ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672
1676 SJ SB 90 - SB 99

NEW YORK STATE ASSEMBLY

RULES AND REGULATIONS
RELATING TO PUBLIC ACCESS TO RECORDS
PUBLIC INSPECTION AND/OR COPYING OF ASSEMBLY RECORDS

(Pursuant to Public Officers Law, Article 6 — Freedom of Information Law)

1. **APPLICABILITY.** The provisions of these Rules and Regulations shall be applicable to all records of the New York State Assembly available for public inspection and/or copying.
2. **LIST OF AVAILABLE RECORDS.** A current list, by subject matter, of records required to be made available for public inspection and/or copying shall be posted in the Assembly Public Information Office.
3. **LOCATION OF RECORDS.** All available records shall be located or made available for public inspection and/or copying at the ASSEMBLY PUBLIC INFORMATION OFFICE ROOM 148, STATE CAPITOL, ALBANY, NEW YORK.
4. **HOURS OF INSPECTION.** Available records may be inspected and/or copied during normal working hours, Monday through Friday.
5. **TO WHOM AND WHERE REQUEST MADE.** A request for a particular record shall be made to the *Assembly Records Access Officer at the Assembly Public Information Office.
6. **FORM OF REQUEST.** Anyone wishing to inspect and/or copy an available record shall submit a fully completed and signed request on a form to be provided by the Assembly Records Access Officer.
7. **DESCRIPTION OF RECORD REQUESTED.** A request for a record shall adequately specify or describe the record sought to be inspected and/or copied.
8. **NUMBER OF RECORDS PERMITTED.** The Records Access Officer shall have the discretion to limit the number of records of any type or types an applicant may request at any one time.
9. **TREATMENT OF RECORDS.** No marks of any kind shall be made on any record provided for inspection and/or copying.
10. **AREA RESTRICTION.** Inspection and/or hand copying of records shall be permitted only in the area designated by the Records Access Officer for such purpose.
11. **LIMITATION OF EXAMINATION TIME.** The Records Access Officer may fix limitations on the time any applicant may have to examine any record.
12. **TEMPORARY UNAVAILABILITY OF RECORDS.** Where a record is in use, or, filing or intake procedures relating thereto have not been concluded, the filling of a request for such a record may be reasonably delayed until such a use or the procedures are completed.
13. **RETURN OF RECORD FOR ASSEMBLY BUSINESS.** Whenever a record made available for public inspection and/or copying is required for the business of the Assembly, the Records Access Officer may require the return of the record from the user upon demand.
14. **PROVISION OF PHOTOCOPIES.** Photocopies of available records may be obtained from the Records Access Officer at a fee of 10 cents per page except that the fee for photocopying records in excess of 8-1/2 inches by 14 inches in size shall be the actual cost of reproducing such records. Orders for photocopies may be made in person or by mail provided the required request forms are fully completed and the required fees accompany the requests.
15. **DENIAL OF ACCESS.** In the event a request for a record is denied, the person denied access to a record may appeal such denial to the **Assembly Records Appeals Officer.

Stanley Fink

STANLEY FINK
Speaker of the Assembly

January 9, 1980

*ASSEMBLY RECORDS ACCESS OFFICER: Joseph Martorana (518) 455-4218

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THE ASSEMBLY
STATE OF NEW YORK
ALBANY

JOSEPH MARTORANA
Records Access Officer

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Public Information Office
State Capitol — Room 148
Albany, New York 12248

January 9, 1980

In compliance with the Freedom of Information Law, below is a Current List of Assembly records required to be made available for public inspection and/or copying:

BILLS, BILL DATA AND RESOLUTIONS

1. Bills and Amendments
2. Resolutions (Assembly, Joint and Concurrent) and Amendments
3. Introducers' Bill Memoranda
4. Fiscal Notes

COMMITTEE RECORDS

1. Agendas
2. Attendance Records
3. Roll Call Votes
4. Annual Reports
5. Final Reports or Recommendations and Minority or Dissenting Reports and Opinions of Members of Committees, Subcommittees and Commissions of the Legislature

COMMUNICATIONS FROM THE GOVERNOR

1. Messages from the Governor
   a. General Messages
   b. Special Messages
   c. Veto Messages
   d. Emergency Messages (of Necessity)
2. Memoranda on Bills before the Governor for Executive Action
   a. Listing of Chapter Number and Title of All Bills Approved
   b. Approval Memoranda on Signing of Bills
   c. Disapproval Memoranda on Vetoing of Bills

DEBATE AND PUBLIC HEARING RECORDS

1. Transcripts of Daily Floor Debates
2. Transcripts of Committee and Subcommittee Meetings (if prepared)
3. Transcripts of Public Hearings Minutes (if prepared)
4. Public Hearing Calendar

FLOOR OR CHAMBER RECORDS

1. Daily Attendance Records
2. Roll Call Votes on Bills and Resolutions
3. Index Records
4. Journal Records

MESSAGES — OTHER

1. Messages from the Senate
2. Messages from Local Governments (Home Rule Messages)

PERSONNEL RECORDS

1. Payrolls — Annual and Session (Name, Public Office Address, Title, and Salary of every Officer or Employee)
2. Code of Ethics Statements

MISCELLANEOUS

1. Formal Opinions by the Attorney General on Proposed Constitutional Amendments
2. Other Formal Opinions and Final Reports submitted to the Legislature
3. Legislative Notification of Proposed Adoption of Rules by Agencies
4. Administrative Staff Manuals and Instructions to Staff that affect Members of the Public

Joseph Martorana
JOSEPH MARTORANA
Records Access Officer

D R A F T

COMMENTARY TO PROPOSED COMMITTEE SUBSTITUTE FOR SB 90

February 6, 1981

D R A F T

COMMENTARY TO PROPOSED
COMMITTEE SUBSTITUTE FOR
SB 90

Sec. 40.25.010. State Policy.

No change from SB 90.

Sec. 40.25.015. Records To Be Open To Inspection.

The reference to "exceptions" in the title has been eliminated since a separate exemption section now appears in sec. 40.25.030. The reference to inspections that infringe on a person's right to privacy has been deleted from subsection (a) since a separate exemption on this subject appears in sec. 40.25.030. Subsection (d) has been amended to allow a person to receive 20 pages of a record copied without charge during any 24-hour period and to permit the waiver of fees in the public interest.

Sec. 40.25.020. Duties Of Governmental Unit.

This new section takes the place of Sec. 40.25.020, Requests For Records, in SB 90. It provides a reasonable time frame for an agency to search for, locate and determine whether a record is subject to disclosure. It also allows sufficient time for the agency to determine whether a specific exemption to disclosure applies and, in particular, whether disclosure would constitute an unwarranted invasion of personal privacy. The time frame specified is consistent with the administration's recently proposed procedural regulations on public information as well as CSHB 131

(Judiciary, 1977) and SCS CSHB 75 (1980). It does, however, add a fourth circumstance justifying extension of the ordinary 10-day period in which to respond to a public request: the need to notify a person and provide him with an opportunity to be heard when his privacy interests may be invaded through disclosure of the record. See sec. 40.25.030(c).

Sec. 40.25.030. Exemptions.

This section lists 12 exemptions from the duty to make records public.

Exemption (1) now includes records exempt from disclosure by federal law and regulation (which are currently exempt from disclosure under existing law) as well as records exempt from disclosure by court rule.

Exemption (2)(tax returns) remains identical to former exemption (2), but the clause pertaining to subject access has been deleted as the issue of subject access is covered generally under sec. 41.25.040.

Former exemptions (3)-(8) are now covered under the general privacy exemption in exemption (12) and are discussed under the commentary pertaining to that exemption.

Former exemption (9)(archival records) now appears without change as exemption (3).

Former exemption (10)(library records) now appears without change as exemption (4).

Former exemption (11)(trade secrets) now appears as exemption (5). The exemption has been redrafted to conform more closely with the companion federal provision

and to protect trade secrets and other confidential business information developed by government. The term "trade secrets" is intended to include any formula, pattern, device or compilation of information which is used in a commercial setting which gives the owner an opportunity to obtain an advantage over competitors who do not know or use it.

The definition of the term confidential has been clarified by several major cases arising under the federal exemption, and those cases should serve as persuasive authority in interpreting the Alaska provision. Material has been held to be confidential if: (1) it would not customarily be released to the public by the person from whom it was obtained, Sterling Drug, Inc. v. FTC, 450 F.2d 698, 709 (D.C. Cir. 1971); (2) disclosure would impair an agency's ability to obtain similar information in the future, National Parks & Conservation Association v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974); or (3) disclosure would cause substantial harm to the competitive position of the person from whom the information was obtained, National Parks & Conservation Association v. Klepoe, 547 F.2d 673, 679 (D.C. Cir. 1976).

Former exemption (12)(test questions) now appears as exemption (6) and has been narrowed to provide that the exemption only applies if disclosure would compromise the objectivity of the examination process.

Former exemption (13)(law enforcement files) now appears as exemption (7). The introductory section has been modified slightly to more closely parallel the corresponding

section in the federal act with the general reference to "other governmental unit" eliminated. Former subsection (H) has been deleted as unnecessary as the exemption is already covered by exemption (1).

Paragraph (G) of former exemption (13)(crime victims) has been deleted as it implies that the names of victims of crimes other than sexual assault are subject to public disclosure. In the proposed committee substitute the names of all crime victims would be protected from disclosure under both exemption (12) and subsection (h) of this section, until open court proceedings were initiated where the victim was identified. The right of the public to know other basic information about a crime (original entry records) is emphasized in subsection (h) of this section, and reference is made to the commentary accompanying that subsection.

The attorney work product exemption (former exemption (15)) now appears as exemption (9). The limitation in SB 90 requiring disclosure of attorney work product after the litigation has ended has been eliminated. Materials prepared by an attorney in preparation of possible litigation have been exempt from discovery since the landmark decision in Hickman v. Taylor, 329 U.S. 495 (1947). In that opinion the court noted the general policy against invading the privacy of an attorney's preparation of a case is essential to the orderly working of our legal system. Additionally, the attorney work product exemption has been held to apply to discovery of attorney work product in cases that have already been terminated, In Re Murphy, 560 F.2d 326 (8th Cir. 1977).

Consequently, in permitting discovery of attorney work product once the litigation has ended, SB 90 may be in contradiction to the Alaska Court Rules of Civil Procedure.

Former exemption (16)(judge's opinions) now appears as exemption (10), but the prior limitation in the exemption (once the case has been decided, prior draft opinions become public) has been eliminated for the same reasons as discussed under the attorney work product exemption above.

Former exemption (17) (internal security procedures) appears without change as exemption (11).

Exemption (12) exempts from disclosure records that would constitute an unwarranted invasion of personal privacy. This exemption is broad enough to take the place of the general "infringes on a person's right to privacy" exemption specified in sec. 40.25.015(a) of SB 90, and the specific exemptions in former subsections (a)(3)-(8). In using the term "unwarranted invasion of privacy" the proposed committee substitute emphasizes that even in instances where disclosure would constitute an invasion of privacy, disclosure is required if the public interest in disclosure outweighs the privacy interest.

The deletion of the specific exemptions previously found sec. 40.25.015(a)(3)-(8) of SB 90 does not make any substantive change in the bill. While SB 90 appears to provide that all information referred to in exemptions (3)-(8) are exempt from disclosure, each exemption requires that the information constitute "personal information" for it to be exempt from disclosure. That term was defined in former

sec. 40.25.040(4) as "information about an individual person, the disclosure of which would constitute an unjustifiable invasion into a person's right to privacy". Consequently, rather than blanketly exempt from disclosure the categories of records listed in exemptions (3)-(8), SB 90 requires the agency to first balance the two competing interests involved (the public's right to access to information concerning the conduct of governmental affairs and a person's privacy interests) in making a determination whether to disclose a particular record. The specific exemptions in (3)-(8) are therefore unnecessary under both SB 90, which exempts from disclosure in sec. 40.25.015(a) records that would infringe on a person's right to privacy and, under exemption (12) of the proposed committee substitute, which exempts from disclosure records that would constitute an unwarranted invasion of privacy.

Subsection (b) is new to SB 90. It is intended to: (1) state the general test to be used by a governmental unit in determining whether disclosure would constitute an unwarranted invasion of privacy; and (2) provide guidelines to be used in applying that test. Subsection (b) does not, however, define the right to privacy. Because of the wide ranging circumstances where the right to privacy can be asserted, and the competing public interests involved, the term is not susceptible to a single and uniform definition. However, in the context of disclosure of public records, specified guidelines can be provided to governmental units, and ultimately the courts, as an aid in determining whether

disclosure of a particular record would constitute an unwarranted invasion of personal privacy. The proposed committee substitute adopts this approach.

The guidelines listed in paragraphs (1)-(9) are not necessarily listed in order of importance nor are they to be viewed as having equal weight in arriving at a decision regarding disclosure. For example, if the information was of a personal nature under paragraph (1), but the individual was notified, or reasonably could have concluded, that the information would be subject to public review at the time he provided the information, the guideline in paragraph (7) would clearly take precedence and require disclosure.

The factors listed in guideline (1) are taken from AS 39.26.010, which prohibits the government from inquiring into certain personal matters concerning state employees except as directly related to the performance of his official duties. Subparagraph (E) is based on former sec. 40.25.015(e)(6).

The most important consideration in guideline (2) is whether the person could reasonably assert an option to withold embarrassing information from the public. A critical factor in arriving at the determination would be the relationship between the information and the person's ability to perform in the governmental capacity he may hold. In such a case, the information, though embarrassing, could not be witheld. Again, as with the other guidelines, each must be considered in relationship to other considerations. For example, embarrassing information about an individual that was merely rumor or conjecture would result in a much more substantial

privacy claim pursuant to guideline (8).

As is apparent from guideline (3), in many instances it is relevant to consider the standing of the person who has requested the information. It will sometimes be impossible to determine if a given disclosure will produce an unwarranted invasion of privacy without considering what the requesting party intends to do with the information. For example, a compilation of the home addresses of all state employees listing their salaries would not be exempt from researchers attempting to do a survey on the average income of state employees, while the compilation should be exempt from release for the purposes of commercial solicitation.

Guideline (4) is largely self-explanatory. The fact that the information was voluntarily furnished by an individual reduces his privacy claim while the fact that he may have been compelled to furnish the information increases his privacy claim.

The guideline in paragraph (5) is intended to emphasize that personal information supplied by applicants or receipts of basic social service programs, such as public assistance, are entitled to substantial privacy protection as the information was submitted in order to obtain minimum social benefits, and the individual had little choice but to submit the required information. This compares, however, with the privacy claim of individuals who supply information to government in an effort to obtain substantial government benefits or subsidies. Their privacy claim is significantly reduced since the decision to apply and supply the information

was a voluntary one on the part of the individual. Additionally, there is a significant public interest in monitoring governmental programs that distribute substantial amounts of state wealth to relatively few individuals.

The fact that the information requested was readily available from non-governmental sources reduces an individual's privacy claim pursuant to guideline (6), as does notification to the person at the time he supplies the information that the record will be subject to public disclosure pursuant to guideline (7).

An individual's privacy claim will be substantially greater under guideline (8) when the requested personal information consists of unverified information or rumor. The substantial damage that uncorroborated information about an individual can do to personal reputation weighs heavily against disclosure.

Guideline (9) is self-explanatory.

Subsection (c) is also new to SB 90. It establishes notice procedures to protect individual privacy interests. The duty under subsection (c) arises whenever the governmental unit has decided to disclose material that may come within exemption (a)(7)(C) or (a)(12) and there is a substantial probability that the person identified in the record will object to disclosure. The "substantial probability" language emphasizes that the notice requirement does not apply every time there is a possibility that a privacy exemption may be applicable. If the governmental unit applies the guidelines specified in subsection (b), notification should only be

required in a small minority of cases. However, in cases, for example, where there is significant disagreement in the governmental unit itself as to whether the public interests in disclosure outweighs any applicable privacy interests, the agency should be fully apprised of all considerations favoring non-disclosure before declining to assert an applicable exemption.

Subsection (d)(all records became public after 20 years) is identical to Sec. 40.25.015(f) in SB 90.

Subsection (e)(research)is identical to Sec. 40.25.015(g) in SB 90 but in paragraph (2), reference has been made to federal law or regulation, and court rule, consistent with exemption (1).

Subsection (f)(subpoenaed records) is similar to sec. 40.25.015(b) in SB 90 but emphasizes that other state laws pertaining to the confidentiality of public records cannot be raised to prevent disclosure once a subpoena has been issued.

Subsection (g), pertaining to employee personnel records, is based on sec. 40.25.015(i) but more clearly defines the types of employment personnel records subject to disclosure and exempts from disclosure personnel performance evaluations. While there is substantial disagreement on this issue, the proposed committee substitute reflects the view that the disclosure of such information constitutes an unwarranted invasion of the employee's right to privacy and unnecessarily hampers the ability of government to use the performance evaluation as an effective supervisory tool to

insure adequate job performance.

Subsection (h), pertaining to crime information, is identical to sec. 40.25.015(j), but does not provide that the name of the victim of a crime is a matter of public information. The proposed committee substitute adopts the approach that until open court proceedings commence where the victim is identified, the release of the victim's name would constitute an unwarranted invasion of privacy.

Sec. 40.25.040. Access To Records By Record Subject.

This section, which is new to SB 90, gives the individual or his duly authorized representative the right of access to any accessible record pertaining to him. "Accessible record" is defined in sec. 40.25.090(1) as a record that refers to a particular individual that can be retrieved as a result: (1) of the governmental unit's use of a retrieval scheme or index based on the identity of the individual; or (2) of the requester providing sufficiently detailed information to enable the governmental unit to locate the record without an unreasonable expenditure of time, effort, money or other resources. The compliance timetable and procedures of secs. 40.25.015--40.25.020 are incorporated by reference. Consequently, the same procedures apply if the individual is requesting access to any record whether or not his own.

Subsection (b) imposes limits on the individual's right of access to his personal records. Paragraph (1) incorporates the relevant freedom of information exemptions

of secs. 40.25.03C(a)(1)---40.25.030(a)(11). Additionally, paragraph (1) allows disclosure of information that would otherwise be exempt under AS 40.25.030(a)(1)--40.25.030(a)(11) if the information was originally submitted to the governmental unit by the requester.

Paragraph (3) limits an individual's access to his personal records to the extent necessary to prevent an unwarranted invasion of another individual's personal privacy. The agency should, of course, balance the public interest in disclosure against the privacy interest of the individual to whom the records pertains See sec. 40.25.030(b).

Paragraph (2) protects the anonymity of individuals who write letters of recommendation or provide character and fitness evaluations. A record requester is entitled to access, however, provided that the identity of the source of the evaluation is not revealed. This section also confirms that an individual shall have access to his own test questions and answers in any examination used for licensing or public employment. This applies to examinations that the individual must take and pass in order to practice a trade or profession such as bar and real estate examinations. This right is limited to access and does not include copying. This limitation enables government agencies to protect the integrity of test questions that may be used for future examinations.

Subsection (c) is intended to be consistent with protections existing for the confidentiality of records of minors who seek treatment or counselling or treatment of conditions such as venereal disease, pregnancy, or alcohol

or other drug abuse. The purpose of these provisions is to remove the fear of parental discovery and thus encourage minors to seek appropriate aid. This provision prevents parents and guardians from circumventing these statutes by asserting, in a representative legal capacity, the access rights of their children.

Subsection (d) is similar in intent to sec. 40.25.020(c).

Sec. 40.25.060. Correction and Amendment of Records.

This section, which is new to SB 90, provides an individual with the right to correct or amend any incomplete or inaccurate information contained in a record accessible to him under sec. 40.25.540.

Subsection (b) specifies that a request to correct or amend must be in writing and requires a governmental unit to respond within twenty days after receipt of the request. If the governmental unit makes the correction or amendment or does not maintain the record, the matter comes to an end. If the agency refuses to correct or amend as requested, it must inform the individual in writing of its decision and state the reasons.

If the governmental unit refuses to order the correction or amendment, subparagraphs(b)(3)(A)-(B) permit the individual to file a statement of disagreement with his record and requires the governmental unit to notify the individual of his right to bring a judicial action pursuant to sec. 40.25.070. Whenever a governmental unit discloses

disputed information to a third party, subsection (c) compels it to: (1) identify the disputed information; (2) provide a copy of the individual's statement of disagreement or pending request for amendment or correction; and (3) provide a statement of the agency's current position concerning the requested amendment or correction, including final action if any has been taken. The agency must also transmit a copy of the statement of its current position to the last known address of the individual whose record is released.

Sec. 40.25.070. Enforcement: Injunctive Relief.

This section remains largely unchanged from sec. 40.25.025 in SB 90, but reflects the ability of an individual to require a governmental unit to correct or amend incomplete or inaccurate information pertaining to him.

Sec. 40.25.070. Civil Action For Obstruction Of Access To Records.

No change from SB 90.

Sec. 40.25.090. Definitions.

A definition of "accessible records" appears in paragraph (1). That term is used in sec. 40.25.040 and is discussed in the commentary under that section.

The definition of "governmental unit" remains identical to the definition in SB 90 and specifically includes municipalities.

The definition of "personal information" has been eliminated as that term is not used in the proposed committee substitute.

A new definition of "individual" is provided. That term is used in the section on individual access to records concerning themselves, and is intended to exclude organizations, such as corporations and partnerships.

Sections 2 - 5.

The amendments in sections 2-5 of SB 90 appear without modification in the committee substitute with the exception of former section 4, providing an affirmative defense to the crime of Tampering With Public Records. In view of the requirement in the definition in the crime that the public servant "know" that conduct is improper, the affirmative defense has been eliminated.

Section 6. Effective Date.

A delayed effective date is provided to allow sufficient time to identify and propose amendments to the Act as a result of oversights in coverage.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 90

Title "An Act relating to privacy and public information; and changing Rule 65 of the Alaska Supreme Court Rules of Civil Procedure."

Requested by Sen. Fischer Date

II. FISCAL DETAIL

Agency Affected Department of Law

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø	Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	Ø	Ø	Ø	Ø	Ø	Ø
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

None of the Department of Law's BRU's, Legal Services, Prosecution and Consumer Protection, expect that any significant fiscal impact would result from the passage and implementation of SB 90.

Richard R. Peggues

IV. DATE January 21, 1981 PREPARED BY Richard I. Peggues

AGENCY Department of Law

PHONE 465-3695

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

ALASKA PUBLIC INTEREST RESEARCH GROUP
Post Office Box 1093/Anchorage, Alaska 99510/(907) 278-3661

February 6, 1981

Sen. Vic Fischer, Chair
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

We would like to reiterate and expand upon our comments at the teleconference hearing of February 5, 1981 on SB 90, Freedom of Information Act.

As an impressive array of witnesses has illustrated, there is a strong need for a Freedom of Information Act. SB 90, with a few relatively minor improvements, will fill that need.

Public access to information compiled by and for its government is a basic requirement of the democratic process of government. This is not special interest legislation for the press. Rather, this is legislation which ensures that the public, including the press, can hold its government accountable.

Our specific suggestions follow:

Sec. 40.25.010(d) does not contain a fee waiver for requests in the public interest by those unable to pay, such as non-profit groups or individuals. We support a change along the lines of the federal FOIA, which contains the following language: "Documents shall be furnished without charge or at reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public."

We support the goal of releasing non-exempt portions of records to which some exemption otherwise applies (Sec. 40.25.020(c)). The proposed standard (that the lawful custodian of the record determine whether deletion of the exempt part will make release "suitable") is vague and possibly too discretionary as a standard. We support a change along the lines of the federal FOIA's use of the standard of "reasonable segregability" to govern provision of records after an exemption has been determined to apply.

We support the existing provisions which allow requestors whose request has been denied easy and cheap access to the courts: filing and service fees are waived and the court provides a simple form which instructs complaining parties how to proceed without a lawyer. The governmental unit has the burden of proof to show the exemption applies. We suggest that any notice by the governmental unit that it is applying an exemption be required to include a packet of instructions, including the form drawn up by the superior court, on how to proceed in court without counsel to challenge the exemption. In this way we can ensure that citizens are fully aware of their rights under the law without the need to turn to legal specialists. In the interest of speedy processing of the court case, we suggest that the legislature consider requiring that the court hear the case within a specified short period (e.g. 10-30 days). Otherwise, backlogs in the court can hamper the speed with which the citizen can gain access to the information.

Another legal issue is whether someone who would be adversely affected by the disclosure of an arguably exempt record should be allowed to intervene in a case involving the application of an exemption. If this standing to intervene is not otherwise provided by the Alaska Administrative Procedures Act, it should be provided in the bill. The interests of fairness require that one who is affected by disclosure be given a voice in the process, especially since the government may not pursue the case with the same vigor as the affected party. This change should not cause delay or make access more difficult as long as the burden of proof remains solidly on those who would apply the exemption.

Sec. 40.25.115(c) should allow copies to be requested in person. When the requestor's needs are urgent enough to merit an in person request, he or she should be able to get immediate action by making the request in person.

We support several changes from previous versions of the bill:

*Exclusion of search costs in the charges to the requesting party (Sec. 40.25.015).

*Exemption for attorney work product in possession of the governmental unit only until the matter is closed (Sec. 40.25.015(e)(15)).

*Broad definition of governmental unit to which the Act applies. We urge the Committee to resist any change which would exclude local governmental units from coverage under the bill (Sec. 40.25.040 (3).

The inclusion of these changes in SB 90 strengthens the bill.

We close with the strong recommendation that the Senate pass a Freedom of Information Act substantially similar to SB 90.

Sincerely,

ALASKA PUBLIC INTEREST RESEARCH GROUP

Matthew Zencey

Matthew Zencey

Ombudsman

Frank Flavin

State of Alaska

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January 28, 1981

Senator Victor Fischer
and Members
Senate State Affairs Committee
Pouch V
Juneau, AK. 99811

Subject: SB 90

Dear Senator Fischer:

In his Third, and again in his Sixth Annual Report to the Hawaii Legislature, Ombudsman Doi has noted increased interest and involvement of people in their government. Citizens have encountered two primary areas of difficulty in their attempts to learn about the workings of government through the inspection of records and files: 1. access to some records is denied, and 2. excessive delays occur before the records are released. The experience of the Alaska Ombudsman office has been similar.

Mr. Doi points out that "the less information is shared, the more power those that possess such information retain for themselves." He takes the position, as does the Policy section of SB 90, that "democratic institutions are founded on the premise that information should be shared among the citizenry and their representatives for decision-making purposes." In arguing for freedom of information legislation, Ombudsman Doi urges

--that governmental records and materials be open to the fullest extent possible,

--that exclusions be limited, be specifically listed and strictly defined, and be legislatively authorized,

--that strict time limits be established within which agencies either provide requested records or formally deny a request,

--that prompt and covenient appeal procedures be available,

--and that fair and uniform fees for reproduction of written documents be charged.

We agree with these guidelines and support SB 90 in its attempt to strengthen the people's right to information about their government.

Freedom of information complaints to the Alaska Ombudsman office include:

--Veterans Affairs' denial of the request of a son, with his father's general power of attorney, to inspect the father's loan payment history

--Motor Vehicles' charging of $2 for the name and address of the registered owner of a vehicle, when the complainant didn't want a copy of any document

--Administration Personnel's denial of copies of preliminary studies leading to a position reclassification

--ASHA's refusal to give a resident a copy of an incident report concerning an altercation she had been involved in

--Division of Social Services' refusal to permit prospective foster parents viewing of personal references written about them

--DOT's refusal to provide a citizen with a copy of the tape of a public meeting for use on a radio broadcast (they would provide a transcript)

Although some of these complaints have been found to be justified, and others unsupported, they serve to exemplify the spectrum of types of information sought and the number of different agencies involved.

With regard to SB 90, the following specific suggestions and questions are offered for your consideration:

page 2 line 25
(1) those exempted from disclosure by state statute (;), federal law or regulation

This language is closer to the current AS 09.25.120 (4) and should preclude conflicts between federal and state laws.

page 4 lines 5 and 6
Who decides what are "trade secrets, privileged information, and confidential commercial, financial, geological or geophysical data?"

page 4 lines 9 and 10
The current drivers manual contains sample questions which are, in some cases, actual questions on drivers license tests.

page 8 lines 25 through 29 and page 9 lines 1 through 7
Who is the "head" of a governmental unit?" What is an "agency?" If an agency is a department, the commissioner would be the "head;" if agency means a division, the director would be its "head."

Who is the "head" of, for example, the Human Rights Commission -- the Executive Director or the Chair?

Should it be required that there be "designees" in each office location, or will, for example, an employee in the Fairbanks Natural Resources

office need to contact a designated custodian in Anchorage before releasing a record?

In the definition of "governmental unit" perhaps "governmental instrumentality," "public corporation," and "REAA" should be specifically included.

page 9 line 24
What is a "public body?" Would, for example, this section apply in a meeting between several state agencies and the U.S. Army?

More generally, you may wish to include an administrative appeal prior to filing an action in court to compel the release of records. Such an appeal would require a different decision maker and strict adherence to reasonable time frames.

Also, the legislative adoption of a uniform fee schedule similar to that proposed by the Governor might be advisable. This proposed regulation provides for the copying of 20 pages free within a 24 hour period, and a fee of 10¢ for each additional page.

Our most pressing concern, however, is the repeated use of "right to privacy" in this proposed legislation. Absent any attempt at definition or case law clarifying this Constitutional protection, we are left only with case by case interpretation. The diversity of opinion is particularly evident in responses from the Attorney General's Office on cases arising from Ombudsman complaints.

In opinions issued on April 17, 1979 (concerning release of mailing lists of those receiving senior citizen property tax exemptions to a senior citizen organization) and on February 21, 1980 (concerning the release to Legislators of the names of those receiving Longevity Bonus payments) an Assistant Attorney General advised that the former be denied, while there was no privacy issue in the latter. He argued that there would be no anxiety or embarassment caused to Longevity Bonus recipients if their names were to be released to members of the Legislature, whereas it would violate the privacy of senior citizens claiming property tax exemptions if a list of their names and address were released. When in doubt, this opinion states, it is better to err on the side of non-disclusure. A factor in the senior citizen decision was the possible use of the list by vendors.

On a similar issue, and on the basis of the same legal advice, the Division of Retirement and Benefits has refused to relase a list of TRS retirees to a retired teacher organization. The division explains that although this group might not "misuse" the list, it if were released to one organization, how could the division refuse to provide it to another which might put it to questionable use.

In another opinion issued July 31, 1978 on the release of the name and address of the registered owner of a motor vehicle (attached), the

same Assistant Attorney General argues that despite the absence of current statutory language allowing the keeper of a record to inquire as to its possible use, the Attorney General's office has taken the position that right of privacy takes precedence over freedom of information. "When the two come in conflict, the keeper of the records can facilitate or cause a person's privacy to be invaded only to the extent that a legitimate public interest requires it." He concludes that the release of motor vehicle registration information is generally "harmless," since "persons requesting the information will have an interest sufficient to justify the information's release..." Absent "any pattern of misuse of information or any serious or persistent problem," the opinion finds that "the statute controls" and the information is public. "We do not believe that...administrators have the authority to carve out their own exceptions from the statutory dictates of AS 09.25.110." Yet this is exactly what he has advised the Department of Community and Regional Affairs and the Division of Retirement and Benefits to do in the previously cited opinions.

We expect ultimate resolution of these differing interpretations to come through litigation, perhaps to be facilitated by the simplified civil procedures in SB 90. They are brought to your attention as a reminder of just how gray the "right to privacy" area is and, therefore, how subject to individual interpretation the sections in SB 90 which use this language will be.

Sincerely,

Frank Flavin
Ombudsman

Attachment

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K — STATE CAPITOL
JUNEAU 99811

Ju , 1978

Mr. Francis M. Flavin, Ombudsman
340 'K' Street, Suite 203
Anchorage, Alaska 99501

Re: Ombudsman Complaint
#A78-0655 (license
plate information)
Our File: J-66-787-78

Dear Mr. Flavin:

Your letter to the Attorney General on this matter has been referred to me for reply. The issue presented is whether the adoption of the Privacy Amendment to the Alaska Constitution, art. I, § 22, impliedly amended AS 09.25.110. */

Often called the Alaska Freedom of Information Act, AS 09.25.110 **/ provides generally that, absent a "specific" dictate to the contrary, all public records are open to public inspection and copying. Nothing in the section requires (or

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*/ A threshold question is whether AS 44.23.020 allows the Attorney General to provide the Ombudsman with legal advice. We believe that, as an agency of the legislature, AS 24.55.110, the Office of Ombudsman is entitled to a written legal opinion under AS 44.33.020(b)(4). Even in the absence of that statute, the Attorney General's common law powers would appear to authorize the opinion. Public Defender Agency v. Super. Ct., 1st Jud. Dist., 534 P.2d 947 (Alaska 1975).

**/ The section reads as follows:

Sec. 09.25.110. INSPECTION AND COPIES OF PUBLIC RECORDS. Unless specifically provided otherwise the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

even authorizes) the keeper of the records to inquire into the bona fides of the request for a record or other information. Nothing in the section allows the keeper of the records to reject a request simply because he doubts that it is legitimate or even if he is convinced on the basis of the information available to him that the request is illegitimate. The statute is Kantian in its dictate. If a rapist asks for a girl's name and address, under the statute's plain language, the keeper of the records must reveal them.

This office has, however, consistently rejected the Kantian formulation and taken the position that the constitutional right of privacy takes precedence over the Freedom of Information Act. When the two come in conflict, the keeper of the records (the state) can facilitate or cause a person's privacy to be invaded only to the extent that a legitimate public interest requires it. Falcon v. A.P.O.C., 570 P.2d 469 (Alaska 1977). Hence, if a public release of information would result in a disclosure which would stigmatize one or subject one to opprobrium or otherwise disclose matters which an ordinary, reasonable person would prefer remain private, then there must be a legitimate public interest in releasing the information sufficient to justify the invasion of privacy before the information can be released. Falcon v. A.P.O.C., supra; cf., Ravin v. State, 537 P.2d 494 (Alaska 1975) (balancing of interests).

With respect to motor vehicle registration, as a general rule, the release of the information is in itself harmless. The probability of serious misuse does not appear to be great. The likelihood of potentially obnoxious use (e.g., an unsolicited offer to purchase) does not appear much greater. As a general rule, persons requesting the information will have an interest sufficient to justify the information's release, i.e., hit-and-run victims, seekers of witnesses to accidents, junkyard dealers, auto towers, and creditors. Even a would-be, albeit unsolicited, purchaser has a legitimate interest. */ No one has suggested that there is any pattern of misuse of

*/ We cannot agree with your assumption that the only legitimate use of registration information is to futher its major purpose, i.e., revenue and law enforcement. It is, for instance, used to establish ownership. AS 28.10.560; State Farm Mut. Auto Ins. Co. v. Clark, 397 F.Supp. 745 (D. Alaska 1975).

information or any serious or persistent problem in the misuse of information which would support an imposition of administrative restrictions on the release of information under AS 09.25.100 and 110. If such a pattern or problem existed, then the protections of the Privacy Amendment could be invoked. But absent both, the statute controls.

It would certainly be possible, if it chooses to do so, for the legislature to amend title 28 to provide for the administrators to devise regulations or forms for protecting motor vehicle registrants (and others) from constitutionally permissible but nevertheless unwanted intrusions into their privacy. We do not believe that, absent a change in the law or the existence of an actual and serious problem involving someone's privacy, the administrators have the authority to carve out their own exceptions from the statutory dictates of AS 09.25.110. That would be a real abuse of discretion, an abuse which you would, undoubtedly, soon be called upon to examine.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Rodger W. Pegues
Rodger W. Pegues
Assistant Attorney General

RWP:md

THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA
155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801
LAW DEPARTMENT (907) 586-3300

February 3, 1981

The Honorable Victor Fischer
Chairman, Senate State Affairs Committee
Alaska State Legislature
Pouch V State Capitol Building
Juneau, Alaska 99811

FILE: Legislature--1981

SUBJECT: Senate Bill 90
(Privacy and Public Information Act)

Dear Senator Fischer:

A bill dealing with privacy and public information has been before the Legislature for several years. Senate Bill 90 is a refinement of those prior unsuccessful attempts. The positions expressed in this letter are those which the Assembly of the City and Borough of Juneau, acting through its Legislative Committee, has adopted in the past and which the committee has not changed this year.

On page 2, beginning at line 19, charges for duplication of public records is limited to recovery of direct cost of duplication. This cost, very often, is the least of the costs involved in providing a copy of a public record. Search cost can be substantial, particularly where the requested record has been moved to an inactive file. It would seem to be questionable public policy to require the tax payers of the state or municipality to assume the burden of searching and reproducing a record when the production will not benefit the general tax paying public, but is for the benefit of the person seeking the record. While the state may have sufficient income to assume this burden, municipalities must still levy taxes to support their operations. For that reason, we request that this section of the bill be amended to permit municipalities to establish a charge for documents which does not exceed the actual cost of producing and duplicating the documents. The federal Freedom of Information Act permits the federal government to recover such costs and this appears to be the more appropriate public policy. The burden of satisfying someone's idle curiosity and of producing records which are solely or primarily for the benefit of the person requesting them should not be borne by the general tax payer but should be borne by the person making the request.

On page 6, lines 13 through 15, the bill provides that upon a request for a public record, the governmental unit must produce the record immediately. This varies considerably from the federal Freedom of Information Act which allows ten days for the agency to determine whether the record is to be produced. Requiring the immediate production of a record places the establishment of the priority of the conduct of the government's business in the hands of the individual requesting a record. If "immediately" is to have any meaning, it must mean "now" and not "as soon as I can get to it." If the custodian of a record is involved in a time-

critical project, the language of the bill would require the custodian to set aside the project in order to search for the record. Not only does record search and production take priority over all other government business, it does not allow a reasonable period of time for the custodian to seek legal advice as to whether a particular record is a public record or falls under one of the exemptions. The ten days allowed in the federal Freedom of Information Act accommodates both of these considerations. We request that the approach taken in the federal Freedom of Information Act be followed in this bill.

Section 3 of the bill (beginning at line 28 on page 9) would repeal the present authority of a state or local government public body to go into executive session to discuss matters which are required or authorized by federal law to be discussed in executive session. More importantly, this section of the bill would repeal the present authority of a municipality to establish by charter or ordinance additional subjects which may be discussed in executive session. If there is no charter provision or ordinance of any municipality in the state which appears to create an abuse of this authority, one can certainly question the need for the removal of this authority. Even if one were able to point to a charter provision which was believed to be an abuse, it should also be remembered that the charter is something which was adopted by the citizens of the municipality. If one is able to point to an ordinance which is believed to be an abuse, it should be remembered that the ordinance can be reached by a referendum. Because we are not aware of any municipality having abused this authority under the present state law and because both mechanisms for the creation of additional subjects for executive session can be reached by the electorate of that municipality, we recommend that Section 3 of the bill be deleted.

Parenthetically, I would point out that in analyzing the deletion of Section 3, one should be careful to distinguish between the authority of a municipality to establish additional subjects for executive session by charter or ordinance on the one hand and the actual use of an executive session for purposes which are not authorized either by law, charter, or ordinance. For example, the fact that a committee of the Legislature has gone into executive session for a purpose not authorized under the Open Meetings Law has no bearing on the fact that the Legislature has authority to amend the statute to provide additional subjects which may be discussed in executive session. Similarly, the fact that the city council may have gone into executive session for some unauthorized purpose, should have no bearing on the council's authority to establish, by ordinance, an additional subject which may be discussed in executive session.

The version of this bill which was adopted by the Senate last year excluded municipalities from the operation of the bill. The Senate State Affairs Committee version of the bill removed municipalities from the bill. It appeared to be the consensus of that committee that local records were a local problem to be dealt with at the local level without state intrusion. The City and Borough of Juneau supports the philosophy that the state should maximize local authority to deal with local problems, particularly for home rule municipalities. For this reason, the City and Borough of Juneau supports the approach taken by the Senate and the Senate State Affairs Committee last session. Just as, I am sure, the Legislature believes that the State of Alaska is in the best position vis-a-vis the federal government to determine which of the State's records should be protected and which should be made public, municipalities

are likewise in the best position to determine which of their records should be protected and which should be made public. It is the municipality, not the State of Alaska, which knows what types of records it generates or comes into possession of. The Legislature has, in the past, demonstrated a total indifference to the need for municipalities to protect certain of their records. One will search the Alaska statutes in vain in an attempt to find a statute dealing specifically with protected municipal records. In that search, however, one will find numerous exceptions for records kept by specific state agencies. Even though municipalities may keep identical records, the Legislature has never seen fit to provide protection for such records in the hands of a municipality. When the the Legislature establishes a program which will involve records which should be protected, it is in a position to address the public records problems at the time it creates the program. Under Senate Bill 90, a municipality would not have that option. It would have to wait to create its program until it had authority from the Legislature to protect the records the program would generate. For the foregoing reasons, we request that Senate Bill 90 be amended to eliminate its coverage of municipalities in the same manner as was done in the bill which was adopted by the Senate last year.

While we believe that the approach requested in the preceding paragraph is the better approach, we also recognize that many of the concerns expressed in that paragraph could also be met by an amendment which would provide for an additional exception at the end of the present 17 exceptions in the bill. The 18th exception would be added after line 18 on page 5 and would read substantially as follows:

(18) Records of a political subdivision which have been specifically declared by ordinance or charter to be protected records.

If this approach is taken, the provisions of the bill would be applicable to municipalities but the municipality would, nevertheless, retain authority to deal with those records of the municipality which the assembly or council determines should be protected. The creation of a protected class of records by the municipality would have to be accomplished through the ordinance process which involves notice, public hearings, and public input. As a minimum, municipalities should be given the opportunity to deal with their own records in this fashion. If at some time in the future the Legislature determines that municipalities in general have gone "too far" in protecting their records, it can deal with that problem at that time. In the meantime, the Legislature should refrain from encroaching on local autonomy any more than is absolutely necessary.

There are a number of problems which will exist for public servants who are charged with administering public records under this bill. The most severe is the lack of any definition or standards by which one can guage whether or not the release of a record would constitute either an infringement upon a person's right to privacy or an unjustifiable intrusion into a person's right of privacy. The bill uses both terms but defines neither. Also, we find no clue as to why these different terms are used. Further, the use of the word "unjustifiable" to modify the phrase implies that the public official is to balance the individual's right of privacy against some other unstated consideration. Too much is at stake to place this burden upon a public employee without additional definitions, standards, or guidance. If the Legislature prescribes a balancing test to determine whether records should be disclosed or not, it, rather than the courts, should provide the standards under which the balancing will take place.

I hope you will give serious consideration to the foregoing comments. If you have any questions, please do not hesitate to call me.

Very truly yours,

Gerald L. Sharp
City-Borough Attorney

GLS:phl

cc: Mike J. Colletta
Brad Bradley
Richard I. Eliason
Terry Stimson
Assembly
Ginny Chitwood, Alaska
Municipal League

NAU

HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827
(907) 766-2711

February 19, 1980

Senator Vic Fischer
Chairman, State Affairs Committee
Pouch V
Juneau, Ak 99811

Dear Senator Fischer,

On its regular meeting on February 17, 1981, the Haines Borough Assembly instructed me to inform you that they do not approve of Senate Bill 90.

On studying this bill, there are many good points, but at the same time it allows too little support for the custodian of records. In other words, the bill is too liberal for the public (news media). This places a great responsiblity on the custodian, who must "immediately" make a decision if a request violates any of the provisions excluded in Sec. 40.25.010 (e). Thus, a custodian and/or his administrative officer could be responsible for damages and attorney fees and other litigation costs, even when they believed they were acting in good faith. Likewise, it could work the other way, where the custodian would allow information that should be confidential because they feared court action if they refused such information.

We highly recommend you do not pass this bill until it is modified giving more support for the custodians of public records.

Sincerely,

R. E. Henderson
Mayor

REH;kk
cc: Mike Miller
Bill Ray
Jim Duncan
Alaska Municipal League

February 19, 1981

Mr. Raymond L. Medlin
American Evolutionary Church
Box 1339
Sitka, Alaska 99835

Dear Mr. Medlin:

I appreciate your letter of February 17 making suggestions for changes in SB 90.

Although I am the sponsor of the bill, it is being handled by the State Affairs Committee. I will send a copy of your letter to the Committee Chairman so that he may consider what you have said.

Sincerely,

Charles H. Parr

CHP:vc

cc: Senator Vic Fischer
Chairman
State Affairs Committee

Raymond L Medlin
Box 1339
Sitka Alaska 99835

17 February 1981

Senator Parr
Pouch V
Juneau Alaska 99811

Re: Senate Bill No. 90
Privacy and Public
Information

Gentlemen:

I am pleased with and in full support of the opeaning section, Sec. 40 25 010, as stated and would like to see it in the final bill.

In sec 40 25 015 (c), I would suggest inclusion of requests in person; sec 40 25 015 (e) (13), include " except that access may not be denied to the person who is the subject of the records but only to the extent that the production of the records would"; sec 40 25 015. (h), include "or release or production of subpoeaned records or information in a civil action".

I would like to see included somewhere in the bill specific mention and reference to making public, information by contractors and private business concerning bids and contracts on public works projects; and making available to the person who is subject of the records or designee information in hospital, doctor, unions, employers and contractors. records.

Please attach this letter with the bill for consideration.

Very truly yours,

Raymond L Medlin

Raymond L Medlin
American Evolutionary Church

RLM/rm

Nan - Responded SVP

V.

City of Seldovia

P.O. DRAWER B TELEPHONE 234-7643
SELDOVIA, ALASKA 99663

February 17, 1981

Senator Vic Fischer
Behrends, Room 205 - Pouch V
Juneau, Alaska 99811

Dear Senator Fischer,

The Council of the City of Seldovia has strong feelings of opposition to Senate Bills 90 and 44; and have requested their concern be conveyed to you.

In the case of SB90, the feeling is that there are valid reasons for executive sessions without abusing the intent of a session.

In the case of SB44, it seems ridiculous that a municipality should have to pay defense fees for a law breaker regardless of financial ability. We need more support for the law and less undermining of it.

We would be most appreciative if you would vote "NO" on both bills.

Thank you for your consideration.

On Behalf of the Council
of the City of Seldovia.

Carl L. Hille

Carl L. Hille
City Manager

CLH/ck

Society of Professional Journalists

Farthest North Chapter
Box 74573
Fairbanks Ak. 99707

Sigma Delta Chi

February 1, 1981

Sen. Vic Fischer
State Legislature
Pouch V
Juneau, AK 99811

Dear Sen. Fischer:

I understand that my written testimony arrived via telecopier barely legible. If I knew who to blame I would get you an apology. Lacking that, I apologize that there wasn't more time to mail it down in time for the hearing. I hope this arrives in advance of the teleconference on Thursday. If not, I plan to be present in Fairbanks for the hearing and will present this testimony orally if you have not received it and any additional comments if you have.

If there is anything I or the Task Force can do to help pass this important legislation we stand ready to help. Please don't hesitate to call on us.

Again, my apologies.

Sincerely yours,

Dean M. Gottehrer
Chairman
Alaska Freedom of Information Task Force

Society of Professional Journalists

Farthest North Chapter
Box 74573
Fairbanks, Ak. 99707

Sigma Delta Chi

January 26, 1981

Members
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Dear Committee Members:

On behalf of the Alaska Freedom of Information Task Force, I thank you for the opportunity to submit written testimony on Senate Bill 90. The FOI Task Force was organized by the Farthest North Chapter of the Society of Professional Journalists and numbers nearly 40 members, among them most of the state's daily newspapers, many weekly papers, broadcast stations, magazines and other media organizations. The Task Force is dedicated to seeking the passage of a Freedom of Information bill that will bring government out of the shade where the people's business is being hidden and keep it in the sunshine where that is presently the case.

I have urged our members to judge any proposed legislation against the current law. On that standard I believe SB 90 rates high. It includes all branches of state government, covers municipal and borough governments and provides for speedy access to inspect government documents. Generally, it sides with free and open government so that the people may know what is being done in their name. For the most part the exclusions listed in the bill are rational and legitimate and balance the sometimes conflicting rights of freedom of information and the right to privacy of the individual.

There are, however, some areas of the bill we would like to see changed. Presently the bill contains no definition of the right of privacy. We believe the Legislature, following the constitutional mandate should define that right. We suggest the following definition from the Restatement of Torts: Privacy is that right of an individual to be protected against publicity of a matter concerning that individual's private life when the matter publicized is of a kind that (a) would be highly offensive to a reasonable person and (b) is not of legitimate concern to the public.

We believe the exclusion listed in Sec. 40.25.015 (e)(8) should be stricken from the bill. It is of such a general nature that many records the Legislature would probably want public could be withheld under that exclusion. Sec. 40.25.015 (13) concerns us for two reasons. First, it potentially excludes original entry police records--those documents completed when a suspect is taken into custody. One of the roles of the press historically has been to see that no individual is held by the police unjustly and closing original entry records makes that a much greater potential hazard. Second, (C) of (13) speaks of an unjustifiable intrusion into a person's right of privacy. If that language is to remain here and in other sections of the bill we believe a definition is needed of what is a justifiable intrusion. Since that seems almost impossible, we would prefer to see

that language removed. We don't want to see the police or other governmental unit employees left with the impression that anything unflattering is private.

In a suit for disclosure, the burden of proof should rest with the governmental unit to prove it was required not to release requested information. The courts should be instructed to presume in favor of disclosure.

Each governmental unit should be required to keep a file of letters of denial of information requests that should itself be public. This would allow easy monitoring of governmental units to determine whether they are complying with the law.

The bill does not clearly include computer maintained records as it should. The section defining records should be amended to include "information stored in a computer system." Independent contractors paid with government funds should also be included in the bill's coverage. The definition of governmental unit should include "independent contractor paid with public money in whole or in part and under the supervision of any of the above groups or units."

Whether the state should charge for document copies and how much is a question that has plagued us for some time. Some members believe the media should not be charged since they are doing the public's business when requesting documents while researching a story. Others are willing to pay. No one, however, believes a governmental unit should charge more than the actual copying cost. The method contained in the Governor's proposed regulations is a good compromise. Each requestor receives 20 pages free of charge in any 24 hour period. Above that the charge is 10 cents per page. Currently a great variety of charges exists among agencies. It would help all if the Legislature standardized these charges.

Finally, one last concern. Sec. 4 of the bill on page 10 makes a good faith reliance on AS 40.25 or other law governing confidentiality of public records a defense against the crime of tampering with public records. This defense should be clearly limited as applying only to impairing the availability of a public record and not to any of the other actions listed in AS 11.56.820.

The task you have before you is not an enviable one. You will be urged to exclude this or that branch of government, this or that agency, one or another of a multitude of types of records from coverage under the bill. As you address each of these requests, I ask that you recall that all of these governmental units exist because they are supported with public monies. The public has a right to know what is being done with these funds. Government in the sunshine is best for all people. Keeping government open primarily benefits the people--not the media. Remember that 75 percent of all requests under the federal freedom of information laws come from non-media sources and only 25 percent from the media.

Sincerely yours,

Dean Gottehrer

Dean M. Gottehrer
Chairman
Alaska Freedom of Information Task Force

CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

February 11, 1981

Senator Vic Fischer, Chairman
Senate State Affairs Committee
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

I am writing you about 2 bills you are currently considering. These are SB90 and SB153.

SB90 might open up government, but would be harmful in the process. Executive sessions are a must to insure that the legal & personnel aspects of governments are not endangered. This is especially true in smaller communities where it is difficult to keep anything "private".

The City's personnel records must also be closed. If they become open records, then very little will be put in them for reference purposes and the general administration of the personnel function.

While it might seem simple or easy for larger communities to produce records on request, smaller ones with only one or two employees in the clerk's office can't comply in that fashion. Many records are stored away in boxes and old files and are not easily accessible.

Regarding SB153, the City of Nome is presently in court with the Methodist, Lutheran and Catholic churches over similar issues. We have 14 churches in Nome, almost all of them in "missionary status". They have had a great deal of their land and property exempt until recently when the City said that we couldn't afford it any longer. In 1978, this exempt property was valued at $2,300,000. That was when our total real property was $29,000,000. If anything should be done to the statutes regarding non-profit religious property, it should be to clarify and strengthen them.

Thank you for the opportunity to comment.

Sincerely,

Ivan L. Widom

Ivan L. Widom
City Manager

cc: Mayor & City Council
Bob Hicks

ALASKA PUBLIC EMPLOYEES ASSOCIATION
State Headquarters: 340 North Franklin Street, Juneau, Alaska 99801 • Tel: (907) 586-2334

TO: The Members of the Senate State Affairs Committee

FROM: Cherie Shelley
Executive Director, APEA

CONCERNING: Aspects of Senate Bill NO. 90

SENATE BILL NO. 90

This is an act, relating, in part, to privacy and public information. Under Section 1 (i), it states that all personnel records showing salary or compensation or that which concerns the employee's current performance or ability to perform the duties and responsibilities of his job, shall be open for public inspection.

APEA readily recognizes the validity of public inspection of salaries or compensation. APEA concurs that an employee's record showing that he/she met the minimum qualifications required for the position held, should be available for public scrutiny.

However, APEA vigorously opposes public access to an employee's record of current performance or ability on the job. This aspect presents a real and threatening infrignement of a person's right to privacy. Evaluations, reprimands and consubstantial records are, and should be treated as confidential reports.

ANCHORAGE FIELD OFFICE
833 GAMBELL STREET, SUITE A
ANCHORAGE, ALASKA 99501
TELEPHONE: (907) 274-1688

FAIRBANKS FIELD OFFICE
825 - D COLLEGE ROAD
FAIRBANKS, ALASKA 99701
TELEPHONE: (907) 456-5412

JUNEAU FIELD OFFICE
227 4TH STREET
JUNEAU, ALASKA 99801
TELEPHONE: (907) 586-6105

To open these records to the public will be to open a floodgate of additional paperwork for individual departments and the Division of Personnel and in all probability to neccesitate the hiring of employees to process the paperwork.

Public employees will be subjected to unsubstantiated public criticism, media castigation, personal grudge retribution and an assortment of besetting conditions.

Unauthorized, hap-hazard perusal of the records will undermine the credibility and question the judgment of the supervisory employer. An employee is retained because the employer has evaluated that employee as capable, progressive and responsible.. Accessibility to a confidential evaluation for the purpose of public debate, 'watch-dogging' or reversal, will disparage and minimize the role of the employer.

CENTRAL ALASKA
BROADCASTING, INC.

Duane L. Triplett
President and
General Manager

February 9, 1981

Senator Vic Fischer
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Fischer,

Let me take a few moments of your time to comment on Senate Bill 90 as it was introduced on January 15, 1981.

On behalf of KIMO-TV and its President, Duane L. Triplett and its News Director, John Vallentine, I would like to express our support for SB-90 with the following exceptions:

1) Most "exceptions" to the act are based on the right of privacy and guarantees no unjustifiable intrustians. A clear definition of this right should be included and used as the basis for the legislated exceptions.

2) On page 3 at line 22, Sec. 40.25, 015(e)(8) is much to broad and should be stricken.

3) On page 4 at line 11, Sec. 40.25, 015(13) appears to exclude those records prepared by a police officer at the time the action is taken. This implies that only "filtered" versions, if any would be available. Our free society depends on free press having the information on the activities of our government especially our law enforcement agencies.

The Society of Professional Journalists, Sigma Delta Chi, Fairbanks Chapter, has recommended to you that independent contractors paid with government funds should be included in the definition of governmental unit. I could support that position only to the extent that those records pertinent to a government contract might need to be available but certainly those nongovernment contract related activities of independent contractors should not be included.

....continued

Studio-Operations Center
3910 Old Seward Highway
Anchorage, Alaska 99503
Phone (907) 279-9437

KIMO T.V. —
CENTRAL ALASKA
BROADCASTING, INC.
2700 East Tudor Road
Anchorage, Alaska 99507

Seattle-Recording Studios
11 S W 100th
Seattle, Washington 98146
Phone (206) 762-2369

In conclusion, please consider that the "business of the people" (our government) is the peoples business. We, they, have a right to know. Do not confuse this issue as one only for the rights of reporters. The mass media happens only to be the most visible of petitioners.

Thank you for this opportunity for input.

Sincerely yours,

CENTRAL ALASKA BROADCASTING, INC.

David L. Geesin,
Director of Community Affairs

DLG:bke

CITY OF SEWARD

P. O. BOX 337
SEWARD, ALASKA 99664

2/11/81

CITY MANAGER 224-5214
COMPTROLLER 224-5216
INFORMATION 224-5215
CITY POLICE 224-5201

State Affairs Committee
Pouch V
Juneau, Ak 99811

Dear Mr. Chairman:

I am presenting written testimony concerning the Privacy and Public Information Act. If this bill passes, next year you will be taking more testimony on what to do about the great apathy of witnesses to crimes. Most people will not be cooperating with police if they are aware that their names, addresses, and other personal information can be given to the public. We will be unable to protect any witness that does not come under the heading of "confidential informant."

My second concern is this: Will the public be made aware that they will be paying additional thousands of dollars a year to staff a governmental unit to produce these records in each community, since they will be charged only "direct" costs such as copy fees, etc.

Who will be making the public aware of what this bill provides? Any informant of any crime will no longer have any right to privacy, except during investigations. Unlike the news media, we do not have a conflict of interest issue here, except that we would like to protect the people from testifying to police under any air of vendetta that this bill will harbor.

Sincerely,

Louis A. Bencardino, Chief
Seward Police Department

Ombudsman

Frank Flavin

State of Alaska

Reply to:

☐ 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 276-4011

☐ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

☐ P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

January 29, 1981

Senator Victor Fischer
and Members
Senate State Affairs Committee
Pouch V
Juneau, Ak. 99811

RE: SB 90

Dear Senator Fischer:

Since investigation is a basic function of the Ombudsman, enabling legislation typically gives him broad authority to make inquiries, obtain relevant information, and compel information and testimony.

In ar investigation, the Alaska Ombudsman is empowered (in AS 24.55.160 (a) (1 - 3)) to "make inquiries and obtain information he considers necessary; enter without notice to inspect the premises of an agency . . . and hold private hearings."

AS 24.55.170 (a) (1) authorizes the Ombudsman to "compel by subpoena . . . the appearance and sworn testimony of a person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation." Subsection (2) similarly authorizes subpoenas for production of "documents, papers or objects."

In AS 24.55.100, the Ombudsman is <u>required</u> to investigate complaints within his jurisdiction unless specific exemptions apply. YET THERE ARE NUMEROUS COMPLAINTS, THE INVESTIGATION OF WHICH IS IMPOSSIBLE WITHOUT OMBUDSMAN ACCESS TO ALL RELEVANT DOCUMENTS, EVEN THOSE DETERMINED TO BE CONFIDENTIAL.

Examples abound:

child in need of aid
foster parents
Trooper investigations
vocational rehabilitation
certification and licensing of nursing homes
fish ticket information used by limited entry

business license information
public assistance
juvenile corrections
personnel files
testing materials
tax payments
driving records
unemployment insurance

Although it is sometimes possible for Ombudsman staff to gain access to required documents by obtaining the signed release of the complainant, often an investigation requires examination of more than just the complainant's file. For example, a person may allege that although similarly situated, she received different treatment than another. Investigation of such a complaint would require review of numerous files to determine if equity in administration of a program had occurred.

Access to child in need of aid files is also a continuing problem. From whom must we obtain a release to gain access -- the child, the parent, the guardian, a court, or some combination?

We believe that the Ombudsman Act currently authorizes access to confidential documents. Unfortunately some agencies disagree.

We have attempted through regulation and formal agreements with agencies to further assure (in addition to AS 24.55.160 (b)) that the Office will afford records the same degree of confidentiality as required of the providing agency. Ad hoc arrangements with some agencies have been negotiated, but the possibility to delay or hault an investigation looms. The problem remains, as the attached Attorney General opinions demonstrate.

To remedy this situation, we urge the adoption of the following amendment:

page 5 line 29 rewrite subsection (h) to read:

(h) The exceptions provided under this section do not preclude

(1) production and release of subpoenaed records or information to a state or municipal agency during the course of an investigation;

(2) production and release of records to the ombudsman when requested during the course of an investigation by him; records released to the ombudsman shall be kept confidential by him while the records are in his custody, except the ombudsman may, upon prior notice to the agency, release the records to the court for in camera review pursuant to AS 40.25.025 (d).

We appreciate the opportunity to offer comments on this proposed legislation. If we can provide additional information, please do not hesitate to ask.

Sincerely,

for Frank Flavin
Ombudsman

PM:ss

Attachments

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

May 7, 1979

Duncan C. Fowler
Regional Representative
Ombudsman
Pouch WO
Juneau, Alaska 99811

Re: Confidentiality of Records
Relating to Nursing Home
Licensure
Our File No. J-66-804-78

Dear Duncan:

This letter is intended to follow up on our recent conversations regarding the ability of your office to inspect records maintained by the Department of Health and Social Services which relate to the licensure of individual nursing homes.

As I have pointed out, AS 18.20.090 provides that "[t]he department may not publicly disclose information received by it in a manner identifying an individual or hospital except in a proceeding involving the question of licensing." In the licensure context, of course, the term "hospital" includes a nursing home. See, AS 18.20.130. On the basis of these provisions I have advised the Department of Health and Social Services to deny your office general access to the records it maintains in this limited area.

I understand, however, you have reviewed other records maintained by the Department of Health and Social Services and have obtained the information you desired. Those records, generated pursuant to Section 1864 of the Social Security Act, are subject to public inspection in accordance with provisions of federal law with which I assume you are now relatively familiar.

03:CSLH

I would appreciate it if you would let me know whether you have any remaining problems in this regard. I would like, specifically, to repeat my oral invitation for you to inform the Department of Health and Social Services of any facts which might bear on the continued licensure of particular nursing homes.

Your cooperation in this matter has been greatly appreciated. I will proceed to close my file if I do not hear further from you in the next day or so.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By:
Thomas H. Robertson
Assistant Attorney General

THR:jrb
cc: Portia Kaufman
Dept. of Health and Social Services

TATE
F ALASKA

MEMORANDUM

Hon. B. B. Allen
Commissioner
Dept. of Administration

DATE: March 15, 1978

FILE NO:

TELEPHONE NO:

SUBJECT: Ombudsman access to personnel files; our file J-66-359-78

G. Thomas Koester
Assistant Attorney General

Communications from Ken Kareen of your office and Michael G. Harper of the Office of the Governor have indicated a desire for information regarding the power of the Ombudsman and various state auditors to have access to employee personnel files.

It is our opinion that the Ombudsman and the legislative auditor have virtually unlimited access to state employee personnel files.

"The legislative Budget and Audit Committee has the power to: . . . (3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information; . . ." AS 24.22.010(a). "The legislative audit division shall . . . (5) require the assistance and cooperation of all state officials and other state employees in the inspection, examination and audit of state agency books and accounts; (6) have access at all times to the books, accounts, reports or other records, whether confidential or not, of every state agency; . . ." AS 24.22.271. These provisions appear to grant virtually blanket authority to the legislative auditor to have access to state employee personnel files.

"In an investigation, the Ombudsman may (1) make inquiries and obtain information as he considers necessary; (2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; . . ." AS 24.55.160(a). Under AS 24.55.170, the Ombudsman has the power to subpoena any files which he reasonably believes may relate to a matter under investigation; this would include state employee personnel files. While the statute giving the Ombudsman power does not make it clear that the Ombudsman's authority is as broad as that afforded the legislative auditor, we believe it is virtually equivalent. AS 24.55.160 gives the Ombudsman power to inspect the premises of an agency at any time as long as agency personnel are present. We believe the power to inspect the premises of an agency includes the power to inspect a state employee's personnel file possessed by the agency. In the alternative, AS 24.55.-170 gives the Ombudsman the power to compel the production

of that personnel file at a time and place specified by the Ombudsman.

In conclusion, we do not believe that there are any restrictions on the power of the legislative auditor or the Ombudsman to inspect state employee personnel files. Particularly when their powers of investigation are linked with AS 39.25.080 (providing that state personnel records are public records and open to public inspection), we believe there is absolutely no question that they may have access to state employee personnel files.

We hope this answers your questions.

GTK:chp

cc: Michael G. Harper, Administrative Ass't.
Office of the Governor

Sue Greene, Special Assistant
Office of the Governor

Carl Gonder, Deputy Commissioner
Dept. of Community & Regional Affairs

TO: Don Candey
Administrative Officer
Support Services
Central Region
DOT/PF

DATE: February 20, 1980

FILE NO: A66-281-80

TELEPHONE NO.

FROM: Avrum M. Gross
Attorney General
BY: Martha T. Mills
Assistant Attorney General

SUBJECT: Ombudsman's Access to Personnel Records

You inquired whether the Ombudsman's Office has unlimited access to personnel records of the Department of Transportation and Public Facilities. The Ombudsman may have access only to the information in personnel files which is generally available to the public. However, if regulations are adopted whereby the Ombudsman must maintain the same confidentiality for personnel records as required by State law, then the Ombudsman may have access to confidential information in personnel files. A similar approach has been taken with respect to the legislative auditor, who has adopted confidentiality procedures. This memorandum supercedes a prior memorandum of advice to B. B. Allen by G. Thomas Koester dated March 5, 1978.

Employee personnel records are protected by the laws of Alaska. Article I, Section 22 of the Alaska Constitution provides:

> "Right of Privacy". The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section."

Alaska Statute 39.25.080 provides:

> "Public Records. The state personnel records, except those records which the rules require to be held confidential for reasons of public policy, are public records and are open to public inspection, subject to reasonable regulations as to the time and manner of inspection."

The "rules" referred to by the statute are the personnel rules. Personnel Rule 14.07.0 entitled "Public Records", provides:

> "Except for examination materials, performance evaluations, personal history, or other confidential materials so designated by the Director, employee records shall be public records. Such

> records shall be available for inspection in the presence of authorized personnel by the public during regular office hours in accordance with such procedure as the Director may establish."

On April 14, 1970, the attached memorandum on employee records policy and procedure was issued by the Director, Department of Administration, Division of Personnel. The memorandum sets out public policy pursuant to AS 39.25.080, providing that whereas information such as employee name, class title, salary, length of State employment, name of immediate supervisor, office address, office phone number, and (in some instances) home phone number, mailing address, and residence address are available to the public, all other more personal information is confidential.

As evidenced by the April 14, 1970 memorandum, most of the confidential information is available to the state employee and the people employed in the personnel office. Other information, such as background investigations, grievances, appeals, and letters and reports of personnel reference, are unavailable even to the employee. Matters such as applications, personnel actions, educational background, medical reports, performance evaluations, test scores and disciplinary letters or memoranda are confidential. Of course, the employee could waive the right to keep the information available to him or her confidential.

The Ombudsman has broad investigative powers. AS 24.55.160(a) provides:

> "In an investigation, the ombudsman may (1) make inquiries and obtain information as he considers necessary; (2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; . . . ."

Under AS 24.55.170, the Ombudsman has the power to subpoena any person or documents which he reasonably believes may provide information relating to the matter under investigation. The statutes relating to the Ombudsman do not specifically state that he has access to confidential personnel records, but the authority of the Ombudsman to investigate is very broad.

The only mention of confidentiality in the Ombudsman enabling statutes is in AS 24.55.160(b), which states:

> "The ombudsman shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before him except insofar as disclosures may be necessary to enable him to carry out his duties and to support his recommendations."

The section does not require the Ombudsman to maintain the confidentiality of personnel records and it is within his discretion to decide what disclosures may be necessary to carry out his duties and support his recommendations.

In Falcon v. Alaska Public Offices Commission, 570 P.2d 469 (Alaska 1977), the Alaska Supreme Court balanced the constitutional provision guaranteeing the right of privacy with the public disclosure of income requirements of the Alaska conflict of interest law for public officials. In physician-patient situations where disclosure of the patient's identity might reveal the nature of the treatment, the court held that:

> "In these situations, at least, we find that the extent to which the governmental interest in promoting fair and honest government would be impeded, does not outweigh the individual's privacy interest in protecting sensitive personnel information from public disclosure." Id. at page 480.

The court went on to hold that regulations exempting certain classes of patients, physicians, or others from disclosure would be appropriate.

Given the Falcon decision, if the Ombudsman promulgates regulations which would assure the same confidentiality for personnel records as state law requires, then access to those records would be appropriate.

AMG/MTM/sls

cc: Ombudsman

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S JUNEAU 99811

June 12, 1979

RECEIVED
JUN 15 1979
ANCHORAGE
OFFICE OF THE OMBUDSMAN

Francis M. Flavin
Ombudsman
840 K Street, Room 203
Anchcrage, Alaska 99501

Attention: Rolfe Buzzell

Dear Mr. Flavin:

I regret to inform you that the Department of Revenue will not be able to execute the inter-agency agreement which was proposed to allow your staff investigators to review confidential Department of Revenue materials. The Department of Law's opinion on this subject is attached.

The Department of Revenue, of course, will continue its present policy of full cooperation with your office's investigations to the maximum extent permitted by law.

Sincerely,

Joseph K. Donohue
Deputy Commissioner

Attachments

04-02LH

TO: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DATE: June 7, 1979

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Proposed Agreement of Ombudsman's Office

By:
Teo C. Spengler
Assistant Attorney General

You have requested that this department review the agreement proposed by the Ombudsman's Office which would permit the Department of Revenue to disclose information on tax forms which would otherwise be confidential. It is our opinion that there are serious statutory problems with the agreement.

AS 43.05.230 prohibits disclosure of tax returns and reports, except in certain circumstances. That statute provides, in pertinent part:

> Except in connection with official investigations or proceedings of the department, whether judicial or administrative, involving taxes due under this title, except in connection with official investigations or proceedings of the Child Support Enforcement Agency, whether judicial or administrative, involving child-support obligations imposed or imposable under AS 25 or AS 47, and except as otherwise provided in this section, it is unlawful for an officer, employee or agent of the state to divulge the amount of income or the particulars set out or disclosed in a report or return made under this title.

In fact, AS 43.05.230(f) makes a willful violation of the provisions of that section punishable by a fine or imprisonment.

Additionally, AS 09.25.100 requires that the particulars of the business or affairs of the taxpayer be kept confidential. That statute specifies that tax information is not a matter of public record.

The powers and duties of the Ombudsman are set out in AS 24.55.010-.340. While the Ombudsman has the authority to investigate agency action, there is nothing in the statute which specifically exempts his investigations from the disclosure prohibitions of AS 43.05.230. As AS 43.05.230 was enacted after the ombudsman statutes (2 ch 166 SLA 1976; am § 32 ch 126 SLA 1977, as compared to 1 ch 32 SLA 19[illegible], any provisions in the latter found to conflict with the disclosure prohibition will be held impliedly repealed. See Peter v. State, 531 P.2d 1263 (Alaska 1975).

Thus, the Department of Revenue is prohibited from disclosing particulars set out in a return or report, and nothing in the Ombudsman's provisions dictates otherwise. While a case may arise where disclosure of tax information to the Ombudsman might be permissible, (i.e., disclosure of a taxpayer's forms pursuant to written permission and waiver by the particular taxpayer) it certainly would not be true in most cases. Therefore, we cannot recommend that the standardized agreement regarding disclosure be signed.

TCS/lm

Sharon Andrew, Director
Division of Occupational Licensing
Department of Commerce

April 6, 1977

AVRUM M. GROSS
ATTORNEY GENERAL

Public Access to Occupational Licensing Investigatory Files
Our File: J-66-401-77

By:
G. Thomas Koester
Assistant Attorney General

You requested an opinion regarding the requirements of AS 09.25.110, the current open records law, as it applies to open investigative files of the Division of Occupational Licensing.

We believe your March 11, 1977 response to Mr. Frank Flavin, State Ombudsman, regarding this issue was absolutely correct. We also agree with the two basic reasons for maintaining confidentiality of investigatory files which you advanced in your response to Mr. Flavin.

As you note, the state is obligated to protect the rights of its citizens. In Title 3 of the Alaska Statutes, the Department of Commerce is charged with providing support services to the various professional licensing boards established in it. To successfully discharge its duty of ensuring that only qualified professionals serve citizens of Alaska, a certain degree of confidentiality for records generated during the course of investigations must be maintained while that investigation is still in progress. If it has not already done so, we suggest that the Department adopt regulations regarding the confidentiality of investigatory files under the authority granted it in AS 08.01.080.

We believe the second reason you state in your letter to Mr. Flavin is a much stronger reason for not disclosing records relating to an investigation in progress, and it certainly provides much stronger legal justification for not providing those records. Article I, section 22 of the Alaska Constitution established a constitutional right of privacy. While the legislature has not implemented this constitutional provision, we believe it certainly extends to

unsubstantiated allegations of professional misconduct such as those giving rise to an investigation. Until the investigation is concluded and the relevant facts are presented at a public hearing, they are no more than unsubstantiated allegations. The subject of those allegations, we believe, has a constitutional right not to have that material made public, and the state arguably would be violating the subject's constitutional right to privacy by making them public.

Under AS 09.25.125, a person seeking those records may apply to the courts for an injunction compelling their release. If Mr. Flavin or the complaintant who prompted his letter brings such an injunctive action, we would seek to have the subject of the investigation made a party to that action in order to protect his own constitutional right to privacy. In the meantime, however, we believe that the release of records relating to an investigation of that individual by a board or commission arguably would constitute a violation of the individual's constitutional right to privacy, and you have no choice but to refuse to disclose such records.

We hope this answers your questions.

GTK:jec

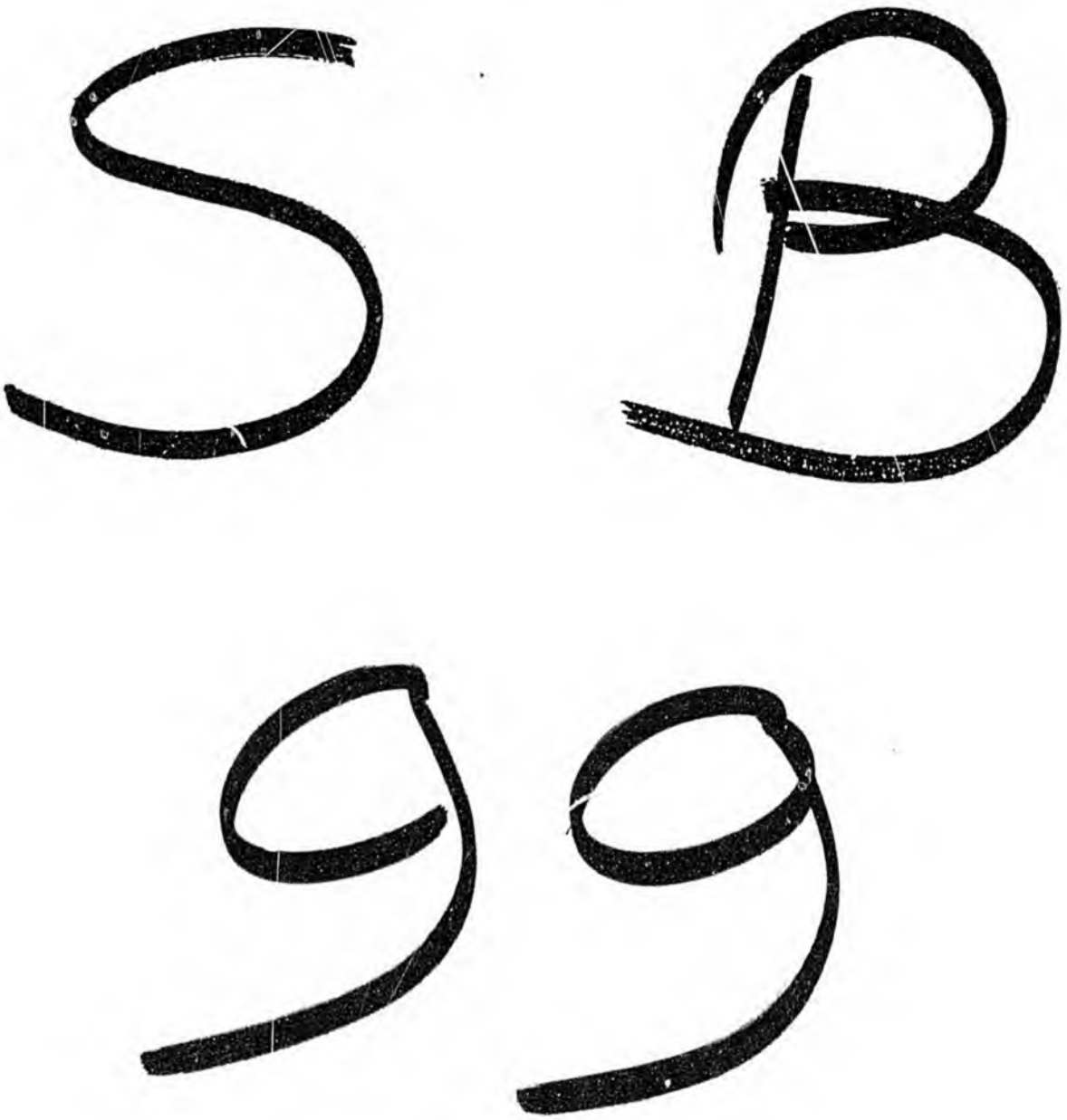
NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS BEEN FILMED.

"THE RIGHT TO KNOW"

A report from the society of Professional Journalists, Sigma Delta Chi.

NEWSPAPER



COMMITTEE REPORT

SENATE

FURTHER: None

2/3/81

Date: _____

Mr. President:

The Committee on JUDICIARY has had SB 99
prohibiting discrimination in education in the state

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mahoney NO REC.

_____
CHAIRMAN

S 60 (Rev. 12/78)

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

April 23, 1981

Ms. Margaret E. Holland
Action, Chairperson
League of Women Voters of
Alaska
8926 Birch
Juneau, Alaska 99801

Dear Margaret:

Thank you for your letter of April 22, 1981. Your kind comments are appreciated.

I am encouraged that SB 99 has finally passed the Senate, and I see this action as a positive direction for the state. I am certain that this was made possible through the efforts and determination of people such as yourself, and I am very appreciative.

Thank you again for your efforts in supporting SB 99.

Sincerely,

Pat

Patrick M. Rodey, Senator

PMR/ods

League of Women Voters of Alaska

April 22, 1981

RECEIVED

APR 23 1981

The Honorable Patrick Rodey
Chairman, Senate Judiciary
Committee
Alaska State Legislature
Pouch V,
Juneau, Alaska 99811

Dear Senator Rodey:

Thank you for your support for SB 99 An Act Prohibiting Sex Discrimination in Education. I was pleased with the action of your committee to restore the stronger language in Sec. 14.18.090 (b).

I thought you might be interested in a recent publication by the League of Women Voters which indicates that women are becomming the "new" poor in the United States. I firmly believe that an unbiased education for women will go a long way in alleviating this developing situation by providing women with marketable skills in the better paying jobs which will be available. In this same publication there is a comment on the growing need for day care, which you will find interesting.

Thank you again for your support for SB 99.

Sincerely,

Margaret E. Holland

Margaret E. Holland
Action, Chairperson

Human Needs: Unfinished Business on the Nation's Agenda

It has been 16 years since President Johnson signed the Civil Rights Act of 1964, signed the Economic Opportunity Act and simultaneously declared war on poverty. These laws carried the banner for a sweeping sequence of federal social policies and programs aimed at eradicating poverty and assuring equality of opportunity. Since that beginning, these programs have been expanded, redesigned, repackaged, renamed, reduced in magnitude and scope and analyzed more than any other federal endeavor.

The result? Poverty and inequality of opportunity are still very much with us. To be sure, there have been gains—fewer Americans living in poverty, more integrated schools, more minorities and women in mid-level management positions and in graduate school programs. More than 4,500 blacks have been elected to public office at the federal, state and local levels. Men work as telephone operators, nurses and flight attendants; women work on construction crews and train as astronauts. Black enrollment in colleges and universities almost doubled between 1970 and 1978.

However, despite a massive infusion of federal dollars into the most ambitious national social policies and programs undertaken since the New Deal, the advances of the past 16 years may have not changed the lives of enough people to justify their costs. Some data suggest that we aren't even gaining on the problem: the earnings gaps between blacks and whites and between males and females have actually widened.

Were the goals too ambitious? Is more time needed to turn the tide? Would better design or more funding improve the effectiveness of these programs? Is the bureaucracy as much to blame as is often claimed? Should the federal government have looked more to the private sector or to other levels of government to take the lead in pursuing these social reforms?

There are a couple of answers, at least, on which both friends and foes of federal social welfare efforts might agree. One is that "the feds" can't do it alone. They might also agree that social programs mandated from the top can't be fully effective, particularly if the dominant groups in our society are not wholeheartedly committed to those goals.

But neither half-heartedness nor the inadequacies of federal programs can altogether explain the gap between the hopes of the early sixties and the results of the late seventies. The swirl of change has broadened both the nature of the problems and the constituencies to be served.

One of the greatest legacies of the sixties, an enhanced sensitivity to unfairness and inequality of opportunity, has also enlarged the definition of minorities and of discrimination. Where once social concerns focused primarily on discrimination against blacks, now Hispanics, native Americans, women, the mentally and physically handicapped, the elderly and Southeast Asians all lay legitimate claim to redress. As these claimant groups have grown and become more vocal, those in the "majority" have come to view themselves as a shrinking and beleaguered minority.

Moreover, solutions to the problems—lack of equal opportunity in housing, education and jobs, and poverty—which sounded so clear and simple, have become more complex and elusive. In addition, some of the early solutions have themselves turned into monstrous problems—the phrase "urban renewal" stands as a symbol—that have had to be undone.

These were unexpected turns of events, after the early days of high resolve, but another development of the seventies dwarfs them all. America is undergoing a jolting economic adjustment that requires us to look at ourselves and our future through a different lens. No longer can we base our problem solving on the assumption that we have endlessly growing resources. The "shrinking pot" idea, driven home with urgency by unprecedented inflation, colors all our perceptions, including our attitudes about the rights and needs of fellow Americans. There is no denying this new reality.

It's time for stock taking—both because so much has changed and because too much has stayed the same.

It's a time for measuring both how much we have achieved and how much remains to be done.

It's a time for framing our questions not in the language of self-criticism, but in a more positive mode: What are the key social issues that we need to be thinking about as we enter the 1980s? Can we be creative enough to ask those questions in language that speaks to the nation in its present state? Can we develop from past experience and from a proper gauging of future needs a more effective role for the federal government in pursuit of the goal of eradicating poverty and in making the nation truly a land of opportunity for all?

This publication is an effort to help Americans reassess the recent past and look forward to the 1990s in order to answer these questions. It begins with a profile of the nation's poor. Why the poor and not the multiple minorities, the discriminated against? The answer is simple. These groups are not interchangeable, but they come uncomfortably close to being so.

A profile of poverty in the 80s

Most of the social programs now in place began as efforts to serve the poor. We have to ask ourselves, are the poor of the eighties the same as the poor of the mid-sixties? Or have some significant shifts taken place—whether in our own perceptions or in the actual demographic makeup of the poor today? In addition, in analyzing social programs and policies, it is imperative to understand how poverty is measured and what effect inflation has had on the poor.

Some economists have suggested that the battle against poverty has been won. In 1978, Martin Anderson of the Hoover Institution wrote, "The War on Poverty that began in 1964 has been won; the growth of jobs and income in the private economy, combined with an explosive increase in government spending and income

current focus

League of Women Voters Education Fund
1730 M Street, N.W.
Washington, D.C. 2003

Measuring poverty

Until 1964, the federal government had never attempted either to define precisely what was meant by poverty or to obtain an accurate count of the poor. Mollie Orshansky, an economist with the Social Security Administration (SSA), developed a formula for measuring poverty, based on an estimated food budget developed by the U.S. Department of Agriculture (USDA). Calculating that a poor family spent approximately one-third of its income on food, Orshansky multiplied the cost of USDA's 1961 Economy Food Plan by three. This figure, $3,000 for a family of two in 1961, became the official measure of poverty. The poverty figures have continued to rise as the cost of the Economy Food Plan has increased.

Comparisons of the poverty population: 1969 & 1978

Selected Characteristics	Below Poverty Level (millions)		Poverty Rate (% Population)	
	1969	1978	1969	1978
White	16.6	16.2	9.5	8.7
Black	7.1	7.6	32.2	30.6
Spanish	(NA)	2.6	(NA)	21.6
65 & over	4.8	3.2	25.3	13.9
Families With children under 18	9.5	9.7	13.8	15.7
Families with children under 6	3.1	3.2	14.8	17.2
In central cities	7.9	9.2	12.7	15.4
Outside metro area	11.1	9.4	17.9	13.5
North and West	13.1	14.2	9.5	9.8
South	11.1	10.3	17.9	14.7
All families	5.0	5.3	9.7	9.1
Male householder	3.2	2.6	6.9	5.3
Female householder (no husband pres.)	1.8	2.7	32.7	31.4
All persons	24.1	24.5	12.1	11.4

Adapted from: Bureau of the Census, Current Population Reports, Series P-60, Number 12

Why is the poverty measurement so important?

First of all, Congress frequently considers where the poverty line falls when setting the threshold for participation in government programs designed to help poor people. In addition, the poverty line is sometimes used as a yardstick to measure the effectiveness of federal programs and policies.

Second, a poverty line is a *policy* instrument. Choosing a low threshold that includes only those at the very bottom of the socioeconomic ladder enables policy makers to treat those above that line as *not* poor. In a time when budget cutters are sharpening their scissors, a lower poverty count appears to reduce the need for social welfare programs. The result is that the working poor and the near-poor face a daily struggle against inflation without the benefit of government support systems to assist them.

Critics of the Orshansky formula maintain that:

- ☐ the measurement is based on a food plan that has been demonstrated to be nutritionally inadequate;
- ☐ the current measurement (Thrifty Food Plan times three) does not reflect present spending patterns;
- ☐ the measurement doesn't allow for price differentials in various parts of the country;
- ☐ the measurement fails to account for variances in nutritional needs among special segments of the population such as pregnant or nursing women, infants, the elderly, teenagers, etc.;
- ☐ the adjustment for inflation is defective because it is indexed to the rise in the broad-based Consumer Price Index (CPI) and not to the faster-rising cost of food and other basic necessities.

Various alternatives have been suggested, but none has received widespread support. One such alternative is the Bureau of Labor Statistics' (BLS) lower budget level, which factors in regional cost-of-living differences and the actual cost of food, housing, transportation, etc. Another approach would incorporate local variances and set the poverty line at 50 percent of the median income.

Not all critics are of the opinion that the official poverty count is too low. Some contend that the poverty figure is too high because it fails to count as income "in-kind transfer payments" to the poor such as food stamps, Medicaid and housing subsidies. The dollar value of these transfer payments added to a family's income could conceivably raise it above the poverty level. Thus, a 1977 study by the Congressional Budget Office that factored in transfer payments in its definition of poverty concluded that only 8.3 percent of American families lived in poverty in 1976, in contrast to the Census Bureau figure of 13.5 percent for that same year.

transfer programs, has virtually eliminated poverty in the United States." While such an optimistic view is appealing in an age of slow economic growth, most statistics belie this conclusion. The poverty level for a nonfarm family of four was set at $7,412 in 1979. The demographics of the poor in the United States in 1978 are sketched in the table above.

Changes in the poverty population since the sixties

The growing population of elderly poor

It is no longer news that our population is growing older. In 1960, persons aged 65 and older constituted 9.2 percent of the population; by 1979 the percentage had increased to 11.2 percent. According to 1978 Census Bureau figures, 14 percent of those 23 million elderly persons had incomes below the poverty level.

Almost 17 percent of women over 65 have incomes below the poverty level; however, of those elderly women living alone, 28.8 percent are poor. The minority aged also suffer disproportionately from poverty. According to 1978 Census Bureau data, one out of four elderly Hispanics is poor, as is one out of three elderly blacks.

When several of the factors just mentioned are combined, the figure rises drastically. The poverty rate for elderly minority women living alone is the highest in the nation among all segments of the population for whom statistics are compiled—47 percent for elderly Hispanic women and 62 percent for elderly black women.

The 1980 report of the National Advisory Council On Economic Opportunity (NACEO) reminds us that many elderly who do not fall into the official measure of poverty are not far above it. In 1974, the median income for individuals 65 and over who lived solely on income other than earnings was only about $700 above the poverty line. In fact, approximately 25 percent of the elderly fall into the categories of poor and near-poor (defined as having an income at or below 125 percent of the poverty level).

The "feminization" of poverty

In 1970, one in nine families was headed by a single parent; only eight years later that ratio had changed to one in five. There are now more poor people living in female-headed than male-headed households, and there is every indication that the trend will continue. The reasons for these changes? Increases in the divorce rate and in the number of unwed mothers.

In 1978, the poverty rate for female-headed households was one in three. In contrast, only one in 18 families headed by a man is poor. According to the NACEO report, "the decline in poverty during the past decade has been almost entirely in families headed by men."

For those women who are either young or members of a minority, or both, the rate is even higher. Of women aged 15-24 who head

households, 60 percent live in poverty. The poverty rate for black female heads of households was 50.6 percent.

The growth of social welfare programs has not helped to abate this increase in the number of women living in poverty. Consider the following comparisons: In 1967, a female-headed family was 3.8 times more likely to be poor than a male-headed family. By 1974, the figure had increased to 5.7 times. For black women, the comparisons are even more severe: In 1967, a black woman heading a family was 7.5 times more likely to be poor than a white male; by 1977, the figure had increased to 10.5 times.

For these women, the route out of poverty through employment is full of obstacles, including the lack of day care and of incentives to get off welfare (see "Women in the Job Market" and "Unmet Day-Care Needs").

The devastating effects of inflation on the poor—and on federal social programs

Inflation hits the poor and near-poor with special force because they have almost no spending choices. They *must* spend a far larger proportion of their income on necessities than the rest of the population, and the inflation rate for these basics has outpaced that for other consumer goods. From December 1972 through December 1979, the combined prices of the basic necessities of life—food, shelter, household energy (gas, electricity, fuel oil and gasoline) and medical care—rose at an average annual rate of 10.5 percent, while the overall rise in the CPI for the same period averaged 8.8 percent per year. The last two years have enlarged the gap: the inflation rate for basic necessities went from 10.8 percent in 1978 to 18.2 percent in 1979, while the inflation rate for nonnecessities went from 6.5 to 7.0 percent.

There is no uniform federal policy to adjust assistance programs to cope with the problems of inflation. Raises in Social Security benefits are tied to the CPI and yearly adjustments are computed. Food stamp benefits, once adjusted semi-annually for increases in food costs, are now recalculated annually. However, the Aid to Families with Dependent Children (AFDC) program is not indexed for inflation, and changes in benefit levels are made only by state legislatures. Most states' payments have failed to keep pace with inflation.

Inflation has had a particularly serious impact on the cost of housing. Home ownership—which in any case has seldom been a viable option for the poor and near-poor without federal assistance—has been virtually eliminated as an option by high costs. The average price of a new home rose from approximately $20,000 in 1967 to nearly $60,000 in 1979. What about rental housing, the choice of necessity for most poor people? While inflation has not tripled rents, it pushed them up by 70 percent from 1967 to 1979. Multiple pressures on the rental market have shrunk the supply, as well. Mounting condominium conversions and cautious new construction have created a landlord's market, and a low-budget renter's nightmare.

Government policies to reduce inflation by tightening money supplies have two effects on social programs. They increase unemployment and thereby swell the numbers of people eligible for social welfare programs such as food stamps, unemployment insurance and public assistance. Tight money policies also increase the cost of doing business—costs that are passed on to the consumer in the form of higher prices. The cost of indexed poverty programs rises accordingly.

Another approach to fighting inflation is to reduce federal spending and trim the federal deficit. This approach could have a severe impact on social welfare programs. When the price tag on these programs leaps upward (the Food Stamp program alone went from $1.6 billion in fiscal year 1971 to almost $10 billion in FY 1981), they then become likely targets of the budget cutters on Capitol Hill. This is especially true because a large portion of the federal budget is currently fixed by law and cannot be cut. Fifty-seven percent of the budget covers entitlement programs, such as Social Security and federal pensions. Another 16.7 percent includes permanent appropriations such as financing the federal debt. Those few spots where expenditures can be reduced include many of the social welfare programs such as welfare, food stamps and housing subsidies.

A report card on discrimination and civil rights

The ongoing problems of minorities

Despite civil rights statutes and Supreme Court decisions that prohibit discrimination in housing, education and employment, blacks and Hispanics continue to suffer the effects of racism and are disproportionately represented in the poverty population.

Rochelle Stanfield, summing up the picture in the *National Journal*, concluded that relatively few blacks have entered the middle class and noted these key facts:

- ☐ Less than a fourth of black families had incomes above the Bureau of Labor Statistics' (BLS) intermediate level income of $17,106 for a family of four in 1977, while nearly half of white families were above that level;
- ☐ Only 9 percent of black families had incomes above the BLS higher standard budget level of $25,202.

With respect to civil rights, Stanfield noted that the "hopes and expectations of blacks, raised during the civil rights euphoria of the 1960s and maintained into the 1970s, crumpled with the economy."

In spite of school desegregation plans in effect throughout the country, 1980 preliminary data from the Department of Education's Office for Civil Rights (OCR) survey on elementary and secondary education show the following:

- ☐ 16 percent of minority students attend schools that are 99-100 percent minority;
- ☐ 14 percent of minority students attend schools that are 90-98.9 percent minority;
- ☐ 7 percent of minority students attend schools that are 80-89.9 minority.

At the other end of the scale, 53 percent of elementary and secondary schools are 0-9 percent minority and only 6 percent of all minority students attend these schools

Minorities tend to get the "used-up leftovers" in our society, based on hand-me-down solutions to economic difficulties. They are frequently concentrated in old inner cities, where the buildings—from homes to schools to city hall—are deteriorating, public facilities are inadequate, and the school systems are underfinanced and ill adapted to their needs. Title I of the Elementary and Secondary Education Act (ESEA), which was specifically designed to give additional materials and teachers to schools with high concentrations of low-income students, has never been fully funded by Congress.

Employment prospects for minorities continue to lag behind those available to whites. The 1980 Employment and Training Report to the President noted that between 1973 and 1979 the ratio of black to white unemployment ranged from a low of 1.8 to a high of 2.35.

During the 1960s and 1970s, affirmative action was a major tool utilized to improve employment opportunities and economic conditions for minorities. However, many affirmative action programs have been extremely controversial, and the Supreme Court has been ambiguous in its affirmation of such plans. It is likely that the 1980s will bring stepped-up attacks on affirmative action, while increasingly vocal minority groups struggle for a bigger piece of the shrinking economic pie.

Growing opposition to federal social programs

The massiveness of all these problems is cause for concern—and calls into question the tangible benefits of the civil rights movement. The very fact that the inequities have proven so intractable plays into the hands of those who have brought the struggle for civil rights to a near standstill and who may even be able to muster support in the next round for turning back the clock.

Recent action in the courts and in Congress suggest that the tide of anti-civil rights action has not yet peaked. It is worth citing some illustrative points of attack—the routes by which opponents of current civil rights laws (and especially of their implementing regulations) have sought to cut back the scope of equal opportunity and the tools for carrying out their objectives.

☐ A "rider" attached to the annual HEW appropriations bill every year since 1975 forbade the Department of Health, Education and Welfare (HEW)—and now forbids the Department of Education—from requiring school systems to use busing to implement school desegregation plans;

☐ An amendment added to the Treasury appropriations bill prevents the Internal Revenue Service (IRS) from strengthening regulations that would deprive so-called "segregation academies"—all-white private schools located in desegregated school districts—of their tax-exempt status;

☐ A rider to the appropriations bill for the Department of Health and Human Services (HHS) severelly restricts the use of Medicaid funds for abortions. (Similar riders were previously attached to HEW appropriations.)

Not only have attacks against other current policies and practices begun, but prospects also look dim for new legislation that would buttress existing civil rights laws. For example:

☐ There have been congressional efforts to prevent the Department of Justice (DOJ) from participating in school desegregation litigation where the relief sought is mandatory busing.

☐ There have been repeated efforts to attach anti-affirmative action riders to Labor-HHS-Education appropriation measures, which would forbid those departments from using goals, timetables, quotas, etc. to achieve affirmative action. If passed, these riders would affect both school desegregation and employment initiatives, including nullifing the DOL regulations that established employment goals for women in the construction trades.

☐ Repeated attempts to cut back the food stamp program crop up in the form of proposals to tighten eligibility requirements, reinstate the purchase requirement to obtain stamps, reduce food stamp allotments to families whose children receive free school lunches and switch all categorical nutrition programs to block grants to the states.

☐ Legislation that would strengthen the Fair Housing Act by giving HUD stronger enforcement powers has failed to pass in Congress.

Some civil rights advocates have viewed increased efforts to make block grants rather than categorical grants the basic mechanism for distributing federal funds as an additional threat to social welfare goals—and perhaps also to civil rights protections. Categorical grants include tightly defined goals and requirements, while block grants, which came into vogue in the early 1970s, leave state and local governments almost completely free to spend federal funds with minimal strings. To date, block grants have been confined to programs like General Revenue Sharing (GRS) and Community Development Block Grants (CDBG), but support is growing in Congress for a block grant approach to all federal social welfare programs. Even some staunch advocates of the categorical approach see the handwriting on the wall and are beginning to ask themselves, "What if block grants are the only game in town?"

Housing: still a severe problem for minorities and the poor

Quantity: dwindling rental stocks

As was noted earlier, the loss of rental housing through destruction of existing units, condominium conversion, lack of new construction and inflation-triggered high costs presents a chronic problem for low-income Americans.

A recent report by the General Accounting Office documents the decline in the availability of rental housing. The national vacancy rate has been going down since 1974, and in mid-1979 stood at 4.8 percent, the lowest since the Census Bureau began keeping records for units with six or more rooms, the rate is only 2.8 percent. The Department of Housing and Urban Development's (HUD's) 1979 Report on National Housing Goals noted that over one million rental units were lost in the period 1973-76.

Condominium conversions, particularly those involving older, moderately priced units, reduce the supply of low- and moderately priced housing. A recent HUD report indicates that approximately 366 000 rental units were converted to condominium or cooperative ownership between 1970 and 1979. While that figure represents only 1.13 percent of rental units nationwide, some cities experienced much higher rates of change. For example, in Chicago, the conversion figure was 6.75 percent. In the Denver-Boulder area, it was 6.96 percent and in Washington, DC the percent of turnover was 7.73. And the trend is spreading from the largest metro areas to others.

To make matters worse, there is little privately financed multifamily rental housing being built nationwide for lower-income families. Starts of unsubsidized rental units in 1978 were the second lowest in 20 years. The result is that there are not enough new units to replace those that are being abandoned, foreclosed or converted to condominiums under the pressures of rising operating and maintenance costs. Some critics of rent control laws contend that such legislation also discourages the construction or maintenance of existing rental housing.

Quality: for the poor, the worst of a shrinking supply

Low- and moderate-income persons face problems of quality as well as supply. A 1979 HUD study on how well female-headed households are housed shows they are more likely than the average household to live in older units (55 versus 44 percent) and are more likely to live in units that were flawed, e.g., had plumbing, heating, electrical deficiencies (12 versus 9.7 percent). For minorities, the likelihood of living in flawed housing units was even greater: 18.5 percent for Hispanics and 21.4 for blacks (1976 figures). Rural areas continue to have a larger proportion of inadequate housing than metropolitan areas, with many rural communities lacking the water and sewage systems taken for granted by city residents.

Federal housing programs: failure to fill the supply gap

Subsidized housing has long been a key factor in providing shelter to the poor. Several federal housing programs were created during the 1960s and 1970s; currently there are three major programs in existence:

Public housing Broadly defined, public housing consists of rental projects managed by local housing authorities and rented to low-income tenants at reduced rates. Of the 2.5 million units of multifamily assisted housing now occupied, almost 1.2 million or 46 percent are in low-rent public housing.

Section 236 Established in the 1960s and now incorporated into the 1974 Housing and Community Development Act, Section 236 provides reduced rents for low- and moderate-income families by subsidizing mortgage interest and providing operating subsidies to private developers. The program is currently inactive, and only projects formerly insured continue to operate.

Section 8 of the 1974 Housing and Community Development Act Basically a rent-subsidy program, Section 8 provides that tenants pay one-fourth of their adjusted income for rent; HUD pays the difference between what the tenant pays and the market price of the unit. There are two types of Section 8 housing developments: *New construction/substantial rehabilitation* and *existing housing*. There are also funds specifically set aside for the elderly.

Section 8 is the federal housing program currently in greatest use. The extent of Section 8 activity is frequently measured by the number of "reservations," or requests to construct units. According to this yardstick, 1976 was the busiest year for this program, with 420,429 reservations. By 1980, the figure had dropped to 202,202. Expansion of the Section 8 program is threatened both by budget cuts and by inflation, which reduce the number of units that can be produced.

Public housing reservations have also begun to show a marked decline. After a gradual increase in the number of such projects and units during the mid-to late-1970s, culminating in 1,169 projects and 62,086 units in 1979, the 1980 figures dropped sharply to 747 projects with a total of 38,525 units. Continuing declines are forecast, indicating that the provision of federally assisted low-income housing has entered a period of substantial retrenchment.

Federal fair housing enforcement: still without teeth

Title VIII of the Civil Rights Act of 1968, also referred to as the "Fair Housing Act," prohibits discrimination on the basis of race, color, religion, sex and national origin. It covers activities of all segments of the real estate industry, including brokers, builders, landlords, sellers, mortgage lenders and housing that is federally subsidized.

In the years since 1968 some forms of discrimination have been identified and challenged under Title VIII. For example, the practice of "blockbusting" — convincing owners to sell property on the grounds that minorities are about to move into a neighborhood—and "steering"—directing members of a racial, ethnic or religious group to a particular neighborhood in which members of that same group already live—have been documented and prohibited.

HUD's lack of enforcement power has always been a point of dissatisfaction for fair housing proponents. Under the act, HUD has authority to investigate and conciliate housing discrimination complaints. The key word here is *conciliate*, for that is all HUD is permitted to do under the existing legislation. The Justice Department does have enforcement authority, but even that is circumscribed: it can initiate litigation, but only if a *pattern* or *practice* of housing discrimination has been alleged or where issues of housing discrimination are of general public importance. Of course, an individual who feels that he or she has been subjected to discrimination can file suit. But laws that put the burden of enforcement on the aggrieved individual have generally ended up with little enforcement.

Civil rights advocates have constantly pressed for passage of an amendment that would give HUD the powers it needs to enforce Title VIII effectively. Congress came close to passing such legislation in the waning days of the 96th Congress. In addition to enforcement powers, the 1980 bill would have given HUD authority to initiate investigations without waiting for formal complaints to be filed. But in such matters, a miss is as good as a mile, and major attempts at reform are not anticipated in the near future.

Women: a new minority

Most observers would agree that the civil rights movement of the sixties, though focused almost entirely on blacks, helped to sensitize the nation to the analogous "second-class citizenship" of women. The drive for women's rights has been fueled by other social forces as well: the rising divorce rate, the growing number of women heading households and the movement of more women into the work force. As is evident from the data cited throughout this publication, women suffer from discrimination in ways that parallel the experience of racial and ethnic minorities. But many women also face unique problems, some of which are outlined below.

Special housing problems of female heads of households

While racial discrimination in housing continues despite passage of Title VIII of the Civil Rights Act, female-headed households are more likely than other family units to face yet another obstacle: discrimination against children in rental housing. More and more frequently, landlords are refusing to rent to families with children or to families with more than a certain number of children. HUD recently completed a study to determine the extent of such discrimination. Among the report's conclusions:

- ☐ Almost 25 percent of two-bedroom rental units are closed to families with children.
- ☐ Exclusionary policies appear to be increasing over time.
- ☐ Nearly one-half of all families with children reported difficulties in finding a place to live because of exclusionary policies related to children.

Women in the job market

In the mid-1960s, roughly 40 percent of all women aged 16 and over were in the work force; by 1979, that figure had increased to 51 percent. The labor-force participation rate for women who head households is even higher: 71.6 percent of such women with children between the ages of 6 and 17 are employed.

The increase in the number of women in the labor force has significant policy implications relating to child care, school vacations, school hours, scheduling of parent-teacher conferences and PTA meetings, access to traditional jobs, alternative work patterns and flexible work hours, occupational safety and health, pay equity and the availability of affordable housing near jobs.

As more women go to work, shouldn't that fact alone help to raise many women out of poverty? The answer is, not much, because women tend to work at low-paying, dead-end jobs. Sixteen percent of women who worked at full-time, year-round jobs in 1978 earned less than $6,000 a year, well below the poverty level for a family of four. On the average, in 1980 women earned only 59¢ for every dollar that a man made, and this ratio has been going *down* despite the entry of more women into the male-dominated professions and managerial positions.

Displaced homemakers

Many recently divorced or widowed ("displaced") homemakers must face the problems of loss of income, housing, medical insurance and single parenthood, as well as the attendant emotional upheaval. Over the past few years, a broad national network of displaced homemaker centers has grown up, offering women who find themselves in such circumstances both formal and informal support in assessing their needs and determining whether and how to enter the labor market.

Both the Comprehensive Employment and Training Act (CETA) and the Vocational Education Act have provisions for expenditures to assist displaced homemakers. However, even though the legislation is on the books, it is frequently difficult for small organizations that serve displaced homemakers to obtain CETA funds from local prime sponsors (who control such funds at the local level). In addition, many post-secondary vocational educators have shown little initiative or creativity in designing programs that would attract displaced homemakers.

Unmet day-care needs

For most women with young children, the difficulty of locating adequate child care is a major barrier to entering or remaining in the workforce. Despite direct expenditures of over $1.8 billion to subsidize day care for poor children, events suggest that the federal government is still equivocating about its role. It took HEW (redesignated the Department of Health and Human Services in 1980) more than six years to develop the new regulations published in March 1980 that set minimum standards for federally funded day care. The rules cover all aspects of a day-care program, from the health of the children to the goals of program content. The most controversial sections, however, include child-staff ratios and class-size guidelines. Ignoring the exhaustive preparatory studies behind the regulations and the massive effort to solicit public comment, Congress promptly began efforts to delay implementation of the regulations and was at least successful in forcing a delay until July 1981. Further delay or complete elimination of the standards is a real possibility. Meanwhile, quality day care is a scarce commodity for the children of working mothers, whether poor or not so poor.

Day care is not just needed for the very young child. School-age children, as well, require after-school supervision, which is frequently even more difficult to locate. Only very few school systems or community centers provide after-school day care; parents must rely on neighbors, or more often than not, on the television set, to keep 5-to-10-year-olds occupied after school.

A third day care need involves the elderly. As more women enter the job market, they are no longer free to care for elderly parents or relatives, a task homemakers often perform. The 1980 White House Conference on Families recognized that families need help in caring for the elderly in their own homes and called for governmental policies that would encourage such home care.

To date, there are no coordinated federal policies to deal with

these varied day-care needs, despite the fact that these needs will continue to increase in the 1980s.

Social security and pension plans: not reflective of today's needs

When the Social Security system was developed over 40 years ago, it was designed to protect what was then the prevalent family structure, in which women were full-time homemakers and men were the sole source of economic support. The program has expanded greatly, but the basic design has remained constant, while the prevailing family structure has shifted—with two-earner households and divorce-divided families becoming more common than the "traditional" nuclear family. As a result, a number of inequities in the system have been highlighted. To cite some examples:

☐ Under the existing system, it is possible for a couple with two incomes to receive fewer benefits than a one-earner couple with the same average lifetime earnings.

☐ A single person with the same income as a married couple with one earner will receive lower benefits than the married couple, even though both the married and the unmarried worker contributed equally to Social Security.

The entire Social Security system is being examined in depth by both congressional and presidential commissions—not simply because of the inequities towards women but because the system is being threatened by bankruptcy. Some of the more popular overhauls suggested for the Social Security program include:

☐ an "earnings sharing" approach, whereby 50 percent of the combined annual earnings of a married couple would be credited to each spouse's earnings record;

☐ a "two-tiered" benefit system in which the first tier would be a minimal benefit paid to everyone, regardless of earnings, at age 65 or upon disability, and the second tier would be an earnings-related benefit; and

☐ allocating credits for staying at home and raising children.

One major change made in the Social Security system in the last few years does constitute a significant response to the fact of the rising divorce rate. Women who are divorced after ten or more years of marriage now are eligible for spouse and survivors' benefits.

Women fare even more poorly under most private pension plans than they do under Social Security, for a variety of reasons:

☐ Many women, having interrupted work for child-care responsibilities or given up jobs to follow a husband to a new career assignment, are ineligible for private pensions because they have never worked at one job long enough to become "vested" in a pension plan.

☐ Many women work at jobs not covered by pension plans.

☐ Women who do qualify for pension benefits typically receive pensions substantially smaller than men get. Why? Because pensions are based on income, and most women are in low-paying jobs.

☐ Many widows find themselves cut off from pension benefits because their spouses have elected to forgo survivor benefits under their own pension plans; in many cases, the wife does not even know of such a decision until the husband's death.

The possibility of patterning pension plans after Social Security reforms by assuring a divorced wife of a pro-rata share of her husband's pension is the subject of much debate, in the courts as well as on Capitol Hill. A new federal law stipulating that the ex-wife of a foreign service officer is entitled to a pro-rata share of her husband's retirement and survivors' benefits may foreshadow future changes.

The welfare system: dim prospects for a basic restructuring

The Aid to Families with Dependent Children (AFDC) program is the centerpiece of federal aid to individuals and the largest part of the welfare system. First enacted in 1935 as part of the Social Security Act, the program provides cash payments to children and their caretakers, in families in which one parent is absent. In addition to AFDC, the welfare system contains several components in which states may elect to participate, including assistance to two-parent families where the parents are out of work (AFDC-U), and welfare payments to single adults with no other means of support (general assistance). Cash benefit levels are set by each state, and the federal government underwrites a percentage of the states' costs.

The first major overhaul of the welfare system was proposed by President Nixon in 1972. Referred to as the Family Assistance Plan (FAP), it would have given all recipients a minimum cash benefit in the form of a negative income tax, which states could have supplemented. In addition, the legislation would have mandated payments for eligible two-parent families and federalized standards and administration of the program.

The FAP ultimately went down to defeat — primarily because conservatives and liberals could not reach a compromise on the benefit levels. The only part of the proposal that passed was the consolidation of benefits for the handicapped and elderly into a Supplemental Security Income program (SSI).

The next major attempt at reform came in 1977 when President Carter introduced his two-pronged "Program for Better Jobs and Income." It, too, would have established a federalized system, covered two-parent families and set a national minimum level of payment. In addition, it included work incentives, a program of job search and subsidized public employment, and training opportunities. This attempt at reform also failed to move through Congress.

As a new Administration and a new Congress begin, there is again talk about welfare reform, this time based on a block grant approach instead of the categorical system now in effect. States would be able to decide benefit levels and programs (much as they do now), but there would be much less federal regulatory control over the program.

Education, employment and housing: overlapping problems and interacting policies

We often discuss such "human needs" issues as civil rights, employment, education, housing, poverty and income assistance as if they exist independently of each other. In reality, they overlap more often than not, so that developments in one area may have tremendous impacts in another. The interaction between fair housing and school desegregation is one obvious example. The overlaps between these two issue areas and between other "pairs" are sketched in the sections that follow.

School desegregation and housing: inextricably linked

As President Carter's 1980 National Urban Policy Report put it so succinctly:

Segregation and discrimination on the basis of race, ethnicity and sex are among the most potent forces adversely affecting both the welfare of minority persons and the condition of American cities. . . . (R)esidential segregation and discrimination [distort] urban housing markets, limiting the choices of blacks, Hispanics, other minorities and families headed by women. . . . Segregation lowers the quality of services to which minority households have access. . . . Minority children are increasingly concentrated in school systems plagued by poor conditions and financial difficulties.

Desegregation of public schools is extremely difficult so long as residential segregation persists. This generalization is so patent as to constitute a cliche. Nonetheless, federal government policies and practices, at least through the mid-1960s—most notably Veterans Administration and Federal Housing Administration loan policies—contributed to the creation of one-race neighborhoods. Local exclusionary zoning had similar effects. At the same time, southern states used "Jim Crow" laws to maintain segregated schools, while northern and western states school districts achieved the same results with gerrymandered school boundaries.

The Supreme Court, in some of its most recent school desegrega-

tion opinions, has noted that the relationship between segregated housing and segregated schools is both complex and two-way. It is obvious that, when neighborhoods are segregated and children attend neighborhood schools, the schools will be segregated. But frequently, the opposite holds true as well. As a neighborhood's racial composition changes towards a higher minority ratio, its local schools, may become all-minority faster than the neighborhood itself. This change tends to identify the schools as "minority," which in turn categorizes the neighborhood and accelerates the process.

There are two issues here that need to be addressed: what progress has been made towards school desegregation, and what effect, if any, has school desegregation had on residential desegregation?

Although the legal framework for achieving school desegregation has been in place since *Brown v. Board of Education* in 1954, many school districts have undertaken integration only when ordered by the courts or when faced with imminent litigation.

Even though much remains to be done to bring the nation's public schools into compliance with the law, there are some pluses to report.

- ☐ More children are attending desegregated schools.
- ☐ There has been an increased awareness and heightened sensitivity to the educational needs of minority children.
- ☐ Some formerly all-minority and now newly integrated schools have been upgraded, both in physical plant and in the quality of education (for example, through special programs, the establishment of magnet schools and preschool programs).

A recent study by the Center for National Policy Review (CNPR), which examined the interaction between housing patterns and school desegregation, reports that neighborhood integration has increased where metropolitan school desegregation has been accomplished.

The CNPR study examined in depth seven pairs of cities—each pair matched as closely as possible for size, percent minority, ethnic mix and region. The significant difference between the two metropolitan areas in each pair was that one had undergone system-wide school desegregation while the other had desegregated only partially or not at all. The CNPR study noted:

Desegregation of schools also contributes to a lessening of the importance of race as a factor in the housing choice process. Not only do desegregated schools not indicate neighborhood racial composition, but neighborhood location often does not determine what school a child will attend. Schools thus become less important in choosing a home, while other criteria acquire more importance, such as closeness to work, shopping, transportation, recreation, etc.

The study shows not only that school desegregation has helped to achieve residential integration, but also that the effects have tended to hold steady over time. For example, after 15 years of busing, only four of Riverside, California's 21 elementary schools require continued busing to achieve racial balance. The implications of the study are clear: The more a school desegregation plan factors in the total metropolitan area rather than just the central city, the stronger its impact on housing integration and the prospects for eventually reducing or eliminating the need for busing.

Education and employment: how close a connection?

Two of this country's favorite myths have been that anyone who worked hard enough could get an education and that the more education an individual received the better his or her job options would be. For white adult males, there has been considerable truth in the myth. But racism and sexism have frequently denied this success scenario to minorities and women—and the myth is even losing its ring of truth for American youth.

The National Urban League's Annual Report on the Status of Black America for 1980 documents the increased education attainment levels for blacks but notes that, on the average, minority persons still have fewer years of schooling and are less likely to have completed either high school or college. While minorities are attending institutions of higher education in increasing numbers, they tend to enroll in traditional fields, many of which offer poor prospects for employment and career advancement. The median wage of year-round full-time workers in 1977 was substantially less for minority workers than for white males.

The unique problems of minority youth were documented as long ago as the Kerner Commission Report on Civil Disorders in 1968. Since that time, a great deal of attention has been paid to youth unemployment in general. CETA provisions that target services to youth have been strengthened and expanded. However, less emphasis has been put on federal programs to support remedial education at the secondary level.

In 1978 Vice-President Mondale established a Task Force on Youth to study the basic problems that result in youth unemployment. The group's report concluded that a lack of basic education and employment skills constitute severe barriers to the full integration of youth into the mainstream of society as productive Americans. However, Administration proposals responsive to this report died in Congress.

Discouraged youth advocates have concluded that the problems of our nation's young people, particularly minority youth, will continue to be put on the back burner and ignored, in hopes that they will go away. Several economists have elevated this approach to the level of demographic and economic theory by surmising that the problem will disappear by itself, since the teenage population will decline in the years ahead. This perspective fails to deal with the so-far-unchecked decline in the quality of education in the schools of our large cities, which continue to turn out young people who can't read or write, who drop out of school and who lack such rudimentary basic employment skills as the ability to complete job applications, follow detailed instructions or show up at work on time. And it ignores the fact that even though the growing millions of ill-equipped young people will cease to be young, most will continue to be ill-equipped—and unemployed.

For women, the problems are of a different nature, since the average female worker is as well educated as the average male worker. Both groups have completed a median of 12.6 years of schooling, yet women end up, as do minorities, lower on the job/income totem pole. In 1978 fully employed women high school graduates (with no college) earned less than fully employed men who had not completed *elementary school*—$9,769 as compared with $10,474. Since minority women face dual discrimination, their median wage was the lowest among full-time workers in 1978—$8,996.

The Equal Pay Act of 1963 has corrected many inequities in a system where women and minorities frequently earned less than white males for performing essentially the same tasks. However, the Equal Pay Act does not extend to situations where the work performed is dissimilar, yet of *comparable worth*. These situations exist, for example, where women with extensive technical training (such as registered nurses) are paid less than unskilled laborers, because a job-evaluation scheme has assigned a higher value to positions traditionally occupied by males.

The need to rectify the cases in which women's pay is low because their work is undervalued is beginning to receive a great deal of attention. In April 1980, the Equal Employment Opportunity Commission (EEOC) held extensive hearings on the issue of pay equity. In addition, several major cases have been slowly winding their way through the courts, and during its 1980-81 term the U.S. Supreme Court will hear oral arguments in at least one case, *Washington County v. Gunther*, which will provide the first opportunity for the Court to examine the comparable worth issue. Although it will address only technical aspects of the case, the Court's decision may define the limits of existing legal remedies available for pursuing pay equity claims. Extensive research into job classification systems is also being conducted throughout the country, as another step toward rectifying this kind of inequality in pay.

Affirmative action programs have also been of some help for women and minorities, but there is still a long way to go before equal employment opportunities are available to all, and before the residual effects of past discrimination are erased.

Because they have "cracked" some job categories only recently, minorities and women also tend to be last hired, first fired in a tight economy. It is also true that many women have had to take a noncareer approach to jobs, because of homemaking and parenting demands, thereby limiting their earning potential and hindering their climb up the job ladder.

The Comprehensive Employment and Training Act (CETA), initially passed in 1973 in an effort to unify all manpower programs, is designed to give economically disadvantaged, unemployed and underemployed persons training and employment opportunities to enable them to move into self-sustaining, unsubsidized employment. This massive program was funded at $9.4 billion in FY 1979.

Though CETA has provided job training for minorities, nontraditional job training for women and special programs for specific target populations (e.g., displaced homemakers), it has become an immensely unpopular program for several reasons:

- ☐ Early abuses of the program, although virtually eliminated by strengthening amendments passed in 1978, are pointed to as prime examples of wasteful federal spending.
- ☐ Because it is a very expensive program to maintain, it is a prime target of budget cutters.
- ☐ A public employment component is viewed by many as an example of unwarranted federal intrusion into the labor market. Extensive cutbacks in this section, if not virtual elimination, are anticipated.

In addition to CETA and the Equal Pay Act, new laws were passed in the 1970s to combat rampant sexism in educational institutions:

Title IX of the Education Amendments of 1972 expressly prohibits sex discrimination in educational programs and activities receiving federal assistance. Although the statute was passed in 1972, implementing regulations were not issued until 1975, and federal policy determinations and enforcement efforts continue to lag. While a Supreme Court ruling established the right of an individual to sue under Title IX, the courts have issued conflicting decisions as to whether Title IX applies to employment in institutions receiving federal education assistance.

The Women's Educational Equity Act (WEEA), the only federal assistance program designed exclusively to promote sex equity, has never been fully funded at a level sufficient to help local school districts implement Title IX.

The Vocational Education Amendments of 1976 also addressed sex equity in education. For the first time, Congress mandated that one purpose of federal funding of vocational education is "to overcome sex discrimination and sex stereotyping . . . and thereby furnish equal educational opportunities to persons of both sexes." Although the law requires states to develop a number of affirmative policies and procedures for overcoming sex discrimination and sex stereotyping, preliminary evidence indicates that vocational education programs continue to be largely sex segregated.

Employment and housing: "Never the twain shall meet"

The link between housing and jobs is becoming even more critical than in the past, as transportation and housing costs skyrocket. With closings of large, old centrally located plants on the increase and more and more firms moving out of the older cities into the suburbs or to rural areas with no public transportation, access is becoming a key factor in job availability.

And that's exactly what the poor, minorities and female-headed households are likely to be short of. As the President's National Urban Policy Report for 1980 noted, segregation and discrimination tend to restrict minority- and female-headed households to central cities, especially the older cities that are losing jobs to the suburbs. These are the very people who are least likely to be able to solve their job problems by either driving long distances or moving to expensive suburban housing.

How did the Catch-22 come about? As industry and commerce began moving into suburban areas (a process that continues unabated today), little thought was given to where the workers lived. Even though exclusionary development practices limited the availability of housing, cheap gasoline enabled city dwellers to drive to their jobs, in the absence of bus service. But times have changed.

ITEM: A wealthy suburban county outside Washington, DC had to supply bus service to a rural county for county government workers who could not afford housing in the county that employed them.

ITEM: When a new shopping center opened in an undeveloped part of that same suburban county in the midst of a recession, there were few job applicants despite widespread advertising, because of the distance from the central city and the complete lack of public transportation. These same scenes have been repeated countless times.

Now there is another dimension to the housing-job squeeze—the "gentrification" of many of our nation's inner cities. Suburbanites, feeling the cost of commuting to their central-city jobs, are joining other upper-middle-income people who are electing to stay in the city and transforming lower-income neighborhoods into havens for the "gentry"—frequently forcing out their lower-income neighbors in the process. In some cities, such as San Francisco and Washington, DC, this trend has led to the virtual elimination of moderate-price housing.

While gentrification sops up city housing, shrinking the rental market and forcing up housing costs, the widespread reluctance of many suburban communities to provide for subsidized housing makes it tough for low-income factory and office workers to follow jobs out to the urban perimeter.

When HUD adopted policies in the early 1970s aimed at developing subsidized housing throughout metropolitan areas, and not just in the poorer inner cities, the suburbs rebelled and fought efforts to locate such housing in their midst. Since HUD refused to back down from its policy, the result was a severe shortage in the numbers of subsidized units being built anywhere.

When the Community Development Block Grant program was created in 1974, many housing activists felt that the housing assistance plans ("HAPs"), required of every locale requesting funding, would be the lever that would add low-cost housing in suburban communities. Since most communities are far behind in implementing their HAP goals, this outcome has not been realized.

Judith Glassman argued in a recent New York *Times* article that one way to enable people to live near their jobs is to insist that the housing needs of all employees, not just executives, be part of the corporate planning process. Glassman also suggested using undeveloped corporate land for non-profit or subsidized housing.

There are no easy answers to the problem of providing affordable housing where the jobs are. Initiatives in both the private and public sectors for meeting the housing needs of the poor and the discriminated against must be coordinated with decisions about the housing needs of the nation as a whole. These policies encompass not only location, but also cost, type, size, and the nature and extent of federal involvement.

Conclusion . . . .

There is no crystal ball to gaze into and predict the future—and no way to guarantee outcomes for dollars spent. That is, in fact, one thing that troubles many Americans today—the future is so unclear. It's been clouded by inflation, the energy crisis and the realization that for most Americans—not just the poor and discriminated against—things aren't getting any better. The inherent frustrations of the times in which we live have tended to make people more concerned with holding on to what they have and less charitable toward the needs of others. Many Americans tend to forget, when they are well, what it means to be ill; when they are young, what it means to be old; when their cup is full, how it hurts to be hungry; when they are strong, that not all are endowed with the same strengths; when they are educated, that others were never taught to read; when they have a comfortable roof over their heads, that others must live without heat or running water.

The current climate suggests that any effort to look at new ways of dealing with old problems is a timely venture. We need to sort out what went right from what went wrong. In looking back, it is important to distinguish between programs that were critiqued into oblivion or underfunded to the point of being counterproductive from those that do suffer from inherent no-win defects. The next step is to try to think about using the "right pieces" in new ways.

Researched and written by Nancy Reder, Staff Specialist, LWVEF Human Resources Department.

Order from League of Women Voters of the United States, 1730 M Street, NW, Washington, DC 20036. Pub. No. 442, 75¢.

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

April 15, 1981

Ms. Susan Raymer Clark
Alaska Division A.A.U.W.
Legislative Chair
1109 C Street
Juneau, Alaska 99801

Dear Susan:

Thank you for your letter of April 11, 1981. Your kind comments are appreciated.

I am encouraged that SB 99 has finally passed the Senate, and I see this action as a positive direction for the state. I am certain that this was made possible through the efforts and determination of people such as yourself, and I am very appreciative.

Thank you again for your efforts in supporting SB 99.

Sincerely,

Pat

Patrick M. Rodey, Senator

PMR/ods

PATRICK RODEY
ANCHORAGE

Alaska State Senate

JUNEAU, ALASKA 99811

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

April 22, 1981

Ms. Barbara Schuhmann
Chairperson
Alaska Commission on the
Status of Women
338 Denali Street, Suite 850
Anchorage, Alaska 99501

Dear Ms. Schuhmann:

Thank you for your letter regarding the passage of SB 99.

I appreciate the assistance the Commission on the Status of Women provided during the deliberations on this legislation.

Sincerely,

Pat

Patrick M. Rodey, Chairman

PMR/ods

JAY S. HAMMOND
GOVERNOR

PHONE
(907) 276-3003

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

April 20, 1981

Honorable Patrick Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RECEIVED
APR 22 1981

Dear Senator Rodey:

On behalf of the Alaska Commission on the Status of Women I want to take this opportunity to thank you for your support of Senate Bill 99 -- an act prohibiting sex discrimination in education in the state and implementing article I, section 3 of the Alaska constitution.

Achieving educational equality has been a priority of the Commission since its creation in 1978. From our hearings and research it is evident that the young people of our state will benefit from the passage of legislation which prohibits sex discrimination in education and we are pleased that you agree with us.

We hope that you will continue your support of a strong state program of equal educational opportunities for all.

Sincerely yours,

Barbara Schuhmann

Barbara Schuhmann
Chairperson

Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

May 14, 1981

Ms. Betsi Kanago, President
League of Women Voters
Box 1345
Anchorage, Alaska 99510

Dear Ms. Kanago:

Thank you for your message in support of SB 99, "An Act prohibiting sex discrimination in education in the state and implementing Art. 1, Sec. 3 of the Alaska Constitution."

As you may know, the Judiciary Committee conducted extensive hearings on SB 99 and passed a committee substitute on March 6, 1981. I am pleased to report that this legislation passed the Senate on April 10, and passed the House on April 24. It has now been transmitted to the Governor for his signature, and the bill supporters anticipate its enactment.

This legislation has been a priority item for me this session, and I consider its passage a positive step for the state.

Thank you again for your support of this important legislation.

Sincerely,

Pat

Senator Patrick M. Rodey
Chairman

PMR/ods

244-8477

TELEGRAM

ALASCOM, INC.
PHONE: 586-6442
JUNEAU, AK 99802

RECEIVED
APR 28 1981

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PMS SEN PAT RODEY

JUNEAU

THE LEAGUE OF WOMEN VOTERS OF ANCHORAGE URGES YOUR SUPPORT OF HOUSE VERSION OF SB-99.

BETSI KANAGO PRESIDENT LEAGUE OF WOMEN VOTERS, ANCHORAGE

Box 1245
Anch. 99510

Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

May 14, 1981

Ms. Lori Sears, President
Anchorage Educations Association
1411 West 33rd Avenue
Anchorage, Alaska 99503

Dear Ms. Sears:

Thank you for your message in support of SB 99, "An Act prohibiting sex discrimination in education in the state and implementing Art. 1, Sec. 3 of the Alaska Constitution."

As you may know, the Judiciary Committee conducted extensive hearings on SB 99 and passed a committee substitute on March 6, 1981. I am pleased to report that this legislation passed the Senate on April 10, and passed the House on April 24. It has now been transmitted to the Governor for his signature, and the bill supporters anticipate its enactment.

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Thank you again for your support of this important legislation.

Sincerely,

Pat

Senator Patrick M. Rodey
Chairman

PMR/ods

RE D

APR 2 8 1981

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PMS SEN PAT RODEY

JUNEAU

2632

WE URGE YOUR SUPPORT FOR IMMEDIATE FLOOR ACTION ON HB99 (MINI-TITLE IX). PLEASE DO NOT ALLOW IT TO BE SENT TO FREE CONFERENCE COMMITTEE. PLEASE RECOMMEND PASSAGE AS RECEIVED FROM THE HOUSE.

LORI SEARS, PRESIDENT

ANCHORAGE EDUCATIONS ASSOCIATION

APR 28 1981 7:32

Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

May 14, 1981

Ms. Janice L. Foster, President
Alaska Division
American ASsociation of University Women
SRA Box 78H
Anchorage, Alaska 99507

Dear Ms. Foster:

Thank you for your message in support of SB 99, "An Act prohibiting sex discrimination in education in the state and implementing Art. 1, Sec. 3 of the Alaska Constitution."

As you may know, the Judiciary Committee conducted extensive hearings on SB 99 and passed a committee substitute on March 6, 1981. I am pleased to report that this legislation passed the Senate on April 10, and passed the House on April 24. It has now been transmitted to the Governor for his signature, and the bill supporters anticipate its enactment.

This legislation has been a priority item for me this session, and I consider its passage a positive step for the state.

Thank you again for your support of this important legislation.

Sincerely,

Pat

Senator Patrick M. Rodey
Chairman

PMR/ods

#

02483 POM ANCHORAGE ALASKA 15 04-27 0900P ADT

PMS SEN PAT RODEY

JUN

LEGISLATION TO BAN SIX-BIASED DISCRIMINATION IS ESSENTIAL.

I URGE YOU TO CONCUR WITH HB99.

JANICE L FOSTER, PRESIDENT, ALASKA DIVN

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

SRA BOX 78H

ANCHORAGE AK 99507

TELEGRAM

RECEIVED

APR 28 1981