

STATE OF ALASKA
Office of the Governor

HUMAN RIGHTS
COMMISSION



ANNUAL REPORT
1979

STATE OF ALASKA
HUMAN RIGHTS COMMISSION
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Alaska State Commission
For Human Rights

1979 Annual Report

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Introduction and Summary
by
Dorothy Larson, Chairperson

The members of the Human Rights Commission began vigorous enforcement of Alaska's civil rights laws in 1974. Five years later the Commission has one of the most sophisticated case processing systems in the nation and a record of favorable court and Commission decisions which is unparalleled among state and local agencies of this type.

In 1980 the Commission faces both serious challenges and bright opportunities.

An unfortunate event is the recommendation of the Legislative Audit Division to have the Commission cease enforcing Alaska's laws against employment discrimination on the theory that a federal agency with no office in Alaska can do the job. We do not believe that the legislature itself will accept this proposal, but we fear that opponents of civil rights outside the legislature may use this short-sighted report to undercut legitimate enforcement activity.

If on the other hand the legislature accepts the Governor's proposals for the Commission's future activity we can predict:

- that the backlog of cases will be eliminated in 1981;
- that the average time of processing incoming cases will drop from 352 days to 180 days in 1980 and 120 days in 1981;
- that about half of incoming cases will continue to be settled or dismissed without the need for extended investigation or enforcement actions;
- that the Commission will expand its project to help employers and others subject to the law to eliminate discriminatory systems voluntarily through negotiated agreements which protect their affirmative action efforts from so-called "reverse discrimination" charges;
- that the Commission will be well prepared to anticipate and respond to discrimination issues associated with gas line construction; and
- that the Commission will be more able to respond to community requests for information, technical assistance, and help in crisis situations.

If a key recommendation of the Senate Minority Affairs Committee is also accepted the Commission will have the resources to make good on its commitment to serve rural Alaska effectively.

We will furnish information about human rights, respond promptly to complaints and build cooperative relationships with rural organizations and individuals.

This report is more than a compilation of our activities during 1979. It departs from earlier reports by offering the reader the unique points of view of people in our organization whose responsibilities range over all civil rights issues and problems which are coming to our attention.

We appreciate your concern for the health of intergroup relations in Alaska and trust that our activities have continued to be consistent with your legislative directions.

Overview of Major State-wide Issues

by
Niel Thomas
Executive Director

Despite a funding setback (and associated decrease in case production) which the Commission is sharing with many state agencies, 1979 saw many favorable developments for civil rights in Alaska. All is not right in intergroup relations here, of course. But all is not wrong either. After five years as director, I continue to be impressed with the basic decency, tolerance and good will of the the vast majority of Alaskans. This post-pipeline era is making Alaska a little more quiet and a little less frantic. Yet under the surface is much pain born of hard times for many, particularly those the human rights law protects.

Here is how we at the Commission saw this pain expressed to us, and what we did about it last year and how we will follow through.

Sentencing Patterns

Heavier sentences for minority people convicted of certain classes of offenses was probably the most visible civil rights issue of 1979. Findings by the Alaska Judicial Council were hotly debated and proposals for remedies came from several directions.

The Commission became directly involved when it and the U.S. Department of Justice's Community Relations Service helped the Court System develop the program on this issue for the judges' annual conference. Perhaps no other state court system has ever documented such a problem so thoroughly or spent as much time at a meeting of judges looking for causes and remedies.

Defensiveness characterized early planning meetings with the judges. They voiced skepticism over whether the data was valid, and concern for a public sentiment which seemed to have convicted them of racism without a trial. Discrimination is subtle and it does not always manifest itself overly. Most people do not think of themselves as racist: judges, more than others perhaps, believe their overriding characteristics are justice and equity. For some judges it was very hard to turn the corner from defensiveness to an open willingness to understand how the subtle forces of a white person's cultural heritage can work against minority people.

Confrontation, table pounding and finger-pointing at the judicial conference would have been clearly counterproductive. Instead, the Commission's program gathered minority people and whites whose experiences or professional work had given them insights into the sources of intergroup conflicts. By sharing

these experiences the judges were free to draw their own conclusions about how bias could unwittingly creep into sentencing patterns.

One dramatic moment of the conference illustrates this process. A Tglligit woman was describing how Indian people of her tribe were taught to show respect by orating clearly. She was standing, with her hands on her hips, enunciating distinctly and projecting her voice. Suddenly she stopped herself, thought briefly, and said:

"It just hit me that I may not be communicating what I'm intending. My hands are on my hips because when orating I'm accustomed to wearing a traditional blanket around me. My whole way of standing and speaking to you right now is, from the perspective of my culture, my way of showing you the most profound respect. But I wonder if that is what you are feeling. Or are you annoyed at someone you see as a female who is standing up and looking down on you, being rather loud, outspoken, and impertinent?"

Space in this report does not permit a full summary of the conference, but a report is available from the staff of the Alaska court system in Anchorage.

Legislative action on this issue in 1979 addressed guidelines for sentencing through a special citizen committee and funding to continue study of the problem with current data. We can expect close monitoring of sentencing practices under the new criminal code and guidelines in 1980, with optimism that increased judicial awareness of the issue and citizen and legislative input will quickly reduce unjustified sentencing disparities.

On another front, the Commission participated by a "friend of the court" brief in an Alaska Supreme Court case examining an allegedly disparate sentencing of a minority person. The defendant in State v. Johnson alleged that he received an excessively long sentence because he is black. In its brief, the Commission argued that it is appropriate for the Supreme Court to make certain that a sentence determination was untainted by racial bias. The Commission suggested that the defendant be allowed to use a statistical analysis showing a pattern of discrimination in order to attempt to prove that his sentence determination was influenced by racial discrimination. The Commission also volunteered its services as a "special master" if the court felt the need for additional fact-finding and a non-binding recommendation.

Moore Shooting

When a black man allegedly threatened and then was shot by an Alaska state trooper in Anchorage last winter, the black com-

munity voiced concerns both over the officer's conduct and the subsequent inquest procedure. The Commission became involved because of its concern for the potential of intergroup conflict toward which the situation was leading. Commission representatives worked to ensure a full exchange of views between the community and the state. A full discussion of the issues also took place between the members of the Commission, the Commissioner of Public Safety and the state's chief prosecutor. At least partly as a result of these activities the state conducted a thorough review of its policy governing police use of firearms.

Gas Line

In 1979 the Commission laid a foundation for resolving discrimination issues during construction of the Alaska portion of the natural gas pipeline. The goal is to avoid the substantive problems and case processing delays which occurred during the Alyeska project.

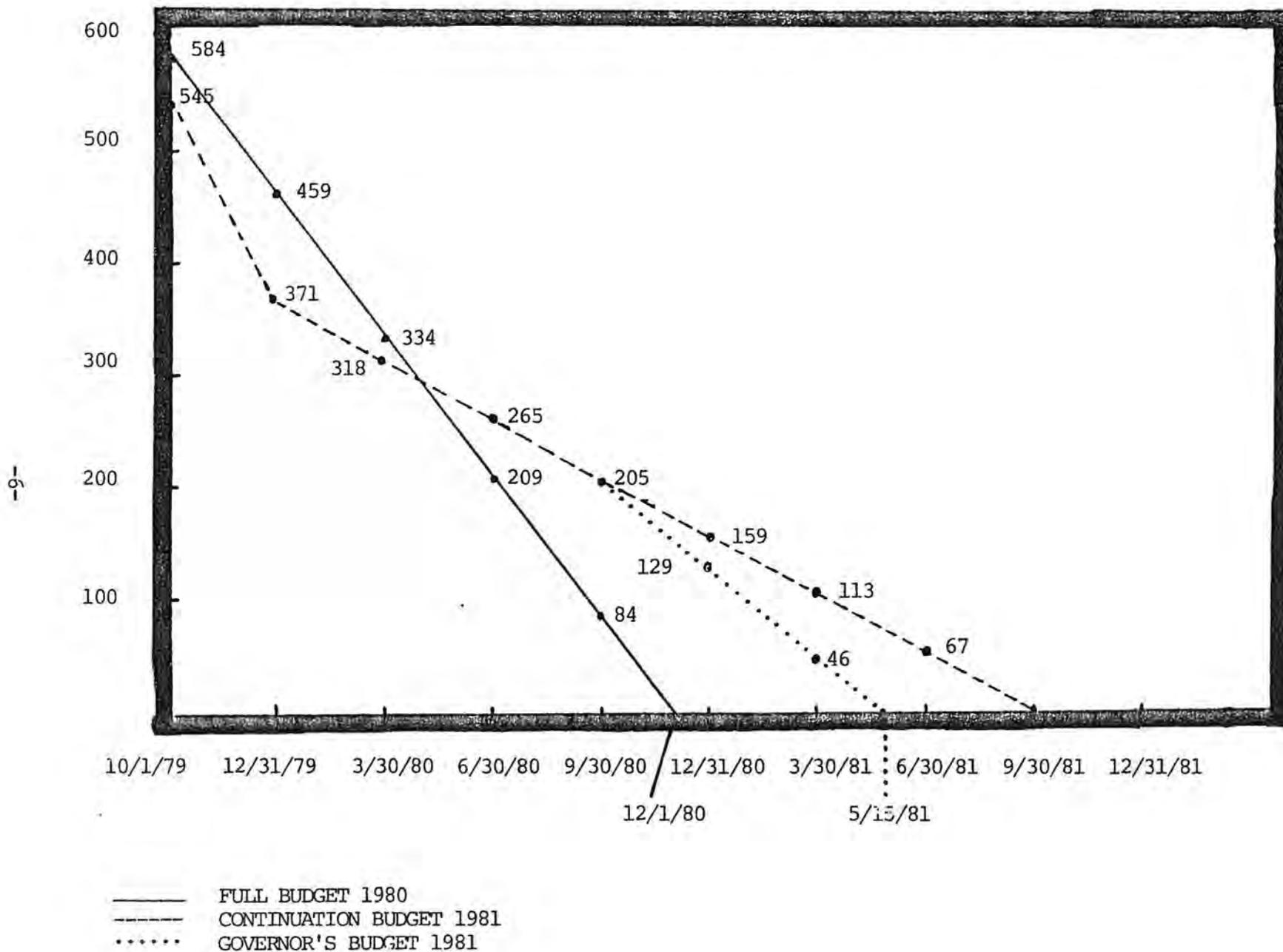
There are several federal agencies which may have a role to play in resolving discrimination associated with the gas line. The lead agency is the Federal Inspector, which was by late 1979 considering detailed regulations covering the obligations of employers and unions to maintain fair employment standards and provide equal opportunity for minority and female owned business enterprises.

At hearings in Alaska on the proposed regulations the Commission voiced the following concerns:

- that no regulations adopted by the Federal Inspector should undercut the ability of the State of Alaska to enforce its laws against discrimination;
- that the Federal Inspector should consider withholding action on complaints filed by individuals until after the Commission has first resolved the issue in accordance with state and federal standards;
- that an adequate level of personnel must be allocated to civil rights enforcement at the federal level;
- that the goals for employment should be set at a level sufficient to ensure full opportunity in particular for minority persons and females in Alaska (but not to the exclusion of similar persons from other states where whites from outside will also be employed).

The Commission stressed that it is the only governmental body at the state level which has the legal authority to enforce anti-discrimination laws. Since Alaska's laws have been found by the Alaska Supreme Court and the local and circuit federal courts to be stronger than their federal counterparts, the

CASE PROCESSING/BACKLOG ELIMINATION TARGET DATES



Commission will work to ensure that their legal protections are not diminished by federal activity. The Commission will seek adequate resources to maintain its ability to initiate investigations and respond to any increase in complaint filings during the gas line.

There has been concern that the Commission not experience the kinds of case processing delays which occurred during the Alyeska project. As Chairperson Larson notes in her forward to this report, the Commission will be far better equipped to absorb this workload than it was five years ago. When the Alyeska project began, the Commission was just beginning to reorganize and seek an adequate funding level. The law had not been tested in court. The intervening decisions both of the Commission and the courts have layed to rest many unresolved legal issues which generated complaints during the Alyeska project, as well as ratifying important features of the Commission's case processing methods. In short, the Commission now believes that it can anticipate, prevent and respond to discrimination on the gas line far more effectively than it could five years ago.

Backlog Elimination

A new method of managing the Commission's open case inventory took effect in 1979. It parallels the techniques of the federal Equal Employment Opportunity Commission.

The new approach "freezes" the backlog and projects a date when it will be completely eliminated. Across the nation, all state/local agencies which work in cooperation with EEOC have defined the backlog as all cases filed before October 1, 1979.

The chart adjacent projects three separate backlog elimination dates. The earliest, December 1, 1980, is the date on which the backlog would have been eliminated if the Commission's appropriation from the legislature for the current fiscal year had enabled the Commission to operate with a full staff. The next later date, May 15, 1981 is when the backlog will be eliminated if the Commission's appropriation for the upcoming fiscal year is consistent with the Governor's recommendations. The latest projected backlog elimination date, September 30, 1981 is consistent with an appropriation at the current reduced level.

We have attempted no projection for elimination of backlog based upon the legislative audit division's recommendation to substantially reduce the Commission's operation in favor of EEOC processing employment cases. EEOC's average processing time of Alaska cases since 1975 has been two or three times greater than the Commission's, and there is no way to tell how much more delay would be associated with Alaska's total withdrawal from processing employment cases.

Incoming Cases

In addition to backlog elimination, the Commission is placing strong emphasis on timely processing of incoming cases, those filed after October 1, 1979. During 1980 the Commission projects cutting average processing time in half from the 1979 level of 352 days, to 180 days. In 1981 the average is expected to drop to 120 days since increased staff time will be available when the backlog is eliminated.

There is a heavy emphasis on negotiated settlements of incoming cases. The parties are called together shortly after a case is screened and accepted. The Commission's staff develops the facts and helps the parties to agree to a resolution, if they are willing. Recent experience indicates that nearly half of the incoming cases can be resolved or dismissed at this early stage. The remainder are immediately assigned for full investigation, unlike past years where extended delays occurred.

By comparison with Commission case processing times the average time for a discrimination case in the Federal courts (the EEOC has no hearing mechanism like the Commission's) is four to six years.

Rural Contracts

The Commission has had a long commitment to serve rural Alaska with information about human rights. While cases from rural areas are expensive to investigate, the Commission places equal priority on resolving issues which develop outside the cities.

The Commission successfully tested a contract program in rural Alaska during 1979. Instead of trying to maintain costly offices in rural population centers, or traveling its urban-based staff, the Commission selected three rural-based non-profit corporations from eleven competing bidders and awarded them a total of \$60,000. The funds enabled the staffs of the Aleutian-Pribilof Islands Association, the Bristol Bay Native Association and the Upper Tanana Development Corporation to educate rural residents about their rights and remedies under the Human Rights Law. After training from the Commission, their staff members prepared printed material, held village-level meetings and screened potential complaints.

The Commission's budget request for the current fiscal year to continue and expand these activities failed to gain the support of the Governor or the legislature and the contracts therefore expired in late 1979. The Commission still views this work as a priority and has therefore renewed this budget request for the upcoming fiscal year, noting with approval the endorsement of the concept in the recently-published report of the Senate Minority Relations Committee.

Information Pamphlets

Hand in hand with its enforcement activities the Commission teaches people what their rights and obligations are under the Human Rights Law. This takes many forms, including meetings with community groups, media appearances, public forums and training sessions.

The newest addition was the first publication in 1979 of what will be an extensive collection of easy-to-read "Advisory Notes". Our first four are:

- Summary of Human Rights in Alaska, a discussion of the concepts of prejudice and discrimination, how the law addresses the problem and what role the Commission plays.
- How to Avoid Job Interview Discrimination, a description for employers, with examples, of what kinds of questions can lead to trouble under discrimination laws and how to rephrase these questions to serve an employer's legitimate business requirements.
- Calculating Your Damages, a description for complainants of how back wages and other financial remedies are calculated, together with a discussion of the complainant's obligation to mitigate damages.
- How to Take Your Case to Court, a discussion of other places where one can take a discrimination case instead of the Commission.

Further publications for 1980 include descriptions of case processing procedures, other civil rights agencies and what they do, complaint filing standards, directions to respondents when cases are filed, discussions of the concepts of affirmative action, retaliation, equal pay and sexual harrassment and identification of different groups covered by the laws.

Senate Minority Relations Committee

A Senate Minority Relations Committee chaired by Senator Terry Stimson conducted a study of "the problems of uncoordinated and overlapping efforts of various committees, boards and Commissions focusing on discrimination and minority relationships" in 1979. Its report grew out of staff research and interviews of different agency officials and a public hearing in Anchorage on November 17. The Committee's recommendations concerning the Human Rights Commission suggest training in compliance with the Human Rights Law for company officials, and coordination between the State Commission and the Municipality of Anchorage's Equal Rights Commission by way of a memo of understanding; and

support for the Commission's effort in rural Alaska by contracting for human rights educational programs with local organizations.

Sexual Preference; Apprenticeship Programs

The Commission continued in 1979 its advocacy in support of a state law to protect homosexuals from discrimination. We proposed that the Legislature convene a fact-finding hearing to ascertain the amount of discrimination which may be occurring to gay people in Alaska as a first step toward preparation of a bill. No action has been reported from the Legislature on the proposal to date. Nor was any action reported on the Commission's recommendation to repeal an ill-conceived 1976 Human Rights Law amendment which permits age restrictions on admissions to union apprenticeship programs.

Blue Ribbon Commission

The Legislature's Blue Ribbon Commission on the State Personnel Act is addressing, among a host of possible reforms to the merit system, the issue of equal employment opportunity in state government. (The state's progress in this area is discussed in a separate chapter of this report.) A Commission representative served on the panel through the spring of 1979 until the press of other duties necessitated resigning the position.

This agency continues to cooperate with the Blue Ribbon Commission because it recognizes that legislative action may be a critical factor in resolving barriers to equal employment opportunity for state employees. In particular the Commission has voiced concern over unvalidated written tests and other selection devices which may be unfairly excluding minorities and women from consideration. The state's present rule requiring consideration of only the top five available candidates may be another such barrier. It may be possible to show that minority people in particular tend to be rated lower on the lists, not because they are less qualified but because of cultural bias in the rating system. Under both federal and state anti-discrimination laws, these selection methods are illegal unless the state can prove the validity of its ranking system.

Two solutions are common among both public and private employers. The first and most costly is to attempt to validate the selection devices. Unfortunately the result of these efforts is often proof that the selection instruments are not valid. Then a new instrument has to be created and it has to be validated. At this time the State Division of Personnel has a small staff to conduct validation studies. It is inadequate in size for the task.

The less costly selection method is to expand the number of people eligible for consideration, even to the point of considering anyone who meets the minimum qualifications for the position. This has been the practice for over four years in the selection of recruits for trooper and fish and wildlife protection officer jobs, a requirement of a case settlement between the Commission and the Department of Public Safety. The proportion of minorities and females entering these positions has increased as a result and no concern has been voiced from Public Safety that the quality of people who have been selected during this period has been at all reduced.

Affirmative Action

Employers, unions, and civil rights groups had long awaited a definitive ruling from the U.S. Supreme Court on the validity of affirmative action programs. Last summer the answer came. In its Weber decision the justices held that it is not "reverse discrimination" for an employer consciously to take employment actions based upon race which are designed to overcome "conspicuous imbalance" between the availability or population levels of minority people (or women or other groups covered by civil rights laws) and their proportion of an employer's workforce. Legislative bodies passed civil rights laws to eliminate the imbalances caused by discrimination, the high court pointed out. To call it discrimination against whites when an employer takes actions intended to comply with the law would be to counter that legislative intent. Affirmative action may be enshrined in collective bargaining agreements.

The Weber decision, coupled with similarly-reasoned federal EEOC guidelines on affirmative action, removes the last doubts over whether affirmative action in employment is legal. The Commission distributed copies of the opinion within days of its release in Washington, D.C. and conducted a seminar to explain it in cooperation with the Anchorage Personnel Association.

In 1980 the Commission will move forward with its project to negotiate affirmative action agreements with employers. A proposed regulation revision will pledge the Commission to harmonize its case activities with the EEOC affirmative action guidelines.

SYSTEMIC PROGRAM REPORT

by

Daveed A. Schwartz
Assistant Director

The Commission's Systemic Program was a major topic of discussion in the last year's annual report. The Human Rights Commissioners created the program in August of 1978 as a result of several factors:

1. A 1974 policy shift of the Commission toward vigorous enforcement of A.S. 18.80;
2. The 1976 Alaska Supreme Court decision of Thomas v. Hotel, Motel, etc. Local 879 in which the Court ruled that the Commission had the authority, indeed the obligation, to pursue large scale cases of discrimination in a vigorous manner. In that decision, the Court said, "Aggressive, large scale enforcement will be of critical importance if systemic and continued discrimination is to be eradicated.";
3. A need to reach the fundamental roots and institutional patterns of discrimination with class action cases rather than only processing one on one cases which slowly pick away at employment discrimination;
4. A need for a central function at Commission Headquarters which plans and directs class action complaints in a rational and comprehensive manner. Although the Commission had processed several class action complaints prior to the creation of the Systemic Program, there is now an on-going and organized effort in this area.

The Systemic Program has two main functions. The first is case processing, in which large scale cases of discrimination, primarily in the areas of employment and government practices, are initiated through the Executive Director complaint mechanism. These cases follow the same route as individual claims of discrimination, with service of complaint being followed by an impartial investigation, a determination as to probable cause, dismissal for no cause, conciliation attempts following cause findings, and public hearings where conciliation is unsuccessful. The other function of the Systemic Program is technical assistance, which is offered to employers wishing to take voluntary affirmative action to substantially reduce or eliminate underutilization of minorities and women throughout their workforces.

By the start of 1979, the following four issues had been established as co-equal priorities for the program:

1. exclusionary employment devices;
2. discriminatory union practices;
3. denial of state services to rural areas; and
4. equal educational opportunity.

Early 1979 saw the Systemic Program, with a staff of one full time program head and four field clerks funded through the Municipality of Anchorage CETA program, simultaneously pursuing program planning and case processing activities. The program's staff of CETA field clerks was reduced in June 1979 from four to its current level of two.

Program planning and case targeting took the form of a state-wide survey of employment patterns of Alaskan employers in seven private industry categories. In June 1979, the Human Rights Commissioners issued a policy determination that statistical tabulations of the racial and sexual composition of an employer's workforce shall be released on an industry-wide basis so that the identity and corresponding workforce data of any one employer is not revealed. In September of 1979, the Systemic Program published the results of its private enterprise employer survey. The survey revealed that women and minorities are concentrated in positions of lower pay and responsibility within almost every industry category examined. The Commission therefore encouraged each of the participating employers to conduct a workforce self-analysis, and to undertake voluntary affirmative action where underutilization of minorities and women has been found.

An October 25th invitation to speak in front of the Anchorage Personnel Association provided an appropriate forum for the Systemic Program to announce its new emphasis on technical assistance. Some 70 EEO and personnel officers were told on this occasion that the Systemic Program's plan was to negotiate written affirmative action agreements with selected individual employers, agreements which are tailored to fit the special needs of each employer involved.

These agreements, which enable employers to avoid a lengthy and costly Commission investigation, are based on the legal principles enunciated in the recent U.S. Supreme Court's Weber decision. That decision allows employers voluntarily to enter into agreements to enhance their affirmative action programs by correcting conspicuous racial and/or sexual imbalances in their workforces. By mid-January of 1980, the Systemic Program had successfully negotiated its first two affirmative action agreements. The Systemic Program plans to continue its efforts to negotiate affirmative action agreements of this type throughout 1980 as resources permit.

The following major issues of discrimination were examined by the Systemic Program in 1979 by way of class action complaints filed by the Executive Director:

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SEE APPENDIX
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1. Thomas v. State of Alaska, Department of Transportation and Public Facilities - This case, filed in December of 1978, looks at whether minority contractors have been excluded from full participation in the awarding of State design and construction contracts and subcontracts. At press deadline for this report the case was very close to resolution.
 2. Thomas v. State of Alaska, Department of Administration, Division of Pioneers Benefits - This case, filed in January 1978 and close to resolution, examines whether Alaska Natives in rural areas of the state are being unfairly disadvantaged by proof of age requirements maintained by the State's Longevity Bonus Program.
 3. Thomas v. State of Alaska, Department of Health and Social Services, Division of Public Health and Department of Administration, Division of Personnel - This is an equal pay case involving a comparison of job duties performed by Public Health Nurse I's, all of whom are female and paid at range 14 pay, and Physician's Assistants, all of whom are male and paid at range 17 pay. This case was filed in July of 1979 and was still under investigation at the end of the year.
 4. Thomas v. Anchorage School District - This case was filed in December 1975 and addressed alleged failure by the school district to hire an adequate number of minorities into central administration professional positions. A conciliation agreement dealing with recordkeeping requirements was finalized by both parties in July of 1979.
 5. Thomas v. Pipeliners Union Local 798 - 1979 saw the Commission's first public hearing held as a result of a Systemic Program investigation. This case was filed in October 1975, and the investigation was completed in late 1978. The Commission alleged that Local 798 failed and refused to dispatch and admit to membership women and Blacks as welder helpers for work on the Trans-Alaska Pipeline Project. After a finding of probable cause and failure of conciliation efforts, the case was brought to public hearing by mid-1979. The hearing was held in several parts totaling about four and a half weeks. The results of the hearing are still pending.

Although not reflected in case processing activity, the Systemic Program met during 1979 with a number of organizations and individuals from two Alaskan communities regarding possible discrimination against minority high school and grade school students. Specifically, the Systemic Program made preliminary

examinations of whether Alaska Native students are being unfairly channeled into special education classes at a disproportionately higher rate than non-Native students, and whether minority students were being unjustifiably disciplined at a higher rate than white students. These issues may well be the focus of future cases.

The Systemic Program's current staffing limitations are expected to continue at least throughout 1980. This will result in restricting the number of current issues that can be resolved by the Systemic Program, as well as the number of new issues which can be addressed in 1980. The Systemic Program will therefore plan its 1980 activities judiciously in order to achieve maximal progress toward eliminating major discriminatory patterns and practices in Alaska. However, as the Commission's field offices reduce their individual case backlogs, they will be able to devote more of their investigative resources to pursuing systemic cases of regional importance.

SOUTHCENTRAL REPORT
by
Zella Boseman
Acting Assistant Director

Approximately 1,000 individuals contacted the Southcentral Regional office at Anchorage in 1979. Most inquired as to whether or not their human rights had been violated. Inquiries came in the form of letters and phone calls as well as people dropping by the office. However, our contacts are not limited to the office. Virtually all members of the Southcentral staff are heavily involved in related community activities and are well known throughout the community. As a result they are often contacted at home, at various social functions and even in places like doctors or dentists offices.

We were pleased to be contacted by an increasing number of employers, landlords and representatives of various businesses. Most of this group of inquirers sought advice and guidance from our staff in order to make certain that they were not violating Human Rights Laws.

Many employers have no intention of discriminating against employees, but do because of their ignorance of the Human Rights Law. Most have found that ignorance is not bliss in this circumstance, as the courts have decided that when discriminating, it is not the intent that is of concern.

Agencies also called on Southcentral staff's expertise to train their employees in the principles of discrimination law. Although this year we were unable to respond to all of the calls for training made by employers, we welcome and encourage such requests. We view our speeches, training sessions and work shops as preventive medicine. In fact, legislation mandates that we take steps to prevent discrimination before it occurs. Educating the public is the most effective means we have to carry out this mandate.

The number of inquiries received by the Southcentral office increased by 20% over the previous year; however, only 14% of the inquirers actually filed charges. Charges filed in the Southcentral Regional offices in 1979 totaled 138 compared with 245 charges filed in 1978. Unfortunately, the declining filing rate is not attributable to a decline in discriminatory practices. One important fact that directly influences the rate of filing of new charges is that our intake screening process is much more thorough now than in previous years. Our intake officer did an excellent job in screening out unmeritorious charges.

In previous years there were major changes in our office's case processing techniques. We used these time-tested approaches with increasing refinement during 1979. Although statistics

show an increase in the age of the cases closed, the public has been better served. Rapid charge processing systems developed in 1977 and 1978 have increased the number of cases settled prior to the issuance of findings. This has reduced the number of cases requiring lengthy investigations. In addition, it has allowed us to spend more time to investigate the remaining cases thoroughly.

The Southcentral Regional staff concentrated on case processing almost to the exclusion of other tasks during 1979. Although we closed 40% more cases than were filed we ended the year with 207 cases still open. Our three investigators were charged with the task of eliminating the backlog of older cases awaiting investigation, plus keeping on top of the new cases so that they were not added to the backlog. Clerical support performed well under the mounds of paperwork and the pressures of busy phones.

In order to more effectively carry out our duties of seeking out and eliminating discrimination, Southcentral began working closer with the Anchorage Equal Rights Commission. In 1979 we had at least 77 cases filed that were co-jurisdictional with that agency.

Our office accepts complaints from the entire Southcentral region of the state, not just the Anchorage municipal area. Because of reduced funding, heavy backlog of cases and the section of the Human Rights law which encourages local commissions, we are encouraging the Equal Rights Commission to resolve the issues of discrimination within the Anchorage area so that the state only becomes involved by way of reviewing such cases for compliance with state law.

The following are a few examples of cases resolved within the Southcentral Region:

On two separate and unrelated occasions two black school teachers were not chosen for transfers into special programs as teachers. After being notified of complaints filed by the employees, the school system prior to Commission investigation offered both of the employees the positions they were seeking.

Eight Alaska native males in a remote village alleged race discrimination in terms and conditions of employment because they were denied overtime given to whites. One individual settled with the construction company prior to investigation. Subsequent investigation showed that natives in different job classes made more overtime than whites; one individual did not work for the company and another did not put in 40 hours a week and terminated without explanation.

A pregnant female filed a complaint with the Commission alleging that she was terminated because she was pregnant. When the Respondent was notified of the complaint and of the coming

resolution conference, an offer of \$1,733 was made to settle the matter. Complainant accepted the settlement offer and the case was closed.

A female filed a sex discrimination complaint against a local night club. She alleged that she was denied entry to the club because she did not have a male escort, but males were allowed to enter the club unescorted. The Commission negotiated a settlement in which the club agreed to allow unescorted females to enter the establishment.

A white male filed a complaint against a village council for denying him purchase of a fishing site from a local native man. Complainant alleged that he was denied the purchase of the fishery site because of his race. The Commission found out that the village was chartered under the federal Indian Rehabilitation Act, thus depriving the Commission of jurisdiction.

NORTHERN REGION
by
Cathi Carr-Lundfelt
Assistant Director

The Northern Region is the largest geographical region served by a field office of the State Commission for Human Rights. Its size is translated roughly by its boundaries: it runs north from Isabel Pass all the way to Point Barrow on the Arctic Ocean and west from the Canada border to Norton Sound on the Bering Straits.

The people of the Northern Region experienced hard times during 1979. Typically, when jobs are fewer and harder to come by, employees tend to hold on to their positions even when the pay is low and the conditions are unsatisfactory. In the same vein, people tend to file fewer complaints about discriminatory treatment on the job. When they do file, they complain more about not being hired or about being fired than they do about the terms and conditions of their employment. Regional statistics for the year confirm this principle: fewer complaints were filed than during previous years.

It has also been said that members of minority groups are hit the hardest during an economic downturn. Regional statistics for 1979 show that Blacks filed a greater percentage of discrimination complaints and that a greater percentage of persons complained about discrimination based on national origin than they did during higher employment levels.

It is interesting to note, however, that a smaller percentage of Natives filed discrimination complaints than before. This is probably due to the fact that Northern Regional staff has made fewer direct contacts with rural people. Due to budget limitations the staff made only two trips to outlying areas: one to Tok and one to Barrow. It was hoped that letting contracts for the purposes of educating rural residents would increase the Commission's ability to serve the needs of rural people. However, funding limitations of the original contracts and uncertainties about continued contract funds left these programs incomplete and untested. As a consequence, the Northern Regional Office has been unable to sustain the level of rural contacts established on a limited basis when there was a sub-field office in Barrow.

Budget limitations have also affected the ability of the Northern Regional staff to process investigative casework, particularly since the Region's most productive investigator was only available for seven and one-half months due to a combination of emergency leave and promotion. As a consequence, the staff closed fewer cases than in previous years. However, the staff closed more cases on the basis of merit, reducing the percentage of procedural closures to forty per cent. The staff also steadily reduced the number of cases filed during earlier

years: the last 1975 case was closed and the number of 1976 cases was reduced to 20. In working toward this accomplishment the staff was able to resist the temptation to give these cases the "once over lightly" treatment. Hard work and good investigative techniques led to probable cause findings and negotiated settlements in a number of these older cases.

In fact, the Northern Regional staff made more closures based on probable cause findings than did other units and sent 12 cases to be scheduled for public hearing after settlement efforts failed. However, the hard economic times in the Region also led to fewer voluntary settlements. The staff found that respondents had fewer jobs to offer and were less willing to offer lump sum settlements for quick resolutions. In addition, complainants were less willing to make partial settlements: they wanted everything that they thought was coming to them.

One of the Northern Region's major achievements for the year was in the area of training. Staff members conducted an employer workshop on discrimination law under the auspices of the Tanana Valley Community College. They also conducted such training sessions at the request of private employers and with the rural contractor in the region.

Because such sessions proved to be a constructive way to inform regional citizens about the law, the staff incorporated requirements for providing training for supervisory and management personnel into settlement agreements where it was clear that lack of knowledge about the law had contributed to the situation which led to the complaint. Respondents were then allowed either to develop their own programs for Commission approval or to take advantage of the staff's training program at no cost.

Questions about the implications of the U.S. Supreme Court's decisions in the Weber and Bakke cases led to the development of a one-credit course entitled "How to Make Affirmative Action Work for Your Organization." The Assistant Director for the Northern Region and the Affirmative Action Officer from the University of Alaska plan to teach the course in the spring of 1980.

The staff also worked toward providing a broader level of resources to deal with discrimination issues by giving technical assistance to the Fairbanks City Human Rights Commission. Initially, staff members worked with the Commission to develop a job description for its Executive Director and a program of activities. Later, the staff provided information in support of the Commission's request to the City Council for continued funding. In addition, the staff provided training in discrimination law and in investigative procedures to the Fairbanks Commission's staff. During the coming year, the Northern Regional Office anticipates working closely with the Fairbanks Commission in order to ensure that State citizens receive a

high level of services with the minimum of duplication and overlap.

The prospects of adequate staffing and funding in the coming year have encouraged the Northern Regional staff to look beyond the current caseload to a time when it will be able to investigate cases as they are filed. Certainly, officials from the Federal Inspector's Office and the State Pipeline Coordinator's Office and representatives from community groups interested in promoting civil rights have expressed concern over the Regional Office's ability to handle the influx of complaints which are expected to be generated by increased gasline and oil development activity. They have a right to be concerned since a major proportion of North Slope oil development and gasline project activity will take place within the regional boundaries.

In order to deal with these concerns and to improve the staff's ability to handle incoming cases in a timely fashion, one investigator has been assigned to process new cases within a specific time frame. With one investigative position unfilled, this left only one other investigator to work on the older cases. While this circumstance has substantially slowed our progress toward eliminating the backlog of cases, it is not unreasonable to project elimination of that backlog in 1981. Although the region still has a number of older cases, each one has had some investigative work and many are near completion.

During the coming year the Northern Regional staff plans to continue meeting with contractors, union and government officials, and private citizens to ensure that guidelines and procedures are established for the gasline project which will enable staff members to perform their statutory law enforcement responsibilities quickly and efficiently.

SOUTHEASTERN REPORT
by
Janet Bradley
Assistant Director

Mid-summer 1979 marked the fifth anniversary of the establishment of the Juneau office of the Commission. A brief historical review is appropriate to evaluate the program in the Southeastern Region.

In July, 1974, VISTA volunteers set up an office in a four room converted apartment on Calhoun Avenue supplementing the few purchased pieces of office equipment with used items surplussed from other state agencies. An investigator and a clerk typist were hired with state funds; a VISTA attorney and two VISTA paralegals in Juneau and one VISTA paralegal in Ketchikan completed the staff who set to work on eight Southeast cases forwarded from the headquarters office in Anchorage.

Now, five and one half years later, three state-funded professionals and one clerical staffmember serve the citizens of the Southeastern Region from a modest suite in one of Juneau's pioneer office buildings. 81 complaints were docketed in 1979 for a total of over 500 cases filed during the entire 5½ year period. Despite the closing of the Ketchikan office in 1975 with the departure of the VISTA volunteers, complainants from the First City continue to seek help from the Commission. About one-third of the Southeast cases are filed by citizens who call the Juneau office collect from communities such as Ketchikan, Sitka, Petersburg, Wrangell, Metlakatla, Craig, Hoonah, and Pelican.

Major issues in the Southeast Region in 1979 have included a \$9,800 back pay settlement of a sex discrimination charge against the state ferry system, cases against local school districts for failure to hire minority and female principals, pregnancy discrimination in an employer's health benefits plan, and religious discrimination against inmates in state correctional institutions who required accommodations for dietary and prayer needs as well as for wearing religious garb.

Respondents in the region have also appealed to the Juneau staff for advice on compliance with the state Human Rights Law. In addition to offering technical assistance in response to individuals, the Southeast staff together with the Executive Director developed a 10 hour training program for employers entitled "How to Stay Out of Trouble with the State and Federal Government" which was offered in April at the University of Alaska, Juneau.

The Assistant Director responded to a flood of invitations to speak before groups including the Human Rights Committee of the Alaska Native Brotherhood and Sisterhood, the Juneau Rotary

Club, CETA training sessions conducted by the Southeast Regional Resource Center, the Southeast Alaska Postmasters, administrative staff of Bartlett Memorial Hospital, the Mendenhall Chapter of Federally Employed Women, Job Service employers, and the Governor's Manpower Advisory Council. Unfortunately, these popular public education activities were eliminated in mid-year as a result of the FY 80 budget constraints.

A decrease in regional travel because of reduced funding has contributed to the disarray of the Ketchikan Human Relations Commission, a local advisory body which had previously sponsored public meetings on landlord-tenant matters and the identification of special education students. After a public hearing on discrimination against gays in January 1979, the Juneau Human Rights Commission concentrated its efforts on passage of a comprehensive local ordinance declaring discrimination unlawful as a matter of public policy. Native citizens from Sitka have called upon the Commission for help in dealing with local police problems.

Staff turnover and a forced vacancy resulted in a decrease in case resolutions during 1979. The single Southeast investigator also serves as intake officer. The Juneau based Assistant Director has now been assigned responsibility for development of the FY 81 budget and still functions as agency liaison with the Legislature.

Despite the growing backlog of cases, Southeast citizens are filing more complaints than before. The trend toward voluntary settlements in favor of complainants continues. In the past five years, the Southeast program has expanded its focus as a regional office serving the rural Panhandle and as the Commission's contact in the Capital City.

HEARING UNIT REPORT
by
Teresa Williams
Hearing Attorney

The year brought a rapid increase in the number of cases pending at the hearing stage. Starting at 22 cases in January, the caseload reached a high of 39 by June. In response to this extra work load, the Commissioners assigned a CETA clerk and a paralegal position to the hearing unit. As a result, cases have moved more quickly. As an example, only one case settled during the first six months of 1979, but eight negotiated settlements were reached in the latter half. By the end of 1979, the caseload had dropped to 35. All of these cases have either been scheduled for hearing, or are awaiting decisions on motions to dismiss based on legal issues. Presently, the case-processing time at the hearing stage averages nine and a half months.

One bulge in the system was the case of Thomas v. Pipeliners Union Local 798, which involves two distinct class actions, and eight individual complainants. The director's charge was filed in October, 1975, and the case came into the hearing unit in September of 1978. The case was finally heard in three parts, involving hearings June 18-29, October 15-24 and December 3-4, 1979. The transcript alone is 3,267 pages, and there are sacks and boxes of exhibits. Because of the massiveness of the issues and the record, it would be optimistic to expect a final Commission decision in 1980. However, it was a priority in the hearing unit to push the case to hearing, so that the issues could be resolved prior to the construction of the proposed gasline.

In another class action, Thomas, et. al. v. Hotel and Restaurant Workers Union, Local 879, originally filed as a director's charge in February, 1975, and settled on September 30, 1977, the resolution of claims under the settlement is only now coming to an end. Of the many claims filed, 35 were timely. The Commission and the Union have reached agreement on the resolution of approximately 22 of those claims. Of the remaining disputed claims, four have gone to hearing. One woman reached an agreement with the Union on her own. The arbitrator selected by the Commission and the Union has reached final decisions in two of the claims. It appears to be taking longer to process the claims under the settlement than it did to reach the settlement in the first place.

Through the experience gained in the Pipeliners and Hotel and Restaurant Workers cases, the hearing unit is better prepared to manage similar class action or impact cases.

It is hoped that, in 1980, priority can be give to cases against certain targeted employers and those which might encourage equal employment on the proposed gasline. Already, priority has been given to moving older cases out of the system.

HUMAN RIGHTS COMMISSION
HEARING CASES

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED HEARING UNIT	DT CLOSE BY COMM
<u>Adams v. Xerox</u> Alleged martial status discrimination in employment. Dis- missed due to Complainant's failure to proceed.	12/06/78	09/11/79
<u>Akpik v. N. Slope Borough School Dist.</u> Alleged race discrimination in housing benefits for employees. Motion to dismiss pending.	04/14/78	
<u>Bleukins v. Associated</u> Alleged race discrimination in terms and conditions of employment. Public hearing scheduled June 9-13.	10/26/79	
<u>Brown v. FELEC Service</u> Alleged sex discrimination in failure to promote. Monetary settlement April 19, 1979, prior to hearing.	12/11/78	01/18/80
<u>Carlson v. Associated Green</u> Alleged sex discrimination in termination from employment. Monetary settlement prior to hearing.	05/08/79	
<u>Cook v. Stepp Friendly Ford</u> Alleged sex discrimination in wage scale. Closed: stipul- ated dismissal due to Complainant's failure to proceed.	03/06/79	08/22/79
<u>Crookes v. Int'l Brotherhood of Electrical Workers</u> Alleged national origin discrimination by union. Closed: Non-monetary settlement prior to hearing.	08/29/78	10/18/79
<u>Finley v. Babcock & Wilcox</u> Alleged failure to hire on basis of religious beliefs. Closed: monetary settlement prior to hearing.	03/23/79	01/22/80

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOS
<u>Gist v. Associated Green</u> Alleged race discrimination in employment termination. Monetary settlement prior to hearing.	03/12/79	
<u>Holt v. Wien Air</u> Alleged racial discrimination in failure to hire. Non-monetary settlement prior to public hearing.	11/01/78	
<u>Jordan v. Associated Green</u> Alleged race discrimination in terms and conditions of employment. Public hearing scheduled June 9-13.	10/26/79	
<u>Mahlen v. City of Fairbanks</u> Alleged age discrimination in failure to hire. Public hearing scheduled May 19-20, 1980.	10/26/79	
<u>Mayo v. Alaska Constructors</u> Alleged racial discrimination in employment termination. Closed: monetary settlement prior to hearing.	03/12/79	01/21/8
<u>McDowell v. Campco Pacific</u> Alleged racial discrimination in employment termination. Remanded for further investigation, case closed.	01/15/79	09/20/7
<u>Mercer v. ARCO</u> Hearing examiner's recommended order filed January 3, 1980. Commission Decision to be issued.	01/03/79	
<u>Mercer v. O'Neill Investigations</u> Alleged race discrimination in termination and failure to re-hire. Hearing scheduled March 3-7.	01/03/79	
<u>Miller v. Golden North Motel</u> Alleged marital status discrimination in employment termination. Public hearing held on October 8-9, 1979. Commission decision to be issued.	08/15/78	
<u>Mollett v. Greyhound Support Service</u> Alleged sex discrimination in constructive discharge from employment. Public hearing scheduled March 17-18, 1980	09/12/79	
<u>Moore v. City & Borough of Juneau School Dist.</u> Alleged racial discrimination in failure to hire. Examiner's recommended decision filed December 14, 1979. Transcript being prepared. Commission Decision to be issued after objections filed.	01/16/79	

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOSE
<u>Morris, Nasello, Friedman & Kamholz v. Matlock</u> Public hearing scheduled week of May 5. Alleged sex discrimination in termination from employment.	05/15/79	
<u>Morris, Nasello, Friedman & Kamholz v. Sea Airmotive</u> Public hearing scheduled week of May 12. Alleged sex discrimination in termination from employment	05/15/79	
<u>Nelson v. McCarley</u> Commission decision issued on October 18, 1979. Dismissing complaint alleging race discrimination in failure to rent.	04/06/78	10/18/79
<u>Odell v. Shoe Mart</u> Alleged sex discrimination in wage scale. Closed: dismissed due to bankruptcy of Respondent.	03/27/79	05/15/79
<u>Orr v. Municipality of Anchorage</u> Alleged sex discrimination in failure to promote. Hearing examiner recommended decision filed, Commission Decision to be issued.	02/07/78	
<u>Painter v. Ketchikan Gateway Borough School Dist.pre-Comm.</u> Commission Decision issued on November 27, 1979. The Commission found that pregnancy must be covered under an employee's disability insurance package in the same manner as other covered disabilities.	06/02/79	11/27/79
<u>Pinger v. J. C. Penneys</u> Alleged sex discrimination in failure to promote, job ladders. Public hearing scheduled June 18-20, 1980.	10/26/79	
<u>Powell v. Jack's Food Mart</u> Alleged marital status and pregnancy discrimination in employment termination. Public hearing scheduled April 1-2.	09/20/79	
<u>Reeves v. AK Laborers Training Trust</u> Commission Decision dismissing complaint due to failure to comply with discovery order.	02/07/79	11/20/79
<u>Renda v. AK Laborers Training Trust</u> Alleged sex discrimination in employment termination. Closed: monetary settlement prior to hearing.	02/07/79	01/22/80
<u>Skewis v. Ibsen</u> Alleged marital status discrimination in failure to rent. Motion to dismiss pending.	08/04/78	

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOS
<u>Strand v. City of Petersburg Public Schools</u> Commission decision issued on August 17, 1979, Commission held that the School District discriminated against the Complainant because of her sex through the use of subjective hiring procedures.	06/20/77	08/17/77
<u>Thomas v. Hotel, Motel, etc., Union Local 879</u> Hearings held in 4 of 5 disputed claims, settlement pending in 26 claims, 4 claims dismissal pending.	'74	
<u>Thomas v. Southeast Alaska Empire</u> Alleged sex discrimination in printing help-wanted advertisements. Closed - non-monetary settlement prior to hearing.	01/22/79	10/09/77
<u>Thomas, et al. v. Pipeliners Union (race)</u> Alleged racial discrimination in failure to dispatch or allow blacks into union membership. Class action plus six individual Complainants. Public hearing held June 18-29, October 15-24, December 3-4, 1979. Commission decision to be issued.	09/12/78	
<u>Thomas, et al. v. Pipeliners Union (sex)</u> Alleged sex discrimination in failure to dispatch or admit women into union membership. Class action plus three individual Complainants. Public hearing held June 18-29, October 15-24, December 3-4, 1980. Commission decision to be issued.	09/12/78	
<u>Vickaryous v. Anch. Refuse</u> Alleged termination from employment on basis of religious belief. Closed: Monetary settlement prior to hearing.	04/17/79	11/14/77
<u>Wages v. Associated Green</u> Alleged sex discrimination in employment termination. Monetary settlement prior to hearing.	03/12/79	
<u>Wallace v. Fluor Alaska</u> Alleged national origin discrimination in employment termination. Public hearing scheduled April 14-18, 1980.	09/20/79	
<u>Witcher v. State, Department of Transportation</u> Alleged sex discrimination in failure to promote. Closed: monetary settlement and promotion.	11/03/78	08/23/77

Legal Developments

Several important interpretations of the Alaska State Human Rights Law were handed down by state and federal courts in 1979. A description of some of these cases follows.

In Simpson v. Providence Washington Insurance Group, the federal appellate court for the Ninth Circuit held that the federal Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-34 (1976) does not pre-empt the State Human Rights Law. The federal act only protects employees between the ages of 40 and 65 from age discrimination. The federal court held, however, that the state law could protect employees over the age of 65. The court held that there was no implied upper age limit in the state statute.

In Wondzell v. Alaska Wood Products, a case first decided in the Supreme Court in 1978, the Alaska Supreme Court said that an employer has the duty to reasonably accommodate to an employee's religious observance or practice unless the employer can show undue hardship on the employer's business. In a 1979 opinion on rehearing, the court held that the duty of reasonable accommodation may require a union to allow a worker, who has religious beliefs against union membership, to pay an amount equivalent to union dues to a charity of the union's choice.

The court also made it clear in this case that federal case law is relevant to interpret the Alaska Human Rights Law, but that the Alaska law is intended to be more broadly interpreted than federal law to further the goal of eradication of discrimination.

In Hotel and Restaurant Union, Local 878 v. Alaska State Human Rights Commission, the Alaska Supreme Court held that attorney fees and costs cannot be awarded to a respondent if a complaint is dismissed after investigation without reaching the hearing stage. The court did not reach the issue raised by the Commission that such awards would deter persons from filing bona fide complaints with the Commission. The court held that the plain wording of the statute provides that the Commission only has discretion to award attorney fees and costs after a hearing, and not during the investigative phase.

HUMAN RIGHTS COMMISSION

L I T I G A T I O N

I. INTERVENTION AND AMICUS CURIAE CASES

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOSED
<u>Brown v. Wood</u> Supreme Court held on re-hearing that University is a "person" for purposes of 42 U.S.C. §1983.	06/05/79	08/17/79
<u>Simpson v. Providence Washington Ins. Group</u> Commission intervened to argue that the State Human Rights Law on age discrimination is not pre-empted by Federal Age Discrimination in Employment Act. Federal Court so held. Stipulated dismissal of state case on \$135,000 payment to Simpson.	12/00/76	10/00/79
<u>State v. Johnson</u> Amicus brief filed with Supreme Court on issue of racial discrimination in sentencing.	'79	

II. APPEALS OF COMMISSION DECISIONS TO SUPERIOR COURT

<u>Presley v. City of Fairbanks Police Department</u> Superior Court for 4th Judicial District sustained the Commission's decision that the Department discriminated against Complainant because of her sex through the use of a discriminatory oral exam. Commission decision. Appeal to Supreme Court pending.	01/02/79
<u>Ak. Fed. Credit Union v. HRC</u> Appeal to Superior Court, for 3rd Judicial District, of Commission decision that the Complainant was denied promotion because of her sex.	06/21/78
<u>Strand v. Petersburg School District</u> Appeal to Superior Court, for 1st Judicial District, of Commission's decision (noted below: Hearings).	03/08/78

II. APPEALS OF COMMISSION DECISIONS TO SUPERIOR COURT (Cont'd)

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOSED
<u>McClinton v. State, Dept. of Community and Regional Affairs</u> Appeal to Superior Court, First Judicial District, of Commission Decision that it is unlawful to fail to consider a person because of race, without a showing that the person would have taken the position, and that the department unlawfully retaliated.	01/31/78	
<u>Allen v. Laborers & Hod Carriers & HRC</u> Superior Court for 3rd Judicial District upheld Commission's decision dismissing the Complainant's complaint, but finding pattern and practice of discrimination against blacks. Case remanded to Commission for class-action certification.	01/18/78	
<u>Laborers & Hod Carriers Union v. HRC</u> See <u>Allen</u> above	12/23/77	
<u>Muldrow v. State, Division of Corrections</u> Appeal of Commission Decision to Superior Court, First Judicial District. Commission found failure to hire because of race	8/76	

III. APPEALS OF COMMISSION DECISIONS TO ALASKA SUPREME COURT

<u>McDaniel v. Cory & ASCHR</u> Appeal to Supreme Court of decision by Superior Court for 3rd Judicial District upholding the Commission decision that a complaint was subjected to a discriminatory atmosphere and treatment at the Northern Lights Disco, but rejecting the Commission's award of punitive and compensatory damages.	09/26/78	
<u>Hotel, Motel, etc., Local 878 v. HRC</u> Supreme Court affirmed opinion below that agency may not award attorney fees to a Respondent when the Commission finds no probable cause for a complaint during the investigative stage of the Commission proceedings.		

III. APPEALS OF COMMISSION DECISIONS TO AK SUPREME COURT (Cont'd)

CASE CAPTION/RECENT ACTION & COMMENTS	DT OPENED	DT CLOSED
<p><u>HRC v. Yellow Cab</u> Appeal to Supreme Court on issues of what steps a Complainant must take to apply for a position, and whether attorney fees may be awarded against the ASCHR when it decides a matter of public interest.</p>	09/07/78	
<p><u>Lumber Production & Ind. Workers Local 2362 v. Wondzell & ASCHR</u> The Supreme Court held, on re-hearing, that a union may be required to allow employees with certain religious convictions to pay an amount equivalent to union dues to a charity of the union's choice. Appeal to U.S. Supreme Court, dismissed by U.S.S.C</p>	08/01/79	
<p><u>City of Fairbanks Police Department v. Presley & HRC</u> See Appeal to Supreme Court, above.</p>	10/23/79	

PROGRESS REPORT

Regarding

EQUAL EMPLOYMENT OPPORTUNITY

In

STATE GOVERNMENT

April 1978 through January 1980

by

Daveed A. Schwartz
Assistant Director

I. Introduction

The Human Rights Law at A.S. 18.80.060(a)(6) requires the Commission to:

make an overall assessment, at least once every three years, of the progress made toward equal employment opportunity by every department of State government. Results of the assessment shall be included in the annual report made under Section 150 of this chapter.

The above language was added to the Human Rights Law during the 1978 legislative session. This document is the Commission's first equal employment opportunity progress report made under this statute.

II. State Goals for Minority and Female Employment

The State's ultimate overall minimum goal for minority employment is currently set at 19.3%. This reflects the statewide population of minorities who are twenty-one years of age and older as documented by the 1970 Census. The State's ultimate overall goal for female employment is 44.0%, based on the 1970 statewide population of women who are twenty-one years of age and older. These goals are subject to change, of course, pending the outcome of the 1980 Census.

Minority and female employment goals in affirmative action plans are usually set according to labor force rates rather than working age population figures. Minority and female labor force rates in Alaska for 1970 were 15.3% and 38.6%, respectively. However, there is ample justification for abandoning these figures in favor of the higher working age population figures mentioned in the previous paragraph. First, the 1970 labor force rates are artificially depressed due to discrimination in the job market which resulted in fewer minorities and females holding jobs than were available for work when the last census was taken. Second, large numbers of Alaska Natives in rural areas are literally unaccounted for in the 15.3% figure

for minority employment. Recognizing past problems in counting workers in rural areas, census officials have purposely begun an early count of rural Alaskans this year to increase the accuracy of the 1980 Census results.

III. Overall Performance of State Government

A. All State Employees

On April 1, 1978, the State EEO office and the Division of Data Processing produced the State's first comprehensive set of statistics detailing each State department's EEO profile by race, sex and salary grade. Those statistics are believed to be the first reliable set of EEO data on State employment. They revealed that 10.5% of all State employees were minority employees. This figure includes regular salary structure employees (ranges 5 through 30); labor, trades, and crafts employees (ranges 50 through 60); state troopers, marine highway transportation personnel; partially exempt, exempt and elected persons; and employees of the legislature and the court system. This statistic for January 1980 dropped to 10.3%. Overall female employment for this group of employees was 45.6% in April 1978 and 44.8% in January 1980. (See Appendix A, bound in a separate cover and available upon request at any office of the Commission.)

B. Regular Salary Structure Employees (ranges 5 through 30)

The vast majority of State employees are classified in what is known as the regular salary structure. This includes salary ranges 5 through 30. The April 1978 data showed that 10.1% of the State's regular salary structure employees were minority employees. This is well below the State's ultimate goal of 19.3% for minority employment. Twenty-one months later, in January 1980, State employment statistics reveal that the overall percentage of minorities in the regular salary structure has dropped to 9.8%. In other words, although the regular salary structure expanded by eighty-six positions between April 1978 and January 1980, the number of minority employees decreased during this period by twelve. Had State government maintained the 10.1% minority employment through January 1980, minorities would now occupy twenty-two more jobs than they currently hold. Overall female employment in the regular salary structure positions was 54.4% in April 1978 and 53.9% in January 1980. Minority and female employment figures take on more meaning, however, when analyzed by representation in and distribution among salary range groupings.

C. Minority and Female Representation within Four Broad Salary Groups.

The Commission has divided the regular salary structure employees into the following broad salary groupings:

1. Managerial and Administrative personnel - range 20 and above;

2. Professional and Technical personnel - ranges 15 through 19;
3. Professional and Technical Trainee personnel - ranges 12 through 14; and
4. Office and Clerical personnel - range 11 and below.

The Commission acknowledges that there are a number of job titles which pose exceptions to these general categories. However, to the extent that it is possible to generalize about State job titles and pay grades, the broad classification scheme outlined above can be useful in analyzing State government's EEO profile.

The following charts enable quick comparison of minority and female participation rates in the four salary groups mentioned above for April 1978 and January 1980.

Table I. Minority Employment by Salary Group
(Percentage of total employees in each salary group)

Salary Grouping	April 1978	January 1980
Range 20 and above	2.7%	3.6%
Ranges 15 - 19	5.4%	6.1%
Ranges 12 - 14	9.8%	9.5%
Ranges 11 and below	16.5%	15.6%

Table I reflects marginal increases in minority representation for the two higher salary groupings between April 1978 and January 1980. This is certainly a positive sign, although the January 1980 figures still represent significant underutilization of minorities in the upper ranges. Table I also shows marginal decreases in the two lower salary brackets, which could mean that fewer minorities will be available in the near future for career ladder advancement into upper range positions unless this trend is quickly reversed.

Table II. Female Employment by Salary Group
(Percentage of total employees in each salary group)

Salary Grouping	April 1978	January 1980
Range 20 and above	12.5%	15.3%
Ranges 15 - 19	30.3%	31.7%
Ranges 12 - 14	59.7%	60.9%
Ranges 11 and below	85.1%	83.8%

Table II shows that there have been marginal increases in the utilization of women in the two upper salary groupings over the twenty-one month period in question. Underutilization still persists however, especially in range 20 and above positions.

D. Where in the Regular Salary Structure are Most Minority and Female Employees Classified?

Another way of looking at the State's EEO profile is to consider how the minorities and females who are actually employed by the State are distributed throughout the four salary groups mentioned above. Consider the following facts with respect to State employees in positions which are classified as range 15 or above:

1. In April 1978, 18.0% of the State's minority employees held jobs classified as range 15 or above. This figure rose to 22.8% in January 1980.
2. By contrast however, 44.0% of the State's white employees in April 1978 and 45.5% of white employees in January 1980 held jobs classified as range 15 or above.
3. In April 1978, 18.0% of the State's female employees held jobs classified as range 15 or above. This figure increased to 20.6% in January 1980.
4. By comparison with women, 74.8% of the State's male employees in April of 1978 were in jobs classified as range 15 or above. This figure rose to 75.1% in January 1980.

The above comparisons clearly demonstrate that wide gaps in salary still exist between white and minority employees and between male and female employees in the regular salary structure.

IV. Departmental Progress Toward EEO

Of the fifteen departments in State government, only two have come close to reaching the State's 19.3% overall goal for minority employment. Those two are the Office of the Governor and the Department of the Health and Social Services, each of which has a 15.3% minority representation for regular salary structure employees. Only three other departments have a 10% or greater level of minority representation for regular salary structure employees. Ten departments, or two-thirds of the State's departments, employ minorities in the regular salary structure at a rate less than 10%. Half of these ten departments have experienced a decrease in minority employment over the past twenty-one month period.

Between April 1978 and January 1980, eight departments showed an increase in their overall percentage of minority employees, while seven experienced a decrease. (See Appendix B.) The most dramatic improvement was shown by the Office of the Governor, which increased its overall minority percentage by 2.7% over this twenty-one month period, from 12.6% to 15.3%. The most noticeable decrease was experienced by the Department of

Military Affairs, which dropped from a 7.7% minority participation level to a 4.0% level for regular salary structure employees over this same time frame.

The Departments of Community and Regional Affairs, Health and Social Services and Environmental Conservation have the highest representation of minority employees in range 20 and above positions, with 8.7%, 8.5%, and 8.3% respectively. Conversely, statistics for the Department of Revenue, Natural Resources, and Military Affairs show 0% minority representation in range 20 and above jobs. (See Appendix C.)

For an analysis of each department's EEO profile by race, sex, and salary group, See Appendix D.

V. Affirmative Action Plans

The key to increasing minority and female participation in State employment is the development of a solid and vigorous affirmative action plan (AAP) for each department and for the State as a whole, backed by strong commitments from top administrative officials and from line supervisors to implement their respective AAP's. Thus far, progress toward developing strong AAP's has been much slower than expected. This section will detail the State's efforts in developing and implementing workable departmental and statewide AAP's.

A. History of State AAP's

Although there were written AAP efforts in the early 1970's by all departments, (goals and timetables, and utilization analyses were not part of these early efforts), only a handful were ever updated on an on-going basis. By 1979, few individual departments in State government had current written documents which they labeled as an AAP. A statewide plan, written in 1975 and signed by the Governor in 1977, was deficient in design and content and did not meet federal standards of acceptability. Governor Hammond sought to remedy this situation by elevating the State EEO Office to Division status within the Department of Administration on September 7, 1978.

Soon after, the Division of Equal Employment Opportunity (EEO) began offering technical assistance to all departments in writing and implementing departmental AAP's. A manual entitled "Guidelines for Affirmative Action and Equal Employment Opportunity" was given to each department Commissioner in December 1978. These guidelines contained goals for minorities and women of 15.3% and 38.6% respectively based on the 1970 labor force rates for those groups. Commissioners were informed of the Division of EEO's June 30, 1979 deadline for submission, review and approval of all departmental AAP's. Additionally, the Division of EEO set a deadline of September 1, 1979 for completion of a statewide AAP. The Division of EEO revised its minimum goals and timetables upward to 19.3% for minorities and 44.0% for females in September 1979.

B. Results

What has been the State's success in developing and implementing departmental and statewide AAP's? The Division of EEO has informed the Commission that by July 1, 1979, none of the departments had submitted AAP's, despite the fact that several reminders were issued by the Division of EEO to all departments regarding the June 30 deadline. On July 13, 1979, Division of EEO Director Aaron Isaacs informed all Commissioners and all department EEO representatives by memorandum that the AAP deadline was extended to September 30, 1979. According to the Division of EEO, no AAP's had been submitted to that office by October 1, 1979. Shortly after the extended deadline, however, the first plans began to trickle in for review and approval. By February 1, 1980, the Division of EEO reported that the following departments had submitted AAP's which have been approved by the Division as workable, final plans:

1. Department of Fish and Game - finalized by mid-November, 1979
2. Department of Public Safety - finalized by mid-November, 1979
3. Department of Community and Regional Affairs - finalized by mid-December, 1979
4. Department of Administration - finalized by mid-January, 1980
5. Department of Transportation and Public Facilities - finalized by mid-January 1980
6. Department of Labor - finalized by the end of January, 1980.

In addition to the above, the Division of EEO reports that the following departments have submitted draft AAP's which are not yet in final form but are expected to be completed by the end of February:

1. Department of Health and Social Services
2. Department of Revenue
3. Department of Environmental Conservation
4. Department of Education
5. Department of Law

6. Department of Military Affairs.

Finally, the Division reports that the following departments have yet to submit a draft AAP:

1. Office of the Governor
2. Department of Commerce and Economic Development
3. Department of Natural Resources.

The Division staff reports that it has been given several reasons by departments as to why earlier AAP deadlines were missed, and why more than half of the departments still do not have final working AAP's. The most common reasons, according to the Division staff, are as follows: 1) EEO and the AAP's are not top priorities of State departments; 2) there is a lack of staff available within departments to write the AAP's; 3) budgetary matters, including budget preparation and testimony before the Legislature, are too time consuming to allow for in-depth work on other matters such as EEO concerns. The Division of EEO states that, in general, it has received marginal cooperation from State departments in fulfilling their AAP obligations.

At the same time, however, the division staff acknowledges that the departments were not provided with the current internal and external workforce analysis charts and the revised goals and time tables formats (based on working age population instead of labor force rates) until mid-September 1979. This undoubtedly contributed to departmental delays in submitting AAP's.

Nevertheless, it appears that most of the departments have been guilty of footdragging in completing their AAP's. This, in turn, has resulted in delaying the updating and revision of the statewide AAP.

C. Quality of AAP's

The Division of EEO has provided the Commission with copies of eight departmental AAP's, some in final form and others still at the drafting stage. The general design of these AAP's is, for the most part, acceptable. However, without going into all of the small details and technical complexities involved in writing an acceptable AAP, it is possible to make some generalizations concerning certain deficiencies which these AAP's possess. The deficiencies are as follows:

1. Only one of the AAP's reviewed contains a utilization analysis accompanied by goals and timetables for each division within the Department. Only one contains a utilization analysis by separate geographical location. Such analyses are essential to spotting areas of strength and weakness within each department.

2. The Equal Employment Opportunity Commission's Affirmative Action Guidelines found at 29 CFR 1608.1 through 1608.12 and the Uniform Guidelines on Employees Selection Procedures found at 29 CFR 1607.1 through 1607.18 should be added to the list of laws and executive orders appearing at the beginning of each AAP. Currently, none of the AAP's reviewed contain these references. Departmental AAP's will offer more legal protection if they can demonstrate a heavy reliance on both sets of guidelines as well as on the U.S. Supreme Court's recent Weber decision. Because of the Weber decision, employers may take voluntary affirmative action in order to correct conspicuous racial and/or sexual imbalances in their workforce. It is therefore important for every department to state clearly within its AAP that it is departmental policy to correct conspicuous racial and/or sexual imbalances wherever they exist in the department's workforce.
3. All AAP's reviewed contain workforce utilization analyses by broad EEO-4 categories only. However, applicable federal regulations strongly suggest a more detailed analysis of workforce data broken down by major job group. There are often several major job groups within each EEO-4 category. Analysis by major job group will assist departmental EEO officers in combatting the common phenomenon of minorities and women clustering at the lower end of the pay scale. Analysis by EEO-4 category only will simply facilitate perpetuation of the status quo.
4. The goals and timetables charts provided to each department by the Division of EEO are confusing to the point where it is impossible to determine precisely what any department's goals are for female and minority hire in any one of the broad job categories listed. As it presently stands, not all departments are using the same method of completing these charts. In addition, some charts are not filled in completely, and some departments actually appear to be attempting to correct underutilization by reducing the number of minorities and females hired. All of this makes it extremely difficult to decipher what goals and timetables are actually being adopted by each department.

The Commission strongly suggests that these charts be revised so that they clearly display the ultimate minority and/or female employment goal, the annual hiring rate, and what is planned for the year ahead statistically with respect to each major job group.

5. Despite problems in figuring out departmental goals and timetables, there are indications from some of the charts that several of eight departments do not plan to achieve parity for minority and female workers in their overall

workforce until at least the year 2000, and in a couple of instances even much later than that. In these instances, a more reasonable and legally defensible approach would be to adopt accelerated hiring rates for minorities and women to correct workforce deficiencies in a much shorter time span.

6. None of the AAP's reviewed contain goals and timetables for the promotion of minorities and women within the department broken down by division and geographical location.
7. Despite the Division of EEO's written instructions to all departments that they internally monitor their AAP's on a quarterly basis at minimum, only two of the eight AAP's pledge to do so. Three of the eight AAP's contain provisions for semi-annual monitoring, while the remaining three plan monitoring on an annual basis only. Federal enforcement agencies state that monitoring must be more frequent than annually in order to spot problems quickly and take corrective action. However, the Division of EEO plans to monitor all plans on a continuing basis.
8. Despite the Division of EEO's written instructions to all departments that they maintain applicant flow records for hires, transfers and promotions by race and sex for each job classification, only two of the eight AAP's reviewed outline plans to keep such records. Failure to keep and analyze applicant flow data by race and sex would make it impossible for departments to make necessary threshold determinations regarding the presence or absence of adverse impact for each job classification.
9. Currently, the AAP's contain references to the Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act of 1974; however, almost all of them are lacking the required narrative sections on the affirmative action policies, practices and procedures their departments will follow to implement these Acts. The Commission suggests that the appropriate affirmative action language relating to these Acts be incorporated into each affirmative action program.

The above items by no means represent an all-inclusive list of deficiencies which exist in these eight AAP's. The departments and the Division of EEO must work together to correct these deficiencies and enhance the overall quality of departmental AAP's.

VI. The State vs. Private Enterprise: Whose EEO Record is Better?

In September 1979, the Commission's Systemic Program published a statewide survey of employment patterns for major Alaskan

employers in several private industry categories. 1978 EEO-1 workforce data by race, sex, and job category was gathered from 48 major Alaskan employers in the following industry categories:

1. Banks
2. Airlines
3. Department Stores
4. Oil Companies
5. Oilfield Service Companies
6. Miscellaneous Major Employers

Data was collected from a large sampling of employers in each industry category rather than from all employers in each category. The total sample size involved in this survey amounted to 17,565 employees. Because of this large sample size, the Commission believes that these survey results are an accurate reflection of the employment patterns of major Alaskan employers.

The results of the Commission's private enterprise survey are matched side by side with the State's regular salary structure statistics for January 1980 in Tables III and IV below.

Table III. State and Private Enterprise
Minority Employment Comparison

(Minority Percentage)

Job Group	State of Alaska (January 1980 data)	Private Enterprise (1978 EEO-1 data)
All Jobs	9.8%	12.4%
Managerial and Administrative Jobs	3.6%	5.9%
Professional and Technical Jobs	6.1%	8.6%
Office and Clerical Jobs	15.6%	13.9%

Table IV. State and Private Enterprise
Female Employment Comparison

(Female Percentage)

Job Group	State of Alaska (January 1980 data)	Private Enterprise (1978 EEO-1 data)
All Jobs	53.9%	50.7%
Managerial and Administrative Jobs	15.3%	27.6%
Professional and Technical Jobs	31.7%	52.2%
Office and Clerical Jobs	83.8%	92.0%

The above comparison clearly shows that the Commission's representative sample of private enterprise employers is doing a better job than the State in overall minority hire, minority hire in the professional and managerial categories, and female hire in the professional and managerial categories.

VII. Conclusion

Although there have been a few bright spots worth mentioning, the State's overall progress toward equal employment opportunity has been minimal since April 1978 when the first set of EEO data was generated. In terms of the total percentage of minorities employed in State government and in the State's regular salary structure, there has actually been a small step backwards; (from 10.5% to 10.3%, and from 10.1% to 9.8%, respectively). Since April 1978, minority and female representation in the upper salary ranges has increased only marginally. The vast majority of female and minority employees is still clustered in the lower paying jobs (trainee and clerical positions).

All departments in State government still fall short of meeting the State's 19.3% minority employment minimum goal, some doing much worse than others. It is indeed discouraging to observe that, since April 1978, half of all departments in State government actually fell backwards in their effort to achieve the 19.3% minority employment minimum goal. Even more discouraging is the apparent sluggishness on the part of many departments in completing departmental AAP's and the lack of aggressive goals and timetables within several of the AAP's which are in final or near final form. This is particularly embarrassing in light of the fact that the State, which should be setting an example as Alaska's model affirmative action employer, is lagging noticeably behind private enterprise in minority and female hire.

If the State is ever to realize its goal of equal employment opportunity for all Alaskans regardless of race and sex, there must be an increased emphasis placed on insuring the completion and success of each department's affirmative action program. Over the next few years, each department should be able to boast that it has significantly increased its minority and female representation where underutilization has been identified, so that a small group of successful departments is not once again saddled with taking up the slack created by the majority of the departments. Effective affirmative action must be an on-going and department-wide activity, and should not be limited to the annual updating of the department's affirmative action program. If department AAP's are to have any real effect on improving the State's EEO profile, every departmental employee must do his/her part to see that all operative provisions of their AAP are carried out aggressively and in good faith.

Salary Ranges Covered: 5-30 (Regular Salary Structure only)

1980 Ranking	Department	1980 Minority %	1978 Minority %	1978 Ranking	Amount of Increase or Decrease
1	Office of Governor	15.3%	12.6%	4	+2.7%
1	H & SS	15.3%	15.6%	1	-0.3%
3	Community and Regional Affairs	13.6%	13.2%	2	+0.4%
4	Labor	13.3%	12.9%	3	+0.4%
5	Revenue	10.0%	10.2%	6	-0.2%
6	Public Safety	9.4%	10.0%	7	-0.6%
7	Education	8.5%	11.8%	5	-3.3
8	Administr-ation	8.1%	9.6%	8	-1.5%
9	Commerce	6.8%	6.7%	11	+0.1%
10	Environ-mental Conser-vation	6.3%	9.3%	9	--3.0%
11	Transport-ation	5.8%	5.5%	12	+0.3%
12	Fish and Game	5.4%	5.2%	13	+0.2%
12	Law	5.4%	2.8%	15	+2.6%
14	Natural Resources	4.2%	3.3%	14	+0.9%
15	Military Affairs	4.0%	7.7%	10	-3.7%

DEPARTMENT: ALL (Regular Salary Structure Only)

SALARY RANGES COVERED: 5-30

DATE	APRIL 1978		JANUARY 1980		APRIL 1978		JANUARY 1980		APRIL 1978		JANUARY 1980	
TOTAL PERSONS	7587		7673		3459		3539		4128		4134	
	BOTH SEXES				MALES				FEMALES			
	#	%	#	%	#	%	#	%	#	%	#	%
WHITE	6822	89.9%	6920	90.2%	3209	92.8%	3292	93.0%	3613	87.5%	3628	87.7%
NATIVE (includes Eskimo/ Aleut/Indian columns)	358	4.7%	326	4.2%	93	2.7%	85	2.4%	265	6.4%	241	5.8%
BLACK	198	2.6%	181	2.4%	81	2.3%	69	1.9%	117	2.8%	112	2.7%
HISPANIC	59	.8%	68	.9%	20	.6%	25	.7%	39	.9%	43	1.0%
ASIAN	82	1.1%	90	1.2%	27	.8%	35	1.0%	55	1.3%	55	1.3%
OTHER	68	.9%	88	1.1%	29	.8%	33	.9%	39	.9%	55	1.3%
TOTAL MINORITY	765	10.1%	753	9.8%	250	7.2%	247	7.0%	515	12.5%	506	12.2%

WOMEN	4128	54.4%	4134	53.9%
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CASE PROCESSING STATISTICS
1979

A. Analysis of new cases filed in 1979

RACE OF PERSONS FILING CHARGES

Race	Number	Percentage
1. Caucasian	148	49%
2. Black	84	27%
3. Alaska Native	40	13%
4. Hispanic	11	4%
5. Asian	8	3%
6. Other/Unknown	13	4%
<hr/>		
TOTALS	304	100%

SEX OF PERSONS FILING CHARGES

Definitions	Amount of Cases	Percentages
1. Female	189	62%
2. Male	108	36%
3. Director's Charges and Multiple Charging Parties	7	2%
<hr/>		
TOTAL	304	100%

REASONS ALLEGED BY COMPLAINANT

Definition	Amount of Cases	Percentages
1. Race	113	37%
2. Sex	79	26%
3. Multiple Reasons	41	13%
4. Other (Religion, Pregnancy, Parent- hood)	26	9%
5. National Origin	10	3%
6. Age	14	5%
7. Physical Handicap	10	3%
8. Marital Status/ Changes in Marital Status	11	4%
<hr/>		
TOTAL	304	100%

TYPE OF UNLAWFUL PRACTICE ALLEGED

	Total Number of Cases	Percent of Total Cases
1. Employment A.S. 18.80.220	271	89%
2. Government Practices A.S. 18.80.255	11	3%
3. Retaliation/Coercion A.S. 18.80.200/A.S. 18.80.260	1	1%
4. Public Accommodations A.S. 18.80.230	9	3%
5. Housing A.S. 18.80.240	5	2%
6. Finance A.S. 18.80.250	7	2%
<hr/> TOTALS		100%
		304

B. Closing Actions

REASONS CASES WERE CLOSED
JANUARY - DECEMBER 1979

Definitions	Number of Cases	Percentages
1. No Probable Cause	146	35%
2. Conciliation/Settlement	98	23%
3. Administrative Dismissal *	169	41%
4. Hearing Results	4	1%
<hr/> TOTAL		100%
		417

* Includes: withdrawals, failure to complete filing process, and lack of jurisdiction.

C. Analysis of unresolved cases as of December 31, 1979.

STATUS OF UNRESOLVED CASES

Status	Number	Percentage 12/31/79	Percentage 12/31/78
1. Not Yet Assigned for Investigation	104	18%*	40%
2. Under Investigation	381	70%	50%
3. Settlement/Concilia- tion Being Negotia- ted	26	5%	4%
4. Conciliation Failed/ Awaiting Hearing	14	4%	4%
5. Appeal Pending	11	2%	1%
6. Hearing Held/Await- ing Order	7	1%	1%
TOTAL	543	100%	100%

* Great decrease in proportion of cases unassigned since December 31, 1977 when this figure was 57%!

AGE OF UNRESOLVED CASES

Filing Time Period	Total	Percent
1974 - 1975*	12	1%
January - June 1976	20	4%
July - December 1976	22	4%
January - June 1977	57	11%
July - December 1977	59	11%
January - June 1978	63	12%
July - December 1978	71	13%
January - June 1979	117	22%
July - December 1979	112	22%
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TOTAL	533	100%

* Cases filed in 1976 and earlier are mostly in court or at hearing.

D. SUMMARY OF CASES PROCESSED BY REGION

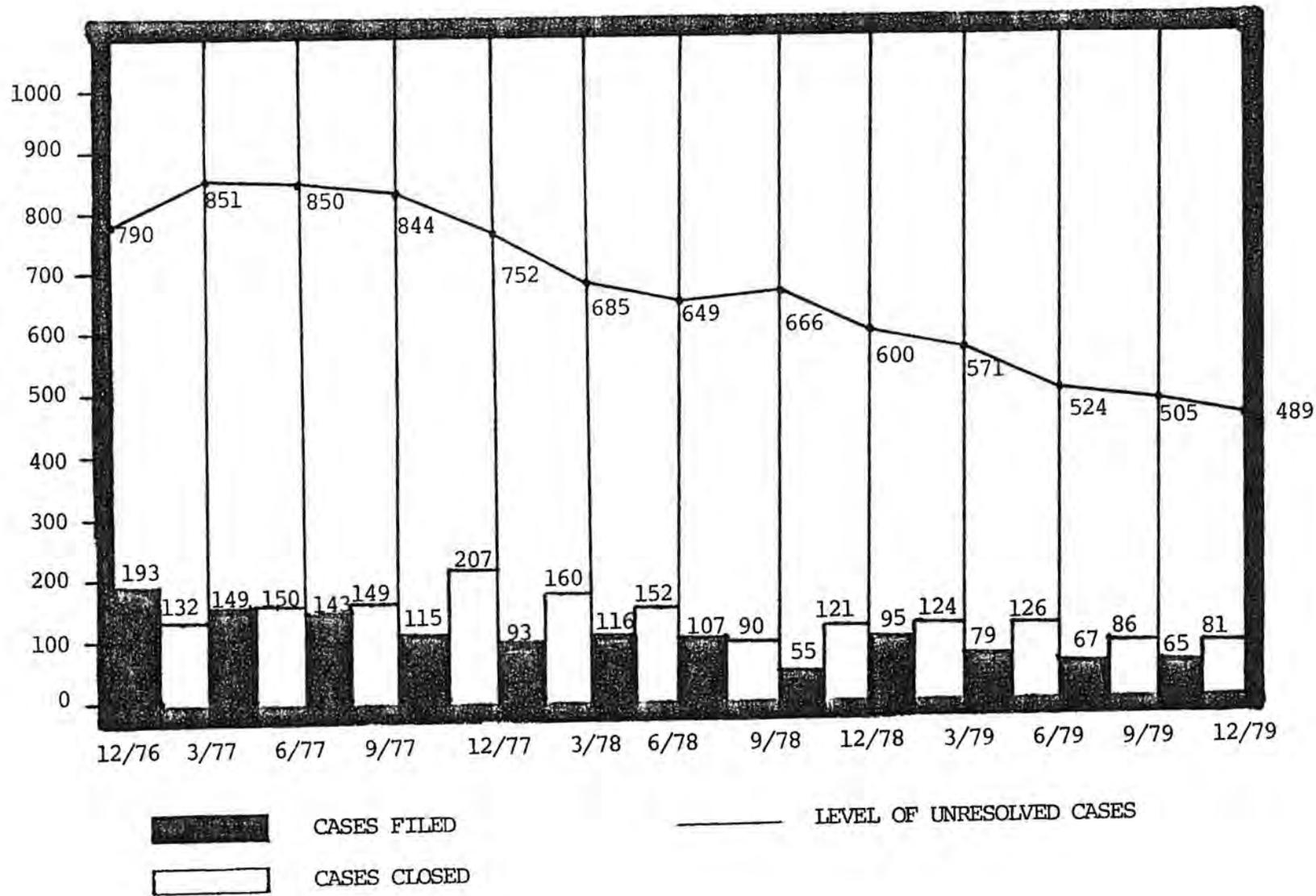
January - December 1979

<u>Region</u>	<u>Cases Unresolved on 1/1/79</u>	<u>New Filings 1979 (1978)</u>	<u>Cases Resolved 1979 (1978)</u>	<u>Cases Unresolved on 12/31/79</u>
Southcentral	318	138 (245)	246 (266)	207
Systemic Office	12	20 (12)	3 (5)	30
Northern	250	65 (92)	126 (180)	187
Southeastern	46	81 (57)	42 (84)	89
TOTAL	626	304 (406)	417 (535)	513

E. QUARTERLY CASE PRODUCTION ANALYSIS

1976-1979

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JAY S. HAMMOND, GOVERNOR

HUMAN RIGHTS COMMISSION

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APPENDIX B

February 28, 1980

FOR IMMEDIATE RELEASE
Contact: Niel Thomas
Daveed Schwartz

Human Rights Commission,
State Transportation Dept.
Agree to Minority Contractor Program

The state has begun an ambitious three-year program to increase opportunities for businesses owned by minority people seeking state contracts. The effort is also expected to increase the number of jobs for minorities and women with all government contractors and subcontractors.

Officials of the State Human Rights Commission and the Department of Transportation said the program constitutes settlement of a 1978 discrimination complaint by the Commission's director, Niel Thomas. By undertaking the program, the Department of Transportation made no admission that contracting and work opportunities have been handled in a discriminatory manner in the past.

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"Estimates of the value of the settlement to minority contractors are speculative, since we are not entirely sure how many such businesses there are or how successful they will be in bidding under the new program," Thomas said. "We believe that if the minority contractors come forward so that DOT can meet its expectations, that at least \$80 to \$100 million in business may flow to minority contractors over the life of the agreement.

"Considering that the total value of all the 3000 cases filed with the Commission since 1974 represents just \$3 million, we view this settlement as the Commission's most important achievement to date," the Commission's director said.

The agreement says that DOT expects that minority businesses will receive 7.5% of state contract dollars in its first year, 11.5% in the second year, and 15% in the third year. Targeted are prime contracts under \$100,000 and all subcontracts.

"We have tried to disturb the operation of free market bidding and state contracting procedures as little as possible and still ensure fair contracting and work opportunities for minority people and women," Thomas said. "The underlying principles of the agreement are that the State will compile information about minority contractors and who is employed on state projects, the State will be prepared to take enforcement

against violators in the same way that it treats any breach of a contract, and that there will be people who will be staying on top of the process.

"In short, contractors who fail to maintain fair hiring and subcontracting practices will be in the same kind of trouble with the State as if they failed to build a road as wide as specified or a building without the right number of doors and windows," Thomas said.

The agreement can be implemented with existing DOT employees and with no major increase in the complexity of the contracting process, state officials said.

Bonding requirements which officials said often stand in the way of minority contractors and small businesses in general when they try for state contracts may be relaxed, according to the agreement. In one provision DOT has pledged to seek legislation to eliminate smaller contracts from existing bonding requirements.

Professional service contracts used to be awarded in part on the basis of prior state experience. The agreement eliminates this evaluation standard in an effort to open the process to more minority contractors.

"Minority" is defined in the agreement as Blacks, Hispanics, Asian and Pacific Islanders and American Indians or Alaskan Natives. Corporations owned by minority people must

also plan to employ minority people as managers in order to qualify as a minority contractor.

The agreement requires special efforts directed to the minority business community by way of direct contacts from the State and advertisements in minority-oriented media.

The agreement is enforceable, giving the Human Rights Commission authority to seek court orders if it cannot first resolve any dispute over whether DOT is complying with the agreement.

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