

Alaska State Commission for Human Rights

1989 Annual Report

February 16, 1990

The Honorable Steve Cowper, Governor, State of Alaska;
The Honorable Tim Kelly, President, Alaska Senate; and
The Honorable Sam Cotten, Speaker, Alaska House of Representatives

I am pleased to submit the 1989 Annual Report of the Alaska State Commission for Human Rights.

Statistics of 1989's enforcement activities show that the Commission increased its closure rate by 11%. Commission staff is to be commended. They consistently produced thorough and high quality investigations while maintaining high production in the face of shrinking resources. There will, however, be a point, where we can no longer get more for less, and we have arrived there.

In addition to enforcing Alaska's civil rights laws and responding to the public's inquiries, the Commission provided educational presentations to groups such as: workers' compensation attorneys; Rotarians; real estate agents; graduate students; managers; supervisors; and representatives of various minority groups. Staff will continue to provide educational outreach in 1990 as resources allow.

In addition to staff's efforts, the Commissioners had an opportunity to reach out to rural Alaska when they held their quarterly meeting in Bethel in October of 1989. The Commissioners heard from rural Alaskans about their concerns at their public participation session. I had the opportunity to speak to Bethel's Chamber of Commerce and share my views on the history of civil rights in Alaska. Throughout the year, I also made presentations to students and civic groups; I was joined in this outreach by other Commissioners in their communities.

In 1989 the U.S. Supreme Court rendered several decisions which eroded many of the advances made in federal civil rights during the past quarter of a century. It is ever more important that the State be vigilant in safeguarding the rights of Alaskans to live free from unlawful discrimination. The Alaska State Commission for Human Rights is proud of its role as enforcer of the State civil rights laws and is committed to continue the efforts to eliminate discrimination in Alaska.



Katie Hurley
Chairperson
Alaska State Commission for Human Rights

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

JAMES H. CHASE, Juneau
(Resigned 12/89)

SANDRA A. HENRICKS, Fairbanks

KATIE HURLEY, Wasilla

VIRGIE M. KING, Fairbanks

REX A. OKAKOK, Barrow

DORIS M. VOLZKE, Ketchikan

ESTHER C. WUNNICKE, Anchorage

Commission Staff During 1989

Paula M. Haley, Executive Director

Mark A. Ertischek, Human Rights Advocate

George Laurito, Administrative Officer

Laura J. Hauta, Docket Officer

Diane G. Barr, Legal Secretary

Patricia I. Lloyd, Commission Secretary

Laurel A. Murphy, Director of Special Investigations

Evelyn A. Ramos, Director of Investigations

Dawn A. Hill, Investigator

James K. Nall, Investigator

Fran Rabago, Investigator

Kathryn J. Robb, Investigator

Stacey Saunders, Investigator

Richard Stevens, Investigator

Sharon C. Stowers, Investigator

Joy R. Marshall, Clerk IV

Christine M. Breton, Clerk-Typist III

Commission Offices

HEADQUARTERS AND INVESTIGATIONS

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

ANCHORAGE AREA
274-4692

TOLL-FREE COMPLAINT HOT LINE
(800) 478-4692

TTY/TDD (HEARING IMPAIRED)
(800) 478-3177

Profile Of An Investigator

Investigator Jim Nall came to our agency from Lexington Fayette County Human Rights Commission via California in 1981. Two months after reading a flyer from the Alaska Commission, Jim was heading through the Canadian Rockies in his recently winterized car - destination - the Commission's northern regional office. Jim reached Fairbanks after several trials and tribulations, including a pickup truck which frequently broke down, expensive hotels which exhausted his savings, and a one-night stay at a rescue mission. Had a friend of a Commission staff member not filled Jim's gas tank in Tok, he might never have begun his stint with our agency as an investigator.

Jim spent two years in the Navy. After deciding that the high seas were not for him, Jim entered the University of Louisville's pre-law and history program. In 1968 he received his Bachelor of Arts from the University of Louisville. Jim went on to graduate studies in history, switched fields and obtained a Master's in sociology in 1978. Jim attended the University of Kentucky and completed three years of work towards his PhD in sociology. Throughout these years he juggled family, work and school.



Jim at his Computer

Jim worked as a substitute teacher and later as an instructor at the University of Louisville. He served as the director of a Kentucky social service agency for a short time. He worked for the Lexington Fayette County Human Rights Commission as an investigator for almost three years before joining our staff. After two years in the northern office, Jim transferred to the central office and served as a legal assistant to the hearing unit before transferring back to investigations.

Jim's concern about the problems of race discrimination drew him to work for human rights commissions. For many years he had served as a teaching assistant and lecturer of social problems classes which focused on the issues surrounding discrimination.

Commission staff is glad he chose the field of civil rights enforcement. He has excelled as an investigator. For several years Jim has been the highest producer of completed investigations in our agency. In February of 1989 Chairperson Hurley presented Jim with a certificate of appreciation for closing 77 cases in 1988. In 1989 Jim beat his own record of completed investigations by one. Jim enjoys working with people. He says, "Every time I investigate a case I learn something new." Jim is naturally task-oriented and feels a sense of accomplishment when he completes an investigation. The State of Alaska benefits from outstanding employees like Jim.



REDUCTION IN AGING CASES

A two-year effort to reduce our inventory of older cases has shown dramatic results. Investigators issued determinations on 64 complaints which were older than two years in 1988 and on 42 of these older cases in 1989. These closures reduced the number of older cases from 21% of our inventory to 12% (29 cases). Older cases are often more difficult to investigate because witnesses move, evidence is misplaced or destroyed, and memories fade. For these reasons the staff has focused these past two years on completing the investigations in as many older cases as possible. Another major benefit of reducing this inventory is that the Commission can investigate more new complaints in a timely fashion.

1989 FILING AND CLOSURE RATE

The Commission showed an 11% increase in case closures in 1989. This increase can be attributed to a number of factors including the decrease in the number of older cases, more experienced investigators, personal computers, and new supervisory procedures which allow closer tracking of investigations. At the same time, the Commission accepted new complaints at approximately the same rate as last year. It is difficult to compare 1989 complaint filings to previous years because the Commission started a new intake system in August. The short term result has been a one percent decrease in cases filed with the Commission for initial processing. However, the filings will probably rise as both the staff and the public become more familiar with the new procedures.

The overall reduction in inventory should allow staff to be more efficient in investigating complaints and to undertake more outreach in 1990.

It's None Of Your Business!

During an interview, a storeowner asked a woman applying for a cashier position, "Are you married and do you plan to have kids?" When she didn't get the job she filed a complaint of discrimination based on marital and parental status. The complaint settled when the storeowner agreed to attend training on appropriate employment inquiries.

Good Managers Or Green-Eyed Monsters?

An office manager fired a 20 year-old receptionist for "immaturity." The receptionist claimed age discrimination. The manager explained that the employee demonstrated "immaturity" when she repeatedly failed to follow instructions. The receptionist countered that the owner and managers, women in their forties, were jealous of her good looks. Staff found in favor of the company.

WORKSHARING AGREEMENTS

The Commission participates in worksharing agreements with the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Housing and Urban Development (HUD), and the Anchorage Equal Rights Commission (AERC). These agreements eliminate duplication of effort and generate federal receipts and paid training for the Commission. In 1989 the agency not only earned \$88,739 by fulfilling its obligations under the EEOC and HUD agreements, but was commended for its achievements and overall performance in a HUD audit.

"HUMAN RIGHTS" MEANS SOMETHING DIFFERENT TO EVERYONE

Alaskans look to the Commission for answers to many questions and for assistance with their problems. In 1989 staff handled 3,120 inquiries. Two hundred and ninety-two of these resulted in the filing of discrimination complaints. The other inquiries dealt with issues or situations which fell outside the agency's statutory coverage. The following are some examples of the questions which Alaskans contacted the Commission about last year and which staff referred to other sources of assistance:

- A mother asked the Commission for help to get her son out of jail.
- Immigrants called about problems with their visas or petitions for naturalization.
- An unhappy mail-order customer sought help in getting reimbursement for undelivered merchandise.
- A dog owner who learned that his dog bit a child several days earlier asked the Commission if it was fair for the child's parents to require him to pay the medical bill.

A Woman's Work Is Never Done

A male kitchen helper at a cafeteria complained of sex discrimination when his supervisor made him serve on the food line while not requiring a female to do the same. The employee argued that his job was to clean and that the woman should have been asked to dish out the food. Staff found that the supervisor had discretion to assign job duties to both the male and female workers and had done so fairly.

Bait And Switch

A woman alleged that a small boat owner offered her a job as a skipper to work on the oil spill cleanup. She claimed that the owner remarked to her that the VIPs would "love to have a woman" take them around. When she arrived in Valdez to start work, she discovered that her job had been given to a man. The employer stated that he could not verify the woman's job reference. The case settled when the employer reimbursed the woman's travel expenses, paid her two days' wages, and agreed not to discriminate against women in the future.

- An unemployed Alaskan who had been trying to find work for many months without success asked the Commission to help him find a job.
- A father of a family asked if an agency on "human rights" could help his family find a home.

People experience countless forms of unfair or discriminatory treatment. The Commission has authority to deal with a limited spectrum of discriminatory treatment. By law, the Commission investigates only complaints of discrimination based on race, religion, color or national origin, age, physical or mental disability, sex, marital status, changes in marital status, pregnancy or parenthood. Those forms of discrimination are prohibited in employment, housing, in places of public accommodation, credit and financing practices, and in state and local government services.

LITIGATION

In **Foreman v. Anchorage Equal Rights Commission**, the complainants, an unmarried couple, alleged they were the victims of marital status discrimination in violation of State and municipal law when the Foremans refused to rent them an apartment. The Anchorage Equal Rights Commission found in favor of the complainants. The Superior Court held that the local Commission correctly found discrimination under the municipal ordinance, but erred in finding the Foremans liable under state law. The Foremans appealed to the Alaska Supreme Court. The Commission filed an amicus brief which argued that the Foremans' refusal to rent to an unmarried couple violated AS.18.80.240's prohibition of marital status discrimination. The Alaska Supreme Court agreed. The court held that while the statute allowed landlords to limit their tenants to the class of "married couples" or "singles," or "persons with children," a landlord could not be willing to rent to both single persons and married couples, but refuse to rent to unmarried couples.

Trouble In Shoppers' Paradise

Two white high school students filed race discrimination complaints after a security guard ordered them and their friends to leave a shopping mall. The teenagers claimed the guard threw them out because some of their friends were black. The guard stated that the students and their companions were causing a disturbance. Before investigation began, mall officials agreed to apologize and provide training to security guards on anti-discrimination laws.

A Trashy Situation

An auto mechanic alleged discrimination based on marital status and his wife's pregnancy. He said he was fired after the owner rummaged through the work place dumpster and found his wife's medical insurance claims. He believed that the owner got rid of him to avoid increased medical premiums. The owner said that he fired the mechanic for lying about dumping his garbage from home into the company's dumpster. At the resolution conference the parties acknowledged their misunderstanding and the owner reinstated the auto mechanic.

In Delois Gilkey v. Human Rights Commission: State of Alaska, Department of Law, Anchorage District Attorney, complainant alleged that the Department of Law refused to prosecute her son's killer because her son was black. The District Attorney's Office asserted the decision was based entirely on its assessment that the accused would be able to sustain a plea of self-defense. The Commission investigated the statistical relationship between the race of murder victims and the Department of Law's decision to prosecute. The Commission determined that the evidence did not support a conclusion that race played a role in the District Attorney's decision. Ms. Gilkey appealed to the Superior Court. Appellate briefs have been filed, but the court has not yet decided the case.

In Elizabeth Pintchuck v. SOA, Department of Public Safety, Alaska State Troopers, the complainant alleged that she had been the victim of sex discrimination after failing a portion of the physical agility test required of applicants. The Commission concluded that the test was discriminatory, but found that the complainant would not have been hired anyway. The Commission ordered the department to stop using the test and to give Ms. Pintchuck a chance to complete the application process. However, the Commission denied Ms. Pintchuck's request for monetary damages. Ms. Pintchuck appealed to the Superior Court. The court dismissed the appeal when complainant failed to file a required brief.

In ASCHR, ex rel. Janet Bradley, Executive Director v. SOA, Department of Administration, and Department of Health and Social Services, the public health nurses alleged that they were the victims of sex discrimination because they worked in a segregated female job classification and were paid less than males in a predominantly male job classification who did work of comparable character. The Commission found in favor of the nurses. The State of Alaska subsequently appealed to the Superior Court which overturned the Commission's decision. In 1988 the Commission appealed to the Supreme Court. The parties have submitted briefs to the court and requested oral argument. The court has not yet scheduled oral argument.

A Matter Of Spirit

An assistant project manager was reprimanded and suspended without pay for taking leave to attend an annual Sun Lodge ceremony. She filed a discrimination complaint based on her traditional Native American religion. She alleged that the employer denied her request while granting leave to a fellow employee for house hunting. Staff found substantial evidence to support the employee's claims and successfully conciliated the case. The employer agreed to develop a leave policy, which included leave for religious observances, and paid the employee for the 16.3 days it suspended her.

Religion Is Not A Laughing Matter

A maintenance mechanic alleged that he was the victim of anti-Semitic jokes and denied overtime because he is Jewish. Commission staff could not find a link between the denial of overtime and the mechanic's religion. The parties settled the claim of religious harassment when the employer agreed to train supervisors on their obligation to keep the work atmosphere free from harassment.

In Marvalyce Sager v. Mukluk Freight Lines, the complainant alleged that she was the victim of sex discrimination when she was terminated from her position as a teamster. The Commission found in favor of Mukluk, and Ms. Sager appealed to the Superior Court. Ms. Sager, who was involved in an auto accident and was unable to file a timely brief, was granted an extension of time to do so. The Commission anticipates that the briefs will be filed and the case resolved during the coming year.

PUBLIC HEARING CASES

In Michael Davis v. SOA, Department of Transportation and Public Facilities, complainant alleged that he had been the victim of race discrimination when he was suspended without pay while employed as a custodian at the Fairbanks airport. The Commission approved a settlement which reduced the period of suspension without pay which had been imposed on Davis.

In Sadiqa Humbert v. Chris Berg, Inc., complainant alleged that she was the victim of sex discrimination when she was not hired as a laborer on a construction job in the Aleutian Islands. The Commission approved a settlement of \$10,000.

In Sadiqa Humbert v. Laborers Union, Local 341, complainant alleged that she became the victim of race discrimination when the respondent refused to arbitrate an alleged violation of a contractual provision prohibiting discrimination in hiring. The Commission approved a settlement under which the union agreed to post a notice of its policy of using the same standards to evaluate possible violation of all clauses in collective bargaining agreements including nondiscrimination clauses.

Working Around The Clock

A female convenience store clerk alleged that her supervisor removed her from the graveyard shift so that a man could work it. The employer expressed a concern for the safety of its women employees but insisted that it does not prohibit women from working graveyards. The employer said it moved this employee to a day shift because of performance problems. Before investigation ended, the parties settled. The store clerk received \$750 and the employer agreed to obtain training on the requirements of the Alaska Human Rights Law.

Woman Fights Fire And Bias

A firefighter alleged that her crew supervisor told her she did not fit into his crew because she was a woman, 52 years old, and too small. The supervisor told her she had to carry her own heavy equipment, and he yelled at crew members who tried to help her. The woman claimed that she was subjected to a hostile work environment because of her sex and age. At the beginning of the investigation, the parties agreed to resolve the case. The employer agreed to counsel the supervisor and to train its managers and supervisors on Alaska Human Rights Law.

In **James Garrigues v. Chris Berg, Inc.**, complainant alleged that he had been a victim of age discrimination when he was not hired as a laborer on a project in the Aleutian Islands. After a hearing, the Commission ruled that the respondent had established that the complainant had not been denied the position because of his age.

In **Joseph Key v. Chris Berg, Inc.**, complainant alleged that he had been a victim of race and age discrimination when he was not hired as a laborer for a project in the Aleutian Islands. After a hearing, the Commission ruled that the respondent had established that the complainant had not been denied the position because of his race or age.

In **Andrea Jacobson v. Ketchikan Police Department**, the complainant alleged that she was the victim of pregnancy discrimination when her position as an investigator was eliminated while she was on maternity leave. The Commission approved a settlement which returned the complainant to a position as an investigator.

In **Trina I. Murphy v. North Slope Borough School District**, the complainant alleged that she was the victim of age discrimination when she received a lower rate of pay to work as a lifeguard at respondent's public swimming facility because she was a high school student. The Commission approved a settlement of \$2,035.

In **Kimberly Watson v. Anchor Chiropractic Health Center**, complainant alleged that she was the victim of pregnancy and marital status discrimination when she was terminated by her employer shortly after informing the employer that she was pregnant. The Commission dismissed the case because of the complainant's failure to cooperate in the prosecution of the case.

Treasuring Equal Treatment

A man alleged that a contractor used a procedure for leasing boats for the oil spill cleanup which gave preferential treatment to Alaska Native residents of his community. The man asserted he was treated differently because he is white. The contractor denied the allegations but offered to settle the complaint by leasing the man's boat. The settlement earned the man \$97,000.

Insects More Than Irritant

A game biologist suffered from an impaired immune system after falling into a pool containing sea lion excrement. Her disability causes her to have severe allergic reactions to insect bites. She alleged that upon learning of her disability, her employer fired her from her game technician position. The employer explained that her job required extensive field work which exposed her to biting insects. The biologist asserted that the work was confined to the beach areas where she was not exposed to insects. The case settled when the employer agreed to give the biologist back pay for lost wages and to re-employ her in the future provided she was certified by a doctor as fit to work.

1989 CASE PROCESSING STATISTICS

ANALYSIS OF FILINGS BY COMPLAINANT'S SEX:

| | |
|----------------------|------------|
| Male | 254 |
| Female | 218 |
| Unknown | 1 |
| Director's Charge | 1 |
| Multiple Charge | 0 |
| TOTAL FILINGS | 474 |

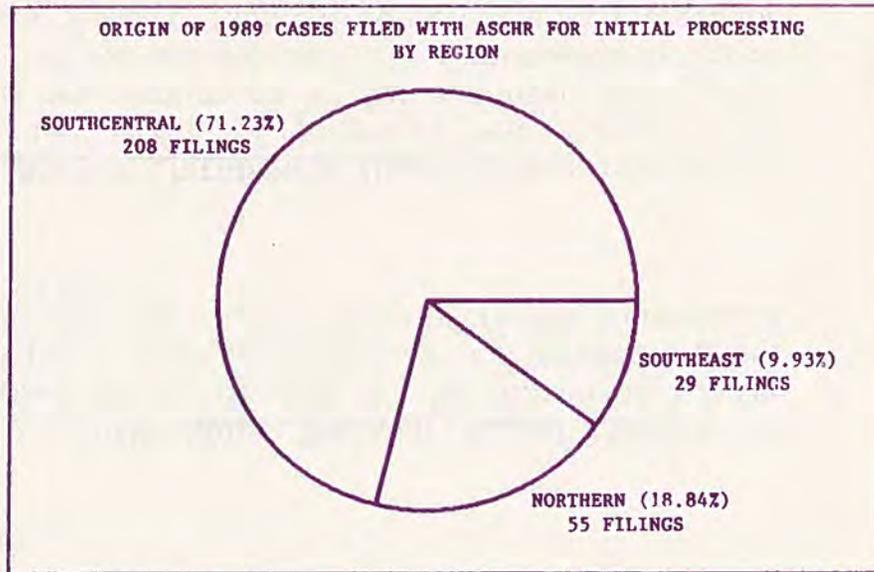
ANALYSIS OF FILINGS BY COMPLAINANT'S RACE:

| | |
|------------------------|------------|
| Caucasian | 200 |
| Black | 118 |
| Unknown (EEOC filings) | 64 |
| Alaska Native | 42 |
| Asian | 25 |
| Hispanic | 13 |
| American Indian | 8 |
| Other | 3 |
| Director's Charge | 1 |
| Multiple Charge | 0 |
| TOTAL FILINGS | 474 |

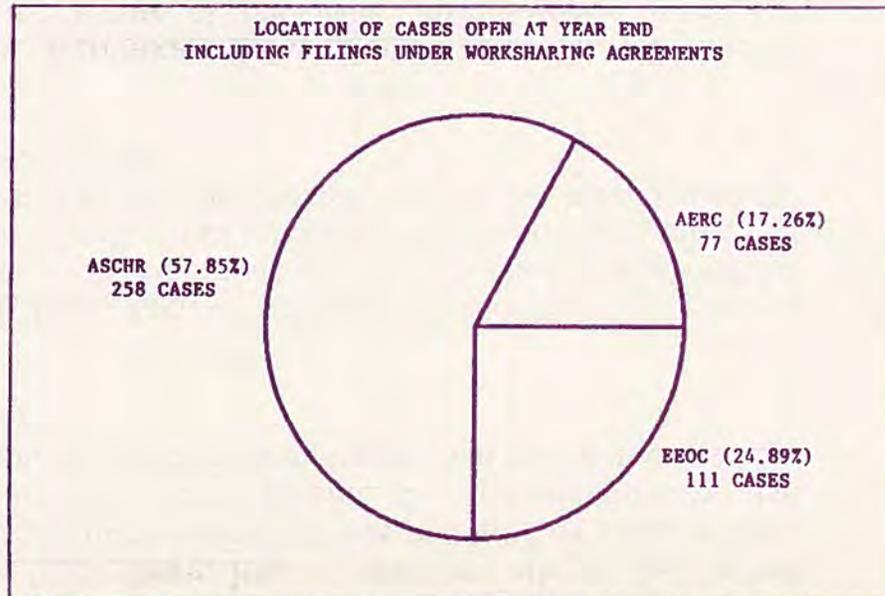
ANALYSIS OF FILINGS BY TYPE:

| | |
|----------------------|------------|
| Employment | 387 |
| Housing | 33 |
| Gov't Practices | 27 |
| Public Accom. | 14 |
| Multiple | 7 |
| Coercion | 4 |
| Finance | 2 |
| TOTAL FILINGS | 474 |

ORIGIN OF 1989 CASES FILED WITH ASCHR FOR INITIAL PROCESSING BY REGION



LOCATION OF CASES OPEN AT YEAR END INCLUDING FILINGS UNDER WORKSHARING AGREEMENTS



ANALYSIS OF FILINGS BY BASIS:

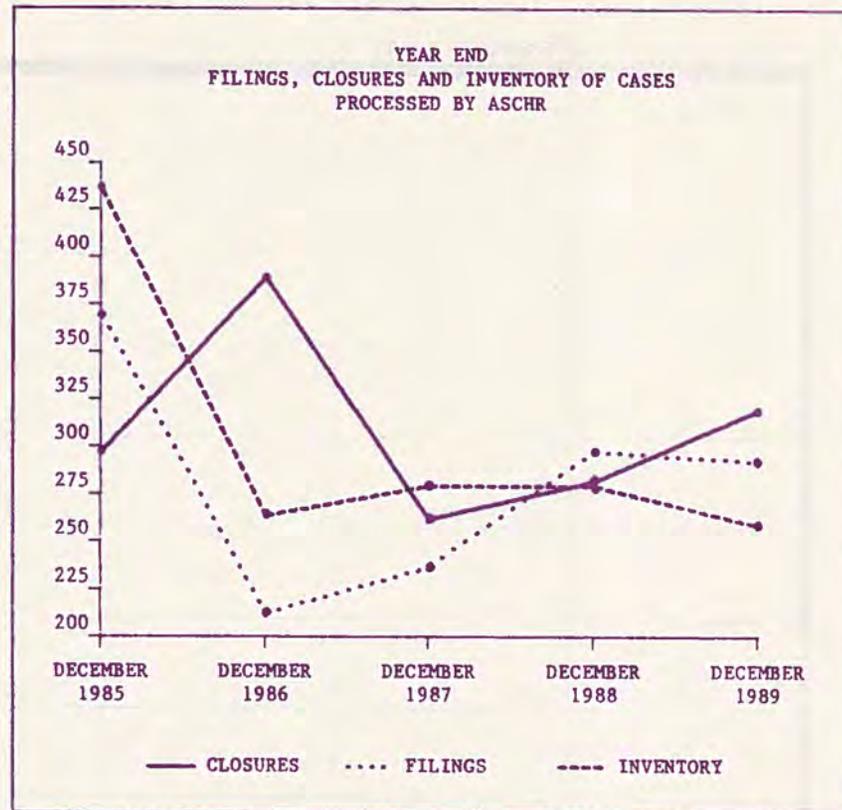
| | Single Basis Complaint | Multiple Basis Complaint |
|--------------------------|------------------------|--------------------------|
| Race/Color | 136 | 37 |
| Multiple | 99 | 0 |
| Age | 86 | 18 |
| Sex | 62 | 50 |
| Physical Disability | 33 | 26 |
| Retaliation for Filing | 20 | 8 |
| National Origin | 14 | 16 |
| Mental Disability | 7 | 5 |
| Pregnancy | 7 | 3 |
| Parenthood | 4 | 6 |
| Religion | 4 | 2 |
| Retaliation | 2 | 18 |
| Marital Status | 0 | 21 |
| Change in Marital Status | 0 | 0 |
| TOTAL FILINGS | 474 | 210 |

ANALYSIS OF FILINGS BY ISSUE:

| | Single Basis Complaint | Multiple Basis Complaint |
|----------------------|------------------------|--------------------------|
| Discharge | 112 | 59 |
| Terms/Employment | 84 | 71 |
| Failure to Hire | 115 | 10 |
| Multiple | 88 | 0 |
| Pay Equity | 3 | 13 |
| Other | 22 | 6 |
| Eviction | 7 | 4 |
| Denied Service | 10 | 3 |
| Failure to Promote | 13 | 9 |
| Failure to Rent | 11 | 0 |
| Failure to Dispatch | 2 | 2 |
| Failure to Sell | 0 | 0 |
| Demotion | 5 | 5 |
| Denied Credit | 2 | 0 |
| TOTAL FILINGS | 474 | 182 |

ANALYSIS OF 1989 CLOSURES

| Reason for Closure | Number of Closures | Percentage of Total |
|---|--------------------|---------------------|
| ADMINISTRATIVE CLOSURES: | | |
| Complaint Withdrawn | 20 | 4.56% |
| Complaint Not Timely | 1 | .23% |
| Lack of Jurisdiction | 10 | 2.28% |
| Complainant Not Available | 7 | 1.59% |
| Failure of Complainant to Proceed | 22 | 5.01% |
| Complainant in Court | 1 | .23% |
| Administrative Dismissal | 4 | .91% |
| Subtotal | 65 | 14.81% |
| CONCILIATION/SETTLEMENT CLOSURES | | |
| Successful Settlement | 12 | 2.73% |
| Predetermination Settlement | 80 | 18.22% |
| Substantial Evidence/ Conciliation Agreement | 6 | 1.37% |
| Substantial Evidence/Full Relief Rejected by Complainant | 1 | .23% |
| Subtotal | 99 | 22.55% |
| NOT SUBSTANTIAL EVIDENCE | 265 | 60.36% |
| HEARING CLOSURES | | |
| Hearing Decision for Complainant | 1 | .23% |
| Hearing Decision for Respondent | 3 | .68% |
| Pre-Hearing Settlement | 5 | 1.14% |
| Hearing Administrative Dismissal | 1 | .23% |
| Subtotal | 10 | 2.28% |
| TOTAL 1989 CLOSURES | 439 | 100.00% |



SUMMARY OF CLOSING ACTIONS

| Reason for Closure | 1987 | | 1988 | | Detail of 1989 Closures | | | | | |
|----------------------------------|------------|------|------------|------|-------------------------|------|------|----|------|------|
| | No. | % | No. | % | ASCHR | | EEOC | | AERC | |
| | | | | | No. | % | No. | % | No. | % |
| Conciliation/Settlement Closures | 127 | 28.2 | 116 | 27.8 | 73 | 16.6 | 0 | 0 | 32 | 7.3 |
| Not Substantial Evidence | 196 | 43.5 | 195 | 46.8 | 201 | 45.8 | 4 | .9 | 63 | 14.4 |
| Administrative Closures | 128 | 28.3 | 106 | 25.4 | 45 | 10.3 | 3 | .6 | 18 | 4.1 |
| | | | | | 319 | | 7 | | 113 | |
| TOTAL CLOSURES | 451 | | 417 | | 439 | | | | | |

ALASKA HUMAN RIGHTS LAW: CURRENT PROTECTIONS

| | Employment | Public Accommodations | Housing | Financing Practice | Government Practices |
|----------------------------|------------|-----------------------|---------|--------------------|----------------------|
| Race/Color | * | * | * | * | * |
| Religion | * | * | * | * | * |
| National Origin | * | * | * | * | * |
| Sex | * | * | * | * | * |
| Physical/Mental Disability | * | * | * | * | * |
| Marital Status | * | * | * | * | |
| Change in Marital Status | * | * | * | * | |
| Pregnancy | * | * | ● | * | |
| Parenthood | * | * | | | |
| Age | * | | ● | ● | |
| Creed | | ● | | | ● |

● Limited Coverage

**Alaska State Commission for Human Rights
800 "A" Street, Suite 202
Anchorage, Alaska 99501**