

ANNUAL REPORT OF THE
ALASKA STATE COMMISSION FOR HUMAN RIGHTS
1983

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February, 1984

The Honorable Bill Sheffield
Governor of Alaska

Honorable Senators and Representatives
Alaska State Legislature, 13th Session

In accordance with AS 18.80.150, the Commission now presents its Annual Report on the activities of the agency in 1983.

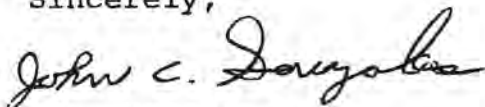
Alaska law charges the Commission to advise the Legislature of civil rights problems it has encountered and to make recommendations for legislative action. Therefore, we take this opportunity to call for the passage of civil rights bills presently before the Legislature.

First, we support the passage of House Bill 131, introduced by Representative Hurlbert, adding parenthood as a protected class to AS 18.80.240, the housing section of state anti-discrimination law. Such protection is now provided in other sections of our enabling legislation, and we feel this addition is necessary to promote equal housing opportunity for Alaskan families with children.

Second, we endorse the concept of state legislation prohibiting acts of harassment based on racial or religious motivation. We stand firmly opposed to such heinous deeds and request legislative action defining them as criminal violations especially repugnant to all Alaskans.

We hope that this report will provide you with a clear understanding of our agency's programs and of its many achievements during the past twelve months.

Sincerely,



John Gonzales
Chairperson

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STATEWIDE REPORT

by
Janet L. Bradley
Executive Director

1983 marked the twentieth anniversary of the creation of the Alaska Commission for Human Rights. From its very beginning in June 1963, the Commission recognized the enormity of its legislative mandate to eliminate and to prevent unlawful discrimination, ensuring the human rights of all Alaskans. One year later, the passage of the federal Civil Rights Act of 1964 increased the overall workload of the agency and heightened citizens' expectations for services, both investigative and educational. From a review of annual reports and agency records, it is evident that the workload of the Commission has consistently exceeded its capability to satisfy the public's demand for equal rights under the law.

1983 also saw the first Commission Decision and Order applying AS 18.80.255 dealing with discrimination in the delivery of governmental services. In April, the Commission found that the Alaska Department of Fish and Game had violated the civil rights of Yakutat fishermen by unjustifiably closing the traditional Native surf fishery in the East and Alsek Rivers while allowing the upriver non-Native fishermen to continue their salmon harvest. The Commission Order declared the discriminatory Fish and Game regulation invalid. Although the decision was not appealed, damages to the Complainants and other Native fishermen were not awarded because the Commission is empowered to order only injunctive relief in ruling on that section of its statute. The Native fishermen are now litigating their claims for lost income resulting from the discriminatory closure.

The State of Alaska was also the respondent in the longest administrative hearing conducted in the history of the Commission when the pay equity complaints of State public health nurses were heard in the fall. At issue is the meaning of the sex/wage discrimination sections of Alaska human rights law including the section which "prohibits the employment of a female in an occupation in this state at a salary or wage rate less than that paid to a male employee for work of comparable character". Commission staff found there was substantial evidence supporting the complaints that the rights of the nurses, all women, were violated when the state classified the physician's assistants, all men, at a higher pay range for work comparable to that of the nurses. The six week hearing included testimony from expert witnesses, state personnel responsible for classification and position analysis, the complaining nurses, the physician's assistants, and supervisors for both job classes. A recommended decision from the hearing examiner is due in mid-1984; the final decision rests with the Hearing Commissioners.

Another major undertaking during 1983 was the Commission's response to the U.S. Civil Rights Commission's study "Bringing an Industry into the 80's: Affirmative Action in Seafood Processing". The six month progress report from the Alaska Commission is reproduced in this annual report. A more recent development is the invitation from the Seafood Advisory Committee for the Alaska Commission to conduct a Human Rights Seminar for industry representatives in February 1984.

In May 1983, the Commission staff reached an out-of-court agreement with the Alaska Department of Transportation and Public Facilities in settlement of a lawsuit filed in fall 1982. This litigation was commenced in an effort to compel compliance with DOTPF's 1980 agreement with the Commission to implement a Minority Business Enterprise program with negotiated goals for MBE participation in state construction contracts. The out of court settlement concluded this spring extended by two years the period for required reporting to the Commission. During these two additional years, the goals for MBE participation are set for 15% of all state-funded construction subcontract dollars. The Commission also agreed to rescind the agreement when DOTPF institutes a program equal to or better than the current MBE contract program mandated by the settlement. In July the Commissioners endorsed DOTPF's plan for a two-phase MBE program. During summer and fall 1983, staff expended significant resources in support of DOTPF's proposal creating a strengthened MBE program. Disapproval by the federal government and the resignation of former Commissioner Casey caused the collapse of any progress toward improved minority participation in state construction projects. To date, the State continues to lack an effective MBE program despite the Commission's continuing pressure and the rising discontent of the minority business community. This matter remains a chief concern of the Commission.

In 1983, the Commission Attorney took court action to compel a Respondent appealing the Commission's Decision and Order to post a bond for damages. This is the first time the agency has taken such action to assure that dollars will be available for the victims of discrimination should the appeal be denied. In this particular case, posting the \$113,000 bond was especially important since Respondent had no assets in the state. In other litigation initiated by the Commission's attorney, settlements resulted on two cases. One involved over \$200,000 in back pay to a class of women denied dispatch during the Pipeline Construction era. In the other case, a voluntary affirmative action plan with stipulated goals for minority and female employment was instituted. A unique feature of the agreement was a provision for the Commission's award of wages to available and qualified minorities and women not hired by the employer under the terms of the plan. At least 25 lucrative North Slope jobs will go to minorities and women during the first year of the agreement.

Such major impact cases resulting in class action settlements or sweeping changes in employment practices generally are investigated by the Systemic Program Director. More typical cases processed by the Commission are those filed by individuals who turn to the agency when jobs or apartments are denied or when sexual harassment or an unfair discharge is their lot. In 1983, the agency accepted 346 individual complaints, an increase of 43% in filings over the past two years. Women filed 64% of the Commission's new complaints in 1983, compared with 46% in the previous year. The number of housing complaints, although small, tripled in 1983 as the Commission entered the second year of its participation in the U.S. Department of Housing and Urban Development's Fair Housing Assistance Program. Staff also responded to 2,437 inquiries from the public who call the Commission for advice and technical assistance, an increase of 30% over 1982. A recent survey showed that roughly half of such inquiries are referred to other sources of help because the problems do not fall within the scope of the agency's law.

In spite of the loss of one investigator position in FY 84 and the ever-rising tide of complaints and inquiries, staff resolved 309 cases, only 10 fewer than in 1982 and 48 more than in 1981 when the agency had 26 authorized staff positions. A tally of annualized and actual monetary benefits derived from settlements concluded in 1983 revealed that \$1,409,844 were received by complainants and class beneficiaries, up from \$515,383 in 1982. A further analysis of staff productivity linking resolutions to skill levels of investigative staff revealed that investigator productivity rose by 33%. However it is also true that, although the average age of cases in the inventory declined, the number of cases in the inventory rose by 10% compared with a 7% reduction in 1982, due to the increased filing rate and decreased staff positions.

This problem identified in last year's report, the public's increasing demand for services from an agency with diminishing resources, was addressed by headquarters' staff in March 1983. A day and one half day strategic planning session established five priorities in rank order for staff action: 1.) the agency's inventory of older cases; 2.) the outmoded management information system; 3.) the outdated procedures manual; 4.) revisions to the personnel policy manual; 5.) staff training. During 1983, resources were allocated in light of these established priorities. Docket began monitoring the numbers of cases over 180 days in process. As a result of an inventory audit in the spring, cases were transferred to regions where available investigative resources permitted more rapid case processing. The Southcentral office, historically burdened with a large inventory of cases, divided its staff, half processing incoming complaints and half focusing attention on the inventory of existing cases where early resolution had failed.

In recent months, the worksharing agreement concluded in 1982 with the Anchorage Equal Rights Commission was amended permitting the state commission to defer to the local commission more cases

for initial processing. ERC's growing case processing capability is expected to ease the heavy workload in the Southcentral office.

An Inventory Reduction Project is planned for March 1984 bringing a team of three staff members together to target cases over 180 days in process for expedited processing. The Southeastern Director appointed to coordinate the project took part in a similar effort while employed by the Equal Employment Opportunity Commission.

During 1983 wordprocessing equipment was upgraded to meet the increasing typing demand. This same equipment is being adapted with software to handle in-house the computerized case management system, the recruitment system, and fiscal reports for better internal budgeting. New regulations eliminating costly and time consuming certified mail procedures have been published for comment with adoption anticipated for spring 1984. Streamlining procedures and computerized reporting is expected to speed up case processing.

In addition to the on-going training for investigators who must progress through specialized training modules to be eligible for promotion, all professional staff attended a two day civil rights seminar sponsored by the Alaska Chapter of the American Association for Affirmative Action in Anchorage in May. The Northern Director, appointed agency training coordinator in spring 1983, has developed an agency training plan and guidelines for expenditure of a small but designated training budget for staff and Commissioners. Professional growth is essential for agency staff who must correctly interpret the case law developing in both state and federal courts as they make determinations of the cases under investigation.

At year end, staff again analyzed the inventory for further resource allocation and to prepare for the Inventory Reduction Project. The caseload is divided as follows: 1) Only 12 % of the inventory, mostly recently filed complaints, remain unassigned for investigation; 2) 61% of all complaints are in active investigation either by the state commission or by one of the other enforcement agencies which join forces by worksharing agreements; 3) 7% are in the post-hearing stage of adjudication; 4) the 20% residual inventory of cases awaiting further investigation because early resolution attempts have failed remain a major problem. Management is hopeful that the innovations which increased productivity in 1983 will bear even more positive results in the coming year. However, it is likely that this productivity will peak out long before the public's demand for equal rights is satisfied. Therefore prompt service to Alaskans may remain beyond the capability of the Commission at its current staffing level.

SYSTEMIC PROGRAM REPORT

by
Daveed A. Schwartz
Systemic Program Director

The mission of the Commission's Systemic Program is to identify major issues of discrimination throughout Alaska and to address such issues by initiating large-scale investigations and enforcing comprehensive settlement agreements. The Systemic Program also provides substantive training and technical assistance to employers, landlords, and others who are subject to Alaska's anti-discrimination statutes. During 1983, significant activity occurred with respect to the systemic projects mentioned in last year's annual report, particularly regarding two specific projects.

First, as was mentioned in the 1982 report, the Commission staff had initiated a complaint against a large private enterprise employer alleging race and sex discrimination in recruitment and hiring for all job classes. It was also mentioned that the Commission subsequently filed a law suit in the Superior Court for the State of Alaska in October of 1982 after the employer in question refused to comply with a staff Request for Production of Documents. As a direct result of the Commission's court complaint, the company (a North Slope employer) agreed in March of 1983 to a four-year settlement resolving the original race and sex discrimination complaint. The settlement is referred to as an affirmative action agreement and embodies the principles of (1) the U.S. Equal Employment Opportunity Commission's Affirmative Action Guidelines and (2) the June 1979 U.S. Supreme Court case of Steelworkers of America v. Weber, the lead federal case concerning voluntary affirmative action programs in employment. The agreement's hiring goals pertain to female applicants of all races and to male applicants who are Alaska Native, Black, Hispanic, or Asian. As a result of the Commission's efforts on this matter, the employer in question has significantly increased its hiring of minorities and women in most of its major job categories during the first six months of the agreement.

Second, last year's annual report highlighted another complaint filed by the Commission in the Superior Court for the State of Alaska, this involving the State Department of Transportation and Public Facilities (DOT&PF) Minority Business Enterprise program. In May of 1983, the Commission and DOT&PF reached an out-of-court settlement of this law suit wherein affirmative action goals pertaining to certain prime contracts and subcontracts were extended two additional years while DOT&PF simultaneously announced plans to implement stronger, more effective procedures to assist minority and female-owned businesses.

In July of 1983, the Human Rights Commissioners endorsed as a pilot project DOT&PF's new two-phase minority and female business plan which DOT&PF later submitted to the federal government for approval. After several months of deliberation, the federal government announced that while it approved of one of the plan's

phases, it had rejected the other. Shortly thereafter, DOT&PF experienced a change in leadership at the Commissioner and Deputy Commissioner levels. This in turn has resulted in a delay in implementing an acceptable plan that will provide a fair share of dollars to minority and female-owned businesses. As of this writing, DOT&PF is still in the process of attempting to develop an effective program in this crucial area of government-sponsored construction contracts. The Human Rights Commission will continue to press for the establishment of a comprehensive, institutionalized program for minority businesses seeking state construction contracts.

During 1983, the Systemic Program also became involved in efforts to encourage affirmative action in Alaska's seafood processing industry. During peak season, this industry is one of the largest employers of workers in the State. The Alaska and Washington Advisory Committees to the U.S. Civil Rights Commission published a report in April of 1983 entitled, "Bringing an Industry Into the 80's: Affirmative Action in Seafood Processing". That report recommends that the Alaska Human Rights Commission and other civil rights enforcement agencies play a lead role in correcting industry practices which adversely impact minorities and women in employment and housing opportunities. The Human Rights Commission has responded accordingly to the report's recommendations, and the Systemic Program is playing an integral part in this critically important matter.

RURAL PROGRAM REPORT

by
Catalino Barril, Jr.
Rural Program Director

The primary commitments of the Rural Program during 1983 continued to be the development and management of a comprehensive statewide human rights delivery system, the further development of public service announcements, and educational workshops conducted for the purpose of informing rural Alaskans of their rights and responsibilities under state and federal laws.

Shareholder employment preference by Alaska Native Corporations organized for profit under the Alaska Native Claims Settlement Act of 1971 (ANCSA) continued to be an unresolved problem. As more regional and village corporations increase the scope of their business ventures both locally and statewide, they are also asserting more authority on how those operations be conducted, especially on how they relate to shareholder hire, a mandate that most profit corporations have received from their shareholders. The Rural Program Director will continue to track this very important issue and provide technical assistance and educational activities whenever requested.

In July Jerry Woods resigned as the Rural Program Director and left ASCHR. His successor, Catalino Barril, Jr., received his appointment early in September and commenced working the latter part of the month. Director Barril does not anticipate any major changes in the direction of the program at this time.

Because of the change in Rural Program Directors, travel in rural Alaska was not as extensive as in previous years. The Program Directors did attempt to reach the greatest number of rural Alaskans by scheduling public education and technical assistance workshops in conjunction with rural activities such as the AFN Convention, Tanana Chiefs Convention, ANB-ANS Convention, and prearranged federal, state and rural workshops. The Rural Program Director also intervened where a small village was experiencing inter-racial conflict.

A major project during the last quarter of the year involved researching material, printing costs and distribution of pamphlets on the services of the Alaska Human Rights Commission and on sexual and racial discrimination. The Rural Director is also coordinating with Executive Director Janet Bradley and Systemic Director Daveed Schwartz on a two-day workshop to be held in Seattle, Washington for representatives of the seafood processing industry.

The year 1984 started out at a very brisk pace with public education workshops planned for January, February and March with a fourth in the planning stages for April. The Rural Program Director will also concentrate on strengthening the ties between the Alaska Human Rights Commission, other state, local and federal agencies, and the regional and village corporations.

NORTHERN REGION REPORT

by
Cathi Carr-Lundfelt
Regional Director

"Do more and better with less!" is a recurring theme in our state, the largest in the Union. This is nowhere more true than in the Northern Region, an area bounded by Point Barrow and Isabel Pass, and by Norton Sound and the Canadian border. Added to the limits on social and economic resources which affect all Alaskans are those imposed by the Northern weather and geography. Northerners are experienced in dealing with limits. They have established their pioneering reputation chiefly by surviving when resources dwindled.

This has largely been a year of re-grouping to make best use of available resources. Although the Fairbanks unemployment rate is still higher than in other urban areas, the local view is that business is doing better. Economic activity no longer rivals that of the pipeline construction era, but state funding of capital improvement projects in Northern communities, oil company

exploration and construction projects on the North Slope, and corporate activities of Native profit-making organizations have helped put the area into a slow, steady growth pattern. There are jobs, but they are not available for everyone.

Everywhere public officials and their constituents are working harder than ever to make decreasing sources of revenue compatible with increasing demands for service. This office is subject to the same concerns; our investigative staff was reduced to three and our senior investigator was transferred to fill a vacancy in the Hearing Unit. We also had to cope with the effects of our own vacancy rate: three of our staff members are new to the agency this year. We recognize that adjustments must be made to such circumstances, but this does not mean that the agency goals have changed. Our responsibility to our constituency is and continues to be to provide services of high quality in the most efficient manner possible. To do this, we have committed much of our resources this year to improving the skills of our staff. We have provided technical training to our investigators and we have incorporated advanced technology in word processing into our agency procedures.

At the same time, Northern residents made a significantly greater number of inquiries concerning the application of discrimination law than they had in previous non-pipeline years. It is true that they filed fewer complaints this year, but 30 of those who made inquiries intended initially to file complaints, yet failed to complete final processing. It is possible that some of them would have completed filing if our staffing resources had permitted immediate response. In the final quarter we began to see the effect of our commitment to staff training. Investigations in a greater number of our cases, particularly the older ones, were brought closer to completion. Our caseload is moving again and we will see concrete results early in 1984.

We served a broader segment of the urban community in 1983. Hispanics filed a noticeable percentage of our new complaints this year, although they had not filed even one in the previous year. We also had several more complaints from women this year, and comparably fewer from men. We have no explanation for this difference. However, we recognize that we reduced our responsiveness to the rural communities. Complaints from Alaska Natives fell as compared with last year, effectively eliminating our gain in 1982. Reduced travel to rural areas by regional and Rural Program staff during 1983 probably accounts for this. We will have to use staff time and travel money creatively to improve our rural contacts in 1984.

Adjustment to resources is also required by the nature of our complaints. Employment discrimination has long been the greatest percentage of our in-coming cases. However, more of those cases are ineligible for dual-filing under our work-sharing agreement with the federal Equal Employment Opportunity Commission. Complaints filed based on age and physical handicap are the most

significant in this category. This means that fewer of our new filings are eligible and our federal revenue resources are potentially reduced. We are getting increased numbers of filings of complaints of discrimination in housing which will become eligible for monies under the Department of Housing and Urban Development in coming years, but there are too few now to make a significant difference in our regional allocations.

Our public education activities were also limited to those which had the broadest impact with the least expenditure of staff time. We worked primarily on presentations with other organizations, such as the Alaska Commission on the Status of Women, Credit Women International, the State Department of Labor, and the State Bilingual/Bicultural Advisory Council. Our hopes for resurrection of a functioning City of Fairbanks Human Rights Commission were realized this year. Mayor Walley appointed a number of Fairbanks citizens to the Commission and our staff renewed its commitment for support and assistance to the Chair, Robert Jiminez. The City Council has funded the municipal commission in the amount of \$40,000 for 1984. This is less than requested, but provides evidence of Council commitment to the City agency. It is anticipated that the City Commission will focus on public education activities during the coming year, thus providing local residents with another level of resources specifically attuned to their needs.

We approach the coming year conservatively, but hopefully. There is a great deal to be done within very real limitations. We have faith that our staff and our constituency are creative enough to do what Northerners do best: pioneer.

SOUTHCENTRAL REGION REPORT

by
Karen W. Slack
Regional Director

During 1983, the Southcentral Region experienced a dramatic increase in the number of new complaints. In addition, there was a phenomenal increase in the number of public inquiries, particularly during the last quarter. Adequately responding to the public required detailed explanations of the Human Rights statutes and regulations, and hindered case production in an office with limited staff and resources. Despite these circumstances, the Southcentral office closed more cases during 1983 than in the previous year. This was due to an emphasis on resolution oriented techniques encouraging Complainants and Respondents to reach settlement at any juncture in the investigation.

The Southcentral office reacted to management directives to resolve older cases in the face of the increased public demands for services by adopting a new pattern of case assignment. This pattern divided staff investigative resources between cases in

the existing inventory and new filings needing early resolution attempts.

In addition, the mutually beneficial worksharing agreement between the Anchorage Equal Rights Commission and the State Commission was modified to permit ERC to process more cases originally filed in the Southcentral office.

As part of capacity building in this second year of funding from the U.S. Department of Housing and Urban Development, HUD Housing Specialist Marlene Boberick has been providing technical assistance to both ERC and the Southcentral Region.

In conclusion, it is noteworthy to review the types of settlements achieved during the year, both monetary and non-monetary in nature. Approximately \$350,000 in annualized and actual benefits were received by complainants. Furthermore, non-monetary benefits included changes in respondents' policies and practices in order to comply with the law and injunctive relief ameliorating the conditions which prompted the complaint.

SOUTHEASTERN REGION REPORT

by
Patsy M. Fletcher
Regional Director

Staffing stability and increased productivity characterized 1983 in the Southeast Region. Understaffing and turnover which plagued this office in past years was not a problem. It is likely that stability in staffing contributed in good measure to the two-thirds increase in complaint resolutions.

Because we started the year with all new staff, we necessarily spent considerable time in training. New ideas and information have led us to develop more efficient case processing. We have concentrated in particular on careful screening of potential complaints, detailed and thorough complaint intakes, well-defined investigative plans, where possible, prompt scheduling of resolution conferences, and settlement attempts on every complaint.

In line with a 1983 agency-wide priority, we attacked our languishing backlog of complaints utilizing some of the methods listed above. Having to reconstruct situations which occurred four and five years back is always more difficult and time consuming. However with much diligence our investigators were able to work through the backlog and resolve the majority of those cases, some of which resulted in backpay settlements totaling thousands of dollars.

A matter of some concern has been the low number of new complaints being filed in Southeast Alaska. The majority of our complaints still come from Juneau, Ketchikan, and Sitka with increased numbers from Southeast villages. We have combined

outreach and public education efforts with our investigative travel throughout Southeast in attempts to become more visible and available to our communities. We are better able to handle new complaints due to our full staffing and more efficient procedures which have reduced processing time to an average of about five months per complaint.

We have, as an alternative, been assisting the other regions by taking on investigations of complaints from their inventories or which needs to be reassigned because of conflict of interest or other problems. This reallocation of resources has been operating smoothly and has been helping reduce the agency backlog while maintaining a flow of work for the Southeast office.

Even given the small numbers of new complaints, a few trends may be seen in the sources and types of discrimination in Southeast. We have had a significant increase in the number of housing discrimination charges, most based upon race. Persons complaining of discrimination in government practices has risen slightly. All alleged race as the basis of differential treatment.

Finally we have received a fair number of inquiries from Southeast inhabitants seeking relief from alleged discrimination over which ASCHR has no jurisdiction. One woman was fired from her job with a charitable organization she claimed, simply because her husband, a co-worker, was discharged from the same agency. A person alleging racial harassment from the director of the religious organization for which she was employed was unable to file a complaint with us. In these two matters, the Commission could not accept complaints because the employers were non-profit corporations not covered by state law. The Alaska Commission could not investigate charges that a qualified wheel chair bound applicant was not hired at a private school solely because the facility was inaccessible since physical handicap discrimination is only covered in the employment section of state law. An older citizen allegedly denied a loan because of her age was prevented from filing a complaint because discrimination in financial practices does not cover age as a basis. Limitations in the Human Rights law prevent us from working to eliminate these allegations of unfair treatment.

HEARING UNIT REPORT

by
Mark A. Ertischek
Human Rights Advocate

The Hearing Unit has had an active year. Two Commission employees transferred to the Hearing Unit. Diane Barr came on board as Legal Secretary and Jim Nall came on board as Legal Assistant. Following is a brief description of each of the cases presently at the hearing stage in the Hearing Unit:

Nicholson v. O'Neill Investigations - The complaint alleged failure to hire because of sex and age. The hearing was held in

the summer of 1983. The post-hearing briefing has been completed, and we are awaiting the decision of the Hearing Examiner.

Wallace v. Fluor Alaska, Inc. - The complaint in this case involved the issues of discriminatory employment practices and a retaliatory discharge. An Order finding against the Complainant under the discriminatory practices issue, and in favor of the Complainant on the retaliatory termination issue was entered by the Commission. On appeal, the Commission's Order in favor of the Complainant on the retaliation issue was overturned, and the matter was remanded to the Commission for further hearings. A new Pre-hearing Conference was held in December of 1983. The case has been scheduled for a new hearing in March of 1984.

Bradley v. Ketchikan Gateway Borough School District - The complaint alleged pregnancy discrimination in the terms of employment. The Respondent complied with the discovery requests as ordered by the Hearing Examiner. Work on the case is proceeding.

Johnson v. State of Alaska, Department of Fish and Game - The complaint alleged government services discrimination because of race in connection with the closure of surf fishing at the mouth of the Alsek River. The Proposed Order of the Hearing Examiner finding in favor of the Complainant was entered on January 21, 1983 and the Final Order of the Commission adopting the proposed decision of the Hearing Examiner was entered on May 27, 1983. This was the first time the Commissioners had applied A.S. 18.80.255 to end the discriminatory practices of a government agency in a non-employment situation. The case was not appealed by the State of Alaska.

Jordan v. Alascom and Teamsters - The complaint alleged religious discrimination due to the Respondent's failure to accommodate the Complainant's religious practices. The hearing was held in June 1983. The Proposed Order of the Hearing Examiner finding in favor of the Complainant and awarding her approximately \$90,000 was entered on November 16, 1983. The Commissioners have not yet acted on the Proposed Order.

Bradley, et al v. State of Alaska Department of Health and Social Services and Department of Administration - The complaint alleged sex discrimination in employment because of the failure to pay a female dominated job classification the same as a male dominated job classification where the incumbents of both job classes perform comparable work. The hearing of the public health nurses case was held during September and October of 1983. The hearing lasted approximately seven weeks. The parties are in the process of preparing post-hearing briefs. This was the longest hearing conducted in the Commission's history. It involves a number of important issues of sex discrimination including the first application of A.S. 18.80.220(a)(5), which requires equal pay for

work of "comparable character". We anticipate the case will be decided during 1984.

Willets v. Fluor Alaska, Inc. - The Complainant alleged retaliatory discharge after complaining of sexual harassment. The case was heard in February, 1983. Post-hearing briefs have been completed and we are awaiting the proposed decision of the Hearing Examiner.

Pedersen v. H & S Earthmovers - The complaint alleged sexual harassment and discriminatory termination. A settlement was concluded providing for the payment of \$5,000 to the Complainant.

Hawkins v. Alaska International Construction - The complaint alleged the failure to hire because of age discrimination. The discovery process has concluded. The Respondent moved to dismiss. The Commission opposed the Motion. We are awaiting the decision of the Hearing Examiner.

Williams v. Union Oil - The Complainant alleged the failure to hire because of handicap discrimination. The discovery process continues. We anticipate bringing the case to hearing in February of 1984.

At the start of 1983, there were 38 open complaints in the Hearing Unit. Some had not been acted upon for over a year. During 1983, three new cases were referred to the Hearing Unit. One case was settled prior to the certification of conciliation failure. A conciliation agreement in another case was signed by the Complainant and Respondent and was awaiting the signature of the Executive Director at year end. One case was dismissed due to an amended determination and one case was closed by settlement. Four hearings involving 28 cases were held. During the balance of FY 84, we anticipate bringing three additional cases to hearing, completing the reevaluation of two cases and beginning the preparation of four more cases for public hearing in FY 85.

ADMINISTRATIVE REPORT

by
Katherine E. Goodell
Administrative Assistant

Through the introduction of technology the Alaska State Commission for Human Rights has improved its operational efficiency and strengthened management in administrative and program areas. In 1983 the Executive Director appointed a Management Information System Task Force consisting of the Administrative Assistant, Docket Clerk and Systemic Program Director to study the informational needs of the agency and present recommendations for managing that information. The Task Force concluded that case processing, fiscal control, budgetary

planning, and personnel recruitment could be greatly enhanced by use of word processors.

Based on that recommendation, the agency purchased additional word processing hardware and software during the past year. Communication devices in Anchorage, Juneau, and Fairbanks were installed linking the ASCHR offices with each other and the Office of the Governor to permit rapid and accurate transmittal of information.

The software programs enable the word processor to perform a variety of complicated tasks including four-function math and records processing. Managing all agency information systems on word processors permits timely entry and retrieval of information by the user office as well as greater organizational control of the data. Clerical staff can now create documents more efficiently than before by merging file information with standard formats to generate reports and correspondence.

The computer-based case docketing system, which provides information on all complaints of discrimination filed with ASCHR, is currently maintained by the Division of Data Processing. With software and hardware purchases complete, the Task Force is ready to duplicate this data base onto agency equipment, thus creating an in-house data base. Both data bases will be maintained simultaneously until the in-house system is fully operational. Headquarters is presently devising new report formats to deliver more useful and current data to managers.

The Administrative Assistant created the agency fiscal system and computerized it at the beginning of FY 84. This system assists in internal budget planning, expenditure accounting and reporting. Internal budget reports by unit are generated on a quarterly basis. At the end of each quarter the Executive Director and unit managers use these reports to reassess budgetary needs and reallocate resources as needed. This system also provides agency-wide quarterly budget reports to the Commissioners for use in making policy decisions and determining program direction.

As a partially-exempt agency, ASCHR conducts its own recruitment including advertising vacancies, reviewing applications and rating applicants' qualifications, and maintaining applicant files on all agency-specific classifications. During the past year, the Headquarters Office revised the applicant system in order to streamline the recruitment process. All applicant records are now kept on the word processor, permitting reports and correspondence to be computer-generated. Additionally, the Administrative Assistant consolidated clerical applications with the Office of the Governor's applicant pool, greatly reducing the number of applicant files managed by Headquarters. This consolidation also affords those applicants the opportunity to be advised of other openings within the Office of the Governor.

Utilizing newly purchased paper shredders, staff now destroy all confidential drafts and other obsolete records to ensure maximum confidentiality as required by state law. As part of a plan to lower monthly telephone service charges and effect long term cost savings, the agency purchased telephones for the Juneau office in 1982, the Anchorage offices in 1983, and intends to do the same for the Fairbanks office in 1984.

The new year promises to bring increased efficiency as word processing operators master the use of the new equipment and agency procedures are revised to gain the maximum benefits from the advancement in technology.

DEVELOPMENT OF THE ALASKA STATE HUMAN RIGHTS LAW--10 YEARS LATER^{1/}

Before the Courts

In 1974 the Alaska Human Rights Commission made a commitment to vigorously enforce the state laws against discrimination. Ten years later, the fruits of that commitment are self-evident.

There are now 17 Alaska Supreme Court decisions, one U.S. Supreme Court decision, one Ninth Circuit Court of Appeals decision, one federal district court decision, and 10 superior court decisions which have construed the Alaska human rights law and its scope.

Of the 17 cases heard by the Alaska Supreme Court since 1979, nine of the decisions were unanimous endorsements of the agency's position. In two appeals, where remedy and the agency's jurisdiction were at issue, the agency did not prevail. Only two of the appeals in which the agency prevailed were adopted by a 3-2 vote.

While every justice has written at least one opinion adopting the agency's arguments, the lineup of the court in Alaska State Commission for Human Rights v. Yellow Cab and Strand & ASCHR v. Petersburg Public Schools may best suggest how the court will rule in the future. In Yellow Cab, Justices Rabinowitz, Boochever and Burke joined in the majority opinion, and held that an applicant for employment did not have to submit a formal application with an employer where she was effectively deterred from applying by the employer's reputation for sex-based discrimination. Justices Mathews and Connor dissented. On the other hand, Justices Mathews and Compton and Judge Shortell joined in the majority opinion in Strand, and held that a female applicant for promotion had established a prima facie case of discrimination where the employer failed to fairly consider her job qualifications with those of the male applicant. Justices Rabinowitz and Burke dissented.

Justices Boochever and Connor, however, no longer sit on the court, and have been replaced by Justices Compton and Moore. Judge Shortell was sitting temporarily in Strand by appointment. (In fact, given Justice's Connor's narrow construction of AS 18.80 in prior decisions, e.g., Yellow Cab and Alaska USA Federal Credit Union v. Fridriksson & ASCHR, had Justice Connor not recused himself, it is highly probable that the outcome in Strand would have been quite different.) Given

^{1/}This report is an update on the Litigation Report contained in the 1980 Human Rights Commission Annual Report.

the past history of the individual members of the court to affirm the Commission's decisions, I do not believe that the close decisions in Yellow Cab and Strand bode ill for the Commission in the future.

Before The Commission

Since 1975, the Human Rights Commission has heard and decided 37 cases, many of which have required separate hearings and rulings on the issues of liability and remedy. They have dismissed 15 of these cases where the evidence at hearing was not substantial enough to support the allegations of discrimination. In five other hearings, they dismissed one issue but ultimately found for the complainant on the remaining issues.

The number of cases heard by the Commission does not reflect, however, the impact of the cases before the Commission. In Johnson v. State of Alaska, Department of Fish and Game, the Commission held that the state's practice of closing surf fishing in the Yakutat area discriminated against the Alaska Native fishermen in that area. The State has elected not to appeal that decision. Similarly, in Thomas v. Pipeliners United Association 798, the Commission held that the union had discriminated against blacks and women as a class by failing to dispatch them as welder helpers during construction of the TransAlaska pipeline. The union has not appealed that finding or the affirmative relief ordered by the Commission to correct the discriminatory dispatching practice. In 1983, a class action complaint alleging a failure to pay women for performing work comparable to that of males was heard by a hearing examiner on behalf of the Commission. That case will be reviewed and decided by the hearing commissioners in 1984.

While these cases literally consume the financial and staff resources of the agency, on a cost-benefit basis, they cannot be equalled. A decision by the hearing commissioners enjoining an employer from engaging in a pattern and practice of discrimination against an entire protected class, e.g., Alaskan Natives, blacks, women, serves to eradicate the practice vis-a-vis the entire class. Moreover, the remedies benefit the class as well, e.g., a Commission order requires that 2.2% of all welder helper dispatchers must be blacks.

Before the Superior Court

Further evidence of the viability of AS 18.80 are the 1981-1983 decisions coming from the superior court when it sits as an intermediate appellate court. While it is always satisfying to prevail before the court, it is even more telling when one

prevails continuously and before different members of the bench. That is why the recent history of the 10 appeals before the superior court bench is so significant. Those decisions were handed down by 8 different judges in the first, third and fourth judicial districts. In 7 decisions, the Commission prevailed on every issue; in two cases, the Commission prevailed in part. The agency lost only one appeal before the superior court and the Supreme Court reversed that case.

On four other occasions, the Commission has prevailed before the superior court in civil actions. In Sheehan v. University of Alaska and Alaska State Commission for Human Rights, the court dismissed a tort action against the Commission and ordered the case to be tried as an administrative appeal from the agency's dismissal of Sheehan's complaint. In Alaska State Commission for Human Rights v. Pipeliners United Association 798 the court ordered judgment in the Commission's action to enforce its administrative order awarding \$113,000.00 in back pay to 6 victims of discrimination. In a related action in Tulsa, Oklahoma, the Pipeliners Union agreed to post a bond for the \$113.00.00 pending its appeal of the Commission's order. In a fourth action, respondent agreed after 8 years of litigation to settle a class action lawsuit by paying \$196,000 to 23 victims of discrimination.

In summary, the judicial and administrative case law after ten years have established the direction for the Alaska courts and the Human Rights Commission, i.e., a uniform approach to liberally construing the statute to eradicate discrimination, "one of society's most intractable ills."

Alaska Case Law As Liberal Precedent

In 1976, the Alaska Supreme Court in Loomis Electronic Protection v. Schaefer concluded that Title VII case law is instructive in proceedings under AS 18.80 because the language of Title VII is similar to AS 18.80's. Consequently, the court often looked to federal case law for guidance in construing AS 18.80. Even though Title VII was instructive, the court stated in McLean v. State of Alaska that it would only look to Title VII for instruction when AS 18.80 was ambiguous. If AS 18.80 was clear and unambiguous, then the court would follow the plain meaning of AS 18.80 without resort to federal law.

In 1978, however, the court held in Wondzell v. Alaska Wood Products that the Alaska Legislature intended that AS 18.80 be more liberally interpreted than Title VII in order to eradicate discrimination. On two recent occasions, the Alaska Supreme Court has held an employer to a stricter burden of proving that he has not violated AS 18.80 than would be required under the parallel

federal law. Under federal law, an employer need only "articulate" a reason for his personnel action. The Alaska Supreme Court required compelling evidence to support the employer's decision in Alaska USA Federal Credit Union v. Fridriksson and "evidence...so powerful [or] persuasive as to render the evidence supporting the Commission's findings insubstantial in light of the entire record" in Strand & Alaska State Commission for Human Rights v. Petersburg Public Schools.

Due Process

Borkowski v. Snowden is one of the rare appellate cases in which the agency was not entirely successful. It established, however, a very important point for the Commission and parties before it. A state-created administrative claim of discrimination is a constitutionally protected property right. A person claiming the right is entitled to notice and a hearing before the agency may foreclose the right.

This case was born out of the agency's efforts to pursue its statutory mandate to eradicate discrimination while determining a practical way to investigate all the cases in its burgeoning backlog. The court agreed with the agency that its factual and legal determinations satisfied constitutional due process. The court, however, disagreed with the Commission's position that the investigation file was confidential and could not be disclosed to a complainant who sought reconsideration of the dismissal.

Respondents also have their claim to due process before the Commission. In Fluor Alaska v. Alaska State Commission for Human Rights v. Wallace, the court held that respondent is entitled to sufficient notice of the issues so that it may offer its defense at a Commission hearing.

Jurisdiction

During the early development of AS 18.80, questions of the Commission's jurisdiction often required a consideration of whether parallel federal labor laws and age discrimination laws preempted a state law against employment discrimination. See, Bald v. RCA Alascom, Wondzell v. Alaska Wood Products and Simpson v. Providence Washington Insurance Group.

Now that it is clearly established that employment discrimination is a local matter in which the state has a strong interest, the jurisdictional questions have changed focus. The issue in recent years has been whether the statute itself was intended to encompass particular classes. Thus, in Fridriksson,

the court held that a federal credit union was an employer within the meaning of AS 18.80.300(3). On the other hand, in U.S. Jaycees v. Richardet, in which the Commission filed an amicus brief, the court held that a nonprofit membership service organization with no fixed location was not a "place of public accommodation" within the meaning of AS 18.80.300(7).

Proving Discrimination

Complainant's Burden

The human rights law is intended to eradicate discrimination and to restore the victim of discrimination to the place he or she would have had in the absence of discrimination. The initial step in this process requires substantial evidence that the complainant in fact was treated differently because he or she is a member of one of the 11 classes protected by AS 18.80. In short, complainant must step forward and place his or her evidence on the scale. If the scale tips in complainant's direction, he or she has established a prima facie case.

In the classic case, one who complains of employment discrimination must show that

(i) he or she is a member of a class protected by AS 18.80;

(ii) he or she applied for and met the established objective qualifications for an available position;

(iii) the employer rejected the applicant, and

(iv) evidence from which, if unexplained, one could infer that complainant was treated differently because of his or her membership in the protected class.

On the whole, complainants who file their complaints under AS 18.80 have fared very well. Claire Strand established a prima facie case of discrimination against the Petersburg Public Schools when she proved that the school board had failed to consider her qualifications vis-a-vis the successful male applicant. Valgerdur Fridriksson prevailed when she showed that sex was a factor in the decision of the Alaska USA Federal Credit Union not to promote her. Jean Fortier proved her case of sexual harassment with evidence that the employer's conduct had the effect of creating a sexually intimidating, hostile or offensive working environment. Joyce Jenkins established her case by showing that the Pipeliners Union failed to provide her with hiring information.

If there is any one characteristic that the cases dismissed have in common, it is that the complainant was unable to offer evidence that would corroborate the allegations of discrimination. Mary Kouzes was unable to demonstrate that her physical handicap was even a factor in the employer's decision to terminate her where her work was thoroughly unsatisfactory and failed to improve. Barbara Bluekens and Ruth Jordan were unable to show that they were entitled to more compensation because they performed substantially the same work as non-Natives.

In more than one case, a complainant has placed too much weight on isolated incidents, which while reprehensible, did not support complainant's claim of differential treatment. In Mercer v. O'Neill Investigations, there was damning evidence that the owner used racial epithets and made derogatory remarks about blacks. The evidence demonstrated, however, that the owner was totally removed from the decision to terminate complainant and that complainant's poor job performance was the basis for his discharge. In Kouzes, the evidence demonstrated that co-employees had engaged in isolated instances of harassment against complainant. However, the employer remonstrated her co-workers for their conduct and the co-workers had no role in the decision to terminate Kouzes. In Bluekens and Jordan v. Associated-Green witnesses testified that their supervisor had a habit of making racially discriminatory remarks. In no case, however, had he ever made the remarks in complainants' presence. Moreover, their inability to show that they were performing work comparable to their white co-workers was meant that they had failed to establish a prima facie case regardless of the remarks. In Orr v. Municipality of Anchorage, evidence that Orr's supervisors had made sexually disparaging remarks could not establish her prima facie case where she was otherwise unqualified for the temporary position.

Respondent's Burden

Once the evidence supports a prima facie case of discrimination, the burden shifts to the employer to respond. In 1980 I reported that a respondent before the human rights Commission has a heavier burden than in federal courts. This trend has continued. In Texas Department of Community Affairs v. Burdine, the United States Supreme Court explained that an employer is not required either to prove absence of discriminatory motive or to prove by a preponderance of the evidence the existence of a legitimate reason for rejecting the applicant. Under Burdine, the employer need only articulate a legitimate reason for his decision to overcome the prima facie case.

In Alaska, however, the employer must do more than take the stand and state a good reason for the personnel decision.

His evidence must be compelling, see Fridriksson, or powerful and persuasive, see Strand. In earlier cases, the court has held that the evidence had to be "clear and convincing." See, McLean v. State and Brown v. Wood.

To date, the court has not used any particular phrase to describe what the employer's burden is in overcoming the prima facie case. What is clear, however, is that something more is required than the federal requirement of a mere articulating reason.

This departure from the federal standard is consistent with previous state case law. For the Alaska Supreme Court has said that AS 18.80 was intended to be more liberally construed than Title VII so that discrimination might be eradicated from this state. Clearly, once complainant has offered substantial evidence of a discriminatory practice, an employer should not be permitted to manufacture a reason for his action. Had the Alaska court adopted Burdine, we could have anticipated just such a result.

Unacceptable Defenses

The Commission rejected the State's reasons for closing the Alsek and East rivers to surf fishing where the closures had a disparate impact on the Alaska Native fishermen. The state's reasons were not "necessary to the safe and efficient operation of the fisheries in light of the existence of acceptable alternatives." Johnson v. State of Alaska.

Pretext

If the respondent puts on satisfactory evidence of non-discriminatory reasons for its actions, or argues that it had a business need for discriminating against the complainant, complainant has one final opportunity to respond. Complainant may still prevail if he or she shows that the employer was likely motivated by a discriminatory reason or that the employer's reason was unworthy of credence. Alaska USA Federal Credit Union v. Fridriksson.

In Fridriksson, the complainant rebutted respondent's business reasons and demonstrated that they were, in fact, pretextual. She was able to show that the requirement of a two-year commitment on the job had not always been adhered to in the past for male employees, that the training costs for her were not substantially different from the cost of training males in the past, and that her qualifications had not been fairly compared with those of male applicants. With this evidence complainant

proved that the business reasons were a pretext for sex discrimination.

Relief

The Commission and the courts have continued the trend of awarding relief which would remedy the unique wrongs presented in the individual cases before them. In several cases the Commission has awarded injunctive relief, i.e., it has ordered a respondent to stop an unlawful system or practice. For example, in Johnson v. State of Alaska, the Commission ordered the Department of Fish and Game to cease enforcing regulations which had a disparate impact on Alaska Native fishermen. In Thomas v. Pipeliners United Association, the Commission ordered a union to cease its sex-based and race-based dispatch practices.

Only one decision has ordered corrective relief since my 1980 report. The Commission has ordered an employer to create a new system or new set of practices that will be fair and will correct the old discriminatory practice. In Thomas v. Pipeliners United Association, the Commission ordered the union to dispatch 2.2% blacks and 7.6% females in filling any job order in Alaska. That case was additionally significant because the complainants asked for dispatch relief based on the larger black representation in the southern work force. The court agreed with the Commission that the agency lacked the statutory authority to correct discriminatory practices in other states.

In more than one case, the Commission has awarded compensatory relief, i.e., relief which would adjust for past wrongs. In Jenkins v. Pipeliners United Association and Thomas v. Pipeliners United Association, the Commission ordered the union to pay \$113,000.00 for the lost wages of six individuals who were victims of the union's discriminatory practices. After the Alaska Supreme Court affirmed the commission's decision in Alaska USA Federal Credit Union v. Fridriksson, respondent paid \$10,000.00 in back pay and attorney's fees. The superior court affirmance of the commission's order in Orr v. Municipality of Anchorage meant that Blanche Orr received almost \$13,000.00, plus interest from August, 1975, as back pay compensation and attorney's fees. The Supreme Court's affirmance of Strand & Alaska State Commission for Human Rights v. Petersburg Public Schools provided that Claire Strand was entitled to back pay and fair consideration for the next available principal position in the district. When the superior court adopted the commission's position in Fortier v. Kachemak SeaFoods, complainant was entitled to damages in the amount of \$2,375.00 plus interest in compensation for the employer's sexually harassing practices.

Moreover in a civil action settled out of court 23 women shared \$196,000 in back pay.

Punitive Damages

In my 1980 report, I noted that the Commission had construed AS 18.80.130 as permitting it to award punitive damages to victims of discrimination but that the law was ambiguous. Since that report, the Alaska Supreme Court has ruled in McDaniel v. Cory that no statutory authority exists which gives the Commission the power to award punitive damages to complainants. Consequently, a complainant who seeks an award of punitive damages has two options: (1) to pursue a civil action in superior court for the discriminatory practices and all her remedies or (2) to pursue her administrative action with the Commission and bring a separate action in superior court for punitive relief only. In fact, the agency is presently monitoring 5 civil actions which allege discrimination and ask for punitive as well as compensatory relief. On the other hand, the complainants in Johnson v. State of Alaska pursued their discrimination claim before the Commission and have filed a separate civil action to establish their entitlement to monetary relief under AS 18.80.255.

Attorney Fees

In the past, the Commission has awarded reasonable attorney's fees to prevailing complainants. It has followed the federal standard in Christianburg Garment Co. v. Equal Employment Opportunity Commission and held that prevailing respondents are entitled to attorney's fees only if the action was frivolous, unreasonable or brought in bad faith. See Moore v. City and Borough of Juneau School District; Powell v. Jack's Food Mart.

In Whaley v. Alaska Worker's Compensation Board, the Alaska Supreme Court adopted the Christianburg standard and held that to award attorney's fees to prevailing defendants in a workers compensation matter would severely undermine the effectiveness of the statute. Since the workers compensation act, like AS 18.80, is to be liberally construed in favor of the employee, I am confident that, if this issue ever comes before the Alaska Supreme Court, the court will adopt this standard for discrimination cases as well.

Issues by Statute

Housing

Since my last report, no cases under the housing

section, AS 18.80.240 have been heard by the Commission or appealed to the courts.

Public Accommodations

The Commission filed an amicus brief before the Alaska Supreme Court in U.S. Jaycees v. Richardet, a novel action brought under AS 18.80.230. The plaintiffs had argued that a membership service organization open to the public was a public accommodation and, therefore, required to open its membership to females. The issue had been litigated in other jurisdictions with mixed results and is presently on appeal to the United States Supreme Court. In Alaska, however, the court has held that the U.S. Jaycees has no fixed geographic site and is, therefore, not a place of public accommodation within the meaning of AS 18.80.230.

Financial Practices

There has never been a case before the Commission or appealed to the courts under the financial practices section, AS 18.80.250.

State Services

For the first time ever, the Commission has heard a case under AS 18.80.255 which requires the state and its political subdivisions to distribute their benefits, advantages, and services without discrimination. The Alaska Native fisherman who were shut out of surf fishing on the East and Alsek rivers alleged that the regulations of the Department of Fish and Game were discriminatory and in violation of AS 18.80.255.

Employment

I reported in 1980 that all but two of the cases heard by the Commission were employment cases. Since 1980, all but one case was brought under AS 18.80.220, the employment section.

Issues by Discrimination Theory

Overt Discrimination

Overt discrimination is action which is explicitly based upon e.g., race, color, religion, national origin, marital status, pregnancy, sex and physical handicap. Since my last report, there are 4 cases which argued, established or attempted to establish overt discrimination.

Bluekens and Jordan v. Associated Green where two Alaskan Native clerical workers alleged that their salaries were lower than white clericals performing comparable duties. Their supervisor habitually made racially derogatory remarks.

Fortier v. Kachemak SeaFoods where complainant demonstrated that continuation in employment was contingent on submitting to her employer's sexual overtures.

Mercer v. O'Neill Investigations in which complainant tried to establish that the employer's use of racially derogatory terms was linked to this discharge.

Orr v. Municipality of Anchorage in which male supervisors made sexually disparaging remarks about their female subordinates or co-workers.

Disparate Treatment

Two recent Alaska Supreme Court decisions have contributed to our understanding of disparate treatment, *i.e.*, discriminatory standards which are fair in form but discriminatorily applied, where there is a higher or more strenuous standard applied to the protected class. In Alaska USA Federal Credit Union v. Fridriksson, the court agreed with the Commission that the credit union made a number of assumptions about the cost of training, the ability to supervise, complainant's availability and the adequacy of housing that it would not and did not make with male applicants. In Strand and Alaska State Commission for Human Rights v. Petersburg Public Schools, the court again agreed with the Commission that the school board did not fairly compare the intangible personal qualities which it found so desirable in the male applicant with the same qualities of the female applicant.

Disparate Impact

This theory of discrimination, where the practice is fair in form and fairly applied but has a discriminatory impact, has been cogently articulated in Johnson v. State of Alaska. In that case, the Alaska Native fishermen had to establish that the state's ostensibly neutral action of closing the rivers to surf fishing affected Alaska Natives more harshly than others. The state was unable to demonstrate that its action was warranted by business necessity or that the disparate impact was not the result of unlawful discrimination.

Retaliation

Orr v. Municipality of Anchorage expanded the Alaska law on theories of retaliation and discrimination. Complainant

had alleged that she was denied a temporary assignment because of her sex and that her discharge was retaliatory for having opposed her employer's sexually discriminatory practices. The Commission dismissed her discrimination claim but agreed that her discharge was retaliatory. The superior court affirmed the Commission conclusion that a finding of retaliation is not inconsistent with a finding of no discrimination because the evidence of proving the two theories are dissimilar.

Protected Classes

In 1980 I reported that there were no Alaska decisions based on color, national origin, changes in marital status and parenthood. There are still no decisions based on color, parenthood or changes in marital status. In addition, there are no new cases based on age or marital status. In fact, the overwhelming number of cases are brought on race (Borkowski, Johnson, Bluekens, Jordan, Jenkins, Thomas and Mercer) or sex discrimination (Strand, Fridriksson, U.S. Jaycees, Fortier, Jenkins, Orr, and one confidential settlement).

CONCLUSION

On August 19, 1975, I became a member of the Department of Law and legal counsel for the Alaska State Commission For Human Rights. At that moment in time, the agency had issued one administrative order. No cases had been heard by the courts. There is now an established body of case law and Commission decisions which mandate that AS 18.80 be liberally construed to eliminate the menace of discrimination amongst us. The agency has grown from a primarily volunteer organization to a professional and dedicated staff. I have had the professional opportunities in these years that I never dared hoped to have in my entire legal career. I have grown with you both professionally and personally.

Hail and Farewell

February 8, 1984

Carolyn E. Jones

TABLE OF HUMAN RIGHTS COMMISSION ADMINISTRATIVE
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Alaska State Commission For Human Rights v. Yellow Cab, 611 P.2d 487 (Alaska 1980)

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Allen v. Laborers & Hod Carriers (HRC 1982)

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Duncan v. University of Alaska (HRC 1975)

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Wondzell v. Alaska Wood Products, 583 P.2d 860, opinion on
rehearing 601 P.2d 584 (Alaska 1979)

Woods v. Ak Village Electric Cooperative (HRC 1977)

SEAFOOD PROCESSING INDUSTRY PROGRESS REPORT

by

the staff of the

Alaska State Commission for Human Rights

November 1, 1983

Addressed to: The Alaska and Washington Advisory Committees to the United States Commission on Civil Rights re: their joint publication of April 1983 entitled, "Bringing An Industry Into The 80's: Affirmative Action In Seafood Processing"

Introduction

After two years of inquiry into the problems of discrimination in the seafood processing industry, the Alaska and Washington Advisory Committees to the U.S. Commission on Civil Rights published a report, "Bringing An Industry Into The 80's: Affirmative Action In Seafood Processing" in April, 1983. At a press conference in Juneau on April 15, 1983, the Joint Committee Members called upon the assembled civil rights community and members of the public for initial reaction to the findings and recommendations contained in the report.

Responding on behalf of the Alaska Human Rights Commission, Executive Director Janet L. Bradley committed the agency's limited resources to pursue the U.S. Civil Rights Commission's recommendations, stating that a three-pronged effort would be undertaken to eradicate the discrimination identified in the report: voluntary compliance, education, and systemic enforcement/technical assistance. (Please see the attached press release.)

Recommendation 16 of the U.S. Civil Rights Commission's report urges representatives from the Alaska State Human Rights Commission, the Washington State Human Rights Commission, the Equal Employment Opportunity Commission, and the Pacific Seafood Processors Association to meet in six months to assess the implementation of the report's recommendations. The staff of the Alaska Commission has contacted these groups and will continue to interact with them to aid the Seafood Processing Industry to comply with state and federal anti-discrimination laws; however no meeting has been scheduled to date. The Alaska Commission's staff attended the August 16, 1983 meeting of the Alaska Advisory Committee to the U.S. Commission on Civil Rights and agreed to prepare a written summary of its activities since April for the Committee's review before its next meeting planned for December, 1983.

This report, then, will highlight the staff's efforts in the three areas of program activities.

Voluntary Compliance

Extensive research made available to the Commission forecasts a tremendous potential for the seafood processing industry not only in terms of the developing bottom fish industry but also in the expansion of employment opportunities for the people of Alaska. From the civil rights perspective, these opportunities must be made available to all Alaskans, regardless of race or sex or other protected class status.

Therefore, the Alaska Commission's staff approached Sandra Borbridge, agency liaison in the Office of the Governor, to elicit interest in these employment opportunities and to enlist her assistance in the coordination of state agencies' response to the findings and recommendations of the U.S. Civil Rights Commission's report.

As an initial step, Bradley sought to be included as a technical advisor to the Fisheries Task Force appointed by Governor Sheffield. (See attached letter from Commission Chairperson John C. Gonzales.) Unfortunately before Bradley's request was received, the Task Force concluded its deliberations and made its final report without a recommendation for a comprehensive employment policy for the industry.

In September, Special Assistant Borbridge arranged meetings with agencies involved with loan programs underwritten or guaranteed with state funding. The purpose of these contacts was to explore the feasibility of requiring that companies operating with state funded loans would adopt affirmative action plans as a condition of the receipt of state dollars.

Meetings with officials from the Alaska Industrial Development Authority (AIDA) and the Alaska Resource Corporation (ARC) revealed that seafood processors were not currently participating in these programs. A meeting with the Commercial Fisheries and Agriculture Bank (CFAB) is planned for later this fall; however, voluntary compliance by means of affirmative action tied to state funding is an idea which may bear further promotion within state government.

Education

Special Assistant Borbridge also arranged a meeting between Alaska Commissioner of Labor Jim Robison and Executive Director Bradley to discuss concerns about seafood processors' compliance with state labor and human rights law. Robison and Bradley pledged mutual cooperation and exchange of information within the bounds of confidentiality. Robison invited the Alaska Commission staff to take part in the Department of Labor's semi-annual meetings with the seafood processors in Seattle. Future sessions for training seafood processors resulting from these contacts will be undertaken by the Rural Program Director Lino Barril. Alaska Commission staff will also ensure that the seafood industry officials are advised of the special seminars on equal employment opportunity and affirmative action available within Alaska through organizations such as the Alaska Chapter of the American Association for Affirmative Action (4-A's).

Systemic Enforcement/Technical Assistance

The Alaska Supreme Court stated in its 1976 decision of Thomas v. Hotel, Motel, etc. v. Local 879 that "Aggressive, large-scale enforcement will be of critical importance if systemic and continued discrimination is to be eradicated". The Commission subsequently emphasized its commitment to addressing the fundamental roots and institutional patterns of discrimination when it created the Systemic Unit in August 1978. Since that time, the Systemic Unit has undertaken broad-based investigations, studies and inquiries concerning allegations of pattern and practice discrimination in a variety of employment and government services

settings. Based on the Alaska Supreme Court decision cited above, the Commission's Executive Director has the legal authority to initiate class action discrimination charges against employers whose policies and practices constitute unlawful discrimination against persons protected by the Alaska human rights law. The Commission takes its law enforcement responsibilities seriously, and further recognizes the importance of the April 1983 U.S. Civil Rights Commission report recommending that ASCHR review allegedly discriminatory employment practices in Alaska's seafood processing industry.

In response to the U.S. Civil Rights Commission report, ASCHR recently initiated its own study of employment patterns in Alaska's seafood processing industry. Numerous background materials concerning the history and current status of seafood industry employment practices have been collected and analyzed. Additionally, the Commission staff has held discussions with representatives of the U.S. Equal Employment Opportunity Commission's Seattle District Office, the Washington State Human Rights Commission, the Seattle Human Relations Commission, and the U.S. Department of Labor Office of Federal Contract Compliance Programs' Seattle Region X Office in order to coordinate possible enforcement efforts involving the seafood processing industry.

Based on interviews with government, labor, and industry officials as well as an examination of documents obtained from various sources, Systemic Program Director Daveed A. Schwartz developed a list of major Alaskan seafood processors. Such processors are headquartered in Seattle, Washington, but employ substantial numbers of workers at one or more Alaska locations each year. From the list of major processors, the Commission staff selected five large employers and sent each a "Seafood Processing Employment Questionnaire" on September 9, 1983. Confidentiality restrictions prohibit the Commission staff from publicly identifying the five employers involved. A blank copy of the questionnaire is attached to this report.

Working in cooperation with the Pacific Seafood Processors Association and its Alaska lobbyist Richard Lauber, the Commission staff established December 1, 1983 as the date on which the completed questionnaires are to be submitted by the five selected companies. The data will be used by the Commission staff to plan enforcement actions against seafood processing companies where appropriate, and to assist industry employers in devising affirmative action plans to improve company-wide EEO profiles. The Commission staff may send Seafood Processing Employment Questionnaires to additional major processors if necessary in order to expand current enforcement and technical assistance efforts.

Conclusion

The Alaska Commission will continue its efforts in the three program areas discussed and will integrate these activities into the overall agency mission to eliminate and prevent unlawful discrimination against the inhabitants of Alaska.

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

BILL SHEFFIELD, GOVERNOR

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☐ SOUTHEASTERN REGION
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314 GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811
(907) 465-3560

May 9, 1983

Sandra Borbridge
Special Assistant
Office of the Governor
Pouch A
Juneau, Alaska 99811

Dear Ms. Borbridge:

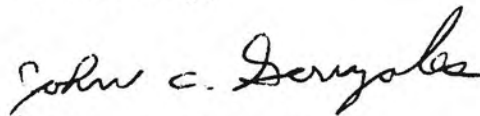
On April 15, 1983, the U.S. Civil Rights Commission released its report entitled "Bringing An Industry into the 80's: Affirmative Action in the Seafood Processing Industry". This report, the product of a two-year inquiry into the employment opportunities and employment-based housing in the seafood processing industry in Alaska, urged the Alaska State Commission for Human Rights to undertake significant steps toward correction of the problems identified in their report.

Executive Director Janet Bradley presented our Commissioners her proposed response to the mandate of the U.S. Civil Rights Commission at our recent quarterly meeting in Anchorage April 29 and 30. Among her proposals was her appointment as technical advisor to the Fisheries Task Force which the Governor has created to advise him on policy directions for the fisheries industry in Alaska. Bradley believes that by participating in the Task Force, she will be able to assist in the development of labor policies which will enhance the fair employment of minorities and females in Alaska. Participation on the Fisheries Task Force would also demonstrate the Sheffield Administration's concern for Alaskans employed in the seafood processing industry and signal a desire to work with the industry to achieve equal employment opportunity through voluntary compliance.

On behalf of our Commissioners, I am asking your assistance in designating our Executive Director to the Fisheries Task Force as a technical advisor.

I appreciate the interest you have demonstrated in our Commission and your dedication to our mutual goals of equality for all the peoples of Alaska.

Sincerely,

A handwritten signature in dark ink, appearing to read "John C. Gonzales". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

John C. Gonzales
Chairperson

cc: James H. Chase
Arlene G. Dilts
Morgan P. Solomon
Bienvenido E. Holganza
Virgie King

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

BILL SHEFFIELD, GOVERNOR

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News Release

FOR RELEASE: April 15, 1983 1 p.m. Pacific Standard Time

Further Information: (907)-276-7474

HUMAN RIGHTS COMMISSION TO ACT ON FEDERAL REPORT OF AFFIRMATIVE ACTION IN SEAFOOD PROCESSING

The Alaska State Commission for Human Rights will carefully review the report released today by the U. S. Commission on Civil Rights, Northwest Regional Office, on potential employment discrimination in the seafood processing industry in Alaska and Washington state, according to Human Rights Commission Executive Director Janet L. Bradley. The Alaska Commission is currently formulating a comprehensive plan of action to address matters uncovered by the federal commission.

"This subject is one in which we have been interested for some time, and the U.S. Civil Rights Commission staff has made a good beginning at documenting employment patterns and practices which adversely affect women and minorities in the seafood processing industry," she noted.

Bradley stated that the Alaska State Human Rights Commission intends to work cooperatively with the U. S. Equal Employment Opportunity Commission, the Washington State Human Rights Commission, the U. S. Civil Rights Commission, and employers in the seafood processing industry to correct the problems identified in the report and to carry out the report's recommendations pertaining to the Alaska Human Rights Commission as resources permit.

Stating that the Human Rights Commission has been aware of the historic problems of employment and housing faced by minorities and women in the industry, Bradley added that any information which members of the public may want to bring to the attention of the Human Rights Commission about possible discriminatory practices in the seafood processing industry will be welcomed and treated confidentially. The Commission has offices in Anchorage (274-4692), Juneau (465-3560) and Fairbanks (456-1584). Copies of the federal report are available from the U. S. Commission on Civil Rights, Northwest Regional Office, 915 Second Avenue, Room 2852, Seattle, Washington, 98174.

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

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JUNEAU, ALASKA 99811
(907) 465-3560

December 19, 1983

Dear

Thank you for your December 1, 1983 and December 12, 1983 submissions of (employer's) response to the Human Rights Commission's seafood processing employment questionnaire. The Commission staff is presently analyzing all responses submitted and will be in further contact with your company if and when appropriate.

The Commission staff will preserve the confidentiality of your response in accordance with the conditions set forth in A.S. 18.80.115. However, aggregate statistics compiled from the various questionnaire responses may be made public in accordance with A.S. 18.80.220(b). Such statistical tabulations would only be displayed in a manner which does not reveal the identity of any one seafood processing company.

Thank you again for your voluntary compliance with the questionnaire.

Sincerely,

Daveed A. Schwartz
Systemic Program Director

DAS/db

QUESTIONNAIRE INSTRUCTIONS

Please complete one "SEAFOOD PROCESSING EMPLOYMENT QUESTIONNAIRE" for each Alaska location at which you now do business or have done business or maintained an office at any time from January 1, 1983 through the present. The data sought in this questionnaire covers the period of January 1, 1983 through August 31, 1983.

The business locations and offices inquired about in this questionnaire refer to all Alaska facilities owned in whole or in part, leased or otherwise controlled by your company and include all canneries, docks, production units, offices, sales outlets, warehouses, and all other Alaska facilities used by your company in connection with your business. They also explicitly include fishing and other vessels owned, leased or otherwise controlled by your company where such fishing or other vessels have operated or currently operate in Alaska during 1983. When the facility location involves a vessel, please state on the "EEO Statistics" form the name of the vessel and its home port.

Please provide your answers on a separate sheet of paper whenever additional space is needed. When completing the "EEO Statistics" chart in response to question 4 of the enclosed questionnaire, please use raw numbers, not percentages. Please replicate as necessary so that one chart is completed for each and every department maintained by your company's Alaska locations.

SEAFOOD PROCESSING EMPLOYMENT QUESTIONNAIRE

1. Name, mailing address, and phone number of facility or office:

2. Please identify each department at this facility by name and respective dates of operation each year.

3. Please provide a copy of your written personnel manual(s), collective bargaining agreement(s), and affirmative action plan(s), if any, governing this facility or office. If there are no personnel manuals, collective bargaining agreements, and/or affirmative action plans, please specifically so state in your answer to this question.

4. Please complete the attached "EEO Statistics" chart for each department listed in response to question 2. This question seeks statistics by facility, department, race, and sex for all persons employed by your company's Alaska locations from January 1, 1983 through August 31, 1983.

QUESTION 4: EEO STATISTICS

Name of Company: _____
Name of Parent Corporation (if any): _____
Facility Location: _____
Department: _____
Date of Preparation: _____

1983 EMPLOYEES: RAW NUMBERS
(January 1, 1983 Through August 31, 1983)

	RACE/ETHNIC GROUP	MALE	FEMALE	TOTAL
1.	White			
2.	Black			
3.	Hispanic			
4.	Asian/Pacific Islander			
5.	American Indian/Alaska Native			
6.	Unknown			
	TOTALS			

For the purposes of completing this statistical chart, please use the standard federal race/ethnic categories listed below:

1. White (not of Hispanic origin): All persons having origins in any of the original peoples of Europe, North Africa, or Middle East.
2. Black (not of Hispanic origin): All persons having origins in any of the black racial groups of Africa.
3. Hispanic: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
4. Asian or Pacific Islanders: All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
5. American Indian or Alaskan Native: All persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

1983 CASE PROCESSING STATISTICS

by
Daveed A. Schwartz
Systemic Program Director
and
Frances Rabago
Docket Clerk

NOTE: For each statistical chart in the following sections, the sum of detail percentages may not add to totals because of rounding.

I. ANALYSIS OF CASES FILED IN 1983

A. Race and Sex of Persons Filing Complaints

Race/Sex	Number	Percentage
1. Caucasian Female	125	35.8
2. Black Female	54	15.5
3. Caucasian Male	42	12.0
4. Black Male	39	11.2
5. Alaska Native Male	23	6.6
6. Alaska Native Female	20	5.7
7. Hispanic Male	12	3.4
8. Hispanic Female	9	2.6
9. Asian Female	7	2.0
10. Asian Male	7	2.0
11. Unknown Female	5	1.4
12. American Indian Male	3	0.9
13. American Indian Female	2	0.6
14. Other Male	1	0.3
<hr/>		
TOTAL	349*	100

B. Race of Persons Filing Complaints

Race	Number	Percentage
1. Caucasian	167	47.9
2. Black	93	26.6
3. Alaska Native	43	12.3
4. Hispanic	21	6.0
5. Asian	14	4.0
6. American Indian	5	1.4
7. Unknown	5	1.4
8. Other	1	.3
<hr/>		
TOTAL	349*	100

C. Sex of Persons Filing Complaints

Definition	Number	Percentage
1. Female	222	63.6
2. Male	127	36.4
<hr/>		
TOTAL	349*	100

*Raw data totals to 349 persons instead of 346 persons (the actual number of 1983 case filings) because 3 of the 346 1983 filings each name two complainants.

D. Basis of Alleged Discrimination

Bases	Number	Percentage
1. Race/Color	168	38.9
2. Sex	132	30.6
3. Age	34	7.9
4. Physical Handicap	24	5.6
5. National Origin	23	5.3
6. Pregnancy	20	4.6
7. Marital Status	14	3.2
8. Retaliation	9	2.1
9. Religion	4	.9
10. Parenthood	2	.5
11. Changes in Marital Status	2	.5
<hr/>		
TOTAL	432**	100

**Total bases alleged exceeds number of case filings because 86 of the 346 1983 filings contained more than one alleged basis.

E. Type of Alleged Discrimination

Type	Number	Percentage
1. Employment A.S. 18.80.220	298	86.1
2. Housing A.S. 18.80.240	21	6.1
3. Government Practices A.S. 18.80.255	13	3.8
4. Public Accommodations A.S. 18.80.230	8	2.3
5. Finance A.S. 18.80.250	4	1.2
6. Coercion A.S. 18.80.260	2	.6
TOTAL	346	100

II. ANALYSIS OF 1983 CLOSING ACTIONS

Reason for Closure	Number	Percentage
1. Conciliation/Settlement	95	30.7
2. Lack of Substantial Evidence	118	38.2
3. Administrative Dismissal*	95	30.7
4. Commission Orders**	1	.3
TOTAL	309	100

*Includes withdrawal by complainant, lack of jurisdiction, failure of complainant to proceed, complainant not available, and complainant in court.

**See Hearing Unit Report for particulars.

III. ANALYSIS OF OPEN CASES AS OF DECEMBER 31, 1983

A. Status of Open Cases

Stage	Number	Percentage
1. Currently Unassigned	49	12.3
2. Awaiting Further Investigation	78	19.6
3. Assigned for Investigation	149	37.5
4. EEOC Deferral Status	25	6.3
5. ERC Deferral Status	42	10.6
6. Under Negotiation	19	4.8
7. Awaiting Hearing	6	1.5
8. Hearing Completed/Awaiting Order	28	7.1
9. Court Action	1	.3
<hr/>		
TOTAL	397	100

B. Age of Open Cases

1976-1978*	18	4.5
1979	28	7.1
1980	21	5.3
1981	34	8.6
1982	78	19.6
January - June 1983	82	20.7
July - December 1983	136	34.3
<hr/>		
TOTAL	397	100

*Of this group, 11 cases are being processed in the Hearing Unit; 2 cases are in EEOC deferral status; 5 cases are in final stages of investigation including one case reopened after Reconsideration by the Chair.

IV. CASE PROCESSING STATISTICS BY ORGANIZATION UNIT: 1983 vs. 1982

Organizational Unit	Inventory 01/01/83 (1982)		Filings 1983 (1982)		Resolutions 1983 (1982)		Inventory 12/31/83
Southcentral Region	178	(179)	201	(131)	154	(132)	216*
Northern Region	77	(90)	94	(102)	66	(115)	103*
Southeastern Region	65	(66)	51	(59)	84	(60)	38*
Systemic Unit	2	(3)	0	(0)	2	(1)	0*
Hearing Unit	38	(49)	N/A		3	(11)	40*
<hr/>							
TOTAL	360	(387)	346	(292)	309	(319)	397

*Sum of regional detail does not equal regional totals due to intra-agency case transfers undertaken to effectively distribute workload.

V. OPEN CASE INVENTORY, NEW FILINGS, & CLOSURES: 1980 - 1984

YEAR	CASES OPEN AT BEGINNING OF YEAR	NEW FILINGS THIS YEAR	CASES CLOSED THIS YEAR	CASES OPEN AT END OF YEAR
1980	514	278	377	415
1981	415	233	261	387
1982	387	292	319	360
1983	360	346	309	397
1984	397			

CASE VIGNETTES

and

BENEFITS from SETTLEMENTS

Under AS 18.80.115, the Commission is required to keep confidential the names of parties to cases in the investigative stage prior to public hearing. Thus, most of the staff efforts combatting unlawful discrimination is shielded from disclosure to the public. Mere statistics included in this annual report fail to portray the real life drama of the Commission's casework.

The following vignettes gathered from the history of cases resolved in 1983 are reproduced here to provide a glimpse into the lives of Alaskans who sought assistance from the agency. Following the vignettes are listed brief descriptions of remedies received by Complainants in 77 cases resolved in 1983 through written agreements negotiated by the Commission staff.

Case History # 1

An Alaska Native filed a housing complaint when he was unable to rent an apartment advertised in the local newspaper. When he first called, the landlady asked if he was Alaska Native and then told him to call back. When he returned the call, the landlady informed him the apartment was rented and not to bother her anymore. When staff quickly investigated the case, testers determined that the apartment was available. A cooperative witness testified that the landlady made derogatory remarks about Alaska Natives. Although the landlady denied even talking to the Complainant, staff found there was substantial evidence to credit the allegation. The case is currently in conciliation.

Case History # 2

A woman filed a complaint alleging that she had been denied a job as receptionist when she told the interviewer that she was pregnant. The staff scheduled the case for a resolution conference. The employer's attorney responded by making an offer of full settlement. The complainant turned down a job offer because she had found something better, but she accepted backpay in the amount of over \$3,000. The employer's staff later contacted the office to request assistance in developing new policies governing maternity and sick leave.

Case History # 3

A Black worker complained that his employer had discharged him because of his race and that his union had refused to process his grievance of the discharge for the same reason. Investigation of his discharge case revealed that he had failed to abide by company policies, that he had been replaced by another Black, and that the employer had terminated White workers for similar reasons. In the other case, the union asserted that the grievance was not timely and produced records which confirmed that it had also dismissed a grievance filed by a White male for being untimely. The staff found that there was no substantial evidence to support the complainant's allegations of race discrimination against both the employer and the union.

Case History # 4

A waitress filed a complaint alleging that the restaurant owner had sexually harassed her by buying her drinks after hours, asking her to visit him at home and to travel with him, and offering to buy her gifts. She said that when she refused his advances, he became angry and terminated her. During the resolution conference, the staff negotiated a pre-determination settlement agreement for a letter of apology and a check for \$200.

Case History # 5

A White truck driver filed a physical handicap charge against a freight delivery company when they refused to hire him because he wore a beard. The man was advised by his doctor not to shave because of his skin disorder, Folliculitis. The employer after the Commission found the Complainant's rejection for employment in violation of the law, settled with the man for several thousand dollars.

Case History # 6

A Hispanic man filed a race and national origin complaint against a local security guard company for failing to hire him despite his qualifications. Complainant admitted to the employer during the job interview that he had a prior police record. The Commission staff found that the police record and other background information gathered during investigation were adequate reasons to justify the company's rejection of the Complainant. The case was dismissed for lack of substantial evidence to support the complaint.

Case History # 7

An Alaska Native female filed a sex discrimination complaint against a Native corporation. Although the company claimed it only hired shareholders in its longshoring operation, the investigation revealed that male nonshareholders were also hired. Female shareholder and female non-shareholder applicants (like Complainant) were repeatedly denied employment. A back pay settlement is being negotiated.

Case History # 8

A printer with chronic back and hip problems charged a small company with handicap discrimination after he was discharged following a request for light duty. The case was closed once the employer successfully demonstrated that it had accommodated the employee to the point that further accommodation would have caused a safety problem and an undue burden on the efficient operation of its small business.

Case History # 9

Alaska Native parents charged a school district with race discrimination after their son was struck by his White teacher. Although no determination was made on the merits of the complaint, the teacher was not retained and settlement was negotiated between the parties whereby the school agreed to emphasize its Equal Education Opportunity policy and a non-discriminatory disciplinary policy.

Case History # 10

A woman charging a city government with sex discrimination received a sizable cash settlement shortly after intake. Commission staff immediately sought to settle the case on the remaining remedies. Although the employer's settlement offer was more generous than that requested by the Commission, the complainant refused it and claimed she was entitled to a finding of fact on her allegations. The case was closed for "failure of Complainant to cooperate."

Case History # 11

A Black woman proved race discrimination by showing she was qualified and available for promotion and that a predominance of promotions in her work unit had gone to whites at a time when her employer's affirmative action program revealed a perpetual underutilization of Blacks and other minorities in the job class to which she sought promotion. Complainant received a year's backpay as remedy.

SETTLEMENT
NUMBER

REMEDY RECEIVED BY THE COMPLAINANT

1. \$9,369 back pay paid to the Complainant;
2. Change in hiring policy to eliminate sex-based limitation for customer service technician position;
3. \$8,500 back pay, reinstatement to customer service representative position with annual salary of \$21,120;
4. \$5,000 back pay, reinstatement to bus driver position with an annual salary of \$38,825;
5. Clarification of hiring policy, promise of fair consideration for future job vacancies;
6. Job offer as an Evaluator with an annual salary of \$24,886;
7. Eligibility for rehire, reinstatement to technician position on the North Slope;
8. Personnel records showing "termination for cause" changed to reflect "resignation", negative information expunged from personnel file, performance evaluation modified to eliminate unfairly critical comments;
9. \$3,000 back pay, promise of notification of future vacancies for telecommunications operator position;
10. Change in policy to institute equal employee uniforms allowance for male and female restaurant managers;
11. Promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
12. Reinstatement on a union's "A" dispatch list for construction camp jobs, 3700 hours of prior work credited to the Complainant's pension account;
13. Development and dissemination of an Equal Employment Opportunity policy by the employer which calls for disciplinary action to be taken against employees who commit policy violations;
14. \$8,600 in back pay and prospective wages, three-month job offer on a seismic crew;
15. \$5,258 back pay, job transfer as requested, reinstatement of various employee benefits and privileges;

16. Promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
17. Promise of notification of next available opening as a rental agent for an apartment complex;
18. Job offer for position of tax processor, \$820 settlement, employer to develop and disseminate an Equal Employment Opportunity policy;
19. \$500 settlement to resolve the complaint;
20. Landlord's promise to rent the first available one-bedroom apartment to the Complainant;
21. Promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
22. Personnel records indicating "termination for cause" changed to reflect "voluntary departure for personal reasons";
23. "Termination for cause" changed to "resignation", negative materials expunged from personnel file, ineligibility for re-hire reversed, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
24. \$12,000 back pay, negative records expunged from personnel file;
25. Job offer for the position of cement finisher at an annual salary of \$59,633;
26. Records relating to the facts and circumstances leading to the complaint of discrimination expunged from the Complainant's personnel file and the files of all other company personnel, employer to write a letter of reference for the Complainant, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
27. Employer to grant the Complainant an employment interview and to assess the Complainant's qualifications for the position of produce clerk in a grocery store;
28. Financial institution to issue a credit card in the Complainant's name;

29. Employer to offer the Complainant the first available opening as a fleet service technician which pays \$28,122 annually;
30. Promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers, employer to provide the Complainant with a letter of reference;
31. Employer to consider the Complainant's seniority, experience, and tenure with the company when the Complainant bids on internal promotional opportunities;
32. Landlord's withdrawal of eviction notice, upgrading of furniture and repair of walls and ceiling in the Complainant's rental unit, development and dissemination of non-discrimination policy statement;
33. \$200 settlement to resolve all claims arising from an unfair housing complaint;
34. \$4,475 back pay, eligibility for re-hire as a construction laborer, adverse information expunged from the Complainant's personnel file;
35. \$500 settlement to resolve the complaint;
36. \$141 settlement, neutral letter of reference, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
37. \$513 settlement, employer to prominently display non-discrimination poster;
38. \$200 settlement, employer supervisor to write a letter of apology to the Complainant regarding impertinent remarks made, employer to change "termination for cause" to "resignation for personal reasons", employer to expunge negative documents from the Complainant's personnel file;
39. Employer to fairly consider the Complainant's future requests for career-development training in work-related computer courses;
40. \$3,115 back pay paid to the Complainant;
41. Public accommodation to issue letter of apology to the Complainant who was refused service because her son is of a different race, promise by the public accommodation not to discriminate on the basis of race in the future;
42. Restaurant to provide letter of apology to the Complainant for refusing service to her because of her race;

43. Employer to begin sending letters of acknowledgment to job applicants in certain job categories and to review and assess the application materials received for vacancies in such job categories;
44. Employer to send letter of clarification to the Complainant setting forth the reasons for Complainant's non-selection regarding a liquor sales position, employer promises to consider future female applicants for liquor sales positions;
45. Employer to change "termination for cause" to "termination due to end of assignment", employer to negotiate with the Complainant's union to attempt to restore the Complainant's out-of-work date, employer will not release any adverse information to prospective employers regarding the Complainant's job performance;
46. Employer's supervisor to provide the Complainant with a letter of apology regarding alleged sexual harassment, impertinent remarks, unsolicited touching, and sexual propositions;
47. \$13,862 back pay paid to the Complainant, job offer for the position of engine service technician, employer to develop a policy of non-discrimination in recruitment and hiring on the basis of sex;
48. Employer to develop and disseminate anti-retaliation and non-discrimination policies which will be implemented by supervisory staff;
49. \$250 settlement to resolve the complaint;
50. \$2,500 back pay, records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file, employer to provide the Complainant with a letter of reference, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
51. \$200 back pay paid to the Complainant;
52. \$138 settlement to resolve a housing discrimination complaint, landlord to develop a non-discrimination policy in the treatment of tenants;
53. \$100 settlement, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;

54. Employer to rescind a 90-day probationary period which was unfairly imposed on the Complainant, Complainant to remain on the job without retaliation from the employer, records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file;
55. \$1,668 back pay paid to the Complainant, employer promises not to retaliate against the Complainant regarding future employment opportunities should the Complainant choose to re-apply with the employer;
56. Records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file;
57. \$100 settlement, letter of apology from the employer to the Complainant, radio broadcast of apology throughout the local area in question, employer to provide to the Complainant a written transcript of the radio-broadcasted apology;
58. \$472 back pay paid to the Complainant to compensate for a race-based differential in wages as between the Complainant and a similarly-situated co-worker;
59. Records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file;
60. \$2,133 back pay paid to the Complainant;
61. \$200 settlement, records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file, employer to provide good references for the Complainant in response to inquiries from prospective employers concerning the Complainant's job performance, employer to prominently display an Equal Employment Opportunity poster, employer to re-emphasize its EEO policy to its employees and particularly to those who perform in a supervisory or lead capacity;
62. Public swimming pool to provide equal access for men and women, charge the same admission fees, and provide the same opportunity for special-interest swim groups regardless of sex;
63. Employer to grant a desired job transfer to the Complainant;
64. Employer to provide a six-week maternity leave to the Complainant and maternity benefits totaling \$2,000;
65. Employer to reactivate Complainant job applicant's eligibility for a clerk position;

66. School district to re-emphasize to its teachers its Equal Educational Opportunity policy and non-discrimination student discipline standards, employer to emphasize that violation of such policy shall result in teachers being disciplined up to and including discharge if appropriate;
67. Records relating to the facts and circumstances leading to the filing of the charge of discrimination to be expunged from the Complainant's personnel file, promise by the employer to only provide information regarding the nature and duration of the discharged Complainant's employment in response to inquiries by prospective employers;
68. Employer to expunge certain adverse information from the Complainant's personnel file and to revise the wording of a reprimand which will remain in the personnel file for a six-month period;
69. Six-week maternity leave and group insurance benefits granted to the Complainant, employer to develop and disseminate a written policy prohibiting intimidation and harassment on the basis of pregnancy, sex and marital status which, if violated, will result in discipline up to and including discharge if appropriate;
70. \$1,000 settlement to resolve the complaint;
71. Nightclub to provide equal access and charge the same admission fees to customers regardless of sex;
72. Nightclub to grant access to the Complainant on the same basis as other customers;
73. \$400 settlement, employer to present training program on physical handicap placement and accommodation to its supervisory and personnel department employees, employer to advertise job vacancies with community organizations and government agencies likely to refer physically handicapped applicants;
74. Employer to provide the Complainant with a letter of recommendation for consideration by prospective employers;
75. Employer to promote the Complainant to a senior cook position which pays \$29,445 annually, employer to reimburse the Complainant in the amount of \$225 for college course tuition costs;
76. Employer to develop and disseminate an equal employment opportunity policy including directives for disciplinary actions to be taken against policy violators, employer to monitor for equal employment opportunity purposes all hires, promotions, demotions, and terminations; and
77. Employer to pay \$5,656 back pay to the Complainant.