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PUBLIC HEARING

before

COMMISSION ON SEX DISCRIMINATION
IN THE STATUTES

Held:
June 27, 1979
Senate Conference Room
State House
Trenton, New Jersey

COMMISSION MEMBERS PRESENT:

Senator Wynona M. Lipman (Chairman)
Theodosia A. Tamborlane (Vice-Chairman)
Assemblywoman Greta Kiernan
Assemblyman Elliott Smith
Clara Allen
Phoebe Seham

ALSO:

Alma L. Saravia, Executive Director
Commission on Sex Discrimination in the Statutes

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SENATOR WYNONA M. LIPMAN (Chairman): We will now begin this public hearing on sex discrimination and employment.

There has been an increasing awareness of sex discrimination and the necessity of legal remedies to correct that discrimination. In recognition of this fact and the fact that legislative remedies are necessary, last year Assemblywoman Greta Kiernan and I jointly introduced legislation creating a Commission to Study Sex Discrimination in New Jersey's Statutes.

I think four members of this Commission and the aide are present now and I would like to introduce them to you. Present are Commissioners Phoebe Seham and Theodosia Tamborlane. I am Senator Winona Lipman. This is Alma Saravia, the Committee staff aide. And this is the Director of the Division on Women, Clara Allen. So now you know who all of us are.

On July 6, 1978, Governor Brendan Byrne signed into law a Bill creating the Commission on Sex Discrimination in the Statutes.

Many of the State's laws contain discriminatory provisions based on sex and reflect policy judgments which are no longer accepted in our society. Therefore, the Commission is empowered to review and to propose a comprehensive revision of all statutes containing sex-based classifications.

The Commission has adopted employment as its first area of study. Paid employment is increasingly significant in the lives of women. Historically, women have been regarded as marginal workers, and in spite of legal prohibitions, employment discrimination persists.

The Commission on Sex Discrimination in the Statutes has reviewed the employment statutes, and today's hearing is the next step in its investigation.

We were supposed to hear from the President of the Civil Service Commission, S. Howard Woodson at this time, but he is going to be a little late so we are pleased to have as our first witness Ms. Joan Wiskowski who is the Assistant Commissioner of Human Resources, Department of Labor and Industry. Joan.

J O A N W I S K O W S K I: Thank you, Senator. Good morning. My name is Joan Wiskowski and I am the Assistant Commissioner for Human Resources in the New Jersey Department of Labor and Industry. I appreciate the opportunity to testify here today on sex discrimination in employment.

I would like to commend Senator Winona Lipman and the distinguished members of the Commission on Sex Discrimination in the Statutes for their thorough and detailed examination of this important issue. I would also like to commend Governor Byrne for his foresight in establishing this important Commission. Only through a painstaking review of the laws and regulations governing employment can we eliminate the artificial legal barriers which prevent women from pursuing the full range of employment opportunities available in today's labor market.

On behalf of Commissioner Horn, I would like to thank the Commission for the opportunity to present testimony on the activities of the Department of Labor and Industry and my office in extending employment and training opportunities to women in New Jersey, so they can seek their place in the labor force in an occupation, any occupation, of their choice.

As the Assistant Commissioner for Human Resources, I am responsible for insuring the availability of a productive skilled workforce for the State and for maximizing employment opportunities for the unemployed and underemployed by developing the necessary training programs and ancillary services. In order

to accomplish this priority objective, I have been actively encouraging the participation of the business and labor sectors of our economy to work together in a partnership with government to help meet the growing demands for employment and career opportunities for women in New Jersey.

The working woman is a permanent and growing segment of our labor force representing 30% of New Jersey's labor force, or approximately 1.3 million of over 3.4 million workers in the State. The reason for this large and growing female presence in the labor force is simple: Economics. Women are assuming a greater role in the financial support of their families. Dual income families are becoming more prevalent and more necessary in order to meet and provide the basic needs of food, clothing and shelter. The significance and importance of the female labor force presence is underscored when one examines the labor force participation of female heads of households. The labor force participation rate for married women whose husbands are absent is nearly 60%; the participation rate for divorced women is 72%. The labor force participation rate for widowed women is 25%.

The increased participation of women in the labor market demonstrates the need for a rethinking of our public employment policies and programs. There is a tendency in today's society to believe that women don't have to work and do so only to supplement a husband's income. When people speak of unemployment, they usually speak in terms of male unemployment and focus their energies and efforts to address that particular problem. However, these programs do not always meet the needs of unemployed and underemployed women, overlooking their special problems and needs. We must rethink, reexamine and reshape our employment and training programs to address the needs of all groups seeking to enter the labor force.

In developing programs to extend employment and training opportunities to women, I do not have to contend with legal barriers to employment. In fact, the forces of law and regulations are on the side of women and minority groups. Women have the legal and constitutional right to seek any employment or career opportunity they desire. The passage of the Civil Rights Act of 1964 made it illegal to discriminate in hiring and upgrading employees on the basis of race, religion, national origin, or sex. The Equal Opportunity Act of 1972 extended the scope of this legislation to make it illegal to discriminate on the basis of these factors in all phases of employment, including compensation, training and firing.

These legal rights, however, help establish a painful dichotomy. Many women venture into the labor market aware of their legal rights, only to confront the harsh realities of sexual discrimination which continues to prevent them from pursuing their career goals. This subtle, institutional form of discrimination is far more serious and difficult an obstacle to overcome, often destroying new found, yet fragile, confidence of the new workers. We have to overcome decades of sex and racial discrimination, in order to gain acceptance in what are referred to as "nontraditional" segments of the labor market.

This dichotomy is further complicated by the self-doubt many women feel when entering what had been a male dominated field, fearing they will lose their femininity. Women and society both have to overcome cultural attitudes that prepare women, or men for that matter, for particular occupations or roles in society. The term "nontraditional" is, in fact, indicative of the artificial restrictions and barriers that effectively limit the participation of many groups

in well-paying career and employment opportunities.

The impact of these societal and psychological obstacles is reflected in the income levels of women. The economic status of families headed by women is as distressing today as it was at the beginning of the decade. Between 1970 and 1976, the median income in families headed by women was less than half that of husband and wife families. A recent study of the employment prospects for women and minorities reports that job and salary inequities still exist between women and men and the inequities continue to grow. This study reports a white male, high school drop-out will earn more than a white woman with a college degree. A study of public employees conducted by the State of Minnesota found that female workers had an average annual salary of \$11,600, while male workers had an average annual salary of \$16,300, a difference of \$5,700 per year. Three years ago the average salary differential in that State was \$4,200. Such differentials extend to occupations traditionally considered "women's jobs." The National Commission on Working Women reports the 1977 annual average for full-time female clerical employees as \$8,601. The salary level for full-time male clerical employees was \$13,900.

These unjustifiable and illogical salary differentials only serve to substantiate the need for aggressive affirmative action efforts. While the original intent of many of our statutes and social mores may have been to extend special protection to women, the ultimate effect was to discriminate. We, a collective "we" representing government, labor and the business sector, must make a concerted effort to reverse these long-standing attitudes and laws, thus enabling women to choose freely their vocation.

I am pleased to report New Jersey is making progress in extending employment and training opportunities to women and other minority groups. The Department of Labor and Industry, under the leadership of Commissioner John Horn, has been working closely with organized labor, the private business sector, and other government agencies, including the Division on Women, the Department of Civil Service, and local CETA prime sponsors. Commissioner Horn and I have been working closely with Governor Byrne's office in the development and implementation of programs to effect positive change in the planning and delivery of services that reflect the real needs of the groups we are to serve. These efforts in combination with the urban economic development policies of Governor Byrne and his Administration will result in the increased representation of women and minorities in so-called "nontraditional" occupations. I would like to briefly present an overview of some of these programs.

The Department of Labor and Industry, through the Division of Employment Services, administers the federally authorized Work Incentive Program, referred to as WIN. Through this program, employment, training and related educational and supportive services are provided to recipients of Aid to Families with Dependent Children, which are primarily women. The intent of the program is to increase the employability of these individuals by assisting them in developing the necessary skills and levels of preparedness in order to enter and compete successfully in the labor market. In fiscal 1978, 6,887 recipients were placed in unsubsidized employment, generating a statewide savings of over \$12 million in welfare grant expenditures. Additional savings were also realized through reductions in Medicaid and Food Stamp payments to individuals who were AFDC recipients but who obtained employment.

The Division of Employment Services operates apprenticeship Outreach Programs in Jersey City and New Brunswick. The AOP's, as they are referred to, were developed in cooperation with the United States Department of Labor in an attempt to increase the representation of women and minorities in apprenticeable occupations. The AOP's work with community organizations to recruit eligible and interested persons and assist them in satisfying the basic requirements and prepare them for the apprenticeship tests through intensive tutoring and counseling. As of May 31, 1979, the two AOP's have recruited and assisted 67 individuals, including 23 women. They have placed women in jobs, such as construction laborers, tool and die makers, machinists and other "nontraditional" occupations.

In conjunction with the AOP's, the Division of Employment Services also operates seven apprenticeship information centers, again in cooperation with the United States Department of Labor, located throughout New Jersey, where they collect and disseminate information on union apprenticeship opportunities in the State. Working closely with the unions, the AIC's administer apprenticeship tests to eligible individuals, including those referred by the AOP's. The AIC's also refer qualified individuals, those who have passed the test, to unions for consideration as apprentices. As of May of this year, the AIC's administered apprenticeship tests to 397 individuals, 11 of whom were women. The AIC's have referred 28 women to unions for apprenticeship openings.

Job service offices located throughout the State work with the information provided by the AIC's and advise interested individuals of opportunities that exist. Affirmative action employment specialists in job service offices throughout the State seek out women and minorities for these and other "non-traditional" job openings.

Recognizing the particular labor market needs of women, in the re-authorization of the Comprehensive Employment and Training Act - referred to as CETA - Congress mandated that special efforts be targeted to displaced homemakers and other unemployed and underemployed women. Through CETA, new approaches are currently being developed to reach out to women, advise them of the variety of employment opportunities that are available and to prepare them for seeking, obtaining, and retaining "nontraditional" jobs. These efforts are being initiated at the local, state, and national levels.

At the local level, several prime sponsors in New Jersey operate special classroom training programs for women. Elizabeth, Hudson, and Essex County prime sponsors have training classes in auto mechanics, building trades and heavy equipment operation with from five to forty women in each class. Newark and Hudson have training programs for women in painting and plastering. Many prime sponsors operate public service employment projects employing women in "nontraditional" occupations, including building weatherization projects.

In order to reach our objectives, we have used the Governor's discretionary CETA funds to develop and encourage new and experimental programs in New Jersey. With these funds, the Industrial Union Council of the AFL-CIO is establishing an Out-Reach Information and Referral Service for women over 40 who are unemployed or underemployed and/or unskilled. The purpose of this project is to provide guidance, assistance, assertiveness and job readiness training so these women can be best prepared to enter or reenter the labor market. The project will operate in Bergen, Essex, and Hudson Counties.

Discretionary funds available to the Governor through CETA are also supporting pilot efforts in Hudson and Middlesex Counties with the Heavy

and General Laborer's Union to recruit and train women and minorities in occupations such as concrete laboring, landscaping, asphalt work and general construction. Upon completion of the training program, qualified individuals will become eligible for permanent, skilled employment.

Special efforts are also being funded under the Governor's CETA discretionary funds in the Atlantic City/Atlantic County areas to insure that women and minorities obtain employment and benefit from the increased construction activity generated since the advent of casino gambling. These efforts have been developed and implemented with input from local community and labor organizations, general contractors and the Casino Control Commission.

In conjunction with the Governor's office, we are working currently with the New Jersey Building and Construction Trades Council to develop a comprehensive model to increase the representation of women and minorities in the construction trades. While the details and final implementation of this model are now under discussion, it demonstrates the commitment of the Building Trades Council, one of the largest unions in the State, to expanding its membership to groups, women and minorities, who have had limited access in the past to traditional entry mechanisms.

In the upcoming weeks, the Department will be working to attract additional funding support for innovative programs to assist women entering or reentering the labor market. My office has been advised that \$4.5 million will be made available nationally for demonstration programs to assist displaced homemakers become part of our productive labor force. While these funds are not yet available, we will be developing programs in cooperation with the Division of Women and other involved agencies and organizations to insure that New Jersey receives a fair share of this allocation to assist this segment of our female population.

We can expect additional programs of this type because of the growing awareness on the part of all segments of the community that something must be done to eliminate the existing inequities in the area of employment. The Byrne Administration's Economic Development Program will result in the creation and availability of new employment opportunities. The Department of Labor and Industry, in cooperation with other departments and agencies, is committed to expanding its efforts to see that job orientation and training services are available and provided to all groups who seek or require them. I am confident these efforts will succeed.

However, women entering the labor market will experience unfamiliar situations and problems as they assume the roles and responsibilities of working individuals. The day-to-day problems they encounter will test their ability to accept and face new challenges. We must provide supportive services to assist women in resolving these challenges. Programs and services should be available to advise them on financial management, selecting and choosing career paths, dealing with sexual harassment and pressure, and arranging for child care services for their children. Without supportive services such as these, the positive impact of our efforts to introduce women to new opportunities will be diminished.

One of these services is related to a very real need of working women, and that is child care. One of the most striking demographic changes that has taken place since World War II has been the increase in the presence of women and children in the labor force. Between 1940 and 1976, the labor

force participation rate of mothers has increased more than fivefold, reflecting the most significant change in the labor force this country has seen. As I have already indicated, this trend can only be expected to continue and to accelerate. As this occurs and as women begin to occupy key positions, the need and demand for child care will also continue to grow.

The representation of women in the labor force is thought to be related to the presence and ages of children in the family. A study commissioned by my office has found that existing data suggest this to be true. Women tend to remain outside of the labor market, working sporadically or part-time, until their children are no longer in need of close supervision. The economic consequences of this are high. According to a recent research study, the average woman forgoes \$100,000 in earnings if she remains outside of the labor force until her child reaches the age of 14. Additionally, it is estimated that a significant portion of the male/female wage differential may be the result of women's discontinuous labor force participation due to child care needs and responsibilities.

The growing numbers of women with children entering and remaining in the workforce requires that we address this crucial employment related issue. Changing attitudes toward women and work need to be reinforced by structural changes in the work environment to accommodate needs such as child care.

Structural changes require the cooperation and commitment of government, the private sector and labor organizations. However, government must take the initiative and be the motivating force, examining problems, identifying options and serving as the testing ground.

Structural change begins with actions like those this Commission has undertaken; a comprehensive reexamination of the fundamental principles and legal underpinnings of today's institutions. Only when archaic and artificial laws, regulations and attitudes are identified and eliminated can we begin to build new institutions for tomorrow. When this is done, we can then assure those segments of the population that have been denied access to well paying jobs that they will have the right and the opportunity to pursue any career of their choice and the term "nontraditional employment" will no longer have meaning in a discussion of employment opportunities for women or for other minority groups.

I again would like to thank you, Senator Lipman, and the members of this Commission for allowing me the time to discuss some of the programs administered through the Department of Labor and Industry and to share some of my own thoughts on increasing employment opportunities for women. I would be pleased to answer any questions you may have.

SENATOR LIPMAN: Thank you. That was quite a discourse. The gentleman first in this case is Assemblyman Smith. Would you like to ask any questions?

ASSEMBLYMAN SMITH: Not at this time, Senator.

SENATOR LIPMAN: Phoebe Seham.

MS. SEHAM: Yes. When does the women-over-40 program begin, or has it begun?

MS. WISTOWSKI: It has begun by the selection of a Director. I believe the woman was selected about three weeks ago. The program should get underway very soon.

SENATOR LIPMAN: I am told the project director is coming to talk to us this afternoon.

Theodosia Tamborlane.

MS. TAMBORLANE: Yes. You cited some very important statistics in your testimony. In addition, do you have a break-down that would show here in New Jersey what percentage of employed women are in clerical occupations?

MS. WISKOWSKI: The Department of Labor and Industry publishes data for affirmative action purposes. It gives that information to the Bureau of Labor Statistics. It is available through the Office of Planning -- the Office of Planning and Research. There are technical problems with the data because it is based on the 1970 census, so the refinements that will be made as a result of the 1980 census and the way the questions in the 1980 census will be asked will enable us to get much better data to deal with. So, while we have that data, we are somewhat hesitant to use it for other than planning purposes.

MS. TAMBORLANE: So, what you are saying is that after the 1980 census it will be easier for you to get a clearer picture?

MS. WISKOWSKI: Yes. The data will be technically cleaner and will give you the answers to the questions we have been asking. The way the information was collected in the 1970 census really precluded us from making anything better than planning statistics out of the data we currently have.

MS. TAMBORLANE: Thank you.

SENATOR LIPMAN: Alma, would you like to ask any questions?

MS. SARAIVIA: No.

SENATOR LIPMAN: I would like to introduce Assemblywoman Kiernan who has now joined us. Do you have any questions?

ASSEMBLYWOMAN KIERNAN: Just one -- I think just one. I note a great many of the programs, which seem to be excellent programs, that you discussed are basically federal programs that are being implemented through our Department. It looks like we are going to see cut-backs in many of those areas coming from Washington. Has the Department made plans as to how to continue some of those programs without those federal dollars?

MS. WISKOWSKI: Currently all but \$1 million of the over \$1 billion that are available for employment and training in the State come through the U.S. Department of Labor's Employment and Training Administration. The \$1 million that we have available to us in the State is from the source of customized training funds. So, we have a very small proportion of funds available to us from state sources. It is basically all from the Federal Labor Department.

We think that we were able last year, in the reauthorization of the CETA program, to hold the line on cut-backs of these very important training programs so that we didn't really experience any decrease in the funds available to us.

I don't know how we would replace \$1 billion, or something of that magnitude, in federal funds for state funded programs. I understand the question that you are asking. It is sort of really saying there is so much that comes from the federal government that the state has very limited resources available.

One thing that we are doing and we are giving a great deal of consideration to -- there was a little reference made to it here -- is the partnership that exists between the private sector and the public sector. We are trying to increase our reliance on the resources available to us in the private sector to meet that gap that exists. Statistics suggest that nationwide there is anywhere between \$2 billion and \$60 billion of private training funds available

through collective bargaining contracts to workers on the job for education and upgrading training. Very little of those funds are being used right now by workers. We are working pretty hard through private industry councils and other mechanisms available through CETA and Manpower programs to tap into those funds.

ASSEMBLYWOMAN KIERNAN: Thank you.

SENATOR LIPMAN: Clara Allen.

MS. ALLEN: Yes. Joan, I think the Department has really presented a very all-encompassing report here today and I would like to complement the Department as a whole for that.

MS. WISKOWSKI: Thank you.

MS. ALLEN: I note that in some of the statistics where we have programs operating, the number of women in comparison to the number of men going through those programs is still on the lower side. I would just hope that somewhere we would be able to review those kinds of programs to see whether or not we could increase that participation.

MS. WISKOWSKI: You are absolutely correct, Clara. One of the things we have been able to do recently, especially through Commissioner Horn, is enter into agreement with the private sector, business and labor, through the Heavy Laborers Project, and through the Building Trades Project for a commitment to women. I think we will be seeing that in a few years to come. It is really paying off. That close relationship that the Commissioner has with the private sector, I think, will enable us to move ahead on this.

MS. ALLEN: I would also hope too-- I have been observing that in some of the apprenticable jobs there seems to be an awful lot of emphasis on those that are traditionally the jobs that are in the skilled trades. If one looks at the table, there are 400 apprenticable jobs. It would seem to me that we ought to be doing more to zoom in on those, rather than just those in the high skilled trades.

ASSEMBLYMAN SMITH: Senator, I have one question.

SENATOR LIPMAN: Yes. Assemblyman Smith.

ASSEMBLYMAN SMITH: Joan, you mentioned the private sector and something came into my mind during your testimony, particularly in light of federal cutbacks in the CETA programs and so forth that are going to be cut back - if they have not been already in some instances. It seems to me that this is an area that really has to be dealt with affirmatively. I am glad to hear the Commissioner is going in that direction because it is important, I think, to get the cooperation of everybody concerned here. To get these people into the private sector is important, I think.

MS. WISKOWSKI: That is the answer for the future, I agree with you Assemblyman. The direction our Department is taking now is to create jobs in the unsubsidized field, in the private business sector of our economy. Those are the jobs that have more of a future for the people we are dealing with.

One of the ways we are able to do this is through the special title created in the CETA legislation last year, which provided a source of about \$400 million to encourage private industry relationships and private industry councils at the local level. So, currently, in the State every CETA prime sponsor - and there are 22 of them - has private industry councils which are currently reviewing the policies and practices of employment training programs, trying to get the input very directly from the business sector to increase

employment opportunities in the unsubsidized field.

SENATOR LIPMAN: Are there any further questions? Greta.

ASSEMBLYWOMAN KIERNAN: Yes. Commissioner, I am not even sure you are the right person to ask this question of, but somehow I feel you might be. I understand that there is a problem in the prison system with women being released for work release programs, the problem being that there are no jobs for those people who would be eligible for them. There seem to be jobs for men, but women in this case are discriminated against I guess because the kind of job that they would be released to do in order to get them back into society does not exist any longer. Is that something the Department has been concerned with, or would be concerned with?

MS. WISKOWSKI: Yes. Since 1972 the Department of Labor and Industry in the State participated in several federally sponsored programs, starting with the Manpower Corrections Program of 1972 - that was a model demonstration project in the State. Each adult prisoner in the state underwent analysis and programming to try to provide employment in employment-related skills to offenders coming out of prisons. When that model program turned into a CETA program, at the beginning of 1974 with the advent of the CETA program, the Governor directed the use of about one-third of his discretionary funds to provide employment related services to the adult prisons in the State of New Jersey.

At Clinton there are currently several programs for the training of women. I think the larger question involves the county and local institutions. Those institutions receive their employment and training related funds from local CETA formed sponsors throughout the State.

I suppose I am not in the position to identify the kinds of programs that take place at each one of those local institutions, but I can tell you that about one-third of the funds available to the Governor are for the adult correctional institutions in the State.

MS. ALLEN: I would like to make a comment on that if I may. The Division on Women, which works in concert with the the Advisory Commission in the State of New Jersey, out of their small budget recently conducted a study of women in the prison system in New Jersey. The study has just been concluded. It is not yet ready for dissemination, but it would seem to me that at the time that study does become available it may help to further respond to your question.

SENATOR LIPMAN: Did I understand you to say that the women prisoners are trained for skills with the CETA funds and are being employed after being released?

MS. WISKOWSKI: There are training programs in the adult institutions in New Jersey for the inmates who are incarcerated there. Funds are also available to assist those people who are making the transition through work release and then after their release from prison, the training funds are available to support employment related activities for these people.

SENATOR LIPMAN: But, employers must be sought to employ these people.

MS. WISKOWSKI: Yes. The name of the special program is the Offender Employment Program in the State and that is what received about \$539 thousand of the Governor's discretionary funds in fiscal year 1979. Those are the funds that support the activities. It is not enough.

SENATOR LIPMAN: Just one more question. I noticed your program

for displaced homemakers. What kind of handle will you put on the funds for this? The national figures are 4.5 million. What size program does the state expect to have?

MS. WISKOWSKI: That source of funds was even reduced further because only about \$1 million of that is available to a state agency; the rest of it is available to local CETA prime sponsors. So, if we take our share of \$1 million it comes to almost a negligible figure.

SENATOR LIPMAN: That is not very much.

MS. WISKOWSKI: No, that is not very much, but what it does do -- and I would have supported this and Clara would have too -- is, provide a far more substantial allocation of those funds to this important segment of our society.

It does bring focus and attention to the fact that there is a group of women who have very serious needs that are not being met by any existing programs. I am hopeful that in the next allocation of the CETA program there will be additional funds made available by the Congress for displaced homemakers. I think that is what this does. It draws attention and provides some focus on the problem.

SENATOR LIPMAN: Thank you very much.

MS. WISKOWSKI: Thank you very much.

SENATOR LIPMAN: I would like to introduce some other persons from the Department of Labor who are here to help us with questions. Is Mr. William Clark here? Mr. Clark, would you stand up? Mr. Clark is Assistant Commissioner of Labor Relations and Work Place Standards from the Department. Mr. Clark will answer any questions we have. We also have Mr. Martin Gottsman who is Chief of the Wage and Hour Bureau, Department of Labor. And, we have Mr. Edward Gniewkowski, who is Chief of the Office of Personnel in the Department of Labor.

Mr. Viviani is going to give testimony today. He is the Acting Assistant Commissioner for Income Security, Department of Labor and Industry. We are going to call on you in just a little while.

If there are no other questions for Joan, I would like to thank you very much for your enlightening testimony.

MS. WISKOWSKI: Thank you, Senator.

SENATOR LIPMAN: Commissioner Woodson. We called you before. This is Commissioner Howard Woodson President of the Civil Service Commission. PRESIDENT S. HOWARD WOODSON: Madam Chairman, permit me, first of all, to express my gratitude for the opportunity to testify before this Commission. I will not be giving as much detailed material as some other members of my staff will be giving, but rather a general overview of what has happened to women in the State of New Jersey as far as sex discrimination is concerned.

When I assumed the office of President of the Department of Civil Service, and we had in place an affirmative action order, one of my first tasks, as I viewed it, was to visit a number of the departments of state government to talk to them in terms of affirmative action. I visited one particular department in which the Commissioner at that time assured me that they were enthusiastically supporting affirmative action and equal opportunity. He introduced me to all the managers of that department, which was a rather large department. Oddly enough, with all of that enthusiastic support, not one person in the room was a female. That sort of gave me the idea that while we were talking affirmative action and while we had an affirmative action order in place, not much was being done relative

to women in state government as far as management was concerned.

Now, the fact of the matter is that only 19.4% of - for instance, in terms of male veterans - New Jersey's work force is composed of veterans, yet veterans represent 41.1% of the managers employed by the state. Further, men hold 87.3% of the positions paying more than \$25 thousand a year and more than 50% of those persons are veterans. So, we zero in to determine that veteran's preference has been one of the deterrents which has certainly negated the matter of women moving into upper echelon positions. Traditionally, women still hold the lower positions in state government. Women are merely one-half of all state employees, for instance.

During the past five years minority women have increased from 12.5% to 15% of the total number. White women have maintained approximately the same rate of participation since 1974, 33.7% in 1974 and 34.1% now. But, in general, women are still clustered in traditionally female, lower paying, lower status positions.

I want to go back to the affirmative action situation and to the veterans preference. We are faced in New Jersey with an absolute veterans preference. The attempts we have made through the new Civil Service Reform bill would change that preference to a point system. Understandably, we are running into a great deal of opposition. The Committee hearing has very courageously stuck to their guns and we still have a point system that is supposed to go before the Legislature. But, having been in politics for a very long period of time and while I read President Kennedy's "Profiles in Courage", I recognize that profiles in courage makes great reading but it makes very unsuccessful politicians. I don't necessarily look forward to that particular facet of the bill passing with any overwhelming support.

The other fact that disturbs me and the one that I think is going to work to the detriment of women is the fact that in the new Civil Service Reform bill we had gone through a system of whole scores, so that there would be the ability of management in affirmative action to reach down into the lists of those who were qualified for positions and select, where necessary or where it was indicated, women. But, the Committee, in its wisdom, has seen fit to indicate that wherever an examination is given, the number one person, if they are not appointed the manager then must buttress in writing his or her reasons for not appointing that number one person and then that is subject to appeal and to hearing.

I cannot foresee in my experience that managers are going to subject themselves to challenge in terms of appeals before a Merit Review Board. I cannot see that managers are going to want to take the time to enter into long arguments relative to why they failed to appoint the first person on the list. It seems to me that if we are talking in terms of affirmative action and if we are talking in terms of managerial judgment and responsibility that managers ought to be given more flexibility rather than less.

The bill as it is currently constituted out of Committee seems to me to narrow the gauge for managers rather than to improve that gauge for managers, giving them more flexibility, and therefore improving the chances of women and other minorities entering into the work force, particularly higher-level positions.

We are currently in the process of fitting into place a new director of the Division of Affirmative Action. We have secured a federal grant and an overview has been given by Judge Harvey Johnson of the activities of affirmative action and equal opportunity in the State of New Jersey. That overview should be

on my desk within the next week or two. I have been assured by the gentleman who was the consultant that affirmative action while it is operative in New Jersey still faces an up-hill battle in terms of attitude among those who are the appointing authorities and personnel directors. That affirmative action must begin new and innovative programs. There has to be a dedication on the part of every department to affirmative action, rather than lip service to affirmative action. It is one thing to have an excellent - and we do have one - affirmative action order in place. It is another thing for every manager in the State of New Jersey to recognize that the Governor means what he says when he puts down the language in that affirmative action order and intends to see to it that it is carried out.

I do not see that women will be moving into positions - managerial positions and upper echelon positions - in larger numbers unless there is a determination on the part of, number one, top administration in the State and then, beyond that top administration, those who do the day-to-day work reaching out to recommend and select persons for various kinds of jobs.

Let me conclude with the statement that we have had in the past opportunity to put women and other minorities into unclassified positions and have not, in my estimation, utilized even that factor. I recognize that in a civil service system one is bound by civil service rules and regulations and Title II. On the other hand, there has been opportunity in the unclassified sector to appoint women to positions and that has not been done to any large degree.

Again, I would say to you that beyond any language in a resolution, beyond any verbal statements of support, the best evidence of really meaning what we say is to do. Love is not something you say, it is something you do and I think that in terms of equal opportunity, again, that becomes the fact. It is not something we say, it is what we do. Thank you very much.

SENATOR LIPMAN: Very good. Before I ask you my questions, I will pass to the gentleman first.

ASSEMBLYMAN SMITH: I am in the minority today.

PRESIDENT WOODSON: You ought to protest that.

ASSEMBLYMAN SMITH: With all honesty, what opportunity do you see, or what directive do you see on the horizon to improve the situation that you alluded to as far as the lip service versus the--

PRESIDENT WOODSON: Number one, a far more vigorous approach in our own Division of Affirmative Action and Equal Opportunity. As I said before, we have had a long search. We now have a person in place that we can recommend to the Governor. Hopefully, that person will be on board within the next 10 days. We have an advisory committee already selected. They have indicated a very, very deep interest in not only affirmative action generally, but the place of women in state government and have called for material on that and intend to zero in on it.

The new affirmative action director would have the responsibility of going into every department, conferring with every affirmative action officer, and conferring with every commissioner to make certain that all of them are on board and in line for reaching out to recruit women and other minorities for state government.

I think that the picture will improve. There is going to be a necessity, however, for whomever the Governor may assign from his office to see to it that the various divisions and departments carry out that order,

beyond any reports that go in. Now, I recognize how difficult it is for the Governor's office to keep an accurate check, but we are looking for at least more support out of the Governor's office in terms of some staff person assigned to make sure that every department carries out the intent of that Executive Order.

ASSEMBLYMAN SMITH: Do you feel that this will act as a catalyst to expand into the private sector once it is in place?

PRESIDENT WOODSON: I think that the State of New Jersey has an opportunity to at least be a showcase for private industry and moving into the private sector. We do not deal in civil service with the private sector.

ASSEMBLYMAN SMITH: I understand that.

PRESIDENT WOODSON: The Division of Civil Rights does. But we think that we can show the way by the kind of vigorous recruiting that we will be doing and by the enforcement of those rules and regulations which are available to us through state government.

ASSEMBLYMAN SMITH: Thank you.

SENATOR LIPMAN: Ms. Tamborlane.

MS. TAMBORLANE: I have a comment and then a question, if I may. I think, Commissioner Woodson, that what you pointed out in your presentation this morning is something that needs all the attention we can give it, when you were describing the lack of flexibility with regard to hiring. Given the way the bill that is currently out of Committee and waiting for the Assembly-- The system there has been established. I think what you pointed out there is real structural constraint for women achieving higher level positions. It is important that whenever we find one of these structural constraints we name them because you can talk about the fact that they exist but people don't believe you. I think you have done this morning what needs to be done by saying, "Here is a real live one." We have all been talking in the state about veteran's preference and how that serves as a structural constraint. You have very well pinpointed one that is equally as important as the veteran's preference changes that are required.

The question I have for you is also with regard to your statement about the unclassified positions not having been utilized as they could have been in appointing women and minorities. Don't the Civil Service Department have current statistics on unclassified as well as classified positions?

PRESIDENT WOODSON: Oh, yes. We have statistics in that regard. One of the staff members will be able to give you those statistics today on the unclassified positions.

MS. TAMBORLANE: That would be very helpful to us. Thank you.

SENATOR LIPMAN: I am going to continue on down the line before I ask my questions. Assemblywoman Kiernan.

ASSEMBLYWOMAN KIERNAN: I couldn't add a thing to what has been said this morning except to say that as one of the sponsors of the Civil Service Reform Act and a member of the Committee that heard it, we both fought a valiant battle on that one and weren't able to win it at this very table.

PRESIDENT WOODSON: Assemblywoman, I am really greatly concerned about that segment of the bill. Our consultants, the United States Department of Civil Service, the United States Department of Labor, the United States Department of Justice, all recognize that to put that provision in will be a distinct deterrent to managerial flexibility and to the ability of women and minorities to get into state government because even if we take a look at what we call our EPES Program we recognize that managers most often sign off rather than get

into a debate with the worker relative to whether they are satisfactory or unsatisfactory.

The same thing is going to be true if they recognize they are going to be hauled before some quasi judicial body and be forced, over a long period of time, to debate the judgment the state has made in terms of selecting someone for a position. They could very well, at some point, find themselves in a court situation because of the same thing. So that while the bill narrows it down so very tightly, it does more to restrict the provisions of the statute than the old one did. The old one said one of three; now they are saying you must pick the first one or give reasons why and to do so, it seems to me is to negate the very thing we are here for today.

ASSEMBLYWOMAN KIERNAN: Perhaps when that bill comes to the floor somebody will introduce an amendment.

PRESIDENT WOODSON: Hopefully.

SENATOR LIPMAN: We did support that legislation, Mr. President. Clara Allen.

MS. ALLEN: I would just like to make a comment first also because I talk in terms of what I call the bread and butter issues. I think those things you have said are statistically where people stand within the state government, but I think we have to relate those and see what that means to individuals. In 1955, for instance, the full time women workers earned 64¢ for every \$1.00 earned by men and by 1977, full time workers were earning 59¢ for every \$1.00 earned by men. That has been a downward trend and it would seem to me that if I look at the statistics here in state government, where one recognizes that state government is not a highly paid working life, that effect on women, as we place them in the lower paid jobs in state, really does have a tremendous impact on the way of life of these people. So, I commend you for those things you have said. We too are concerned and I testified also about the matter of veterans preference. I frankly believe that now is the hour for the women and men in state government -- and there are men affected by this in state government as well -- to start to react to what is taking place here. When that legislation does come up, I would hope the women would be more vocal.

I think you have been doing an excellent job of being an advocate and I thank you for it.

PRESIDENT WOODSON: Thank you very much.

SENATOR LIPMAN: Mr. President, I read a book your Department put out once and it talks about career ladders and education for middle management. When you speak of managers, are you speaking of department heads?

PRESIDENT WOODSON: Department heads and division heads.

SENATOR LIPMAN: What kind of opportunities are offered within a department - a state department - for a career advance? Are educational opportunities possible?

PRESIDENT WOODSON: Oddly enough, Senator, we have just put in place a new managerial training program for women in government. It has been very, very well received and we are looking forward to the next training period.

I have also just finished meeting with representatives of several colleges who intend now to put into place a new managerial training program with Rutgers, Trenton State College, and several others, which will include women for managerial training. We are looking forward to that with great excitement. I will be a part of the committee and advisory group for that program.

SENATOR LIPMAN: I now want to ask you, is there any guarantee that the women will get the managerial position after they train for it?

SENATOR WOODSON: No, there is no absolute guarantee that she is going to get it. The only thing we can hope to do, as I indicated to you before, is to make certain that the Governor of the State, who issued the Executive Order, gives to us, through the power of that office, enough authority to report back that X, Y, and Z department or division, is failing to carry out the terms of his Executive Order and then use his executive authority, until such time as it becomes statutory. At that point, then we use the law itself. Currently, we are forced to use the Executive Order and that Executive Order was issued by the Governor of the State out of his concern.

SENATOR LIPMAN: Right.

PRESIDENT WOODSON: It must be buttressed by that office. We do not have statutory authority to strengthen it. Only the Governor's office has that authority at this point. We can only do one thing and that is to report back.

SENATOR LIPMAN: That is Executive Order 14?

PRESIDENT WOODSON: Yes.

MS. SEHAM: I have a question.

SENATOR LIPMAN: Phoebe Seham.

MS. SEHAM: President Woodson, in the private sector, and probably in the government sector as well, it has become a truism that very often a secretary knows the office job about as well as the boss does.

PRESIDENT WOODSON: Yes.

MS. SEHAM: Are there now, or will there be under civil service requirements, provisions for flexibility so someone who has been in a secretarial position, which tends to be a women, will be able to jump a couple of barriers and qualify for a managerial job through the experience she has been able to get through her job as a secretary?

PRESIDENT WOODSON: There is not that provision, to be honest with you, where the secretary jumps from wherever she happens to be knowing what he boss does, knowing that position, over into management, but there will be opportunity in terms of flexibility of movement in the new reform bill -- in the reform bill -- that would give her transfer ability into other positions and then to move up the ladder. Oddly enough - let me point this out - we talk in terms of a merit system in New Jersey. As I take a look at many of the managers in New Jersey, many of them have come in at an entry level, competitive examination, and have learned how to use the system and have moved up through that system without any more competitive examinations.

They use the gimmick of 4185 and move right up through the system up to top management. Yet, those same males talk in terms of quality, testing, and all the rest of it, when it comes to anyone else coming into state government, particularly women and, following that, other minorities. I know of many who haven't taken an examination in the last 25 years and yet who have moved up the ladder. We are beginning to take a look at that system also. I feel we have to begin to change that system so that people will not be able to use the system, which is called merit. Really, there is not that much merit in, but maneuverability instead.

SENATOR LIPMAN: There are no more questions. I want to thank you very much for coming.

PRESIDENT WOODSON: Thank you, Senator and thank the members of the Committee.

There is one person here that I did not introduce and she is Mary Patrick, who is legislative liaison. She has been helping us design this hearing and is with the Department of Labor of Industry.

We will proceed with Mr. Joseph Viviani, who is the Acting Assistant Commissioner for Income Security from the Department of Labor and Industry.

J O S E P H V I V I A N I: Thank you, Senator. Senator Lipman, distinguished members of the Commission, as the Senator has just pointed out, my name is Joseph S. Viviani. I am the Acting Assistant Commissioner for Income Security Programs in the New Jersey Department of Labor and Industry.

My formal presentation this morning will be extremely brief, since my main reason for accepting your kind invitation was to make myself available to answer whatever questions you might have in those areas for which I am primarily responsible.

In fact, as I review my notes in relation to the foregoing testimony, my remarks seem almost inconsequential. At any rate, I would like to point out some areas of possible interest to the Commission which should be of help in your investigations.

The Office of Income Security within the Department of Labor and Industry administers four income maintenance programs: Unemployment Compensation, Temporary Disability Insurance, Workers' Compensation, and Social Security Disability determinations. The Unemployment Compensation pays wage loss benefits to those workers who are involuntarily unemployed. Temporary Disability Insurance Program pays wage loss benefits to workers who suffer off-the-job disability. The Workers' Compensation Program pays wage loss and other compensation benefits to workers suffering on-the-job accident or illness. And, the Social Security Disability Program pays early retirement benefits to workers who are totally disabled.

The following list of possible sex discrimination issues is not intended to be exhaustive. Rather, it is intended as a guideline to help you conduct a thorough review of the laws and regulations which define the Income Security Programs of the Department of Labor and Industry.

The Personal Pronoun "He" -- The personal pronoun "he" is used as a reference to all workers in various parts of the Workers' Compensation, Unemployment Compensation, and Temporary Disability Benefits laws. I would say at this time that there have been actions taken in the immediate past and in the somewhat distant past to rectify this situation. Unfortunately, these actions have not been quite exhaustive enough. There are still some culprits left.

Workmens' Compensation -- The reference "Workmens' Compensation" is used throughout the Worker's Compensation law. We are in the process of remedying that.

Dependency Status in Social Security Disability Program -- In filing claims for dependents and widowers benefits, men must prove that they were dependent upon the disabled spouse. Women do not need to prove dependency status; the dependency status of women is presumed in current social security procedures.

Voluntary Quit Related to Pregnancy -- I know that you have all heard reference to pregnancy and pregnancy in the Unemployment Insurance Law. Unemployment benefits are payable only to involuntarily unemployed individuals, with one exception. That exception is that there shall be no disqualification applicable to a woman who left, or was separated from her work solely by reason of her pregnancy.

Physical Examination -- All persons claiming Temporary Disability benefits under the state plan must submit medical documentation. This documentation is completed by the claimant's physician. In addition, the Division may request independent "second opinion" examinations. The law provides that "...in all cases of physical examination of a female claimant, the examination shall be made by a female designee of the Division, if the claimant so requests." No such request may be made by a male claimant for an examination by a male physician. I thought you might get a kick out of that.

Pregnancy Benefits -- Prior to April 29, 1979, the Temporary Disability Benefits Law limited compensation for normal pregnancy disability to a maximum duration of 8 weeks. Effective April 29 of this year, based on an interpretation requested by the Department of Labor and Industry, the Attorney General ruled that the pregnancy disability limitation of 8 weeks shall no longer apply in the Temporary Disability Insurance Program. As a consequence, all of your pregnancy disabilities are treated the same as any other disability within the law.

I wish to thank you for this opportunity to assist you in your extensive review of the New Jersey statutes. If you have any questions, I will be happy to answer them now. Or, if you have any questions about this testimony, or anything which has reference to any of my operations, please do not hesitate to write or call us.

SENATOR LIPMAN: Mr. Viviani, I am going to start this one off. I thank you for presenting your testimony.

In 1977, the New Jersey Supreme Court decided that widows and widowers alike will receive the survivors' benefits under the Workers' Compensation law. Do you think this law needs further revisions to be sex neutral? You just discussed the dependency status.

MR. VIVIANI: Yes, Senator, we are currently investigating that. We have not revised that at this point because, in fact, we are treating it as the Supreme Court recommended. The law itself, if you were to literally read it, would preclude some equality of treatment. So, there is some consideration being given that.

Our reason for not having done that up to this moment was the fact that there was no real harm being done. We were applying it accordingly, with the thought that if there is a change in the verbalization, there also might be a change in the treatment. I can't tell you that at the present time.

SENATOR LIPMAN: I will now start with Assemblyman Smith.

ASSEMBLYMAN SMITH: Yes. We discussed these pregnancy benefits at one of the Commission meetings and I asked at that time what the approximate cost would be. I think the representative did not have anything affirmative at that time. Is there anything further on that by bringing this new thing as of April 29th into effect?

MR. VIVIANI: Assemblyman, I did not bring that information. I wasn't aware of that question. However, I will get it and provide it to the Commission.

ASSEMBLYMAN SMITH: That would be good, so we have some sort of a guide to work with. We all know that disability and unemployment compensation is not in the greatest of shape.

MS. SEHAM: On the same point, my understanding is the Attorney General's opinion is based on federal legislation that doesn't have the same treatment of disability due to pregnancy in the same way as all other disabilities.

MR. VIVIANI: That's very true.

MS. SEHAM: I believe that in our Commission meetings we have discussed most of the provisions you bring up here, but it is helpful to have you identify them for us so that we can make sure we didn't miss any. Thank you for doing that.

MR. VIVIANI: You are welcome.

MS. TAMBORLANE: As you pointed out, what we need is fact with regard to Federal Social Security Legislation. Has your Department done anything, or taken any position, encouraging changes in the Federal legislation so that women would not be looked at as dependents automatically?

MR. VIVIANI: When you say encouraged, not really formally; we have not. There has been discussion on what would be the best approach and at this point we are between an opinion as far as doing it legislatively, or doing it through a series of letters to whatever would be the pertinent forces behind it. I think where it is going to end up is, it is going to have to be done legislatively in the long run.

MS. TAMBORLANE: I think what Commissioner Woodson was talking about earlier in terms of affirmative action in hiring and getting women and minorities into training programs can be broadened into the type of action that you are talking about, in that the Department and the divisions in state government who are cognizant of discrepancies and discrimination - whether they discriminate against men or women - have the opportunity to take the kind of affirmative action that you are already working on and to tell the federal government that you would support the changes.

MR. VIVIANI: I couldn't agree with you more.

MS. TAMBORLANE: Thank you.

SENATOR LIPMAN: Alma.

MS. SARAVIA: Yes, I did have one question, Mr. Viviani. Recently, the Employment Security Council issued a report. One of the recommendations was that if a woman left her job - voluntarily quit her job to accompany her spouse - that she would be eligible for benefits after a disqualification. I wondered if you could comment on that.

MR. VIVIANI: Yes. There has been, for a good deal of time, quite a bit of concern about that stipulation. As a matter of fact, I personally became aware of that back in 1962 when I had to take over the office in Wildwood. My wife had a better paying job than I did at the time as a librarian in New York. One of the questions was, "Are you going to go with me"? because in relocating down there she became unemployed and was not eligible to collect unemployment benefits -- and I was managing the unemployment office.

Yes, that recommendation has been made and, unfortunately, I am not going to tell you at this time what is going to be the path taken as far as the administration is concerned. The bill is being prepared. There will be a good deal of conversation before any final package is presented to the Legislature for action. Of course, at that time it is then in the laps of those of you who are on the floor.

I am in agreement with the Council that this would be a good part of the law. Unfortunately, there are others who will speak against it. It is an extra cost factor, remember, and as an extra cost factor in a time, as the Assemblyman points out, where the unemployment insurance trust fund is not in the best of shape, people are looking at extra cost with a critical

eye.

SENATOR LIPMAN: Ms. Allen.

MS. ALLEN: I have a question on the physical examination. Does that apply to the private plan carriers under the law?

MR. VIVIANI: Yes, it does, but do not let me say that it applies in the universe of the private plan carriers. There are private plan carriers where it does apply. Remember that one of the provisos of the private plan is that it must be at least equal to the state plan and as a consequence, in those areas where there is a very, very tight borderline between private plan and state plan, we can use that proviso.

MS. ALLEN: So, you would feel there would be a necessity to strengthen, somehow, the regulation covering this so that it applies uniformly in private plans?

MR. VIVIANI: I would suggest that.

MS. ALLEN: Thank you.

SENATOR LIPMAN: I have just one more question. How about unemployment compensation and sexual harassment? Do you think the law should be amended to allow a claimant to collect benefits if she quits her position due to sexual harassment?

MR. VIVIANI: What was the last part of that sentence?

SENATOR LIPMAN: Due to sexual harassment.

MR. VIVIANI: Due to sexual harassment?

SENATOR LIPMAN: Yes.

MR. VIVIANI: Yes, I would say so. My reason for hesitating on that is, right now, actually, if a claimant claims sexual harassment there would be a possibility of collecting unemployment benefits. So, I don't think it really calls for legislative action along those lines. Remember, if we say that the reason for leaving was for good cause, attributable to the work, you are eligible for unemployment benefits, meeting all the other prerequisites. Good cause attributable to the work could certainly be construed as sexual harassment.

MS. TAMBORLANE: What the Senator was referring to, some states, such as Wisconsin, specifically have in their legislation.

MR. VIVIANI: Yes, I am aware of that. As I say, we are currently treating it--

SENATOR LIPMAN: Yes, but you have to judge it to be good cause.

MR. VIVIANI: Exactly.

SENATOR LIPMAN: Are there any other questions? (no questions)

I understand that Ms. Eileen Thornton has to leave and we would like to hear your testimony before you go.

Please, Assistant Commissioners from Labor and Industry, don't leave, we have questions for you. Ms. Thornton.

E I L E E N T H O R N T O N: New Jersey WEAL and I applaud those who created the Commission and also the initiatives that have already been taken by this group. We hope that the rhetoric of today's hearing will be changed into meaningful action and that the Executive and Legislative Branches will take it seriously.

SENATOR LIPMAN: We hope so too.

MS. THORNTON: I thought you would agree with me.

One of New Jersey WEAL's priority concerns is to improve the

working lives of women. We feel that one of the ways to reach this objective is by having jobs re-evaluated according to their real value. This means assessment of jobs without regard to the sex of the jobholder, ranking them according to their work and recommending appropriate salary changes.

New Jersey WEAL welcomes and appreciates this opportunity today to discuss a concept that will improve women's job opportunities and income. We suggest that the State Commission on Sex Discrimination give attention and action to State Government paying equal salaries for work of equal value. We think it is an idea whose time has come.

The implementation would not only be a way to stop the wage gap but it would place a different value on the work women do in society. Let me cite some examples. In some factories across the country, men who do heavy work are paid more than women who do delicate handmade work. Clericals should not be paid less than truck drivers. And, bus drivers sometimes get paid more than practical nurses.

These kinds of jobs that women do require skills, capabilities, responsibilities and training. You will agree with us that there is no just reason why these "women's jobs" should be on the bottom of the pay scale.

Through the years, women's work has been paid poorly because women were doing it. Employers paid them less than men because they would work for less than men. They could not get any more.

The issue is not really a new one. Some women's organizations including WEAL have been addressing the concept along with the more widely recognized issue of broadening opportunities for women in traditionally male-dominated occupations.

I cite the Women's Action Alliance who in 1975 called for the elimination of artificially depressed wage rates for traditionally female jobs and the attainment of equal pay for work of equal value. The National Commission on the Observance of International Women's Year urged an examination of job evaluation systems in 1976 and focused on research work. Also, the U.S. Department of Labor has given consideration to recommendations that were part of a "Women's Work" study done by the University of Wisconsin in 1971.

Our organization has been concerned with the comparable wages for comparable work issue for the past three years. The issue has been a plank on the State and National WEAL Legislative Platforms. We are developing methods to legally challenge the practice of discriminatory salaries and to help women identify this type of discrimination within their work environment.

Those individuals and organizations who have been active in the equal employment field know that the Equal Pay Act has not created the kind of job equality that we expected. As we know, this legislation, passed in 1963 and amended in 1972 to include executive, administrative and professional employees, forbids pay differences between men and women who do jobs involving equal skill, effort, and responsibility in like working conditions.

Under the provisions of the Act, tens of millions of dollars have been awarded to hundreds of thousands of women by the Wage and Hour Division of the U. S. Department of Labor. Yet, the volume of complaints and awards continues to increase. A recent call to that Division's Office in Washington reassured me that cases are still pending involving bank tellers, secretaries, teachers and hospital orderlies, etc.

We know that women are legally entitled to equal pay for equal work. Nonetheless, the gap in average earnings between men and women continues to widen. I just wanted to conclude this. This was in the Wall Street Journal yesterday and it proves this point. It regards a story done by the State of Minnesota and it says, "Female workers for the State of Minnesota earn less on average than males and the gap is widening, a state study finds. In January males averaged \$16,266; females \$11,648. Three years ago the figures were \$13,670 for males and \$9,480 for females. Even male office workers earn more on average than females, the study finds.

Many economists have long held the conviction that the work the majority of women do is just as hard and just as responsible as work done by men who earn more. In other words, women are paid less for jobs of comparable worth.

This complex issue brings economic ramifications. There are those in the economic community who charge that a reevaluation of the job and salary classification systems will disrupt our economy and bring dire consequences. If we turn back the clock to the time when the U.S. Congress was considering the issue of race discrimination, we will remember that the same objection was raised at that time.

Undoubtedly, the concept of equal pay for work of equal value will have some effect on our economy. But the earnings gap between men and women has a significant impact on the economic position of women in our state. Wage disparities have evolved out of years of discrimination against women. New Jersey WEAL thinks that it is about time that we recognize the need for calling attention to this concept and seek some reevaluation of job and salary classification systems.

This is a compelling issue that deserves the support of the State Commission on Sex Discrimination. As Commission members, we suggest that you join others in questioning why traditionally female dominated fields -- nurses, librarians, clericals and others -- are realizing that men in other fields with similar responsibilities and similar entry level requirements are paid substantially more.

In fact, the median pay for full-time women workers in our country is \$8,227 a year, only 60% of the \$13,963 median pay of men and this difference is due largely to the ghettoization of women workers in lower paying female typed jobs. It is currently estimated that the salary inequities to workers, both men and women, in female typed occupations amount of \$20 billion.

Yet, this well-intentioned legislation, the Equal Pay Act and Title VII of the Civil Rights Act of 1964, has not really made decisive improvements in the general status of wage-earning women. As you know, Title VII has been a major weapon in the area of employment justice. It bans discrimination based on race, religion, national origin, or sex with reference to hiring, discharge and compensation and to terms, conditions, and privileges of employment. The U.S. Equal Employment Opportunity Commission enforces that anti-discrimination law.

New Jersey WEAL feels that the key to this failure of not having these laws work effectively is the focus on discrimination between men and women doing "substantially equal" work, whereas the most striking, yet little noted, characteristic of the American marketplace is that men and women do different work and that women's work has traditionally received less compensation,

even when it was of equal or greater value.

Segregation of work by sex is much more pronounced today and despite cosmetic breakthroughs, women are still concentrated in traditionally female jobs, as they were in 1900. So, we really haven't come far, despite the Virginia Slims commercial. More than one-third of all women working are in clerical jobs. Twenty percent are service workers, 15% are professional and technical workers, especially in health and education fields, and nearly 15% are operatives, mainly in factories.

Any discussion of this concept should include the initiatives and work done by the State of Washington and by EEOC. Both regard this issue as the new stage upon which equal employment issues of the future will be played. New Jersey WEAL suggests that you bring this issue to the attention of the State Civil Service Department.

In 1974, the State of Washington undertook a study to find out just how great this discrepancy is and what can be done about it. Employees were asked questions like the following: What is the most important duty of your job? How do you do it? Why is it done? What specific decisions are you required to make? What hazards are you exposed to?

The questions were aimed at job duties and responsibilities, rather than anyone's individual job performance. The results of the questionnaires and interviews were evaluated according to classifications of each employee. And classifications in which women held most of the jobs were compared with classifications in which men predominated.

It was interesting that the study found that clerk typists earned less than warehouse workers, though both had the same number of points. Another example, traffic guards with half as many points as a licensed practical nurse still earned \$1,000 per year more. I think that you know, the study assigned points on the basis of responsibilities and duties.

The final conclusion reached by the study was that an overall disparity in pay of approximately 20% existed. Jobs that were filled predominantly by women were underpaid by 20% of the average.

In providing the basis for challenging existing salary practices, the State of Washington study constitutes the first initiative in reaching economic parity between the sexes. The next step is legislative action.

You and I know that this kind of progress will be expensive for state government to bear. In the Washington study, it was anticipated that it would cost an estimated additional \$37 million per year to offer all state employees equal pay for jobs of equal value. And if state workers are paid on this basis, there will surely be an impact on private employers whose prevailing rates are reflected in state salary practices.

Let me point out that under Washington's Civil Service Law, this does not imply existing salaries would be lowered. It does mean that salaries of some men as well as most women would have to be raised.

While this would cause a significant impact on the economic system, it would help assure women of one meaningful approach toward banning a disturbing inequity. New Jersey WEAL hopes that you will encourage the State Civil Service Department to initiate a similar study for New Jersey government employees.

EEOC holds the view that Title VII of the Civil Rights Act is broad enough to reach equal pay for work of equal or comparable value. This

top federal civil rights agency feels that the issue of sex discrimination can legitimately be raised if a largely female job classification is being undervalued and underpaid in comparison to largely male classifications performing dissimilar work.

It is EEOC policy that if this occurs, such job and salary classifications systems are in violation of Title VII. As you may know, the courts have been hesitant to find discrimination in cases based on the equal worth principle.

In separate cases, the EEOC found that employers with disparate wage rates for men's jobs and women's jobs were in violation of the law. Each time the federal court system has upheld the employer.

In fact, there were two recent court cases which revolved around this issue and in which violation of the Title VII was alleged and both lost. In the Lemons v. the City and County of Denver, nurses employed at Denver General Hospital brought a sex discrimination suit against the city and county charging that the salary setting policies perpetuated lower wages for workers in female-typed occupations.

Although the nurses lost their case in the U.S. District Court last spring, it was clear that the far-reaching implications of the suit have been recognized. The judge stated that while "history has created a lower pay scale for some occupations," equalizing the nurses' pay would be a step toward disrupting the "entire economic system of the United States."

In the Christensen v. Iowa case, plaintiffs contended that the University of Northern Iowa discriminated against female clerical employees by generally paying women less than men for work which, although different in nature, is of comparable value. The District Court held that "clerical versus physical plant positions are vastly different in terms of actual job content," making comparisons in pay invalid.

In September, 1977, the U.S. Court of Appeals affirmed the lower court's dismissal of charges against the university, stating that the "appellant failed to demonstrate that the differential in wages rested on sex and not on some legitimate reason." It was intent, not effect, that was clearly the court's criterion in this case.

The EEOC seems committed to pursuing through the courts equal pay for work of equal value cases. The agency has commissioned a \$200,000 study by the National Academy of Sciences to investigate how to evaluate jobs fairly and objectively as a step toward eradication of historical biases against female typed occupations.

Eleanor Holmes Norton, Chairperson of EEOC, has pointed out that the basis for Title VII is that employment systems with disparate salary impacts must be justified by the employer or they will be considered in violation of the Civil Rights Act. The study will focus on three questions: Are wage and compensation systems disparate? If so, will the same Title VII principle apply? And, if it applies, what kind of justification will an employer have to show for his/her use of the system?

Women working in those occupations are asking that the educational requirements, job responsibilities, skills, etc., of their jobs be compared to occupations dominated by men. The EEOC survey is expected to be finished in December.

How to do this kind of comparison has become the biggest

stumbling block. The EEOC hopes that the study it has commissioned will help them set new guidelines for industry and government to follow.

Chairperson Norton believes that the absence of federal guidelines governing job rating systems may have served to swing the courts away from findings of guilt. She feels if and when her agency does issue a set of rules in this area, the courts may become more sympathetic and supportive.

In an effort to have this issue be more receptive, EEOC is now determining the extent it can go under Title VII so that it can suggest guidelines to employers on this complicated issue.

In fact, the California Fair Employment Practices Commission had been revising its own equal pay guidelines to include the comparable pay issue and is now waiting for the results of the National Academy of Sciences Study before it proceeds.

You should know that women working in other female typed occupations have begun to organize and take action on this issue. Librarians are a good example. At Florida Technological University, librarians are working with their union; they have filed a salary inequity grievance against the university based on a Florida law which mandates the eradication of sex discrimination in academic salaries.

Similarly, librarians at Temple University in Philadelphia have filed a class action sex discrimination complaint with the EEOC against the University administration on the basis of the low salaries paid to those in a "women's occupation" as compared to other academic classifications.

In San Diego and San Francisco, groups of librarians worked together gathering data for an analysis of the pay differentials between male and female typed civil service classifications.

The San Francisco Study, done by the San Francisco Bay Area Chapter of Women Library Workers, analyzed 1600 miscellaneous civil service classifications and found that the average man makes 46% more than the average woman, and men in male dominated job classifications make an average of 74% more than women.

Two predominantly female classifications were selected for detailed analysis - librarian and clerk typist. The findings revealed that their male dominated classes with comparable education and experience were 21% more in the librarian series and 64% more for clerk typist.

The study, submitted to the San Francisco Civil Service Commission, recommended an affirmative action plan, a citywide job classification study and a revision of the City Charter requiring that salaries be based on comparable worth rather than prevailing wage.

The San Diego Study found similar inequities. When the city's personnel department refused to take action, the librarians, through their union, filed a formal complaint with the EEOC against the city.

I hope that New Jersey WEAL's testimony today has enlightened you on how very important this issue is to women who are salary earners. We cannot afford to let government and industry stop our efforts to achieve commensurate salaries.

New Jersey Government should follow the lead of the State of Washington and determine what it can do about discriminatory job ratings. We feel that changes will create significant differences in banning job discrimination.

The development and implementation of this concept would make our state a pace setter in the nation for helping to bring a solution to an unresolved area remaining in equal job opportunities for women.

In conclusion, we urge that the State Commission on Sex Discrimination become involved in this concept. Equal employment specialists in the private and public sectors regard this as the most upcoming of employment issues for them to deal with.

New Jersey WEAL agrees with individuals active in this field who feel that women may be suffering from sex discrimination, not just because they are doing equal work for less salary, but because they are doing work of comparable or better value for less compensation.

Pursuing comparable worth cases through the EEOC and the courts represent only one route available to wage earning women. You and I recognize that to make any change in the status quo requires action on every level. This means that grievances can be filed through unions, special inequity bills can be offered in state legislatures, the issue can be included in contract negotiations, detailed studies of government and industry salary structures can be done and workshops and seminars can be held to educate ourselves and sympathetic groups.

We do hope that you will include this issue on your agenda this year. Thank you.

SENATOR LIPMAN: Thank you. That is a lot to think about. Are there any questions? Assemblyman Smith.

ASSEMBLYMAN SMITH: I just have one question. You refer to this in your closing remarks. I am just wondering what this would do in negotiations with labor unions? Say we legislated this, the Legislature or the Federal Government legislated this equal pay for equal work thing? Are we then negating the negotiated employer/employee give and take?

MS. THORNTON: Well, I do think that it could be considered in negotiations that are underway now. And, I think that in the future it should be considered.

MS. SEHAM: There is no question but that this is a revolutionary concept. The National Academy of Science preliminary study is already in print. I didn't realize it was going to be finished by December, I thought it was going to take longer.

The State of Washington has done a study and I think Idaho has also.

MS. THORNTON: It might have been prompted, Phoebe, by the court case.

MS. SEHAM: In any case, do you know whether anyone has prepared any model legislation that would embody this?

MS. THORNTON: Yes. There are some cities. I think Denver is considering that. Washington has this underway.

MS. SEHAM: You are saying the State of Washington study includes a statute? In other words, we would like to look at a model statute.

MS. THORNTON: I can check that out and bring it to your attention. I know that they wanted to take those recommendations, and not just have them collect dust, and take some sort of action on them - legislative action.

MS. SEHAM: Through the EEOC it would be a matter of guidelines

and bringing suit, but through some of the state studies, or municipal studies, there might be a model statute in existence somewhere.

MS. THORNTON: I know that this was being thought about in key cities, like Denver, by doing studies, but I don't know-- I doubt whether any of them have implemented that as yet.

MS. TAMBORLANE: I think, again, that in here you brought to our attention something that as a Commission we do have to give serious consideration to and I thank you for all of the research you have done and brought to us today. The question of job evaluation and job rating is very important and very pertinent to us as we look ~~here~~ at New Jersey, again going back to some of the testimony of President Woodson with regard to our own state government.

MS. THORNTON: I thought of that when he was talking.

MS. TAMBORLANE: I would like to tell you that we will indeed consider your comments and continue our dialogue with the Department of Civil Service on job evaluation and job rating for the state employees.

MS. THORNTON: That is good to know.

SENATOR LIPMAN: I would like to ask Mr. Gottsman something about the Department. I will come back to you after we go down the line.

Mr. Gottsman, has the Department been thinking about this inequity? Are you the right person to ask -- Wage and Hour?

MR. GOTTSMAN: No.

SENATOR LIPMAN: You are not? Who is the right person? Mr. Gniewskowski?

MR. GNIIEWSKOWSKI: I can just support what President Woodson said because I am the personnel officer for Labor and Industry and I fully support that there should be equitable pay. In fact, in terms of the discrimination that he outlined that is affected by veterans' preference, there is no doubt in my mind that that discriminates against women. That can be established statistically. We seem to be in many binds trying to achieve affirmative action goals and at the same time administer laws which prevent us from doing that.

I would like to mention that we are required to administer what they call uniform selection guidelines, at least in those departments that receive federal funds. We have to make sure that we are in compliance with certain standards which they impose upon us, one of which is, the devices which we use for selecting people into the service must not discriminate against any particular group -- whether that be a written examination or an interview or a probationary period, or whatever. And, if it does discriminate, then we must validate that particular device. But, I don't see how it is going to do any good. We might be using a perfectly good, valid device, that written examination, but in selecting people from that, we must apply the veterans' preference which will result in some disparity. In effect, it says that if the selection is 80% less than the applicant flow, then that device is deemed to be inappropriate and then we must validate it.

I am saying, as long as we must apply the absolute veterans' preference there is no way that we will be able to show that the number of applicants are in proportion with the number of those who are selected.

Another thing, while I have the floor, that you might look at

is the pension law in terms of public service. You are probably aware that they have just rectified something that has been unfair up to now in terms of the contribution of women, which has always been more than the contribution made by men. So, as of July 1st that will be rectified.

Another area that I have been confronted with in my job is--

SENATOR LIPMAN: Retroactive to February?

MR. GNIEWSKOWSKI: Yes. (laughter)

The laws permit you to purchase credit for certain leaves of absences. Basically, these are for sick leave. However, it will not permit someone who is on maternity leave and combines that with the leave for the care of child to purchase that particular credit. I think the rationale behind the purchase of credit is that your leave is beyond your control -- if you are sick you can't come to work so you should be able to purchase that time which eventually be used to give you a higher pension. But, in the case of maternity leave that is combined with the care of child, a woman returning from such a leave cannot purchase that whole period. So, I have been led to understand that is covered by the law and if there are any changes to be made there, I think they should be looked into.

SENATOR LIPMAN: Very good. Thank you very much. Assemblywoman Kiernan.

ASSEMBLYWOMAN KIERNAN: I think I just found a way to save the state a lot of money. We should reduce all the male salaries. (laughter) As a matter of fact, doing something like that would probably cause the change that you are talking about.

MS. THORNTON: It is interesting thought, as men enter some of the female-type occupations, such as teaching and library services, you see where the wages have increased.

ASSEMBLYWOMAN KIERNAN: That is what I mean. It is a facetious remark, but still there is still some basis in truth in saying it.

I think I share some of Assemblyman Smith's concerns about our writing this into legislation, particularly at this time. You know, we need a great deal of information. But, also, as in the Richfield Park case, we find that anything that we write into legislation becomes a negotiable area. We would have to be pretty careful about how we, as a legislature, would approach something like this.

MS. THORNTON: I also think some of the studies that have been made by Iowa and Washington, and some of the key cities, would be helpful if that information were provided to you. You should have their experience. I will get that to you.

ASSEMBLYWOMAN KIERNAN: Thank you very much.

MS. ALLEN: Eileen, I have just one comment. I think you have done an excellent job and a very thorough job on a very, very important issue of the day.

MS. THORNTON: Thank you.

MS. ALLEN: My question is on the Washington study, or any that have been made. Do you know whether or not the labor unions involved were parties to those studies? I have sort of an inbred bias over the years, coming from the labor movement, that leads me to believe that studies that are done totally by the employer can be very short changing to the person covered by the contract. I just wondered whether the labor movement was involved?

MS. THORNTON: Apparently, they involved the state employees' unions out there, but the study was made through interviews and questionnaires with the employees of the State of Washington.

MS. ALLEN: Do you know whether the information was shared with the union, as representative of the employees, afterward?

MS. THORNTON: Yes, the information was supposed to be disseminated to them.

MS. ALLEN: Thank you.

MS. THORNTON: I will get more details on that for you.

SENATOR LIPMAN: Thank you very much for your suggestions.

MS. THORNTON: I am pleased to be here and I wish you well in all of your work.

SENATOR LIPMAN: Oh, thank you very much. We will try. We will try and make ourselves heard here.

It is now 12:30 and I think that perhaps before the members of the Department of Labor have to depart and not return, we had better find out whether the Commission has any questions specifically to ask them, as Mr. Clark is just dying to talk and also Mr. Gottsman. We have heard from Mr. Viviani and Mr. Gniewskowski.

Let me see, Mr. Clark is with Labor Relations -- Work Place Standards. We have heard Personnel; we have heard Income Security; and Mr. Gottsman is Wage and Hour. Does anyone have any questions to ask? Alma has some unclarified points she would like to clear up.

MS. SARAVIA: One thing that perhaps you could elaborate on, Mr. Clark, would be extending protective labor legislation. Do you favor that extension to men or do you think that some of the protective labor legislation is--

W I L L I A M J. C L A R K: Yes. It is my opinion that the early affirmative action laws were labor laws designed primarily to protect females and minors. That concept of characterizing females as the beneficiaries of labor laws, I think, is no longer necessary. I would think that rather than wipe off some of our protections-- For example, we have one remaining female protective law, that is the one that requires females to have seats when the job can be performed in a sitting position, recognizing leg problems. I think those leg problems can be as applicable to males as they are to females and I would prefer to see some laws extended rather than abolished.

ASSEMBLYMAN SMITH: Senator, I think we did that. We did consider that point and we did extend it -- or recommend an extension, I should say.

MR. CLARK: Can I make an observation? (affirmative nod)

Over the years -- I want to say a word for my mother and maybe your mothers also -- I think one of the most discriminated-against females is the female who has a job and an important role in society who suddenly, at age 30 or more, finds herself no longer necessary to the only thing she knows how to do, or knows best, and yet finds herself untrained to participate in the labor force. She finds herself without credit in a credit economy and finds herself not even a beneficiary of social security laws. I think we ought to concentrate on her a little bit or at least consider equalizing her somewhat with the rest of society.

Also, I think that although we look at statistics from the '20's on up, and particularly rising in the '40's, we find female participation

in the labor force has increased tremendously, statistically.

SENATOR LIPMAN: Excuse me, Mr. Clark, is this first woman you just mentioned about 40? I am talking about the first case you mentioned.

MR. CLARK: I am talking about the female who has been a housewife all her life and who in her '30's or '40's finds herself without a husband, or separated from her family, who finds herself stuck and having to go out and earn a living with no experience that is applicable to the work force, and who has no credit rating to be able to go out and buy things nor social security benefits or hospitalization benefits, which today are almost considered necessities by other people. I think maybe our social security laws should be amended to allow her to participate at least, even while she is a housewife. She could then purchase social security. I think right now she is totally left out.

Statistically, I think we can show that females have advanced a lot, but I think in actual practical application the problem is that females gravitate into what is known as "female jobs" and I think we have to straighten that out.

I think that any female today who has the capacity and the desire can probably be what she wants to be in society. I think maybe even, for example, the professional schools for lawyers and medical schools even give preference to females today. But, I think one of the problems we find is, we find that even though females lawyers may have increased, we look at the stationary and we find that they haven't gotten their place among the senior partners in the law firms.

I think also that although females have contributed to the health profession through nursing and even now medicine for years, very few - outside of the religious organizations and religious sponsored hospitals - females are hospital administrators.

I think that even though in the educational field there has been female participation in the education process which has been more than adequate, there are very few females who are superintendents of schools -- again, outside of the religious superintendents of schools.

I think in all of society females haven't achieved, in the managerial ranks, anything near what I believe their personal capacity is. I think that if we can solve that problem, the rest will take care of itself, to a great extent.

SENATOR LIPMAN: Can I ask you, Mr. Clark, is there any pay distinction? If we are paying a licensed professional, for example, and there are women working in that field, is her pay the same as the male pay? Say she is a barber, or some licensed professional, is the pay the same as a male gets?

MR. CLARK: We find not. We find that female occupations traditionally are poor paid. I think that is because their early bargaining capacity wasn't there. This was so until the union groups, such as the United Auto Workers and the unions in the textile fields, did a lot because they were organized. But, generally, the unorganized fields, including the professionals, I think you will find are lacking. It is only in recent years that nurses are getting anywhere near what they deserve. I think that may be true of all fields in which altruism is involved. Society doesn't reimburse its contributors too much.

We do find that females in general are paid less in jobs where females and males work together. Now this is less prevalent because we have laws prohibiting discrimination based on pay. But, still, females don't bargain as well as males.

SENATOR LIPMAN: I am not going to monopolize this conversation but I would like to ask Joan Wiskowski one question. Now that you are introducing women into the construction trade, are you going to see that they get the same thing as males?

MS. WISKOWSKI: Absolutely. The women who will be card carrying members of those unions will enjoy the full rights and responsibilities of the union membership, including equal salary.

MS. ALLEN: It would seem to me that the advent of women coming into some of these more traditional trades is causing people to look at the length of the apprentice program in these trades and that will wind up, perhaps, to be helpful to both male and female because some of the periods of apprenticeship of four years and five years are really outlandish figures, outmoded by the times. So, it has an extra value. But, the labor groups, where we have people going into the non-traditional field, certainly are paying the same rates for females as for males.

SENATOR LIPMAN: Theodosia.

MS. TAMBORLANE: Commissioner Clark, you were kind enough to come to our meeting last month and discuss with us minimum wage. That is still an area where I have questions, not because your presentation was not adequate but, as you recall, I had to leave prior to the conclusion of it. So, if you don't mind, I would like to go back and have a few things clarified.

MR. CLARK: Go ahead.

MS. TAMBORLANE: The first question I would like to have clarified is, are there any occupations in which, under the 1933 Act, women are currently receiving a higher minimum wage than under the 1966 Act?

MR. CLARK: No. That was true at the inception of the Act.

MS. TAMBORLANE: But not today anymore?

MR. CLARK: Not at the inception of the Act either. When the law was enacted, the \$1.25 exceeded all the wage force with one possible exception. There was one category in the beauty culture occupation.

MS. TAMBORLANE: The second question I have is, in what way would the extension of the 1933 Act cover workers rather than women as the Act is now worded?

MR. CLARK: It wouldn't have any effect because the new Act, the '66 Act, already did that; so it would really be a restatement.

MS. TAMBORLANE: Am I correct when I say that categories of child care, motor vehicle, outside salesmen, and employees of summer camps are not covered by the 1966 Act for minimum wage purposes?

MR. CLARK: They are special categories of non-coverage. Camps are during the summer months. Yes.

MS. TAMBORLANE: Are these categories ones that were covered by the 1933 Act?

MR. CLARK: In the same respect. For example, although sales people are not now covered, in the opinion of both - I am talking about outside salesmen - employers and employees there are reasons why they didn't

want coverage. It was the preference of the work force membership themselves. Salesmen consider themselves working around the clock and they work on a commission basis sometimes, where overtime is not applicable. That could be corrected by a wage board, if they saw fit. They echo the federal law in that respect. That could be corrected by a wage board if it was deemed that there was a need for it. But, my impression is that the industry itself doesn't want overtime, for example, because they don't consider their wages earned on an hourly basis as much as a per sale kind of thing, with relatively heavy commission when they do sell.

MS. TAMBORLANE: With regard to the child care category, can you tell me a little bit about what falls into that category?

MR. CLARK: The only ones that are exempted are the part-time baby-sitters that work for the household. If the baby-sitter is a member of an employment agency, for example, that furnishes baby-sitters, that exemption doesn't apply. The exemption doesn't apply to full-time household workers or other household workers who do kitchen work or general cleaning tasks, etc. The exemption is merely for part-time baby-sitters, not full-time baby-sitters who work in that household.

I think the wording is designed to exclude young children who baby-sit. I don't necessarily agree with the exemption, but it is there.

MS. TAMBORLANE: I am just concerned about the scope of child care, what the scope of the exemption was.

Are domestic workers covered here in New Jersey by the 1966 Act?

MR. CLARK: Yes, they are.

MS. TAMBORLANE: Thank you very much.

MR. CLARK: Thank you.

MS. SEHAM: I have just a comment to make after what you said about the most discriminated-against female who didn't used to have a title but who is now known as the displaced homemaker. I think you are probably right, in general anyway. I have been told that one of the states, and it may be Ohio - I can't verify that - has given points on its civil service examination - and I am sorry I didn't think of that when President Woodson was here - for time spent in bearing and raising children, similar to a veteran's preference. Would you recommend that?

MR. CLARK: Yes, I would.

MS. SEHAM: Maybe Kerry Peretta can convey this idea to the Commissioner. Maybe we can amend the Civil Service Reform Act.

MR. CLARK: In my own agency I have had several females that have taken advantage of veterans' preference.

SENATOR LIPMAN: Assemblyman Smith.

ASSEMBLYMAN SMITH: I would just like to ask a question. Do you see some of these federal programs - for instance, the CETA program and some of these other programs - are beginning to become a little difficult to fund or having funds being taken away? Do you see any need, or the possibility of a need, for a graduated minimum wage? In other words, what I am saying is, we have a lot of youth that is not being employed today because the minimum wage has gone to \$2.90. We also see CETA programs being phased out on the municipal level, particularly, and county level area where they have been laying people off, particularly the younger people. Is there a graduated step that we should be taking here, or looking at?

MR. CLARK: That hasn't been my experience. We are unique in New Jersey in that youngsters have not been covered by the statutory minimum, but were coverable by administrative order. Let me tell you what has happened. Years ago, the average kitchen employee in a restaurant - the average dishwasher - was somebody brought in by a private employment agency from the City of Philadelphia. He came here to make quick money and sometimes he became a public charge. We had that problem in Ocean County, where they came to the hotels during holidays and then couldn't get home. The average chambermaid was somebody brought from out-of-country or out-of-state. When we increased the minimum wage, the kitchen worker then became desirable and we found out the average kitchen dishwasher then became a high school student and the average chambermaid become a housewife who was working part-time in the hotel.

The asphalt trade is a good example. Probably one of the dirtiest jobs and hottest jobs is putting down asphalt. When the unions got a good pay raise for that, it became one of the most desirable jobs.

So, my experience has been that the minimum wage, as it has risen, has, rather than alleviating employment, increased employment by reason of making former undesirable jobs desirable jobs and acceptable jobs and it has reached a point where many welfare people will now jump over and take the job.

I personally dispute the fact that minimum wage has kept anybody out of work. I know of no instance such as this. I know of many instances where minimum wage has increased employment. This year, since New Jersey increased the minimum wage law to \$2.90 our child labor law certificates during the last month are up 30,000 over the past year. So, we have more youngsters, and the increase has been tremendous this year since we have increased the minimum wage. We have more working because youngsters themselves are discriminatory wage earners. If you didn't have a minimum wage law, they wouldn't work.

What the Legislature should be thinking about in terms of the idealistic minimum wage should be somewhere around \$5.42, which is the average factory wage. The average factory wage tends to gravitate to what is necessary to maintain a minimum standard of living needed to live in dignity. But, the minimum wage is always less and so far less that if we didn't have it, not many youngsters would even work for it. But, what it has done is, it has made the worst jobs in society-- It only affects 10%, by the way, of all the work opportunities and those 10% that are affected are in hotels, motels, restaurants, agriculture, cleaning jobs, and service jobs. Those jobs have been enhanced, actually. So now, the jobs that have been begging for workers before are being taken by youngsters and other people. So, I find just the opposite to be true.

SENATOR LIPMAN: Clara.

MS. ALLEN: I am just happy to hear what you said.

MR. CLARK: New Jersey has a unique work force. You know, throughout the country they talk about kids being kept off the work force, but it just hasn't happened here. We have the unique experience of showing that in some jobs the minimum wage is not applicable because under 18 is exempted in New Jersey. But, in every activity where we had a wage board and made the wage applicable, it has the opposite effect. It has made Jersey people take those jobs.

You might want to look at this: I am finding one of the big

problems we have in New Jersey right now is with what we call the "undocumented aliens", or illegal aliens, this is what we used to call them. They are a group who have no civil rights. The federal laws say if you are not legal in the country, you can't legally hold a job. Since they can't legally hold a job, they get into work opportunities that are sub-rosa -- without pay, under the table, what have you. So, all up and down Route 1 you will find Taiwanese working in the kitchens and being exploited. They run up a bill of maybe \$4 or \$5 thousand and then they call the immigration authorities and have them exported.

Among the needle trades we find there are industrial home workers coming back in the Northeast. Where we used to worry about this industry moving South, it is coming back, but now it is in 75' by 100' basements, bigger than this room, and the sewing machines are going like heck down there, by a group of Hispanic people who have good facility in the needle trade but who can't legally hold jobs because they are not citizens. They are subject to exploitation and when you have people who are subject to exploitation there is always somebody around to exploit them. So, I don't know the number of females are involved in this.

I know of several from Taiwan. A friend of mine brought his daughter over on a tourist visa. She got a letter from the Chinese Student Union in New York saying that if she wanted to become a permanent resident she should just enroll in Midtown College in New York and, of course, they would take care of, for \$1,500 a year, arranging a student visa for her to stay here and go to school and then after four years, you have four years to work on a permanent visa. I felt bad about it and I called up Mercer County College and they told me that the same course, for clerk-typist, can be had for \$60 or \$80 a year. I want to know why this poor kid had to pay \$1,500 so I called up Immigration and they said the school was on the approved list and Mercer County College was not on that list. I am not saying Midtown College is bad, but they are being exploited. It is a shame they can't go to Mercer County College for \$80.

So, maybe we ought to look at aliens and see what is happening to females in that area.

SENATOR LIPMAN: We made a note of that.

ASSEMBLYMAN KIERNAN: Mr. Clark, do you have a suggestion with regard to this? Should there be some kind of semi-legal status?

MR. CLARK: My own personal opinion is, in our work when we locate an illegal alien, we are not concerned about their legality or illegality; we are concerned with seeing that they get the benefits that all other people get. My Department doesn't look at them as any special class. We are not concerned that they are illegal; we look at them as good people. I would like to see their illegal status removed to the extent that they can move in our society. If they are here, I think they should have all the benefits of all the residents.

Instead of an illegal status, I would like to see another category in the federal law. I would like to see something like Civil Service has where you have a probationary citizen. They tell me they are afraid to make them citizens because of possible security problems. I would like to see a probationary status that can be removed at any time if they become security risks. But, I think that if they are here they should have all the

benefits of a citizen and be able to work, at least they shouldn't be exploited. Rather than be illegal, I would like to see a category for them -- probationary citizen.

SENATOR LIPMAN: Mr. Clark, would you have some suggestion about how you can get someone to tell you he is an illegal alien?

MR. CLARK: They are afraid.

SENATOR LIPMAN: I know. They are difficult to locate. I mean, you know they are there.

MR. CLARK: I had a Taiwanese on my staff who could speak four dialects. He is collecting an average of \$3,500 in back wages from every restaurant he entered in the state. It is very difficult. He can talk to them; I can't. That is part of the problem. I did find that for every legal, there are 8 illegals. This friend of mine, he brings in his wife, his family, his children, and his cousins. So, whenever you find someone legal, you can multiply that by 8. You will find that in New Jersey there are more than one-half million, I think, people who are probably holding jobs.

SENATOR LIPMAN: It is very difficult to send them away.

MR. CLARK: They are nice people. They are good people. It is a shame they have to be exploited. Right now, they are second-class citizens. They can't legally do a lot of things we can do. They have to hide.

MS. ALLEN: Are they reported in the statistics in any way?

MR. CLARK: I don't think they are in the statistics. I think you are going to find them out running all over the place.

MS. ALLEN: John, that is one of the things too. The immediate effect of what they are doing is, in essence, holding jobs away from--

MR. CLARK: They are holding over one-half million jobs in New Jersey right now that normally, if they weren't here, someone else would be holding.

MS. ALLEN: At the regular rates, perhaps.

MR. CLARK: They are probably getting a lot less than the regular rates.

I know of a boy - it is a personal experience - who worked in a kitchen and wanted to break in a lady from Haiti to take his place.

SENATOR LIPMAN: Mr. Clark, if there are no more questions, thank you.

At this point, it is five minutes to one and I would like to say to everyone that those persons who were not listed on the adjenda will be free to testify this afternoon, if you so desire.

What I would like to know is - it is now five minutes to one and the Commissioners wanted to break for lunch - is there someone who absolutely cannot come back at two o'clock? (affirmative response) Okay, and you are?

J O A N S A M P I E R I: I am Joan Sampieri.

SENATOR LIPMAN: Would you come forward, please? You are Joan Sampieri and you are the first woman member of the Southern New Jersey Brotherhood of Carpenters and Joiners. Proceed, Ms. Sampieri.

MS. SAMPIERI: I am a member of Local 393 of the United Brotherhood of Carpenters and Joiners. My concern today in coming before you is to discuss what I see occurring for women as they get into non-traditional

careers.

I have been a member of the Brotherhood for three years and although things are going quite well for me in the Brotherhood, I am concerned with what I see with women getting into the kinds of fields that I have entered into.

What concerns me more than the attitude of labor unions, and more than the attitude of schools, is the attitude of the state in its provisions in the law. I am very much concerned for what we do to women as we talk about non-traditional careers, and I am most concerned because I see that this phase of moving women into other areas is going to die out, like everything else has. We are going to phase out misplaced homemakers; we are going to phase women in construction fields; and we are going to phase out apprenticeships for women by explaining to the world in general and New Jersey in particular that women are not interested, and this isn't true.

What I see occurring is that New Jersey, in the business of the Division on Civil Rights, has horribly failed to enforce its own rules and regulations and is abominable in its behavior toward women. What I have seen is that the marvelous statutes and the beautiful regulations that this state has, have forced women into an adversary role and that adversary role puts one woman against one union, or one company, and one set of attorneys. It is my considered opinion that the Division on Civil Rights has failed to do its job.

I have a couple of pieces of information for you because I don't want to take either your time nor mine too much longer. It is the business of the New Jersey Division on Civil Rights to enforce the statutes and to work with the regulations.

In my particular instance, the New Jersey Division on Civil Rights failed to understand that the law very specifically says, "Thou shalt not discriminate on the basis of age." I applied for an apprenticeship program six years ago, when I was 29. I was turned down because I was too old. It took the Division 3 years and 3 separate closings of my case to understand that the statute did, in fact, say that even in an apprenticeship program, whether registered or unregistered with the federal government, "Thou shalt not discriminate on the basis of age."

Unfortunately, last week I spoke at a federal conference, in region 2, on getting women into non-traditional careers and I heard a man by the name of Frank King, who is with the Bureau of Apprenticeship and Training in the federal government say that although New Jersey had such a statute, it had never been to court and therefore it was unenforceable. Now, you tell me if I can pull into a gas station today with an odd plate and get gas. That has not been to court either, but it is enforceable.

Unfortunately, the Division on Civil Rights does not appear to communicate with the Bureau of Apprenticeship and Training. There are all sorts of problems like this and we are keeping women out of these good jobs and three years from now we will say, "Women don't want to be construction workers." You will pardon me, that is bullshit. It is good money. It can be rough work, but it pays quite nicely for the soap I use to wash my hands when I go home at night. It supports my children very well and it angers me that we are keeping women out of this kind of work by fouling the process.

I will give to you something that came to me in the mail from the State of New Jersey, Department of Education. These are several bulletins, produced by the Commissioner of Education, who invites all sorts of nice applications. One of them is for a plumber apprenticeship program, sponsored by the Joint Apprenticeship Committee of Plumbers Union, Local #14, in Jersey City. It talks about the work performed, the rate of pay, and eligibility. Under eligibility is the little quote "age" -- must be over 18 years of age. Now that is permissible here in New Jersey, but in parenthesis is, 18 to 25 preferred. This is out of the Department of Education. Now, you tell me that the Division on Civil Rights is talking to the people across the street from them.

Education -- must be a high school graduate. Now, must one be a high school graduate to be a plumber? What have I learned in high school when I took Latin that would qualify me to lay pipe? This angers me. This infuriates me.

We have had marvelous laws on the books for years now and it is lack of enforcement and lack of one damn bit of caring that keeps us from straightening this out.

As another example, although New Jersey statute forbids male/female advertising in newspapers, I have with me two newspapers from southern New Jersey - and I am sorry to stick my end of the state with it, but they are the ones available to me. You want to note the number of circlings that I have done. New Jersey law says, and the regulations specify that it is the business of the Division on Civil Rights to make sure that this does not happen. This one is my favorite: "Girl Friday. M/W" -- and we all know what that means -- "young, very attractive, and unencumbered." Now, how many of the things in that statement are illegal? And, you tell me where the Division was when this went out. You tell me who was looking at the business of this state to enforce these laws and to get the job done. You tell me what woman is going to go and apply for that job if she is 36 and a displaced homemaker and maybe a little overweight. She is not encumbered anymore, but she doesn't fit the other qualifications.

There are too many of these things that occur. I don't think we need anything else in our statutes or in our regulations. I think we need some work done. Part of the regulations of the Division on Civil Rights say that it is the business of the Division not only to enter into adversary proceedings, but also to educate. And, I would like to underline that process -- I want the education to begin so that we take one 18-year-old woman, or one 37-year-old woman out of the adversary proceeding and clean it up this way. Thank you.

SENATOR LIPMAN: Thank you.

SENATOR LIPMAN: Assemblyman Smith.

ASSEMBLYMAN SMITH: I am in the construction business, so I know what it is all about.

MS. SAMPIERI: All of it?

ASSEMBLYMAN SMITH: What do you mean all of it?

MS. SAMPIERI: You said you knew what it was all about.

ASSEMBLYMAN SMITH: Nobody knows what everything is all about.

I think Commissioner Woodson also alluded to this same problem -- that there is more lip service given than actual action taken. What do you feel in your

mind should be the course of action taken?

MS. SAMPIERI: More than anything else, I would like to see the regulations promulgated by the Attorney General followed. There are provisions for educating. There are provisions and there is one specific one for working with the Department of Education, which is where this ghastly piece of nonsense came from.

It concerns me that the day-to-day business of the Division on Civil Rights appears to be more in tune with adversary proceedings than with sitting people down and saying, "Sir, you may not do that."

If in the process of education we deal with how ever many newspapers are in this state, we hold a meeting for them, we go in and train,-- it is illegal -- it saves the newspapers money and keeps them from being sued. That is in the interest of this state. It saves us time by keeping out of going one, by one, by one, to each of the newspapers. If the Division offered education processes and education programs for business and industry - certainly, we have an awful lot of business and industry in this state and I am not saying that we can reach everyone today - it begins to build, it snowballs. If we will not permit this kind of behavior any longer with employment ads and employers are told that from the beginning, that they can't get those in the paper, that is one part of the consciousness raising and education process that I think is important, and it will save us money in the long run.

MS. SEHAM: I think that is absolutely true and I am glad you came here.

MS. SAMPIERI: I took a day off without pay to do that. Construction workers are not paid for days off.

MS. SEHAM: You took a day off without pay?

MS. SAMPIERI: Without pay.

ASSEMBLYMAN SMITH: I will attest to that.

MS. SAMPIERI: I am sure you will.

MS. TAMBORLANE: I would just like to compliment Joan in giving such a very vibrant demonstration of what the problem is. I think this Commission has heard rumbles here and there that there were problems about enforcement in the state, but the specific suggestions you brought to us and specific exhibits, such as the newspapers, certainly are very, very beneficial to us. I take it you are leaving them with Alma?

MS. SAMPIERI: Yes.

MS. TAMBORLANE: Thank you very much.

ASSEMBLYWOMAN KIERNAN: I just want to compliment you as well on the presentation and also I think you identified something that I am concerned about and that is the part about the plumbing and the high school education. I think this is a subtle form of discrimination, particularly so in other more traditional work, where a woman's volunteer experience and life experience as the manager of a household and an important key in the family structure is not taken into consideration without some kind of academic credential to back it up. I think that is nonsense and I would like to see us do away with it. I think that if you can do the job and if you can pass the test, you can take the interview, then you can be hired to fill that job and whether you have 4 degrees or none at all has little to do with how you perform on the job. We have probably all seen a lot

of people with too many degrees--

MS. SAMPIERI: Who could not probably hold a pipe wrench.

ASSEMBLYWOMAN KIERNAN: (continuing) --who can't do anything properly. I very much agree with you.

I am also wondering - and this is only a consideration - how much control the newspapers themselves have over what they take as advertising. Do they not have some responsibility on their own to not accept this type of ad?

MS. SAMPIERI: Yes, it seems to me they do. On the other hand, if no one is enforcing it, all of us will be slipshod if we are permitted to be -- or almost all of us.

ASSEMBLYWOMAN KIERNAN: I don't see that kind of thing in the paper that I read, but that could just be a local determination.

MS. SAMPIERI: Someone may have one-on-one sued that local paper and that is my major concern, that we not continue to do that, that we not waste our time and money by only making judgments during adversary proceedings, but instead we educate.

MS. SEHAM: You are talking about prevention rather than after the fact?

MS. SAMPIERI: Yes, because it costs us a tremendous amount and it doesn't get the job done.

MS. ALLEN: My turn. I also wanted to first pass comment that I don't think much meaningful change ever takes place until people get angry and I am glad to see you so angry today. I think that brings forth something that we need.

I am interested in your work now though. Since you have been engaged in that work, which was primarily male, and most of the regulations surrounding it developed under male - you know, the codes and so forth on the job - is there anything that has developed since you have been in there as a plumber that you feel we ought to be touching on legislatively to help improve those kinds of conditions?

MS. SAMPIERI: Clara, most of the things that I see on the job are not necessarily things that need change but, again, are things that need enforcement. I think what you said earlier about women coming into labor unions and into non-traditional work brings about a change. Things have occurred because I enter a job, because I am the only woman, such as sanitary bathroom facilities. These are pieces of law already and pieces of information that should be enforced now. But, because I entered the job and they all say, "Oh, my God, it is a woman, now what do we do? Clean the toilet," there is better enforcement of that sort of thing.

ASSEMBLYMAN SMITH: How about providing one?

MS. SAMPIERI: Most of the places I have been have provided them, yes. I get nasty.

SENATOR LIPMAN: The Legislature took a long time to do that.

MS. SAMPIERI: Yes. Clara, I see things, such as the weight of things like saws -- and I talked about that before. We do incredible things with heavy materials. Women don't have the same physiological makeup that men have. We have lesser muscle tissue and I think that what men have been used to, as far as weight is concerned, is not necessarily good for them and definitely not always good for us. I can lift a lot more than I look

like I can lift.

MS. ALLEN: I believe you.

MS. SAMPIERI: I am quite strong, although a lot of my male friends will say, "Can I feel your muscle"?

I see changes with women entering into these kinds of jobs -- lighter loads, better safety habits, better safety procedures, and more caution. I hate to use the word "male chauvinism", but it does tend to be that which brings to the men's consciousness that if I fall off the roof, which is 23 stories up, I might get hurt. So, maybe we should put up safety barriers. It is a "bassackwards" way of behaving about safety and being concerned about everyone's safety. But, if we get it to work, I don't care how it comes about. I see those changes with women.

MS. ALLEN: This is the great value that I see coming from the two sexes working on these jobs.

MS. SAMPIERI: Yes.

MS. ALLEN: I think it is going to be better for the man and I think too often people just don't keep saying that, so that men are aware of the contribution women can make.

SENATOR LIPMAN: Are you going to leave the application?

MS. SAMPIERI: Yes.

SENATOR LIPMAN: I have received some of those myself. They are just inviting me to come to a session. That is the apprenticeship program on Department of Education paper, isn't it?

MS. SAMPIERI: Yes.

SENATOR LIPMAN: I don't think the Department really checks them out.

MS. SAMPIERI: Somebody is missing it.

SENATOR LIPMAN: I think they just give them the letterhead and somebody takes it from there -- the apprenticeship program.

Well, thank you very much for your dynamic presentation.

MS. SAMPIERI: Thank you for inviting me.

SENATOR LIPMAN: We will take your suggestions seriously, especially the ones about the Division on Civil Rights.

Susan Stewart from the New Jersey Federation of Business and Professional Women's Clubs.

S U S A N S T E W A R T: First, I want to thank you for allowing me to speak now. I work and I have to get back to my job.

My name is Susan Stewart. I am the State Legislation Chairman for the New Jersey Federation of Business and Professional Women's Clubs. By profession, I am a technical writer for a computer company. So, this does not qualify me as an expert in women's employment, but makes me only an interested participant.

The New Jersey Federation of Business and Professional Women's Clubs - BPW - representing nearly 3,000 working women in this state, is more than just an interested participant. BPW has been actively representing women for 60 years. It is interesting to note that 60 years ago our founders were concerned with the passage of a constitutional amendment, the 19th, giving women the right to vote. Our founders believed that with the vote would come the political power necessary to ensure "equal pay for equal service." Now, that quote comes from the president's message, made

by our first national president in 1919.

Sixty years later, we are working for the passage of ERA, again hoping to achieve equal pay for equal service.

I will not repeat the employment statistics that you have probably heard several times already. Let it be enough to say that women constitute over 50% of our national work force and we therefore can no longer be ignored.

I am going to discuss three unique problems faced by working women today. I make no recommendations; that I leave for others with more expertise in these areas.

A national survey, done in 1978, by the National Assessment for Education Progress, shows that only 3% of the 17 year old females in this country plan on being full-time professional housewives. Obviously, that leaves 97% who plan on working.

How will this 97% prepare themselves for the working world? Well, that depends on the support they get, not economic support but emotional support. Granted, women in increasing numbers are attending colleges, universities, and technical schools. Many of them have received the emotional support necessary to break through professional and career stereotypes. Professions and careers are stereotyped for children at a very early age. We all know that doctors are men and nurses are women. Without the emotional support from family, friends, and schools, this stereotyping often results in a woman, who has no profession or career education. Instead she leaves school to join the ranks of the under-educated. She ends up with a low paying job.

To assist females in high schools and colleges break through the job stereotypes, guidance counsellors must be reeducated themselves so that they can see and treat each student as an individual.

Public and private schools are not the only problem. Government sponsored programs, such as CETA, also tend to stereotype their training programs. Females are taught to be nurses aides, typists, and file clerks. Males are taught to be mechanics, machinists, and forklift operators. It is very obvious that the male-oriented programs result in higher salaries than the female-oriented programs. Now, I do not mean to imply that all women should be trained to be forklift operators. But, why not one or two? Government sponsored programs must look to themselves to see if they are continuing stereotypes that result in low income jobs for women.

Once the woman has entered the work force she is faced with both overt and covert sex discrimination. It is no longer acceptable to not hire a person because that person is black. It is acceptable to not hire a person because she is a woman. The job is too dirty, too heavy, the men use foul language -- whatever the excuse the female applicant is denied opportunities.

Covert sex discrimination takes a variety of forms. One is for a company to deliberately promote or hire one who is not capable of handling the job. As soon as the incapability is provable, she is transferred to another more appropriate position or let go and the company then bemoans the fact that "they tried, but just cannot find a qualified woman for that position", therefore they hire a man. Or, there is the female manager who attends a meeting and finds that it is assumed by her male

counterparts that she will act as secretary. Or, there is the man who has a 50-year-old secretary and tells a visitor that his "girl" will be glad to get coffee. In business, for some reason, a 50-year-old man is called a man and a 50-year-old woman is called a girl. Once a woman passes puberty she is no longer a girl.

Once a woman finds an appropriate job and hopefully receives a decent salary and then learns to deal with the almost daily discriminations, she is still not out of the woods. Many companies retirement programs discriminate against women by making them pay a higher contribution. This should not be new to you since the Department of the Public Advocate brought a federal class action against the Public Employees Retirement System and the Teachers Pension and Annuity Fund. This 1976 law suit was on behalf of female state employees who claimed that their respective pension systems required that they make higher contributions than their male counterparts in order to receive identical monthly benefits.

So, from the day a woman applies for her first job to the day she retires, she must always be aware of, put up with, and try to change both overt and covert sex discrimination.

Now, the displaced homemaker faces a whole new set of problems and the types of problems she faces depends upon her age. The middle-aged woman who has spent most of her life taking care of the home and family must do an abrupt about face and become responsible for supporting herself and possibly her family. The chances are she has no marketable skills, or if she does, they are outdated. Add to this the fact that most employers do not want to hire older workers - male or female - and you have a new statistic for the unemployment figures.

Now, if that is not bad enough, there is often no place for these women to go to for assistance. They are often not eligible for social security benefits because they are too young, or because they are divorced from wage earners. If they are not physically disabled, they cannot apply for federal welfare assistance. If their children are past a certain age, they cannot collect benefits from Aid For Dependent Children. They can't even apply for unemployment insurance since they spent their lives in the home doing unpaid labor.

Life is not much better for the younger displaced homemaker. If her children are young enough, she probably can apply for Aid For Dependent Children. If she does not want to become a dependent, she must find a job and a day care center.

Well, displaced homemaker or not, there are literally millions of working women in this country with children under the age of 6. For those women day care centers are no longer a luxury; they are a necessity.

But anyway, to help the displaced homemaker, viable training programs, oriented to the specific economic and emotional needs of these women must not only be available, they have to be publicized.

In 1929, 10 years after BPW's founding, 20.4% of the labor force was female. Now I am getting into some statistics. You have to watch out for me. Seventy-seven percent of the working females were single. Obviously, married women were staying at home. By 1970, 37.2% of the labor force was female. The percentage of single women, however, had dropped to 22.5% -- almost a reversal. This means the remainder of the female work force is

married, widowed, or divorced, with many of these women the only source of support for themselves and their families. With the high divorce rates and unfortunate tendency of men to die early, more and more women will be joining the work force.

BPW's members, citizens of an early ERA ratification state, do not ask that women receive special attention or treatment. We only want to receive equal attention and treatment. Thank you.

SENATOR LIPMAN: Thank you. Are there any questions? Assemblyman Smith?

ASSEMBLYMAN SMITH: No questions.

SENATOR LIPMAN: Phoebe.

MS. SEHAM: I just want to thank you.

SENATOR LIPMAN: Theo.

MS. TAMBORLANE: You will leave us your testimony?

MS. STEWART: Yes, I will.

MS. TAMBORLANE: As Phoebe said, your testimony makes one feel like clapping, but we restrained ourselves. Thank you very much.

SENATOR LIPMAN: Clara.

MS. ALLEN: That 1976 survey that you referred to, you probably indicated what group was surveyed but I missed it because you were talking very quickly. That is something I am very interested in.

MS. STEWART: Okay. I'm sorry, I was trying to go very quickly.

MS. ALLEN: What was the base of the survey?

MS. STEWART: I don't have full details on it. From what I understand, it was administered in public schools.

MS. ALLEN: In public schools?

MS. STEWART: Yes, and from what I understand it was a national survey. I can get more information on that.

MS. ALLEN: Would you? I would appreciate it. That is very good information. I have a theory that we have such a problem area with women because right from the time children go into school they are not educated in proper ways as to their worth and their value. I think this is a very important statistic for us to have.

MS. STEWART: I will get it for you.

SENATOR LIPMAN: Thank you very much. You ended it quite fittingly. You discussed the emotional support women need for non-traditional jobs. We heard that briefly from the first speaker, Joan Wiskowski. It is very good. It is the first time we have heard this subject discussed so well. Thank you very much.

We are now going to break for lunch. Will you please come back at 2:00 and we will be sure to return right on time.

(lunch break)

AFTER LUNCH

SENATOR LIPMAN: I would now like to reconvene this hearing. We are going to hear testimony first from Judith Musicant who is a Deputy Director of the Division on Civil Rights, Department of Law and Public Safety. Judy.

J U D I T H M U S I C A N T: Thank you, Senator Lipman, and members of the Commission. The following is a statement concerning the involvement of the Division on Civil Rights with enforcement of the Law Against Discrimination vis-a-vis sex discrimination, the problems faced by the Division and ways in which some of those problems are being solved, might be solved, and enforcement of the law made more effective.

The Law Against Discrimination was amended to include jurisdiction over sex discrimination in 1970. Sex discrimination is the second most common allegation of discrimination in complaints filed, the first most common being race. Sex discrimination complaints account for close to one quarter of the number of complaints filed in the Division annually. Included presently in the legal definition of sex discrimination today are situations involving discrimination on account of pregnancy and situations involving sex harassment.

The greatest problems the Division has had to contend with over the past years with regard to efficient case processing has been a lack of sufficient staff with which to adequately process the constantly escalating number of complaints received. In recent years, the Division has instituted a number of new procedures which have had the effect of diminishing the backlog from a high of over 3,100 cases in 1976 to 1,900 at present. These procedures have included implementation of an intensive intake system which involves the pre-screening of complaints before they are docketed to ensure that jurisdictional prerequisites are met, and that sufficient factual allegations exist to justify the taking of a complaint.

A master file system was also initiated which involved the placing of all new cases into a single file prior to their being assigned to individual field investigators. At the initial stage, a master file supervisor would ensure that preliminary work was done on each case, at which time approximately 20% were able to be resolved without further time spent by an investigator. The most beneficial procedure to have been implemented, however, is perhaps the rapid charge processing system, borrowed from the Equal Employment Opportunity Commission, and implemented Division-wide during the end of January of this year. This system involves the complainant, respondent, and important documents and witnesses being brought together for a fact finding conference within weeks after a complaint is first filed for a discussion with Division personnel as to the facts of the case. Settlement is also discussed at that time. The result of this system appears to be a case disposition of approximately 80% within 90 days of the case being filed. At this rate, we expect that the Division's backlog will be completely eliminated within 18 months to two years.

Notwithstanding these encouraging statistics, money is a continuing problem with the Division, as I am sure you are aware it is with most if not all other state agencies given the unavoidable budgetary restrictions that presently exist statewide. The Division does receive substantial funds through its federal contracts, primarily with the Equal Employment Opportunity Commission, and to some extent with the Department of Housing and Urban Development as well.

At least one other state agency, the Division of Consumer Affairs, has the ability to recover some of the costs of case processing by statutory means. N.J.S.A. 56:8-11 provides: "In any action or proceeding brought

under the provisions of this act, the Attorney General shall be entitled to recover costs for the use of this state." Through this section, the Division of Consumer Affairs collects between \$25,000 and \$50,000 per year. It would seem that a similar section might be added to the Law Against Discrimination which might help reimburse the state Division for the high cost of processing a case and would benefit the public in terms of more efficient case processing.

Other means exist to aid the Division in its enforcement of the Law Against Discrimination which are not directly related to budgetary considerations. Senate Bill No 3001, first introduced by Senator Lipman in January of 1978 as S. 681, and presently pending in Committee, would have the primary impact of providing complainants with a right to initiate suit in state court at any point, either before or during proceedings initiated in the Division on Civil Rights, and would allow for the award of attorneys' fees to the successful complainant and to the successful respondent in certain very limited circumstances. This would have the effect of encouraging more people to file suit in state court rather than in the Division, thus diminishing the number of cases for which the Division would be responsible.

It is felt that a further aid to law enforcement would be the passage of a bill to allow the imposition of civil penalties to be paid by respondents held in violation of the law. Bills to this effect have been introduced from time to time, usually providing for penalties of not more than \$2,000 for the first offense and not more than \$5,000 for the second and each subsequent offense. These bills have been opposed by the Committee members on the grounds that they do not contain sufficient standards with which the Division can fairly adjudge when a penalty is warranted. I would point out however that such a provision does exist in the Consumer Fraud Act, N.J.S.A. 58:8-13, wherein it is stated: "Any person who violates any of the provisions of the act to which this act is a supplement, shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$2,000 for the first offense and not more than \$5,000 for the second and each subsequent offense."

Inasmuch as this provision has never been repealed, it would seem that there has been no substantial problem with its enforcement by the Division of Consumer Affairs. Surely, if that Division requires no more specific standards with which to impose penalties, the Division on Civil Rights should not require anything more specific. It is felt that the deterrent effect of a penalty provision, such as that quoted above, would more than justify the passage of such a bill.

A couple of other things that came up this morning have prompted me to make additional comments, other than those that are contained in our written statement. There was some discussion about apprenticeship programs and how they relate to women. I would like you to know, if you don't already, that presently it is the interpretation of the Division, by way of the Attorney General's office, that the law against discrimination prohibits any maximum age limit in apprenticeship programs -- union or employer apprenticeship programs -- and it seems to me that this would have a great potential impact on the displaced homemaker who is coming back into the labor force and perhaps may be looking for a job to be found through

this type of apprenticeship program, whereas before she would have been prevented from that kind of opportunity because of the maximum age. Most of the maximum ages are 26.

I might add that we had to buck the Federal Department of Labor in this area, who was very insistent that we allow for a maximum age of 26 to 32. We insisted on enforcing the law as we saw it, which would prohibit that kind of age discrimination. And, it has changed that situation in New Jersey in apprenticeship programs. There is no more maximum age. If there is, they are violating the law and it should be reported to the Division on Civil Rights.

Another thing I wanted to mention was in the area of affirmative action, concerning which there was a lot of discussion this morning. I think we should be aware - and we are probably already aware of this - that we have certain restrictions in New Jersey on affirmative action plans. Since the New Jersey Supreme Court opinion in *Lige v. Town of Montclair*, our own Supreme Court held that quotas, even where there has been a past finding of discrimination, as a remedy quoted in the affirmative action plan, are illegal and unconstitutional in New Jersey. The Division has been hoping and trying to get around - and I don't know whether I should use that terminology - trying to obey the Supreme Court mandate by virtue of provisions in its orders, be they orders after hearing or settlement orders which provide for other advertising and recruitment and goals rather than quotas, where an employer is not required to come up with a certain specific number of minorities or women after a certain period of time. Rather, they are trying to attempt to reach a certain goal using specific means of recruitment -- going to employment agencies, going to organizations, advertising, and training programs. After the time we have given them to meet their goals, we look at their situation and see how they have done. Obviously, if they haven't met their goal, a very close look would be taken at the attempts they made.

But, I did want to make sure that we have in the background an awareness of the restrictions of affirmative action presently existing in New Jersey.

I will be happy to answer questions.

SENATOR LIPMAN: If the other members of the Commission don't mind, I think I would like to ask the first question about these restrictions on affirmative action programs. It seems to me that some of the municipalities have taken the bull by the horns by inserting their own percentages, which may or may not be against the law.

For example, the City of Newark has a 25% plan for employment and Atlantic City has a 15% plan. So far, I haven't heard any complaints from the New Jersey Supreme Court.

However, the restrictions you have mentioned on the affirmative action programs, were they meant specifically for civil service type hiring in state agencies, or are you applying them to the work force of the state? When I say work force, I mean labor in places other than state government.

MS. MUSICANT: Well, if I understand your question, the Supreme Court opinion applies to any situation at all, any affirmative action plan set up, be it private or public, since the decision was based on both constitutional and statutory grounds.

The fact that there are municipalities who set up these kinds of goals, which is commendable--

SENATOR LIPMAN: I am glad you used the word goal.

MS. MUSICANT: I hope they are goals because they may be a problem if they are challenged by non-minorities who feel they are, or who may in fact be, denied a position by virtue of this kind of plan. We have been getting, occasionally, complaints of "reverse" discrimination and we are obliged to look at them the way we would look at any other complaint.

SENATOR LIPMAN: I think it works the other way around -- the towns have not been able to find their quota, which they have set a goal for.

Would someone else like to ask a question?

MS. ALLEN: I have a question. You referred earlier to Senator Lipman's Bill that would encourage the use of state court.

MS. MUSICANT: We hope.

MS. ALLEN: Putting that to practical application - you know, your group versus state court - what does that mean to an individual in time?

MS. MUSICANT: Do you mean in terms of the time their complaint would take?

MS. ALLEN: Yes.

MS. MUSICANT: Well, that is a hard question. It is taking a lot of time, according to my understanding to get a case tried in court these days.

MS. SEHAM: I haven't gone to Superior Court--

MS. MUSICANT: You stay out of there, right?

MS. SEHAM: (continuing) --under the Law Against Discrimination, but I guess it is a matter of the Superior Court Judges having experience with this law and I think they really still don't. So, its hard to say.

MS. MUSICANT: Yes. The time element has been changed around since we have implemented new procedures. Our cases are moving faster. But, certainly, there is a lot more discretion on the part of a complainant when they go to state court with their own attorney. Under our procedures, we take a finding of probable and no probable cause. If we make a finding of no probable cause after the investigatory stage, we dismiss the complaint and they are out of luck as far as an actual adversarial hearing goes. At that point they can still go into federal court and it is certainly possible that they might be able to go into state court, although to my knowledge, that has not been tested. I mean, they can go to state court to have a trial. They can appeal our finding of no probable cause, but nobody has ever overturned it yet.

So, there are advantages and disadvantages. I don't know if the time element is going to be that big an element any more, but there are other considerations.

MS. ALLEN: One other question, if I may. I think you were here this morning and I am sure you heard some of the criticism. Do you view yourself as a policing agency also?

MS. MUSICANT: Well, I am not sure what you mean by policing.

MS. ALLEN: Well, in other words, the discussion here has been

more about complaints that have been filed, right?

MS. MUSICANT: Yes.

MS. ALLEN: Now, let's assume-- There was a discussion here today about newspaper articles that were printed.

MS. MUSICANT: I wan't here.

MS. ALLEN: Oh, you missed it. I don't want to forget the question. I know that you said you lacked staff and money and all of that.

MS. MUSICANT: We view ourselves as potentially a policing agency. We certainly have the authority. But, we are a not a department of government. We are a very small division. We have fewer than 100 people statewide. Professional staff is perhaps only about 60 to 70 people, at most, statewide. These are to handle approximately 1,000 new complaints that we take in every year, in addition to the backlog left over from several years ago. So that while we would like to do all kinds of things, and at times we do try to make different kinds of policing efforts, we just don't have the wherewithal to do it.

SENATOR LIPMAN: I think you have answered one of the questions that was brought up about the Division of Civil Rights, concerning age, and your Division struggling to get the age and apprenticeship training changed with the Department of Labor.

MS. MUSICANT: The Federal Department of Labor.

SENATOR LIPMAN: Right, the Federal Department of Labor. That was really the criticism because applications are still going out from apprenticeship programs which have--

MS. MUSICANT: Age?

SENATOR LIPMAN: Age, yes.

MS. MUSICANT: Well, we are not, unfortunately, able to police that. We are not policing it at the moment. If a complaint is filed with us regarding that, we will certainly handle it.

SENATOR LIPMAN: I see. Well, that carried the Department of Education's label at the top of the page.

MS. MUSICANT: The Department of Education?

SENATOR LIPMAN: Yes. The apprenticeship programs are run out of the vocational part of the Department of Education, so they used the stationary.

MS. MUSICANT: Yes, so the question was: Do the various state offices talk to each other? The Department of Education, on its letterhead, sends out a notice of an apprenticeship training program--

Again, it is a question of staff. We have, for instance, one person on our staff who is called the EEOC coordinator. That person is paid for by EEOC. They are our greatest funding source all over the state. We get several hundred thousand dollars a year from them. We have a very close relationship with them. We do not have a close relationship with other state agencies. What is done with them is on a ad hoc basis. We don't have regular meetings primarily because we just don't have the personnel to do so. I am not saying there couldn't be a better job done in that area, certainly not.

However, to implement a project here and a project there-- Groups are constantly saying to us, "Why don't you implement a handicapped project? You are not doing enough for Hispanics. And, you are not doing

enough for blacks or women." You know, we would love to do more for everybody.

SENATOR LIPMAN: Assemblyman Smith.

ASSEMBLYMAN SMITH: I have one question. You might be able to speak to it, or maybe you can't. You were talking about age discrimination in apprenticeship programs. Do you view it will go beyond that -- beyond the apprenticeship program as far as age discrimination? What I am alluding to, as you are probably well aware, is something like the police. You cannot be over 35 years and be appointed to the police force. We are continually passing bills in the Legislature to permit a 36-year-old, for instance, who had been off the force and came back on, to do so. It is a very involved problem.

MS. MUSICANT: Yes. We can't deal with areas in which there is other state legislation, such as the police. That is covered by a statute. We don't have authority to deal with that and we can't go to another agency. We can't go to the Governor and prosecute. We cannot prosecute an employer or a state agency for complying with another statute. We don't have any authority to do that. But, our age law does cover all areas of employment in general.

MS. TAMBORLANE: I would like to ask a question about the economics of the bill you are proposing - 3101. Would it not be more costly for a persons with a discriminatory complaint to hire their own attorney and go into court than to come to you and have the use of your facilities and your people?

MS. MUSICANT: Maybe, if the private attorney involved charges a fee prior to case. The bill would provide for the attorney's fee to be paid to a successful complainant. That is probably the reason why this bill wasn't passed several years ago because there is a difference in who gets attorneys' fees, in the standard use. Respondents would only get attorneys' fees if the case were flagrantly ridiculous and brought viciously. A lot of legislators did not like the different standards when respondents would get attorneys' fees. Of course, you can't have a provision which gives successful respondents attorneys' fees in every case because it would completely discourage complaints from being brought in court because individuals couldn't pay General Motors Attorneys' fees. You know, you are talking about the giants versus the little person. In addition to this, these attorneys' fees provisions are the same as Title VII Attorneys' fees provision. It is designed so that after that it would run the same way as it has been running.

But, you are right. It may cost a person more because a lot of attorneys will not take a case on a contingency, especially where they only get a fee if they win. Many of the attorneys who take these cases require a fee in advance. As I said, there are some advantages and there are some disadvantages.

SENATOR LIPMAN: It depends on how long a person wants to wait.

MS. MUSICANT: Yes, and there are a number of middle class people who can't afford attorneys and who do want to go ahead with a case.

MS. TAMBORLANE: In your testimony, you mentioned civil penalties -- a bill being introduced to allow for civil penalties, which would be civil penalties if indeed you found--

MS. MUSICANT: Discrimination.

MS. TAMBORLANE: Right.

SENATOR LIPMAN: Greta.

ASSEMBLYWOMAN KIERNAN: I think you probably already made a case for a couple of members of the Appropriations Committee that I was going to inquire about. It is something we are aware of and it, in the priority scheme of things, is something that has not been given the status that it should be given. Do you have any suggestions for ways in which we could help you?

MS. MUSICANT: In addition to giving us more money?

ASSEMBLYWOMAN KIERNAN: Yes.

MS. MUSICANT: That would certainly be number one. I think I outlined one or two bills in my written submission. There are one or two provisions in there. The penalty provision would help, which was discussed in there. I can't think of anything else offhand that would help us in terms of our case processing.

Obviously, there are other areas of jurisdiction that could be added, which I don't want to encourage at this point because the Legislature has a tendency of giving us more and more jurisdiction but not giving us any more money, which doesn't help.

ASSEMBLYWOMAN KIERNAN: Was the budget of the Division reduced during the process before it came before us as legislators?

MS. MUSICANT: No, it wasn't reduced, but it wasn't raised. We didn't get any more money at all. It remained the same. I think that without considering inflation it remained the same. So, in effect, I think it was reduced. I am not sure about that.

I don't want to leave you with an idea that we don't do anything. Notwithstanding all our problems, last year we did collect one-half million dollars in damages for complainants, and that doesn't count all of the jobs we got people back into in the first place, and housing that we obtained for people -- apartments and houses, where discrimination had been either proved or there was a settlement.

SENATOR LIPMAN: You are going to have to remind me of something. S-3101, are the hearing officers still there or are they removed?

MS. MUSICANT: No, we are one of those agencies covered by the new administrative law. We were not exempt.

SENATOR LIPMAN: That is what I was going to ask. You lost your officers?

MS. MUSICANT: We sure did.

SENATOR LIPMAN: That pertains to staff. The reason is, the bill contained provisions for so many hearing officers for the Division in order to cut down on their workload. But, when we established the new administrative procedure in court, then they lost the hearing officers, as did so many of the other departments.

MS. MUSICANT: One other thing that I would like to add, very quickly, is also about the money but in a different vein. One of our major problems in case processing has to do with cases at the hearing stage. We are doing very well as far as eliminating the backlog of cases that are filed with us, but after a case is ready for hearing - probable cause has been found - it goes to our Deputy Attorneys General for trial. They are

responsible for trying our cases and the Attorney General is responsible for assigning Deputies to it. Presently, we are paying, I think, three out of five of the Deputy Attorneys General assigned to us with our own money and with money given to us by the EEOC. That is where our biggest backlog is. Cases can be fairly quickly processed through the Division and are often held up for a year or two years because there are not enough Deputy Attorneys General to try them. So, that is where one of our most desperate areas is and that is another reason why we are interested in this bill, which would perhaps get more cases into court.

SENATOR LIPMAN: Right. Okay, thank you very much.

Our next witness is Nadine Taub from the Rutgers University Law School.

N A D I N E T A U B: As you know, my name is Nadine Taub, and I am an Associate Professor of Law at Rutgers Law School-Newark, where I teach Constitutional Law, Civil Liberties and Women's Rights. As part of my duties at Rutgers, I teach a Women's Rights Litigation Clinic through which I have participated in a wide range of sex discrimination litigation, including *Califano v. Goldfarb*, a successful challenge to sex-discriminatory provisions of the Social Security Act, and *Tomkins v. PSE&G*, a Third Circuit decision establishing employer liability under Title VII for sexual harassment by supervisors.

Due to my professional obligations and personal concerns, I have followed with some care the history of fair employment legislation on the state and national level. It is now clear that despite some evidence pointing to their effectiveness, our high hopes for state and federal fair employment laws remain unfilled. Very simply, segregation of the work force has not decreased measurably in the last decade. Women and minorities continue to be clustered in low-paying, low-prestige jobs, while white males continue to dominate the more lucrative, challenging and responsible occupations.

Job segregation is of concern both in and of itself and because of its association with persistent wage differentials. Foreclosing individuals from job opportunities on the basis of membership in a disfavored group harms both the individual and society. Individuals are stifled in their quest for self-fulfillment while society loses the special contribution that person could have made.

The striking wage differentials associated with employment discrimination are perhaps even more troubling, for they foreclose any possibility that society could tolerate labor market segregation under some unexpressed "separate but equal" rubric and they ensure that women will be dependent on and subservient to men.

It is generally assumed and it was generally assumed that with the enactment of Title VII, wage differentials would gradually be reduced as the elimination of discriminatory practices allowed members of the protected classes to move into positions formerly reserved for white men. But clearly the walls have not tumbled down, despite the systemic attacks on neutral practices with disparate impact permitted by the *Griggs* decision. In the face of persistent job segregation and wage differentials, new approaches to employment discrimination are imperative. My purpose today is to discuss two such approaches. As you will see, I am being somewhat academic about my attack here.

The first approach has come to be known as "equal pay for equal effort." In other words, women grouped in typically "women's jobs" should receive pay equal to that received by men holding "men's jobs" where their work involves equivalent skill, effort, responsibility and working conditions.

There is some favorable precedent for litigating "comparable worth" cases. For example, in one unpublished EEOC decision, the charging party worked for a cafeteria chain in the female job classification of head of the pantry. The two other areas of employment at the cafeteria, the kitchen and the bake shop, were classified as male jobs. The charging party, as "head salad lady," was not only paid less than the heads of the kitchen and the bake shop, but less than all the other male workers except one in the entry level helper position. The Commission found reasonable cause to believe that the respondent violated Title VII

by establishing "separate and different wage rate schedules for male employees on the one hand and females on the other doing reasonably comparable work." In another series of decisions challenging the use of the prevailing community wage scales as a salary setting mechanism, the EEOC held that such scales discriminated against women on the basis of sex since the use of such wage scales frequently operated to favor male employees, but virtually never operated to favor female employees. Unfortunately, however, the courts have declined to date to find that workers are entitled to equal pay for work of equal value.

Nevertheless, there is a sound theoretical basis for this approach. In an article soon to appear in the Michigan Law Review, Professor Ruth Blumrosen of the Graduate School of Business Administration, Rutgers University, demonstrates that where jobs are or were segregated by race or sex, those same discriminatory considerations which influenced the initial job assignments and restrictions on transfer or promotion also influenced the rates of pay. Therefore, where jobs have been restricted to minorities or women, the rate of pay for those jobs has been discriminatorily depressed. Thus, it is appropriate to provide redress for such inequities in pay under our fair employment laws.

In short, "equal pay for equal effort" provides a promising approach to the problem of wage inequities, one which may ultimately break down job segregation by making women's jobs attractive to men. At the same time, however, I believe it is essential that we renew our efforts to identify and eliminate those barriers to equal employment opportunity which serve directly to maintain occupational segregation. This brings me to the second approach I wish to discuss today: the recognition of adverse decisions based on stereotypical role expectations as impermissible discrimination. Let me explain what I mean.

Numerous studies show what we all know as a matter of common knowledge: stereotypic expectations based on a person's sex or race permeate our judgments about individual capabilities and interests, and prevent us from accurately evaluating individuals on the basis of merit. Moreover, every time an employment decision is made on the basis of role expectations, the stereotypes are reinforced in the minds of both the employer and the employee. Nevertheless, our anti-discrimination laws as they are currently interpreted outlaw stereotypes only if they are connected with outright hostility, unequal treatment, or are offered to justify neutral rules having disparate impacts.

So, for example, a woman with young children who is denied a job involving travelling because her boss assumes she wouldn't be available can recover under the fair employment laws at present only if she can show that her boss hates women - or at least women with young children - or that the company has given men with small children the opportunities she is being denied. Likewise, when a "pushy" woman is denied a job in favor of a more docile, "ladylike" woman, the assertive woman can recover only if she can show sex-based animus or that abrasive men were given comparable positions. But so often in our sex-segregated work world, such showings are impossible. In my view, it should be sufficient to show that the adverse employment decision was based on an expectation that women should conform to a certain pattern of behavior, whether or not that expectation was based on hostility and whether or not there is a similarly situated male who received different treatment.

The recognition of discrimination as adverse decisions based on stereotypes per se means focusing on the effects of acts, not on the intent of the actor. For instance, we need not worry about whether the worker who subjects a subordinate

or co-worker to sexual harassment was really attracted to her, as some claim, or whether, as I believe, he was seeking to put her down. What matters is that sexual harassment serves to remind both the employee and the employer that as a woman she is still seen as a sexual object rather than a contributing worker. As such, sexual harassment has been extremely effective in driving women out of non-traditional jobs and ensuring that their tenure in traditional jobs will be too short to earn them the benefits that go with seniority and organization.

A focus on "effect," not "intent," is in keeping with statutory interpretations in the "neutral rule" context, and with the great purposes of our anti-discrimination laws. We do not seek to blame employers who use tests not shown to be job related which have a disparate impact on protected classes. Rather, we seek to eliminate those practices which artificially deprive society of the contributions of qualified workers. Similarly, eliminating stereotypes which interfere with the employer's proper evaluation of merit and the worker's willingness to participate in traditional and non-traditional work, will enhance societal and individual achievement.

To conclude, both approaches - one, requiring equal pay for equal effort and, two, banning stereotyping per se - can be utilized within the framework of existing legislation, for they represent no more than a further understanding of the discrimination we have all agreed to outlaw. Where, however, the courts are reluctant to adopt approaches - and, as I have indicated, the federal courts certainly on the "equal pay for equal effort" level have been rejecting the concept so far --- but where the courts are reluctant, it is appropriate for the legislatures to remind the courts that they mean business. A further definition of impermissible discrimination on the state level along the lines suggested today is in keeping with the legislative action on the national level explicitly including pregnancy-based decisions in the definition of discrimination when the U. S. Supreme Court got that one wrong, and with the general trend to encourage experimentation on the state level. So I would commend that process of further definition to your consideration.

SENATOR LIPMAN: Thank you very much. I just wonder: Can we now go back through the footnotes?

MS. TAUB: I figured that would be too much for the reporter as well as the rest of us.

SENATOR LIPMAN: Are there any questions?

ASSEMBLYMAN SMITH: How would you propose to implement areas of equal pay for equal effort? You are talking about job description and you are talking about equal pay for equal work.

MS. TAUB: And how do you decide what is equal work?

ASSEMBLYMAN SMITH: That's it. Here is my problem with it: If you had a secretarial job and it is male or female, that is one thing; but when you start saying that versus something else, how do you determine ---

MS. TAUB: I think it would be very hard if I pulled this idea out of the air. In fact, I suggest you look at the Blumrosen article when it is published and contact her for her thoughts about this. But, in fact, the way, in general, industry job scales are arrived at is by making some evaluation and giving points to different jobs. What Blumrosen shows is that in that process what they have done is built in some prejudice about women's work. I think that industry is used to evaluating effort. When they set progressions and when unions negotiate with employers, they are already thinking about equal effort. They have job

scales that are set. For example, in the Lemons case, which is one of the unfortunate cases that rejected the concept, before the court in that case was a report by an outside consultant on evaluating work, categorizing effort, and, I mention specifically, physical effort, responsibility skill.

I think we are used to, in practice, making evaluations along those lines. I don't think we are used to thinking about the prejudices that may have been built into those evaluations. It is interesting that the French Commission on the Status of Women is working along those lines too. And, in fact, I visited an institute in Paris that is involved in making those kinds of evaluations of work effort. So there is a science about it already and we have to tap into it.

ASSEMBLYMAN SMITH: I can see your point in some of the larger industries. But if you take smaller businesses and smaller areas of employment, this, to me, could become burdensome. I think there is going to have to be some kind of guidelines set up that because a small business is not going to have the resources to go in and do this type of thing. Whereas on a larger scale when you talk about civil service and union situations, that is one thing. But when you get down to a smaller business, ---

MS. TAUB: Blumrosen also makes the point, and I think it is valid, that those businesses set their wages by the prevailing market wage which, in turn, is built onto what the bigger industries do.

ASSEMBLYMAN SMITH: True.

MS. TAUB: So I think it will be feasible. I come to you and raise it as something that merits your exploration. I think it is feasible. I don't think you can do it without thinking about and without doing some research on what is available. Her article is 300 pages long and I thought I would scare you with that.

The other thing that you might find useful are the briefs that were written in the Lemons case and the other case I have cited. Christensen and Lemons, I think, are both available from the National ACLU Women's Rights Project because they were involved in litigating both of those cases. I think that will give you some further definition of how you go about it.

MS. SEHAM: This is on the same general basis as our testimony from the Women's Equality Action League earlier today. It is something that more and more organizations concerned with discrimination are starting to latch onto. Have you seen the State of Washington job evaluation - comparable work study? Did they actually evaluate state jobs?

MS. TAUB: I haven't seen that. I saw some statements about it.

MS. SEHAM: If they did, maybe New Jersey could look at that and use it as a stepping-off point.

MS. TAUB: The other thing that was interesting - and I am sorry I didn't bring in it - is that they went through the evaluation of prestigious job titles and it turns out that caring for children and doing all the jobs that are involved in home-making are evaluated as far less prestigious and worthwhile than taking care of horses. Considering how important we think the future of this country is and how it is based on the children, we can begin to recognize the prejudice against women.

My second point I have not seen picked up other places to the same extent and maybe I should push it a little bit more here while I have the chance. I think that one of the real problems is that the nature of prejudice toward women as opposed to, at least, current-day conceptions of racial prejudice is that

it is much more complicated. People don't really think that they dislike women. They live with them. They trust them to bring up their children, although maybe not their horses. I think to the extent that so much of discrimination law is based on gimmicks from which you can infer an evil intent, either trying to find somebody who said something outright or looking and seeing there was unequal treatment and, therefore, we can infer that they meant to treat them unequally, we are not really going to get at the problem. I think that today women are deterred from applying for non-traditional jobs because they never think of it as possible for themselves and employers don't think of women in those roles. They put them in jobs where women get no gratification in terms of money or status. Then women leave and there is this self-fulfilling prophesy of a high turnover rate.

I think we have to begin examining what we are doing in the job market as well as in the schools that reinforces those prejudices. And it is coming from that that I think we have to give employers some obligation to locate their own acts that are reinforcing stereotypes. And the example that I give about the "pushy" woman and the "less assertive" woman is, in fact, a real case from the District of Columbia. It is a real case where the judge contorted to say this was hostility to women. But it is not hostility as we know hostility. It is those assumptions that we forget to examine and it is those automatic attitudes which employers may believe are in everybody's best interest. So I think we should put an obligation on them to locate their own stereotypic attitudes, without having to find one of these traditional ways of proving discrimination.

MS. TAMBORLANE: This morning we asked the question with regard to the N.J. unemployment compensation laws, as to whether they would be perhaps strengthened if we were to add a provision that a woman would have a right to collect unemployment compensation because of sexual harassment if that were the reason for leaving the job. The answer we were given was that currently sexual harassment would be ruled as a valid reason for unemployment compensation. Would you comment on that?

MS. TAUB: There was a recent wonderful decision from the Appellate Division. You can pick this up if I get it wrong. A woman who worked at the A&P was harassed by a co-worker who, I think, had more stature but was not her supervisor. She complained to her supervisor who was a woman who said, "Well, you have to learn to live with it." So she thought she could learn to live with it. But one day when he came over and put his hands on her, she could not stand it anymore and she heaved this big hunk of meat at him. Then she got fired. The question was: Was she going to be disqualified because she got fired for misconduct? Of course, it was: We don't condone violence - nobody should throw meat, etc. What she had been subjected to was incredible. She would have had the right to recover unemployment benefits had she quit just on the harassment. The fact that she reacted in this totally understandable way did not preclude her from recovering unemployment benefits or getting unemployment benefits under a waiting period for that disqualification. So my impression is that the law is pretty good. And that is interesting because it was a co-worker situation.

MS. TAMBORLANE: It is an interpretation of the law.

MS. TAUB: Frankly, there is a tremendous difficulty in defining sexual harassment and it is a difficulty that you may end up litigating if you try and write a statute about it.

SENATOR LIPMAN: We heard testimony this morning from Mr. Viviani in Income Security, and he said that, by and large, they usually decide in house that this

is a valid case of sexual harassment and she recovers as she would under different circumstances.

MS. TAUB: I think that the New Jersey law, in fact, is stronger than the current federal decisions because current federal decisions are insisting that the guy put a condition on it. You know, you won't get favorable job evaluations, you will get fired, you won't get promoted. My impression of this New Jersey case was that they really recognized the work environment problem. I don't think it would hurt for you to come out with a strong report that says you are very concerned about this problem. But given the fact that there is a limited amount you can do in the Legislature, I am not sure that you need to define it so much.

On the other hand, were you convinced that equal pay for equal effort is a workable concept and you do enough, or you get some assistance in helping you put it together, the kind of background that is necessary to convince people that it is workable, that might well be the kind of thing you should approach in the Legislature. I haven't seen it and I didn't get a chance to talk to Judy about whether they have tried to establish it in their division as a concept. But I think more is needed on that.

ASSEMBLYWOMAN KIERNAN: I was particularly interested in your second point because we haven't discussed it. We have been a little bit interested today in the equal pay for equal work. Reading these two cases that you mentioned here, it seems to me that the first one of the woman who was not allowed to take the job or given the job travelling, it would be simple enough for her to prove that men with children travel and she can travel in that case.

MS. TAUB: It depends, if there is a comparable position. But what about the situation that we see so often in this world of tokenism - and that may get you into the second case - where she is the only one who is applying, and they will say, "But this job is very different; this job is very special," or she is competing against a woman who doesn't have a kid?

ASSEMBLYWOMAN KIERNAN: What I am a little bit afraid of here - and, again, I guess the definition and the intent of someone is totally impossible to define - is that you will find the people who don't get promoted will always think it is because they are a "something." They are a black; they are a woman; they are too tall. That is something I know you are not trying to encourage, nor should we.

MS. TAUB: I think that the harder problem with what I am suggesting - and it is the back side of what you are saying - is: Is there ever going to be proof that really was what it was? In a world where in 1974, Otto Passman can write a letter to a woman exclusively saying, "I am sure you will agree that a woman shouldn't have this job - a man should," and where the ads that were shown to you today can be published, I think there still are enough explicit statements that people are making. That will, one, take care of your problem of, "Are there going to be false charges brought up"; and, two, it will give a basis for proving that people really are relying on stereotypes.

I think what I am proposing is not all that openended because it is still going to be on the woman to show that her problem was that the guy thought she was too pushy.

ASSEMBLYWOMAN KIERNAN: And that had she been a man and been that pushy, he would have hired her.

MS. TAUB: Yes. What I am talking about is a little bit of change in who is responsible. I think that, in fact, women are seen as pushy and obnoxious when men aren't. And I think that may be for us, as women out in the world, a

problem that we have each encountered.

What I am talking about is, if their case is that she really is too abrasive, then they should be put in situations where they show in some factual way that is related to actual performance that she cannot function in the job. I think we have to get past stereotypes and into concrete categories. And, in fact, I think there has been some sociological work done on this: what you mean by abrasive. You can break down into relating with co-workers, relating with superiors, and relating with customers, and you could force people to ask more concrete questions. I think to put that obligation on the employer is worthwhile and when a woman is told she is not being hired because she is too pushy, that we should say that that is at least a prima facie case of discrimination. Then the burden shifts to the employer to say, "No, I mean she can't function in the job because (a) she has offended her co-workers in the past; (b) she offended customers," to make it concrete and operational and to dispel these kinds of labels. Because I think when you make it concrete and operational, you will, one, make the employer think twice; and, two, maybe take care of your problem, which is make the woman face up to the fact maybe she has some real problems working.

But I think it is important enough to label and make impermissible to use those stereotypes and that it is worth putting the burden on the employer at that point.

ASSEMBLYWOMAN KIERNAN: You have made yourself clear. I was raising the point only - and I don't think that that would necessarily be the case - because it was the opening of that area that I was concerned with. In most cases, I would think that would not be an abuse. But the criticism would exist and ought to be discussed.

MS. TAUB: The criticism I have heard most goes the other way, which is they always make up some other excuse.

ASSEMBLYWOMAN KIERNAN: That is what I was thinking. It would be awfully hard to define.

MS. TAUB: I think that in a world where Carter can gently show his regret about Bert Lance and fire Bella Abzug in the middle of everything, that explicit offensive conduct is going on and we still have to remind people that they have to cut it out. Maybe the year after next, this won't be necessary.

ASSEMBLYWOMAN KIERNAN: Perhaps as we open up and try to promote more women into management, lower-management and middle-management jobs, this will not be something that we will have to continually address as employers get used to dealing with women in those positions.

MS. TAUB: I have been reading some - I guess they are social psychologists and sociologists who do these surveys of business administrators and they give these little stories with Jane and John, the two-career family situation. The woman is being considered for a job where she will have to travel. She has kids. The man is being considered for the job. But the description of the hypothetical person is the same; they just changed the sex. It is the stereotypic response. That stereotype seeps into their evaluation of how well the person can do it. Again, that is why I think we need to make explicit the obligation to catch yourself using those stereotypes. You know we are all here because ultimately we think there will be progress. We are in that business.

I agree with you. I guess I think that things are still gross enough that

we have to stop people and say, "Look at what you are doing. It is your obligation to look at what you are doing. And if you appear to be doing something and using stereotypes, the obligation is on you to justify what you are doing." The obligation should be shifted over.

MS. ALLEN: I would just like to make a few comments because I spent my life as a harassed labor leader and in that role handled grievances on sexual problems, and you name them, up and down the line, as far as women were concerned.

I think what you are talking about here again is a pioneering effort which is very necessary to start and make. Unfortunately, however, I think that you are into an area where most times women are not represented by organizations. You are talking about a group where a woman is out there standing on her own. Therefore, I concur one hundred percent that the burden of proof must be shifted to the employer and not to have to remain in the hands of the employee. It is a very unfair disadvantage to place these people in. So I think just as we started out with equal pay for equal work and we got a little trapped with that one and moved away from it, this is a pioneering effort that I really believe has to be made.

MS. SEHAM: Is there a statutory amendment that you think would work toward this end? As a Commission, do we recommend that the law against discrimination be amended in some way to achieve this? How does it get implemented?

MS. TAUB: I am wondering whether, as things work in this State, you want to give some basis for it. I think there is a certain amount that you have to do to convince people that it is workable and it is fair to ask for that work to be done. For you to include that in your report and then ask whether it is possible for the Division to include that in their regulations as an interpretation - I think there is a certain advantage not to introduce legislation that would be defeated and create the impression that the legislation was necessary because it wasn't there already. A Division interpretation of the statute might be a useful intermediate ground because it is a push without suggesting that it wasn't in the statute already.

SENATOR LIPMAN: This stereotypic behavior is very difficult to articulate; it is not hard to identify it.

MS. TAUB: I think that one of the things to do is to draw on the sociological research that has been done. There are a number of people who have constructed scales. They survey people and they ask them, "What does female mean to you? What does male mean to you?" And, oddly enough, most people agree on about 47 items, that a woman is soft, a woman is not this and that, etc. I think it is that consensus, that agreement, that serves to keep us in our place. And when a woman tries to break out of it by, for example, suggesting that she is a worker, not a sex object, she gets punished for it. To be a successful business person, you are supposed to be assertive, able to handle things. But if you are assertive and able to handle things, you are a lousy woman.

I had an experience myself. I went to get my car fixed. They tried to rook me by charging me more for the oil change than was built into the price. I had a big fight; I won. What was the last shot from the guy that I beat? "I'll bet you are not married. You couldn't get married." You are caught in this bind that you can't be a successful woman and a successful person at the same time. You are familiar with the Rosenkrant Study about mental health is having male qualities,

not female qualities. The healthy woman is the unhealthy adult, mentally healthy. There is a body of sociological research that is essentially compiled of stereotypes. I think that if you draw on that, you can convince a court that this was stereotypic behavior. The Supreme Court all the time talks about stereotypes. They recognized it in this AFTC case that they just decided about the unemployed father or the unemployed parent under aid to families of dependent children. A couple of days ago the Supreme Court struck it down. Blackman writes an opinion saying this is a part of the whole baggage of stereotypes that the woman will have her primary responsibility to the home. The courts are used to talking about stereotypes. They are familiar with the concept. They just haven't recognized that in and of itself it is enough to show discrimination. They want you to show evil motive. They want you to show that here is a man that wasn't hired.

MS. ALLEN: You have proven it to me.

MS. TAUB: I will move on to the next forum then.

SENATOR LIPMAN: Any more questions? (No questions.) Thank you very much.

Ann Carson.

A N N E C A R S O N: My name is Anne Carson. I am a Staff Attorney of the Urban Legal Clinic at Rutgers Law School, which means I direct civil litigation on behalf of poor persons and I direct student participation in that litigation. Before that, I was a staff attorney at Essex-Newark Legal Services for three years. I am thus fairly familiar with public interest litigation and appearing before court and what it takes to prove one's case in court.

I prepared an outline of my remarks, but I did not prepare any written remarks. I shall, if it is required, provide a summary afterwards.

What I would like to do today is to talk a little while about the practical problems encountered in prosecuting a claim of unlawful discrimination in the New Jersey State courts. These problems have been engendered in recent times by the inherent difficulties of prosecuting a sex discrimination claim, but also by some recent New Jersey court decisions. I would like to concentrate on three areas: first, filing a complaint; second, demonstrating that a client has been a victim of unlawful employment discrimination; and, third, obtaining a meaningful remedy for the client.

First, filing a complaint: It is clear to everybody here that the reason for the Division of Civil Rights is to process complaints, process of alleged complaints. The New Jersey Supreme Court, however, in a case last year which involved a charge of sex discrimination against the Matawan School Board - and these charges included both discrimination within the regular curricula and the extra-curricular activities, as well as employment practices --- This was the situation. The Matawan Regional Board said that they shouldn't take this complaint to the civil rights people; it should be taken to the Commissioner of Education because, after all, under the statute the Commissioner of Education is the person finally responsible for all curricula, both in-school curricula and extra-curricular activities. The New Jersey Supreme Court then was faced with a situation where, in essence, the Matawan Regional Board was saying, "You went to the wrong person to complain." What the Supreme Court said was that there was joint jurisdiction between the Division of Civil Rights and the Commission of Education in this particular area, but that, since the Commissioner of Education was more expert in the matter of resolving educational difficulties, the Division of Civil Rights ought to defer

to the Commissioner's judgment.

Now when it is explained that way, it doesn't sound on its face unreasonable, but it raises a few problems. First of all, the reason for the necessity for a Division of Civil Rights is precisely because the Commissioner of Education and other department heads and other division heads did not safeguard the interest of people against unlawful discrimination, race, sex, age, whatever. That was the very reason for the establishment of the Division. To give the problem back then to the Commissioner of Education, which is where it was before there was a law to begin with, inherently lessens, I think, the import attached to that particular problem. Additionally, and perhaps in the end more importantly, it creates unnecessary obstacles for the complainant and his or her lawyer. Presently, if you wish to advise somebody, either as a lawyer or a layperson, on what to do if you have a complaint about the school board, you should know enough that they don't go to the Division of Civil Rights anymore, which is where everybody goes when they have a complaint on civil rights; they have to go to the Commissioner. Now for an employment law specialist to have to know that is not an onerous requirement. But for all the people who give advice in our society - that is, clergymen, ombudsmen, city and state representatives, councilmen, etc. -- for everybody to have to have in their heads who gets sent where for what kind of discrimination complaint is pretty onerous, and particularly if this reasoning is expanded to include more than the Commission of Education, to include maybe the Department of Labor and Industry or various other departments, Civil Service perhaps.

Now, further than that, I think it is fairly obvious that the Education Commissioner, or probably any other department head, is not really prepared to spend the money to open a conveniently situated office, to hire and train people to take complaints, and perhaps most important in a bureaucracy, is probably not prepared to make the necessary forms so that somebody can come in and complain about this, that, or the other kind of discrimination.

It is true that probably some fairly well educated people who are really very interested in the problem will be able to pursue it through the Commissioner of Education. But what about the person who works all day long? Maybe two parents work all day long. They come home and they are annoyed about the fact that their daughter is receiving what they think is sexually biased education. But they don't have the time nor the mental or physical energy to pursue this through the various layers of bureaucracy where it would be necessary to file a complaint.

I think whenever one establishes a procedural obstacle like that, it of necessity eliminates from consideration complaints by less well educated people and less vigorous people. They might be equally meritorious, but essentially that kind of procedural complication means that only middle-class people who have enough sense to know whom to call and when to ask for the supervisor and know how to write a good letter and keep a carbon copy of that letter will be able to effectively prosecute complaints. I don't think that is what we intend to happen with the law against discrimination.

In addition to the problems engendered by filing a complaint, which at the present point only involve the Commissioner of Education, because the decision was very specifically tailored to cover the Commissioner of Education, but we hope it isn't expanded to other departments, the second area of concern to a litigator

comes in demonstrating that a person has been the victim of unlawful employment practices. There are two decisions in particular that contain some troublesome language. The first is an Appellate Division decision called Jones versus the College of Medicine and Dentistry. That was a case brought under the New Jersey Civil Rights Act and there the court seemed to hold that the employee must plead and prove some sort of vicious intent on the part of the employer. And the words "vicious intent" are not my characterization. That comes straight from the opinion. As a practical matter, this is extremely difficult to do.

Let me, first, briefly describe the fact situation here. Mr. Jones was a Black man who applied for a position as Security Guard with the College of Medicine and Dentistry in December of 1973. His application was put on hold. He was told it was being put on hold. And he was rejected in April of 1974. He knew, because his friend worked in the department, that one white person, one white man, had been hired shortly before he applied and that two white persons, one man and one woman, were hired after he applied, and one Hispanic was hired after he applied. Although there seemed to be no doubt that his application was treated differently than the white persons and the Hispanic person, he nevertheless lost because he had not made a showing of vicious intent. The particular person who did the hiring was the Chief of the Security Office and apparently there was some formal differentiation between in-house applications - and at that point Jones was a College of Medicine and Dentistry custodian employee - and out-house applications. All the people who were hired were from the outside. So there was right then and there a difference of application procedure. But the court found difficulty in saying that was racist because of the characterization, in-house, out-house.

The problem with that case was and is that unless you have some incriminating memoranda saying essentially, "I don't like this black person," or "A woman is not good enough for the job," or "She has a child and I wonder if she would get into work," unless you have something written saying that, or unless you get a deposition, which costs money, from somebody who will say, "Honestly, I didn't hire her because she was a woman. I didn't hire him because he was black," -- unless you get some damaging admission like that, you can't win a case. Think, too, that the person you are taking the deposition of is probably a career person, the Security Chief in this case, who probably had many years of service with Rutgers. You cannot expect that person who is in a jeopardized position since what he is doing is being opened up to litigation, and people are afraid of lawyers -- you can't expect perfect honesty on behalf of that person. He has his job to protect. And where would he go if they decided that he had done wrong? He is a convenient scapegoat.

What I am saying is that it is very difficult for the employee to get evidence that there was this vicious intent.

From the point of view of the litigator, under Title VII, you need not show intent. All you have to do is show some disparate impact. But, basically, if you show that you are black and were treated differently than a white, or you were a woman and were treated differently than a man, it is then up to the employer to show you why they did that.

As a litigator, at the present time, I and perhaps other people as well may well decide to go into federal court to enforce a claim of discrimination on behalf of our client because the federal law on the point is clear. You don't have to show intent. If I were to take my client into state court without

a very strong knowledge that I can show intent, I perhaps am doing my client a disservice.

The Jones decision is an Appellate Division decision. It is not a Supreme Court decision. So, at this point, it is not the final word such as we have in affirmative action in New Jersey.

I think that is again something that this Commission wants to avoid. I am certain you spent a lot of time with the Sex Discrimination Laws. You don't want people going to federal court as opposed to going to State courts because of a court decision which is basically anomalous on the point of proving intent.

Additionally, the New Jersey law on discrimination, as you probably know, is more expansive than the federal law on a couple of points and it is particularly more expansive when it comes to small work places; that is, work places which have 25 or less employees, of which there are quite a few in the State of New Jersey. This is probably true in all states, but there are certainly a lot here: small businesses in Newark on Broad Street, in Paterson, and wherever. It is certainly the height of unfairness that a person who is involved in a small work place has the protection of the New Jersey law and not the protection of the federal law, particularly if there is going to be such a difference in the enforceability of the two laws. So that is the first difficulty.

The second difficulty is contained in the otherwise very nice case of Peper versus Princeton University. Now there the court found that Mrs. Peper could sue a private university, claiming that they had violated her rights under the New Jersey Constitution, which is very helpful in other areas of public litigation. However, the court found that Mrs. Peper, herself, had not been discriminated against and that finding, by the way, was contrary to what had gone below. Of course, the Supreme Court didn't see and hear testimony; it was the administrative body that did. Nonetheless, the Supreme Court took it upon itself to analyze Mrs. Peper's work site and her job responsibilities, and concluded that she was not in the same promotional stream - that was the word they used - as two male employees who were promoted who came to work at the same time as she did and were promoted ahead of her.

The particularly ominous facet of this court decision is that the court seemed to fairly readily accept the employer's categorization of what positions were which and what responsibilities were which. Much Title VII litigation, as you may know, has gone on precisely about job requirements; that is, do you really need a high school diploma to be able to operate this machine, those sorts of things. If the New Jersey court is going to be willing to accept the employer's characterizations of what is required for particular positions, we are going to have a very hard time litigating that issue in New Jersey. Again, with small employers, it is particularly important because suppose that there is nobody who has the same position as you do. Suppose you are the one saleswoman or the one salesperson or the one assistant manager. How can you then ever prove discrimination if there is no male in your same position? Certainly you ought not to be deprived of the coverage of the law just because there is no man with precisely the same title as yours in the organization in which you work.

Those are the two primary problems that I see with litigating cases in the New Jersey courts under the New Jersey law.

The third problem - and I will be very brief here - is a problem with the remedies that the courts have awarded, the New Jersey courts. First, the New Jersey

courts have been a lot better than the federal courts in awarding nominal damages; that is, if there is pain and suffering, they will give you \$750 or \$1000. That makes it worthwhile for someone to go to court. Even if they were rejected from the job and got a job the next day and don't have any actual damages, for them to be able to go to court and get money for mental pain and suffering is quite important because those are the cases that you want to bring, not only the people who actually suffered, but the people who were discriminated against. So that is one point in which the Jersey courts are quite good.

However, the Supreme Court in *Countiss versus Trenton State College*, involved a female college physical education instructor who was denied tenure. And she was denied tenure on a non-sexist basis; that is, that she had not completed the necessary work - she had not made substantial progress with her doctorate. However, she had been given less credit than male athletic instructors because there was less time afforded for coaching women's basketball, etc. than there was men's basketball. Nobody disputed that there were discrimination problems. The Supreme Court upheld that. But what the Division on Civil Rights had done was ordered her reinstated with tenure, which the Supreme Court reversed, saying you cannot show that but for this business with the release time and her getting extra time, she would have made progress and, therefore, we cannot order her reinstatement with tenure.

From a litigation standpoint, if you get a situation like that, it is just about impossible to show why you didn't write your doctorate or why you didn't get your brief in on time or why you didn't do any one of a hundred things on time. But when you have a clear case of discrimination, it seems to me that the courts in New Jersey ought to be more focussed on finding some remedy. Perhaps the appropriate remedy was not reinstatement with tenure. Perhaps it would be the woman should be given a year or two to get her tenure. But, in any event, I think it is incumbent upon the court to find some remedies for discrimination and there was no remedy here.

So, in summary, what I would ask this Commission to do is, in their report, indicate that there are several problems with the enforcement of the law and I would ask this Commission to recommend that the Title VII intent analysis be imported full-scale into the New Jersey law rather than sort of half and half as it is now, and also a statement that if there is discrimination found, there should be a remedy. Mrs. Countiss went through years of litigation and got to the Supreme Court after all the turmoil and the mental bother and trouble that going to court involves, and she was found to have been discriminated against and she got not one penny from the Supreme Court of this State. I think that is something that this Commission should concern itself with. Thank you.

SENATOR LIPMAN: They corrected her case after the fact. That is the reason the court found against her because of the discrimination.

MS. CARSON: The discrimination had been removed.

SENATOR LIPMAN: She was discriminated against and she won it in that respect.

MS. CARSON: But she is still out of a job, you know, and you have got to pay the rent.

SENATOR LIPMAN: Is there anything that can be done about that, except financial award?

MS. TAUB: Probably the court's difficulty was that a court does not want to say, this person should have tenure. We thought what the court could have done

is remand it to the Director to consider alternatives other than tenure. Among those alternatives would be, give her more time, or give her compensation. But if they figured she worked more than she was supposed to - she was entitled to some money - and if they figured that she had lost time that she should have had to do her doctorate, they should have given her more time, it seems to me. You can talk about this in terms of exploring alternatives, but it is so essential to give a remedy when you find discrimination, that the court should be under a special obligation to explore alternatives.

SENATOR LIPMAN: We did just that. The Department of Higher Education suggested legislation which gives six years instead of five.

MS. TAUB: So she benefitted from that extension.

MS. CARSON: I am glad to hear that. But if you research the law on the necessity for a remedy in civil rights cases, it is still her case.

SENATOR LIPMAN: Yes, I know.

MS. TAUB: I don't think we should kid ourselves. There is an under-current here, and I think Phoebe is very familiar with it, that there is a reluctance to interfere in academic situations. I think it may be a classism and bias on the part of the courts that frequently when it is some factory situation, they don't mind telling them what they have to do. But when it comes close to telling the judge who his clerk might have to be or who might have to teach his kid in the school, the courts are far less willing to intervene in that wonderful male club that runs the setup because they know what merit is, their judgments are very subjective. But these are such difficult judgments and we have to trust these guys who, after all, have come to the top of a male establishment club anyhow. I think if you look at the more white collar and more academic job that is involved, the higher the standards of proof turn out to be in discrimination cases. That may well be a way of saying --- and, as I say, I see it as economic discrimination, that we don't mind pushing around mere workers; but when it comes close to our world, we are going to protect that turf. Our world happens to be the world of power.

So the theories under Title VII that have been developed were theories that applied to the factory. Oddly enough, those theories even in the federal courts where they were developed don't really get followed in academic discrimination cases.

ASSEMBLYMAN SMITH: I don't have any questions, but you made some very good observations.

MS. SEHAM: You will give us something in writing?

MS. TAUB: Yes, I shall.

SENATOR LIPMAN: We would like to make some more recommendations.

MS. TAUB: I think on this point about the jurisdiction of the Division on Civil Rights, I have certainly heard rumors - you have probably all heard them - that what was done in the Hinfrey case, the first case you discussed, was part of a series. I think that is one way of justifying lack of appropriations for the Division on Civil Rights: Give complaints about insurance back to the Department of Insurance. Give complaints about education back to the Department of Education. Give complaints about banking back to the Department of Banking. And as was pointed out so well, those folks already have a constituency and that is the constituency that has been unresponsive. So I suggest some recommendation be made about the statutory jurisdiction being what it is meant to be and that this body at least declare the Hinfrey decision to be a misinterpretation

of the legislative will.

SENATOR LIPMAN: There was much legislative discussion about that. There are many legislators who think this kind of an action constitutes a conflict of interest.

MS. TAMBORLANE: I have just one question. You mentioned that New Jersey's coverage for employees in small businesses was better than the federal coverage. Would you specify, please?

MS. CARSON: I think under Title VII, you have to have a work force of 25 or more employees or a total of 25 or more employees. Whereas, under the New Jersey law, I don't think there is number.

MS. TAUB: All employees are covered under the New Jersey statute. I think the federal one may have been limited to 15.

MS. CARSON: It may be 15. I am not sure.

MS. TAUB: There is a federal limit and there is no limit in New Jersey.

MS. CARSON: In fact, there have been a couple of cases which I have been involved with where the person has gone to the State just because they couldn't go to the feds because they didn't work in a big enough place.

SENATOR LIPMAN: Are there any more questions? (No questions.) Thank you very much. And we will be expecting to hear some more from you.

Kerry Peretta, Deputy to the President of the Department of Civil Service and representative of the Division of Equal Employment Opportunity and Affirmative Action, Department of Civil Service.

K E R R Y P E R R E T T A: Senator Lipman and members of the Commission, I have submitted for inclusion in the record written testimony. I have given you backup in terms of a report on the Division of EEO and Affirmative Action. I have also submitted to the chair a report on Veterans' Preference in depth. So what I am going to do is speak very, very briefly to a few employment data and make a couple of other comments. Then perhaps, I can throw things back to you in terms of any laundry lists in the areas you would like the Division of EEO to examine in terms of your research.

In short, I provided you with an enormous amount of statistical data concerning the State as an employer and New Jersey State government employees, and other kinds of data would be feasible with sufficient lead time.

I would speak just very briefly in the area of pages 7 and 8, just a few points that I would like to address and underscore with you. Commissioner Woodson noted this morning that currently women are approximately half of State government employees. In terms of the past five years, minority women have increased about 3 percent in net. White women have maintained about the same level of participation, about 33 or 34 percent over the past five years. However, and this point has been made very well all day, women remain clustered in traditionally female, lower-paying, lower-status positions. That tends to be true in government also. Educational achievement levels for men and women throughout New Jersey are nearly equivalent. Men and women are educated at about the same kind of levels in terms of the credentials that they bring to the work place. But, while we have an improved salary picture, the gap between education and compensation remains striking. Any number of reasons for this, of course, have been proposed even today in terms of women's employment pattern, their breaks for child care, the need to accommodate those kinds of concerns.

We would want to note for the record that the Advisory Commission to

the Division on Women has expressed interest in developing an in-depth analysis on the employment of minority women, particularly Black and Hispanic women, in State government. We plan to use at this point, tentatively, the June, 1979, database, which would not be available for just somewhat longer. The Division of EEO staff has already met with a member of the Advisory Commission and staff of the Division on Women; and the Division of EEO will continue to be available for technical assistance.

I think it is fair to say in sum - and the rather elaborate statistical base will back this up - that women employed in New Jersey, as one considers the overall picture, are employed at a steadily increasingly, steadily better level. An encouraging sign, for example, is the representation of women among new hires for the 1978 calendar year. At 29.4 percent of all new officials/administrators and 42.3 percent of professionals hired, women moved steadily into the pipeline for policy-making impact, with affirmative action programs genuinely in operation. The availability of women in the workplace is really the key and women are increasingly there in State government. It was a matter of opening up the higher ranks to those heavily qualified women.

We would just want to underscore though that if you look at individual department situations and if you look at specific job titles, the picture is weak. It is certainly such that there is a very large job yet to be done.

SENATOR LIPMAN: On page 12, you have the percentage of women by job categories.

MS. PERRETTA: I would just kind of finish up a couple of formal remarks by underscoring again the fact that Executive Number 61 was very much viewed as an ambitious agenda for change in terms of women, minorities and the handicapped. The establishment of a Division to administer the Statewide program of affirmative action is going beyond mere rhetoric. It is the only way, it would seem, to administer it on a proper bureaucratic level, if you will. However, no statutory base currently exists for the State's affirmative action effort.

The Civil Service Reform Act introduced in September, 1978, proposes several key changes in Title 11, which the Division of EEO staff would pose as regressive, versus a rather progressive Executive Order. We would just pick up on three key sections in that Civil Service Reform Act that we consider as having immediate concern to women.

The Act would provide a statutory foundation for the Division of EEO and Affirmative Action. As you have heard a number of times today, it would replace absolute veterans' preference with a point preference, not eliminate veterans' preference. It would provide veterans with a point preference. Veterans with more than 30 percent disability would retain their absolute preference. Finally, this Act would create a State policy to effect the employment of women and minorities at all levels of public service in reasonable proportion to their availability. We would contend that on the basis of those sections alone, the women of New Jersey would be better served in their public employment careers through passage of the Reform Act.

I would just want to pick up briefly on one or two things that Judith Musicant addressed, as did one of our last speakers, concerning the Lige case. It is a matter of quotas and goals and so forth. I am not terribly sure that the Lige case is, as someone just said, the final word in these terms. As I suspect many of you know by now, the U. S. Supreme Court handed down a decision in the

Weber case and found against Weber. This has just happened and we will have to take a very hard look at the analysis in that case. But it certainly bodes better than the first few reactions immediately after the Bakke case.

I would say to you that as soon as Executive Order 61 on affirmative action was signed by Governor Byrne, interestingly on the same day that the opening arguments on the Bakke case were heard before the Supreme Court, there was a little bit of an outcry, or maybe it was a rumbling, concerning how this Executive Order could stand against the Lige Case which says in the Montclair Firefighters instance, no quotas.

Well, it turns out we are talking flexibility. We are talking goals there. We are talking measurement in relevant surrounding areas. So in no way in New Jersey's voluntary affirmative action program, that has nevertheless been mandated by the Governor, do we see any overriding of barriers that have been brought down.

SENATOR LIPMAN: Have you ever thought of making up a draft of your dream program? We would like to see a draft of one.

MS. PERRETTA: In terms of the overall movement of affirmative action?

SENATOR LIPMAN: In terms of the overall movement. We have heard several times today that it is voluntary and it needs a statutory base.

MS. PERRETTA: I would share with you again that A 1675 would place an affirmative action program for civil service, for government.

SENATOR LIPMAN: Is that enough?

MS. PERRETTA: It would provide a statutory base.

SENATOR LIPMAN: That is for new hiring though, isn't it?

MS. PERRETTA: That is the State as an employer. Furthermore, it would extend to local jurisdictions.

SENATOR LIPMAN: Does it?

MS. PERRETTA: Yes, it does, which is fairly extraordinary. I am not at any length going to get into monetary needs. If that law, in fact, were passed and the Division of EEO were mandated through the new Commissioner of Personnel to deal with local government affirmative action issues, that would be enormously challenging and necessary, I would think.

ASSEMBLYMAN SMITH: Just a comment - I think I asked Mr. Woodson this morning the same question. Really I think you have to start someplace. Maybe by starting with State government and maybe setting the fire there, it might spread to private industry. You have to start someplace. It is a big job, believe me. You have your hands full.

MS. PERRETTA: I really believe and the Commissioner really believes that government ought to be in the forefront.

ASSEMBLYMAN SMITH: On the outside, as you well know, we hear the government doesn't do it, but we have to do it. Somewhere along the line we have to fish or cut bait and say, we are going to start here and set the pace.

MS. PERRETTA: Precisely. The legislation introduced is very strong in those terms - strong, even as we would acknowledge that the language was deliberately broad, that rule-making would be an important consideration.

MS. TAMBORLANE: I am just going to make a comment. I don't know whether you were here when I asked President Woodson about statistics. If you could follow up and present to us the current statistics for the unclassified as well as the classified service, that would be doing a great service to us.

MS. PERRETTA: Some very fine staff of the Division of EEO are here today and they very rapidly pulled out a few figures that we immediately have. The

kinds of things you might ask for are very derivable if you are talking perhaps two months or so down the line. We are looking for a June '78 cut-off point. We have kind of used that as a comparative time period. We use it for U. S. government reporting purposes. So as soon as we have that kind of data collected, stored, etc., over the next two months or so, we probably can provide a great deal that you might have interest in, beyond what we have given you, although that is a lot.

In terms of the current data ---

MS. ALLEN: Excuse me. You said June '78.

MS. PERRETTA: I am sorry. That should be June '79. I am looking at '78 here. I have for you from the staff some new hires figures between January and December, 1978, immediately available. This is not in your package, but I would just share a couple of numbers with you quickly. This is as a result of data reported by the departments and the colleges to the Division of EEO. In the unclassified service, it was reported that 1271 people were hired. Of those, 37 percent were women - 37.1 percent were women. 6.2 percent were minority women. Minority women are included in that total. It is difficult to listen to numbers and not be able to look at them. I will share that with you. It is limited in its information, but it does give you a sense that things are not utterly dismal.

MS. ALLEN: Are any of those statistics unclassified for the same period of time?

MS. PERRETTA: Those were figures on unclassified hires.

SENATOR LIPMAN: This morning, President Woodson seemed rather pessimistic about the passage of A 1675. Do you have any kind of prognosis? Is it completely stopped?

MS. PERRETTA: I think some of us are hearing that perhaps after November ---

SENATOR LIPMAN: After the election. Perhaps that is a possibility. Although this Commission supported that legislation, it has not hit us in the Senate.

MS. PERRETTA: Chief of Staff Mulcahy did note as recently as last week that there was a certain dismayed reaction on the part of the administration that relatively few individual women and relatively few women's groups have, in fact, come before the committee or made their concerns and interests known to the Legislature.

MS. TAMBORLANE: When was that statement made?

MS. PERRETTA: That was made last week by Chief of Staff Mulcahy.

MS. TAMBORLANE: Maybe he forgot there was a coalition of women's groups that issued just recently a very strong statement.

MS. PERRETTA: Perhaps he was indirectly alluding to the kind of letters that legislators get directly. And, so far, a lot of them apparently have been getting them directly from veteran groups. Apparently, the individual legislator is impacted very heavily by them - ten letters on one side and none on the other.

MS. ALLEN: I think that that is an excellent example of the need for political education. One would hope, if this issue is going to be resolved later on in the year, by that time some people would have learned their lesson.

MS. PERRETTA: This may be the only opportunity since one cannot foresee the next opportunity to change our rather outmoded, utterly inflexible civil service system. We may not have another opportunity for a terribly long time. So it is a very fundamental and grave concern to us. It has been by far the top priority of Commissioner Woodson. We see it as utterly hand in hand with affirmative action. We really do.

SENATOR LIPMAN: Thank you very much.

Joan Neuwirth, Assistant Coordinator for Administration, New Jersey National Organization for Women. We welcome you.

J O A N N E U W I R T H: Thank you. I am going to be brief and without statistics at this hour.

NOW was founded over twelve years ago for the primary purpose of enforcing laws against sex discrimination in employment. Since that time, there has developed a body of court decisions on equal employment rights that have generally tended to rule that discrimination on the basis of sex is unconstitutional. Yet, because of the failure to add the Equal Rights Amendment to the federal Constitution, the United States Supreme Court has yet to set the same "suspect classification" standard for sex discrimination that they have for race discrimination. Last year, the United States Commission on Civil Rights issued a report citing over 800 discriminatory federal laws which remain on the books. NOW-New Jersey commends the work of this Commission in identifying sex discriminatory laws in New Jersey. We point out that in cases where discrimination is found, protections must be extended to the other sex. The use of sex neutral language will often increase the protection for men as well as women. A good example of this is the new criminal code. Men and young boys will be protected against all form of sexual assault for the first time in the State of New Jersey by the use of sex neutral language.

NOW would like to support the statements of other organizations in endorsing the concept of the State as a "model employer." Flextime, more part-time work which includes benefits, paternity as well as maternity leaves, and model programs to encourage women and men to enter nontraditional jobs should be expanded. Most of these programs could be instituted or expanded without specific statutory help, but it may take legislative initiative to encourage such innovation.

Two major legal barriers have a discriminatory impact on women in the State work force. One is the rigid clerical line in the civil service structure which is a bar to advancement from within. For example, a woman with fifteen years as a secretary in the same office, who goes to school at night, obtains a college degree, and would like to move into a professional position in the same field, often must compete with others just out of college with no job experience. Movement between different categories of jobs or different departments is difficult. This hampers internal promotion.

The other major legal barrier is absolute veterans' preference in civil service. The recent U. S. Supreme Court decision in the Feeney case does not lessen the need for the New Jersey Legislature to act boldly in modifying this discriminatory practice. Massachusetts and New Jersey remain the only states to have absolute preference for veterans.

Mr. Garry Mitchell, a member of the Women's Rights Litigation Clinic at the Rutgers Law School and a NOW member, recently completed a paper suggesting that the Peper versus Princeton University Board of Trustees - you heard about that earlier - case may have uncovered an intent to provide analagous or superior protection to the citizens of New Jersey than that found in the federal Constitution. The Peper case may open other constitutional attacks on veterans' preference.

NOW-New Jersey would also like to point out that the New Jersey Law Against Discrimination is one of the strongest in the country. Enforcement problems have traditionally been due to underfunding and inadequate staffing of the Division on Civil Rights. As a general policy. NOW would be against expanding the

jurisdiction of the Division on Civil Rights into such new areas as credit discrimination because of the enormous job left to do in the area of employment discrimination. Legislative oversight is necessary to see that the Division functions in a more efficient manner and that it concentrates on its current mandates.

The Commission on Sex Discrimination in the Statutes should see that all new legislation is reviewed for sex neutral language as a matter of course.

The reality exists that women in the paying job market earn about 59 percent of what men do. The New Jersey Legislature should take the lead in educating the public to the range of discriminatory laws and the need to correct them. This hearing today is a much needed part of that process.

We commend you and wish you well.

SENATOR LIPMAN: Thank you.

Assemblyman Smith.

ASSEMBLYMAN SMITH: I think I will pass. Thank you.

SENATOR LIPMAN: You say Gary Mitchell is a NOW member.

MS. NEUWIRTH: Yes, he is.

SENATOR LIPMAN: That is very interesting.

ASSEMBLYWOMAN KIERNAN: It is the National Organization for Women, not of Women. So as long as he is for women, he can be a member.

I don't have any questions. I just want to thank you for coming.

MS. TAMBORLANE: I think that the new thing Joan has brought to our attention that perhaps we have not heard before today is NOW's feeling with regard to the Division on Civil Rights and I thank her for including that in her testimony. It is very helpful to know what your thinking is on that.

SENATOR LIPMAN: I am glad too. Obviously, we have come to think that our legal movements must be also in favor of men as much as women - paternity and maternity leave.

MS. NEUWIRTH: May I interject here and say that that has been one of our premises from the onset when people have gone to different opinion because of the press. I guess the press has left. But we have attempted to be sex neutral from the onset.

MS. ALLEN: I have no questions. I just want to compliment you on the scope of the understanding of the organization on the problems affecting the work of this Commission and on how well it has been analyzed.

SENATOR LIPMAN: Thank you very much.

Barbara Wicklund, Project Director, "Women Over Forty" Women's Affirmative Action Committee of the New Jersey Industrial Council AFL-CIO.

B A R B A R A W I C K L U N D: I have copies of my statement.

By way of introduction, I would like to say that I am not going to be drawing on the experiences of our project. We are eight days old and we haven't had any experiences as yet, other than an awful lot of paperwork at this point. What I am drawing on are personal observations and some of the research that our organization did to get funded for this project. Fortunately, we came in with our proposal just when a great deal of emphasis was being put on displaced homemakers and their plight. Because of that, I think we were successful in getting our very small grant for one year. Hopefully, in another few weeks, I will be able to discuss some of our experiences with you.

There are anywhere from ten to 30 million displaced homemakers in the United States today who meet CETA guidelines. The term, "Displaced Homemaker,"

refers generally to women who have been working in their homes, caring for their families, and now have lost their source of income. It does not include the thousands of women who have been working and who need to work to support themselves and their families, and have lost their jobs.

New Jersey women have been particularly hard hit because of the decline in our State of the electrical and textile industries, two chief sources of jobs for women. In the case of electrical plants, cheap imports have done away with thousands of jobs here, while the textile industry has fled South to escape paying a decent, living wage to its workers. Left behind are thousands of women with non-transferable skills who now find themselves unable to earn a living. At the same time, current personnel practices continue, in many instances, to discriminate against the older woman at all levels.

Bureau of Labor statistics figures for 1975 show that New Jersey women over 40 have the highest unemployment rate among all age categories, and that the number of unemployed women continues to increase at a greater proportional rate than other categories of workers.

Our project was given \$71 thousand in CETA funds to assist 300 women in three counties who meet CETA eligibility guidelines, really a very small drop in a very large bucket. What about the thousands of women who fall short of meeting those guidelines, but who nevertheless need a job and are victims of discrimination? Help is needed to evaluate their skills, upgrade their skills and, in many cases, improve their confidence and their own awareness of their talents so that they can go about looking for a job with confidence. Remember, many of us who are over 40 grew up in the era when Dick performed great feats while Jane sat by and cheered him on. That type of image, fostered in our public schools with public funding, now needs to be overcome, again with the help of public funds.

Women also must have their career objectives redirected. There are just so many clerical, operative and service jobs available, while more and more women are looking for work out of economic necessity. To resort again to statistics, from 1970 to March 1978, the number of women in the New Jersey labor force rose by 15 percent, from 37 to 52 percent. The percentage of working women over 40 went up by 10 percent, from 45.9 to 56 percent.

The jobs traditionally open to women are among the lowest paid, with almost two-thirds of New Jersey's working women employed in the categories I mentioned - service, clerical and operative. Their average income is half that of men filling similar positions. We can find no educational reasons for this gap; in fact, there is statistical evidence showing that women generally reflect the same educational achievement levels as men within their age groupings. We conclude, therefore, that to be "equally qualified," a term we frequently hear used as a justification for discrimination, a woman merely needs equal counselling and training opportunities, and an employer who is willing to give "equal pay for equal work."

Women also need to know the job alternatives available to them, and how to avail themselves of those alternatives. The State should supplement the work of the U.S. Department of Labor Women's Bureau in helping unions and employers set up apprenticeship outreach programs for women. New Jersey must embark on a program of educating and encouraging employers to hire women for so-called "men's work," and encouraging women to seek such jobs, which generally carry a higher wage than they can earn in the more traditional "women's fields."

In another related area, a higher funding level is needed for the Civil Rights Division to enable it to process discrimination complaints more expeditiously.

This division also needs to conduct a campaign to acquaint women with their rights. Employers continue to question women job applicants about personal matters, matters they would never dream of raising with male job seekers. The older woman, absent from the job chase for several years, often is not aware that these questions are now taboo. Only through education and enforcement will we convince many employers that a woman's marital and pregnancy plans are none of his immediate business.

To summarize, women need:

1. A policy of full employment on the State as well as national level, accompanied by a total commitment to see that such a policy becomes a reality;
2. Equal opportunities in apprenticeship programs, particularly in the construction trades where women now hold only .036 percent of apprenticeship openings;
3. Training programs encouraged and funded by all levels of government for the employment and promotion of women in policy-making positions;
4. Strict enforcement of laws prohibiting discrimination in employment;
5. Quality child care programs, and
6. Flexible working hours and pro-rated benefits for part-time workers.

In closing, I would like to give recognition to those State programs that currently exist, such as the Talent Bank in the Division on Women and the Women's Employment Program in the Department of Civil Service. But I must stress that they are not adequate to meet a need that is growing rapidly, and will continue to grow as more and more women find it economically necessary to work.

SENATOR LIPMAN: This is perhaps an unfair question, but we had one person who testified that although she congratulated the Department of Labor on all their new programs in trying to put women in non-traditional jobs, she thought those programs would soon fade with the loss of federal funding, reaching the end of it. But you happily are just beginning yours.

MS. WICKLUND: We are beginning ours happily, but we are not necessarily working with non-traditional jobs. Actually, we are only funded to find jobs for about 50 women. We are basically going to be a counselling and referral service, sort of a clearing house for other agencies, helping them upgrade their educational and job skills, not only for non-traditional jobs.

SENATOR LIPMAN: But the \$4.5 million that is available at the federal level for the whole nation, is that for one year?

MS. WICKLUND: We are funded for one year.

SENATOR LIPMAN: You are funded for one year.

MS. WICKLUND: We just started last week.

SENATOR LIPMAN: It would have to be relegislated in order to continue the program?

MS. WICKLUND: Yes.

ASSEMBLYMAN SMITH: I am just happy to see that there is a spirit of cooperation between government and labor and industry to promote this type of concept. I hope it continues.

MS. WICKLUND: Thank you.

MS. SEHAM: Where are you going to be located in Bergen County?

MS. WICKLUND: We ultimately will be having office space, I think, in Hackensack. The Communication Workers of America have offered us desk space in their office.

MS. ALLEN: It is on Main Street, right next to the theater there.

MS. WICKLUND: It will be about two months before we get located there. We

have opened our office in East Orange and this will be our main office. Again, we might be moving in with CWA in Jersey City in another couple of months. We have two months to diversify ourselves into the other counties. We are spending the first two months doing paperwork and administrative work in East Orange. Our first counselors are coming on staff next month.

MS. TAMBORLANE: I have a couple of questions for you, Barbara. You just said now you are going in three counties and you are going to provide primarily counselling and referral services for the 300 women which is your target on the population, I assume. You mentioned also that you would be seeking to place 50 women in jobs. Is there a way in which this number was arrived at as to how many you would be hoping to counsel versus how many you would be hoping to place?

MS. WICKLUND: Originally, we had applied for a much larger grant, needless to say, that would have combined the counselling, referral and job placement services. When we were funded, the Department of Labor told us that they just couldn't give us enough money to do job placement - so forget about that. We had to rewrite the proposal with no job placement. Then they came up with another \$25 thousand for us.

SENATOR LIPMAN: CETA.

MS. WICKLUND: Yes, through the State Department of Labor.

After they agreed to give us \$50,000, they came up with another \$25,000 and said, okay, write a small amount of job placement. So I think the 50 figure was a rather arbitrary figure.

MS. TAMBORLANE: You are being funded through the Department of Labor CETA allocation that we were told about this morning.

MS. WICKLUND: Yes.

MS. TAMBORLANE: Another question: You referred to the Women's Employment Program in the Department of Civil Service. I believe some of those people have left. I thought that program was complete, that it had run out of funds.

MS. WICKLUND: I believe it has run out of funds. I meant to commend it for what it had done as small as it was.

MS. TAMBORLANE: They haven't gotten new funds?

MS. WICKLUND: No, I don't believe so. I don't know whether there is any attempt to refund them.

MS. TAMBORLANE: My last question deals with the concept of displaced homemaker. Normally, I guess, because of the CETA guidelines, those who are able to go and get services happen to be women over 40. Is that correct? Is that according to CETA guidelines?

MS. WICKLUND: I don't know. I received the guidelines in the mail this morning. I haven't seen them yet. What I know about the guidelines at this point is last year's guidelines. I think they have been changed. I finally got my material from the State in today's mail. I unpacked them, put them on a table, and left the office.

MS. TAMBORLANE: Is there an age?

MS. ALLEN: No age. But this program was funded on the basis of 40 and over.

MS. WICKLUND: Our program is 40 and over.

MS. TAMBORLANE: Thank you, Barbara, and good luck to you.

SENATOR LIPMAN: So this program is all over 40.

MS. WICKLUND: Our program is strictly over 40.

MS. ALLEN: In the CETA regulations that were referred to, there is no age restriction in the definition of a displaced homemaker.

Barbara, I just wanted to make a few comments. Number one, I want you to know that the Division on Women is very anxious to work with you and be of assistance to you with this program. I know that I have said that to you personally and I hope we will be able to do that kind of thing.

Also, I am very pleased to see your summarization here where Item Number 1 is listed, "A policy of full employment on the state as well as national level," because I think that that one has continually now gone down the drain. There aren't too many people talking about that anymore. I think it needs to be said because some of the things that we are doing, and that you are attempting to do, would seem to me would be much easier to accomplish in an atmosphere of full employment where the male would not feel as jeopardized. I think that is very important.

Good luck, Barbara.

MS. WICKLUND: Thank you.

SENATOR LIPMAN: Thank you so much.

MS. WICKLUND: Before I leave, Connie Woodruff had to leave and she asked me to turn her statement over to you.

SENATOR LIPMAN: I am glad you mentioned that. Constance Woodruff who is Chairperson of the New Jersey Advisory Commission on the status of women, has brought us some material, as has Kathy Brock, who is the State Chairperson for the Women's Political Caucus. I just wanted to mention that so that their statements will be included in today's testimony.

(Statements of Ms. Woodruff and Ms. Brock, can be found on pages 43X & 38X respectively.)

MS. TAMBORLANE: Phoebe and I have had a chance, between sessions today, to read the Caucus testimony and it deals with the minimum wage and will be very helpful as we finally make our decision on that at our next meeting.

SENATOR LIPMAN: Very good.

MS. SEHAM: It corroborates what Assistant Commissioner Clark was telling us and what our own instincts have been telling us. It gives a good underpinning to what, I think, we want to do anyway.

MS. TAMBORLANE: It is very clear and concise.

SENATOR LIPMAN: I think that Connie's testimony here refers to the new project that they seem to have with the EEOC - that is what it looks like - in classifying Black minority employment.

I wish to thank all of you very much. If we have no more persons to present testimony, I will say that this hearing is now concluded. I want to thank all of you for your tremendous patience. It was quite an experience for me. I am very happy to have had it. And, Assemblyman Smith, as our affirmative action person, thank you so much for staying all day.

(Hearing Concluded)

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Commission on Sex Discrimination in the Statutes

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My name is Anne Carson. I am a 1975 graduate of New York University, School of Law and presently a staff attorney of the Urban Legal Clinic of Rutgers Law School in Newark, New Jersey.

Before my present position, I was a staff attorney of the Essex-Newark Legal Services in Newark, New Jersey. I thus have a fair degree of experience in public interest litigation and the problems encountered therein.

These comments concern the practical problems in prosecuting a claim of unlawful sex discrimination under New Jersey law in employment engendered by some recent New Jersey Supreme Court decisions. These practical problems fall into three areas:

1. Filing a complaint;
2. Demonstrating that a client has been the victim of unlawful employment discrimination; and
3. Obtaining a meaningful remedy for a client.

First, filing a complaint. It is eminently clear from the law against discrimination itself and the establishment of a Division on Civil Rights that the then existing agencies

did not adequately safeguard the right of persons to be free of unlawful discrimination, and that another mechanism was necessary in order to guarantee this right. The Division was established, and has focused its entire attention -- that is, organizational decisions, policy and staffing decisions etc., upon conquering effectively problems of unlawful discrimination. The New Jersey Supreme Court, however, in Hinfrey v. Matawan Regional Board of Ed., 77 N.J. 514, 391 A.2D 899 (1978), a case involving a complaint about the sex discrimination demonstrated in the course offerings and extracurricular activities sponsored by the Matawan schools as well as unlawful employment practices by the Matawan School Board, held that while both the Division on Civil Rights and the Commission of Education have jurisdiction over all the claims asserted, the Division on Civil Rights should defer to the Commissioner of Education on a theory of "administrative agency comity." That is, since it is the Commissioner's special function to resolve issues involving educational policy, the Commissioner ought to resolve the issues. Now while it is true that the Commissioner's function to decide educational policy, it is also true that many commissioners and many agency and department heads had not done an adequate job in safeguarding rights under the Law against Discrimination, this task was entrusted to a separate agency. To give the

problem back to the Commissioner of Education inherently lessens the importance of resolving the problem. Additionally, and perhaps in the end more importantly, it creates unnecessary obstacles for both a complainant and his or her lawyer. Now, one must know enough to direct a person who vocalizes a discrimination complaint in the school system through the machinery set up by the education statute, N.J.S.A. 18A:36-20 et seq., rather than to the Division on Civil Rights. It is not too much to expect that an employment law specialist should know where to go to file a specific sort of discrimination complaint, but what about all the formal and informal advisors in our system? Should one really expect staff aides to various state and city representatives, ombudsmen, clergy, etc. to know to which particular agency a particular sort of discrimination complainant should be sent? Is the Education Commissioner (or any other department or division head to which "administrative comity" may apply) really prepared to open a conveniently situated office, hire, and train the necessary people, and perhaps most important of all in a bureaucracy - create the necessary forms - to accomodate complainants? Probably not. True, some vigorous and probably well educated persons will overcome the difficulty posed by the requirement to file discrimination complaints with the Commissioner of Education. However, it

is virtually certain that less vigorous, less well educated persons, but persons with meritorious complaints will be frustrated by the additional bureaucratic barrier to the detriment of all of us.

The second area of concern is demonstrating that a person has been the victim of unlawful employment practices. Two decisions contain particularly troublesome language. The first in the Appellate Division was Jones v. College of Medicine & Dentistry, 155 N.J. Super. 232 (App. Div. 1977) which seems to hold that a plaintiff must plead and prove an intent to discriminate in order to prevail on an employment discrimination claim. As a practical matter, this is exceedingly difficult to do. Blatant discrimination is now fairly rare. Jones, supra, involved a black man who had applied for a position as a security guard at the College of Medicine & Dentistry in December of 1973. His application was put on hold and he was rejected in April, 1974. One white person was hired shortly before he applied, two white persons and one Hispanic were hired while Mr. Jones' application was on hold. Although there seemed to be no doubt that his application was treated differently than the white persons and the Hispanic persons, he nevertheless lost because he had not made a showing of vicious intent. Also, the court relied on workforce statistics, showing no underrepresentation of

blacks in the labor force at the College of Medicine & Dentistry. From a litigator's perspective, the only way to have showed intent to the Jones court would have been to uncover incriminating memoranda vocalizing prejudiced feelings or to have obtained an admission from the hiring officer. Both are extremely unlikely possibilities. If the Jones reasoning stands, then the only effective remedy a person will have is under federal law -- i.e. Title VII. A Title VII case requires no showing of intent. A litigator, given the present state of New Jersey law, may well decide to attempt to vindicate his client's claims in federal court under Title VII solely because of the disturbing effect of the Jones case -- something this Committee certainly wants to avoid.

The New Jersey Law against Discrimination is much broader in its coverage than Title VII. Employment discrimination by employers with less than fifteen employees, discrimination on the basis of mental and/or physical handicap, and discrimination on the basis of marital status are proscribed by New Jersey law, but not by federal law. Certainly, the greater coverage of the New Jersey law ought not be undercut by a difficult standard of proof.

The other troublesome language is Peper v. Princeton University, 77 N.J. 55 (1978). There, the court found that Ms. Peper could sue a private institution under the

New Jersey Constitution. The court, however, there found that Ms. Peper was not in the same promotional stream as her male colleagues who were promoted. This finding, contrary to that of an administrative body who heard and saw testimony, was bottomed under an unpersuasive analysis of Ms. Peper's work site and the positions there involved. The particularly ominous facet of this decision is the court's total acceptance of the employer's categorization of different positions, and the requirements of these positions.

Much of the real progress in employment discrimination litigation has come precisely because the courts were willing to examine closely the employer's categorizations of positions. For example, much Title VII litigation has concerned the employer's reliance upon written tests when deciding whom to hire or to promote. The United States Supreme Court held in Griggs v. Duke Power Co., 401 U.S. 424 (1971) that if the use of tests results in the exclusion of a disproportionate number of minority applicants, the employer must prove that the test is truly related to the job. The Peper court by uncritically accepting as valid the titles, requirements and pay scales of the employer is a step backwards. Notice the particularly onerous burden placed upon an employee in a small organization to demonstrate that he or she was part of the appropriate organizational scheme.


The third area of concern is obtaining a meaningful remedy for discrimination. Here, one is confronted with an anomalous case - Countiss v. Trenton State College, 77 N.J. 590 (1978). There, a female college physical education instructor was denied tenure on a non-sexist basis - that is, she had not made sufficient progress toward her doctorate. However, she had been given less credit for coaching extracurricular athletic activities than her male colleagues which was found to be discriminatory. The Division on Civil Rights ordered her reinstated with tenure. The Supreme Court overturned, saying that there had been no showing that but for the illegal discrimination she would have made progress towards her doctorate. From a litigation standpoint, causality of this kind is extremely difficult - if not impossible to prove - just another reason for a litigator to choose the federal forum.

The Countiss, supra, was the subject of remedial legislation which affected Ms. Countiss only. The unfortunate language and reasoning remains to guide other courts.

The New Jersey Law against Discrimination works particularly well in one respect. Under New Jersey Law, even if there is no concrete harm caused, a complainant can recover several hundred dollars of money damages for pain and suffering caused to an individual who has been the victim of un-

lawful discrimination. See, e.g., Gray v. Serruto Bros., 110 N.J. Super. 297 (Chan. 1970). Thus, persons are encouraged to complaint regardless of their concrete damages -- certainly a beneficial result.

In sum, I recommend that this Committee incorporate in its final report, its reservations about the reasoning contained in some of the decisions under the Law against Discrimination. I further recommend that this Committee should urge the Legislature to adopt a system of civil penalties to be imposed upon those who unlawfully discriminate. Such a system would reinforce the deterrence afforded by pain and suffering damages.


Anne L. Carson



STATE OF NEW JERSEY
DEPARTMENT OF CIVIL SERVICE
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Testimony
by
Kerry Perretta
Deputy to the President
of the
New Jersey Civil Service Commission

on behalf of the
Division of Equal Employment Opportunity and Affirmative Action

before the
Commission on Sex Discrimination
in the Statutes

Public Hearing: Sex Discrimination in Employment

June 27, 1979
Trenton, New Jersey

Senator Lipman and Members of the Committee:

On behalf of the Division of Equal Employment Opportunity and Affirmative Action, I appreciate this opportunity to present testimony on the subject of sex discrimination in New Jersey State employment.

A number of significant changes are underway that have impact on the Division and I should mention these at the outset. As you may realize, the announcement of a new Director of the Division of EEO is imminent and the staff look forward to new growth and challenges. A Federally-funded three-month assessment of the State's affirmative action program is nearing completion. Recommendations for programmatic and legislative change by Judge Harvey Johnson of Camden will be forwarded as a Civil Service Department supplement to this hearing. Finally, an EEO Advisory Commission appointed by Governor Byrne was convened recently by Commissioner Woodson to enhance communication among constituency groups, the Governor's Office, and the Division. The new Director of the Division will serve as Executive Secretary to the Commission, which will advise on affirmative action.

We will present some background on the Division before focusing on employment statistics and legislative concerns.

BACKGROUND:

DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY
and
EXECUTIVE ORDER NO. 61

Established just two years ago in June, 1977, the Division of Equal Employment Opportunity and Affirmative Action undertook its first year of operation in an atmosphere of national debate on the merits of affirmative action. The opening arguments of a major legal challenge to affirmative action--Allan Bakke vs. the University of California--were heard before the United States Supreme Court on October 12, 1977, the same day that Governor Brendan Byrne signed Executive Order No. 61 on affirmative action in New Jersey. This new Order revised and expanded the role of the Department of Civil Service in administering an affirmative action program for the Executive Branch of State government through the Division of EEO.

The Division focused initial attention on developing the administrative machinery to implement the new Executive Order. Division functions were organized to attempt to maximize staff resources to realize the affirmative action policy articulated by the Governor.

The following are highlights of the Executive Order reflected in Division operations:

- ensure that the pool of applicants for classified and unclassified positions includes minorities, the handicapped, and women;
- analyze affirmative action status reports from each department and assess goals for protected

classes in terms of their relationship to the relevant surrounding Labor Market Area;

- review discrimination complaints, evaluate trends, and recommend policy changes;
- assess personnel policies and procedures to facilitate the elimination of artificial barriers to equal employment opportunity.

The Division currently includes three bureaus-- Employment Compliance, Recruitment and Career Development, and EEO Review and Analysis--to address the key mandates to the Commissioner of the Civil Service Department and to the Director of the Division of EEO as contained in Executive Order No. 61. The Order charges the Department, through the Division, to:

- develop, implement, and administer a Statewide Equal Employment Opportunity and Affirmative Action Program;
- review regulations and testing procedures to amend or eliminate those which discriminate against protected classes;
- undertake a comprehensive review of (Civil Service) regulations and procedures;
- ensure (the validation of) selection devices;
- analyze and revamp job specifications to meet EEO standards.

Specific activities, accomplishments, and problems of the Division's work units are detailed in the 1978 Report to

Commissioner Woodson that you have received. We would mention just several areas of particular note. Revamping the Affirmative Action Plan format received considerable attention by the Division. The following is a précis of issues addressed in the initial assessments of departmental Plans:

- The general trend indicates that the hiring and promoting goals for minorities and women proposed by departments continue to project low representation where deficiencies currently exist.
- Insufficient attention was generally paid to the development of upward mobility programs to enhance career growth for minorities and women currently employed.

On the positive side, the following issues were addressed:

- A number of departments took the opportunity to express support for the flexibilities inherent in the proposed Civil Service Reform Act.
- Mechanisms have been developed in some departments to ensure that the affirmative action officer is directly involved in the recruitment process to fill any vacancy in work units and job categories that evidence deficiencies of minorities and/or women.

In addition to the Affirmative Action Plan, of special interest to your Commission would be the Employment of Women Program that was housed in the Division of EEO. Initially funded in 1977-78 through the Governor's 4% CETA Discretionary Grant, the Program was supplemented by funding from the Division of EEO, the Division on Women, and the Division of Vocational Rehabilitation for one additional position. Details on the successful track record of that Program will have been shared in other testimony here today. A proposal for a 1979-80 CETA Grant has been submitted to the Department of Labor and Industry for a pilot employment focus on the Displaced Homemaker. The Director of the Division on Women will address legislative implications for that group.

TITLE 11 STATUTES: VETERANS' PREFERENCE

If fully implemented, Executive Order No. 61 could place New Jersey in the forefront of employers working to achieve equal employment opportunity. However, in contrast to a progressive Executive Order, New Jersey's Civil Service Title 11 Statutes are regressive. Current absolute veterans' preference and "rule of three" appointment laws are inflexible. In their Affirmative Action Plans, departments cite those laws as counterproductive to progress in affirmative action.

The veterans' preference statute assures that veterans who pass open competitive examinations will always rank higher than any non-veteran on an eligibility list. For

the record, the Division of EEO is submitting to the Chair a report on veteran participation in State service. We will highlight several summary observations.

The preference indicates adverse effect on the employment of women in managerial and professional positions, as it has on all non-veterans. Only 19.4% of New Jersey's workforce is composed of veterans. Yet, veterans represent 41.1% of the managers employed by the State. Further, men hold 87.3% of the positions paying more than \$25,000 a year and more than 50% of those men are veterans. The preference appears to have been used most advantageously and extensively by the White male, World War II or Korean, veteran with good work experience and education. In proportionate numbers to their availability, veterans generally are not applying to lower-level State positions, which continue to be generally dominated by women and minorities who are non-veterans.

SUMMARY OF NEW JERSEY GOVERNMENT EMPLOYMENT TRENDS

Several pages follow of detailed comments on the employment of women by New Jersey State government. These are supplemented by statistical charts and graphs. We will simply highlight trends and observations, some of which you may wish to examine further.

Women are nearly half of all State government employees. During the past five years, minority women have increased from 12.5% to 15.2% of the total number of employees. White women have maintained approximately the same rate of participation since 1974 (33.7% then; 34.1% now). In general, women are still clustered in traditionally female, lower-paying, lower-status positions.

Educational achievement levels for men and women throughout New Jersey are nearly equivalent. But, while the salary picture has improved somewhat for women at the higher levels of government, the gap between education and compensation remains striking.

We would note for the record that the Advisory Commission to the Division on Women has expressed interest in developing an indepth analysis on the employment of minority women, particularly Black and Hispanic women, in New Jersey government. Tentative plans are to use the June, 1979, database. Division of EEO staff have had preliminary contact with the Division on Women and an Advisory Commission member on this area for investigation and will continue to provide technical assistance.

In sum, steady increases in the employment of women are apparent in some sectors, particularly as one considers the overall State profile.

An encouraging sign, for example, is the representation of women among new hires for the 1978 calendar year. At 29.4% of all new Officials/Administrators and 42.3% of Professionals hired, women are moving steadily into the pipeline for policy-making impact. However, the picture in individual departments and in many job titles remains bleak and points up the continuing need to focus--as you are doing here today--on the appropriate use of half of our State's talent.

PENDING LEGISLATION WITH DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY IMPACT

As stated earlier, Executive Order No. 61 presents an ambitious agenda to enhance State government employment opportunities for women, minorities, and the handicapped. The establishing of a Division to administer the Statewide program was an important step toward underscoring the need for more than rhetoric if we are to improve public service through full use of our human resources. However, no statutory base currently exists for the State's affirmative action effort.

The Civil Service Reform Act--introduced in September, 1978, proposes several key changes in Title 11 that are of immediate concern to women. The Act would

- provide a statutory foundation for the Division of Equal Employment Opportunity and Affirmative Action;
- replace absolute veterans' preference with a point preference, except for veterans with more than 30 percent disability;
- create a State policy to effect the employment of women and minorities at all levels of public service in reasonable proportion to their availability.

On the basis of those sections alone, the women of New Jersey would be better served in their public employment careers through passage of the Reform Act.

DETAILED NEW JERSEY STATE GOVERNMENT

EMPLOYMENT DATA

OVERALL NEW JERSEY STATE ANALYSIS FOR WOMEN STATE EMPLOYEES1974 - 1979

New Jersey State government, through a voluntary affirmative action program mandated by the Governor, officially recognizes that working women are generally underutilized in the public sector, as they are also underrepresented in private industry. Women are employed at a slightly greater rate in State service than in the overall labor force. As of May, 1979, 49.3% of the State labor force are women, as compared to 42.5% of the overall labor force. However, those who are working in State service remain, predominantly, in traditionally female jobs or professions and are generally grouped at the lower salary levels.

Detailed analyses are provided on June, 1974, through June, 1978, data. Newly-received May, 1979, figures are cited briefly as the most current available statistics.

Between June, 1974, and June, 1978, the total number of women in New Jersey State government increased by 4,998 individuals, which represents 62.0% of the net increase of all employees for that time period. The percentage of women in the State government workforce has reflected this movement upward from the 1974 figure of 46.2% to the 1978 figure of 48.3%, (see attached chart). The May, 1979, figure has increased to 49.3%, a net increase of 3.1%.

All State employees are grouped according to eight general job categories as defined by the U.S. Equal Employment Opportunity Commission. These job categories are as follows:

Officials/Administrators, Professionals, Technicians, Protective Service Workers, Para-Professionals, Office/Clerical, Skilled Craft Workers, and Service Maintenance Workers. The representation of women in these job groupings generally increased between 1974 and 1978, as can be seen by the table below and in attached detailed charts. However, a net change in the number of positions/titles defined as Officials/Administrators, resulted in a smaller percentage of women at that top level. This decline is listed under the May, 1979, column.

Table 1

PERCENTAGE OF WOMEN IN STATE GOVERNMENT BY JOB CATEGORIES
1974 - 1979

	<u>June 1974</u>	<u>June 1978</u>	<u>May 1979</u>
Officials/Administrators	12.1%	16.1%	14.9%
Professionals	34.4%	37.3%	38.4%
Technicians	31.9%	37.2%	29.1%
Protective Service Workers	3.8%	5.1%	4.3%
*Para-Professionals	58.0%	68.7%	71.9%
Office/Clerical	91.0%	91.8%	92.7%
Skilled Craft Workers	2.8%	4.8%	6.3%
Service Maintenance Workers	17.6%	21.7%	24.9%
<u>TOTAL</u>	46.2%	48.3%	49.3%

*Part of this increase was due to a change in the definition of paraprofessional job category.

Even though these figures show increases, there are obvious problem areas. Job Categories with low participation levels by women include Officials/Administrators, Protective Service Workers, Skilled Craft Workers, and Service/Maintenance Workers. The latter three can be categorized as having been non-traditional areas for women. In addition, there are many

occupations in the professional category which also have low participation rates. One example is the legal field. Of the 1,107 State government workers who have law degrees in June, 1979, only 181 (16.4%) are women.

Another measure of workforce participation by women can be viewed through the salary categories. Women have traditionally held the lower paying positions, though there has been increases in the higher levels during the past five years as can be seen in the table below:

Table 2

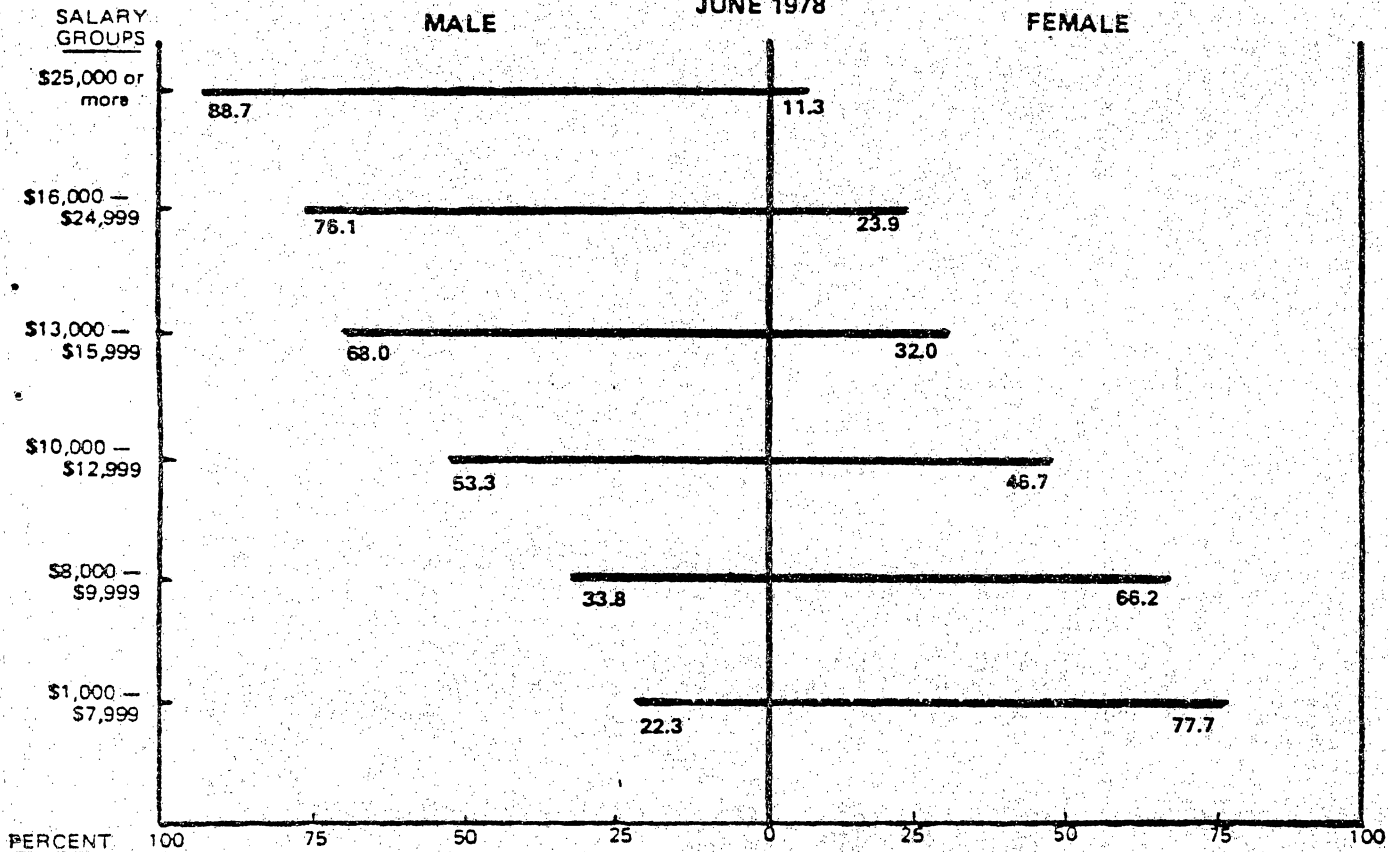
PERCENTAGE OF WOMEN IN NEW JERSEY STATE GOVERNMENT BY SALARY GROUPS
1974 - 1979

	<u>June 1974</u>	<u>June 1978</u>	<u>May 1979</u>
\$25,000 or more	7.9%	11.3%	12.7%
16,000 to 24,999	17.1%	23.9%	26.0%
13,000 to 15,999	26.4%	32.0%	36.9%
10,000 to 12,999	31.6%	46.7%	54.2%
8,000 to 9,999	52.0%	66.2%	71.5%
7,999 & below	72.2%	77.7%	78.0%

Chart 1 on the following page graphically shows the inverse pyramid situation of the salaries of women in New Jersey State government and also the educational achievement levels of the general population of New Jersey. As can be seen, though education is relatively evenly split between men and women, the salaries do not show relative equivalence.

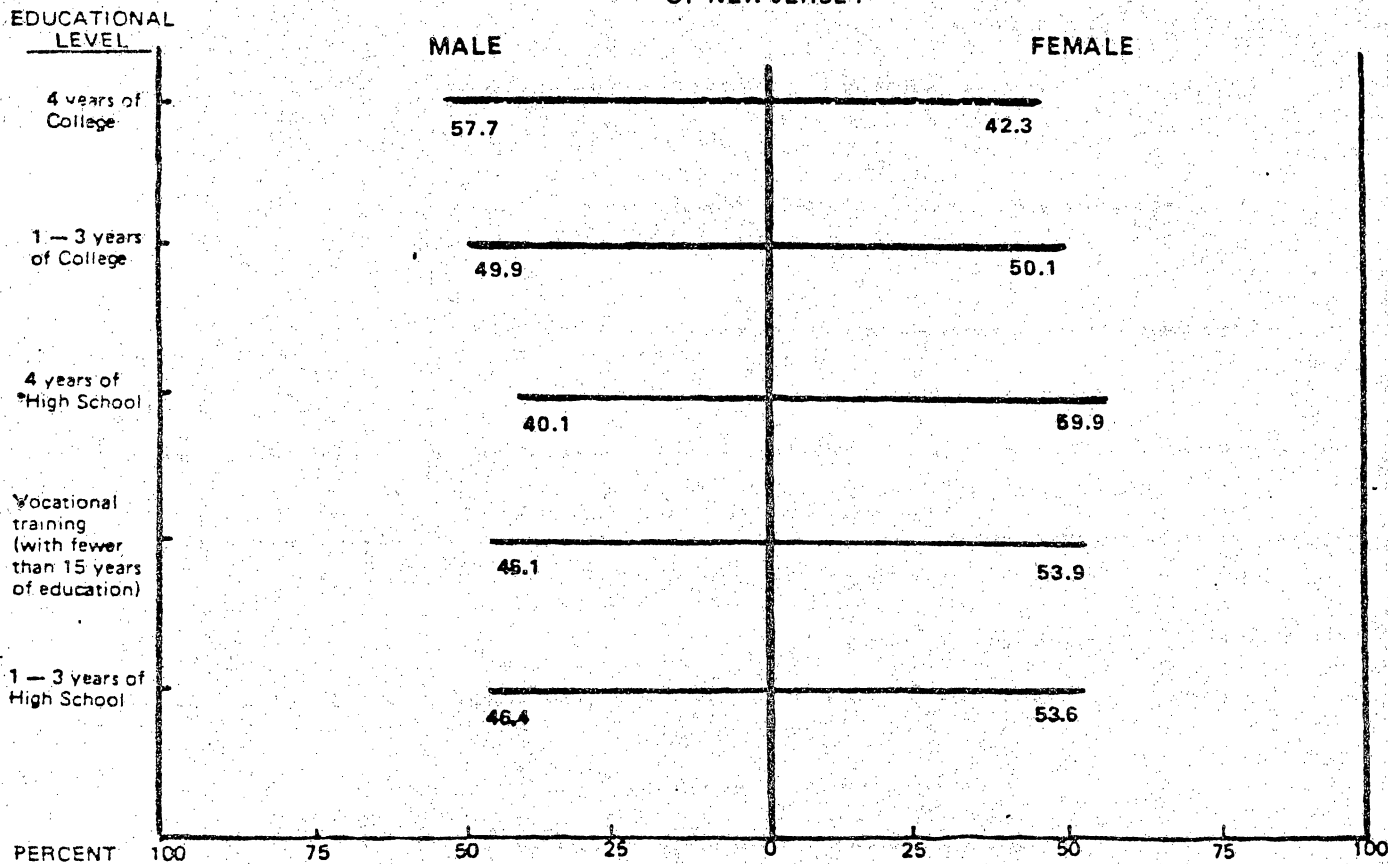
NEW JERSEY STATE GOVERNMENT
SALARY COMPARISON CHART

JUNE 1978



Data Source: Division of Equal Employment Opportunity and Affirmative Action
New Jersey Department of Civil Service

EDUCATIONAL ACHIEVEMENT IN THE GENERAL POPULATION
OF NEW JERSEY



Data Source: U.S. Bureau of the Census, 1970

One final measure of workforce participation by women is to examine the rate and levels of new hires. Of all new hires in State government for calendar year 1978, 57.1% were women. The New Hire statistical picture is shown in the following table:

Table 3

PERCENTAGE OF NEW HIRES FOR WOMEN IN NEW JERSEY STATE GOVERNMENT
Calendar Year 1978

By Jobs, Salaries, and Service Status

<u>Job Categories*</u>		<u>Salaries*</u>		<u>Service/Status*</u>	
Officials/Admin- istrators	29.4%	\$25,000 or More	15.6%	Permanent	52.8%
Professional	42.3%	16,000 to 24,999	29.0%	Provisional	64.8%
Technicians	50.9%	13,000 to 15,999	43.6%	Temporary	71.7%
Protective Serv. Workers	9.2%	10,000 to 12,999	35.0%	Unclassified	37.1%
ParaProfessional	71.7%	8,000 to 9,999	48.2%	Non-Competitive	65.3%
Office/Clerical	90.0%	7,999 or below	72.0%	Labor	3.6%
Skilled Craft Workers	6.4%			CETA	33.2%
Service Mainte- nance Workers	<u>25.5%</u>				
TOTAL	57.1%		57.1%		57.1%

*These three groupings are independent of each other, i.e. one can not derive from these figures the number of officials who are making \$25,000 or more at permanent status level. There is no direct relationship, except in the bottomline totals.

In summary, there are areas where women have steadily increased their percentage representation. However, the over-all percentages in key and non-traditional job categories, and in higher level salary ranges, are still low and intensive commitment to affirmative action recruitment and upward mobility is needed to improve this statistical outlook.

The following charts provide the data used in the above analysis.

CHART 2
MAY 1979

STATEWIDE EMPLOYMENT OF WOMEN IN NEW JERSEY STATE GOVERNMENT

	White Women Comparative Data*	May 1979	Minority Women Comparative Data*	May 1979	Total Women	Total Employees
Officials/Administrators	44.9%	12.7%	7.4%	2.2%	14.9%	2,776
Professionals	44.7	31.3	7.6	7.1	38.4	19,841
Technicians	44.4	16.8	7.8	12.3	29.1	3,852
Protective Service Workers	44.4	2.5	7.8	1.7	4.3	3,895
Paraprofessionals	44.4	29.6	8.7	42.3	71.9	10,037
Clerical/Office Workers	67.0	74.3	7.6	18.4	92.7	13,848
Skilled Craft Workers	44.4	3.5	7.8	2.8	6.3	3,122
Service Maintenance Workers	44.3	13.1	7.9	11.8	24.9	5,374
TOTAL		34.1		15.2	49.3	62,745

*These comparative data reflect overall New Jersey statistics derived from the 1970 Census on working age population/labor market availability. These figures represent a Statewide average and therefore do not point up the high minority proportion of the population in large urban areas. Since State positions are open to State residents, these figures present one measure of the participation of women in government employment. However, underutilization is even more dramatic if considered against key metropolitan area data.

Complete State Totals
June 1978

CHART 3

DEPARTMENT	WHITE MALES	MINORITY MALES	WHITE FEMALES	MINORITY FEMALES	GRAND TOTAL
AGRICULTURE	162 60.2%	10 3.7%	85 31.6%	12 4.5%	269
BANKING	98 59.0%	11 6.6%	47 28.3%	10 6.0%	166
CIVIL SERVICE	151 29.7%	41 8.1%	203 39.9%	114 22.4%	509
COMMUNITY AFFAIRS	236 45.0%	39 7.4%	190 36.2%	60 11.4%	525
CORRECTIONS	2396 58.1%	808 19.6%	718 17.4%	202 4.9%	4124
DEFENSE	186 69.1%	27 10.0%	49 18.2%	7 2.6%	269
EDUCATION	598 36.3%	129 7.8%	749 45.4%	172 10.4%	1648
ENERGY	197 60.1%	23 7.0%	80 24.4%	28 8.5%	328
ENVIRONMENTAL PROTECTION	1428 72.4%	63 3.2%	438 22.2%	44 2.2%	1973
HEALTH	511 38.0%	80 5.9%	616 45.8%	139 10.3%	1346
HIGHER EDUCATION	3286 48.0%	509 7.4%	2645 38.7%	400 5.8%	6840
HUMAN SERVICES	4028 21.6%	2031 10.9%	7122 38.2%	5478 29.4%	18662
INSURANCE	95 42.0%	11 4.9%	88 38.9%	32 14.2%	226
LABOR & INDUSTRY	1780 31.7%	233 4.2%	2795 49.8%	800 14.3%	5608
LAW & PUBLIC SAFETY	3982 60.6%	246 3.8%	1888 28.8%	434 6.6%	6550
PUBLIC ADVOCATE	362 49.9%	45 6.1%	244 33.3%	81 11.1%	732
STATE	24 19.5%	4 3.3%	60 48.8%	35 28.5%	123
TRANSPORTATION	4230 75.3%	534 9.5%	742 13.2%	113 2.0%	5619
TREASURY	1802 49.1%	149 4.1%	1348 37.3%	316 8.7%	3615
P.B.A.	111 63.4%	18 10.3%	42 24.0%	4 2.3%	175
S.L.E.P.A.	28 43.8%	1 1.6%	31 48.4%	4 6.3%	64
EXECUTIVE	13 24.1%	3 5.6%	29 53.7%	9 16.7%	54
<hr/>					
SUB-TOTAL (EXECUTIVE BRANCH)	25706 43.3%	5015 8.4%	20210 34.0%	8494 14.3%	59425
COMMISSIONS	148 87.6%	10 5.9%	10 5.9%	1 .6%	169
JUDICIARY	379 40.7%	22 2.4%	426 45.7%	105 11.3%	932
LEGISLATURE	162 58.1%	10 3.6%	103 36.9%	4 1.4%	279
<hr/>					
GRAND TOTAL	26395	5057	20749	8604	60805

CHART 4
ETHNIC CATEGORY COMPARISON
COMPLETE STATE TOTALS
1974 - 1978

	1974		1975		1976		1977		1978		1974-1978 CHANGE	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	24,878	47.2	24,950	45.3	25,128	46.0	24,409	44.4	26,395	43.4	+1517	-3.8
BLACK NON-HISPANIC	3,143	6.0	3,593	6.5	3,498	6.4	3,704	6.7	4,240	7.0	+1097	+1.0
HISPANIC	158	0.3	325	0.6	269	0.5	360	0.7	484	0.8	+ 326	+0.5
ASIAN	154	0.3	184	0.3	182	0.3	190	0.3	274	0.5	+ 120	+0.2
AMERICAN INDIAN	61	0.1	84	0.2	83	0.2	78	0.1	59	0.1	- 2	NC
TOTAL MINORITY MALES	3,516	6.7	4,186	7.6	4,032	7.4	4,332	7.9	5,057	8.3	+1541	+1.6
TOTAL MALES	28,394	53.8	29,136	52.9	29,160	53.4	28,741	52.3	31,452	51.7	+3058	-2.1

FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	17,752	33.7	18,518	33.6	18,508	33.9	18,650	33.9	20,749	34.1	+2997	+0.4
BLACK NON-HISPANIC	6,287	11.9	6,925	12.6	6,538	12.0	7,030	12.8	7,859	12.9	+1572	+1.0
HISPANIC	175	0.3	339	0.6	273	0.5	355	0.6	522	0.9	+ 347	+0.6
ASIAN	115	0.2	131	0.2	112	0.2	128	0.2	182	0.3	+ 67	+0.1
AMERICAN INDIAN	26	*	35	0.1	27	*	44	0.1	41	0.1	+ 15	+0.1
TOTAL MINORITY FEMALES	6,603	12.5	7,430	13.5	6,950	12.7	7,557	13.8	8,604	14.2	+2001	+1.7
TOTAL FEMALES	24,355	46.2	25,948	47.1	25,458	46.6	26,207	47.7	29,353	48.3	+4998	+2.1

TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
TOTAL MINORITY	10,119	19.2	11,616	21.1	10,982	20.1	11,889	21.6	13,661	22.5	+3542	+3.3
GRAND TOTALS	52,749	100.0	55,084	100.0	54,618	100.0	54,948	100.0	60,805	100.0	+8056	100.0

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

*=Less than 0.1%

NC=No (significant) change

STATE GOVERNMENT
ETHNIC COMPARATIVE ANALYSIS BY JOB CATEGORY
1974 and 1978

OVERALL STATE

BEOC JOB CATEGORY	YEAR	MALE				FEMALE				TOTAL No.
		WHITE		MINORITY		WHITE		MINORITY		
		No.	%	No.	%	No.	%	No.	%	
OFFICIALS and ADMINISTRATORS	1974	2233	83.0	132	4.9	277	10.3	48	1.8	2690
	1978	2194	78.1	163	5.8	379	13.5	73	2.6	2809
	change	- 39	- 4.9	+ 31	+ 0.9	+ 102	+ 3.2	+ 25	+ 0.8	+ 119
PROFESSIONALS	1974	8693	60.8	689	4.3	4192	29.3	717	5.0	14291
	1978	10613	56.4	1169	6.2	5771	30.7	1251	6.7	18804
	change	+1920	- 4.4	+ 480	+ 1.4	+1579	+ 1.4	+ 534	+ 1.7	+ 4513
TECHNICIANS	1974	1683	62.3	156	5.8	459	17.0	403	14.9	2701
	1978	1628	56.4	187	6.5	602	20.8	472	16.3	2889
	change	- 55	- 5.9	+ 31	+ 0.7	+ 143	+ 3.8	+ 69	+ 1.4	+ 188
PROTECTIVE SERVICE WORKERS	1974	3887	82.5	643	13.6	119	2.5	62	1.3	4711
	1978	3450	77.0	799	17.8	141	3.1	88	2.0	4478
	change	- 437	- 5.5	+ 156	+ 4.2	+ 22	+ 0.6	+ 26	+ 0.7	- 233
PARA- PROFESSIONALS	1974	3733	31.5	1231	10.4	3277	27.7	3592	30.4	11833
	1978	1824	19.2	1147	12.1	2819	29.7	3700	39.0	9490
	change	-1909	-12.3	- 84	+ 1.7	- 458	+ 2.0	+ 108	+ 3.6	- 2343
OFFICE CLERICAL WORKERS	1974	955	8.3	82	0.7	8903	77.4	1554	13.5	11494
	1978	956	6.9	167	1.2	10266	74.5	2384	17.3	13773
	change	+ 1	- 1.4	+ 85	+ 0.5	+1363	- 2.9	+ 830	+ 3.8	+ 2279
SKILLED CRAFT WORKERS	1974	798	89.7	67	7.5	19	2.1	6	0.7	890
	1978	2224	83.3	320	12.0	65	2.4	62	2.3	2671
	change	+1426	- 6.4	+ 253	+ 4.5	+ 46	+ 0.3	+ 56	+ 1.6	+ 1781
SERVICE MAINTENANCE WORKERS	1974	2896	70.0	516	12.5	506	12.2	221	5.3	4139
	1978	3506	59.5	1105	18.8	706	12.0	574	9.7	5891
	change	+ 610	-10.5	+ 589	+ 6.3	+ 200	- 0.2	+ 353	+ 4.4	+ 1752
GRAND TOTALS	1974	24873	47.2	3516	6.7	17752	33.7	6603	12.5	52749
	1978	26395	43.4	5057	8.3	20749	34.1	8604	14.2	60805
	change	+1517	- 3.8	+1541	+ 1.6	+2997	+ 0.4	+2001	+ 1.7	+ 8056

New Jersey State Government
Comparative Trend Analysis Table
By Job Categories
1974-1978
Females

<u>JOB CATEGORY</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>Change</u>
OFFICIALS/ ADMINISTRATORS	325 12.1	337 13.5	351 14.0	363 14.8	452 16.1	+127 +4.0
PROFESSIONALS	4909 34.4	5689 35.4	6149 36.2	5925 36.3	7022 37.3	+2113 +2.9
TECHNICIANS	862 31.9	884 31.8	914 34.2	920 34.0	1074 37.2	+212 +5.3
PROTECTIVE SERVICE	181 3.8	171 4.1	168 4.0	191 4.6	229 5.1	+48 +1.3
PARA- PROFESSIONAL	6869 58.0	5720 66.9	5609 67.2	5628 68.2	6519 68.7	-350 +10.7
OFFICE CLERICAL	10457 91.0	11358 91.2	11542 91.7	11923 91.6	12650 91.8	+2,193 +0.8
SKILLED CRAFTS	25 2.8	118 4.6	113 4.5	118 4.6	127 4.8	+102 +2.0
SERVICE MAINTENANCE	727 17.6	1181 21.2	1102 20.9	1139 21.0	1280 21.7	+553 +4.1
TOTAL	24355 46.2	25458 46.6	25948 47.1	26207 47.7	29353 48.3	+4998 +2.1

CHART 7

AFFIRMATIVE ACTION PROGRAM

SUMMARY / JOB CATEGORY

COMPARATIVE ANALYSIS - OVERALL NEW JERSEY STATE GOVERNMENT

JUNE 1974 - JUNE 1978

	OFFICIALS and ADMINISTRATORS		PROFESSIONALS		TECHNICIANS		PROTECTIVE SERVICE WORKERS		PARA-PROFESSIONALS		OFFICE CLERICAL WORKERS		SKILLED CRAFT WORKERS		SERVICE MAINTENANCE WORKERS		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
ANIC	-39	-4.9	+1920	-4.4	-55	-5.9	-437	-5.5	-1909	-12.3	+1	-1.4	+1426	-6.0	+610	-10.5	+1517	-3.8
ANIC	+23	+6	+267	+6	+23	+4	+114	+3.2	-106	+1.3	+70	+0.4	+218	+3.4	+488	+4.9	+1097	+1.0
	+3	+1	+106	+5	+4	+2	+43	+1.0	+28	+0.4	+13	+0.1	+32	+1.1	+97	+1.4	+326	+0.5
	+2	NC	+104	+4	+4	+1	+3	+1	-4	NC	+2	NC	+1	NC	+8	+0.2	+120	+0.2
W	+3	+1	+3	NC	NC	NC	-4	-1	-2	-*	NC	NC	+2	+0.1	-4	-0.1	-2	NC
MALES	+31	+9	+480	+1.4	+31	+7	+156	+4.2	-84	+1.7	+85	+0.5	+253	+4.5	+589	+6.3	+1541	+1.6
MALES	-8	-4.0	+2400	-2.9	-24	-5.3	-281	+1.3	-1993	-10.7	+86	-0.8	+1679	-2.0	+1199	-4.1	+3058	-2.1
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
ANIC	+102	+3.2	+1579	+1.4	+143	+3.8	+22	+0.6	-458	+2.0	+1363	-3.0	+46	+0.3	+200	-0.2	+2997	+0.4
ANIC	+12	+3	+396	+1.1	+62	+1.2	+27	+0.7	+14	+7.4	+714	+3.0	+54	+1.5	+293	+3.4	+1572	+1.0
	+8	+3	+115	+6	+4	+1	-1	-*	+86	+1.0	+91	+0.6	+1	+	+43	+0.7	+347	+0.6
	+5	+2	+16	-1	+1	NC	NC	NC	+9	+0.1	+20	+0.1	+1	+	+15	+0.3	+67	+0.1
	NC	NC	+7	NC	+2	+1	NC	NC	-1	NC	+5	NC	NC	NC	+2	+	+15	+0.1
ORITY	+25	+8	+1541	+1.7	+69	+1.4	+26	+7	+108	+8.6	+830	+3.8	+56	+1.6	+353	+4.4	+2001	+1.7
MALES	+127	+4.0	+2113	+2.9	+212	+5.3	+48	+1.3	-350	+10.7	+2193	+0.8	+102	+2.0	+553	+4.1	+4998	+2.1
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
	+56	+1.7	+1014	+3.1	+100	+2.1	+182	+4.8	+24	+10.3	+915	+4.3	+309	+6.1	+942	+10.7	+3542	+3.3
TOTALS	+119	100.0	+4513	100.0	+188	100.0	-233	100.0	-2343	100.0	+2279	100.0	+178	100.0	+1752	100.0	+8056	100.0

CHART 8

AFFIRMATIVE ACTION PROGRAM

SUMMARY / JOB CATEGORY

Overall State Analysis
Affirmative Action Program

June

YEAR

1978

	OFFICIALS and ADMINISTRATORS		PROFESSIONALS		TECHNICIANS		PROTECTIVE SERVICE WORKERS		PARA-PROFESSIONALS		OFFICE CLERICAL WORKERS		SKILLED CRAFT WORKERS		SERVICE MAINTENANCE WORKERS		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	2194	78.1	10,613	56.4	1628	56.4	3450	77.0	1824	19.2	956	6.9	2224	83.3	3506	59.5	26,395	43
BLACK NON-HISPANIC	133	4.7	764	4.1	171	5.9	732	16.3	1055	11.1	144	1.0	282	10.6	959	16.3	4240	7
HISPANIC	13	.5	152	.8	8	.3	56	1.3	75	.8	16	.1	34	1.3	130	2.2	484	
ASIAN	12	.4	220	1.2	6	.2	5	.1	13	.1	6	*	2	.1	10	.2	274	
AMERICAN INDIAN	5	.2	33	.2	2	.1	6	.1	4	*	1	*	2	.1	6	.1	59	
TOTAL MINORITY MALES	163	5.8	1169	6.2	187	6.5	799	17.8	1147	12.1	167	1.2	320	12.0	1105	18.8	5057	8
TOTAL MALES	2357	83.9	11,782	62.7	1815	62.8	4249	94.9	2971	31.3	1123	8.2	2544	95.2	4611	78.3	31,452	51
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	379	13.5	5771	30.7	602	20.8	141	3.1	2819	29.7	10,266	74.5	65	2.4	706	12.0	20,749	34
BLACK NON-HISPANIC	57	2.0	991	5.3	461	16.0	88	2.0	3512	37.0	2182	15.8	60	2.2	508	8.6	7859	12
HISPANIC	10	.4	147	.8	4	.1	0	0	153	1.6	160	1.2	1	*	47	.8	522	
ASIAN	6	.2	96	.5	4	.1	0	0	27	.3	31	.2	1	*	17	.3	182	
AMERICAN INDIAN	0	0	17	.1	3	.1	0	0	8	.1	11	.1	0	0	2	*	41	
TOTAL MINORITY FEMALES	73	2.6	1251	6.7	472	16.3	88	2.0	3700	39.0	2304	17.3	62	2.3	574	9.7	8604	14
TOTAL FEMALES	452	16.1	7022	37.3	1074	37.2	229	5.1	6519	68.7	12,650	91.8	127	4.8	1280	21.7	29,353	48
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
TOTAL MINORITY	236	8.4	2420	12.9	659	22.8	887	19.8	4847	51.1	2551	18.5	382	14.3	1679	28.5	13,661	22
GRAND TOTALS	2809	100.0	18,804	100.0	2889	100.0	4478	100.0	9490	100.0	13,773	100.0	2671	100.0	5891	100.0	60,805	100

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

* = Less than 0.1%

NOTE: PERCENTAGES ARE TO BE CALCULATED BY USING GRAND TOTALS, BOTTOM LINE.

CHART 9

**AFFIRMATIVE ACTION PROGRAM
SUMMARY/JOB CATEGORY**

**Overall State Analysis
Affirmative Action Program**

JUNE

YEAR

19 74

	OFFICIALS and ADMINISTRATORS		PROFESSIONALS		TECHNICIANS		PROTECTIVE SERVICE WORKERS		PARA-PROFESSIONALS		OFFICE CLERICAL WORKERS		SKILLED CRAFT WORKERS		SERVICE MAINTENANCE WORKERS		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	2233	83.0	8693	60.8	1683	62.3	3887	82.5	3733	31.5	955	8.3	798	89.7	2896	70.0	24,878	47.
BLACK NON-HISPANIC	110	4.1	497	3.5	148	5.5	618	13.1	1161	9.8	74	0.6	64	7.2	471	11.4	3143	6.
HISPANIC	10	.4	46	0.3	4	0.1	13	0.3	47	0.4	3	*	2	0.2	33	0.8	158	0.
AMERICAN INDIAN	10	.4	116	0.8	2	0.1	2	*	17	0.1	4	*	1	0.1	2	*	154	0.
TOTAL MINORITY MALES	132	4.9	689	4.8	156	5.8	643	13.6	1231	10.4	82	0.7	67	7.5	516	12.5	3516	6.
TOTAL MALES	2365	87.9	9382	65.6	1839	68.1	4530	96.2	4964	42.0	1037	9.0	865	97.2	3412	82.4	28,394	53.
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	277	10.3	4192	29.3	459	17.0	119	2.5	3277	27.7	8903	77.5	19	2.1	506	12.2	17,752	33.
BLACK NON-HISPANIC	45	1.7	595	4.2	399	14.8	61	1.3	3498	29.6	1468	12.8	6	0.7	215	5.2	6287	11.
HISPANIC	2	.1	32	0.2	0	0	1	*	67	0.6	69	0.6	0	0	4	0.1	175	0.
AMERICAN INDIAN	1	*	80	0.6	3	0.1	0	0	18	0.2	11	0.1	0	0	2	*	115	0.
TOTAL MINORITY FEMALES	48	1.8	717	5.0	403	14.9	62	1.3	3592	30.4	1554	13.5	6	0.7	221	5.3	6603	12.
TOTAL FEMALES	325	12.1	4909	34.4	862	31.9	181	3.8	6869	58.0	10,457	91.0	25	2.8	727	17.6	24,355	46.
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
TOTAL MINORITY	180	6.7	1406	9.8	559	20.7	705	15.0	4823	40.8	1636	14.2	73	8.2	737	17.8	10,119	19.
GRAND TOTALS	2690	100.0	14,291	100.0	2701	100.0	4711	100.0	11,833	100.0	11,494	100.0	890	100.0	4139	100.0	52,749	100.0

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

NOTE: PERCENTAGES ARE TO BE CALCULATED BY USING GRAND TOTALS, BOTTOM LINE.

*Less than 0.1%

CHART 10

AFFIRMATIVE ACTION PROGRAM

SUMMARY/SALARIES

COMPARATIVE ANALYSIS--OVERALL NEW JERSEY STATE GOVERNMENT

JUNE, 1974 - JUNE, 1978

	\$1,000 - \$3,999		\$4,000 - \$5,999		\$6,000 - \$7,999		\$8,000 - \$9,999		\$10,000 - \$12,999		\$13,000 - \$15,999		\$16,000 - \$24,999		\$25,000 or more		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE	+1	- 7.9	- 311	+60.3	-1854	-9.6	- 626	-16.9	-2368	-16.5	+2455	-9.2	+2945	-8.3	+1211	-3.2	+1453	-3.8
BLACK	-3	- 8.1	- 53	+ 7.9	- 344	-0.3	+ 548	+ 2.0	+ 83	+ 0.9	+ 529	+2.7	+ 269	+1.2	+ 49	+0.4	+1078	+1.0
SPANIC	+1	+ 2.3	- 11	- 0.3	+ 25	+0.5	+ 120	+ 0.8	+ 91	+ 0.7	+ 66	+0.6	+ 27	+0.2	+ 6	-0.2	+ 325	+0.5
AN	NC	NC	- 5	- 0.2	+ 1	NC	+ 16	+ 0.1	- 2	NC	+ 50	+0.2	+ 41	NC	+ 19	-0.5	+ 120	+0.2
ERICAN	NC	NC	- 3	+ 1.5	- 3	-*	- 3	+ 0.1	- 20	- 0.1	+ 10	+0.1	+ 14	+0.1	+ 3	+0.1	- 2	NC
AL MINORITY MALES	-2	-5.8	- 72	+ 8.9	- 321	+0.3	+ 631	+ 2.8	+ 152	+ 1.5	+ 655	+5.2	+ 351	+1.5	+ 77	-0.2	+1521	+1.6
AL MALES	-1	-13.7	- 383	+69.3	-2175	-9.4	+ 55	-14.2	-2216	-15.1	+3110	-5.6	+3296	-6.8	+1288	-3.4	+2974	-2.1
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE	+6	+11.7	-2182	-54.4	- 833	+9.0	+2025	+ 3.2	+ 983	+ 8.7	+1505	+2.9	+1299	+5.5	+ 177	+3.4	+2980	+0.5
BLACK	NC	- 0.4	- 653	-14.9	-1077	-1.5	+1976	+ 9.9	+ 710	+5.8	+ 416	+2.5	+ 180	+1.1	+ 9	+0.1	+1561	+1.0
SPANIC	+1	+ 2.3	- 44	+ 0.2	+ 128	+1.5	+ 125	+ 0.8	+ 74	+0.5	+ 31	+0.3	+ 26	+0.3	+ 5	+0.1	+ 346	+0.6
AN	NC	NC	- 5	- 0.2	+ 23	+0.3	+ 21	+ 0.1	- 11	-0.1	+ 20	+0.1	+ 6	-0.1	+ 13	-0.2	+ 67	+0.1
ERICAN	NC	NC	- 2	- 0.1	- 2	NC	+ 8	+ 0.1	+ 5	+0.1	- 1	-0.1	+ 6	+0.1	+ 1	NC	+ 15	+0.1
AL MINORITY FEMALES	+1	+ 2.7	- 704	-14.8	- 928	+0.4	+2130	+11.0	+ 778	+6.3	+ 466	+2.8	+ 218	+1.2	+ 28	NC	+1989	+1.7
AL FEMALES	+7	+13.7	-2886	-69.3	-1761	+9.4	+4155	+14.2	+1761	+15.1	+1971	+5.6	+1517	+6.8	+ 205	+3.4	+4969	+2.1
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
AL MINORITY	-1	-3.8	- 775	-4.2	-1249	+0.6	+2811	+13.8	+ 930	+7.8	+1121	+6.3	+ 569	+2.7	+ 105	-0.2	+3510	+3.3
AND TOTALS	+6	100.0	-3269	100.0	-3936	100.0	+4210	100.0	- 455	100.0	+5081	100.0	+4813	100.0	+1493	100.0	+7923	100.0

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

NC=No (significant) change

*=Less than 0.1%

NOTE: PERCENTAGES ARE TO BE CALCULATED BY USING GRAND TOTALS, BOTTOM LINE.

CHART 11

**AFFIRMATIVE ACTION PROGRAM
SUMMARY/SALARIES**

**DEPARTMENT/INSTITUTION:
OVERALL STATE ANALYSIS
AFFIRMATIVE ACTION PROGRAM**

JUNE

YEAR
19 7

	\$1,000 - \$3,999		\$4,000 - \$5,999		\$6,000 - \$7,999		\$8,000 - \$9,999		\$10,000 - \$12,999		\$13,000 - \$15,999		\$16,000 - \$24,999		\$25,000 or more		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	28	65.1	44	71.0	1292	12.3	3339	24.1	5664	44.7	6606	59.3	7232	70.5	2126	83.4	26,331	43
BLACK NON-HISPANIC	0	0.0	6	9.7	790	7.8	1190	8.6	925	7.3	793	7.1	440	4.3	77	3.0	4221	7
HISPANIC	1	2.3	0	0.0	101	1.0	140	1.0	125	1.0	73	0.7	30	0.3	13	0.5	483	0
ASIAN	0	0.0	0	0.0	11	0.1	18	0.1	40	0.3	79	0.7	85	0.8	41	1.6	274	0
AMERICAN INDIAN	0	0.0	1	1.6	3	0.0	5	0.1	8	0.1	19	0.2	19	0.2	4	0.2	59	0
TOTAL MINORITY MALES	1	2.3	7	11.3	905	9.0	1353	9.8	1098	8.7	964	8.7	574	5.6	135	5.3	5037	8
TOTAL MALES	29	67.4	51	82.3	2197	21.8	4692	33.8	6762	53.3	7570	68.0	7806	76.1	2261	88.7	31,368	51
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	12	27.9	7	11.3	5377	53.3	5661	40.8	4390	34.6	2914	26.2	2130	20.8	241	9.5	20,732	34
BLACK NON-HISPANIC	1	2.3	3	4.8	2256	22.3	3335	24.0	1392	11.0	586	5.3	262	2.6	13	0.5	7848	12
HISPANIC	1	2.3	1	1.6	215	2.1	142	1.0	95	0.7	33	0.3	27	0.3	27	0.3	521	0
ASIAN	0	0.0	0	0.0	42	0.4	30	0.2	30	0.2	31	0.3	23	0.2	26	1.0	182	0
AMERICAN INDIAN	0	0.0	0	0.0	9	0.1	12	0.1	8	0.1	3	0.0	7	0.1	2	0.1	41	0
TOTAL MINORITY FEMALES	2	4.7	4	6.5	2522	25.0	3519	25.4	1525	12.0	653	5.9	319	3.1	48	1.9	8592	14
TOTAL FEMALES	14	32.6	11	17.7	7899	78.2	9180	66.2	5915	46.7	3567	32.0	2449	23.9	289	11.3	29,324	48
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
TOTAL MINORITY	3	7.0	12	19.4	3427	33.9	4872	35.1	2623	20.7	1617	14.5	893	8.7	183	7.2	13,629	22
GRAND TOTALS	43	100.0	62	100.0	10,096	100.0	13,872	100.0	12,677	100.0	11,137	100.0	10,255	100.0	2550	100.0	60,692	100

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

*113 Salaries are not shown due to delayed routine personnel action procedures

NOTE: PERCENTAGES ARE TO BE CALCULATED BY USING GRAND TOTALS, BOTTOM LINE.

CHART 12

AFFIRMATIVE ACTION PROGRAM SUMMARY/SALARIES									DEPARTMENT/INSTITUTION: OVERALL STATE ANALYSIS AFFIRMATIVE ACTION PROGRAM					JUNE		YEAR 19 74		
	\$1,000 - \$3,999		\$4,000 - \$5,999		\$6,000 - \$7,999		\$8,000 - \$9,999		\$10,000 - \$12,999		\$13,000 - \$15,999		\$16,000 - \$24,999		\$25,000 or more		TOTAL	
MALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	27	73.0	355	10.7	3146	22.4	3965	41.0	8032	61.2	4152	68.5	4287	78.8	915	36.6	24,878	47.2
BLACK NON-HISPANIC	3	8.1	59	1.8	1134	8.1	642	6.6	842	6.4	264	4.4	171	3.1	28	2.6	3143	6.0
SPANIC	0	0	11	0.3	76	0.5	20	0.2	34	0.3	7	0.1	3	0.1	7	0.7	158	0.3
AN	0	0	5	0.2	10	0.1	2	*	42	0.3	29	0.5	44	0.8	22	2.1	154	0.3
AMERICAN INDIAN	0	0	4	0.1	6	*	8	*	28	0.2	9	0.1	5	0.1	1	0.1	61	0.1
TOTAL MINORITY MALES	3	8.1	79	2.4	1226	8.7	672	7.0	946	7.2	309	3.5	223	4.1	58	5.5	3516	6.7
TOTAL MALES	30	81.1	434	13.0	4372	31.2	4637	48.0	8978	68.4	4460	73.6	4510	82.9	973	92.1	28,394	53.8
FEMALE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
WHITE NON-HISPANIC	6	16.2	2189	65.7	6210	44.3	3636	37.6	3407	25.9	1409	23.3	831	15.3	64	6.1	17,752	33.7
BLACK NON-HISPANIC	1	2.7	656	19.7	3333	23.8	1359	14.1	682	5.2	170	2.8	82	1.5	4	0.4	6287	11.9
SPANIC	0	0	45	1.4	87	0.6	17	0.2	21	0.2	2	*	1	*	2	0.2	175	0.3
AN	0	0	5	0.2	19	0.1	9	0.1	41	0.3	11	0.2	17	0.3	13	1.2	115	0.2
AMERICAN INDIAN	0	0	2	0.1	11	0.1	4	*	3	*	4	0.1	1	*	1	0.1	26	*
TOTAL MINORITY FEMALES	1	2.7	708	21.3	3450	24.6	1389	14.4	747	5.7	187	3.1	101	1.9	20	1.9	6603	12.5
TOTAL FEMALES	7	18.9	2897	87.0	9660	68.8	5025	52.0	4154	31.6	1596	26.4	932	17.1	84	7.9	24,355	46.2
TOTAL	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
TOTAL MINORITY	4	10.8	787	23.6	4676	33.3	2061	21.3	1693	12.9	496	8.2	324	6.0	78	7.4	10,119	19.2
GRAND TOTALS	37	100.0	3331	100.0	14,032	100.0	9662	100.0	13,132	100.0	6056	100.0	5442	100.0	1057	100.0	52,749	100.0

(Division of Equal Employment Opportunity and Affirmative Action / New Jersey Department of Civil Service)

*Less than 0.1%

NOTE: PERCENTAGES ARE TO BE CALCULATED BY USING GRAND TOTALS, BOTTOM LINE.

SSA302S

NEW JERSEY DEPARTMENT OF CIVIL SERVICE

DEPARTMENT - COMPLETE STATE TOTALS

DATE 06/21/79

OVERALL STATE ANALYSIS, AFFIRMATIVE ACTION PROG MAY 1979 DATA BASE

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JOB CATEGORY	*** MALE ***							*** FEMALE ***							TOTAL IN RANGE
	NON-HISPANIC ORIGIN		HIS- PANIC	PACIF ISL OR ASIAN AMER	ALAS NAT OR AMER IND	TOTAL MINORITY	TOTAL MALE	NON-HISPANIC ORIGIN		HIS- PANIC	PACIF ISL OR ASIAN AMER	ALAS NAT OR AMER IND	TOTAL MINORITY	TOTAL FEMALE	
	WHITE	BLACK						WHITE	BLACK						
FFIC/ADMIN	2208	119	12	19	5	155	2363	352	43	5	12	1	61	413	2776
PERCENT	79.5	4.3	.4	.7	.2	5.6	85.1	12.7	1.5	.2	.4	.0	2.2	14.9	100.0
ROFESS.	10977	813	160	249	21	1243	12220	6214	1104	162	129	12	1407	7621	19841
PERCENT	55.3	4.1	.8	1.3	.1	6.3	61.6	31.3	5.5	.8	.7	.1	7.1	38.4	100.0
ECHNICIANS	2471	233	18	5	3	259	2730	649	455	10	5	3	473	1122	3852
PERCENT	64.1	6.0	.5	.1	.1	6.7	70.9	16.8	11.8	.3	.1	.1	12.3	29.1	100.0
ROT. SERV.	3021	643	59	2	4	708	3729	99	67	0	0	0	67	166	3895
PERCENT	77.6	16.5	1.5	.1	.1	18.2	95.7	2.5	1.7	.0	.0	.0	1.7	4.3	100.0
ARA/PROF.	1563	1160	83	14	4	1261	2824	2972	4028	177	33	3	4241	7213	10037
PERCENT	15.6	11.6	.8	.1	.0	12.6	28.1	29.6	40.1	1.8	.3	.0	42.3	71.9	100.0
OFF/CLER.	845	141	18	4	1	164	1009	10289	2296	188	56	10	2550	12839	13848
PERCENT	6.1	1.0	.1	.0	.0	1.2	7.3	74.3	16.6	1.4	.4	.1	18.4	92.7	100.0
SKILL. CRAFT	2512	367	40	4	3	414	2926	108	84	0	4	0	88	196	3122
PERCENT	80.5	11.8	1.3	.1	.1	13.3	93.7	3.5	2.7	.0	.1	.0	2.8	6.3	100.0
SERV. MAINT.	2849	1022	148	9	8	1187	4036	702	543	65	27	1	636	1338	5374
PERCENT	53.0	19.0	2.8	.2	.1	22.1	75.1	13.1	10.1	1.2	.5	.0	11.8	24.9	100.0
TOTAL	26446	4498	538	306	49	5391	31837	21385	8620	607	266	30	9523	30908	62745
ROLL TOTAL	62745														
PERCENT	42.1	7.2	.9	.5	.1	8.6	50.7	34.1	13.7	1.0	.4	.0	15.2	49.3	100.0

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NEW JERSEY DEPARTMENT OF CIVIL SERVICE

DEPARTMENT - COMPLETE STATE TOTALS

DATE 06/21/79

OVERALL STATE ANALYSIS, AFFIRMATIVE ACTION PROG MAY 1979 DATA BASE

PAGE 002

*** MALE ***

*** FEMALE ***

ANNUAL SALARY	NON-HISPANIC ORIGIN		HIS- PANIC	PACIF ISL OR ASIAN AMER	ALAS NAT OR AMER IND	TOTAL MINORITY	TOTAL MALE	NON-HISPANIC ORIGIN		HIS- PANIC	PACIF ISL OR ASIAN AMER	ALAS NAT OR AMER IND	TOTAL MINORITY	TOTAL FEMALE	TOTAL IN RANGE
	WHITE	BLACK						WHITE	BLACK						
0-3.9	26	0	1	0	0	1	27	12	0	0	0	0	0	12	39
PERCENT	66.7	.0	2.6	.0	.0	2.6	69.2	30.8	.0	.0	.0	.0	.0	30.8	100.0
0-5.9	34	0	0	1	1	2	36	7	0	0	0	0	0	7	43
PERCENT	79.1	.0	.0	2.3	2.3	4.7	83.7	16.3	.0	.0	.0	.0	.0	16.3	100.0
0-7.9	872	767	94	10	1	872	1744	3971	2148	214	63	3	2428	6399	8143
PERCENT	10.7	9.4	1.2	.1	.0	10.7	21.4	48.8	26.4	2.6	.8	.0	29.8	78.6	100.0
0-9.9	2254	999	125	14	8	1146	3400	5641	2683	172	43	10	2908	8549	11949
PERCENT	18.9	8.4	1.0	.1	.1	9.6	28.5	47.2	22.5	1.4	.4	.1	24.3	71.5	100.0
0-12.9	5301	1157	162	28	6	1353	6654	5151	2573	119	39	4	2735	7886	14540
PERCENT	36.5	8.0	1.1	.2	.0	9.3	45.8	35.4	17.7	.8	.3	.0	18.8	54.2	100.0
0-15.9	6155	808	90	89	9	996	7151	3282	798	54	42	5	849	4181	11332
PERCENT	54.3	7.1	.8	.8	.1	8.8	63.1	29.0	7.0	.5	.4	.0	7.9	36.9	100.0
0-24.9	8891	652	52	117	16	837	9728	2938	387	38	47	4	476	3414	13142
PERCENT	67.7	5.0	.4	.9	.1	6.4	74.0	22.4	2.9	.3	.4	.0	3.6	26.0	100.0
0- (+)	2890	110	14	46	8	178	3068	371	28	10	32	4	74	445	3513
PERCENT	82.3	3.1	.4	1.3	.2	5.1	87.3	10.6	.8	.3	.9	.1	2.1	12.7	100.0
TOTAL	26423	4493	538	305	49	5385	31808	21373	8617	607	266	30	9520	30893	62701
L TOTAL	62701														
PERCENT	42.1	7.2	.9	.5	.1	8.6	50.7	34.1	13.7	1.0	.4	.0	15.2	49.3	100.0
TOTAL	26446	4498	538	306	49	5391	31837	21385	8620	607	266	30	9523	30908	62745
PERCENT	42.1	7.2	.9	.5	.1	8.6	50.7	34.1	13.7	1.0	.4	.0	15.2	49.3	100.0

WPC of new jersey

Women's political caucus

June 27, 1979

TO: THE COMMISSION ON SEX DISCRIMINATION IN THE STATUTES

PRESENTED BY: KATHY BROCK, STATE CHAIR, 12 A English Village, Cranford

The Women's Political Caucus of New Jersey wishes to thank the Commission for providing this opportunity for the women of New Jersey to offer input to your work in the area of sex discrimination in employment. The WPC has consistently worked to eliminate sex discrimination in employment by lobbying for improved legislation as well as adequate enforcement of laws already in existence. Today, we specifically address the area outlined by the Commission as one of the foci of this hearing; the State as a regulator of private employment.

Probably the most significant area in which the state acts to regulate private employment is that of payment of the minimum wage. The legislature's effort in this area may basically be found in two major enactments; the Minimum Fair Wage Standards Act of 1933, (codified at N.J.S.A. 34:11-34 to 11:56.8 (1965)), and the New Jersey Wage and Hour Law of 1966, (codified at N.J.S.A. 34:11-56a1-29 (Supp. 1978-79)). The 1933 Act specifically authorizes the fixing of minimum wage standards for women and methods for enforcement of violations, while the 1966 Act applies in a sex-neutral fashion. The latter Act specifically states that it is a supplement to the 1933 Act, and supercedes it only in situations where an employee would be entitled to higher wages under the new Act. (See N.J.S.A. 34:11-56a28)



The sex-specific provisions of the 1933 Act bring it directly within this Commission's mandate to study such statutes with a view to recommending legislation to correct sex discrimination wherever it is evidenced. Since the language of the 1933 Act discriminates on its face, the choices available to the Commission appear to be elimination of the specific provision or extension of the provision to protect men as well.

The label of so-called "protective legislation" applied to the 1933 Act and others like it enacted around the country, understandably raises two immediate questions for the Commission in its effort to determine an appropriate recommendation for the Legislature:

1. In what ways, if any, are women currently being protected by the 1933 Act, when men are not; and
2. In ~~what~~ ways, if any, would extension of the 1933 Act to cover "workers", i.e., men and women over 21, impact on private employers, (and one would assume, the degree of opposition that would be created to legislation to extend the Act to cover men as well as women?)

The answer to both questions requires an analysis of the facts as well as an understanding of the relevant federal and state law. At the outset, it is important to note that before the passage of the 1966 Act, (which is worded in sex-neutral terms), the legislature enacted legislation prohibiting discrimination "in the rate or method of payment of wages to any employee because of his or her sex." (See N.J.S.A.34:11-56.2) Thus, any man doing a job comparable to that of a woman which is subject to the regulation of the 1933 Act must be paid the same minimum wage.

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The federal fair labor standards Act, 29 U.S.C. 201 et seq., has similar "equal pay for equal work" provisions and pre-empts the state legislation in the area, unless the state legislation provides additional benefits beyond the federal act.

As a result, the Commission may well ask, if sex discrimination is prohibited for comparable work covered under the 1933 Act and the Federal Labor Standards Act, and the 1966 Act is sex-neutral, what jobs could possibly be left where the minimum wage for women might be lowered by removing the protective provisions of the 1933 Act? Arguably, there would exist a category of jobs to which all of the following might apply:

1. The job is covered by the 1933 Act,
2. The job is not covered by the 1966 Act of the F.L.S.A.,
3. The job is sex-segregated for females, and
4. The minimum wage being paid is above that provided by the 1966 Act.

The critical determination for this Commission is to learn whether or not there are in fact any women in the above hypothetical category.

With respect to the first and second requirements, the following categories are specifically covered by the 1933 Act, but excluded from the 1966 Act:

1. Providers of child care,
2. Motor vehicle salesmen and "outside salesmen," and
3. Employees of summer camps, conferences or retreats.

The following are excluded from the Fair Labor Standards Act:

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women's political caucus

- 1.State employees,
- 2.Restaurant employees,
- 3.Employees in the motion picture industry,
- 4.Retail establishments with gross annual sales under \$250,000., &
- 5.Retailers of prepared food.

The next step would be to identify from within the above groups, any positions designated as sex-segregated for females. If any such position is found, a very important question for this Commission would be, how such a sex-segregated position could survive the Civil Service regulations in the case of state employees, and Title VII of the Civil Rights Act of 1964, which pre-empts the operation of state laws when their provisions are in conflict with it. See 42 U.S.C. 200e (1970 and Supp. VII).

Lastly, if research indicates the presence of such sex-segregated positions for females, it must be determined whether or not there are any such provisions for which the minimum wage is higher than that provided in the 1966 Act for males and females. The history of women's wages versus those of men, indicating that women earn approximately 60% of what men do, would strongly suggest that this category which concerns us, is actually an artificial one. Nevertheless, the Department of Labor and Industry is empowered to keep the appropriate wage information, and should be urged to share it with the Commission.

In summary then, we submit that this Commission is charged with revealing sex discrimination in the laws, whether it be against

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men or women. The figures must be obtained, but it would appear that there probably are no women who are receiving an advantage from the 1933 Act as now written. If research discloses that some women actually are protected by the Act alone, then the intent of our legislature in prohibiting discrimination in the 1933 Act and drafting the 1966 Act in sex-neutral terms strongly suggests a pattern of extension of that protection to men too. In either event, the language of the 1933 Act should be altered so that it reads in a sex-neutral way, i.e. "workers" rather than "women".



Essex County College

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OFFICE OF PUBLIC RELATIONS

TESTIMONY OF CONSTANCE WOODRUFF, Director of Community/Public Relations, Essex County College, Newark and Chairperson of the N.J. ADVISORY COMMISSION ON THE STATUS OF WOMEN...at the Hearing of the Commission on Sex Discrimination in the Statutes, Wed., June 27, 19

My name is Constance Woodruff. I am Director of Community/Public Relations at Essex County College, Newark and Chairperson of the N.J. Advisory Commission on the Status of Women.

Our commission commends Governor Byrne and congratulates this commission for having the courage to move forthrightly in the study of outmoded, outdated statutes that belong to another world and another time in history, but that if enforced, could have a disastrous effect on the lives of New Jersey's citizens as they move toward the Twenty-first century.

It is significant and important you have chosen to address the issue of employment, an issue which ranks high among the social problems in today's society. An issue which has steadily grown in importance since the passage of Title VII of the 1964 Civil Rights Act prohibiting sex discrimination in employment in intent as well as in fact.

We have stockpiled a variety of laws that have become antiquated with the passage of time and only the most enlightened political leaders and concerned citizens occasionally pause to re-examine and reassess their impact on a more enlightened social structure.

Historians and sociologists remind us that the strength of American society rests on two premises: the individual's freedom

occasionally pause to look back. To reexamine some long forgotten legislation to determine whether or not it is effective in a more enlightened society.

Historians and sociologists remind us that the strength of American society rests on two premises: the individual's freedom of opportunity and choice -- and the Government's responsibility to respect this freedom. The Equal Rights Amendment fits well into this frame as it is designed to protect women, men and children. But despite more than 50 years of court cases, we have not succeeded in eradicating sex discrimination in federal, state and local governments.

A recent U.S. Senate report has stated: "While there has been some progress toward the goal of equal rights and responsibilities for men and women in recent years, there is overwhelming evidence that persistent patterns of sex discrimination permeate our social, cultural and economic life."

Nowhere is the ^{effect of} pervasive discrimination felt more keenly than in the minority community. No one can deny that to be born Black in the United States is to suffer under a severe handicap-for an entire lifetime.

The evidence is all about us -- couched in the covert and overt attitudes of neighbors, colleagues and the man-in-the-street; buried under the heavy weight of legal rhetoric and supported by a mountain of statistics:

- * Black people, as a rule, are poorer than white people. They earn far less, have fewer opportunities for skilled jobs or satisfying careers. They are the last to be hired, the first to be fired.
- * Their housing is generally sub-standard. Their medical care is inferior. So is the quality of the education given to their children. They get short-changed on public services,

from garbage collection to police and fire protection.

- * They usually pay more and get less for the things they buy. And more often than not, they are in hock to creditors who charge them exorbitant interest rates.
- * In so many ways -- petty and important -- they are victimized and humiliated and treated like second-class citizens.
- * They are sick more often than white people. They suffer more diseases. And they die younger.
- * Even if they become a success -- an elected official, a businessman, a famous athlete, opera star or professor -- they never fully escape the stigma of inferiority which our society has shamefully stamped on them because of the color of their skin.

Why should this be? Who is to blame for this vile injustice? Even more important, how can it be eradicated?

It is unthinkable, but sadly all too true, that in 1979 women and minorities continue to be victimized by the plantation mentality which systematically denied black people the rights guaranteed them under the 13, 14 and 15th Amendments to the Constitution in the post-Civil War period.

Then, Blacks toiled as sharecroppers and tenant farmers, often under contracts with former slaveowners and were invariably cheated. Today, women toil in dingy, ~~fa~~ often unsafe factory lofts or at the lowest level, underpaid office jobs under contracts that guarantee them nothing of substance and not worth the paper on which they are written.

As freed men and women, former slaves and their families had little to show for their back-breaking labor except a pile of trumped-up, inflated debts from which they could never extricate themselves. Were those times much different from today when women who head families, who support themselves as singles or return to the labor market as displaced persons find themselves debt-ridden to the point of no return simply because they are denied the opportunity to work at ^{better paying} jobs that ^{have been} ~~are~~ set aside for men only?

The infamous "Black Codes," accompanied by terror and violence, were freely employed "to keep the niggers in their place." Today, affirmative action mandates are ~~broken~~ ignored because "women should be at home instead of out here taking away men's jobs."

Then and now, women and minorities were denied opportunities to develop new skills and were excluded from better-paying occupations. They were made to feel that all they were fit for was to do the nation's dirty work and America's homework.

The issues, ~~xx~~ to which we are addressing ourselves, are not new, but the ~~degress~~ of our political sophistication is new and our resolve to win unequivocally defined.

In the 1960's Black Americans began to hope that, at long last, there would be meaningful improvement in their lives. The civil rights movement was on the march, winning significant battles against discrimination. Dr. Martin Luther King and other leaders were rallying black people and white liberals in a humanitarian crusade for racial equality and social justice. Opportunities for blacks were opening and widening in many areas where minorities had been traditionally barred.

In the 1970's, women, black and white, began to march across the pages of history demanding their rightful share of the American

dream and the American opportunity to hold any job for which they were trained or could be trained and the opportunity to have the freedom of choice.

But in 1979, it is becoming increasingly apparent the bright hopes of women and minorities have largely vanished. The movement for equality has lost its momentum and the opponents of ERA are trying desperately to halt the steamrolling womens movement. Today, both women and minorities are on a treadmill: they have to run fast just to stand still.

In the black community we cannot discuss sex discrimination in employment in a vacuum. For Black New Jerseyans, women in particular, sexism and racism in job discrimination go hand in hand.

How bad the situation has become among Blacks can be seen in an excellently-documented report, The State of Black America 1978, published by the National Urban League. Here are some of the shocking facts it reveals:

- * There are twice as many black people out of work today as there were ten years ago!
- * In 1970, the median income of black families was only 61% of white incomes. But by 1978, even that disgraceful incomes gap had widened further - to 59%!
- * The black jobless rate at the end of 1977, according to the government's understated figures, was an appalling 13.8% (twice that of whites). But if you count those who have become too discouraged to look for work, one of every four of the nation's black workers was unemployed!
- * For black teenagers, unemployment is at an all-time high of 39%, with no sign that it will be reduced in the foreseeable future.
- * There are as many poor black families today as there were ten years ago, although the number of poor white families

has dropped.

How bad is it for women? A 1978 U.S. Commission on Civil Rights report issued statistics on the status of women and minorities in education, income and employment that leaves much to be desired. In terms of employment, the report said women are far more likely to be unemployed or to be paid less for comparable jobs than white men who continue to reap disproportionate benefits and enjoy greater opportunities than white women and minorities in education, income and employment.

The report found annual raises for women are smaller and even in instances where age, educational attainment and job descriptions are the same, women and minorities still have relatively lower earnings. Although the report did not attempt to analyze the causes for the social and economic disparities, it cited, previous government studies have attributed it to discrimination which, despite statutes declaring it illegal, continues to victimize women and minorities.

To add insult to injury, rumors keep spreading that blacks never had it so good and that they've forged ahead too fast and too far. They're saying that the minorities are responsible for "reverse discrimination" and that men are unemployed because women are taking their jobs!

What concerns me, Senator and Ladies and Gentlemen, is the possibility of government officials at all levels becoming less responsive and even hostile, when ^{women and} black organizations and their leaders demand action on unemployment and other serious urban problems. In cities like New York, the budgetary crisis is being solved by forcing impoverished residents of the black communities to accept yet more sacrifices to their already intolerable burden. Women may be denied the protection and the guarantees implied in the Equal Rights Amendment as the price they pay for a ~~budgetary~~

by men.

Is it any wonder ~~Black America~~ women and minorities have every reason to feel angry, bitter, cynical and betrayed?

The N.J. Commission on the Status of Women urges you to take these recommendations under advisement:

1. A complete and thorough examination of New Jersey statutes and repeal of any and all laws where the intent may inadvertently have the effect of discriminating against the civil and human rights of women.

2. Initiate legislation to reimburse any cost involved for a woman ~~xxxxxx~~ retrained or learning a new skill to return to the work force. Such reimbursement could be in the form of a tax deduction from either state or federal income or personal tax.

3. Increased support services for women such as child care, medical care, improved insurance benefits, transportation, etc.

4. Civil Service reform and a conscientious effort to move women from clerical to technical and professional jobs; as well as upgrading women to the point of eligibility for managerial positions in the civil service system.

5. More equitable access to job information.

6. The state should take the leadership in enforcing the affirmative action mandate and seek periodical reports from the public and private sectors in this area.

7.- Immediate action to repeal any and all laws found to be discriminating against women and minorities following the submission of the report issued by the Commission on Sex Discrimination in the Statutes.

8. Increase the budget of the Civil Rights Commission to enable this body to work at its fullest potential in safeguarding the rights of women and minorities; and as a means of reducing the backlog of cases.

EMPLOYMENT COMMITTEE REPORT

PART I

OCEAN COUNTY ADVISORY COMMISSION ON THE
STATUS OF WOMEN

January 15, 1979

EMPLOYMENT COMMITTEE YEAR END REPORT

The Employment Committee was formed in February, 1978 to gain an overview of the employment situation in Ocean County. The Committee was charged with the responsibility of identifying the employment needs of Ocean County women; examining problem areas women face when competing in the job market, including discrimination, lack of skills, opportunity and education; and working with employers to increase opportunities for training women and men for non-traditional types of positions.

The Employment Committee presented three proposals to the August 29th meeting of the Ocean County Advisory Commission on the Status of Women. The first proposal advocated the formation of an Affirmative Action Committee to investigate and research Affirmative Action Employment Practice Plans in the County Superintendent's office for the purpose of ascertaining how Ocean County implements anti-discrimination laws in education. This proposal was agreed to by the Commission, and an Affirmative Action Committee was formed to cooperate with the League of Women Voters in this monitoring effort.

The Committee then recommended that for the present, the Talent Bank resumes be used to bring to the attention of the Ocean County Board of Chosen Freeholders the talents, skills and interests of Ocean County women for the purpose of county appointments. The Committee then asked that the Commission take a stand on proposed revisions of New Jersey Civil Service regulations regarding Veterans Preference. The Commission moved in favor of modification of the regulations.

Ilene Cummings, chairperson of the Committee, designed the employment section of the residents needs survey conducted by the Womens Commission CETA project staff. The questions were geared towards ascertaining the educational levels and employment status of the

respondents as well as their job history and volunteer experience. Of the 5,712 persons responding to the survey, 59% held a high school diploma, 12% were in possession of a Baccalaureate Degree, and 6% held a higher level degree. Fifty percent of the respondents were currently employed, while 12% were looking for a job.

Twenty-four percent of those seeking employment were looking for clerical or secretarial positions, 12% for positions in sales, while 11% were willing to undertake any kind of work. Five percent of the respondents last worked for pay more than five years ago, with the majority holding clerical/secretarial positions.

The most common type of volunteer work performed was hospital related, followed by civic/community activities, religious oriented, and school/educationally related activities.

These statistics will be used in the creation of a job development program for women by the Commission as an outgrowth of the survey.

A Personnel Director Questionnaire was developed by Ms. Cummings and the CETA project staff to determine the employment practices of Ocean County businesses. Thirty-one personnel directors representing fifty-seven work places responded. A majority, (24), supported the need for the creation of a network system which would enable employers and employees to gain access to one another and to aid employers in the development of non-traditional work roles. A meeting has been arranged with Mr. C.B. Cargyle, Assistant Director of Personnel at Ocean County College, to discuss the creation of such a system by the Commission's upcoming CETA project.

Members of the Employment Committee attended a Displaced Homemakers Conference at Rutgers University on September 27, 1978. Employment Commissioner Cummings took part on the panel, "Present Services and New Initiatives for Displaced Homemakers". Commission members also

attended panels on legislation, legal rights, understanding options, and successful displaced homemaker programs.

The Employment Committee is vitally interested in the Ocean County Advisory Commission on the Status of Women's proposal to follow up on the needs expressed by the residents survey, especially in two areas: Affirmative Action, and the creation of a job development program for women in Ocean County. The Affirmative Action Committee is to receive assistance in its monitoring project of employment practice plans, and an administrative analyst will coordinate a network system using the Employment Committee's Personal Director Interviews, CETA project survey results, and talent bank information.

EMPLOYMENT COMMITTEE REPORT

PART II

OCEAN COUNTY ADVISORY COMMISSION ON THE
STATUS OF WOMEN

January 15, 1979

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INTRODUCTION

The Employment Committee was formed in February, 1978 to gain an overview of the employment situation in Ocean County. The Committee was charged with the responsibility of identifying the employment needs of Ocean County women; examining problem areas women face when competing in the job market, including discrimination, lack of skills, opportunity and education; and working with employers to increase opportunities for training women and men for non-traditional types of positions.

Ilene Cummings, Employment Commissioner, designed the employment section of the residents' needs survey conducted by the Womens Commission CETA project staff. The questions were geared towards ascertaining the educational levels and employment status of the respondents as well as their job history and volunteer experience.

A Personnel Director Questionnaire was developed by Ms. Cummings and the research staff to determine the employment practices of Ocean County businesses, and included inquiries as to job development programs, network systems, turn-over rates and recruitment for non-traditional work roles.

The Employment Committee advocated the formation of an Affirmative Action Committee to investigate and research Affirmative Action Employment Practice Plans in the County Superintendent's office for the purpose of ascertaining how Ocean County implements anti-discrimination laws in education. The Committee was formed in September, 1978 and will cooperate with the League of Women Voters in this monitoring effort.

The ensuing pages deal with these Employment Committee activities in greater detail, and include copies of the employment section of the residents' needs survey and the Personnel Director Questionnaire, explanations and bar graphs of the results, and a position paper on women and employment.

EMPLOYMENT COMMITTEE MEMBERS

Joan Adams
Mary L. Black
Rita Brogan
Ilene Cummings
Nancy Stultz
Jane C. Stone

EMPLOYMENT COMMISSIONER

Ilene Cummings

WOMEN AND EMPLOYMENT

Ilene Cummings
Employment Commissioner
January 30, 1978

WOMEN AND EMPLOYMENT

Position Statement: The Larger Issue

The ultimate reclamation of women's personal power is the essential ingredient in autonomy, freedom, and responsibility. For many, employment is fundamental to satisfying one's personal quest for social involvement, productivity, and the regeneration of the human possibility. Work, by its very nature, is the extraordinary mosaic comprising the basic elements that either enhance or destroy the body and spirit. Since earning a living in our society is virtually synonymous with human worth, it becomes absolutely crucial that women who choose to work are provided the opportunity to experience economic decency through paid employment. To ignore the human propensity toward growthful work is not only unacceptable, it is a total refutation of all that is fundamental to human ethics.

Rationale:

Eli Ginzberg, the Columbia University economist, has stated that "the working woman is the single most outstanding phenomenon of this century. It is a part of a changing economy and a changing society. Its secondary and tertiary consequences are really unchartable."

As a geographical location in the midst of enormous growth, Ocean County cannot overlook this statement or disregard the acceptance of philosophical, legal and pragmatic rationales for the full employment of women's talents. Added family income, a stronger economy and improved services to the public are but a few of the benefits manifest in an equitable employment pattern that includes women at every level.

However, a social policy to make accommodations for the special problems of the working woman has not been developed on the local level. Serious concerns surrounding the larger issue of women's employment are: (1) the particularly disadvantaged family headed by a woman (one in three

female-headed families, in fact, has an income below the poverty level).

(2) Research shows that the greatest increase of mental depression in the American populace has been among young, poor women who are single parents in low-level jobs. (3) The immense physical and emotional burden that dual responsibilities for home and job place on both married and single women heading families. (4) Child care arrangements/affordable child care facilities. (5) The increasing numbers of women entering the labor force and the absence of the means to provide them with jobs.

In sum, the disturbances and special problems of women in the labor market must be dealt with before the phenomenon of women in the work force is harmonized.

Objective:

To seize the unprecedented opportunity for building a moral and pragmatic system of employment for the women of Ocean County who choose to work. Founded upon the belief in the human dignity of every woman, we will: quantify her needs, rights and aspirations; we will seek to release presently suppressed abilities in such a way as to increase the county's creative and productive process; we will make every human effort to provide the flexibility that allows for the free expression of individual differences and will recognize that when these differences become disadvantages in the search for job equality, as is often the case in mothering, adjustments must be made in the socioeconomic system of which Ocean County is a part.

We seek changes at the most fundamental level. We seek change at the very heart of the work cycle. We seek a new focus. At the heart of every problem lies the embryo of the solution. It is within the solution that we will use the phenomenon of women's large scale entry into the labor force as a focus to spearhead investigation into job develop-

ment, readiness, and implementation. Our objective is both immediate and long-ranged. Immediate is an assessment of employment opportunities and practices; long-ranged is the creation of a new paradigm... a new model of being, that is achieved through meaningful and significant work.

EDUCATION

HIGH SCHOOL DIPLOMA	3,379	59.2%
SOME COLLEGE CREDITS	1,350	23.3%
ASSOCIATE DEGREE	380	6.7%
BACCALAUREATE DEGREE	669	11.7%
HIGHER LEVEL DEGREE	314	5.5%
OTHER TRAINING	805	14.1%

ARE YOU CURRENTLY TAKING COURSES IN COLLEGE

YES	NO
917	3,940
16.1%	69.0%

ARE YOU CURRENTLY TAKING COURSES IN A SPECIALIZED SCHOOL

YES	NO
277	2,133
4.8%	37.3%

EMPLOYMENT STATUS

CURRENTLY EMPLOYED	2,854	50.0%
LOOKING FOR A JOB	693	12.2%
PART TIME	636	14.6%
FULL TIME	1,199	21.0%

WHEN IS THE LAST TIME YOU WORKED FOR PAY

1 YEAR	2 YEARS	5 YEARS	10 YEARS	OVER 10 YEARS
517 9.1%	152 2.7%	218 3.8%	154 2.7%	155 2.7%
WHAT KIND OF WORK DID YOU DO				
MANAGERIAL	79	1.4%		332 5.8%
TECHNICAL	117	2.0%		401 7.1%
MAINTENANCE	31	0.5%		23 0.4%
SALES	167	2.9%		492 8.6%

EMPLOYMENT SECTION

OTHER SPECIALIZED TRAINING - TYPE

TOTAL: 552

NURSING	117	21.2%	INSURANCE/REAL ESTATE	19	3.4%	CLERICAL/SECRETARIAL	85	15.4%	COMMUNITY/SOCIAL WORK	13	2.4%
BUSINESS	41	7.4%	COMMUNITY EDUCATION	8	1.5%	TEACHER TRAINING	10	1.8%	CULTURAL ACTIVITIES	10	1.8%
CLERGY	12	2.2%	PROFESSIONAL	26	4.7%	DENTAL/MEDICAL ASSTS.	62	11.2%	TECHNICAL	71	12.9%
BEAUTY CULTURE	45	8.1%	POLICE/MILITARY	10	1.8%	VOCATIONAL SCHOOL	23	4.2%			

WHAT KIND OF VOLUNTEER WORK HAVE YOU DONE?

HOSPITAL	776	27.8%	SCOUTING	271	9.7%	JUVENILE COUNSELING	68	2.4%	OTHER: TOTAL	26	.9%
RELIGIOUS	322	11.5%	POLITICAL	38	1.4%	FIRE CO./ENVIRONMENT	89	3.2%	HEALTH FAIR	3	
SCHOOL	378	13.5%	CHILD CARE	95	3.4%	CIVIC/COMMUNITY	382	13.7%	OFFICE WORK	2	
SENIOR ACTIVITIES	82	2.9%	HANDICAP/RETARDED	111	3.9%				4 - H	17	
RECREATION	115	4.1%	MENTAL HEALTH	41	1.5%				VETERANS	4	

TOTAL: 2,794

WHAT KIND OF JOB ARE YOU LOOKING FOR?

TOTAL: 488

TEACHER	25	5.1%	UNSKILLED LABOR	12	2.5%	ANYTHING	52	10.7%
PROFESSIONAL	12	2.5%	DENTAL/MEDICAL ASSTS.	11	2.3%	SALES	60	12.3%
PUBLIC RELATED	35	7.8%	OFFICE WORK - CLERICAL	117	36.3%	MANAGERIAL	16	3.3%
SKILLED LABOR	18	3.7%	SECRETARIAL	10	2.1%	NO SPECIFIC/OTHER	72	16.2%
			NURSING			TECHNICAL	22	4.5%
						RESTAURANT WORK	9	1.8%
						CASHIER	10	2.0%

SURVEY RESULTS

The employment section of the residents' needs survey sought to ascertain the educational levels, employment status, job history, and volunteer experience of the 5,712 respondents.

Approximately 59% of the persons surveyed held a high school diploma, 12% were in possession of a Baccalaureate Degree, and 6% held a higher level degree. Fourteen percent of the respondents had other specialized training, with the greatest numbers being trained as nurses, clerks/secretaries, technicians, and dental/medical assistants. Sixteen percent of those surveyed were currently attending college, while 4.8% were taking courses at a specialized school.

Fifty percent of the respondents were currently employed while 12% were looking for work. Thirty-six percent of the respondents to the question, "What kind of job are you looking for?", were seeking employment in the clerical/secretarial field, approximately 12% in sales, and 10.7% were willing to work at any type of job.

Nine percent of those answering the survey became unemployed within the past year, approximately 3% within the past two years, 4% within the past five years, and approximately 5% last worked for pay more than five years ago. Approximately nine percent of the residents responding to the survey had done work in the past which did not correspond to the categories provided in the survey. Seven percent had performed clerical work and approximately six percent were employed in professional fields.

The most common type of volunteer work performed was hospital related, followed by civic/community activities, religious oriented, and school/educationally related activities.

PERSONNEL DIRECTOR QUESTIONNAIRE

The Personnel Director Questionnaire was designed to determine the employment practices of Ocean County businesses. The thirty-one companies interviewed included supermarkets, lumber companies, clothing stores, banks, newspapers, convalescent centers, town halls and restaurants.

DATE _____

TIME _____

PERSONNEL DIRECTOR QUESTIONNAIRE

NAME OF COMPANY _____

ADDRESS _____

PERSONNEL DIRECTOR _____

INTERVIEWER _____

1. How many persons are employed through your organization? Men _____ Women _____

2. What employment positions are offered by your organization?

Managerial	_____	Maintenance	_____
Professional	_____	Security	_____
Technical	_____	Sales	_____
Clerical	_____	Other	_____

3A. Is training available for these positions? Yes _____ No _____

3B. If yes, please specify. _____

4A. Do you have a job development program? Yes _____ No _____

B. How often do you develop a job? _____

C. What kinds of jobs have you developed in the past three years? _____

5A. Do you employ men or women in non-traditional types of positions such as men in clerical work and women in trades? Yes _____ No _____

B. If yes, what are these positions? _____

C. If yes, what is your network for seeking such persons out? _____

D. If no, what do you see as the obstacle to employing such persons? _____

6. Would you welcome help in recruiting employees for these non-traditional roles? Yes _____ No _____

7. What is your rate of turnover? _____

8. Of your total number of female employees, approximately how many are forty years of age or over? _____

9. What are the interest areas most women pursue when applying for a job? _____

10A. What are the greatest obstacles women face when applying for employment today?

Please check:

Lack of Current Skills _____	Lack of Transportation _____
Lack of Education _____	Lack of Interviewing Skills _____
Lack of Experience _____	Unwilling to re-locate or Travel _____
Lack of Self-Confidence _____	Other (Please Specify) _____
Lack of Day Care Centers _____	

B. What are the predominant reasons that most women do not fit your job requirements? _____

11A. Have you seen any significant change in women applying for employment in the past few years? Yes _____ No _____

B. If yes, briefly explain what changes you have noted. _____

Bar graph #1 indicates the percentage of women employed by each organization. Clothing stores, banks, and convalescent centers were the largest employers of women of those surveyed. While Paul Kimball Hospital's Alcohol Information Center shows 100% employment of women, it should be noted that their total employment consists of only three people. The high percentage of women employed by light industries such as Torwico Electronics, Wheaton Plastics, and Insulite is explained by the fact that according to the personnel director responses, most women pursue factory and clerical/secretarial work when applying for a job.

A high percentage of the organizations offered managerial, maintenance, and clerical positions, (94%, 77%, and 94% respectively). Other types of work

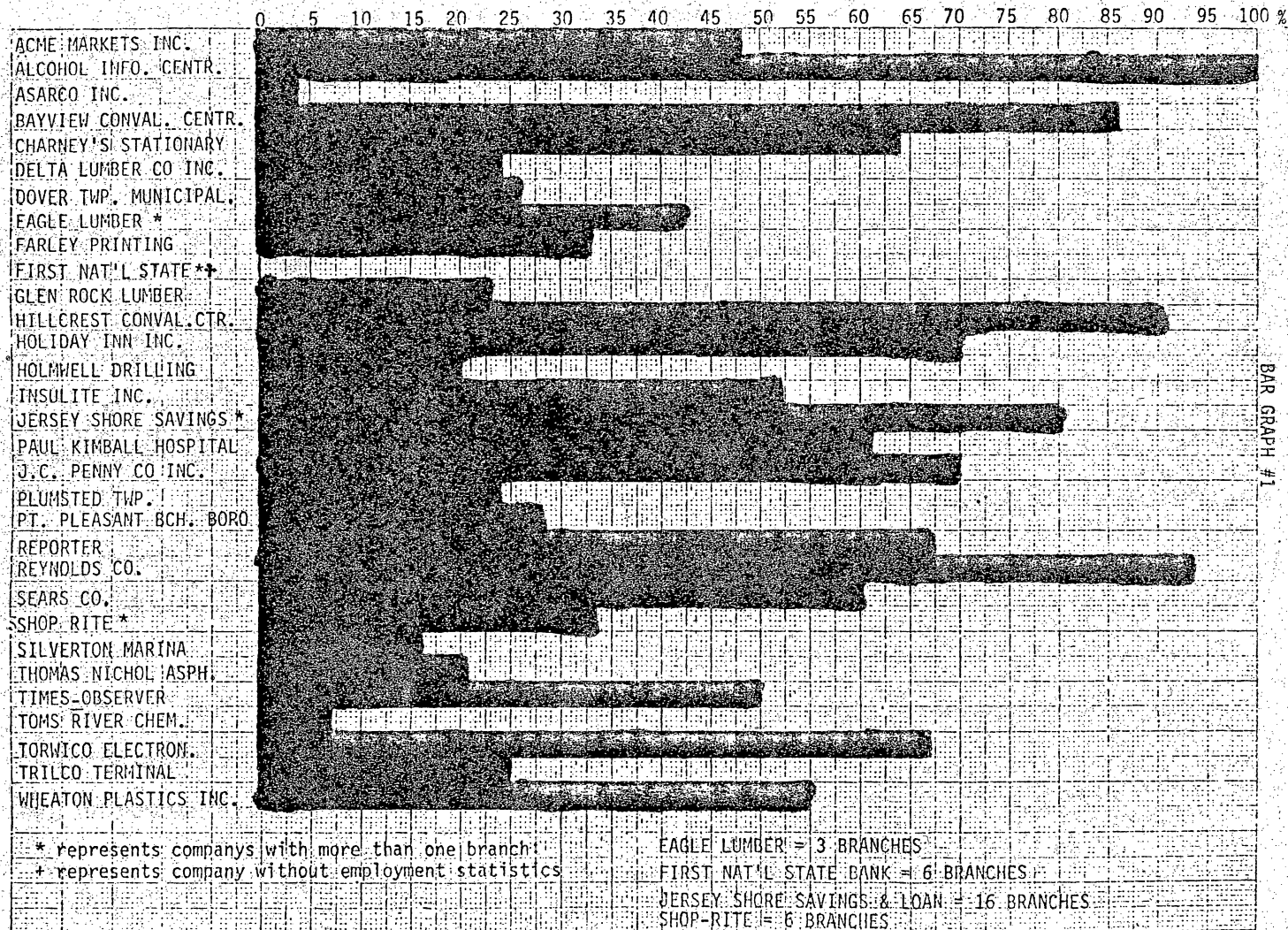
available included:	Professional - 68%	Technical - 55%
	Security - 39%	Sales - 55%
	Other - 61%	

Training for these positions was offered by 84% of the organizations. Seventy-one percent offered training on the job, 10% offered managerial training, and 32% allowed employees to take part in training outside the work place. Five companies had job development programs, creating jobs as the need arose. The types of jobs developed were consistent with positions already existing.

Ninety percent of the respondents indicated that they employed men and women in non-traditional types of positions. However, the examples given of employment positions for women in sales, maintenance, security and keypunch operation were not considered non-traditional by the Directory of People in Non-traditional Jobs, produced under a grant from the New Jersey Department of Education. Women were found to be employed in such non-traditional roles as truckdrivers, presswomen, auto mechanics and executive heads of departments, while men were employed non-traditionally as nurses by the respondents.

The network system for seeking such persons out included the use of newspapers, the New Jersey Employment Service, Ocean County College, vocational-technical schools and from within the organizations themselves. A majority of the personnel directors supported the need for a network system which would enable employers and employees to gain access to one another, and were open to receiving assistance in developing non-traditional work roles for men and women.

PER-CENTAGE OF WOMEN EMPLOYED BY RESPONDENTS



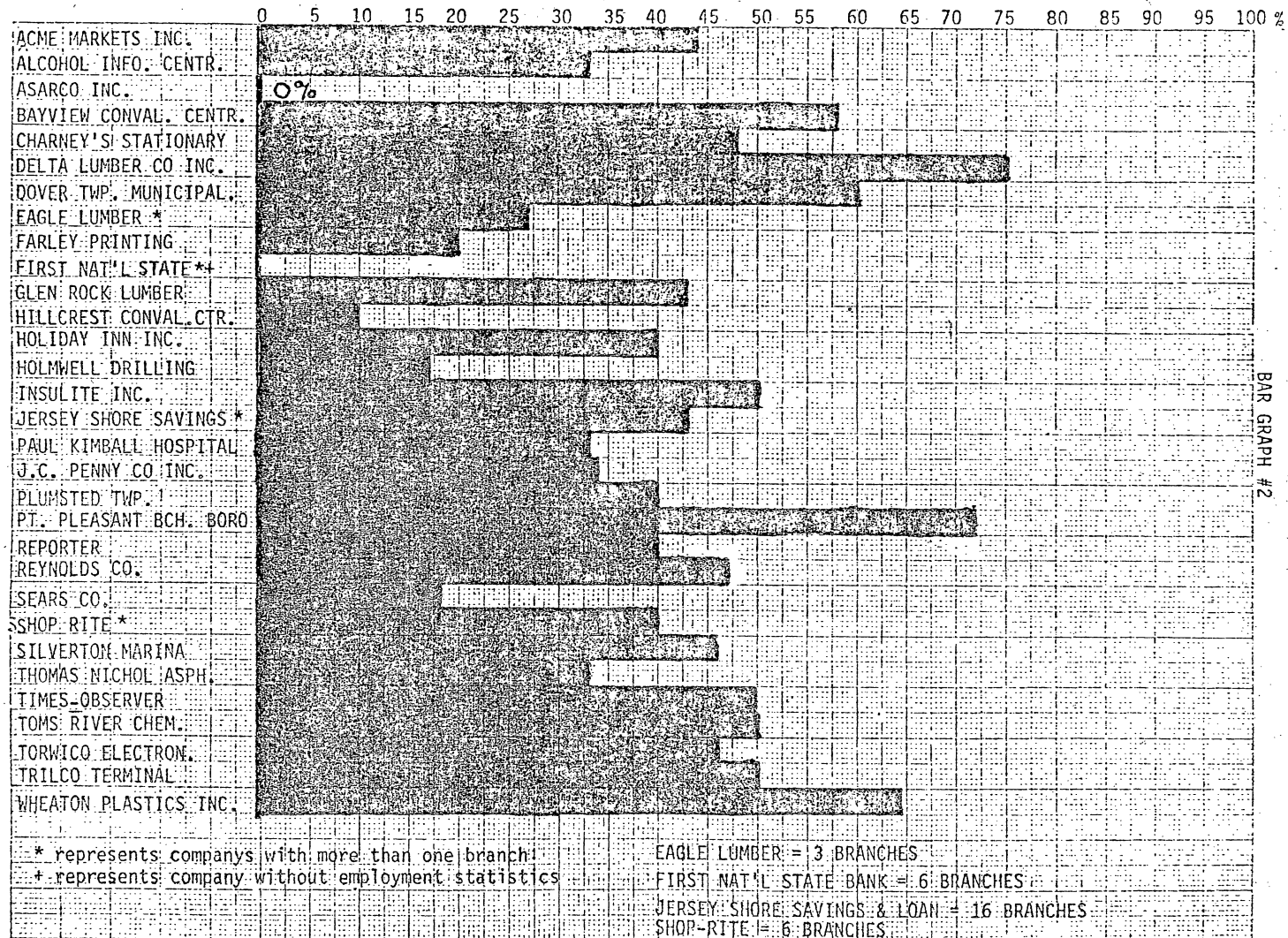
COMPANY	PERCENTAGE OF WOMEN EMPLOYED BY COMPANIES SURVEYED		
	TOTAL EMPLOYED	WOMEN EMPLOYED	PERCENTAGE
Acme	48	23	47.9%
Alcohol Information Center	3	3	100%
ASCARCO	135	5	3.7%
Bayview Convalescent Center	245	211	86.1%
Charney's	33	21	63.6%
Delta Lumber	17	4	23.5%
Dover Township	779	200	25.7%
Eagle Lumber	89	37	41.6%
Farley Printing	15	5	33.3%
First National State Bank	(no statistics available)		
Glen Rock Lumber	61	14	22.9%
Hillcrest Convalescent Center	80	72	90%
Holiday Inn	120	84	70%
Holmwell Drilling	30	6	20%
Insulite	23	12	52.2%
Jersey Shore Savings & Loan Assoc.	165	132	80%
Paul Kimball Hospital	735	450	61.2%
J.C. Penney's	250	175	70%
Township of Plumsted	42	10	23.8%
Boro of Point Pleasant Beach	64	18	28.1%
Reporter	150	100	66.7%
Reynolds	16	15	93.7%
Sears	372	224	60.2%
Shop Rite	600	200	33.3%
Silverton Marine	71	11	15.5%
Thomas Nichol Asphalt Co.	30	6	20%
Times - Observer	120	60	50%
Toms River Chemical	1260	92	7.3%
Torwico	237	158	66.7%
Trilco Terminal	52	13	25%
Wheaton Plastic	67X 100	55	55%

Bar graph #2 shows the percentage of women employed by the respondents that are forty years of age or over. The chart indicates a substantially large number of women in this age group.

The third graph shows the employers' perceptions of the greatest obstacles faced by women when applying for employment today. Their responses point to an overwhelming need for transportation facilities. The need for additional education, day care facilities, and greater self-confidence on the part of the women interviewed was also noted. The predominant reasons that most women did not meet the personnel directors' job requirements were their lack of experience, lack of skills, inability to meet the physical requirements of the job, inflexibility in working irregular hours, and unwillingness to work for salary offered.

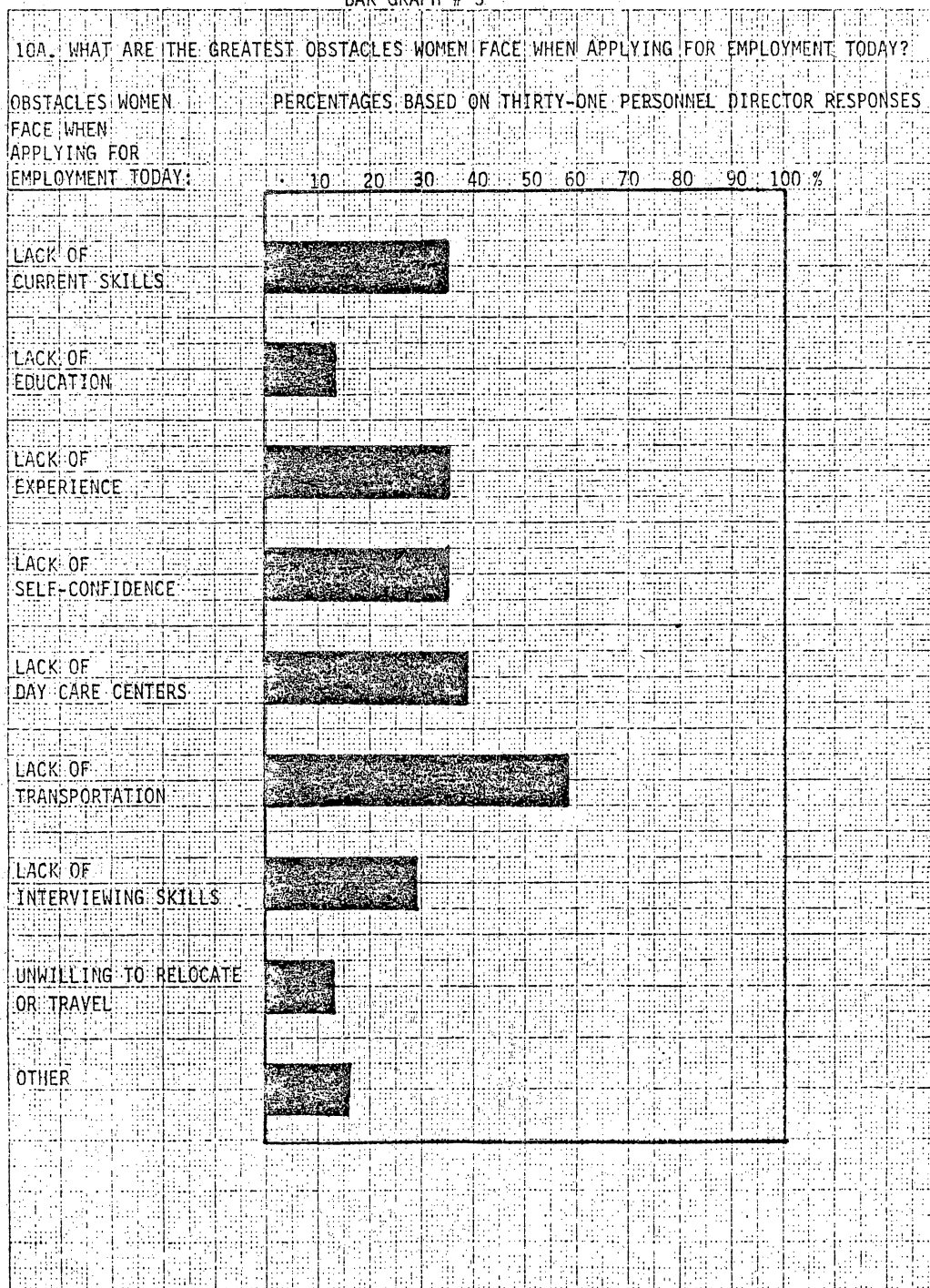
The majority of personnel directors saw significant and positive changes in women applying for employment today. These changes included application by a greater number of displaced homemakers, professional women, and women applying for managerial positions, with an overall increase in the number of women applying for employment today. Many of the personnel directors felt that the women seeking employment were becoming more assertive and more self-confident, and were better educated, better dressed, and better qualified than they had been in the past.

PERCENTAGE OF FEMALE EMPLOYEES APPROXIMATELY FORTY YEARS OF AGE OR OLDER



BAR GRAPH #2

BAR GRAPH # 3



PERSONNEL DIRECTOR QUESTIONNAIRE CONCLUSION

The Personnel Director Questionnaire results bring to light the many complexities involved in the employment of women in Ocean County. According to the New Jersey Department of Labor and Industry, the county's unemployment rate was 8.9% in 1977. Job opportunities are limited due to the physical lay-out of the county. Tourist-related jobs are the primary source of income in many coastal communities and are of a seasonal nature. Non-manufacturing activities, such as government, education and health related employment are also important in the county, but according to the questionnaire responses, the majority of women in the county seek work in the traditionally lower paid positions within these occupations. It should also be noted that a large percentage of women employed by the respondents were forty years of age or older, with potentially large numbers of these women lacking the necessary skills and education for upward job mobility.

Many areas in the county are remote from transportation facilities, and this resulting lack of mobility was agreed by the directors to be one of the greatest obstacles faced by women when applying for employment today. Lack of day care was another factor to be considered with only forty facilities available in the county. According to the Existing Facilities Survey done by the Day Care Committee of the Ocean County Advisory Commission on the Status of Women, only eight of these facilities are publicly funded and have a total waiting list of 170 children.

The majority of women employed in the county work in factory and clerical type occupations which, according to the 1970 Census, pay only half as well as professional, technical and craft work. However, 84% of the organizations interviewed offered some kind of training for these positions, with 10% specifically offering managerial training. This, coupled with the high percentage of directors welcoming help in recruiting employees for non-traditional roles, points to a need for training, counseling and the development of a more extensive network

system to enable employers and employees to gain access to one another.

The Employment Committee hopes to work with the CETA project staff in the areas of job development for women and coordination of the network system, utilizing the Talent Bank Committee's files and the results of the Personnel Director Questionnaires, in cooperation with the U.S. Department of Labor.

AFFIRMATIVE ACTION COMMITTEE

The Affirmative Action Committee was formed on September 13, 1978 as a subcommittee of the Employment Committee. It is a joint venture of the Ocean County Advisory Commission on the Status of Women and the Ocean County League of Women Voters, and is co-chaired by Jane C. Stone and Gail M. Saxer.

The Committee has been charged with the responsibility of reviewing the Affirmative Action plans of the twenty-seven school districts in Ocean County, which were mandated under Title 6 of the State of New Jersey, Department of Education, Equality in Educational Programs, and Title IX of the Federal Education Amendments of 1972.

A workshop is contemplated in early 1979 for persons interested in reviewing the contents of the plans, with the purpose of ascertaining that the basic procedural requirements have been met. The review will then focus in depth on the Employment/Contract Practices section of the plans. After this review, the district Affirmative Action officers will be interviewed as to the progress of, and the problems with Affirmative Action implementation in their districts. The Committee hopes to have the aid of an administrative analyst to coordinate and assist them in this endeavor.

The Affirmative Action Committee will compile a report on findings based on the evaluation of plans and interviews with the Affirmative Action officers. This report will be submitted to the Ocean County Advisory Commission on the Status of Women.

certified social workers, (number) social workers, and (number) social work associates, all of whom shall be licensed under the provisions of this act, and (number) others as seemed necessary, except that members comprising the board as first established shall be persons who are eligible for licensing as certified social workers, social workers, and social work associates, (and others) as provided in this act, and their initial term should be for at least two years from the date of initial passage of this act.⁴

b. The term of office of each member of the board shall be for three years, provided, however, that of the members first appointed, (number) shall be appointed for terms of two years, (number) shall be appointed for terms of three years, and (number) shall be appointed for terms of four years.

c. Members of the board can be removed from office for cause in the manner provided by the statutes of (name of state) for public officials who are not subject to impeachment.

d. Compensation for members of the board shall be (to vary with local requirements and compensation afford similar boards established for the regulation of other professions).

e. The organization, meetings, and management of the board shall be established in regulations promulgated by the state regulatory agency.

f. In addition to the duties set forth elsewhere in this act, the board shall

1. Recommend modifications and amendments to this act to the governor (or another appropriate state agency).

2. Recommend standards of professional practice for certified social workers, social workers, and social work associates to the state regulatory agency.

3. Recommend modifications of and amendments to its rules and regulations to the state regulatory agency.

⁴ The board might include certified social workers, social workers, social work associates, consumers of service, board members of voluntary agencies, social work and social service educators, and so forth. It is most important, at least, that there be representation on the board of those licensed at the levels specified in the statute.

4. Recommend prosecutions for violations of this act to the appropriate district attorneys.

5. Act in an advisory capacity to the state regulatory agency in all matters pertaining to the administration and purposes of this act.

6. Recommend to the (attorney general/state attorney) bringing of civil actions to seek injunctions and other relief against violations of this act.

11. Grounds for Disciplinary Proceedings

a. The state regulatory agency may refuse to renew, may suspend, or may revoke any license issued under this act on proof after a hearing that the person⁵

1. Is guilty of conduct defined as a misdemeanor in this act.

2. Has been convicted of a misdemeanor under this act.

3. Has been convicted in this or any other state of any crime that is a felony in this state.

4. Has been convicted of a felony in a federal court.

5. Is unable to perform the functions of his license by reason of (a) mental illness, (b) physical illness, or (c) addiction or intoxication.

6. Has been grossly negligent in the practice of social work.

7. Has violated one or more of the rules and regulations of the state regulatory agency.

b. These grounds for disciplinary proceedings may be waived by the state regulatory agency on the advice and counsel of the State Board of Examiners. (This item may be inserted *only* if state law governing professional licensing permits it.)

12. Disciplinary Proceedings

a. Hearings are to be conducted by a three-man

⁵ This section has been inserted, since most states require this type of section with respect to their professional regulation requirements. Social work practice is oriented to the concept of the rehabilitation of persons. No one should be denied licensing if he is determined to be fit and competent to practice. Your state may have a more lenient set of grounds for disciplinary proceedings in its professional regulations; by all means, use them. The wording suggested in this section is extracted from a typical existing state statute.

panel of the board. The recommended decision will be determined by majority vote.⁶

b. Reasonable notice (a minimum of twenty days) of charges shall be given and shall be served personally or by registered mail.

c. The accused shall have the right to counsel.

d. The accused shall have the right to cross-examination of witnesses.

e. There shall be a stenographic record of the proceedings.

f. The accused shall have the right to call witnesses on his own behalf.

g. The accused shall have the right to subpoena witnesses and documents.

h. The state regulatory agency shall review the recommended decision made by the board and shall render the decision, but penalties recommended by the board cannot be increased by the state regulatory agency.

i. Judicial review of the refusal to allow an examination, refusal to grant a license, and review of disciplinary hearings shall be in accordance with state statutes regulating judicial review of administrative action.

13. Renewal of Licenses

a. All licenses shall be effective when issued by the state regulatory agency.

b. The license of certified social worker, social worker, and social work associate shall expire on the last day of the month in the calendar year that is exactly two years from the calendar year and month in which the license is issued.

c. A license may be renewed by the payment of the renewal fee as set by the board in accordance

⁶ Because state administrative laws and practices vary considerably as does the nature of regulation of professions within each state, only the safeguards to be included are listed in this section.

with Section 14 of this act and by the completion and submission—on a form provided by the state regulatory agency—of a sworn statement by the applicant that he is currently engaged in the practice of social work and that his license has been neither revoked nor is currently suspended.

d. The application for renewal may be made within one year of the expiration of the license.

e. At the time of license renewal, each applicant shall present satisfactory evidence that in the period since the license was issued, he has completed the continuing education requirements specified by the state board of examiners.

14. Fees

Fees shall be as established and published by the Board of Examiners.⁷

All fees under this act are nonrefundable and shall be disposed of (in accordance with your own state's practice).

15. Privileged Communications

No licensed certified social worker, social worker, or social work associate or his employee may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services in his professional capacity to those persons except

a. With the written consent of the person or persons or, in the case of death or disability, of his own personal representative, other person authorized to sue, or the beneficiary of an insurance policy on his life, health, or physical condition.

b. That a licensed certified social worker, licensed social worker, or licensed social work associate shall not be required to treat as confidential a

⁷ When possible, do not designate fees. The Board of Examiners will have to return to the state legislature should it decide that a higher or lower fee is indicated. The board should establish and publish its own schedule.

communication that reveals the contemplation of a crime or a harmful act.

c. When the person is a minor under the laws of this state and the information acquired by the licensed certified social worker, licensed social worker, or licensed social work associate indicates that the minor was the victim or subject of a crime, the licensed social worker, the social worker, or the social work associate may be required to testify fully in any examination, trial, or other proceeding in which the commission of such a crime is the subject of inquiry.

d. When the person waives the privilege by bringing charges against the licensed certified social worker, the social worker, or the social work associate.

16. Separability Clause

If any section of this act or any part thereof shall be judged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of any other section or part thereof.

