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*Memo*

June 11, 1985

TO: Members of the Commission on Equal Opportunity

FROM: Stuart Handmaker and Robert Schroyer, Co-Chairs

RE: Enclosed background materials for June 23 Meeting

As you are aware from the agenda that was sent out on May 31, the next meeting of the Commission on Equal Opportunity will be held on Sunday, June 23, from 1:45 - 4:45 PM at the Conference Center of the UJA-Federation of Greater New York, 130 East 59th Street. If you haven't already returned the form indicating that you will attend, please do so as soon as possible.

The following background materials are enclosed for your information:

Affirmative action:

- April 2, 1985 Justice Department press release and sample letter sent to 51 jurisdictions
- NJCRAC Policy on affirmative action
- statement of Howard Friedman, president of American Jewish Committee
- joint statement by Rabbi Alexander Schindler, president, Union of American Hebrew Congregations and Dr. Benjamin Hooks, executive director, NAACP
- April 29, 1985 New York Times article on Justice Department suit against Indianapolis
- April 30, 1985 Washington Post article on Justice Department suit against Indianapolis
- May 1, 1985 New York Times article on Indianapolis' plan to defend against suit
- May 2, 1985 New York Times article on NAACP suit against Justice Department
- May 4, 1985 Washington Post article on introduction of Congressional legislation to prevent the Justice Department from reopening consent decrees
- May 4, 1985 New York Times article on response of state and local governments

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June 11, 1985

- May 9, 1985 New York Times article on modification of San Diego consent decree
- May 21, 1985 Washington Post article on Justice Department suit against Chicago
- May 15, 1985 New York Times op-ed piece on Indianapolis' defense of hiring plan
- May 25, 1985 Washington Post article reporting on survey of state and local governments' response

Refugee and Immigration Policy

- April 17, 1985 and May 24, 1985 New York Times articles on immigration legislation proposed by Sen. Alan Simpson
- May 6, 1985 Washington Post article on Simpson immigration bill
- American Jewish Committee press release and letter to Sen. Simpson on proposed legislation
- March 17, 1985 New York Times article on proposed changes in U.S. rules and procedures for granting asylum to aliens
- May 27, 1985 New York Times question-and-answer on asylum
- February 16, 1985 Congressional Quarterly article on Administration policy on aliens
- March 16, 1985 Congressional quarterly article on rights of aliens
- American Jewish Committee statements on Salvadoran asylum seekers and Cambodian refugees
- HIAS resolutions on Southeast Asian "boat people" and adjustment of status for Haitians

Equal Pay for Jobs of Comparable Worth

- February 14, 1985 New York Times article on survey by National Committee on Pay Equity
- May 9, 1985 New York Times and May 11, 1985 Washington Post articles on Los Angeles city council approval of "comparable worth" contract for city employees
- March 27, 1985 New York Times article on U.S. Commission on Civil Rights study rejecting "comparable worth"
- April 2, 1985 New York Times article on U.S. Commission on Civil Rights vote rejecting "comparable worth"
- April 29, 1985 New York Times article on NOW focus on pay equity

Public Education

- proposed revision of public education Joint Program Plan draft

bp

enclosures

EO,EO-FYI



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, APRIL 2, 1985

CR
202-633-2019

The Department of Justice today released a list of 51 jurisdictions that have been notified that existing decrees in employment discrimination cases require modification to comply with the Supreme Court decision in the Memphis firefighters' case.

The release was made in response to requests under the Freedom of Information Act after a number of jurisdictions made public letters received from the Department of Justice.

Jurisdictions notified were:

Alexandria, Louisiana (police and fire)

Arkansas State Police

Baltimore County, Maryland

Boston, Massachusetts (water and sewer)

Boston Fire Department

Buffalo, New York, Fire Department

Buffalo Police Department

Chicago Fire Department

Chicago Police Department

Cincinnati, Ohio, Police Department

Cobb County, Georgia, Public Schools

Euclid, Ohio, Board of Education

Farmington, New Mexico

(MORE)

Florida Highway Patrol
Ft. Lauderdale, Florida (police and fire)
Garfield Heights, Ohio, School District
Indianapolis, Indiana (police and fire)
Jackson, Mississippi
Kansas City, Kansas, Board of Public Utilities
Laurel, Mississippi, Fire Department
Los Angeles Fire Department
Los Angeles Police Department
Maryland State Police
Maryland Transportation Authority
Memphis, Tennessee
Miami, Florida
Milwaukee County, Wisconsin, Sheriff
Milwaukee Fire Department
Milwaukee Police Department
Nashville-Davidson, Tennessee (police and fire)
New Jersey Fire Department (12 cities)
New Jersey State Police
New York State Police
Norfolk, Virginia (police and fire)
North Carolina Highway Patrol
Ohio State Highway Patrol
Omaha, Nebraska, Police Department
Onondaga County, New York, Sheriff
Philadelphia Police Department
Pinellas County, Florida

(MORE)

Pompano Beach, Florida

San Diego, California

San Diego County, California

San Francisco Police Department

Schiller Park, Illinois, Police Department

St. Louis, Missouri, Fire Department

Statesville, North Carolina (police and fire)

Syracuse, New York (police and fire)

Waukesha County, Wisconsin, Sheriff

Wichita Falls, Texas, Police Department

Woburn, Massachusetts, School Committee

Each jurisdiction received a letter similar to the one
attached.

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U.S. Department of Justice

WBR:JWN:mdw
DJ 170-7-21

JAN 10 1985

Randel Miller, Esquire
Assistant Attorney General
Justice Building
Little Rock, Arkansas 72201

Re: United States v. Arkansas, et al.
(Arkansas State Police), CA LR-C-78-25

Dear Mr. Miller:

This Division has conducted a review of consent decrees and other court orders entered in our active cases prior to August, 1981, to determine whether the Supreme Court's decision in Firefighters Local Union No. 1784 v. Stotts, 104 S. Ct. 2576 (1984), requires a modification in the terms of any such consent decrees or orders.

In our view, the Supreme Court's decision in Stotts precludes persons who are not actual victims of discrimination from receiving preferential treatment as a part of any remedial measures designed to overcome the effects of past discriminatory policies. Although the specific court order overturned by the Supreme Court in Stotts concerned preferences in layoffs, the reasoning and holding of the Court was based on the purposes and limits of judicial authority under Section 706(g) of Title VII of the Civil Rights Act of 1964, as amended. The Court reviewed the legislative history of Section 706(g) and found that Title VII does not permit the ordering of racial quotas by a court; and that Congress intended to limit the courts' authority in that regard. In particular, the Court ruled that under Title VII "a court was not authorized to grant preferential treatment to non-victims." Slip Op. p. 18, see generally, pp. 16-19 (copy enclosed). Therefore, the Court's decision applied to preferential treatment in hiring or promotion as well as layoff, and prevents a court from ordering such remedies.

With respect to this case, to the extent that the consent decree can be read as granting or contemplating preferential treatment to non-victims of discrimination, it is, we believe plainly contrary to Stotts. We, therefore, recommend filing

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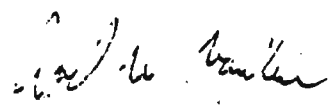
with the court a joint motion to modify the consent decree to eliminate any conflict between it and the Stotts decision. In our view, the best and simplest way of accomplishing this is to substitute a recruitment program for the interim goals in the decree, and to couple that program with provisions that ensure against discriminatory hiring practices. We have enclosed a copy of the consent decree entered in United States v. Georgia, et al. which contains the language of the type we contemplate. Attachment A contains the kind of provisions we would propose to also include in our modified consent decree, in order to reference the Stotts decision.

We would, of course, be willing to discuss with you alternative methods of modifying the consent decree to make clear that the decree does not require or authorize preferential treatment to any person on the basis of race or sex.

Please contact me so that we may discuss this matter.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By: 

Joel W. Nomkin
Attorney
Employment Litigation Section

Enclosure

ATTACHMENT A

This consent decree is intended to and should be interpreted in a manner consistent with the decision of the Supreme Court in Firefighters Local Union No. 1784 v. Stotts, 104 S.Ct. 2576 (1984) so as not to require or permit any employment preference or benefit other than the specific relief provided to the individuals referred to in paragraph 16 of this decree. In accord with that decision, the provisions of this consent decree neither obligate the State of Arkansas nor do they provide authority or permission to the State of Arkansas to grant any preference in employment to any other individual on the basis of race or sex.

NJCRAC Policy on Affirmative Action
(originally adopted in June 1973, and amended in 1975 and 1981)

We recognize that past discrimination and other deprivations leave their mark on future generations: that, in the words of the late President Lyndon B. Johnson, "Until we overcome unequal history, we cannot overcome unequal opportunity."

Members of racial, religious, ethnic and other groups have all too often been the victims of such unequal history in our country. American Indians are the victims of the most severe discrimination. By far the largest of the groups are the blacks, whose history in America began in slavery and has been marred—in law as well as in practice—by denial, deprivation and segregation solely because of race. Many Spanish-speaking persons, including Puerto Ricans, Mexican-Americans and other Hispanics, also are grossly discriminated against, as members of a group.

Sex discrimination, too, has long been practiced in our society, depriving women of equality of opportunity.

A just society has an obligation to seek to overcome the evils of past discrimination and other deprivations—inferior education, lack of training, inadequate preparation—by affording special help to its victims, so as to hasten their productive participation in the society.

If it fails to do so, our society will harbor inequality for generations, with attendant increases in inter-group hostility. The security of Jews as a group will not be immune from those consequences.

We reaffirm our support of affirmative actions, by both government and the private sector, that provide:

- a) Compensatory education, training, retraining, apprenticeship, job counseling and placement, financial assistance and other forms of help for the deprived and disadvantaged, to enable them as speedily as possible to realize their potential capabilities for participation in the main stream of American life. The sole criterion of eligibility for such special services must be individual need; the services must not be limited or offered preferentially on the basis of race, color, national origin, religion or sex.
- b) Intensive recruitment of qualified and qualifiable individuals, utilizing not only traditional referral sources, but all those public and private resources that reach members of disadvantaged groups.
- c) An ongoing review of established job and admissions requirements, including examinations and other selection methods, to make certain that they are performance-related and free of bias.

Among the relevant qualifications for certain posts in certain circumstances, a special ability to deal with a particular race or religion or ethnic group or sex may be one. However, we reject the proposition that race, color or ethnicity is a qualification or disqualification for any post.

Merit and Qualification: We believe that individual merit is the touchstone of equality of opportunity. At the same time, we recognize that individual merit is not susceptible of precise mathematical definition and that test scores, however unbiased, are not the only relevant criteria for determining merit and qualifications. Also relevant in determining merit and qualifications are such factors as poverty, cultural deprivation, inadequate schooling, discrimination or other deprivation in the individuals' experience, as well as such personal characteristics as motivation, determination, perseverance and resourcefulness; and we believe that all such factors should be taken into account.

Quotas: Experience has shown that implementation of affirmative action programs has resulted in practices that are inconsistent with the principle of nondiscrimination and the goal of equal opportunity such programs are designed to achieve. We oppose such practices, foremost among which is the use of quotas and proportional representation in hiring, upgrading and admission of members of minority groups.*

We regard quotas as inconsistent with principles of equality; and as harmful in the long run to all, including those groups, some individual members of which may benefit from specific quotas under specific circumstances at specific times.

The government is responsible for vigorously enforcing affirmative action programs. It is equally responsible for preventing abuses in such programs. Measures to help meet these responsibilities must be built into all affirmative action programs. We urge that steps be taken to assure that field personnel are familiar with this policy and comply with its provisions. Grievance procedures should be set up to provide speedy and effective adjudication of all complaints.

We recognize the need for numerical data and statistical procedures to measure and help assure the effectiveness of affirmative action programs. However, such data and procedures must not be used to conceal the application in fact of quotas or other discriminatory practices. Such information must be gathered and compiled without infringing upon the principles of privacy and nondiscrimination.

Periodic enumerations of work forces or student bodies, based on observation or other techniques, may properly be used to evaluate affirmative action policies, provided that 1) questions concerning race, color, ethnicity, place of birth or religion do not appear on application forms, 2) individuals are at no time required to identify themselves by any of the above, and 3) no records of any individual's race, religion or ethnic origin are maintained by an employer or educational institution.

*The 1984 NJCRAC Plenary Session requested that NJCRAC review the question of court orders directing the use of quotas for specified time periods in cases in which this is deemed by the court the only available remedy for systematic, sustained discrimination. This position was rejected by the NJCRAC Executive Committee in October, 1981.

STATEMENT
OF
HOWARD FRIEDMAN, PRESIDENT
AMERICAN JEWISH COMMITTEE

In response to its reading of the decision of the United States Supreme Court in Firefighters Local Union No. 1784 v. Stotts, the Department of Justice has asked approximately fifty cities, counties and states to seek modification of affirmative action decrees which employ numerical goals and/or quotas in order to increase employment of minorities and women. These decrees relate principally to police and fire departments.

This action by the Department of Justice is based upon its conviction that the Stotts ruling restricts "make-whole relief only to those who have been actual victims of illegal discrimination." The holding of Stotts is that an employer may not lay off employees with greater seniority in favor of employees with lesser seniority, in the face of a bona fide seniority system, merely for the purpose of preserving a certain racial percentage in the work force. The effect of the ruling on initial hiring practices is not clearly stated in the opinion and the language relied upon by the Department of Justice is not dispositive of the larger question.

The action of the Department of Justice has been perceived as an overly expansive interpretation of Stotts and has been productive of serious communal stress in communities which have been operating under existing court decrees. Most of the governmental units affected have challenged the Justice Department's position and have rejected the request to seek modification of the applicable court orders and consent decrees.

The American Jewish Committee is concerned over the action of the Justice Department not only in its inter-group relations aspect, but also in the manner in which the Department is seeking further development and clarification of the law. We have long made clear our profound opposition to racial

and minority quotas and we reiterate that position. We have also expressed our support of the prudent use of responsible, realistic and flexible goals and timetables to measure affirmative action progress. We do so as a result of our conviction that it is sound public policy to advance growing numbers of minority people in the workforce generally, particularly in areas not historically characterized by significant minority employment. The action of the Justice Department sweeps into a common ambit decrees which employ goals and timetables, as well as decrees which employ quotas. Hence the Department's action blurs the important distinction between the two.

We support responsible efforts to secure clarification of the law in this area. That objective is not served by dragnet approaches which overstate the scope of existing decisions and seek retroactively to change existing decrees based upon an assumed change in the law. It would be far more effective and less disruptive of sensitive communal concerns to pursue the development of the law in this area in the traditional fashion -- namely, a case-by-case development of the contours of the applicable law. And the law is not yet where the Justice Department considers it to be, as underscored by the fact that the Supreme Court has, since Stotts, declined to review several lower court rulings which are in apparent conflict with the Justice Department's expansive interpretation of Stotts.

As a practical matter, we believe that the drive by the Justice Department to reopen these settled cases will reopen old wounds, and will have the effect of increasing tensions and disrupting social peace in communities throughout the country. We urge the Justice Department to reconsider this action. Instead, we recommend that the Department press its views vigorously in future cases where quota remedies are at issue.

Joint Statement by

Dr. Benjamin L. Hooks of the NAACP

and Rabbi Alexander Schindler of the UAHC

We are pleased to report to you, after an historic two-day conference of 80 Black and Jewish leaders from all across the country, that the traumas which our communities sustained in recent years are in the process of being overcome and that Black and Jewish leadership in our organizations is determined to work together on the urgent issues which threaten civil rights and social justice in America.

The Kivie Kaplan Human Relations Institute, a joint instrumentality of the National Association for the Advancement of Colored People (NAACP), the oldest and largest civil rights organization, and the Union of American Hebrew Congregations (UAHC), the central body of 800 Reform synagogues in America, organized this conference. For two days, beginning on May 5th, the 10th anniversary of Kivie Kaplan's death, national and regional staff of the organizations, together with Black and Jewish leaders from 18 target cities, examined issues of mutual concern and discussed ways to strengthen ties between the two communities. Among the issues of shared concern are the destruction of social programs by the Reagan budget; the attempted dismantling of civil rights enforcement by the U.S. Justice Department; threats to separation of Church and state; the security of the State of Israel; and the desperate need for job programs, especially for minority young people.

We came together for this conference at a time when events of great significance to us were taking place. Together, we spoke out against the evil of apartheid in South Africa and against the persecution of Jews in the Soviet Union. Together we opposed President Reagan's visit to Bitburg. This

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afternoon we and the entire Kivie Kaplan Conference demonstrated at the Justice Department to bear witness to our profound opposition to the systemic effort of the Justice Department to unravel civil rights enforcement, to gut affirmative action programs which are functioning smoothly in Indianapolis and many other communities with the full support of city officials and the community. For the Administration to impose its blind ideological obsession upon American cities against their wishes is dangerous and repressive. It is certain to open old wounds, to kindle conflict and tension, and to undermine good-faith plans patiently and carefully negotiated over many years in scores of communities.

In the course of its deliberations, the conference found that Black-Jewish cooperation in local communities continues and expands throughout America. To further this cooperation, the NAACP and the UAHC agreed on a program of action to be implemented through the Institute which will include:

- 1). A joint legislative program dealing with South Africa, economic justice, church/state separation and many other issues;
- 2). An effort to develop programs to send black and Jewish youngsters to Africa and Israel on specially prepared educational missions;
- 3). A plan to bring black and Jewish young people together in joint programmatic activities;
- 4). Continued strong support for affirmative action, including programs utilizing goals and timetables; and
- 5). A plan to extend and expand Black-Jewish dialogue in local communities utilizing the model we used at our conference.

At the close of the conference, the participants unanimously agreed that, upon returning to their communities, they would commit themselves to accelerating Black and Jewish cooperative endeavors on local, state and national levels to effect societal change.

U.S. ACTS TO STOP QUOTAS ON HIRING IT ONCE SUPPORTED

INDIANAPOLIS A TEST CASE

Affirmative Action Plans Won in Earlier Administrations Are Targets in Court

By PHILIP SHENON

Special to The New York Times

WASHINGTON, April 29 — For the first time, the Justice Department has taken a city to court to overturn existing quotas for hiring women, blacks and Hispanic workers.

The department filed a motion today to modify the affirmative action programs used by the Police and Fire Departments in Indianapolis. City officials indicated they would oppose the action.

The Federal move is part of an effort by the Reagan Administration to bring affirmative action plans around the country into line with its interpretation of a 1984 Supreme Court decision upholding the seniority rights of a group of white firefighters who faced layoffs in Memphis.

The Administration argues that the Court's decision in the layoff case also strikes down preferential quotas in hiring and promotion, an interpretation challenged by civil rights groups.

More Actions Envisioned

Earlier this year, the Justice Department urged 50 states, counties and cities, including Indianapolis, to modify their affirmative action plans voluntarily to remove numerical goals and quotas.

A spokesman, John Wilson, said the department had received responses from all the jurisdictions, "some positive some negative." He said that in instances where local officials refused to change the plans, the department might take court action without their approval.

But tonight the Associate Attorney General for civil rights, William Bradford Reynolds, said in a written statement: "This filing should not be read or understood as any effort on our part to take the jurisdictions to court. We are still interested in discussing the matter with the jurisdictions, and that effort is ongoing. We hope we have little occasion to take this approach in the other matters."

Mayor William H. Hudnut of Indianapolis said through an aide today that the city would try to block attempts to modify the hiring plan, embodied in court-approved agreements that settled a Justice Department lawsuit

Justice Dept. Moves to Overturn Indianapolis Plan for Job Quotas

Continued From Page A1

against the City of Indianapolis in 1978.

"We remain committed to what we have," said the mayoral aide, John W. Samples. The consent decrees, he said, "have had a positive effect, both on the forces and in dealing with certain portions of the minority community."

He said, for example, that the plan had raised black representation in the 750-member Fire Department to more than 13 percent from 8 percent.

Mr. Reynolds said the decrees must be changed because of the Supreme Court ruling in the Memphis case, that judges could not interfere with a legitimate seniority system even if blacks had to be laid off.

The Court has not directly addressed the question of whether public employers may use goals and quotas in hiring and promotion.

Last year, after firefighters in the city of Washington had sued to block promotions under a proposed affirmative action plan, the Justice Department filed suit charging that both the hiring and promotion aspects of the plan were illegal.

In January, the department filed a motion in a Buffalo case, after a group of city employees who were not members of minority groups challenged the hiring goals in court papers.

But the motion filed today in Federal District Court in Indianapolis is the first time the Government has, in the absence of a local dispute, initiated court action aimed at overturning existing hiring goals that were adopted as the result of legal moves by the Justice Department under a previous administration.

The motion filed in Federal District Court in Indianapolis today would modify the agreement that now requires the city to fill at least a quarter of its training classes for police officers and firefighters with black applicants.

It would also alter a decree forcing the Indianapolis Police Department to appoint women to at least 20 percent of the openings for officers.

Under the Justice Department's plan, the quotas would be replaced with an enhanced recruitment policy for women and minority groups "coupled with procedures that insure nondiscriminatory selection."

The Reagan Administration has argued that it is inequitable for a court to order the hiring of people who may never have suffered job discrimination, just because they are of the same race as people who did suffer discrimination.

The plans are called for in court decrees that resulted from lawsuits filed by the Justice Department under previous Administrations.

The court action in Indianapolis today came after more than a month of negotiation between city officials and the department.

The Justice Department has urged

these agencies in the New York metropolitan area to modify their affirmative action plans: the New York State Police; the Syracuse Police and Fire Departments; the New Jersey State Police, and the Fire Departments of Atlantic City, Camden, East Orange, Elizabeth, Hoboken, Jersey City, New Brunswick, Passaic, Paterson, Plainfield and Trenton, all in New Jersey.

Following is a list, issued April 3 by the Justice Department, showing other jurisdictions that have been told to modify their affirmative action plans. Where no agency is specified, the decree covered numerous units of state or local government.

Alexandria, La., Police and Fire Departments.
Arkansas State Police.
Baltimore County, Md.
Boston Water and Sewer Agencies.
Boston Fire Department.
Cincinnati Police Department.
Cobb County, Ga., Public Schools.
Euclid, Ohio, Board of Education.
Farmington, N.M.
Florida Highway Patrol, Fort Lauderdale, Fla., Police and Fire Departments.
Garfield Heights, Ohio, School District.
Jackson, Miss.
Kansas City, Kan., Board of Public Utilities.
Laurel, Miss., Fire Department.
Los Angeles Police and Fire Departments.
Maryland State Police.
Maryland Transportation Authority.
Memphis.
Miami.
Milwaukee County, Wis., Sheriff.
Milwaukee Police and Fire Departments.
Nashville and Davidson County, Tenn., Police and Fire Departments.
Norfolk, Va., Police and Fire Departments.
North Carolina Highway Patrol.
Ohio State Highway Patrol.
Omaha Police Department.
Onondaga County Sheriff, upstate New York.
Philadelphia Police Department.
Pinellas County, Fla.
Pompano Beach, Fla.
San Diego, Calif., City and County.
San Francisco Police Department.
Schiller Park, Ill., Police Department.
St. Louis, Mo., Fire Department.
Statesville, N.C., Police and Fire Departments.
Waukesha County, Wis., Sheriff.
Wichita Falls, Tex., Police Department.
Woburn, Mass., School Committee.

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Indianapolis Hiring Goals Draw Fire

Justice Dept. Takes Affirmative Action Dispute to Federal Court

By Loretta Tofani
Washington Post Staff Writer

The Justice Department, over the objections of Indianapolis, filed a motion in federal court yesterday to eliminate hiring goals from the affirmative action consent decrees the department had signed with the city's police and fire departments.

Earlier this year, the Justice Department asked Indianapolis and 49 other jurisdictions to join it in asking courts to modify their consent decrees. Indianapolis refused, saying it did not agree with the department's interpretation of a Supreme Court decision last year. In that

case, *Firefighters Local Union No. 1784 v. Stotts*, the department said the court ruled that it was unlawful to give preference in hiring to persons who were not the actual victims of a jurisdiction's discriminatory hiring practices.

Assistant Attorney General William Bradford Reynolds, noting that the city did not agree with the department's interpretation of the case, said, "In order to get the matter resolved, we presented the matter to the court."

Reynolds added that the motion "should not be read or understood as any effort on our part to take the jurisdictions to court. We're still

interested in discussing the matter . . . , and that effort is ongoing."

The department has filed another motion—against Buffalo—seeking to modify a consent decree. In addition, in a different tactic against hiring goals, the department recently filed lawsuits against the District of Columbia and Birmingham alleging that the cities had unconstitutionally discriminated against white men by setting hiring goals for women and minorities.

The Indianapolis consent decrees resulted from lawsuits the department filed during the Carter administration, charging job bias in its police and fire departments.

One decree, signed in 1978, required the city to fill at least 25 percent of its police and firefighter training classes with qualified black applicants. The other, signed in 1979, required the city to appoint qualified women to at least 20 percent of police training classes.

The department's new motion seeks to delete the percentages and require Indianapolis instead to "recruit qualified black and female applicants for the entry-level . . . positions to the full extent of their availability and interest in the relevant labor market."

John Samples, a spokesman for Indianapolis' Republican mayor, William H. Hudnut III, said the city has "enjoyed a lot of success" from the hiring practices outlined in the consent decrees and "we see no reason to change them unless forced to do so."

Indianapolis Plans to Fight for Its Quota System

By JAMES BARRON

Special to The New York Times

INDIANAPOLIS, April 30 — Five years ago Darryl Pierce was a technician at an electric power plant. Then, even though it meant a pay cut, he joined the Indianapolis Police Department under the city's affirmative action hiring program.

He is now a narcotics detective. And when he heard that the Reagan Administration went to court on Monday in an effort to eliminate the hiring program's specific quotas, he wondered whether the department would have hired him, a black man, without them.

"Without a quota per se," he said, "if it came down to choosing between a black person and a white person of equal ability, they'd go with a white person. I like to think my own abilities helped get me on, but without that quota, I don't think there'd be as many blacks on the force."

The quotas were imposed in 1978 after the Justice Department under President Carter filed a discrimination suit against the city in behalf of seven black officers. The city settled the case by signing a consent decree that set quotas for the hiring and promotion of women and members of minority groups.

Now, the Justice Department argues that such quotas are unconstitutional, based on a 1984 Supreme Court decision concerning the Police and Fire Departments in Memphis. That decision dealt only with the question of whether seniority rights should override affirmative action when layoffs were needed, and civil rights advocates have challenged the Administration's broad interpretation.

Still Short of Goal

Indianapolis plans to fight the move to force modification of its affirmative action plan. Currently, city officials say that 14.1 percent of the city's 965 police officers are black, as against 11.4

percent in 1978. That is still somewhat short of its goal of 17 percent, said Richard I. Blankenbaker, the public safety director.

"That's why additional effort is needed," he said. "If you just think that it will happen with ordinary recruiting, it's not going to happen. I wish there was an alternative to quotas, but after four years in this job, I can't identify one, and we need to have people on the force that represent the population as a whole."

In New York today, Benjamin Hooks, the executive director of the National Association for the Advancement of Colored People, described the Justice Department as "acting the part of an unrepentant bully." He said the N.A.A.C.P. would challenge its action in court in Washington on Wednesday.

When William Hudnut 3d took office as Mayor in 1976 he ordered that 25 percent of all new police and fire employees come from the minority community. Their numbers have risen steadily since, and many here credit the consent decrees with having brought professionalism to a once highly political hiring system.

"It's ironic," said Carl Radford, the president of the Indianapolis chapter of the N.A.A.C.P. "Then we were fighting the city, and now we are saying that the city recognizes how important and effective affirmative action programs can be."

Mayor Hudnut, a Republican, also saw irony in the situation. "What's that humorist who said the Supreme Court follows the election returns?" the Mayor said today. "Well, this time it's

the Justice Department. It's ironic because we're the largest Republican city in the country. I think they filed it because we were the first to protest."

The city filed a protest in February, after the Justice Department had written it and 50 other jurisdictions to voluntarily end their quotas.

"There is a subtle tendency for people to say it's not required and to go back to business as usual," said Mayor Hudnut. "Well, Indianapolis won't go back to business as usual."

N.A.A.C.P. Sues Government Over Plan on Hiring Quotas

By JANE GROSS

The National Association for the Advancement of Colored People filed suit against the Justice Department yesterday in an attempt to block the Government's effort to overturn quotas for the hiring of members of minorities and women.

The lawsuit, filed in Federal District Court in Washington, came two days after a Justice Department motion to modify the affirmative action programs used by the police and fire departments in Indianapolis.

Officials of the civil rights organization said yesterday that their legal action was planned before the Government's move Monday. They said it was in response to letters sent by the Justice Department earlier this year to 50 states, counties and cities, including Indianapolis, urging them to remove numerical goals and quotas in affirmative action plans.

Benjamin L. Hooks, executive director of the N.A.A.C.P., asserted that the Justice Department was seeking to dismantle the affirmative action plans over the objections of many of the municipalities, including Indianapolis.

"This does not come about as an outcry from the people involved," Mr. Hooks said. He said the Government policy was the preference of William Bradford Reynolds, Associate Attorney General for civil rights.

'Nobody's Sought the Relief'

"There's an old expression that says 'If it's not broke don't fix it,'" Mr. Hooks said. "It would be one thing if the mayors and commissioners were trying to find relief, but nobody's sought the relief the Justice Department is attempting to give. Who are they representing, the people of the United States or the interests of one sub-Cabinet officer?"

The Justice Department's court action in Indianapolis is part of an effort by the Reagan Administration to bring affirmative actions plans around the country into line with its interpretation of a 1984 Supreme Court decision upholding the seniority rights of a group of white firefighters who faced layoffs in Memphis. The Administration says the Court's decision in the layoff case also strikes down preferential quotas in hiring and promotion.

Action Called Unconstitutional

The N.A.A.C.P. lawsuit charged that the Justice Department's action was unconstitutional and that the department's interpretation of the Supreme Court ruling was too broad.

The suit seeks to enjoin the Justice Department from further court action that Grover G. Hankins, the organization's legal counsel, said would "dismantle civil rights gains that have already been made."

Mr. Hankins is a former Justice Department attorney who was involved in helping bring about, through a consent decree in 1978, the hiring quotas the Government is now contesting in Indianapolis.

Mr. Hankins said, "We have never before seen such deliberate efforts by Federal officials to destroy equal opportunity programs and to disturb arrangements for equal employment which have been accepted in our communities across the country."

Under the Justice Department's plan, the quotas would be replaced with an enhanced recruitment policy for minority group members and women. This, according to the department, would be "coupled with procedures that insure nondiscriminatory selection."

Lawmakers Seek to Preserve Affirmative Action

5 Democrats Tell Meese Not to Tamper With Hiring Goals but Enforce Them

By Loretta Tofani
Washington Post Staff Writer

Five Democrats on the House Judiciary Committee joined yesterday in an escalating attack on the Justice Department's effort to roll back consent decrees and court orders giving women and minorities preferential consideration for jobs in 50 jurisdictions across the country.

In a letter to Attorney General Edwin Meese III, they said hiring goals "should not be tampered with" but instead "should be vigorously enforced by the Justice Department."

Committee Chairman Peter W. Rodino Jr. (D-N.J.) introduced legislation aimed at preventing the department from reopening and changing the consent decrees and court orders to get rid of hiring goals or quotas.

The legislation would be part of the department's budget authorization.

In addition, civil rights groups and some Democrats on the Senate Judiciary Committee are attempting to postpone the confirmation hearings of Assistant Attorney General William Bradford Reynolds, head of the Civil Rights Division, who has been nominated for promotion to associate attorney general.

The delay would give opponents more time to prepare testimony contending that Reynolds has tried to dismantle advances in civil rights.

The department's move against hiring goals began when it asked the 50 jurisdictions to join it in asking courts to modify their decrees. The request met with massive resistance from Philadelphia, Miami, Chicago, Baltimore and New York state among other jurisdictions.

Indianapolis Mayor William Hudnut, in refusing to change his city's consent decree, said the hiring goals had worked well.

On Monday the department filed a motion in federal court in Indianapolis, seeking to change the city's

consent decree against its will. On Wednesday, the NAACP filed suit in U.S. District Court here, saying the administration's efforts were illegal.

The decrees and court orders resulted from suits brought by the Justice Department during previous administrations against discrimination by cities, counties and states, often in their police and fire departments.

Reynolds has said that hiring goals or quotas are discriminatory under a recent Supreme Court decision involving Memphis firefighters.

Civil rights groups and many of the target jurisdictions disagree, and federal judges around the country have upheld the legality of affirmative action plans that set numerical goals.

"To argue that the court [in the Memphis case] outlawed the use of all race-conscious remedies when they did not even consider the issue is questionable at best," said the letter to Meese from the five Judiciary Committee Democrats—Rodino, John Conyers Jr. (Mich.), Don Edwards (Calif.), Robert W. Kastenmeier (Wis.) and Patricia Schroeder (Colo.).

The legislation introduced by Rodino would require the department to certify before going to court that the appellate court for the affected jurisdiction had ruled hiring goals illegal. It also would require court hearings before modifications were made—a normal procedure anyway.

At a news conference yesterday protesting the attempt to change the consent decrees, Edwards said the department has a "continuing plot and plan to dismantle the civil rights laws in our country." He characterized the attempt as "stupid," adding, "It's a waste of government resources. It's officious meddling."

Edwards said he wanted to deliver the following message: "Don't stick your nose in cases that have already been resolved."

Sen. Howard M. Metzenbaum (D-Ohio) said the Justice Department's "meddling" was ironic in light of the administration's claims that it wanted to let communities resolve their own affairs.

At the end of the news conference, Metzenbaum asked Edwards a question to which he already knew the answer: "What's the political affiliation of the mayor of Indianapolis?"

"He's a Republican," Edwards said.

(over)

U.S. Attack on Quotas Meets Wide Opposition

Localities Defend Hiring Plans That U.S. Wants Modified

By **STEPHEN ENGELBERG**

Special to The New York Times

WASHINGTON, May 3 — The Reagan Administration's effort to overturn affirmative action plans in 50 cities, states and counties is meeting widespread opposition.

In New York, New Jersey, Miami, Chicago, Boston, Philadelphia and San Francisco, officials said in interviews that they opposed the Administration effort to eliminate quotas for hiring blacks, Hispanic-Americans and women. Several of these jurisdictions said they would fight in court against any attempt by the Justice Department to force changes in their hiring practices.

"The Justice Department is trying to reopen this wound and nobody here is excited by the prospect," said Philip R. Trapani, the City Attorney in Norfolk, Va., one of the 50 local governments involved. "No community that has been through this and achieved the success we have is anxious to go back and revisit it."

Adherence to Some Court Stands

At the same time, Justice Department officials said today that they would not push such cases in regions covered by three Federal appeals courts that have rejected the Administration's interpretation of the law on this issue.

John Wilson, a spokesman for the department, said that in the Second, Sixth and 11th Circuits, the department would "necessarily need to defer for the present going to court unilaterally." He noted that those decisions, "until overturned," were binding on district courts in those circuits.

Previously, the department had said

it would not be deterred by "any lower court decision voicing approval of race or gender preferences."

Richard Seymour of the Lawyers Committee for Civil Rights under Law, a Washington-based civil rights group, said the change in policy would postpone the Justice Department's efforts in about half of the 50 localities, including a large number of cities in New York State. New York, Connecticut and Vermont are in the Second Circuit; Michigan, Ohio, Kentucky and Tennessee are in the Sixth, and Alabama, Georgia and Florida are in the 11th.

Action Relies on '84 Ruling

The Justice Department, in seeking to modify court-ordered affirmative action plans it put in place under previous Administrations, is relying on a 1984 Supreme Court decision on the Memphis Fire Department. The High Court upheld the seniority rights of white firefighters facing layoffs under the city's affirmative action plan.

The Administration argues that this decision also struck down preferential quotas in hiring and promotion.

Civil rights groups and some members of Congress have vigorously challenged this interpretation. Representative Peter W. Rodino Jr., Democrat of New Jersey, the chairman of the House Judiciary Committee, said earlier this week that he would propose legislation that would bar the Justice Department from spending money to enforce its interpretation unless it could cite an appellate court decision supporting its position.

This week, the Justice Department went to court in Indianapolis seeking an end to that city's numerical goals and quotas for hiring in the Police and Fire Departments. Mayor William H. Hudnut, a Republican, has said the city will oppose the Administration effort.

Indianapolis was one of the 50 jurisdictions the department asked earlier this year to remove quotas from their affirmative action programs.

New York Jurisdictions Affected

When the Justice Department invited New York State to modify plans with quotas, it was potentially challenging hiring practices for the state police and the city governments of Buffalo, Rochester, Syracuse, Yonkers, White Plains and Suffolk and Nassau Counties, according to Karen Burstein, president of the New York State Civil Service Commission. Both the state police and the local jurisdictions have hiring plans that include quotas, she said.

Miss Burstein said the state had informed the Justice Department of its opposition of any effort to modify the plans. "We've said: 'You don't make the law. Courts do and we're observing the court orders. If you're not happy, come and sue us.'"

Mayors in several major cities said they would respond similarly if the Justice Department took legal action against plans already incorporated in court agreements.

"The original court order was just and correct," Mayor Harold Washington of Chicago said through a spokesman. "We have no intention of defying that valid court order on the basis of an interpretation by the Reagan Justice Department." The affirmative action plan in Chicago covers hiring of police officers and firefighters.

In Boston, a spokesman for Mayor Raymond Flynn said the city would oppose the Justice Department in court if necessary. "We are quite proud of our affirmative action plan," said the spokesman, Francis Costello. "We're ready to meet them head-on in the courts."

Miami's deputy city attorney, A. Quinn Jones, said, "We do not agree with their interpretation."

In Philadelphia, John Myers, the chief deputy city solicitor, said the city would defend its program from any attempts to undo its quotas for hiring women.

'Still the Right Thing'

"It was the right thing to do when we entered into the decree, and it's still the right thing to do," he said.

In New Jersey, Dennis Bliss, the assistant attorney general handling the affirmative action plan for the state police, said the state did not intend to support changes in the program. "We are satisfied with the consent decree in its present form," he said.

At a news conference today, Representative Don Edwards of California, who is on the House Judiciary Committee, attacked the department's interpretation of the law. He released a letter that he, Mr. Rodino and three other Democrats on the committee sent to Attorney General Edwin Meese 3d.

"We believe," the letter said, "that reopening the cases will have the undesired effect of increasing tensions in communities all across the country, by disrupting programs that have been successful."

The Justice Department's previous policy on how it would deal with adverse court rulings was stated as recently as March 13, in a letter to the Lawyers Committee.

William Bradford Reynolds, the Assistant Attorney General for Civil Rights, wrote that "any lower court decision voicing approval of race or gender preferences is suspect" after the Supreme Court's ruling in the Memphis case.

Commenting on an appeals court ruling that contradicted the Justice Department's approach, he added: "We do not view such a case as an impediment to pursuing this initiative and have no plans to circumscribe this inquiry or limit the courts we ask to hear our modification requests."

U.S. AND SAN DIEGO WIN END TO QUOTAS

Judge Approves Plea to Delete Numerical Goals in City's Affirmative Action Plan

By ROBERT PEAR

Special to The New York Times

WASHINGTON, May 8 — The Reagan Administration and the City of San Diego asked a Federal District Court today to delete numerical hiring goals from an affirmative action plan adopted in 1977 to help women and Hispanic-Americans get jobs with the city government.

The proposed modification of the consent decree was approved later by Judge Edward J. Schwartz, according to his law clerk. Judge Schwartz signed the original decree.

The Justice Department has made efforts to eliminate numerical goals and quotas from court decrees in more than 50 cases around the country. Officials in many of the jurisdictions, including New York State, New Jersey, Miami, Chicago, Boston, Philadelphia and San Francisco, said they opposed the Administration's efforts.

William Bradford Reynolds, the Assistant Attorney General for civil rights, said that San Diego had suggested eliminating the numerical goals in its case more than a year ago.

Mr. Reynolds said that San Diego had met many of the goals and had made "substantial progress" toward the others through recruiting and "good-faith efforts."

The Justice Department filed suit against San Diego on Dec. 21, 1976, when President Ford was in office, charging that there was a pattern of discrimination in municipal jobs.

The consent decree settling the suit said that the city would strive to hire Hispanic-Americans for 33 percent of the job vacancies for firefighters, librarians and meter readers. The decree also said that Hispanic-Americans should, if possible, be hired for 25 percent of all vacancies in professional and technical positions. The city agreed that one-third of the service workers hired would, if possible, be women.

In the papers filed today, San Diego officials said they would continue hiring and promoting qualified applicants without discrimination on the basis of race, sex or national origin.

Other provisions of the decree, which involve tests, recruiting and training, will remain in effect for another two years. Judge Schwartz will hold a public hearing 30 days before terminating the remainder of the decree.

Richard T. Seymour, a lawyer with the Lawyers Committee for Civil Rights Under Law, said the judge should have held a similar hearing before he approved revision of the decree today.

(over)

The Washington Post

5/21/85

Justice Department Opposes Chicago Job Quotas

Associated Press

The Justice Department, continuing its nationwide campaign to limit affirmative action as a remedy to job discrimination, sought yesterday to overturn hiring and promotion quotas for blacks, Hispanics and women in the Chicago police and fire departments.

The department filed five motions in three pending cases in U.S. District Court in Chicago.

Two motions were based upon the Reagan administration's interpretation that a 1984 Supreme Court ruling in a Memphis, Tenn., employment case prohibits quotas, goals or other remedial preferences tied to race or gender as

part of court-ordered relief under Title VII of the 1964 Civil Rights Act.

Assistant Attorney General William Bradford Reynolds has said 50 court orders around the nation, including the ones in Chicago, should be modified to conform to this interpretation of the court ruling. Similar motions were filed by Reynolds earlier this year in Indianapolis, Buffalo, N.Y. and San Diego.

But other legal observers, including Chicago officials, argue that the high court said only that court-ordered hiring and promotion quotas cannot supersede union seniority clauses in labor contracts when laying off employees.

The Chicago cases involve remedies won in three lawsuits filed by the Justice Department during previous administrations. The court orders settling them required Chicago to:

- Hire one black or Hispanic firefighter for every white firefighter hired;
- Promote one black or Hispanic firefighter for every four white firefighters promoted;
- Hire police officers at the rates for each entering class of 35 percent white male, 34 percent minority male and 31 percent female;
- Promote police officers at the rates of 70 percent white male, 25 percent minority male and 5 percent female.

Indianapolis Defends Its Hiring Plan

By JAMES BARRON

INDIANAPOLIS — In the mid-1970's, the Justice Department wanted the Indianapolis Police Department to adopt an affirmative action plan with numerical goals. Now it wants the city to drop the eight-year-old plan, and the department's change of role does not seem to be playing well in Indiana's largest city.

In filing its first court challenge to a quota system that is not in dispute locally, the Justice Department last week escalated a campaign against specific hiring quotas that began in the early days of the Reagan Administration. Mayor William Hudnut 3d, a Republican, says he believes that his city was singled out as a test case because it filed an early protest against a proposal to 50 cities, counties and states that they voluntarily do away with race-conscious employment guidelines.

In Indianapolis, Mayor Hudnut and civil rights leaders say, such guidelines have worked, though not as well as some would have liked. Because pay in city jobs is not competitive with private industry, there have been difficulties in finding minority recruits. The 965-member Police Department includes 136 blacks, almost 3 percent short of the city's 17 percent goal for the force as a whole. But city officials say the department is still more capable of defusing crises in nonwhite neighborhoods than when the force was overwhelmingly white. The city was 18 percent black in 1970; it was 21.8 percent black in 1980.

"That is why the goals we have here are important," Mayor Hudnut said last week. "We can't shrug our shoulders and walk away from them." Mr. Hudnut maintains that Indianapolis should have the latitude not only to set its own goals but to make them tougher than Washington requires. As Indianapolis weighed its options, officials of other large cities said they opposed the effort to eliminate quotas. Several said they would go to court to block forced change in their hiring practices; the Justice Department said it would not push cases in regions covered by Federal appeals courts that have rejected the Administration's interpretation of the law.

The Justice Department's drive gained momentum last year with a Supreme Court decision in a case involving firefighters in Memphis, Tenn., that upheld the seniority of white firefighters facing layoffs. The Administration argues that the decision also held that it is inequitable to hire people who are black who have not personally suffered job discrimination just because they are of the same race as a person who has. Mr. Hudnut is among those who contend that the Memphis case involved a narrow set of facts. "I thought [the decision] had to do with the seniority system," he said. "All of a sudden, it's everything."

Civil rights leaders are disturbed by the Justice Department's view. Sam Jones, the director of the Indianapolis Urban League, defended the city's plan for affirmative action and said that the Justice Department's action would "lend a cloak of respectability to racism." Benjamin Hooks, executive director of the National Association for the Advancement of Colored People, filed a court challenge to the department's action.

'The Need Was Here'

Indianapolis agreed to the quotas in 1978, after the Justice Department filed suit on behalf of seven black officers. "The situation didn't just pop up overnight," said Richard I. Blankenbaker, the city's public safety director, a white supermarket owner appointed by Mr. Hudnut. "The need was here and prior city leaders should have capitalized on that need, but I think it was the basic conservatism of this community that kept them from doing that."

The issue of minority hiring was one of the first confronting Mayor Hudnut when took he office in 1978. To show that the new administration took change seriously, he ordered that 25 percent of all new police and fire employees come from the minority community. Two years later, when the city signed the consent decrees that ended the seven officers' case, the city did not admit that it had discriminated in the past. But it promised that women, blacks and other minority-group members would be hired in proportion to the city's population. The percentages have risen steadily since then, and many people credit the consent decrees with having professionalized police hiring. "Those consent decrees opened up the door," said Officer Stacy L. Crowe, a 28-year-old black woman who is a police recruiting specialist.

In the Police Department, the Justice Department action last week was viewed with concern. Some white officers say privately that they resent the quotas for making it easier for blacks to begin the climb up the seniority ladder. But some black officers are bitter that the Administration was seeking the abolition of the quotas that made their careers possible.

Ten years ago, Cicero C. Mukes was a sergeant who dreamed of becoming a captain, perhaps even a major. But each time the department announced which officers had been promoted, he found that he had been passed over. He was one of the officers in the original discrimination suit. Not long after the case was settled, his first promotion came through, and he has risen steadily through the ranks ever since.

"There's no way in the world I would even have made captain if it hadn't been for that consent decree," said Major Mukes last week. "If they took it away, by attrition alone we'd have a 95 percent white Anglo-Saxon Protestant police department going into lower-income neighborhoods. And that would be chaotic."

Hiring Goals' End Fought

State, Local Governments Stand by Affirmative Action

By Mary Thornton
Washington Post Staff Writer

State and local governments are resisting efforts by the Justice Department to end their use of numerical goals in hiring and promoting public employees, according to a survey and several official responses disclosed yesterday.

Since last December the department has sent letters to state and local governments—including several in Maryland and Virginia—suggesting that they join the federal government in attempting to reopen 53 equal-employment agreements or consent decrees, most involving police and fire departments.

A survey by the private Bureau of National Affairs found that only three jurisdictions—the Arkansas State Police; the police and fire departments in Buffalo, N.Y.; and the police force in Wichita Falls, Tex.—have said they will join with Justice Department in the effort.

At the same time, Barry Goldstein, an attorney with the NAACP Legal Defense and Education Fund, said copies of 19 official responses to the department—obtained under a Freedom of Information request—“indicate an overwhelming rejection of the Justice Department and support for the effectiveness of affirmative action to end discrimination.”

The quotas or goals in the existing decrees and court orders had been requested by the Justice Department during previous administrations because of allegedly discriminatory hiring practices. The Reagan administration policy change was made by William Bradford Reynolds, head of the department's Civil Rights Division, who opposes quota systems.

Asked about the BNA survey, John Wilson, a spokesman for Reynolds, said only, “Our count is a little different.”

The Justice Department letters were prompted by a Supreme Court decision last June in a Memphis case, *Firefighters Local No. 1784 v. Stotts*. The court found that black firefighters hired as a result of affirmative action policies should not be spared during layoffs when firefighters with more seniority were being laid off.

The BNA survey found that 26 of the jurisdictions that received the letters said they will not join the Justice Department in attempting to modify their consent decrees, while 11 did not consider the Justice Department letters applicable to their cases and seven were undecided. Some jurisdictions received more than one Justice Department request, accounting for the remaining six cases.

The BNA, a publisher of specialized newsletters, found that some jurisdictions refused to go along with the Justice Depart-

ment because they considered attempts to modify the decrees as a “retreat on affirmative action.” Others disagreed with the department's interpretation of the Supreme Court's ruling in *Stotts*, saying the court addressed only the issues of layoffs and seniority—not hiring and promotion goals.

Harold Juran, the deputy city attorney in Norfolk, told BNA that the city would not go along with a motion to modify the consent decree governing police and fire department hiring practices because it does not want to have “old wounds reopened.”

Maryland, where state police are operating under a consent decree, has not announced its response to the letter. But a state spokesman said there is a “broad-based policy of the governor and the attorney general to stand behind the consent decree and their expressed policy to vigorously oppose the Justice Department's efforts.”

Justice announced recently that the police department in San Diego was joining the government in seeking to have its consent decree set aside. However, San Diego, one of the 11 jurisdictions that did not consider the Justice Department request applicable to their cases, had separately asked the court to set aside the decree on grounds that the city had complied with its terms.

The Washington Post

5/25/85

By ROBERT PEAR

Special to The New York Times

WASHINGTON, May 23 — Senator Alan K. Simpson today introduced a new version of his comprehensive immigration bill that would delay the granting of legal status to illegal aliens until after the United States had better control of its borders.

It was the third time in four years that Senator Simpson, a Wyoming Republican, had introduced a bill to overhaul the nation's immigration laws and curtail the influx of illegal aliens.

There was, however, no sponsor for the new bill in the House. Representative Romano L. Mazzoli, the Kentucky

Democrat who has led the campaign for the bill in the House, did not attend Senator Simpson's news conference today and was silent on his intentions.

The new Simpson bill differs in several major respects from the legislation passed twice by the Senate and once by the House. Under earlier versions of the bill, amnesty for illegal aliens would have taken effect about the same time as penalties for employers who hired illegal aliens.

Amnesty Provision Is Modified

The new bill would not offer legal status to illegal aliens until a Presidential commission certified that the em-

ployer penalties were reducing the illegal entry of aliens into the United States and the employment of illegal aliens. It was not clear how the commission could make such a determination because the Government has no reliable way of counting illegal aliens.

Mr. Simpson said he thought the legalization program could start "within a year" after the bill was passed. But he said it was necessary to make the program contingent on improved enforcement because otherwise it "would cause a tremendous stimulus to further illegal entry" by aliens.

Many conservatives have criticized the amnesty proposal on the ground

that it would reward lawbreakers. Senator Simpson said he wanted to "assure the American public that legalization will not cause" additional flows of illegal aliens.

Passage of the bill appears likely in the Senate, which approved earlier versions of the legislation, in 1982 and 1983, by margins of more than 4 to 1. But the outlook is uncertain in the House, which approved the measure by a vote of 216 to 211 last June.

The Simpson bill would prohibit employers from hiring illegal aliens. An employer convicted on a first offense of hiring illegal aliens would be subject to civil penalties ranging from \$100 to \$2,000 for each illegal alien. The maximum penalty on employers for a "pattern or practice" of violations would be \$10,000 for each illegal alien.

In an apparent concession to business groups, Mr. Simpson reduced the paperwork and record-keeping requirements for employers. Under earlier versions of the bill, employers would have had to ask all job applicants for identification documents to verify that they were citizens or aliens authorized to work in the United States.

The Chamber of Commerce of the United States, which opposed earlier versions of the bill as burdensome to employers, endorsed the new bill.

Mr. Simpson said the bill did not address the question of employment discrimination against aliens legally in the United States. That was one of the most difficult issues in negotiations over the bill last year. Hispanic groups and some members of Congress argued then that new penalties for hiring ille-

gal aliens would inevitably lead to an increase in employment discrimination against legal aliens.

Attorney General Edwin Meese 3d welcomed the new Simpson bill. But Wade J. Henderson, legislative counsel for the American Civil Liberties Union, criticized it as "an unfortunate compilation of some of the worst elements of the original Simpson-Mazzoli bill."

Joseph M. Treviño of the League of United Latin American Citizens and Richard Fajardo of the Mexican-American Legal Defense and Educational Fund also opposed the new bill. They said the employer sanctions would probably be ineffective and that, as a result, Hispanic people would not get the benefit of a legalization program.

SENATE WILL GET IMMIGRATION BILL

Simpson Plans Major Shifts
Designed to Help Measure
That Failed Last Year

By ROBERT PEAR

Special to The New York Times

WASHINGTON, April 17 — Senator Alan K. Simpson will soon reintroduce his comprehensive immigration bill, but with major changes designed to increase its chances of passage in the next 18 months.

Different versions of the bill have twice been approved by the Senate, in 1982 and 1983, and once by the House of Representatives, in 1984. But it died last October when a House-Senate conference committee was unable to resolve differences between two versions.

The chances for passage of the bill in the Senate have, if anything, improved since Mr. Simpson, a Wyoming Republican, became the assistant majority leader this year.

The prospects in the House are uncertain, and the chief sponsor of the House bill for the last three years, Representative Romano L. Mazzoli, Democrat of Kentucky, said today that it was too early for him to discuss his plans.

Penalties for Employers

Mr. Simpson's bill is designed to curtail illegal immigration to the United States by establishing stiff penalties for employers who knowingly hire illegal aliens. It would also offer legal status to illegal aliens who entered the United States before 1980 under a plan often referred to as an amnesty program.

The biggest change from prior versions of the bill, according to the Senator, is a proposal to make the amnesty contingent upon a showing of improved enforcement of the immigration laws.

The amnesty program could not start until a Presidential commission, called for in the bill, certified that the employment of illegal aliens had been reduced. It was not made clear how the commission would make this determination.

Richard W. Day, chief counsel to the Senate Judiciary Subcommittee on Immigration, said that as other conditions for the amnesty the commission would need to certify a reduction in the entry of illegal aliens and a reduction in the number of aliens who entered legally but stayed beyond their authorized time.

'Triggered Legalization'

The bill sets no time limit for the start of the amnesty and some critics of the legislation expressed concern that there could be a very long delay before it took effect.

In an interview, Mr. Simpson, the subcommittee chairman, described these conditions for the amnesty plan as a "triggered legalization" program. Under previous versions of the bill, the amnesty program would have begun automatically three to six months after the bill became law.

The changes are designed to make the program more palatable to members of Congress and the public. "Our mail continues to be overwhelmingly opposed" to granting legal status to illegal aliens, Mr. Day said.

Under the new bill, like the old one, it would be unlawful for an employer to hire an alien knowing he was not authorized to work in the United States. The penalties on employers could be much higher than under prior versions of the bill, which set a maximum fine of \$2,000 for each illegal alien hired.

Under the new bill, Mr. Day said, for a first offense the employer would be subject to a penalty of \$100 to \$2,000 for each illegal alien he hired. Penalties for a second offense would range from \$2,000 to \$5,000. For subsequent offenses, it would range from \$3,000 to \$10,000.

Under current law, it is generally not illegal for an employer to hire an illegal alien, but the alien may be deported if he is caught.

The bills passed by the Senate and the House would have required employers of four or more persons to ask all job applicants for documents to verify that they were citizens or aliens authorized to work in the United States. The bills would also have required employers to keep records showing they had complied with this provision.

Under the new bill, the verification and paperwork would be optional, Mr. Day said. But an employer who kept records showing that he examined identification documents and verified the eligibility of job applicants would have an "affirmative defense" against any charge that he had knowingly hired an illegal alien.

Mark A. de Bernardo, manager of labor law for the Chamber of Commerce of the United States, said this change in the bill was an improvement. However, he said the Chamber, which opposed the earlier version of employer sanctions, had not taken a position on Mr. Simpson's new proposal.

Mr. Day outlined the new bill at a recent conference here sponsored by the Center for Migration Studies, a nonprofit institute that does research on migration and refugee affairs.

He said the bill would adopt provisions of the conference committee agreement making it easier for farmers to bring foreign workers into the United States. This compromise did not go far enough to satisfy many growers of fruit and vegetables, but it went too far to be acceptable to the United Farm Workers of America.

Mr. Simpson said he was encouraging the growers and organized labor to work out a better compromise if they could this year.

Joseph M. Treviño, executive director of the League of United Latin American Citizens, said his group would probably be "more adamant in opposition to Senator Simpson's new bill than the old one."

We believe employer sanctions will be effective in deterring illegal immigration, but will promote discrimination against Hispanics," Mr. Treviño

Simpson Unveils Immigration Bill

Better Prospects in Congress Seen Despite Renewed Opposition

By Margaret Shapiro
Washington Post Staff Writer

Sen. Alan K. Simpson (R-Wyo.) unveiled a comprehensive immigration bill yesterday and predicted that it will do better in Congress than last year's version, which died after heavy lobbying by Hispanic groups, farmers and unions.

Simpson acknowledged that his new measure contains many of the same provisions that drew such strong opposition in the House last year.

But he said that most lawmakers want to stop the flow of illegal aliens and that with elections still more than a year away, they will be more willing this year to tackle the controversial subject.

Last year, the immigration bill was caught in the cross fire of the presidential campaigns, when Democratic nominee Walter F. Mondale, under pressure from Hispanics, came out strongly against it and the Reagan administration gave it only lukewarm support.

Approval by the Republican-controlled Senate is likely; the Senate voted for Simpson's bill last year and the Wyoming Republican said he will press for a vote there before the August recess.

In the Democrat-controlled House, the bill faces much dimmer prospects. After repeated delays by the House Democratic leadership in bringing the bill to the floor last year, it was narrowly approved after days of intense, emotional debate. It then died in a conference with the Senate, when House members balked at making changes Simpson wanted.

Signifying the trouble it is likely to encounter, the bill was quickly



BY JAMES K.W. ATHERTON—THE WASHINGTON POST

Sen. Alan K. Simpson: new proposal would delay amnesty for illegal aliens.

attacked by Hispanic lawmakers and lobbyists as well as some growers.

"It's disappointing and regressive from the point of the bill last year," said Rep. William B. Richardson (D-N.M.), chairman of the Congressional Hispanic Caucus.

Last year's measure would have provided immediate amnesty for illegal immigrants. Simpson's new bill would delay amnesty until a program of stiff fines against employers hiring illegal aliens had a chance to become effective.

The sanctions would range from a warning for the first offense to a \$10,000 fine per illegal alien for an employer who continued to hire undocumented workers. Hispanic groups said last year that sanctions would increase job discrimination against Hispanics.

Simpson said he altered the legalization provision because it had been one of the major reasons some conservative lawmakers had voted against the bill last year.

In an effort to deal with Hispanic concerns about possible discrimination, Simpson's bill would have the General Accounting Office monitor the situation. The attorney general, along with the Civil Rights Commission and the Equal Employment Opportunity Commission, would then review GAO findings.

In an effort to respond to the concerns of growers, many of whom bitterly opposed last year's bill, Simpson's measure would allow growers to bring in temporary foreign workers on a somewhat expedited basis if growers could not find enough U.S. workers or faced unexpected harvest conditions.



FROM THE



THE AMERICAN JEWISH COMMITTEE Institute of Human Relations, 165 E. 56 St., New York, N.Y. 10022, (212) 751-4000

The American Jewish Committee, founded in 1906, is the pioneer human-relations agency in the United States. It protects the civil and religious rights of Jews here and abroad, and advances the cause of improved human relations for all people.

MORTON YARMON, Director of Public Relations

FOR IMMEDIATE RELEASE

NEW YORK, May 30 ... The American Jewish Committee today told Senator Alan K. Simpson that it looked to him for continued leadership in the "difficult, critical" field of immigration reform, but added its "disappointment" with immigration legislation the Wyoming Republican had recently introduced.

In a letter to Senator Simpson, Howard I. Friedman, AJC President, explained that his organization "strongly believes that immigration reform is necessary to preserve continued generous entry policies for the U.S." and for this reason had led public discussions last year of the Simpson-Mazzoli Bill.

But the new legislation, Mr. Friedman continued, "falls far short" of this original bill, which won approval both of the Senate and the House of Representatives.

That legislation, Mr. Friedman wrote, "proposed an efficient and humane legalization program" for undocumented aliens now in the U.S. that would go into effect at the same time as provisions for employer sanctions. He added: "This established a balance in the legislation that would both treat undocumented aliens currently in the U.S. fairly and aid enforcement efforts by allowing the Immigration and Naturalization Service to concentrate its operations on using new mechanisms in the bill to prevent future illegal entry."

The new version of the Simpson bill, Mr. Friedman asserted, loses these advantages:

- * "Its 1980 cut-off date for legalization would eliminate many undocumented aliens from its coverage and would therefore not accomplish the goal of resolving the status of this population."
- * "Its provision for delaying legalization until an appointed panel can confirm that employer sanctions are working will upset the balance of the original legislation and force the Immigration and Naturalization Service to devote resources to apprehending people already integrated into our society."
- * Since "temporary labor both presents an opportunity for exploitation and introduces a large group of people into the country who can work here but never

- more -

(2)

become part of our social or political system," AJC does not support the temporary labor provisions in the new bill, which, Mr. Friedman stated, "are more expansive than in the legislation you originally introduced."

Mr. Freidman concluded in his note to Senator Simpson: "AJC looks forward to continuing work with you on our common goal of developing a fair, humane, and effective immigration system for our country."

The American Jewish Committee is this country's pioneer human relations organization. Founded in 1906, it combats bigotry, protects the civil and religious rights of Jews here and abroad, and advances the cause of improved human relations for all people everywhere.

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DAVID F. SQUIRE, Boston; RICHARD L. WEISS, Los Angeles ■

In addition, we do not support the temporary labor provisions in the new bill which are more expansive than in the legislation you originally introduced. Temporary labor both presents an opportunity for exploitation and introduces a large group of people into the country who can work here but never become part of our social or political system.

AJC looks forward to continuing to work with you on our common goal of developing a fair, humane and effective immigration system for our country.

Sincerely,

Howard I. Friedman
President

HIF/ha

CHANGES ARE DUE FOR IMMIGRATION

NEW YORK TIMES
MARCH 17, 1985

Proposals Would Streamline Process of Giving Asylum to Aliens, Officials Say

By ROBERT PEAR

Special to The New York Times

WASHINGTON, March 16 — The Reagan Administration is preparing extensive changes in the rules and procedures for granting asylum to aliens.

Officials of the Departments of Justice and State said the proposed changes were designed to streamline the asylum process and to give the immigration authorities more flexibility in handling applications. They said a secondary purpose was to take the asylum issue out of the "legislative arena," where it has complicated efforts to pass a comprehensive immigration bill.

Immigration lawyers said the new rules could make it more difficult for some aliens to gain asylum.

Under the Refugee Act of 1980, an alien may qualify for asylum if he has "a well-founded fear of persecution" in his homeland "on account of race, religion, nationality, membership in a particular social group, or political opinion."

The immigration service and the State Department have said it is not enough for the alien to show general conditions of violence in his homeland. He must show it is likely that he would be singled out for persecution.

Poverty and Persecution

The Administration maintains that many of the illegal aliens from Latin America who seek refuge in the United States are fleeing poverty, not persecution, and, therefore, do not qualify for asylum.

Asylum has become a particularly sensitive issue since January when the Administration moved to crack down on church groups offering sanctuary to people from Central America who say they are fleeing persecution and violence. The Justice Department contends that such groups are illegally smuggling or harboring aliens.

Leaders of the sanctuary movement said that decisions on granting asylum had become so entwined with politics and foreign policy that they are not objective or fair.

Immigration officials rejected this criticism and said the new rules were not part of an effort to curb the sanctuary movement.

Under the existing rules, the immigration service must seek a formal advisory opinion from the State Department on every asylum application. Under the proposed rules, to be issued for public comment this spring, the immigration service would simply give the State Department "notice" of all applications. Advisory opinions would no longer be required.

The 'Safe Haven' Factor

The new rules would specify factors justifying denial of asylum. One is the availability of a "safe haven" in a country through which the alien passed on the way to the United States.

The new rules say that immigration officials may deny a request for asylum if there is evidence that the alien ceased his flight from persecution and found "protection" in a country that signed the 1967 United Nations Protocol on the status of refugees.

The current rules say that the Attorney General must deny a request for asylum if the alien "has been firmly resettled in a foreign country" before coming to the United States. "An alien is considered to be 'firmly resettled' if he was offered resident status, citizenship or some other type of permanent resettlement by another nation," the rules say.

The proposed rules would omit the word "permanent," making clear that aliens could be denied asylum in the United States even if they were not permanently resettled elsewhere.

Standard of Proof Clarified

Under existing law, if an alien has a well-founded fear of persecution, he is not automatically entitled to asylum here, but will not be forcibly returned to the country he fled. The Attorney General, working through the immigration service, has discretion to grant or deny asylum.

The new rules also clarify the standard of proof in asylum cases, rejecting some of the more liberal interpretations by Federal courts.

The new rules adopt the same standard for asylum cases that the Supreme Court laid down last June in a decision dealing with a related issue. The Court said then that the Attorney General must not deport an alien to a country where there was "a clear probability" that he would be persecuted.

The Justice Department has consistently taken the position that the two standards, those for granting asylum and for withholding deportation, were the same. But several Federal appeals courts have disagreed, saying the standard for granting asylum was lower and therefore easier to satisfy.

60 Days for Comment

The Supreme Court has not decided the precise meaning of the standard used in asylum cases, which requires the alien to show "a well-founded fear of persecution." But for the purpose of its analysis last June, the Court assumed that the asylum standard was "more generous" and did not require the alien to show "a clear probability of persecution." Under the new rules, an alien would have to make such a showing to obtain asylum.

The immigration service expects to send the new rules to Attorney General Edwin Meese 3d next week for his approval. They are to be published in the Federal Register, and people will have 60 days to file comments. After considering the comments, the Justice Department will issue final rules with the force of law.

*Resolutions passed at annual meeting of Hebrew
Immigrant Aid Society (HIAS) - March 18, 1985*

RESOLUTION 8 - Southeast Asian Boat People

WHEREAS thousands of Southeast Asian refugees, in flight from their homelands, have been interdicted on the high seas and been victimized by pirates and marauders, and

WHEREAS the U.S. government has recognized the seriousness of the problem by earmarking funds to assist friendly countries and the UNHCR to protect these boat people and prevent their victimization, and

WHEREAS HIAS joins voluntary organizations, the international human rights community, and others who are urgently concerned about the protection of these helpless refugees

NOW, THEREFORE, BE IT RESOLVED that HIAS urge the appropriation and expenditure of increased funds by our government to support programs, train personnel and provide adequate resources for effective anti-piracy programs on the South China Sea.

RESOLUTION 9 - Adjustment of Status for Haitians

WHEREAS Haitians fleeing their home arrived on these shores in the early 1980's at the same time as a group of Cubans known as the "Marielitos", and

WHEREAS the Mariel Cubans are now eligible to apply for adjustment of status under the Cuban Adjustment Act of 1966, while the Haitians who arrived around the same time in similar circumstances are not similarly eligible under law; and

WHEREAS principles of equity and fairness demand similar treatment for the Haitian entrants, many of whom have been incarcerated since their arrival,

NOW, THEREFORE BE IT RESOLVED that HIAS urge our legislators to support an immediate act to prevent the above named Haitians from being deported and that HIAS urge passage of an act similar to that proposed by Hon. Peter Rodino, Chairman of the House Judiciary Committee, that proposes to adjust the status of both groups of Cubans and Haitians.

Equal Pay Supported In Survey

WASHINGTON, Feb. 13 (AP) — Four of every five working Americans support the concept of equal pay for jobs of equal value, according to a new survey by the National Committee on Pay Equity.

"The poll shows that women and men care very much about fairness," Claudia Wayne, executive director of the coalition of 220 individuals, unions, women's organizations and civil rights groups, said at a news conference Tuesday.

"The Reagan Administration is out of touch with the people of this country," she said, charging that opponents in the Administration rarely acknowledge "the injustice and the illegality of a system that discriminates against women by undervaluing and underpaying their work."

The coalition argues that wages in fields dominated by women, such as nursing, teaching and clerical work, are depressed and should be raised to match pay levels in male-dominated jobs requiring comparable skill, training and responsibility.

Citing a national survey of 1,010 United States workers conducted by the Marttila & Kiley company of Boston, a public-opinion research organization, Miss Wayne said 69 percent of those questioned said they believed women were not paid as fairly as men for the work they did.

She said 83 percent believed the wage gap between men and women was a serious problem that should be corrected; majorities felt that nurses, teachers and secretaries were underpaid, and 61 percent said the jobs would be higher paying if men held them.

Asked to give the major reason women on the average earn 60 cents for every \$1 earned by men, 23 percent of those surveyed cited discrimination. The next most frequently cited reasons, at 11 percent each, were that "men make the rules" and "women lack experience and skills."

The question asking for an opinion of pay equity outlined the problem and solution as viewed by supporters. It did not cite the views of opponents, who believe the wage increases would be impractical, too costly or inimical to a free-market system.

"Our concern was whether people agree with the principle of pay equity," Miss Wayne said. "No question was asked about where the money would come from. Cost in and of itself is not a defense of discrimination."

According to the committee, cost has not been an issue in Minnesota, where, Miss Wayne said, pay equity for state employees has been adopted voluntarily.

Los Angeles

Backing Equal Pay For Jobs of 'Comparable Worth'

By PAULINE YOSHIHASHI

Special to The New York Times

LOS ANGELES, May 8 — Los Angeles plans to adopt a union contract later this week that embraces the idea of equal pay for city jobs of "comparable worth," an idea backed by many women's groups.

The agreement would give special raises to 3,900 clerks and librarians, most of them women, to bring their salaries to the level of workers in some job classifications occupied largely by men.

The contract announced today, which is expected to be approved by the City Council, takes the view that people in different jobs should be paid the same if the jobs entail effort, skills and knowledge of a comparable level and are of equivalent value to the employer.

'A Historic Step'

"This is a historic step," Mayor Tom Bradley said at a news conference. "Without a legal battle or costly study, we will achieve pay equity among men and women who work for this city. We will send a message to all cities across this country."

Many people who support the concept of "equal pay for comparable worth" argue that jobs held largely by women are underpaid in relation to jobs held largely by men that require comparable ability and are thus of comparable value.

Opponents of the theory, including the Reagan Administration, argue that it is impractical and an unnecessary manipulation of the economics of the marketplace. Last month the United States Commission on Civil Rights rejected Government imposition of the concept.

Under the Los Angeles agreement, raises of 10 to 15 percent would go to clerks and librarians to make their salaries equal to those of maintenance workers, gardeners and other city workers in male-dominated classifications.

The three-year contract, reached through collective bargaining with representatives of the American Federation of State, County and Municipal Employees, the City Council, Mayor Bradley and the City Administrative Officer, will be retroactive to April 1, the date the agreement was reached. The union had been involved in serious negotiations with the city for about six months.

The Administrative Officer, Keith Comrie, said the city drew up its own criteria to determine which jobs were male- or female-dominated, and to decide which were comparable. "We used what the unions told us, and the final agreement seemed to please everyone," Mr. Comrie said, noting that the union ratification had been close to 99 percent.

Some Examples

Under the contract, a clerk currently making \$1,411 a month would be paid \$1,635 at the end of the three-year period. A librarian at \$2,297 a month would be raised to \$2,568. According to the city's research, those wages are comparable to those offered in the private sector. By approving the contract, the city has avoided the possibility of being sued and eventually being forced to pay out huge sums in retroactive salaries.

Mr. Comrie said a complaint the union filed with the Equal Employment Opportunity Commission against the city, charging sex and wage discrimination, would be dropped. He added that the contract agreement was not a response to the complaint directly, but that the complaint did help to bring city officials' attention to the issue.

"It was just a matter of fairness, and that's all there is to it," Mr. Comrie

said. The cost of the raises is estimated to be \$12 million, about one-half of 1 percent of the city's \$2.1 billion budget.

Had the city lost a lawsuit, it could eventually have been forced to pay out huge sums in retroactive wages.

Welcomed by Unions

Union officials praised the agreement, as well as the city for endorsing the controversial theory.

"This is a real victory," said Luis Rodriguez, a spokesman for the municipal employees' union. "We were prepared to go to court if necessary, but here we were able to work things out on the bargaining table, and correct the age-old problem of wage and sex discrimination. It's a triumph for the city, and for public workers as well."

On the national level, the federation

has filed suit in several places to force the issue. Lawsuits are currently pending against New York City, Nassau County and the State of Connecticut, among others. Moreover, lawsuits have been filed by state workers' groups in Michigan and California.

Other states, like New York and New Jersey, have chosen to put the concept into effect on their own. New York plans to spend \$16 million next year and slightly more the following year. Officials in New Jersey estimate that it will cost \$70 million a year to raise salaries in jobs customarily held by women.

The first major city to put the idea into effect was San Jose, Calif., which agreed to spend \$1.5 million to do so in order to settle a nine-day strike in 1981.

In a case pending before the Ninth Circuit Court of Appeals in Seattle, the Washington Attorney General is appealing a Federal district judge's order that the state pay \$838 million in raises and retroactive compensation to its women employees.

In that ruling, issued in December, 1983, District Judge Jack Tanner said the state had violated Title 7 of the Civil Rights Act of 1964. The appeal was argued April 4, and a decision is pending.

The Federal Civil Rights Commission, in rejecting comparable worth last month, voted 5 to 2 to endorse a 232-page report that said that employers could voluntarily support the theory in collective bargaining with their employees, but that the Government should not impose such standards.

L.A. Gives Women Employees Pay Comparable to Men's

Union 'Breakthrough' Achieved Peacefully

By Katharine Macdonald
Special to The Washington Post

LOS ANGELES, May 10—The Los Angeles City Council today approved a \$12 million contract raising salaries of employees in traditionally low-paying jobs held mostly by women to the amount paid for comparable male-dominated jobs.

The American Federation of State, County and Municipal Employees reached the "comparable-worth" agreement with city officials after six months of negotiations, and the city council approved it, 12 to 1.

Mayor Tom Bradley lauded the pact as "a landmark breakthrough" in pay equity for women, reached "without the pressure of court mandates."

In 1981, the city employees' union filed a complaint with the Equal Employment Opportunity Commission alleging wage discrimination against women. As part of the settlement, the union agreed to drop that complaint.

The wage increases, to be phased in over three years, will be retroactive to April 1.

In a comparable-worth case adjudicated last year, a federal judge ordered Washington state to make retroactive salary adjustments that could cost the state more than \$500 million. His decision is being appealed.

Los Angeles City Council member Joy Picus, a leading proponent of comparable worth, said the agreement was reached not because the city feared a court battle but "because it was right to do."

In April, the U.S. Commission on Civil Rights rejected the idea of comparable-worth pay. Some other cities and a few states have awarded raises in accordance with the concept but, Picus said, the Los Angeles city government is the first to make such salary adjustments through collective bargaining, without an employee strike or a court or legislative mandate.

City Administrative Officer Keith Comrie said that, if the union had pursued its court case and prevailed, the city could have been forced to pay about seven years' back wages.

Comrie said the total cost of the negotiated salary increases will constitute one-half of 1 percent of the city's proposed \$2.1 billion budget. He said salaries for entry-level jobs held mostly by women had been about 15 percent lower than entry-level jobs held predominantly by men.

The concept of comparable worth contends that, for example, employment as a maintenance worker, a job usually held by men, demands no greater skill or effort than is required for employment as a secretary, most of whom are women. But maintenance workers generally are paid higher wages.

Currently, Los Angeles city employees in jobs held largely by women—clerks, secretaries and librarians—earn an average of \$1,310 a month. Those in jobs deemed comparable but usually held by men—gardeners, warehouse workers and garage attendants—earn \$1,492 a month. The new agreement will raise monthly pay for about 3,900 female workers to \$1,492.

U.S. REPORT ASSAILS IDEA OF JOB WORTH

Study Calls Requirements on Wages 'Profoundly Flawed'

By ROBERT PEAR

Special to The New York Times

WASHINGTON, March 27 — A new report from the United States Commission on Civil Rights unequivocally rejects the proposition that men and women should be paid the same for different jobs of comparable worth.

The 232-page study concluded that "comparable worth, as a theory of discrimination or as a remedy for discrimination, is profoundly and irretrievably flawed."

Under a policy of comparable worth, employers assess the intrinsic value of different jobs by measuring such factors as the knowledge, skills and effort required of employees, their degree of responsibility and their working conditions.

The Civil Rights Commission said such evaluations were "inherently subjective" and "cannot prove the existence of sex-based wage discrimination." In short, the commission said, there was "no legally certain, 'objective' way of comparing the value or worth of two different jobs."

Moreover, it said, the disparity in wages for men and women was, in large part, a result of factors other than discrimination. These factors, it said, include differences in experience; the "educational choices of women who anticipate child-bearing and child-rearing functions in the family"; the "greater tendency of women to leave and re-enter the job market," and the "occupational segregation" of women in lower-paying jobs.

Study Cites Equal Pay Law

The report, the Government's most detailed study of the comparable worth idea, said there were already adequate remedies for pay discrimination, in the Equal Pay Act of 1963 and the Civil Rights Act of 1964. The commission report recommended "uncompromising enforcement" of the 1963 law, which requires equal pay for equal work.

But, it said, a policy of comparable worth would require "a radical reordering of our economic system," giving courts and "government bureaucrats" a much larger role in setting wages.

The report is being sent this week to the eight members of the commission, who will vote on the findings and recommendations at their meeting April 11. The report is consistent with the views expressed by a majority of commissioners including the chairman, Clarence M. Pendleton Jr.

'There Should Be a Remedy'

But one commissioner, Mary Frances Berry, said she would probably issue a dissenting statement. "If a man and a woman are paid different amounts for jobs that the employer values as being equal," she said, "a reasonable person would say that constitutes discrimination and there should be a remedy."

Philip L. Sparks, a spokesman for the American Federation of State, County and Municipal Employees, sharply criticized the report after being told of its content.

"This is a reversal of a longstanding policy to put the Federal Government on the side of employees in pay discrimination cases," he said. The federation has filed lawsuits against four states charging that they illegally paid employees in predominantly female occupations less than workers in male-dominated occupations.

Rebuffed by the Reagan Administration, proponents of comparable worth are shifting their attention to the state level. A recent study by the National Governors Association said that five states had adopted comparable worth policies for at least some public employees, while 29 states were conducting studies. The five, it said, were Idaho, Iowa, Minnesota, Tennessee and Washington.

The report said the gap between the wages of men and women was narrowing as "younger women have entered the work force in traditionally male jobs."

OVER

U.S. Panel on Civil Rights Rejects Pay-Equity Theory

By ROBERT PEAR

Special to The New York Times

WASHINGTON, April 11 — After impassioned debate, the United States Commission on Civil Rights today urged Congress and Government agencies to reject the doctrine that men and women should be paid the same for different jobs of comparable worth.

The vote was 5 to 2. One member, Francis S. Guess, the Tennessee State Commissioner of Labor, abstained.

Voting with the majority, Morris B. Abram, vice chairman of the commission, said: "There is sex-based discrimination in America, but it is declining. The repetitious charge that women earn only 60 percent of what men earn in this country obscures the significant fact that women work less hours, have less seniority, and work more intermittently."

Action Draws Criticism

The commission's action was immediately criticized by the National Organization for Women and by the American Federation of State, County and Municipal Employees. The federation has filed lawsuits against New York City and Nassau County, L.I., and the States of Connecticut and Washington, charging pay discrimination. Most of the plaintiffs in these lawsuits are women.

Judy Goldsmith, president of the National Organization for Women, said the commission failed to recognize that "sex-based wage discrimination pervades our economy."

Supporters and opponents of the theory of comparable worth both see it as one of the major civil rights issues of the 1980's. Under a policy of comparable worth, employers try to assess the intrinsic value of different jobs by measuring the knowledge, skills and effort required of employees, their responsibilities and their working conditions.

Better Pay for Women Seen

If such job evaluations were used in setting pay, proponents of the comparable worth theory say, it would reduce the difference in wages for predominantly female jobs, such as nurses

and secretaries, and male-dominated jobs, such as truck drivers and warehouse workers, who tend to earn more.

By its vote, the commission adopted the findings and recommendations of a 232-page report. The report said that employers could voluntarily agree in collective bargaining to pay employees on the basis of comparable worth but that the Government must not impose such a standard. Job evaluation studies are "inherently subjective" and cannot prove discrimination, it said.

The commission majority said that Federal civil rights enforcement agencies should "reject comparable worth and rely instead on the principle of equal pay for equal work." It also said the Justice Department should resist the doctrine of comparable worth in appropriate court cases. Finally, it said Congress should not adopt legislation that would establish a policy of comparable worth in the setting of wages for employees in Government or private industry.

The two defenders of the comparable worth doctrine, Mary Frances Berry and Blandina Cardenas Ramirez, were originally appointed to the commission by President Carter. In a joint statement they said that the forces of supply and demand could not always be trusted to set wages in an environment where there was a "history of segregation" that had closed certain jobs to women and blacks.

Important Tool Discerned

Miss Berry said, "Comparable worth can be an important tool in the arsenal for attacking employment discrimination in cases where the employer has already done job evaluation studies." She said she did not take a position on whether a comparable worth policy should be used in situations where the employer had not done such studies.

The commission emphasized that "comparable worth is not synonymous with 'equal pay for equal work,'" a principle explicitly adopted in the Equal Pay Act of 1963, which requires equal pay for men and women doing the same jobs. A comparable worth



The New York Times/George Tames

Clarence M. Pendleton Jr., chairman of Civil Rights Commission, and Mary Frances Berry, a member of panel, exchanging views on report released yesterday on comparable worth doctrine. Miss Berry voted against report.

policy, by contrast, involves different jobs said to be of equal value.

One commissioner, John H. Bunzel, said, "The idea of comparable worth seems totally impractical in an economy as large and dynamic as ours." Mr. Bunzel is a senior research fellow at the Hoover Institution on War, Revolution and Peace, a research center at Stanford University.

Chairman in the Majority

Another commissioner, Robert A. Destro, an assistant professor of law at Catholic University, said, "Comparable worth imposed by Government has the potential to destroy the collective

bargaining rights of millions of American workers."

The commission chairman, Clarence M. Pendleton Jr., said that proponents of the comparable worth doctrine were making "a disingenuous attempt to restructure our free enterprise system into a state-controlled economy under the false guise of fairness."

The other commissioner voting with the majority in opposition to comparable worth was Esther Gonzalez-Arroyo Buckley, a teacher from Laredo, Tex.

Attorney General Edwin Meese 3d has described the comparable worth theory as "a bad doctrine," and the staff director of the Civil Rights Commission, Linda Chavez, has often criti-

cized it. President Reagan selected her this week to be head of the White House Office of Public Liaison.

Philip N. Marcus, president of the Institute for Educational Affairs, a private foundation in New York, emerged today as a candidate to succeed Miss Chavez.

Under a 1983 law, the President appoints the staff director "with the concurrence of a majority of the commission." Mr. Pendleton said that he would, if asked, urge the President to appoint Mr. Marcus.

Mr. Marcus, a Republican, said he had been a Democrat until 1976. In general, he said, he shares the views of Mr. Pendleton and Miss Chavez.

NOW Focuses on Pay Equity for Women

By CAROL LAWSON

Elizabeth Holtzman recalled that when she became Brooklyn District Attorney three years ago, she found "not one single woman in a position of authority" in the District Attorney's office.

"This was going on despite all the laws on the books in New York State," she said. "Now, almost half the bureaus in my office are headed by women."

"It's amazing," Miss Holtzman added with a wry smile, "what a woman can do as the boss."

Talk of discrimination in the workplace — where 50 million working women earn an average of 60 cents for every dollar that men earn — dominated the speeches and workshops this weekend at the annual convention of the 20,000-member New York State chapter of the National Organization for Women. The theme of the meeting, held at the Y.W.C.A. at Lexington Avenue and 53d Street, was "Women's Share: Economic Equity," and more than 300 women from around the state attended.



Elizabeth Holtzman



Judy Goldsmith

A Controversial Concept

Discussion of sex discrimination in employment centered around pay equity, which is the term currently being applied to the controversial concept of comparable worth.

"This has been called the women's issue of the 1980's," said Judy Goldsmith, president of the National Organization for Women. "It is the premier economic issue."

According to the Bureau of Labor Statistics, more than two-thirds of women 25 to 54 years old are in the labor force. The Rand Corporation, a research group, predicted recently that by the year 2000 women's wages would be 74 percent of those for men.

"Economic discrimination against women hurts families," Miss Holtzman said. "It hurts husbands, and it hurts children. It hurts everybody dependent on women's income. We cannot function effectively as a society if we cripple half our population. It is like trying to drive a car with two wheels."

The concept of pay equity has expanded the long-running debate over

equal pay for equal work. Today there is growing debate in the courts and in state and city governments across the country over equal pay for jobs of comparable worth.

Proponents say the effect of the comparable worth concept would be to raise the status of women's work, which has traditionally been undervalued and underpaid, to the status of men's work. Opponents say women hold lower-paying jobs because of market forces and because they choose to spend time away from work raising children.

The concept of pay equity calls for employers to try to assess the intrinsic value of different jobs by measuring the knowledge, skills and effort required by employees, their responsibilities and their working conditions. Thus, it enables employers to compare, say, what a secretary does with what a truck driver does. If the two jobs end up at about the same place on a numerical scale, proponents of comparable worth contend, they should command the same salary.

Most of the momentum for pay equity is coming from labor unions that represent public employees and from women's groups. In a landmark decision in 1983, a Federal judge ordered the state of Washington to give thousands of female employees more than \$800 million in back pay and raises. The judge's decision was based in part on a consulting firm's assessment that jobs held mainly by women were paid about 20 percent less than equivalent jobs held mainly by men. The decision is being appealed.

The Reagan Administration is opposed to the idea of comparable worth, and earlier this month the United States Commission on Civil Rights rejected the doctrine in a 5 to 2 vote. The two defenders of comparable worth were women who were appointed to the commission by President Carter.

Mrs. Goldsmith criticized the Civil Rights Commission's decision, but added, "On the plus side, pay equity is moving."

As an example, she cited the city of Colorado Springs, Colo., which has



The New York Times / Dith Pran and Nancy Kaye

Muriel Fox

implemented pay equity for municipal employees. "Colorado Springs is not a hotbed of liberalism," Mrs. Goldsmith said. "It is a quiet Republican town. The Chamber of Commerce said pay equity would ruin the economy, but the Mayor says it has produced better morale, lower turnover and increased productivity. Isn't that what the private sector is always looking for?"

"Comparable worth is not a pie-in-the-sky, radical vision," said Pamela Stone Cain, a sociologist on the faculty at Hunter College. "It is in place today and is very do-able."

A Study Under Way

Dr. Cain said four states — Minnesota, New Mexico, Iowa and Rhode Island — are implementing results of pay-equity studies. Thirty other states are in the process of conducting such studies.

"Minnesota is the furthest along," Dr. Cain said. "They have allocated \$26 million for pay adjustments in the last two years."

In New York, Dr. Cain said, Gover-

nor Cuomo "has endorsed pay equity," and a job-evaluation study of the state civil service system is due to be released in July.

"Mayor Koch is opposed to pay equity," she added.

Pay equity was endorsed by other speakers, including Bella Abzug, who said women are no longer going to "speak softly and carry lipstick," Cynthia Jenkins, a New York State Assemblywoman from Queens, and Carol Bellamy, the New York City Council President who is running for Mayor.

In other business, Muriel Fox, chairman of the NOW Legal Defense and Education Fund, received the New York State chapter's first Eleanor Roosevelt Leadership Award.

A founder of the National Organization for Women in 1966, Mrs. Fox recalled one of the early employment battles: "We said airline stewardesses should not be fired at the age of 32, or when they get married." ■

NOTE: As indicated in the agenda for the EO Commission, the Joint Program Plan section on education will be discussed by the EO Commission. Aileen Kassen indicated her concern that the section needed substantive redrafting at the April 29 meeting of the Joint Program Plan committee, and reiterated that concern subsequently in writing. The enclosed draft reflects her recommendations for substantive changes. In keeping with the procedures guiding the adoption of the Plan, the Commission will present its recommendations on the proposed revisions to the Executive Committee.

(Please note that the original text remaining unchanged is in regular type, original text proposed for elimination is crossed out, and suggested new language is underlined.)

EDUCATION

Changing Conditions: ~~The movement for education reform continues to grow on the state and local level in response to critical studies of the educational system.~~

In response to critical studies of the education system and the availability of additional revenues through fiscal surpluses in a number of states, the movement for education reform continues to grow at the state and local level. The education reform movement is reinforcing two trends in public education: the growing insistence of teachers on a role in education decision-making, and a shift in governance from the local school district level to the state level.

Comment: At least 30 national reports and 290 state commission and blue ribbon task force reports have been issued since the release of the federal government's indictment of education, "A Nation at Risk." State and local school systems have adopted more changes than perhaps in any other period in American history. At least nine states—Mississippi, Arkansas, Florida, California, Tennessee, South Carolina, North Carolina, Texas, and Maine —have passed comprehensive reform packages. Others including Wisconsin, Idaho and Ohio have passed single pieces of legislation aimed at reform. Hundreds of new state laws and regulations governing education, coupled with the trend for states to assume a greater share of the cost of funding education, have resulted in increased state control over education decision-making. This trend toward increased centralization, hailed by some reform advocates and denounced by others, raises significant governance questions. Teachers are also becoming a more significant factor in education decision-making, as they increasingly demand a role in shaping reform as part of the collective bargaining process. Already such moves are under way in at least six states.

To date, most of the reforms have focused on raising requirements for high school graduation, including minimum competency or other curriculum stan-

dards; standards for teachers, including questions of eligibility for teacher training programs, certification, recertification and salary levels; and lengthening the school day and/or year or age of entrance level for students.

~~While most reform efforts have focused on the needs of the academic student, vocational and technical education require attention as well, so as to take into account the diversity of the American student population. A comprehensive approach could make vocational and technical education, as well as academically oriented education, viable options to best fit each student's needs and talents.~~

Most reform efforts have focused on the needs of college-bound students, and have not yet addressed the needs of students who will enter directly into the world of work or post high-school technical training. Comprehensive approaches, based on providing all students with the knowledge, skills, attitudes and habits that they will need to adapt to the work place regardless of when they enter it, are needed. A single model is not appropriate for all schools or students, and reforms must take into account the diversity of the American student population.

The ~~federal~~ Administration role has been confined to actions such as new school recognition awards and creation of fellowships to attract new people to the teaching profession, although Congress recently took the lead in providing increased funds for innovative magnet schools and math and science programs. The basic framework of federal aid to education remains in place, but presently only 6% of public school revenues come from the federal government, as compared with 8% in 1980. The concern remains that such programs as aid to disadvantaged children and student loans for higher education may be further cut back or emasculated has been exacerbated by the decline in support for a strong federal

role within the Department of Education since the departure of former Secretary Bell.

Cuts in aid to education have had a particularly negative impact on urban school systems, faced with ~~overburdened budgets~~, municipal overburden, ~~lack of~~ inadequate resources and large numbers of disadvantaged students. The special problems faced by urban schools ~~face these cuts~~ come at a time when documentation of the value and cost-effectiveness of some special federally funded programs has become available. For example, a detailed longitudinal study done by the High Scope Educational Research Foundation of Ypsilanti, Michigan documented the long-term value of the Head Start program ~~on~~ in increasing not only later school success, but also post education success among disadvantaged children.

Americans ~~were~~ have been found to ~~now~~ be more favorably disposed to public schools now than any time in the last decade, reversing doubt about the effectiveness of the American educational system. The most recent Gallup annual survey of Americans' attitudes toward public education found positive attitudes to local public schools up by a third, with similar but smaller gains found in grades given to teachers, principals and school administrators.

This finding does not, however, always translate into support for adequate, secure funding of education; even though education is one of the few areas in which taxpayers can directly influence the level of services. With fewer people who have children in public schools, appeals to the importance of adequately funding public education must be made in a broader way to the citizenry if they are to be successful.

Strategic Goals: The Jewish community relations field should:

- assess those educational reforms that have been implemented and proposed in light of the goals of the Jewish community relations field, including a commitment to viable technical, and vocational options, as well as academic ones, that meet the needs of the diverse American student populations;
- renew participation in broad-based coalitions to promote enactment of education reform positions at the state and local level;
- articulate the Jewish community's historical and important stake in the public schools through demonstrated support for adequate, secure and long-term local funding;
- resist any further cuts in funding for education, especially cuts in federal funding, and support enhanced funding for key educational programs;
- support efforts to obtain federal funding for public pre-school education.