesses Minorities' & Women's

experience has been the ability of Cubans to integrate local banks and influence lending practices. The original Cubans immigrants were mostly valued, wealthy bank customers. Cuban credit practices have evolved to where they enhance Cuban firms with a means through which to raise start-up and expansion capital, a major obstacle to aspiring entrepreneurs. Access to financing is by far the greatest obstacle to Hispanic businesses in New Jersey and many Cubans entrepreneurs have been spared the frustrations, discrimination and discouragement experienced by other Hispanic businesses in accessing capital. Alejandro Portes and Min Zhou, "Poverty, Inequality and The Crisis of Social Policy", supra

¹⁵⁷ "Community Economic Development in Puerto Rican Neighborhoods", Lois E. Athey, National Puerto Rican Coalition, (February 1991); and "Puerto Ricans in the Mid '80's: An American Challenge", National Puerto Rican Coalition, (January 1985); and "Assisting Hispanic-owned Small Businesses: An Action Plan", Jose E. Sanchez, Kean College Committee to Assist Hispanic-owned Small Businesses, Formation Paper, (1991); and "An Hispanic Agenda for New Jersey, Midwest-Northeast Voter Registration Education Project, Inc., (October 1989); and "The State of Hispanics in Camden County", Camden County Board of Freeholders Hispanic Advisory Commission, (February 1992); and "Economic Development Report: A Framework", A report on Recommendations and Action Strategies from the National Puerto Rican Coalition, Inc. (September 1986).

Enterprises,¹⁵⁸ and the Urban Programs Division,¹⁵⁹ there has been both a distinct inconsistency of implementation and inequality of distribution of programs assisting disadvantaged Hispanic businesses by the state of New Jersey.¹⁶⁰

Programs are of uncertain duration and funding. Often, programs aimed at the Hispanic community are the first to be cut from the state's budget.¹⁶¹ For example, in addition to the reorganization of the Department of Commerce and Economic Development's SWIM Division, budgetary priorities have rendered the Bureau of Hispanic Enterprise nonfunctional. To the extent there is a state-sponsored Minority Business Advisory Counsel, its accomplishments in assisting Hispanic business have thus far been unimpressive in that attendance has been low and representation by both state and Hispanic business has been inconsistent.¹⁶² Due to dissatisfaction with its performance, however, the Counsel was recently re-vamped and improvements in its effectiveness are eagerly anticipated by Hispanic business advocates.

Those programs which have survived cuts are often combined with other "minority" programs wherein the distinct Hispanic focus is subordinated to the needs of larger and more aggressive minority businesses.¹⁶³

¹⁵⁸ The NJUDC received full staffing and operational expenses as of 1988 and the NJDA in 1990. Per testimony of Mark L. Quinn, Director, Urban Programs Division, New Jersey Economic Development Authority, to the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts, April 10, 1992

¹⁵⁹ As of March 31, 1992, the Urban Programs Division approved 12 loans among three independent authorities, however only one of these loans was granted to a Hispanic business. Id.

¹⁶⁰ Interview with Maria Vizcarrondo-DeSoto, Director, New Jersey Department of Community Affairs, Center for Hispanic Policy, Research and Development, March 17, 1983

¹⁶¹ Interview with Maria Vizcarrondo-DeSoto, supra.

¹⁶² Interview with Deborah Aguiar-Velez, Former Director, Division of Development of Small Business and Women and Minority Business Enterprise, March 1992

¹⁶³ See discussion regarding SWIM Division, below.

Recommendations by various committees, commissions, agendas, etc. for assisting Hispanic businesses in overcoming disadvantages include: (1) commitment of adequate funds to programs aimed specifically at assisting disadvantaged Hispanic businesses in obtaining venture and working capital; (2) improvement in communication of the availability of various state programs intended to assist Hispanic businesses overcome disadvantages; (3) simplification of access to available business assistance programs (i.e., networking function); and (4) initiation the above recommendations with aggressive, consistent outreach programs to overcome business attributes of governmental mistrust and tendency against outside consultation (self-reliance). There is a definitive need to engender a positive image of the state's business assistance programs given the history of non-use and under-participation of Hispanic businesses. In order to encourage Hispanic participation, state efforts should include bilingual staffing at the business assistance reception levels.¹⁶⁴

A. The State's Commitment to Assisting Hispanic Businesses

The state's commitment to assisting Hispanic businesses in terms of staffing, program implementation and dollar amount is shameful. Attrition and budget cuts have crippled effectiveness of the state's current small business assistance to Hispanic firms.

¹⁶⁴ See, "Assisting Hispanic-owned Small Businesses: An Action Plan", Jose E. Sanchez, Kean College Committee to Assist Hispanic-owned Small Businesses, Formation Paper, (1991); and "An Hispanic Agenda for New Jersey, Midwest-Northeast Voter Registration Education Project, Inc., (October 1989); and "The State of Hispanics in Camden County", Camden County Board of Freeholders Hispanic Advisory Commission, (February 1992); and "Economic Development Report: A Framework", A report on Recommendations and Action Strategies from the National Puerto Rican Coalition, Inc. (September 1986); and "Community Economic Development in Puerto Rican Neighborhoods", Lois E. Athey, National Puerto Rican Coalition, (February 1991); and "Puerto Ricans in the Mid '80's: An American Challenge", National Puerto Rican Coalition, (January 1985).

1. Limitations of the SWIM Division¹⁶⁵

The state's most visible and renowned business assistance program for Hispanics is represented by the SWIM Division. The SWIM Division is operated by the state's Small Business Development Representative, Maria Gonzalez who currently performs the tasks of three prior positions. These responsibilities include assisting, assessing and referring the state's women and minority small businesses (including black, and Hispanic businesses) is currently delegated to one individual. Due to the attrition and budgetary limitations, the SWIM Division's outreach and hence its effectiveness to Hispanic businesses is minimal.¹⁶⁶ Although she is bilingual, Ms. Gonzalez's workload is consumed in responding to calls and inquiries. Self reliance and governmental mistrust hinder Hispanic businesses from initiating such inquiries. Consequently, a greater proportion of the SWIM Division's services are diverted to women and other minority small businesses.¹⁶⁷

2. Bureaucratic Frustrations

The complexity of ascertaining which business assistance programs are available to small Hispanic businesses discourages and frustrates potential proprietors from seeking them out. The state's various "business assistance" programs are scattered throughout the state bureaucracy into several authorities, agencies, commissions, etc. It is difficult to obtain a correct telephone number, title, or office name because the program administrators are shuffled around. The complexities

¹⁶⁵ Department of Commerce and Economic Development, Office of Technical Assistance, Small, Women and Minority Businesses (hereafter, "SWIM" Division)

¹⁶⁶ The state has not authorized such amenities as a receptionist, secretary, state car, to the Division, despite its state-wide jurisdiction.

¹⁶⁷ In addition to her role as representative of the SWIM division, Ms. Gonzalez is also a legislative liaison and an advocate for SWIM; she sits on four committees, assists in the formation of various chambers of commerce throughout the state and is involved in several "special projects". Among her special projects is an educational/training program encouraging entrepreneurship among soon-to-be-released inmates. Interview with Maria Gonzalez, Small Business Development Representative, SWIM Division, Department of Commerce and Economic Development, Office of Technical Assistance, April, 1992.

involved in state bureaucracy, compounded by internal reorganization enhance the difficulties for Hispanics with limited language skills in accessing business assistance information and programs.

3. Business Assistance Loans to Hispanics

State loans to Hispanic businesses since 1974 were outrageously inadequate and disproportionate to those awarded to blacks, women and other small businesses.

Since 1974, a grand total of \$806,000 in business assistance loans administered by the Economic Development Authority has been allocated to Hispanic businesses, compared to \$11 million for blacks. Hispanics received .35% of the total dollar amount awarded during this period, whereas blacks received 5.01%.¹⁶⁸ Almost half (45.38%) of the state's total black and Hispanic firms are Hispanic,¹⁶⁹ yet black firms received almost fifteen times as much loan money as Hispanics.

Of New Jersey's 18,000 Hispanic-owned businesses, only six such firms received loan assistance from the state in seventeen years under NJDA and NJUDC (blacks received almost three times as many).¹⁷⁰

Another aspect of state funding of business assistance programs which disadvantages Hispanic businesses involves the allocation of available loan money by state region. A disproportionate amount of funds are appropriated to the Atlantic City area (\$4.5 million) as opposed to (\$110,000) for Northern New Jersey, the area with the greatest concentration of the state's Hispanic population.¹⁷¹

¹⁶⁸ Information gathered from New Jersey Economic Development Authority Quarterly Minority Loan Report As of December 31, 1991, courtesy of Mark L. Quinn, Director, Urban Programs Division, NJ Economic Development Authority, April 1992.

¹⁶⁹ U.S. Economic Censuses, "Survey of Minority-Owned Business Enterprises, Summary - 1987", U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census (1987)

¹⁷⁰ Information gathered from New Jersey Economic Development Authority Quarterly Minority Loan Report As of December 31, 1991, courtesy of Mark L. Quinn, Director, Urban Programs Division, NJ Economic Development Authority, April 1992.

¹⁷¹ Id.

Given the disproportionately small amount of loans actually awarded to Hispanic firms, Hispanic businesses are discouraged from applying for state loans and guarantees. Regarding the NJDA's Small Businesses, Minorities' and Women's Enterprises loans, there is a non-refundable application fee of \$250 for micro and direct loans and a \$500 non-refundable fee for loan guarantees. Given the lower than average wealth holdings of Hispanics in general and the lower than average capitalization of Hispanic businesses in particular, Hispanic businesses are not likely to invest the loan fee money and time in completing the application unless there is a probability the loan will be approved. Eligibility for many state programs is further complicated by the requirement of certification and registration procedures.¹⁷² Hispanic businesses have complained about the amount of resources, i.e., time and money the bidding procedure consumes¹⁷³. This likelihood of applying for loans is lessened when the propensity against English language proficiency, combined with the inherent complexities of state bureaucracy are considered. It is no wonder a majority of the state's Hispanics perceive state business assistance (including loans) as ineffective, and "more trouble than it is worth."

B. State Information Tracking System

In order to adequately monitor program effectiveness, the state must implement informational tracking systems which track actual dollar amounts received by Hispanic businesses, by subgroup, in all state-sponsored business assistance programs, i.e., set-aside, loans, training and educational workshops, etc.

The state's current information tracking system is obsolete. Moreover, it is totally incapable of accurately monitoring various business assistance program effectiveness. Without such tracking and monitoring, the extent of Hispanic business participation in and benefits from various state programs, including preferential

¹⁷² Interview with Hank Diaz, Program Administrator, NJ Department of Commerce and Economic Development Set-Aside and Certification, March 1992

¹⁷³ Interview with John Sanchez, Vice President, State-wide Hispanic Chamber of Commerce supra.

procurement programs remains unknown.

Accountability for program implementation is virtually nonexistent.¹⁷⁴ Information tracking systems which are maintained to determine where business assistance dollars are directed, do not break down the "minority" category by subgroups which results in the inability to determine the effectiveness of these programs for Hispanic firms. Various state agencies which receive federal funding must maintain accurate tracking systems to track affirmative procurement efforts as a prerequisite to continued funding.¹⁷⁵ These agencies' records show greater utilization of women and minority vendors than those from other state agencies which do not maintain appropriate data basis and information tracking systems.¹⁷⁶ The utilization of minority firms by the three agencies demonstrates that in the face of compulsion, New Jersey agencies can and do operate and monitor effective business assistance programs benefitting minorities and women.¹⁷⁷

The inadequate information tracking system which currently exists throughout state offices obstructs the objectives of this study. The absence of routine program monitoring devices obstructs efforts to assess, implement and enforce compliance of business assistance programs for Hispanics. Moreover, having been notified that the consequences of its inaction is detrimental to Hispanic businesses, the state's failure to install competent systems and to mandate routine assessments of program effectiveness amounts to participation in discriminatory practices to the extent

¹⁷⁴ See, e.g., Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts, request for information regarding utilization of and outreach efforts to minority businesses exhibited in letter to Chairman, N.J. Economic Development Authority, Appendix

¹⁷⁵ Department of Transportation, Department of Environmental Protection and New Jersey Transit.

¹⁷⁶ Timothy Bates, "Availability, Utilization and Disparity: An Analysis of N.J. Procurement Data in Light of Minority and Women-Owned Business Availability", (January 1992)

¹⁷⁷ *Id.*

Hispanic businesses continue to be denied a fair share of state business assistance resources.

VI. Education

Educational levels of New Jersey Hispanics are generally much lower than non-Hispanics.¹⁷⁸ The educational attainment of the Sanchez study's sample of Hispanic sole-proprietors (in Union and Hudson counties) was higher than that of the general Hispanic population.¹⁷⁹ This finding is consistent with other studies which demonstrate a correlation between educational endowments and entry into self-employment.¹⁸⁰

A. Higher Educational Attainment

According to the New Jersey Department of Higher Education, Hispanics obtained 6,030 undergraduate and graduate degrees in the state from 1985 through 1989. Although the absolute number of Hispanic college students is increasing, such gains are not keeping pace with the population increases and there is a lag in Hispanic enrollment in colleges and universities.¹⁸¹ This lag is attributed to higher drop out rates, inferior quality of primary and secondary education and discrimination in preparing Hispanic students and guiding them toward colleges and universities.¹⁸² Often, instead of being offered college preparatory guidance in high schools, the state's Hispanic students are channeled into vocational studies due to discriminatory perceptions of Hispanic students' capabilities. Another factor slowing the progress of Hispanics in higher education is the absence of Hispanic counterparts to such

¹⁷⁸ Tri-State Report, supra.

¹⁷⁹ Sanchez study, supra.

¹⁸⁰ T. Bates, "Self-Employed Minorities: Traits and Trends," *Social Sciences Quarterly*, September 1987

¹⁸¹ "Colleges Are Seeking to Remedy Lag in Their Hispanic Enrollment", *New York Times*, March 20, 1988, p.1

¹⁸² Id.

historic black colleges as Tuskegee Institute and Morehouse College (the exception is Boricua college in New York City)¹⁸³

Cubans and South Americans in New Jersey tend to have the highest levels of formal schooling with one in every four-to five having attended college. (In contrast, nearly one-third of all non-Hispanics have attended some college). Half of all adult Hispanics in the tri-state region have not completed high school with Puerto Ricans and Dominicans generally receiving less schooling.¹⁸⁴

According to the "1990-91 New Jersey State School District Report Cards",¹⁸⁵ the following percentage of students were planning to attend two or four year colleges upon graduation for the following school districts (in order of cities with the largest Hispanic populations in descending order):

<u>City</u>	<u>% Planning to Attend College</u>
1. Newark City	54%
2. Jersey City	51.6%
3. Paterson	46.8%
4. Union City	61.5%
5. Elizabeth	46.8%
6. West New York	67.2%
7. Passaic City	63.2%

These percentages are much lower than those of non-Hispanics, for instance, the average percentage of all students in Bergen county public schools planning to attend college was 78.54.¹⁸⁶

B. Lack of Information from Hispanic School Districts

¹⁸³ Thomas A. Arciniega, President of California State University at Bakersfield, quoted in "Colleges Are Seeking to Remedy Lag in Their Hispanic Enrollment", New York Times, March 20, 1988 at p.1

¹⁸⁴ Tri-State Report, supra.

¹⁸⁵ New York Times, Sunday March 29, and April 5, 1992, Section 12, New Jersey Weekly, at 8

¹⁸⁶ Id.

Regulations are the state's attempts to establish systems and processes whereby local educational authorities implement provisions of the constitutional right to a "thorough and efficient education". The state's educational goals are relevant in that the overall objective is to prepare pupils for productive lives, including the acquisition of job entry level skills. One of the "evaluation and monitoring" process requires each school district to provide routine testing to assure minimal and uniform achievement in learning according to the state's standards. Students are to be assessed annually to assure minimal proficiency levels in reading, writing, mathematics.

One of seven "State School District Report Card" categories is "percentage of students reaching state standards on sixth grade test, 1990-1991". Yet in those school districts which are predominantly Hispanic, these figures were not submitted and therefore, the assessment of compliance with state regulated standards again, cannot be determined. Of those districts which submitted these figures, the vast majority were in the 90-100%.¹⁸⁷ Low test scores, low college entrance and attendance and dropout rates as high as 47% and 58% (Camden) were cited by the New Jersey courts as testimony to the state's failure to meet the constitutionally mandated minimal quality in educating minority students in urban areas.

The lack of information tracking systems is again a factor affecting a disproportionate percentage of Hispanics. Insuring timely compliance with state regulations which require evaluation and monitoring processes has become an Hispanic issue throughout the subject matters of this report. The failure to publish this information in the context of education (where the state has already been notified of the inferior quality education Hispanic students are receiving as residents of inner city schools) raises serious suspicions as to compliance by those non-publishing districts.

C. Drop Out Rates

Puerto Ricans fare the worst among the major Hispanic groups on many

¹⁸⁷ *Id.*

measures of education. As a group, Puerto Ricans have lower high school completion rates than blacks. In 1980, an average of 35% of Puerto Rican students graduated from central city high schools in New Jersey. The average combination of white and black students graduating from central city high schools was slightly higher 48%, however a much higher percentage of students from suburban schools received diplomas.¹⁸⁸

D. Hispanic School Segregation

1. Hispanics Most Segregated and Isolated

In a prestigious report to the National School Boards, the executive summary concludes that segregation for Hispanics has increased dramatically during a period when the nation's Hispanic enrollment has soared. The data clearly demonstrated that Hispanics are now significantly more segregated than blacks. Moreover, since 1970, the percent of whites in the school of the typical Hispanic student has fallen by 12% while the level has remained relatively stable for blacks.¹⁸⁹

There are two strongly diverging national trends in the desegregation of American schools: Hispanics are becoming more isolated while overall black racial patterns are virtually unchanged since progress on desegregation ended in 1970.¹⁹⁰ Throughout the period of the NSBA report,¹⁹¹ by far the most severe segregation for Hispanic students existed in the Northeast where Hispanic students have generally attended schools with three-fourths minority enrollment. In the Northeast, more Hispanic students attended segregated schools (78.6 in 1986; 79.7% in 1988) and

¹⁸⁸ Bean and Tienda, 1987

¹⁸⁹ Gary Orfield and Franklin Monfort, "Status of School Desegregation: The Next Generation", Report to the National School Boards Association, Metropolitan opportunity Project, Harvard University, January 8, 1992, Pre-Publication Copy, (hereinafter, "the National School Board Report")

¹⁹⁰ Gary Orfield and Franklin Montfort, "Status of School Desegregation: The Next Generation", Report to the National School Boards Association, Pre-Publication Copy, January 8, 1992 (hereinafter, "NSBA Report")

¹⁹¹ 1986-1989, *Id.*

almost half (in 1986, 46.4%; in 1988, 44.2%) were in schools with virtually no white students (90-100% minority schools).¹⁹² In 1989, New Jersey's Hispanic students comprised approximately 11.9% of the total student enrollment,¹⁹³ although there is a substantial number of Hispanic students in non-public schools.¹⁹⁴ In 1980, there was 29.9% white students in the school of a typical Hispanic student; in 1988, 28.3, representing a change of -1.3%.¹⁹⁵

As discussed previously, Puerto Ricans are the largest Hispanic subgroup in New Jersey. In those states with high concentrations of Puerto Ricans, there is a clear pattern of gradually increasing Hispanic segregation. New Jersey's public schools rank among the several most segregated public educational systems and New Jersey is one of the four most segregated states in the nation.¹⁹⁶ Recall also that the state's two most heavily populated Hispanic cities, Newark and Paterson, are among the four most residentially hyper-segregated Hispanic cities in the United States.¹⁹⁷

Approximately three-tenths (29.2 percent) of the children in New Jersey's 591 operating school districts are black or Hispanic. There are thirty-nine districts in which

¹⁹² NSBA Report, *Id.*

¹⁹³ *Id.*, Table 5 at p.9

¹⁹⁴ No doubt due to the inferior quality of inner city public education, more than 15% of Hispanic elementary students were enrolled in private and parochial schools in 1980. This rate is comparable to that of New Jersey's white elementary students. New Jersey Data Center, 1990 Census Publication, Profiling New Jersey, The State & Counties, 1990

¹⁹⁵ *Id.*, Table 2 at p.8

¹⁹⁶ G. Orfield, *School Desegregation Patterns in the States, Large Cities and Metropolitan Areas: 1968-80* p.6-7, tables 5,7 (Joint Center for Political Studies 1982); Orfield, Monfort, and George, *School Desegregation in the 1980's: Trends in States and Metropolitan Areas*, (Joint Center for Political Studies, 1987)

¹⁹⁷ Douglas S. Massey and Nancy A. Denton, "Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions", 26 *Demography*, No.3, August 1989.

more than half of the enrollment is black or Hispanic. Although these districts enroll less than one-fourth of New Jersey's school population (23.9%) and only five percent of the State's white students, they include two-thirds of the state's black and Hispanic school children. For the average black or Hispanic student, only twelve percent of his/her classmates are white. There are twenty-six school districts in which seventy percent or more of the students are black or Hispanic.¹⁹⁸

The concentration and isolation of Hispanics is not limited to a few large cities. Most of the thirty-nine majority Hispanic districts are geographically isolated: "they are islands surrounded, or virtually surrounded, by districts that have only small Hispanic enrollments but that are at least as large as them in total enrollment".¹⁹⁹

2. Inferior Quality of Education for Hispanics

Segregated schools are not working well for Hispanics. Research demonstrates a direct relationship between segregation, economic isolation, low school achievement levels and high drop out rates.²⁰⁰ Judicial findings have established that the state of New Jersey has breached its duty to provide inner city students (the vast majority of the state's Hispanic student population) with a "thorough and efficient" education.²⁰¹

The educational needs of students in poorer urban districts vastly exceed those

¹⁹⁸ New Jersey Department of Education, New Jersey Public School Racial/Ethnic Enrollment-Sept. 30, 1989, 681 (1990)

¹⁹⁹ Amicus Brief submitted by New Jersey Department of the Public Advocate in Englewood Cliffs Board of Education v. Englewood Board of Education v. Tenafly Board of Education, Superior Court of N.J. Appellate Division, Docket No. A-4912-89T5, on appeal from a decision of the NJ State Board of Education, Docket No. 37-88 (hereinafter, "Englewood")

²⁰⁰ Espinosa and Ochoa, 1986, Arias, 1986

²⁰¹ Abbott v. Burke, 119 N.J. 287 (1990). (hereinafter "Abbott"). The Abbott record demonstrates beyond a doubt that a thorough and efficient education does not exist in the poorer urban districts, no matter what test is applied. These students simply do not receive the quality of education needed to equip them as citizens and competitors in the market, especially when compared to the education given in the affluent suburbs.

of others. The difference is monumental. Despite the fact that poorer urban students need special supportive educational effort in order to give them a chance to succeed as citizens and workers, they are getting the least education for the greatest need.²⁰²

The Commissioner of Education's inactions and failure to take initiatives (as evidenced by the conservative and restrictive posture)²⁰³ to redress the inferior and inadequate quality of education to Hispanic students, in combination with the failure of the state to legislate²⁰⁴ and to ensure implementation of its programs²⁰⁵ indicates a continuing state participation in educational discrimination against Hispanics.²⁰⁶ For example, where the legislature has provided enabling statutes, the administrative authorities have persistently failed to interpret, to act upon their authority and duty, or to monitor compliance with the necessary assertiveness and conviction, particularly in the area of interdistrict segregation.

Abbott's findings are of tremendous importance in that they the shortcomings of the state's actions in providing constitutionally mandated education is documented in a public record.

Thus, the Abbott court establishes that the state has been an active participant

²⁰² Disparity of funding, its relationship to poverty, the critical needs of its pupils, the practical inability to raise further funds through local taxation..., the likelihood of permanence of these factors, the level of substantive education actually being given, the failure rate of its students, their dropout rate, were all sufficiently shown and dramatically contrasted with that of students in wealthier, suburban districts. Abbott, at 393.

²⁰³ The courts have condemned the Department of Education's claim of lack of authority to enforce inter district segregation (when the districts do not constitute "single community") as a disavowal of power and a disavowal of responsibility. Hinfrey v. Matawan Regional Board of Education, 77 N.J. 514 (1977) at 504.

²⁰⁴ New Jersey's legislative efforts to implement the state's education clause of the constitution is being challenged as inadequate (fourth challenge in twenty-one years.) Abbott, supra.

²⁰⁵ The legislative actions which have been made however, have been nullified by administrative inaction.

²⁰⁶ See Morean and Jenkins, supra.

compete in the same labor, professional, and/or commercial markets as their white/suburban counterparts.²⁰⁸ Inadequate elementary and secondary school foundation (including drop out rates) impedes both proficiency in language skills and access to higher education. Lack of higher education credentials leads to lower personal incomes, which, in combination with discrimination inhibits access to financial capital. The combination of inadequate language skills, lesser educational credentials, lower personal income and inhibited access to financial capital contributes to a much-lower rate of Hispanic self-employment (i.e., business formation).²⁰⁹

Improved education, especially when it provides greater resource to those with greater needs, can make a difference in the quality of life for Hispanics. However, it will take many years just to phase in a funding scheme which will begin to afford students in poorer urban districts educational expenditures which are equal to those afforded to the students of wealthier districts. Equalized funding throughout educational systems is but a starting point.²¹⁰

G. The Need for An Extraordinary State Remedy

The goal (in remedying the state educational system's failures) is to wipe out the disadvantages as much as a school district can, and to provide educational opportunities which will enable Hispanic students to use their innate ability.²¹¹

The state has a special obligation to offset the retarding effects of inferior education received by Hispanic students, compounded by state's longstanding misbehavior. No less than three court decisions found that New Jersey has failed to provide students of property-poor districts (the majority of Hispanic students) an

²⁰⁸ Bates, Timothy, "Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses", Urban Policy Analysis and Management, Graduate School of Management and Urban Policy, New School for Social Research, August 1991.

²⁰⁹ Timothy Bates, "Entrepreneur Human Capital Inputs and Small Business Longevity", The Review of Economics and Statistics (November 1990)

²¹⁰ Abbott, at 370-177.

²¹¹ Id., at 396.

adequate and constitutionally mandated education.²¹² Educational violations are of such extraordinary depth and length, and the effects are so profound as to justify exceptional and extraordinary remedial action.

Even under the best case scenario of equalized funding, the vast majority of the state's Hispanic students will continue to labor under at least some of the same economic and societal disadvantages that marred the lives and limited contributions of their older siblings and perhaps their parents. Due to the long lag time expected to effectuate equal educational opportunities in New Jersey, supplementary remedies must be made available to this generation of victims of New Jersey public school-educated Hispanics. The state is obligated to take whatever additional measures are necessary to redress the consequences of the inferior and disadvantaged education received by Hispanic students in the state's poorer urban school districts.

In fact, the Abbott court recognized:

"... perhaps nothing short of substantial social, economic change affecting housing, employment, child care, taxation, welfare will make the difference for these students".²¹³

H. Bilingual/Bicultural Education

Aside from attending disproportionately inferior public schools, Hispanic students face the additional educational barriers due to the fact English is often not the native language. At a young age those whose first language is Spanish are confronted by a system whose educational priorities are to learn English. The language issue interferes with quality education when learning English becomes a prerequisite to other learning.

Falling behind academically and eventually having less knowledge (although no less intelligence) becomes a stigma for many Hispanic students which adversely

²¹² Id., at 287. Robinson v. Cahill, 62 N.J. 473 (1973); and Jenkins v. Morris Township School District, 58 N.J. 483 (1971)

²¹³ Abbott, at 374-5.

affects one's educational experience. A person's most prolific learning years are as a child and they must not be wasted on learning English only. A child must be taught all subjects in whatever language he/she comprehends best, while at the same time, learning English. A person is better prepared to function in today's labor market when they are knowledgeable, skilled and experienced, than when they are proficient in English but unschooled, unskilled, and unexperienced.

1. Value and Benefits of Bilingual Education

The value of a multi-lingual, multi-ethnic and multi-cultural education has only recently been quantified and found to be superior to uni-lingual, uni-ethnic and uni-cultural education. In describing how multi-racial, multi-cultural public school educational environment is vital, one New Jersey Court described it as providing:

"firm foundations...for good citizenship and broad participation in the mainstream of affairs and its denial can deprive oncoming generations of the educational advantages which are its due."²¹⁴

Bilingual education of Hispanic students has been demonstrated to have affected increased reading proficiency, increased attendance; decreased drop-out rates.²¹⁵ Student attendance in bilingual classes was "strongly related to achievement" in subject areas other than English, such as mathematics, according to the assessment director of a survey of 27 high-school projects funded under Title VII of the Bilingual Education Act.²¹⁶

Opponents of bilingual education point toward the fact that other immigrant groups have historically overcome language obstacles in the public school system and special treatment should not now, at state expense, be afforded Hispanics. This argument loses force when the following factors are considered: first, the majority of Hispanic students in the state school system are Puerto Ricans, born U.S. citizens

²¹⁴ Booker v. Board of Education of Plainfield, 45 N.J. 161 (1965), at 170-171.

²¹⁵ "N.Y.C. Bilingual Students Show Gains", Education Week, Volume V, Number 39, June 18, 1986.

²¹⁶ Id.

with linguistic rights (in the American homeland of Puerto Rico, the native language is Spanish); and second, the skill of a proficiency in multiple languages for Americans is a more valued asset (given the prominence of the international economy) than it has been in the past. Second to English, Spanish is the most marketable language.

2. Bilingual Education in New Jersey

Since 1975, New Jersey is one of 11 states requiring bilingual education. Under New Jersey's law, a district must provide bilingual education when it has 20 or more students who speak the same foreign language and cannot speak English. If a district has fewer than 20 students, it can provide classes on English as a second language.

Bilingual education is a term encompassing a host of educational programs. In some districts, an elementary school bilingual teacher may teach non-English speaking students math, social studies, and science in both English and the native language. In other districts, students might attend regular classes but work with a bilingual tutor on regular intervals. Alternatively, some schools team science or math teachers with bilingual teachers or aides. English as a Second Language (ESL) classes stand in marked contrast. They are geared to teach non-English speaking students English and the teachers speak only in English. Students generally attend regular classes supplemented with ESL classes. Bilingual education is usually a more costly effort, which is why a minimum of 20 non-English speaking students must be present before bilingual education replaces ESL classes as the program of right.

There is much controversy surrounding the relative merits of bilingual education. Bilingual educational programs are costly and, given the expense in our budget conscious economy, there is much debate as to the programs' relative effectiveness. There is almost unanimous agreement among educators that bilingual education programs should not be implemented or sacrificed at the expense of a thorough and efficient education.

3. Discrimination in Exiting Bilingual Programs

Controversy surrounding bilingual education in New Jersey has centered on the issue of state versus local school board control over the type, quality and extent of

bilingual education/ESL programs, (including funding expenditure).²¹⁷ Currently there is disagreement over exiting criteria (from the off-track bilingual programs into mainstream classes). The debate originated from a Department of Education directive requiring school districts to administer a single qualifying exam as the only prerequisite to discharging students into mainstream classrooms. The single exit criteria will hasten the bilingual education process and is expected to result in substantial savings for various school districts.²¹⁸

Opponents of the single exit criteria, including the New Jersey Education Association (the state's largest teachers' union), filed a lawsuit challenging the directive as violative of "the constitutional guarantee of a thorough and efficient education for all students". The suit also alleges that the regulation discriminates against Hispanic students in that it would have a deleterious effect on the education quality of a disproportionate percent of the state's Hispanic students.²¹⁹ The single exit criterion is not considered to be a reliable measure of a student's readiness for English-only classes according to opponents. Given premature release back into the mainstream, these students could suffer severe setbacks in their educational development which could ultimately lead to higher dropout rates.

Approximately 35,000 students were enrolled in the bilingual educational programs throughout the state and the majority of these students are Hispanic. The State Department of the Public Advocate filed a separate legal challenge on procedural grounds,²²⁰ and the case remains in litigation.

4. Note on Multicultural Curriculum

²¹⁷ "A Bilingual Debate Ahead", Trenton Star Ledger, Section B, September 21, 1987

²¹⁸ "Litigation Stalls State Efforts to Speed Up Bilingual Education Process", Sunday Star Ledger, March 20, 1988.

²¹⁹ Id.

²²⁰ The State Department of the Public Advocate alleges that the procedures used by the State Board of Education to rescind the regulations under the bilingual Education Act violated the State Administrative Procedures Act. Press Release, State of New Jersey, Department of the Public Advocate, February 5, 1988.

Five New Jersey school districts: Atlantic City, East Orange, Hopewell, Irvington and Princeton Region are part of a pilot plan integrating multicultural curriculums, however the program has not been universally approved and its critics complain about the diversion of funds from more traditional curriculum. The program is too young to evaluate, however Hispanics students appear to be enthusiastic.²²¹ Pride and self-esteem are known to be components of successful academic performance and, to the extent the multicultural curriculum enhances these components, education will be that much more valuable to Hispanics.

I. Summary of Education

In addition to financial capital, other traits which are positively associated with the likelihood of small business formation, operation and survival include investments of "human capital" i.e., education and training.²²² Investment capital input works in conjunction with other key factors in that it is the better educated owners who tend to invest more in their firms and it is the better financed firms which are more successful. Obviously, the ability to invest and to acquire income are learned behaviors, related to education. The disadvantaged education of Hispanics is ultimately reflected in the lower rates of business formation, lower rates of business success (including lower rates of participation in state contracting).

VII. Employment

A. General Statistics

Among all Hispanic subgroups in the tri-state region, Puerto Ricans and Dominicans had the lowest earning profile while Mexicans, Cubans and other Hispanic subgroups had the highest.²²³ Striking earning differentials between Puerto Ricans

²²¹ Jonathan Perry, "City Schools Braid Strands of Many Cultures Into Study" and "Students: Current Courses Irrelevant", Trenton Times, March 15, 1992 at A1

²²² Timothy Bates, "Discrimination and The Capacity of New Jersey Area Minority and Women-Owned Businesses", Unpublished paper for the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts, August 1991

²²³ Tri-State Report, supra.

and white males have been documented. Even among comparably educated workers, Puerto Rican men earned approximately \$6,000 less than their white male counterparts. Earning gaps by education levels demonstrate that the differentials between Puerto Rican and white men increase rather than decrease at higher levels of completed schooling. The presence of these differentials are partially attributed to discrimination.²²⁴

Of all Hispanic subgroups, Puerto Ricans had the lowest ratio of earnings to the average for whites regarding self-employment and wage and salary ratios.²²⁵

B. Unemployment

In 1987, Hispanics comprised seven percent of the state's labor force and seventeen percent of its unemployed.²²⁶ Unemployment rates for adult Hispanics was 8.2 percent in March 1990, about twice as high as that of the non-Hispanic population (4.2%). Most notably, unemployment for Hispanic youth rose to an unprecedented 19.5% in 1990.²²⁷

C. Industries of Concentration

Hispanic employees in New Jersey are concentrated most heavily in manufacturing and as blue collar workers. Hispanic women in particular are heavily concentrated in manufacturing industries. Services and retail trades are also heavily populated by Hispanics. When broken down according to subgroups, more Puerto Ricans than Cubans are employed in manufacturing. Cubans outnumber Puerto Ricans and other Hispanic subgroups in real estate and retail trades while Puerto Ricans dominate the service industry.²²⁸

²²⁴ 1980 PUMS 5% A Files, found in Dr. Marta Tienda, *The Puerto Rican Worker: Current Labor Market Status and Future Prospects*, supra.

²²⁵ U.S. Economic Census, supra.

²²⁶ Tri-State study, supra.

²²⁷ U.S. Department of Labor, Bureau of Labor Statistics, Bulletin #2307 and unpublished data from the Current Population Survey (CPS)

²²⁸ Id.

If statistics for Hispanic-owned firms by industry are compared to the figures for distribution of Hispanic employees by industry, there is a correlation between employment in certain industries and entrepreneurship in those same industries. The inference is that Hispanics tend to form businesses in those areas where, they have work experience and have acquired the necessary skills.²²⁹

Hispanic-owned firms in New Jersey are largely service and retail, whereas Hispanic employment in the service and retail industries is the second and third largest employment industries, respectively. Although there is a large pool of employees in manufacturing, there are only nominal amounts of Hispanic owned manufacturing firms. This is probably attributable to the fact that Hispanics who work in manufacturing are largely unskilled and manufacturing firms require immense amount of capital to establish, of which New Jersey entrepreneurs do not have ready access.²³⁰

Despite some gains in increased salaries and improvements in representation among professional and technical workers, there is a disappointing participation rate of Hispanics in managerial and professional jobs. In fact, Hispanics' participation in among officials, managers and professionals is worse than that of blacks.²³¹ Hispanics are not receiving promotions at a rate which would compensate for their severe under representation in executive positions. Consequently, Hispanics are denied better paying jobs and those positions with advancement opportunities, which is reflected in the population's lower income and wealth holdings statistics. Hispanics are thereby denied the privileges of power and influence, including the capacity to make policies and effectuate practices which affect their opportunities within the working environment. Access to such power and influence in employment,

²²⁹ Accord, T. Bates, "Entrepreneur Human Capital and Minority Business Viability," The Journal of Human Capital, Fall 1985

²³⁰ Id. and U.S. Economic Census, supra.

²³¹ Equal Employment Opportunity Commission, Employer Information Reports (EEO-1)

is yet another obstacle for Hispanic business formation.²³²

D. Under Representation of Hispanics in State Government

The state of New Jersey has been guilty of under-employing Hispanics according to a Department of Community Affairs study which documents the dearth of Hispanics in the state's employ.²³³ Despite several calls to action, and notwithstanding the state's knowledge of repeated findings of Hispanic under representation,²³⁴ the 1990 Task Force report concluded that Hispanics have continued to fare poorly in achieving equitable representation in state employment under both Republican and Democratic administrations. The report is a stinging indictment of the state of New Jersey's inaction with respect to the employment of Hispanic at all levels of the state work force. The report concludes that Hispanics are "nearly invisible in the echelons of state government and have been systematically denied [their] fair share of equal employment opportunity."²³⁵

Among the Task Force's most significant findings are that while Hispanics represent 10 percent of the state's total population, they represent only 3.9 percent of 76,121 state employees. Of these, almost three quarters occupy low level clerical, maintenance and other similar positions. In their official/administrator category, Hispanics hold only 1.1 percent of all senior state official positions.²³⁶

²³² U.S. Department of Labor, Bureau of Labor Statistics, supra.

²³³ Nelida Valentin, "Where Are They? Hispanics in New Jersey Government", Department of Community Affairs, Center for Hispanic Policy, Research and Development (1987)

²³⁴ The initial notice of under representation of Hispanics in state government was alleged in a 1984 report by the Puerto Rican Congress of New Jersey.

²³⁵ The Task Force to Address Under Representation of Hispanics in New Jersey State Government, 1991

²³⁶ New Jersey uses the Standard (for) Determining Under representation (SDU) as an indicator in setting hiring goals. At the time of the study, the SDU for Hispanics was 5.9%, (compared to the Hispanics representing about 10% of the state's population). Much of the report criticizes the fact the state falls short of the SDU for Hispanics in all job categories with the exception of service-maintenance. Of the positions held by Hispanics, most involve

E. Hispanic Youth

In 1988, 38.7% of all Hispanics were under the age of 19. New Jersey has approximately 271,000 Hispanics youth residing within its borders. As development of human capital, especially of the unused and underutilized segments of the work force becomes a state priority, Hispanic youths occupy a significance beyond their numbers.

F. Other Employment Issues

Another current issue involving discrimination against Hispanics in the work force is the failure of employers to compensate bilingual employees for the use of their language skills. The extent of this discriminatory practice is evidenced by the rise in law suits brought by Hispanics demanding just compensation for employment related interpretation and translation services.²³⁷

G. Summary of Employment

The marginal labor market status of Hispanics documented above can be traced to the multitude of obstacles to success in occupational spheres.²³⁸ Current disparities in Hispanic business ownership are due to the persistence of these occupational barriers which are not faced by white males. The following barriers hinder participation of Hispanic firms in contracting and procurement with the state: (1) wage differentials inhibit ability to raise capital and other resources; and (2) occupational status and gaps in types of industry employments limit necessary acquisition of skills and experience.

maintenance and clerical positions. Id., at p.3

²³⁷ Soriano v. Contel, *supra*. See e.g., "Soriano vs. Contel When Does Speaking Spanish Mean More Work The Courts Must Decide," *Hispanic Business*, March 1990, p. 8-10 and "Tide Rises On Suits for Bilingual Work Bonuses" *New York Times*, Friday May 18, 1990, Law Section.

²³⁸ Candace Nelson and Marta Tienda, "The Structuring of Hispanic Ethnicity: Historical and Contemporary Perspectives", *Ethnic and Racial Studies*, 1986

VIII. Housing

Hispanics in New Jersey have a dismally low rate of home ownership. In 1980, only 27.3% of Hispanic housing was owner-occupied. Low home ownership rates for Hispanics is largely due to the present affects of current and past discrimination via zoning ordinances.²³⁹ The ability to use capital from mortgaged property is crucial to business formation, survival and expansion.

Eighty percent of all Hispanic households nationally are renters. Half of home ownership is concentrated among those Hispanic households earning more than \$35,000 (1985 dollars), or about one in five of the tri-state region's Hispanics. In the Northeast, Cubans, Mexicans and Colombians are most likely to own a home and Dominicans and Puerto Ricans are the least likely.²⁴⁰

Only one in seven Hispanics in the tri-state region live in single-family dwellings whereas one half of all non-Hispanics live in single family homes. Multiple-family housing is least common among Cubans, South Americans and "other" Hispanics, but far more prevalent among Puerto Ricans and Central Americans.²⁴¹

Recently, the results of the largest study of housing discrimination ever completed for the federal government were released.²⁴² The study's methodology included the use of "testers".²⁴³ Among the conclusions was the fact that Hispanics were most often subject to victimization among all minority groups. The study found that Hispanics experienced discrimination 61% of the time when trying to buy and 53% of the time when trying to rent houses or apartments in the New

²³⁹ See e.g., Mt. Laurel, supra.

²⁴⁰ Tri-State Report, supra.

²⁴¹ Id.

²⁴² The New York Times, New York Ranks Highest in Housing Bias, November 3, 1991, Section 12, New Jersey Weekly, p.1

²⁴³ The use of "testers" or "auditors" is instrumental in documenting discrimination in housing against Hispanics. Testers are pleasant, well groomed, white, black and Hispanic agents who pose as prospective purchasers/renters of advertised properties. Their experiences are compared, using the white tester as the control group.

York City area (blacks experienced discrimination 44% for purchases and 40% when attempting to rent).²⁴⁴ The regional office of Housing and Urban Development (HUD) reported that complaints of housing discrimination in New York and New Jersey nearly doubled in the fiscal year which ended June 31, 1991.²⁴⁵

From this information it is evident that housing discrimination against Hispanics in New Jersey is on the rise. Discrimination is no doubt a major contributing factor to the low home ownership rates and the residential segregation, concentration and isolation of Hispanics in impoverished, urban areas.

IX. Discrimination

A. Discrimination in State Contracting

Hispanic-owned small businesses have been "relatively deprived in the area of government contracts."²⁴⁶ Of the many government contracts which are set aside for minority-owned businesses, "Hispanics account for an insignificant proportion of recipients."²⁴⁷

At least, in some cases, the under representation of Hispanics in the area of government set-asides is due to "discrimination."²⁴⁸ Last year, an unprecedented number (353) of complaints claiming national origin as the basis of discrimination were filed with the Division on Civil Rights. These complaints represent almost a 30%

²⁴⁴ The study was the largest study of housing discrimination ever completed for the federal government, conducted by Housing Urban Development, (19)

²⁴⁵ New York Times article, "New York Ranks High in Housing Bias", *supra*.

²⁴⁶ Kean College Committee to Assist Hispanic-owned Small Businesses Membership (hereinafter "the Committee") from Jose Sanchez, "Assisting Hispanic-Owned Small Businesses: An Action Plan", Prepared for the Kean College School of Business, Government and Technology's Small Business Development Center, 1991

²⁴⁷ *Id.*

²⁴⁸ Kean College Committee to Assist Hispanic-owned Small Businesses Membership (hereinafter "the Committee")

increase from the previous year.²⁴⁹ The vast majority of these complaints involve issues of employment discrimination. The Division on Civil Rights estimates that 98% of the national origin claims are from persons of Hispanic origin and two-thirds of the national origin claims are from Puerto Ricans.²⁵⁰

Complaints filed with the Division on Civil Rights represent only a small fraction of the extent of discrimination against Hispanics in New Jersey. Formal complaint filing by Hispanics is an unlikely response to incidents of discrimination for a variety of reasons, some of which include: failure to recognize discrimination, ignorance, misunderstanding or misinterpretation of the law, belief that filing complaints are futile and unlikely to remedy the problem, psychological denial, lack of information regarding how and/or where to file a complaint, embarrassment, etc.²⁵¹

The prevalence of low educational levels and language barriers among the state's Hispanic population further inhibits Hispanics from filing complaints. Moreover, limitations of time resources, governmental mistrust and self-reliance even further diminish the likelihood that Hispanic business-owners will file complaints in response to discrimination. Therefore, the lack of complaints by Hispanic businesses claiming discrimination does not reflect the actual extent of discrimination.

Notwithstanding the inaccuracies in referring to the number of complaints filed as an estimation of the extent of discrimination, there is an increase in complaints by national origin (almost all of which are Hispanic). This increase indicates that discrimination against Hispanics continues to exist and is in fact occurring with increasing frequency, especially in the area of employment.

²⁴⁹ Statistical Summary of Complaints Received with National Origin As a Basis of Discrimination in Fiscal Year 1991, Department of Law and Public Safety, Division on Civil Rights.

²⁵⁰ Interview with Roberto Rodriguez, Supervisor for Research and Statistics Management Information Systems, Division on Civil Rights, April 1992.

²⁵¹ See, Blumrosen, Alfred and Zeitz, Leonard, SECURING EQUALITY: The Operation of the Laws of New Jersey Concerning Racial Discrimination, Report to the New Jersey Commission on Civil Rights (1964).

B. The Impact of Past and Present Systemic Discrimination

Discrimination against Hispanics in housing, education and lending has been demonstrated throughout this report. Such discrimination fortifies obstacles which inhibit the formation and performance of Hispanic businesses reflected in under representation in state procurement and contracting.²⁵²

The state's inaction in remedying discrimination of publicly educated Hispanic students; its own Hispanic employees; and disadvantaged small Hispanic businesses exacerbates such discrimination, further perpetuating the resulting damage.

C. Hispanic Business Elites

The multi-national, multi-cultural aspects of the state's Hispanic population interfere with the ability of Hispanics to unite with a common agenda.²⁵³ As a consequence, there are minority groups within the Hispanic population whose needs and interests are often unidentified, overlooked, ignored, compromised, and/or subordinated to the interests of the more organized, aggressive contingents. In fact, the neediest of the Hispanic subgroups are often the least organized, lacking the resources necessary to organize and lobby for their interests.

In failing to consider Hispanic business participation in state contracting by subgroup, it is impossible to appreciate whether and/or which Hispanic subgroup/s benefit from state-sponsored programs of assistance. It is discriminatory to make implement recommendations which are based upon conclusions of "Hispanic" business performance and participation without considering Hispanic businesses by subgroups.

In the state of New Jersey, certain subgroups of Hispanic business "elites" have emerged. With superior endowments, some Hispanic businesses subgroups are more capable of accessing business assistance programs intended for Hispanics while

²⁵² As discussed *infra.*, an accurate assessment of the impact of these obstacles on the ability of Hispanic firms in procuring state contracts is obstructed by the limitations of the state's information tracking systems.

²⁵³ But see, recently created New Jersey Hispanic Network, *infra.*

other subgroups have not. The disadvantaged Hispanic subgroups become a "minority" within the universe of Hispanic businesses and their inferior position vis-a-vis the elite businesses is perpetuated. According to the censuses, Cubans are the most economically successful Hispanic subgroup in New Jersey with the most visible organizational representation. Conversely, a greater ratio of Puerto Ricans live in poverty, and in isolated and segregated urban areas. Puerto Ricans also suffer in the area of "human capital", with less education and higher drop out rates than any other Hispanic subgroup in the state.²⁵⁴

The Puerto Rican community has thus far had little opportunity to direct its limited resources towards overcoming business obstacles, partially due to inadequate organization and leadership. Leadership energies have thus far been focused on "survival issues", the subgroup's overwhelming poverty, housing, health, education, employment, child-care.²⁵⁵ Puerto Ricans are the most disadvantaged socially and economically of all Hispanic subgroups. Poverty rates and labor force participation, unemployment and earnings are comparable to those of Native Americans and southern blacks.²⁵⁶

Historical and continuing discrimination against Puerto Ricans is aptly documented.²⁵⁷ The majority of the state's Puerto Rican population has not succeeded in overcoming these barriers as is reflected by the subgroups' informal claims²⁵⁸ and formal complaints of discrimination²⁵⁹ and in its disadvantaged

²⁵⁴ The New Jersey Census and U.S. Census, supra.

²⁵⁵ Telephone Interview with Ramone Rivera, Executive Director, Casa De Don Pedro, Newark, NJ, and Hispanic Directors Association of New Jersey, April, 1992

²⁵⁶ Dr. Marta Tienda, "The Puerto Rican Worker: Current Labor Market Status and Future Prospects", supra.

²⁵⁷ See generally, Nicholas Lehmann, "The Other Underclass", The Atlantic Monthly, December 1991 and various works by Marta Tienda and Lief Jensen

²⁵⁸ Refer to testimony of John Sanchez, Vice President of the State-wide Hispanic Chamber of Commerce, representing Puerto Rican businesses.

status in the areas of education, employment, housing, and wealth holdings, business formation and participation.²⁶⁰

In terms of traditional measures of business success (i.e., sales and receipts per firm), Cubans outshine Puerto Ricans as the state's most successful Hispanic subgroup.²⁶¹ It is therefore reasonable to conclude that as Cuban businesses are better financed, better informed and better prepared, they are also more competitive and hence, more successful in bidding for state contracts. Among suggested strategies in overcoming the problems associated with "monopolization" by certain vendors (at the expense of disadvantaged firms) is to implement a rotation system of bidders in state procurement contracting. Another suggestion to effectuate the utilization of Hispanic subcontractors is to initiate a "rating system" whereby prime contractors are rated in terms of the extent to which they subcontract to Hispanic firms. Those contractors with favorable ratings, would receive favorable ratings which would be considered an advantage in assessing future awards.

D. Scarcity of Research and Failure to Consider Subgroups

The provincial and fragmented status of Hispanics throughout the state has contributed to its inability to combine resources for a united agenda.²⁶² The relative isolation of New Jersey's Hispanic communities have contributed to the invisibility of Hispanic businesses which, in turn results in the attendant lack of research and academic focus.

While research regarding Hispanic businesses in New Jersey is rare, studies

²⁵⁹ New Jersey Division on Civil Rights, Statistical Summary of Complaints Received with National Origin as a Basis of Discrimination, (Appendix)

²⁶⁰ As demonstrated throughout this report

²⁶¹ This is also consistent with national studies, i.e., Alejandro Portes and Robert L. Bach, "Latin Journey: Cuban and Mexican Immigrants in the U.S." (1985) and Ivan Light, "Immigrant and Ethnic Enterprise In North America", Ethnic and Racial Studies, 7, (April 1984)

²⁶² But see, promising change in the formation of the New Jersey Hispanic Network and the signing of a Statement of Mutual Cooperation Between Statewide Hispanic Organizations of New Jersey, infra.

focusing on Puerto Rican businesses in particular is nonexistent. Where the state's Hispanic community has been unable to address Hispanic business issues, academic institutions throughout the state have failed to focus on the issue of Hispanic business with the exception Jose Sanchez's Hudson and Union county study (of which more than half of the respondents were Cuban).

The state has also failed to commit resources to assess the status of Hispanic businesses in general and, despite the glaring conclusions of census data, no efforts have been directed at addressing the disadvantages of Puerto Rican firms in New Jersey in particular.

The lack of interest and commitment of resources from government, academia and private researchers has created a void of available information which, in turn, causes further obstacles to understanding and assisting Hispanic businesses. Without public acknowledgement that some Hispanic firms are discriminated against and are disadvantaged, identifying performance and participation obstacles of Hispanic firms is improbable. Hispanic firms have become "invisible" and to the extent they are identified, attention is limited to the relative success of a portion of the Hispanic business population. Instead of committing resources to thoroughly and objectively examine the performance of Hispanic firms by subgroup, there is a tendency to resort to the findings and conclusions of available "minority" research.

Interpretations of the 1987 Department of Commerce Economic Census data must consider the relative performance of each subgroup. While a conclusion that Hispanic businesses throughout the state seem to be enjoying a parity of success comparable to that of non-minority firms may be applicable to many Cuban and Central and South American business, this is an inaccurate statement regarding Puerto Rican businesses. (The growth of Hispanic firms is mostly attributable to the increase in the state's Hispanic population.) In every category of measure, Puerto Rican firms in New Jersey fared worse than non-minority businesses. Actually, considering traditional indicators, Puerto Rican firms performed worse than black firms in more

ways than not.²⁶³

E. Hispanic Business Networks

1. Importance and Deficiency of Hispanic Networks

The lack of adequate networks and of viable contacts with institutions awarding state contracts is considered as a primary cause of Hispanic under representation in state procurement and contracting.²⁶⁴

Minority networks or infrastructures are an important resource from which to learn about new sources of business and new methods of doing business, including sources of available business assistance. Moreover, limited access to valued and entrenched "old boy" networks is a barrier which discourages many minorities from pursuing self-employment.²⁶⁵ Discriminatory exclusion from more traditional, established "business" networks and private clubs heightens the need for Hispanic networks.

In her report, "Community Economic Development in Puerto Rican Neighborhoods", for the National Puerto Rican Coalition, Inc., (February 1991), Lois E. Athey, Ph.D., notes:

"Puerto Ricans need to form trade associations and Hispanic Chambers of Commerce which allow for greater

²⁶³ In fact, data from various censuses demonstrates a correlation between recent increases in the growth in real receipts (per firm) by black businesses and decreases in growth by Hispanic firms. The data suggests that black business growth has occurred at the expense of Hispanic firms. The data further shows that between 1982 and 1987, increments in black real receipts per firm was met with corresponding and substantial decline in Hispanic real receipts per firm (averaging \$47,000) in at least three New Jersey urban areas, Jersey City, Newark and Atlantic City. The period in question covers that in which the state set-aside program was in effect and the fact that increases in both black and Hispanic real receipts were reported in Philadelphia during the same period leaves open the possibility that the state's business assistance programs had an adverse effect on Hispanic businesses. U.S. Bureau of the Census, Minority-Owned Business Enterprises - Summary Report, U.S. Dept. of Commerce, 1991

²⁶⁴ According to a consensus of the Kean College Committee to Assist Hispanic-owned Small Businesses, supra.

²⁶⁵ Bates, Timothy, "Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses", (August 1991)

networking and increase their ability to identify venture capital resources..." at p.29.

Networking via the communications exchange process among business owners is an important dimension of business development and success.²⁶⁶ Networking provides opportunities for information interchange and are the vehicles for establishing important relationships which often lead to the realization of business objectives.

Hispanic businesses, have not demonstrated the capacity to become polycephalous (i.e., share leadership, with responsibility assumed by different people for different tasks) which has become a major "stumbling block" to success.²⁶⁷ This obstacle is evidenced by the smattering of viable Hispanic business networks.

2. State-Wide Hispanic Chamber of Commerce

The State-Wide Hispanic Chamber of Commerce is the sole state-wide representative of Hispanic businesses. This agency was born out of the failure of the majority traditional business organizations to meet the increasing needs of Hispanic firms.²⁶⁸ The State-Wide Hispanic Chamber of Commerce focuses on issues relating to improving the public image of Hispanic businesses, mainstreaming, and expanding and improving business opportunities for Hispanics. The Chambers acknowledges a need for a state-wide study on Hispanic businesses and has included such a study on its 1992 agenda pending funding.²⁶⁹

²⁶⁶ Timothy Bates, "Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses", Graduate School of Management and Urban Policy, New School for Social Research (August 1991)

²⁶⁷ "Strategies for Hispanic Business Development", Trends and Implications, A Series of Three Reports About Hispanic Business in the United States, National Chamber Foundation, (1984)

²⁶⁸ But see, "A Chamber Reaches Out to Hispanic Businesses", The New York Times, Sunday, December 29, 1991, Business Section, Page 1. The first New Jersey Hispanic business organization to become fully integrated into the mainstream Chamber of Commerce, under a spirit of mutual respect and cooperation.

²⁶⁹ Interview with Daniel Jara, President, State-Wide Hispanic Chamber of Commerce, March 1992

3. Recent Unity Among Hispanic Organizations

Despite being the fastest growing minority group in New Jersey, Hispanic businesses have failed to attain recognition funding, program commitment or accountability comparable to those of blacks or women. Recent changes within the state's Hispanic community are worthy of attention because there is a promise of change. On April 8, 1992, The New Jersey Hispanic Network (hereinafter, "the Network") was formed with five of the state's most visible and powerful Hispanic organizations²⁷⁰ signing a statement of Mutual Cooperation to facilitate the coordination of efforts and resources for the mutual benefit of Hispanics throughout the state.

The Network is committed to addressing the resolution of problems concerning business opportunities for Hispanics. It is the consensus of the Network that programs which are instituted to assist minority businesses are insensitive to the realities of the Hispanic business community and so the Network will work toward having institutions such as the Economic Development Authority develop programs that assist economic development in the Hispanic communities.²⁷¹

Although the Network is young, its formation is indicative of the need for an alliance of Hispanic community leaders and a unification of efforts to improve the welfare of the state's fastest growing minority, Hispanics. The Network intends to coordinate efforts to ensure accountability for Hispanic businesses as its operational strategies include assisting institutions to collect data to better identify the needs and concerns of the state's Hispanic community.

Another important institution regarding Hispanic businesses is the newly created Center for Hispanic Business Development and Research at the Kean College School

²⁷⁰ Among those organizations in the network: The Association of New Jersey Elected and Appointed Hispanic Officials; The Hispanic Bar Association of New Jersey; The Hispanic Directors Association of New Jersey (Executive directors of the state's many community-based organizations); the Statewide Hispanic Chamber of Commerce of New Jersey; and the ANJHO Political Action Committee.

²⁷¹ Press Release, New Jersey Hispanic Network, April 8, 1992

of Business, Government and Technology. The Center is currently seeking funding to conduct research on New Jersey's Hispanic business community.²⁷²

F. Failure of States' Outreach to Hispanic Businesses

The Kean College Committee to Assist Hispanic-owned Small Businesses recommended that a proactive approach or outreach to Hispanic businesses be implemented, including initiatives designed to explore networking opportunities.

The characteristics of governmental mistrust compounded by the tendency toward self-reliance have created obstacles for Hispanic businesses in need of assistance from the state. The state does not appreciate the special attributes of Hispanic businesses and, as such, has yet to overcome these obstacles them in reaching out to Hispanic businesses.

State outreach initiatives to Hispanics are deficient and have been criticized by a number of studies,²⁷³ Hispanic community and national organizations²⁷⁴ and business leaders²⁷⁵. Recently, the state Department of Community Affairs, Center of Hispanic Policy, Research and Development was forced to abort a study which sought to assess the initiatives of various state agencies, offices, authorities, colleges

²⁷² Mission Statement: Center for Hispanic Business Development and Research and Interview with Mira Kostak, Director, Center for Hispanic Business Development and Research, and Kean College Small Business Development Center, April 1992.

²⁷³ Id.

²⁷⁴ See, e.g., Midwest/Northeast Voter Registration Project, Inc., An Hispanic Agenda for New Jersey, October 1989; Community Economic Development In Puerto Rican Neighborhoods, Lois E. Athey, Ph.D., National Puerto Rican Coalition, Inc. February 1991; Economic Development Report: A Framework, A Report on Recommendations and Action Strategies from the National Puerto Rican Coalition, Inc., Sixth Annual Conference, "Economic Development: A Political Strategy for the Puerto Rican Community", New York, NY September 305, 1986

²⁷⁵ Interview with John Sanchez, Vice President of State-Wide Hispanic Chamber of Commerce

and universities. The response rate was so poor as to render the study futile.²⁷⁶

State outreach to Hispanic businesses becomes imperative to effectuate assessment of and/or assistance to Hispanic businesses. Hispanics are less likely to pursue government business and assistance programs without knowing which programs are available to them; how to access such programs and that their efforts will be fairly received. Aggressive and effective outreach, combined with the establishment of a working dialogue is critical to the success of Hispanic businesses in state contracting.

F. Information Tracking Failure

The filing of periodically compliance reports was required of each state office which was regulated under the set-aside directive. Compliance was not enforced during set-asides, as there were no consequences for non-compliance.²⁷⁷ Currently, agencies are required to file periodic reports indicating the use of urban, micro and minority firms according to agency "goals". Not surprisingly, compliance is virtually non-existent.²⁷⁸ As stated previously, these deficiencies must be remedied in order to ensure accuracy in assessing and remedying discrimination against Hispanic businesses in state procurement and construction contracting.

H. Recommendations

1. Both Kean College Hispanic Center for Policy and Research study and the Hispanic Chamber of Commerce are currently seeking funding for comprehensive

²⁷⁶ At least three offices (Banking, Insurance and Agriculture) responded that the issue of initiatives toward the Hispanic public community was "irrelevant" to their respective operations. One agency, (The Casino Control Commission) responded that because they were "regulatory" in nature, as opposed to "service-oriented", Hispanic initiatives were unnecessary. Interview with Nelida Valentin, Program Development Specialist with the New Jersey Department of Community Affairs, Center for Hispanic Policy, Research and Development, March 31, 1992

²⁷⁷ Interview with Deborah Aguiar-Velez, former Director, New Jersey Department of Commerce, Minority Business Enterprise, March, 1992

²⁷⁸ Interview with Hank Diaz, Program Administrator, State Certification, Department of Commerce and Economic Development, March 1992

state-wide research studies on Hispanic businesses having acknowledged that such research is lacking. Among the objectives of these studies is to identify and document the extent Hispanic businesses, (by subgroup), are disadvantaged by effects of systemic discrimination in employment, financing, education, housing. To the extent this report does not meet the standards articulated in Croson to justify preferential procurement measures to assist Hispanic businesses in overcoming the affects of past and present discrimination, the Commission might consider coordinating resources with these institutions for a more comprehensive study.

2. Given the under usage of various state-sponsored small business assistance programs by Hispanic firms, special outreach initiatives by various state offices, agencies, etc. must be promptly effectuated. Outreach must be accomplished through bilingual personnel whose objectives should include providing information regarding the availability of and qualifications for state (and other) Hispanic business assistance programs. Some examples of outreach efforts include the creation and operation of various satellite offices within highly concentrated Hispanic communities and/or setting up a toll-free "small minority business assistance" telephone number (with bilingual operators). Operators could answer questions and/or to refer callers to the appropriate office/s programs. The toll-free number would unburden the Minority and Small Business Representative thereby enabling her to focus on more substantive tasks.

3. The recommendations and efforts of various committees affecting Hispanic small businesses must be accompanied by a commitment of adequate resources with which to implement and allow for program monitoring and adjustments. The New Jersey Hispanic Network should be consulted in defining and implementing the type and scope of business assistance remedies for Hispanic small businesses and accountability for program effectiveness and consistency should be guaranteed through open communication with the Network.

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