An analysis of Title VI of the *Civil Rights Act of 1964*: Integration statistics for higher education

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Methodology

My interest in Federal government reporting of integration statistics stems from a reference question posed by a graduating college student who had done some preliminary work on diaries and journals of African American women who attended Duke during the civil rights era. She wanted data on how many African Americans attended traditionally white institutions (TWIs) of higher education for the period stretching from the 1950’s through the 1970’s. I quickly discovered that such information is very difficult to find, particularly in mainstream government sources. I was able to locate some sources for her; most were published by private organizations.

I was surprised that statistics on minority attendance in traditionally white colleges were not readily available in government documents. The U.S. Government collects all sorts of data, including racial data on the postsecondary population. However, this data is reported primarily by state, by type of institution (public, private, 2-year, 4-year), by major, by degree given, etc. This topic, then became the focus of my term project.

The project consisted of primarily two parts: 1) understanding where and how data on minority participation in higher education is collected and reported in government documents 2) understanding the background and context of civil rights as it played out in the Federal government, and how my focus fit in this larger picture. For part, 1 searched for what I began to call integration statistics in a variety of sources: in Dialog in both the ERIC and Monthly Catalog databases, in GPO on Silver Platter, in WorldCAT (OCLC), in Lexis-Nexis Statistical Universe and in the printed MoCat for years prior to 1976. Here I used terms such as race/racial/minority/ race relations/race
problems/statistics as well as compound terms aimed at finding data on TWIs or HBCUs (historically black colleges and universities). I also used the ASI (American Statistics Index) using the term “higher education”. “Discrimination in education” also provided access to relevant documents. Searching the ASI confirmed what I had garnered from my previous searches: most documents on desegregation focused on elementary and secondary public education; many documents on civil rights and race do not provide the kinds of statistics I was looking for. Unfortunately, I accessed ASI after I searched the above sources. Clearly, using the ASI would have been a more efficient and methodical place to start.

The process of determining relevancy involved eyeballing a lot of documents, in microfiche, electronic and paper format. I also attempted to do a fairly methodical review of both the Statistical abstracts of the United States and the Digest of education statistics, two mainstream statistical reporting series published by the Federal government. Although I did review Office of Education reports on the school population prior to the passing of the Civil Rights Act of 1964, for the purposes of this paper I limited my more thorough search to the period following 1964. The findings in this paper merely indicate the kinds of government publications that report integration statistics.

The second part of the paper required a less focused approach. I read a variety of sources, many of which do not appear in this paper (on the numerous Supreme Court rulings; the role played by the Justice Department, the history of the Department of Education, etc.). These readings were essential for my understanding of the topic. Using the printed MoCat to identify possibly relevant documents proved difficult; there are too many documents listed under civil rights and race and I was overwhelmed. However, perusing these lists I began to identify the stakeholders involved: the Commission on Civil Rights, the Office for Civil Rights, the Office of Education (HEW) and the Education Department. I realized that understanding the dynamics between these agencies was key. I
began to understand that Title VI of the Civil Rights Act of 1964 bound these agencies together and dictated the dynamics between them. I also began to understand that because of Title VI, statistics on the race and ethnicity of students (primary, secondary and postsecondary) were required; that these statistics were meant to help the government determine and monitor compliance. This provided focus, and helped me understand why racial statistics were collected, how often they were collected and who the stakeholders were in this process.

Reading scholarly monographs and monographs from advocacy groups (such as the Southern Education Foundation) on the topic proved fruitful, providing background and many leads. Relevant leads were followed up by finding the mentioned document. Here the MoCat was essential for identifying the sudoc number enabling me to locate documents on the stacks or in the fiche cabinet. Most of my focus for this paper centered on documents from the following agencies: Health, Education and Welfare, the Department of Education and the Commission on Civil Rights. I looked for documents from the time period starting with the passing of the 1964 Civil Rights Act. I looked at Federal documents only. I found browsing very productive, particularly browsing the cards in Alex's catalog for the section on the Commission on Civil Rights; I also browsed the CR shelves at Drew and Alex (these collections are manageable enough to permit browsing). Again, I focused my reading on the period following the passing of the 1964 Civil Rights Act.

This project proved difficult. Civil rights and the 1964 Civil Rights Act are complicated and involved topics. It was easy to lose focus, become sidetracked, become discouraged with the enormity of the topic. I now know a great deal more about civil rights than I did when I started. I also understand that there is much more to learn. I am grateful for having the chance to improve my understanding of civil rights. This project has also given me insights into the difficulty of using government documents for academic research. Government information is overwhelming in quantity,
often dull to read, and by nature compartmentalized and bureaucratic; agencies usually operate within their own narrow agendas or mandates. Thus, one must have a critical eye when reading government material. Knowing the stakeholders (agencies) involved with particular issues is key to finding relevant sources.

The main criticism I have on my research process is that it did not follow a straight line. I wish I had started with the ASI; I would have saved time, and probably would have been able to eyeball, and find, more relevant documents then I did. Clearly, more work can be done in this regard. Another criticism is that I am sure my results will seem obvious to scholars in the field. I also wish I had the time and the skills to play with the data results in the more recent IPEDS surveys. But despite these misgivings, my conviction remains; integration statistics should not be difficult to find. Efforts to cull out that kind of information on a regular basis should be made, and data on integration should be reported in a meaningful manner. I found little evidence that the Federal government is committed to providing this service. I found this disappointing; obfuscating such information only complicates further the already complex discussion of discrimination, race relations and civil rights.
The 1787 Constitution prohibited Congress from abolishing or restricting the slave trade until 1808, mandated that slaves count as three-fifths of a person for purposes of representation in the House and stipulated that runaway slaves be returned to owners, all without mentioning the word "slave", "slavery" or "Negro" (Twenty years after Brown, 1974, p. 8 and Ellis, J. 2000, p. 84). Joseph Ellis calls the 1787 Constitution "a prudent exercise in ambiguity", neither sanctioning slavery south of the Potomac nor providing for gradual emancipation. (Ellis, p. 93). This ambiguity, he argues, reflected the divisive nature of slavery for the founders of the nation along regional lines; 653,910 out of a total of 694,280 slaves at the time resided in the seven Southern and border states. Virginia alone accounted for nearly 300,000 slaves. In South Carolina, nearly 50% of the total population were slaves (from the 1790 Census, reported in Ellis, p. 102).

Ellis further argues the founders feared the slavery issue would split the young nation, and thus when Quakers revived the issue in the 1790 Congress, members agreed to a compromise that became the basis for future common law: "The Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulation therein, which humanity and true policy may require." (excerpt from the final report of the House, as quoted in Ellis, p. 117-18). The inability, or lack of will, on the part of the federal government to resolve the conflict inherent in a nation of free men owning slaves made the Civil War inevitable, concludes Ellis (ibid., p. 88).

The causes of the Civil War are complex, however, James McPherson argues that the expansion of slavery westward provided a major catalyst for the final conflict as Southerners looked to establish plantation systems in new territories west of the Mississippi. Contrary to what many of the founding brothers had hoped, slavery did not die on its own accord but rather flourished during
the first half of the nineteenth century. The slave population grew exponentially to nearly 4 million by 1860. 90% of slaves lived in the Southern Atlantic states of Virginia, North Carolina, South Carolina and Georgia. Slavery was on the decline in the Middle Atlantic states of Pennsylvania, New Jersey and New York, and practically non existent in New England (*Twenty years after Brown*, p. 8). The plantation system which slavery supported became the economic mainstay of the south, particularly with the rising profitability of cotton. Northerners, proponents of free labor and the small farm system, feared the expansion of slavery and the plantation system would overrun the new territories, and thereby come to dominate the country. This, coupled with a shifting balance of economic power due to advances in transportation, education and industry in the North heightened the already growing political tensions between the two regions of the country. (*McPherson, J., 1988*).

The Union victory over Southern secession and the Emancipation Proclamation did not resolve the issue of race in America, only slavery. At the end of the Civil War, freedmen had no social, educational or economic support system, and most importantly, no land of their own, nothing but their freedom and their labor. In his reworking of the Reconstruction era, Eric Foner details the numerous attempts by “Radical Republicans”, abolitionists and blacks themselves (both freedmen and formerly free Blacks), to establish such a system: the redistribution of confiscated Southern land, the establishment of credit organizations and the creation of schools for freedmen. He likewise elaborates how Southern local and state legislatures implemented labor contracts, vagrancy laws and literacy tests in an attempt to limit migration and tie freedmen to their former plantations as well as deprive them of political representation. (*Foner, E., 1988*).

An organizing theme of Eric Foner’s book is that the “sweeping redefinition” inherent in emancipation, the 13th, 14th and 15th Amendments, the Civil Rights Acts of 1866 and 1875, the creation of the short-lived Freedman’s Bureau and the activism of blacks and whites alike in the early
years of Reconstruction produced "a violent reaction that ultimately destroyed much, but by no means all, of what had been accomplished" (ibid. p. xxv). As Foner makes clear, the "free labor and egalitarian precepts at the heart of Reconstruction policy" failed, resulting in a "disenfranchised" African American class of "dependent laborers"; the demise of Reconstruction, he argues, "facilitated racism" which by the early twentieth century, "had become more deeply embedded in the nation's culture and politics than at any time since the beginning of the antislavery crusade and perhaps in our entire history" (ibid. pp. 603-4, my italics).

An enduring legacy of Reconstruction's failure was segregation. In 1883, the Supreme Court ruled the 1875 Civil Rights Act, which prohibited discrimination on the basis of color by railroads, restaurants, theaters, church organizations, etc., unconstitutional. Nothing in the 14th Amendment, they argued, prohibited "one citizen from discriminating against another citizen" (quoted in Twenty years after Brown, p. 13). The 1896 Plessy v. Ferguson ruling further bolstered segregation, when it ruled against the plaintiff Plessy and upheld an 1890 Louisiana law that required railroads to provide separate accommodations for blacks. Wording from the ruling is illustrative: "If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane" (as quoted in Twenty years after Brown, p. 4 and pp. 12-15.). Plessy quickly became the basis for legalized segregation in schools and other institutions. (Orfield, G. 1999, p. 10). Thus, with the Plessy decision was born the "separate but equal" doctrine that dominated American society in the first half of the 20th century.

At the time of the 1954 landmark Brown v. Board of Education Topeka ruling, "school segregation was required, or expressly permitted, by law" in the Southern and border states, while in Northern, Midwestern and Western cities, "local policies" "fostered" segregation (Southern school desegregation, 1966-67. 1967, p. 1 and Orfield, p. 10). After more than twenty years of legal efforts
(Ending discrimination in higher education, 1974 pp. 1-2 and Statistical summary, 1961) the Supreme Court’s favorable decision for Brown and for plaintiffs in four similar cases (from South Carolina, Virginia, Delaware and the District of Columbia) finally reversed the legal underpinning of the “separate but equal” ruling of Plessy. With reference to the 14th Amendment Chief Justice Warren argued that “separate educational facilities are inherently unequal” and ruled segregated schools unconstitutional (as quoted in Twenty years after brown. 1977, p. 6. Also pp. 1-6).

The Brown decision did not, however, result in desegregated schools. In 1955, only 159 of a total of 10,569 school districts in the 17 Southern and border states were desegregated. A year before the passing of the Civil Rights Act of 1964, the figure had risen to only 980, well below 10% of the region’s school districts. (Statistical abstract of the United States, 1964, p. 125. The source for this table is the Southern Education Reporting Service: Southern school news - A statistical summary...Nov. 1963). The statistics for higher education were equally bleak. Within the 17 Southern and border states, only 152 of the region’s 285 colleges of universities were desegregated; in Mississippi all 25 of the state’s higher education institutions were segregated, as were all 6 of South Carolina’s institutions (Statistical summary, 1961, pp. 3, 25 & 33). In part due to the promise of the Brown decision, the 50’s and 60’s was characterized by political activism, demonstrations and legal activity, often spearheaded by the Legal Defense Fund of the NAACP, the organization which successfully prosecuted the Brown case. (Ending discrimination in higher education, pp. 1-5 and Twenty years after Brown, pp. 1-29).

By the middle of the 20th century, the Federal government found itself involved in race relations issues once again. A series of Presidential Executive Orders had desegregated the Armed Forces in the 1940’s and 50’s. A limited Civil Rights Act, aimed primarily at eliminating discrimination in employment, passed in 1957. The 1957 Act also established the Civil Rights
Division of the Department of Justice. With all three branches of the Federal government actively committed to civil rights for minorities, and with political activism rising, civil rights came of age in the 1960’s (The federal civil rights enforcement effort. Summary. 1971, pp. iii-v). Despite fierce objections and amid much public and Congressional discussion, The Civil Rights Act of 1964 passed, becoming law on July 2, 1964. (The 5 page list of entries under “Civil Rights” in the 1964 Index of the Congressional Record illustrates the level of Congressional interest in the bill, Pt. 19, pp. 116-121.) H.R. 7152, (PL 88-352, 78 Stat. 241, CFR Title 34 pt. 100-110.39) was the “most comprehensive civil rights legislation since the days of Reconstruction” (Federal civil rights enforcement effort, 1970, p. 550):

To enforce the Constitutional right to vote, to confer jurisdiction upon the District Courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect Constitutional rights in education, to establish a community relations service for 4 years the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment opportunity, and for other purposes. (78 Stat. p. 241)

Title VI of the 1964 Civil Rights Act was concerned with the issue of enforcement, in many ways the heart of the Act. It is the shortest segment of P.L. 88-352, five paragraphs and five sections. Its focus is not discrimination by individuals, but rather discrimination by institutions, programs and agencies that receive and administer Federal funds for beneficiaries. Title VI, along with Title IV, which addresses public education, advocates the elimination of discrimination in all levels of education, both public and private. The main thrust of Title VI is encapsulated in the following:

Sec. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (ibid. p. 252)
Sec. 602 requires that compliance to section 601 be effected by 1) "the termination of our refusal to grant or to continue assistance under such program....2) by any other means authorized by law" (with provisions) (ibid. pp. 252-53).

According to 1966 compliance guidelines, compliance reports were seen as an integral part of the process of determining compliance by recipients of federal assistance (Civil rights under federal programs, 1966, p. 11 and Compliance officer's manual, 1966, p. 7). Starting in 1967-68, the Office of Education, located within the Department of Health, Education and Welfare, in collaboration with the Office for Civil Rights (OCR), a newly created office within the HEW, required racial/ethnic data on enrollment from all public educational institutions and those private ones receiving federal assistance. The Primary and Secondary Civil Rights Survey was sent to elementary and secondary school. The Higher Education General Information Survey (HEGIS) comprised the postsecondary part of the Title VI compliance review process. (HEW and Title VI, ibid. pp 27-28 and An introduction to IPEDS, 1999). The intention of both surveys was to identify non-compliant public and private institutions (those which received federal assistance). The data obtained from these surveys was primarily used in-house to negotiate and monitor compliance. Based on preliminary analysis, 19 states, primarily in the South and border states were deemed Title VI non-compliant in higher education soon after the passing the Civil Rights Act of 1964: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia (Miles to go, 1998).

HEGIS surveys were sent to public and private colleges and universities on a biennial basis starting in 1968. The 1970 compliance reporting form consisted of a single page requesting racial ethnic data for full time students (American Indian, Negro, Oriental, Spanish Surnamed, All Other
Students, Total All Students), the level of educational attainment (two years, four years, Masters, Ph.D. and others) as well as the identifying data of the institution (Racial and ethnic enrollment data, 1970. Instruction Sheet for Compliance Report, p. 207-08). During the 1970’s, the raw data collected from these surveys was released in paper format. In the paper format, each responding school is identified by name and is grouped by state alphabetically. For each institution, minority enrollment is specified as an actual number and is also expressed as a percentage of the total student population (Racial and ethnic enrollment data, 1970, 1974 and 1976)

According to OCLC records, starting in 1982, raw data from HEGIS surveys was recorded on computer tapes. In 1986, HEGIS was incorporated into the newly developed IPEDS, the Integrated Postsecondary Education Data System. The survey became the responsibility of the Center for Statistics. “IPEDS was initiated to address technical problems with HEGIS...while simultaneously satisfying the various statutory requirements specified in laws or through regulations” which included “Title VI of the Civil Rights Act of 1964 (34, CFR 100.13)” (Integrated postsecondary education data system, final report, 1999, p. 12 and p. 39). In 1990, a category of “race unknown” was introduced into the survey. In 1997, the Office for Management and Budget issued new standards for reporting racial and ethnic data, similar to those of the 2000 Census (ibid. p. 26) Data from the 1997 survey is available online in Zip files, accompanied by a 16-page “Survey Methodology and User Guidelines”. The data is coded and can be manipulated with appropriate software. Throughout, Title VI Compliance reporting has remained an integral part of the data collection process at the Department of Education. The 1996 Commission on Civil Rights report on Federal Title VI Enforcement singles out the DOE as an “excellent example of civil rights data collection and analysis”, finding it “superior to that of other Federal agencies”. In particular, the Commission praises “the Elementary and Secondary Civil Rights Survey” (Federal Title VI enforcement, 1996, p. 216).
Data collected from the HEGIS and IPEDS surveys is available "for a variety of users, including institutional researchers, policymakers at various levels, the business community, parents and students. Federal and state governments and institutions have used the data for compliance reports..." According to the 1999 Final report of the IPEDS, the data is accessed by the media and the public alike (Integrated postsecondary education data system. pp. 12-13). Thus the IPEDS fulfills the mandate of the National Center for Education Statistics: "collect, and analyze, and disseminate statistics and other data related to education" (Trends in racial/ethnic enrollment, 1990, p. ii)

The commitment to the collection of racial/ethnic data stemming from Title VI compliance of the 1964 Civil Rights Act has been consistent, on both the elementary, secondary and postsecondary level. Today, more data than ever is being collected on the school age population in the United States. Yet, I find the reporting of certain kind of racial/ethnic data inadequate in government documents: the reporting of integration statistics.

The usefulness of statistics on integration was understood early on by the Commission on Civil Rights, as evidenced by the following discussion on "percentage standards" (quotas):

The single most substantial indication as to whether a free choice plan is actually working to eliminate the dual school structure is the extent to which Negro or other minority group students have in fact transferred from segregated schools. (quoted in Southern school desegregation, p. 13).

The tables included in Southern school desegregation are even more illustrative. In 1966, 22.9% of the total school population in the 11 Southern states were African American children; the 22.9% represents an expression of African American participation in education. However, the above statistic does not express the actual "dual system" or education (segregation) existing at the time. In reality, 83.1% of all African American children attended schools in the South which were 100% black; only 8.3% of the total black student population attended predominantly white schools (comprised of
between 0% to 20% African American); the remainder of the black student population (or 9.6%) attended schools which were between 20%-99.9% African American (ibid., p. 103). Integration statistics reflect the underlying reality of race relations; without integration statistics, the context is lost.

Government documents reporting of integration statistics can be found. The *Southern school desegregation* (1966) and *Equality of educational opportunity* (1966- the “Coleman Report”) provide two such examples. Both were published in the second half of the 1960's, when desegregation was the primary focus of the Commission on Civil Rights. Statistics reflecting integration in elementary and secondary public schools are published sporadically in the *Digest of education statistics*: in the 1974 edition on page 153, with data from *Fall 1972 racial and ethnic enrollment in public elementary and secondary schools*; in the 1977-78 edition, the same table can be found on page 92; in the 1999 and 2000 editions, from data collected from the Common Core of Data (p. 117 and p. 119 respectively). Similar data is available in various editions of the *Statistical abstracts of the United States*: in 1964 on page 122, compiled from the Southern Education Reporting Service; in 1970 on page 118 from data compiled from a Health, Education and Welfare news release; in 1975 on page 128, from data provided by the Office for Civil Rights; in 1985 on page 139 from data compiled from the *Elementary and Secondary Schools Civil Rights Survey*.

Data on integration in higher education, however, is mostly absent in mainstream Federal government publications. Integration statistics reflecting minority enrollment in traditionally white institutions (TWIs) are not culled out and reported in either the *Digest of education statistics* or the *Statistical abstract*. In longitudinal studies such as *Trends in racial/ethnic enrollment* and in serial reports like the *Fall enrollment in higher education*, data on race/ethnicity is reported by state, by type of institution (2-year, 4-year, etc.), by degree and by major field; this data does not reflect either

Data on HBCUs is available in both \textit{Statistical abstracts} and the \textit{Digest of education statistics}. Interestingly, since 1991 the \textit{Digest of education} has reported the participation of non-African American students at HBCUs, thereby tracking integration in these colleges and universities. \textit{(Digest of education statistics, 1991, p. 215, ibid., 2001, p. 266}. The data source for this table are from the HEGIS and IPEDS surveys). Studies on integration in higher education can be also be found among the ERIC collection (Gail, T., 1979 and Hill, S.T. Gail cites \textit{Racial and ethnic enrollment data from institutions of higher education}. Hill relies on data from the HEGIS surveys). These types of publications are published sporadically.

Interestingly, where racial/ethnic data on higher education is reported in mainstream statistical sources it is often misleading. For example, table No. 228 reports “Enrollment in Institutions of Higher Education - Total and specified Minority Groups, by Geographic Division: 1966-1970” in the 1975 \textit{Statistical abstract}. “Negro enrollment” is reported by region. The East South Central and South Atlantic sections of the country (Southern states) have the highest percentage of African American enrollment, at 15% and 13.9% respectively. These statistics indicate a higher than national average participation of African American in postsecondary education in these regions. (The national average is reported as 6.9%, with New England at 6.9%, the Middle Atlantic states at 2.8%, the Mountain region at only 1.5%). However, these figures do not take into account the reality that the majority of African American students enrolled in postsecondary education in the South during this period attended one of the over 100 HBCUs located within these states (for background on HBCUs see \textit{White House initiative on historically black colleges and universities, 2002}, and \textit{Historically}}

Any discussion of minority participation in higher education, particularly in the Southern states, should take into account the role played by HBCUs. In 1953, 75,000 African Americans were enrolled in private and public HBCUs. In 1991, the figure was 228,000 (Historically black colleges & universities, pp. 1-8). In 1999-2000, HBCU’s still matriculated 22% of all African American students in four-year colleges. HBCUs constitute only 2% of the nation’s 4,182 institutions of higher education (White House initiative, ibid. p. 9). Data that does not reflect this reality, does not adequately convey the demographics of integration in higher education. The Southern Education Foundation echoed this very concern in 1974:

The logical starting point for any examination of race in education is the statistical base, and the inadequacy of the basic information currently available is an indication that racial issues still are unresolved. ...It is likewise hard to make comparisons between predominantly-white and formerly all-black institutions on such matters...” (Ending discrimination in higher education, p. 11).

Some of the most comprehensive demographics on integration in higher education are produced by private groups. During the 1960’s the Southern Education Reporting Service (SERS, and its successor the Race Relations Information Center: SERS/RRIC closed in 1974) produced extensive statistics on integration in southern elementary, secondary and postsecondary public schools (Statistical summary, 1961). Prior to the SERS reports, the Negro Handbook provided information on integration in higher education, particularly during the 1940’s (as reported in the Historical statistics on black America, 1995, vol. 1. Pp. 582-587). The Southern Education Foundation (created in 1937, the SEF traces its history back 130 years) produces some of the best surveys and reports on integration at both TWIs and HBCUs, again among the Southern states: Ending discrimination in
higher education, 1974; Redeeming the American promise, 1995 (as noted in Williams, Appendix, pp. 188-194) and Miles to go, 1998. The Southern Education Foundation relies upon a variety of data sources and analyses to produce their detailed tables on integration statistics in Miles to go, an excellent historical and legal overview of the civil rights negotiations in the original 19 non-compliant states. These sources include OCR data, individual institutions, individual researchers and analysts and the United Negro College Fund (Miles to go, ibid. p. ix). In addition to the data sources mentioned above, individual states publish integration statistics: “Opening fall enrollments of South Carolina colleges and universities by race, Fall, 1998”, (2000) and the “Enrollment, Maryland colleges and universities, 1995, by institution, race, and sex (1998). Today, most colleges and universities readily provide racial and ethnic data on enrollment.

Why has the Federal government shown so little leadership in reporting integration statistics for higher education? Certainly, the raw data for such analysis and reporting is available, compiled in the HEGIS and IPEDS surveys. Perhaps an answer to this question can be gleaned from the 1973 report by the U.S. Commission on Civil Rights: Collection and use of racial and ethnic data in federal assistance programs. This fascinating 90-page document considers the various troublesome aspects of collecting racial data faced by the six Federal agencies it reviews, including inadequate collection methods, privacy issues, possible misuse of data, possible illegality of collecting racial/ethnic data and more. The overwhelming concern of the document, however, is the lack of focus regarding analyzing the data. “Even more significant, however, is the fact that there has been no instruction indicating what should be measured with the data collected” (Collection and use, 1973, p. 8). The document goes on to note that focus has been “primarily on the collection, rather than the use of racial and ethnic data” (ibid., p. 9). The document concludes that leadership on the issue is sorely lacking and calls on the OMB to provide guidelines for the use of racial/ethnic data (ibid., p. 88).
The promise of the Civil Rights Act of 1964 was electric. Just how much of the promise has been fulfilled is questionable. As the above discussion indicates, the Title VI compliance process has not resulted in a comprehensive and clear understanding of the demographics of desegregation in higher education, despite the wealth of racial data collected in the HEGIS and IPEDS surveys. This finding is consistent with negative assessment of Title VI in general, as expressed by the U.S. Commission on Civil Rights, scholars and advocacy groups alike (see bibliography for an abbreviated list of relevant monographs and articles). As early as 1970, the Commission on Civil Rights concluded that "Measured by a realistic standard of results, progress in ending inequity has been disappointing...The Federal civil rights effort has been inadequate to redeem fully the promise of true "equal protection of the laws" for all Americans. As a result, many minority members are losing faith in the Federal Government’s will and capacity to protect their rights" (Federal civil rights enforcement effort, 1970, ibid. p. xvi-xvii).

The 1996 report of the Commission on Civil Rights is even more pessimistic in its tone:

The research and field investigations conducted for this report establish that Federal Title VI enforcement effectively has been dormant. The Department of Justice has neglected its responsibility...with few exceptions, the Federal agencies responsible for Title VI enforcement also have disregarded Title VI enforcement...both their own implementation, compliance, and enforcement responsibilities over their recipients and subrecipients, and their oversight and monitoring obligations over State primary recipients that administer and operate federally assisted programs....The findings that resulted from this evaluation indicate that Title VI enforcement has been neglected....that no matter what interpretation various political officials have adopted in the 1970s and beyond, enforcement was neglected (ibid. Letter of transmittal and statement of Chairperson Mary Frances Berry and Vice Chairperson Cruz Reynolds. ibid. p. 676).

That Title VI failed in its mission can hardly be debated. The mandate and scope of Title VI was enormous when it was proposed: the elimination of discrimination in all federally funded activities and organizations (Civil rights, 1966, p. 7). As Federal government and Federal aid has
grown, so has the task of those agencies responsible for Title VI enforcement. The first report issued by the Commission on Civil Rights on Title VI list over 400 programs (with sub-programs) which fall under Title VI purview, at an estimated cost in 1969 to exceed $20 million, "a threefold increase in the past decade" (Civil rights under federal programs. An analysis of Title VI of the Civil Rights Act of 1964. 1968, pp. 1-3). According to the 1996 report, the scope of Title VI has greatly increased: 27 federal agencies, which administer 1,000 programs to the tune of $900 billion in Federal assistance. Federal agencies whose programs fall under the enforcement of Title VI today include: Education, Agriculture, Interior, Housing and Urban Development, Labor, the E.P.A., the S.B.A., and Transportation (Federal Title VI enforcement to ensure nondiscrimination in federally assisted programs. 1996 Executive Summary pp. 1-21).

Furthermore, discrimination compliance now applies to all minorities, not just African Americans. Title IX of the Education Amendment of 1972 and section 504 in the Rehabilitation Act of 1973 and Americans with Disabilities Act of 1990 have extended compliance rules to women and the disabled, while the Age Discrimination Act of 1975 is aimed at preventing discrimination based on age (ibid. p. 18). Yet, while the civil rights responsibilities of Federal agencies have increased enormously, the funding for those agencies responsible for eliminating discrimination has not. For example, in 1981, the Civil Rights budget in the Department of Education (the first year for which DOEd kept these statistics) was $46,915,000. Thirteen years later the budget increased to only $56,570,000. Meanwhile, staffing of DOEd civil rights personnel has decreased; 1,099 were on the staff in 1981, falling to 821 in 1994. (ibid. p. 190).

Despite the criticisms leveled against the Title VI of the Civil Rights Act of 1964 by the Commission, scholars and advocacy groups, the Act remains a singularly significant piece of legislation, aimed at nothing less than the reversal of 80 years of institutionalized racism. The Act
was extremely controversial when it became law. American Independent Party presidential candidate George Wallace, an outspoken supporter of segregation, garnered the most support ever for a third party since World War II in 1968, with the majority of his support coming from states in the South and Texas (The encyclopedia of third parties in America, 2000, Vol. 1, p. 105, Map 1).

Clearly, we live in a different country today then we did 40 years ago. Issues raised as a result of Title VI enforcement have irrevocably changed the national discussion on race and equality: busing, quotas and affirmative action, particularly as articulated in the “Revised Criteria” issued by the OCR in 1978 (“Revised criteria” Federal Register, vol. 43 pp. 6658-6664). Key legal decisions serve to keep the civil rights debate at the forefront of the national conscious (for excellent discussions on these and other legal decisions see Williams, Miles to go, and Pruitt, A ed.1987). That debate is ongoing; the Supreme Court recently took up the issue of affirmative action after a 24 year hiatus: the case involving Barbara Grutter and the University of Michigan. (Star Ledger, Dec. 3, 2002. Sec 1. P. 3 column 1).

The finding of this paper, the paucity of integration statistics for higher education in mainstream Federal government publications, is merely a small part of the complex discussion on civil rights. It seems ironic that confusion concerning basic demographic information on integration remains, 40 years after the passing of the most significant civil rights legislation of the 20th century. However, I believe this finding is illustrative of the Federal government’s checkered history of legislating race relations, beginning with the ambiguity on slavery in the 1789 Constitution and the 1790 Congressional decision to relegate the issue to individual states.
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“To enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States, to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.” (PL 88-352, 2 July 1964), *United States Statutes at Large* 78, pp. 241-268


U.S. Commission on Civil Rights. (1973). *To know or not to know. Collection and use of racial


