

ALASKA LEGISLATURE COMMITTEE FILES 1965-1980 80/2

4016 SJUD CHILD PROTECTION - COMPARABLE WORTH 898

269 (Alaska App. 1984). The Wetherhorr court held that the phrase "judicial proceeding," as used in AS 47.17.060 (dealing with evidence that is not privileged), refers only to civil proceedings.

Section 18

Section 18 contains a conforming amendment per the clarified definition of abuse in Section 21.

Section 19

This section contains a conforming amendment extending existing "B" misdemeanor penalties for failure to report suspected child abuse, as explained above regarding Section 13.

Section 20

Section 20 of this bill provides broad authority to the state to enjoin or limit persons who endanger children in the ways specified from having contact with children. While there may be common law authority for this view, statutory confirmation of this authority removes one issue from possible litigation in cases where the attorney general chooses to bring an action to enjoin or limit a person from contact with children. This addresses the problem of no regulation of day care providers who care for less than five children without burdening the public with regulation of all day care providers.

Section 21

This section clarifies the definition of abuse in AS 47.17 (reporting statute) in light of existing definitions of "neglect" and "child" in this section. Abuse as used in Title 47 would apply to all incidents of harm against children regardless of who the perpetrator is unless it is specifically stated that the perpetrator must be a person responsible for the child's welfare. This distinction is necessary, as DFYS's scope does not extend beyond intra-family abuses.

Section 22

Existing law requires "practitioners of the healing arts" to report suspected child abuse or neglect. This section expands the definition of this term to include dental hygienists, nurse practitioners and physician's assistants. Although these health care professionals are considered included in the current definition, this amendment clears up any possible uncertainty by specifically referring to persons who hold these positions.

Section 23

This section clarifies the definition of sexual exploitation in AS 47.17 (reporting statute).

Section 24

This section adds new definitions related to the expanded classes of persons who must report child abuse.

Sections 25 and 26

Section 25 amends AS 47.35.070(a) to bring this statute into conformity with the criminal code by making violations of child care licensing statutes and regulations a class B misdemeanor. Section 26 adds language that gives statutory authority to the Department of Health and Social Services to establish a system of civil enforcement (including the levy of up to \$200 daily in civil penalties) for violations of its licensing statutes and regulations.

This authority will provide the department with a valuable regulatory tool. Presently, the department has only two choices with respect to licensees who violate statutes and regulations. The department can either revoke the license or do nothing. While the department can require the licensee to establish a plan of correction for violations, its only lever to enforce this requirement is the authority to revoke the license. If a system of civil penalties existed, the department would have the additional tool of fining licensees for minor violations of regulations and statutes. The new language makes it clear that imposition of a civil penalty would not preclude criminal prosecution in appropriate circumstances.

Municipal Child Abuse Task Force

May 1985

**Final Report and
Recommendations for
Mayor Tony Knowles
Superintendent Gene Davis**

LEGISLATION
SUBCOMMITTEE
REPORT

Overview

The Legislative Subcommittee reviewed all bills submitted in the Fourteenth Legislature by April 18, 1985. There were numerous meetings with social and health services providers, attorneys, Municipal employees including Chip Dennerlein, and school district employees. Many bills were modified during this time period. It is the subcommittee's belief that some bills were changed as a result of the discussed recommendation by members of this subcommittee. Obviously a great number of items will be carried over to the Fifteenth Legislature. The following recommendations should be of assistance in considering a position on legislation pertaining to child abuse. Legislation in this area can generally be classified in the following three categories: Prevention, Intervention, After Intervention.

Prevention

Most of the measures that would assist in the prevention of child abuse are environmental factors that the general public may or may not associate with a set up for future abuse or neglect of children. This may be why there is so little legislation and funding for the investment toward no future abuse and neglect. Nonetheless, some areas that need to be addressed are described below.

The issue of pornography continues to be presented in the literature related to child abuse as at least a catalyst or stimulus for the perpetrator to engage in abusive acts toward children and women. One goal is to severely limit or eliminate the type of pornography that condones or depicts sexual and/or violent acts on children and women.

One of the best prevention is education about parenting and positive non-violent communication between individuals. Funding for these types of long term projects should be considered in the budget.

Another prevention effort is the systematic inclusion of support programs for parents in the budget. Such programs would include: public health nurses to visit every new parent at least once; support counseling for the non-offended child in a family as well as the victim; adequate availability of halfway homes or foster homes for children who are not or no longer victims but do not have a home that is safe, adequate employment and housing for everyone; professionals in the fields of health, social services, and education who are trained to recognize abuse and who are adequately prepared to provide daily living skills

that eliminates abuse behaviors; as part of the school curriculum, provide the opportunity for each child to learn about the effects of victimization and skills to not perpetuate the cycle of abuse.

Perhaps the Fifteenth Legislature or the Municipality of Anchorage will take up some of these issues.

Intervention

The majority of the legislation proposed is in this general area. There are many impediments that appear to be an out growth of years of adding or modifying one section of a statute at a time in attempt to respond to practical problems in the field. Child sexual assault laws an example: first laws were passed making this a specific crime. Next, provisions were added to allow for videotaped testimony. Courts still do not have the equipment to implement this without bringing the child in front of the alleged perpetrator, presumptive sentences were passed without additional funds for police and prosecutors needed since more alleged perpetrators would choose to go to trial, especially in absence of community based treatment programs, rape shield laws are just now being extended to children, etc.

This subcommittee encountered many frustrations in attempting to identify the actual gaps and barriers in the legislation to fully and appropriately intervene in child abuse and neglect. Many bills such as CSHB67 and CSHB88 received many suggestions for additions and deletions before and throughout the hearing process. Perhaps future legislation will be proposed after full review of all pertinent sections of the law, administrative code, and practice. This approach would require legislators, attorneys, human service workers, and victims or parents of victims to be involved in productive hours of discussion seeking to identify the problems and potential solutions prior to drafting legislation.

After Intervention

In a time of potential reduction of funding the topics of support counseling, treatment, and advocacy services for victims and their families are not the top priority of new legislation. Indeed, this subcommittee continuously found the reality that most amelioration of system's procedures in responding to child abuse and neglect would, in the immediate future, stimulate more request for services. There are many more victims than are currently identified since changes in the laws generally offers victim only safety to ask for help or at least be identified as needing assistance. The need to provide services for the

sometimes long process of rehabilitation is generally overlooked. Fiscal notes do not reflect the cost of the legislation as it affects the human services agencies in the community. An excellent example of this is the goal of responding to runaways within 12 hours when there is virtually no placement for the majority of these children.

CURRENT LEGISLATION FROM THE FOURTEENTH SESSION*

Training: The Subcommittee generally supports all bills related to the concept of having in-service training for teachers and other school personnel. After discussing the possible fiscal note and the chance that training may be one of the items cut from the budget, the subcommittee supports the requirement of at least one half day being mandatory for training about the child abuse law, identification, and intervention skills for all school personnel. (HB 18, B 85).

The Subcommittee believed it would be impractical to require training as part of state certification for each teacher (HB 18, HB 174).

The Subcommittee endorses the concept of mandatory training on abuse of minors for all state employees and the development of trained response teams throughout the state (SB 27, CS SB 28).

Support payments: Subcommittee supports the bill as written (CS HB 92). There has long been a need to fully develop a collection mechanism for the court awards of child and spousal support.

Runaways: The concept received support but the subcommittee identified many problems with implementation; such as, there is no lead agency to deal with runaways, the fiscal note to DFYS and police would be great since new workers would need to be added. There is an inadequate number of available space in runaway shelters/safe homes. There is a lack of availability of affordable counseling for family members identified as a result of the minor's attempt to runaway (HB 19, SB 86).

Hearsay: The Subcommittee supported the admissibility of first party hearsay (a counselor who was told the story by the victim) at the grand jury level for child sexual assault cases.

*Subcommittee recommendations represent unanimous support by subcommittee members except for CSS67, mandatory number of inservice training days for school personnel, and presumptive sentences for child sexual assault.

The Subcommittee further identified the need to fund the court system to implement existing videotape law and two way mirror testimony. These two mechanisms assist in protecting the child victim from possible psychological harm or intimidation as a result of giving their testimony in front of their accused while still protecting the accused's right to confront the accuser.

Suggestions were made about limiting the possible harm to the child witness by allowing the presence of a non-testifying advocate to be with the child during grand jury and limiting the questioning by the grand jury so only one juror asks all questions instead of many asking the child to detail the events. The concept of hearsay evidence at trial was discussed but generally agreed to be unconstitutional.

The Subcommittee believes there is a need to add to the definition of unavailability by including the concept of psychological incompetence or distress. Concern was expressed that videotaping/closed circuit testimony may prevent the defendant from confronting the accuser.

The Subcommittee recommends that hearsay testimony be applicable to children 10 years of age or younger (SB 3, HB 67, HB 88).

Reporting

This legislation revises and expands existing law requiring persons in certain professions to report to DFYS suspected abuse of a child by a parent or other caretaker. Under existing law, a significant number of persons who regularly have access to information that a child has suffered harm as the result of abuse or neglect by a caretaker are not required to report that information. The revised statute would focus upon those individuals who regularly have contact with a child, or a child's family, and are therefore in a position to gain knowledge of child abuse and neglect. These changes are needed to insure that all children abused or neglected by caretakers come to the attention of DFYS.

Under proposed law, persons in the categories listed in AS 47.17.020 would be required to report suspected child abuse or neglect only if the abuse or neglect is caused by or attributable to the actions of a person "responsible for the child's welfare". Thus, harm caused by a person not related to the child or residing in the child's home need not be reported to DFYS.

The Subcommittee supports a new provision (CSHB88) to the statutes: reports to law enforcement agencies. If a person listed in AS 47.17.020 (the general reporting statute) has reason to believe that a child has suffered harm as a result of injury, neglect, or exploitation by someone other than a family member or caretaker, the person must report that harm to a law enforcement officer (rather than DFYS). The law should require that all instances of abuse or neglect be reported to the authorities, not just intra-family abuse. All children should be protected under the law, without regard to the identity of the perpetrator or the relationship to the child victim. If the person reporting the abuse is not aware of the perpetrator's relationship to the victim, the statute allows a report to be made to either DFYS or a law enforcement officer (HB 88, SB 243, HB 67, SB 3, HB 179, SB 1).

The Subcommittee also supports the expanded definition of abuse and the ability of the state to limit non-related persons from having contact with the child victim (HB 88, SB 243).

In addition, the Subcommittee urges that DFYS internal policies and procedures require workers to ensure that every report of child abuse and neglect be taken from the informants and forwarded to law enforcement. The current practice of merely redirecting callers concerned about interfamilial child abuse must be changed in order to minimize "lost" reports.

Definition of Domestic Violence: The Subcommittee supports the concept of the enlargement of domestic violence victims to include parents and grandparents. Further, the Subcommittee endorses the removal of marriage as a defense for sexual assault (CSSE 29).

Training Teams of Community Professionals: The Subcommittee supports the concept of each community receiving assistance to form a coordinated prevention and response team to all incidents of family violence and strangers sexual assault. It is hoped that local communities will pass one aspect of violence. The committees will hopefully receive training from their own local family violence agencies.

Clearing House for Central Registry/Missing Persons: The Subcommittee endorses the concept of a central registry of missing persons/children.

Physical Exams: The Subcommittee support development of protocol for addressing needs of child victims in regards to sexual assault examination kit.

Treatment resources are not adequate for child victims. The subcommittee Support recommends support for additional funding directed toward resources which are specifically geared for treating families, victims, and perpetrators.

Child Pornography: The Subcommittee supports the concept of the legislation that criminalizes all dispensing or production of pornography whether it is done for "commercial purposes" or private use. (CSHB88).

Restraining Orders: The majority of local communities police departments cooperate with Alaska State Troopers by serving domestic violence orders in these jurisdiction while the Troopers serve the area outside those boundaries. This does not occur in Anchorage. This bill would force such cooperation. The subcommittee understands the burden this legislation would place on local communities but believes that victims and families would be better served and protected by having the service performed by the same persons who must later enforce the orders (CSSB67).

FUTURE LEGISLATION

State Legislation

- (1) Mandate that all agencies utilize compatible statistics and categories in all computer data gathering (police, courts, local, and state reporting agencies) as has been recommended by the Attorney General's 1984 Task Force on Family Violence.
- (2) Develop protocols that address the needs of child victims of sexual assault during the necessary physical examination(s) and investigating interviews.
- (3) Form a Task Force on runaways, suicide, trouble teens, and children who do not fit within the guidelines of current services in order to develop a comprehensive system of case finding, intervention, and treatment.

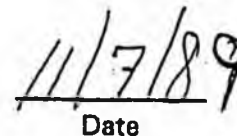


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June 22, 1984

MEMORANDUM

TO: Representative Joe Flood
FROM: Gretchen Keiser, Legislative Analyst
RE: Comparable Worth in Alaska and Other States
Research Request 84-108

Michael Plunkett of your staff requested that we provide information about the current efforts occurring in Alaska with respect to comparable worth. We were asked to consider current Alaska statutes as well as summarize activities in the courts and by the State administration. In addition, information about activities occurring in other states was requested.

The issue of comparable worth has recently been a subject of considerable attention and controversy nationwide. In the introduction to this memorandum we first attempt to define "comparable worth". The introduction also provides a brief historical and legal background to the issue of comparable worth. In the following section, current activities relating to comparable worth in Alaska are discussed. The State of Alaska's job classification and pay study and some ongoing cases in Alaska's courts are summarized. The final section of the memorandum generally examines comparable worth activities occurring in other states.

INTRODUCTION

Strictly defined, comparable worth means that men, women, minorities, and whites should receive equal pay for jobs of equal "value" or "worth" to the employer. The value is commonly determined through an evaluation of several factors relating to the level of skill, responsibility, and effort as well as the working conditions of the job. Typically, each job is rated on a number of factors and the total score determines that particular job's value relative to other, often quite dissimilar, jobs performed for the same employer. The relative values then form the basis for wage adjustments which commonly upgrade previously underpaid job classes.

Much of the controversy surrounding comparable worth stems from the degree of subjectivity involved in the assignment of value to jobs. Furthermore, critics of comparable worth argue against public intervention

in wage setting which they believe should be determined by supply and demand in the competitive labor marketplace. However, others point out that supply and demand are strongly influenced by institutional features such as union agreements, labor markets internal to a specific firm, and segmentation of labor into noncompeting groups based largely on sex or race. The concept of comparable worth grew out of a belief that social and historical factors acting in the marketplace tend to depress wages of those segments of the labor market traditionally dominated by women and minorities.

Nationwide, a number of avenues have been employed in pursuing the goal of comparable worth, including legislation, litigation and collective bargaining. Comparable worth as an employment issue, however, was preceded by the "equal pay for equal work" concept. Claims of sex-based wage discrimination began in earnest before the National War Labor Board in the 1940s when women filled factory positions formerly held by men and demanded the same pay as men. This concept was ultimately guaranteed under the Equal Pay Act of 1963. The Equal Pay Act, however, has primarily addressed discrimination in situations where men and women perform the same job and has not rectified the general wage disparity between the sexes because men and women typically do not perform the same work. For example, roughly 80 percent of employed women work in jobs which are predominately female. Comparable worth is advocated as a means of overcoming this sex segregation influence on wage setting by comparing the value of dissimilar jobs on the basis of overall skill, responsibility, effort and working conditions.

Additional federal legislation, the Civil Rights Act of 1964 (Title VII) prohibits employment discrimination (in hiring, promotion, discharge, compensation, terms and conditions) on the basis of race, color, religion, sex or national origin. Since 1964, suits charging sex discrimination in hiring and promotion practices have been successfully brought under Title VII.

It was 1981, however, before the U.S. Supreme Court ruled in Gunther v. County of Washington that sex-based wage discrimination suits were permissible under Title VII in cases where the women's work was not identical to that of men. Prior to that time, most courts had interpreted Title VII suits as requiring the equal work for equal pay standard of the Equal Pay Act. The decision, nevertheless, cautioned courts against undertaking their own subjective assessments of the value of jobs and went to great length to avoid an endorsement of comparable worth. In effect, the 1981 decision held that evidence of unequal but comparable work may support a claim of intentional wage discrimination but alone was not sufficient to warrant recovering damages under Title VII.

Courts since Gunther continue to be reluctant to evaluate the worth of male and female jobs in deciding wage discrimination cases. A number

of courts, however, have made detailed comparisons of the content of jobs held by men and women over the past 20 years. The emerging legal theory of comparable work or content is based on a traditional comparison of the skill, effort, responsibility and working conditions of jobs. Two jobs of comparable content are those which, although dissimilar in detail, are similar in their level of responsibility, skill, effort and working conditions.¹ Once the court determines that two jobs are sufficiently similar to eliminate content as an explanation for wage discrimination and that other factors such as seniority, merit or production are not relevant to the case, the way is often opened for the finding that an employer has based the wage scale on illegal factors such as sex.

The September 1983 decision in the widely publicized case of AFSCME v. State of Washington was not an acknowledgement of comparable worth by the court.² Instead, District Court Judge Tanner addressed sex discrimination when he ruled that Washington had violated Title VII of the Civil Rights Act by paying workers in female-dominated job categories less than those in predominately male categories. To date, the courts have not ruled on the comparable worth of male and female jobs in determining wage discrimination cases.

In the late 1970s, the National Academy of Science conducted studies on job evaluation and job worth assessments under contract to the federal Equal Employment Opportunity Commission.³ The EEOC subsequently concluded that "the strategy of comparable worth...merits consideration as an alternative policy of intervention in the pay-setting process where women are systematically underpaid".⁴ No further action was taken by

¹In contrast, two jobs of comparable worth may individually have quite dissimilar levels of responsibility, effort, etc. but the total value assigned to each job is similar.

²AFSCME is the American Federation of State, County and Municipal Employees, a public employees union.

³Women, Work and Wages: Equal Pay for Jobs of Equal Value, 1981, National Research Council of the National Academy of Sciences, National Academic Press, Washington, D.C.

⁴"Comparable Worth: Closing a Wage Gap", Marion Reber, State Legislatures, published by the National Council of State Legislatures, April 1984.

the EEOC at that time. Congressional hearings on the issues of wage discrimination and job segregation were held in 1981. In general, the current view among many in Congress is that existing civil rights legislation is adequate for implementation of comparable worth.

Many unions have been active in the area of sex-based wage discrimination and comparable worth. The International Union of Electrical Workers sued Westinghouse and General Electric on behalf of female union members seeking equal pay for equal work in the late 1940s and early 1950s. The United Auto Workers union was part of a broad coalition which pushed for the passage of the 1963 Equal Pay Act over a period of 17 years.

More recently, the AFL-CIO adopted a comparable worth resolution in 1981 urging its affiliated unions to: 1) initiate joint labor-management studies to identify sex-based wage disparity; and 2) negotiate wage increases in undervalued job classes. As an example, the Communication Workers of America negotiated a job evaluation study with American Telephone and Telegraph to be conducted under the direction of a joint labor-management committee.

According to a recent issue of Public Personnel Management Journal devoted entirely to comparable worth, collective bargaining has produced more wage equity increases than any other approach. In 1981, the State of Connecticut and the New England Health Care Employees Union signed a contract in which the state established a pay equity fund equal to one percent of the health care workers' payroll to be used to correct wage disparities. Failing successful negotiations, unions have sought legal relief. Certainly one of the most active unions has been A.F.S.C.M.E. which currently has cases pending in three large cities (Los Angeles, Chicago and Philadelphia) and three other states (Hawaii, Wisconsin and Connecticut) in addition to the publicized case in Washington.

Legislation and administrative actions at the state and local levels have been varied. As of 1983, fifteen states had enacted equal pay laws which included a comparable worth standard. In all, 41 states have fair employment practices laws which provide general prohibitions of sex-based wage discrimination. Job evaluation studies, hearings, administrative policy changes, and wage upgrades through legislative appropriations or administrative actions have occurred throughout the country. In a 1983 survey, 85 state and local governments had initiated comparable worth activities within the past few years--not including union-negotiated studies or wage increases.⁵ Recent activities in

⁵"Pay Equity: An Innovative Public Policy Approach to Eliminating Sex-Based Wage Discrimination". J. Grune and N. Reder. Public Personnel Management Journal. Vol 12 (4). Winter 1983.

other states are considered in greater depth in the final section of this memorandum.

COMPARABLE WORTH IN ALASKA

A number of efforts relating to the issue of sex-based wage discrimination have been undertaken in recent years in Alaska. In this section, we examine Alaska employment/labor statutes as they apply to comparable worth, administrative actions by the State of Alaska, and some of the current cases before Alaska courts and Alaska Human Rights Commission.

Alaska's employment practices statute [AS 18.80.220(a)(5)] states that it is unlawful for an employer:

"to discriminate in the payment of wages...between the sexes or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character..." [emphasis added]

In addition, Alaska statute requires that the Division of Personnel conduct an annual salary survey which compares State salary levels with those of comparable classes in private industry and other public agencies in the state [AS 39.27.030(a)(2)]. Both statutes are included in Attachment A.

Administrative Action in Alaska

The Division of Personnel within the Department of Administration is responsible for the job classification and pay schedules of the State's roughly 15,000 classified and partially exempt public employees. The State of Alaska's current job classification and pay plan has not been thoroughly reviewed since 1961.⁶ Class specifications and pay schedules for specific positions have been revised on an individual basis over the years. The classification of new positions have been determined using non-quantitative evaluations without standards for consistency among reviews.

In 1983, the Legislature provided funding for a study to review and update the State's job classification and pay plan. A new Chief of Pay and Recruitment within the Division of Personnel, Ms. Janet Jaron, was hired last summer. Following a fairly rigorous selection process, the

⁶The description of the State's current classification and pay plan is derived from the "Request for Proposals for the Classification Project" Division of Personnel, Department of Administration. January 1984.

firm of Booz, Allen & Hamilton of Washington, D.C. was recently awarded a contract to perform the classification study over the next year. The consultant's final report is due in July 1985, and the Division of Personnel anticipates that it will submit a summary and recommendations to the governor in August 1985.

The project includes several phases and requires extensive interaction between the consultant and the State's personnel officers. Briefly, the project consists of the following tasks to be performed by the consultant:

- 1) develop a quantitative "factor point" job evaluation plan for the State and train State personnel officers to use the methodology;
- 2) recommend appropriate stages for public notification/input into the classification project in a communication plan;
- 3) oversee data collection by personnel officers, provide a position description questionnaire to be mailed to each public employee, and develop standardized data forms;
- 4) review a sampling of job evaluations performed by State staff for consistency and provide retraining, if necessary;
- 5) recommend appropriate automated data collection and storage systems to the State;
- 6) evaluate and recommend pay for the medical care, law enforcement, corrections, partially exempt, and personnel occupational classes; and
- 7) recommend pay grades within occupational groups and present options for implementing anticipated costs after conducting an internal comparison across occupational lines.

Attachment B provides the anticipated timetable for these tasks.

The factor point method systematically evaluates jobs or groupings of jobs using a predetermined number of factors which have been divided into several levels or degrees, each of which is assigned a value expressed in points. The total of points given to a job determines its relative value among all jobs being evaluated. According to Ms. Jaron, Booz, Allen & Hamilton has had prior experience with this type of methodology and will tentatively be considering the following common job evaluation factors: knowledge, mental demand, effective actions, discretion, policies/procedures, personal contact, physical effort, work environment and stress/hazards.

Quantitative job evaluations are not new; 25 out of 43 states responding to a 1981 survey used quantitative methods to some extent in their public

personnel systems.⁷ In this survey of factor point evaluation users, 50 percent considered the method easy to use, 80 percent considered the technical adequacy good, and 100 percent considered the method to be generally well accepted by employees. The major purpose of job evaluation systems is to make the content of different kinds of jobs commensurable for the purpose of determining pay rates.

Critical elements in any quantitative job evaluation method, with respect to potential social or sexual biases, include: 1) the weighting established for the factors; 2) the degree of reliance on a market survey of wages; 3) the written descriptions developed for each job class; and 4) the actual evaluation process and assignment of points to a particular job. In the first case, for example, the factor "mental demand" with a larger point scale from 1 to 20 could be weighted more heavily than the factor "physical effort" with a point scale of 1 to 10. Some argue that the weighting established in the job evaluation process is arbitrary and subjective and that the marketplace has already weighed these factors in its competitive wage setting.

However, others maintain that the weighting of factors in job evaluations can be done properly and that the use of market surveys of wages merely perpetuates low wages in traditionally under-valued job classes. In fact, job evaluation systems typically rely on both an internal analysis and a market survey, to varying degrees. According to Ms. Jaron, Alaska's study will depend primarily on an internal analysis. An external market survey will be primarily used to identify potential recruitment problems rather than as a basis for comparison of all State job wages with other employers. For example, a market survey may indicate that the salary warranted for a particular State job (e.g. advanced computer programmer) on the basis of the point total received in the evaluation process may be too low relative to market rates to attract qualified applicants.

The writing of job descriptions and the job evaluations themselves are considered to be particularly susceptible to sex bias. Indeed, studies in experimental social psychology indicate the presence of sex stereotyping in the evaluation of people in job-related contexts where, for example, a performance by a woman receives a lower evaluation and lower likelihood of reward (hiring, promotion, etc) than the identical performance by a man.⁸

⁷"Trends in Job Evaluation Practices of State Personnel Systems: 1981 Survey Findings", S. McConomy and B. Ganschinietz, Public Personnel Management Journal, Vol 12(4), Winter 1983.

⁸Women, Work and Wages: Equal Pay for Jobs of Equal Value, National Academic Press, Washington, D.C. 1981. Page 78.

To minimize the effect of subtle biases, the State's project will include: 1) one set of factors used for evaluating all job classes; 2) a job classification system built primarily upon internal, rather than market, values; 3) standardized forms and data collection methods; 4) questionnaires to all employees; 5) considerable interviewing prior to writing composite job descriptions; 6) thorough consultant training of State personnel officers prior to evaluating jobs; and 7) reliability audits by the consultant for consistency in evaluations and for retraining, if appropriate.

A steering committee which includes State personnel officials and representatives of the Governor's Office and the Legislature has been established to address policy issues. Ad hoc working committees which include personnel managers and union representatives are being established to provide day-to-day guidance and recommendations to the consultant and project managers. For example, an ad hoc committee will be meeting within three weeks to consider the factors and weighting to be incorporated in the factor evaluation method.

Ms. Jaron emphasized the importance of establishing a State classification system based on a quantitative job evaluation method to replace the qualitative and somewhat inconsistent system the State currently uses. Once the factor point classification system is in place and an internal analysis is completed, the consultant will recommend pay rates for job classes within occupational groups, and present options for implementing the costs of adjusting to the new system. The project does not specifically call for an analysis of wage disparity between dissimilar jobs which have been determined to be of comparable value under the factor point method. In fact, if the State follows through with the implementation of the recommended pay adjustments, a comparable worth study of this sort would be unnecessary.

The report to the Governor will highlight the methodology as well as include cost recommendations for adjusting wages. The Division of Personnel anticipates that the updated job classification system, by itself, would improve State personnel actions, regardless of the pace or extent of pay adjustments implemented by the Governor and Legislature.

Legal Action in Alaska

There are a number of cases before the Alaska courts which have been broadly labeled as "comparable worth" cases. In fact, the parties base the allegations upon various legal theories which fall under the more general category of sex-based employment discrimination. These cases include:

- A class action suit of 150 female employees against the municipally owned Anchorage Telephone Utility which claims discriminatory hiring and promotion practices by ATU in violation of Title VII of the Civil Rights Act of 1964. The International Brotherhood of Electrical Workers was named as a third party defendant for alleged inequities between men's and women's wage raises, terms and conditions in the 1975 contract negotiated by IBEW;
- The Alaska Human Rights Commission's class action suit against the State on behalf of the Public Health Nurses claiming sex-based wage discrimination;
- TOTEM Educational Support [clerical] Personnel's suit against the Anchorage School District claiming sex-based wage discrimination; and
- a number of other unpublicized cases in which individual women have sued primarily public entities and, to a lesser extent, large private firms claiming sex discrimination in hiring, promotion or discharge practices.

The hiring and promotion aspects of the Anchorage Telephone Utility case, originally filed in 1976, were settled out of court in November 1982. ATU agreed to emphasize in-house promotion, career counseling and training for female employees. IBEW agreed to handle women's grievances fairly and provide equitable rehire and training provisions for female union members. The plaintiffs have used the affirmative action plan outlined in the consent decree to negotiate in-house promotions for women into positions formerly held by men at the Utility.⁹ The consent decree which required court monitoring of ATU and IBEW efforts has been extended once and the plaintiffs will likely seek a further extension because of delays in compliance by ATU.¹⁰

In the remaining portions of the case, Superior Court Judge Douglas Serdahely ruled in early 1983 that the plaintiffs failed to: 1) prove that the contract negotiations were based on sex; or 2) establish that IBEW acted in bad faith in negotiating the 1975 contract. The case has been appealed to the Alaska Supreme Court on the following issues: 1) the inequitable wage raises negotiated by IBEW for sex-segregated

⁹Alaska Commission on the Status of Women, Status Report. April-May 1983. Page 3.

¹⁰Ms. Elizabeth Johnson, attorney for the plaintiffs. Personal communication, June 4, 1984.

Representative Flood

June 22, 1984

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job classes should be examined under Title VII and State discrimination statutes; and 2) the lower court applied inappropriate burdens of proof on the defendants and plaintiffs. The plaintiffs maintain that this is not a case of comparable worth, rather that it is a case of disparate wage raises negotiated for male and female-dominated job classes which exacerbates existing wage disparities. They are urging the Alaska Supreme Court to establish a precedence nationwide by reviewing the pay disparities and discrimination between sex-segregated job groups in the ATU case under Title VII in the same manner as the courts have reviewed here and promotion claims. A decision may be forthcoming in late 1984 or early 1985.

The State's Public Health Nurses originally filed a wage discrimination complaint with the Alaska Human Rights Commission (HRC) in November 1978 alleging that their work was comparable to that of State-employed Physician's Assistants and that paying them less violated Alaska's equal pay law [AS 18.80.020(a)(5)]. After a two-year investigation, the HRC concluded that there was probable cause to believe that sex discrimination was occurring and filed a class action suit against the State. The nurses have been seeking a reclassification of the PHN I-III categories to establish equitable pay with the Physician's Assistant job class.

A public hearing of the nurses' case was held during a six-week period in the fall of 1983. Both the nurses and the State-hired "experts" who presented factor print evaluations which supported their client's belief that the job classes were or were not comparable in the level of skill, effort, responsibility and working conditions. Both parties have subsequently filed briefs with the hearing officer, Ms. Joan Katz. In its brief, the State interprets "work of comparable character" in Alaska's equal pay statute as meaning work which is "substantially equal". The State argues that the public health nurses and physician's assistants are different professions and that the nurses are not entitled to equal pay.¹¹

In contrast, attorneys for the nurses emphasize that this is a sex discrimination case which interprets "work of comparable character" on the basis of a comparison of job content.¹² This legal argument may

¹¹Under the State's current classification project, the consultant will provide an evaluation, rating and pay recommendations for the medical care job classes which includes both public health nurses and physician's assistants.

¹²Ms. Alison Mendel, attorney for the plaintiffs, personal communication, June 5, 1984.

become clearer if one recollects the success of "comparable job content" court cases in contrast to the courts' failure to recognize "comparable job worth" in most sex-based wage discrimination cases to date, as previously mentioned in the introductory section of this memorandum.

It is anticipated that the hearing officer will present a recommended decision to the parties this fall. They have an opportunity to comment on the hearing officer's recommendations at that time, and the decision and comments are then submitted to a committee of three Human Rights Commissioners for their review and recommendation. It is anticipated that the full HRC may make a decision by late 1984 or early 1985, but many predict that the case will be appealed whatever the decision.

The TOTEM Educational Support Personnel union originally filed a suit against the Anchorage School District in early 1983, but attempted to resolve differences through union negotiations during the year without success. The union filed suit once again this spring in Superior Court and the case will be heard by Judge Mark Rowland. The TOTEM members (the union is about 97 percent female) allege sex discrimination when their pay is compared with comparable jobs in the other four non-certified bargaining units in the Anchorage School District. The suit also alleges failure on the school district's part to act on the results of a job classification study completed in the past year.

The suit is fairly new and the parties must first complete pre-trial investigations. TOTEM's attorney, Ms. Alison Mendel, recently filed an amicus curiae (friend of the court) brief on behalf of TOTEM in support of the plaintiffs in the ATU case before the Alaska Supreme Court. She believes that the decision in the ATU sex discrimination case will have considerable bearing on her clients' suit.

Finally, there are a number of unpublicized law suits pending in which individual women allege sex discrimination in hiring, promotion, and discharge. Many of the cases involve public entities, such as the Municipality of Anchorage, as the defendant. In addition, there are cases involving large private firms such as Alyeska Pipeline Service Company. According to Ms. Elizabeth Johnson, attorney for the plaintiffs in the ATU case, there are no other cases involving unions pending in Alaska to her knowledge.

ACTIONS IN OTHER STATES

According to two recently conducted surveys, about 30 states are involved in activities in the general area of comparable worth. Actions fall into one of several categories: legislation which establishes a comparable worth principle in wage setting, job evaluation studies,

and implementation of wage adjustments. In this section, we present a brief overview of the various activities underway nationwide.

As of 1983, fifteen states including Alaska had enacted equal pay laws which included a "comparable worth" standard. To our knowledge, Alaska's law is the only one which is currently under formal legal debate (i.e., the Public Health Nurses suit before the Alaska Human Rights Commission). Attempts to incorporate the comparable worth principle in state laws failed to be enacted in Illinois and Nebraska during 1984 legislative sessions. Most state legislatures, however, have passed laws prohibiting sex discrimination in employment practices which may or may not be interpreted as comparable worth language. Nevertheless, some individuals familiar with the issue, including Cathy Collette, AFSCME assistant director for women's activities, and Alice Cook, Professor Emerita of Cornell University, maintain that initiatives focusing on job evaluation studies and subsequent pay adjustments are more important than comparable worth legislation at this time. They believe that activities specifically geared toward identifying and eliminating wage inequities are doing more to rectify the sex discrimination than laws would do.

A number of states have completed or are currently conducting job evaluation studies to determine the relative worth of dissimilar jobs within their public personnel system and to recommend wage increases appropriate for undervalued job classes. Other states have conducted comparable worth studies specifically investigating the extent of wage disparity among jobs of comparable worth in their public workforce. These studies vary from small pilot projects to full reviews of a state's job classification system and they commonly include an identification of costs to implement pay adjustments.

The first comparable worth study was undertaken by the State of Washington in 1974 during which about 120 job classes were examined for the extent of sex-segregation and wage disparity. As of 1983, Idaho, Connecticut, Minnesota, Michigan, Illinois, Iowa, and New Jersey had also conducted job evaluation studies of varying complexity. In addition to Alaska, studies are underway in the following states: New York, Oregon, Florida, Kentucky, Maine, Montana, New Mexico, Ohio, and Wisconsin.

Most states conducting studies are utilizing their existing job classification systems which are more recent in origin than Alaska's. The job evaluation study underway in Alaska appears to be somewhat unusual in that it entails a relatively extensive review of all job classes under a quantitative methodology designed to replace an outdated classification system. However, we are aware of at least one state (Maine) that is reviewing its quantitative system put in place in 1976 to determine whether it incorporates sex biases which have been minimized in more recent systems.

As you are probably aware, the wage inequities uncovered in Washington's 1974 comparable worth study of about 120 job classes formed the basis of a successful class action suit in late 1983. However, Washington has not conducted a review of its entire job classification system since that pilot study. The state faces a potentially confusing situation applying the court's decision to a somewhat outdated system if their appeal to the U.S. Supreme Court is unsuccessful. Ms. Jaron of the Division of Personnel suggests that the thorough review and updating of Alaska's job classification system currently underway is the appropriate first step towards rectifying wage inequities. Once a quantitative job evaluation process which compares all State job classes is in place, appropriate pay adjustments can be identified and implemented.

Studies have most commonly been initiated by legislative action, although executive orders (e.g. Wisconsin) and union negotiations (e.g. New York, Connecticut and Maine) have also prompted action. Furthermore, formal task forces on comparable worth, composed of union, management, legislative and advocacy group members, have been formed to oversee the studies in a number of states. You may recall that Alaska's study is guided by a steering committee and several informal ad hoc committees.

Implementation of pay adjustments in undervalued job classes identified as a result of studies is now occurring in Minnesota and Connecticut. Minnesota is frequently offered as a model of comparable worth adjustment because of the cooperative and nonlitigious nature of its implementation. Following the establishment of a factor point evaluation system for 762 state job classes in 1979, a broadly based Task Force on Pay Equity studied wage disparities and identified implementation costs.

Legislation in 1982 established a process for pay adjustments whereby the Minnesota Commissioner of Employee Relations submits a list of underpaid job classes to a Legislative Commission on Employee Relations. The Commission reviews the list and recommends the appropriations necessary to the full Legislature. Appropriated funds go to the bargaining units and wage increases are negotiated through the collective bargaining process. In 1983, the Minnesota Legislature appropriated \$21.8 million to adjust underpaid classes over a two-year period. It is estimated that a similar amount will be needed in 1985 to bring the state's system into full pay equity. These implementation costs will represent about four percent of the state payroll, or one percent per year over four years.¹³

¹³If we assume that Alaska's classification project estimates similar costs to those in Minnesota, one percent of Alaska's payroll (i.e., wages and all employer expenses for benefits in calendar year 1983) would equal roughly \$6 million.

A few states have adjusted the wages of underpaid job classes without performing extensive studies. Pennsylvania instituted a system of internal equity many years ago, while Idaho revised its classification system in 1975 and female state employees' salaries were increased an average of 16 percent. In 1983, the New Mexico Legislature appropriated \$3.3 million to provide immediate wage increases for the 3,000 lowest paid state employees (80 percent were women) at the same time it mandated a job evaluation study currently underway.

Negotiations between public employee unions and the states which address comparable worth and wage disparities have occurred nationwide. In Connecticut and Maine, unions were instrumental in getting the states to conduct job evaluation studies. In California where a comparable worth policy was enacted in 1981, it is anticipated that comparable worth will be a negotiable salary issue this year for the 20 bargaining units which represent the State's public employees.¹⁴ Similarly, unions such as AFSCME and Service Employees International, have been successful in negotiating wage increases for underpaid job classes in local governments and school districts. In fact, as mentioned previously in the introduction to this memorandum, collective bargaining has produced more wage equity increases than any other approach. Alaska Public Employees Association, the largest bargaining unit representing state employees, is involved in the ad hoc committees guiding the State's classification project but has not been particularly vocal on the comparable worth issue to our knowledge.

In summary, more than half of the states are currently involved in comparable worth activities ranging from job evaluation studies to implementation of wage increases. Alaska appears to be at about the same stage as a number of states which are now conducting studies of their public personnel systems. While a few states, such as Minnesota and Connecticut have implemented wage increases in underpaid public jobs, legislatures in several more will likely be considering implementation costs within the next two years once studies similar to the one underway in Alaska are completed.

We hope this information is useful to you. We have requested a copy of a nationwide survey conducted in 1983 by the National Committee on Pay Equity in Washington DC. Once it is received, we will forward any pertinent material to you.

GK

Attachments

¹⁴Ms. Nancy McCarthy, Department of Personnel Administration, State of California. Personal communication. June 7, 1984.

ATTACHMENT A

Alaska Statutes Regarding Unlawful Employment
Practices and Annual Market Survey

Quoted in *Hotel & Restaurant Union Local 878 v. Alaska State Comm'n for Human Rights*, Sup. Ct. Op. No. 1853 (File No. 4248), 595 P.2d 653 (1979).

Sec. 18.80.210. Civil rights. The opportunity to obtain employment, credit and financing, public accommodations, housing accommodations and other property without discrimination because of sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin is a civil right. (§ 6 ch 117 SLA 1965; am § 4 ch 42 SLA 1972; am § 8 ch 104 SLA 1975)

NOTES TO DECISIONS

Cited in *Loomis Electronic Protection, Inc. v. Schaefer*, Sup. Ct. Op. No. 1262 (File No. 2684), 549 P.2d 1341 (1976).

Collateral references. — Actionability under state statutes of discrimination because of complaining party's association with persons of different race, color, or the like. 35 ALR3d 859.

Recovery of damages for emotional distress resulting from racial, ethnic, or religious abuse or discrimination. 40 ALR3d 1290.

Racial or religious discrimination in furnishing of public utilities, services, or facilities. 53 ALR3d 1027.

Recovery of damages for emotional distress resulting from discrimination

because of sex or marital status. 61 ALR3d 944.

Trailer park as place of public accommodation within meaning of state civil rights statutes. 70 ALR3d 1142.

Recovery of damages as remedy for wrongful discrimination under state or local civil rights provisions. 85 ALR3d 351.

Identification of job seeker by race, religion, national origin, sex, or age, in "situation wanted" employment advertising as violation of state civil rights laws. 99 ALR3d 164.

Sec. 18.80.215. Activities in aid of housing for minority groups. The activities of a nonprofit and noncommercial organization on a nonremunerative basis in aiding minority group members to obtain housing opportunities so as to further the purpose of this chapter are not considered a violation of AS 08.88.161. (§ 3 ch 119 SLA 1969)

Sec. 18.80.220. Unlawful employment practices. (a) It is unlawful for

(1) an employer to refuse employment to a person, or to bar him from employment, or to discriminate against him in compensation or in a term, condition, or privilege of employment because of his race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood;

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(2) a labor organization, because of a person's sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color or national origin, to exclude or to expel him from its membership, or to discriminate in any way against one of its members or an employer or an employee;

(3) an employer or employment agency to print or circulate or cause to be printed or circulated a statement, advertisement, or publication, or to use a form of application for employment or to make an inquiry in connection with prospective employment, which expresses, directly or indirectly, a limitation, specification or discrimination as to sex, marital status, changes in marital status, pregnancy, parenthood, age, race, creed, color or national origin, or an intent to make the limitation, unless based upon a bona fide occupational qualification;

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has opposed any practices forbidden under AS 18.80.200 — 18.80.280 or because he has filed a complaint, testified or assisted in a proceeding under this chapter;

(5) an employer to discriminate in the payment of wages as between the sexes, or to employ a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character or work in the same operation, business or type of work in the same locality; or

(6) a person to print, publish, broadcast or otherwise circulate a statement, inquiry or advertisement in connection with prospective employment which expresses directly, a limitation, specification or discrimination as to sex, marital status, changes in marital status, pregnancy, parenthood, age, race, religion, color or national origin, unless based upon a bona fide occupational qualification.

(b) The state, employers, labor organizations, and employment agencies shall maintain records on age, sex, and race that are required to administer the civil rights laws and regulations. These records are confidential and available only to federal and state personnel legally charged with administering civil rights laws and regulations. However, statistical information compiled from records on age, sex, and race shall be made available to the general public. (§ 6 ch 117 SLA 1965; am § 4 ch 119 SLA 1969; am § 1 ch 237 SLA 1970; am §§ 5, 6 ch 42 SLA 1972; am § 1 ch 119 SLA 1974; am § 9 ch 104 SLA 1975)

Cross references. — As to original jurisdiction of the superior court over suits arising under this chapter, see AS 22.10.020.

Opinions of attorney general. — Subsection (b) should be interpreted to require the commission to keep confidential infor-

mation from a survey for records maintained to administer civil rights laws and regulations until it is presented at public hearing unless the information is released in a format which does not identify individual responding employers or unions. May 14, 1979, Op. Att'y Gen.

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wording of subsections (a) and (b) is nearly identical, there would seem to be no basis for assigning different implementation times to the increments, unless an indication of such legislative intent is to be found elsewhere. The supreme court has discovered no such expression of contrary legislative intent. Alaska Pub. Employees Ass'n v. State, Sup. Ct. Op. No. 1066 (File No. 1999), 525 P.2d 12 (1974).

Thus, employees entitled retroactively to pay increments in subsection (b). — As of July 1, 1972, state employees who otherwise met the statutory eligibility requirements and had been in the last step of their pay range for four, nine, or 13 years should have immediately received the pay increments provided by subsection (b) of this section. Alaska Pub. Employees Ass'n v. State, Sup. Ct. Op. No. 1066 (File No. 1999), 525 P.2d 12 (1974).

Given an indication of retroactivity in the Free Conference Committee Report on the original bill and the similarity in the phrasing of subsections (a) and (b), the most intrinsically reasonable

interpretation of the bill would seem to be that, in the absence of any indications of legislative intent to the contrary, if eligibility for the initial pay increase was to become effective on July 1, 1972, then eligibility for all the incremental increases should become effective on that date. Alaska Pub. Employees Ass'n v. State, Sup. Ct. Op. No. 1066 (File No. 1999), 525 P.2d 12 (1974).

Increments as salary steps. — Interpreting the longevity pay increments provided for by this section, so as to suggest that these increments may not be salary steps and therefore employees receiving these longevity increments who are promoted to a higher job series are not entitled to the salary increases required by Personnel Rule 9.02 13 and article 7 of the agreement between the state of Alaska and Alaska Public Employees Association covering the general government unit would be at variance with the legislative intent expressed in this section. September 11, 1974, Op. Att'y Gen.

Sec. 39.27.025. Swing and graveyard shift differentials. (a) Classified and partially exempt state employees who regularly work a "swing" shift beginning between 12:00 noon and 7:59 p.m. are entitled to a one-step increase over their normal pay established by this chapter.

(b) Classified and partially exempt state employees who regularly work a "graveyard" shift beginning between 8:00 p.m. and 3:59 a.m. are entitled to a two-step increase over their normal pay established by this chapter. (§ 3 ch 87 SLA 1971)

Legislative history report. — For report on ch. 87, SLA 1971 (FCCS SC5HB 106), see 1971 House Journal, p. 378.

Sec. 39.27.030. Annual salary survey. (a) The director of the division of personnel shall conduct an annual salary survey in the manner prescribed by AS 39.27.030 — 39.27.040, and make recommendations in pay ranges to be applied to all classes of positions in the state's partially exempt and classified service. This survey shall

(1) reflect the costs of living in the various election districts of the state by using the cost of living in Seattle, Washington, as a base of 100;

(2) reflect the competitive position of the state, first, by comparing state salary levels with salary levels of comparable classes in private industry, in other governmental agencies throughout the state, and in

other states constituting the prime recruiting areas, using "bench-mark" classes selected by the director of personnel, based on the principle of like pay for like work, from as many employment categories as is necessary to reflect correctly the competitive position of the state salary levels with those paid other employees under this paragraph; and secondly, by comparing fringe benefits in the state service with other governmental agencies and major employers throughout the state.

(b) The director shall use United States Department of Labor statistics or other reliable statistical data in carrying out the provisions of (a) (1) of this section. If reliable statistics are not available, the director shall gather the data by field studies for the survey required by (a) (1) of this section.

(c) The director may use any reliable source of data in carrying out the provisions of (a) (2) of this section. When reliable statistics are not available, the director shall by field studies gather the data to carry out the provisions of (a) (2) of this section.

(d) The director shall, on a regular basis, report to the state employees association by providing a summary of the information accumulated during the data-gathering process; he shall consult with the employees association and consider its findings before his final recommendation. (§ 1 ch 226 SLA 1970; am §§ 1, 2, 4 ch 42 SLA 1971)

Cross reference. — As to gathering data reflecting the cost of living in various election districts, see AS 44.31.020(4)

Sec. 39.27.035. Preparation and submission of pay schedules.

The director shall prepare an annual pay schedule setting out the base pay for all classes of positions in the state's partially exempt and classified service, taking into account the statistics and reasonable internal pay relationships. The director shall also prepare annual pay schedules for persons in the state service in each election district. These annual pay schedules shall either add to or subtract from the base pay of the person in state service according to the data obtained by the annual salary survey conducted under AS 39.27.030 — 39.27.040. The base pay schedule and the election district differentials shall be prepared annually from data obtained by the annual salary survey provided for in AS 39.27.030 — 39.27.040. The salary schedule shall be reviewed by the personnel board before submission to the legislature. A report and recommended salary schedules shall be submitted to each regular session of the legislature no later than five days after the session convenes. (§ 1 ch 226 SLA 1970)

Sec. 39.27.040. University salary survey. The director shall conduct an annual salary survey in the manner prescribed by AS 39.27.030 — 39.27.035, and make recommendations to the Board of

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CLASSIFICATION STUDY - TASKS AND TIMELINES

ATTACHMENT B

TASKS RELATED TO:	1-2 JUNE	3-7 JULY	8-11 AUG	12-15 SEPT	16-20 OCT	21-24 NOV	25-28 DEC	29-33 JAN 85	34-37 FEB	38-41 MAR	42-46 APRIL	47-50 MAY	51-54 JUNE	55-59 JULY	60-63 AUG
Orientation	XX	X													
Work Plan	XX	X													
Communications Plan	XX	X													
Factors and factor weights		XXXX													
Data Collection Forms		XX	XX												
Data Collection Methods			XX												
Class Specification Format			XX												
Presentations to Management				XXX											
Training				XXX											
Software package OR option	XXX	XXX													
Report on decentralized automation				XXXX											
Report on over-all automation				XXXX											
Inter-rater reliability Report					XXX	XXXX									
Report on selected Classes				X								X			
Prepare Pay Table												X		X	
Cost \$ to Implement													X		X
Final Report															X
Periodic Updates			X	X	X	X	X	X	X	X	X	X	X	X	

Date:

Equal pay decision reversed

By BOB EGELKO
The Associated Press

SAN FRANCISCO — The nation's first statewide "comparable worth" ruling was overturned Wednesday by a federal appeals court, which said the state of Washington did not have to offer women equal pay for jobs of equal worth.

"Neither law nor logic deems the free market a suspect enterprise," said the 9th U.S. Circuit Court of Appeals in reversing a decision that could have provided as much as \$1 billion in damages to 15,500 workers.

Comparable worth is a policy of equal pay for different jobs that are judged to be of equal value. The Reagan administration has vehemently opposed the policy.

A three-member panel of the appeals court said federal laws banning sex discrimination in employment do not require an employer to provide equal pay for different jobs, even if the employer's own studies say the jobs have the same value.

In holding the state liable for damages in 1983, U.S. District Judge Jack Tanner had cited a study commissioned by the state government showing a 20 percent salary gap between workers in predominantly female and predominantly male jobs that required similar levels of skill, mental demands, accountability and working conditions.

But the appeals court said a wage gap, by itself, does not show that the state intentionally discriminated against women.

The 1964 federal Civil Rights Act "does not obligate (Washington) to eliminate an economic inequality which it did not create," said the opin-

See Back Page, EQUAL

Equal pay decision reversed

Continued from Page A-1

ion by Judge Anthony Kennedy.

In language that could be devastating to the comparable-worth theory, Kennedy said an employer can follow prevailing market wages in setting salaries, even if those wages underpay women.

"The state did not create the market disparity and has not been shown to have been motivated by impermissible sex-based considerations in setting salaries," Kennedy said.

In Washington, Gerald McEntee, national president of the American Federation of State, County and Municipal Employees, which brought the suit in Washington state, reacted sharply to the decision.

"We'll take this to the Supreme Court. We still believe

we have the law and equity on our side," said McEntee speaking through a spokesman, Philip Sparks. McEntee scheduled a news conference for this morning.

Numerous comparable worth suits have been filed across the nation, including a suit on behalf of nurses in Illinois, 5,000 public workers in Hawaii, and a suit on behalf of 100,000 past and present California state workers in female-dominated jobs. The issue has been raised in several labor disputes, including last year's strike by office workers at Yale University and a strike in San Jose, Calif., by city workers.

Feminist groups that promote the concept of comparable worth say it would remedy discrimination against large numbers of women in predominantly female jobs like secretary and clerk.

8-17-85

nation

Administration renews attack against 'comparable worth'

By KAREN TUMULTY

Los Angeles Times

WASHINGTON — The Reagan administration took its criticism of the controversial concept of "comparable worth" one step further Friday, filing a court brief siding with the state of Illinois against nurses seeking higher pay on the grounds that they do not earn as much as men in similar — but not identical — jobs.

Explaining the administration's decision to file its first "friend-of-the-court" brief in such a case, Assistant Attorney General William Bradford Reynolds said in a statement, "Congress, the courts and this administration have long advocated 'equal pay for equal work.'" That right is spelled out in the 1963 Equal Pay Act.

But Reynolds, head of the Department of Justice's civil rights division, insisted: "The comparable worth theory, however, makes a mockery of the ideal of pay equity, advancing instead the thesis that equal pay should be provided to men and women in remarkably different jobs on the basis of a subjective evaluation by some 'expert' that the two jobs can be called 'comparable.'"

The brief, filed with the 7th U.S. Circuit

Court of Appeals in Chicago, urges the court to uphold a lower court ruling last April dismissing the nurses' claims, rather than to allow it a full trial.

The administration's move drew immediate and sharp criticism from advocates of the concept, who see it as their most effective tool in closing the historical gap between lower-paying jobs traditionally held by women and more lucrative ones held by men.

Those who support using comparable worth as a basis for pay scales insist that sex discrimination accounts for the fact that teachers routinely are paid less than truck drivers and nurses less than house painters.

"No matter how hard the Reagan Justice Department tries to turn back the clock on civil rights, the Supreme Court has made it clear that sex-biased wage discrimination is illegal," said Gerald W. McEntee, president of the American Federation of State, County and Municipal Employees.

The union has led the court fight for comparable worth, winning what is considered the most important victory thus far — a 1984 case in which a federal judge ordered Washington state to pay female employees up to \$1 billion in back wages.

Federal job panel rejects comparable worth idea

By ROBERT PEAR
The New York Times

WASHINGTON — The Equal Employment Opportunity Commission ruled unanimously Monday that federal law does not require employers to give men and women equal pay for different jobs of comparable worth.

The five-member federal commission said that if jobs were comparable, the fact that they paid different amounts was not in and of itself proof of discrimination. Jobs are said to be of comparable worth if

they require comparable levels of knowledge, skill and effort and if their responsibilities and working conditions are comparable.

Labor unions and women's groups have embraced comparable worth as a way to reduce the differences in pay between jobs held mainly by women, such as nursing and secretarial work, and jobs held mainly by men, such as truck driving and warehouse work, which tend to pay more.

Clarence Thomas, the chairman of the commission, said Monday's rul-

ing was the first decision by the agency on the issue. He said it would apply to all public and private employers with 15 or more employees.

"Sole reliance on a comparison of the intrinsic value of dissimilar jobs which command different wages in the market does not prove a violation" of federal law, Thomas said. "We are convinced that Congress never authorized the government to take on wholesale restructuring of wages that were set by non-sex-based decisions of employers, by

collective bargaining or by the marketplace."

Monday's ruling was hailed by the Chamber of Commerce of the United States and the National Association of Manufacturers, but denounced by unions and women's groups.

Jerry Jasinowski, executive vice president of the National Association of Manufacturers, saw the decision as "a signal that the whole movement for comparable worth is diminishing." He said "employers should rest easier" knowing that the

commission "will not get into the business of determining the inherent worth of jobs."

Winn Newman, a lawyer who has represented the American Federation of State, County and Municipal Employees and other unions in similar cases, said that with Monday's decision, the commission was "perpetuating sex discrimination and playing into the hands of sex bigots."

The Civil Rights Act of 1964 bans discrimination in compensation, Newman said.



Times
7/13/84

Equal pay for work of comparable value

By Joan Beck

NOTHING ANY presidential candidate can do between now and November holds as much potential for bettering the lives of women as a little-noticed bill on bureaucratic operations that the U.S. House passed last week.

The innocuous-sounding measure calls for a seven-month study of comparable pay scales in the executive branch of the federal government. And that, as the State of Washington discovered at a

cost that may reach \$1 billion, could uncork a genie that may eventually bring millions of women substantially higher salaries.

The Senate has passed other sections of the bill without the pay equity provision. The Reagan administration has lobbied against it and suggested it would be vetoed. But the House vote was so overwhelming, 413 to 6, that it may persuade Senate conferees to include the comparable section in the final legislation and President Reagan that a veto would be overridden.

SENATORS AND Reagan staffers will probably realize, as did the congressman who led the fight against the measure and then voted for it, that it is easier to worry about its effects later on than to explain to women why they oppose the idea.

There is little doubt that the proposed study will find inequities in federal pay scales. The federal government is the nation's largest single employer of white-collar workers, who are already graded and paid according to an 18-level classification system. A 1977 study shows that only 3 percent of federal workers in the three highest-paid categories are women. But 77 percent of those in the lowest four ranks are female.

The catch to the bill, sponsored by Rep. Mary Rose Oaker, D-Ohio, is that if the study finds sex discrimination in the federal pay scales, it will have to be corrected. Supporters of the bill say the Civil Rights Act of 1964 requires it. And a federal judge so ruled last year when he awarded almost \$1 billion in raises, back pay and pension contributions to women employees of Washington State.

To ease worries of male workers that wage equality will be gained by leveling their salaries down, the legislation does provide that the rate of pay for a given job can't be cut.

ONCE THE FEDERAL government has a system of comparable pay in place, some of the current arguments against it will lose their force and pressures will grow to apply the same antidiscrimination standards to other jobs.

Opponents, for example, charge that efforts to end sex bias in jobs interfere with the free market for labor. But the labor market is free only on theory. In reality, it reflects government regulations, union forces, lack of worker mobility and complex and interlocking social, educational and economic factors that have historically pushed women into sex-segregated and low-paying jobs.

Adversaries say it's fair to pay women less because they are more likely to take time off for family responsibilities. But not all women do. And stacks of studies now show that even when length of time on the job and all other factors are eliminated, substantial pay differences remain that can only be attributed to historic sex bias.

It's already too late to shove the genie back into the bottle. More than 100 other states and cities have started studies on built-in sex bias in jobs and pay — actions that seem to obligate them legally to correct any discrimination they find.

Berry's World



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"I just want what EVERYBODY has — love, power, money, happiness, success, fame .."

Women-led families show income drop; aid cuts blamed

Associated Press

Washington — Cuts in government assistance have lowered the income of families headed by women, even as most other households were getting a boost from President Reagan's tax program, new government statistics show.

After-tax income for American households climbed 1.7 percent to an average \$18,906 between 1981 and 1982, the Census Bureau reported Thursday.

But families headed by women, with no husband present, suffered a 3.8 percent income decline to an average of \$10,868, the report disclosed.

Cuts in Aid to Families with Dependent Children and other assistance programs may be at least part of the reason for this drop, said Charles T. Nelson of the Census Bureau. He noted that eligibility rules for several programs had been tightened, eliminating some participants and thus lowering average income for women.

Nelson stressed that many of these families also receive non-cash benefits such as Medicaid, food stamps, housing subsidies and school lunch programs, which are income but are not counted in his statistics.

Several of those programs have also been cut, however, Catherine East of the National Women's Political Caucus

pointed out.

She cited a Congressional Budget Office report that showed that families with incomes of \$10,000 or less lost money under the administration tax program, while those with higher incomes gained.

The Census study showed that taxes paid by households with incomes of under \$10,000 rose 4.2 percent, while taxes paid by all other income groups fell.

Some 55.4 percent of households with children, headed by women, no husband present, had incomes under \$10,000 in 1982.

The Congressional Budget Office study showed that cuts in cash benefits reduced income to low-income families by \$250 a year, East said, and another \$390 was lost to reductions in non-cash programs such as Medicaid and food stamps.

But for most Americans the news from the new Census study of after-tax income was good.

"The tax cut, you could really see the difference it made," Nelson said in a telephone interview.

Average household income had declined 2.6 percent from 1980 to 1981, before the income tax cuts took effect, the report showed.

The biggest increase from 1981 to 1982, 5.2 percent, affected the elderly, with average household incomes rising to \$13,767 after taxes. Nelson noted that indexing of Social Security income helps this group, with payments rising along with inflation.

And he observed that there has been an increase in interest income in recent years as banks and savings institutions offer a wide variety of high interest savings accounts.

Older families are more likely to have savings to invest in such accounts than younger people, he commented, and thus may have benefited from more interest income.

Nelson also observed that the effect of children on family finances was illustrated in the study.

Married couples had an increase in after-tax incomes of 2.3 percent to \$22,934, Nelson pointed out. But for couples with children the after-tax income rose only 0.8 percent to \$23,307, a change so small as to virtually be the same income as a year earlier.

There have been discussions of increasing the federal tax deduction for children and these statistics would tend to support those proposals, Nelson said.

White couples average income rose 1.7 percent during the year, to \$19,606, the study reported.

Blacks had an 0.8 percent rise to \$12,955 and Hispanic families saw their income fall 2.9 percent to \$15,297. However, because of the small sample the change in income for blacks and Hispanics was not considered statistically significant by Census officials.

The largest regional growth was in the South, where household incomes rose 2.4 percent to \$18,399, although that was still the lowest in the nation. The Northeast had 1.9 percent growth to \$18,915.

THE WHITE HOUSE

Office of the Press Secretary
New York, New York

For Immediate Release

April 5, 1964

REMARKS OF THE PRESIDENT
TO THE WOMEN BUSINESS OWNERS OF NEW YORK

Empire State Ballroom
Grand Hyatt Hotel
New York, New York

1:13 P.M. EST

THE PRESIDENT: Thank you. Thank you very much. Good afternoon, and thank you for that warm reception. I'm delighted to be back in the Big Apple. And I've been eager to get to one of these conferences for women in business ever since the Small Business Administration's Office of Women's Business Ownership under Carolyn Gray started co-sponsoring them.

It's a special honor to be here with you, the members and friends of Women Business Owners of New York. You and your firms make up a vibrant part of the New York economy, employing thousands of men and women, providing goods and services that range from bookbinding to financial consulting. Each of you knows from personal experience that American women have the vision, the talent, and the determination to make great contributions to our nation's economy. And you're serving as role models for a new generation of women -- women for whom participating in the economy will be much easier because of your efforts. On behalf of all Americans, I commend you.

In our lifetime, America has begun an historical social change that offers women exciting new opportunities. Just 35 years ago, only a third of adult women held jobs outside the home. Today, more than two-thirds of the women between the ages of 25 and 44 are in paid positions. Growing numbers of women are doctors, military officers, police and firefighters; more than a third of our law students are female; and women business owners represent the fastest-growing segment of the small business community.

On a personal level, I've seen these changes clearly in the lives of the women closest to me. My mother, Nelle, never had the chance to go beyond elementary school. All her life she devoted herself to our family and held us together both emotionally and financially. For a while during the depression, she helped make ends meet by working in a dress shop for \$14 a week.

My wife, Nancy, belongs to a later generation of women, in which many were raised with society expecting one thing of them, only to discover years afterward that society had come to expect something else. Like so many women, Nancy's had both the challenges and the rich rewards of adapting. She pursued a successful career as an actress, and today she gracefully combines her role as a loving wife and mother with her many duties as First Lady.

MORE

And, you know, the government gets quite a bargain with First Ladies. They aren't on the payroll, but Nancy's office hours and duties run about even with mine. That's why she's not here at this moment. No words can express how proud I am to be the man in her life. (Applause.)

And my daughters, Patti and Maureen, belong to a new generation. Maureen, as you heard, has worked in radio and television, promoted overseas trade, run for political office. Today she's giving advice to her dad on something she understands very well: how to communicate to women, what the administration is working to accomplish. My younger daughter, Patti, seeks a career in the entertainment world. When certain people for political reasons claim that I don't understand the modern woman, I'm tempted to say, "Then how come I have two very independent daughters?" (Laughter.) (Applause.)

In my mother's time and throughout our history, women were always hard at work, seeking self-fulfillment, giving of themselves to their families, and building a better nation. Today, women in our country are just as hard-working and giving as ever. It's America that has changed and grown, giving women increased chances to reach for the stars and go as far as their God-given talents can take them.

Women in the eighties are a diverse majority with varied interests and futures. Some seek to pursue their own careers, some run for political office, some focus on the home and family, and some seek to do all these things. No role is superior to another. What's important is that each woman must have the freedom to choose her path for herself, and I'm committed to just that. The simple truth is I've been frustrated by the perception that's been created about my supposed lack of interest in the welfare of women, and I'm going to take advantage of this opportunity to reveal some things our administration has been doing and that seem to have been closely guarded secrets up until now.

Once, after making a speech, a minister, the late Bill Alexander of Oklahoma, took it upon himself to tell me the story of his first sermon. I've never forgotten it. I've always suspected maybe it had something to do with the length of my speech. He said that he had worked for weeks after his ordination on his first sermon and had been asked to speak or pray or preach at a small country church in Oklahoma, an evening service, and he arrived after working all these weeks on that first sermon that he was going to preach as a minister and looked out at a church that was empty except for one lone little fellow sitting out there amongst all the empty pews.

And Bill went down, and he said, "My friend, you seem to be the only member of the congregation that showed up. I'm just a young preacher getting started, and what do you think? Should I go through with it?"

MORE

And the fellow said, "Well, I wouldn't know about that sort of thing. I'm a little old cowpoke out here in Oklahoma. But I do know this, if I loaded up a truck load of hay, took it out in the prairie, and only one cow showed up, I'd feed her." (Laughter.) Well, Bill took that as a cue, got back up on the pulpit, and an hour and a half later said, "Amen." (Laughter.) And he went down and said, "My friend, you seem to have stuck with me and, like I told you, I'm a young preacher getting started. What do you think?" And he says, "Well, like I told you, I'm just a little old cowpcke out here in Oklahoma. I don't know about that sort of thing. But I do know this. If I loaded up a truck load of hay, took it out in the prairie, and only one cow showed up, I sure wouldn't give her the whole load." (Laughter.) (Applause.)

Now, I'm not going to miss an opportunity like this, and I'm going to take a certain advantage of the situation. I'm not going to talk an hour and a half, but you're going to get the whole load. (Laughter.) Because during the past three years, I've appointed more than 1400 women to top government positions. Not because of their sex, but because they were the best people for the jobs. (Applause.)

Now, among many other firsts, our administraton has Susan Meredith Phillips, the first woman head of the Commodity Futures Trading Commission; Elizabeth Jones, the first woman Chief Engraver of the United States Mint; and Janet McCoy, the first woman High Commissioner of the U.S. Trust Territories. And today, I'm delighted to announce that I'm sending to the Senate the nomination of Rosemary Collyer to be General Counsel of the National Labor Relations Board, and that will be another first. (Applause.)

For the first time in history, our nation has three women in the Cabinet -- Margaret Heckler, who is Secretary of Health and Human Services is in charge of the third largest budget in the world. Elizabeth Dole, who as Secretary of Transportation, oversees matters ranging from expendible rocket launches to revisions of our Maritime laws. And Jeane Kirkpatrick, who as Ambassador to the United Nations, plays a crucial role (applause) -- she does play a crucial role in our country's foreign policy.

I must tell you, shortly after she had arrived there, she informed some of her colleagues from other countries that there was going to be a change. And one of them jokingly said, "Well, you mean you're not going to stand for being kicked around?" She said, "No, we're just going to take off the 'kick me' sign."

Well, one of my proudest days in office came when I appointed Sandra Day O'Connor to be the first woman in history on the United States Supreme Court. (Applause.)

To aid women in business, our administration has put together the three-point National Initiative Program to assist women business owners. The first of the three components is the Advisory Committee on Women's Business Ownership. Now, this committee is made of twelve women and three men, all very successful in the business and professional world.

MORE

I had lunch with the Committee last week, and they told me about the hearings they're holding to learn about the problems that women business owners encounter. And if you have any suggestions for the Committee, please write to me at the White House, and I'll pass your letters on to them.

The second part of our initiative for women business owners is the Interagency Committee on Women's Business Enterprise. This committee is composed of high-level Federal officials representing the various departments and agencies of the federal government. I've charged that Committee with making certain that in dealing with women-owned businesses, the federal government sets an example for private enterprise.

A series of conferences like this one is the final part of initiative for women business owners. In addition to this New York conference, conferences for women in business have been held in places ranging from Somerset, New Jersey, to San Francisco, as you've been told -- and many more are planned. The conferences are designed to help women acquire management skills and compete more effectively, and they're all co-sponsored by private sector groups to make sure that we get private enterprises in the act.

In Atlanta for example, local private firms responded to the conference enthusiastically. A group of businesses agreed to publish a women business owner's directory for the state of Georgia at their own expense, and a group of banks established a hot line -- one number for women to call to find out about everything from the availability of venture capital to where to get help in drawing up a contract.

Now, just as we're supporting you as you make gains in private enterprise, we're making certain that women receive fair treatment under the law. Our administration has moved to amend, or eliminate statutes that discriminate on the basis of sex. At my direction, the Justice Department conducted a review of federal statutes and found 140 that give different treatment to men and women. We have already proposed legislation to correct 122 of them. Of the remaining 18, six are still under study, the rest favor women and will remain unchanged. (Laughter.) Like the law that -- well, it's like the law that establishes a Women's Bureau in the Department of Labor. And I want to mention the superb job that Dr. Lenora Cole-Alexander is doing in heading that Bureau.

At the same time, the Task Force on Legal Equity for Women has begun a thorough review of non-statutory rules, practices and procedures throughout the federal government. Whenever it finds women treated unfairly, the Task Force works with the agencies or departments to ensure changes will be made.

To reach laws and procedures beyond the federal level, we've established the Fifty States Project, a program that's working with Governors to help them find the areas where their state codes, regulations and administrative rules treat women unfairly. And I'm delighted to say that 42 states have already begun reviews of their laws and procedures, and more than half our states are already amending their laws to ensure equal treatment for women.

At the same time, the Department of Justice has been hard at work to fight discrimination in individual cases. The Department has filed the first seven suits in its history to enforce the Pregnancy Discrimination Act of 1988. And one of those suits involved the rights of some 9,000 women. Just last year, the Justice Department won a record-breaking \$2.75 million discrimination case dealing with the rights to 685 women and blacks. Perhaps most important, the Department of Justice has so far filed more charges -- or cases charging sex discrimination in employment than did the last administration during a comparable time.

Let there be no doubt -- this administration considers discrimination based on sex just as great an evil as discrimination based on religion or race, and we will prosecute cases of sex discrimination to the fullest extent of the law. (Applause.)

Now, just as we're joining you in your efforts for legal equity, we're helping in a number of ways as American women work for economic self reliance.

For those whose former spouses are delinquent in child support payments, we've moved to strengthen the federal child support enforcement system. The year we took office, some \$4 billion were owed to the children of America. Since then, our measures have raised child support collections by two-thirds. Improvements still need to be made in this area. So we proposed new legislation that would further improve collection of child support for both welfare and non-welfare families.

For those receiving aid to families with dependent children, the majority of whom are women, we've increased training opportunities that will help them secure permanent productive employment because no government hand-out can give a woman who's supporting her family the same sense of dignity as a job.

Now, our Job Training Partnership Act specifically targets these women as a group that must be served.

For workers in the federal government, I signed into law a bill that extends flexible work hours. This applies to both men and women, but it's of particular importance to women who are holding down a job while raising a family. Now they'll be better able to structure their working hours to do things like spend more time with their families and perhaps be at home when their children come home from school.

For all women, we've worked with the Congress and women's groups to provide several forms of tax relief. Relief, by the way, which could and should have been passed long ago by those in Washington who had a monopoly on power and who still claim a monopoly on compassion. Our administration has greatly reduced the income tax marriage penalty. We've eliminated a state tax that's levied on a surviving spouse giving significant benefits to those with family firms and small businesses where women have long been hard-working partners. We've put Social Security back on a firm footing and made reforms that help many divorced spouses and disabled widows. And we've expanded participation in IRA accounts, helping women whether they work at home or in paid jobs.

Nothing is more important to parents than knowing their children are being taken good care of while they're on the job. So we've almost doubled the maximum child-care tax credit. In other moves to make child care more available and affordable, we proposed tax relief for organizations that care for the dependents of working people and we're pressing for a restructuring dependent-care tax credit to make more benefits available for low- and middle-income taxpayers.

We're also working with the Congress to pass historic legislation that will reform inequities that women suffer in some private pension plans. This legislation has passed the Senate and we're awaiting a vote on the floor of the House, in case you'd like to call or write someone. (Laughter,) I have often said it is not only necessary to make the legislators see the light, it's better to make them feel the heat. (Laughter.) (Applause.) The reforms will lower the age at which employees can participate in company pension plans; protect non-working spouses from losing death benefits without their knowledge; coordinate state and federal laws so divorced spouses can collect court-awarded pension benefits more easily; require pension plans to offer survivor's benefits protection to workers after they reach 45; and permit a break in service of up to five years without loss of pension credit, a change that would help women take time to start a family but still go back to their careers.

Despite the importance of all these reforms, I've always believed the most important step we can take for women is the most important step that we can take for all our people, a dynamic, sustained economic expansion. Economic growth will provide more opportunities for women than if all the promises made in the history of Washington, D.C. were enacted into law.

Think back just three years. Raging inflation, the highest prime interest rate in more than a century, an ever-growing tax burden, government regulations that were out of control -- all these had stifled investment, smothered productivity, and brought growth to a virtual standstill.

The economic crisis hit women especially hard. Elderly women living on fixed incomes found their purchasing power eaten up by inflation. Working women saw jobs become more and more scarce. Homemakers found that 12-1/2 percent inflation made it harder and harder to buy the groceries and pay the bills. And the thousands of women who wanted to start their own businesses saw 21-1/2 percent prime interest rates slam the door in their faces.

When we took office, we made restoring economic vitality our top priority. We cut the growth of government spending, we pruned needless regulations, we chopped tax rates, and enacted an historic reform called tax indexing. Indexing means that government will never again profit from inflation at your expense.

MORE

And today, less than three years after we set our program in place, we're seeing a surging economic expansion. The prime interest rate has fallen to about half what it was when we took office. Inflation has plummeted some two-thirds to about 4 or 4½ percent. Housing starts, factory orders and retail sales are up. Compared to the last quarter of 1982, net private savings during the same period in 1983 shot up nearly 50 percent to over \$230 billion, providing new funds to fuel innovation and spur growth.

In the 15 months since the recovery began, nearly five million Americans have found work and the overall unemployment rate has fallen to 7.7 percent, marking the steepest drop in more than 30 years. And just last month it was announced that during the first quarter of 1984 our gross national product grew at the robust annual rate of more than 7 percent, proving that expansion is here to stay.

Just as the economic crisis hit women hard, today's expansion is giving them a powerful lift. The unemployment rate among adult women has dropped from 9.1 percent to 6.9 percent. More women have jobs today than ever before in our nation's history. Just as important, the jobs women hold are getting better and better. In 1983 women filled almost three-quarters of all the new jobs in managerial, professional and technical fields. And the number of women-owned businesses is growing four times faster than the number of those owned by men.

Entrepreneurs like you, who own their own, mostly small businesses, are playing a special part in this expansion. Last year alone, there were almost 600,000 new business incorporations. That's an all-time high in our history and half again the number of incorporations each year during the early '70's. At the same time, bankruptcies declined some 30 percent in the second half of 1983 compared with the same period in 1982. And small business income, as measured by proprietorships and partnerships, grew by a remarkable 18 percent. Perhaps most important, during this expansion small businesses, like the ones that many of you own, provided the most new jobs, gave the most employees the freedom to work part time and hired the most young people, senior citizens and women. The American entrepreneur is building a dazzling new future and she's just getting started. (Applause.)

We must and will go forward to keep opportunities expanding for you and all Americans. To prevent the nightmare of inflation from ever coming back, we must enact Constitutional reforms like the line-item veto and the balanced budget amendment. Please,

MORE

I'd like both of those. (Applause.) And to provide new incentives for growth, make taxes more simple and fair, I believe we must design and enact a program of tax simplification. Not tinkering here and there, but a sweeping, comprehensive reform of the entire tax code. We must, and will, enact these measures. And I'm convinced that when we do, the American economy will reach new heights of prosperity. (Applause.)

When I look at America, I see our basic industry making striking gains, and new industries, like robotics and bio-engineering, gathering strength. I see America leading the world in a technological revolution that's putting men and women into space and adding years to life here on earth. I see a country of open, self-confident people, serving as a force for peace among nations. And I see women, who are holding families together, entering the workforce, starting new enterprises, and doing it all with courage and confidence. America is back.

And now, I know that many of your companies gross millions of dollars a year, but I'd like to share a letter I received that tells about a woman who started a business that's more modest. The letter comes from a person called Betty Lou, and I believe it shows the enterprising spirit of American women. She wrote, "Mr. President, I'm a simple person in that I have a simple -- have simple needs. My husband, a Vietnam veteran of the Marine Corps is a union steamfitter. When we got married, he was out of work for two years, but we learned how to budget around it and still were able to save money. Now that construction work is available in our area, we know we still have to save. We both know that nothing comes from nothing. You make your own fortune, so to speak."

So, to help make ends meet, Betty Lou writes, " With only \$530 and a big smile, I began a new venture. I had no previous business management experience and didn't know exactly where I'd end up. But I had the chance. Now, three years later, I own and operate my own wordprocessing company. It has grown from that initial \$530 to an annual income for 1983 of \$41,000. From an older technology machine costing \$3,000 to a new system costing \$22,000. From one person logging a huge number of hours, to two, full-time employees, each logging over 40 hours a week. We have pride in the work we do, and are even more proud of the fact that we're being given the chance to do it. And who knows what goals can be achieved in 1984?" She closed, adding that they're a young couple in their early thirties and they've already built a new home for themselves.

Well, whether founding their own companies like Betty Lou and so many of you, or holding down any of the millions of jobs our economy provides; or devoting themselves to caring for their loved ones and raising happy, healthy children; or doing all these things, I know that women will play a vital part in leading our nation into the future -- and that there will always be American women who are American heroes.

Thank you. And God bless you. (Applause.)

TOM DAHL *for* U.S. CONGRESS

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ISSUES IMPORTANT TO WOMEN

Because I am a candidate for Congress, I believe I have a special responsibility to outline some of my thoughts on issues important to women.

The Equal Rights Amendment must be the law of our nation. That we still must talk about this and debate this issue in Congress and a few reactionary state legislatures is more than unfortunate. It's a waste of time. I promise to steadfastly and earnestly work to implement ERA in America.

I have said before that abortion raises significant moral problems. These problems are especially for women who are faced with this difficult moral dilemma. Because governmental involvement in this matter is even more repugnant to my principles, I firmly believe the government should leave this choice to individual women.

Pay equity is an issue which effects the vast majority of women living in America today. The wage gap between women and men is one of the most persistent symptoms of sexual inequality in the United States. Women who work full-time, year-round are paid approximately 60 cents for every dollar earned by their male counterparts. This ratio has been essentially the same since at least 1930. The growth of white collar industries, the huge entry of women into the labor force, development of anti-discrimination laws including the federal Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1974 have not been sufficient to break down the wage gap. The question is not whether to bring about wage parity but how and when. I think the government must play a strong role in defining and then enforcing

pay equity as soon as possible. The cost of discrimination to individual women and to society as a whole is devastating. The dramatic increase in the number of households headed by women has additionally increased the number of families guided by women who live in poverty. Almost one in three female guided families is poor in contrast to one in eighteen families headed by a man. It is my belief that most of these female guided families would not be living in poverty if the breadwinners were compensated for the real value of their jobs and I intend to bring about changes in this area.

Elderly women are especially vulnerable to inadequate governmental policies. Over 70% of the elderly poor are women. Social Security is the only significant source of support for 60% of these women. The budgets Don Young supported in 1981 endangered the survival of the elderly poor by seeking cuts in Social Security and a massive shift in Medicare costs from the government to elderly patients. These kinds of budget restrictions are inhuman and must be changed.

Finally, I know women are committed to a wide range of issues and policies that transcend the label of "women's issues." The nuclear freeze is vital for all of us. Providing a society where our children can grow up free to explore and fulfill their education and physical needs is vital for our future. And everyone has an interest in protecting a sustaining and harmonious environment. We must work together on each of these issues.

I look forward to your continued support and working with you to bringing about the best changes for all Alaskans as Representative in the United States Congress.


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Opinion

JUNEAU EMPIRE

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Questions involving comparable worth

Copley News Service

Hearings were held recently by the House Post Office and Civil Service Committee on a bill "to promote pay equity" (H.R. 4599). "Equity" means justice, but what is justice when it comes to setting wages?

Clearly, there must be something mighty fair and just about the American economic system which has provided higher wages and more of the good things of life to more people than any nation in the history of the world. The free market — which allows most economic decisions to be made freely by individuals and unions of individuals — has produced an American standard of living that is the envy of the world.

The method of wage-setting which has produced the highest wages for the most people is the system that allows wages to be determined by freedom of choice: what is an individual willing to work for, and what is an employer willing to pay? The result is called "market rates."

Our society has made a few slight modifications to this system. Prior to the current generation, society's notion of pay equity was generally understood to include giving the job preference, the higher pay and the promotion to the father supporting a family.

Some 20 years ago, the American society codified into federal law the consensus that equity wage-setting included the concept that an individual should receive "equal pay for equal work" as determined by looking at two or more persons doing substantially equal work. There is no apparent dissent from this principle.

Now, however, H.R. 4599 comes along and wants to engage in wage-setting by very different factors. Instead of allowing wages to be set by millions of free decisions, H.R. 4599 wants wages to

Phyllis Schlafly



be set by the subjective opinions of anonymous person who will decide job "worth." This is an even more intangible will-o'-the-wisp than "pay equity," and even less able to produce consensus or equity. Who are the unnamed persons who can fulfill H.R. 4599's assumption that "job-evaluation techniques" can be "equitable?"

Are they the same job evaluators as those in the state of Washington case who decided that laundry workers are "worth" the same wage as truck drivers and should be paid equally? The estimated \$1 billion judgment levied against the taxpayers of the state of Washington by the judge who decided this case (American Federation of State, Country, and Municipal Employees v. State of Washington) was based on a job evaluation that called for wages to be paid according to the following points allegedly describing job worth: laundry workers 96, truck driver 97, librarian 353, carpenter 197, nurse 573, chemist 277. The evaluation concluded that laundry workers should be paid equally with truck drivers and nurses should be paid about twice as much as carpenters and chemists.

Do the sponsors of H.R. 4599 really think that the American people will accept as "equitable" a job evaluation that comes up

with such subjective opinions? There isn't a shred of evidence that wage-setting by job evaluators will be as equitable as wage-setting by the millions of individual decisions operating in the free market today.

Once you divorce wage-setting from prevailing market rates, every determination of job worth — being a matter of subjective opinion — will result in a dispute, and most of those disputes will end up in the courts. That's the inevitable scenario of artificial wage-setting.

For two decades, women have been free to go into any occupation; there are even 3,000 female coal miners today. But most women continue to choose traditional rather than non-traditional jobs. This is their own free choice; nobody makes them do it.

If the wages for these non-traditional jobs are raised above the market rates, the result will be that even more women will crowd into those jobs. On the other hand, the reaction of employers will be to reduce the number of those jobs, and there will be even fewer of the kinds of jobs that women obviously prefer.

When H.R. 4599 asserts that "the average earnings of full-time female workers are significantly lower than the average earning of similarly situated male workers," the words "similarly situated" are (to borrow a current Mondaleism) the "sleaze factor."

If the male and female workers are, indeed, similarly situated, we have adequate current remedies under present laws enforced by the Equal Employment Opportunity Commission. Most jobs with pay differentials, however, are not similarly situated, and it would be gross "pay inequity" to force the artificial setting of wages as though they were.

Positive attitude is what's needed

Pick an issue, almost any issue, and folks will get wound up about it.

Whether it is capturing killer whales off the coast of Alaska or deciding where to build a new school, the tendency is for people not to stay on top of issues until they have been fully discussed in public meetings. Then, as the gavel is about to fall, along comes a group of concerned citizens



3/15/84 Anch. Times

Women in the marketplace: It's 'fess-up-pay-up time

By Jody Powell

IT IS ONE of the fundamental laws of life that the longer we put off doing what we know to be right, the higher will be the tab when the bill finally comes due.

From day one we have paid women doing "women's jobs" significantly less than we paid men doing "men's jobs," in large measure because they are women. As more and more women have gone to work outside the home, the problem has gotten worse. Worse in the sense that increasing numbers of women were being cheated out of an honest day's pay for an honest day's work. Worse in the sense that the cumulative shortchanging of women increases with every pay period.

Now the check must be paid, and it is not going to be cheap. Nor should it be. Federal Judge Jack E. Tanner of the Western District of Washington has held that it is illegal to pay female jobs less than male jobs of similar value. That decision will cost the state of Washington millions of dollars in back pay and raises. It will also, in the words of the attorney who won the case, "stimulate an avalanche of private

litigation on behalf of the victims of discrimination" — primarily because employers have refused to act on the problem except under threat of a lawsuit.

IF THE DECISION stands up, and the betting at the moment is that it will, some major changes are in order in the American work place. Few of us need statistics or studies, though there are a mountain of them, to know that the systematic underpaying of women is rampant.

In fact, few argue that discrimination does not exist, although one of the few is William Bradford Reynolds, assistant attorney general for civil rights. He suggests, presumably with a straight face, that "women with low-paying jobs had an equal opportunity to work at the jobs with higher salaries but never took advantage of that opportunity... they never sought the higher-paying jobs." Poppycock!

What many do argue is there is really nothing to be done about the problem. As one of Mr. Reynolds' subordinates put it, no doubt thinking himself quite witty, "How do you compare the

poet and the plumber?" How indeed? Except what we are being asked to do is rather mundane: like comparing laundry worker and warehouse worker, or civil engineering technician and library technician, or registered nurse and computer systems analyst. Those are job titles from a study done by the state of Washington itself. The jobs were evaluated by methods routinely employed throughout American industry, and in each case the predominantly male job, though determined to be of lesser value than the predominantly female job, was quite significantly more — sometimes as much as 58 percent more.

The "poets and plumbers" argument is almost as much of a red herring as the "never took advantage of the opportunity" ploy. According to one study, "almost two-thirds of the adult population of the U.S.A. are pay-graded in this instance by job evaluation schemes." The federal government and most state governments use such a classification system for all employees. At the time the civil rights acts were passed, business organizations lobbied heavily to be allowed to use the ability to deter-

found on land, often in out-of-way, wooded areas near Seattle-Tacoma International Airport, about 14 miles south of downtown. But the name "Green River Killer" has stuck.

The winding river whose name was pinned to the slayings springs from the Stampede Pass region of the Cascade Mountain range, about 50 miles southwest of downtown, changes its name to the Duwamish outside the city limits, then empties into Puget Sound.

The Green River has steep banks where it runs through the community of Kent, near the Boeing Aerospace Center. The brush along the shore is heavy. Wild blackberry vines and low growing trees hang over the water. It was along this stretch, in an isolated area behind P.D.J. Meats, that Coffield and four other victims were dumped.

"Custom Slaughtering and Hauling" says the company's sign. The smell downwind is ripe.

Tacked to a telephone pole on the road that runs along the river's western bank is a poster offering a reward. But the sign concerns a lost dog named Dingo, not the \$20,000 bounty being offered in the Green River case.

Two signs posted in a parking area near the river's edge are filled with irony. One says "Green River Bike Route," the other "No Dumping." Coffield's body was found by two boys riding their bikes.

As cruel as the end was for Coffield, her demise came as no surprise to her mother.

"I kind of expected it," Virginia Coffield told reporters after her daughter's body was identified through tattoos and dental records. "I know this was the kind of life she chose for herself. We taught her the best we could.

"Growing up is hard," Mrs. Coffield said, recalling her own childhood involvement in "too much sex and violence," activities that led to two years in a state juvenile home.

"I come from a family of drinkers, a big family of drinkers," she said at the time. "All it's ever caused is divorce and heartache."

Pregnant at 16, Mrs. Coffield gave her first child up for adoption. She kept Wendy Lee when she was born several years later.

Things turned bad for Wendy Lee after her parents divorced in 1979. She was convicted of theft at 13; six months later she was accused of taking a motor vehicle. At 16, she was dead.

A year before, Wendy told her mother she'd been raped while hitchhiking. "That's the way she got around, hitchhiking. And that's what happens," said Mrs. Coffield. "She just needed a couple of years off the street to grow up."

Mary Ellen Stone, director of the King County Rape Relief Center, said the streets are filled with young women like Wendy Lee.

She contended the prostitute killings were "all part of a continuum of violence, no question about it. We're fooling ourselves to think otherwise."

Three years ago, Stone recalled in a recent interview, a 14-year-old girl called her office claiming she had been sexually assaulted by her father "for years." The girl, distrusting the rape center, never called again. The next time Stone heard of her was when she turned up as one of the first victims.

"Now you could ask yourself: 'Why are they finding dead prostitutes?' But what we should really be asking is: 'Why do we have 14-year-old prostitutes?'"

The bodies of most of the initial victims were found soon enough to permit thorough autopsies. In cases where a ruling was possible, it was death by strangulation. For decomposed bodies, the coroner has listed death due to "homicidal violence of undetermined origin," without elaboration.

But according to sources close to the investigation, who requested anonymity, as many as 10 of the victims were killed in exactly the same way.

"There are reasons why we connect the cases and they exceed location of the bodies and their occupation," Adamson said.

Last month when two sets of bones were linked to the river bodies, Lt. Jackson Beard, a task

Mat-Su lawyer decries abuse decision

Al Campbell
Seward Valley Bureau

Palmer — District Attorney Michael White says he hopes next year's legislature addresses a problem that he and other prosecutors feel may have been created by the Alaska Court of Appeals.

Earlier this month the state's second-highest court said family court and social service agencies may no longer routinely inform law-enforcement personnel of the names of child abusers learned by them in the course of their duties.

But White, district attorney for the Mat-Su area, including Mat-Su, Glennallen and Valdez areas, said such a prohibition could eliminate many

prosecutions in the area, as police and prosecutors might never hear of the child's plight.

Under state law, most health workers and educators must report allegations of child abuse or child sexual abuse if they have reasonable grounds to believe the claims could be valid.

But the Appeals Court says the matter should stop there, at least until social services investigators have pursued the matter.

The court took that position in the case of a psychologist whom the court ruled did not have to testify against a patient in criminal proceedings.

In widening that case the court stated in a unanimous opinion that reports of child abuse

and neglect, required by state law, are intended for use "in child protection proceedings . . . and not in criminal proceedings."

The Mat-Su area has an inordinately high rate of sexual abuse, according to Alaska State troopers.

Sgt. Rollie Port of the Palmer-based General Investigations Unit has said sexual abuse is often the most-frequent of the major crimes reported in the area.

White said he hoped the 1985 legislature will amend existing laws to assure full reporting of sex and child abuse to police or the district attorneys in the state.

volunteers in providing direct services as well as in fundraising and providing support services.

Attitudes and Concerns of the Nonprofits

While responding in a variety of ways to the financial squeeze, nonprofit agencies also expressed their ambivalence and concern about some of the changes they are making. For example, while many nonprofits were willing to acknowledge that they may have become too dependent on the government, they took issue with the notion that public funding has "significantly distorted" their missions and objectives. Most favored increased government use of nonprofits in delivering publicly funded services rather than less. Similarly, while many nonprofits have increased their use of volunteers, most agencies expressed reservations about extensively replacing paid professionals with volunteers.

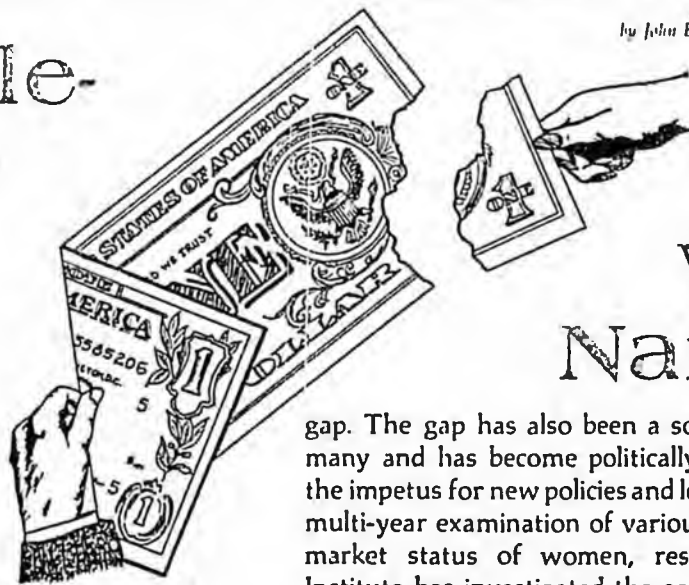
Despite signs of stress and pressures, the nonprofit organizations in the survey displayed considerable

optimism about the future. Less than one in five projected reductions in revenues for 1983, and 40 percent projected increases in excess of 10 percent, primarily from earned income, individual giving, and corporate and foundation support.

Nonprofit organizations are seeking to make a transition from significant levels of public funding to heavier reliance on private sources of support. The most important private source is fees, charges, and other earned income; and the organizations that fared the best were generally those with access to this source of income. While this trend will protect the organizations, it raises important questions about the evolution of the nonprofit sector and its capacity to serve those who are in need. □

This story is based on a summary prepared by Lester M. Salamon and Michael F. Gutoski of a survey conducted by the Institute's Nonprofit Sector project. A copy of the summary, "Serving Community Needs," Progress Report No. 3, is available by sending \$2.50 to the Library/Information Clearinghouse.

The Male-Female Pay Gap:



by John Boyer

Will It Narrow?

A large gap has long persisted in the wages paid to men and women in the United States. As measured by full-time annual earnings, women received 64 percent of men's wages in 1955, a pay gap of 36 percent. By the early 1960s the pay gap had widened to 40 percent, and it has remained at about that level for the past 20 years. When measured by the hourly earnings of full-time workers, the pay gap is about 30 percent. This narrowing occurs because full-time work can be 35 hours or more a week, and men tend to have a longer full-time work week than women.

The large and apparently undiminished pay gap between men and women is a puzzle. The introduction of equal pay and equal employment legislation starting in 1963, the spread of the women's movement, and the dramatic increase in women's labor force participation, rising from a rate of 36 percent in 1955 to 53 percent in 1982, would seem more consistent with a closing pay

gap. The gap has also been a source of frustration to many and has become politically important, providing the impetus for new policies and legislation. As a part of a multi-year examination of various aspects of the labor-market status of women, research at The Urban Institute has investigated the sources of the wage gap and the reasons why it has not narrowed over time.

Explaining the Current Wage Gap

What accounts for the pay gap? Studies investigating the gap have come to different conclusions. These studies, however, use different data sources, refer to different populations and control for many but not always the same set of variables. Even the gross wage gap—the hourly earnings differential before adjusting for diverse characteristics—varies from study to study, ranging from 45 to 7 percent depending on the type of population considered. Studies based on national samples covering the full age range tend to show a gross wage gap of 35 to 40 percent. Studies based on more homogeneous groups, such as holders of advanced degrees or those in specific professions, have found considerably smaller gross wage gaps.

(continued next page)

After adjusting for various characteristics, the wage gap narrows. Generally, the most important variables contributing to the adjustment are those that measure the total number of years of work experience, the years of tenure on current job, and the pattern or continuity of previous work experience.

Traditional home responsibilities of married women have been an obstacle to their full commitment to a career. Although women are now combining work and marriage to a much greater extent than in the past, older women in the labor force today have typically spent many years out of the labor force raising their families. Data from the National Longitudinal Survey (NLS) indicate that in 1977 employed white women in their 40s had worked only 61 percent of the years after leaving school, and employed black women had worked 68 percent of the years. By contrast, men are usually in the labor force or the military on a continuing basis after leaving school.

The contribution of lifetime work experience and other variables was examined using the NLS data for men and women aged 25 to 34. White women's hourly wage rate was found to be 66 percent of white men's—a wage gap of 34 percent. This wage gap narrowed to 12 percent after accounting for the effects of male-female differences in work experience, job tenure, and schooling, as well as differences in plant size and certain job characteristics, such as the years of training required to learn a skill, whether the occupation was hazardous, and whether the occupation had a high concentration of women.

The gross wage gap between black men and black women was 18 percent. The gross wage gap was smaller for blacks than for whites because job related characteristics of black women and black men are closer than those of white women and white men. Black women have somewhat fewer years of work experience in their teens and early 20s than white women, which may be related to earlier childbearing. They are more likely to work continuously and full-time later on, however, and thus accumulate more total work experience and longer tenure on their current jobs than white women. The adjustment for differences in the measured characteristics cited above narrowed the wage gap of black men

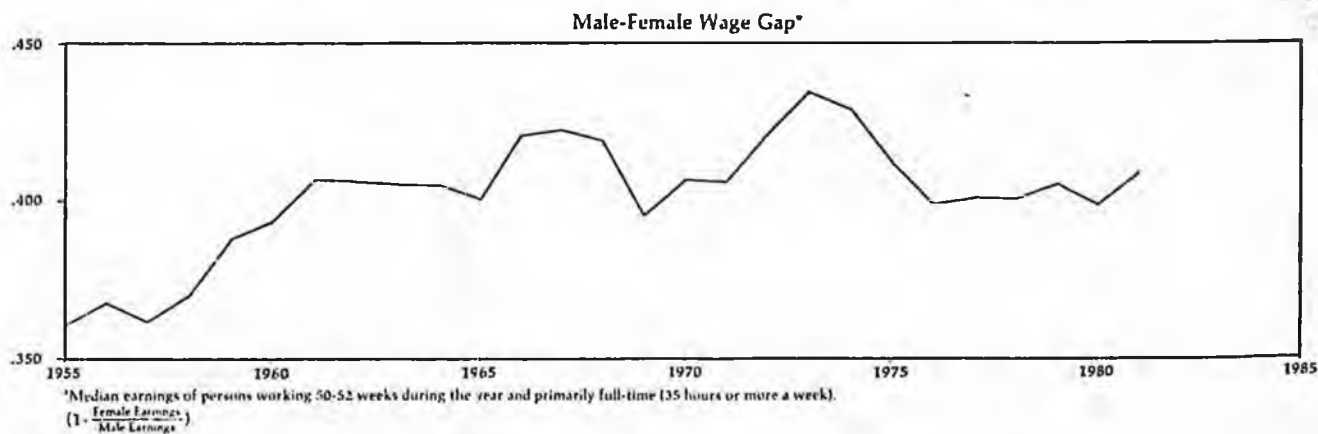
and women to 9 percent.

Are the remaining, unaccounted-for differences a measure of discrimination in the labor market?

If all the productivity differences between women and men are not accurately identified and measured, labor market discrimination would be overestimated by the unexplained residual. Many variables were omitted from this analysis and from other studies because relevant data are not available. These include details on the quality and vocational orientation of education; on the extent of other work related investments, such as job search; and on less tangible factors, such as motivation and effort. Differences in these factors could arise from the priority placed on earning an income versus fulfilling home responsibilities. If women, by tradition, are relegated the primary responsibility for homemaking and raising children, they may be reluctant to take jobs that demand an intense work commitment. An Institute study found that career intentions formed at younger ages have a strong effect on the occupational differences between women and men at older ages. Moreover, occupations with a concentration of women were found to have such characteristics as providing part-time work that enabled women to split their time between home and work. Societal discrimination may influence the division of labor in the home, but this should be distinguished from labor market discrimination.

On the other hand, the unexplained residual may underestimate discrimination if some of the included variables, such as years of training to learn a job or the sex typicality of occupations, partially reflect labor market discrimination. Some employers may deny women entry into lengthy training programs or be reluctant to hire them in traditionally male jobs. It is difficult with available data to distinguish this situation from one where women choose not to engage in training because of uncertainty about their long-run career plans or choose female occupations because they are more compatible with competing responsibilities at home.

A substantial amount of the differences in wages and in occupations by sex has, therefore, been statistically linked to investments in work skills acquired in school or on the job. Varied interpretations of these results are possible, however. Thus, the precise amount



that can be labeled as the result of choices made by women and their families rather than the result of discrimination by employers is not known.

The Trend in the Wage Gap

The wage gap would not narrow significantly over time unless the productivity or skill of women in the labor force increased relative to men's or discrimination in the work place diminished. Because the gross wage gap widened somewhat after 1955, either discrimination increased or women's skills decreased relative to men's. The findings from the Institute study suggest that changes in skill, as measured by the changes in the education and work experience of men and women in the labor force, strongly contributed to the increase in the wage gap.

In 1952 women in the labor force had completed 1.6 more years of schooling than men. This difference narrowed sharply so that by 1979 it had disappeared. One reason for this is that the education level of men advanced more rapidly than that of women during the 1950s. Aided by the GI bill educational benefits, more men attended college. Another is that the labor force participation of less educated women increased more rapidly than the participation of highly educated women. Thus, the female labor force became increasingly less selective over time in terms of schooling attainment.

These effects differ within age groups. For the age group 25 to 34 in 1952, women in the labor force were only marginally better educated than men; in the same age group men were marginally better educated than women by 1979. For older groups the difference in schooling shifted significantly in favor of men over the 1952 to 1979 period. Since education has a significant impact on the earnings of both women and men, these changes have strong implications on the pay gap. Over the period 1952 to 1979 the decline in the level of women's education relative to men's was found to account for a 10 percentage point decrease in women's earnings compared to men's, which fully explains the widening in the wage gap over the period.

The rise in the number of women in the labor force may also have had an effect on the lifetime work experience of the average working woman. A large number of less experienced women entering the labor force may have diluted the experience level of the working women. While the total number of years of work experience of women is not available for periods of time before the late 1960s, data on job tenure—years with current employer—show that in 1951 men's job tenure exceeded women's job tenure by 1.7 years. This difference widened in the 1960s to 2.7 years and then slowly declined, reaching 1.9 years in 1978 and 1.5 years in 1981. These patterns also differ by age. At ages 25 to 34 the difference in job tenure rose from one year in 1951 to 1.5 years in 1963. By 1981 it had narrowed to 0.9 year. At ages 45 to 54 this difference widened from 3.6

years in 1951 to 6.2 years in 1968 and was reduced to 5.1 years by 1981.

The widening job tenure difference provided an additional explanation for the increasing wage gap during the late 1950s and early 1960s. In fact, the combined effect of the relative decline in the education and work experience of employed women was sufficient to cause a greater widening in the wage gap than actually occurred. Since the mid-1960s education and work experience differences have moved in different directions. Male educational attainment rose slightly more than that of working women, which alone would have widened the pay gap slightly. The differences in job tenure declined overall.

More detailed data on total years of work experience are available from the NLS for the 1967 to 1978 period. These data show that working women accumulated slightly more work experience during this period. On the whole, these changes should have caused the wage gap to narrow slightly. It did not do so between 1965 and 1979. Between 1979 and 1982, however, a small narrowing in the wage gap is evident in both the annual earnings and hourly earnings data. More significant changes in the wage gap are apparent at younger ages. For the age group 25 to 34 the pay gap in annual earnings has narrowed from 38 percent in 1965 to 28 percent in 1982. One reason for the improvement is that this group has also experienced a substantial reduction in work experience and job tenure differences.

Evidence from the NLS and other sources suggests that the pay gap is likely to narrow perceptibly in the next decade. Not only are young women working more continuously, but they are also getting higher pay for each year of work experience than they were in the late 1960s. This could reflect a reduction in sex discrimination by employers or a greater willingness of women to invest in market skills, or both. Women's career expectations also seem to be rising. In response to an NLS question asked in 1973, 57 percent of women between 25 and 29 indicated their intention to hold jobs rather than be homemakers when they reach age 35. Among women reaching ages 25 to 29 in 1978, 77 percent expressed their intentions to work.

Young women have also greatly increased their education level relative to men. Female college enrollment increased significantly during the 1970s, while male enrollment fell between 1975 and 1980. Moreover, women have made impressive gains in professional degrees during the 1970s. Work roles and work expectations of women and men may well be merging. As these younger women become a larger component of the female labor force, it is anticipated that the overall wage gap will be reduced. □

This article is based on the following studies: "The Trend in the Sex Differential in Wages" (S5.001) and "The Determinants and Wage Effects of Occupational Segregation" (S7.001) by June O'Neill. Funding was provided by Exxon, the Rockefeller Foundation, and the U.S. Department of Labor under Grant No. 21-11-81-02. Copies of the reports are available from the Library/Information Clearinghouse.

Expert to testify on gender pay rates

From staff and wire reports

An expert in job comparison is expected to testify today that the state's mostly female public health nurses perform duties that are at least equivalent to those performed for higher pay by the state's mostly male physician's assistants.

Professor George Haglung of the University of Wisconsin took the stand Monday at an administrative hearing pitting the state Commission for Human Rights against the State of Alaska in an equal-

pay-for-equal-work dispute. He is scheduled to get to the heart of his testimony on behalf of 11 nurses as the hearing continues this morning.

For more than four years the public health nurses have been trying to convince state personnel officials that they should be paid the same as physician's assistants. The nurses say their job, which pays about \$500 a month less than a physician's assistant, requires a four-year college degree compared to a two-year training program re-

quired of physician's assistants.

The nurses work independent of doctors, providing vaccinations, maternal and child health care, tuberculosis and venereal disease control and screening of children for various health and developmental problems.

Physician's assistants work under a doctor's supervision and provide health care to state jail inmates.

The commission and the nurses claim the state is violating a statute that mandates equal pay for male and female workers doing comparable work.

Fisher gets APU honor

enter at Alas-

the school's Board of Trustees.



ADMINISTRATION ACCOMPLISHMENTS BENEFITING WOMEN

Economic Recovery Tax Act Of 1981

- o ERTA benefited all taxpayers and their families by reducing personal income tax rates 25 percent over three years and indexing the tax system beginning in 1985. It also contains provisions which specifically benefit women. These include:
 - Reducing the "marriage tax penalty" by allowing a partial deduction from the combined salaries of married couples, permitting two-wage earning families to keep more of what they earn.
 - Greatly broadening the eligibility for all IRAs and increasing the maximum allowable contribution from \$1,500 to \$2,000 per year for wage-earning individuals and to \$2,250 for an wage-earning individual and his or her non-wage-earning spouse.
 - Making fundamental changes in estate tax law which effectively exempt 99 percent of all estates from estate tax.
 - Creating an itemized deduction up to a maximum of \$1,500 for the expenses of adopting "special needs" children.
 - Increasing child care tax credits for all working parents, especially those with lower incomes for whom the tax credit nearly doubled.
 - Making employer contributions to day care non-taxable to employees.

Tax Equity

- o On October 24, 1983, the President announced four proposals to advance tax equity. These proposals would benefit women by:
 - Increasing the maximum IRA contribution from \$2,250 to \$4,000 for a wage-earning individual and his or her spouse. The amount which any family earning \$4,000 or more can invest in an IRA for retirement no longer would be affected by whether both spouses are employed. Spouses not employed outside the home and spouses with part-time earnings less than \$2,000 are the primary beneficiaries of this new provision.

- Permitting taxable alimony received by a divorced person to be treated as compensation in determining the deduction for IRAs. Current law does not permit divorced taxpayers to treat alimony as compensation for purposes of establishing an IRA unless a spousal IRA contribution for that individual was made in at least three of the last five years before the divorce.
- Permitting non-profit dependent care organizations to be treated as tax exempt irrespective of whether they are organized for charitable or educational purposes. This provision provides an incentive for taxpayers to support non-profit dependent care organizations.
- Restructuring the dependent care tax credit to increase the tax benefits for low and middle income taxpayers and single heads of households. The IRS currently allows an individual tax credit equal to a maximum of 30 percent of qualifying dependent care expenses for a taxpayer with an adjusted gross income of \$10,000 or less, sliding to a 20 percent credit for taxpayers earning more than \$28,000. The maximum credit is \$720 for one child, \$1440 for two or more. The proposed credit would go to 40 percent of qualifying expenses for taxpayers earning less than \$11,000, sliding to 10 percent for taxpayers earning \$50,000. The credit is phased out at an adjusted gross income level of \$60,000 or more.

Pension Equity

- o On September 29, 1983, the President proposed the Pension Equity Act of 1983 to promote economic equity for women. This Pension Equity Act would make the following changes in ERISA:
 - Lower the minimum age of insurable pension plan participation from 25 to 21.
 - Lower the minimum age for vesting from 22 to 21.
 - Permit maternity or paternity leave without a loss of pension credits for participation and vesting purposes.
 - Clarify that State courts can award spouses' pensions as part of child support and alimony orders.

- Expands the rights of divorced spouses to survivor benefits, and requires the right of survivorship to pension benefits unless a married couple otherwise specifies.

Legal Equity

- o On December 21, 1981, the President announced the appointment of the Task Force on Legal Equity for Women. He directed the Justice Department to identify Federal statutes and regulations that discriminate on the basis of sex. The Task Force, chaired by Dorcas Hardy, Assistant Secretary of Health and Human Services, is to implement the Justice findings.
 - The Department of Justice submits its findings to the President quarterly. He has directed that agencies correct any sexually discriminating language in Federal regulations. In 1982, the President actively supported the Federal Equity Act designed to correct gender-based language in Federal statutes.
 - In 1983 proposed amendments to the bill to correct additional statutes that the Department of Justice had identified as sexually discriminatory.

Fifty States Project

- o In 1981, the President established the Fifty States Project to assist in correcting State statutes which discriminate on the basis of sex.
 - The President has met with State representatives to outline how the nation's governors can act to identify and correct discriminatory State laws.
 - The project monitors State compliance and reports its findings to all States and women's commissions.

Presidential Appointments

- o During his first three years in office, the President has appointed more than 1400 women to top policy-making positions. These include:

- Supreme Court Justice Sandra Day O'Connor.
- Cabinet Secretaries Elizabeth Dole and Margaret Heckler and Ambassador Jeane Kirkpatrick.
- Women also head the Federal Mine Safety and Health Review Commission, the Commodity Futures Trading Commission, the National Institute of Museum Services, the Federal Election Commission, the Federal Labor Relations Authority, the Postal Rate Commission, the Consumer Product Safety Commission, the Appalachian Regional Commission and the Peace Corps.
- 57% of all Reagan political appointments (Schedule C) have gone to women. Twice as many top White House staff jobs are filled by women as under President Carter (24 to 12).

Child Support Enforcement

- o The Administration has acted to strengthen and improve Child Support Enforcement program enacted in 1975 based on the model of then Governor Reagan's initiative in California.
 - In 1983, the President proposed legislation, now pending, to strengthen State child support enforcement. The bill would establish funding based on State performance in increasing collections from absent parents and reducing overhead costs. New State laws and procedures, such as mandatory wage withholding in cases of delinquent payments, also would be required.
 - In 1982, the Department of Justice eased internal restrictions upon federal involvement in parental kidnapping cases, thereby expanding assistance available from the FBI in helping locate parents who take children in violation of court orders and flee across State lines.
 - Efforts on behalf of families who are not receiving welfare would be expanded significantly.
 - The Department of Health and Human Services is also providing considerable technical assistance to State enforcement programs.
 - Collections rose from \$1.5 billion in FY1980 to almost \$2.5 billion in FY1984.

The Missing Children's Act

- o In 1982, President Reagan signed the Missing Children's Act which authorized access to a national computer system to help trace missing children.

Pornography

- o In 1983, the President established a Cabinet Council Working Group on Pornography to coordinate the efforts of the U.S. Customs Service, the U.S. Postal Service, the Department of Justice, and the Federal Bureau of Investigation in enforcing Federal anti-obscenity laws.
 - The U.S. Customs Service has dramatically increased seizures of obscene materials imported into the U.S. and is cooperating with other Federal agencies and State and local governments to initiate criminal charges against the addressees of obscene material. Seizures of imported obscene materials rose 200 percent during 1983.

Uniformed Services Spouses Protection Act

- o In 1982, the President signed the Uniformed Services Spouses Protection Act which established the legal rights of divorcees to equity in the military pensions of their spouses.

Task Force on Domestic Violence

- o On September 19, 1983, the Attorney General announced creation of a Federal Task Force on Domestic Violence to investigate spouse abuse, and abuse of the elderly.
 - The Task Force has completed hearings throughout the nation to investigate the causes and remedies of domestic violence, the possibility of changing the classification of certain acts of domestic violence from civil to criminal acts, thereby enabling the State to prosecute offenders.

Single Parent Assistance

- o Since 1981, the Department of Housing and Urban Development has supported two model efforts which focus on the housing, day care, counseling, and training needs of ~~women~~ heads of households.

- HUD is working with the Departments of Labor and Health and Human Services to develop a third model program, Project Self Sufficiency, for single heads-of-households.
- These programs utilize Section 8 existing certificates, block grants and technical assistance through Federal-State-private partnerships.
- o On July 23, 1982, the President signed the Flexible and Compressed Work Schedules Act which permanently allows agencies to adopt flexitime schedules for Federal employees.
 - This measure is particularly significant for working mothers who use the flexibility to schedule work hours to assist them in meeting their responsibilities at home and the office.

Business Women

- o On June 22, 1983, the President established the President's Advisory Committee on Women's Small Business Ownership to review the status of female-owned businesses and make recommendations to the executive branch on issues relating to this sector.
 - The SBA also recently funded a program to improve women's access to private credit sources and assist female-owned firms bidding for Federal contracts.
- o Interagency Committee on Women's Business Enterprise. The President appointed this Committee to promote, coordinate and monitor Federal sector efforts that will help to assure equitable opportunities for and improved government services to women business owners. This Committee is composed of high level Federal officials from various departments and agencies.
- o Conferences. At President Reagan's direction the Small Business Administration is hosting a series of national conferences with local co-sponsors which will offer practical training.

WOMEN'S
LEGAL RIGHTS IN ALASKA
LEGAL RIGHTS
HANDBOOK NOW
AVAILABLE, page 2

STATUS REPORT

Alaska Women's Commission



Vol. 4, No. 3

June-July 1984

Barriers to employment conference scheduled for August

To identify barriers to employment and to help employers understand and overcome these barriers, the Alaska State Advisory Council on Vocational and Career Education is sponsoring a conference in August.

According to Rosie Peterson, conference coordinator and executive director of the state advisory council, the conference is designed to allow employers, labor organizations, service providers and trainers the opportunity to explore the barriers to employment and to look at what programs have been developed to tear down those barriers.

"For those of us who are gainfully employed, I'm sure we don't spend much time thinking about those who aren't," she said. "Yet full employment is a major concern of employers and citizens alike across the country."

The conference is being co-sponsored
(See **BARRIERS** - page 3)

Despite strides, women still need to fight for legal rights

"Historically, the subordinate status of women has been firmly entrenched in our legal system . . . Constitutions were drafted on the assumption that women did not exist as legal persons. Courts classified women with children and imbeciles, denying their capacity to think and act as responsible adults and enclosing them in the bonds of protective paternalism."

The Equal Rights Amendment:
A Constitutional Basis for Equal
Rights for Women
- The Yale Law Journal April 1971

State laws often still discriminate against women simply because they treat women differently than men, or the laws do not include sex as a basis for discrimination.

In Alaska, women have won the legal right to be treated equally. But in practice, they still face a number of problems in obtaining that right.

Of the 432 complaints filed with the Alaska Human Rights Commission in 1983, 30.6 percent were filed on the basis of sex discrimination, 4.6 percent were filed based on pregnancy discrim-

ination and another 4.2 percent of the complainants said they were discriminated against because of their marital or parental status.

A more telling statistic shows that 63 percent of all complainants in 1983 were women - up 17.6 percent over 1982 figures - and that most complaints were filed against an employer.

The trend seems to be representative of what is taking place throughout the country. Two recent studies confirm that women still face discrimina-
(See **LEGAL** - page 2)

Sheffield signs displaced homemaker bill into law

Gov. Bill Sheffield has signed into law a bill that opens Alaska's Displaced Homemaker Program to anyone who has worked as a homemaker for at least three years and who now faces a serious reduction in family income because of divorce, death, separation, desertion or disability of a mate.

The administration-backed measure (SB 386) reduces the time period a person must wait to qualify for the program from seven to three years.

The program provides employment training and assistance in re-entering the labor force for women who have been homemakers without paid work experience.

"Since one immediate alternative to participation in this program is broader dependence on direct subsidy programs, I believe it is imperative to adjust the participation requirement to allow applicants who have provided three years of homemaking services to qualify for participation," Sheffield said in a letter supporting the plan.

The program has been in existence for more than a year, but already it has broadened work opportunities for homemakers who have been thrown back into the work force, Sheffield said.



Gov. Bill Sheffield signs the Displaced Homemaker Bill.

LEGAL continued

tion in the workplace, that they are not promoted to better paying, more prestigious positions as fast as men are promoted, and that women are still paid lower salaries.

According to the first study, submitted in 1984 to a congressional committee by the National Academy of Sciences, women and men with similar education and work backgrounds were hired by companies and then placed in different starting positions that resulted in different promotional opportunities and wages.

The second report, completed by the Congressional Caucus for Women's Issues, showed that between 1970 and 1980 only a handful of women managed to move into the upper echelons

at the State Department.

Most states, including Alaska, have adopted a wide variety of laws forbidding sex discrimination in employment. Alaska law also forbids discrimination on the basis of sex in public accommodations, housing, financing, and education. The Human Rights Commission and the municipal equal rights commissions have been established to handle complaints from those who believe they have been discriminated against. (See Chart.)

To help bridge the gap between discrimination and legal rights, the Alaska Women's Commission recently has published a revised edition of a handbook entitled, "Women's Legal Rights in Alaska," which outlines how

women can help themselves if they believe they've been treated illegally.

The publication gives the reader practical advice, such as how to get an attorney and how to settle legal fees with counsel. It also offers the reader a basic understanding of all state laws, and details everything from adoption, marriage, name changes and divorce to public assistance and how to obtain it.

"Women's Legal Rights in Alaska" is available through community domestic violence or sexual assault centers or your local Women's Resource Center. If copies are not available, contact the Alaska Women's Commission, 3601 C St., Suite 742, Anchorage, AK 99503, 561-4227.

STATE LAWS, REGULATIONS AND POLICIES GOVERNING DISCRIMINATION

	Fair Employment Practices	Sex/Wage Discrimination	State Contracts	State Employees
State Statutes, Regulations, and Policies	AS 18 80 010 et seq AS 22 10 020 AS 23 10 192 6 AAC 30 011 et seq	AS 18 80 220(a)(1). AS 18 80 220(a)(5) 6 AAC 30 011 et seq	Governor's Code of Fair Practices, Art. I, 8/11/67 Administrative Order No. 76 AS 18 80 255	Governor's Code of Fair Practices, Art. I, 8/11/67 Administrative Order No. 75 AS 18 80 010 et seq 6 AAC 30 011 et seq
Does Law Specify Sex Discrimination?	YES	YES	YES	YES
Agency or Department Responsible for Enforcement or Monitoring	Human Rights Commission 431 West 7th Ave. Suite 105 Anchorage, AK 99501 (907) 274-4692	HRC	HRC has enforcement power over AS 18 80 255 Department of Transportation and Public Facilities monitors others	Public employees enjoy the same protection against discrimination as do private sector employees. HRC enforces those Alaska Statutes, but the Department of Admin., Division of EEO, Juneau, AK 99811, (907) 465-3570, also oversees state policies regarding employment
Time Limit for Action	300 days for filing with HRC; 2 yrs for court filing	Same	Same	Same
Number of Employees	One or more employees (but the law excludes domestic help)	Same	Same	Same
Process	1, 2, 4 and 5	1, 2, 4 and 5	1, 2, 3, 4 and 5	1, 2, 3, 4 and 5

The chart is not intended to be a complete listing of discrimination laws, and anyone interested in more detailed information should contact the appropriate federal, state, or local monitoring agency.

PROCESS KEY:

1. The state agency investigates and may hold an administrative hearing and may issue a court-enforceable order. If the order is ignored, the agency can file a suit compelling compliance. If still ignored, discriminator can be held in contempt of court.
2. The discriminator may be punished by criminal sanctions either by fine or imprisonment.
3. The Dept. of Administration and the Dept. of Transportation are supposed to monitor own employment/contracting practices. The "enforcement" is limited to voluntary compliance.
4. The state agency has the power to issue a cease-and-desist order subject to judicial review.
5. Women have the right to file lawsuits in court against discriminators.

Status Report is published six times yearly by The Alaska Women's Commission. The Commission was established in 1978 to improve the status of Alaska women through research and advocacy. Its members are appointed by the Governor to a staggered five-year term. Commission members serve on a voluntary basis and at the pleasure of the governor. They include Betty Ramage, chairwoman, Pat Berkley, Charlotte Brower, Kris Chatfield, Marcia Johnson, Pat Kennedy, Suzanne Lombardi, Agnes Nichols, and Grace Smith.

For further information about the Commission, contact us at 3601 C St., Suite 742, Anchorage, AK 99503, (907) 561-4227. Kathy Marshall, Executive Director, Roberta Graham, Editor.

BARRIERS *continued* -

sored by 17 state agencies or commissions, including the Alaska Women's Commission.

The conference will be held August 1-3 at the Sheraton Anchorage Hotel. For more information contact Chris Callahan at the Alaska Women's Commission, 561-4227.

Interview with Eleanor Holmes Norton

(Eleanor Holmes Norton, a recognized expert in race relations and women's issues, was the guest speaker at the Third Annual Employment Discrimination Law Conference held in May and sponsored by the Alaska Chapter of the American Association for Affirmative Action.)



Eleanor Holmes Norton learned early in life of the harsh realities of discrimination. As a black child growing up in pre-civil rights days, she said she witnessed the toll that inequality and discrimination took on the lives of others.

"I grew up in segregated schools in the heart of the nation's capital and learned quite early that this country talks a lot and doesn't do much. So I decided to go into a field where I could do something about (discrimination)," she said.

She labored as a civil rights case worker in Mississippi, later as a lawyer, a commissioner in charge of enforcing New York's human rights laws, and in 1977 she became the first woman to chair the U.S. Equal Employment Opportunities Commission.

Now as a professor of law at the Georgetown Law Center in Washington, D.C., Norton has had more of an opportunity, perhaps more time, to assess the changes that have come about over the past 25 years.

Have the issues or the arguments or the outcomes changed that much over the past decades for women and minorities?

Norton says yes. "We still have a lot of it (discrimination) left. But the laws are magnificent tools for insuring equal treatment," she said.

The key is to insure that women are treated no differently than are men.

"We can't look at discrimination laws as a benefit for women," she said. "We're in this for equality, and we must always remember that. We should never strive to be treated differently, for that will surely mean we will be treated worse."

Because of her years of experience, Norton is in a good position to examine and assess policy changes of the past presidents.

"You can always assume there is a long way to go despite the gains, and this country has certainly been moving in that direction, but it has slowed tremendously during this current administration," she said.

She advised women's organizations to continue pressuring the federal government to continue funding EEO programs, and individuals to continue bringing their own suits under the current laws.

Historical Highlights

In June 1904, the International Woman's Suffrage Alliance, one of the forerunners to the U.N.'s Commission on the Status of Women, was founded.

In June 1946, the United Nations established a permanent Commission on the Status of Women.

In June 1963, President John Kennedy signed into law the Equal Pay Act, one of four federal laws forbidding discrimination against women workers.

In June 1968, the Age Discrimination in Employment Act was signed into law.

In June 1982, the Equal Rights Amendment failed to gain ratification, three states short of the needed 38.

In July 1964, the Civil Rights Act was amended adding Title VII, perhaps the most important legal instrument prohibiting sex discrimination. The law has been the legal impetus for forcing change in employment practices.

In July 1978, Gov. Jay Hammond signed into law legislation creating the first Commission on the Status of Women. The name has since been changed to the Alaska Women's Commission.

In July 1982, the new ERA was introduced in Congress.

National association holds annual conference

The 15th Annual Convention of the National Association of Commissions for Women was just getting underway in Washington, D.C., when *STATUS REPORT* went to press. The theme "Women Speak 1984: Securing and Using Power," included a complement of influential Washington women as scheduled guest speakers. Among the most recognized names: Barbara Bush, wife of Vice President George Bush, Reps. Lindy Boggs and Barbara Kennelly, Dr. Lenora Cole Alexander, director of the Women's Bureau, U.S. Dept. of Labor, and Patricia Reuss, legislative director for the Women's Equity Action League.

Topics of discussion ranged from business issues and economics to social equity and the 1984 Presidential campaign.

Alaska Women's Commission Chairwoman Betty Ramage and Executive Director Kathy Marshall attended the annual meeting. A complete wrap-up of convention activities will be included in the August/September issue of *STATUS REPORT*.

Jobs rights book available

"A Working Woman's Guide to Her Job Rights," a guide to national laws prohibiting discrimination, is now available through the Women's Bureau, U.S. Dept. of Labor, Washington, D.C. 20210.

1984 declared 'Year of the Secretary' in Alaska

Gov. Bill Sheffield has declared 1984 the "Year of the Secretary," and has issued a proclamation asking all Alaskans to celebrate it appropriately.

House Resolution 15, introduced by Reps. Don Clocksin, Mike Szymanski and Mike Davis, passed the House April 18 by unanimous consent and was signed by the Governor later that month.

As signed, the resolution celebrates 1984 as the "Year of the Secretary" because:

- secretaries are such a vital part of any office;

- the secretarial profession has been tagged by the Bureau of Labor Statistics as the career field with the most projected job openings in the 1980s; and,

- secretaries often receive less than equal pay for work comparable to that performed by males.

The resolution also says that the House of Representatives dedicates itself to assuring equal pay for comparable work.

The U.S. Congress also has asked President Reagan to declare 1984 the "Year of the Secretary" nationwide.

A job well done: Lillie Hope McGarvey, vice president of the Aleut Corp., and past president and now treasurer of the Alaska Native Women's Statewide Organization, has received one of the highest honors given by the Soroptimists International of Anchorage and the Soroptimists International of Cook Inlet - the Women Helping Women Award. McGarvey was honored during a banquet held in May.

Boards and commissions vacancies

More than 40 Alaska boards and commissions currently have vacancies, including the Accountancy Board, the Arts Council, the Bar Association, the Older Alaskans Commission, the Personnel Board, the Resources Corporation, and the Alaska Women's Commission. If you are interested in finding out how to apply, contact: Boards and Commissions Section, Office of the Governor, Pouch A, Juneau, AK 99811, or phone 465-3651.



More than 70 people attended the April conference on Women in Labor Organizations sponsored by the Alaska Women's Commission. Pictured above is Elinor Glenn, guest speaker, discussing labor union women with Ruth Sheridan (l) and Peggy Burgin (r).

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"No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin."

Article I, Section 3
of the Alaska Constitution

ADDRESS CORRECTION REQUESTED

Intent vs. Effect: Title VII Case Law that Could Affect You (Part I)

Ann Weaver Hart,
Principal,
Farrer Junior High School,
Provo, Utah

Understanding Title VII case law prevents unintentional discrimination.

For about two decades, American civil rights policy has had as its epicenter the philosophies embodied in the 1964 Civil Rights Act. As part of that legislative mandate, Title VII was designed to prohibit discrimination in hiring, discharge, compensation, or any benefit of employment on the basis of race, color, religion, sex, ethnicity, or national origin.

Except in a few cases of bona fide occupational qualifications based on sex, religion, or national origin, this section of the Civil Rights Act prohibits the facially obvious discrimination that has been so common in American society in the past. The Act recognizes no bona fide occupational qualification based on race. American employers are, however, not prohibited from requiring other qualifications of those seeking employment or advancement: enforcing a bona fide seniority system or merit system, judging the quantity or quality of work, or applying

professionally developed tests for employment, promotion, or compensation.

In recent years, courts have been called upon to interpret not only the effects of certain employment practices on protected groups, but the motives of those involved in formulating policy and making employment decisions. Conflicting standards are developing in the American judicial system over equal employment opportunity litigation. In some cases the plaintiffs are only required to show that an employment practice has resulted in a disproportionate effect on a protected group while in others, proof of discriminatory intent is necessary to establish a Title VII violation. Two examples illustrate these perspectives.

What's the Intent?

In an effort to preserve a clean-cut public image, the Trailways Bus Company had a grooming code requiring all drivers and other male employees with public contact to be clean shaven. Though there was no established intent to discriminate, this apparently innocuous policy had a special impact on black employees. While less than 1% of white males



suffer from a condition known as pseudo-folliculitis barbae (PFB or shaving bumps), 25% of black males are afflicted with the malady. When Trailway's black employees challenged the policy, the U.S. District Court in Colorado agreed, arguing that PFB was a racial trait.

Because the policy requiring males to shave would have a disproportionate effect on black employees, it was prohibited under Title VII provisions.¹ In this case the discriminatory effect of the policy was sufficient to support plaintiffs' claims and invalidate company policy. The Trailways case is an example of the application of the standard that requires

"Though no intent to discriminate may be established, employers cannot prohibit employees from speaking their native language on the job where this prohibition is not justified..."



only that plaintiffs demonstrate a discriminatory effect of an employment practice, the most commonly applied standard over recent judicial history.

Another point of view is also emerging. Immunity from Title VII liability was granted by the Civil Rights Act for bona fide seniority systems. However, these systems often have the effect of perpetuating pre-Act discrimination by trapping minorities and women in the lowest paying divisions of an organization. So they have been challenged in the courts on the basis of discriminatory effect. In *American Tobacco Company vs. Patterson*,² the U.S. Supreme Court held that the plaintiff must demonstrate that a system is established with the deliberate intent to discriminate.

The U.S. District Court at Cincinnati has also supported this reasoning. Plaintiffs in *Taylor vs. Mueller Company*³ argued that a seniority system that prevented the transfer of employees from previously segregated departments to other, more promising divisions of the corporation without loss of seniority supported past overt policies of discrimination. Even

though the company's policy before 1965 was to place all blacks in the lowest paying divisions and transfers involved a loss of seniority in the company, the system was equally rigid in freezing white employees into their department of entry, thus having a limiting effect on all employees. The seniority system was found to be exempt from Title VII challenge.

These two standards, applied in courts at all levels, represent the struggle taking place in the collective conscience of Americans. The resolution of this conflict will shape the direction of Title VII litigation in the coming decade. The serious question of discriminatory intent and direct evidence of intent is the frontier in Title VII adjudication and regulation.⁴ As a standard it is much more stringent than the requirement that plaintiffs demonstrate only discriminatory effect and represents a significant departure from many decisions in previous Title VII litigation.

Plaintiffs Are Favored

The standard of discriminatory effect favors the plaintiffs in Title VII actions, because it requires no demonstration of the state of mind of the defendants. Many employers in the private sector and in municipal and state governments are currently critical of a federal government that enforces strict standards of discriminatory effect of employment practices through its regulatory agencies while apparently failing to practice what it preaches.

In the dramatic budget slashing of the last two years, a disproportionate number of minority and female employees were laid off by the federal government. Representatives Michael Barnes and Patricia Schroeder are considering a legislative remedy to give protection against federal layoffs for groups protected under Title VII.⁵

In the discussion that follows, cases are divided into the two main categories: those supporting the tendency to sanction remedies to employment practices having a discriminatory effect on protected groups, and those tending to support the establishment of intent to discriminate. Within these two major categories of cases, certain issue areas have emerged. Some of these areas stretch across protected

groups, affecting discrimination on the basis of race, sex, national origin, or religion. Among these are seniority systems and employment testing. Trends in racial discrimination cases in the last few years have tended toward these areas. Other cases follow more traditional divisions based on religion, ethnicity or national origin, or sex.

Seniority Systems

One trend appearing in the courts is to sanction some modification of seniority systems previously exempt from challenge under Title VII. This action is supported by the use of consent decrees designed to remedy past discrimination. Two recent cases in federal appeals courts have approved modifications of consent decrees in order to prohibit seniority-based layoffs when they have an adverse impact on minorities hired under the terms of the consent decrees.

In *Stotts vs. Memphis Fire Department*,⁶ a plan to lay off city firefighters on a last-hired, first-fired basis would have had a devastating effect on minority employment and would have effectually negated the consent decree provisions entered into with the EEOC when Title VII was extended to municipalities. The U.S. Court of Appeals in Cincinnati concluded that minorities had been excluded from meaningful participation in these occupations for decades, and a modification of the consent decree to prohibit seniority-based layoffs in order to promote the goals of the decree was proper.

The U.S. Court of Appeals at Boston agreed. By overriding a Massachusetts Civil Service Law that authorized seniority-based layoffs because it conflicted with provisions of consent decrees requiring increased hiring of minorities as firefighters and police officers,⁷ the court supported an increasing assault on the inviolability of bona fide seniority systems under Title VII.

Arguing that their right to equal protection under the First Amendment was violated in a collective bargaining provision that changed the last-hired, first-fired layoff procedure to protect minorities, a group of teachers sought to have a voluntary affirmative action clause in their collective bargaining agreement overturned. The agreement required sen-

iority retentions in times of layoff, except that at no time would there be a greater percentage of minority personnel laid off than the current percentage of minority personnel at the time of the layoff. While the teachers claimed that societal discrimination (as opposed to employer discrimination) was not a lawful basis for the adoption of a voluntary affirmative action plan, the U.S. District Court at East Michigan supported the collective bargaining agreement in *Wygant vs. Jackson Board of Education*.⁸

The court reasoned that the plan was substantially related to remedying past discrimination and was thus protected under Title VII. In another case involving educational organizations, *Oliver vs. Kalamazoo Board of Education*,⁹ the layoff-by-seniority provision of a collective bargaining agreement was nullified, because it thwarted a permanent court order calling for school district achievement of 20% black participation in teaching and administrative positions.

Employment Testing

In the area of employment testing for the purpose of hiring or promotion, the recent past has seen the application of very strict standards by both courts and federal regulatory agencies. If any test used for the hiring, promotion, or layoff of employees has an adverse effect on groups protected under Title VII, it must be validated or discarded. This protection extends to the test if it is a barrier denying access to employment, even if the employer is hiring minority members who have passed the test. Courts have rejected the "bottom line" argument that minorities as a group suffer no injury as a result of the job practice.

An example of the results of a strict adherence to the standard of discriminatory effect in the area of employment testing can be found in *Connecticut vs. Teal*.¹⁰ The prevailing argument held that a victim of a facially discriminatory policy that has a disproportionate impact on a protected group can be wronged even if other persons of his or her race or sex were hired. The written examination being challenged was a screening device for the selection of supervisors.

Fifty-four percent of black candidates and 80% of white candidates passed the

examination. The employer promoted 22.9% of black candidates while promoting only 13.5% of white candidates, arguing that the bottom line was that minorities were not disproportionately harmed by the test. The Supreme Court did not agree, arguing that individuals, not groups, are protected from discrimination in employment by Title VII.

In order to prevent this discriminatory effect, the validation of tests used for employment purposes has now become an involved and somewhat uncertain procedure. The EEOC argues that test validity requires that the test be related directly to performance on the job and proportional to the job skills used in the actual work — criterion and content validity.¹¹ The use of psychological traits judged as desirable for the job (construct validity) has been criticized by the agency.

Ninety Questions

In addition to elaborate uniform guidelines adopted on September 1, 1978, the EEOC has also developed a series of 90 "Questions and Answers Dealing With Uniform Guidelines on Employee Selection Procedures."¹² These were offered in March of 1979 to guide employers, psychologists, and others called upon to conduct test validity studies. These stringent regulatory requirements, which make employment tests extremely hard to validate and support a policy of hostility toward any employment practice that has a discriminatory effect on protected groups, have been supported by some jurisdictions. *Douglas vs. Hampton*¹³ established a standard that validations should show correlations between test scores and criteria that indicate successful job performance, not construct validity related to personal characteristics.

The EEOC guidelines warn employees that any employment test must reflect a standard of "business necessity." There should be no alternative selection procedures with less adverse effects or that the test must be absolutely essential to successful job performance.¹⁴ Any discriminatory effect that results, regardless of intentions, including from an attempt to select the most qualified candidates for a job, is vigorously combatted by this approach. The use of criteria that are only job related (as opposed to being vital for

the successful performance of the job) have been frowned on by the EEOC.¹⁵

The application of this discriminatory effort philosophy has also appeared in the courts. In *Berkman vs. City of New York*,¹⁶ the U.S. District Court for the Eastern District of New York ordered the New York Police Department to develop a new agility test that would have less impact on women and employ fewer facially valid tests such as scaling a wall or carrying a dummy.

Religious Discrimination

The discriminatory effect standard is also being applied in cases of alleged religious discrimination. The current emphasis is on the necessity for the employer to show an effort to make reasonable accommodation for the religious beliefs, unless the accommodation presents an undue hardship for the employer. Religious holidays and observance are often the focus of these cases.

While the 1977 *Trans-World Airlines vs. Hardison*¹⁷ required minimal and reasonable cost to employers for religious accommodation, the EEOC currently calls for options some view as quite expensive, such as staggered work hours, lateral transfers, and floating holidays.¹⁸ In *Anderson vs. General Dynamics and Machinists Lodge*,¹⁹ the plaintiff's religious beliefs precluded the payment of dues to any organization. When the union sought to collect dues for services rendered, the court held that the union must make accommodation to the individual, arguing that such accommodation was not an undue hardship for the union.

National Origin or Ethnicity

Though no intent to discriminate may be established, employers cannot prohibit employees from speaking their native language on the job where this prohibition is not justified by a bona fide business necessity, such as safety or communication with the public. In *Saucedo vs. Brothers Well Service, Inc.*,²⁰ an employee was discharged for casually uttering an unoffensive exclamation in his native language, which violated a company rule prohibiting the use of any language other than English on the job.

The court opinion maintained that the requirement that bilingual employees generally use English on the job is

not a violation of the Title VII prohibition against national origin discrimination. The language a multilingual individual speaks is a matter of choice, according to the court, while Title VII was designated to prohibit discrimination based on factors beyond the control and power of the individual to change (sex, skin color, place of birth).

Some requirements based on national origin are protected by the courts. The California requirement that all peace officers be U.S. citizens was supported by the U.S. Supreme Court. The court also rejected plaintiffs' claim that the statute was a violation of the Equal Protection Clause of the Eighteenth Amendment.²¹

Sex Discrimination

More than any other major area within Title VII, the last three years have seen a rapid expansion of case law and regulatory interest in sex discrimination. Delib-

"More than any other major area within Title VII, the last three



years have seen rapid expansion of case law and regulatory interest in sex discrimination."

erate as opposed to effectual discrimination remains most ephemerally defined in this area. Directly conflicting jurisdictional opinions abound, and there is a lack of Supreme Court direction.

On January 7, 1979, the EEOC assumed enforcement responsibility for the Equal Pay Act from the Department of Labor.²² This change in enforcement agencies was consistent with the inclusion of the provisions of the Equal Pay Act into Title VII through the Bennett Amendment. The issues subsumed under equal pay for equal work are only the tip of the iceberg.

The Civil Rights Act exempted from its provisions bona fide occupational qualifications applicable to sex, religion, or national origin. Under extremely subtle and ambiguous social and cultural conditions, the courts are being asked to decide in each Title VII sex discrimination case whether

occupational qualifications established by employing organizations are in fact bona fide. In *Fernandez vs. Wynn Oil Company*,²³ the U.S. Court of Appeals at San Francisco found that the preference and stereotypes held by a possible foreign customer were not justification for sex-based discrimination. The oil company had refused to consider a female employee for the position of director of international operations because of its claim that a woman could not attract and do business with its Latin American clients.

The effect of such a policy was the obvious exclusion of women from positions of authority in any role involving the international operations of the corporation. Discriminatory effect was the result, regardless of motive or intent. Noting that EEOC has held that the need to accommodate the racially discriminatory policies of other nations can not be a bona fide occupational qualification, the court also stressed that EEOC regulations support sex as an occupational qualification only when it is necessary to genuineness and authenticity.

Incomplete Umbrella

Title VII is not an umbrella covering all possible imaginable categories of human beings under its protection. Though the issue of sexual preference has received considerable attention in our society, under Title VII, the traditional interpretations and definitions of sex hold firm. As early as 1977²⁴ it was argued that transsexuals are not covered under Title VII protection against discrimination in employment because of the anatomical notions of sex. The court ruled that many efforts to amend the Civil Rights Act to include sexual preference have been resisted by Congress.

The "traditional" rather than "expansive" interpretation of sex still prevails, regardless of its discriminatory effect on an unprotected group. Nor have the courts supported attempts to protect dismissal on the basis of sex for an individual who claims to be a male in a female body.²⁵ Under Title VII, all arguments that fall outside traditional interpretations have failed. Though Congressional hearings continue and bills to prohibit discrimination on the basis of affectional or sexual orientation continue to be introduced,²⁶ nothing has currently emerged to change

the traditional concept of sex under Title VII.

Comparable Worth

The Equal Pay Act requires that individuals receive equal pay for work that is substantially equal. Under the rubric of sex discrimination, the extension of the concept of equal pay for equal work has led to another interpretation of sex discrimination issues under Title VII: comparable worth. Equal pay for work of comparable worth to the employer is a new concept in our society. In order to satisfy the conceptual demands it places on the culture, somebody in which authority is vested must determine the relative worth of all gainful work in the society.

In the search for the relative worth of work, ambiguous and conflicting values must be resolved. In the pursuit sense, discriminatory intent is totally irrelevant to advocates of comparable worth in the resolution of sex discrimination issues. If two jobs are found to be of equal worth to an employer, the compensation and benefits attached to those jobs should be substantially equal.

Though case law on comparable worth continues to develop, there is some support in the courts for the discriminatory effect perspective. The U.S. Court of Appeals in Philadelphia found sex-based discrimination under Title VII is prohibited even if jobs are different.²⁷ The issue as seen by this court was whether Congress intended to allow companies to willfully discriminate against women in a way in which they could not discriminate against any other group protected by the Equal Pay Act and Title VII.

Discrimination and Job Segregation

The discriminatory effect of job segregation regardless of intent is important to advocates of comparable worth. In 1980, Eleanor Holmes Norton, then chair of the EEOC, declared that the widening wage gap between men and women that has occurred during the years in which Title VII and the Equal Pay Act have been in effect was cause for concern. This growing discrepancy requires that we look beyond the known and traditional causes.²⁸ Searching for other explanations for this deteriorating situation, the EEOC began

the study of the effect of job segregation on wages and for other differences in discriminatory practice.

Arguing for a better understanding of the subtle workings of cultural and societal factors, Winn Newman, general counsel for the International Union of Electrical Workers and the Coalition of Labor Union Women, found a practical relationship between access to jobs and wage discrimination.²⁹ Newman pointed out that certain societal practices, such as discrimination in initial assignment or placement of new employees, are the linchpins of discrimination under comparable worth. In his analysis there are four main areas that contribute to and exacerbate this problem: 1) initial assignment discrimination; 2) occupation segregation; 3) wage discrimination for work performed; and 4) denial of promotional opportunity. All of these factors contribute to the continued presence of dramatic pay differences between men and women without any apparent intent to discriminate.

Claims of discriminatory effect in employment compensation under comparable worth are encouraged by the U.S. Supreme Court majority in *County of Washington vs. Gunther*.³⁰ Basing its decision on the employer's own job evaluation point system, the court supported the women employees' claim of job undervaluation, even though their work is not identical to the work of male employees. In this case, female prison guards were receiving pay at 70% the rate of men even though market, outside, and internal evaluation indicated that the jobs were 95% equivalent in points.

The majority argued in support of the right to sue. This right hinged on whether the Equal Pay Act's equal pay for equal work, or only the Act's four affirmative defenses, were incorporated into Title VII by the Bennett Amendment. The four affirmative defenses are: 1) a bona fide seniority system; 2) a merit system; 3) quality or quantity of output; and 4) any other factor other than sex. The court held that the Bennett Amendment incorporates only the four affirmative defenses. If only the Act's provisions of equal skill, effort, and responsibility were included, the court felt that relief would be denied to victims who do not hold the same jobs as the opposite sex.

Pension Discrimination

Another unresolved question of discriminatory effect can be found in the distribution of pension and other benefits. The 1978 amendment to Title VII of the Civil Rights Act requires employers to pay maternity benefits under their insurance programs if other disabilities are covered. The U.S. Court of Appeals at Richmond ruled that employers who cover maternity costs for female employees are required to cover the spouses of male employees if spouses were covered under other disabilities. Again, the discriminatory effect of the policy was central to the court's argument. If the company were to eliminate spouses, according to this interpretation, the distinction would result in

"The standard of discriminatory effect favors the plaintiffs in



Title VII actions because it requires no demonstration of the defendants."

more benefits being available to female employees with spouses than to male employees with spouses.³¹

Even within the discriminatory effect interpretation, the search for equity has led to differing opinions in the courts. The issue of maternity benefits led to a different decision in the San Francisco Court of Appeals. The key to the sex discrimination issue in benefits, according to this court, is employee status for employment-related purposes, rather than a summation of benefits available to spouses.³²

Pension programs are the scene of another battle over sex discrimination. Some jurisdictions prohibit the use of different ages for retirement plans and the use of actuarial tables to make women contribute more or receive smaller monthly benefits. In *Norris vs. Arizona Governing Committee*,³³ the court argued that an employer may not maintain a discriminatory practice just because it reflects the marketplace. The extension of this argument brings it squarely into the effect/intent conflict. In this case, the presence of a dis-

criminatory effect was sufficient to prohibit the practice.

Two federal appeals courts have reached opposite conclusions on the nation's major pension program for college professors. The New York Appeals Court ruled that Teachers Insurance and Annuity Association and the College Retirement Equities Fund violated Title VII by using sex-based mortality tables to establish smaller monthly benefits for women. Women, the court maintained, are at a lower economical level than their male counterparts regardless of whether they are among the few who outlive males or are among the 84% of all women who do not outlive their male counterparts.³⁴ However, the Cincinnati Court of Appeals held TIAA-CREF's use of sex-distinct tables was not in violation of Title VII if the actuarial value of pension annuities is the same for men and women similarly situated — if annuities are of equal value at the time of retirement.³⁵ No proof of discriminatory intent was required in either decision.

Equal Discrimination

Employers and insurance carriers cannot discriminate against one sex on one issue and against the other sex on another. By paying women who retire before the age of 60 more than men, while paying men who retire after the age of 60 more than women similarly situated, California was found to be engaging in sex-based discrimination in *Retired Public Employees vs. State of California*.³⁶ Opponents of the use of actuarial tables in the allocation of pension benefits on the basis of sex argue that insurance companies could just as well use other categories not protected under Title VII in determining pensions. Actuarial tables based on previous health records for smokers or non-smokers, drinkers or non-drinkers, or relative obesity could be used to avoid the issue of sex.

Applying the principle of discriminatory effect, other employment benefits have also fallen under the protection of Title VII. In *Abraham vs. Graphic Arts International Union*,³⁷ the finding of the court was that leave policies that have a disparate impact on one sex and are not justified by business necessity are violations of Title VII. In this case, temporary

workers were limited to 10 days of sick leave or were subject to termination. Since maternity leave is likely to take more than 10 days, the court found the policy had the de facto impact of discrimination on the basis of sex. Breast feeding, another activity unique to women, has also been protected as a family and privacy right shielded against discriminatory impact in employment practices.³⁸

Sexual Harassment

EEOC guidelines issued November 10, 1980, reaffirm that sexual harassment is a violation of Title VII.³⁹ These guidelines define sexual harassment as unwelcome sexual advances, requests for sexual

"In the area of employment testing for the purpose of hiring or promotion, the recent past has seen the application of very strict standards by both courts and federal regulatory agencies."



favors, and other verbal or physical conduct of a sexual nature in an environment in which 1) submission is an explicit or implicit condition of employment; 2) submission or rejection is used as a basis of employment decisions; or 3) the purpose or effect interferes with work performance or creates an intimidating, hostile, or offensive work environment. Responsibility vests directly with the employer when it knows or should have known that the harassment was taking place, unless it can show that immediate corrective action was taken.⁴⁰

The discriminatory effect standard has been applied if the employer knows that a harassing situation exists. The U.S. Court of Appeals for the District of Columbia abrogated the traditional requirement that a plaintiff prove the actual loss of employment benefits in a sexual harassment case. In one case, a female employee was entitled to Title VII relief though no actual loss of benefits accrued.⁴¹ This case also introduced the concept that an employer violates Title VII if it establishes or condones a substantially discrimina-

tory work environment of sexually harassing behavior. Basing the decision on past court opinions involving the presence of ethnic or racial slurs in the work environment, the court extended the judicial definition of discrimination on the basis of sex into social interaction and work climate and beyond quantifiable employment benefits.

If sexual harassment is the result of an employment practice, even if the harassment is not from the employer or its agents, the practice having the discriminatory effect is prohibited under Title VII in some jurisdictions. An example can be found in *EEOC vs. Sage Realty Corporation*,⁴² a case tried in the U.S. District Court for Southern New York. A lobby attendant at the Sage Realty Corporation was subjected to sexual harassment and lewd comments as a result of the employer's requirement that she wear a sexually revealing and provocative uniform. According to the court, the employer violated Title VII by not taking action to prevent harassment, by removing the cause of harassment.

In sexual harassment cases, any demand made of an employee because of that person's sex, that would not be made of an employee of the other sex, is prohibited. In *Wright vs. Methodist Youth Services, Inc.*,⁴³ the U.S. District Court for Northern Illinois found homosexual harassment prohibited under Title VII for this reason. The effect of such behavior is the discrimination in employment against a person because of his or her sex. The effect standard tends to prevail in this area, though expectations will be discussed below.

Other Attacks

Some traditional preemployment requirements that have a disproportionate effect on women (as well as racial or ethnic groups) are being attacked under Title VII. The discriminatory effect of these practices has led to their prohibition in some jurisdictions, but the reasoning applied by courts has not been uniform. In *Costa vs. Markey*,⁴⁴ height requirements were upheld because the female employees were being drawn from a pool of females. But in *U.S. vs. North Carolina*,⁴⁵ height requirements were found to violate Title VII.

The court found that the practice had

a disproportionate impact on women, and the state could not prove that a certain height was necessary for effective job performance. In this case, the showing of discriminatory effect without an opposing compelling business necessity nullified the requirements, with no attempt to establish the intent to discriminate.

Conflicting Policies

The determination of discriminatory effect on protected groups is not a simple one. While Title VII essentially requires that employers be color, religion, and sex blind, the scope and intent of affirmative action under executive order 11246 sometimes comes into conflict with Title VII. Two public policies then clash in the court.

*Fullilove vs. Klutznick*⁴⁶ is just one case of several in which the Supreme Court found that remedies to past discrimination approved by Congress need not be color blind but may include a racial or ethnic flavor in appropriate cases. The judiciary is left to determine in which cases this is "appropriate." In an extreme example, the Second Circuit Court ordered that the next 73 job offers in a corporation be made to minority candidates in order to compensate for past discrimination.⁴⁷

Applying the standard of discriminatory effect is often difficult. Consent and conciliation agreements, used to justify the loss of inviolability of bona fide seniority agreements under Title VII, can promote the interests of one protected group while having a discriminatory effect on another. In *Williams vs. City of New Orleans*,⁴⁸ the U.S. District Court for the Eastern District of Louisiana rejected a proposed consent decree on the grounds that, while it was fair to the members of the plaintiff class (blacks), it would have an adverse effect on women and hispanics. Conflicts between consent decrees and collective bargaining agreements have arisen as well.

The Fifth Circuit held that the district court had no authority to approve a consent decree containing numerical remedies where they would adversely affect promotion provisions of a collective bargaining agreement in *U.S. vs. City of Miami*.⁴⁹ In this case, the application of the standard of discriminatory effect was found to require that the actual discriminatory impact of the agreement in the promotion

of minorities would have to be shown, remedy sought, and appropriate relief ordered at that time. The speculation that a provision of employment might have a discriminatory effect was not found to be justification for its prohibition. □

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Next month, in Part II, the author will discuss discriminatory intent.

Does Quality of Supervision Affect Your Company's Productivity?

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cognition and behavior. Do leaders always behave as they intend to behave? Do leaders sometimes know what needs to be done but poorly use this knowledge to act? It would seem, for example, that the display of recognition (one of Yukl's 19 leader-behavior categories) by a leader might be evaluated by subordinates in a myriad of different ways, depending on the actual behaviors chosen by the leader to reflect his "intent" to recognize good performance and on subordinates' perceptions of the leader's "true" motivation for behaving in that way. Related to this is the book's failure to address the issue of leadership attribution, that is, the process by which observers attribute leadership qualities to others (Calder, 1977). These attributions most likely have considerable influence on subordinates' acceptance, compliance, and commitment to achieving a leader's stated goals. Although there is a discussion of charismatic leadership that has implications for attribution making by subordinates, it would have been most interesting had this line of reasoning been developed further. In fairness, Yukl does indicate throughout the book the need for greater conceptual clarity and explicitness in terms of the variables mediating organizational situations and leader behavior and leader behavior and subordinate or work-group effectiveness. Knowledge of these processes would certainly provide greater insight into the more subtle, less mechanical aspects of the leader-subordinate relationship.

It might also be argued, in contrast to the author's suggestion in chapter 3 (p. 64), that reciprocal superior-subordinate influence processes in organizations, often a very informal type of activity, *cannot* be insured by imposing formal rules and policies requiring such behavior of managers who otherwise might be inclined to be somewhat more autocratic.

These criticisms, however, are relatively minor. As it stands, the book is successful in describing the field of leadership and stimulating ideas for testing extant theories, as well as in exploring as yet unexplored territory.

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Women in the Work Force.

H. John Bernardin, editor. New York: Praeger, 1982. 242 pp. \$28.95.

In recent years, a rather aggressive assault on the male dominated paradigms of social and administrative sciences has

taken place. Kanter (1977) provided some provocative challenges to organizational scientists on how to restructure our current perspectives of administrative policies and practices. The book, *Women in the Work Force*, is evidence that the gauntlet thrown down by Kanter is beginning to be noticed. To say that the gauntlet had been picked up would be to suggest that further inroads had been made in understanding women and men in organizations. Rather, *Women in the Work Force* is a collection of papers that represents variable results in an exercise of deciphering Kanter's challenge.

Based on the proceedings of a symposium held in 1981 on women in the work force, this book presents the efforts of several scholars to integrate diverse streams of empirical and conceptual work on the topic. Not surprisingly, given the breadth of the topic and the source — conference proceedings — the papers vary in quality of conceptual content, attention to methodological detail, and contribution to a paradigmatic shift. Despite this variation and despite the lack of tight editing, a couple of the themes heralded by Kanter manage to emerge.

The contribution of this book derives from the development and repetition of two themes which, though not new, have radical implications for the design and interpretation of future research studies about women in the work force. The first is that an understanding of the issues or problems of women in work settings depends on a recognition of both the nature of the work and, perhaps more important, on the social and structural context of work. The second theme involves the need to include constructs that acknowledge the proportion of males and females in descriptions of particular work contexts.

The strongest individual contributions to the book are conceptual pieces that integrate the literature from several areas and propose new models or theoretical frameworks. Martha T. Mednick's chapter on the psychology of achievement provides an excellent review and integration of recent literature on achievement motivation, fear of success, expectancies for success, causal attributions of success and failure, androgyny, and career aspirations. In a related vein, Virginia E. O'Leary and Randal Hansen present evidence that perceptions of worker effort are biased by the gender of the worker being appraised. They develop a promising attribution model using perceptions of effort to explain the differential treatment of women and men in both performance evaluation and reward distribution.

The chapter by Richard W. Beatty and James R. Beatty is also excellent and should be required reading for all personnel classes. These authors detail the issues in the debate of equal versus comparable worth, and they discuss the legal trends that are beginning to challenge traditional systems of job evaluation. Finally, they propose new directions for the development of nondiscriminatory job evaluation constructs and methods.

The remaining five chapters are somewhat disappointing. Although interesting and conceptually sound, the chapter by Kay Deaux and Joseph C. Ullman, describing their study of women in the steel industry, presented only preliminary results. Their final results are due for publication this year, so the impact of this chapter will be limited. Similarly, Karen Klenke-Hamel's model and proposal for testing job satisfaction in dual-career

couples is an excellent dissertation proposal but does not even include preliminary empirical results.

Max Wortman's typology of research on women in management emphasizes the importance of the context and nature of work, but his suggestions for future research smack of an underlying masculine bias about the issues of women in management. "Do women understand the importance of information flow?" and "Do they comprehend information restriction?" are mildly amusing questions if one has a penchant for gallows humor (p. 19).

Marvin D. Dunnette and Stephan J. Motowidlo display intricate logic to frame the costs and benefits of antisexist training programs. This first half of their chapter is provocative and worth reading. An insufficient explanation of research methods in the second half causes their empirical evaluation to miss the mark. Another miss is Benson Rosen's attempt to develop a conceptual framework for the literature on career aspirations, and obstacles and barriers to career progress of women. His conclusions are somewhat precipitous, given the paucity of research in these areas, but Rosen does generate some interesting questions for future research.

A major weakness of the book is the lack of a unifying framework, which is needed to pull together the diverse contributions of the authors. Editor H. John Bernardin missed a significant opportunity by failing to provide an integrative perspective to guide future conceptual and empirical work. Stronger editorial guidance would have increased the long-term significance of the book. Another weakness of the book is the time-lag between the original presentations and publication. A couple of chapters are already outdated because important empirical pieces will be reported more fully in other media. The few major conceptual papers, however, should have continued impact on work in this field.

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Influence of Business Firms on the Government.
Geert P. A. Braam. Translated from the Dutch. New York: Mouton, 1981. 320 pp. \$29.00.

Braam's study is a meticulous but fragmented choreography of the process of corporate influence in the Netherlands. The 1975 winner of his country's Kluwer and Shell prizes (the author declined the Shell prize to avoid disparaging remarks), Braam looks at how individual firms influence the distribution of government benefits.

Size is often a numerological fetish in the study of social organization, and in studies of political power, organizational

Nurses file last argument in sex suit

by Stephen J. Downes
Times Writer

Alaska's public health nurses filed their final legal brief Monday in a seven-year-old sex discrimination case against the state of Alaska.

The brief, which sums up the nurses' arguments in the case, follows a \$1.3 million settlement offer made by the nurses on Jan. 26, an offer the state rejected.

Assistant attorney general Thomas Jahnke now has about 40 days to file his brief outlining the state's position.

Hearing officer Joan Katz will read the briefs and make a recommendation to the Alaska Commission for Human Rights. The commission will decide whether the state is guilty of sex discrimination for paying some nurses lower wages than male physician's assistants.

The nurses contend that all public health nurses and physician's assistants have similar responsibilities and should, under state law, receive the same wages. The state argues that the two jobs are not comparable.

Nurses in two of three categories have starting salaries that are at least \$400 less than physician's assistants, Jahnke said. Nurses in the third category earn the same amount as the assistants, he said.

In their January offer, the nurses asked the state for \$1.3 million in back pay plus an auto-

matic promotion to the third category after two years on the job. The offer included the stipulation that nurses in the first two categories would maintain their present salary level.

The state turned them down. "We told them the \$1.3 million was too high because it was predicated on this automatic promotion," Jahnke said, who added that he was unaware of any other state that has a system of "classification based on longevity."

But Allison Mendel, the attorney for the nurses, said that the proposal "wouldn't be any more automatic" than the current policy that allows a nurse in the first category to move to the second category after one year. "We were just extending it up the ladder," Mendel said.

She also said that the nurses' position remains unchanged — they still believe, as the final legal brief states, that the state is guilty of sex discrimination. The offer, she said, "was supposed to be a concession."

Both Jahnke and Mendel said Thursday that settlement negotiations are continuing.

The complaint was filed in late 1978 by 11 public health nurses. The claim was later broadened into a class-action suit on behalf of all public health nurses.

In a related development, one of the original 11 nurses filed a complaint against Jahnke with

the Alaska Bar Association, alleging that Jahnke violated the ABA's code of ethics by interviewing several nurses involved in the discrimination suit last August.

Such an incident would violate the ethics code because the

nurses are represented by attorneys, Mendel said.

Constance Trollan, the Juneau Health Center nurse who filed the complaint, said Thursday she was notified by the ABA on March 9 that the association would investigate the complaint.