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Processing the Mississippi State Sovereignty Commission Records

Sarah Rowe-Sims and David Pilcher¹

In a state whose historical image is inextricably linked with racism, the Mississippi State Sovereignty Commission is surely one of its most sinister manifestations. In existence from 1956 to 1977, this state agency spied on civil rights activists, acted as a clearing-house for information on civil rights legislation from around the nation, funneled money to pro-segregation organizations, and disseminated right-wing propaganda. Ironically, although its loudest proponents championed themselves as on a crusade against the insidious "red menace," the Commission was the embodiment of "Big Brother." Approximately 132,000 pages of remaining agency records document the Commission's dubious quest. Included in these records are names of close to 87,000 individuals, the majority of whom were victims of Commission surveillance.

After the agency was legally disbanded in 1977, an intense and protracted legal battle for access to the files ensued. As legal custodians of the records since 1977, the Mississippi Department of Archives and History (MDAH) was charged with the maintenance of this collection. MDAH was also required to process the records pursuant to the May 1994, United States District Court opinion and order in the case of American Civil Liberties Union of Mississippi v. Kirk Fordice, et. Al., Cause No. J77-0047B. Project supervisor David Pilcher, and project staff Ashley Koostra and Sarah Rowe-Sims spent nearly four years preparing the records for the court ordered opening on March 17, 1998. Due to the privacy-sensitive nature of the collection, security was paramount. The archivists worked in a locked basement room known affectionately as "The Chamber." Project staff were also required to take an oath not to reveal any information about the records in their charge.

¹ This article is adapted from a two-part paper presented by Rowe-Sims and Pilcher at the Mississippi Library Association, Special Libraries Section, October 30, 1998, where Rowe-Sims addressed Commission history and the legal battles over the files and Pilcher addressed MDAH compliance with Court instructions and the actual work of the project to prepare the files for opening.

Although a small number of records still remain sealed by the court, it is now permissible to discuss not only the bulk of open Commission records, but also their processing by MDAH archivists. This paper describes the processing of the Commission records by MDAH. In order to explain why these records have generated so much controversy, the creation and functions of the agency will be highlighted. Next the protracted legal battle to open the files is addressed. Having established the context for MDAH's involvement, the processing itself is detailed. Finally, the opening and public response to the records is discussed.

The Mississippi State Sovereignty Commission was created by an act of the Mississippi legislature in March 1956. The agency was spawned by the landmark May 1954, *Brown v. Board of Education* school desegregation ruling. To orchestrate the state's response to *Brown*, the legislature established the Legal Education Advisory Committee (LEAC) "to devise ways to preserve segregation." In September 1955, LEAC outlined a six-point-plan, which included the establishment of a "permanent authority for the maintenance of racial segregation," which provided the blueprint for the Commission that was voted into existence the following March.² The new segregationist agency consisted of eleven members. The Governor was appointed ex-officio chairman of the Commission. Other ex-officio members were as follows: the president of the Senate, who was vice-chairman of the Commission; the attorney general; and the speaker of the House of Representatives. In addition, the Commission comprised the following members: three citizens appointed by the governor from each of the Supreme Court Districts; two members from the Senate, appointed by the president of the Senate; and three members from the House of Representatives, appointed by the speaker. The governor, attorney general, and legislators served on the Commission during their tenures in office. The three members appointed by the governor served for the duration of his term.³

The act creating the Commission made no mention of race. The Commission was defined purely in the rhetoric of states rights, its stated purpose being to "do and perform any and all acts and things deemed necessary and proper to protect the sovereignty of the state of Mississippi, and her sister states . . .," from a perceived "encroachment thereon by the Federal Government or any branch, department or agency thereof; to resist the usurpation of the rights and powers reserved to this state and our sister states by the Federal Government or any branch, department or agency thereof."⁴ The act thus loosely defined the Commission's objectives. Not surprisingly the agency performed a myriad of different functions. However, although varied, the commission's duties can be divided into three basic categories: investigative, advisory, and public relations.

Perhaps the most infamous of the Commission's functions was investigation. From its inception the Commission likened itself to the FBI and armed services intelligence agencies "during times of war seeking out intelligence information about the enemy and what the enemy

² *General Laws of the State of Mississippi*, 1954, Chapter 420, 585-587; Hodding Carter III, *The South Strike's Back* (New York: Doubleday & Co. Inc., 1959), 23, 36-37; *Memphis Commercial Appeal*, September 22, 1955; *Jackson Clarion-Ledger*, September 22, 1955.

³ *General Laws of the State of Mississippi*, 1956, Chapter 365, 520-524.

⁴ *Ibid.*

proposes to do."⁵ Commission investigators traveled around the state and compiled reports on civil rights activities. They would often focus on what they termed as "hot spots" and would also respond to specific requests from local law enforcement, the governor, and members of the legislature, as well as members of the public. The Commission was a small agency, which even at its zenith under Governor Ross Barnett never mustered more than three full-time and a couple of part-time investigators. Consequently, the agency relied heavily on informants and detective agencies to supplement its investigators. Informants were utilized throughout the entire existence of the agency. For example, a 1970 director's report indicated that the agency's primary "external" contacts in order to fulfill its "mission" were the "use of confidential informants as is customary in any investigative agency."⁶

The aim of investigations was to hinder civil rights progress and discredit activists. Hard evidence of "racial agitation" was not necessary to warrant their attention. The rumor mill and the race-baiters fed the Commission, and anyone who appeared to transgress the racial lines or who espoused a vaguely liberal perspective might be brought to their attention. Common targets of investigations included African-American applicants for notary public, owners of cars parked outside alleged civil rights meetings, individuals earmarked as "race agitators" as well as their families, and the babies of reported inter-racial relationships. Invariably the information gathered was intimate and slanderous in nature and often based on little more than local gossip and hearsay.

In performing their advisory function, the Commission acted as a clearing-house for information on civil rights activities and legislation, not just in Mississippi, but around the nation. The agency would provide information upon request from politicians and members of the public alike. The Commission also advised local officials on how to handle a variety of situations. This advice included, how to dispense with people who participate in voter registration drives, how law enforcement should handle the influx of Freedom Summer activists in 1964, and even whether the Mississippi Library Commission should allow Ezra Keats' *The Snowy Day* to circulate. After the passage of the Civil Rights Act, Commission advice focused on how to circumvent federal legislation and maintain segregation in public facilities, a policy it termed "voluntary segregation."

The primary objective of the public relations function was to promote a positive image of Mississippi to the rest of the nation. This was not just a matter of damage control. The Commission was proactive. In 1960 the Commission initiated a Speakers' Bureau to travel the nation and present the Mississippi perspective. The Commission also sponsored a film entitled "Message from Mississippi," which described segregation in glowing terms.⁷ Following the integration debacle at the University of Mississippi, the Commission sponsored and distributed a movie on the subject entitled "Oxford USA."⁸ In addition, the agency also funneled tax money

⁵ unsigned S.C. speech, filing date July 13, 1958, Sovereignty Commission Records, document identification number (SCR #) 7-0-1-56-2-1-1.

⁶ Burke, report, [Jan. 1970], SCR # 7-0-11-189-1-1-1 to 4-1-1; *New Orleans, Times Picayune*, March 7, 1971.

⁷ *Jackson State Times*, December 16, 1960; *Clarion-Ledger*, January 13, 1961.

⁸ General Legislative Investigating Committee, letter to Gov. Barnett, August 12, 1963, SCR # 7-0-8-36-1-1-1; "Oxford USA proposed contract December 10, 1962, SCR # 10-102-0-2-1-1-1 to 2-1-1-1; memo Johnston, February 4, 1964, SCR # 99-36-0-87-1-1-1.

to the pro-segregation white Citizens' Council. In 1960 the Commission voted a grant of \$20,000 to the Council Forum, the propaganda arm of the Citizens' Council.⁹ From this point until December 1964, the Commission documented monthly grants to the Citizens' Council propaganda machine of between \$2,000 to \$5,000, amounting to a total of \$198,500.¹⁰

After the passage of the Civil Rights Act, the Commission's aim was to show that Mississippi was law abiding and in compliance with the new federal legislation. Image control was vital to this scheme, and the Commission assumed the task of creating Mississippi's new persona. The Commission director also took measures to clean up the agency. In memos in February 1965, he requested the removal of all "incriminating" reports indicating that the Commission had aided county registrars to stop African Americans from registering to vote.¹¹ In March 1965 the Commission removed "Oxford USA" from circulation as it was considered "out of step with the governor's 'new image' policies."¹² Reports also began to use the term "subversive" rather than "race agitator," and the director asserted that the Commission was "not a super snooping agency trying to crack down on any Negro who raises his hand."¹³

Although the Commission was not officially dissolved until 1977, it ceased functioning in 1973 when Governor William Waller vetoed its appropriation.¹⁴ Following the veto, the Commission limped on, hopeful that the 1974 legislature would override Waller's actions.¹⁵ However, faced with the specter of imminent closure, the Commission voted to seal and transfer their files to the Secretary of State for safekeeping. Although members made plans for future meetings, the Commission officially closed its doors on June 30, 1973. The status of the agency remained unresolved until March 1977 when it was legally disbanded. The act of dissolution ordered the records sealed at MDAH until 2027. This decision followed a heated debate in the legislature over whether the records should be destroyed. Thankfully, the preservationists triumphed and the records were secured at the Archives.

Coinciding with the preservationists' fight to save the records, the Mississippi branch of the American Civil Liberties Union (ACLU/M) now sued for access. In February 1977, the ACLU/M filed a class action suit charging the state with illegal surveillance of its citizens and demanding the files be opened. Thus began the twenty-one-year-long battle in the courts. As the case evolved, the pivotal issue was balancing the demands of public access with the rights of privacy protection. In 1984, U.S. District Judge William Barbour Jr. granted the plaintiffs access to the records for means of discovery.¹⁶ Subsequently, after viewing the files, plaintiffs Edwin King and John Salter distanced themselves from the access advocates. Reclassified by Barbour in 1987 as "privacy plaintiffs," King and Salter claimed that unrestricted access would

⁹ Albert Jones letter to Commission members concerning Governor's press release, July 7, 1960, SCR # 7-0-1-148-2-1-1.

¹⁰Report, "Citizen Council Grant" SCR # 99-30-0-46-1-1-1 to 2-1-1.

¹¹Johnston memo, February 8, 1965, SCR # 99-62-0-33-1-1-1; Johnston memo, February 11, 1965, SCR # 99-62-0-196-1-1-1.

¹²Johnston memo, March 5, 1965, SCR # 99-34-0-6-1-1-1.

¹³Johnston memo, SCR # 99-34-0-14-1-1-1.

¹⁴ *New York Times*, April 22, 1973.

¹⁵*Daily News*, June 8, 1973.

¹⁶Calvin Trillin, "State Secrets," *The New Yorker* (May 1995), 58; *Daily News*, October, 30, 1984, November 29, 1984.

further violate the privacy rights of victims of illegal surveillance.¹⁷ In July 1989, Judge Barbour declared the 1977 act sealing the records unconstitutional and he ordered the files opened.¹⁸

Barbour's ruling was immediately stayed pending an appeal by the privacy plaintiffs to the 5th Circuit Court of Appeals.

¹⁹ In September 1990, the 5th Circuit ruled that Judge Barbour's ruling did not adequately meet the privacy needs of the individuals named in the files, and they charged the District Court to devise a plan to accommodate privacy interests.

²⁰ Negotiations ensued amongst the litigants. In September 1993, an evidentiary hearing was held to explore the issues raised. Litigants, including MDAH, outlined their recommendations for opening the files. In those hearings, and in post-hearing briefs, MDAH officials had presented three alternatives for the copying and indexing of the files: photocopying, microfilming, and imaging. In the Department's analysis, imaging emerged as the most efficient way to accomplish the job. On May 31, 1994, Judge Barbour released a Memorandum Opinion and order, which declared the records opened and established a procedure for their opening. In the order Judge Barbour stated:

*Defendants have asserted that the most cost-effective method of dealing with the documents in the Commission files is by using a computer imaging system. The Court offers no opinion concerning whether this system or some other system should be used. This is a matter for the defendants to decide, so long as the system chosen will allow the defendants to comply with the orders of this Court.*²¹

Having had no working experience with imaging, staff of MDAH's Official Records Section embarked on a crash course. Staff members spoke to and corresponded with people who did have experience with imaging, gathered published information on the topic, viewed government imaging systems in action, and attended vendor demonstrations. To facilitate procurement of an imaging system, MDAH technical staff formulated a request for proposal for review by the Mississippi Department of Information Technology Services (ITS). The technical staff met several times with the archival staff who would be doing the actual work of the project, seeking input and review. The request for proposal was virtually complete by the time Judge Barbour issued his order of May 31, 1994.

Judge Barbour's order allowed MDAH one year to scan and index the files. His timetable was altered by the ongoing appeals. While waiting for a vendor to be named and

¹⁷Memorandum Opinion and Order, American Civil Liberties Union of Mississippi, et al., vs. Kirk Fordice, et al., United States District Court for the Southern District of Mississippi, Jackson Division, Civil Action No. J77-0047B, May 31, 1994, 3.

¹⁸American Civil Liberties Union of Mississippi Inc., Delta Ministry, Owen Brooks, and Ken Lawrence on Behalf of Themselves and a Class of Others, vs. Ray Mabus, as Governor of the State of Mississippi, et. al., Civil Action No. J77-0047 (B), July 27, 1989, 24-39.

¹⁹Order Staying Effect of Order of District Court Entered 27 July 1989 As to Plaintiff Subclass (Second) Pending Appeal, ACLU et al., vs. Ray Mabus et al., United States District Court For the Southern District of Mississippi, Jackson Division, Civil Action No. J77-0047(B), July 27, 1989.

²⁰ACLU et al., vs. State of Mississippi et al., vs. Edwin King and John Salter, Plaintiffs Subclass Second-Appellants, No. 89-4647, United States Court of Appeals, Fifth Circuit, September 14, 1990.

²¹ Memorandum Opinion and Order, May 31, 1994, 15 .

then for equipment and software to be funded and installed, the project team was assembled and began initial prep work on the files to prepare them for scanning. Obstacles such as metal staples and paper clips were removed and replaced with plastic clips. In addition to the physical prep work, project staff thoroughly surveyed the makeup of the records, noting paper types, paper sizes, color contrasts, and the presence of bound volumes and photographs. Since the records could not be removed from their secure location, project staff gathered examples of like records from other archival collections of the same time period, including browned Thermo-Fax copies, transparent onionskin paper, black and white photographs, newspaper clippings in varying shades of yellow and brown, and light pencil and pen handwritten documents. Upon selection of SysCon Imaging Systems of Tuscaloosa, Alabama, as project vendor, these examples were taken to SysCon offices to determine how well they could be scanned.

Project staff also studied the Sovereignty Commission's filing system and worked with SysCon to theorize how input, retrieval, and access should work within the database. The Commission's file numbering system, centering on its thirteen-category file classification system, was used. The categories are as follows:

1. Race Agitators
2. Integration Organizations
3. School Integration
4. Civil Rights - Elections
5. Civil Rights - Violence
6. Miscellaneous - Inquiry Concerning
7. Administrative - Office
8. Administrative - Personnel
9. Administrative - Informants
10. Publicity - General
11. Criminal Cases
12. Speeches
13. Subversion

Due to the inclusion among the records of many unnumbered files, three additional classifications were created: one for unnumbered financial records, one for the Commission's original card file index, and one for unnumbered miscellaneous files.

Each page within each file in the system has a unique seven part number assigned at the time of scanning and consisting of:

1. Classification number
2. File number within that classification
3. Volume number (some files have multiple volumes)
4. Document number (a document being a letter, report, newsletter, newspaper article, etc.)
5. Page number within the document
6. Part number (if an oversized item such as a poster had to be scanned in parts)
7. Version number (if the condition of the original required that it be scanned at more than one resolution setting to ensure that all information is legible). The need for part and version was discovered during the system testing period immediately after installation.

SysCon proposed to develop and install in three phases a custom application for project use. The first phase would address the scanning, storage, and partial indexing of documents. The second phase would address the complete indexing and redaction of scanned documents. The third phase would provide for search, retrieval, and printing of pages. SysCon delivered and installed the hardware and initial software in November 1994. The database, which runs on Oracle and is Windows based, was customized for project purposes by SysCon President Bob Wilson and has been modified and upgraded as necessary by him throughout the project.

The system operates as a local area network completely separate from the main Archives network. The system originally consisted of a server, server monitor, hub, ups, and three workstations, each with HP 486 66 mhz microprocessors and 17" Cornerstone Dual-Page monitors. Two of the workstations were connected to Fujitsu 3097E scanners. The network also included two HP Laser jet 4SI printers, as well as four Pioneer compact disc changers capable of holding six discs apiece and daisy-chained together with SCSI cables.

Eventually twelve compact discs were filled with images. However, later in the project problems arose with discs jamming when retrieving images sequentially from separate discs within the same changer, causing work delays. Therefore it became necessary to convert the images on the discs back onto two 4.3 gigabyte hard drives which SysCon installed on the server. This greatly increased speed and responsiveness during the period of searching and printing following the inquiry period. A writable compact disc drive was added to one of the workstations at this time. It was used first in restoring information to the hard drive and later to produce compact discs for the public access version of the system.

A fourth workstation, identical to the other three, was added to be used for index quality control during the period when all three project staff members were engaged in indexing the images. Due to time constraints, outside assistance with index quality control was sought. Project staff members were joined part-time in the project room by three rotating Official Records Section staff members.

During the scanning phase of the project, two staff members scanned full-time while the third performed quality control checks on each image. The automatic feeders on the scanners were used when practical but the existence of varying paper sizes and conditions necessitated the regular use of scanner flatbeds. Scanning was begun in early December 1994 and was completed with the exception of the Commission's financial records in late May 1995. The financial records were scanned several months later, bringing the total of images

within the database to approximately 132,700. On average, roughly 1000 images were scanned and checked per day.

Project staff experimented in the beginning with different types and shades of paper, recorded the best resolution setting for each, and made adjustments as necessary. Speed was, of course, a constant underlying concern, however, the primary goal was to attain the best quality images possible.

There was no time for extensive training on the front end. Bob Wilson of SysCon introduced project staff to the system and made initial modifications on-site. As we discovered the need for further modifications, SysCon would upload requested changes via the modem. This was very common early on. Project staff quickly discovered the need for the attachment of explanatory comments to appear on-screen with images, similar to the use of target sheets in microfilming. Six pre-set, commonly occurring comments were established to choose from, along with a free-form field for the entry of more specific comments.

The system included a separate table for quality control viewing of images as they were scanned. Pages were rescanned as necessary. As images were scanned they were stored on the network drive until sufficient volume of 655 megabytes was available to create a compact disc. The images were then exported to a single data file and one index file. These two files were then recorded on digital audio tape and copied to a compact disc using a recording unit. A second disc was made for backup. The contents of the disc were then compared with the images still stored on the network drive. If they compared exactly, the image files were removed from the network drive.

Judge Barbour's order required that MDAH compile an index of all personal names within the files. Each name had to be assigned a status as either a Victim - someone who was spied on, or a State Actor - a Commission member, employee, or someone who provided information to or requested information from the Commission. The indexing of the scanned images was done within a separate indexing table which allowed the calling up of the image and name entry forms side by side onscreen and the indexing and classification (as Victim or State Actor) of each name within. Images disappeared from the indexing queue as completed.

The quality control table could also be used to check for indexing errors, with a separate table available as well for making corrections. Eventually all three project staff members were engaged in indexing full-time, with the aforementioned additional staff members brought in to assist with indexing quality control. The indexing and quality control period lasted approximately one year and two months. A manual index of approximately 87,000 unique names, comprising nearly 300,000 occurrences, was compiled, with each name classified as a Victim or State Actor.

Judge Barbour's order established a disclosure process and time frame whereby the public could assert their privacy rights by requesting copies of records, reviewing them, and then, depending on their status, requesting that their name and/or identifying information be redacted from records, requesting that their personal file (if extant) be sealed, or submitting rebuttal information. Although the Judge established a time frame for this procedure, he acknowledged that he expected there would be further appeals which would delay the implementation.

The privacy plaintiffs appealed the 1994 ruling. In June 1996, the 5th Circuit Court upheld the Judge's ruling and in November 1996, the U.S. Supreme Court denied a further

appeal. With all avenues of appeal exhausted, the Judge's disclosure process timetable went into effect.

In January 1997, in accordance with the court order, MDAH ran advertisements in USA Today, New York Times, Wall Street Journal, and all Mississippi daily newspapers. MDAH mailed questionnaires to the nearly 1000 people who responded to the ads. 700 completed questionnaires were returned within the specified time. Based on the identifying information provided in the questionnaires, nearly 360 of these individuals were located in the files and mailed copies of the salient documents. This mailing amounted to roughly 25,000 pages.

Judge Barbour's order required that MDAH redact the names of other respondents from the printed documents mailed to respondents. The system has the ability to attach an unlimited number of rectangular overlays to a name and to activate and deactivate as needed to redact the name and identifying information. When activated, the redactions appear as black boxes on the image.

Upon reviewing their records, the majority of individuals chose full disclosure. However, 42 individuals chose some kind of privacy option and to date their privacy requests are still being adjudicated by Judge Barbour. In addition, the status of the records of three deceased individuals who initiated an inquiry and then died before the process was completed, remains to be decided. In January 1998, Judge Barbour ruled that all non-contested records should be opened to the public.

Judge Barbour eventually set March 17, 1998, as the date for release of all records with exception of those containing the names of individuals still awaiting the Judge's decision in their cases. To that end, project staff created a new set of compact discs with each block of data run through a purge program to remove the contested images completely. Approximately 7700 pages remain sealed. Names of contested individuals were removed from the index.

The public access system in the library Search Room originally consisted of a second server, server monitor, hub, ups, two seven-slot LanRedi compact disc towers containing a total of thirteen discs, three workstations and two printers, one of which was moved from the project room. The system has since been scaled back to two workstations and one printer. The thirteenth disc is partially filled and contains images remaining on the network drive after creation of the twelfth disc.

The Sovereignty Commission files may be searched by name of individual or by file title. Users can select a name and pull up all documents in which that name was indexed or pull up a file and go through it page by page. There is no redaction present in this version. The contested images simply do not exist in this version.

The entire staff of the Archives Library Division, as well as the Department's Public Relations Office, put forth quite an effort to prepare for the opening of the files in March 1998. The Official Records Section compiled procedures and instructions for assisting system users and for handling mail requests, and worked to prepare the reference staff to help meet the anticipated demand.

The opening day was indeed a media event, with over seventy-five press representatives on the scene. Public response was heavy for three or four weeks following the opening and then steady for the next two or three months, both in the Search Room and through the mail. As long as demand necessitated, users were required to sign up for one-hour time slots and a standby list was maintained for those desiring to wait for a spot. Printed copies of the name

index and file title lists were also made available in the Search Room beginning on March 17.

According to Archives and Library Division statistics, between March 17 and March 31, approximately twenty-five people per day used the three workstations in the Search Room. Many more people came in to check the printed indexes or to ask questions about the records. Also during this two week period, the reference staff received 175 telephone inquiries about the records, over 300 name search requests were received through the mail, and 3900 pages of information were printed by users. Activity has since gradually slowed. During the month of April the number of written requests for name searches dropped to 200, then to 56 in May, 49 in June, and 37 in July.

MDAH is presently awaiting a decision by Judge Barbour on the documents that remain sealed. Once the public access status of these documents has been determined, an additional public version (or versions) will be released as instructed by Judge Barbour.