

1986

**ANNUAL
REPORT**

**ALASKA STATE COMMISSION
FOR HUMAN RIGHTS**

EQUALITY

JUSTICE

February 3, 1987

The Honorable Steve Cowper, Governor, State of Alaska;
The Honorable Jan Faiks, President, Alaska Senate; and
The Honorable Ben F. Grussendorf, Speaker, Alaska House of Representatives
Juneau, Alaska

On behalf of the commissioners and staff of the Alaska State Commission for Human Rights, I proudly present the 1986 Annual Report.

This report summarizes the many achievements of the commission during the past year--a year in which the commission rendered a decision interpreting for the first time Alaska law requiring women to be paid the same as men for "work of comparable character". The commission's decision not only claimed national attention as a victory in the battle for pay equity but established the commission in its rightful place of leadership in the struggle for civil rights for all Alaskans.

The commission recalls with pride the 38th Annual Conference of the International Association of Official Human Rights Agencies which it co-hosted with the Anchorage Equal Rights Commission in July 1986. The tremendous support and generous response from Governor Sheffield, from the Municipality of Anchorage, and from our constituents in the community will long remain in our hearts as reminders of their deep commitment to human rights.

The commission commends Governor Cowper for setting aside a day for honoring Dr. Martin Luther King, Jr. We call upon the 15th Alaska Legislature to follow our governor's example by passing legislation declaring the birthday of the great civil rights leader a state holiday in Alaska.

Review of the commission's efforts over the past twelve months discloses significant progress toward our goal of prompt resolution of complaints through elimination of backlogged inventory. With fewer staff and diminished funding the commission resolved thirty-five percent more cases and restored a record amount of lost benefits to the victims of discrimination.

Despite these achievements, the commission believes that minority/female business enterprise and affirmative action requirements for state contractors are major items of unfinished business in our state. While we are mindful of the budget deficit and the need for cost containment in state government, these matters demand attention to resolve the commission's lingering concerns for equal opportunity and affirmative action in state contracting. The commission has proposed the formation of a task force to study these concerns and the assignment of civil rights responsibilities within state government.

Building on the progress of the past year, the commission will continue its efforts to fulfill the vision of the Alaska Legislature when it passed the human rights law guaranteeing the civil rights of all Alaskans.

Virgie M. King

Virgie M. King
Chairperson
Alaska State Commission for Human Rights



ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Commissioners:

Virgie M. King, Fairbanks

Morgan P. Solomon, Barrow

James H. Chase, Anchorage

Sandra A. Henricks, Fairbanks

Bienvenido E. Holganza, Juneau

Jacqueline Lindauer, Anchorage

Doris M. Volzke, Ketchikan

Commission Staff:

Administration:

Janet L. Bradley	Executive Director
Mark A. Ertischek	Hearing Advocate
Shirlee M. Clarke	Administrative Assistant
Frances Rabago	Docket Officer
Diane G. Barr	Legal Secretary
C. Briley Williams	Commission Secretary

Investigations:

Patsy M. Fletcher	Case Processing Director
Evelyn A. Ramos	Central Investigations Supervisor
James K. Nall	Investigator, Central
Kimberly L. Martus	Investigator, Central
Jeanne M. Fortier	Investigator, Central
Eddie L. Edison	Investigator, Central
Brenda C. Tolliver	Investigator, Central
Penny A. Forsmo	Investigator, Northern
Eleanor A. Gutierrez	Investigator, Northern
Lynette A. Turner	Investigator, Southeastern
Lisa D. Waters	Secretary, Central
Joy R. Marshall	Clerk-typist, Central
Laura C. Hernandez	Clerk-typist, Central

800 "A" Street, Suite 202 and 204
Anchorage, Alaska 99501

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Alaska Human Rights Law

The state of Alaska has a long and honorable history of commitment to eliminating discrimination in Alaska. Laws prohibiting discrimination were passed even before statehood. In 1945, the Territorial Legislature of Alaska enacted its first civil rights legislation when it declared it unlawful to discriminate against a person in any place of public accommodation because of race, creed, color or national origin. In 1949, the Territorial Legislature required that women be given the same pay as men who performed work of comparable character. And, in 1953, it adopted a Fair Employment Practices Act which made it unlawful to discriminate in employment.

In 1963, the Alaska Legislature created the Alaska State Commission for Human Rights to enforce human rights law in Alaska. Since its creation, the commission has been in the forefront of the effort to rid Alaskan society of discrimination. The law, which the commission was created to enforce, prohibited discrimination on the basis of race, religion, color or national origin in employment, labor union membership, public accommodations and housing. The commission was empowered to investigate complaints alleging such discrimination, to attempt to eliminate the discrimination, and if the commission was unable to persuade the accused to cease the discriminatory action, to take the matter to public hearing.

The Alaska Legislature has amended the human rights law many times since 1963, strengthening the commission's power or adding protections under the law. The present statute covers employment, sale or rental of real property, credit and finance, public accommodations, and practices by the state or its political subdivisions. Discrimination is currently prohibited on the basis of race, religion, color, national origin, sex, age, marital status, changes in marital status, pregnancy, parenthood and physical handicap, although not all bases are protected in each section. AS 18.80.255 prohibiting discrimination in the services,

AS 18.80.200(a)

"It is determined and declared as a matter of legislative finding that discrimination . . . not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety and general welfare of the state and its inhabitants."

advantages, goods and facilities provided by the state or its political subdivisions is unique among civil rights jurisdictions nationwide. Alaska human rights law is generally regarded as one of the most comprehensive and progressive civil rights laws in the United States.

The Alaska Legislature has also broadened the enforcement powers of the commission to coincide with the increased coverage of the law. In 1965, it gave the commission subpoena power for witnesses and evidence and the authority to obtain court orders for enforcement of commission orders in superior court. The authority to obtain temporary restraining orders from the superior court was added in 1969. In 1970, the commission was given authority to intervene in lawsuits brought in superior court by private parties alleging that their rights were violated under Alaska human rights law. In Alaska discriminatees may go directly to state court to obtain their rights; however, the cost of litigation forces most individuals to utilize the services of the commission which are free of charge.

The Alaska attorney general was designated as the commission legal counsel in 1972, but the commission was also given the right to employ temporary legal counsel when the attorney general was representing another agency of the state. In 1980, the legislature granted the commission an exemption from the state "sunshine law" by shielding the names of complainants and respondents and the commission's records of investigation from public access.

Alaska human rights law continues to grow as the commission applies and interprets the law in its decisions and orders. These decisions, together with the 17 human rights decisions rendered by the Alaska Supreme Court, comprise the body of case law which implements the legislature's mandate to eliminate and prevent discrimination in Alaska.

CURRENT PROTECTIONS OF ALASKA HUMAN RIGHTS LAW					
<u>Bases</u>	<u>Employment</u>	<u>Housing</u>	<u>Public Accommodation</u>	<u>Financing</u>	<u>Governmental Practices</u>
Race	X	X	X	X	X
Religion	X	X	X	X	X
Color	X	X	X	X	X
National Origin	X	X	X	X	X
Sex	X	X	X	X	X
Age	X	X*			
Physical Handicap	X				
Marital Status	X	X	X	X	
Changes in Marital Status	X	X	X	X	
Pregnancy	X	X*	X	X	
Parenthood	X		X	X	
Creed			X*		X*
*limited coverage					

Human Rights Law Enforcement

By statute, the commission consists of seven commissioners, appointed by the governor for staggered terms and confirmed by the legislature. The commission meets annually--more often as funding permits--to set policy, to conduct business, to direct the staff, to render decisions on cases and to speak out on matters of special interest to the agency. The commissioners elect officers and delegate special responsibilities to the chairperson. These seven lay commissioners appoint an executive director, approved by the governor, to manage the day-to-day operations of the agency. The commission's staff maintains offices in Anchorage, Fairbanks and Juneau.

The commission has followed a law enforcement model since 1975. In simple terms, this means that the major thrust of the agency has been the elimination and prevention of discrimination through investigating complaints, conducting public hearings on violations, issuing commission decisions and orders, and enforcing those decisions and orders in the Alaska courts.

Complaints may be filed by aggrieved individuals or by the executive director who may file complaints when alleged discrimination is brought to her attention. Most complaints originate with a telephone call to the commission from an inquirer with a problem--a lost job, an unfair evaluation, an eviction, or some other personal crisis. Trained staff interview the inquirer to determine whether the matter falls within the agency's jurisdiction. Frequently, the inquirer's problems are not within the jurisdiction of the commission and then counseling is provided. In 1986, commission staff handled over 3,000 such non-jurisdictional inquiries. Careful screening and counseling of inquirers prevents cases of dubious jurisdiction from entering the case processing system. During the past 12 months, new filings decreased 34 percent, dropping from 496 filings in 1985 to 328 in 1986. This dramatic decline can also be attributed to the economic recession where fewer opportunities to discriminate are

BACK TO WORK

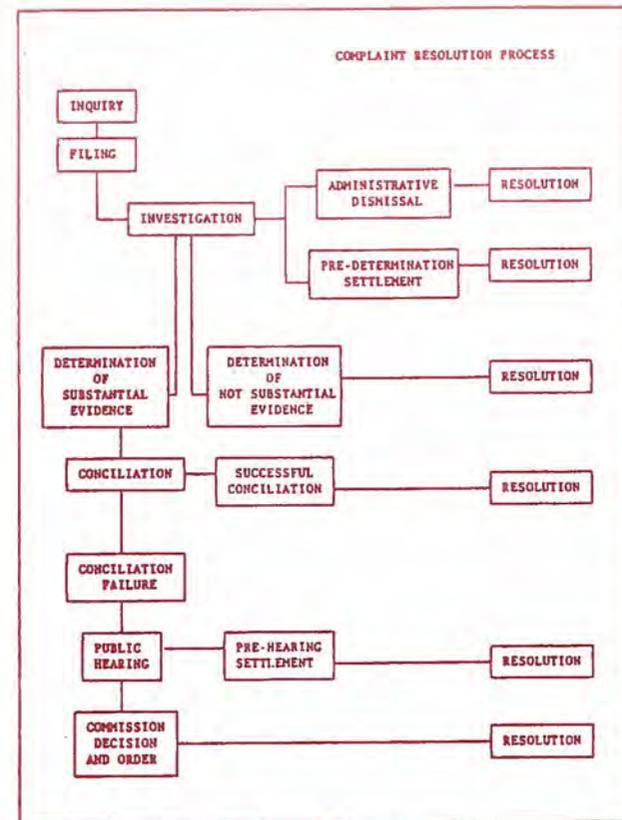
Within three months of filing charges that he was laid off and denied rehire because of his race, an Alaska Native laborer was put back to work in a desired position away from co-workers with whom he had had personality conflicts. The reinstatement restored to complainant an annual income of \$42,370.

presented and workers suffer unfairness in silence, fearful of losing their jobs.

Commission staff assist individuals to file discrimination complaints. The complaint is then served on the respondent (the party charged with violating the law) and investigation begins. The commission is required by law to conduct an impartial investigation which may include field visits, witness interviews, review of documents or issuing discovery such as interrogatories and requests for production of records.

Many cases are resolved at an early stage in the process. Resolution conferences are held when feasible, bringing the parties together in the presence of commission staff to gather facts and resolve the dispute. The complainant may be offered reinstatement on the job, a pay increase, an amended evaluation, or a lump sum cash payment. Last year one complainant with cerebral palsy was returned to her job at a fast food restaurant because of the commission's efforts. In another settlement, the commission required remedial training for the owner and managers of a small business named as respondents in a sexual harassment case. A complainant who alleged that she quit her job rather than endure the unwelcome sexual advances of her employer received \$10,000 in settlement of her case. As part of the settlement agreement, the commission requires respondents to pledge future compliance with human rights law, to change policies or procedures giving rise to the complaint, and to refrain from retaliation against the complainant for filing the complaint with the commission.

If early resolution attempts are unsuccessful, investigation is completed and a determination is issued. The determination is the written report of the investigation with the staff's conclusions that the complainant's human rights were--or were not--violated by the respondent. Generally, the determination represents many months of investigation. Legal research, application of the correct legal theory, and analysis of the facts uncovered during investigation require



extensive effort by investigators and painstaking scrutiny by the reviewing supervisors. The commission's investigative work product, which is subject to review by the Alaska courts, is frequently the result of a lengthy process; but this process safeguards the rights of complainants and respondents under human rights law.

If the staff determines there is not substantial evidence that the law has been violated, the case is dismissed. If there is substantial evidence that the law has been violated, an attempt to remedy the discrimination is made through conference, conciliation or persuasion. Many respondents in discrimination cases are now represented by attorneys. Although the complainant has the right to retain counsel, the commission staff negotiates on complainant's behalf during conciliation. Few cases reach conciliation; however, the commission has obtained noteworthy settlements at this stage. For instance, one woman who was refused a job because her husband worked at the same jobsite received \$17,500 in settlement of her marital status complaint.

If conciliation fails, the case is noticed for public hearing. The hearing advocate presents the complainant's case on behalf of the executive director. During investigation, the names of the parties and the substance of the investigation are held confidential by the commission; the matter first becomes public at the hearing stage. The prospect of a public hearing motivates respondents to settle on the "courthouse steps". In 1986, the hearing advocate settled an age discrimination case with an award to the complainant of \$59,546 in compensation for lost retirement benefits and incidental expenses. In another settlement, a discharged black pilot car driver received \$8,000 in back pay and benefits shortly before hearing. A hearing examiner is usually appointed to conduct the hearing, to rule on motions and to prepare a recommended decision. Three hearing commissioners render the decision and order appropriate relief. Commission decisions and orders are enforceable in superior court. Commission decisions and orders may also be appealed in superior court.

ALL IS FORGIVEN

An Hispanic kitchen manager in a Mexican restaurant was demoted because of, the general manager stated, his bad temper. Alleging that he was disciplined more harshly than whites, complainant filed charges of national origin discrimination. After responding to the commission's interrogatories, the respondent recalled complainant's good work record and returned him to his previous position. The case was closed as a successful settlement.

Commission Decisions & Orders in 1986

In the case of Janet Bradley, Executive Director v. Ketchikan Gateway Borough School District, complainant alleged that certain teachers employed by the school district were the victims of pregnancy discrimination because the school district's health insurance policies paid lower benefits for pregnancy than for other medical conditions. In 1979 the commission ruled that this practice discriminated on the basis of sex and pregnancy in the case of Painter v. Ketchikan Gateway Borough School District. By the time Bradley reached public hearing, the school district had already modified its employee health plan to comply with the law. Although this issue of discrimination law had been decided earlier in Painter, the commission made an important procedural decision by ruling that the executive director was not required to file a class action but had authority to seek damages for individuals who had been injured by discrimination by filing an executive director's charge. The commission also determined that the amount of damages due to the complainants represented by the executive director was the dollar value of insurance benefits lost because of the employer's discriminatory practices.

In the case of Janet Bradley ex rel John L. Sullivan v. Polaris Investment Corporation, DBA, Black Angus Restaurant, complainant alleged that he had been fired from his position as a cook in the restaurant because he was black. After considering the evidence in public hearing, commission ruled the complainant had not met the burden of proving that race discrimination had been the reason for the complainant's dismissal.

In the case of Janet Bradley ex rel Jerry Myers v. Skagway City Schools complainant alleged that he and similarly situated individuals had been discriminated against because of their marital status. The evidence showed that the respondent provided health insurance policies for its employees and dependents of employees which reimbursed 90 percent of covered medical expenses. In the situation of

FEMALE BUSINESS ENTERPRISE

A female owner of a security business filed charges of sex discrimination against a governmental body under AS 18.80.255 when her company was denied a contract in favor of a male-owned company. Although she claimed that the awardee had no licensed guards as required by the contract specifications, the investigation showed otherwise. Additionally the male-owned company had submitted the lowest bid. A determination of not substantial evidence was entered and the case was dismissed.

husbands and wives who were both employed by the respondent, 100 percent coverage would have been provided if both spouses claimed each other as dependents. The respondent's policy barred this coordination of benefits. At hearing, the commission was required to determine whether the equal treatment provided to the employees was to be measured by the cost of the benefits to the employer or by the level of the benefits provided to the employees. The commission decided in favor of the respondent reasoning that employees married to other employees received the same benefits as single employees, i.e., 90 percent of covered medical expenses; therefore, there was no discrimination on the basis of marital status.

The case of Janet Bradley ex rel Constance Trollan et al v. Alaska Departments of Administration and Health and Social Services, known as the "Public Health Nurses' case", was the longest case in the commission's history, requiring several years to progress to public hearing. The hearing lasted seven weeks, and preparation of the briefs and the commission decision took two years. The commission rejected the hearing examiner's recommendation and issued a final decision and order over 100 pages in length.

In this case eleven female public health nurses employed by the state of Alaska charged that they and other similarly situated public health nurses were paid less than male physician's assistants. The nurses contended that their work was of "comparable character" to the work of the male physician's assistants and that they were, therefore, victims of sex discrimination. During the hearing, the commission received extensive evidence regarding the duties of the public health nurses and physician's assistants, and the skill, effort, responsibility and working conditions associated with those duties. In addition to testimony from nurses, physician's assistants, and the state personnel officials, numerous experts testified regarding the professions and methods of job evaluation.

This case presented the commission with several issues of first impression. AS 18.80.220(a)(5), which requires equal

RACIAL SLAM

A Corvette-driving assistant manager of a fast food restaurant was laid off shortly before completion of management training purportedly due to a seasonal slowdown in business. The black employee filed charges of race discrimination because junior white assistant managers were retained and because his white boss had made racially derogatory comments, including a few about blacks who drive sports cars! At a resolution conference held a month and a half later, the employer agreed to reinstate the complainant with full backpay and benefits. Additionally, the employer pledged to develop and implement a formal employee grievance procedure and to provide EEO training to its supervisory staff.

pay for women doing work of "comparable character" to the work of men paid a higher wage, had never been interpreted by the commission or the courts, although it had been on the books for nearly two decades.

In its final decision issued on January 29, 1986, the commission decided that the "comparable character" statute should be interpreted broadly and that the positions in question were of "comparable character", entitling the female nurses to be paid the same as the male physician's assistants. This ruling will allow a broader range of comparisons between occupational groupings in future cases.

The commission also decided that the nurses were the victims of sex discrimination, prohibited by AS 18.80.220(a)(1). The commission ruled that the respondent State of Alaska had a duty to employ an objective method of assessing the relative value of the jobs of its employees and setting their pay. The commission also indicated it would give deference to the pay determinations of employers which used objective systems but found that the subjective method used by the state actually caused the discriminatory treatment of the complainants. This landmark ruling will provide substantial impetus to the adoption of objective pay systems in the private sector of the Alaskan economy.

Finally, the commission set a precedent by rejecting the argument that a discriminatory pay system could be justified by showing that the wages were consistent with prevailing market rates. Market value, in the view of the commission, is the result of lingering sex discrimination in our society. The commission ordered the state to pay the nurses at the same salary rate as the physician's assistants' pay and ordered this salary alignment to remain in force unless and until the state implements an objective non-market based job evaluation which justifies a different internal alignment of these positions. Damages are now estimated at \$1.5 million dollars including back pay and interest. This case is presently on appeal in superior court before Judge Craske in Sitka.

HOLD THE ELEVATOR

An employer charged with physical handicap discrimination admitted dismissing a housekeeper in its hotel after she suffered a diabetic reaction at work. Hotel management feared complainant would faint on the stairs and hurt herself or others. Investigation established, however, that the complainant was capable of meeting the reasonable demands of the job and could have been accommodated by being allowed to use the elevator in the course of her work. It was determined that the discharge was unlawful and at conciliation, the complainant was offered reinstatement and back pay.

Commission Litigation in 1986

Patricia Sheehan v. University of Alaska and Alaska State Commission for Human Rights:

Sheehan alleged that the University of Alaska had discriminated against her, on the basis of sex, by terminating her as an assistant professor in the English Department on the Fairbanks campus. The commission had dismissed Sheehan's case because there was not substantial evidence of discrimination. Sheehan appealed the commission's closure order. The superior court held: 1) a closing order of the commission is considered a final order for purposes of AS 44.62.560 and is properly appealable to the superior court; 2) an appellant does not have to exhaust administrative remedies before appealing a commission order to the superior court; 3) the appropriate standard of review of a commission's order to close a case for "Not Substantial Evidence" is whether the decision was supported by substantial evidence; 4) Sheehan failed to establish a prima facie case of sex discrimination under the test set forth by the Alaska Supreme Court in Alaska State Commission for Human Rights v. Yellow Cab, 611 P.2d 487 (Alaska 1980); 5) the university's requirement that its English faculty possess a Ph.D. constituted a legitimate nondiscriminatory reason for Sheehan's non-retention; and 6) the commission's investigation of Sheehan's charge met the statutory requirements of AS 18.80.010 et seq.

Public Safety Employees Association (PSEA) v. Alaska State Commission for Human Rights ex rel Carol Dunlap:

PSEA filed a complaint for injunctive relief in superior court to enjoin the commission from holding a public hearing in this case. The superior court ruled that PSEA's complaint, although styled as an original complaint, was in fact an appeal from an interlocutory decision of the commission. The superior court granted PSEA's petition for review and subsequently affirmed the commission's prior orders

WOMEN WORKERS UNITE

Numerous female workers employed at a rural utility company alleged that a male manager continued to subject them to a sexually harassing work environment despite their protests to local management representatives and union intervention. Due to the high volume of complaints against the same employer, the commission conducted immediate field intake, on-site investigation and facilitated lengthy settlement discussions. This expedited resolution produced an agreement with the employer providing full remedial relief curative of the disputed work environment.

that: 1) the commission has jurisdiction to adjudicate conduct which occurred, in part, outside the state of Alaska; and, 2) venue for the hearing is properly established in Anchorage, Alaska. The commission recovered attorney's fees and costs for prevailing on appeal.

Corazon Fox v. Alaska State Commission for Human Rights and Alascom, Inc.:

Fox alleged that Alascom, Inc. had discriminated against her, on the basis of race or national origin, by terminating her from her employment. The commission closed Fox's case for "Not Substantial Evidence". On reconsideration the chairperson of the commission affirmed the closing order. Fox appealed to the superior court. On appeal Fox argued that: 1) the appropriate legal theory for the commission to apply is not a "different treatment" analysis under McDonnell-Douglas v. Green, 411 U.S. 792 (1973), but rather whether or not Fox's termination was the result of racial animus manifest in a "hostile work environment;" and 2) the appropriate remedy in this case is a trial de novo, or in the alternative, a remand to the commission with instructions to apply a different legal standard. Briefing has been completed and oral argument is scheduled in the superior court.

LACK OF COMMUNICATION

A Filipino employee complained of national origin discrimination after being discharged for allegedly refusing to follow orders. Initial investigation revealed that the termination, which was inconsistent with past practices, was summarily ordered after a communication breakdown between the complainant, who was unable to articulate quickly enough that her actions had not been insubordinate, and the impatient supervisor who only saw that the task had not been completed. In lieu of further investigation, the employer agreed to the complainant's settlement proposal of two months' back pay.

1986 Case Processing Statistics

ANALYSIS OF FILINGS BY COMPLAINANT'S SEX:

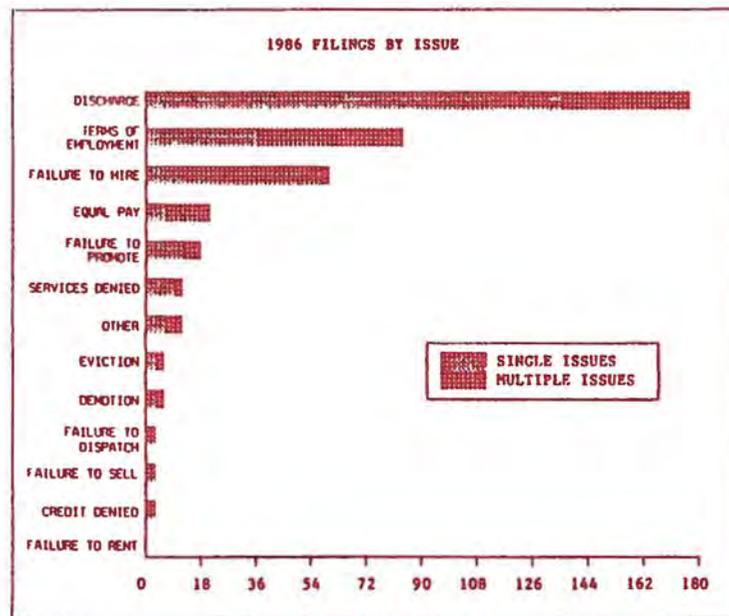
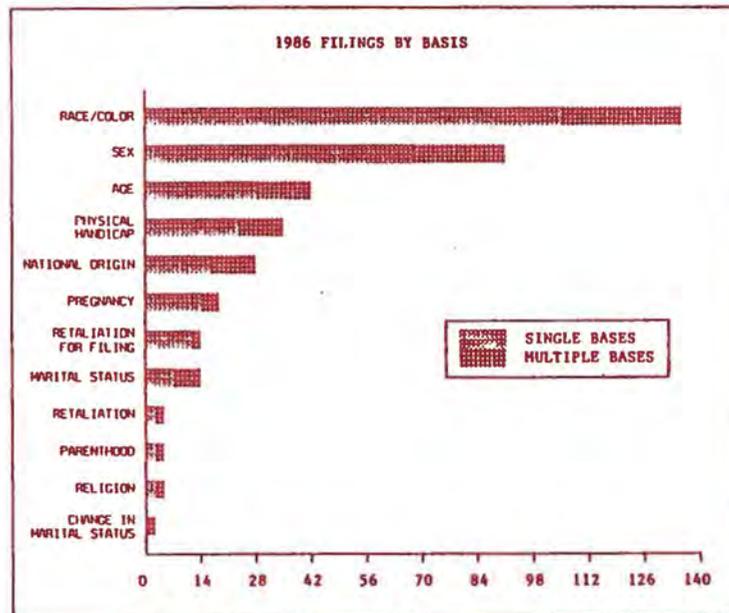
Female	184
Male	144
Director's Charge	1
Multiple Charge	1
Unknown	1
TOTAL FILINGS	331

ANALYSIS OF FILINGS BY COMPLAINANT'S RACE:

Caucasian	158
Black	85
Alaska Native	33
Hispanic	15
Asian	13
American Indian	6
Other	6
Director's Charge	1
Multiple Charge	1
Unknown (other agency filings)	13
TOTAL FILINGS	331

ANALYSIS OF FILINGS BY TYPE:

Employment	301
Gov't Practices	14
Housing	8
Public Accom.	5
Finance	3
TOTAL FILINGS	331



ANALYSIS OF FILINGS BY BASIS:

	Single Bases Complaint	Multiple Bases Complaint
Race/Color	105	30
Sex	67	23
Multiple	50	0
Age	29	13
Physical Handicap	24	11
National Origin	17	12
Pregnancy	15	4
Retal for filing	12	2
Marital Status	6	7
Retaliation	1	3
Parenthood	2	3
Religion	3	1
Change/Marital Status	0	2
TOTAL FILINGS	331	111

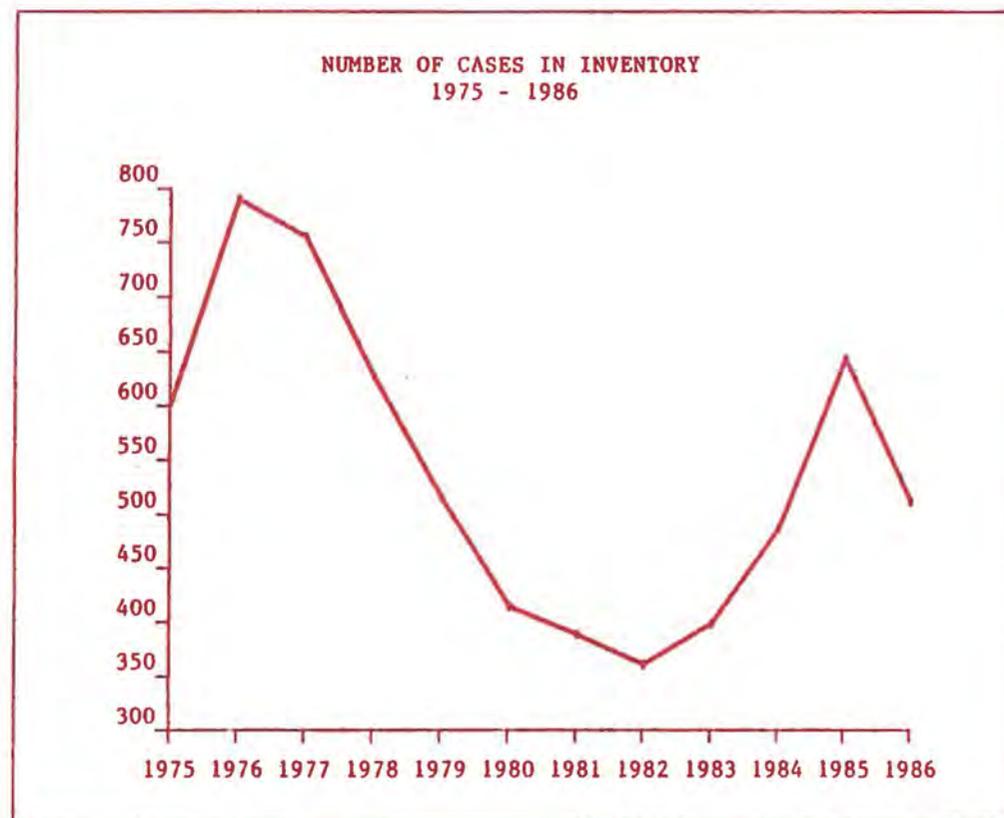
ANALYSIS OF FILINGS BY ISSUE:

	Single Issue Complaint	Multiple Issues Complaint
Discharge	134	43
Terms/Employment	35	48
Multiple	59	0
Failure to Hire	57	3
Equal Pay	7	15
Failure/Promote	13	5
Services Denied	10	3
Other	5	7
Eviction	2	3
Demotion	4	1
Failure/Dispatch	2	0
Failure to Sell	1	1
Credit Denied	1	1
Failure to Rent	1	0
TOTAL FILINGS	331	130

Reason for Closure	Number of Closures	Percentage of Total
ADMINISTRATIVE CLOSURES:		
Complaint Withdrawn	44	9.36%
Complaint Not Timely	3	.64%
Lack of Jurisdiction	18	3.83%
Complainant Not Available	11	2.34%
Failure of Complainant to Proceed	23	4.89%
Complainant in Court	5	1.06%
Administrative Dismissal	5	1.06%
Exception	1	.21%
Subtotal	110	23.40%
CONCILIATION/SETTLEMENT CLOSURES		
Successful Settlement	37	7.87%
Pre-Determination Settlement	73	15.53%
Substantial Evidence/ Conciliation Agreement	8	1.70%
Substantial Evidence/Full Relief Rejected by Complainant	2	.43%
Subtotal	120	25.53%
NOT SUBSTANTIAL EVIDENCE	207	44.04%
HEARING CLOSURES		
Hearing Decision for Complainant	25	5.32%
Hearing Decision for Respondent	2	.43%
Pre-Hearing Settlement	4	.85%
Hearing Closure--Other	2	.43%
Subtotal	33	7.02%
TOTAL 1986 CLOSURES	470	100.00%

SUMMARY OF CLOSING ACTIONS

Reason for Closure	1982		1983		1984		1985		1986	
	No.	%								
Conciliation/Settlement Closures	96	30.1	96	31.1	125	34.5	117	33.7	149	31.7
Not Substantial Evidence	139	43.6	118	38.2	132	36.5	110	31.7	209	44.5
Administrative Closures	84	26.3	95	30.7	105	29.0	120	34.6	112	23.8
TOTAL CLOSURES	319		309		362		347		470	



Alaska's Civil Rights Network

By virtue of its legislative mandate, the Human Rights Commission is the chief civil rights enforcement agency in the state. The commission has been certified by its federal counterpart, the U.S. Equal Employment Opportunity Commission, as a Section 706 agency since 1973. Because of this certification, EEOC defers complaints of employment discrimination to the commission for investigation. The commission also enters into worksharing agreements and charge resolution contracts with the EEOC generating federal receipts. A similar arrangement has existed between the commission and the U.S. Department of Housing and Urban Development since 1983. In FY 87, the commission expects to generate \$113,495 in federal receipts or 11.5 percent of its total budget in payment for completed investigations on dual-filed complaints of discrimination.

In addition to these federal relationships, the commission also engages in worksharing with the Anchorage Equal Rights Commission and dual-files complaints within the boundaries of the Municipality of Anchorage with that agency. This arrangement does not generate funds but is beneficial to both agencies by eliminating duplication of effort. The commission supports local efforts to eliminate discrimination and looks forward to restored funding for the City of Fairbanks Human Rights Commission and to the continuing efforts of the Ketchikan Human Relations Commission.

It is important to distinguish the role of the commission and that of the Office of Equal Employment Opportunity. The Office of EEO has authority to informally resolve employment complaints filed against executive branch agencies in state government and is responsible for developing and implementing the state government affirmative action plan.

In contrast, the Human Rights Commission has authority to investigate complaints in both the public and private sector. In addition to employment, the commission has jurisdiction in housing, public accommodations, financing

AS 18.80.290(d)

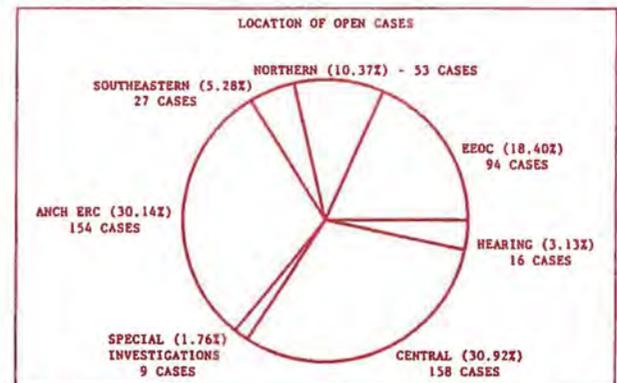
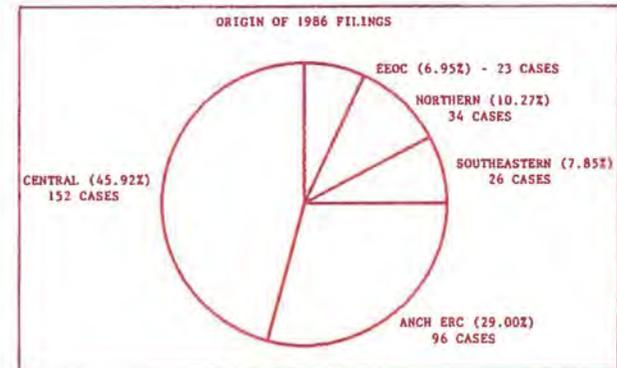
"The legislative body of a general law or home rule municipality has the authority under AS 29.48.035 to grant to local commissions powers and duties similar to those exercised by the Alaska Human Rights Commission under the provisions of this Act."

and governmental practices. Most important, the commission is empowered by statute to enforce the law. The commission may issue subpoenas, compel witness testimony and the production of records necessary to its investigations. Commission decisions and orders are enforceable in the Alaska courts.

The commission enjoys a close working relationship with the Alaska Women's Commission. Executive Director Bradley appears regularly before the Women's Commission to discuss mutual concerns of the two agencies. Commission staff take part in conferences and task forces sponsored by the Women's Commission. Research on women's issues by the staff of the Women's Commission is utilized in commission investigations. Both commissions have supported proposed legislation on matters of common interest and have coordinated activities on behalf of their constituents. The advocacy role of the Women's Commission complements the enforcement role of the Human Rights Commission.

One vital but missing component in the network of civil rights agencies is an office of state contract compliance. This office would monitor the state's efforts to contract with minority and female business enterprises and assure compliance with affirmative action requirements for state contractors. The commission has advocated the creation of this office for several years as an outgrowth of its earlier litigation against the Department of Transportation and Public Facilities. The litigation arose from an executive director's charge because of the lack of state construction contract dollars flowing to minority businesses.

The commission recognizes that state government cannot be expanded at this time; however, there is an urgent need to ensure that state contract funds, if limited, are nevertheless distributed fairly. To deal with this critical concern, the commission has called for the formation of a task force to consider a creative approach to the assignment of civil rights functions among existing agencies in state government.



Current Issues & Legislation

In addition to its law enforcement activities, the commission plays an important role in advocating equality and justice for minorities, women, the handicapped and other groups protected by human rights law.

Since 1983, the commission has been working with community based constituencies concerned about acts of hatred and violence based on racial, religious, ethnic and other discriminatory motivation. Joining with the U.S. Department of Justice Community Relations Service and the Anchorage Equal Rights Commission, the Alaska Commission formed a task force to seek passage of a state law prohibiting discriminatory harassment. Discriminatory harassment legislation was introduced in the 13th and 14th Alaska State Legislatures. These bills failed to pass because of technical problems with the criminal sections of the proposed bills.

The commission remains steadfast in its commitment to seek passage of a discriminatory harassment bill. The number of incidents of religious and racial violence and acts of extremism is growing nationwide. Although the reported number of incidents in Alaska is small, the commission believes that the potential exists for increased tensions between racial groups as a result of intense competition for fewer jobs in a depressed economy.

The commission supports a modified version of the previously considered discriminatory harassment legislation. Governor Cowper's proposal to the 15th Legislature creates a civil right of action for victims of harassment to obtain actual and punitive damages in the Alaska courts. An informational copy of the court complaint and the answer to the complaint are required to be sent to the commission. This enables the commission and the task force to monitor the level of discriminatory harassment in Alaska and to develop educational programs and preventive measures in response to incidents of harassment. Passage of legislation prohibiting discriminatory harassment will serve as a message from the

SEEING IS BELIEVING

An Alaska Native laborer terminated from a construction project filed a race discrimination complaint when she observed non-Natives performing her old job. Investigation revealed that the non-Natives were carpenters completing a skilled task for which she had done the preparatory work. The investigation also disclosed that she and another Alaska Native had been the longest employed laborers on the project. Accordingly, it was determined that there was not substantial evidence of discrimination.

people of Alaska that such heinous activity is unwelcome in our state.

The commission has also supported the passage of legislation expanding its jurisdiction to protect the rights of physically and mentally disabled. Under current law, the commission's authority is limited to accepting complaints of the physically handicapped in the area of employment. The proposed legislation, sometimes called the "Disabled Bill of Rights," protects the rights of the disabled to obtain housing and credit, to enjoy goods and services offered in places of public accommodation, and to receive the benefits of local, state or federal funds. Under the proposed legislation, the definition of the protected class is also broadened to include the mentally disabled. Adopting this definition also makes Alaska law consistent with federal regulations which already govern many employers and service providers in Alaska. Strengthening Alaska Human Rights Law by passage of the "Disabled Bill of Rights" ensures the rights of the disabled to equal participation in Alaskan society.

PERSISTENCE PAYS OFF

Upon recovery from an on-the-job injury to his right hand, an aircraft maintenance mechanic was discharged when he presented his fit to work slip to his employer. The complainant's reluctant doctor finally testified that complainant was capable of performing his job with little or no accommodation. Complainant, who had found other employment, declined reinstatement or compensation for lost benefits, settling instead for a cash-out of his retirement benefits.

38th Annual IAOHRA Conference

1986 PUBLIC EDUCATION HIGHLIGHTS

July 1986 marked the culmination of two years' planning when the Alaska State Commission for Human Rights joined with the Anchorage Equal Rights Commission in co-hosting the 38th Annual Conference of the International Association of Official Human Rights Agencies (IAOHRA).

The State of Alaska, the Municipality of Anchorage, the private sector, and numerous community service organizations supported the conference through cash and in-kind contributions. Many volunteers lent time and talents which contributed to the success of this event.

The week long conference with the theme of "Civil/Human Rights: Crossroads To The Future" drew over 100 participants from all parts of the United States and Canada. It provided a forum for members to meet and exchange ideas and strategies, identify problems and explore solutions, conduct the business of the association, and raise the level of consciousness of the host community and the country-at-large on the challenges facing civil rights activists.

Those who gathered at this "crossroads to the future" had the opportunity to listen to speakers representing federal, state and local civil rights enforcement agencies and to attend workshops and seminars addressing civil rights issues such as age discrimination, pay equity, sexual preference, physical handicap and sexual harassment. Great care and planning were given to providing attendees with a schedule of activities that would be satisfying, productive and conducive to professional growth. Attention was also given to providing fun and entertainment, Alaska-style, with a bus tour to Portage Glacier, a traditional Alaskan outdoor salmon bake, a Native dress review and performances by Alaska Native dancers. Those member agencies who had expressed concerns about the rigors and cost of travel to the north country were among the first to write "thank you, Alaska" and to sing Alaska's praises.

Publication of two issues of the ASCHR Activist, the agency newsletter, and 10 news releases

Keynote address to the 1986 state convention of the National Organization for Women, Fairbanks

Interview on IAOHRA Conference, KSKA-FM, Anchorage

Presentation on equal employment opportunity, Alaska Employment Law Seminar, Anchorage

Testimony before the Juneau Assembly on preventing violence and discriminatory harassment

Talk show on local issues of discrimination, KNIK-FM, Anchorage

Presentation to State Division of Vocational Rehabilitation, Anchorage

Technical Assistance to the Kenaitze Tribe

Speech on Alaska Public Health Nurses' cases, to the Northwest Region Women Judges, hosted by the Anchorage Women Lawyers Association

Workshop at the statewide Bilingual-Multicultural Education Conference

Address on affirmative action to the Alaska chapter of the American Association for Affirmative Action

Speech to the Alaska chapter of the American Association for Public Accountants

Presentation on filing and investigation of retaliation cases, April Theme Meeting, Anchorage Equal Rights Commission

Speech to the Bartlett Democratic Club, Anchorage

At the annual IAOHRA business meeting, the conferees adopted six resolutions including a resolution calling for the resignation of Clarence Pendleton, the chairman of the U.S. Civil Rights Commission, a resolution urging protection under anti-discrimination law of persons diagnosed as having acquired immune deficiency syndrome (AIDS) or aids related complexes (ARC), and a resolution urging President Reagan to impose economic sanctions against South Africa until apartheid is totally abolished. One of the conference highlights was Governor Sheffield's luncheon address in which he announced his intention to divest Alaska Permanent Fund monies from companies doing business in South Africa.

The final day of the conference addressed the concerns of the local business and industry community and offered a series of workshops on equal employment opportunity and affirmative action which were conducted by local specialists.

For most of the IAOHRA members, the Alaska Native Claims Settlement Act (ANCSA), the tribal sovereignty movement and the drive for "1991" amendments to ANCSA were new civil rights issues. Speeches by Janie Leask, president of the Alaska Federation of Natives and Rosita Worl, anthropologist, Chilkat Institute and publisher, Alaska Native Magazine gave conferees background information and insight into these controversial issues at the forefront of Alaskan politics. The 1991 amendments were vigorously debated at the concluding plenary session of the conference. Reprinted on the following pages are the remarks of Attorney David Case, a panel member at that plenary session. Case's eloquent speech reduced the political and economic arguments of 1991 to the fundamental question of the survival of Native culture and the protection of the human rights of Alaska Natives.

Training and technical assistance to Tribal Employment Rights Organizations

TV clip on the Public Health Nurses' cases, KTUU-TV, Anchorage

Informational meeting with Kodiak Job Service

Presentation to Polar Chapter Secretaries Association, Fairbanks

Speech on human rights laws to Fire Protection Managers, Anchorage

Panel presentation on age discrimination, Southeast Senior Center

Attendance at annual conference of Alaska Federation of Natives, Anchorage

Panel presentation on comparable worth, NLRB Federal Conciliation Services, Labor Conference, Anchorage

Participation in Clerical Skills Training, Fairbanks

Interview on Alaska Public Health Nurses' cases, KCAW-FM, Sitka

Presentation on preventing discrimination complaints to Juneau Small Employers Council

Presentation to displaced homemakers, Ketchikan Cooperative Extension Service

Workshop on employment and housing law, Filipino American Association of Kodiak

Outreach to Nome Community Center, Kawerak Corporation, Nome Teen Center, and Kotzebue Skill Center

Public service announcements to rural Alaska on the agency's toll-free Complaint Hot Line via Alaska Public Radio Network. Re-broadcast in Inupiat, translation courtesy of Commissioner Solomon

I am going to do something risky for a lawyer, and that is talk about "dreams". Maybe that is because I have been reading ARCTIC DREAMS, the new book by Barry Lopez. Maybe that is because that in preparing for this conference, I listened again to Dr. Martin Luther King's sermon to the congregation of the Ebenezer Baptist Church in Memphis, Tennessee on the day he died. He spoke then of his dream that:

The Brotherhood of Man will become a reality in this day and with this faith I will go out and carve a tunnel of hope through the mountain of despair. With this faith, I will go out with you and transform dark yesterdays into bright tomorrows. With this faith, we will be able to achieve this new day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing with the Negro . . . Free at last, free at last! Thank God we are free at last!

Dr. King's dream is also the dream of the United States Constitution. It is the dream of the Bill of Rights and the 13th and 14th Amendments. It is the dream of the success of the American experiment. It is, in part, also the dream of the Alaska Native Claims Settlement Act, at least insofar as the Act was intended to provide substantial economic benefits to the Alaska Natives.

There is another dream that I would like you to consider. It is a dream that is not based just on the belief that all people are created equal, although it does not deny that belief. It is a dream that predates the United States Constitution. It is a dream that predates the Bill of Rights and the 13th and 14th Amendments. It is a dream that admits that in equality there can be diversity. For equality carried to its logical conclusion means that all people must be the same and that is the essence of tyranny. It is only in diversity that there is true freedom.

But diversity of which I speak is not the diversity of the individual. It is the diversity of cultures. It is a diversity of communities. It is a diversity of family and kin relationships which those of us in the so-called "dominant society" do not in the least understand when it comes to the cultures of the Native Americans.

The right to be different is what makes 1991 a human rights issue. It is not the right to be equal, for equality when strictly applied to Native Americans has always meant that they are assimilated into an alien society and their cultures and ways of life are lost forever. It is a right, when applied to Native Americans, which is not derived from the United States Constitution but from the fact that the Native Americans were here first. Their rights are derived from the U.S. Supreme Court's interpretation of the common law and the history of the relationships between the governments of the Native Americans and the new governments the Europeans established in the new world. In short, the laws of the United States acknowledge the right of North America's first cultures to exist. A host of federal court decisions and federal statutory enactments attest to this right in various direct and indirect ways.

It is, however, difficult for us in the dominant society to accept the cost of the right to be culturally different. Doing so, requires us to acknowledge first of all that there are inherent Native rights to land and resources. These rights are not granted to Natives but they are inherent in the fact the Natives were here first on the land and that the courts of the United States have acknowledged their inherent rights to land and resources. These are, after all, land based cultures. Thus, the acknowledgement of Native rights to land is essential to the cultural existence of the Natives.

It is also difficult to accept the cost of the right of Native cultures to exist because in doing so we must acknowledge that our own dreams of human rights and our own aspirations of individuality are often inconsistent with Native dreams. We must acknowledge that the dominant society and its values are not the only (or maybe

even the best) values for all people at all times. That means also that we must then accept that Native ways of life are just as valid as our own and ought to be left alone to develop on their own terms and to evolve in their own way.

In Alaska, the land and resource issues have been addressed, at least in substantial part, by ANCSA and the state and federal subsistence laws enacted as part of or in response to the Alaska National Interest of Lands Conservation Act (ANILCA). The proposed 1991 ANCSA amendments, insofar as they address the questions of land protection and stock restriction, are also a part of the machinery necessary to protect the Alaska Native land and resource base.

Culture, however, is more than land and resources. It is the way people grow up--the experiences they have in life. It is their kinship ties and the resulting values that come from the way in which they interact with members of their family and whether that family is a nuclear family or an extended family. Cultural values may turn on such things as whether the family is matrilineal or patrilineal and the ties of kinship and sharing which grow out of the various acts necessary for a subsistence culture to thrive. Culture is also a matter of a separate language which implies a different way of thinking. No matter how hard those of one culture try to "understand" those of another, we are always doomed to fail, because we have not had the same experience of growing up as those in the other culture.

We also carry the values of our culture into all of the institutions which are the product of our culture. The thing we must realize is that Native cultures simply cannot survive in the context of the institutions of our culture. That is because those institutions whether they are the courts, or the federal or state bureaucracy, the public land laws, or second class cities, bring with them values which are fundamentally inconsistent with many of the values of Native culture.

It is not possible for the values of one culture to mesh with the values of the other when the values of both are so numerous and diverse. It is therefore necessary for Native cultures and Native communities to have the opportunity to have their own institutions of government if they are to survive. It is on this issue that the human rights of Alaska Natives go beyond the 1991 concerns for the protection of the Native land and resource base. It is an issue that will carry us well into the 21st century before it is resolved.

Often when I address an audience such as this, I am reminded of the question, which was also the title, of one of the first studies of subsistence ever done in this state. It was a study done by Yupiktak Bista, a nonprofit organization in what is now the Calista or AVCP Region. The question and the title of the study was "Does One Way of Life Have To Die So That Another Can Live?" The study concluded by asking a series of questions, not unlike those we have asked here today and to which there are not now any clear answers:

The future remains clouded by many questions. . . .

Our ancestors have left no great cities to mark their passing, no legends of conquest, no great towers or pyramids. Their monument to time is a way of life. A way of living with the land. A way of surviving. A way of relating to the world and other people. Will this cultural identity, this way of life, survive only as a museum relic or roadside monument survives? Or will it live on with the people?

Our way of life was well developed long before Western man emerged from the forests of Europe. But will it live on to bring some of its wisdom into this new and always changing world?

Will it survive at least for the village people who, [as they have often told us], simply want "to live in a way somewhat different?"

I too have a dream. It is simply that the answer to those questions will be "YES".

New Directions in 1987

The achievements of the commission in 1986--increased resolution of complaints, reduction of the inventory, elimination of the hearing backlog--represent the culmination of years of effort, years during which the commission staff was reduced from 26 positions to the 19 positions currently funded. Because of these achievements, the commission has reached a turning point signalling the need for a new look at the agency.

Four major components are envisioned for the commission's program. Historically, these components have been part of the agency's efforts; now, these components must be redefined and refocused to make the commission a more effective operation.

Individual Complaint Processing: This component includes counseling and referral of inquirers and investigation of complaints filed by aggrieved persons. The use of resolution conferences between the parties and staff will be increased to expedite case processing, to avoid lengthy investigation, and to produce no-fault, negotiated settlements.

Special Investigations: Special investigations focus on major issues of discrimination affecting large numbers of discriminatees. Staff resources expended on a class action produce far reaching results and broader remedies. Although costlier to investigate, these special investigation cases are cost effective because of their impact, the numbers of persons benefitted and increased public awareness of the commission's program.

Technical Assistance: This component benefits employers, landlords, the business community, local government officials and others who must comply with Alaska Human Rights Law. The agency will provide technical assistance by issuing guidelines interpreting the law, conducting civil rights workshops, promoting voluntary affirmative action,

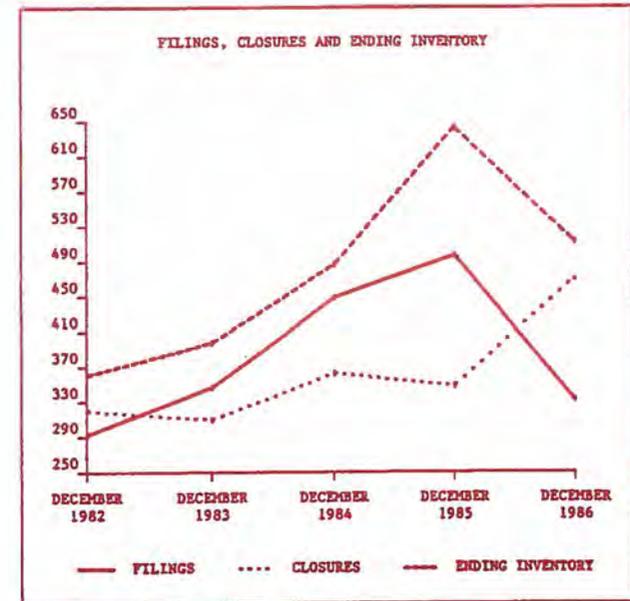
THE TRUTH, PLEASE

When a 48 year-old Chinese man was repeatedly rejected for rehire by an airline company, he alleged discrimination based on age, race and national origin. Investigation established that complainant had been unable to perform his previous duties as a ramp service agent but that his former boss had been too timid to tell him that poor performance was the basis for the constant rejection. The case was dismissed.

and otherwise assisting employers and other respondents. In particular, Alaskan small businesses and rural respondents have an ongoing need for technical assistance. Technical assistance to the private sector, particularly to small businesses, is one other, preventive approach to combatting discrimination and is a low cost alternative to litigation.

Public Education: Persons suffering discrimination need to be informed about the services of the commission and their rights under Alaska Human Rights Law. In prior years, the commission printed and distributed posters in four languages (English, Spanish, Yupik and Inupiat) and pamphlets in English and Spanish. These publications will be revised and reprinted and other public education efforts will be expanded. The value of public education goes beyond providing information to constituents; a high public profile for the commission prevents discrimination. A strong and visible Alaska State Commission for Human Rights restores public confidence in government and promotes peace and harmony throughout the state.

The Human Rights Commission in 1986 achieved significant progress toward containment of its inventory. This accomplishment affords the agency the opportunity in 1987 to be proactive in the elimination and prevention of discrimination by early resolution of individual complaints, litigation of special impact cases, promotion of technical assistance to small businesses and education of the public on Alaska Human Rights Law.



ALASKA STATE COMMISSION FOR HUMAN RIGHTS

RESOLUTION NO. 86-01

WHEREAS, Dr. Martin Luther King, Jr., was a great American who gave his life in the struggle for equality of all peoples;

WHEREAS, the birthday of this "drum major for justice" is now recognized and commemorated through a federal holiday; and

WHEREAS, the State of Alaska is considering similarly setting aside the third Monday of January of each year to observe the birthday of Dr. Martin Luther King, Jr.;

NOW, THEREFORE, the Alaska State Commission for Human Rights supports the celebration of the birthday of Dr. Martin Luther King, Jr. and his great works by observing federal, state and local holidays; and the Commission urges all Alaskan communities to designate other memorials befitting the memory of this great human being.

DATED at Juneau, Alaska, this 14th day of March 1986


Virgie M. King, Chairperson

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

RESOLUTION NO. 86-02

WHEREAS, the Alaska State Commission for Human Rights has been entrusted with the responsibility to consider complaints of discrimination, to study discrimination problems in this State, and to assess Alaska's progress toward equal employment opportunity; and

WHEREAS, many of the complaints made to the Commission have been complaints about discrimination in employment; and

WHEREAS, in carrying out its responsibilities the Commission has become aware of the problems that minority Alaskans and Alaskans who live in economically distressed areas have had in finding jobs; and

WHEREAS, these problems are severe and will become worse if the Alaskan economy's present slowdown continues; and

WHEREAS, governmental protection for Alaska residents' employment opportunities raises complex legal questions, which have led to a court decision striking down Alaska's resident employment preference laws; and

WHEREAS, if the problems that minority Alaskans and Alaskans who live in economically distressed areas are to be solved, Alaska needs a new local hire law; and

WHEREAS, Sponsor Substitute for House Bill No. 466, now pending in the Alaska Legislature, would provide special preferences for qualified residents of underemployed areas, economically distressed areas, and for economically disadvantaged minority residents of Alaska; and

WHEREAS, there is not discrimination in Sponsor Substitute for House Bill No. 466, and nothing which undercuts the principle of equal employment opportunity;

NOW, THEREFORE, BE IT RESOLVED BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS:

That the Commission endorses the approach to Alaska resident employment preference contained in Sponsor Substitute for House Bill No. 466; and

That the Commission urges the Alaska Legislature to pass a resident employment preference bill before the end of this session and urges the Governor of Alaska to sign and enforce it, so that the employment problems faced by minority Alaskans and Alaskans who live in economically distressed areas will receive the governmental attention they require.

DATED at Juneau, Alaska, this 14th day of March 1986



Virgie M. King, Chairperson

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

RESOLUTION NO. 86-03

WHEREAS, the Filipino people have elected Corazon Aquino President of the Philippines in an election that has been characterized by fraud and other irregularities; and

WHEREAS, the transition from the more than 20-year presidency of Ferdinand E. Marcos to the presidency of Corazon Aquino turned out peacefully without the expected bloodshed that could have resulted in a civil war; and

WHEREAS, the new era of civil and political freedom will certainly strengthen the cause of genuine democracy in the Philippines and will give and serve as inspiration as well as hope to oppressed peoples around the world; and

WHEREAS, Alaskans of Filipino descent as well as other residents of the state applaud and salute the Filipino people for the recent developments in the Philippines--called the pearl of the Orient; and

WHEREAS, the Filipinos have demonstrated and shown to the world that they can rise to unity in times of the worst crisis for the preservation of democracy, peace and order by the role the civilians played in protecting the armed military from fighting each other;

WHEREAS, the Alaska State Commission for Human Rights applauds these efforts of the Filipino people to ensure the human rights of all citizens of the Philippines;

BE IT RESOLVED that the Alaska State Commission for Human Rights extends its congratulations to Corazon Aquino upon her inauguration as President of the Philippines; and be it

FURTHER RESOLVED that the Alaska State Commission for Human Rights also congratulates the Filipino people and praises them for the courageous and peaceful political action they have demonstrated in further strengthening the cause of true democracy and freedom; and be it

FURTHER RESOLVED that the Alaska State Commission for Human Rights extends its sincerest wishes for the prosperity and success in the future endeavors of the Filipino people and President Corazon Aquino and members of her cabinet; and be it

RESOLVED FINALLY that copies of this resolution be sent to the Honorable Bill Sheffield, Governor of the State of Alaska; to her Excellency Corazon Aquino, President of the Republic of the Philippines; to the Philippine Ambassador to the United States; and to the Honorable Ted Stevens and Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in the U.S. Congress.

DATED at Juneau, Alaska this 14th day of March 1986


Virgie M. King, Chairperson