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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 3, 1981

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Ken Kareen, John Chenoweth, Representative Jack Fuller, Lois Jund, John Pugh, Cherie Shelley, Bill Huston, James Fisher, (alternate for Commissioner William Hudson) and Senator Bill Ray present. Myrt Charney, Senator Dick Eliason, and Greg O'Claray were absent. Also present were Roger Thayer, Robert Mourant, Darlene Livermore, and Dorothy Whitney.

Senator Ray opened the meeting by asking for public testimony. The first to testify was Niel Thomas, Director of the Alaska State Commission on Human Rights. Mr. Thomas addressed the question of how the number of employment discrimination complaints against the state compares with the number of complaints filed against private employers. He indicated that the information requested by the Blue Ribbon Commission was similar to the material that the Human Rights Commission developed recently at the request of the U. S. Civil Rights Commission. He distributed copies of a computer printout entitled "Total Statistics by Region", dated 10/17/81, R01-GGU-0001. Based on the information on the printout and handwritten information he had added to the sheet, he reported that of the 410 cases presently pending before the Human Rights Commission, 75 are cases involving the State of Alaska, which is 18.3% of the total. He added that the 18% could be misleading, since of the 75 cases involving the state, 24 of them raise one issue, which is now pending at the public hearing state. That issue is the state's classification of public health nurses when compared with physician's assistants. Treating those 24 cases as a single case, which he indicated gives a fairer representation of the situation, the proportion of cases filed with the Human Rights Commission against the state is 13.4%.

Mr. Thomas continued explaining the handwritten numbers on the printout. Of the 3172 employment cases filed with the Human Rights Commission since the beginning of 1975 or open on January 1, 1975, 321 have been cases against the state. Two years ago the Alaska Advisory Committee to the U. S. Civil Rights Commission requested similar information. As of August, 1978, the total number of cases filed was 2162, of which 200 involved the state as the employer. The percentage of the total then was 9.3% and now is 10.1%. He added that the statistics would seem to indicate that the Human Rights Commission is getting something of an upturn in business from the State of Alaska, but that he did not know whether a statistician would consider the increase significant.

When the Human Rights Commission was preparing information for the U. S. Civil Rights Commission, they asked the Department of Labor what proportion of the total nonfarm workers in the state were employed

by state government. The answer was 8 or 9%. Therefore, in 1978, the state employed 8 or 9% of the workforce and was being complained of in 9% of the employment discrimination cases filed with the Human Rights Commission. Mr. Thomas indicated that he did not know whether the proportion of the workforce employed in state government had increased since 1978. If it hasn't, then it would appear that the Human Rights Commission is getting more business from the state than before. Mr. Thomas added that he was providing additional computer printouts to the Blue Ribbon Commission which together represent all of the cases (employment, housing and everything else) filed against the state since 1975.

In answer to a question from Senator Ray, Mr. Thomas stated that of all the discrimination cases filed, about 50% allege race discrimination. He added that he did not have that percentage figured on the cases specifically filed against the state as an employer.

Mr. Thomas continued, addressing the question of what is discrimination. People customarily know that it's discrimination when someone is consciously out to get somebody saying, "I'm not going to hire this person because she is a female and women should not be doing this kind of work" or "we don't want minorities doing this work." This is overt discrimination and is only a small proportion of the cases which involve agencies or wind up in the courts. The majority of discrimination cases arise because a system of rules or a customary way of doing things works out to the detriment of a certain group of people. For example, suppose you believe that to be an effective police officer you need to be an imposing figure who commands respect. You therefore say that police officers must be over 6'6". The last thing that enters your mind is the effect of that rule, which would be to completely exclude women and to exclude most Asian people and most Alaska Natives, except possibly the Indian population. When you discover this unintentional result, you have to review the situation and come up with an alternative which still serves the legitimate purpose of the rule (hiring quality people) but which doesn't have that discriminatory effect.

One of the problems in dealing with discrimination questions is how to get data. Mr. Thomas continued using the example of the tall trooper. Suppose statistics for the Department of Public Safety as a whole indicate that 40% of the workforce is female. You might therefore conclude that the department is not liable to be sued in sex discrimination cases because women are well-represented in its workforce. However, perhaps if you had data by divisions within the department, you would discover that in hiring troopers there is a problem because there are no women. You also need that data by geography, in order to answer whether there is a problem in hiring in a particular office or location. Another kind of data which Mr. Thomas indicated it is extremely important to have is applicant flow data. It shows what happens to the applications as they are processed. In the tall trooper example, for instance, it might reveal that half the people who applied to be troopers are women but that none of those applications get past the review for height

qualifications. Therefore, it would show that Public Safety did not need to increase its recruitment efforts but should reexamine the minimum qualifications for the position.

It is also useful to have availability data, which shows the numbers of people available for or interested in a particular type of work. You need that information when setting goals and percentages for each job-type. Without it, they are extremely difficult to set, and involve a certain amount of guesswork. Mr. Thomas indicated that Chuck LaViege, the counterpart to the Director of EEO in the state, has asked the Department of Labor for information to more fully develop figures on availability data. He urged the Blue Ribbon Commission to encourage the development of better population and availability data.

In answer to a question from Roger Thayer, Mr. Thomas indicated that the information provided in the computer printouts on employment discrimination against the state would indicate the types of employment discrimination: whether they arose in hiring practices, promotional practices or other situations. Senator Ray thanked Mr. Thomas for his testimony.

Dove Kull addressed the commission. She indicated that she was representing herself only, although she was a member of the Alaska Advisory Committee to the U. S. Civil Rights Commission and had represented the state at the annual planning and budget meeting. She indicated that, having lived longer than most others in the room, she had seen many changes, and noted that in 1980, the Ku Klux Klan rode for the first time in 75 years, and in the State of Connecticut, not in the South. She recently visited relatives in Mississippi and was amazed and a little frightened at the unleashing of old attitudes and beliefs. She noted that of President Reagan's appointments as reported in a June 18th document, 10% were women (38 out of 375), 4% were Hispanics (14) and 4% were Blacks (13).

She added that as a result of work she had done in the Aleutian Chain, she felt that people there were neglected and isolated. They have something to contribute. She felt that there was discrimination against dark-skinned people and pointed to the situation in the cannery workers union. Stereotyping limits the opportunities for women, too. Although she had heard one boss say that women cannot lift heavy objects, women do so all the time when raising children. She also felt that the canneries did not provide adequate day care.

Senator Ray asked for further public testimony. Florencio Q. Pax replied that he would prefer to testify in the afternoon. There was no other response.

The commission turned to consideration of the "Prisoner Profile Study" from the Division of Corrections, Department of Health & Social Services. Senator Ray asked Bill Huston to introduce it. Mr. Huston indicated that the profile is based on 100% of the prisoners of the State of Alaska on August 19, 1981. The purpose was to determine the

kind of long-term facilities needed by the state and what kind of prisoners would be in prison when it opened in 1985. He reviewed the information gathered which indicates that 37% of the state's prisoners are between the ages of 20 and 24; that the highest percentage have a high school diploma and many have completed some college coursework. In 1967 the Criminal Justice Commission indicated that the average educational background for the nation's prisoners was between 8 and 9 years. The average at the correctional institution in Juneau is over 13. In addition, the average educational background of state prisoners housed with the Federal Bureau of Prisons (FBP) is even higher. Caucasians represent 54% of the state's prisoners, 9% are Black, 12% and 32% are Alaska Native, which includes American Indian (12%), Eskimo (18%) and Aleut (2%). This is twice as high as their representation in the general population, which is about 16%. Most prisoners had lived in the state at least three years before committing the crime for which they were incarcerated.

The largest category of prisoners is sentenced for a Class A felony (49%). Presumptive sentencing does not appear to have had an impact yet on the population statistics. Mr. Huston didn't expect that to show up for another few years. (Under presumptive sentencing, for the second or third felony conviction a person must serve the time sentenced, rather than being released on parole early.)

Of the crime classes, 62% of all felonies were considered violent offenses. However, that category was not defined to include property and sex offenses, so the percentage would increase where crimes in those categories which were committed with violence included. Of the state prisoners who are considered to have committed violent offenses, 43% are presently housed under the jurisdiction of the Federal Bureau of Prisons, and will be returning to the state as the FBP decreases its housing of state prisoners.

Bethel had the highest percentage of crimes in the villages. Mr. Huston suggested that this was probably because it is the hub of the Kuskokwim area which covers 85,000 square miles, with 56 villages and between 26,000 and 30,000 people.

He indicated that the report also addresses the current custody classification (maximum, close, medium or minimum) of the prison population, and rule infractions. It indicates that 150 prisoners out of the total population commit the majority of the infractions. He offered to provide Commission members with a tour of the facility if any were interested.

Mr. Huston discussed the Administrative Council which was set up at Lemon Creek following some unrest among the population. He indicated that he structured it differently from similar councils found elsewhere to insure representation from the whole population. He required that the prisoners write by-laws, but limited the topics which could be considered at the council to those matters which were not covered in the

regulations, administrative law, departmental regulations, or in the Alaska Statutes. The council was to discuss the welfare of the community where they were at. It met about four times and then the members of the council lost interest.

In conclusion, Mr. Huston stated that there is no doubt that the state will need a new facility in 1985, and that close custody inmates will make up the majority of its population. There will also need to be provisions in the facility for some maximum custody prisoners. A discussion of parole followed.

John Pugh pointed out that while 32% of the prison population is Alaska Native, they make up only 16-17% of the total state population. He indicated that there is a new prison facility which will open in Nome in two years, and that there are a number of Alaska Natives willing to work in it. The state should be encouraged to train and provide employment opportunities for them. Representative Fuller added that attitudes in the Bush are changing. One of the best things that has happened in that regard is the Village Safety Office program. Instead of sending in a trooper or having the school teacher serve as authority figure, the program enables villagers to take responsibility for themselves in these matters. Mr. Huston indicated that cultural traditions could make it more difficult for Native people to be as aggressive as is required in correctional work.

Mr. Pugh suggested that with the reduction in federal money, and particularly federal money to Native corporations, there needs to be an increase in training programs to develop opportunities for state employment. Senator Ray pointed out that contracting with Native Corporations for services may provide a bridge between the cultures. Representative Fuller added that contracting would provide a mechanism for training in both the skills required and in cultural differences. Mr. Pugh pointed out that it would be an advantage to the state to train local individuals to fill positions in rural Alaska, since there is a large turnover in people brought in from outside to fill those positions. Often rural Alaskans don't know of employment opportunities and therefore don't apply.

The commission turned to a discussion of the difference between a pure merit system of employment and implementing affirmative action plans. James Fisher said that affirmative action plans permit a temporary variance of the merit selection system to overcome past difficulties. Lois Jund pointed out that although the commission hearings were extensively advertised few people had appeared to testify. Many people were probably afraid to come forward. She suggested that more people might speak out if the meeting were held on a weekend or if people were invited to provide written testimony and assured that the commission would hold their identities confidential. She cited figures from page 36 of the 1979 Human Rights Commission report which show that 18% of the state's minority employees held jobs classified as range 15 or above in April 1978 which rose to 22.8% in January of 1980, while 44% of the state's white employees held positions range 15 or above positions in April 1978, and 44.5% did in January, 1980. Similarly, in 1978, 18% of

the state's female employees were in positions at range 15 or above, which increased to 20.6% in 1980. During these same periods, 74.8% of the state's male employees were in jobs classified as range 15 or above in 1978, while in 1980, 75.1% were.

Darlene Livermore pointed out that any complaint about discrimination is difficult to keep secret, since to resolve it, the Human Rights Commission must discuss it with the employer. Mr. Huston added that the Blue Ribbon Commission should consider a Saturday meeting, since any employee wishing to appear would be conspicuous in his or her absence from work otherwise.

Senator Ray asked members whether they had ever received confidential inquiries because of their participation in the commission. Lynda McCurry indicated that several women have spoken with her about being considered but not hired for promotional opportunities. Typically, they were within the top five on the register for the positions involved, and the individual selected was lower on the register than they were. It appears that there may be an "old boys" network, but it is difficult to resolve whether there is discrimination or not.

Mr. Huston suggested that the commission consider recommending a review of departmental and divisional registers to discover criteria which might unintentionally operate to discriminate. Many policies have existed since statehood without anyone questioning them.

Mr. Thayer explained, in answer to another question, that each annual personnel evaluation of a supervisory state employee is supposed to contain a rating on how well that employee is carrying out the department's affirmative action plan. However, he has never seen anyone comment in writing about that factor. Mr. Fisher commented that the Division of EEO is working with the departments on their affirmative action plans. Most have only been in effect for one year. They are presently being revised. The division is also putting out a package of information to encourage affirmative action committees in the departments to use the teleconference network to supplement their meetings, to enhance awareness and for training. He added that he senses a momentum in the EEO division, which was established in the fall of 1978. He hoped it would continue to encourage cooperative activities, to help with preparing the affirmative action plans, with training, and with increasing the awareness within state government.

Lois Jund asked whether the state has a positive recruitment program to help minority persons get on the registers, to encourage them to apply for positions and to advise them of what might be available. Ken Kareen answered that the Division of Personnel has no real outreach recruitment of any kind. The departments do whatever is done. The division does respond to requests for participation in public programs more often if it appears that the audience will be composed of women or minority group members.

John Pugh pointed out one positive note in that area. The Nome Youth Center will be opening in December. The Department of Health

and Social Services with the cooperation of the Division of Personnel recruited extensively to encourage residents in Nome to get on the register. Instead of the usual practice of scoring the tests first and then holding oral exams, they took all of the applicants through the orals and then gave the written exams. However, this kind of change from the normal way of handling applications needs to be planned for well in advance. The department began seven or eight months prior to the time that they knew the facility would be opened. The Division of Personnel has become much more willing in the last few years to work with the departments, despite being inundated with general applications for employment. He suggested that the commission recommend to the departments that to work with the Division of Personnel to come up with creative solutions to the problem of getting minorities on the registers.

Roger Thayer added that most villages now have cable TV. The Department of Transportation uses those scanners to provide information about job openings. Lynda McCurry added that additional resources are available through the Job Service Offices of the Department of Labor.

The commission recessed at 11:55 p.m.

Senator Ray reconvened the meeting at 1:35 p.m. and asked for public testimony.

Florencio Q. Pax addressed the commission. He indicated that he was born in the Philippines and was educated under an American educational system, graduating with an accounting major and later passing the Philippine bar examination. He worked for the government as a quasi-judicial hearing officer for six years and had also worked for 23 years in the accounting field. He served during World War II with American forces in the Philippines but chose not to come to the United States at the end of the war. He recently immigrated to the United States because his wife's family had moved here. He introduced Mrs. Pax to the commission.

Mr. Pax told the commission that Aaron Isaac suggested to him that he apply for the position of the director of the Division of Equal Employment Opportunity. However, Mr. Pax had never seen the vacancy advertised. Senator Ray asked James Fisher, the new director of that division, to let Mr. Pax know why there had been no advertising. Mr. Pax also indicated that he had been a finalist for the Executive Director of the Anchorage Equal Rights Commission. Although he was not finally selected for the post, he did not quarrel with that. However, he was also a finalist for the position of Affirmative Action Officer for the University of Alaska, Juneau. Another finalist for that position told him that the person finally selected was less qualified than she was, and suggested that Mr. Pax should take steps to challenge the appointment.

Mr. Pax indicated that he had reviewed the United States Constitution, and the constitutional provision of the State of Alaska as well as the State Personnel Act, various civil rights provisions, Executive Orders and the equal employment opportunity provisions in the Code of Federal Regulations. He said that he felt that there are adequate provisions of law in this area and that the problem lies in the effective

implementation of those provisions. He suggested that there should be a continuing educational process so that the goals can be effectively met.

On the question of why individuals do not come forward to testify at hearings such as the present one, Mr. Pax suggested that there are a number of reasons. First, there is fear of reprisal. Also, others had suggested to Mr. Pax that individuals do not come before a group composed of white persons to complain about the actions of a white supervisor because they believe that they will not be successful. Mr. Pax added that he does not share this belief. Mrs. Pax also suggested to him that it might be helpful to educate people about the importance of the subject, to encourage them to speak out.

Mr. Pax stated that he has been placed on three registers with the state: executive director of Wage and Hour Officer, as a loan examiner and as a regulations specialist. There were a number of job classes for which he was found not to qualify because the Division of Personnel did not consider his education in the Philippines to satisfy the requirement of graduation from an accredited college or university. Mr. Pax stated that his education had been in the American system and that he is familiar with the curriculum in accounting at the University of Alaska and it is practically the same as the education he received in the Philippines. He also was not credited with his 23 years work experience in the field.

Mr. Pax advised the commission that he and his wife participated in a one-month orientation program when they were first hired by the Seattle Public School District. All persons newly hired were required to take the course which provided information on cultural and ethnic backgrounds as well as topics such as effective communications, office skills, first aid and transportation. He reported that there has been a decision by the U.S. District Court in Oklahoma declaring that a Filipino accent could not be grounds for firing an employee. The case was Karinio (?) vs. University of Oklahoma.

Mr. Pax suggested that there should be separate affirmative action goals for women and for minority persons, and that hiring women should not satisfy the goal for employment of minority persons. He added that he opposes reverse discrimination against whites. In order to meet EEO goals, Mr. Pax suggested that the recruitment system should be computerized to monitor applicants and employees so that it is possible to follow an individual through the application process into the employment history. It should show, for example, whether advanced training for an employee was appropriate and whether he was eligible for promotion. He added that a supervisor should be dutybound to recommend training for a woman or minority person who is qualified for it in order to encourage the promotion of these protected classes.

Mr. Pax concluded his testimony by offering to assist the commission in any capacity, whether as a volunteer or as an employee. Senator Ray thanked him for his testimony and asked whether any commission

members wished to ask questions.

In answer to a question from Lois Jund, Mr. Pax indicated that he believed that minority persons might be more likely to bring their problems to the commission if its membership included minority persons or if there were an intake officer who was a minority person. As an example of what he was suggesting, he pointed out that the Anchorage Equal Rights Commission is composed of nine members, with representation from whites, blacks, Native Alaskans, the Filipino community, and Chicanos or those of Spanish origin, and contains both male and female members.

Verneelia Randall addressed the commission. She has worked for the state for four years, first as a Public Health Nurse and now as the Maternal Child Nurse Coordinator. She is also chairperson for the Department of Health & Social Services EEO Committee. She addressed the commission as a private citizen.

In answer to why so few people chose to speak before the commission, she related reasons given to her by other state employees. These included questioning how many women and minorities would make up the membership on the commission, whether commission members would hold positions of power which could lead to real changes, and the fact that they would have to take annual leave in order to testify. Senator Ray advised Ms. Randall that it is not necessary for state employees to take annual leave to appear before the commission. He indicated that membership on the commission includes the Commissioner of Administration, the Director of the Division of Personnel, representatives of employee unions, the Ombudsman and public members in addition to legislators.

Ms. Randall said that there are two kinds of discriminatory problems, those created by societal habits and those which arise from individual discrimination. Societal problems develop from a system which has not been changed in 30 or 40 years and which have an inadvertent discriminatory effect. Once it is in place, the system tends to resist change, rather than being open to solving the problems which it creates. She gave as an example her own situation. She has a bachelor's degree, a masters, is working on a master's in public health and intends to pursue a Ph.D. in health policy and management. Even then, she will not be eligible for the position of health officer because she is not a doctor, a dentist or a veterinarian. Those requirements were created years ago and may have been appropriate for the position then, but the department has not reviewed them since, even though the health education field has changed significantly.

Ms. Randall criticized testing and experience ratings of applications and pointed out that they work against women and minorities. Tests are culturally based and test a person's ability to take tests more than ability for a job. Experience requirements work against those who have had less opportunity to work. Anyone can learn to take a test and can therefore pass a test. The opposite is also true. For example, until an instructor worked with her on test-taking, she nearly flunked out of nursing school, despite knowing the material thoroughly. After

learning how to take tests, she now does well on them. Because of these problems with tests and experience requirements, the registers work against people from different cultural backgrounds. If they appear at all, they are likely to be low on the registers.

Ms. Randall told the commission that the Governor had recently authorized a new register system in which the names of the top five applicants plus the names of the top five from a protected class are shown for those job classes in which women or minorities are underutilized. The problem with this approach is that it is voluntary. The recruiting agency should be required to hire from an affirmative action register for positions in underutilized job classes.

There is a second type of discrimination -- individual discrimination. It may be either conscious or subconscious. Ms. Randall stated that everyone is racist either consciously or subconsciously. Until we recognize that and work to change it, the implementation of any affirmative action policy will not happen on a regular, consistent basis.

Ms. Randall advised the commission of DHSS statistics on minority and women hires. She suggested that DHSS is one of the best departments because women and minority persons are most likely to be either nurses or social workers or office clerks, and DHSS hires a lot of all of those job classes. The figures are based on the department's EEO plan, which identifies the availability of minorities and women for state employment, as compared to the actual employment.

	<u>Female</u>	<u>Minority</u>
Availability of office clerks	79%	21.1%
Employment by the department	90.3%	17.8%
Availability of officials & administrators	44%	19.3%
Employment by the department	26.7%	11.3%

There is a significant difference between the available market and what is actually happening, even if the figures are off by 5%. Ms. Randall recommended that the state use computers to identify underutilized job classes. When a department requests a register in one of the identified classes, they should get an affirmative action register, whether they wanted it or not. A supervisor should have to justify not hiring a woman or minority person for a vacancy if any appeared on the register. The present system requires the supervisor to justify hiring from below the top five even when hiring for job classes in which minorities or women have been shown to be underutilized.

Ms. Randall acknowledged that this system would be reverse discrimination but pointed out that when you have a relay race and one team started the race 15 minutes after you did, then you cannot expect them to win the race unless you provide some catch-up time. In our society women and minorities began well after the race was underway, and only those minorities and women who are far above the exception even get into the running. You cannot have equal opportunity until society

provides women and minorities a chance to catch up.

Ms. Randall said that she had a personal concern for Alaska. It is unfair to group Alaska Natives with other minorities. Alaska is a state of immigration and many minorities who are highly qualified choose to come here. Statistics show that Native Alaskans, who were here first, get drowned out by blacks, Filipinos and Chicanos who immigrated. While 11.3% of the officials and administrators may be minority, 0% may be Alaska Native. Ms. Randall recommended that in underutilization figures, Alaska Natives should be broken out to insure that they have fair representation and that immigrants not be allowed to take the jobs that they would have had.

Ms. Randall shared another area of concern: that of upward mobility. One problem is the opportunity for training. DHSS provides individual training contracts for its employees. An employee can go to the agency and say "here's a course which relates to my job and will give me added skills and I want to take it." If the agency agrees, it will cover the costs provided the employee signs a contract to remain on the job for a specified length of time. Last year, DHSS had 85 such contracts. There are 71 officials and administrators in the department. Of those, 20% had individual training contracts, while only 4% of the office clerks (who number 421) had them. In answer to a question from Lois Jund, Ms. Randall indicated that she did not know how many applications had been filed for training. She did show that 79% of the officials went out-of-state for their training. None of the office clerks went out-of-state. It's the office clerks who need the training for promotional opportunities. To have affirmative action, the state has to provide opportunities for upward mobility. Therefore, training funds should be part of every budget and there should be some system to insure that a fair portion of those funds reach those on the bottom. If 60% of a department's workforce is classed as officer clerks, then 60% of those employees should be getting training.

Senator Ray pointed out that the legislative finance committees have been reluctant to pay for on-the-job training. The legislators feel that there are requirements which employees should meet before getting the job. The state should not have to pay for it. Therefore, a good share of the inservice training money gets cut from the budget. It's an area which has been abused and is still abused. Ms. Randall replied that it is short-sighted to cut training funds. Recruiting and orienting new employees is more expensive than training existing employees who have proven themselves to be loyal to the state and who will stay in the job for a longer time.

A second difficulty in providing upward mobility is that supervisors may discourage their employees from seeking promotions. If that attitude is to change, it must start at the top. She gave as an example her own promotion to her present position. Her supervisor discouraged her, saying that she wouldn't be able to do the work, and the position was vacant for a whole year.

Ms. Randall agreed with Mr. Pax's recommendations that goals for employment of women and minorities should not be grouped together. Women have different problems and circumstances from those of minorities. Problems women face arise in part from the traditional employment system which is based on the employment of men who could work knowing that their families would be cared for by their wives. That is no longer the case. Single parent families are now prevalent and two-working-parent families are a fact of life. Any employer, whether private or public, will have to recognize that the traditional system of hours of work, work days, and annual leave, was made up for the traditional family system. Day care is necessary for even two-parent working families. The employer should be responsive to that need, although the employee should expect to pay for the care provided. In addition, employers should be sensitive to the needs of working parents. For example, Ms. Randall suggested that women be allowed to take annual leave, sick leave, or leave without pay in order to breast feed children while working. This kind of small accommodation could make a family's life much easier and also free an employee to put more energy into the job.

In closing, Ms. Randall said that any program which is developed must have teeth in order to be effective, especially for those who are low on the pole.

Senator Ray asked whether Ms. Randall had been discriminated against in working for the state because she is a black. She replied that it is hard for a non-minority or a male to understand. It is not that there is clear discrimination, but little things happen. For example, when there is a question in her section, people who are above her will first go to the man who is under her and ask him. If he is not available, they will go to the white woman who is not even in her section and ask her. The end result is that those who have been asked come to Ms. Randall for the answer. Ms. Randall indicated that it is probably because of conscious or subconscious racism. In answer to another question, Ms. Randall indicated that whether the motivation is a personal, individual dislike or racism or sexism, the end result is the same. The cause does not matter. The end result for her as a woman and a black, is discrimination. Senator Ray thanked Ms. Randall for her testimony before the commission.

Brenda Randall-Sadek addressed the commission. She is an Accounting Clerk III for the Department of Transportation and has worked for the state for a year in December without promotion. She first spoke of applying for a position with the Juneau office of the Human Rights Commission. There was a vacancy for an entry level, trainee position which she saw advertised. It required a high school degree, and she has graduated from college. She applied, but received no response. The position was advertised two more times and each time she applied. Only after she went to the office did she receive a letter telling her that she was not qualified for the position.

In the time that she has worked for DOT, Ms. Randall-Sadek said that she has asked to take the state accounting course three times. Her requests have been both oral and in written memos. Although she

wrote that she intended to stay with the department and hoped to be promoted into a position which would require the knowledge the course offered, the only reply she received was written on the bottom of her memo saying "we do send people when we feel that it is related."

Ms. Randall-Sadek said that she had worked at three different clerk desks in the department. When she was in the research section, she learned that her supervisor planned to hire a Tech I. She was planning to leave that section and her supervisor did not want her to leave. He said she was a good worker and encouraged her to stay in the section. However, he did not hire her for the Tech I position, explaining that she was too low on the register. The person who was hired had worked for the department for less time than she had and was a white male. Ms. Randall-Sadek told the supervisor that Tech I's are under-utilized class and he could have hired her if he had wanted to. Furthermore, in her time with DOT she has seen them hold registers for people who they want to hire and justify hiring anyone they want regardless of where they were on the register.

In the time that she has been with DOT, Ms. Randall-Sadek said that the only other minorities she has seen are Filipinos. She asked several people how long they had worked for the department and found that the three or four white people who had been with the department from four to six years all were at the Tech III or Accounting I levels. She knows of two Filipinos who do excellent work and have been with the department for more than five years, but who are still at the Accounting Tech I level.

Ms. Randall-Sadek agreed with Verneelia Randall on the register system and test-taking. Test results depend on your abilities to take tests. However, she said that if that is the system the state is going to use, then they should stick by it, instead of waiting for the people they want to get on the register. Ms. McCurry added that as a personnel officer she calls the tactics Ms. Randall-Sadek mentioned "crafty techniques". All of them are legal. She suggested that the commission should zero in on these practices and fix them. She added that DOT could have called for departmental promotional lists to fill the Tech I position and that probably Ms. Randall-Sadek would have placed well on that register. A second thing at DOT could have done was use the Five-Plus-Five register and gone below the top five to select her. Ms. Randall-Sadek pointed out that DOT cannot use those registers because their EEO plan has not been accepted yet.

Mr. Thayer asked Ms. Randall-Sadek to provide him with copies of her requests to take the training course and added that it is the practice of DOT to use promotional registers. He indicated that he planned to do some checking on the situation.

Senator Ray asked whether Ms. Randall-Sadek's experiences resulted from discrimination against her because of her race or sex rather than being a situation where the supervisor was hiring a friend regardless of who the other people applying for the job were. She replied that the system seems to work most against the blacks and

Filipinos and Indians. Verneelia Randall added that when the system breaks down like this, then white people get caught in it but black people, Indians, Filipinos, minorities get caught in it more. The end result of the race is that since women and minorities are 15 minutes behind to begin with, then when 10 more minutes are added to everyone's time, it makes them 25 minutes behind.

Ms. Jund suggested that the situation might have been better handled if the state's policy were to always provide an EEO register for any vacancy in a job class where underutilization had been shown. The supervisor would have to justify not hiring from that register. This would put it in the proper perspective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to testify and that if anyone used an appearance in front of this commission to discriminate against a witness, that he wanted to know about it because the commission and the Governor would not tolerate that.

Mr. Pax suggested that the state should enforce laws which provide that the state as grantor to political subdivisions can withdraw funding from any grantee who violates anti-discrimination laws. Senator Ray said that he would ask the Legislative Affairs Legal Division to research the area to insure that the laws in effect were adequate.

Ms. Jund suggested that the commission propose legislative intent to insure that any training funds are used proportionately to categories of people to enhance upward mobility. Senator Ray replied that legislative intent is not enforceable and that the language could be put into a statute. He added that he expected that the departments would resist the suggestion. The commissioners would come before the legislative committee and say that where they really needed training funds is for the specialized classes.

Brenda Knapp, a planner with the Central Council of Tlingit-Haida Indian Tribes of Alaska addressed the commission. She indicated that the council would be submitting testimony in written form to the commission and that she wanted to share the introduction now.

Sealaska Advisory Committee to the United States Commission on Civil Rights produced a report and initiated a series of open meetings in the fall of 1978, including a meeting in Juneau on 11 September, 1978 and the findings of the Alaska Advisory Committee were published in July, 1980. To date, a great deal of effort has been made to correct and improve the employment representation of Alaska Natives and other minorities in state government. Reports have been filed, plans developed, responsibilities pinpointed, roles clarified, data systems implemented, policy expounded and the Blue Ribbon Commission established.

In April, 1978, Native people held 518 jobs in state government. This figure represented 5.4% of the total state government workforce. Today, November 3, 1981, 3-1/2 years later, according to figures just released by this commission, Native people hold 5.4% of jobs in

state government workforce. There has been a rise in actual numbers that went from 518 to 694, but the percent of the total state government jobs has not changed, 5.4%.

In other words, despite all of the talks, meetings, reports, plans, commissions, etc., which have taken place during the past 3-1/2 years, Native people in Alaska have not improved their representation in the workforce of state government. Although 16% of the state's population is Native, less than 6% of the jobs in state government are held by Native people. Most of these jobs are, as everyone knows, concentrated in the clerical, craft and paraprofessional categories. Very few professional and management positions are held by Native people. The underrepresentation and underutilization of Native people affects most job categories and departments of state government. In fact, in nine of the 15 departments of the Executive Branch of state government, the representation of Alaska Native people has declined between April '78 and September '81. Of the remaining six departments, four increased the representation that Native people by less than 1% over earlier figures. Two departments, Community & Regional Affairs and Natural Resources appear to have made substantial gains. But, we have no information as to what really resulted in these gains.

It would appear that the commitment so clearly stated in Administrative Order No. 59 as expressing the equal employment policy of the executive branch of state government needs to be more forcefully and imaginatively translated into action. The actions of the past 3-1/2 years have provided necessary and useful mechanisms to help state government recruit, select, hire, promote and retain minorities in state employment. The expanded certification policy is a particularly useful step in bringing qualified Native people to the attention of hiring departments. But we believe that what has been accomplished to date, represent only the first few steps in an overall plan that must produce results in numbers, rather than intentions.

Senator Ray asked Ms. Knapp whether she knew how many state jobs had been contracted out to Native Corporations. These positions would therefore no longer show up in state employment figures and would probably have been held largely by Native Alaskans. Therefore, the number of Native state employees would have decreased, although the number of employed Natives would not have. Ms. Knapp replied that she did not know. However, she pointed out that since the jobs are no longer part of any of the figures on state employment, that she did not consider them relevant to this question. Of the remaining positions, the state should have been able to do better than maintain 5.4% Alaska Natives over the last three years. Good intentions are not translating into action. She pointed out that many Native people were working under CETA positions and that these programs are being eliminated as a result of the current economic trend. These trainees are available for employment.

In answer to another question from Senator Ray, Ms. Knapp said that she did not know whether the number of Native Alaskans who are applying for state jobs has increased or decreased since 1978, but that there are a significant number of Native people who are now unemployed

and who would like to work. If their number has substantially decreased on state registers, then the important question is "why". Senator Ray agree and said that what the commission is trying to discover is whether there is a discriminatory attitude or whether there is some other problem. Ms. Knapp pointed out that the Native Corporations are able to find, recruit and employ qualified Native people. The state government should also be able to do that. She indicated that the written testimony which the council will provide will include specific recommendations on what the state might do to improve opportunities for Native Alaskans.

Senator Ray thanked Ms. Knapp for testifying.

Mary Lisack, Affirmative Action Officer for the University of Alaska, Juneau, addressed the commission. She reported that the University has been under a compliance review by the federal government since the early 1970's. If it does not show progress in affirmative action, it will lose its federal funding. The University's Affirmative Action Office is under top management rather than part of the personnel office. Her responsibility is to monitor and ensure compliance with affirmative actions plans and employment opportunities. One of the ways in which the University tries to eliminate discrimination is through ensuring that job qualifications are job related. The affirmative action officer has to approve all job qualifications for positions open at the University. The qualifications must be job related. For example, there is no reason that a secretary has to have graduated from high school to do the work. For a large portion of jobs, the qualifications are simply knowledge, skills and ability sufficient to perform the duties of the job. For example, if one of the duties is budgeting, the University will consider that handling a household budget demonstrates the person has the skill to handle that portion of the job.

The University maintains flow charts for every protected group person who applies for a job. The rejection of that person has to be justified on the flow chart. All hiring has to be approved by the Affirmative Action Officer to ensure that the selection process has not been discriminatory. According to the University Affirmative Action Plan, preference is given to members of protected groups wherever applicants are equally qualified.

This year for the first time, the University has funds for staff development. It has earmarked a portion of those funds for training for protected persons, in order to better attract, retain and promote them.

Ms. Lisack pointed out that you can't successfully force affirmative action on a hiring authority. Where a hiring authority, with the agreement of others in the office, has selected a non-protected person, the Affirmative Action Officer cannot require that a protected person be hired. The other employees in the office will say that the only reason for the hire was because of the person's race. The protected person will be made to feel extremely uncomfortable and will probably terminate early. Hiring authorities and co-workers need to be educated. The University does not hire unqualified people. But supervisors need to be trained in how to deal with these situations, how to work with the

people they supervise, how to train them to deal with cultural barriers that exist. One hiring authority complained to her about a minority person who had been hired, saying that she could not do the work. But that was not the problem. When Ms. Lisack went to the office at lunch, everyone went out together leaving the protected person sitting there. The hiring authority made no effort to correct the situation. Instead they said that the person could not function.

In answer to a question from Mr. Huston, Ms. Lisack explained that the University testing is done by reviewing written applications and then interviewing the applicants. They also give typing tests where production typing is required.

Senator Ray thanked Ms. Lisack for her testimony.

A woman in the audience asked about hiring the handicapped. She asked whether the statistics in the commission memos included handicapped in the "Other" category. Ms. Cramer replied that the memo was addressed only to the racial make-up of the state workforce.

Ms. Randall pointed out that there is a problem in getting handicapped state employees to speak out. She conducted a voluntary survey and asked handicapped employees to identify any concerns they had. Few of the questionnaires were returned, and most of those said that there were no problems. Ms. Randall indicated that she suspected that handicapped individuals have a harder time and are more reluctant to identify themselves. For example, if handicapped individuals are to work at their highest capacity, they should be provided with desks and other equipment which best meets their needs. Handicapped individuals are not seen in state employment, particularly where their employment would require a change in the office environment. Perhaps the commission should try to find out why they are not there.

Senator Ray pointed out that in all the time that the commission has been in existence, there has not been one complaint from anyone representing handicapped people. John Pugh added that the Governor's Special Commission on Hiring the Handicapped is a very active group and does a very good job addressing this problem. For the Blue Ribbon Commission to look at the area would be an unnecessary duplication. Ken Kareen pointed out that the Division of Vocational Rehabilitation has counselors who look for job opportunities for handicapped people, either with the state or with private employers. For a position with the state, the counselor can make the referral, the person can be hired as a provisional employee and after four months on the job they can be made permanent. Ms. Jund added that Vocational Rehabilitation also provides training. Another woman asked for a definition of handicapped and wondered why alcohol and drug abuse has been added to it. Mr. Fisher responded that they have been added. The Department of Natural Resources received an award from the Governor's Council for placement of 25 handicapped persons with 80% retention since January, 1981.

Senator Ray pointed out that the Constitution of the State of Alaska provides for a merit system. The state government is supposed to employ people according to their merits. Wages and fringe benefits are

attractice and many of the top class of workers in the state are applying for state jobs. The state should get the best employees they can for the money they spend. That's the way a merit system works. He added that those handicapped persons he has been associated with were the most accommodating people and the best workers. The supervisor will recognize the capabilities of the person and provide the equipment that they need.

The woman indicated that she still had a problem with the definition of handicapped. Mr. Kareen indicated that Vocational Rehabilitation uses federal guidelines because so much of their funding comes from the federal government. Senator Ray added that the legislature tried to prepare legislation to provide for free ferry rides for senior citizens and handicapped individuals, but the word "handicapped" was so hard to define to insure that it included those who should be included, but to exclude those not genuinely handicapped, that they had to give up. They have worked on the problem over the interim and developed another definition which will probably be closely examined next session.

Senator Ray asked the commission whether they wanted to hold an election for the vice chairman's seat. Mr. Huston moved that the matter be held over to a later date. The motion passed without objection.

Senator Ray adjourned the meeting at 4:20 p.m.

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Testimony of
FLORENCIO Q. PAX
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

With the permission of the Chairman and the honorable members of the Blue Ribbon Commission. At the outset I would like to express my sincere thanks for the opportunity extended by your humble letter of invitation from the Commission to express or articulate some problems which although I am new in town is also of concern for me and my family in which I think also would affect also the community in this area. So before I begin, Mr. Chairman, this representation is Florencio Q. Pax. My ethnic background is I was born in the Philippines, I was educated under a American educational system. I finished college as accounting as my major and later on I finished law of the Philippine bar examination and started practicing law since 1964. I served in the Philippine Government under various capacities as a quasi-judicial hearing officer for six years whose duties and functions are similar in some ways of that of the duties and functions of the Commissioner of Natural Resources here in the State of Alaska. I brought along with me my wife who doesn't look, probably, Filipino but looks more of an Indian. Mrs. Pax please stand up.

Senator Ray: Welcome.

Pax: And, four intelligent children, two boys and two girls, who are in the Juneau School District, my two boys are in the senior class 15 and 16 years old and two younger girls, that maybe

I also served under the United States Armed Forces during the Second World War, first as an ammunition carrier as a boy, the youngest probably that ever went to the firing line. And later on I was transferred to be an officers' messboy until the Japanese surrendered during the Second World War. And when the outfit disbanded in Manila I had to return home instead of coming over with some American officers who wanted to bring me over to the United States. So, it was farthest from my thought to come over to the United States as an immigrant. Maybe the reason why I came over was because my wife applied as an immigrant in 1969, she being the oldest daughter of an American citizen who was a Filipino but served in the United States Armed Forces and became a citizen immediately after the war. So my wife wanted to follow the brothers and sister over to the United States. Right now she is the only one who is not a citizen and that holds true with me and my four kids. So we have to establish the residence requirement before we could apply for citizenship as an American citizen. So, with that as a background, Mr. Chairman and members of the Commission, I would like to share with you and articulate before this Commission some observations

(Testimony of Florencio Q. Pax)

which I feel personally and in representation of the Filipinos in this area, and the other minorities and even women at that. Which I feel would some way alleviate or resolve some of the ticklish problems that are confronting our government and even in the private industry. So if I maybe permitted to search them out I would like to proceed.

Ray: Please do, please do.

Pax: My first inquiry before the commission which is an observation actually, is that I have learned that your EEO Director for the state resigned from his job, as the matter of fact, is now working for the Sealaska Corporation as an Assistant to the President. And jokingly, because we belong to the Juneau Lions Club, when he learned I was no longer working for the City and Borough of Juneau, as the contract compliance officer that prepared the minority and women business enterprise program which is this piece of work, your honor, he was teasing me that I should apply for that job. So I told him, they never published about the vacancy of the position which you vacated as EEO Director of the state. I am referring to Mr. Isaac, Aaron. So I said how can I apply that would give me an opportunity because the position opening is not published? I don't know if that position is still vacant up to now or not.

Ray: No, I don't believe it is. Jamie...

James Fisher: I'm James Fisher, the new Director of EEO.

Ray: You would like to have an explanation perhaps why that job wasn't advertised, is that correct?

Pax: Yes sir.

Ray: Mr. Fisher, would you like to give him an explanation?

Fisher: I don't know if I could give such an explanation, Senator. I might be able to answer him at a later date if I could check.

Ray: OK. Does anybody on the commission know why it wasn't advertised?

(no one indicated that they knew why)

Pax: I ask this, Mr. Senator and the members of the commission, because I just came from Anchorage, I was one of the finalists for the Executive Director position of the Anchorage Equal Rights Commission and I was not lucky to be extended the offer. It was offered to somebody else and I have no quarrel about that. I just recently competed as finalist for the position of Assistant to the Chancellor and affirmative action officer for the University of Alaska. So I was thinking that with my race, background, not only back in the Philippines but here in the United States, along affirmative action, that I would be very much qualified to be extended the offer but I learned from another candidate

(Testimony of Florencio Q. Pax)

finalist who informed me that she was better qualified than the one who was hired. So I asked her what are your qualifications, and here are my qualifications too, but I wasn't offered the job. So she was trying to insinuate that I should take the proper step to protect not only her rights but also my rights. So I would like to share these observations before this commission this afternoon.

When I came over to Juneau I was working for the Seattle Public School District with my wife, who is an educator by profession. Incidentally, aside from being a certificated teacher in the State of Washington, my wife is a certificated secondary home economics teacher and a guidance counselor here in the State of Alaska. The reason why I am bringing out this background is I will be driving at some problem areas along the recruitment procedures within the state which I feel should be synchronized in order to effectively cope up (?) with employing minorities, women, and even the Native Alaskans, which I observe was one of the problems that cropped up this morning.

I have gone over all the provisions of the United States Constitution, especially after listening to the Chairman that gives me ... American citizen that were admitted legally in court. I have read the constitutional provision of the State of Alaska and the various civil rights provisions, Executive Orders, equal employment opportunity provisions in the Code of Federal Regulations. I feel at this point, Mr. Chairman and members of the commission, that we have adequate provisions of law along the area of implementing equal employment opportunities to women and minorities and even Native Alaskans because there are specific laws that govern this area. I feel from an unbiased observation, honestly Mr. Chairman and members of the commission, that the problem lies in the honest, sincere, implementation of these provisions of law, whether it is the provision of the constitution, which after all was the very basic law under which all these Executive Orders and statutes both state and local have been promulgated or enacted by the distinguished senators and congressmen. So my view is there should be a more sincere and honest implementation of these provisions of the law. In other words, from the director, if I may say so, or the commissioner down to the supervisor, there should be a continuing educational process along these provisions of law in order that we can effectively meet the goals that is called for under these provisions of the law.

Because as I pointed out, and as was pointed out, there are so many reasons why so many silent complainants do not come before this body or before the superiors or the personnel officers for obvious reasons. First, as was mentioned out earlier this morning, for fear for reprisal. Second, which I would like to point out this is not my, my opinion but it is an opinion that I gathered from those who are actually working for the state as well as for the political subdivisions of the state whether it is the City and Borough of Juneau, Anchorage or Kodiak. One observation is why this minority for example not come and complain

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to the supervisors or to the Human Rights Commission is "Look, we complain against the supervisor who is white. It is going to be decided by a white panel or body. Where would we end up to?" I do not share that observation Mr. Chairman, because I honestly and sincerely believe in the American judicial and justice system in this country. But I want to correct that impression among, not only the ethnic tribes coming from the Philippines and the other Asian countries but even let's say the Natives, the Alaska Natives.

So right now, we are very lucky that my wife has been hired as a part-time, shall we say coordinator in adult education that would somehow bring some ideas to this less unfortunate brothers of ours who need to be enlightened so that maybe they can come, they will understand the rights and privileges and probably will respond to a call such as a public hearing like this. I overheard this morning that why is there a very few response to such a public hearing when it covers a very important subject to be discussed. And, my wife and I said, "Maybe one area we have to educate the people about the importance of the subject that this is supposed to be discussed during the public hearing", whether it is in aid of legislation or in aid of the hiring authorities in order they can better assimilate the minorities, the women, the handicapped, the aged so.

The other problem area is, if you have noticed in my brief resume Mr. Chairman, I have only been listed in three openings in the state and that is first as Executive Director of Wage and Hour. Second, that of being a loan examiner. In the last one where they give me a rating of 100 is regulations specialist. Now, quite from those openings Mr. Chairman, I applied for other various openings, like to be a purchasing agent, either to be stationed in Seattle or elsewhere in the state. I received a letter that I cannot qualify because I did not show evidence that I graduated from an accredited college or university. There are other positions opening like accounting where I practiced accounting for 23 years, and based on American accounting systems. I used American accounting books, auditing books, and English books and on. And even going at the subject matter in the University of Alaska the curriculum is practically the same as the curriculum where I graduated from the university. And I was told that I did not graduate from an accredited college. Yet I submitted the evidence of my having graduated in commerce and in law by submitting my official transcript of record.

So, I said there must be something wrong in the synchronization of the evaluation of one's qualifications whether it is the four-month training or the experience in the field. That is the reason why I requested Mr. Chairman this morning that I waive my rights this morning and discuss some matters with the distinguished Executive Director of Human Rights, so that we could see eye-to-eye where the problem is. And I feel Mr. Chairman that it would not be appropriate for me to be discussing some problems which are now pending before Human Rights Office or pending before the Courts because I honestly feel that that would be subjudice unless it is in aid of remedial legislation which Congress or the distinguished senator would want to sponsor or our good benefactor, Representative

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Fuller here, would like to introduce, in congress next session. But I feel that matters that are still subjudice, I'd rather discuss it in private if it will not in anyway prejudice the pending case.

So I would like to dwell more on these generalities if only to contribute my views and opinions and articulate some problems which I feel this commission should try to remedy or resolve one way or the other. If only to make this place a very wonderful place to live in where we expect with my family to live the rest of our lives. And to share our time, our talents in our free share (?) of good will. A reservior of giving our four-month training and work experience in any area of responsibility which we feel we could be of help, not only to the government, but also to the community.

I would like also to concur with some of the views expressed by the Chairman and those who testified this morning. In some of the problem areas like at this moment as I said, we are fortunate that Mrs. Pax has been hired even on a part-time basis although she is more directed to solve the alarming problems that may be cropping among the Filipino ethnic communities. I am still looking forward that her role will not be limited to just the Filipino ethnic tribes because I for one, I would want to work for the general public instead of just for the ethnic tribes or for women because I feel that we are supposed to be given the equal opportunities as provided for under the constitution. So if given the opportunity we would like to share some areas, problem areas and possible solutions whether it is in aid of legislation or in the amendment of the State Personnel Act, which I believe is the goal of this commission to improve or revise. I have gone over already the State Personnel Act once and to the best of my recollection we have a good personnel act, which is complimentary to the general constitutional provision in the Alaska Statutes and the executive orders promulgated together with that of the executive order of the Governor. But I feel like I said earlier that there should be an honest, and sincere implementation of these various acts from the executive down to the lowest supervisor.

The problems came up like evaluation. We were fortunate with my wife, that before we were hired by the Seattle Public School District, we were required to obtain a one month orientation of all new hiring on the background of cultural and ethnic background on various topics like effective communication, office skills, language skills (?) first aid, transportation. And before I forget, I know that you will notice I don't have the American accent or speak the Americans, I have and I must admit that I have, the Filipino accent although I look like a Chinese or a Japanese and my wife of course looks like an Indian, a Native Alaskan. Fortunately the U. S. District Court in Oklahoma declared that Filipino accent could not be grounds for firing personnel. That is decided by the court in the case of Karinio (?) vs. University of Oklahoma, affecting the Filipino (?) who served in the U.S. Navy for 20 years. When he retired he decided to look for a civilian job.

(Testimony of Florencio Q. Pax)

Now going to the aid of solving some of these ethnic or problems that are confronting the assimilation of minorities and even women, I would like to point out just one flaw. There seems to be a misunderstanding that when you employ women that solves the minority goal of hiring. I think that is superfluous or it is a misnomer. I think that is wrong. So when hiring goals are established in the implementation of equal employment opportunities, you should be specific as to what is the goal for the number of women that should be hired, what is the goal for minorities to be hired, whether it is Asians, Alaska Natives, Indians, or Chicanos or whatnot. So the hiring of women would not, (resolve ?) for the hiring of minorities, or vice versa. Or, as some others also say that is a reverse discrimination. Because the whites are being discriminated out. I will also come to the rescue of the whites in that respect. And if I see that the ... are being discriminated out and there is such thing as reverse discrimination, I will be the first one to come forward and champion the rights of these whites or women. So, that is one area where I feel that with the indulgence and patience of the members of the commission, should be looked into.

In finding a happy solution and still attain the EEO goals that is promulgated by the state or the office, as I understand we have an equal employment opportunity goal that is supposed to be followed by all departments. And I have observed that the comment there is underutilization of minorities and even women. So it always comes to my mind that there must be a solution, there must be something wrong maybe we have to regroup some system of recruitment. In one of the areas, as mentioned earlier, is the synchronization of the recruitment system where there seems to be a divergence of opinions or of those who are even waiting once qualifications whether it is four-month or the experience. So, with our computerized system I feel that the department should be monitoring the flow charts of applicants whether it is in the personnel division or in the various departments so one centralized agency that will, shall we say, synthesize all the qualifications of an applicant, whether he was hired whether he is still applying, or either he should be sent for advance training, whether it is to attend a seminar in order to assimilate him or her to ... promotion to break that possibility.

And I think that is one area where the women and minorities should be considered. To be qualified to be sent for training, a lady or a minority then I think it is the supervisor is dutybound to recommend that this lady or this minority should be sent to attend that type of seminar or training so that in the next possibility that the responsibilities open for a higher position then he or she may qualify for this higher position instead staying all the time at the bottom. And naturally they will not complain as I said from the very beginning because for fear of reprisal.

And sometimes it is the ... there is the reluctance to come over to this public hearing to share their views and opinions to the subject matter that impacts fact on the community. So, I think there is

(Testimony of Florencio Q. Pax)

more, you have all the press, you have the intersatellite system of sharing ones views and opinions, if your article probably doesn't come out in the paper then I think we should feel free to come to the distinguished Senator or to the representative and say Mr. ---

(Changed tape)

--- So, I would like to offer myself, whether it is voluntary or otherwise, Mr. Senator and the members of this commission. I volunteered once to speak before in front of this state capitol building, when there was a rally against the capital move. Fortunately or unfortunately I do not express any opinion for or against, Mr. Senator, because I said, I have some other suggestions, which I would like to share, in aid of legislation of solving the problem instead of going for the transfer of the capital or the retention of the capital. But I said this is not the proper forum for me to discuss the subject matter. If I am called upon to share these views, I will voluntarily and gladly come over whether it is before the Executive Branch, before the Legislative Branch, before the law department, or even in a commission hearing just like this. But I feel at this time, Mr. Senator and members of this commission, that I am going out of the subject matter that should be discussed in this public hearing.

Suffice to state, Mr. Senator and members of this commission, that because of the time constraint that I was notified to come over here in representation of the Filipino community, I did not prepare a well discoursed, well discussed subject matter that should be propounded before this commission. But I assure this commission, Mr. Chairman and members, that in any subject that impacts not only on the ethnic minorities or the women, but from other subjects which you feel this humble representation can share and experience along the line or area, whether it is in budgeting, financing, planning or otherwise, then I would be very glad to come and share my views and opinions and articulate some ideas which I feel would contribute to a solution of the problem that may be plaguing us in this community and even in the old country. Because I feel with my wife that it is our responsibility, that while we have the concomitant guarantee of equal employment opportunity, we also have that responsibility of sharing with you the burden of trying to rectify all these problems that is plaguing our community and country. So we are dutybound to come and speak up our views and opinions if we feel that it can in some way contribute although it is maybe a ... along the solutions of some problems, because we don't want to miss some drunkards for example on the way. Because that is one course of the rising cause of criminality or a drug addict, we will not want our children to be employed by the deteriorating morality that is existing within the community. We would like to share and bring the good qualities that were inculcated upon us also by American educators back in the country of origin from where we came. So that we will really feel happy that we are contributing to the responsibility that is called for from us even if we are not yet citizens because eventually whether we like it or not, I think we are qualified to become good citizens of this country in the true meaning of

(Testimony of Florencio Q. Pax)

the constitution and provisions of the U. S. Constitution and the Alaska State Constitution.

So again, thank you very much Mr. Chairman and members of the Blue Ribbon Commission for the opportunity you have given me and my wife to appear before this distinguished body. And I assure you that while my views and opinions are mine, at least I articulated some problems of some members of the minorities here and even the women and residents (?) that I have gotten in contact with and I hope that I have contributed my share in this responsibility. Thank you very much Mr. Chairman.

Ray: Thank you very much Mr. Pax. And on behalf of the commission and my personal thanks for your appearance. Do you have time for questions sir?

Pax: Yes sir.

Lois Jund: I was very interested in what you had to say. I had a couple of questions and a couple of comments. Now obviously, you are not intimidated by appearing before this commission because you are an attorney and you have been in public life, but how many, for example, of your own ethnic group who felt that there had been discrimination in state employment would come before this large body to voice their problems.

Pax: I would like to inform you ma'am and the members of this commission that I think in all honesty and sincerity with modesty, of all the Filipinos that came over to Alaska, my wife and myself are better prepared to undertake any responsibility in these areas. Yet, it is sad to say, I think we also have been discriminated against and I would not want to go farther because as I said, I cannot discuss cases that are pending before the courts or the Human Rights Commission.

Lois Jund: Would you feel, and I have no idea if it is even possible, that certainly we have women represented on this commission, but we really have no minority representation, would minority representation on this commission be a vehicle through which minority groups could bring their problems to this group.

Pax: Yes Ma'am. As a matter of fact I was going to point that out because one of the areas, the problem areas is for people who have complaints not coming to you, Ma'am, or the members of this commission, or to their supervisors, to voice out their problems or to the Human Rights Commission, as I said, for fear of reprisal. ... of that wrong notion that because you are complaining against the whites, and the panel that will hear your problems is white, that it will be decided in favor of the white. That is, to me that is wrong, but that is a notion that is being entertained by most minorities. Maybe one reason is they have not been exposed to the same exposure educationally work experience-wise the same way that me and my wife have been exposed to. So I feel that this is in aid of probably inviting these people to come and speak up their minds so that we can really help in solving these problems.

(Testimony of Florencio Q. Pax)

Like I will give you an example, a good example, the Anchorage Equal Rights Commission. I was surprised Ma'am, to find out that, I think, there are nine members of the commission, there are 2 whites, 1 male, 1 female; there are 2 Native Alaskans, 1 male and 1 female; there are two blacks, 1 male, 1 female; there is one Filipino, male; there is one representing the Chicanos or the Spanish origin: and that the Chairman, chairperson looks more of a half Asian and a half European, although I did not venture asking. But, I feel that with this representation, Ma'am, if the complainant is not willing to appear before the entire commission, such as the Anchorage Equal Rights Commission, or this Blue Ribbon Commission, if there is a minority whether he or she is a member of this commission or not, or is working under this commission, probably, I am using the word probably, this minority or woman who feels or thinks that this fellow is more sympathetic to their problem might come forward and bring out the problems before this employee or member of the commission. So whether he or she is a member of the commission or somebody working under this commission to be an intake employee or official to receive these complaints, I think it would aid this distinguished commission. And it is a proper step towards the receiving of at least this problem which should be resolved by this distinguished commission.

Jund: I have one more question but I don't want be the....

Ray: Perfectly all right.

Jund: The other question is I wanted to know, you talked about the orientation program of a month in Washington State. Was that only for the ethnic groups or for all new employees in state government?

Pax: It was for all new employees in the school district ma'am, that had to do with the implementation of the desegregation program. So, we were lucky to be mixed and share our views and opinions with black ladies and men, Chicanos, other Asians, to find out that even with this diversities at least we could come up with a happy solution of a problem that is plaguing the school district. So, I feel that with this orientation where we have not been exposed to, back home, because I don't think we have what you call this racial discrimination (that maybe we have our individual discriminative instincts, regionalistic discrimination but not on the basis of race, sex, age, religion, or color but on the region aspect).

But I can assure you Ma'am that as far as equal employment cases are concerned, we also have such cases back home. And that is where I also want to share some experience in handling these cases not only before the administrative agencies and commissions such as this, but even before the courts. So, with this I feel confident that I can be an asset in this community and not a liability. What is now plaguing us with my wife, she's partially employed and I am unemployed but I hate to be because I am willing to work, whether it is with my hands to hold a shovel or to be in an office or to be working with you people like this. I hate to be under unemployment compensation if I can avoid that.

(Testimony of Florencio Q. Pax)

I'd rather be sent to the street and hold a shovel and work even if I had been holding a responsible position as a key government official. Because I want to show and share the experience that we can still start from the bottom and still climb up the ladder. So even if we fall, we still know how to rise.

Jund: Thank you very much, Mr. Pax, I have no other questions.

Ray: Any other members of the commission have a question? Thank you Mr. Pax.

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Testimony of
FLORENCIO Q. PAX
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

With the permission of the Chairman and the honorable members of the Blue Ribbon Commission. At the outset I would like to express my sincere thanks for the opportunity extended by your humble letter of invitation from the Commission to express or articulate some problems which although I am new in town is also of concern for me and my family in which I think also would affect also the community in this area. So before I begin, Mr. Chairman, this representation is Florencio Q. Pax. My ethnic background is I was born in the Philippines, I was educated under a American educational system. I finished college as accounting as my major and later on I finished law of the Philippine bar examination and started practicing law since 1964. I served in the Philippine Government under various capacities as a quasi-judicial hearing officer for six years whose duties and functions are similar in some ways of that of the duties and functions of the Commissioner of Natural Resources here in the State of Alaska. I brought along with me my wife who doesn't look, probably, Filipino but looks more of an Indian. Mrs. Pax please stand up.

Senator Ray: Welcome.

Pax: And, four intelligent children, two boys and two girls, who are in the Juneau School District, my two boys are in the senior class 15 and 16 years old and two younger girls, that maybe

I also served under the United States Armed Forces during the Second World War, first as an ammunition carrier as a boy, the youngest probably that ever went to the firing line. And later on I was transferred to be an officers' messboy until the Japanese surrendered during the Second World War. And when the outfit disbanded in Manila I had to return home instead of coming over with some American officers who wanted to bring me over to the United States. So, it was farthest from my thought to come over to the United States as an immigrant. Maybe the reason why I came over was because my wife applied as an immigrant in 1969, she being the oldest daughter of an American citizen who was a Filipino but served in the United States Armed Forces and became a citizen immediately after the war. So my wife wanted to follow the brothers and sister over to the United States. Right now she is the only one who is not a citizen and that holds true with me and my four kids. So we have to establish the residence requirement before we could apply for citizenship as an American citizen. So, with that as a background, Mr. Chairman and members of the Commission, I would like to share with you and articulate before this Commission some observations

(Testimony of Florencio Q. Pax)

which I feel personally and in representation of the Filipinos in this area, and the other minorities and even women at that. Which I feel would some way alleviate or resolve some of the ticklish problems that are confronting our government and even in the private industry. So if I maybe permitted to search them out I would like to proceed.

Ray: Please do, please do.

Pax: My first inquiry before the commission which is an observation actually, is that I have learned that your EEO Director for the state resigned from his job, as the matter of fact, is now working for the Sealaska Corporation as an Assistant to the President. And jokingly, because we belong to the Juneau Lions Club, when he learned I was no longer working for the City and Borough of Juneau, as the contract compliance officer that prepared the minority and women business enterprise program which is this piece of work, your honor, he was teasing me that I should apply for that job. So I told him, they never published about the vacancy of the position which you vacated as EEO Director of the state. I am referring to Mr. Isaac, Aaron. So I said how can I apply that would give me an opportunity because the position opening is not published? I don't know if that position is still vacant up to now or not.

Ray: No, I don't believe it is. Jamie...

James Fisher: I'm James Fisher, the new Director of EEO.

Ray: You would like to have an explanation perhaps why that job wasn't advertised, is that correct?

Pax: Yes sir.

Ray: Mr. Fisher, would you like to give him an explanation?

Fisher: I don't know if I could give such an explanation, Senator. I might be able to answer him at a later date if I could check.

Ray: OK. Does anybody on the commission know why it wasn't advertised?

(no one indicated that they knew why)

Pax: I ask this, Mr. Senator and the members of the commission, because I just came from Anchorage, I was one of the finalists for the Executive Director position of the Anchorage Equal Rights Commission and I was not lucky to be extended the offer. It was offered to somebody else and I have no quarrel about that. I just recently competed as finalist for the position of Assistant to the Chancellor and affirmative action officer for the University of Alaska. So I was thinking that with my race, background, not only back in the Philippines but here in the United States, along affirmative action, that I would be very much qualified to be extended the offer but I learned from another candidate

(Testimony of Florencio Q. Pax)

finalist who informed me that she was better qualified than the one who was hired. So I asked her what are your qualifications, and here are my qualifications too, but I wasn't offered the job. So she was trying to insinuate that I should take the proper step to protect not only her rights but also my rights. So I would like to share these observations before this commission this afternoon.

When I came over to Juneau I was working for the Seattle Public School District with my wife, who is an educator by profession. Incidentally, aside from being a certificated teacher in the State of Washington, my wife is a certificated secondary home economics teacher and a guidance counselor here in the State of Alaska. The reason why I am bringing out this background is I will be driving at some problem areas along the recruitment procedures within the state which I feel should be synchronized in order to effectively cope up (?) with employing minorities, women, and even the Native Alaskans, which I observe was one of the problems that cropped up this morning.

I have gone over all the provisions of the United States Constitution, especially after listening to the Chairman that gives me ... American citizen that were admitted legally in court. I have read the constitutional provision of the State of Alaska and the various civil rights provisions, Executive Orders, equal employment opportunity provisions in the Code of Federal Regulations. I feel at this point, Mr. Chairman and members of the commission, that we have adequate provisions of law along the area of implementing equal employment opportunities to women and minorities and even Native Alaskans because there are specific laws that govern this area. I feel from an unbiased observation, honestly Mr. Chairman and members of the commission, that the problem lies in the honest, sincere, implementation of these provisions of law, whether it is the provision of the constitution, which after all was the very basic law under which all these Executive Orders and statutes both state and local have been promulgated or enacted by the distinguished senators and congressmen. So my view is there should be a more sincere and honest implementation of these provisions of the law. In other words, from the director, if I may say so, or the commissioner down to the supervisor, there should be a continuing educational process along these provisions of law in order that we can effectively meet the goals that is called for under these provisions of the law.

Because as I pointed out, and as was pointed out, there are so many reasons why so many silent complainants do not come before this body or before the superiors or the personnel officers for obvious reasons. First, as was mentioned out earlier this morning, for fear for reprisal. Second, which I would like to point out this is not my, my opinion but it is an opinion that I gathered from those who are actually working for the state as well as for the political subdivisions of the state whether it is the City and Borough of Juneau, Anchorage or Kodiak. One observation is why this minority for example not come and complain

(Testimony of Florencio Q. Pax)

to the supervisors or to the Human Rights Commission is "Look, we complain against the supervisor who is white. It is going to be decided by a white panel or body. Where would we end up to?" I do not share that observation Mr. Chairman, because I honestly and sincerely believe in the American judicial and justice system in this country. But I want to correct that impression among, not only the ethnic tribes coming from the Philippines and the other Asian countries but even let's say the Natives, the Alaska Natives.

So right now, we are very lucky that my wife has been hired as a part-time, shall we say coordinator in adult education that would somehow bring some ideas to this less unfortunate brothers of ours who need to be enlightened so that maybe they can come, they will understand the rights and privileges and probably will respond to a call such as a public hearing like this. I overheard this morning that why is there a very few response to such a public hearing when it covers a very important subject to be discussed. And, my wife and I said, "Maybe one area we have to educate the people about the importance of the subject that this is supposed to be discussed during the public hearing", whether it is in aid of legislation or in aid of the hiring authorities in order they can better assimilate the minorities, the women, the handicapped, the aged so.

The other problem area is, if you have noticed in my brief resume Mr. Chairman, I have only been listed in three openings in the state and that is first as Executive Director of Wage and Hour. Second, that of being a loan examiner. In the last one where they give me a rating of 100 is regulations specialist. Now, quite from those openings Mr. Chairman, I applied for other various openings, like to be a purchasing agent, either to be stationed in Seattle or elsewhere in the state. I received a letter that I cannot qualify because I did not show evidence that I graduated from an accredited college or university. There are other positions opening like accounting where I practiced accounting for 23 years, and based on American accounting systems. I used American accounting books, auditing books, and English books and on. And even going at the subject matter in the University of Alaska the curriculum is practically the same as the curriculum where I graduated from the university. And I was told that I did not graduate from an accredited college. Yet I submitted the evidence of my having graduated in commerce and in law by submitting my official transcript of record.

So, I said there must be something wrong in the synchronization of the evaluation of one's qualifications whether it is the four-month training or the experience in the field. That is the reason why I requested Mr. Chairman this morning that I waive my rights this morning and discuss some matters with the distinguished Executive Director of Human Rights, so that we could see eye-to-eye where the problem is. And I feel Mr. Chairman that it would not be appropriate for me to be discussing some problems which are now pending before Human Rights Office or pending before the Courts because I honestly feel that that would be subjudice unless it is in aid of remedial legislation which Congress or the distinguished senator would want to sponsor or our good benefactor, Representative

(Testimony of Florencio Q. Pax)

Fuller here, would like to introduce, in congress next session. But I feel that matters that are still subjudice, I'd rather discuss it in private if it will not in anyway prejudice the pending case.

So I would like to dwell more on these generalities if only to contribute my views and opinions and articulate some problems which I feel this commission should try to remedy or resolve one way or the other. If only to make this place a very wonderful place to live in where we expect with my family to live the rest of our lives. And to share our time, our talents in our free share (?) of good will. A reservior of giving our four-month training and work experience in any area of responsibility which we feel we could be of help, not only to the government, but also to the community.

I would like also to concur with some of the views expressed by the Chairman and those who testified this morning. In some of the problem areas like at this moment as I said, we are fortunate that Mrs. Pax has been hired even on a part-time basis although she is more directed to solve the alarming problems that may be cropping among the Filipino ethnic communities. I am still looking forward that her role will not be limited to just the Filipino ethnic tribes because I for one, I would want to work for the general public instead of just for the ethnic tribes or for women because I feel that we are supposed to be given the equal opportunities as provided for under the constitution. So if given the opportunity we would like to share some areas, problem areas and possible solutions whether it is in aid of legislation or in the amendment of the State Personnel Act, which I believe is the goal of this commission to improve or revise. I have gone over already the State Personnel Act once and to the best of my recollection we have a good personnel act, which is complimentary to the general constitutional provision in the Alaska Statutes and the executive orders promulgated together with that of the executive order of the Governor. But I feel like I said earlier that there should be an honest, and sincere implementation of these various acts from the executive down to the lowest supervisor.

The problems came up like evaluation. We were fortunate with my wife, that before we were hired by the Seattle Public School District, we were required to obtain a one month orientation of all new hiring on the background of cultural and ethnic background on various topics like effective communication, office skills, language skills (?) first aid, transportation. And before I forget, I know that you will notice I don't have the American accent or speak the Americans, I have and I must admit that I have, the Filipino accent although I look like a Chinese or a Japanese and my wife of course looks like an Indian, a Native Alaskan. Fortunately the U. S. District Court in Oklahoma declared that Filipino accent could not be grounds for firing personnel. That is decided by the court in the case of Karinio (?) vs. University of Oklahoma, affecting the Filipino (?) who served in the U.S. Navy for 20 years. When he retired he decided to look for a civilian job.

(Testimony of Florencio Q. Pax)

Now going to the aid of solving some of these ethnic or problems that are confronting the assimilation of minorities and even women, I would like to point out just one flaw. There seems to be a misunderstanding that when you employ women that solves the minority goal of hiring. I think that is superfluous or it is a misnomer. I think that is wrong. So when hiring goals are established in the implementation of equal employment opportunities, you should be specific as to what is the goal for the number of women that should be hired, what is the goal for minorities to be hired, whether it is Asians, Alaska Natives, Indians, or Chicanos or whatnot. So the hiring of women would not, (resolve ?) for the hiring of minorities, or vice versa. Or, as some others also say that is a reverse discrimination. Because the whites are being discriminated out. I will also come to the rescue of the whites in that respect. And if I see that the ... are being discriminated out and there is such thing as reverse discrimination, I will be the first one to come forward and champion the rights of these whites or women. So, that is one area where I feel that with the indulgence and patience of the members of the commission, should be looked into.

In finding a happy solution and still attain the EEO goals that is promulgated by the state or the office, as I understand we have an equal employment opportunity goal that is supposed to be followed by all departments. And I have observed that the comment there is under-utilization of minorities and even women. So it always comes to my mind that there must be a solution, there must be something wrong maybe we have to regroup some system of recruitment. In one of the areas, as mentioned earlier, is the synchronization of the recruitment system where there seems to be a divergence of opinions or of those who are even waiting once qualifications whether it is four-month or the experience. So, with our computerized system I feel that the department should be monitoring the flow charts of applicants whether it is in the personnel division or in the various departments so one centralized agency that will, shall we say, synthesize all the qualifications of an applicant, whether he was hired whether he is still applying, or either he should be sent for advance training, whether it is to attend a seminar in order to assimilate him or her to ... promotion to break that possibility.

And I think that is one area where the women and minorities should be considered. To be qualified to be sent for training, a lady or a minority then I think it is the supervisor is dutybound to recommend that this lady or this minority should be sent to attend that type of seminar or training so that in the next possibility that the responsibilities open for a higher position then he or she may qualify for this higher position instead staying all the time at the bottom. And naturally they will not complain as I said from the very beginning because for fear of reprisal.

And sometimes it is the ... there is the reluctance to come over to this public hearing to share their views and opinions to the subject matter that impacts fact on the community. So, I think there is

(Testimony of Florencio Q. Pax)

more, you have all the press, you have the intersatellite system of sharing ones views and opinions, if your article probably doesn't come out in the paper then I think we should feel free to come to the distinguished Senator or to the representative and say Mr. ---

(Changed tape)

--- So, I would like to offer myself, whether it is voluntary or otherwise, Mr. Senator and the members of this commission. I volunteered once to speak before in front of this state capitol building, when there was a rally against the capital move. Fortunately or unfortunately I do not express any opinion for or against, Mr. Senator, because I said, I have some other suggestions, which I would like to share, in aid of legislation of solving the problem instead of going for the transfer of the capital or the retention of the capital. But I said this is not the proper forum for me to discuss the subject matter. If I am called upon to share these views, I will voluntarily and gladly come over whether it is before the Executive Branch, before the Legislative Branch, before the law department, or even in a commission hearing just like this. But I feel at this time, Mr. Senator and members of this commission, that I am going out of the subject matter that should be discussed in this public hearing.

Suffice to state, Mr. Senator and members of this commission, that because of the time constraint that I was notified to come over here in representation of the Filipino community, I did not prepare a well discoursed, well discussed subject matter that should be propounded before this commission. But I assure this commission, Mr. Chairman and members, that in any subject that impacts not only on the ethnic minorities or the women, but from other subjects which you feel this humble representation can share and experience along the line or area, whether it is in budgeting, financing, planning or otherwise, then I would be very glad to come and share my views and opinions and articulate some ideas which I feel would contribute to a solution of the problem that may be plaguing us in this community and even in the old country. Because I feel with my wife that it is our responsibility, that while we have the concomitant guarantee of equal employment opportunity, we also have that responsibility of sharing with you the burden of trying to rectify all these problems that is plaguing our community and country. So we are dutybound to come and speak up our views and opinions if we feel that it can in some way contribute although it is maybe a ... along the solutions of some problems, because we don't want to missing some drunkards for example on the way. Because that is one course of the rising cause of criminality or a drug addict, we will not want our children to be employed by the deteriorating morality that is existing within the community. We would like to share and bring the good qualities that were inculcated upon us also by American educators back in the country of origin from where we came. So that we will really feel happy that we are contributing to the responsibility that is called for from us even if we are not yet citizens because eventually whether we like it or not, I think we are qualified to become good citizens of this country in the true meaning of

(Testimony of Florencio Q. Pax)

the constitution and provisions of the U. S. Constitution and the Alaska State Constitution.

So again, thank you very much Mr. Chairman and members of the Blue Ribbon Commission for the opportunity you have given me and my wife to appear before this distinguished body. And I assure you that while my views and opinions are mine, at least I articulated some problems of some members of the minorities here and even the women and residents (?) that I have gotten in contact with and I hope that I have contributed my share in this responsibility. Thank you very much Mr. Chairman.

Ray: Thank you very much Mr. Pax. And on behalf of the commission and my personal thanks for your appearance. Do you have time for questions sir?

Pax: Yes sir.

Lois Jund: I was very interested in what you had to say. I had a couple of questions and a couple of comments. Now obviously, you are not intimidated by appearing before this commission because you are an attorney and you have been in public life, but how many, for example, of your own ethnic group who felt that there had been discrimination in state employment would come before this large body to voice their problems.

Pax: I would like to inform you ma'am and the members of this commission that I think in all honesty and sincerity with modesty, of all the Filipinos that came over to Alaska, my wife and myself are better prepared to undertake any responsibility in these areas. Yet, it is sad to say, I think we also have been discriminated against and I would not want to go farther because as I said, I cannot discuss cases that are pending before the courts or the Human Rights Commission.

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Jund: I have one more question but I don't want be the....

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Jund: The other question is I wanted to know, you talked about the orientation program of a month in Washington State. Was that only for the ethnic groups or for all new employees in state government?

Pax: It was for all new employees in the school district ma'am, that had to do with the implementation of the desegregation program. So, we were lucky to be mixed and share our views and opinions with black ladies and men, Chicanos, other Asians, to find out that even with this diversities at least we could come up with a happy solution of a problem that is plaguing the school district. So, I feel that with this orientation where we have not been exposed to, back home, because I don't think we have what you call this racial discrimination (that maybe we have our individual discriminative instincts, regionalistic discrimination but not on the basis of race, sex, age, religion, or color but on the region aspect).

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(Testimony of Florencio Q. Pax)

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Jund: Thank you very much, Mr. Pax, I have no other questions.

Ray: Any other members of the commission have a question? Thank you Mr. Pax.

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Testimony of
BRENDA RANDALL-SADEK
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

My name is Brenda Randall-Sadek and I am an Accounting Clerk III for the Department of Transportation. I have been with the state and the department for it will be a year in December. I have worked constantly the whole year as a accounting clerk, not that I am not on other registers but it is just that I don't get promoted. I basically came to talk about my own personal experience of working with the state and particularly with the Department of Transportation because that is only the experience I have had since I have been here in Alaska. But before I get started on the Department of Transportation I would like to tell you about an experience I had when I first came here with the Human Rights Commission.

When I first came here in, last summer, a year ago this past summer, there was a position advertised in the paper for the Human Rights Commission. It is was entry level, trainee position, and the minimum qualifications were only a high school degree, which I do have a college degree. It is in art and I have three years in accounting. And I applied for it. Three months later, the same position was out. I put in my application again for it. I put in my application three different times for the same position and only after I had done some investigation did I find out that it was, in fact, the same position. And only after I went into the office and had done the investigation did I receive a letter telling me that I wasn't qualified for it. And I don't know when the position got filled or how, but that position was in the paper for months. And I felt that they were discriminating. But I don't have anymore to say about that. I'll go on to the Department of Transportation.

I have been with the Department of Transportation for a year almost. I have worked as a clerk for them in three different positions. I have, ever since the first, ever since the first week that I was there, I have let them know that I was interested in, I was interested in not only staying with the state but staying with them, staying in accounting and also that I wanted more accounting education. I was interested in taking the state accounting course, which I have yet to take and it is not that I haven't put in the proper procedures of notifying my supervisors or sending out memos, because I have. I just have not been selected as one of the people to take the course. And twice I have gone to the Assistant Director and questioned him about it and both times I was given the answer that it wasn't related to my present position. And the first time even before I went to him, knowing that that is what he was going to say (well, I didn't know that was what he was going to say, but I had the feeling that he was going to say that it wasn't related to my present position) I wrote out a memo, sent it to my supervisor, to him, to the director, and to the director of training, stating that I did plan to stay with DOT, I was interested although it

(Testimony of Brenda R. Sadek)

was not related to my present position, I didn't plan to stay in that position and I felt that the course would not only benefit me but would benefit them because I was planning on staying with them. And I got no response except for "we do," on the bottom of my memo they wrote "we do send people when we feel that it is related". And that was it. I have yet to hear anything else about it.

And then after being there and being transferred to three different clerk desks I ... Something came up just recently, I was in the research section for the financial management and I find out that my supervisor is going to hire a Tech I. Now, I am not in Research any longer but at the time I had made the decision to leave Research and go to Budget. He didn't want me to leave. He kept expressing to me what a good worker I was and how he really didn't want me to leave there and how he was going to help me stay there. And then he decided that he was going to hire a Tech I. But I wasn't the one who got hired. And, he explained to me why I didn't get hired. This was even before I knew that I wasn't hired. He said that he wanted me to know first off why I didn't get hired. He said that I was too low on the register. Yet, the person who did get the Tech I position had been with the department and the section less than I had, hadn't been there as long as I had been there, and was a white male.

And they, and when he first came to me and told me "well, see this is where you are on the register, that's how come we can't hire you now," I told him, I said, "well Tech I's are underutilized classes you can hire me if you want to." Because during my time at DOT I've seen them hold positions for people for who they want. They said you have to be on the register to get the job, which is true. They can pull anybody from those registers they want to hire as long as they justify it. And they can justify it with any means. I have seen them hold positions open waiting for people to get on registers, I have seen them hold other people in positions until the person they wanted to get that position get on the register. I mean, nothing about where they were on the register, or how they were going to get them came up. They held the position until the person they wanted in that position got on the register. And, I felt that -- I got really upset about it. But what can I do?

I feel that in the time that I have been with DOT the only other minorities that I have seen there are some Filipinos. And I was looking, I had questioned several people about how long they had been with the department, how long they have been working with the state, and the difference I came up with amazed me. Out of about 3 or 4 white people I asked that had been there anywhere from four to six years, they were already up into Tech III or Accounting I levels, where I know of two Filipinos who do excellent work, who have been there both over five years, and they're both still at an Accounting Tech I level. And they are not even considered to be moved, being upgraded. I don't know what else to say. I saw the notice on the board and I felt that I had to come here and express how I felt.

(Testimony of Brenda R. Sadek)

Most of the discrimination that I have noticed is mostly subconscious it is not consciously doing this. Maybe they are, I can't tell. I mean it has got to the point with me where I can't tell where they are conscious or subconscious. Some of it is they are not consciously doing it. But it is still being done. And others of it, ... I feel that they are consciously doing it. Like after I was told of the Tech I, after I was told of the Tech I position that they were going to fill, after I brought this up about underutilized class, I haven't heard nothing else about it. I know only through office gossip that the guy has been promoted. He hasn't told me, no one else has told me, only through office gossip have I heard that he got the position. But once I brought up about the underutilized class and that if he really wanted to hire me he could, I haven't heard another word about it, that position or any other position.

As far as the system of the register, I kind of agree with Verneelia on the point that you know, taking the test depends on your test taking abilities. Just, that test does not accurately show my abilities. That test doesn't accurately show anyone's abilities. But if that's the system that they are going to use, they should stick by it. I don't understand why they, why they sit up and they wait for people to get on registers to hire them when there is already qualified people on the register waiting for positions. And of course, if I was to go to them, they would justify it all. They would justify it to the point that I wouldn't have a leg to stand on to say that they were discriminating against me. If I brought that up about that the Tech I position, the first thing they are going to jump on is "well, see, you are way down here on the register and he's up here so we will have to." In other words they are going to make me feel inadequate or unqualified because I am way down here on the register. But yet I have been with the department, I know the types of work, I know what is going on.

Ray: Then you get the label "troublemaker".

Sadek: Yes.

Ray: And yet, during the testimony that we have here and even with the participation from some other members of the commission here they want to give the supervisors and they want to give the technicians in the department of personnel the highest latitude, or the best latitude they can, to make the tests as they see fit in order to get the highest people in the state. And then they want to give the supervisors the biggest latitude so they can go down and pick out because you have a bunch of cranks up here on the top five, and you have to reach down there to get one of these guys out. And all of them very worthwhile suggestions and all, all of them sensible. But then when you turn it on the other side it gives somebody else a tool to stick in the wheel of the system and to get a flat tire. Just like in your case. I don't know. Of course it's Transportation's fault. Linda would you like to tell us, would you like to apologize for Transportation?

(Testimony of Brenda R. Sadek)

Lynda McCurry: No, Roger can do that, that is his department. I just wanted to say that Brenda has mentioned, are what I consider, being a Personnel Officer, crafty techniques in working eligible lists. All are perfectly legal within the system. And it seems to me, like, going back to where we were two years ago, those should be the things that we are zeroing in on and fixing. Because if you are a permanent state employee with the Department of Transportation, your department could have called for departmental promotional lists. It would have put you very high, probably, on this list and maybe even reachable. The second thing they could have done is to use the Five Plus Five and gone below to select you. So, these things are available and if the people aren't doing them that's where we should be working.

Sadek: One of the things about DOT is that they can go below the top five but that's only if their EEO plan has been accepted and DOT's EEO plan has not been accepted by the state.

Roger Thayer: The Assistant Director, I won't mention names, but are his initials DG?

Sadek: I'm not going to answer.

Thayer: How many times did you ask to take the course?

Sadek: I have asked for, I have had three different supervisors since I have been there and I had expressed it to all three since I have been there. I've also expressed it to the Assistant Director, because I went to talk to him the first time I was denied.

Thayer: Did you ask, did you do it in writing?

Sadek: No, both verbally and in writing.

Thayer: Would you send me a copy of your request? To the Personnel Officer, DOT, Roger Thayer, 2505.

Sadek: Yes.

Thayer: Lynda is correct when she did say that it has been a practice for the department to use promotional lists. And I will do some checking on that.

Ray: That brings a question to me that the things that we have uncovered here as far as two years ago with the practice and that they, what did you call it, the ...

Lynda: Crafty techniques.

Ray: Crafty techniques. Is this compounded in your own mind because you are a woman or because you are a minority? Now, think for a minute, I mean does this happen to everybody else right along with you is what I

(Testimony of Brenda R. Sadek)

am trying to get at. They just don't pick you out because -- do they?

Sadek: It is really hard to ... no, I don't find it hard to see discrimination between being discriminated as a woman being discriminated as a black -- Most of the discrimination I feel I receive is because of my race, more so than because of my being a female. At least with this.

Ray: In this particular job you think it had racial connotations rather than just, you happened to be in this particular position when somebody else could have been in the same spot as you?

Sadek: Since I have been there in DOT, I have seen an Assistant Director come in, I have seen 6 or 7 people from the same department that he left come with him, and I have seen three of them get promotions. And I have seen other people that has been there with DOT for awhile that is still sitting in the same position.

Ray: But are they white?

Sadek: Most of them are whites, most of them are whites because that's the majority of the workers; most of them are female.

Ray: I mean in your spot is what I am saying. So, I am trying to zero in on the fact that these people who use the crafty techniques, they aren't just using them on you because you are black, or because you are a woman, you just happen to be sitting there and he is using them and he would use them if there was a six foot tall Norwegian in there.

Sadek: No, no, I don't think that they are just using them on anyone. I do think that they do pick out the black and the Filipinos, and the Indians.

Ray: Verneelia, did you want to say something?

Verneelia: I just wanted to say, Senator Ray, that just goes back to certain assumptions of who picks, I mean you have your favorites. But when the system works like this, when the system breaks down like this, white people get caught in it; black people, Indians, Filipinos, minorities get caught in it more.

Ray: All right, that is what I am trying to identify, that is what I am trying to do.

Verneelia: Certainly it happens to other people as well, but the end results for, since, we are in this race and we are 15 minutes behind and then they introduce a, they give the runner a 10 minute, 10 more minutes, well, everybody else in the race is 10 minutes behind but the minorities and woman are 25 minutes behind.

Ray: But you have to look at it from another point is, I have to be the devil's advocate here, you know if you were late getting there, and there is a difference between you and I eating, I'm sorry that you got there late, but I am going to sit down and eat.

(Testimony of Brenda R. Sadek)

Verneelia: Sir, I don't begrudge the individual, what I do is begrudge the people who set the rules.

Ray: All right. Go ahead Brenda.

Sadek: I don't know, that's all I had to say.

Lois Jund: You may not know the answer to this, but was this position, was it identified as an underutilized category?

Sadek: Accounting Tech? Yes, all accounting Tech positions are underutilized.

Jund: I am harking back really to Ms. Randall's point that it is not mandatory even if they do provide the affirmative action.

Sadek: It is not mandatory, but they can justify hiring anybody they want to and they do justify hiring anybody they want to. It's just that they don't want to justify hiring people that they don't want to justify hiring. They justify hiring anyone. I've seen them hold positions for people.

Jund: I'm trying to get at one of the points because it ties in here. One of your suggestions which I thought was excellent, if it is possible, was to identify underutilized categories for minorities, really, then automatically provide an EEO register and if they then do not select from the register then they must justify. And I think that is putting it in the proper perspective and will get away from this game of crafty techniques.

Ray: I think it would be to the highest satisfaction of this commission if we could get two people, three people, four people, if we got 100 people in here all saying the same thing and pointing in the same direction, it would -- because I know what you are laboring under right now. I know what you're thinking to yourself, "hey man, when I get back somebody's going to be looking up my PCN Number and wanting to know how they are going to get rid of me." Well, I'm going to tell you this. If you have any indication that anybody in the state government is discriminating against you or using your appearance in front of this commission to eliminate you from state employment, you let me know. You let me know because we will not tolerate that. The Governor will not tolerate it. I know that for a personal fact, because I have talked with him about it. He will not tolerate that kind of activity in the state government. And I want everybody to know that and anybody that gives testimony here, whether they are a private citizen or whether they are a state employee, if they are a state employee and they feel and they can substantiate that they are being discriminating against because of their appearance here, I'll guarantee you we will have who, we will have the guy who is discriminating against head on the table. So if that is any reassurance to you, you can pass that on to the rest of the people that work over in your outfit and tell all those heel draggers over there they can drag

(Testimony of Brenda R. Sadek)

over here for awhile and we'll put them right up there where they are supposed to be. Sir..

Mr. Pax: I have just one suggestion to make. It is with respect to other political provisions of the state ... (FROM NOTES: which receive grants from the state. Some federal and state laws provide that the grantor can withdraw funding if a grantee violates anti-discrimination laws.)

(changed tape)

Mr. Pax continuing: ... the grantor like the state even with ... funding that is supposed to be extended to that local political subdivision or agency because of the violation that was perpetrated so many of these recipient of political subdivisions or agencies, will be aware of this provision of law. If we know that the state is ... set on imposing the penalty as provided for in law. Then I think they will think also twice before firing, for example, on the ground of communication barrier. Or an agency firing somebody because he is upset because of Filipino or because he looks black or if he's an Indian. So I think I would like to go back in sincerity in applying this very provisions, very simple provisions of the law. This funding for example, the local ... if I may call that when the agency-recipient is found to have violated any of these discrimination factors then the grantor agency can withdraw the funding or terminate the contract.

Ray: I think, Jack, don't we have that in the, aren't those provisions in the law now? Jack Chenoweth?

Jack Chenoweth: Most of the grant documents state departments use do include some provision that requires the recipient to follow, or not violate federal, if there are federal funds involved, and state law in this area. I don't know that the ... has ever been enforced.

Ray: Put that down for research into a possible amendment to the grant laws of the state. I'll get hold of Berrier and have him research that to see if that is, because that is very definitely, would be something very desirable as far as I am concerned.

Jund: I would like to ask a question Senator I noticed that a lot of the things the legislature does, you know they put the legislative intent. I am wondering if this might not be a possibility for training funds, that they seem to be resistant, but if they put legislative intent that they are to be used proportionately to categories of people, percentage-wise and for upward mobility?

Ray: Legislative intent is a document or an instrument to be used and to benefit of a person or the administration as they see fit, if they want to perpetuate it. But it has no standing or no basis except and perhaps a legal investigation where it would have an expression of intent of the legislature in a certain area. But as far as any,

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legal standing, as far as you are trying to get the administration to live up to legislative intent, there is no basis of fact.

Jund: I'm quite cognizant of that. But the agencies always look at legislative intent very, very closely and if at all possible --

Ray: If it serves their purpose.

Jund: As I recall, we used to have to make a report --

Ray: Well, you're outstanding Lois. You were one of the good ones. I mean it.

Jund: I would like to see training funds go to the lower echelons in relation to their percentage and utilize it for upward mobility. It's the only way these people are not going to be kept in forever.

Ray: You could put that in the statutes. You wouldn't have to use that just in legislative intent. You could actually put that in the statutes: a majority of the funds appropriated for inservice training shall be below such and such -- below level 15 or 16 or anyplace you want it.

Jund: I've seen where people were hired from outside because they couldn't have the same training ...

Ray: You could write some legislation on that. Then, you see, you have got to realize that there are two legislators here: one from the House and one from the Senate. We are getting the benefit of your talk and the understanding. The other 58 people are going to be sitting up there and are going to be lobbied by people that is going to tell them. Then they are going to have commissioners come in and they'll say, "Well, hey, you know I can get a clerk a dime a dozen, I can get an accountant, anything that I want. But now this fellow that I really need here, I really need some training, and it is really in the specialized classes I need the training." That is what you are going to get.

McCurry: I think some people will really be willing to talk to them, Senator Ray, as well as if you did see, within the areas authorized training funds, I don't think it should give the departments a license to kill. I think they should have approved training plans.

Ray: Put down there to research the statutes to find a spot for the possible amendment for the delegation of a majority of the funds for inservice training and I'll, I can take it from there. Brenda, thank you very, very much. I certainly do appreciate your testimony. We have another Brenda, Brenda Knapp.

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Testimony of
BRENDA KNAPP
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

My name is Brenda Knapp. I am the planner with the Central Council of Tlingit-Haida Indian Tribes of Alaska. The Central Council is preparing testimony which will be submitted to the commission in written form this week. But what I would like to do now is just share basically the introduction to our testimony with you because it contains some of the figures regarding Native hire in state government that really are the focus of our concern.

Sealaska Advisory Committee to the United States Commission on Civil Rights produced a report and initiated a series of open meetings in the fall of 1978, including a meeting in Juneau on 11 September, 1978 and the findings of the Alaska Advisory Committee were published in July, 1980. To date, a great deal of effort has been made to correct and improve the employment representation of Alaska Native; and other minorities in state government. Reports have been filed, plans developed, responsibilities pinpointed, roles clarified, data systems implemented, policy expounded and the Blue Ribbon Commission established.

In April, 1978, Native people held 518 jobs in state government. This figure represented 5.4% of the total state government workforce. Today, November 3, 1981, 3-1/2 years later, according to figures just released by this commission, Native people hold 5.4% of jobs in state government workforce. There has been a rise in actual numbers that went from 518 to 694, but the percent of the total state government jobs has not changed, 5.4%.

In other words, despite all of the talks, meetings, reports, plans, commissions, etc., which have taken place during the past 3-1/2 years, Native people in Alaska have not improved their representation in the workforce of state government. Although 16% of the state's population is Native, less than 6% of the jobs in state government are held by Native people. Most of these jobs are, as everyone knows, concentrated in the clerical, craft and paraprofessional categories. Very few professional and management positions are held by Native people. The underrepresentation and underutilization of Native people affects most job categories and departments of state government. In fact, in nine of the 15 departments of the Executive Branch of state government, the representation of Alaska Native people has declined between April '78 and September '81. Of the remaining six departments, four increased the representation that Native people by less than 1% over earlier figures. Two departments, Community & Regional Affairs and Natural Resources appear to have made substantial gains. But, we have no information as to what really resulted in these gains.

(Testimony of Brenda Knapp)

It would appear that the commitment so clearly stated in Administrative Order No. 59 as expressing the equal employment policy of the executive branch of state government needs to be more forcefully and imaginatively translated into action. The actions of the past 3-1/2 years have provided necessary and useful mechanisms to help state government recruit, select, hire, promote and retain minorities in state employment. The expanded certification policy is a particularly useful step in bringing qualified Native people to the attention of hiring departments. But we believe that what has been accomplished to date, represent only the first few steps in an overall plan that must produce results in numbers, rather than intentions.

Ray: We have a question that has arisen in the time period you are stating there, I do know the state with the advent or the increase of the duties or functions of the Native corporations, they have assumed certain duties that were previously performed by the state. Those duties have been contracted to the Native organizations, NANA, MANA, and the whole scheme of them up in the slope. And as such they have hired private people who have taken over duties that would be performed by state employees. Now we don't know whether this is -- you've stated in some areas that the Native population and Native hires has increased and others it has just remained static, but we don't know how many jobs that were previously performed by state employees are now being performed by the Native corporations with Native people. In other words, if, -- do you understand what I am saying?

Knapp: Yes. I guess if those positions are no longer being included as part of the total figure, so far as state government employment, then it would seem they would no longer be relevant, possibly. If there were 12,000 state jobs and now there's 11,000 because 1,000 were contracted out, I guess we would still be looking at the remainder, what percent of the remainder are Native people. Presumably most of them have contracted out.

Ray: No, that would be a very simple thing, but that isn't the way it works in state government. Three years ago the increase in the state employment has been what, 10 to 12% in the last, that's each year, the increase in state employees. The increase in Native hire is not, as you state static, or so to speak 5% or whatever it was you gave us. But what I am trying to say is, we certainly have not eliminated those, the duties, but they are just being performed by a Native corporation rather than the state.

Knapp: That's laudable. I think that the extent the corporations can do that, that's...

Ray: But they might not have, but what I am getting at, they might be hiring the Natives that the state would otherwise be hiring in those areas to perform the services. But they are now being performed by a private organization rather than the state.

Knapp: Perhaps so. There are a lot of people, Native people, who have

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been working under CETA positions and other types of positions that are being over eliminated as a current economic trend. And these people have been trained and are available for employment and even if Natives have been able to perhaps assume more responsibilities for former state positions in the various regions, there is a still significant state job pool that Natives should be well represented in.

Ray: Yes, you still have to take into consideration that those jobs that were otherwise state jobs are no longer state jobs and they are being perhaps performed by a Native that was employed by the state but is no longer employed by the state. He has been employed by a private corporation. And as such he doesn't appear in the statistics, in the stats, as a result you have to overbalance in order to increase it 5% and then you would really have 15% of the Native population who were working in positions which you could call state positions although those positions are being, some of them are being, filled by employees of Native corporations. Very confusing. But you understand, I think you are getting the drift, as poorly as I am explaining it to you.

Knapp: I can see what you are saying. I guess maybe, it makes me look a little dense too. I still think that of the remaining positions that there should be more representation of Native people. There should have been, to maintain the 5.4% over three years does not show that the intentions are transferring into good action. And as far as the contracted-out positions, now, I worked as a planner to the Central Council, I have been there for three years now. I know that in other regions there has been some contracting especially in the area of social services. I'm not that familiar with what other kinds of duties may have been contracted out or how many total jobs this would mean the state has ultimately contracted to Native corporations. I think there still are some difficult areas that need to be worked out to make it more possible for corporations, for Native corporations to take greater responsibility for an even greater share of what formerly has been state ...

Ray: Have you taken into consideration, or have you looked, this is for our information and hopefully you have these figures, of the amount of people of Native origin who are on the state registers as of 1978 and how many are on the state registers as of 1981. That's a very, --

Knapp: I don't have that.

Ray: Well, see then you have no comparison. If the number on the registers has fallen, or has not kept in at the same constancy or the same increase as white people, then really there are less people available for hire.

Knapp: Perhaps so.

Ray: Percentage-wise, is what I am getting at.

(Testimony of Brenda Knapp)

Knapp: If that is true, knowing as I do that there are, at least in this region, are a significant number of Native people who are now unemployed that would like to be employed, I think that if indeed their number has substantially decreased on the state registers, the question as to "why" should be asked.

Ray: See, that's where, you've got it. That's what we are trying to find out: if there is a discriminatory attitude or if there's some way that these people are being discriminated against or not hired, that's what I am getting at. And if we could work with you or if you have the figures, if we could call upon you perhaps you have figures in your computers or something that could tell us or help us with that. That would go a long ways toward easing our duties.

Knapp: We would be very happy to work with you. We're local, we are available. We aren't necessarily representative of all the regions.

Ray: No, no. We could get a general look at it anyway, you know kind of a consensus. Yes Madam.

Question from the audience: I just wanted to ask her for clarification, how many whites are there in the region? In the regional (?) corporation. Quite a few that have been taken off the market?

Knapp: Actually not a lot. And I was told when I came here that I was being allowed to come and say a few words to show the Tlingit & Haida ... (FROM NOTES: is an equal employment opportunity employer.)

Ray: Well, you see there, here again as we have how many Native corporations do we have, and how many of those Native corporations, what are their relationships as far as the job market is concerned as how many qualified people, Natives, do they have?

Knapp: When I sit in a senior staff meeting and look around, and usually there's at least 12 people there, I often note that I am the only white person there. The Native corporations are able to find, recruit and employ qualified Native people. I think that the state government could also do that.

Ray: But they do. You see and the Native corporation, they don't have a competitive test and whose on first and whose uncle is the -- after you get by the testing is, if you have an uncle or an aunt or a cousin that is working over there in the supervisor position that could get you off the register, if you are down underneath the top five to put you in there.

Knapp. Sounds like ...

Ray: That's my job to eliminate.

(Testimony of Brenda Knapp)

Chenoweth: Will your testimony, or will the testimony that's being done this week in writing, give us the benefit of some suggestions based on specific items?

Knapp: Yes, it will specifically volunteer some recommendations that we think would help ...

Chenoweth: And, training and internal advancement?

Knapp: Yes, also.

Ray: And how many of your members have limited entry fishing permits? Thank you very much Brenda. Are there any other people from the public who would like to say anything?

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Testimony of
NIEL THOMAS
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

I am Niel Thomas. I am Director of the State Human Rights Commission in Anchorage. As many of you know, I used to be a member of this group and its very much pleasure to be back. I have some show and tell which I will share with the staff and they may want to make further copies for the members of the group. One thing I did bring quite a number of copies of relates to what I understand the specific request of the group was from the Human Rights Commission. The minutes indicate that Mr. Thayer, I'm sorry, it was Mr. O'Claray, suggested that we come and share with you some information about the number of complaints involving the state which had been filed with the Human Rights Commission and some comparison with the private sector. That's what this sheet is and, if I may I will send it down, quite a few copies here, I'll send it down both sides of the table. If you will pardon some of my handwriting on here I will try to show you what it seems to be saying. I just quickly developed this data before I got on the plane over the weekend.

What you asked for from us is similar to the material that we developed a couple of weeks ago at the request of the U.S. Civil Rights Commission which will further report on the state's equal employment performance. It also ties into some reports that we have made on the subject too.

If I had each of you leaning over my shoulder I could point to some numbers here but let me try to call your attention where some of these key numbers are. If you look at the numbers that are in computer type there in a column that says "Cases Open at the End of the Period", that's how many total cases are pending before us right now. The handwritten number 75 beside that is how many cases are pending before the commission right now involving the State of Alaska, and then it says equals 18.3%. In other words, something like 18% of the total number of cases now open before us, are cases in which the State of Alaska is part of it. The other handwritten numbers going left across the page there then show you how many cases we have closed and of the total; and of the state, how many new cases were filed, and how many cases we started with. In other words, we have fewer cases involving the state on file now than we did at the beginning of the year although our total number of complaints has remained about constant. Now if you look below that, you will find the word "Note" and some more handwriting there. If you went with that number 18.3, you could be somewhat misled because of those 75 cases involving the state, 24 of them are basically people all involved in one issue, which is now pending at the public hearing stage.

(Testimony of Niel Thomas)

So, to really fairly state a proportion, what I did was another calculation down below there. I took that one case involving 24 different complaints and treated it, as it fairly should be I think, as one case. So, if you do that, the real -- the more fair statement is that other percentage down toward the lower right hand corner of the page which says that 13.4% of the cases pending before us are cases involving the state. I think that is a more fair statement of the proportion of our workload involving the state.

Senator Ray: What case is that Niel?

Thomas: That case is the case involving the classification of public health nurses compared with physician's assistants. They appeared before you back when I was a member of this group, I believe, a couple of years ago. Since that time the complaint was -- a group of complaints were filed, that totals 24 complaints on our books, and the case is now pending in the public hearing stage.

Now on the left, then, it begins to get to more specifics of your request. Our case data system takes into account everything that has been filed with us since the beginning of 1975, plus everything that was open on that date. That number 3172 is that proportion of that data filed which are cases involving employment discrimination, as distinguished from housing, credit and finance or other things that we are authorized to deal with. 321 of those 3000 plus cases are cases involving the state, or something like 10%. That's what that first number is there on the left. Now as I said when we started, two years ago when the Civil Rights Commission was in town they asked us for basically the same kind of data. So as of August in 1978, something like 9%, or 9.3%, we told the Civil Rights Commission, of our employment discrimination cases, which the file had in it had been cases involving the State of Alaska. Now, the question is what does this tell you and is it significant. It's tempting to say that if 13%, 13-1/2% of our cases right now involve the state, and two years ago 9% of our cases involved the state, and the whole total case file is 10%, then maybe we are getting something of an upturn in business from the State of Alaska. Now whether that, whether a statistician would tell you that is specifically significant I don't know. We haven't run those kinds of statistical tests, but it does raise a possibility that perhaps we are getting more business from the state than we used to. I think that is as much as we can say on that.

At the very bottom of the page, and this is a figure your staff might want to update for us, but at the time we were talking to the Civil Rights Commission we were wondering, well, does the State give us more business say than the private sector? And that is what I understand that Mr. O'Claray was specifically asking earlier. We asked the Labor Department "if you take all of the nonfarm workers in the State of Alaska, what proportion of those people work for the state as opposed to the private sector?" And we were told that it is something on the order

(Testimony of Niel Thomas)

of 8 or 9%, so I guess that it wasn't a figure that they keep very specifically. Well, we told the Civil Rights Commission then that if 8 or 9% of the nonfarm workers in the State of Alaska work for the state itself and if something like 9%, 9.3% (and we are talking 1978 now) of the complaints involved the state, it was probably fair to say that the state probably gives us about its fair share of the business, so to speak. It wouldn't be fair to say that we get far more business involving the State of Alaska say than we do from the private sector. Now whether that is still true, I think you would want to get the current figure. It's probably safe to say that there hasn't been a radical shift between the proportion of people working for the state as opposed to the private sector. And if that is true the ratio is probably similar but there is the question of "are we really getting slightly more business from the state than before?" The raw numbers would seem to indicate that. Maybe it's not basically significant. I think that is your judgment, but at least there is the numbers. That's the first part of the show and tell.

I have brought one copy of the things which I think are basically file documents for your own research purposes and Jim Fisher is going to want this also. In fact since he is closer to me, if I could leave some of these show and tell things and you could make copies for each other of the things I think you're both going to want. The first thing is a printout from our data files of all cases, all of these 300 and some cases involving the State of Alaska, which were closed between when this file opened in 1979 and 1980. That's the ... And this second printout is a printout of all the cases in which, except where that one leaves off, and it is everything that happened during this year. So it is everything that is now open on the books, plus everything that closed this year. So this is the whole file. And it is employment cases, plus everything else, housing cases which ASHA can generate, government services that we deal with, which involve correctional people and things like that. So this is the whole nine yards so to speak that is, and for whatever research purposes may be appropriate. Let me issue one note of caution --

Ray: How many cases of discrimination against minorities -- that is what we are interested in.

Thomas: The minority percentage statewide, and I haven't broken it out, Senator, separately for the State, but I have no reason to believe it is any different, but the minority percentage of people filing charges total is about half of our complaints. In other words, about half of our complaints are filed by whites (most of those are sex discrimination cases) and the other half are race discrimination cases.

Ray: This 9%, is what I am talking about. The 9% that is employed by the State of Alaska in 1978 -- what percentage of that, of the 9% that we are talking about, were complaints by minorities of discrimination. Can you tell us that?

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Thomas: Our complete filing rate is about 50%, in other words about half of our complaints are complaints filed by minorities as opposed to complaints filed by whites.

Ray: This is discrimination, is what I am talking about, not housing or anything else.

Thomas: Yes sir, employment discrimination.

Ray: I just wanted to get that clear, Niel, so we know what we are talking about.

Thomas: A couple of other items and things which I sort of gleaned from reading the minutes of the last meeting, and I guess the tape recorder wasn't working right, so I have basically got what the minutes read like, I recognize that they may not be totally accurate. There was a discussion there of what is discrimination, and for what it's worth, let me share with you the basic definition that we use, which might help you in your discussions over the next year's time. I know people customarily know that it's discrimination when someone who is consciously out to get somebody says, "I'm not going to hire this person because she is a female and women should not be doing this kind of work," or "we don't want minorities doing this kind of work". That is what you call the overt kind of discrimination, somebody who is really conscientiously out there to do somebody in. Let me say that that is definitely discrimination, but that that is only a small proportion, I think of the kind of thing that really comes in.

Most of what the courts wind up and the agencies wind up seeing as discrimination cases don't involve what you might call nasty people who are out to do somebody in. More often than not in this business today (and I would say it has been true over the last 10 years) what you see is a system of rules or a customary way of doing things, which works out to the detriment of a certain group of people. Let me give you an example. Suppose you believe that to be an effective police officer, you need to be an imposing figure who commands respect and you therefore say that to be a police officer you need to be over six feet tall, 6'6". You might have very good reason for believing that to be true. Now when they did the studies they found that wasn't even true but you could have legitimate reasons for believing that a person to be an effective police officer should be tall and imposing commanding respect. The last thing that might enter your mind, is the effect of having a rule like that, would be to completely exclude women, and to completely exclude most Asian people and to completely exclude most Alaska Natives, except possibly the Indian population, but certainly Eskimo and Aleuts. That is what I mean between, the difference between a rule or a set of ways of doing things which is created for even seemingly legitimate purpose person which might be questionable but created for

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any legitimate purposes. Nobody had in mind it's being used for discriminatory purpose, but it works out that way. And what you have to do, and what gets done in these discrimination cases, is to go back over that and to say, "well, we may have had legitimate reasons for having this set up this way but let's take a look at how it is working. Maybe we have to change our mind and come up with an alternative which still serves our own legitimate interest in getting a job done by say hiring quality people." That's what happens in these cases, so I offer that for a working definition of discrimination. To be aware not only of the situations where you've got an evil-minded person at bay, so to speak, but also the well-meaning rules of the game which need to be reexamined because they work out or have the effect of excluding an identifiable group of people.

Ray: To capsulize that you are saying that you have premeditated and other --

Thomas: Precisely, Senator. There was some discussion at the last meeting on the question of how to get data. Let me say this to underscore the point that some of you seem to be making, and that is the importance of having data. Let me go back to that example of the tall trooper. Suppose you had statistics for Public Safety as a whole department and suppose you only had the number of women, or a proportion of the total employees in Public Safety who were females. If that is all you had, you might conclude that Public Safety doesn't have a risk of getting sued in sex discrimination cases because 40% of the women who work there, or 40% of the people who work there are women. You would need to have the proportion of troopers who were females, you have to have that particular piece of data, before you could say to yourself, "Wait, now maybe in hiring troopers, Public Safety has a problem, because there are no women." So, one piece of data that is very important to have is statistics by division. You need to be able to say "well Public Safety overall may have 40% women but the troopers may have a problem because in that division there is no women." So it is very important to have divisional data.

It is also important to have that data by geography. Suppose the trooper dispatchments everywhere but in Anchorage have a substantial number of women working as troopers and Anchorage none. Well, now maybe somebody wants to ask some questions about who makes the decisions about who gets hired in Anchorage because everybody else seems to find women for these jobs and it's just this one hiring authority who seems to have this problem. Maybe we need to go talk to this individual and see what the problem is. They may have a perfectly legitimate problem but without the data you can't really know where the problems are. And so, that is crucial. So one kind of data that it is really important to have, I suggest, is statistics by individual division which can also be looked at by geographic territory. Take the Labor Department for instance,

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it's highly regionalized. Their individual divisional managers with a great degree of authority. They would need to know how things break out in Fairbanks in the different positions by the people who make hiring decisions in order to find out whether one person is having a problem and somebody else isn't.

Another kind of data that is extremely important to have is what we call applicant flow data. You need to know what the proportion of people is who are applying for certain kinds of jobs, and let's keep this example going by saying the trooper, and what happens along the steps of the process. Take for instance, now let's say we have data by division by geography, and it shows us that there are no women working as troopers anywhere in the state. So it's clear that this doesn't seem to be the problem of any one particular person who does the hiring. And, now you might say, without this other type of data that I am calling applicant flow data, well, troopers had better go out and recruit females. Well you could then decide to spend a lot of state money recruiting women like crazy. But if you had the applicant flow data you might take a look and say "wait a minute, half of the people who applied to be troopers already are women. We are wasting our money recruiting more women. We had better find out what happened to those women." That's what applicant flow data does. You see what proportion of the people apply and then what happens to them in steps along the process.

Now what you might find is, go back to the example that I used earlier, this requirement, you have to be 6'6" tall to be a trooper, there is where the problem is. The applicant flow data reveals that because it shows that 40% of the people who apply are females and at the stage of personnel's reviewing for minimum qualifications, zero females qualify. Well, now we have zeroed in on the problem and saved a lot of money going out and recruiting for no purpose. We have demonstrated that the problem is not some evil-minded supervisor refusing to hire females because he doesn't think females make good troopers. It was some rule that was innocently created years ago that nobody has thought about. And that's, as I say, not a farfetched, but in fact a very common true example of what we consider to be the common effect discrimination case. And, as many of you know, it was a very common practice, up to about 6-8 years ago, for most law enforcement agencies around the country to have height requirements. And it's through this kind of data that those things have become passe'. I don't know of any law enforcement agency in the State of Alaska now that has a height requirement and it is because of the impact and the understandings that we have reached about what employment discrimination is. And that is why I caution you people not to leap to conclusions about there being evil-minded people out to discriminate against folks that might explain why some of this data that says we could do better in the equal employment area. I don't think it's evil-minded people, I think it's rules of the game that have been around a long time which need to be reexamined. That pretty much is what I wanted to share with you -- oh, one further word on data.

One of the common problems that exists in this business is to say where do we think we should be. For that we need another type of data and it's called availability data in the trade. We could say off the top of our heads, I suppose, that there are probably a fair number

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of females who could make good troopers, but how many females who could be good troopers? What is a fair goal to strike at. Should the state hope to have 10% of its troopers be females, or 30% or 40%? To get the answer to that kind of question you need to know how many females are available and interested in being troopers. Now, when you go at that on a job-type by job-type, it gets to be extremely difficult and a certain amount of guesswork. I would say one of the hardest things that people in Jim Fishers' EEO Division and their counterparts throughout the departments have to do is to make that decision. You can't set a goal by picking numbers out of the air. You have to have some rational basis for doing it. The rational basis is the question of "well, what proportion of people who want to be Human Rights Commission investigators and are available for doing that are minority people as opposed to white; or labor department employment security interviewers or secretaries in the Department of Military Affairs." You need to know what the availability is and that data is hard to come by.

The Municipality of Anchorage has asked the State Labor Department, which generates a very nice booklet about that type of data, at least on a population basis, to break it out even further by different racial groups. And I've noticed that some of your staff work attempts to take a look at the state's workforce in particularly with respect to Alaska Natives, not looking at other minority groups, you need to be able to compare that population data. And Chuck LaViege, who is Jim Fishers' counterpart for Municipality of Anchorage, wrote the Labor Department recently asking for that data to be developed more fully. And I would suggest that maybe the Blue Ribbon Commission could do this, help make better population, better availability data, available to people that have to do this kind of planning. It would be extremely helpful, and anything the Blue Ribbon Commission could do to help the state complete projects they it's already got underway to pull data together about the applicants, the people who are applying for the state, the people who now work for the state. I am sure that the state people here, Mr. Kareen and Mr. Fisher, would appreciate your help in those areas because they need it. It does cost money to do this kind of thing but you are shooting in the dark without that kind of data.

Ray: Mr. Thomas, Niel, in the sheet that you put out here, let me see if I can get this straightened out in my mind -- you had 75 cases open at the period of October 17th and out of that 75, does this 24 stand in there or --

Thomas: They are included in the 75.

Ray: Then if we were to eliminate the -- well I don't know if we can -- what I am trying to do is to get the percentage of these cases where -- of the 75 that are considered discrimination against minorities.

Thomas: Oh, I could do a quick count while someone else is testifying, because it would come off of this list that I just handed in, and give you a specific number on that.

Ray: I know that it is soft data but it would give us kind of a indication of what your caseload is or what your reoccurring problems are as

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far as minorities -- that is our --

Thomas: What I would like to do is to count that for you twice because of the 75 is that 24 all involving females. We will count those one way and then count them the other way and give them to you both ways.

Ray: But the cases involving the females, is that discrimination because they are females, or because of the certain class of work that they are doing?

Thomas: Just sex discrimination and it is all one case. That's why I was trying to make a fair statement by saying let's taken them as one case.

Ray: All right, if you would do that for us, I would sure we would be interested in it. Are there any questions from the commission?

Thomas: I also have a couple of other file documents which I will share with the staff: the Governor's announcement about pulling together this kind of data which is dated February, 1978, and correspondence between us and the Administration, and my former testimony before the Civil Rights Commission.

Thayer: Sir, do you have a great many cases against the state, of what type they are. the hiring practices, promotional practices, -- do you have an idea of where those complaints are fitting in -- what type --

Thomas: That computer file that I handed in has different flags on it which answers all those kinds of questions. The reason I brought it was that I thought you might have research of that type, that you want the staff to do. And we can be sure that they have the code that unlocks what these numbers mean on the sheets.

Ray: Thank you Niel.

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TOTAL STATISTICS BY REGION

BEGIN-DATE 010181

END-DATE 093081

	CASES OPEN AT END OF PRIOR PERIOD	NEW FILINGS THIS PERIOD	CASES CLOSED THIS PERIOD	CASES OPEN AT END OF THIS PERIOD
CENTRAL	162	098	080	180
SYSTEMIC	003	000	000	003
NORTHERN	104	043	071	076
SOUTHEASTERN	086	033	024	095
OTHER	057	003	004	056

STATE TOTALS

412 86 177 26 179 15 410 75 = 18.3% *

TOTAL EMPLOYMENT CASES IN
SYSTEM SINCE 1975
SOA

3172 }
321 } = 10.1%

SOA Cases

* Note: 24 SOA Cases have been
consolidated at hearing (1 issue)

AS OF 8/16/78 (CIVIL RTS COMM TESTIMONY)

TOTAL 2162 }
SOA 200 } = 9.3%

SOA Proportion
if 24 Cases
Consolidated as one
 $\frac{324}{52} = 13.4\%$

NOTE: NON FARM WORKFORCE 8.0%
EMPLOYED BY SOA = 9.0% (1978)