

**Hearing
Before the
United States
Commission on Civil Rights**

**AGE DISCRIMINATION IN
FEDERALLY-ASSISTED PROGRAMS**

**HEARING HELD IN
WASHINGTON, D.C.**

SEPTEMBER 26-28, 1977

VOLUME II: Exhibits

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U. S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*
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Frankie M. Freeman
Manuel Ruiz, Jr.
Murray Saltzman
John A. Buggs, *Staff Director*

By the Older Americans Amendments of 1975, the U.S. Commission on Civil Rights was directed to: investigate unreasonable age discrimination in federally-assisted programs; report the findings of the investigation to Congress, the President, and affected Federal agencies; recommend statutory changes or administrative actions based on its findings; and draft general regulations for implementation of the Age Discrimination Act of 1975.

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*Exhibit No. 1***COMMISSION ON CIVIL RIGHTS
AGE DISCRIMINATION****Hearing**

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1967, as amended, 42 U.S.C. § 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. § 6101 et seq. (1976). The hearings will be held on September 26, 27, and 28, 1977 in the Loy Henderson Conference Room (No. 1309A) at the Department of State, 2201 C Street NW., Washington, D.C. An Executive Session, if appropriate, will be convened on September 28, at the same location as the hearing.

The Commission has been conducting an extensive study of age discrimination in federally assisted programs with emphasis on the following programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation; Legal Services; Title XX of the Social Security Act; Food Stamps, Medicaid; admissions and financial aid policies and procedures of institutions of higher education; and elementary and secondary education including Adult Basic Education, and Vocational Education.

This represents the last in a series of four public hearings held by the Commission on the issue of age discrimination. The first three were conducted in San Francisco, California; Denver, Colorado; and Miami, Florida.

The purpose of these hearings has been to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The Washington, D.C. hearing is intended specifically to obtain the views of officials from Federal agencies administering programs covered by the Age Discrimination Act, and from national organizations working in areas relevant to the problem of age discrimination, on issues identified in the study and the three previous hearings; on the projected effects of the Act on current program policy and operations; on how the agencies of the Federal Government can effectively implement the intent and provisions of the Act; and on any issues or problems which may arise in light of the current provisions of the Act.

Further information on the hearing may be obtained by contacting Ms Eileen Bradley, Age Discrimination Study, U.S. Commission on Civil Rights, 1730 K Street NW., Suite 214, Washington, D.C. 20006, 202-634-7138.

Dated at Washington, D.C., August 18, 1977.

ARTHUR S. FLEMMING,
Chairman.

[PR Doc. 77-24470 Filed 8-22-77, 8:45 am]

Exhibit No. 2

Analysis of Suicide Rates by Age:

Suicides per 100,000
population by age and sex in 1974*

Age	Male	Female
5 to 14	1.4	0.4
15 to 19	11.0	3.2
20 to 24	24.1	6.2
25 to 29	23.8	8.1
30 to 34	22.6	8.7
35 to 39	23.1	9.8
40 to 44	22.5	12.4
45 to 49	25.8	13.2
50 to 54	27.3	12.8
55 to 59	30.7	11.2
60 to 64	29.7	9.3
65 to 69	30.5	8.3
70 to 74	36.4	7.6
75 to 79	42.5	7.7
80 to 84	45.2	5.7
85 and over	45.2	3.8
All ages	18.1	6.5

*Based on U.S. Public Health Service data.

Source: Robert N. Butler M.D. and Myrna I. Lewis, ACSW, Aging and Mental Health, (St. Louis: The C.V. Mosby Company, 1977) p. 68.

Exhibit No. 3

[FACSIMILE]

STATEMENT OF SAM BROWN

Good morning. I would like to thank the Commission for inviting me to testify today.

The issue of age discrimination is one in which I have a very direct and personal concern. Ageism is directed at the very young as well as the old. Ageism is perhaps unique among the social problems which we face in two respects. First, ageism is based on a theory of relativity. Age-ists say, "she is too young," or "he is too old." Too young or too old compared to what? Ageism is a totally subjective social phenomenon. That is his or her own definition and interpretation. There is no objective reality.

We find this pernicious relativity built into our own laws. The law of the land in this country is that a person who is 65 is too old to work. Which means that many of our lawmakers are too old to make laws. Many of our great writers and artists were too old to be creative. And many of the World's great social and political leaders since World War II were too old to lead.

Ageism is pernicious in a second way. Old people are old only because of their age, not because they lack will, perserverance, wit, savvy, or ability. Age is a number, not a social condition. Our problem today in this country is not old people, it is remote Federal programs. Old people are not the problem. We are the problem.

I applaud your Commission for not going off to study the elderly. They do not need to be studied. We do. I am glad to be here and glad to be studied. Those of us in

government with remote and unresponsive programs are the problem. It is us who need to be reformed.

Having talked broadly about the problem of ageism, let me turn to the role of ACTION in acting as an advocate for the elderly.

Although many Federal programs are open to all on an equal basis in theory, in practice these same programs discriminate against the elderly. The elderly have a set of unique problems, including limited mobility, which can block their full participation in programs. Consequently, without outreach and advocacy, standard operating procedure will mean that many elderly will continue to live in isolation and fear. They will remain cut off from an American society to which they have contributed so richly but which shuns them now in favor of the young; a society which locks them away in institutions supposedly for their own good.

Although exclusion by age has become a characteristic of modern American life, we have found that volunteers help break down this barrier through advocacy and outreach. They link the isolated and elderly with programs that benefit them in their own communities. Personal contact also helps the older person to overcome fear, loneliness, or misinformation, and gives them renewed interest in themselves.

In New York City, for example, a volunteer in ACTION's Senior Companion Program helped a depressed and withdrawn elderly man avoid going into a nursing home. The volunteer helped him obtain homemaker health aid assistance, supported him through his troubles and introduced him to a Title VII

nutrition center where he now receives balanced meals and is able to socialize with others.

As a member of the local community in which they both live and through special training, the volunteer is familiar with its social service programs, and knows where to go and who to talk with.

Volunteer participation like this benefits the community as well as the individual. Our programs have shown that volunteering fosters both individual and community self-esteem and reliance. It brings out the best in people and contributes to a climate of positive community cooperation.

As an example of what I mean, I would like to describe in detail a few of ACTION's domestic outreach projects.

Since 1974 in Colorado, 70 VISTA volunteers, two-thirds of whom are over 60, recruited more than 2,000 local volunteers across the State in a program primarily designed to reach out to isolated older people, especially those living in rural areas. The project, which is sponsored by the Colorado Congress of Senior Organizations and funded by ACTION, has been very successful: more than 100,000 of Colorado's 325,000 residents aged 60 and over have been reached. More importantly, 90 percent of the elderly residents in rural communities have been contacted.

The outreach has involved a great deal of knocking on doors, visiting and talking. Volunteers have informed the elderly about federal programs available to them and they have followed up their initial contacts to determine the progress individuals have made in receiving benefits.

When necessary, project volunteers have become advocates for their clients, making sure that the bureaucracy responds directly to them. In cases where existing needs have not been provided for, volunteers have helped develop new programs to meet them.

Throughout the program's tenure, cooperation among federal, State, and local agencies has been excellent. Volunteers have been trained through the auspices of Area Agencies of Aging. The State Social Security Administration has arranged regular information and exchange meetings for the volunteers and it has sent its representatives to training projects.

The project has been so successful that its director feels it has reached most of the elderly citizens of Colorado. Necessary systems for helping people have been established and seem to be working effectively. Both Utah and Wyoming are studying the Colorado project and may set up similar ones.

In a new approach to solving social problems through the use of volunteers, ACTION has sponsored a demonstration project for the purposes of counseling and helping people who live on fixed or restricted incomes.

For the last two years, this program has provided bilingual aid and counseling to 10,000 individuals including senior citizens, displaced homemakers, welfare recipients, and the unemployed. Three hundred professionals or persons with unique skills and training assist the program voluntarily on a part-time basis. They hold counseling seminars, advise individuals, compile and distribute information and write manuals and guides. These counselors

possess expertise in a broad range of areas including nutrition, health care, financial advice, food stamps, credit, legal aid, and tax law.

Elderly persons comprise the largest single segment served by volunteers, who have worked individually with about 5,000 of them. Indirectly, through appearance on television talk shows, radio programs and in newspaper columns, the project volunteers have reached another estimated 10,000 low and fixed income elderly residents. Based on the success of this pilot program, we plan three additional projects located in different geographic areas of the country.

However, ACTION's largest volunteer outreach effort in behalf of older Americans has been achieved through its three major programs servicing the elderly: Foster Grandparent Program, Senior Companion Program, and Retired Senior Volunteer Program.

The thrust of the Foster Grandparent and Senior Companion programs has been to make community service possible for people over 60, whose retirement income is below the poverty line and who possess the desire and the physical and emotional ability to help others in dire need. These programs have been designed to provide personal assistance to handicapped children and to the bedridden frail elderly who have become isolated.

Since their program's inception in 1965, Foster Grandparents have successfully provided outreach assistance to children with special needs and have acted as their advocates. In effect, they have demonstrated what older volunteers can do in outreach and advocacy in any age group.

Under the Senior Companion Program, established in 1974, 2,600 volunteers currently serve in 48 locally sponsored projects in the United States and Puerto Rico. More than 60 percent of their clients are frail elderly persons living in their own homes. For 20 hours a week the companions are frequently the only source of continuing care available to isolated and lonely older persons limited by physical and financial burdens.

Senior Companions effectively coordinate their efforts with the Administration on Aging, Title VII, and other supportive programs for older Americans at the local level. In fact, they serve as advocates for older persons, providing care and friendship and organizing services such as home health care nutrition for them. The timely involvement of Senior Companions has meant for many the opportunity to remain in their own homes and communities.

ACTION is deeply committed to this program because it helps to provide an alternative solution to institutionalization of older Americans.

The RSVP program is the largest of all ACTION efforts with more than 255,000 older volunteers who serve in a large and varied number of assignments at the community level throughout the country. Their service includes many forms of outreach activity.

For example, in St. Paul, Minnesota, RSVP volunteers serve as advocates with the Legal Assistance attorneys to help solve problems about federal, State and community law-related social programs. They plead the cause of other elderly persons. RSVP Volunteers also serve as patient advocates at the county hospital and they deal with problems

of food stamps and tenant-landlord law. To increase awareness of available programs and services, many of them speak to groups and write columns in community newsletters.

What our experience at ACTION suggests is that the combined approach of advocacy and volunteerism works well. It is sensitive and personal, and involves the participation of local volunteers of all ages. It has been, however, a modest effort but certainly one which can be helpful in complementing other approaches to reach and serve the elderly.

We will be glad to contribute in any way we can to the Commission's work to guarantee that older Americans receive the benefits and services to which they are legally and morally entitled.



ACTION Memorandum

WASHINGTON, D.C. 20525

TO : Eileen Bradley
Age Discrimination Study
1730 K St., N.W. Ste. 214
Washington, D.C. 20425

DATE: 12/2/77

FROM : Nora Manning *Nora*, Office of Legislative & Governmental Affairs

SUBJECT: RSVP volunteer activities

Attached is a copy of the poll conducted this August to determine the type of activities in which RSVP volunteers are involved.

The information collected has been categorized according to eight "human need" sectors. These sectors include health and nutrition, food and water, housing, energy conservation, knowledge and skills, economic development, community services and legal rights. Each "human need" sector is subdivided into "project areas." Together these provide a brief accurate description of RSVP volunteer activities.

RSVP PROJECTION OF VOLUNTEER HOURS

- Based on: 1. RSVP Random Sample of 96 projects.
 2. Projected for all 680 projects.
 3. Projected for all 220,000 volunteers.*

Human Needs Sector	Projected Number of Hours	% of Total
Health/Nutrition	17,432,781	43.2%
Food/Water	48,424	0.12%
Knowledge/Skills	5,689,866	14.1%
Economic Development	2,271,911	5.63%
Housing	217,910	0.54%
Energy/Conservation	165,450	0.41%
Community Services	14,256,948	35.33%
Legal Rights	270,370	0.67%
Other	-0-	-0-
TOTAL	40,353,660	100.0%

* Average Number of Hours Per Volunteer/Week - 4 hours

See attachment for breakdown by project area.

PROJECT

SECTOR Health/Nutrition

<u>PROJECT AREAS</u>	<u>Projected Number of Hours</u>	<u>% of Total</u>
001 - Health Planning	244,059	1.4
002 - Delivery of Health Services	4,427,926	25.4
003 - Health Education	923,937	5.3
004 - Material/Child	209,193	1.2
005 - Family Planning	34,866	.2
006 - M. Health/M.R.	1,098,265	6.3
007 - Disability Treatment	331,223	1.9
008 - Nutrition	8,716,391	50.0
009 - Sanitation	-0-	-0-
011 - Disease Control	278,924	1.6
012 - Black Lung/Lead Poison	-0-	-0-
013 - Alcohol/Drug Abuse	174,328	1.0
014 - Crisis + Intervention	174,328	1.0
015 - Laboratory Tech.	383,521	2.2
020 - Other	435,820	2.5
SECTOR TOTAL	17,432,781	

PROJECT

SECTOR Food & Water

PROJECT AREAS	Projected Number OF Hours	% of Total
110 - Agriculture Education	46,003	95.0
120 - Other	2,421	5.0
SECTOR TOTAL	48,424	

PROJECT

SECTOR Knowledge & Skills

PROJECT AREAS	Projected Number of Hours	% of Total
201 - Child Care/Day Care	267,424	4.7
202 - Early Childhood/Pre-School	216,215	3.8
203 - Primary/Elementary Education	768,132	13.5
204 - Math./Science (Secondary)	79,658	1.4
205 - Humanities (Secondary)	96,728	1.7
207 - Physical Education (Secondary)	51,209	.9
208 - University	159,316	2.8
210 - Alternative Education	96,728	1.7
211 - Special Education	330,012	5.8
212 - Tutoring/Remedial	153,626	2.7
213 - BiLingual Education	142,247	2.5
214 - Vocational Education	79,658	1.4
215 - Adult Basic Education	96,728	1.7
216 - Curriculum Develop.	51,209	.9
217 - Library Services	597,436	10.5
218 - Cultural Heritage	2,293,015	40.3
230 - Other	210,525	3.7
SECTOR TOTAL	5,689,866	

PROJECT

SECTOR. Economic Development/Income

<u>PROJECT AREAS</u>	<u>Projected Number of Hours</u>	<u>% of Total</u>
302 - Demography	68,157	3.0
304 - Entrepreneur Assistance	27,263	1.2
307 - Consumer Coops/Buying	336,243	14.8
308 - Credit Coops/Unions	-0-	-0-
309 - Crafts/Artisan Coops	856,510	37.7
311 - Job Development/Placement	118,139	5.2
312 - Public Assistance/Advocacy	652,038	28.7
313 - Consumer Protection/Education	84,062	3.7
314 - Home Management	70,429	3.1
320 - Other	59,070	2.6
SECTOR TOTAL	2,271,911	

PROJECT

SECTOR Housing

<u>PROJECT AREAS</u>	Projected Number of Hours	% of Total
402 - Housing Rehabilitation/ Construction	133,143	61.1
403 - Winterization	28,546	13.1
405 - Housing Referral/Relocation	10,460	4.8
406 - Home Ownership	-0-	-0-
420 - Other	45,761	21.0
SECTOR TOTAL	217,910	

PROJECT

SECTOR Energy/Conservation

PROJECT AREAS	Projected Number of Hours	% of Total
501 - Energy Conservation/Production	49,635	30.0
502 - Environmental Protection/ Pollution Control	52,117	31.5
507 - Forest Support Services	63,698	38.5
520 - Other	-0-	-0-
SECTOR TOTAL	165,450	

PROJECT

SECTOR Community Services

PROJECT AREAS	Projected Number of Hours	% of Total
602 - Community Facility (Design)	270,882	1.9
604 - Transportation Systems/Services	1,197,584	8.4
607 - Neighborhood Beautification	85,542	.6
608 - Regional, State...Planning	57,028	.4
609 - Public Administration	171,083	1.2
610 - Comprehensive Social Service Planning	798,389	5.6
611 - Comprehensive Social Service Delivery	655,820	4.6
612 - Community Organization	3,435,924	24.1
613 - Volunteer Programs	1,169,070	8.2
614 - Recreation	299,396	2.1
615 - Communications Media	71,235	.5
616 - Safety, Accident Prevention	171,083	1.2
618 - Offender/Ex...Rehabilitation	156,826	1.1
619 - Special Youth Services	441,965	3.1
620 - Adult Day Care	4,490,939	31.5
621 - Companionship Outreach	99,799	.7
640 - Other	684,333	4.8
SECTOR TOTAL	14,256,948	

PROJECT

SECTOR Legal Rights

<u>PROJECT AREAS</u>	<u>Projected Number of Hours</u>	<u>% of Total</u>
701 - Legal Public Education	73,000	27.0
703 - Comprehensive Legal Services	114,096	42.2
704 - Delinquency/Crime Prevention	81,111	30.0
710 - Other	2,163	.8
SECTOR TOTAL	270,370	

Exhibit No. 4

[FACSIMILE]

DR. BERNADINE DENNING'S STATEMENT

Mr. Chairman and members of the Commission, I am pleased to be here today to assist the Commission in its statutory mandate under the Age Discrimination Act of 1975 to study unreasonable discrimination based on age in programs and activities receiving Federal financial assistance, including revenue sharing funds. I recognize the importance of these hearings as we are all concerned that, upon its implementation, the Age Discrimination Act will be as effective as possible in preventing discrimination against the aged by States and units of local government which receive revenue sharing funds.

A discussion of the implementation of the age discrimination prohibition, and indeed all civil rights enforcement efforts under the General Revenue Sharing Program, must begin with an understanding of its nature and purpose. The General Revenue Sharing Program began in October of 1972 with the enactment of the State and Local Fiscal Assistance Act of 1972. The purpose of Revenue Sharing was, and is, to provide financial assistance to States and local governments in a way that will return decision-making to the people. The philosophy behind the General Revenue Sharing Program is that State and local government officials rather than the Federal bureaucracy are best equipped to decide how funds should be spent.

The General Revenue Sharing Program is an entitlement program, not a grant program. The Office of Revenue Sharing finances recipient governments; those governments, in turn, decide which programs and activities are to receive revenue

sharing funds. One of the very important concepts of General Revenue Sharing is that revenue sharing funds shall be spent by recipient governments as if the funds were local funds, following the same laws and procedures applicable to the expenditure of the government's own revenues. The recipient governments administer the programs and activities funded with shared revenues. The Office of Revenue Sharing's responsibility is to ensure compliance by recipient governments with the fundamental guarantees embodied in the Revenue Sharing Act as amended of civil and human rights, financial disclosure, and public participation in the decision-making processes.

Section 122 of the Revenue Sharing Act as amended by the Revenue Sharing Amendments of 1976 sets forth the prohibitions against discrimination. That section provides that no person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity of a State government which receives funds made available under the Revenue Sharing Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or the Civil Rights Act of 1968, shall also apply to any program or activity.

What all of this means is that the Office of Revenue Sharing has jurisdiction over every program and activity of 39,000 State and local governments. It is our responsibility to see that all functions of a recipient government and all services provided are free from discrimination on the basis of race, color, national origin, sex, handicapped status, religion or age. To my knowledge this is the widest jurisdictional base of any Federal program or Federal government agency.

With this background, I shall turn to a discussion of some specific problems and issues regarding the enforcement of the Age Discrimination Act as it relates to the General Revenue Sharing Program. As I stated earlier, revenue sharing funds finance governments, rather than specific program activities. What the Office of Revenue Sharing must do is see to it that as of January 1, 1979, recipient governments do not discriminate against the aged. As with other protected classes, governments found to have provided an imbalance of services to the aged must be required to act affirmatively to correct that imbalance.

With respect to monitoring and enforcement, the Age Discrimination Act has raised several questions, particularly concerning Section 304(c)(1). Section 304(c)(1) of the Age Discrimination Act of 1975 provides that except with respect to programs and activities receiving Federal financial assistance for public service employment, nothing in the Act shall be construed to authorize action by a Federal agency with respect to the employment practices of any employer, employment agency, etc. As we understand this section and apply it to the

General Revenue Sharing Program, the Office of Revenue Sharing would have no jurisdiction over the employment practices of recipient governments with respect to discrimination on the basis of age. This will not, however, prevent us from looking into those practices as part of the investigation of a complaint or as part of a compliance review. Should the Office of Revenue Sharing uncover evidence of employment discrimination on the basis of age, we will pass such information along to the Department of Labor. It is my understanding, from discussion that members of my staff have had with the Department of Labor, that they have jurisdiction over employment discrimination on the basis of age by some State and local governments under the Age Discrimination in Employment Act of 1967. The Commission might consider as a part of its study and recommendations for changes to the Age Discrimination Act of 1975 whether the removal of this large area of jurisdiction is appropriate or unduly weakens its effectiveness. Of course, we are willing to cooperate with the Labor Department or any other Federal agency on this area of employment discrimination to the greatest extent possible.

An area in which the Office of Revenue Sharing can be very effective, however, is in enforcing the prohibition against discrimination on the basis of age in the provision of services. We will enforce the requirement that a recipient government not discriminate on the basis of age in the provision of services as strictly as we would discrimination against the other protected classes of race, color, national origin, sex or handicapped status. The enforcement effort will use the same procedures as for other

protected classes; namely, investigation of complaints and compliance reviews concerning the services provided or funded by recipient governments. Governments which are found to discriminate against the aged in the provision of services will be required to take affirmative action to correct those imbalances. This means that States and units of local government will, through the General Revenue Sharing Program, be required to provide certain needed services for the aged which are not currently being provided. The impact, I believe, will be very beneficial to all citizens.

The addition of the aged as a protected class is not the only provision concerning senior citizens added by the Revenue Sharing Amendments. The 1976 Amendments to the Revenue Sharing Program provide for public participation in the General Revenue Sharing Program. Section 12 of the Amended Act specifies that each governmental unit appropriating revenue sharing funds on or after January 1, 1977, shall be subject to Proposed Use Hearing and Budget Hearing requirements of the statute. The objective of this provision is to assure citizen involvement in the process of determining uses for their government's revenue sharing funds.

In recognition of the special role which senior citizens could play in the public hearing process, the Congress included Section 121(g) in the Act. Section 121(g) states, "In conducting any hearing required under this section, or under its own budget processes, a State or unit of local government shall endeavor to provide senior citizens and their organizations with an opportunity to be

heard prior to the final allocation of any funds provided under the Act pursuant to such a hearing." Language to this effect has been included at Section 51.16 of our interim regulation which implements the public participation provisions of the Act.

A number of governments have requested that the Office of Revenue Sharing clarify how a recipient government is to endeavor to provide senior citizens and their organizations with an opportunity to be heard. It is our position that a recipient government should identify the senior citizen organizations located within its jurisdiction and contact them directly concerning both the proposed use hearing and the budget hearing. A recipient government should also give special attention to location of the hearing place to assure that it is accessible and convenient to senior citizens. Public hearing notices, budget summaries, and other required information might be posted in senior citizen centers and other locations frequented by senior citizens.

This information regarding the scope of the term "endeavor" will be included in the Office of Revenue Sharing final regulations implementing the Act's public participation provisions in order to advise all recipient governments of their obligation to involve senior citizens in the process of determining uses for revenue sharing funds.

Let me now turn to a discussion of interagency cooperation. We currently have cooperative agreements with the Equal Employment Opportunity Commission and the Department of Justice to share information and coordinate compliance efforts. We also have agreements with 14 State

human rights agencies. All these cooperative agreements are currently under review, however, because they were entered into prior to the 1976 amendment of the Revenue Sharing Act. New procedures require that the Office of Revenue Sharing investigate each complaint received and make a finding as to whether a recipient government discriminated against a protected class. State agencies particularly may have difficulty in meeting our new time limits for investigations. The Office of Revenue Sharing is always willing, of course, to cooperate with other Federal agencies in any way possible and permitted within the limits of the Revenue Sharing Act.

In conclusion, the Office of Revenue Sharing has some concern about its limited jurisdiction under the Age Discrimination Act of 1975. We will, however, vigorously enforce the prohibition against age discrimination in the provision of services. While we cannot affirmatively require State and local governments to spend revenue sharing funds to benefit the aged,; we can and will require governments to make sure that the services they provide benefit all citizens, including the aged, on an equal basis. General revenue sharing is a program which I believe can further the national goal of assuring equal treatment for our senior citizens. The Age Discrimination Act of 1975 will strengthen our achievement of that goal.

Complaints Received (1972 - September 1, 1977

697

Findings/Determinations Issued (1972 - September 1, 1977)

316

		1972	1973	1974	1975	1976	1977(Sept.1)	TOTAL
Cases Resolved:		0	2	26	29	69	86	212

		Race	Sex	Nat'l. Origin	Combination	TOTAL
Cases Resolved:	Employment	51	13	13	53	130
	Services	14	1	9	1	25
	Contract Compliance	8	0	0	2	10
	Facilities	19	5	1	0	25
	Employment & Services	4	0	0	3	7
	Employment & Facilities	1	1	0	2	4
	Employment, Services & Contracts	0	0	0	1	1
	Employment, Facilities & Contracts	0	0	0	1	1
	Employment, Services & Facilities	4	0	1	0	5

	Race	Sex	Nat'l. Origin	Combination	TOTAL
Services & Facilities	2	0	0	1	3
Facilities & Contracts	1	0	0	0	1
TOTALS	104	20	24	64	212

Exhibit No. 5



DIRECTOR
OFFICE OF REVENUE SHARING

OFFICE OF THE SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20226

October 7, 1977

Dear Chairman Flemming:

Attached please find the information requested of the Office of Revenue Sharing at the hearing on September 26, 1977.

We hope it is satisfactory. Please let us know if we may be of further assistance to the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Bernadine Denning".

Bernadine Denning
Director
Office of Revenue Sharing

The Honorable
Arthur S. Flemming, Chairman
U.S. Commission on Civil Rights
1121 Vermont Avenue
Washington, DC 20425

Enclosure

OCT 21 1977

ADDENDUM TO AGE DISCRIMINATION TESTIMONY

You asked for the position of the Office of Revenue Sharing on whether the age discrimination prohibition is to be enforced under the Revenue Sharing Act, or the Age Discrimination Act of 1975. We are inclined to the view, and we believe correctly, that the prohibition against discrimination on the basis of age is enforceable under the procedures prescribed by the Revenue Sharing Act as amended, rather than the procedures set forth in the Age Discrimination Act.

As you know, the Revenue Sharing Amendments were passed one year after the Age Discrimination Act. Since both Acts make age discrimination a prohibited practice by recipients of general revenue sharing funds, the later Act should govern where conflict exists regarding procedures. Secondly, § 122(a) of the Revenue Sharing Act as amended provides, with respect to age, that "Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 . . . shall also apply to any such program or activity". (Emphasis added) We construe this provision to mean that the expenditure of revenue sharing funds by recipient governments in any program or activity which discriminates on the basis of age, is prohibited. The prohibition is against age discrimination in activities and programs financed by recipients of revenue sharing funds. The procedures used to effect compliance with all the prohibitions

-2-

against discrimination are provided in § 122(b) through (f) and §§ 124 and 125 of the amended Revenue Sharing Act. Accordingly, it is our view that the enforcement procedures set forth in § 305 of the Age Discrimination Act of 1975 are not applicable where revenue sharing funds are involved because the Revenue Sharing Act has its own enforcement provisions against discriminatory conduct.

We find support for the above-stated position in the legislative history of the renewal of the General Revenue Sharing Program. Congress clearly intended that age discrimination, and other prohibitions added to § 122(a) of the Revenue Sharing Act, should be enforced by the procedures set forth in the Revenue Sharing Act. The House of Representatives, Committee on Government Operations, in H.R. 13367, the bill renewing general revenue sharing, initially added age and handicapped status to the existing protected classes. Senator Gravel, in support of his amendment to add age and handicapped status to the Senate version of the renewal bill stated on the Senate floor that:

The enforcement mechanism provided in the 1975 Act is much more general and loosely structured. In effect, the enforcement mechanism of that Act tracks the existing [pre-amendment] revenue sharing law. The Senate Finance Committee, however, in reporting H.R. 13367 [the Revenue Sharing Amendment bill] found that it was necessary to tighten up, substantially, the civil rights enforcement procedures under revenue sharing. Therefore, by adding

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an age bias prohibition to the Revenue Sharing Act itself, as I propose, that prohibition would be subject to the strict enforcement timetables adopted by the committee. To not adopt my amendment and instead to rely solely on the 1975 legislation is to have those suffering from age bias with much weaker and more loosely structured remedies. [(p. S15719 Congressional Record, September 13, 1976)]

Further, the House Report (H.R. 94-1165, pt. 1) on its version of the general revenue sharing renewal bill consistently referred to the enforcement procedures as applying to the prohibitions as a whole. The House Report never referred to separate procedures for enforcing the discrimination provisions on the basis of age or handicapped status or religion. For example, the House Report states that a recipient government will be notified of noncompliance after the Secretary has made an initial determination of noncompliance based on his own investigation, and

" . . . when a federal or state court or administrative agency, after notice and opportunity for the recipient to be heard, makes a finding of discrimination on the basis of race, color, religion, sex, national origin, age or handicapped status" (House Report 94-1165, Part 1, pg. 13).

In conclusion, we take the position that the enforcement procedures contained in §§ 122, 124, and 125 of the Revenue Sharing Act apply to all protected classes established by the Revenue Sharing Act, as amended, including age, handicapped status and religion. The Office of Revenue Sharing is bound only by those provisions of the Age Discrimination Act of 1975 which set forth the scope of the age discrimination prohibition and determine its effective date.

Exhibit No. 6

Proposed changes in Regulations for the Weatherization Program in light of the Age Discrimination Act.

Mr. Clinton's office was contacted on November 15, 1977 concerning this exhibit. This information had not been received at the time the record was printed.

Exhibit No. 7

THE BOARD OF CHOSEN FREEHOLDERS
OF THE COUNTY OF SOMERSET
NEW JERSEY

COUNTY ADMINISTRATION BUILDING, SOMERVILLE
08878

THOMAS E. MAGGIO
Director
DORIS W. DEALAMAN
Deputy Director
WARREN G. NEVINS
VERNON A. NOBLE
MICHAEL J. CEPONIS

GUY E. MILLARD
County Administrator
MARGARET A. MACCINI
Clerk of the Board

(201) 725-4700

October 14, 1977

Dr. Arthur S. Flemming
United States Commission on Civil Rights
Age Discrimination Study
1730 K Street, N. W. Suite 214
Washington, D. C. 20425

Dear Dr. Flemming:

Many thanks to you and the Commission for giving the National Association of Counties the opportunity to testify before your hearings on age discrimination. As you know, the prepared questions were based on our discussions with your staff.

We assumed that the Attorney General would be speaking on discrimination in the provision of legal services. You will recall it developed that his concern was weatherization.

Since I had not indicated a specific question on the legal aspect and since I recognized your time frame, I did not open that area for discussion. However, as I was leaving, I met Eileen Bradley and shared with her my concern that this area of discrimination needed to be highlighted. She quite agreed.

Our experience, particularly in Somerset County but also across the nation, has been that indeed discrimination in the provision of legal services does exist. In our own instances, we contract with the Somerset-Sussex Legal Services Division for a variety of services including individual case services, public relations, outreach, preparation of a "Know your Rights" booklet and opportunities for review and comment on legislation and/or regulations affecting senior citizens. Within three months of the signing of that contract, our seniors were being put on waiting lists regardless of the severity of their problems.

Participation by the legal services unit in our outreach program (which includes ways of spreading the word regarding legal rights) was infrequent at best. No counselling or referral by telephone was provided if the senior did not meet income guidelines.

OCT 21 1977

Dr. Arthur S. Flemming

2.

October 14, 1977

The "Know your Rights" booklet was never developed. In discussion of this failure, we received comments such as "old people are too hard to make understand," "they are deaf and they are difficult," "their problems are not as important as those of the families, etc."

I share this information with you because of my concern about what appears to be real discrimination.

If I can provide any additional material for you or your staff, please let me know.

Again, it was a pleasure to be with you.

Sincerely yours,



Doris W. Dealaman
Freeholder - Deputy Director

DWD:Me

cc: Ms. Eileen Bradley

Whatever your problem might be it helps to have someone to talk to. If we can't give you the answers, we'll direct you to someone who can. Your service worker is trained to help you. Your service worker will listen to your problems and try to help you work them out. Please don't hesitate to call or write. We are here to help. There is a service worker for every area. If you don't know who your service worker is, call the office, tell them your address, and ask to speak to your service worker.

SERVICE WORKER: _____

TELE. # _____

who is your

S.S.
Service
Worker ?

This agency is responsible for sending you a check each month and we also have the responsibility to provide you with a number of other services. For this reason we have a service unit and there is a special worker who is available in your area to help provide these services. There are also many people who are not eligible for a money payment but who do qualify for certain services.

SOMERSET COUNTY WELFARE BOARD

Call or write your service worker if you have problems and can't seem to work them out. They might include such things as:

- CHILD CARE PROBLEMS
 - GETTING A JOB
 - BABYSITTING OR EMERGENCY CARE
 - LEGAL PROBLEMS
 - TRANSPORTATION FOR MEDICAL CARE
 - MARITAL OR PERSONAL PROBLEMS
 - FAMILY MEDICAL CARE & MEDICAID PROBLEMS
 - EMERGENCY FOOD, CLOTHING & FURNITURE
 - BIRTH CONTROL & SEX EDUCATION
 - BUDGETING YOUR MONEY
 - BOARDING HOME OR NURSING HOME SERVICES
 - COMMUNITY RESOURCES
 - HOUSING PROBLEMS & UTILITY SHUT-OFFS
 - ASSISTANCE WITH FAIR HEARINGS
 - SERVICES TO SPANISH-SPEAKING CLIENTS
 - HEALTH SCREENING FOR YOUR CHILD
- * Services will be provided to the limit of our funding.

*Exhibit No. 8***NATIONAL
COUNCIL
OF JEWISH
WOMEN**

45 EAST 26th STREET, NEW YORK, N.Y. 10010 - (212) 532-1740

ESTHER R. LANDA, NATIONAL PRESIDENT

MARJORIE MERJIN COHEN, EXECUTIVE DIRECTOR

October 19, 1977

Dr. Arthur S. Fleming, Chairman
United States Commission on Civil Rights
Age Discrimination Study
1730 K Street, N.W., Suite 214
Washington, D.C. 20425

Attention: Eileen Bradley, Study Director

Dear Dr. Fleming:

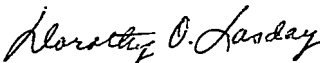
Enclosed is the written statement for the record of the public hearings on the Age Discrimination Study, held in Washington on September 26, 1977.

We appreciate the opportunity to have participated in the hearing and the stimulation this has given some of our State Public Affairs Chairwomen. In response to the phone conversation I had with Ann Sablonsky of the study staff on September 19th, we sent a memo of inquiry to about 15 of our more experienced chairwomen to update our information in the national office. The written statement has been delayed to incorporate some of the later information.

Problems of the aging have been included among the ten program priorities of our organization for many years. For this biennium our national board in June ordered the current priorities adopted by the National Convention in March and placed Aging among the top four, to receive special attention of a national task force.

Please call on us if we can be of further assistance.

Sincerely,



Dorothy O. Lasday
Volunteer Coordinator
State Public Affairs

OCT 31 1977

**NATIONAL
COUNCIL
OF JEWISH
WOMEN**

15 EAST 26th STREET, NEW YORK, N.Y. 10010 - (212) 532-4740

ESTHER R. LANDA, NATIONAL PRESIDENT

MARJORIE MERLIN COHEN, EXECUTIVE DIRECTOR

**STATEMENT SUBMITTED FOR THE RECORD OF
THE PUBLIC HEARINGS ON THE AGE DISCRIMI-
NATION STUDY OF THE U.S. COMMISSION ON
CIVIL RIGHTS September 26-28, 1977**

The National Council of Jewish Women is a volunteer organization founded in 1893, dedicated in the spirit of Judaism to advancing human welfare and the democratic way of life by working through a coordinated program of education, service and social action in the Jewish and general communities, locally, nationally and internationally. Our 100,000 members in 220 communities throughout the country have long recognized that older Americans had special needs that were not being addressed.

Over the years the NCJW has pioneered a wide variety of services for senior citizens. The NCJW organized the first nationwide "golden age" program with clubs and centers where initially the elderly could find friendship, recreation and hobbies. The program began with a single club in 1945 and grew to 50 clubs five years later. In another 10 years (1960) more than 200 Sections (local chapters) had senior citizen activities which had expanded to include a wide range of services to meet local needs -- congregate meals, sheltered workshops, and meals-on-wheels among them. Individual Sections pioneered new services, such as employment bureau for older workers in recognition of discrimination in employment on the basis of age (Atlanta, Georgia) and the Senior Service Corps (Essex County, New Jersey). The latter inspired Senator Williams to introduce legislation to establish the National Senior Community Services Corps, now called RSVP (Retired Senior Volunteer Program) under ACTION. In some communities Sections sponsored senior citizens housing.

In 1975 the NCJW published Continuing Choices, a comprehensive handbook for work with older adults. The foreword by Dr. Arthur S. Fleming states that the handbook "shows how local groups and organi-

- 2 -

zations can assist in making use of the energy and experience of older Americans."

We have been asked to focus our testimony on age discrimination in programs under Title XX of the Social Security Act, because of our activities in support of passage of Title XX and the follow-up monitoring of its implementation by our State Public Affairs Chairwomen and their committee members in the local communities. The NCJW endorsed the new approach to eligibility for services based on a percentage of state median income (adjusted to family size), rather than on receipt of a cash grant under Title IV-A and VI financial assistance programs. We also endorsed the active citizen participation spelled out in the legislation and implementing regulations, and encouraged our members to become involved in needs assessment, as members of the citizens advisory committees, and at public hearings.

Our examination of the Title XX Comprehensive Annual Social Services Program Plans and implementation of those plans has indicated to us that there is age discrimination under Title XX of the Social Security Act, providing grants to the States for social services. This discrimination has been caused in the various states by different factors, but essentially due to 1) Funding; 2) Regulations; and 3) Attitudes. Some details of what we found and possible changes to rectify some of the problems follows.

1. Funding

The Federal ceiling on social services, adopted with passage of the State and Local Fiscal Assistance Act of 1972 (Revenue Sharing), plus the ballooning inflation since that date have combined to greatly reduce the effective funds available for services. This has produced a competition for the limited funds to meet the needs of different age groups because of the nature of the services, the delivery system itself, and the lack of lead time in implementing Title XX, not permitting a detailed needs assessment. Everywhere reports came back to us that initially old contracts, developed under Titles IV-A and VI, were continued. The great expectation

that a realistic needs assessment would bring about a reordering of priorities and services for the second year's plan was fulfilled in very few places. Where this was undertaken -- example, Nassau County, New York, there was indeed a major reordering of services. But such needs assessments took place in few communities, in part because inflation has caused an actual decrease in services provided.

For effective use of current funding, the following are needed:

- a) Adequate, realistic needs assessment -- a continuing process as neighborhoods and needs change.
- b) Citizen input before the annual social services plan is developed -- only minimal changes can be made after the draft of the proposed plan is distributed for comment.
- c) Effective evaluation of service delivery, with participation of both the voluntary and public agency sectors.
- d) Examination of the total funds available for services from all sources -- a requirement of the legislation, but never funded.
- e) Two year plan in many States where the legislature meets in alternate years.

The importance of the citizen participation and input was indicated in several states. In Kentucky, \$12 million was siphoned off from Title XX to cover a community mental health deficit and replace an eight year phase-out. It occurred because there was insufficient time to educate about Title XX, but it was indeed found.

Lack of community education was also responsible for a clamor in California about inequities in the use of Title XX funds, especially from the elderly. Yet Homemaker-Chore Services for the elderly use one-third of Title XX funds -- and actually 53% of all Homemaker-Chore Services are from State funds. There was also agitation because little or no Title XX funds go for child day care. In fact, California has a highly developed child day care system, totally funded by the State.

In Tucson, Arizona, citizen participation forced the use of

revenue sharing funds to meet the needs of neglected parts of the community, but there has been no such citizen participation with Title XX, because there is very little provision of services by the State of Arizona.

2. Regulations

Title XX Federal Regulations (first published June 27, 1975 with several amendments and changes in the year that followed) permit payment of administrative costs without the earlier restrictions and specifics of the Title IV-A and VI regulations. Local and State departments of social services/human resources/welfare consequently charge against the Title XX funds for services (with 75% Federal Financial Participation instead of the 50% of AFDC) the salaries of supervisors and of caseworkers whose primary function is related to income maintenance budgetting, etc. In California this is called case management services; in New York it may be called counselling or social adjustment services. This results in less and less purchase of services, or provision of services, such as Homemaker-Chore for the elderly or day care for children -- unless the State actually provides such services itself, as in New Jersey.

More and more complicated reporting/evaluating forms are developed in pursuit of "accountability" -- paper work for computer programs which do not provide the expected information. This also in turn further reduces the money for needed purchase of services from the voluntary sector, hitting hard both the elderly and children.

In addition, the differing definition of services under SSA's Titles XX and XIX - Medicaid is responsible for a heavy drain on Title XX funds to provide assistance to ^{the}elderly to remain in their own homes with the assistance of homemaker-chore-home health aides. Elderly clients not able to take care of themselves fully may also be denied services if the State/local CASSP plan does not provide homemaker-chore services and the client is not eligible for the Medicaid service because of the slight difference in definition. Moreover, Title XIX is open-ended at 50% Federal Financial Participation, while Title XX has a ceiling but provides 75% FFP.

- 5 -

The regulations do not provide the formal linkages needed to ensure that those elderly receiving SSI (Supplemental Security Income) make application for the services they need and that are available.

To ensure that there will be some Title XX money available for purchase of service, the following are needed in Regulations:

- a) Specific definitions of what administrative costs may be charged to Title XX and service definitions consistent with other Titles.
- b) Limitation as to what percentage of Title XX can go for administrative costs, including supervision.
- c) Specific linkage between the local Social Security Administration office and the local social services agency.
- d) Limitation on the paper work for accountability, recognizing that one cannot account for time with clients in the same way as for time spent in manufacturing, and that accountability functions that consume the funds for services are no longer productive.

3. Attitudes:

State and local options for services, instead of mandatory Federal categories of services, have caused serious inequities within a state. There are also the extremes in inequities between neighboring states. Some local officials may not recognize the needs of a specific age group, or they may have personnel biases. It is truly discriminatory when where an individual lives determines if or what services are available. Perhaps the grossest example of this is the State of Arizona, where there is no Medicaid and very few State social services. Consequently, the large -- and growing -- elderly population cannot receive such services as homemaker-health aide or homemaker-chore which enable them to stay in their own homes, a sharp contrast with neighboring California. In Arizona all people with severe financial problems suffer from discrimination unless the private voluntary sector is able to fill some of the needs.

In many communities who gets services may depend on the effec-

- 6 -

tiveness of the advocacy for those services. In areas where an effective vocal senior citizens advocacy has developed, there is always a sharp increase in the programs providing congregate meals, transportation, even Meals-On-Wheels. This was particularly evident as changes were made in local and state CASSP plans for 1977-78 to bring demand into line with available resources. Pennsylvania had to reduce its eligibility standards for free services to clients from 65% to 50% of the state median income of \$15,753, but with three exceptions, including one for persons 60 years and older, which remains at 80% of the state median income adjusted for family size. Group eligibility was also retained for individuals 60 years and older for Center Services for the Elderly, which includes Group Dining, Socialization/Recreation, Employment, Life Skills Education, Counseling, and Transportation. In addition, for the first time the plan allows purchase of necessary materials for Chore Services when not otherwise available, with a limit of \$100 per year per client. To continue the level of service to the aging -- actually a small increase from 12.2% to 12.8% of Title XX budget, the state allocated additional monies amounting to \$3,966,000 to the state and local match required for the Federal Title XX funds. But even that advocacy cannot overcome the biases of a local or state official who has the final responsibility for decisions on where the money shall be spent for services. (This has been seen clearly in the advocacy for child day care services in New York State, where many counties have eliminated subsidization of services to those not actually receiving cash grants or AFDC, and in Kentucky where the frozen number of day care "slots" has been reduced for 1977-78 because of insufficient funds. But advocacy for children is not as effective because of fragmentation -- and children do not vote. Consequently, many state legislatures have had to mandate essential children's services.)

The group that suffers most from age discrimination under Title XX service plans is probably the teenager who has not been in serious trouble with the law and whose family is not receiving cash assistance. There is neither an effective lobby for services for them, nor legislation that earmarks funds for their services, except for

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runaways. This too has its effect on the elderly. There is a growing confrontation between adolescents and the elderly in communities all across the country, large and small. This must be addressed to improve the quality of life for our senior citizens, as well as for the young people themselves.

The increased use of Title XX funds to cover staff salaries has also had marked effect on the attitudes of agency heads in allocating funds for services. In local communities there were reports of social services/human resources commissioners who plainly stated that to allocate additional Title XX funds for purchase of services, whether it be homemaker-chore or child day care, would require that current department personnel be discharged, and the department head obviously felt a first responsibility to his employees, not the community being denied needed services.

It is not easy to change such attitudes, both in the community and in the state/local government. But perhaps the following efforts could begin to change attitudes for the better:

- a) Develop cooperative efforts between the advocates for services for different segments of the population for a united voice for human services.
- b) Explore ways for greater integration of various ages in community activities so that better understanding of the needs of each age group is developed by not only those in need of services but by the community as a whole.
- c) Make evident to local and state government leaders that the reason for Federal categorical grants and service standards is their own lack of responsiveness to those in need of services -- their inability to define to the community as a whole the need for the services.

The National Council of Jewish Women appreciates this opportunity to share with the Commission our observations about Title XX services for the aging and our concerns that the Title XX program be improved to meet its full potential.

DOL 10/77

[FACSIMILE]

PROJECT ON THE STATUS AND EDUCATION OF WOMEN

Statement of Dr. Bernice Sandler before the
U. S. Commission on Civil Rights Concerning the
Age Discrimination Act of 1975.

September 26, 1977

My name is Bernice Sandler. I am an Executive Associate with Association of American Colleges where I have been Director of the Project on the Status and Education of Women since 1971. (1)

Age discrimination affects all people, but older women get a "double dose" of discrimination---once on the basis of their age and once on the basis of their sex. (Those older women who are also members of a minority group and/or handicapped face even greater discrimination.)

In education, older women are often more affected by age discrimination than their brothers. Many older women are returning to the campus to start anew or complete their education. Of those students 35 or older in 1976, women accounted for 59 percent, up from 52 percent a year earlier.

In addition to overt discrimination against older women, the policies and criteria used to grant admission and financial aid are sometimes inherently or overtly discriminatory against older students.

The Age Discrimination Act of 1975 will be helpful in eliminating some of the inequities older women (and men) face in some of our nation's educational institutions.

The Act prohibits: unreasonable discrimination on the basis of age in programs or activities receiving Federal financial assistance, including programs or activities

receiving funds under the State and Local Fiscal Assistance Act of 1972.

A draft summary of the Act appears at the end of this paper.

Other legislation prohibiting employment discrimination on the basis of age, or providing special services for older persons define age, such as 65 and older. In contrast, the Age Discrimination Act does not define age; discrimination on the basis of age at any age is prohibited. Thus the Act has significance for persons at all ages and is particularly important for women in education. While many of the examples which follow may also relate to men, I have tried to focus mainly on issues of concern to women. The following examples indicate some of the difficulties older women face when they return to school.

Admissions: "Older" women, even as young as 25 or 30, are sometimes considered "too old" to enroll in undergraduate programs. Although this attitude is changing, it nevertheless is indicative of the larger issue: traditionally undergraduate students are 18-22; students who are older are somehow seen as deviant.

Older women are not viewed as potentially good students: If they have been raising children they are seen as having no relevant experience for admissions criteria, especially for graduate school. At one institution a few years ago, a special program for attracting retired military personnel was inaugurated at the same time that women in the same age bracket were told they were "too old" to return to school.

Previous school records are seen as invalid because they are not recent: Because the records are old, often the student cannot be admitted. (I was told, when I applied to graduate school, that my 14-year-old Master's degree had "expired".)

Women often have an irregular work and/or school history: Because of interruptions due to child-rearing and family responsibilities, this is often viewed negatively, as though it had the same meaning as an irregular work history which might imply instability for a male. Thus the older male often has an easier time being admitted than a woman of the same age.

In some schools special undergraduate programs of continuing education have been developed for non-traditional students, often meaning those over 25 years. Many of these programs began in response to the increasing number of women returning to school and are excellent. These programs cannot be limited by sex any longer; as a result of Title IX (which prohibits discrimination on the basis of sex) both men and women may attend. In some schools students have a choice as to whether to enter as a continuing education student or as a regular student; in others age is a determining factor. Because there are often differences in the requirements and the kinds of courses offered, restrictions such as these, based on age, might end up being violations of the Act. Women's groups are likely to suggest that the differing kinds of programs be optional and based on student needs rather than age.

Older students are often more motivated. Many professors remember the returning veterans of World War II

as among their best students. Similarly, older women returning to school get higher grades than their younger peers. They are in school to learn and they work hard. Whether older people perform as well academically as younger people is difficult to answer. There is data showing that women returning to undergraduate school do better than their younger peers, and often do better than during their previous schooling. In the long run, the answer to the question is not possible, for it depends on which older person and which younger person we are talking about. Certainly the spread of intelligence and potential academic achievement is wider within any age group than the difference between any two age groups. Another way of putting it is that the individual differences are far more important than any group differences. Admission on the basis of individual abilities is likely to be far more effective than by characteristics of a group to specific individuals.

But even apart from motivation and higher grades, older students bring something else to the classroom by adding to the diversity of the classroom. Young women and young men often have little opportunity to meet and work with adults other than their parents or their teachers. To have older persons as costudents helps younger persons cross the age barrier as well as learn about the adult world. Such students are often role models for their younger peers, and it is not uncommon to see friendships develop which cross the age barriers.

Admission to undergraduate programs, however, is less likely to be a problem for older women (and men) than

admission to graduate programs. As the traditional age student population declines, schools are more likely to welcome other students, including older ones. At the graduate and professional level, competition for admission is likely to continue to be intense in many fields. While older students, particularly women, continue to have difficulty in gaining admittance, there seems to be no consistent rationale in the way different institutions (or different departments within the same institution) determine what age is "too old" for admittance. In one school it may be 30, in another 40, in another 45. Others have no set age cut-off but take age into account, nevertheless. If cost-benefit is a factor in denying admission to older students, there seems to be little consistency or articulated criteria as to how the particular age cut-off may have been determined. It is also not clear if other factors are also important in addition to shorter professional life expectancy. The attitude that older persons do not learn well and the discomfort that faculty may have in relating to students their own age or older may also be a factor.

Part-time Study: Many women, particularly those with family responsibilities, wish to attend school on a part-time basis. Restrictions on part-time study as well as on part-time financial aid have a disproportionate impact on older students, particularly older women.

Financial Aid: Some scholarships are restricted to persons under specific ages. At the graduate level, for instance, there are many prestigious scholarships which are limited to persons under 35. Schools often participate in the selection process by nominating individuals. Women who

return to school after raising a family are sometimes too old for some of those awards.

Health Services including insurance: In some schools, no gynecological services are available, and some gynecological problems may not be covered by the student health insurance program (although male reproduction disorders may not be similarly excluded). While Title IX is having an impact in this area, personnel in student health services may not be used to dealing with problems (gynecological and others) more common to older persons.

Physical Education: At the undergraduate level older students may have difficulties in some instances completing physical education requirements. Sometimes, they have been exempted from these requirements. However, it is conceivable that an older student thus exempted might still want to take such a course, and might claim that such discrimination under the Act is "unreasonable." Perhaps schools could develop standards in physical education based on ability rather than on age.

Career Planning, Counseling and Placement: In many instances, these services are geared to younger students. Personnel may not be trained to deal with the problems faced by older students. Of particular interest here are the special programs developed in some institutions and aimed at the returning women students. These programs would well serve as models for programs for the male segment of the older student population.

Additionally, placement personnel may not always be aware of their responsibilities under law, and may often inadvertently aid employers to discriminate on the basis of

age. Although the Age Discrimination Act of 1975 specifically exempts employment (other than CETA), it is not clear if placement services to students would be exempted, and this will need clarification in the eventual regulation of the Act.

Recruiting: Recruiting for students is traditionally done in high schools for undergraduate applicants, and in undergraduate schools for graduate applicants. Recruiting materials rarely show older persons as students. These practices while not deliberately or overtly discriminatory nevertheless result in fewer non-traditional students applying for admissions. Whether institutions would need to develop additional recruiting strategies is something that needs to be addressed in the development of the regulation.

Special programs aimed at older persons: Some schools have developed special programs for persons over 65, such as free or reduced tuition. Hopefully such programs would be able to continue; the Congress did not intend to abolish programs benefiting the elderly. It might be feasible for the regulation to include in its definition what constitutes "reasonable" discrimination in programs aimed at benefiting persons 65 years and over, while a stricter criteria might be used for those programs and policies based on age in general.

Definition of "unreasonable" discrimination: It will be difficult to distinguish between "reasonable" and "unreasonable" discrimination. In addition to the suggestion above allowing programs for persons 65 and over to be considered "reasonable," perhaps policies or practices might also be defined as "reasonable" when there is no other

alternative to the age discriminatory practice to accomplish its objective. For example, a policy prohibiting students over a certain age from intramural sports could be changed to tie eligibility to physical fitness; to use age per se in this instance might be considered "unreasonable."

Need for Coordination Among Agencies: Although HEW is expected to have an integral and lead role in the enforcement of the Age Discrimination Act, it is also essential that there be some coordinating mechanism to ensure that the various agencies issue regulations consistent with those of HEW (as required by Section 304 (a) (4)), and to ensure the enforcement is also consistent. Currently there is no coordinating mechanism for Title IX; however, Title VI, as coordinated by the Justice Department, might be a useful model to explore for the Age Discrimination Act.

Consistency with Title VI and Title IX: The Age Discrimination Act is patterned after Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. It will be most helpful to institutions and to beneficiaries if insofar as it is possible for the regulation of the Age Discrimination Act to be patterned after Title VI and IX. Some of the areas to be decided by the regulation which should be consistent with Title IX and VI are the following:

- . complaint procedure
- . complainant definition (whether or not organizations can make complaints on their own behalf and/or on behalf of others)
- . time limit for filing complaints

- . whether investigations may be made without complaints
- . whether the entire institution is reviewed or just the program receiving Federal funds
- . record keeping requirements
- . prohibition of harassment
- . notification of complaints to institutions
- . confidentiality of complainants

Need for Self-Assessment: Much of the discrimination older women and men face in educational institutions is not intentional. Personnel are often unaware that a particular policy is unfair or has a disproportionate impact. When the new law goes into effect, there will be a period, as with any new law, where administrators will stumble over the law inadvertently. The process of educating personnel to the law and its regulation could be speeded up if a self-assessment study is required in the regulation. This was a requirement of the Title IX regulation and it gave institutions the opportunity to identify, evaluate and change, where necessary, overtly discriminatory policies as well as those with disproportionate impact. The federal government will not ever have the resources to monitor every institution; the requirement of a self-assessment insures that every institution can become aware of the law and self-enforce its provisions.

In summary, the Age Discrimination Act is likely to be welcomed by women in education. Title IX which prohibits discrimination on the basis of sex opened the educational doors to women; the Age Discrimination Act will help insure that they will not be kept out on the pretext of age.

(1) The Project functions as a clearinghouse of information concerning women as students and faculty in the academic community. We publish a newsletter, On Campus With Women, and disseminate it and numerous other materials to over 13,000 individuals. Additionally, we work directly with Federal officials, associations, institutions and other groups to improve policies and practices which affect women in higher education.

SUMMARY OF AGE DISCRIMINATION ACT OF 1975 AS CONTAINED IN TITLE III OF THE OLDER AMERICANS AMENDMENTS OF 1975 (PUBLIC LAW 94-135, NOVEMBER 28, 1975)

1. EFFECTIVE DATE HEW's regulation cannot be effective before January 1, 1979. The U.S. Commission on Civil Rights was to have compiled a report on age discrimination by May, 1977. (2) HEW must publish a proposed regulation no later than one year after the report or 2-1/2 years after enactment (3), (whichever occurs first). The final regulation must be published no later than 90 days thereafter.

2. WHICH INSTITUTIONS ARE COVERED? All institutions receiving federal financial assistance, including funds from the State and Local Fiscal Assistance Act of 1972 (Revenue Sharing Act (31 U.S.C. 1221 et seq.))

3. WHAT IS PROHIBITED? Unreasonable discrimination on the basis of age in programs and activities receiving federal financial assistance. (4)

4. EXEMPTIONS FROM COVERAGE. a.) It is not a violation for a program or activity to "reasonably" take into account "age as a factor necessary to the normal operation" or

"achievement of any statutory objective." b.) It is not a violation for programs or activities to take into account reasonable factors other than age. (5) c.) The provisions of this title do not apply to any program or activity where age is the statutory criterion for benefits and assistance. (6) d.) Employment practices are exempted (other than public service employment under the Comprehensive Employment and Training Act of 1974 (29 U.S.C. 801, et seq.)).

5. WHO ENFORCES THE ACT? Federal departments or agencies which extend financial assistance. HEW will enforce the Act with regard to educational institutions.

6. HOW IS A COMPLAINT MADE? Procedure not yet determined. A letter will probably be acceptable.

7. CAN COMPLAINTS OF A PATTERN OF DISCRIMINATION BE MADE? Not yet determined but likely to be allowed.

8. WHO CAN MAKE A COMPLAINT? Individuals may make complaints. However, it is not yet clear whether organizations may do so on their own behalf and/or on behalf of others.

9. TIME LIMIT FOR FILING COMPLAINTS. Not yet determined.

10. CAN INVESTIGATIONS BE MADE WITHOUT COMPLAINTS? Not yet determined.

11. CAN THE ENTIRE INSTITUTION BE REVIEWED? Not yet determined.

12. RECORD KEEPING REQUIREMENTS. Not yet specified.

13. ENFORCEMENT POWER AND SANCTIONS. If voluntary compliance fails, the head of the Federal department or agency granting funds may terminate, or refuse to grant or to continue assistance. Termination or refusal must be

limited to the particular program or activity receiving financial assistance. The statute explicitly states that termination of Federal funds or refusal to grant such assistance is the exclusive remedy for enforcement of this title. (This may imply that there is no private right of individuals to sue fund recipients directly.)

14. CAN BACK PAY BE AWARDED? The Act does not cover employment except under the Comprehensive Employment & Training Act of 1974. It has not yet been determined whether the remedy of back pay will be applicable to such employment.

15. AFFIRMATIVE ACTION REQUIREMENTS. There are no restrictions against actions which are non-preferential.

16. COVERAGE OF LABOR ORGANIZATIONS. Does not apply.

17. IS HARASSMENT PROHIBITED? Not yet determined but likely to be prohibited.

18. NOTIFICATION OF COMPLAINTS. Not yet determined.

19. CONFIDENTIALITY. Not yet determined.

20. FURTHER INFORMATION AND RELEVANT DOCUMENTS. The U.S. Commission on Civil Rights report on age discrimination in federally funded programs (expected in November 1977).

Notes

(1) The regulation for Title III has not yet been published. The analysis which follows includes information which is explicitly stated in the statute, as well as how the law is likely to be interpreted in light of other precedents and developments.

(2) As of this writing the Commission on Civil Rights expects to publish their age discrimination study by November 1977.

(3) May 1978.

(4) Nothing in Title III may conflict with the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634) as amended.

(5) Such as health or strength.

(6) Such as Social Security.

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AGE DISCRIMINATION --- WITHIN REASON

Tish Sommers Testimony prepared for the Age Discrimination Study of the U. S. Commission on Civil Rights. The statement was developed with the assistance of Gerontology 504 (Older Women) at the Summer Institute of Andrus Gerontology Institute at the University of Southern California, which discussed the issues and made recommendations as an action project. Presented to the Commission, September 26-27, 1977.

* * * * *

The Age Discrimination Act of 1975 gives with one hand:

" . . . no person in the United States shall, on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance. . ." (Section 303) and takes away with the other:

Otherwise prohibited actions do not violate the law if: --- the actions reasonably take into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or --- the differentiation made by such actions is based upon reasonable factors other than age.

To negotiate the sticky questions these contradictory statements raise, the Commission is directed to study the issue and report back to Congress and the President, soliciting input from varied sources. This statement is offered as one such source. It covers a consideration of the "reasonableness" question, examines CETA as an example of the pattern and practice of age discrimination within one of the targeted Federal services, looks at other related

programs which interact with employment services, analyzes the compounding impact of sex on age discrimination, and then offers recommendations for the Commission's consideration.

UNREASONABLE DISCRIMINATION:

The "reasonableness" qualifier is such an obstacle to enforcement of an age discrimination law that it must be tackled first. It would be better to have no law at all than one which presumes from the outset that discrimination is permissible as long as there is a good reason for it. From the legislative history it is clear that the administration was having trouble with equal opportunity for women in Title IX sports at the time Congress was considering the bill, and wanted to slow down any more drastic shifts of status. Older persons had not been complaining that much, so why open up an administrative can of worms? The "reasonableness" concept certainly put a lid on any precipitous action.

The Age Discrimination Study, also mandated by the law, provides an opportunity to question the advisability of retaining language which would have the opposite effect to providing relief for persons who experience age discrimination. Here are some points for consideration.

First, who decides what is reasonable? Presumably the administrators of the government programs under investigation have been asked whether their programs are discriminatory. How many have said that the obvious inequities by age currently practiced in services and benefits were not perfectly reasonable? The likelihood is that every single administrator could explain inequities

satisfactorily within that semantic framework.

Discrimination has always seemed perfectly reasonable to those who practice it, until its victims refuse to listen to reason any longer and protest effectively enough to get the laws and practices changed. It certainly seemed reasonable to limit women to areas of employment which extend unpaid homemaking duties into low paid industrial and commercial spheres, until women refused to be reasonable about it (which could be expected, considering their presumed limited reasoning ability). If it is to be the Congressmen and the Courts who decide, their sense of what is fitting or right is influenced a great deal by public opinion, which in turn is influenced by the degree of organization and clamor by the victims of discrimination themselves.

Second, is age discrimination essentially different than race or sex? Anyone who experiences the stigma of inferiority by virtue of age knows that to be old means to be a second class citizen, cheaper bus fares notwithstanding. Like race and sex, age is an "immutable characteristic determined solely by accident of birth," is "subjected to a history of purposeful unequal treatment," is an "arbitrary distinction," and is certainly no more complex. The fact that it happens to everyone who lives long enough to experience it, regardless of sex, race, religious belief or sexual preference does not make that inferior status any easier to bear. In fact, that should provide more incentive to eradicate it. If everyone were subject to a dread disease, would not an intensive effort be made to find a cure? Even if there were good reason for discriminating by age, the constitutional principles of

equal protection and due process should take preference. Can one now talk of "unreasonable race discrimination"? Or "unreasonable sex discrimination"? Earlier, of course, such qualifiers were taken for granted.

Third, when choices must be made, whose needs should take priority? The "size of the pie" arguments provide rationale for exclusion of older people, and fit neatly into the reasonableness loophole. As long as government programs are permitted to prioritize people by age, the older population will receive short shrift, especially in anything that promotes independence and self-sufficiency, such as job related programs. ("They don't have long enough to live anyway," "supportive services cost too much," "they should move aside for the young," etc.) This type of "reasonableness" assumes that given a choice between young and old, the elders should lose, which reinforces stereotypes and is based upon a static image of the pie. Translated into spheres other than human services, consider how quickly the military spending pie can increase with the first hint of an international crisis. No one speaks of reducing benefits to retired generals in that situation. The concept that one disadvantaged group should bear the burden for others similarly situated is cynical, unethical and unjust, in any case.

Fourth, is it reasonable to expect program directors to face undue administrative difficulties? Each shift of public policy brings cries of anguish from overburdened bureaucrats and dire predictions should the change be mandated. Administrative inertia is a given. The will to overcome it is the prime requisite, and that needs strong

legal backing. As long as the reasonableness qualifier remains in the law, the status quo will endure. Good will alone, as with race and sex, is a weak substitute in the fight for equity by age.

All in all, reasonableness is an unworkable concept. If equal treatment under law is judged essential to our way of life, it must remain so from cradle to grave. The problems inherent in the reasonableness pitfall are well demonstrated by the verbal acrobatics which permeate the action plan of the Age Discrimination Study. This is not the fault of those working on the Study, but of the legislators who put in the qualifier in the first place. Its only constructive purpose might be as a job creation program for lawyers.

CETA: PURPOSEFUL DISCRIMINATION

To date, discussions on the age discrimination issue have centered on employment opportunity. Understandably so, since employment rights always have been central to every civil rights struggle, with such vital issues as education closely interrelated. The right to work for a living and choice of occupation is the essence of personal freedom.

CETA is the nation's primary manpower program. Almost 7 billion dollars were allocated for the last fiscal year, to address the basic problem of unemployment through training programs and public service employment. Along with elimination of mandatory retirement restrictions, a fair share of CETA for older persons is therefore key to that right to work for a living.

One reason so many older women and formerly retired men seek employment is that they cannot make ends meet with the

rising cost of essentials. More and more older persons need employment to survive. As Sylvia Porter pointed out recently, ". . .one out of every four elderly Americans now lives in poverty. And for those who live to age 75, the proportion living in poverty is a startling 50 percent."

CETA is supposed to deal with structural barriers to employment. For older persons, age bias is an ubiquitous reality, for which there are only mildly effective remedies for those age 40 to 64, and except in some advanced States like California, none after 65. Many studies have shown that older workers are among the best, and only after forced retirement or unsuccessful job hunting, begin to lose self-confidence, dignity, and ability to produce. Ageism is the key structural barrier to employment of older persons, but is not addressed by CETA. On the contrary, it is catered to. Because private employers prefer younger workers, young persons are trained. The same thing may happen covertly for race and sex, but for age it is justified as reasonable. Mandatory retirement, earnings limitations under Social Security, age cut-offs in apprenticeship, insurance and pension costs are interrelated and compounding excuses for not addressing the employment problems of a segment of the population which is suffering severe economic hardship. CETA is saturated with excuses.

The extent of the problem is not even known, because it has never been an area of concern by CETA officials. The "discouraged worker" index, developed by the Bureau of Labor Statistics, measures individuals out of the labor force but not counted as officially unemployed, who would take a job tomorrow if one were made available. As of December 31,

1976, over one million discouraged workers were reported; one-third were over 55: almost one-half were over 40.

Michael Batton's Age Audits in Employment, a tool developed for Prime Sponsors of CETA, has scarcely been used. This detailed "how-to" for preparation of such an audit concludes: "the only way to ascertain the levels of need for employment programs in given communities---and the responsibility of such programs to individuals---is through a structural examination of comparative age groups." The report notes that at first glance, the unemployment rates for those in the middle and later years appear to be low. We must look harder at the problem. Men and women over 45 suffer terms of unemployment equal to black teenagers. The questions which should be addressed on a State and local level are: What proportion of the unemployed are men and women over 40? Over 55? Over 65? (Consider separately by sex.) (1)

The extent of hidden unemployment among older persons is clearly demonstrated in the Harris survey, THE MYTH AND REALITY OF AGING, prepared for the National Council on the Aging, 1975. In the 55-64 age bracket, older men in the survey reported themselves unemployed two-and-a-half times more often than official figures for the same period, and women of the same age cohort reported themselves unemployed almost five times as often. If realistic options for work were available, the number of older persons, especially females, who would avail themselves of the opportunity, could make these figures much higher. Over age 65, one-third of the men surveyed and thirty percent of the women said they wished to work. In the pre-retirement decade, 26

percent of the women cited "no work available" as the reason for not working.

Further, Dr. Marc Rosenblum's study prepared for the Senate Special Committee on Aging, The Older Worker: The Recession's Continuing Victim, points out that joblessness for this constituency is growing. Not only has the labor force participation for persons 55 and over declined since the end of 1973 during a period of overall increase, but nearly one out of three such persons has withdrawn involuntarily.

CETA presumably distributes program funds and services equitably to those segments of the labor force significantly burdened with high unemployment and those having structural barriers to employment. How does this work out in practice in regard to older persons? Of 1.5 million persons served in 1975, about 3 percent were 55 and over. The public service jobs programs, Title II and VI combined, included 5.85 percent over 55. Yet from the fourth quarter in 1973 to the first quarter in 1976, unemployment more than doubled for persons aged 55 or older, despite the upturn in the economy. Large numbers were forced into early retirement in 1976, after exhausting unemployment benefits.

On a local level the most recent quarterly report from Alameda County, where I live, is probably typical. Of the total 1,591 participants served, 776 were age 22-44. A total of 89 were over 45, 18 were over 55, and none exceeded the age of 65. How does this jibe with equitable distribution of services? Even if the grossly underestimated California unemployment figures are used, unemployment rates of persons 45-plus equal 23.6 percent of

persons unemployed, while those served over 45 equals 5 percent, or roughly one-fifth of what could be expected when using the official figures as a guideline. If real unemployment were used, the discrepancy would be double that or more. It would be far more honest just to hang up a sign on all CETA offices, "Older persons need not apply."

Preliminary reports from the Study indicate that many CETA administrators have expressed the view that Title IX of the Older Americans Act is designed to serve the needs of older workers, and therefore they have no responsibility to this age group. (2) However, only \$10 million was allocated in the FY 1976 budget for Older Americans Community Service employment out of a \$6.326 billion manpower budget, or less than .02 percent. Furthermore, the program only provides half-time jobs, which often pay one-quarter of a CETA public service job, and eligibility requirements are much stricter. Title IX is a separate and very unequal job program. One of the basic issues raised by the Study is categorical versus mainstream program. As John Klein stated in last year's CETA Oversight Hearings, "As long as specially targeted categorical programs such as the Older Americans Act exist outside the CETA system, the CETA prime sponsor, with limited resources and mandated to reduce duplication, will allocate CETA funds to other significant segments of the population. This results in the particular client group being served primarily by the categorical program, which, by its very nature, limits access to the broad range of services." (3) While often mentioned as a target group in CETA literature, older workers have been ignored. Yet this need not have been so. There are special categorical

programs aimed at youth, but young workers are not excluded from mainstream assistance to the same degree. Categorical programs can be used as supplements, not substitutes. On the whole, CETA programs are purposely designed to exclude older job seekers, either because they are deemed less employable or less worthy. When all the reasons are unraveled, the end result is the same--age discrimination.

As with women, volunteerism is the substitute offered to older persons in place of paid employment. Volunteer programs using the unpaid or partially paid services of seniors to extend services to other older persons and to children are well regarded by the Administration on Aging. Some highly touted programs, such as Foster Grandparents, have given loving help to retarded children, and been proven more effective than many professionals in the field, but how are the Foster Grandparents rewarded? The "stipend" is \$1.65 an hour, with a limit on hours, yet these great jobs are only available to persons with minimal income and assets. Who else has to pass a means test in order to get that kind of a job?

In the N.C.O.A. study, Myth and Reality of Aging in America, most people of all ages agreed that "if someone's work is valuable, he should be paid for it" (74 percent to 22 percent). Old persons felt even more strongly on this than the young. Strongest of all on the subject were males over 65, who apparently resist the idea that volunteer work is an appropriate substitute for employment. The report concluded, "While older people are willing to accept their share of uncompensated community service, their own self-respect and the realities of today's economy make them no

more interested than the young in working full-time without pay. Like the young, those who recognize that they have skills and talents expect to be paid for them." (4)

The test of reasonableness should be applied to discrimination itself. How reasonable is it to decry the rising burden of caring for a growing number of retirees while at the same time setting up obstacles to prevent those same persons from being self-sufficient? The intolerable economic and social costs of shelving persons for twenty to thirty years have not yet been calculated. Consider transfer payments such as SSI, food stamps, a myriad of programs for the elderly to mitigate poverty, as well as increased medical costs under Medicare. Many studies have shown the direct relationship between joblessness and medical costs, including mental health services. If employment programs were created for this segment of the population, not only would cost of services be tremendously reduced, but tax revenues would be much increased, together with the GNP and spendable income. Considering the costs of forced idleness, designing programs which discriminate by age is not very reasonable. What is missing is willingness to allow older persons the option of work, based on the proposition that there are a set number of jobs out there, and fear of competition. Instead, billions are thrown into programs to serve the elderly, thereby creating employment for younger persons---programs from which the intended recipients are effectively excluded from working. Imagine a similar situation in a program designed to serve minorities--or women!

The thorough analysis of CETA, referred to in the Action Plan, will help document the extent and methods by which older persons are virtually excluded from the government's primary employment services. This alone would make the Study worthwhile. CETA is a prime example of purposeful age discrimination within government.

INTERACTING DISCRIMINATION

Employability has a bearing on other programs under examination by the Study. The "reasonable" argument is made, if they are not employable, why spend the money? Vocational Rehabilitation and Vocational Education are prime examples of programs which feel no particular responsibility toward older persons, are not designed to serve them, and because of success rate expectations, discourage persons age 45 or over. Government financed apprenticeship programs are even more restrictive. Employment discrimination is the spectre behind many "reasonable" decisions which cut out those who are no longer young from tax supported assistance. Only veterans, who have strong lobbies working in their behalf, continue to receive a full range of services throughout their lifespan. As with women and blacks, employment discrimination is compounded by exclusion from the usual means of access to jobs.

The traditional view of customary stages of life permeates government planning on every level. The major demographic changes which have occurred in the past few decades are often commented on, actuarial predictions are made about the future, and lip service is given to changing life styles, but not much happens to reflect these changes within bureaucracies. This is particularly true in regard

to women. For example, re-entry programs are becoming popular, but these are grafted onto traditional educational curricula, which may or may not be appropriate to the older student. Age may be a criterion for financial aid, or may be a factor in admissions, to the older person's detriment. Re-entry students generally have the full burden of adapting to methods, policies and procedures designed for young students without a long educational gap. Except in rare instances, life experience is discounted entirely. The impact of these interacting policies is to make things more difficult---in other words, they discriminate on the basis of age. In regard to health programs, the assumption that there is no cure for old age hampers efforts to look for any, or to provide adequate services to those with ancillary problems. It leads to emphasis upon custodial care, as opposed to healing, and effectively eliminates preventive care programs, which are reserved for children and youth. Medical necessities for the aging (hearing aids, glasses and dentures) are treated as luxuries, not covered by Medicaid, and there is certainly an unwillingness to go the extra mile for borderline or chronic health problems, which if addressed in time, would lengthen years of productivity.

At the end of life, low payment for long-term care, and low wages for the caretakers are a direct reflection of the value placed on the recipients. This includes incentives to keep people flat on their backs, because they are easier to handle that way. Ageist to the end, the United States is the only country to care for frail elderly persons as a business.

WOMEN---DISCRIMINATION COMPOUNDED

Despite the voluminous quantity of materials prepared to date for this study, the question of sex is not dealt with, except for the following statement: "We have reason to believe but no conclusive evidence to show at this time, that age combined with sex produces a double jeopardy situation; more so it appears than when coupled with race." Perhaps the persons who were conducting the study did not dig hard enough, or confused numbers with content. As a matter of fact, it is not possible to understand the dynamics of age discrimination without exploring the significant differences in which men and women experience its effects. Even using the reasonableness criterion, what would be considered reasonable for women might not be at all reasonable for men, or vice versa.

First and foremost, when speaking of the elderly population, one is talking about a considerable majority of women (144 women to 100 men, 65 and over). Most of these women are the product of traditional women's roles, and endure the economic penalties which accompany them. In the 55 to 64 age bracket, the median woman's income is about one-third of her male counterpart. Over 65, the income of both sexes drops, but women are found in the poverty ranks in far greater numbers. Almost three times as many females receive SSI welfare as men. The poverty of aging is in large part the poverty of women, who have outlived woman's traditional role.

Second, older women are much more likely to end up alone. One-third of all older women live alone, which has tremendous impact upon needed services. While three-quarters of older men have a spouse, two-thirds of the women

do not. There are five times as many widows as widowers, which has a direct bearing on need for support systems. Poverty, loneliness, helplessness, joblessness, all call for government intervention and services and are therefore very relevant to the specific circumstances of women in their later years.

How does sex compound age discrimination in CETA, for example? CETA emphasis is upon the male provider and upon youth, with a special interest of cutting the crime rate. Since older women are not seen as a threat to security, nor as family breadwinners, they are overlooked. Even when they presumably fit, and overcome all the obstacles to try to get into a program, they often run into pitfalls. For example, consider the case of Mabel R. She is 52 years old and widowed after 19 years of marriage. Her children have moved away from home. She had never worked outside the home and has no skills to sell in today's labor market. She cannot qualify for AFDC or Social Security and has no source of income at the present time. She applied for training and employment assistance through one of the Prime Sponsor's programs. She was rejected: she is not economically disadvantaged because her husband earned \$8,000 in the year before his death.

A recent Congressional Budget Office report states: ". . .the percentage of program slots filled by minorities and the economically disadvantaged were higher in programs that emphasized skill development and work experience (CETA titles I, III and IV). On the other hand, the percentage of white male prime-aged (22-44) workers were higher in programs designed to create jobs directly (CETA titles II,

VI, and Job Opportunities Program)." This leaves the older woman who is neither young nor recently laid off out of the picture. The exact number of older women included under CETA is hard to determine, since available figures are computed by age and by sex, but a combined age-sex ratio is difficult to obtain, since this is not included in Equal Employment Opportunity federally required information.

One woman writes: "I'm CETA qualified, but every time I try for one of those public service jobs, someone else seems to have the jump on me. . . veterans, youth, somebody laid off, or anybody else but me. It sure is a fight to get somewhere."

Sex compounds age in other programs as well, sometimes in ways which are not readily understandable by looking at figures alone. For example, in community mental health services in the San Francisco area (and the figures are probably quite typical), twice as many women as men between the age of 45-64 were served. It would appear that women are receiving far more than their share of such services, but the question might be asked, why did they need them? Did the lack of better services in other fields contribute to psychological problems? (Job related services, for example.) Why are persons receiving institutionalized care women, three to one? Is the lack of alternative, Medicaid financed care a factor?

Or the Study should consider some of the pitfalls of dependency. For example, when a man retires on Social Security at 65, his spouse, who is usually younger, has no Medicare coverage. Forty percent of men over 65 have younger, ineligible, wives. The current system leaves them

stranded. Strictly speaking, this is neither age nor sex discrimination, but the design of the program has negative impact upon older women.

The displaced homemaker is the prime example of discrimination compounded. Because homemaking is not considered work, the woman who loses that job in the middle years through widowhood or divorce is not considered unemployed or mandatorily retired. One reason so many of these women seek mental health services, as well as private psychiatric help, and why suicide peaks in the middle years, is because there are no cushions, benefits, or services designed for these workers at this crucial life transition. This form of mandatory retirement occurs well before the usual age, but the trauma associated with it is quite similar. Although legislation is now pending to assist the displaced homemaker move from dependency to self-sufficiency, most existing programs have ignored the problem.

The Study hypothesizes a series of operational definitions to define age discrimination. I would like to add an additional one:

Age discrimination compounded by sex exists to the extent that the particular lifespan patterns of women are ignored in the planning and execution of programs.

PROPOSALS TO THE COMMISSION:

The Study lays out specific objectives, which provide a useful format for offering recommendations:

1. "Identify with particularity programs and activities at the Federal, State and local levels which discriminate on the basis of age in the provision of benefits and services."

PROPOSAL: At the forthcoming CETA Oversight Hearings in Congress, urge a serious effort to design and provide CETA funded programs to benefit older workers. Insist upon an audit of job needs by age (including discouraged workers) by each Prime Sponsor.

2. "Determine the nature, cause, and extent of findings of discrimination on the basis of age."

PROPOSAL: Recommend that all Federal programs under scrutiny keep statistics on age broken down by sex, with particular attention to the middle years.

3. "Assess the reasonableness of the age discrimination found to be practiced."

PROPOSAL: Recommend that Congress eliminate this qualifier entirely as unworkable.

4. "Weigh the social, economic, and administrative consequences of alternative responses to the question of reasonableness."

PROPOSAL: Recommend instead that the Study be continued to determine the interacting ways in which older persons are prevented or discouraged from remaining productive and independent, including a cost effectiveness study of a job creation program in place of forced leisure, taking into account the direct and secondary costs of exclusion from employment.

5. "Through public hearings, elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination and the reasonableness of distinguishing among potential participants or beneficiaries on the basis of age."

PROPOSAL: In further work of the Commission's Study, greater emphasis should be placed upon the views of "beneficiaries", both as staff and as resource persons, with particular emphasis on the much neglected problems of older women.

* * * * *

A Presidential order charged this Commission to thoroughly study all of the implications of the Age Discrimination Act of 1975 so that, if necessary, Congress could reconsider and amend it. During the time span of the work of the Commission, there has been considerable progress made in the field of aging which could have impact on the Act. Even while Congress is now considering removing the ban on mandatory retirement, State Assemblyman Richard Alatorre of California, has been successful in getting such a measure enacted---a landmark bill certain to benefit older Californians.

Finally, asking bureaucracies to correct themselves without sanctions is a fruitless task. The Attorney General should have and exercise authority for pattern and practice actions and the private right of suit should be insured. Otherwise, the Age Discrimination Act of 1975 will be a "paper policy" which mocks the intent of Congress to protect the civil rights of the aging in our country.

Thank you, Mr. Chairman, and the members of the Commission for the opportunity to present these views and observations to this body.

* * * * *

NOTES:

1. Age Audits in Employment: Data and Instruments. Michael D. Batten, Clearinghouse on Employment for the Aging, 1977.
2. Developments in Aging: Report of the Special Committee on Aging, Part I, U. S. Senate. Pp 85-86.
3. Oversight Hearings on the Comprehensive Employment and Training Act, Part 3, p. 702, Committee on Education and Labor, House of Representatives, 94th Congress.
4. Myth and Reality of Aging in America. Louis Harris & Associates. N.C.O.A. 1975; also, Implications for Women, Tish Sommers. N.C.O.A. 1976.

* * * * *

Exhibit No. 9

[FACSIMILE]

STATEMENT OF RAY MARSHALL
SECRETARY OF LABOR
BEFORE THE
U.S. COMMISSION ON CIVIL RIGHTS
AGE DISCRIMINATION STUDY

September 26, 1977

Mr. Chairman and Members of the Commission on Civil Rights, I am pleased to have this opportunity to appear before you today on the subject of age discrimination in Federally-assisted programs and activities. We recognize that there are problems in adequately providing services for older Americans. We also recognize that older Americans are not receiving their proportionate share of benefits under the programs receiving Federal financial assistance through the Department of Labor. This disproportionate treatment appears to exist even in the Comprehensive Employment and Training Act programs, which have been subject to a non-discrimination provision in that Act since 1975.

The Department of Labor administers a number of statutes designed to advance the public interest by promoting the welfare of our wage earners, improving their working conditions, and advancing their opportunities for profitable employment. The Department's responsibility for older workers is the same responsibility it has for other population groups, namely, the optimum utilization of the Nation's human resources. The Department's goal is to eliminate any existing practice which results in the denial

to any individual of the right to be considered for employment and training on the basis of his or her ability to do the job. Unless individual ability and productivity are encouraged and developed, we cannot maintain productive economic and employment policies for the Nation.

For these reasons we are very much interested in the outcome of your current inquiry. Two years ago, Congress enacted the Age Discrimination Act of 1975, which has as its purpose the elimination of unreasonable discrimination based on age in activities and programs receiving federal financial assistance. This is certainly a most worthwhile objective and deserves everyone's active support. The Act gives your Commission a considerable amount of responsibility for finding ways to implement the Act by requiring that your report on age discrimination in federally-assisted programs precede the development of implementing regulations. We are pleased to have this opportunity to render whatever assistance we can to you in your important undertaking.

Age Discrimination in Employment Act

As you know, the Department of Labor administers the Age Discrimination in Employment Act (ADEA), which has been in effect since 1968. The ADEA is the corollary of the ADA and between the two acts the Federal government has, or will have, the legal machinery necessary to have a significant impact on age discrimination in employment and in Federally-assisted programs. Accordingly, our experience under the ADEA should be valuable in developing enforcement mechanisms under the ADA.

The ADEA prohibits most employers, employment agencies and labor organizations from discriminating in employment decisions against persons between the ages of 40 and 65 on the basis of their age. It is unlawful for employers having 20 or more employees to refuse to hire, to discharge, or otherwise discriminate against any individual within the protected age category as to compensation, terms, conditions, or privileges of employment because of age.

In implementing the Act, the Department's administration and enforcement activities range from efforts to combat discriminatory advertising practices and conciliation of complaints to the investigation of violations and the institution of legal action when necessary. These activities are directly beneficial to thousands of individuals, and can result in backwage payments, employment or re-employment, promotions, and the restoration of retirement benefits. Such activities also increase awareness of the Act among employers and employees, and thus stimulate voluntary compliance with its provisions. The Wage and Hour Division of the Employment Standards Administration is charged with administrative responsibility in enforcing the ADEA.

There are 1 million establishments employing 66 million persons that fall within the scope of the ADEA. Labor force data indicate that over one-third of the persons in the labor force are in the 40-65 age group. We estimate that about 70 percent of the total 40-65 work force is covered by the Act.

During Fiscal Year 1976, 8,318 compliance actions were taken by the department under the ADEA in 7,877

establishments. Monetary violations amounting to \$8.6 million were discovered in 711 establishments involving 1,908 individuals. Income was restored to 742 individuals in the amount of \$3.5 million in 418 establishments. In addition, nonmonetary discriminatory practices were found in 1,894 establishments; 2,351 individuals were aided and 31,964 job opportunities were made available by the removal of discriminatory age barriers. Illegal advertising was the most common discriminatory practice disclosed, with 903 instances found. There were also 552 instances of refusals to hire and 500 instances of illegal discharges.

In calendar year 1976 some 47 suits were filed by the Department under ADEA. The number of cases filed in this present year almost doubled and 23 suits were brought in the last quarter alone.

Older Worker Unemployment:

I would like to outline for you some of the known characteristics of unemployment among older workers and to indicate some of the steps which we are taking to fill in the great gaps which exist in our knowledge. Statistics indicate that the unemployment rates for workers age 45 and over and 55 and over are among the lowest of any age group in the labor force. In August 1977 unemployment among the 45 and over group was 4.0 percent; among those 55 and over the rate was 3.9 percent, both seasonally adjusted. On the other hand, the duration of unemployment for the older age groups is significantly higher than for the younger age groups in the labor force. Thus, long-term unemployment for workers 45 years of age and older becomes a real problem, and many of those who lost jobs during the last recession

remain unemployed. The individual in this age group generally still has large financial obligations, is too young to retire with an adequate pension income, and is considered by many employers as being too old to hire.

No one is fully aware of the numbers of older workers who are not counted in the employment statistics or the reasons why they do not show up. We can expect that persons in this age group make up a large number of the discouraged workers who have withdrawn from the work force and therefore do not appear in the unemployment statistics.

We are aware, however, that the reasons for involuntary loss of jobs among older workers include changes in the state of the national economy and economic changes affecting one section of the Nation, such as the decline of the textile industry in New England. When major events like this take place the sheer number of displaced workers seeking available jobs tends to work against the chances of older workers to secure employment. A similar situation takes place when the principal source of jobs for a community, such as a large plant, finds it necessary to close. I am sure that you are all personally familiar with such a situation. When this happens, the job market is flooded and older workers find it next to impossible to compete for the few jobs available.

Almost forgotten are rural older workers who have been adversely affected by the continuing reduction in the number of family farms. The hired hands, and often the farm operators, are left without a market for their skills, and almost certainly without adequate financial resources upon which to draw.

Many older workers are capable of using their skills and are willing to do so. Many others can be successfully re-trained for new jobs. Many can make a contribution both to the employer and themselves by working part-time. The greater use of qualified older workers can lead to increased productivity, and, in many cases, a reduction in the cost of public income support programs. Above all, in a society which places high importance on the value of work --- the need for all to be able to work who have skills to contribute --- it is important to aid those citizens who prefer work to idleness.

But, these findings, data, and beliefs are inadequate for a complete understanding of the problems of the older worker and do not provide an adequate base upon which to determine the effectiveness and impact of federally-assisted programs on these workers. The employment, unemployment and related problems of older workers are becoming of increasing concern as the number of older persons grows in absolute terms and as a proportion of the working population. In addition, recent economic conditions have made more severe the problems of older workers who want to remain in the labor force.

To obtain new knowledge and analytical findings useful in the formulation of future plans and recommendations, for improving services to older workers, the Employment and Training Administration has contracted with The American Institute of Research to prepare a research and development strategy concentrating on the employment-related problems of older workers.

The study will focus on the identification and documentation of the employment-related problems of older workers, both current and projected for the next 5-10 years, including such items as: (1) involuntary retirement; (2) limitation on work because of pension and Social Security provisions; (3) difficulty of re-entry into the labor market, particularly for older women; (4) mobility limitations, both occupational and geographic, and (5) special problems of minority and female older workers.

The study will also assess on-going programs and other efforts on behalf of older workers, government programs, efforts by employers and unions, and self-help activities, such as organizations of older persons.

In addition the contractor will identify and discuss major policy and program issues regarding older workers including: (1) the priority given older workers programs vis-a-vis programs for other population groups; (2) desirability of increased labor force participation of older workers under certain circumstances; (3) the ability and willingness of society to support older workers at "adequate" income levels.

Furthermore, the contractor will identify possible additional programmatic responses to the problems identified which could be tested in voluntary experimental and demonstration projects. These responses might include: (1) gradual retirement; (2) job restructuring and redesign; (3) flexible hours, job sharing, part-time employment; (4) job search assistance and placement; (5) trial retirement, sabbaticals; (6) job creation, supported full- or part-time employment; and (7) variations in formal education programs.

Results of the American Institute of Research study will probably be available the latter part of this year. In addition, we have funded several other research and demonstration efforts relating to flexible hours, job-sharing and part-time working arrangements for older workers. With the broader knowledge attained through these and related efforts, the Department of Labor will be able to make better recommendations on public policy concerning workers at or near retirement much more sensitively than has been possible heretofore.

Employment and Training Programs for Older Workers:

As I have indicated earlier, we are aware of the employment needs of older workers and share the concern of the Commission that this Department takes effective action to ensure full participation by older workers in Department of Labor programs.

The principal federally-supported Employment and Training programs are authorized by the Comprehensive Employment and Training Act (CETA), and are administered by this Department's Employment and Training Administration. Persons in all age groups participate in programs which provide financial assistance to States and units of local government acting as prime sponsors to provide comprehensive employment and training under Title I, and public service employment under Titles II and VI. However, the prime sponsors have the responsibility to determine the appropriate mix of significant groups to be served in their areas.

On December 31, 1974, CETA was amended to require that grants, contracts and agreements under that Act specifically

provide that no person with responsibilities under the Act will discriminate in the operation of such programs on the basis of age --- thus adding age to existing categories of race, creed, color, national origin, sex, political affiliation, and beliefs.

In regard to complaints about specific programs or involving particular individuals, CETA has procedures which permit anyone to file a complaint which will be processed and resolved, oftentimes after a formal hearing before an administrative law judge. This process appears to be working --- it is used and appears to have credibility with that portion of the public which has used it. As indicated above, the statutory prohibition on age discrimination has been in effect since 1975. However, I have been advised that a significant number of the CETA complaints received in the regions and national offices concern age discrimination. The age complaints include both those involving participants and potential participants and those involving program staff persons and potential staff persons.

We recognize that a complaint procedure can only take care of situations which are brought to the attention of the Department. It does not take care of the timid or discouraged person. In order to avoid or remedy such inequities it is necessary for the Department to make an affirmative effort to discover problem areas. In this regard, we have been made aware of the problems created by prime sponsors failing to serve all of the significant segments of the population which are eligible for CETA programs. We have this year strengthened our CETA regulations for fiscal year 1978 to ensure that under the

basic CETA titles the unemployment population is served equitably in terms of age, race and sex. Prime sponsors are required to present a demographic breakout of their unemployment population, to indicate the significant segments they plan to serve, and to provide adequate justification in instances where service to a significant segment results in a variance of 15 percent or more from a demographic group's incidence in the unemployed population. Although we realize that this approach does not take into account all possible factors such as the unknown number of discouraged workers, we feel this emphasis on identifying groups for service will go a long way in stressing the need for prime sponsors to consider all groups, including older workers, in planning their CETA programs.

In addition, we have taken several other actions aimed at ensuring consideration of the older worker:

First, a guide has been developed and issued to all prime sponsors entitled, "Serving the Elderly." The guide describes steps a prime sponsor may take to identify and account for the older worker during the strategic planning process and gives a blueprint for building an older worker employment project into the CETA system.

Second, prime sponsors have been encouraged to include projects to serve and/or employ the older worker under Title VI. Many descriptions of such projects have already been received by the national office.

Third, a copy of the National Council on the Aging's, "Industrial Gerontology" magazine is sent quarterly to each prime sponsor in order to keep all prime sponsors abreast of the problems and potentials of older workers.

During the first three quarters of Fiscal Year 1977, 3.2 percent of the approximately 1.1 million persons served under Title I of CETA were 55 or over. The comparable figures for Title II was 6.0 percent of the 313,200 served and for Title VI was 6.1 percent of the 370,700 served. While these figures represent a significant improvement from those of a year ago, we believe that the CETA track record on providing services to older persons can be further improved. Within the limits of statutory authority, we will continue to take steps to ensure an increase in the overall level of CETA services to older persons.

In addition to the CETA programs, the Employment and Training Administration is also responsible for administering the Senior Community Service Program, established under Title IX of the Older Americans Act. This program assists the low-income elderly by offering them subsidized part-time employment opportunities in community service work.

During Fiscal Year 1976, the Title IX program provided for about 12,400 jobs. In July 1976, the program was expanded to nearly 5,000 jobs; and the Fiscal Year 1977 appropriation of \$90.6 million will result in an additional 7,600 jobs effective July of this year, for a new total of 22,000. Also, the Economic Stimulus Appropriations Act boosts the total Fiscal Year 1977 Title IX appropriation to \$150 million, providing for an even greater expansion --- 14,000 more jobs for a total of 37,400.

Although it is a relatively modest program, it is unusually highly regarded in communities where it operates. Its immediate predecessor, the National Older Workers

Program - Operation Mainstream, was given high marks by professional evaluators. The organizations which sponsor activity under the program have managed their projects with commendable effectiveness.

Although the authorization for the Title IX program is scheduled to expire at the end of Fiscal Year 1978, we will ensure that the elements of this program which have proven so effective will be retained.

We are concerned that the Senior Community Service Employment Program may, by its very existence, give CETA prime sponsors a rationale for ignoring the elderly and, thereby, may cause an overall reduction of employment-related services for this group. However, we are committed to doing what we can to prevent this.

The United States Employment Service and the Older Worker:

Within the broad framework set forth by the Wagner-Peyser Act the federal/State employment service system has established programs of special services for those applicant groups who are confronted with various obstacles in their search for work. Among these are veterans, migrant and seasonal farmworkers, the handicapped, members of minority groups, and older workers. Veterans are accorded preferential treatment and, by law, Vietnam era disabled veterans are accorded priority in referral to certain jobs.

The Employment Service has a mandate to provide a complete program of intensive counseling, assessment, job development, placement, and referral to training and social services to meet the employment-related needs of middle-aged and older workers with the use of staff specially trained to recognize and to cope with the age-related employment

problems. However, the facts and statistics indicate that the results may not be adequate.

There are about 3,200 counselors of all types working in the public employment services. A 1975 survey indicated that 1,500 of the 2,400 employment service local offices nationwide had full-time or part-time older worker specialists, and the remaining local offices had a staff person designated to work with older applicants. It is a continuing responsibility of the State employment service agencies to provide a staff training program, utilizing materials developed by the National Council on Aging and other contractors.

Of the 54 public employment services in the system, 41 had designated an older worker specialist at the State level and nine were in the process of filling such vacancies to provide leadership on a statewide basis. There is a designated staff member in each of the ten regional offices of CETA to provide oversight and technical assistance to State agencies regarding their older worker programs. However, the older worker specialists in State central offices and Federal regional offices are typically responsible for services to all special applicant groups, not just older workers.

The statistics show that the older workers are not being placed in the same proportion as other job applicants. Thus, the employment service figures for age 55 and older indicate that the proportion of new and renewal applicants has in recent years remained fairly constant at about 6.5 percent. The proportion placed in non-agricultural jobs is also fairly constant at about 3.6 percent. The proportion

counseled is of the same order as for the age group, age 45 and older. However, the proportion placed in training is significantly lower for the age 55 and older group than for the 45 and older group.

In order to improve this record the Employment and Training Administration has funded a five-State demonstration project in which retired men and women work in employment service local offices on a half-time basis to provide intensive job development and placement services for older workers. In addition, the employment service is participating in a national study funded by the Administration on Aging, of HEW, to clarify income and other employment-related needs and expectations of older workers.

In the above remarks I have attempted to provide an overview of the current participation of older workers in certain program areas and on the changes or studies we are conducting to assess and deal with the problems and to provide more equitable access to Labor Department assistance programs. I realize that I have not commented on all the issues which interest the Commission, but I have two Assistant Secretaries and the Solicitor with me and they will be available to answer any questions you may have.

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20210



15 NOV 1977

Mr. Arthur S. Flemming, Chairman
U. S. Commission on Civil Rights
1730 K Street, N.W.
Suite 214
Washington, D. C. 20425

Attention: Age Discrimination Study

Dear Chairman Flemming:

Pursuant to requests made at the Age Discrimination Act hearings on September 26, 1977, enclosed are responses to questions and to requests for materials made orally during the course of the hearing. In addition, enclosed are responses to written questions submitted to the Department at the same hearing.

Sincerely,

Kay Marshall
Secretary of Labor

Enclosures

QUESTIONS AND REQUESTS FOR MATERIALS MADE ORALLY
DURING SEPTEMBER 26, 1977 HEARING

Question 1. What recommendations does the Department have on how CETA and Title IX of the Older Americans Act might be dealt with in new legislation?

Answer 1. Although the authorization for the Title IX program is scheduled to expire at the end of fiscal year 1978, we will ensure that the elements of this program which have proven so effective will be retained.

Question 2. Submit a copy of the Department of Labor's Report to the Senate on the ADEA, filed September 26, 1977.

Answer 2. Enclosed is a copy of the Department of Labor Report submitted to the Senate Labor Subcommittee, on September 26, 1977.

U. S. DEPARTMENT OF LABOR⁴
OFFICE OF THE SECRETARY
WASHINGTON

QUESTIONS AND ISSUES RELATING TO PROPOSED AMENDMENTS
TO THE
AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Report to the Subcommittee on Labor
United States Senate Committee on Human Resources
Honorable Harrison A. Williams, Jr., Chairman

Submitted at the Request of
Subcommittee Members
By
The United States Department of Labor
Ray Marshall, Secretary

September 26, 1977

Prepared by
The Employment Standards Administration
Donald Elisburg, Assistant Secretary

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- A. Productivity of Individuals Age 65 and Over
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SUMMARY AND RECOMMENDATIONS

In responding to the questions and issues raised by the Senate Subcommittee on Labor, several options for changing the age limit and other aspects of the Age Discrimination in Employment Act emerge.

1--Raising the Upper Age Limit

There no longer exist compelling reasons to hold the upper limit of the ADEA to where it currently is--age 65. The Administration supports the principle of the proposed amendments. If the Senate Human Resources Committee decides to act favorably on the proposed legislation, the Administration requests that the effective date be extended to January 1, 1979. It is also important that the legislation clearly permit the establishment of a retirement age less than 70 where age has been shown to be a significant indicator of decreased job performance.

- While age 65 may have been appropriate as an upper limit when the ADEA was first enacted in 1967, there is enough evidence on the productivity, health, and continuing ability of older workers to warrant the upward adjustment to age 70.
- There has been enough experience with flexible retirement rules and systems with no mandatory age limit both in industry and government to challenge the sensibility of retaining the current limit.
- The labor force impact of raising the mandatory retirement age to 70 would be extremely small and would not be expected to create any significant dislocations in other age brackets of the labor force.
- Raising the upper limit to age 70 would, over the long run, lead to significant savings in the social security system. This will be especially true when the large "baby boom" post World War II cohorts become older but can exercise an option to remain employed--thus deferring Social Security benefits for which they are eligible.
- Raising the upper limit will have a positive effect on pension plans. Deferred retirement will lead to overall savings to pension funds since older workers will not be drawing benefits while they remain employed.

- Raising the age limit to 70 will not lead to conflicts between the ADEA and the Employee Retirement Income Security Act. Officials from the Department of Labor with ERISA responsibilities agree on this matter.
- Public opinion, as manifested in several national polls, strongly supports the proposition that individuals, able and willing to work, should be permitted to do so regardless of chronological age.
- Most experts in geriatrics and gerontology support raising the age limit to 70. They contend that the option to continue work will have positive physiological, psychological, economic, and social effects on older people.

On balance, the reasons for raising the age limit to 70 are compelling and the Department recommends that the upward adjustment be made. There are no major obstacles to prevent such legislative action.

2--Setting a New Limit

If age is to be accorded full civil rights protections, then there is an argument for total abolition of mandatory retirement. However, practical considerations suggest an intermediate step. After the initial adjustment is made to a new age limit, we will be dealing with single groups of post-65 older workers who choose to remain in the work force rather than retire. This will give the Department the chance to assess the impact of the change and report the findings to the Congress (a requirement in both the House-passed and Senate Labor Subcommittee bills).

3--Clarifying Section 4(f)(2) of the ADEA

Both the House-passed and Senate Labor Subcommittee bills add clarifying language to Section 4(f)(2) of the Act, which will make it clear that involuntary retirement prior to the age limit set by Section 12 is unlawful unless the retirement is supported by a reason other than age--such as inability to work or substandard job performance.

The Department has been deeply involved in litigation surrounding this exception and welcomes congressional activity in this matter. The language proposed in S. 1784, as reported out by the Subcommittee, is, in our opinion, appropriate.

4--Tolling the Statute of Limitations/Notice of Intent to File Suit

Assistant Secretary Elisburg, in his testimony before the Subcommittee on Labor, proposed two procedural amendments to the Age Discrimination in Employment Act. The reason for both of these amendments was to make it more likely that the courts would reach the merits of the cases of the aggrieved individuals, and do so more expeditiously, whether the suits are initiated by the Government or by a private person.

Before any individual can institute suit, he or she must file a written notice of intent to sue with the Department of Labor. The notice of intent to sue must be given to the Secretary within 180 days "...after the alleged unlawful practice occurred" (which period is extended to 300 days if the individual is located in a state which has an age law which provides a potential remedy). This time limit within which to notify the Department runs concurrently with the Act's two- or three-year statute of limitations and in no way extends it.

Given these strict time limits, it is easy to understand why many individuals and/or their attorneys miss complying with one or more of these requirements and their suits are, therefore, dismissed out of court without a hearing on the merits. Indeed, an estimated two-thirds of all private lawsuits instituted under this Act are dismissed for failure to comply with these provisions. The Secretary has proposed that the 180-day (and 300-day) time limit in which an individual must give him a notice of intent to sue in order to preserve any right of private action, simply be removed because that is the requirement which has created the most problems for the individual litigants. The Act's two- and three-year statute of limitations would, of course, continue to apply.

The Secretary's other proposed amendment, involving the Act's conciliation requirement, applies only to suits brought by the Secretary. It is not intended to remove any requirement, but rather to make that requirement more workable. The Act requires that before the Government can institute a legal action "...the Secretary shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with requirements of this Act through informal methods of conciliation, conference, and persuasion." Several courts have held that failure to comply with this requirement in the detailed manner specified in those court decisions can result in dismissal of the lawsuit. The Secretary often finds that before he can hold such detailed conciliation discussions, he is up against the general two- or three-year statute of limitations. It thus becomes very easy for a potential defendant to draw out the conciliation discussion to such an extent as to considerably lessen or even preclude its liability for the violation. Moreover, if the Secretary goes ahead and files a suit to stop the running of the statute of limitations, the case may be dismissed for failure to conciliate. It obviously oftentimes benefits a potential defendant to protract these discussions. Under Title VII,⁶ the EEOC does not have this problem because the filing of a charge with the Commissioners (which occurs even before formal conciliation is commenced), rather than the filing of the lawsuit, stops the running of the statute of limitations. The Secretary's proposed amendments would accomplish a comparable result for the ADEA.

We are pleased to note that the Subcommittee has taken action to incorporate these in reporting S. 1784.

INTRODUCTION

The Subcommittee is well aware of the fact that the issues of age discrimination in employment and mandatory retirement are reaching the dimensions of a full-scale civil rights debate. Various groups representing older people, industry, and labor organizations as well as experts in gerontology have made their views known on these subjects. The hearings held before this Subcommittee and the various House Committees and Subcommittees on proposed amendments to the Age Discrimination in Employment Act reflect a wide range and diversity of views.

Some groups seek total abolition of mandatory retirement. They regard age protections in employment as much a civil right as race, sex, religious, and other protections afforded by Title VII of the Civil Rights Act of 1964. The American Association of Retired Persons/National Retired Teachers Association, the National Council on the Aging, and the National Association of Retired Federal Employees have stated their positions favoring total "uncapping" of the Age Act. The National Council of Senior Citizens is against mandatory retirement when imposed unilaterally by any employer group.¹ They support, however, a set retirement age when arrived at through the collective bargaining process. It should be noted that taken collectively, the above groups represent over 14 million older members and over 2,000 professional service organizations and agencies serving the nation's elderly.

Other groups, representing industry and certain labor unions,² take a different position. They have, through various testimony before appropriate House and Senate Committees, manifested interest and concern in amending the Age Act but urge that caution be taken. These groups foresee difficulties arising in their retirement benefit systems as well as in the practical personnel steps required to deal with raising the age limit of the ADEA. In addition, some spokesmen from industry and labor raise questions of the unknown impact on other age groups in the labor

force-especially youth and minorities. In sum, these groups recommend that further studies be made before Congress takes action on any of the proposed Age Act amendments.

The opinion of the public as reflected through various national polls, add still another dimension. In one such poll,³ eighty-six percent of all individuals surveyed agreed with the statement that nobody should be forced to retire because of age, if he wants to continue working and is still able to do a good job.

The bills that have been introduced in the House and Senate show mixed perceptions, based, perhaps on the above differences of opinion. The bill passed in the House--HR 5383--would eliminate mandatory retirement in the federal sector (except for a number of categories where specific mandatory retirement ages have been set by statute), but set age 70 as the limit for the private sector and nonfederal public sector. Proposals considered by this Subcommittee ranged from eliminating mandatory retirement altogether to incremental raising of the age limit in Section 12 of the Age Act over various time frames. The bill reported by the Subcommittee--S 1784--would raise the current age limit of the ADEA to 70.

It should be noted that that the House passed bill and the bill reported by the Senate Subcommittee on Labor would clarify an exception in the current Age Act to indicate that compulsory retirement prior to the upper age limit in Section 12--raised to 70 in both bills--is unlawful unless it is supported by some reason other than age.

What all this suggests is that the forces for changing the Age Act are strong and deeply felt throughout the nation. The arguments for and against mandatory retirement are well laid out by recent committee prints prepared by both the Senate Special Committee on Aging and the House Select Committee on Aging.⁴ Some of these will be discussed later in this report--but most of our efforts will be to look beyond the arguments and the advocacy viewpoints, pro and con, to arrive at well founded recommendations.

The report will be based, in part, on the following propositions, questions and issues:

- It is repugnant to discriminate against any individual or group on the basis of any demographic variable--be it race, sex, religion, national origin, or age.
- But are there limits associated with aging, work, and retirement, and, if so, what are they? Unlike other demographic characteristics, the aging process is associated with gradual physical and physiological limitations. To what extent is the bona fide occupational qualification exception in the Act (Section 4(f)(1)) a remedy to deal with the problems of aging and work?
- Employment policies in the U.S. generally set 65 as the age for retirement. But there are major exceptions to this rule--sometimes within similar industrial and occupational groups. Some labor groups made up of blue-collar workers engaged in difficult and demanding occupations (e.g., steel workers) eliminated mandatory retirement rules for their members. In addition, the federal government's current overall retirement age is 70. How sensible, then, is a general retirement practice on an age limit under a law only protects workers up to 65?;
- The age composition of the U.S. population is changing. In the years to come we can expect greater proportions and numbers of older persons in the population and the retirement population. How can decreasing youth and middle years population be expected to support the older group? Should we not develop responsive public policies which will allow older persons--willing and able, to continue contributing to their own support through gainful work?
- The federal government for good or otherwise set 65 as the age for full social security entitlements for eligible beneficiaries in 1935. Private and public pension systems have tended to peg retirement age to that norm. How do these work disincentives affect individual retirement choices?

- What are the effects of mandatory retirement on older people? Do they suffer physically, psychologically, socially, and economically from arbitrary separation from the labor force? Would raising the age limits of the ADEA have a salutary effect on the older population and the nation as a whole?

On balance, the research and information relating to the productivity and capability of older workers are positive. Older workers, like other groups in our society, have an interest in contributing to their own support. Our experience with the Age Discrimination in Employment Act now suggests that this interest is growing--that people want the right to continue work for longer periods of time. The proposals before Congress seem to be meeting the needs and aspirations of many older Americans by providing a new option--a choice to remain active and contributing citizens in exercising their abilities and what they can accomplish.

This report will be divided into two sections. The first will be responsive to questions and issues raised by Subcommittee members regarding the testimony of Department of Labor witnesses during the July 26th hearings. This will be followed by additional information pertaining to those matters. The second part will be an Appendix consisting of background readings and materials pertaining to older workers and the major themes discussed in this report.

PART I: CRITICAL ISSUES AND QUESTIONS ASSOCIATED WITH
PROPOSALS TO AMEND THE AGE DISCRIMINATION IN
EMPLOYMENT ACT OF 1967

I -- RESPONSES TO QUESTIONS RAISED BY SUBCOMMITTEE MEMBERS DURING
TESTIMONY OF DEPARTMENT OF LABOR WITNESSES

During the July 26th hearings before the Subcommittee, members raised certain questions and issues of the Department's witnesses and asked that responses and additional information be forwarded to them when they returned from the summer recess. This section of the report is responsive to that request. We have reviewed the transcripts and defined the major questions and will make summary answers in this part of the report. In addition, a number of issues and observations were raised by Subcommittee members, and we have attempted to elaborate on those points as appropriate.

A--The Chairman raised a question on the progress and expected completion date for the Section 5 study on "...institutional and other arrangements giving rise to involuntary retirement."

RESPONSE The design for the Section 5 study was set some years ago. It called for the analysis of research studies currently underway and secondary data sources pertaining to retirement, pension plans and causes for retirement. In addition, separate studies were planned which, upon completion, could contribute to the Section 5 study results. Thus, data collected by the Social Security Administration's Survey of Newly Entitled Beneficiaries and the on-going Retirement History Study are important research efforts which have a bearing on the Section 5 study. In addition, the Bureau of Labor Statistics completed detailed studies of retirement provisions in private pension plans filed with the Department of Labor under the Welfare and Pension Plans Disclosure Act and has recently conducted a study for the Employment Standards Administration on Employer Policies and Practices--including retirement benefit systems. The results of this latter study, when completed, will also be utilized in

the final Section 5 report. The Department has supported a longitudinal study on preretired men which is being conducted on a continuing basis by the Ohio State University's Center on Human Resource Research. Upon completion, this will add much to our knowledge on voluntary and involuntary retirement decisions.⁵

Critical information gaps remaining after completion of the above studies will be resolved in a tailor made study. Barring unforeseen circumstances, the Secretary plans to submit a completed report to the Congress by January, 1979.

B--Labor Force Effects from Raising the ADEA Age Limit

RESPONSE -- 1. We do have some concerns about the impact of raising the ADEA age limit on employment opportunities for younger persons, women and minorities in certain occupations. Nevertheless, there are several considerations which apply here. First, it must be noted that the U.S. labor force does not expand or contract on a "one-out, one-in" basis. That is, because an individual retires does not mean an automatic movement which leads to a new job opportunity for a younger person. During a period of cut-backs employers may achieve reductions in their labor work force by attrition--which generally means not replacing workers who retire. During expansion, the job needs may call for workers at a variety of skill levels for which older as well as younger workers can be employed.

In addition, certain industries might face contraction even though the general economy is showing an overall growth pattern. One simply cannot predict labor market demands by age factors. Therefore, older workers remaining in the work force cannot be considered an obstacle to entrance opportunities--or even progression opportunities--for other age groups.

Two other important factors must be considered in relation to the question. First, labor force participation rates for older men have been declining steadily since 1950.⁶ Second, early retirement trends

which expanded in the 1960's have held up to the present, have continued up to the present. Perhaps the strongest evidence and explanation for the early retirement trends are the steadily increasing numbers and percentages of individuals who are taking Social Security benefits with reductions for early retirement (at age 62).⁷ What is strongly suggested is that the proposed legislation, which would allow older workers to remain employed beyond age 65 will not, of itself, change the retirement and early retirement trends. Availability of pensions, access to Social Security benefits, the desire for leisure or second careers--whatever may be the motivation for early retirement--are apparently powerful disincentive forces which will most likely continue to prevent age-crowding in the work force.

It is difficult to predict the exact number of older workers who will remain on their jobs if the age limit of the ADEA is raised. The Department estimates are in the range of 150,000 to 200,000.⁸ This estimate was supported by other witnesses appearing before the Subcommittee. Our opinion is that it will take a good number of years for current retirement trends to change and an active older worker policy on the part of government and industry before the labor force participation rates of older workers will increase.

In sum, the high unemployment rate of minority youth cannot be linked to continued employment for a comparatively few older workers. Youth unemployment must be dealt with by other means and the Department of Labor is initiating efforts with such vehicles as the recently enacted Youth Employment and Demonstration Projects Act of 1977. Mandatory retirement or forced involuntary retirement is not the solution to the problem of youth unemployment.

RESPONSE -- 2. A second question raises the possibility of a trade-off on retaining skilled and productive older workers at the expense of younger or middle-aged workers. This point has been raised by some industrial witnesses before this Subcommittee and House Committees. The fear is that older workers in better positions will stay on and, thus,

discourage opportunity for promotion among their younger counterparts. However, the trend toward early retirement applies across the board to both hourly and salaried workers--as industry representatives testified before the House Select Committee on Aging.

In addition, it seems only just that a productive older worker who wants to or, more important, needs to remain on the job should have the opportunity to do so. One cannot program the older worker to a reduced retirement income and inactivity as the means to achieve promotion for others. This would be robbing one generation to pay another.

C--A member of the Subcommittee made the observation about increased longevity among our older population, improved health of this group, mobility factors of workers and the general need to see that older persons have the opportunity to remain interested and occupied. While not specific questions, we would like to offer additional observations on the matter.

RESPONSE -- 1. Longevity and Improved Health Among the Older Population. Average life expectancies have been rising fairly rapidly for both white and nonwhite men and women in the population since 1930. Life expectancy beyond age 65 has now reached over 13 years for white and nonwhite men and over 16 years for white and nonwhite women.⁹ In general, people are living longer as a result of better health care and greater availability of health care for older age groups. Yet the matter is not at all a simple one.

The differences between the health status and mortality rates of older persons who are working and those retired raises many questions--and the research is not at all too clear on the matter. The Retirement History Study conducted by the Social Security Administration indicates that health is the most frequent reason given for retirement between the ages of 55 and 64. For those retiring after age 65, it is cited much less frequently as the major reason.¹⁰ It seems that those who encounter health disabling conditions which affect work life will do so during the

latter part of the middle years. Those who do not encounter such difficulties, it seems, are in a position to continue employment if so desired.

There is some dispute between health and mortality effects for older persons who retire and those who remain employed. One medical witness before the Subcommittee cited the evidence of practicing physicians--as manifested through the House of Delegates of the American Medical Association. It was noted that the practicing physicians were opposed to mandatory retirement because they noticed, on a day-to-day basis, that older persons who kept working tended to have better health than those retired. On the other hand, the Retirement History Study does not show general health declines in the retired population of older persons.

But the subcommittees should note that a health-related study made on almost 4,000 U.S. rubber workers conducted by Haynes, McMichael and Tyroller¹¹ and presented before the Second Epidemiology of Aging Conference in March, 1977, came up with some rather grim findings. Eighty percent of the workers were under no work limitation at the time of mandatory retirement--age 65. Sixty-six percent of those mandatorily retired had no hospitalization, no sickness absences, and no work limitation in the two years prior to age 65. In sum, a good number of the rubber workers working up to the retirement age were in excellent health. Yet death rates were significantly high after the third and fourth years of retirement. For those opting for early retirement, with some health disability, mortality rates were high during the first, fourth, and fifth years after retirement. Various "disenchantment" hypotheses were put forward to explain the mortality rates for both groups. But going from excellent health upon involuntary retirement to high mortality rates fairly shortly afterwards raises some chilling questions. Of course, the study was limited to rubber workers and causality may be traceable to that particular occupation. Nevertheless, the health-age-retirement status questions remain.

RESPONSE -- 2. Mobility Patterns and Older Workers.

The common perception of middle-aged and older workers is that they are settled and do not often make occupational or career changes. To a great extent this has been true. The establishment of families, homes, and community ties does tend to inhibit labor force change and mobility among older workers. But the trend may well be changing. The longitudinal study on pre-retired men, conducted by the Center for Human Resources Research of the Ohio State University, shows that greater numbers of middle-aged and older workers are willing to relocate or assume second careers if need, proper conditions or opportunity warrants such movement.¹² The phenomenon may not be all that great, but it is enough to challenge the so-called labor force rigidity of older workers.

RESPONSE -- 3. Utilization of Older Workers.

Perhaps the best opportunity afforded older workers and management by the proposed legislation is the development of diverse jobs and task assignments as a means to keep older workers contributing in productive and self-rewarding work roles. Some corporations have actually developed a job pool of retirees--who are on call to come back to work on special tasks, assignments, or help out on piece-work when the need arises. In some respects, they need never have been retired.

D--Age, Productivity and Job Performance. Committee members raised this matter and asked that information on relevant studies be provided. Some preliminary remarks are in order here.

RESPONSE Productivity of Individuals Age 65 and Over*

Most of the literature relevant to productivity of older workers focuses on people in the age 40 to 65 age bracket or on groups such as those 45 or 55 and over. Specific attention to workers age 65

*See Appendix A for additional information on this topic.

and over is infrequent and usually incidental to discussion of a wider age range of middle-aged and older workers. Available materials can be grouped into (a) that addressed to health or the relationship between capabilities, and aging, and (b) materials relating to studies of job performance and descriptive materials from employers.

The AMA opposes mandatory retirement in terms of the health of persons affected by it and advocates individual choice for employees in deciding when to retire. Available information generally shows evidence of declines in physiological functions at varying rates in different functions in the individuals and with increasing variation among different persons within higher age ranges. The extent to which changes are due to age per se is ill-defined, and the implications for work-related productivity are complicated by the ability of individuals to compensate for any diminishing capacity resulting from the aging process by greater reliance on undiminished capabilities and talents. Anecdotal material from gerontologists indicates that common assumptions concerning people over age 65 as being less capable are questionable.

Over the past three or four decades, several studies relating to the job performance and productivity of older workers have touched on workers age 65 and over. The main studies available are a University of Illinois survey from 1953-54, Department of Labor studies in 1957-61 relating to nonsupervisory office workers, production workers in the footwear and furniture industries, and mail sorters, and a survey by the New York Commission on Human Rights of employees of State agencies.

Somewhat anecdotal information concerning the experience of companies employing persons age 65 and over are available from a recent Bankers Trust and Casualty Company statement before the Senate Committee on Aging and a 1975 article in Manpower magazine concerning Texas Refining Corporation.

Con Edison Company's description of its experience with raising the mandatory retirement age from 65 to 68 in 1958 indicates that such a

change can result in retention of employees whose productivity in their jobs is not a problem.

E--Use of Early Retirement and Mandatory Retirement Policies in Personnel Decisions Involving Older Workers

RESPONSE -- 1. Retirement Policies.

A Subcommittee member raised this issue with Department witnesses during the hearings. It goes very much to the heart of the pending legislation and problems raised about changing the age limits. Witnesses before the House Select Committee on Aging¹³--representing firms such as Exxon, CBS, the Bendix Corporation, and General Foods testified that a major reason for mandatory retirement in their organizations was that it treated everybody equally. That is, since all workers are subject to the age rule, be they executive or service worker, the procedure is fair and sound. This, indeed, is one way of looking at the matter. A representative from the Bankers Life and Casualty Company--which has no mandatory retirement rule--stated an opposite view. Workers should be assessed on an individual basis and in terms of their contributions to the company and their own self-interests in continuing work or retiring. Regardless of the merits of either system, one can note the arbitrary nature of the mandatory retirement rule. The good workers go with the bad--just on the basis of age.

In fact, many of the mandatory systems admit to exceptions. CBS controls a subsidiary firm which manufactures pianos. Because of the lack of younger skilled workers in this division, the retirement rule of 65 has been waived. Other firms and organizations will retain particularly skilled or valued employees on a yearly review basis. In fact, an industry witness from Grumman Aerospace, who testified before this Subcommittee, described such a review policy and procedure extremely well. It appears that organizations already have the mechanism for dealing with retirement on flexible criteria. They simply have not apparently

questioned the relevance of their retirement policy or developed alternate utilization patterns for older employees. The proposed legislation would cause both to happen.

RESPONSE -- 2. Early Retirement Policies.

Early retirement options can be of great benefit to older workers who have alternate plans for leisure or second career activity. They can also be used by management as pressure points to adapt to reduction-in-force practices in the face of economic necessity. The real or perceived threat of job reassignment or salary downgrading can push older employees into an early retirement option at a current benefit level rather than suffer a job and salary cut which could lead to a substantially reduced benefit.¹⁴ There are several cases pending under the Age Act which involve these kinds of issues.

A report by the Industrial Conference Board, entitled *Retirement: Reward or Rejection*,¹⁵ cites an opposite and adverse effect of early retirement policies. In the late 1960's, early retirement incentive strategies were developed by certain industries. By these, workers could retire--generally after age 55 with some special benefit--even though annuities would be reduced by the early retirement. It was thought that incentives would tend to rid the organization of less productive, older workers. In many cases, however, skilled and productive workers took the option. Early retirement policies, if not carefully thought out, can have unforeseen effects.

F--What are the Implications of Raising the Age Limits of the ADEA on the Social Security System?

RESPONSE Social Security costs would be decreased by the number of workers between 65 and 70 who would not be forced to retire from the labor market before age 70. These savings would depend on the wage history of the individual according to the formula used by the Social Security Administration to calculate benefits. Benefit cal-

culations are complicated further by the marital status of the recipient. Nevertheless, if a very rough and approximate maximum benefit of \$400 is allocated to each of the workers who could be expected to continue working beyond 65, then the cost savings would have been between \$644 million and \$832 million in 1976. If these workers remained in the labor force and paid the maximum Social Security tax, they would have added between \$232 million and \$300 million a year to Social Security revenues in 1976.

All in all, these sums do not really represent great savings to the economy. OASDI receipts were \$71 billion in 1976 and disbursements \$74 billion. Thus, receipts would increase by at most four-tenths of a percent and disbursements decrease by about 1 percent.

G--What are the Impacts of Raising the Age Cap on Pension Plans and the Employee Retirement Income Security Act?

RESPONSE -- 1. Private Pension Plans.

Financial pressure on private plans could be alleviated. Requiring an employer to permit a qualified employee to work until the Act's upper age limit, regardless of the pension plan's "normal retirement age," would result in cost savings to plans rather than increases.

As an actuarial matter, the longer an employee works, the shorter the period retirement payments will have to be made, thus lowering the funding assumptions of the plan. Savings would of course come from the added years of accumulated interest on the fund. Savings would also stem from the fact that a plan need not provide for further accrual of benefits after the participant has reached the plan's "normal retirement age" and thus the added years of service need not increase the ultimate retirement benefit or the cost of providing it.

RESPONSE -- 2. ERISA

Raising the upper age limit under the ADEA would not create any conflicts with respect to ERISA. Those responsible for administering ERISA in the Department of Labor are in complete agreement that

there would be no interference with the relevant provisions of ERISA if the upper age limit under the ADEA were raised. Answers to technical questions regarding the Age Act and ERISA have been forwarded to the Subcommittee under a separate cover.

H--Will the Proposed Amendments Conflict With Other Federal Statutes Regulating Terms of Employment?

RESPONSE To the extent that federal laws provide early mandatory retirement ages, it represents Congressional judgment that after a certain age, the specific requirement of the job cannot be met by the older worker. Congress can always review these judgments on the basis of new evidence. It should also be noted that some of these laws prescribing early retirement have been called into question by litigation presently pending in the courts.

Senator Javits expressed his view that the proposed legislation provides the basis for a new magna carta for older people in the world of work. In a way, this is very much the case. The legislation amounts to a firm step in strengthening a civil right for older people. Beyond that we are moving towards a time when we need a positive employment policy for older workers--one that looks to job retention as well as equitable retirement options. The following section of the report will provide further supportive information and data regarding our responses to the questions above. It will also point out new directions under exploration by the Department on ways to better utilize older workers.

PART II: ADDITIONAL BACKGROUND INFORMATION
PERTAINING TO AGE DISCRIMINATION
IN EMPLOYMENT
AND
MANDATORY RETIREMENT

This Section of the Report will supplement Part I by providing additional information regarding the Department's enforcement activity under the Age Act and back-up information on issues raised in the Introduction and responses to the questions of Subcommittee members.

A--The Department of Labor's Experience with the Age Discrimination in Employment Act.

RESPONSE When the Act was passed in 1967, enforcement responsibility was placed in the Department of Labor. The Wage and Hour Division of the Employment Standards Administration was given the responsibility for carrying out investigations and conciliations under the Act's provisions. Located in 90 major offices across the country, the Wage and Hour Division is also responsible for carrying out other mandates such as the Fair Labor Standards Act and the Equal Pay Act. Litigation responsibilities under the Act which can follow investigation and conciliation activities are carried out by the Department's Solicitor's office.

The Secretary is required by Section 13 of the Age Act to report to the Congress on an annual basis regarding progress made in enforcing the Act. The last report, covering 1976 activities, was sent to Congress in January of 1977. Since there are many cumulative tables illustrating activities under the Act, we call the report to the Subcommittee's attention. Furthermore, the nature and scope of recent litigation under the Act is also described as well as the progress made under the Section 5 study on the causes of involuntary retirement.

Certain difficulties had to be met in enforcing the ADEA. Employers had to be familiarized with the Act. Age discrimination was and still is

a subtle matter. It is not all that easy to detect age discrimination within the work force of a given establishment. Diverse record-keeping systems--and even how to organize age data from those records--presented no little problem. Finally, the whole business of an age related investigation requires careful, painstaking, and time consuming effort. Age can be linked to health factors, job performance, public safety, and the general exceptions provided in the Act itself.

There have been a large number of significant investigations and cases under the ADEA. An increasing number of cases litigated under the Act have reached the Appellate Courts and the U.S. Supreme Court. Major settlements--involving large sums of money--also indicate the Department's growing expertise in dealing with ADEA investigations and conciliations.

The Department's enforcement activities under the Act, as indicated by the following tables, have grown over the years. Efforts have been made to strengthen overall staff capabilities and to focus investigations and litigation on cases which will establish firm precedents regarding the hiring, job retention, and other protections guaranteed by the ADEA.

In addition, the Department conducts an extensive information and educational program regarding the Age Act. Publications on the Act and its provisions are distributed to the public and employer community on a national, regional, and local basis. The Act has gained increasing prominence in speeches and presentations made to industry and other groups by ESA officials. Increased use of public service announcements, both on television and radio, has also helped to familiarize the public with the Age Act.

The purpose of the Age Act is "to promote employment of older persons based on ability rather than age, to prohibit arbitrary age discrimination, and to help employers and workers find ways of meeting problems arising from the impact of age on employment." We have no

Selected Summary Tables from the
Section 13 Report on Activities
Under the Act During 1976

A. Complaints Received: 1969-1976

<u>Fiscal year</u>	<u>Complaints received</u>	<u>Percent increase</u>
1969	1,031	-
1970	1,344	30
1971	1,658	23
1972 a/	1,862	12
1973	2,208	19
1974	3,040	38
1975 b/	4,717	55
1976 b/	5,121	9
1976 (transition quarter)	1,105	-

a/ Excludes one area office for which data were not available because of a flood.

b/ In fiscal year 1975, complaints were also counted on an individual basis for the first time. In that year, 5,424 complaints were recorded, 5,826 in 1976, and 1,226 in the transition quarter.

B. Follow Up Results

<u>Fiscal year</u>	<u>Individuals</u>			<u>Income restored</u>		<u>In- divi- duals aided</u>	<u>Job oppor- tuni- ties made avail- able</u>
	<u>Dis- crim- inated against</u>	<u>Due dam- ages</u>	<u>Amount found due</u>	<u>In- divi- duals</u>	<u>Amount</u>		
1969	a/	48	\$39,875	a/	a/	a/	a/
1970	a/	131	129,514	a/	a/	a/	a/
1971	a/	655	738,074	a/	a/	a/	a/
1972	a/	964	1,650,039	a/	a/	a/	a/
1973	14,386	1,031	1,866,226	304	\$662,324.8	849	39,667
1974	3,800	1,648	6,315,484	637	2,507,448	2,744	84,207
1975	5,540	2,350	6,574,409	728	1,676,171	3,376	27,217
1976	12,951	1,908	8,631,432	742	3,491,658	2,351	31,964
1976 b/	421	284	1,066,210	141	385,402	204	2,443

a/ Not available or not comparable.

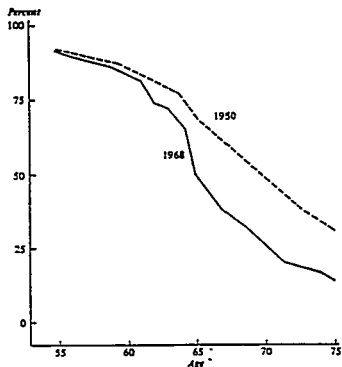
b/ Transition quarter, June 21, 1976-September 20, 1976.

illusions about the practice of age discrimination in employment in the nation--it's a very large problem. The Department's position has been to achieve the purpose of the Act by what it considers to be the most effective strategy--positive intervention on behalf of complainants with employers in order to achieve compliance through conciliation and persuasion, and use of litigation when necessary to achieve compliance with the Act.

B--The Impact of Amending the ADEA Age Limit on the U.S. Labor Force and Other Age Groups.

RESPONSE Some economists¹⁶ see the effects of eliminating mandatory retirement or raising the age limit in the ADEA as simply a non-issue. This is based largely on their perceptions of declining labor force participation rates among older workers and the steady trend towards early retirement and "voluntary" retirement at the mandatory age. The following tables illustrate the trends.

Table 1--Changes in Labor Force Participation, 1950-1968



Changes in Labor-Force Participation, 1950 Versus 1968
 Source: Howard N. Fullerton, "A Table of Expected Working Life for Men, 1968," *Monthly Labor Review* (June 1971).

Taken From Schulz, J. *The Economics of Aging*, Belmont, Cal., 1976, p..52.

An indicator of the trends toward early retirement is the number of individuals accepting reduced early retirement Social Security benefits (at age 62). The following table illustrates the trends over the past years.

TABLE 2.—BENEFITS IN CURRENT-PAYMENT STATUS FOR RETIRED WORKERS: NUMBER WITH AND WITHOUT REDUCTION FOR EARLY RETIREMENT, BY SEX, 1956-74

At end of year	Beneficiaries			Percent of total
	Total	Without reduction for early retirement	With reduction for early retirement Number	
Total:				
1956	5,112,430	4,997,401	115,029	2.2
1957	6,187,522	5,811,422	386,110	6.2
1958	6,920,677	6,351,854	568,823	8.2
1959	7,525,628	6,761,722	763,906	10.2
1960	8,061,469	7,117,265	944,204	11.8
1961	8,924,849	7,483,585	1,456,264	16.3
1962	9,738,500	7,647,575	2,090,925	21.5
1963	10,495,431	7,662,459	2,832,972	26.8
1964	10,662,731	7,598,650	3,070,041	28.8
1965	11,100,584	7,581,325	3,519,188	31.7
1966	11,650,443	7,651,755	4,006,688	34.4
1967	12,019,175	7,552,761	4,466,414	37.2
1968	12,426,742	7,552,767	4,969,975	40.0
1969	12,822,201	7,523,168	5,499,033	42.9
1970	13,349,175	7,222,295	6,066,880	45.4
1971	13,978,939	7,249,772	6,677,167	47.9
1972	14,455,478	7,245,502	7,215,973	50.3
1973	15,364,562	7,343,979	8,020,583	52.2
1974	15,954,521	7,262,763	8,695,732	54.5
Men:				
1956	3,572,271	3,572,271		
1957	4,198,068	4,198,068		
1958	4,817,208	4,817,208		
1959	4,937,032	4,937,032		
1960	5,216,668	5,216,668		
1961	5,764,685	5,481,225	273,460	4.7
1962	6,244,185	5,587,209	656,945	10.5
1963	6,497,372	5,551,896	945,476	14.6
1964	6,657,410	5,460,407	1,197,003	18.0
1965	6,825,078	5,389,166	1,435,912	21.0
1966	7,034,343	5,345,011	1,689,332	24.0
1967	7,160,469	5,214,676	1,945,793	27.2
1968	7,309,289	5,107,745	2,201,543	30.1
1969	7,459,424	5,002,154	2,457,270	32.9
1970	7,688,460	4,930,400	2,758,060	35.9
1971	7,951,809	4,878,482	3,073,327	38.6
1972	8,230,847	4,833,330	3,397,567	41.3
1973	8,610,381	4,817,041	3,793,320	44.1
1974	8,832,270	4,737,114	4,095,156	46.4
Women:				
1956	1,540,159	1,425,130	115,029	7.5
1957	1,999,445	1,613,336	386,110	19.3
1958	2,203,469	1,734,646	468,823	24.7
1959	2,583,596	1,824,690	763,906	29.5
1960	2,844,801	1,895,597	949,204	33.4
1961	3,160,164	1,977,360	1,182,804	37.4
1962	3,494,345	2,060,366	1,433,979	41.0
1963	3,763,959	2,110,603	1,655,365	44.0
1964	4,011,521	2,158,283	1,873,038	46.7
1965	4,275,506	2,197,220	2,083,286	48.8
1966	4,674,190	2,306,744	2,317,356	50.1
1967	4,858,706	2,338,085	2,520,621	51.9
1968	5,111,453	2,345,021	2,766,432	54.1
1969	5,362,727	2,321,014	3,041,713	56.7
1970	5,660,715	2,351,895	3,308,820	58.5
1971	5,975,130	2,371,290	3,603,840	60.3
1972	6,314,528	2,402,722	3,922,496	62.0
1973	6,764,201	2,526,938	4,227,263	62.6
1974	7,126,251	2,523,675	4,600,576	64.6

Taken from: "Mandatory Retirement: The Social and Human Cost of Enforced Idleness," Report of the Select Committee on Aging, 95th Congress, 1st. Session, Comm. Pub. No. 95-91, August, 1977, p. 10.

The number of older workers who might be expected to remain in the labor force given the raising of the ADEA age limit is variously estimated to be in the order of 200,000. The Department has based its estimates on analyzing dissatisfied older workers who, for reasons of discouragement, forced retirement, and forced part-time work status were, in effect, denied full-time employment opportunity. The estimates were based on responses of older persons to: (a) The Social Security Administration's Survey of Newly Entitled Beneficiaries (SNEB), and, (b) The Current Population Survey (CPS), conducted by the Bureau of the Census. The SNEB estimate indicated that 200,000 older workers would remain working if the age limit were raised. The CPS estimate indicated that a slightly lower number--170,000--would do so.

A labor economist witness¹⁷ before the Subcommittee arrived at a similar figure on the order of 200,000 by developing a hypothetical model of the labor force. The model was based on actual 1977 second quarter data but with age-related participation rates taken from the second quarter of 1972. A judgmental figure of 200,000 was arrived at by considering the estimated number of workers involuntarily retired through pension plan requirements or other reasons.

To be sure, no one can predict the exact number of older workers who would remain working. But given the trends and estimates described above, few parties envision a substantially increased retention rate for workers over 65 during the next several years. The impact of this relatively small number of workers on the labor force at large and other age groups is minimal.

C--The Older Population: Increased Longevity and Health Factors.

RESPONSE -- 1. Increased Longevity.

The following tables indicate the growing numbers of older people in the U.S. over the coming years and progressive longevity and life expectancy indicators. Labor force projections,¹⁸ however, show no radical changes in the age composition of the labor force up to 1990. The prime age (25-54) labor force will expand up to 1990 with actual declines in the youth (16-24) and older (55 plus) labor force.

Table 1

DECENNIAL PERCENT INCREASE OF POPULATION BY BROAD AGE GROUPS: 1950 TO 2010
(A minus sign (-) denotes a decrease. Periods extend from July 1 of initial year to June 30 of terminal year)

Age and projection series	1950 to 1960	1960 to 1970	1970 to 1980	1980 to 1990	1990 to 2000	2000 to 2010
All ages.....II..	18.7	13.4	8.7	10.0	7.1	6.2
Range.....III..			7.6	6.9	4.0	2.1
I..			10.2	14.2	11.4	12.2
Under 15 years.....II..	36.8	3.2	-11.6	13.4	0.6	-0.4
Range.....III..			-13.7	-0.1	-3.8	-8.3
I..			-6.5	30.2	7.6	10.2
15 to 24 years.....II..	9.9	48.3	13.7	-16.2	11.8	5.7
Range.....III..				-16.6	-4.0	0.3
I..			-15.8	31.2	13.6	
25 to 44 years.....II..	3.2	2.7	27.7	25.5	-2.3	-3.3
Range.....III..					-2.5	-10.6
I..				2.1	5.3	
45 to 54 years.....	17.9	13.3	-2.9	11.4	41.8	13.1
55 to 64 years.....	16.6	19.4	13.8	-2.7	12.0	41.7
65 to 74 years.....	20.1	13.0	23.4	13.8	-2.6	13.3
75 to 84 years.....	41.2	31.7	14.2	26.6	15.6	-2.4
85 years and over.....	59.3	52.3	44.6	20.1	29.4	19.4

Taken from: Siegel, J.S., "Demographic Aspects of Aging and the Older Population in the United States," Series P. 53, Series 59, (Bureau of the Census, -1976), p. 2.

Table 2.--Longevity and Life Expectancy

Average Life Expectancy (at Birth) (Number of Years)				
	1900	1930	1973	2000
White Men	46.6	59.7	68.4	} 69.6
Nonwhite Men	32.5	47.3	61.9	
White Women	48.7	63.5	76.1	} 75.8
Nonwhite Women	33.5	49.2	70.1	

Average Life Expectancy (at Age 60) (Number of Years)				
	1900-02	1929-31	1949-51	1973
White Men	14.35	14.72	15.76	16.2
Nonwhite Men	NA (Not Available)	NA	NA	15.6
White Women	15.23	16.05	18.64	21.1
Nonwhite Women	NA	NA	NA	19.3

Average Life Expectancy at Various Ages, 1973 (Number of Years)				
	40	50	65	70
White Men	32.2	23.6	13.2	10.4
Nonwhite Men	28.7	21.5	13.1	10.7
White Women	38.5	29.5	17.3	13.7
Nonwhite Women	34.4	26.4	16.2	13.2

Taken From: Schulz, J., *The Economics of Aging*, Belmont, Cal., P. 36.

Note: The author has utilized several sources to compile the expectancy profile and suggests that these be consulted for highly specialized presentations. We feel that the general trends for purposes of this report are well described.

RESPONSE -- 2. Health Status.

Health as a reason for leaving jobs is most frequently given prior to age 65. For workers continuing beyond age 65 it appears much less frequently as a reason for finally leaving the labor force.

TABLE 3.—MAIN REASON FOR LEAVING LAST JOB, BY CLASS OF WORKER AND AGE AT ENTITLEMENT: NONEMPLOYED MEN AWARDED RETIRED-WORKER BENEFITS, JULY-DECEMBER 1963

Main reason for leaving last job	Total ¹	Age at entitlement			
		62-64			
		Total	62	63-64	65
Wage and salary workers					
Number (in thousands):					
Total.....	126	89	83	36	37
Reporting on main reason.....	120	85	51	34	36
Total percent.....	100	100	100	100	100
Health.....	44	54	57	48	21
Employer-initiated.....	28	17	14	21	57
Job discontinued, laid off.....	11	13	14	12	5
Compulsory retirement.....	18	4	1	10	52
Employee-initiated.....	27	29	28	31	22
Disability with job.....	4	4	4	4	2
Retirement.....	19	20	18	23	18
Family or personal.....	3	4	3	4	1
Miscellaneous.....	1	2	2	1	1
Self-employed					
Number (in thousands):					
Total.....	14	12	7	4	2
Reporting on main reason.....	14	12	7	4	2
Total percent.....	100	100	100	100	100
Health.....	51	55	56	51	33
Business not doing well.....	18	19	21	17	16
Retirement.....	22	18	15	25	41
Miscellaneous.....	9	6	8	7	10

¹ Excludes those awarded payable benefits at age 66 or older.

Taken from: "Mandatory Retirement: The Social and Human Cost of Enforced Idleness," op. cit., p. 11.

D--Effects of Raising the Age Limit on the Social Security System.

RESPONSE The major effects of raising the age limit of the ADEA on the Social Security system--minimal in the short run--have already been described. However, an additional illustration can be made by making certain assumptions. Assuming that each group of 100,000 continuing older workers would contribute an average of \$400 per year to the Social Security system and would defer an average of \$4,000 per year

as a benefit, a \$440 million "saving" to the system could result. This does not become very significant given the 200,000 estimate of over 65 workers who might remain in the work force. Furthermore, because of averaging, the estimates of contributions and deferred benefits could be greatly skewed.

The largest drain on Social Security appears to be coming from those who retire early, and not from those who are forced to retire at 65, although they are able and willing to work beyond that age.

E--Age, Performance, and Productivity.

RESPONSE Aside from the previous discussion on these matters, Appendix B to the report contains two articles which summarize the state-of-the-art on assessing productivity and performance factors quite well. It will be noted that the studies are limited to certain occupations and that generalizations on age and productivity cannot be made across all occupational fields. The articles are:

1. "Effects of Age and Experience on Productivity," Schwab, D.; Henemann, H., Industrial Gerontology, Winter, 1977.
2. "Capabilities of Middle Aged and Older Workers, A Survey of the Literature," Meier, E.; Kerr, E., Industrial Gerontology, Summer, 1976.

F--Effects of Mandatory Retirement on Older Persons.

RESPONSE In many respects, mandatory retirement transforms an older worker into an older person. Dr. Robert Butler, in his book: Why Survive? Being Old in America,¹⁹ points out the ambiguity of this matter. He notes readily that older persons do not and cannot expect to go ever onward and upward. Disability and limitations occur as people age--although age, of itself, is not causal. Often

age-related disability, sickness, and limitations can be associated with the living conditions, diets, and the internal milieu of the older person. He frequently cites that older persons undergo a transition from a self-dependent and self-supporting status during the late middle years to one of dependency. The transition is abrupt and artificial and comes about in no little way through our policies of mandatory retirement. Perhaps the individual had misconceptions--or no conceptions--of what it was like to become old. But whatever the case, the artificial dichotomy between working and forced retirement hardly solves the problem. Older persons who might have been able to continue work in some form are often left with minimal income, limited health care resources--despite Medicare and Medicaid, and dependent upon social services. No one can ascribe the conditions of the elderly in America to any one cause, but our retirement policies and especially mandatory retirement have contributed heavily toward some of the negative effects we find in our elderly population.

G--New Directions for Older Workers: Concerns of the Department of Labor.

RESPONSE Historically, the Department of Labor has laid the basic groundwork for research on older workers. Beginning with the "Seven Cities Study"²⁰ in 1956, to the ongoing longitudinal studies on pre-retired men,²¹ a good deal of information on the capacities, aspirations, effectiveness, and problems facing older workers in their employment-retirement cycle has been generated. The Department, through its various divisions has supported many independent studies of the kind reported in the Journal of Industrial Gerontology.

Recently the Department commissioned a long-range research and program strategy which would set new directions needed to add to our knowledge base on older workers and set guidelines for the development of programs which would meet their needs and balance these with new and

effective utilization options for industry and government employer groups. The study was conducted by Dr. Harold Sheppard of the American Institutes for Research. Among other themes being developed in the study is a total review of retirement policies and how these can change over the coming years. We regard this as a positive complement to the legislation pending before the Subcommittee.

References

- 1 -- For positions of The American Association of Retired Persons/
National Retired Teachers Association, the National Association
of Retired Federal Employees, The National Council of Senior
Citizens, see: Hearings before the Select Committee on Aging,
House of Representatives, March 16-17, 1977, Comm. Pub. 95-89.

For the National Council on the Aging, see: Public Policy State-
ment of the National Council on the Aging--1976-77, The Board of
Directors, the National Council on the Aging, Washington, D.C.,
1977.
- 2 -- Testimony of the National Chamber of Commerce and the AFL-CIO,
before the Subcommittee on Labor of the U.S. Senate Committee
on Human Resources, July 27, 1977.
- 3 -- cf. Aging in America: Myth and Reality, The National Council
on the Aging, Washington, D.C., 1974, p. 211.
- 4 -- "The Next Steps in Combatting Age Discrimination in Employment--
With Special Reference to Mandatory Retirement Policy." A Working
Paper Prepared by the Special Committee on Aging, United States
Senate, August, 1977.

Also, cf. "Mandatory Retirement: The Social and Human Cost of
Enforced Idleness," The House Select Committee on Aging, Comm.
Pub. No. 95-91, August, 1977.
- 5 -- Report of the Secretary of Labor to Congress on Activities under
the Age Discrimination in Employment Act of 1967. The U.S.
Department of Labor, Washington, D.C., January, 1977.
- 6 -- cf. Part II of this report--p. 19
- 7 -- cf. Part II, p. 20
- 8 -- ibid., p. 21
- 9 -- ibid., p. 23
- 10 -- Fox, Alan, "Work Status and Income Changes, 1968-1972: Retirement
History Study Preview," Social Security Bulletin, December, 1976.
- 11 -- Haynes, S., McMichael, A., Tyroler, H., "Survival after Retirement,"
paper presented at the Second Epidemiology of Aging Conference,
Bethesda, Md., March, 1977.
- 12 -- Parnes, H., et al. The Pre-Retirement Years: Five Years in the
Lives of Middle Aged Men, The Center for Human Resource Research,
The Ohio State University, Columbus, Ohio, Vol. IV, Chapter 4.

- 13 -- Hearings before the House Select Committee on Aging, March 16-17, 1977.
- 14 -- Ibid. Testimony of Harriet Miller, Executive Director of the American Association of Retired Persons/National Retired Teachers Association, March 16, 1977, pp. 1-26.
- 15 -- O'Meara, Roger, Retirement: Reward or Rejection, The Industrial Conference Board, New York, March, 1977.
- 16 -- Schulz, J., "The Economics of Mandatory Retirement," Industrial Gerontology, Winter, 1974, pp. 1-13.
- 17 -- Testimony of Dr. Marc Rosenblum before the Subcommittee on Labor, U.S. Senate Committee on Human Resources, July 26, 1977.
- 18 -- Fullerton, H., Flaim, p., "New Labor Force Projections to 1990," Special Labor Force Report 197, U.S. Department of Labor, Bureau of Labor Statistics (reprinted from the Monthly Labor Review, December, 1976).
- 19 -- Butler, R.N., Why Survive: Being Old in America, Harper & Row, New York. cf. Chapters 1, 3, and 4.
- 20 -- U.S. Department of Labor, Bureau of Employment Security, Manpower Administration, "Older Worker Adjustment to Labor Market Practices: An Analysis of Experiences in Seven Major Labor Markets," Washington, D.C., 1956.
- 21 -- Parnes, et. al. op. cit. Note: The longitudinal study on pre-retired men is ongoing as part of the Department's analysis of the National Longitudinal Survey of the U.S. labor force.

APPENDIX A
BACKGROUND RESEARCH
FINDINGS ON AGE, CAPACITY AND PRODUCTIVITY

REPORT TO THE SUBCOMMITTEE ON LABOR
UNITED STATES SENATE COMMITTEE ON HUMAN RESOURCES

Submitted at the Request of
Subcommittee Members

BY

THE EMPLOYMENT STANDARDS ADMINISTRATION
THE U. S. DEPARTMENT OF LABOR

Appendix A

Productivity of Individuals Age 65 and OverPart 1 - Health and Capacities Beyond Age 65

In 1971 the House of Delegates of the American Medical Association adopted a policy state declaring

"*** compulsory retirement and artificial barriers to employment based on age can be prime factors in the deterioration of health ***"

Subsequently, the American Medical Association filed Amicus Curiae briefs in several cases involving the issue of discrimination on the basis of age. Following are quotations from the AMA position submitted in such cases.

"It is the position of the American Medical Association that the Nation's social policy for the aging should insure that the older worker has the opportunity to continue in productive employment as long as he wishes and is able to maintain a satisfactory level of efficiency. Such opportunities will enable many more older people to look forward to more years of independence, dignity, and usefulness. The American Medical Association believes that the older worker who is able to continue working should have a choice about when, or even if he wishes to retire.

* * * * *

"Arbitrary retirement policies coupled with the denial of work opportunity seriously threaten the health of the individual concerned. Medicine sees in mandatory retirement a direct threat to the health and life expectancy of the persons affected.

* * * * *

"Chronological age has been observed to have no magic in terms of judgment, ability, and physical dexterity. Individuals may lose these qualities at age 40 or retain them past age 80.

* * * * *

"Arbitrary segregation of individuals because of arbitrarily determined chronological age is not healthy for the nation or the individual. The sudden cessation of productive work and earning power of an individual, caused by compulsory retirement, often leads to physical and emotional illness and premature death." 1/

In a recent book developed under a grant from HEW's Administration on Aging entitled Aging in American Society, the following information is presented in a chapter concerning "Physiological and Biological Changes":

"A plot of certain important physiological functions on a graph would look something like this: metabolic rate, percentage of body water, cardiac output, kidney function, and breathing capacity all reach their peak at about age 30 and decline steadily thereafter, with assorted ups and downs. However, not all of these functions decline at the same rate. Metabolic efficiency will decline only about 10 percent between ages 30 and 80; breathing capacity and kidney function will decline by half. Some functions actually improve with age. Cholesterol, the fatty substance which is thought to contribute to atherosclerosis and heart attacks, reaches its highest concentrations in the blood at about age 55 and plummets sharply thereafter. Other functions--such as the body's ability to regulate glucose levels--do not change at all with age. However, if glucose levels rise sharply, they will return to normal more slowly in an older individual. *** These patterns of age-related decline only represent averages. *** these statements describe the general direction of aging, not its universal rules. Furthermore, the relationship between physiological deterioration and human behavior is ambiguous.

"Human beings possess an often extraordinary capacity to compensate for the debilitations of age. One British research team found that elderly women in textile factories continue to perform exacting tasks with small threads, even though their eyesight is poor. These women seem to rely on pure physical dexterity and long years of experience to sustain a remarkable level of performance. The same team discovered that the actual age-related decline in strength and reaction time, while evident and annoying to older people, often has a less drastic effect than commonly believed. For example, muscular strength is greatest at age 27 and declines by only about 16 percent over the next 30 years. Coupled with depleted reserve capacity and longer recovery rates, this sapping of one's strength can certainly be troublesome and limiting. Yet the evidence suggests that most people can find ways to compensate for the deficiencies of old age until very late in life.

"In other words, aging itself is not a disease. *** Nevertheless, aging and disease are linked in a reciprocal fashion. Just as aging makes the person more vulnerable to disease, disease can hasten the process of aging. Similarly, good health slows down the process of aging."

"[A] *** characteristic loss of reserve energy and recovery capacity is caused in large part by an age-related decline in the efficiency of the cardiovascular system.

* * * * *

"Physical activity and fitness is perhaps the best-documented of all the factors that appear to produce long life. A careful study of the effects of a program of graduated but heavy exercise on a group of sedentary middle aged men found substantial improvements in the efficiency of a number of physiological functions that ordinarily decline with age. It was found that exercise brought a lower heart rate, greater pumping capacity of the heart, lower blood pressure, greater lung capacity, more efficient fat metabolism, lower cholesterol levels, and improvements in blood sugar levels. In some cases, the men experienced such unexpected changes as improvements in hearing and vision. Numerous studies have documented the positive benefits of regular physical activity on the heart and lungs. It is now clear that a carefully regulated program of jogging under medical supervision is the most effective way to rehabilitate heart muscles damaged in heart attacks. A very high level of physical fitness may even constitute insurance against heart attacks.

* * * * *

"Another promising but less certain influence on longevity is diet and nutrition. *** Perhaps of more significance is the nature of this diet. *** The fat-rich American diet is associated with both obesity and heart disease. In contrast, the low-fat diet of regions where longevity is common is associated with both a high level of fitness and a low incidence of heart disease.

"Psychological and cultural influences on a long life are the factors which are most difficult to measure with scientific precision, but they are perhaps the most compelling explanations for longevity." 2/

In concluding remarks Aging and Human Skill, a comprehensive review of research on this subject, author A.T. Welford made the following summary remarks:

"From a strictly empirical point of view the main results which occur again and again are firstly, the obvious slowing of performance that goes with age, a slowing manifested not only in sensory-motor tasks but in perception, problem-solving and other situations in which it is the mental rather than the motor component which is stressed. Secondly, there is the increasing variability between one individual and another as we go up the age scale, which means that more often than not we find a substantial number of old people performing at a level at least equal to that of the average of a group of younger subjects. *** What has not been so noticeable in previous studies is a third point, namely, that the changes of performance with age very commonly become disproportionately greater as the difficulty of the task rises, so that relatively small age differences with easy tasks may be profound with similar tasks making rather more severe demands.

"None of these tendencies is, however, regular enough from one situation to another for us to be able to regard it as implying any universal rule or law.

* * * * *

"The fact has been noted in many experiments that older people have a remarkable ability to compensate for any changes which may tend to impair their performance and show an automatic and unconscious ordering of their activity to make the best use of what capacities they have. This process of what we may call unconscious optimization is probably a feature of much if not most normal human performance. The fact that it is striking in later middle and old age indicates that whatever difficulties may be experienced at these times of life, the ability to organize behavior 'strategically' has not been lost.

* * * * *

"There is little doubt that the more thorough 'coding' in perception and in action that experience makes possible is potentially a means of offsetting the limitations we referred to earlier, and may often far

more than compensate for them. Such 'coding' and the experience that lies behind it, is, however, highly individual, and it would seem necessary, therefore, to face the task of assessing uniquely individual abilities and their changes with age. It is difficult to do this in an acceptably scientific manner, but the task would seem not to be impossible.

* * * * *

"The work in this book *** provides no dramatic suggestions for the elimination or reversal of age changes. What it does indicate, however, is that in many tasks subjects, young and old alike, are working well within their capacities and changes of capacity, even in old age, are unimportant. Perhaps more significant is the indication that where age changes do impinge upon performance some relatively trivial factor may often be limiting what can be done, so that comparatively small changes in the task could bring it within the capacities of older people.

* * * * *

"Older people who at the present time change their jobs seem seldom to take up work at a level appropriate to their past attainments, and in consequence a move in middle or old age usually leads to the wasting of skills which have been established and brought to a high level over a period of many years. Where changes of work must be made, we may expect that the acquisition of new skill would be easier if arrangements could be made for it to be acquired gradually over a substantial period of time ***." 3/

In a recent article in *Industrial Gerontology* reviewing knowledge relating to "Age, Intelligence and Learning," Dr. Russell F. Green presents the following observations regarding ability to learn and aging:

"The fact that verbal intelligence, defined as vocabulary, information, comprehension, and analogies, increases through about age 60 makes it clear that learning, storing, and recall of information continues and that net gains equal or exceed net losses in these areas to ages 65 to 70--approximately. Must there be a decline after that? It seems likely, but the answer is not clear in regard to when. It is obvious that

these functions do not decline in everyone at this age. Whether or not they do is partly a matter of the task and partly a matter of what one does. Decline, even in vocabulary, is associated with disuse, although this may have to approach total disuse. Use or activity does tend to be associated with I.Q., although both may be dependent on some third factor even after retirement.

* * * * *

"E. Summary

"Does I.Q. decline? Probably yes, sooner or later, but much later than people had thought. When does it become critical to performance? For many people not until ages such as the 70's, 80's, or even 90's. In other words, we seem to be overendowed for most tasks we need to carry out. We can absorb a lot of physical deterioration, especially in the brain because these losses do not necessarily reduce our normal functioning range. In fact, there is reason to believe that if measurable decline appears before age 60, then some disease of or substantial injury to the central nervous system must have been incurred.

"Does ability to learn decline? Sometimes yes, but some ability to learn, that is to change as a function of experience, apparently lasts as long as the organism. Obviously, not much decline occurs before the age of 60 in anyone who has avoided injury and certain illnesses. The motivation variable, however, may become significant at age 26, but that is quite another problem. Some people continue to learn into their nineties.

"Decline is a highly individual phenomenon. Biological or physiological decline appears at very different ages and at very different rates in different body functions. Fortunately, the organs of the body are overbuilt in the sense that they can perform more than is ordinarily demanded, at least until age 65 in almost everyone, and even after that in most people. The brain in particular can withstand substantial losses before the ability to learn is lost to any significant degree, although this would depend in part on the area of the brain involved. The age associated with loss due to brain deterioration varies across at least 25 to 30 years, from perhaps age 65 to 90 or more. Let us learn to treat each individual in terms of his own merits." 4/.

Albert E. Gunn, J.D., M.D., made the following observations relating to the issue of deterioration of mental functioning in testimony before the Senate Labor Subcommittee on July 27, 1977.

"Correct medical practice now dictates that when any person, irrespective of age, displays some form of deterioration in their mental abilities they should be fully investigated. An elder person can have a frontal meningioma just as easily as a young person, and the condition is as readily as correctable in either. Low pressure hydrocephalus can account for difficulties in memory and mental ability. It can be remedied. Senility itself once regarded as an obscure process has been studied more critically in recent years. Plaques have been discovered in the brain of persons diagnosed as senile which resemble those found in younger persons with dementia. The possibility exists that this is a disease which can affect persons of any age. The material found in these plaques is similar to that found in amyloid disease. All this raises the possibility that with further study senility may be found to be a disease, not a natural state." 5/

In a recent article in the Journal of the American Geriatrics Society, Dr. Gunn also observed:

"It is generally believed that the use of mental facilities in some way prevents their further deterioration. This is not based on any particular scientific proof, but it seems clear that the longer older persons apply themselves to some particular activity that affords a challenge and mental stimulation, the better off they are.

* * * * *

"The law and the popular view of mentally impaired elderly persons have not kept abreast of recent medical developments that point toward senescence not as an inexorable accompaniment of age, but as definable and sometimes correctable process." 6/

The following indication of health and continuing capabilities to carry on normal functioning well beyond age 65 was given in a February 1977 Newsweek article concerning social issues involving aging:

"With people staying healthy longer, fewer are ready to be put out to pasture at 65. The average age of persons entering nursing homes is now 80, as compared with 70 just a few years ago, says Dr. Robert N. Bulter a Gerontologist who heads the National Institute on Aging." 7/

In a recently published book entitled A Good Age, Gerontologist Dr. Alex Comfort made the following observations.

Regarding going downhill after 65:

"In the Duke University longitudinal study, 44 to 58 percent of survivors over sixty-five who returned for checkups had no detectable deterioration in physical condition, and some had improved, over periods from three to thirteen years. True, some people do suddenly get sick and decline, but this can happen in earlier life and is called illness, not aging. For all people over sixty-five, 51 percent rate their health as good, 33 percent as fair and 16 percent as "poor." About half, or possibly more than that, of any decline that is observed, is due to boredom, inactivity and the awareness that infirmity is expected."

Concerning illness after 65:

"They get fewer actual illnesses than younger people: 1:3 illnesses per person per year as against 2:1 for all ages. True, 81 percent of people over sixty-five have some chronic problem, as against 54 percent of all people below that age, but this need be nothing worse than short sight or hay fever."

Concerning institutionalization:

"The actual figure is just under 4 percent for all persons over sixty-five."

"The only thing that declines a little is speed of response; there is no change, normally, in intelligence and little in memory. Any blunting we do see in the absence of actual disease commonly results not from age but from put-downs, boredom and exasperation. About 1 percent of all people become "demented" or "senile"--less than the percentage who go insane at earlier ages."

"Most of the handicaps of oldness in our society are social, conventional and imaginary. The physical changes are trifling by comparison. Old age as we see it exists only in societies which create it by the way they classify people, and it could be abolished tomorrow by declassifying them (leaving some time to debrainwash everyone after that)." 8/

Part 2 - On the Job Productivity of Workers Age 65 and Older

The following materials address the overall issue of productivity of older workers, and indicate the overall framework of this issue:

- (a) An article published by Ross H. McFarland in the Harvard Business Review entitled "The Older Worker in Industry" presented a comprehensive review of literature relating to older workers as of 1943. Included was the following material focusing on productivity:

"Productivity. Little information is available from which it is possible to determine the role of age per se in industrial output. There are surprisingly few occupations in which a substantial number of workers are employed on work of equal difficulty, the speed of which is governed by the worker himself and for which individual production records are available, such as piece-rate earnings. Furthermore, a number of fallacies tend to obscure the true meaning of the data. In the first place those older workers who are not able to keep the pace of the younger ones, are often dismissed and their performance is not reflected in the data. On the other hand, the other employees who are most efficient are frequently advanced to executive and supervisory positions and their superior performance is likewise absent from the wage data. One study worthy of notation with regard to the effect of age on productivity was made by Palmer and Brownell in six New England companies. The results showed no definite relation between age and output. In a report to the United States Secretary of Labor by the Committee on Employment Problems of Older Workers (published in Labor Standards, 1939), a similar conclusion was reached. None of the records analyzed by this Committee drawn from several different classes of skilled workers, indicated a diminution in learning power with advancing years. In fact, in certain cases the productivity of older workers was higher than that of younger ones. This trend is also shown in a study by the Works Progress Administration covering 1,444 skilled workers. The average age of workers whose output was considered excellent was 47 1/2 years, while the average age of those in the inferior grade was 41. On the whole, therefore, there is little evidence that the output of older workers is less than that of younger ones.

Growing up and growing old are continuous processes, and many changes occur throughout the life span. But changes with age do not necessarily mean decline. Compensation takes place for every deviation and if certain capacities diminish others are enhanced. For example, as speed of reaction is lowered with age there occurs a compensatory increase in endurance. This fact has been revealed in many different ways. *** Also, loss of mere physical strength is normally compensated for by the increased skill and good judgement resulting from long training and experience.

"Conclusions. The physical and mental demands which various industries make on their employees differ greatly. The efficiency of the older worker must therefore be considered in terms of the requirements of specific types of work. In general older workers are economical for the following reasons: (a) they have fewer industrial accidents; (b) the labor turnover is small thereby decreasing the expense of training new employees; (c) their output is usually equal to that of younger men, and they tend to cause less spoilage and general breakage; and (d) they tend to be more stable, loyal, and responsible. They are particularly valuable in situations involving little supervision.

On the other hand, the older employee has disadvantages in comparison with the younger adult in terms of (a) greater number of days lost because of sickness, and (b) less adaptability to changes in labor assignment, and less muscular strength and agility. When these various factors are balanced against each other in any given industrial situation, the value of each worker will vary with his physiological age or fitness rather than his chronological age. In most types of work, however, accumulated experience adds more effectiveness than does maximal speed, or mere physical strength." 9/

(b) The following information concerning productivity and the older worker was reported in the Proceedings of a Temple University Conference concerning age barriers to employment:

"The problem of obtaining objective data on the question of productivity of older workers is a difficult one. *** There are a surprisingly small number of occupations in which there are a substantial number of workers employed on work of equal difficulty, the speed of which is governed by the worker and for which individual production records are kept.

A survey of the literature in the field yields varying and somewhat conflicting conclusions. It is the writer's opinion, however, that the most frequent conclusion reached in these various studies is that the rate of production on certain types of repetitive jobs begins to fall off slightly after the age thirty-five. It is difficult to determine whether the reduction in the rate of production is significantly large in these operations so as to constitute an important handicap for the older worker or whether other factors such as increasing quality of production might not more than compensate for a somewhat lower quantity of production. It is also difficult to determine what percentages of the jobs in industry are of such a nature as to maximize the handicap of the older worker.

* * * * *

Messrs. Palmer and Brownell *** conducted a series of studies within 6 manufacturing plants in the New England Area. Three separate studies were conducted among 172 textile weavers, 127 spinners and 147 workers in a non-ferrous metal company. In regard to the quantity of production, they reported the following:

Although not conclusive, the figures suggest that for those workers who remain on the payroll, i.e., who can maintain the minimum production standards, there is no clear relationship between age and production.

An interesting experiment in the field of older worker productivity was reported by Kinsley R. Smith in the Journal of Applied Psychology of June 1938. Smith conducted an experiment among 155 men divided into approximately equal age groups centered about the ages 20, 30, 40 and 50. *** The 50 year old group scored 86.5% of the thirty year old group ***. Also of importance was the finding that 15% of the fifty year old men were equal to or superior to the median thirty year old man in productivity. This latter finding seems to emphasize *** that all persons at the same chronological age do not possess the same physiological characteristics, and so, many older workers may possess superior physical abilities to those who are considerably younger than they are." 10/

Several studies relating to the productivity of older workers have produced data concerning the productivity of workers age 65 and older:

(a) In the early 1950's, the Bureau of Business Management of the University of Illinois conducted a series of three surveys on the effectiveness of older industrial, retailing, office, and managerial personnel. The surveys covered 3,077 personnel age 60 and older in 81 organizations. Relying on the opinions of their immediate supervisors, information was obtained relating to overall performance, absenteeism, dependability, judgement, work quality, work volume, and getting along with others. With little variation among the 60-64, 65-69, 70-74, and 75 and older groups, the older personnel were reported on average to have less absenteeism, to be more dependable, to be about the same with regard to judgement, about the same on work quality, and on work volume, and about the same in getting along with others. Sixty-nine percent of the employees covered were reported as not having any apparent age-connected weaknesses. 11/

(b) The results of three BLS surveys conducted in 1957-1961 were reported in the March 1964 Monthly Labor Review as follows:

"A comparison of the three studies made so far by the Bureau indicates that where physical effort is required, such as in the factory work, there is a slight decrease in productivity in advancing age groups after age 45 and that this decrease becomes substantial after age 65.

"In more sedentary work (such as office work) and in occupations with limited physical requirements (such as mail sorting), there is little, if any, decline in performance to age 60 and only a minor decline to age 65. In the *** office worker study, the oldest age group--65 and over--actually had the highest performance record. Among mail sorters there was a decline in production in the age group 65 and over. The averages for the two groups of 60 to 64 and 65 and over were 97.4 and 93.3, respectively.

"The proportion of workers in all age groups that performed above the average indicates the need for individual evaluation of workers. High consistency of performance among older age groups may be an important factor for employers to consider in hiring for operations requiring a constant flow of work." 12/

(c) As reported by McFarland in Industrial Gerontology:

"A study of bus drivers in the London Transport System, relating age and length of experience with the company to accidents found the safest group (with the lowest average number of accidents in a year) to be 60-64.

* * * * *

"Four hundred and fifty drivers over 65 had an accident rate strikingly similar to that of the 60-64 group." 13/

(d) A 1972 survey of 40 State agencies in New York State compared workers over and under age 65 with regard to absenteeism, punctuality, on-the-job accidents, and overall job performance. Of the 40 agencies, 33 with workers over 65 returned questionnaires covering a total of 132,316 employees. They had 3,707 employees between age 65 and 70 (the State's mandatory retirement age for its employees). In announcing the results of the survey, the State Commissioner of Human Rights indicated that the job performance of the workers over age 65 was "about equal to and sometimes noticeably better than younger workers." 14/

Somewhat anecdotal information is available concerning the experience of the Bankers Trust and Casualty Company and the Texas Refinery Corporation in employing people beyond age 65.

(a) The following comments were made in a statement presented by the Bankers Trust and Casualty Company to the Select Committee on Aging of the U.S. House of Representatives in a hearing on March 16, 1977. The statement described the company's experience with a noncompulsory retirement program:

"We feel our senior citizens *** are valuable in an intangible way. They add tremendously to the personality of the company. They preserve the continuity and give a feeling of stability and permanence. *** This distinction generates loyalty--not only among the older employees, but with the younger employees as well.

* * * * *

"It takes a little longer to train an older or handicapped person to perform a particular job with maximum efficiency, but once trained, they are more dependable, have better attendance records, stay on the job longer, and do as much work as the younger or so-called normal element."

* * * * *

"In analyzing the needs of our various employee groups we have found that elderly employees are really not so different than any other employee group. Of prime importance is that each employee should be treated as an individual, recognizing the employees' unique abilities, ambitions and vitality.

* * * * *

"One final question concerns the older employee who can no longer do the job. Some companies see forced retirement as the means to avoid this problem. At Bankers we see this as a problem which should be handled on an individual basis. When employees can no longer handle their present job, we consider them for other more appropriate positions. If there is nothing suitable we might have to retire the employee. However, it is very rare when this problem comes up.

* * * * *

"It seems that the older employee is among the first to realize when the job is suffering. Usually the employee will seek a voluntary retirement about this time. Their decision is motivated by a combination of pride, regard for fellow workers and regard for the company, as well as the promise of alternative income through our pension plan and social security benefits." 15/

(b) The following information concerning Texas Refinery Corporation experience appeared in an article entitled "The Sizzling Sixties" in the June 1975 issue of Manpower magazine which focused on aging and productivity:

"Texas Refinery Corporation (TRC) *** now has 300 to 400 employees over 60 years of age.

* * * * *

"These employees belong to The Sizzling Sixties---a unique sponsored club established by its President Ray Baird ***. The average age in the club is 70; some members are over 80-

* * * * *

"TRC, based in Fort Worth, Texas, is a manufacturer and worldwide distributor of roofing materials and wall coverings.

* * * * *

"To market its wares, TRC has hired older workers who have been, in many cases, forced to retire from other employment. The arrangement has been a success for both the company and the workers.

* * * * *

"[According to TRC President and Board Chairman Adlai Pate, Jr.,] 'We've found from experience that senior citizen property owners relate better to older salespeople.'

"TRC salespeople, who work on a commission basis, are of all ages; but the highest sales averages are turned in by salespeople over 60, who make up 20 percent of the company's sales force. The folksy, low-key approach which many of them use seems to work especially well.

* * * * *

"Many members of The Sizzling Sixties work full-time.

* * * * *

"In the opinion of Jack Brooks, TRC Sales Manager, the company's senior citizen salespeople 'are usually more dependable *** they are more inclined to stay *** and are easier to work with'." 16/

(c) With regard to the employment of law school faculty, Industrial Gerontology has reported the following item of interest:

"A THIRD OF FACULTY OVER 65

"Hastings College, the law school of the University of California in San Francisco, is unique in searching the country for qualified law professors about to retire and offering them teaching positions at full salary for as long as they wish at Hastings. A third of Hastings' faculty is now over 65, with a number who are teaching well into their eighties.

"Hastings began the program during World War II because of a shortage [of teachers] in the legal profession. The program has been such a success that it has continued now for 30 years." 17/

In 1960, Consolidated Edison of New York reported on the effects of raising their mandatory retirement age for men from 65 to 68. They reported that the company had determined that about two-thirds of the male employees who reached normal retirement age in 1958 and 1959 were considered effective and satisfactory employees and were allowed to continue working, and about half of that group continued working beyond age 65. They further indicated:

"We also believe that a very high percentage of the individuals who have elected to continue with us would not have found any other work if we had required their retirement at the prior normal retirement ages. So a third of all of them and a half of those able, continue[d] to be producers, better consumers and taxpayers for a longer period." 18/

Con Edison also noted reduction of pension costs as a favorable aspect of raising their mandatory retirement age.

Several additional points are significant in relation to the issue of maintaining productivity:

(a) Findings in a recent Harris Poll indicate that:

"Difficulties in adopting flexible retirement ages as opposed to a fixed retirement age have probably been over-emphasized in the public's mind. This seems to be indicated by the fact that only 37 percent of those 18-64 with responsibility for hiring and firing felt it makes sense to have a fixed retirement age for everyone. They are the people who could be expected to be proportionately more in favor of fixed retirement ages because of administrative simplicity." 19/

(b) As noted by Dr. Arthur S. Flemming:

"Certainly a manager would have to make some difficult decisions without compulsory retirement but a good manager should always be making those kinds of decisions as he tries to raise the quality of his workforce. *** While hiring always involves some guesswork, termination can be based on actual performance on the job." 20/

(c) Professor Irvin Sobel, Chairman of the Economics Department at Florida State University, has pointed out that:

"In most jobs, the human capital acquired through experience is highly specialized to the firm, industry or even the process in which this experience

was acquired. This experience is largely non-transferable to other employers, industries or fields of endeavor. Thus, displacement from a long-tenure job generally means that the older worker has suffered a substantial and, even, massive loss in his stock of human capital." 21/

Footnotes to Appendix A

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3. Alan T. Welford, Aging and Human Skill (Glasgow: For the Trustees of the Nuffield Foundation by the Oxford University Press, 1958).
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15. U.S. House of Representatives, Select Committee on Aging, Statement of Bankers Trust and Casualty Company, March 16, 1977.
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18. Dwight S. Sargent. "Same Facts After Two Years' Experience Under A Plan Where The Employees Have a Free Choice To Retire at the Old Retirement Ages or to Continue Working," Report Presented at the National Health Council Forum (Miami Beach, Florida, March 14-16, 1960).
19. Elizabeth L. Meier, "Over 65: Expectations and Realities of Work and Retirement," Industrial Gerontology (Spring 1975, p. 102).
20. Harvey D. Shapiro, "Do Not Go Gently...", New York Times Magazine (February 6, 1977).
21. Irvin Sobel, "Older Workers Utilization Patterns: Human Capital Approach," Industrial Gerontology (Spring 1972, p. 8).

APPENDIX B

RELEVANT ARTICLES ON AGE, PRODUCTIVITY AND OLDER WORKER CAPACITIES

- 1 -- "Effect of Age and Experience on Productivity"
Schwab, D., Henemann, H.
Industrial Gerontology, Winter, 1977
- 2 -- "Capabilities of Middle-Aged and Older Workers--A
Survey of the Literature,"
Meier, E., Kerr, E.
Industrial Gerontology, Summer, 1976

EFFECTS OF AGE AND EXPERIENCE ON PRODUCTIVITY
SCHWAB, D., HENEMANN, H.,
INDUSTRIAL GERONTOLOGY, WINTER, 1977

Previous research on the relationship between age and work productivity has not accounted for organizational experience.

The current study examined the relationships among these three variables on a sample of semiskilled operatives.

It was found that older workers were as productive as younger ones, even after controlling for the former's greater experience. Implications for employment practices and future research are discussed.

Effects of Age And Experience On Productivity*

DONALD P. SCHWAB and HERBERT G. HENEMAN III

There is probably less research on the relationship between age and work productivity than one would expect, given the importance of the issue. Nevertheless, the studies that have been done consistently indicate that older employees tend to be as productive as their younger counterparts or only slightly less so (Crites, 1969; Kelleher & Quirk, 1973; Meier & Kerr, 1976; Odell, 1958). One possible explanation for this conclusion has to do with the positive relationship between age and organizational experience. Older workers may be able to offset productivity declines that could occur as a function of increasing age by capitalizing on the improved skills and knowledge associated with increased experience.

The importance of such a possibility has differential implications for retaining versus hiring older employees. If the satisfactory productivity of older workers were dependent on their experience, organizations would be motivated to retain existing older workers, since they already benefit from the added experience. However, organizations would not be motivated to hire older applicants, since the latter group would not necessarily possess the advantage of greater experience. While this issue has not

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* An earlier version was presented at the annual meeting of the Academy of Management, Kansas City, Missouri, August 1976. The comments of Lee Dyer are appreciated.

been previously investigated to our knowledge, it is consistent with the evidence suggesting that older individuals suffer greater discrimination when seeking work than they do while employed.

The current study was designed to provide a direct test of the relationship between work productivity, age and experience. The research was conducted on workers performing tasks involving substantial manual dexterity. The nature of the tasks is such that performance might be expected to decline as a function of age but increase as a function of experience.

METHOD

Sample

Data for the study were obtained from employees in a Midwest firm producing consumer goods. Approximately 25 percent of the 2,000 production employees worked under a standard-time, piece-rate pay system. Most of these employees were semi-skilled assemblers; a few were moderately skilled sewing machine operators and machine tenders. The tasks therefore involved a fair amount of manual dexterity. A random sample of 150 piece-rate employees was drawn for a large-scale survey of employee motivation (Schwab & Dyer, 1973). Sixteen subjects were unable to fill out the questionnaire data, and the performance measures of an additional 10-subjects were inadequate. Thus, the final sample for the current study was 124 (83 percent).^{*} Eighty-two percent of the sample were females, and 65 percent were married.

There was substantial variability in both the age and experience of the sample. Approximately 25 percent of the sample was under 25 years old, and another 25 percent was over 45. The mean age was 36.3 years, with a standard deviation of 11.9 years. Likewise, approximately 25 percent of the sample had less than a year-and-one-half experience with the firm; 25 percent had more than 12 years' experience. The mean experience was 7.1 years, with a standard deviation of 6.8 years. The correlation between age and experience was $r = .61$ ($p < .01$).

Performance Measure

The performance measure employed was obtained from the firm's industrial engineering department. An average hourly productivity value was computed for each employee each day for five weeks by (1) multiplying unit output by the standard times for those units, (2) summing the products and (3) dividing the total by the total number of hours worked that day on piece rate. Resulting hourly averages were averaged over the five-week period to minimize effects of temporary fluctuations in output.

^{*} All the analysis reported was also done separately for males and females. Since the results were similar for the two groups, only the results for the total sample are reported in this paper.

Analysis

Two sets of productivity means and standard deviations were computed for a series of subgroups typically used in age research. One was unadjusted, and the other was adjusted to account for differences in experience across the subgroups. Visual comparison of the unadjusted and adjusted productivity averages indicates the general influence of experience on the age-performance relationship and permits an assessment of any potential age-related decrements in productivity (after controlling for experience).

Correlation coefficients were also computed between age and performance (holding experience constant) and experience and performance (holding age constant). Such partial correlation coefficients can be helpful in estimating the relationships between the variables of interest. However, they can be misleading when there is a strong relationship between age and experience, as is typically the case in applied settings (Blalock, 1963; Farvar & Glauber, 1967).

An alternative procedure, also used in the present study, is to subgroup the sample by amount of experience. Such a procedure reduces the relationship between age and experience, yet permits an examination of the relationships (within each experience subgroup) between performance and age. The pattern of age/performance was then examined by testing whether the proportion of times these relationships were negative was significantly greater than a chance criterion of 50 percent.

RESULTS

Results of the major analysis by age subgroups are shown in Table 1. Examination of the unadjusted productivity means indicates a tendency for productivity to *increase* with age. There is, however, considerable within-subgroup variability, as evidenced by the sizeable standard deviations. Moreover, when experience is controlled, the adjusted productivity means indicate no relationship between age and productivity, though productivity was slightly (but not significantly) lower in the 55-plus subgroup than in any other subgroup.

The correlational results across the entire sample are shown in

Table 1 PRODUCTIVITY RESULTS BY AGE SUBGROUP

Age Subgroup	n	Unadjusted Mean	Adjusted Mean*	Standard Deviation
≤ 24	30	1.15	1.11	.22
25-29	15	1.10	1.05	.38
30-34	10	1.16	1.10	.41
35-39	21	1.32	1.23	.26
40-44	8	1.21	1.04	.30
45-49	24	1.37	1.20	.26
50-54	6	1.34	1.13	.38
55+	10	1.31	1.01	.32

*Adjusted for experience.

Table 2. Note that the correlation coefficient between age and performance is positive and significant, again suggesting that older workers tend to be more productive. However, the partial correlation coefficient between age and performance, holding experience constant, is nearly zero and nonsignificant. This, plus the significantly positive experience-performance (holding age constant) partial correlation coefficient, suggests that older workers are no more and no less productive than their younger counterparts after differences in experience are taken into account.

Table 2 ZERO-ORDER AND PARTIAL CORRELATION COEFFICIENTS BETWEEN PERFORMANCE, AGE AND EXPERIENCE

Characteristic	Correlation with Performance	
	Simple	Partial
Age	.29*	.04
Experience	.42*	.32*

NOTE: $r = .61^*$ between age and experience.

* $p < .01$

Results of the partial correlation analysis are reinforced by the results of the subgrouping analysis. It was possible to create 11 experience subgroups. The correlation coefficient between age and performance was then computed in each subgroup. Only five of the 11 correlations (46%) were negative. This was not significantly different ($p > .05$) from a chance level of 50 percent, using the binomial test (Siegel, 1956).

DISCUSSION

The current study found that the essentially equivalent performance levels for older and younger workers could not be attributed to the generally greater experience the older employees possessed. While this finding must not be overly generalized, particularly to occupations not sampled, it is nevertheless encouraging for those interested in the employability of older workers. While expected productivity is obviously not the sole hiring criterion, the present finding, if replicated in future research, should certainly serve to encourage organizations to place less emphasis on chronological age in employment decisions.

These results and conclusions must be tempered by two limitations of the present study. First, a relatively small number of older workers was included in the sample. In fact, the number of those age 55 and older was so small that they were all placed into a single subgroup. Consequently, it is not possible to reliably indicate any age-related change in productivity within this subgroup.

A related limitation pertains to the possible unrepresentativeness of older workers' productivity. If productivity is truly age-related, then less productive older workers may leave the organization through self-selection and/or organizational practices. In turn, the remaining older workers

may be those whose productivity over time was so high that it is still acceptable, even after the workers age.

This possibility cannot be entirely dismissed in the present study, since only a longitudinal design would allow an unequivocal test of the hypothesis. If the hypothesis were true, however, one would expect that workers in the older age groups would exhibit less variability in productivity than workers in younger age groups. Examination of the productivity standard deviations in Table 1, however, indicates that the productivity of older workers is fully as variable as of younger workers.

It is important that research of the type reported here, as well as longitudinal research, be conducted in many other occupations and organizations for purposes of generalization. At the same time, the data in the present study illustrate how crucial it is that future studies control for experience effects when assessing age-performance relationships. While such research will necessarily be of a piecemeal nature, it appears that this is the only way to accumulate direct evidence on age-productivity relationships. □

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CAPABILITIES OF MIDDLE-AGED AND OLDER WORKERS, A SURVEY OF THE LITERATURE
MEIER, E., KERR, E.,
INDUSTRIAL GERONTOLOGY, SUMMER, 1976

The physical demands of most jobs today are well below the capacities of most normal aging workers. Properly placed, older workers function effectively and have greater stability on the job, fewer accidents and less time lost from work than younger workers.

At least 20 studies show that vocabulary, general information and judgment either rise or never fall before age 60.

Generally, older workers are more satisfied with their jobs than younger workers.

Capabilities of Middle-aged And Older Workers: *A Survey of the Literature**

ELIZABETH L. MEIER and ELIZABETH A. KERR

Just as with other groups that have experienced discrimination, there are a number of popular stereotypes that limit the participation of middle-aged and older workers in the labor force—stereotypes accepted not just by employers and counselors but, in some cases, by the older workers themselves. Employers and workers alike must be made aware of research findings which can modify or completely change attitudes and practices.

Following is a summary of pertinent studies on middle-aged and older workers in five broad categories:

- Physical Capacity
- Learning Ability
- Job Performance
- Performance in Training
- Work Attitudes

The authors are, respectively, Executive Editor and Assistant Editor of *Industrial Gerontology*.

*This survey was compiled primarily from past issues of *Industrial Gerontology* as part of a research contract for the Illinois Department on Aging and is published with the permission of IDOA. Employers and employment counselors will find the information in this article helpful in dispelling stereotypes often associated with workers over 40.

PHYSICAL CAPACITY

It is often assumed that as a worker's age increases, the capacity to perform physical or mental tasks declines sufficiently to reduce his or her ability to perform a job. Yet, in most jobs today, the physical demands are well below the capacities of most normal aging workers (Laufer and Fowler, 1972). Some of the changes in physical capacity that occur with age are summarized in *The Older Worker and His Job* by Hillary Clay (Kelleher and Quirk, 1973, p. 83):

The older worker was found to be generally more accurate and stable than the younger and usually able to continue heavy work, though less able to keep up speed demands of a machine or work team. Some loss of acute hearing, vision or fine muscular control may also occur with age. Short-term memory may be impaired, but older people can be satisfactorily trained if a relaxed training pace is allowed.

Though performance slows somewhat with age, variation among individuals increases with age. In each older age group, a substantial number of persons perform at a level at least equal to the average level of their juniors (Welford, 1958).

In many tasks, individuals are working well within their physical and mental capacities. Therefore, even when capacity is reduced there may be no change in performance. When performance is affected, a comparatively small change in the task could bring it again within the capacity of the older person.

One usual concept with regard to older workers is that they should be given "lighter" tasks. However, studies at the Nuffield Research Unit in Cambridge, England, showed that it is not the heaviness of the work in itself which put it beyond the older worker's capacity but rather the time-stress which results from a combination of heavy work and continuous effort to maintain a high rate of productivity (Welford, 1958). In other words, if the pressure to produce is lowered, older workers will continue to perform well. This factor also has important implications for training programs.

Functional Age

McFarland (1973) notes that, with the advent of World War II, it became necessary to employ a large number of retired older workers in the war industries. In his study, *The Older Worker in Industry*, he reported that, if older workers were properly placed, they could function effectively and had greater stability on the job, fewer accidents and less time lost from work than did younger workers. McFarland's investigation showed that, rather than judging workers in terms of their chronological ages, it was important to examine functional ability on the job by testing what a worker could actually do.

In his discussion of functional age measurements, McFarland observes:

A striking development in current thinking about matching workers and jobs is the recognition that most of us are unsuited in some ways, either physically or psychologically, for most jobs. In the area of physical abilities, for example, it is difficult to find even a few individuals who are physically suited to pilot planes, work on docks, tend blast furnaces, and stand up under heavy construction work in all kinds of weather. Persons who lack the special capabilities to do these things are physically handicapped, whether or not they are otherwise qualified. But essentially all persons are at the same time suited for some activities, while unsuited or unfit for others.

For 16 years, an aircraft company in Toronto has successfully used a method for measuring the physical capacity of workers which emphasizes what the individual *can do* in a specific job role; regardless of age or disability. Briefly described, the system—called GULHEMP—works as follows: The individual is given an extensive physical examination that assesses his physical, mental and interpersonal work capabilities. The results are rated on a seven-category scale, corresponding to the seven major functional areas according to levels of competency under each category.

General Physique
 Upper Extremities
 Lower Extremities
 Hearing
 Eyesight
 Mentality (i.e., intelligence)
 Personality

Fitness levels range from a rating of one, indicating complete competence, to seven, indicating complete inability to perform. After completion of a worker's functional fitness profile, a corresponding job analysis profile is made on a specific job or a series of specific jobs. The same seven numerically rated categories are utilized to rate the given job according to minimum requirements for effective performance. To the extent possible, the physical profile and the job profile are matched. The outcome is that a worker is placed in a job role consistent with his capacities (Barten, 1973).

A demonstration project based on this method was conducted by NCOA in Portland, Maine, from 1970 to 1975. Data from a 1973 study of the project indicate that (1) the great majority of prospective employees—both young and old—seek jobs they are physically capable of performing; (2) the project convinced many employers that middle-aged and older workers had the ability to perform jobs for which they would otherwise have been rejected because of age (Quirk and Skinner, 1973).

A good many workers are able to function effectively even after the "normal" retirement age of 65. Jaffe (1972) points out that:

... very large numbers of men age 65 and over are in sufficiently good health to be able to work. A survey carried on in the mid-1960's found that only half of the men reported themselves as suffering from chronic

conditions which limited or prevented the carrying on of work activities, the other half reported themselves as being physically capable of working. Yet of this latter group—those physically capable of working—three in five were not in the labor force—*i.e.*, they were retired.

LEARNING ABILITY

In reviewing the research on the ability of adults to learn, Green (1972) states: "For 40 years there has been sufficient evidence to warrant optimism concerning the ability of anyone under 60 to learn about as well as ever. However, this evidence has had surprisingly little impact upon society." And in the same article he notes:

At least 20 studies show that vocabulary, general information, similarities and judgment either rise or never fall before age 60. Older persons do better than younger on tests requiring pre-planning and decisions concerning what is not worth doing. Most studies agree that ideational fluency and expressional fluency, spontaneous flexibility, associative fluency and word fluency are creative types of activities. These activities either increase or do not decline from ages 20 to 55 or 60. Most people are more able in these respects [in their later years] than when they were 20 years of age.

Haberlandt (1973) notes that research on learning and memory illustrates that individuals between 40 and 60 years of age are no less intelligent than younger people. When performance differences occur, they are related to the element of uncertainty in a given task and to the fact that older people apply more caution than younger people to the task solution. An initial difference between younger and older persons is often overcome when both groups are compared over a longer period of time.

Thumin (1969) tested 176 men, aged 19 to 56, who were referred for evaluation by 34 business firms and were either applying for a position or being considered for promotion. The men were tested for various personality factors and given a standard test of mental functioning. The findings did not coincide with the stereotype of older workers as rigid and inflexible and unable to compete in mental ability with younger workers. Average test performance for each of four age groups did not differ significantly on any of the tests.

As for those over 60, Green (1972) cites research on three groups aged 12 to 17, 34 to 59 and 60 to 82. On 33 kinds of learning tasks, the oldest group (those 60 to 82) did average lower, but the differences were rather small and this group was still learning well.

Green summarizes his report on age, intelligence and learning as follows:

Does I.Q. decline? Probably yes, sooner or later, but much later than people had thought. When does it become critical to performance? For many people not until ages such as the 70's, 80's or even 90's. In other words, we seem to be over-endowed for most tasks we need to carry out. We can absorb a lot of physical deterioration, especially in the

brain, because these losses do not necessarily reduce our normal functioning range. In fact, there is reason to believe that if measurable decline appears before age 60, then some disease of or substantial injury to the central nervous system must have been incurred.

... Fortunately, the organs of the body are overbuilt in the sense that they can perform more than is ordinarily demanded, at least until age 65 in almost everyone, and even after that in most people.

JOB PERFORMANCE

In 1953, the National Committee on the Aging* appointed several technical committees to examine the available data on older workers and jobs. The Committee on Job Requirements and Work Performance concluded:

On the basis of both subjective and objective data, the older worker can be regarded as an asset rather than a liability to industry . . . [There was an] impressive body of favorable testimony from employers regarding the performance of older workers. Their superiority is not easily reduced to statistics, since it is a product of such factors as superior craftsmanship, steadiness, experience, stability, regard for tools and equipment and loyalty—assets that are hard to measure when comparing workers of different ages [Mathiasen, 1959].

Labor Department Studies

Since that time, other studies have provided statistics bearing out the committee's finding that the older worker can be regarded as an asset. In 1956, the Bureau of Labor Statistics made an exploratory pilot study as part of the Labor Department's efforts to investigate and help solve the employment problems of older workers. The study examined records of output per man-hour, attendance, industrial injuries and separations (quits, lay-offs, discharges) in light manufacturing establishments in two industries—footwear and men's clothing (Kelleher and Quirk, 1973). Some of the results:

- *Output per man-hour:* Data showed a stable average performance through age 54, with some decline thereafter, but remaining within 10 percent of the peak. Considerable variation was noted in the output of persons in the same age group.
- *Attendance:* Only small differences were found among all age groups studied.
- *Separations:* Investigation revealed a high rate for workers under 25 and an extremely low rate for workers 45-64.
- *Industrial injuries:* Not enough data were received for comparison.

An extension of this study was conducted in 1957 in the footwear and furniture industries. Output per man-hour showed a rise up to age 35, with gradual declines thereafter, however, up to age 65 the output remained

*Predecessor to The National Council on the Aging, Inc.

within eight percentage points of the base (35-44) age group. Again, attendance differences among age groups were extremely small. Workers between 45 and 64 had the highest rate of continuity of service, which generally increased with age (Kelleher and Quirk, 1973).

A third study, in 1960, was designed to test the assumption that productivity declines with age. Office records of 6,000 clerical office workers were studied, and these findings emerged (Kelleher and Quirk, 1973):

- Many older workers performed better than the average younger worker.
- Workers in the older age group had a steadier rate of output.
- Older workers were as accurate in their work as younger persons.
- Differences in output among age groups were insignificant.

In a 1965 report to the Congress, the Secretary of Labor commented on the foregoing studies (U.S. Department of Labor, 1965):

... An analysis of the findings of these studies indicates that in factory work, entailing substantial physical effort, productivity decreased slightly in advancing age groups after age 45 and substantially after age 65, but that in office work and in mail sorting, productivity declined little, if any, up to age 60, and only slightly after that. (See Table 1.) In the study of performance of office workers, the oldest age group, 65 and over, actually had the best record. Among mail sorters, production did not decline noticeably before age 60. The large proportion of workers in all age groups with above average performance indicates the need for individual evaluation of workers.

The studies of office workers and mail sorters also looked into consistency and quality of performance. Office workers in the higher age groups maintained not only an average output rate equal to that of younger groups but also an equal degree of accuracy. With respect to consistency of output, older office workers had a steadier rate of output, with considerably less variation in output from week to week than the younger workers.

In the mail sorter study, consistency increased with age (except for a slight dip in the 55-59 group) in each of the 12 cities studied, although the degree of consistency varied considerably among individual cities.

Ratings by Supervisors

In three studies conducted by the Bureau of Business Management of the University of Illinois, supervisors rated 3,077 personnel aged 60 and over in 81 organizations in retailing, industrial, office and managerial positions (Peterson, ND). Some of the conclusions:

1. Supervisors consider a majority of their workers aged 60 and over to be as good as, or superior to, average younger workers with reference to absenteeism, dependability, judgment, work quality, work volume and human relations.

Table 1 COMPARATIVE JOB PERFORMANCE BY AGE, SELECTED OCCUPATIONS AND INDUSTRIES

(Indexes of output per man-hour: age group 35-44 = 100)

Occupation or industry	Under	25-34 Years	35-44 Years	45-54 Years	55-64 Years	65
	25 Years					Years and over
Incentive workers (a)						
Men's Footwear						
Men	93.8	100.3	100.0	97.7	92.5	81.1
Women	94.4	102.8	100.0	98.8	94.1	88.0
Household Furniture						
Men	98.5	101.5	100.0	96.1	94.5	93.6
Women	101.4	107.4	100.0	98.7	85.6	(b)
Office workers	92.4	99.4	100.0	100.0	98.6	101.2
Federal mail sorters	101.2	100.7	100.0	100.1	98.5	93.3

(a) Based on a study of 15 large establishments in the men's footwear industry and 11 large establishments in the household furniture industry. The great majority of the workers surveyed were piece-rate workers.

(b) Insufficient data to warrant presentation.

Source: U.S. Department of Labor, Bureau of Labor Statistics, *Comparative Job Performance by Age: Large Plants in the Men's Footwear and Household Furniture Industries*, Bull. 1223 (Washington, D.C. 1957); "Comparative Job Performance of Office Workers by Age," *Monthly Labor Review*, January 1960, pp. 39-43; "The Job Performance of Federal Mail Sorters by Age," *Monthly Labor Review*, March 1964, pp. 296-300.

2. There is no specific age at which employees become unproductive. Satisfactory work performance may continue into the eighth decade.
3. Supervisors believe that a majority of their older workers have no apparent and specific age-connected weaknesses.

A 1972 study related job performance and test scores for a group of 266 female clerical workers, 34 percent aged 25 or under and 35 percent aged 50 or more. Younger workers performed better on three of the tests and older workers on two. However, the two groups were rated equally on actual job performance (Arvey and Mussio, 1973).

A Canadian study of age and performance in two large department stores determined that older salesclerks had a performance record as good as or better than younger employees. Performance tended to improve with age and experience, with peak performance reached between ages 51 and 55 (Kelleher and Quirk, 1973).

A slightly different aspect of older workers' performance is reported in connection with creativity development programs in business. The director of some of these programs found that younger employees had a tendency to "re-invent the wheel," while fully 80 percent of the most workable and worthwhile new ideas were produced by employees who were over 40 (Taylor, 1969).

Illness, Accidents, Absenteeism

A 1948 study of illness, accidents and absenteeism by age among 17,817 workers concluded that the only disadvantage of older workers with respect to injuries is that their disabilities last longer once they are injured. But they are, on the whole, less likely to be absent and perhaps less likely to be injured than younger workers. The study showed that the number of days lost per 100 workdays, for all reasons, decreases as age increases. In every age group above 50 years, workers lost fewer scheduled workdays than those in any age group below 50 (U.S. Department of Labor, 1965).

On the matter of safety, McFarland (1973) cites the evidence that older drivers tend to have safer records than younger ones:

A 1954 study compared the age distribution of 742 truck drivers to that of truck drivers in accidents reported to the Interstate Commerce Commission. The safest drivers were those 45 years and older, followed by the 35 to 45 age group. Drivers under 35, and especially under 25, had accidents far in excess of what was expected.

A study of bus drivers in the London Transport System, relating age and length of experience with the company to accidents, found the safest group (with the lowest average number of accidents in a year) to be 60-64. Those with the highest average number of accidents were 30 and younger, with less than four years of experience. In addition, drivers 30-39, with less than four years' experience, had a higher accident rate than those 40-49, 50-59 and 60-64 with the same length of experience.

He also notes Norman's finding that 450 drivers over 65 had an accident rate strikingly similar to that of the 60-64 group.

PERFORMANCE IN TRAINING

Haberlandt (1973) cites Birren's classic work on aging, in which he noted that, while younger workers performed initially better than older (above 40) in a retraining task, the latter quickly caught up and surpassed the younger. Birren reviewed two retraining programs. In the first, a large petroleum company gave a course of instruction in new working methods to 100 workers. After about 120 hours of retraining, workers over 40 received better grades on the retraining than the workers under that age. The second project, with operators in a telephone company, involved the substitution of an IBM card for a paper form. In shifting from a well-established to a new skill, workers above 45 years of age worked as efficiently as younger workers. Haberlandt concludes that, where extreme speed of performance is not an essential factor, older people work as well as those who are younger.

In terms of job survival rates after training programs, a 1969 study by the Department of Employment and Productivity in London showed that, at the end of training, men under 35 tended to have a slightly higher survival rate than those 35 and over, but three months after the training, the

survival rates begin to change in favor of older workers. Twenty-four months after training, their rate was 57 percent, compared with 42 percent for younger men. Though older trainees have a shorter working life ahead of them, their expectation of employment with the company is longer than for younger workers (Newsham, 1969).

Sobel (1972), writing on the utilization of older workers, comments on the small proportions of workers over 45 in government retraining programs:

Training authorities such as R. M. Belbin emphasize that much higher proportions, in fact, can be successfully trained. Other experts in the field of the economics of training . . . have shown that training programs of even a year's duration, at age 55 and beyond, "pay off." Other data would indicate that older workers have a much lower "turnover" rate and are much more likely than their younger counterparts to remain on the job in their trained field.

WORK ATTITUDES

In a summary of the research on job satisfaction, Carroll (1970) notes that most studies have indicated that older people are generally more satisfied with their jobs than younger ones. A number of studies made prior to 1960 showed that people begin working with a high level of satisfaction, then become increasingly dissatisfied for a number of years, after which their satisfaction rises steadily for the rest of their working lives. More recent studies have not supported these findings, however. Some research has shown that job satisfaction increases steadily with age.

Siazz, *et al.*, (1975) compared older and younger age groups on the presence or absence of psychiatric symptoms. In contrast to the general view of younger workers as psychologically healthier and more flexible and resilient, workers over 40 reported significantly fewer psychiatric symptoms than those under 40, were more satisfied with their jobs and were no more depressed, lonely or dissatisfied with their lives in general than younger workers.

A special labor force report based on a 1968 survey confirmed that older workers in general have longer job tenure than younger workers. Further exploration of the data showed that this pattern prevailed for every major industry, for different occupational groups and for varied educational levels (O'Boyle, 1970). □

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Question 3. Report on Age statistics in education.

Answer 3. We estimate that the labor force impact of eliminating mandatory retirement before age 70 would be extremely small (see answer to written question A.3., below). The procedure used in developing our estimate did not yield an estimate for education as a separate industrial or occupational category. However, the Commission may be interested to note that the Senate version of H.R. 5383, which was passed on October 19, 1977, provides that the prohibition of compulsory retirement between the ages of 65 and 70 shall not apply to college and university professors with full tenure.

Question 4 Provide unemployment data by race and sex; together, if possible.

Answer 4. Enclosed are August 1977 Bureau of Labor Statistics data on the employment status of the noninstitutional population which is broken down by sex, age and race.

HOUSEHOLD DATA

A-3. Employment status of the noninstitutional population by sex, age, and race—Continued

(Numbers in thousands)

Sex, age, and race	August, 1977										
	Total labor force		Civilian labor force				Not in labor force				
	Number	Percent of population	Total	Employed	Unemployed		Total	Keeping house	Going to school	Unable to work	Other reasons
					Number	Percent of labor force					
FEMALES											
16 years and over	40,304	48.7	40,188	36,751	3,437	8.6	42,451	34,328	719	975	6,429
18 to 21 years	7,903	63.4	7,855	8,725	1,130	14.4	4,568	1,873	467	19	2,228
16 to 19 years	5,018	60.3	4,999	4,200	799	16.0	3,308	1,018	302	12	1,976
16 to 17 years	2,071	50.3	2,070	1,720	351	16.9	2,046	463	121	6	1,456
18 to 19 years	2,947	70.0	2,929	2,480	448	15.3	1,262	555	181	6	520
20 to 64 years	34,308	56.0	34,210	31,622	2,590	7.6	27,010	23,619	410	427	2,555
20 to 24 years	6,839	48.7	6,775	5,981	794	11.7	3,116	2,367	249	23	477
25 to 64 years	23,229	57.1	23,196	21,588	1,607	6.9	17,462	15,625	153	232	1,452
25 to 29 years	3,448	61.3	3,425	4,943	482	8.9	3,462	3,060	73	18	291
30 to 34 years	4,308	55.4	4,302	3,989	313	7.3	3,462	3,157	31	17	257
35 to 39 years	3,642	57.7	3,640	3,400	240	6.6	2,675	2,369	23	26	257
40 to 44 years	3,307	57.8	3,306	3,107	199	6.0	2,412	2,243	4	49	213
45 to 49 years	3,329	56.8	3,329	3,133	196	5.9	2,535	2,280	11	44	205
50 to 64 years	3,194	52.1	3,194	3,017	177	5.6	2,935	2,613	10	79	234
65 to 64 years	4,240	39.7	4,240	4,052	188	4.4	6,433	5,626	8	172	627
65 to 69 years	2,695	47.0	2,695	2,570	125	4.6	3,040	2,702	5	75	258
70 to 64 years	1,565	31.3	1,565	1,482	83	4.4	3,393	2,924	3	98	369
65 years and over	978	7.5	978	929	48	4.9	12,133	9,691	7	337	1,898
65 to 69 years	615	13.3	615	582	33	5.4	4,026	3,407	2	67	550
70 years and over	362	4.3	362	347	15	4.1	8,107	6,284	5	470	1,348
White											
16 years and over	34,883	48.2	34,789	32,151	2,639	7.6	37,469	30,673	518	762	5,515
18 to 21 years	6,969	66.1	6,929	6,103	826	11.9	3,580	1,494	305	13	1,768
16 to 19 years	4,544	63.3	4,439	3,836	603	13.6	2,577	805	198	6	1,569
16 to 17 years	1,878	54.2	1,877	1,600	278	14.8	1,589	355	74	2	1,157
18 to 19 years	2,577	72.3	2,561	2,237	325	12.7	989	449	124	3	412
20 to 64 years	29,554	55.3	29,476	27,487	1,988	6.7	23,860	21,002	316	314	2,228
20 to 24 years	5,905	69.8	5,854	5,259	566	9.7	2,560	1,968	194	18	381
25 to 64 years	19,848	56.2	19,821	18,570	1,251	6.3	15,483	13,917	118	164	1,284
25 to 29 years	8,235	57.4	8,212	7,607	604	7.4	6,119	5,529	77	32	481
30 to 34 years	5,933	57.0	5,930	5,586	344	5.8	4,467	3,967	27	45	428
35 to 64 years	5,680	53.7	5,679	5,376	303	5.3	4,897	4,422	13	87	376
65 to 64 years	3,801	39.5	3,801	3,628	172	4.5	5,816	5,117	5	132	563
65 to 69 years	2,413	46.8	2,413	2,298	114	4.7	2,742	2,448	2	57	235
70 to 64 years	1,388	31.1	1,388	1,330	58	4.1	3,075	2,670	3	74	326
65 years and over	875	7.3	875	827	48	5.4	11,051	8,866	4	463	1,718
Black and other											
16 years and over	5,420	52.1	5,398	4,600	798	14.8	4,983	3,655	201	213	914
18 to 21 years	934	48.6	926	621	305	32.9	988	379	143	6	460
16 to 18 years	563	43.5	560	364	197	35.1	721	214	104	6	407
16 to 17 years	193	29.7	193	120	73	37.8	458	108	47	3	300
18 to 19 years	370	57.5	367	244	124	33.6	273	106	58	3	107
20 to 64 years	4,754	60.1	4,735	4,134	600	12.7	3,151	2,617	94	114	328
20 to 24 years	934	62.7	921	693	228	24.8	556	400	55	5	96
25 to 64 years	3,381	63.1	3,378	3,018	357	10.6	1,978	1,707	55	68	166
25 to 29 years	1,321	66.0	1,315	1,325	191	12.6	785	688	27	3	66
30 to 34 years	1,071	62.1	1,016	921	95	9.4	620	548	1	29	43
35 to 64 years	863	59.6	843	773	70	8.4	573	471	8	36	58
65 to 64 years	439	41.6	439	423	16	3.6	617	509	3	41	64
65 to 69 years	282	48.6	282	272	10	3.7	298	255	3	18	23
70 to 64 years	157	33.1	157	152	6	3.5	318	256	—	23	41
65 years and over	103	8.6	103	102	1	.7	1,101	825	3	93	179

Source: Bureau of Labor Statistics
Employment and Earnings: September 1977

Oral Question 1

HOUSEHOLD DATA

A-3. Employment status of the noninstitutional population by sex, age, and race

(Numbers in thousands)

Sex, age, and race	August 1977										
	Total labor force		Civilian labor force				Not in labor force				
	Number	Percent of population	Total	Employed	Unemployed		Total	Keeping house	Going to school	Unable to work	Other reasons
Number					Percent of labor force						
MALES											
16 years and over	60,906	80.0	58,885	55,565	3,320	5.6	15,237	318	644	1,931	12,346
16 to 21 years	10,006	78.6	9,302	8,064	1,238	13.3	2,720	26	337	48	2,289
16 to 19 years	6,234	73.3	5,907	5,052	855	14.5	2,268	23	217	26	2,002
18 to 17 years	2,696	63.5	2,668	2,218	450	16.9	1,552	16	122	6	1,407
18 to 19 years	3,538	83.2	3,239	2,834	405	12.5	716	7	95	20	595
20 to 64 years	52,864	90.5	51,151	48,760	2,392	4.7	5,576	136	427	1,404	3,610
20 to 24 years	9,106	83.2	8,357	7,522	834	10.0	866	7	273	64	522
25 to 54 years	36,736	94.4	35,791	34,428	1,363	3.8	2,173	66	150	756	1,202
25 to 29 years	8,347	95.7	7,970	7,494	476	6.0	378	5	90	65	218
30 to 34 years	7,307	96.5	7,065	6,743	322	4.6	264	18	22	80	144
35 to 39 years	5,761	96.1	5,566	5,402	164	3.0	233	2	19	76	137
40 to 44 years	5,147	95.1	5,055	4,910	145	2.9	265	6	15	112	231
45 to 49 years	5,135	92.5	5,103	4,981	121	2.4	418	11	5	185	216
50 to 54 years	5,038	89.1	5,031	4,897	135	2.7	615	23	--	237	356
55 to 64 years	7,004	73.4	7,003	6,810	193	2.8	2,537	63	3	585	1,886
55 to 59 years	4,357	83.5	4,356	4,259	97	2.2	860	21	3	291	565
60 to 64 years	2,647	61.2	2,647	2,550	97	3.6	1,677	42	--	294	1,341
65 years and over	1,827	19.8	1,827	1,753	74	4.1	7,393	159	--	500	6,734
65 to 69 years	1,059	28.8	1,059	1,010	49	4.7	2,617	45	--	177	2,395
70 years and over	768	13.9	768	743	25	3.3	4,775	113	--	323	4,339
White											
16 years and over	54,278	80.7	52,617	50,128	2,490	4.7	12,990	238	483	1,523	10,746
16 to 21 years	8,728	80.4	8,134	7,274	879	10.8	2,134	19	265	35	1,815
16 to 19 years	5,433	75.1	5,164	4,555	609	11.8	1,802	16	166	21	1,600
18 to 17 years	2,369	65.8	2,345	2,003	342	14.6	1,230	13	96	6	1,115
18 to 19 years	3,064	84.3	2,819	2,552	267	9.5	572	2	70	15	485
20 to 64 years	47,180	91.2	45,790	43,974	1,815	4.0	4,539	100	317	1,426	3,012
20 to 24 years	7,964	92.4	7,368	6,793	574	7.8	655	7	202	48	399
25 to 54 years	22,796	66.2	32,002	30,933	1,068	3.3	1,659	43	115	568	934
25 to 29 years	13,890	96.6	13,375	12,756	620	4.6	485	13	91	99	283
30 to 34 years	9,597	96.2	9,454	9,202	251	2.7	386	6	19	134	207
35 to 39 years	9,207	92.1	9,172	8,975	197	2.1	788	24	5	316	444
40 to 44 years	6,421	74.3	6,420	6,247	173	2.7	2,225	50	--	493	1,680
45 to 49 years	3,977	84.3	3,975	3,894	81	2.0	739	18	--	247	473
50 to 54 years	2,445	62.2	2,445	2,354	91	3.7	1,486	32	--	247	1,207
55 years and over	1,664	20.0	1,664	1,598	66	4.0	6,649	123	--	393	6,134
Black and other											
16 years and over	6,629	74.7	6,268	5,437	831	13.3	2,247	79	--	407	1,600
16 to 21 years	1,279	68.6	1,149	790	359	31.2	586	7	92	13	474
16 to 19 years	800	63.2	743	497	246	32.2	466	7	51	5	402
18 to 17 years	327	50.4	323	215	108	33.6	322	3	26	--	292
18 to 19 years	473	76.6	420	282	138	32.8	145	4	25	5	110
20 to 64 years	5,665	84.5	5,362	4,785	576	10.7	1,038	36	110	295	597
20 to 24 years	1,141	84.4	989	719	269	26.3	211	--	72	16	124
25 to 54 years	3,941	88.5	3,789	3,495	296	7.8	514	23	36	188	268
25 to 29 years	1,764	91.8	1,660	1,482	179	10.8	157	11	21	46	80
30 to 34 years	1,212	91.6	1,168	1,110	58	5.0	112	2	15	35	60
35 to 39 years	965	79.8	961	903	59	6.1	245	11	--	106	128
40 to 44 years	583	65.1	583	562	21	3.6	313	13	2	92	206
45 to 49 years	381	75.8	381	365	15	4.1	121	3	2	44	72
50 to 54 years	202	51.4	202	197	5	2.7	191	10	--	47	134
55 years and over	163	18.0	163	135	28	5.1	743	36	--	107	600

Source: Bureau of Labor Statistics
Employment and Earnings: September 1977

Question 5. Should ETA change its CETA regulations to require sponsors to report instances of age discrimination in attempting to place participants?

Answer 5. The CETA regulations at 29 CFR 98.21 provide for nondiscrimination on the basis of race, creed, color, handicap, national origin, sex, age, political affiliation, or beliefs. In addition, this section sets forth the requirement that grantees are responsible for assuring that no prohibited discrimination occurs in any CETA program for which the grantee has a responsibility, including any subgrantee and subcontractor programs. The Department of Labor holds the prime sponsor responsible for all discrimination in violation of the nondiscrimination requirement.

The grantee, under this provision, has the obligation to establish an effective mechanism for the purpose of assuring compliance with the requirement. An EEO program with affirmative action plans is a recommended means for grantee fulfillment of this obligation. It would be appropriate for grantees to actively advise all participants of applicable nondiscrimination requirements and procedures to remedy complaints of discrimination in employment and in federally assisted programs. This would include giving participants information concerning protection for older workers under the ADEA. The Employment and Training Administration plans to issue new instructions requiring CETA program sponsors to advise participants of their statutory rights.

There is no legal obligation for private employers to cooperate with prime sponsors' efforts to create jobs and training opportunities and to place unemployed or disadvantaged persons into employment or training situations. While there may be concern that it might be more difficult to get voluntary cooperation from employers if they feel that refusals to hire persons referred by the prime sponsor would result in a discrimination complaint, prime sponsors should be urged to report serious or continuing violations of the ADEA and other anti-discrimination programs to appropriate enforcement agencies.

Question 6. Submit a copy of ADEA regulations.

Answer 6. Enclosed are copies of the ADEA of 1967, as amended, DOL Regulations under the Act (29 CFR 850) and the DOL Interpretive Bulletin concerning the application of the Act (29 CFR 860).

AGE DISCRIMINATION IN EMPLOYMENT
ACT OF 1967, AS AMENDED

(29 U.S.C. 621, et seq., 81 Stat. 602, December 15, 1967)

(Revised text showing in bold face type new or amended language provided by the Fair Labor Standards Amendments of 1974, as enacted April 8, 1974 (P. L. 93-259, 88 Stat. 55).)

AN ACT

To prohibit age discrimination in employment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Act of 1967".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) in the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs;

(2) the setting of arbitrary age limits regardless of potential for job performance has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons;

(3) the incidence of unemployment, especially long-term unemployment with resultant deterioration of skill, morale, and employer acceptability is, relative to the younger ages, high among older workers; their numbers are great and growing; and their employment problems grave;

(4) the existence in industries affecting commerce, of arbitrary discrimination in employment because of age, burdens commerce and the free flow of goods in commerce.

(b) It is therefore the purpose of this Act to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

EDUCATION AND RESEARCH PROGRAM

SEC. 3. (a) The Secretary of Labor shall undertake studies and provide information to labor unions, management, and the general public concerning the needs and abilities of older workers, and their potentials for continued employment and contribution to the

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Printed October 1975
Employment Standards Administration
Wage and Hour Division**

economy. In order to achieve the purposes of this Act, the Secretary of Labor shall carry on a continuing program of education and information, under which he may, among other measures—

(1) undertake research, and promote research, with a view to reducing barriers to the employment of older persons, and the promotion of measures for utilizing their skills;

(2) publish and otherwise make available to employers, professional societies, the various media of communication, and other interested persons the findings of studies and other materials for the promotion of employment;

(3) foster through the public employment service system and through cooperative effort the development of facilities of public and private agencies for expanding the opportunities and potentials of older persons;

(4) sponsor and assist State and community informational and educational programs.

(b) Not later than six months after the effective date of this Act, the Secretary shall recommend to the Congress any measures he may deem desirable to change the lower or upper age limits set forth in section 12.

PROHIBITION OF AGE DISCRIMINATION

SEC. 4. (a) It shall be unlawful for an employer—

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or

(3) to reduce the wage rate of any employee in order to comply with this Act.

(b) It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

(c) It shall be unlawful for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his age;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his

status as an employee or as an applicant for employment, because of such individual's age;

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member or applicant for membership has opposed any practice made unlawful by this section, or because such individual, member or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

(e) It shall be unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on age.

(f) It shall not be ^{unlawful} ~~lawful~~ for an employer, employment agency, or labor organization—

(1) to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age;

(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual; or

(3) to discharge or otherwise discipline an individual for good cause.

STUDY BY SECRETARY OF LABOR

SEC. 5. The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress.

ADMINISTRATION

SEC. 6. The Secretary shall have the power—

(a) to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for

service basis, as he deems necessary to assist him in the performance of his functions under this Act;

(b) to cooperate with regional, State, local, and other agencies, and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act.

RECORDKEEPING, INVESTIGATION, AND ENFORCEMENT

SEC. 7. (a) The Secretary shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this Act in accordance with the powers and procedures provided in sections 9 and 11 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209 and 211).

(b) The provisions of this Act shall be enforced in accordance with the powers, remedies, and procedures provided in sections 11(b), 16 (except for subsection (a) thereof), and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(b), 216, 217), and subsection (c) of this section. Any act prohibited under section 4 of this Act shall be deemed to be a prohibited act under section 15 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 215). Amounts owing to a person as a result of a violation of this Act shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216, 217): *Provided*, That liquidated damages shall be payable only in cases of willful violations of this Act. In any action brought to enforce this Act the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid minimum wages or unpaid overtime compensation under this section. Before instituting any action under this section, the Secretary shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with requirements of this Act through informal methods of conciliation, conference, and persuasion.

(c) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act: *Provided*, That the right of any person to bring such action shall terminate upon the commencement of an action by the Secretary to enforce the right of such employee under this Act.

(d) No civil action may be commenced by any individual under this section until the individual has given the Secretary not less than sixty days' notice of an intent to file such action. Such notice shall be filed—

(1) within one hundred and eighty days after the alleged unlawful practice occurred, or

(2) in a case to which section 14(b) applies, within three hundred days after the alleged unlawful practice occurred or within thirty days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

Upon receiving a notice of intent to sue, the Secretary shall promptly notify all persons named therein as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(e) Sections 6 and 10 of the Portal-to-Portal Act of 1947 shall apply to actions under this Act.

NOTICE TO BE POSTED

SEC. 8. Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Secretary setting forth information as the Secretary deems appropriate to effectuate the purposes of this Act.

RULES AND REGULATIONS

SEC. 9. In accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, the Secretary of Labor may issue such rules and regulations as he may consider necessary or appropriate for carrying out this Act, and may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest.

CRIMINAL PENALTIES

SEC. 10. Whoever shall forcibly resist, oppose, impede, intimidate or interfere with a duly authorized representative of the Secretary while he is engaged in the performance of duties under this Act shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or both: *Provided, however,* That no person shall be imprisoned under this section except when there has been a prior conviction hereunder.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) The term "person" means one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized groups of persons.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year: *Provided,* That prior to

June 30, 1968, employers having fewer than fifty employees shall not be considered employers. The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States.¹

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is fifty or more prior to July 1, 1968, or twenty-five or more on or after July 1, 1968, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate

¹ Prior to the Fair Labor Standards Amendments of 1974, the Act's definition of an "employment agency" excluded "an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance."

body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by any employer except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

LIMITATION

SEC. 12. The prohibitions in this Act shall be limited to individuals who are at least forty years of age but less than sixty-five years of age.

ANNUAL REPORT

SEC. 13. The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the effect of the minimum and maximum ages established by this Act, together

with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the general age level of the population, the effect of the Act upon workers not covered by its provisions, and such other factors as he may deem pertinent.

FEDERAL-STATE RELATIONSHIP

SEC. 14. (a) Nothing in this Act shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age except that upon commencement of action under this Act such action shall supersede any State action.

(b) In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice, no suit may be brought under section 7 of this Act before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commencement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.

NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

Sec. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems

necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each department, agency, or unit referred to in subsection (a);

(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by an individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.

EFFECTIVE DATE ²

SEC. 16. This Act shall become effective one hundred and eighty

² The effective date of the provisions added by the Fair Labor Standards Amendments of 1974, which are shown in bold face type, was May 1, 1974. See section 29(a) of the Fair Labor Standards Amendments of 1974.

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days after enactment, except (a) that the Secretary of Labor may extend the delay in effective date of any provision of this Act up to an additional ninety days thereafter if he finds that such time is necessary in permitting adjustments to the provisions hereof, and (b) that on or after the date of enactment the Secretary of Labor is authorized to issue such rules and regulations as may be necessary to carry out its provisions.

APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated such sums, not in excess of \$5,000,000 for any fiscal year, as may be necessary to carry out this Act.

Approved December 15, 1967.

12/4/69

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION

PART 850 (29 CFR) — RECORDS TO BE MADE OR KEPT RELATING TO AGE; NOTICES TO BE POSTED; ADMINISTRATIVE EXEMPTIONS

(Reprinted from the Federal Register of December 4, 1969)

Title 29—LABOR

**Chapter V—Wage and Hour Division,
Department of Labor**

**SUBCHAPTER C—AGE DISCRIMINATION IN
EMPLOYMENT**

**PART 850—RECORDS TO BE MADE OR
KEPT RELATING TO AGE; NOTICES
TO BE POSTED; ADMINISTRATIVE
EXEMPTIONS**

**Change in Recordkeeping
Requirements**

On August 26, 1969, there was published in the *Federal Register* (34 F.R. 13666) notice of a proposal to revise Part 850 of Title 29, Code of Federal Regulations, in order to change the temporary recordmaking and recordkeeping requirements promulgated under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 629) and section 11 of the Fair Labor Standards Act of 1938 (29 U.S.C. 211).

Interested persons were invited to submit written data, views, or argument. After consideration of all relevant matter presented, and pursuant to section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 629) and section 11 of the Fair Labor Standards Act of 1938 (29 U.S.C. 211), and Secretary of Labor's Orders No. 10-68 (43 F.R. 9720) and No. 11-68 (43 F.R. 9690), the revision as so proposed is hereby adopted, subject to the following changes:

1. In subparagraph (2) of § 850.3(b), the first sentence is deleted and the following sentence is inserted in its place: "Every employer shall keep on file any employee benefit plans such as pension and insurance plans, as well as copies of any seniority systems and merit systems which are in writing, for the full period the plan or system is in effect, and for at least 1 year after its termination."

2. In § 850.16, The first two sentences are designated as paragraph (a).

3. In § 850.16, The words "paragraph (b) of this section" in the first sentence are changed to "§ 850.15 (b) of this part".

4. In § 850.16, The word "provisions" in the first sentence is changed to "prohibitions".

5. In § 850.16, The following paragraph is added and designated as paragraph (b):

(b) Any employer, employment agency, or labor organization the activities of

which are exempt from the prohibitions of the Act under paragraph (a) of this section shall maintain and preserve records containing the same information and data that is required of employers, employment agencies, and labor organizations under §§ 850.3, 850.4, and 850.5, respectively.

This revision shall become effective 30 days following the date of its publication in the *Federal Register*.

Signed at Washington, D.C., this 26th day of November 1969.

ROBERT D. MORAN,
*Administrator, Wage and Hour
and Public Contracts Divisions.*

**PART 850—RECORDS TO BE MADE OR
KEPT RELATING TO AGE; NOTICES
TO BE POSTED; ADMINISTRATIVE
EXEMPTIONS**

Subpart A—General

- Sec.
850.1 Purpose and scope.
- Subpart B—Records To Be Made or Kept Relating To Age; Notices To Be Posted**
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- Sec.
850.15 Administrative exemptions; procedures.
850.16 Specific exemptions.
- AUTHORITY:** The provisions of this Part 850 issued under sec. 7, 81 Stat. 604; 29 U.S.C. 626; sec. 11, 52 Stat. 1066, as amended, 29 U.S.C. 211.

Subpart A—General

- § 850.1 Purpose and scope.
- (a) Section 7 of the Age Discrimination in Employment Act of 1967 (hereinafter referred to in this part as the Act) empowers the Secretary of Labor to require the keeping of records which are necessary or appropriate for the administration of the Act in accordance with the powers contained in section 11 of the Fair Labor Standards Act of 1938. Subpart B

of this part sets forth the recordkeeping and posting requirements which are prescribed by the Secretary of Labor for employers, employment agencies, and labor organizations which are subject to the Act. Reference should be made to section 11 of the Act for definitions of the terms "employer", "employment agency", and "labor organization". General interpretations of the Act and of this part are published in Part 860 of this chapter. This part also reflects pertinent delegations of the Secretary of Labor's duties to the Administrator of the Wage and Hour and Public Contracts Divisions.

(b) Subpart C of this part sets forth the Department of Labor's rules under section 9 of the Act providing that the Secretary of Labor may establish reasonable exemptions to and from any or all provisions of the Act as he may find necessary and proper in the public interest.

Subpart B—Records To Be Made or Kept Relating to Age; Notices To Be Posted

§ 850.2 Forms of records.

No particular order of form of records is required by the regulations in this Part 850. It is required only that the records contain in some form the information specified. If the information required is available in records kept for other purposes, or can be obtained readily by recomputing or extending data recorded in some other form, no further records are required to be made or kept on a routine basis by this Part 850.

§ 850.3 Records to be kept by employers.

(a) Every employer shall make and keep for 3 years payroll or other records for each of his employees which contain:

- (1) Name;
- (2) Address;
- (3) Date of birth;
- (4) Occupation;
- (5) Rate of pay, and
- (6) Compensation earned each week.

(b) (1) Every employer who, in the regular course of his business, makes, obtains, or uses, any personnel or employment records related to the following, shall, except as provided in subparagraphs (3) and (4) of this paragraph, keep them for a period of 1 year from the date of the personnel action to which any records relate:

- (1) Job applications, resumes, or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other

notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual.

(II) Promotion, demotion, transfer, selection for training, layoff, recall, or discharge of any employee.

(III) Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel for job openings.

(IV) Test papers completed by applicants or candidates for any position which disclose the results of any employer-administered aptitude or other employment test considered by the employer in connection with any personnel action.

(V) The results of any physical examination where such examination is considered by the employer in connection with any personnel action.

(VI) Any advertisements or notices to the public or to employees relating to job openings, promotions, training programs, or opportunities for overtime work.

(2) Every employer shall keep on file any employee benefit plans such as pension and insurance plans, as well as copies of any seniority systems and merit systems which are in writing, for the full period the plan or system is in effect, and for at least 1 year after its termination. If the plan or system is not in writing, a memorandum fully outlining the terms of such plan or system and the manner in which it has been communicated to the affected employees, together with notations relating to any changes or revisions thereto, shall be kept on file for a like period.

(3) In the case of application forms and other preemployment records of applicants for positions which are, and are known by applicants to be, of a temporary nature, every record required to be kept under subparagraph (1) of this paragraph shall be kept for a period of 90 days from the date of the personnel action to which the record relates.

(4) When an enforcement action is commenced under section 7 of the Act regarding a particular applicant or employee, the Administrator may require the employer to retain any record required to be kept under subparagraph (1), (2), or (3) of this paragraph which is relative to such action until the final disposition thereof.

§ 850.4 Records to be kept by employment agencies.

(a) (1) Every employment agency which, in the regular course of its business, makes, obtains, or uses, any records related to the following, shall, except as provided in subparagraphs (2) and (3) of this paragraph, keep them for a period of 1 year from the date of the action to which the records relate:

(I) Placements;

(II) Referrals, where an individual is referred to an employer for a known or reasonably anticipated job opening;

(III) Job orders from employers seeking individuals for job openings;

(IV) Job applications, resumes, or any other form of employment inquiry or record of any individual which identifies his qualifications for employment, whether for a known job opening at the time of submission or for future referral to an employer;

(V) Test papers completed by applicants or candidates for any position which disclose the results of any agency-administered aptitude or other employment test considered by the agency in connection with any referrals;

(VI) Advertisements or notices relative to job openings.

(2) In the case of application forms and other preemployment records of applicants for positions which are, and are known by applicants to be, of a temporary nature, every record required to be kept under subparagraph (1) of this paragraph shall be kept for a period of 90 days from the date of the making or obtaining of the record involved.

(3) When an enforcement action is commenced under section 7 of the Act regarding a particular applicant, the Administrator may require the employment agency to retain any record required to be kept under subparagraph (1) or (2) of this paragraph which is relative to such action until the final disposition thereof.

(b) Whenever an employment agency has an obligation as "employer" or a "labor organization" under the Act, the employment agency must also comply with the recordkeeping requirements set forth in § 850.3 or § 850.5, as appropriate.

§ 850.5 Records to be kept by labor organizations.

(a) Every labor organization shall keep current records identifying its members by name, address, and date of birth.

(b) Every labor organization shall, except as provided in paragraph (c) of this section, keep for a period of 1 year from the making thereof, a record of the name, address, and age of any individual seeking membership in the organization. An individual seeking membership is considered to be a person who files an application for membership or who, in some other manner, indicates a specific intention to be considered for membership, but does not include any individual who is serving for a stated limited probationary period prior to permanent employment and formal union membership. A person who merely makes an inquiry about the labor organization or, for example, about its general program, is not considered to be an individual seeking membership in a labor organization.

(c) When an enforcement action is commenced under section 7 of the Act regarding a labor organization, the Administrator may require the labor organization to retain any record required to be kept under paragraph (b) of this section which is relative to such action until the final disposition thereof.

(d) Whenever a labor organization has an obligation as an "employer" or as an "employment agency" under the Act, the labor organization must also comply with the recordkeeping requirements set forth in § 850.3 or § 850.4, as appropriate.

§ 850.6 Availability of records for inspection.

(a) *Place records are to be kept.* The records required to be kept by this part shall be kept safe and accessible at the place of employment or business at which the individual to whom they relate is employed or has applied for employment or membership, or at one or more established central recordkeeping offices.

(b) *Inspection of records.* All records required by this part to be kept shall be made available for inspection and transcription by authorized representatives of the Administrator during business hours generally observed by the office at which they are kept or in the community generally. Where records are maintained at a central recordkeeping office pursuant to paragraph (a) of this section, such records shall be made available at the office at which they would otherwise be required to be kept within 72 hours following request from the Administrator or his authorized representative.

§ 850.7 Transcriptions and reports.

Every person required to maintain records under the Act shall make such extensions, recomputation or transcriptions of his records and shall submit such reports concerning actions taken and limitations and classifications of individuals set forth in records as the Administrator or his authorized representative may request in writing.

§§ 850.8—850.9 [Reserved]

§ 850.10 Notices to be posted.

Every employer, employment agency, and labor organization which has an obligation under the Age Discrimination in Employment Act of 1967 shall post and keep posted in conspicuous places upon its premises the notice pertaining to the applicability of the Act prescribed by the Secretary of Labor or his authorized representative. Such a notice must be posted in prominent and accessible places where it can readily be observed by employees, applicants for employment and union members.

§ 850.11 Petitions for recordkeeping exceptions.

(a) *Submission of petitions for relief.* Each employer, employment agency, or labor organization who for good cause wishes to maintain records in a manner other than required in this part, or to be relieved of preserving certain records for the period or periods prescribed in this part, may submit in writing a petition to the Administrator requesting such relief setting forth the reasons therefor and proposing alternative recordkeeping or record-retention procedures.

(b) *Action on petitions.* If, on review of the petition and after completion of any necessary or appropriate investi-

gation supplementary thereto, the Administrator shall find that the alternative procedure proposed, if granted, will not hamper or interfere with the enforcement of the Act, and will be of equivalent usefulness in its enforcement, the Administrator may grant the petition subject to such conditions as he may determine appropriate and subject to revocation. Whenever any relief granted to any person is sought to be revoked for failure to comply with the conditions of the Administrator, that person shall be notified in writing of the facts constituting such failure and afforded an opportunity to achieve or demonstrate compliance.

(c) *Compliance after submission of petitions.* The submission of a petition or any delay of the Administrator in acting upon such petition shall not relieve any employer, employment agency, or labor organization from any obligations to comply with this part. However, the Administrator shall give notice of the denial of any petition with due promptness.

Subpart C—Administrative Exemptions

§ 850.15 Administrative exemptions; procedures.

(a) Section 9 of the Act provides that, "In accordance with the provisions of subchapter II of chapter 5, of title 5, United States Code, the Secretary of Labor * * * may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest."

(b) The authority conferred on the Secretary by section 9 of the Act to establish reasonable exemptions will be exercised with caution and due regard for the remedial purpose of the statute to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Administrative action consistent with this statutory purpose may be taken under this section, with or without a request therefor, when found necessary and proper in the public

interest in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a reasonable exemption from the Act's provisions will be granted only if it is decided, after notice published in the *FEDERAL REGISTER* giving all interested persons an opportunity to present data, views, or arguments, that a strong and affirmative showing has been made that such exemption is in fact necessary and proper in the public interest. Request for such exemption shall be submitted in writing to the Administrator.

§ 850.16 Specific exemptions.

(a) Pursuant to the authority contained in section 9 of the Act and in accordance with the procedure provided therein and in § 850.15(b) of this part, it has been found necessary and proper in the public interest to exempt from all prohibitions of the Act all activities and programs under Federal contracts or grants, or carried out by the public employment services of the several States, designed exclusively to provide employment for, or to encourage the employment of, persons with special employment problems, including employment activities and programs under the Manpower Development and Training Act of 1962, as amended, and the Economic Opportunity Act of 1964, as amended, for persons among the long-term unemployed, handicapped, members of minority groups, older workers, or youth. Questions concerning the application of this exemption shall be referred to the Administrator for decision.

(b) Any employer, employment agency, or labor organization the activities of which are exempt from the prohibitions of the Act under paragraph (a) of this section shall maintain and preserve records containing the same information and data that is required of employers, employment agencies, and labor organizations under §§ 850.3, 850.4, and 850.5, respectively.

[F.R. Doc. 69-14434; Filed, Dec. 3, 1969; 8:50 a.m.]

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

[This publication conforms to the Code of Federal Regulations as of July 7, 1972, the date this reprint was authorized.]

This publication is based on the provisions of the Age Discrimination in Employment Act before the adoption of the Fair Labor Standards Amendments of 1974, which took effect May 1, 1974. Effective that date the age discrimination law applies to most Federal, State, and local governmental employment and also to private employers of 20 or more employees. Revisions of the publication will be made where necessary to conform to the new amendments. If you have any specific questions you are urged to contact the nearest Wage-Hour Office.



**UNITED STATES DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION**

Wage and Hour Division
WASHINGTON, D.C. 20210

Part 860—Age Discrimination in Employment Act

- Sec.**
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- 860.2—860.19 [Reserved]
- 860.20 Geographical scope of coverage.
- 860.21—860.29 [Reserved]
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- 860.31 "Employer."
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- 860.107—860.109 [Reserved]
- 860.110 Involuntary retirement before age 65.
- 860.111—860.119 [Reserved]
- 860.120 Costs and benefits under employee benefit plans.

AUTHORITY: The provisions of this part are issued under 81 Stat. 602; 29 U.S.C. 620, 5 U.S.C. 301, Secretary's Order No. 10-68, and Secretary's Order No. 11-68.

SOURCE: The provisions of this Part 860 appear at 33 F.R. 9172, June 21, 1968, unless otherwise noted.

§ 860.1 Purpose of this part.

This part is intended to provide an interpretative bulletin on the Age Discrimination in Employment Act of 1967 like Subchapter B of this title relating to the Fair Labor Standards Act of 1938. Such interpretations of this Act are published to provide "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" (*Skidmore v. Swift & Co.*, 323 U.S. 134, 138). These interpretations indicate the construction of the law which the Department of Labor believes to be correct, and which will guide it in the performance of its administrative and enforcement duties under the Act unless and until it is otherwise directed by authoritative decisions of the Courts or concludes, upon reexamination of an interpretation, that it is incorrect.

§ 860.20 Geographical scope of coverage.

The prohibitions in section 4 of the Act are considered to apply only to performance of the described discriminatory acts in places over which the United States has sovereignty, territorial jurisdiction, or legislative control. These include principally the geographical areas set forth in the definition of the term "State" in section 11(i). There, the term State is defined to include "a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act." Activities within such geographical areas which are discriminatory against protected individuals or employees are within the scope of the Act even though the activities are related to employment outside of such geographical areas.

[34 F.R. 322, January 9, 1969]

§ 860.30 Definitions.

Considering the purpose of the proviso to section 7(c) of the Act as indicated in the reports of both the Senate and House Committees (see S. Rept. No. 723, 90th Cong., 1st Sess., and H. Rept. No. 805, 90th Cong., 1st

Sess.) it was clearly the intent of Congress that the term "employee" in that proviso should apply to any person who has a right to bring an action under the Act, including an applicant for employment.

[34 F.R. 9708, June 21, 1969]

§ 860.31 "Employer."

Section 11(b) defines "employer" to mean " * * * a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year: * * * The term also means any agent of such a person, but such term does not include the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof."

§ 860.35 "Employment agency."

(a) Section 11(c) defines "employment agency" to mean "any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance."

(b) As long as an employment agency regularly procures employees for at least one covered employer, it qualifies under section 11(c) as an employment agency with respect to all of its activities whether they be for covered or non-covered employers.

§ 860.36 Employment agencies—prohibitions.

(a) Section 4(b) provides that "It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age."

(b) Since a covered employment agency is subject to the prohibitions of the Act even when acting on behalf of noncovered employers (see

§ 860.35(b)), it may not discriminate contrary to the statute with respect to any referrals it makes.

(c) The prohibitions of section 4(b) apply not only to the referral activities of a covered employment agency but also to the agency's own employment practices, regardless of the number of employees the agency may have. This is so because section 4(b) makes it unlawful for a covered employment agency "otherwise to discriminate against" any individual between 40 and 65 because of age. To illustrate, a covered employment agency's use of an age preference of "not over 35" in an advertisement seeking employees for itself is unlawful since such preference discriminates against individuals in the 40 to 65 age bracket.

(81 Stat. 602; 29 U.S.C. 621 et seq.; Secretary's Orders No. 14-71 (36 F.R. 8753) and No. 15-71 (36 F.R. 8756))

§ 860.50 "Compensation, terms, conditions, or privileges of employment."***

(a) Section 4(a)(1) of the Act specifies that it is unlawful for an employer "to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;"

(b) The term "compensation" includes all types and methods of remuneration paid to or on behalf of or received by an employee for his employment.

(c) The phrase "terms, conditions, or privileges of employment" encompasses a wide and varied range of job-related factors including, but not limited to, job security, advancement, status, and benefits. The following are examples of some of the more common terms, conditions, or privileges of employment: The many and varied employee advantages generally regarded as being within the phrase "fringe benefits," promotion, demotion or other disciplinary action, hours of work (including overtime), leave policy (including sick leave, vacation, holidays), career development programs, and seniority or merit systems (which govern such conditions as transfer, assignment, job retention, layoff and recall). An employer will be deemed to have violated the Act if he

discriminates against any individual within its protection because of age with respect to any terms, conditions, or privileges of employment, such as the above, unless a statutory exception applies.

[38 F. R. 12227, August 30, 1968]

§ 860.75 Wage rate reduction prohibited.

Section 4(a)(3) of the Act provides that where an age-based wage differential is paid in violation of the statute, the employer cannot correct the violation by reducing the wage rate of any employee. Thus, for example, in a situation where it has been determined that an employer has violated the Act by paying a 62-year-old employee a prohibited wage differential of 50 cents an hour less than he is paying to a 30-year-old worker, in order to achieve compliance with the Act he must raise the wage rate of the older employee to equal that of the younger worker. Furthermore, the employer's obligation to comply with the statute cannot be avoided by transferring either the older or the younger employee to other work since the transfer itself would appear discriminatory under the particular facts and circumstances.

[34 F.R. 322, January 9, 1969]

§ 860.91 Discrimination within the age bracket of 40-65.

(a) Although section 4 of the Act broadly makes unlawful various types of age discrimination by employers, employment agencies, and labor organizations, section 12 limits this protection to individuals who are at least 40 years of age but less than 65 years of age. Thus, for example, it is unlawful in situations where this Act applies, for an employer to discriminate in hiring or in any other way by giving preference because of age to an individual 30 years old over another individual who is within the 40-65 age bracket limitation of section 12. Similarly, an employer will have violated the Act, in situations where it applies, when one individual within the age bracket of 40-65 is given job preference in hiring, assignment, promotion or any other term, condition,

or privilege of employment, on the basis of age, over another individual within the same age bracket.

(b) Thus, if two men apply for employment to which the Act applies, and one is 42 and the other 52, the personnel officer or employer may not lawfully turn down either one on the basis of his age; he must make his decision on the basis of other factors, such as the capabilities and experience of the two individuals. The Act, however, does not restrain age discrimination between two individuals 25 and 35 years of age.

§ 860.92 Help wanted notices or advertisements.

(a) Section 4(e) of the Act prohibits "an employer, labor organization, or employment agency" from using printed or published notices or advertisements indicating any preference, limitation, specification, or discrimination, based on age.

(b) When help wanted notices or advertisements contain terms and phrases such as "age 25 to 35," "young," "boy," "girl," "college student," "recent college graduate," or others of a similar nature, such a term or phrase discriminates against the employment of older persons and will be considered in violation of the Act. Such specifications as "age 40 to 50," "age over 50," or "age over 65" are also considered to be prohibited. Where such specifications as "retired person" or "supplement your pension" are intended and applied so as to discriminate against others within the protected group, they too are regarded as prohibited, unless one of the exceptions applies.

[34 F.R. 9708, June 21, 1969]

(c) However, help wanted notices or advertisements which include a term or phrase such as "college graduate," or other educational requirement, or specify a minimum age less than 40, such as "not under 18," or "not under 21," are not prohibited by the statute.

(d) The use of the phrase "state age" in help wanted notices or advertisements is not, in itself, a violation of the statute. But because the request that an applicant state his age may tend to deter older applicants or otherwise indicate a discrimination based on age, employ-

ment notices or advertisements which include the phrase "state age," or any similar term, will be closely scrutinized to assure that the request is for a permissible purpose and not for purposes proscribed by the statute.

(e) There is no provision in the statute which prohibits an individual seeking employment through advertising from specifying his own age.

§ 860.95 Job applications.

(a) The term "job applications," within the meaning of the recordkeeping regulations under the Act (Part 850 of this chapter), refers to all inquiries about employment or applications for employment or promotion including, but not limited to, résumés or other summaries of the applicant's background. It relates not only to preemployment inquiries but to inquiries by employees concerning terms, conditions, or privileges of employment as specified in section 4 of the statute. As in the case with help wanted notices or advertisements (see § 860.92), a request on the part of an employer, employment agency, or labor organization for information such as "Date of Birth" or "State Age" on an employment application form is not, in itself, a violation of the Age Discrimination in Employment Act of 1967. But because the request that an applicant state his age may tend to deter older applicants or otherwise indicate a discrimination based on age, employment application forms which request such information in the above, or any similar phrase, will be closely scrutinized to assure that the request is for a permissible purpose and not for purposes proscribed by the statute. That the purpose is not one proscribed by the statute should be made known to the applicant, as by a reference on the application form to the statutory prohibition in language to the following effect: "The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age with respect to individuals who are at least 40 but less than 65 years of age."

[33 F.R. 12227, August 30, 1968]

(b) An employer may limit the active period of consideration of an application so long

as he treats all applicants alike regardless of age. Thus, for example, if the employer customarily retains employment applications in an active status for a period of 60 days, he will be in compliance with the Act if he so retains those of individuals in the 40 to 65 age group for an equal period of consideration as those of younger persons. Further, there is no objection to the employer advising all applicants of the above practice by means of a legend on his application forms as long as this does not suggest any limitation based on age. If it develops, however, that such a legend is used as a device to avoid consideration of the applications of older persons, or otherwise discriminate against them because of age, there would then appear to be a violation of the Act. It should be noted that this position in no way alters the recordkeeping requirements of the Act which are set forth in Part 850 of this chapter.

[34 F.R. 9708, June 21, 1969]

§ 860.102 Bona fide occupational qualifications.

(a) Section 4(f)(1) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business * * *"

(b) Whether occupational qualifications will be deemed to be "bona fide" and "reasonably necessary to the normal operation of the particular business," will be determined on the basis of all the pertinent facts surrounding each particular situation. It is anticipated that this concept of a bona fide occupational qualification will have limited scope and application. Further, as this is an exception it must be construed narrowly, and the burden of proof in establishing that it applies is the responsibility of the employer, employment agency, or labor organization which relies upon it.

(c) The following are illustrations of possible bona fide occupational qualifications.

(d) Federal statutory and regulatory requirements which provide compulsory age limitations for hiring or compulsory retirement,

without reference to the individual's actual physical condition at the terminal age, when such conditions are clearly imposed for the safety and convenience of the public. This exception would apply, for example, to airline pilots within the jurisdiction of the Federal Aviation Agency. Federal Aviation Agency regulations do not permit airline pilots to engage in carrier operations, as pilots, after they reach age 60.

(e) A bona fide occupational qualification will also be recognized in certain special, individual occupational circumstances, e.g., actors required for youthful or elderly characterizations or roles, and persons used to advertise or promote the sale of products designed for, and directed to appeal exclusively to, either youthful or elderly consumers.

§ 860.103 Differentiations based on reasonable factors other than age.

(a) Section 4(f)(1) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section * * * where the differentiation is based on reasonable factors other than age; * * *"

(b) No precise and unequivocal determination can be made as to the scope of the phrase "differentiation based on reasonable factors other than age." Whether such differentiations exist must be decided on the basis of all the particular facts and circumstances surrounding each individual situation.

(c) It should be kept in mind that it was not the purpose or intent of Congress in enacting this Act to require the employment of anyone, regardless of age, who is disqualified on grounds other than age from performing a particular job. The clear purpose is to insure that age, within the limits prescribed by the Act, is not a determining factor in making any decision regarding hiring, dismissal, promotion or any other term, condition or privilege of employment of an individual.

(d) The reasonableness of a differentiation will be determined on an individual case by case basis, not on the basis of any general or

class concept, with unusual working conditions given weight according to their individual merit.

(e) Further, in accord with a long chain of decisions of the Supreme Court of the United States with respect to other remedial labor legislation, all exceptions such as this must be construed narrowly, and the burden of proof in establishing the applicability of the exception will rest upon the employer, employment agency or labor union which seeks to invoke it.

(f) Where the particular facts and circumstances in individual situations warrant such a conclusion, the following factors are among those which may be recognized as supporting a differentiation based on reasonable factors other than age:

(1) (i) Physical fitness requirements based upon preemployment or periodic physical examinations relating to minimum standards for employment: *Provided, however,* That such standards are reasonably necessary for the specific work to be performed and are uniformly and equally applied to all applicants for the particular job category, regardless of age.

(ii) Thus, a differentiation based on a physical examination, but not one based on age, may be recognized as reasonable in certain job situations which necessitate stringent physical requirements due to inherent occupational factors such as the safety of the individual employees or of other persons in their charge, or those occupations which by nature are particularly hazardous: For example, iron workers, bridge builders, sandhogs, underwater demolition men, and other similar job classifications which require rapid reflexes or a high degree of speed, coordination, dexterity, endurance, or strength.

(iii) However, a claim for a differentiation will not be permitted on the basis of an employer's assumption that every employee over a certain age in a particular type of job usually becomes physically unable to perform the duties of that job. There is medical evidence, for example, to support the contention that such is generally not the case. In many instances, an individual at age 60 may be physically capable of performing heavy-lifting on a job,

whereas another individual of age 30 may be physically incapable of doing so.

(2) Evaluation factors such as quantity or quality of production, or educational level, would be acceptable bases for differentiation when, in the individual case, such factors are shown to have a valid relationship to job requirements and where the criteria or personnel policy establishing such factors are applied uniformly to all employees, regardless of age.

(g) The foregoing are intended only as examples of differentiations based on reasonable factors other than age, and do not constitute a complete or exhaustive list or limitation. It should always be kept in mind that even in situations where experience has shown that most elderly persons do not have certain qualifications which are essential to those who hold certain jobs, some may have them even though they have attained the age of 60 or 64, and thus discrimination based on age is forbidden.

(h) It should also be made clear that a general assertion that the average cost of employing older workers as a group is higher than the average cost of employing younger workers as a group will not be recognized as a differentiation under the terms and provisions of the Act, unless one of the other statutory exceptions applies. To classify or group employees solely on the basis of age for the purpose of comparing costs, or for any other purpose, necessarily rests on the assumption that the age factor alone may be used to justify a differentiation—an assumption plainly contrary to the terms of the Act and the purpose of Congress in enacting it. Differentials so based would serve only to perpetuate and promote the very discrimination at which the Act is directed.

§ 860.104 Differentiations based on reasonable factors other than age—
Additional examples.

(a) *Employment of Social Security recipients.* (1) It is considered discriminatory for an employer to specify that he will hire only persons receiving old age Social Security insurance benefits. Such a specification could result

in discrimination against other individuals within the age group covered by the Act willing to work under the wages and other conditions of employment involved, even though those wages and conditions may be peculiarly attractive to Social Security recipients. Similarly, the specification of Social Security recipients cannot be used as a convenient reference to persons of sufficient age to be eligible for old age benefits. Thus, where two persons apply for a job, one age 56, and the other age 62 and receiving Social Security benefits, the employer may not lawfully give preference in hiring to the older individual solely because he is receiving such benefits.

(2) Where a job applicant under age 65 is unwilling to accept the number or schedule of hours required by an employer as a condition for a particular job, because he is receiving Social Security benefits and is limited in the amount of wages he may earn without losing such benefits, failure to employ him would not violate the Act. An employer's condition as to the number or schedule of hours may be "a reasonable factor other than age" on which to base a differentiation.

(b) *Employee testing.* The use of a validated employee test is not, of itself, a violation of the Act when such test is specifically related to the requirements of the job, is fair and reasonable, is administered in good faith and without discrimination on the basis of age, and is properly evaluated. A vital factor in employee testing as it relates to the 40-65-age group protected by the statute is the "test-sophistication" or "test-wiseness" of the individual. Younger persons, due to the tremendous increase in the use of tests in primary and secondary schools in recent years, may generally have had more experience in test-taking than older individuals and, consequently, where an employee test is used as the sole tool or the controlling factor in the employee selection procedure, such younger persons may have an advantage over older applicants who may have had considerable on-the-job experience but who due to age, are further removed from their schooling. Therefore, situations in which an employee test is used as the sole tool or the controlling factor in the employee selection

procedure will be carefully scrutinized to ensure that the test is for a permissible purpose and not for purposes prohibited by the statute.

[34 F.R. 322, January 9, 1969]

(c) *Refusal to hire relatives of current employees.* There is no provision in the Act which would prohibit an employer, employment agency, or labor organization from refusing to hire individuals within the protected age group not because of their age but because they are relatives of persons already employed by the firm or organization involved. Such a differentiation would appear to be based on "reasonable factors other than age."

[34 F.R. 9709, June 21, 1969]

§ 860.105 Bona fide seniority systems.

Section 4(f)(2) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to observe the terms of a bona fide seniority system * * * which is not a subterfuge to evade the purposes of this Act * * *"

(a) Though a seniority system may be qualified by such factors as merit, capacity, or ability, any bona fide seniority system must be based on length of service as the primary criterion for the equitable allocation of available employment opportunities and prerogatives among younger and older workers. In this regard it should be noted that a bona fide seniority system may operate, for example, on an occupational, departmental, plant, or company wide unit basis.

(b) Seniority systems not only distinguish between employees on the basis of their length of service, they normally afford greater rights to those who have the longer service. Therefore, adoption of a purported seniority system which gives those with longer service lesser rights, and results in discharge or less favored treatment to those within the protection of the Act, may, depending upon the circumstances, be a "subterfuge to evade the purposes" of the Act. Furthermore, a seniority system which has the effect of perpetuating discrimination which may have existed on the basis of age prior to the effective date of the Act will not be recognized as "bona fide."

(c) Unless the essential terms and conditions of an alleged seniority system have been communicated to the affected employees and can be shown to be applied uniformly to all of those affected, regardless of age, it will also be regarded as lacking the necessary bona fides to qualify for the exception.

(d) It should be noted that seniority systems which segregate, classify, or otherwise discriminate against individuals on the basis of race, color, religion, sex, or national origin, are prohibited under Title VII of the Civil Rights Act of 1964, where that Act otherwise applies. Neither will such systems be regarded as "bona fide" within the meaning of section 4(f)(2) of the Age Discrimination in Employment Act of 1967.

[33 F.R. 12227, August 30, 1968]

§ 860.106 Bona fide apprenticeship programs.

Age limitations for entry into bona fide apprenticeship programs were not intended to be affected by the Act. Entry into most apprenticeship programs has traditionally been limited to youths under specified ages. This is in recognition of the fact that apprenticeship is an extension of the educational process to prepare young men and women for skilled employment. Accordingly, the prohibitions contained in the Act will not be applied to bona fide apprenticeship programs which meet the standards specified in §§ 521.2 and 521.3 of this chapter.

[34 F.R. 323, January 9, 1969]

§ 860.110 Involuntary retirement before age 65.

(a) Section 4(f)(2) of the Act provides that "It shall not be unlawful for an employer, employment agency, or labor organization * * * to observe the terms of * * * any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual * * *." Thus, the Act authorizes involuntary retirement irrespective of age, provided that such retirement is pursuant to the terms of a retirement or pension plan meeting the re-

quirements of section 4(f)(2). The fact that an employer may decide to permit certain employees to continue working beyond the age stipulated in the formal retirement program does not, in and of itself, render an otherwise bona fide plan invalid insofar as the exception provided in section 4(f)(2) is concerned.

(b) This exception does not apply to the involuntary retirement before 65 of employees who are not participants in the employer's retirement or pension program. It should be noted that section 5 of the Act directs the Secretary of Labor to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to Congress.

[34 F.R. 9709, June 21, 1969]

§ 860.120 Costs and benefits under employee benefit plans.

(a) Section 4(f)(2) of the Act provides that it is not unlawful for an employer, employment agency, or labor organization "to observe the terms of * * * any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual * * *." Thus, an employer is not required to provide older workers who are otherwise protected by the law with the same pension, retirement or insurance benefits as he provides to younger workers, so long as any differential between them is in accordance with the terms of a bona fide benefit plan. For example, an employer may provide lesser amounts of insurance coverage under a group insurance plan to older workers than he does to younger workers, where the plan is not a subterfuge to evade the purposes of the Act. A retirement, pension, or insurance plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred, in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive

a lesser amount of pension or retirement benefits, or insurance coverage. Further, an employer may provide varying benefits under a bona fide plan to employees within the age group protected by the Act, when such benefits are determined by a formula involving age and length of service requirements.

(b) Profit-sharing plans: Not all employee benefit plans but only those similar to the kind enumerated in section 4(f)(2) of the Act come within this provision and a profit-sharing plan as such would not appear to be within its terms. However, where it is the essential purpose of a plan financed from profits to provide retirement benefits for employees, the exception may apply. The "bona fides" of such plans

will be considered on the basis of all the particular facts and circumstances.

(c) Forfeiture clauses in retirement programs: Clauses in retirement programs which state that litigation or participation in any manner in a formal proceeding by an employee will result in the forfeiture of his rights are unlawful insofar as they may be applied to those who seek redress under the Act. This is by reason of section 4(d) which provides that it "shall be unlawful for an employer to discriminate against any of his employees * * * because such individual * * * has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act."

[84 F.R. 9709, June 21, 1969]

Question 7. Does the Department of Labor have any evidence regarding the extent to which CETA and/or manpower programs' graduates have improved earning records compared to those not having received such training after 1 year, 3 years, 5 years, etc.?

Answer 7. There is not as yet such data on CETA (Comprehensive Employment and Training Act) programs. A continuing national sample survey of participants in CETA decentralized programs (the Continuous Longitudinal Manpower Survey) is providing information on who is being served in various types of programs and, from tracking of the participants' postprogram experience, will enable measurement of impact on participants' postprogram earnings. Sufficient time has not elapsed so as to provide such information for the CETA programs.

Good training programs have been demonstrated to be very effective in improving the employment capacities and experience of the unemployed. The most painstaking and comprehensive review, done by the National Council on Employment Policy, of the findings of all the evaluation studies of manpower training programs conducted over the past 15 years, concluded:

"The overwhelming body of evidence indicates that institutional training, subsidized private sector on-the-job training, and public service employment substantially improve the economic well-being of participants. . . . the weight of the evidence substantiates the positive impacts of employment and training programs, and there is more proof of effectiveness than for any other major social welfare activity."

While evaluation results are not yet available on CETA training operations, we believe that training program effectiveness has been enhanced by local decisionmaking. We intend to build on the strengths of the CETA system, to provide incentives to local administrators to run effective programs, and to secure a good working relationship between CETA prime sponsors and the State employment services. We are certain that improving the employability of low income persons is a strategy that works. To quote the National Council on Employment Policy again, "We know enough to say quite definitely that these (employment and training) efforts improve the earnings experience of the average participant."

An illustration is a recent study of 40,000 persons who participated in Labor Department training programs in 1969,

A #7 p.b

70 or 71. The study, by Carnegie-Mellon University, shows that the training had a "positive effect" on post-training earnings. The trainees increased their average annual earnings, from the year before to the year after training, by \$620 more than did a comparison nontrainee group. In the year before they entered a training program, participants had earned an average of \$400 less a year than the comparison group's earnings. In the year after training, they earned an average of \$220 more than the comparison group. The trainees were selected in 119 labor market areas in Manpower Development and Training Act (MDTA) programs directly funded by the Labor Department.

Other selected findings of the study are that:

- 1) The impact of training on earnings was not significantly different for whites and minorities;
- 2) The impact of on-the-job training on earnings improvement was smaller and lessened over time more rapidly than the impact of classroom training;
- 3) Trainees in longer training programs had larger gains in earnings over the comparison group in the first year after training than those in shorter programs, although the differential then tailed off by the second or third year after training.

The study, called "The Impact of Manpower Training on Earnings: An Econometric Analysis," is by Professors Thomas Cooley, Timothy McGuire and Edward Prescott.

WRITTEN QUESTIONS GIVEN TO DEPARTMENT OF LABOR

Question A1. Should "discrimination" in the labor market generally be permitted to be taken into account in the CETA Programs?

Answer A1. On December 31, 1974, CETA was amended to require that grants, contracts and agreements under that Act specifically provide that no person with responsibilities under the Act will discriminate in the operation of such program on the basis of age -- thus adding age to the existing categories of race, creed, color, national origin, sex, political affiliation, and beliefs. This prohibition is reflected in section 98.21(b)(1) of the CETA regulations in 29 CFR which prohibits a person being discriminated against because of age.

Although there is a general prohibition on age discrimination under CETA, section 98.21(b)(2) clearly indicates that this age discrimination clause does not prohibit the establishment of training and employment programs under the Act designed to serve the legitimate needs of specific age groups, such as older workers. This reflects the intent of the Congress as set forth in the Conference Report (House Report No. 93-1621) which accompanied the December 1974 amendments. Similarly, the CETA definition of "public service" at 29 CFR 94.4(tt) reflects the December 1974 amendments by specifically including part-time work for individuals who are unable to work full time because of age, handicap or other factors.

In regard to complaints about specific programs or involving particular individuals, CETA has a process which permits anyone to file a complaint which will be processed and resolved, oftentimes after a formal hearing before an administrative law judge. This process appears to be working -- it is used and appears to have credibility with that portion of the public which has used it. As indicated above the statutory prohibition on age discrimination has only been in effect since 1975. However, a number of the CETA complaints received in the regions and national office concern age discrimination. The age complaints include both those involving participants and potential participants and those involving program staff persons and potential staff persons.

A #A1 p.b

We recognize that a complaint procedure can only take care of situations which are brought to the attention of the Department. It does not take care of the timid or discouraged person. In order to avoid or remedy such inequities it is necessary for the Department to make an affirmative effort to discover problem areas. In this regard we have been made aware of the problems created by prime sponsors failing to serve all the significant segments of the population which are eligible for CETA programs. Among other efforts in this regard, we have this year strengthened our CETA regulations for fiscal year 1978 to insure that under the basic CETA titles the unemployed population is served equitably in terms of age, race and sex. Prime sponsors are required to present a demographic breakout of their unemployed population, to indicate the significant segments they plan to serve, and to provide adequate justification in instances where service to a significant segment results in a variance of 15 percent or more from a demographic group's incidence in the unemployed population. Although we realize that this approach does not take into account all possible factors such as the unknown number of discouraged workers, we feel this emphasis on identifying groups for service will go a long way in stressing the need for prime sponsors to consider all groups, including older workers, in planning their CETA programs.

Question A2. Should more active enforcement of the Age Discrimination in Employment Act be undertaken?

Question A5. Other than the elimination of mandatory retirement, what other means might be taken to overcome this problem?

Answer A2/A5. The ADEA prohibits most employers, employment agencies and labor organizations from discriminating in employment decisions against persons between the ages of 40 and 65 on the basis of their age. The law applies to employers having 20 or more employees, public employers, labor organizations with 25 or more members, and public and private employment agencies.

The purpose of the ADEA, as stated in Section 2 of the Act, is:

"to promote employment of older persons based on their ability rather than age, to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment."

When Congress enacted this law in December 1967, it expressed the conviction that age discrimination in employment--which it found to be all too prevalent--was an intolerable fact of life which was inconsistent not only with this country's economic well-being but also with its basic moral precepts. We have tried through our informational and enforcement efforts to achieve the purposes of the Act.

In the beginning, we instituted a massive education and information effort in order to advise employers, employment agencies and labor organizations about the law and about their responsibilities under that law, and to inform persons covered by the Act of their rights and protections under its provisions. As time has passed, we have worked in developing our investigative and legal enforcement capabilities, and the Department's enforcement activities under the Act have grown. In the first full year of the Act's application, in Fiscal Year 1969, we received complaints against 1,031 establishments. In Fiscal Year 1977 we received complaints against 5,054 establishments.

The dramatic increase in the number of complaints has led to an increase in our backlog. We currently have a backlog of over 2,190 complaints.

A #A2/A5 p.b

During Fiscal Year 1977, 5,600 investigations and conciliation actions were taken in 5,034 establishments; monetary violations amounting to \$8.9 million were disclosed in 447 establishments involving 1,707 individuals; and \$2.7 million were restored to 744 individuals in 383 establishments. In addition, 1,293 individuals were aided and 14,585 job opportunities were made available by the removal of discriminatory age barriers.

The Wage and Hour Division's investigations disclosed 573 instances of illegal advertising, the most common discriminatory practice. Investigations also disclosed 366 instances of illegal discharges and 267 instances of illegal refusals to hire.

A new dimension was added to the concerted effort of the Wage and Hour Division to eradicate age discrimination with the creation of 27 discrimination compliance specialists positions, 22 of which have been filled. The establishment of these positions, concomitant with advanced training provided to all Wage and Hour compliance officers, should greatly strengthen ADEA compliance efforts. The specialists, who serve as regional staff experts and consultants on discrimination matters, provide region-wide technical assistance and expand the public information program, and they perform investigative activity on cases of unusual scope and complexity. This specialist position is designed to reinforce and supplement the Wage and Hour staff activities directed toward discrimination enforcement.

Efforts have also been made to focus investigations and litigation on cases which will establish firm precedents regarding the hiring, job retention, and other protections guaranteed by the ADEA. Suits filed by the Department are a strong factor in reinforcing our administrative enforcement efforts and are the means by which interpretative issues as to the application of the law are resolved. An increasing number of cases litigated under the Act have reached the U. S. Courts of Appeals and the Supreme Court. Major settlements--involving large sums of money--also indicate the Department's growing expertise in dealing with ADEA investigations and conciliations.

These activities reflect our commitment to the vigorous enforcement of the ADEA.

A #A2/A5 p.c

The Employment Standards Administration had a budget of \$2,537,000 for ADEA enforcement activities in FY 1977. The estimated budget for FY 1978, which is currently under Congressional consideration, is \$2,936,000--approximately a \$400,000 increase over last year. As part of the 1979 budget process, we are carefully reviewing our activities so as to most effectively utilize any increase in resources.

Our activities in enforcing the ADEA since 1967 have also given us a greater understanding of some of the problems involved in its enforcement.

A major problem under the ADEA at present is the fact that approximately half of all private suits initiated by individuals under the Act are thrown out of court, because of procedural requirements in the Act, before the actual merits of age discrimination complaints can be considered. Because of this problem, Secretary Marshall has asked the Congress for two specific amendments to the ADEA.

The first amendment involves the process of conciliation under the ADEA, which provides that the Department will attempt to achieve voluntary compliance through conciliation before instituting suit. Such suits are subject to the same statute of limitations applicable to suits brought under the Fair Labor Standards Act. However, the conciliation process does not toll the operation of the statute of limitations as it does in Title VII of the Civil Rights Act. The result is that employers have no incentive to engage in prompt or serious conciliation. Every day in conciliation means a diminution in any relief which the employer may ultimately be required to provide. The conciliation process would be greatly enhanced if the Act were amended to provide, as was done in Title VII, for the tolling of the statute of limitations during the conciliation process.

The need for the other amendment arises because of procedural time limits imposed in private suits which are not imposed on suits brought by the Secretary. This problem concerns the filing of notice of intent to sue which an employee must file with the Secretary prior to instituting a private court action. The ADEA, although providing for a two-and three-year statute of limitations, contemplates that this notice will be filed within 180 days of the asserted violation. A number of courts have construed this notice requirement as a jurisdictional prerequisite to suit. This interpretation has frustrated achievement of the purposes of the ADEA in a significant number of cases. Although this

A #A2/A5 p.d

issue is now before the Supreme Court, it is our view that an amendment deleting the time limits on the notice requirement would materially advance the purposes of the ADEA and would refocus litigation from procedural matters to the substantive merits of each case.

The end result of these amendments would be a stronger enforcement effort that brings relief to a substantially greater number of age discrimination victims. The Senate incorporated the substance of these amendments into the version of H.R. 5383 which it passed on October 19, 1977 (see answer to question A3, below).

Enclosed for your further information is a copy of the Department of Labor's 1977 annual report to the Congress on activities under the ADEA in 1976.

Age Discrimination in Employment Act of 1967



A Report Covering Activities Under the Act During 1976
Submitted to Congress in 1977 in Accordance
with Section 13 of the Act

U.S. Department of Labor
Employment Standards Administration



U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

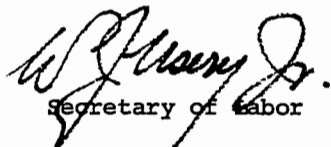
January 19, 1977

THE HONORABLE THE PRESIDENT OF THE SENATE
THE HONORABLE THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

Gentlemen:

I have the honor to present herewith the January 1977 report pertaining to activities in connection with the Age Discrimination in Employment Act of 1967, as required by Section 13 of the statute.

Sincerely,


Secretary of Labor

AGE DISCRIMINATION IN EMPLOYMENT
ACT OF 1967

U.S. DEPARTMENT OF LABOR
Employment Standards Administration

A report covering activities under the Act during 1976
Submitted to Congress in 1977 in accordance
with Section 13 of the Act

P R E F A C E

This report is in response to Section 13 of the Age Discrimination in Employment Act of 1967 (P.L. 90-202) which directs the Secretary of Labor to submit annually in January to the Congress a report covering his activities for the previous year.

This report was prepared in the Employment Standards Administration.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967
Activities in Connection With the Act During 1976

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STATEMENT OF THE SECRETARY

The Age Discrimination in Employment Act of 1967 provides the statutory framework prohibiting arbitrary age discrimination in the employment of persons at least 40 years of age but less than 65 years of age. The Act applies to most employers of 20 or more persons, public employers, employment agencies and certain labor organizations, and its purposes are "...to promote employment of older persons based on their ability rather than age ...[and]...to help employers and workers find ways of meeting problems arising from the impact of age on employment." In implementing the Act, our administration and enforcement activities range from efforts to combat discriminatory advertising practices and the conciliation of complaints to the investigation of violations and the institution of legal action when necessary. These activities are directly beneficial to thousands of individuals, resulting in adjustments such as backwage payments, employment or reemployment, promotions, and restoration of retirement benefits. Such activities also increase awareness of the Act among employers and employees, and thus serve to stimulate voluntary compliance with its provisions.

Litigation activities were very prominent in 1976. Although the Supreme Court held in National League of Cities v. Usery, that the minimum wage and overtime standards of the Fair Labor Standards Act cannot constitutionally be applied to certain State and local government activities, this decision does not apply to the Age Discrimination in Employment Act, and the courts have uniformly held that the ADEA can constitutionally be applied to State and local government employees.

1976 HIGHLIGHTS

Estimated Number of Employees
Affected by the ADEA

There are 1 million establishments employing 66 million persons that fall within the scope of the ADEA. Labor force data show that 37 million of the 95 million persons in the labor force in September 1976 were in the 40-65 year age group. It is estimated that about 70 percent of the total 40-65 workforce is covered by the Act.

Impact of 1976 ADEA Enforcement Activities

During fiscal year 1976, 8,318 compliance actions were taken in 7,877 establishments; monetary violations amounting to \$8.6 million were disclosed in 711 establishments involving 1,908 individuals; income was restored to 742 individuals in the amount of \$3.5 million in 418 establishments. In the transition quarter, July-September 1976, an additional 284 persons were found due over \$1 million as a result of ADEA violations.

Nonmonetary discriminatory practices were found in 1,894 establishments; 2,351 individuals were aided and 31,964 job opportunities made available by the removal of discriminatory age barriers.

Illegal advertising was the most common discriminatory practice disclosed, 903 instances; followed by refusals to hire, 552 instances; and illegal discharges, 500 instances.

Litigation

Some 47 suits were filed in calendar year 1976; since June 12, 1968, the effective date of the Act, over 300 court actions have been instituted by the Department.

The most significant decision in 1976 was McMann v. United Air Lines, Inc., 542 F.2d 217, which held that forced retirements prior to 65 are illegal, even if authorized by bona fide pension plans which predate the ADEA, unless the forced early retirement provisions are based on some economic or business purpose other than arbitrary age discrimination. This decision expressly disapproves an earlier case decided against the Department by the Court of Appeals for the Fifth Circuit.

The courts have uniformly upheld the constitutionality of the Act's application to State and local government employees, despite a Supreme Court decision holding that the minimum wage and overtime provisions of the Fair Labor Standards Act cannot constitutionally be applied to employees engaged in traditional governmental activities.

The other significant court of appeals decision was Dartt v. Shell Oil Co., 539 F.2d 1256 (C.A. 10), which held that the Act's preconditions to the institution of private suits are not jurisdictional and are subject to tolling or modification on equitable grounds. This decision disapproves prior cases decided by the Courts of Appeals for the Fifth and Sixth Circuits.

State Age Discrimination Laws

Of the 58 jurisdictions covered by the Federal statute, 43 jurisdictions now have their own laws, the same as in the previous year.

Involuntary Retirement Study: Progress Report

1. Congress requested a study in Section 5 of the 1967 Act (Public Law 90-202).
2. Findings in the U.S. Bureau of Labor Statistics' Survey of Pension Plan Documents, the Social Security Administration's Survey of Newly Entitled Beneficiaries and an analysis of data

from special tabulations of the Parnes' Study (Ohio State University) have been summarized in previous ADEA reports (January 1972, pp. 6-11; January 1973, pp. 11-14; January 1974, pp. 16-41; January 1975, pp. 23-27; and January 1976, pp. 23-26).

3. Three surveys are still in process and will be covered in future ADEA reports:
 - (a) preliminary findings on compulsory retirement from the Bureau of Labor Statistics' Employer Policies and Practices Survey conducted for the Employment Standards Administration are included in this report;
 - (b) the Social Security Administration's Retirement History Study; and
 - (c) the final report by Dr. Herbert S. Parnes and associates at Ohio State University, The Pre-Retirement Years: A longitudinal study of the labor market experience of men.

ESTIMATED NUMBER OF EMPLOYEES AFFECTED

There are approximately 1 million establishments employing an estimated 66 million persons that fall within the scope of the ADEA. ^{1/} It is not known how many of these persons are in the 40 and under 65 year age group. However, labor force data show that of the 95 million persons 16 years of age and older who were in the civilian labor force in September 1976, 39 percent were in the 40 and under 65 year age group (Table 1). Applying this proportion to the estimated 66 million persons within the scope of the ADEA yields an estimate of about 26 million persons who are covered by the ADEA, or about seven out of every ten persons age 40 and under 65 in the civilian labor force.

Although current population projections of persons 25 years of age and older indicate a relative decline in the proportion of persons in the 40 and under 65 year age group in the next two decades--from 46 percent in 1975 to 41 percent in 1990--the actual number of persons in this age group will increase by 8 million (Table 2). By the year 2000 the proportion in the covered age group is expected to reach 48 percent, or over 79 million persons, an increase of over 16 million in the last decade of this century.

^{1/} The general provisions of the Act are contained in Appendix A.

ADMINISTRATION AND ENFORCEMENT OF THE STATUTE

Enforcement of the ADEA, Fiscal Years 1969-1976

Data compiled on enforcement activity under the Act since it became effective on June 12, 1968, indicate increasing numbers of individuals found to be victims of age discrimination and due damages for discriminatory treatment. Among other factors, these findings are closely related to: (1) the number of establishments or enterprises investigated in a given fiscal year; (2) the number of compliance officers available for information and enforcement in the fiscal year; (3) litigation activity; (4) the scope and complexity of each case of alleged age discrimination; and (5) the prevailing economic conditions in the country.

From fiscal year 1969 through fiscal year 1976, enforcement activity disclosed over 8,700 employees and applicants for employment to have been discriminated against and due nearly \$26 million in damages. Income restored to these individuals exceeded \$8 million, with almost \$3.5 million of this amount restored in fiscal year 1976 alone. 1/

Fiscal year	Individuals			Income restored		In- divi- duals aided	Job oppor- tuni- ties made avail- able
	Dis- crim- inated against	Due dam- ages	Amount found due	In- divi- duals	Amount		
1969	a/	48	\$39,875	a/	a/	a/	a/
1970	a/	131	129,514	a/	a/	a/	a/
1971	a/	655	738,074	a/	a/	a/	a/
1972	a/	964	1,650,039	a/	a/	a/	a/
1973	14,386	1,031	1,866,226	304	\$662,324	8,849	39,667
1974	3,800	1,648	6,315,484	637	2,507,448	2,744	84,207
1975	5,540	2,350	6,574,409	728	1,676,171	3,376	27,217
1976	12,951	1,908	8,631,432	742	3,491,658	2,351	31,964
1976 <u>b/</u>	421	284	1,066,210	141	385,402	204	2,443

a/ Not available or not comparable.

b/ Transition quarter, June 21, 1976-September 20, 1976.

1/ The beginning of the Federal Government's fiscal year was changed from July 1 to October 1 beginning in 1976, resulting in a transition quarter in fiscal year 1976. Data for fiscal year 1976 refer to the first four quarters (June 21, 1975-June 20, 1976).

In the transition quarter in fiscal year 1976, an additional 284 persons were found due damages of \$1.1 million.

The number of complaints received has risen each successive year to a peak of 5,121 during fiscal year 1976. Individual employee complaints received during fiscal year 1976 totaled 5,826, about 400 more than the previous year when complaints on an individual basis were first collected.

<u>Fiscal year</u>	<u>Complaints received</u>	<u>Percent increase</u>
1969	1,031	-
1970	1,344	30
1971	1,658	23
1972 a/	1,862	12
1973	2,208	19
1974	3,040	38
1975 b/	4,717	55
1976 b/	5,121	9
1976 (transition quarter)	1,105	-

a/ Excludes one area office for which data were not available because of a flood.

b/ In fiscal year 1975, complaints were also counted on an individual basis for the first time. In that year, 5,424 complaints were recorded, 5,826 in 1976, and 1,226 in the transition quarter.

The large increases in the number of complaints received during the last three years may be attributable to a greater awareness of the provisions of the ADEA on the part of employees, job applicants, and retirees accompanied by a willingness to contest alleged illegal employment practices. Extension of coverage under the ADEA in 1974 to many smaller employers in the private sector as well as to all levels of government has been responsible for generating an increased volume of complaints. Discrimination can also occur during periods of economic downturn when management, in reducing payroll costs, elects to discharge or retire the longer-service employees whose salaries and fringe benefits generally exceed the average for other employees with the same occupation in the firm.

The table below presents an historical summary of the complaint-noncomplaint composition of ADEA contacts made and the number of violations of one or more of the provisions of the Act disclosed. The direct result of the growing complaint inflow is reflected in the ever-greater proportion of the total investigative effort that is expended on servicing such complaints, in lieu of a more balanced program.

<u>Fiscal year</u>	<u>Number of establishments contacted</u>			<u>Number of establishments found in violation of ADEA a/</u>		
	<u>Total</u>	<u>Com-plaint</u>	<u>Non-com-plaint</u>	<u>Total</u>	<u>Com-plaint</u>	<u>Non-com-plaint</u>
1969	25,291	662	24,629 b/	497	201	296 b/
1970	10,956	1,164	9,792 b/	2,216	501	1,715 b/
1971	6,846	1,478	5,368 b/	2,522	555	1,967 b/
1972	6,067	1,513	4,554 b/	2,185	585	1,600 b/
1973	6,856	2,819	4,037	2,933	996	1,937
1974	7,535	4,052	3,483	2,957	1,274	1,683
1975	6,555	5,158	1,397	2,093	1,532	561
1976	7,877	6,630	1,247	2,605	2,056	549

a/ Represents a duplicated count of establishments with monetary and nonmonetary violations.

b/ ADEA directed investigations (investigations scheduled because there was some reason, other than a complaint or notice of intent to sue, to believe that the firm was not in compliance with the ADEA) and other compliance programs of the Wage and Hour Division, Employment Standards Administration.

Impact of 1976 Activities

There was a 20 percent increase in the number of establishments contacted between fiscal years 1975 and 1976, from 6,555 to 7,877. This strengthening of the ADEA enforcement effort is attributed to substantially improved investigation techniques over the years and maturing case law.

In fiscal year 1976, there were a total of 8,318 compliance actions in 7,877 establishments contacted under the ADEA, a substantial increase over the previous year. 1/ These actions included conciliations, limited investigations, full investigations, and multi-branch actions. 2/ Since more than one compliance action may occur within an establishment, the total number of compliance actions exceeds the total number of establishments contacted. Violations of one or more of the provisions of the ADEA were found in 33 percent of the establishments contacted in fiscal year 1976 (Table 3).

1/ In the transition quarter (June 21, 1976-September 20, 1976), there were an additional 1,829 compliance actions in 1,800 establishments contacted under the ADEA.

2/ Conciliation includes the resolution of specific problems through informal conference and persuasion. It is the means by which relatively fast service can be given to individual complaints, a critical consideration in those instances where out-of-work applicants or soon-to-be or recently terminated employees are concerned. Prompt resolution can be obtained in some cases. Limited investigations are regular fact-finding investigations but are limited to specific practices being investigated. Full investigations are full fact-finding investigations of an entire establishment, while multi-branch actions cover part or all of a multi-branch enterprise.

Nearly one-third of the compliance actions during the year were handled by conciliation. In addition to individual complaints, conciliation is also attempted, as provided by the statute, upon receipt of a notice of intent to sue. Full and limited investigations accounted for most of the remaining actions. The largest percentage increase by category (while still small numerically) was an 80 percent increase in multi-branch actions.

<u>Type of compliance action</u>	<u>Establishments contacted</u>			
	<u>Fiscal year 1975</u>		<u>Fiscal year 1976</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Total	<u>6,555</u>	<u>100</u>	<u>7,877</u>	<u>100</u>
Conciliation	1,961	30	2,490	32
Limited investigation	1,694	26	1,926	24
Full investigation	2,661	41	3,169	40
Multi-branch	98	1	178	2
After statistical closing	141	2	114	1

Over four-fifths of the 7,877 establishments contacted during fiscal year 1976 were classified as complaint actions and over three-tenths of these complaint actions disclosed noncompliance with the anti-discrimination provisions of the ADEA.

<u>Type of compliance action</u>	<u>Establishments contacted under ADEA</u>		<u>Establishments found in violation of ADEA a/</u>			
	<u>Number</u>	<u>Percent</u>	<u>Nonmonetary violations</u>		<u>Monetary violations</u>	
			<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Total	<u>7,877</u>	<u>100</u>	<u>1,894</u>	<u>24</u>	<u>711</u>	<u>9</u>
Complaint	6,630	100	1,363	21	693	10
Noncomplaint	1,247	100	531	43	18	1

a/ The total duplicated count of establishments found in violation was 2,605 (the combination of nonmonetary and monetary figures cited). Monetary violations include amounts found due to identified older workers or job applicants discriminated against. Duplication occurs because both monetary and nonmonetary violations are found in many of the violation cases.

Over two-fifths of the 1,247 establishments contacted under noncomplaint compliance procedures disclosed noncompliance with the provisions of the ADEA. Since most of the noncomplaint actions involved illegal advertising, the findings were largely nonmonetary. Noncomplaint compliance activities include directed investigations which are scheduled because there is some reason, other than a complaint or notice of intent to sue, to believe that the firm was not, or is not, in compliance with provisions of the Age Discrimination in Employment Act and ADEA investigations which are conducted concurrently with compliance activities under the Fair Labor Standards Act or other employment standards programs.

As in past years, illegal job advertising has been the most frequently encountered violative practice, that is, job advertisements stating preferences for younger workers, or stating a preference based on age, in cases where none of the Act's exceptions applied (Table 4). ^{1/} Of the 903 illegal advertising violations disclosed in fiscal year 1976, 70 involved employment agencies, and 833 involved private or public employers. The decline in the number of such violations in the last two fiscal years can be attributed to increased awareness of the ADEA on the part of employers, employment agencies, and labor organizations, largely as a result of the informational and educational efforts of the Department.

The next most common types of nonmonetary violations found were refusals to hire qualified older job applicants within the protected age group (552 violations) and illegal discharge of workers (500 violations). Disclosure of illegal discharges increased by 41 percent over the prior year.

^{1/} This discriminatory practice continued as the most frequently encountered practice into the transition quarter: there were 161 cases of illegal advertising found between June 21, 1976, and September 20, 1976; 98 instances of illegal discharge of workers; 92 instances of refusals to hire or refer qualified older workers in the 40-65 age group covered by the ADEA; and 46 instances of other illegal practices involving terms of employment.

Compliance activity with respect to State and local governments disclosed a greater number of violations during fiscal year 1976 in each type of illegal practice than in 1975 (coverage under the ADEA was extended to State and local governments effective May 1, 1974). Refusal to hire applicants in the protected age group by State and local governments rose from 37 to 94 instances; illegal advertising from 25 to 54; illegal discharges from 7 to 21; and other illegal employment practices rose from 16 to 47 instances. Federal employment was also covered for the first time by the 1974 amendments to the Act, but enforcement responsibility for the Federal sector rests with the U.S. Civil Service Commission.

Of the 1,894 establishments with nonmonetary violations, over two-thirds were disclosed in three major industry divisions--manufacturing, retail trade, and services (Table 5). The remaining third were scattered among the other industry divisions, including eight percent in State and local governments and eight percent in finance, insurance, and real estate. Employment agencies, shown separately in the table but included in the total for services, accounted for four percent of all establishments found with nonmonetary violations in fiscal year 1976.

Two-thirds of the establishments with monetary violations were in the same three major industry groups--manufacturing, retail trade, and services.

The decline in the number of individuals aided under the ADEA in fiscal year 1976 (3,376 in fiscal year 1975 and 2,351 in fiscal year 1976) is attributable to the nature of the investigations--more complex cases involving greater amounts of income restored used up more investigatory hours in 1976. Individuals aided included those that were hired, rehired, promoted or had retirement or other benefits restored as a result of compliance efforts. Nearly 32,000 job opportunities were made available to older workers by the removal of discriminatory age barriers. 1/ In the 711

1/ Job opportunities created is defined as the number of job vacancies occurring annually in the establishment (or in all establishments covered by a multi-branch negotiation) in which the employer agreed to make jobs available to persons aged 40-65 as a result of the current ADEA compliance action.

establishments in which monetary violations were disclosed during fiscal year 1976, a total of \$8.6 million was found owed to 1,908 employees and job applicants; 418 establishments agreed to restore \$3.5 million to 742 employees and job applicants.

Training - Staff Specialization

All compliance officers of the Wage and Hour Division of the Employment Standards Administration received advanced training in discrimination law enforcement, in recognition of the increasing sophistication required to uncover serious monetary age discrimination violations. This training was directed toward improving the agency's ability to discover and correct some of the more subtle forms of discrimination involving promotions, demotions and other terms and conditions of employment. The training was designed to improve the ability of the compliance officer to examine the full spectrum of personnel actions, as distinguished from concentration solely on the areas of hiring and termination (which are often more reducible to statistical analysis).

A new dimension was added to the concerted effort of the Wage and Hour Division to eradicate discrimination with the creation of 27 discrimination compliance specialist positions, the majority of which were filled by the end of the year. The establishment of these positions, concomitant with the advanced training provided to all Wage and Hour compliance officers, should greatly strengthen ADEA compliance efforts. The specialists will serve as regional staff experts and consultants on discrimination matters (overall program planning and advice on technical subject matter on a day-to-day, case-by-case basis), provide region-wide technical assistance and expand the public information program, and perform investigative activity on cases of unusual scope and complexity.

The specialists may also be called upon to perform the necessary regional coordinating activity on investigations of national concerns, including extensive contacts with the Regional Solicitors' Offices on appropriate investigative activity needed to develop a court case both before and after a suit is filed, consulting with area directors and compliance officers conducting the investigations, limited involvement in the investigation or actually conducting the investigation as a team leader (in some cases, independently), or any combination of the above. This specialist

position is designed to reinforce and supplement the Wage and Hour staff activities directed toward discrimination enforcement.

Statistical Reporting Procedures

Significant changes have also been made in investigation reporting procedures in order to provide a more objective overview of the overall enforcement effort. These procedural changes are intended to provide a better indication of future benefits resulting from successful conciliations, and investigative and litigation activities. Beginning with next year's annual report, statistical information will be provided on several new areas of future benefits, such as wages and pensions, health and life insurance, and other benefits directly attributable to the enforcement activity.

Positive Compliance Programs - Conciliation Efforts

The Wage and Hour Division is continuing to assist employers, employment agencies, and unions in developing continuing compliance programs to insure full nondiscriminatory access to employment opportunities by older workers. Generally, employers agree to establish, on a continuing basis, positive nondiscriminatory employment standards, procedures and practices, coupled with positive recruitment efforts. As the case law evolves uniform standards with respect to the determination of discrimination and its causes (regardless of kind), the Division has increasingly participated in affirmative action conferences with representatives of the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs and other governmental and private agencies. Such conferences or workshops serve to promote objective personnel actions, based on merit or other nondiscriminatory factors.

Coordination With Other Agencies - Enforcement

During fiscal year 1976, the Wage and Hour Division continued to implement a coordinated policy with the U.S. Civil Service Commission for the handling of age discrimination complaints from Federal employees and job applicants. The Division has also continued to cooperate with the Commission's Bureau of Intergovernmental Personnel

Programs at the field level in order to maximize voluntary compliance with the Federal Age Discrimination in Employment Act by State and local governments.

The Wage and Hour Division and the Equal Employment Opportunity Commission continued their informal agreement during the year, in which complaints received that are not within the receiving agency's jurisdiction are referred to the other agency for action.

INFORMATION AND EDUCATION ACTIVITIES

The Employment Standards Administration has always recognized that familiarizing the public with the ADEA is a vital step in obtaining compliance with the Act. Consequently, information and education activities have retained their prominence within the organization.

The public continues to have access to a variety of technical and nontechnical publications from the National, regional, and area offices, generally available free of charge. The ADEA poster, which covered employers are required by the law to display in a conspicuous place in their establishments, is widely distributed. This official notice, which describes the Act's provisions, is supplied free to covered employers, employment agencies, and labor organizations.

The Act has gained increasing prominence in speeches given by ESA officials. These speeches have highlighted the Act's provisions and intent, noted enforcement statistics, and emphasized the common misconceptions held about older workers and the negative aspects of arbitrary age discrimination.

The ADEA has also been included as a topic in the audio-visual media. A slide show about ESA, which includes a section on the Act, has been produced to supplement speeches before trade, labor, management, civic, and other interested groups. The Act has been the theme of radio and television public service announcements distributed nationwide. In addition, a new ESA exhibit with a special panel on ADEA has been distributed for nationwide use.

REGULATIONS AND INTERPRETATIONS

During 1976, no new regulations or interpretations relating to the Age Discrimination in Employment Act were added to Title 29 of the Code of Federal Regulations.

Periodic interpretations which are made regarding the applicability of the Act to specific factual situations are distributed to legal services publishers for dissemination to the general public.

LITIGATION ACTIVITIES

Overview

Since June 12, 1968, the effective date of the Age Discrimination in Employment Act, the Department of Labor has instituted over 300 court actions. Of these actions, 239 have been concluded and the others are still pending, either in the district courts or in the courts of appeals. Twenty of the concluded cases were resolved adversely to the Department; the other 219 were resolved in the Department's favor. In calendar year 1976, some 47 suits were instituted, which represented more than a 50 percent increase over the number of suits filed in 1975. Twenty-four suits were successfully concluded by judgements in favor of the Secretary or by dismissal on stipulations of compliance. The stipulations in a number of these cases included agreement by the defendants to the full remedy sought. Three cases were concluded adversely and four others were appealed. Three hundred and twenty-seven suits were filed by individuals during the first ten months of the calendar year.

The largest case filed in 1976, both in terms of the amount of money sought to be recovered and the number of employees affected (400-500 salespersons), was against the Phillips Petroleum Company. Some of the other large cases currently pending, which were filed in prior calendar years, are the Sandia Corporation (termination of approximately 230 professional employees), the Chessie System (termination of approximately 300 employees), Pan American Airlines (termination of approximately 400 professional and executive employees), Liggett and Myers (termination of approximately 125 salespersons and administrative employees) and Goodyear Tire (failure to hire workers over age 40 because of an alleged bona fide occupational qualification).

Mandatory Retirement Before Age 65

The most significant court decision in 1976 was McMann v. United Air Lines, Inc., 542 F.2d 217 (C.A. 4, 1976), which the Department participated in as *amicus curiae* and which reversed the district court's dismissal of a suit brought by an employee who was forced to retire at age 60 under the terms of a pension plan which predated the ADEA.

According to the Fourth Circuit, the plan's mandatory retirement provision, "in order to escape condemnation as a subterfuge [to evade the purposes of the ADEA], *** must have some economic or business purpose other than arbitrary age discrimination." It must, in the words of the Court, be based on "legitimate considerations other than an employer's preference for youth."

The Court expressly disapproved the earlier decision of the Fifth Circuit Court of Appeals in Brennan v. Taft Broadcasting Co., 500 F.2d 212 (1974) (discussed in prior reports), which held that an involuntary retirement provision in a bona fide pension plan would qualify for the Section 4(f)(2) exception if it predated the ADEA (without regard to its motivation).

Two other cases involving the same issue were decided adversely to the Department, but are now pending on appeal to the Court of Appeals for the Ninth Circuit. Usery v. Hawaiian Telephone Company, No. 76-2874; Usery v. General Telephone Co. of California, No. 76-2371.

Another similar case is also pending in the Sixth Circuit (Thompson v. Chrysler Corporation, Nos. 76-1542 and 76-1543). The Department is participating in that case as amicus curiae.

State and Local Government Employees

Following the Supreme Court's decision in National League of Cities v. Usery, 96 S.Ct. 2465 (1976), holding unconstitutional the application of the minimum wage and overtime provisions of the Fair Labor Standards Act to State and local government employees engaged in traditional governmental activities, several public agencies moved to dismiss ADEA suits pending against them on the authority of the National League decision. The Department has successfully opposed these motions, arguing that the rationale of the National League decision does not apply to discrimination cases (e.g., Usery v. Board of Education of Salt Lake City, 13 FEP 717 (D. Utah 1976)).

Bona Fide Occupational Qualification

The Fifth Circuit has finally decided Usery v. Tamiami Trail Tours, Inc., 531 F.2d 224 (C.A. 5, 1976), which was the companion case to Hodgson v. Greyhound Lines, Inc., decided by the Seventh Circuit (499 F.2d 859 (C.A. 7, 1974), cert. denied sub nom. Brennan v. Greyhound Lines, Inc., 419 U.S. 1122). In both cases, the companies had refused to consider for employment as intercity bus drivers applicants between the ages of 40 and 65. The Fifth Circuit, following the result reached in Greyhound, upheld this refusal on the ground that age was a bona fide occupational qualification. Both courts stressed the case by case determination required by a bona fide occupational qualification defense and the safety considerations involved in the particular job in question. According to the Seventh Circuit, these safety considerations necessitated a relaxation of the usual burden of proof and required only that the employer "demonstrate that it ha[d] a rational basis in fact to believe that elimination of its maximum hiring age will increase the likelihood of risk of harm to its passengers."

The Fifth Circuit, although reaching the same result, applied different standards in determining whether the employer had met its burden. According to this Court, any employer claiming the bona fide occupational qualification defense must first establish that "the job qualifications which the employer invokes to justify his discrimination * * * [are] reasonably necessary to the essence of his business." The Court criticized the approach of the Seventh Circuit in Greyhound, stating that "it is *** [this] element rather *** which adjusts to the safety factors." "The greater the safety factors *** the more stringent *** the job qualifications [may be] ***." The second burden which the employer must meet requires that it establish either "a factual basis for believing that substantially all applicants over 40 years of age would be unable" to meet its job qualification (viz., the ability to drive safely without significant fatigue) or "that the passenger-endangering characteristics of over-40-year-old job applicants [viz., greater fatigue, slower reaction time and susceptibility to sudden heart attack] cannot practically be ascertained by some hiring test other than automatic exclusion on the basis of age."

It is hoped that these two decisions will be limited to the specific facts and safety considerations involved there. Significantly, in two private suits, the district courts rejected the bona fide occupational qualification defense as a justification for city ordinances imposing a maximum hiring age of 41 for security officers (Rodriguez v. Taylor, 420 F. Supp. 893 (E.D. Pa. 1975)) and a mandatory retirement age of 62 for fire department employees (Aaron v. Davis, 414 F. Supp. 453 (E.D. Ark. 1976)). In denying the exception, the court in Rodriguez emphasized that "[t]he City of Philadelphia ha[d] made no job task analysis and ha[d] undertaken no studies to determine the extent and frequency of physical and mental effort and stress required or anticipated in the performance of the duties of a [security officer]," and that the City "ha[d] made no objective analysis, and ha[d] relied upon no statistical or scientific studies to establish its contention that the 41 year maximum age requirement *** is a bona fide occupational qualification." The court also emphasized that the City required no medical examination and that, in view of individual variations in physical strength and capability, the City could provide greater safety and efficiency by applying "proper physical, medical and mental objective standards based on factors other than age" than it could provide by any standard based solely on age.

The Department's suit against McDonnell Douglas, challenging the company's action in removing a 52-year-old production test pilot from flight status solely because of age, was decided adversely (Houghton v. McDonnell Douglas Corp., 413 F. Supp. 1230 (E.D. Mo. 1976)), but is currently pending on appeal.

Procedural Problems and Employee Suits

The Department continues to file a large number of amicus briefs in the courts of appeals in an effort to seek modification of the courts' rigid construction of the procedural requirements for individual private suits. This effort is extremely important since currently approximately half of all individual suits filed are dismissed on procedural grounds. In a very significant decision, the Tenth

Circuit, in a case briefed and argued by the Department, held that the Act's requirement that an individual file a notice of intent to sue within 180 days of the alleged discrimination is not jurisdictional. Dartt v. Shell Oil Co., 539 F.2d 1256 (1976). According to the Court, the 180-day notice period is analagous to a statute of limitations and, as such, is subject to tolling or modification on equitable grounds. The equitable grounds in that case were that the individual had promptly notified the Department of her allegedly discriminatory discharge, that the Department had immediately attempted conciliation with the employer, that the Department had not advised the discharged employee of the notice requirement until after the 180-day period had run, and that the employee had immediately filed a notice once she was advised of the requirement.

In treating the 180-day notice requirement as something other than a jurisdictional requirement, the Tenth Circuit disagreed with decisions of the Sixth and Fifth Circuits, including Eklund v. Lubrizol Corp., 529 F.2d 247 (C.A. 6, 1976), decided in 1976. (The other decisions were discussed in last year's report.) In the Eklund case, the court dismissed an ADEA action where the individual had not filed a notice of intent until the 299th day, although he had first filed a notice with the Ohio Civil Rights Commission within 180 days and thus thought that he had 300 days in which to file with the Secretary as provided in Section 7(d)(2) of the Act. The Sixth Circuit held that this earlier filing did not satisfy the notice requirement since the Ohio law was, in its view, inadequate and thus did not trigger the longer notice period of Section 7(d)(2). One judge dissented, stating that Section 7(d) is not "jurisdictional" and that under the circumstances he would have held, for reasons of equity, that the individual had "substantially complied" with the Act's notice requirement.

The employer in Dartt v. Shell Oil has petitioned for certiorari and it is possible that this procedural issue may be resolved by the Supreme Court.

The law is still unsettled concerning the individual's obligation to initiate State proceedings prior to filing suit. Previously, the Third Circuit, over the Department's objection, has held that this requirement is jurisdictional. In a case decided in 1976, the First Circuit, without reaching the question of whether deferral to the State is ever required, reversed the dismissal of two private suits and held that such deferral is in any event not required where the State law does not specifically require the exhaustion of administrative remedies before initiating court action. Garces v. Sagner International, Inc., 534 F.2d 987 (C.A. 1, 1976).

CONGRESSIONAL ACTIVITY DURING 1976

A number of bills to remove the age 65 upper limit on coverage under the ADEA were introduced in the House of Representatives in 1976, most of them identical to bills introduced in 1975 that were still pending at the beginning of the 2nd session of the 94th Congress. One bill--H.R. 14879--would have amended the ADEA to eliminate the application of the Act's age limits (40 to under 65) to Federal Government employment. Another bill--H.R. 14709--would have amended the Act to remove the upper age limit and also to make it unlawful for a labor organization to deny any individual an office in such labor organization because of the individual's age.

Various other bills introduced in 1976 also addressed the problem of age discrimination in employment. H.R. 50--the "Humphrey-Hawkins" full employment bill--includes prohibitions on discrimination on the basis of age with regard to the programs, activities, and benefits it would authorize. Other bills calling attention to this area of concern include H.R. 12375, a bill to provide a program of employment services and opportunities for middle-aged and older Americans, and H.R. 12657, a bill to provide for second careers for individuals over 40 years of age.

During 1976, several hearings were held involving oversight of the administration and enforcement of the ADEA, and to consider amendments to the Act. On February 9, the Subcommittee on Equal Opportunities of the House Committee on Education and Labor held a hearing concerning legislation to remove the upper age limit and extend ADEA coverage to persons age 65 and over. The Equal Opportunities Subcommittee also held a hearing on September 14, 1976 to consider legislation to remove application of the Act's age limits (40 to under 65) to coverage of Federal employees.

The House Select Committee on Aging, which was established in 1974 to study the problems of older Americans, investigated the application and administration of ADEA enforcement activities. On February 10, 18 and 25, 1976, the Committee's Subcommittee on Retirement Income and Employment held hearings concerning the impact of the ADEA, which included testimony by officials of the Department of Labor. The full Committee subsequently held hearings on June 2, 8 and 9 which focused on the funding of Federal programs benefiting older persons in relation to employment.

The Senate Special Committee on Aging, pursuant to a resolution (S. Res. 62, July 23, 1975) authorizing it to study and investigate matters pertaining to the problems and opportunities of older people and to make recommendations to the Senate, included in its annual report on "Developments in Aging" a recommendation that legislation be enacted to remove the age-65 year limitation on the application of the ADEA (Report No. 94-998, June 1976).

Following is a listing of bills introduced in the Congress in 1976 which would amend the ADEA or otherwise address the issue of age discrimination in employment:

1. Bills to remove the age 65 upper limit on coverage under the ADEA:

H.R. 11819--Findley (R. Ill.), with 2 cosponsors
 H.R. 14518--Fish (R. N.Y.)
 H.R. 15486--Findley (R. Ill.), with 11 cosponsors
 H.R. 15493--Rosenthal (D. N.Y.), with 12 cosponsors
 H.R. 15518--Hawkins (D. Calif.), with 12 cosponsors
 H.R. 15580--Randall (D. Mo.)
 H.R. 15704--Findley (R. Ill.), with 11 cosponsors
 H.R. 15729--Rosenthal (D. N.Y.), with 3 cosponsors
 (identical bills)
 H.R. 15027--Blouin (D. Iowa)
 *H.R. 14709--Burton (D. Calif.)

2. Bills to remove the age limits--40 to under 65--on coverage under the ADEA with respect to Federal employment:

H.R. 14879--Pepper (D. Fla.)
 H.R. 15342--Randall (D. Mo.)
 (identical bills)

3. Other bills that address the issue of age discrimination in employment:

H.R. 50--Hawkins (D. Calif.)
 H.R. 12375--Abzug (D. N.Y.)
 H.R. 12657--Scheuer (D. N.Y.)

*This bill would also extend coverage to union officials.

STATE AGE DISCRIMINATION LAWS

Laws prohibiting discrimination in employment because of age are currently in effect in 43 jurisdictions (Table 6). While there was no change in this number in 1976, some changes occurred in the provisions of existing laws. Eleven States, American Samoa, the Canal Zone, the Outer Continental Shelf Lands, and Wake Island have not yet adopted age discrimination laws; and six jurisdictions have laws that apply only to public sector employment.

In mid-May 1965--before the Federal law was passed--21 States, Puerto Rico, and the Virgin Islands had age discrimination laws. ^{1/} With the addition of North Carolina and Utah in 1975, eighteen States, the District of Columbia, and Guam have been added to the roster over the past 10 years. The initial passage, amendments, and continued enforcement of the Federal law no doubt influenced this increased State activity, as did national emphasis on the elimination of job discrimination of all types. While the Federal Age Discrimination in Employment Act of 1967 established specific minimum and maximum age limits, protecting the age group between 40 and 65 years, there is a definite trend in State law to afford protection to a much more extensive segment of the work force. In 14 jurisdictions, the State law protects persons generally, irrespective of age; in 10 others, the protection starts at the earliest employment age, most commonly at 18 or 21. The remaining 19 jurisdictions with laws specify age limits over 21 (13 of these have the same 40-65 upper and lower age limits as the Federal law).

Administration of State laws also differs from that of the Federal law. In 21 jurisdictions, the age discrimination provisions are administered by an independent civil rights or human rights commission in conjunction with other nondiscrimination programs. In nine other jurisdictions, the age ban, though administered by the State labor department, is also part of a broader fair employment practices program covering other categories of discrimination such as race, creed and sex.

1/ U.S. Department of Labor, The Older American Worker, Age Discrimination in Employment, Research Materials, June 1965, p. 107. Texas has been added to this mid-May 1965 list since, in 1962, it had an age discrimination law applicable to public employment.

INVOLUNTARY RETIREMENT STUDY

Since the first report in January 1969 on the Age Discrimination in Employment Act, annual reports to the Congress have presented findings, as they have become available, regarding institutional and other arrangements that give rise to involuntary retirement (Section 5 of the Act). As noted below, three surveys are still in progress and will be covered in future ADEA annual reports.

Although much has been written on retirement, many facets still are unknown. 1/ For example, how many people are involuntarily retired in the United States between the ages of 40 and 65? Are they really "involuntarily retired" or are they "voluntary retirements?" To complicate matters further, it is often not feasible to obtain recent retiree lists from employers to study involuntary retirement because of possible legal complications, or because the recordkeeping systems of some employers do not provide for the ready retrieval of such data. 2/

1/ Three ongoing sources of information regarding older workers are: (a) an inventory of current statistical sources on the elderly prepared under the auspices of the U.S. Department of Health, Education, and Welfare, Administration on Aging; (b) a study by the U.S. Civil Rights Commission of age discrimination under Federally assisted programs and activities which is required to be transmitted to the President and the Congress by May 28, 1977, under the provisions of the "Older Americans Amendments of 1975;" and (c) the U.S. Department of Commerce, National Technical Information Service, which is a continuing central source for the public sale of Government-sponsored research, development, and engineering reports and other analyses prepared by Federal agencies, their contractors or grantees. In addition, a bibliography of aging research projects funded by various Federal Government agencies was published in June 1976 for the Interdepartmental Task Force on Research in Aging under a U.S. Department of Health, Education, and Welfare contract (HEW 105-76-3000) with Documentation Associates Information Services, Incorporated, entitled "A Comprehensive Inventory and Analysis of Federally Supported Research in Aging, 1966-1975," (a series of 10 volumes).

2/ U.S. Department of Labor, Manpower Administration, Manpower Research and Development Projects, 1974 edition, A study of private pension plan provisions giving rise to involuntary retirements, pp. 129-130.

Surveys in Progress

Two longitudinal studies were still in progress at the end of 1976: Dr. Herbert S. Parnes, Ohio State University, The Pre-Retirement Years: A longitudinal study of the labor market experience of men, and the Social Security Administration's Retirement History Study. In addition, an analysis is in process of data from the Employer Policies and Practices Survey of September 1973, conducted by the U.S. Bureau of Labor Statistics for the Employment Standards Administration.

The Parnes' Study

Dr. Parnes' fourth volume, The Pre-Retirement Years: Five Years in the Work Lives of Middle-Aged Men, on the labor market experience of men aged 45-59, was published in 1975 and encompassed an overview of the full five years (1966-1971) that the men were surveyed. Data for the earlier years were previously published in Volumes I (1966), II (1967), and III (1968 and 1969). Volume IV indicated that the original five-year survey period has been extended for five more years. The Parnes' study is expected to be completed with the publication of another volume which will cover the extended five-year period of the survey, 1971-1976, the telephone interviews of 1973 and 1975, the 1976 face-to-face interview, and the Secretary of Labor's invitational conference. 1/

1/ An Employment and Training Administration (formerly Manpower Administration) grant was awarded to Temple University to conduct the Secretary of Labor's Invitational Conference on December 17, 1976, on the National Longitudinal Surveys of Pre-Retirement Years. Scholars were invited to prepare papers based on the Parnes' data and to emphasize potential national policy and program applications.

Retirement History Study

The Social Security Administration's longitudinal Retirement History Study, conducted biennially by the Bureau of the Census from 1969 to 1977, will contain some data pertinent to involuntary retirement, based on the second round of interviews conducted in 1971.

An introductory article entitled "Retirement History Study's First Four Years: Work, Health, and Living Arrangements" was published in the December 1976 issue of the Social Security Bulletin, and is scheduled to be followed in 1977 by an article on labor force participation patterns which will cover some aspects of involuntary retirement based on the 1971 and 1973 surveys. 1/ The December 1976 article described some of the changes that have taken place over a 4-year period in the lives of the cohort of retirement-age persons being followed by the Social Security Administration's Retirement History Study. Survey data were first collected in 1969 and will be gathered every 2 years until those in the sample who were 58-63 reach ages 68-73. Changes in worklife, health, family life and living arrangements are noted for men and women separately as they age from the preretirement years (ages 58 to 63) to the more typical retirement ages (62 to 67). The December report is slated to be followed by a series of in-depth analyses examining the ways retirement affects the other changes experienced by this cohort of individuals as they begin the retirement process.

1/ Although a series of articles on the Retirement History Study will appear periodically in issues of the U.S. Department of Health, Education, and Welfare, Social Security Administration, Social Security Bulletin, only the upcoming article is expected to be relevant to involuntary retirement. For example, articles analyzing other aspects of the retirement process published in 1976 included one which appeared in the August 1976 issue entitled "Retirement Patterns in the United States: Research and Policy Interaction" and another in the December 1976 issue entitled "Work Status and Income Change, 1968-72: Retirement History Study Preview."

The August 1976 Social Security Bulletin contained an article based on a paper presented at the International Social Security Association Round Table Meeting on Implications for Social Security of Research on Aging and Retirement, The Hague, April 27-29, 1976. The article, "Retirement Patterns in the United States: Research and Policy Interaction," among other things, noted that although the social security program was intended to offer the aged a choice of leisure or work, there is now concern about high retirement rates. It pointed out some of the issues related to age at retirement and the impact of the social security program's monthly earnings test on work incentives among the elderly, drawing together relevant information from several cross-sectional studies and two longitudinal surveys. The article also indicated how research findings have led to policy recommendations and proposals for additional research. The same surveys that show retirement by age 65--if not earlier--as becoming more acceptable demonstrate that many older workers and would-be workers have health problems that limit or preclude employment. Often, social security benefits have been their main income source, and substantial numbers of men in their sixties and early seventies are identified as living on a combination of modest current earnings and social security benefits. These surveys find that of the older workers with second pension rights, some claim social security benefits early in order to enjoy leisure, while others wait until age 65, when most private pension plans require retirement.

The August 1976 article indicated that more than half of the workers surveyed in 1969 for the Retirement History Study who were reinterviewed in 1973 were still employed in 1973 when they had reached age 62-67. Men with wage and salary jobs in 1969 were much less likely than the self-employed of the same age to be working in 1973; and men and women who stopped working between 1969 and 1973 frequently reported factors associated with age or retirement as the reason for leaving the last job, citing such reasons as age, plans to draw a pension, or desire to stop working. The article also noted that for some, compulsory retirement was undoubtedly a factor underlying these reasons, particularly among those aged 64-67. Roughly one-fourth to one-third cited health as the reason for leaving the last job. This proportion was considerably less than that for the non-workers aged 58-63 who were interviewed in 1969 and cited

that reason. Of the men who were not working four years earlier, 65 percent had reported that they left their jobs because of health. Thus, health emerges as the most common reason for premature retirement, but it declines in importance among those who retire closer to the institutionalized age of 65--when full social security benefits become available and the compulsory retirement policies of private pensions often go into effect.

Main reason for leaving last job	Percentage distribution of men and nonmarried women aged 62-67 in 1973 who worked in 1969 but not in 1973, by sex and age in 1973					
	Men			Nonmarried women		
	62-63	64-65	66-67	62-63	64-65	66-67
Number in sample	650	871	865	189	251	253
Percent	<u>100.0</u>	<u>100.0</u>	<u>100.0</u>	<u>100.0</u>	<u>100.0</u>	<u>100.0</u>
Health	<u>35.6</u>	<u>26.7</u>	<u>22.0</u>	<u>32.8</u>	<u>26.7</u>	<u>24.5</u>
Factors related to age	<u>39.7</u>	<u>49.4</u>	<u>51.9</u>	<u>30.1</u>	<u>43.5</u>	<u>41.2</u>
Age	<u>9.7</u>	<u>18.7</u>	<u>23.1</u>	<u>5.8</u>	<u>12.8</u>	<u>20.2</u>
To draw pension	18.9	17.9	19.3	10.6	17.5	13.8
Wanted to stop working, to cut down or change job	11.1	12.8	9.5	13.7	13.2	7.9
Job factors	<u>10.7</u>	<u>6.2</u>	<u>8.6</u>	<u>9.0</u>	<u>8.4</u>	<u>11.9</u>
Layoff or poor business	6.5	3.7	4.6	4.8	6.0	5.5
End of seasonal or temporary job	4.2	2.5	4.0	4.2	2.4	6.4
Other	<u>8.2</u>	<u>10.1</u>	<u>8.6</u>	<u>22.8</u>	<u>11.6</u>	<u>12.6</u>
No response	<u>5.8</u>	<u>7.6</u>	<u>8.9</u>	<u>5.3</u>	<u>9.6</u>	<u>9.1</u>

Employer Policies and Practices Survey

Data from the Employer Policies and Practices Survey of September 1973, conducted by the U.S. Bureau of Labor Statistics for the Employment Standards Administration, were recently tabulated and an analysis is now in process. The survey was undertaken to obtain, among other things, information on retirement policies of firms in the private nonagricultural sector. The retirement section of the survey was designed to yield such data as number of retirements in calendar year 1972, number retired before age 65 under compulsory provisions of a retirement plan, and number retired (by age) under maximum age provisions of a formal retirement policy. Due to problems of nonreporting on the part of some establishments included in the sample, the tabular results provided less detail than anticipated.

The data available from the survey, however, appear to support the findings of other studies pertaining to retirement. That is, few workers are subject to forced or compulsory retirement before age 65. The most common compulsory retirement age in private nonagricultural establishments (excluding railroads) was 65 or over; this prevailed regardless of whether the compulsory retirement provision was contained in a retirement plan or formal policy. Likewise, it made no difference whether the plan or policy based compulsory retirement on age alone or on a combination of age and years of service.

The survey data indicate that less than six percent of the employees in private nonagricultural industries (excluding railroads) who retired in 1972 were retired before age 65 under compulsory retirement provisions of retirement plans and formal policies (32,100 out of a total of 573,800 retired employees).

<u>Basis of retirement</u>	<u>Employees retired in 1972</u>	
	<u>Number</u>	<u>Percent</u>
Total	<u>573,800</u>	<u>100</u>
Compulsorily retired at less than 65 years of age:		
Under retirement plans	21,500	4
Under formal policies	10,600	2
Compulsorily retired at 65 years of age and over <u>under formal policies</u>	<u>53,800</u>	<u>9</u>
Other basis of retirement (under retirement plans at age 65 and over, under plans or policies with no age limitations, disability retirements, and nonresponses)	487,900	85

Just over 31 million of the 63.4 million employees within the scope of the September 1973 survey were covered by a plan or policy which had some kind of compulsory retirement requirement based on an age limitation. ^{1/} Of these 31.1 million, over three-fifths (19.3 million) were in establishments which had retirement plans with compulsory retirement provisions and the remainder, about 11.8 million employees, or nearly two-fifths, were in establishments with formal compulsory retirement policies.

<u>Employer retirement policy</u>	<u>Employment</u>	
	<u>Number</u>	<u>Percent</u>
Total	<u>63,442,500</u>	<u>100</u>
Compulsory retirement provision based on an age criterion	31,086,600	49
Under a retirement plan	19,298,800	30
Under a formal policy	11,787,800	19
No compulsory retirement criterion based on age	32,355,900	51

In September 1973, virtually all employees (99 percent or 20.8 million of the 20.9 million employees) in private nonagricultural industries (except railroads) surveyed who were covered by compulsory retirement requirements based on age alone would have been required to retire at age 65 or over. Whether under compulsory retirement plans or policies based on age only restrictions, over four-fifths of the employees in each of the three employee groups surveyed would have been required to retire at exactly age 65 (Table 7).

^{1/} The number subject to compulsory retirement is overestimated because some employees were double counted, that is, they were included in the counts for both establishments with retirement plans with compulsory retirement and establishments with a formal compulsory retirement policy. The problem only occurred where an establishment had a policy and a plan for different employees in the same employee group (professional-supervisory, nonsupervisory office, and nonsupervisory nonoffice).

Similar to those covered by age alone requirements, there are few employees under compulsory retirement provisions of retirement plans and formal policies who will be required to retire before age 65 based on a combination of age and years of service; the overwhelming majority (97 percent) of employees in establishments with compulsory retirement requirements based on a combination of age and years of service will be required to retire at age 65 or over. The proportion of those who would have been required to retire at exactly age 65 was at least four-fifths of the employees in each of the three employee groups under compulsory retirement plans based on a combination of age and years of service; under formal policies, the proportion was at least seven-tenths (Table 8).

Table 1. Number and percent of persons in the civilian labor force, 16 years of age and over, by specified age group, September 1976

Age group	Number (in thousands)	Percent
Total	<u>94,975</u>	<u>100.0</u>
Under 40 years	55,212	58.1
40 and under 65 years	36,824	38.8
65 years and over	2,938	3.1

Note: Details may not add to totals because of rounding.

Source: U.S. Bureau of Labor Statistics, Employment and Earnings, October 1976.

Table 2 . Estimated distribution of the population of the United States 25 years of age and over, by specified age group, 1975 to 2000

(Numbers in thousands)

Age group	1975		1980		1990		2000	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	<u>119,579</u>	<u>100</u>	<u>130,070</u>	<u>100</u>	<u>152,233</u>	<u>100</u>	<u>165,278</u>	<u>100</u>
Under 40 years	42,529	36	50,184	39	60,314	40	55,112	33
40 and under 65 years	54,720	46	55,362	43	62,985	41	79,566	48
65 years and over	22,330	19	24,524	19	28,934	19	30,600	19

Source: U. S. Bureau of the Census, Current Population Reports, Series P-25, No. 601, "Projections of the Population of the United States: 1975 to 2050," Series I, October 1975, pp. 41, 46, 56, and 66.

Table 3 . Number of establishments investigated under the Age Discrimination in Employment Act by compliance status and type of compliance action, by region, June 21, 1975 - June 20, 1976 1/

Region	Establishments investigated under the ADEA			Establishments found not in compliance with the ADEA <u>2/</u>		
	Total	ADEA complaint	ADEA non-complaint	Total	ADEA complaint	ADEA non-complaint
All regions	<u>7,877</u>	<u>6,630</u>	<u>1,247</u>	<u>2,605</u>	<u>2,056</u>	<u>549</u>
Atlanta	1,819	1,544	275	552	411	141
Boston	739	674	65	276	263	13
Chicago	1,527	1,189	338	629	391	238
Dallas	924	786	138	426	343	83
Denver	415	326	89	70	65	5
Kansas City	436	394	42	111	106	5
New York City	597	426	171	142	103	39
Philadelphia	722	654	68	198	181	17
San Francisco	598	543	55	166	160	6
Seattle	100	94	6	35	33	2

1/ These investigations included full investigations, limited investigations, conciliations, and multi-branch investigations.

2/ Includes a duplicate count of establishments with monetary and nonmonetary violations.

Table 4 . Number of establishments in nonmonetary noncompliance with the Age Discrimination in Employment Act by type of compliance action and illegal practice, June 21, 1975 - June 20, 1976

Compliance action	Unduplicated total	Nonmonetary noncompliance practice 1/			
	number of establishments not in compliance with ADEA	Refusal to hire	Illegal advertising	Discharged	Other
Total in nonmonetary noncompliance	<u>1,894</u>	<u>552</u>	<u>903</u>	<u>500</u>	<u>201</u>
ADEA complaint	<u>1,363</u>	<u>446</u>	<u>437</u>	<u>493</u>	<u>192</u>
Conciliation	<u>730</u>	<u>193</u>	<u>293</u>	<u>245</u>	<u>95</u>
Limited investigation	361	129	75	165	53
Full investigation	256	116	67	74	40
Multi-branch	4	3	1	-	3
After statistical closing	12	5	1	9	1
ADEA noncomplaint	<u>531</u>	<u>106</u>	<u>466</u>	<u>7</u>	<u>9</u>
Conciliation	<u>340</u>	<u>3</u>	<u>352</u>	<u>-</u>	<u>1</u>
Limited investigation	104	63	56	5	3
Full investigation	79	34	55	-	4
Multi-branch	4	2	2	1	-
After statistical closing	4	4	1	1	1

1/ Includes the following nonmonetary noncompliance practices: Employment agencies--28, failure to refer; 70, illegal advertising; 2, discharge; and 4, other; Labor organizations--6, bars to referral; and 2, other; and State and local governments--94, refusal to hire; 54, illegal advertising; 21, discharge; and 47, other.

Table 5 . Percent distribution of establishments investigated under the Age Discrimination in Employment Act by major industry group and compliance status, June 21, 1975 - June 20, 1976 ^{1/}

Major industry group	Percent of establishments		
	Investigated under ADEA	Not in compliance with ADEA	Monetary violations
All establishments investigated:	7,877	1,894	711
Number			
Percent	<u>100</u>	<u>100</u>	<u>100</u>
Agriculture, forestry and fishing	1	*	-
Mining	1	1	1
Contract construction	3	2	2
Manufacturing	26	25	35
Transportation, communications and utilities	6	5	9
Wholesale trade	6	6	8
Retail trade	22	22	18
Finance, insurance and real estate	8	8	6
Services	19	21	14
Private employment agencies	2	4	1
Labor unions	*	*	*
State and local governments	6	8	6
Industries in Caribbean area	1	*	1

*Less than one-half of one percent.

^{1/} These investigations included full investigations, limited investigations, conciliations, and multi-branch investigations.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Alabama	No law.					
Alaska	Employers; labor organizations; employment agencies.	None	Nonprofit social clubs; fraternal, charitable, educational, or religious organizations, associations, or corporations; domestic service.	<u>Employer:</u> To refuse or bar from employment; to discriminate in compensation, terms, conditions or privileges of employment. <u>Employer and employment agency:</u> To advertise, publish or to use application forms which suggest age limitations. <u>Labor organization:</u> To exclude, expel or discriminate in any way. <u>All three:</u> To discharge, expel, or otherwise discriminate against a person who has opposed unlawful practices, filed a charge, testified, or assisted in any proceeding under the law. <u>Any person:</u> To print, publish, broadcast, or otherwise circulate a statement, inquiry, or advertisement directly expressing a limitation, specification, or discrimination. <u>State, employer, labor organization, and employment agency:</u> Failure to maintain confidential age records required by civil rights agencies for administrative and statistical evaluation.	Up to \$500 fine, up to 30 days in jail, or both.	Commission for Human Rights
American Samoa	No law.					
Arizona	No law.					

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties:	Enforcement agency
	Law applies to--	Age limits*				
Arkansas	No law.					
California	Employers; State and local governments; labor organizations; employment agencies.	40 to 64	Employers of fewer than 5; domestic service; family employment; non-profit social clubs, fraternal, educational or religious associations or corporations.	To refuse to hire or employ, to discharge, dismiss, reduce, suspend or demote.	Up to \$500 fine, up to 6 months in jail, or both.	Department of Industrial Relations
4 Canal Zone	No law.					
Colorado	Any person, firm, association, or corporation conducting business in the State.	18 to 60	None	To discharge.	No less than \$100 or more than \$250 fine.	None

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*				
Connecticut	Employers; State and political subdivisions; employment agencies; labor organizations.	None	Employers of fewer than 3; domestic service; family employment.	Employer: To refuse, bar, or discharge from employment; to discriminate in compensation, terms, conditions or privileges of employment. Labor organization: To exclude, expel or discriminate in any way. Employment agency: To fail or refuse to classify properly or refer or otherwise discriminate. All three: To advertise in such a manner that restricts employment so as to discriminate; discriminate for opposing unfair practices, filing a complaint or testifying or assisting in proceedings. Person: To aid, abet, incite, compel, or coerce the doing or attempting to do an unlawful act under the law.	Contempt of court citations.	Commission on Human Rights and Opportunities.
Delaware	Employers; State and political subdivisions; employment agencies; labor organizations; joint labor-management committees.	40 to 65	Employers of fewer than 4; domestic service; agriculture; family employment; any employee residing in the personal residence of the employer.	Employer: To refuse, bar or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment. Employment agency: To fail or refuse to refer for employment or otherwise discriminate. Labor organization: To exclude, expel or discriminate in any way. Employer, labor organization, joint labor-management committee: To discriminate in apprenticeship, or other training and retraining, including on-the-job training programs.	Contempt of court citations.	Department of Labor

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage : Age : limits*	Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
District of Columbia	Employers; employment agencies; labor organizations; government agency.	18 to 65	Domestic service; family employment; working in or about employer's household; religious or political organizations or any organizations operated for charitable or educational purposes; professional associations.	<p><u>Employer:</u> To fail or refuse to hire; to discharge or otherwise discriminate in compensation, terms, conditions, or privileges of employment, including promotion; to limit, segregate, or classify; to deprive of opportunities or otherwise adversely affect employment status. <u>Employment agency:</u> To fail or refuse to refer for employment, or to classify or refer for employment, or otherwise discriminate. <u>Labor organization:</u> To exclude, expel, or otherwise discriminate; to limit, segregate, classify, fail or refuse to refer for employment. <u>All three:</u> To discriminate for complaints or assistance in complaints; to print or publish notices or advertisement indicating age preference; to discriminate in admission to or employment in apprenticeship or other training or retraining programs. <u>Person:</u> To aid, abet, incite, compel or coerce for doing or attempting to do an unlawful act under the law; to retaliate.</p>	Up to \$300 fine, up to 10 days in jail, or both.	Office of Human Rights and Commission on Human Rights

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See footnotes at end of table.

Table 6. Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
		Age limits*					
Florida	State, county, municipality, special district or any subdivision thereof; employment agencies servicing covered employers, including also State and local employment services receiving Federal assistance; labor organizations.	None	Law enforcement agency; firefighting agency.		Employer: To fail or refuse to hire, to discharge or mandatorily retire, or otherwise discriminate in compensation, terms, conditions or privileges of employment; to limit, segregate, or classify; to deprive of opportunities or otherwise adversely affect employment status; to reduce wage rate, terms or conditions, without employee consent, in order to comply with act. <u>Employment agency:</u> To fail or refuse to refer for employment or otherwise discriminate; to classify or refer for employment on age basis. <u>Labor organization:</u> To exclude or expel from membership, or otherwise discriminate; to limit, segregate or classify its membership; to fail or refuse to refer for employment; to deprive of opportunities or otherwise adversely affect status as employee or applicant; to cause employer to discriminate. <u>All three:</u> To discriminate against a person who has made a charge, testified, or assisted in any proceeding; to print or publish notice or advertisement indicating age preference.	None	Career Service Commission for career service system employees, and civil suit for others. Department of Commerce, on posting duty only

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Georgia	Persons, firms, associations, or corporations.	40 to 65	None	<u>Employer:</u> To refuse to hire, employ, license, or bar or discharge from employment.	Not less than \$100 or more than \$250 fine.	None
Guam	Employers; employment agencies; labor organizations.	None	None	<u>Employer:</u> To refuse to hire; to bar or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment. <u>Employer and employment agency:</u> To advertise, print, circulate material or use application forms which suggest limitations, specifications or discrimination. <u>Labor organization:</u> To exclude, expel, or otherwise discriminate. <u>All three:</u> To discriminate because of complaint or assistance in complaints. <u>Person:</u> To aid in or cause forbidden discrimination practices.	Not more than \$200 fine for first offense, not more than \$500 fine for second and subsequent offenses, or up to 90 days in jail, or both.	Department of Labor

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*				
Hawaii	Employers; employment agencies; labor organizations.	None	None	<p><u>Employer:</u> To refuse, bar, or discharge from employment; to discriminate in compensation, terms, conditions or privileges of employment.</p> <p><u>Employer and employment agency:</u> To print or circulate any statement, advertisement, or publication, or use any job application or make preemployment inquiry expressing limitations, specifications or discrimination.</p> <p><u>Employer or labor organization:</u> To refuse to enter into an apprenticeship agreement.</p> <p><u>Labor organization:</u> To exclude, expel or discriminate in any way.</p> <p><u>All three:</u> To discharge, expel, or otherwise discriminate for opposition to any practice forbidden by this act, for filing a complaint, testifying or assisting in proceedings.</p> <p><u>Person:</u> To aid, abet, incite, compel or coerce the doing or attempting to do any practices forbidden by this act.</p>	First conviction, up to \$200 fine, subsequent convictions, up to \$500 fine, up to 90 days in jail, or both.	Department of Labor and Industrial Relations

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage		Prohibited practices	Penalties	Enforcement agency
		Age limits*	Exclusions and exemptions **			
Idaho	Employers.	Under 60	None	To refuse to hire, bar, or discharge or to otherwise discriminate in compensation, hire, tenure, terms, conditions or privileges of employment.	Not less than \$100 or more than \$500 fine, up to 30 days in jail, or both.	Commissioner of Labor
Illinois	Employers; governmental units in State; labor organizations.	Over 45	None	Employer: To refuse, bar, or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment; to utilize any employment agency, placement service, training school or center, labor organization or any other source of unreasonable discrimination. Labor organization: To limit, segregate or classify; to in any way affect adversely wages, hours, or conditions of employment. Employer and labor organization: To discharge, expel or otherwise discriminate for opposing unlawful employment practices; or filing a charge, testifying, participation or assistance in proceedings under the law.	Not less than \$50 or more than \$100 fine.	None

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Indiana	Employers; labor organizations; State and political subdivisions.	40 to 65	Nonprofit social, fraternal, charitable, educational, religious or sectarian organizations, associations or corporations; domestic service; farm labor.	Employer: To dismiss, refuse to employ or rehire, to discharge for furnishing evidence in connection with a complaint. Labor organization: To deny full and equal membership rights; to fail or refuse to classify or refer for employment.	None	Commissioner of Labor
Iowa	Employers; employment agencies; labor organizations; State and political subdivisions.	None	Employers of fewer than 4; family employment; domestic service; employees rendering personal service to employer; religious institutions.	Employer: To refuse to hire, accept, register, classify, or refer; to discharge or otherwise discriminate. Labor organization: To refuse to hire or admit for membership, to expel or otherwise discriminate. Employer, employment agency and labor organization: To advertise or in any other manner indicate or publicize not welcome, objectionable, not acceptable, or not solicited for employment or membership. Person: To aid, abet, compel, or coerce to engage in unfair practices; to discriminate for opposing or obeying practices, or filing a complaint, testifying or assisting in proceedings under the law.	Contempt of court citations.	Civil Rights Commission
Kansas	No law.					

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Kentucky	Employers; employment agencies; labor organizations; licensing agency (public and private); joint labor-management committees; State and political subdivisions.	40 to 65	Employers of fewer than 8; domestic service; family employment.	<p><u>Employer:</u> To fail or refuse to hire or discharge or otherwise discriminate in compensation, terms, conditions, or privileges of employment; to limit, segregate, or classify; to deprive of employment opportunities or otherwise adversely affect employment status. <u>Employment agency:</u> To fail or refuse to refer to employment or otherwise discriminate; to classify or refer on the basis of age; to refuse, bar, or terminate licensing to individuals. <u>Labor organization:</u> To exclude or expel or otherwise discriminate; to limit, segregate, or classify or refuse to refer so as to deprive of employment opportunities or otherwise affect status; to cause or attempt to cause an employer to discriminate. <u>Employer, labor organization, licensing agency or employment agency:</u> To print or publish notice or advertisement indicating preference, limitations, specifications or discrimination of any kind. <u>Licensing agency:</u> To refuse to license, or to bar or terminate from licensing. <u>Employer, labor organization, joint labor-management committee:</u> To discriminate in admission or employment in apprenticeship or</p>	Contempt of court citations.	Commission on Human Rights

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See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Kentucky (continued)				other training programs. <u>Person:</u> To retaliate for opposition to unlawful practice or for making a charge, filing a complaint, testifying, assisting or participating in any investigation under the law; to aid, abet, incite, compel or coerce to engage in an unlawful practice; to resist or interfere with the Commission on Human Rights or its representatives in performance of its duty under the act.		
22 Louisiana	Employers	Under 50	Employers of fewer than 25; bus drivers. 1/	To adopt rules for discharge or rejection of applications for employment.	Up to \$500 fine, up to 90 days in jail, or both.	None

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Maine	Employers; employment agencies; labor organizations; State agencies.	None	Nonprofit religious or fraternal corporations or associations employing own members; family employment.	Employer and labor organization: To fail or refuse to hire, to discharge or otherwise discriminate in hiring, tenure, promotion, transfer, compensation, terms, conditions, or privileges; to use employment agency which discriminates. <u>Employment agency</u> : To fail or refuse to classify properly, or to refer, or otherwise discriminate; to comply with an employer's request, if request indicates no full and equal employment opportunities will be afforded. <u>Labor organization</u> : To exclude from apprenticeship or membership or to deny full and equal membership rights; to discriminate in representation, or in grievance whether or not authorized by contract, collective agreement or, by-laws or constitution; to fail or refuse to classify or refer for employment. <u>All three</u> : To discriminate because of opposition to any violation of the act; or to make a charge, give testimony or assistance in proceedings under the act. <u>Person</u> : To aid, abet, coerce, incite, compel to perform unlawful acts under the law; obstruct or prevent from complying with act; punish, penalize for seeking to exercise civil rights.	Damages, not more than \$100 for first unlawful act; not more than \$250 for second; not more than \$1,000 for third and subsequent violations.	Human Rights Commission

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See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Maryland	Employers; employment agencies; labor organizations; joint labor-management committees; State.	None	Employers of fewer than 15; private clubs; religious corporations.	<p><u>Employer:</u> To fail or refuse to hire, to discharge or otherwise discriminate in compensation, terms, conditions, or privileges of employment; to limit, segregate, or classify employees to deprive of employment opportunities or otherwise adversely affect status.</p> <p><u>Employment agency:</u> To refuse or fail to refer or to classify or refer for employment. <u>Labor organization:</u> To exclude, expel or otherwise discriminate; to limit, segregate or classify; to cause employer to discriminate.</p> <p><u>Employer, employment agency, labor organization:</u> to discriminate for opposition to unlawful practices, filed charges, testimony, or assistance in any proceeding under the law; to print or publish any notice or advertisement indicating preference, limitation, specification or other discrimination. <u>Employer, labor organization, joint labor-management committee:</u> To discriminate in admission to or employment in any training program.</p>	Contempt of court citations.	Commission on Human Relations

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See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Massachusetts	Employers; State and political subdivisions; employment agencies; labor organizations.	40 to 65	Employers of fewer than 6; nonprofit social, religious, fraternal clubs, organizations, associations, or corporations; domestic service; family employment.	<p>Employer: To refuse, bar, or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment.</p> <p>Employer and employment agency: To print or circulate any statement, advertisement, or publication or to use an application form or to make any inquiry or record expressing limitations, specifications, or discrimination.</p> <p>Labor organization: To exclude, expel or discriminate in any way.</p> <p>Person, employer, labor organization, employment agency: To discharge, expel or otherwise discriminate for opposition to any practice forbidden by law, or for filing a complaint, testifying or assisting in any proceeding; to aid, abet, incite, compel or coerce a person to do or attempt an act forbidden by this law.</p>	Up to \$500 fine, up to one year in jail, or both.	Commission Against Discrimination

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Michigan	Employers; State and civil or political subdivisions; employment agencies; labor organizations.	18 to 60	Employers of fewer than 8; domestic service.	<u>Employer:</u> To refuse or to otherwise discriminate in hiring, tenure, terms, conditions, or privileges of employment. <u>Employment agency:</u> To fail or refuse to properly classify, refer or otherwise discriminate. <u>Labor organization:</u> To discriminate, limit, segregate, or qualify in any way; to adversely affect employment status, wages, hours, or conditions of work. <u>All three:</u> To, prior to employment or admission to membership, print or publish any notice or advertisement indicating preference, limitation, specification, or discrimination; to establish or announce a policy of denying or limiting opportunities, through a quota system or otherwise; to utilize in recruitment or hiring an agency, service, school or any other labor-referring source known to discriminate.	Contempt of court citations; not less than \$100 or more than \$500 fine for failure to post required notices.	Civil Rights Commission
Minnesota	No law.					

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Mississippi	No law.					
Missouri	No law.					
Montana	Employers; labor organizations; joint labor-management committees; employment agencies; State and political subdivisions.	None	Nonprofit fraternal, charitable or religious associations or corporations.	<p><u>Employer:</u> To refuse employment; to discriminate in compensation or in terms, conditions or privileges of employment. <u>Labor organization or joint labor-management committee:</u> To exclude or expel from its membership, apprenticeship, or training program; or to discriminate in any way against a member or applicant.</p> <p><u>Employment agency:</u> To fail or refuse to classify or otherwise discriminate. <u>Employer or employment agency:</u> To print, circulate a discriminatory statement, advertisement, publication, or job application.</p> <p><u>Person:</u> To discharge, expel, blacklist, or otherwise discriminate for opposing any forbidden practice, or for filing a complaint, testifying or assisting in any proceeding under the law. <u>State, employer, labor organization, employment agency:</u> To fail to maintain records required by civil rights agencies for administrative and statistical evaluation.</p>	Up to \$500 fine, or up to 6 months in jail, or both.	Commission for Human Rights

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See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Nebraska	Employers; labor organizations.	40 to 65	Employers of fewer than 25; peace officers; firefighters.	Employer: To refuse to hire, discharge or otherwise discriminate in terms, conditions, or privileges of employment; to utilize any labor organization or employment agency which discriminates. Labor organization: To discriminate or to limit, segregate or classify membership. Employer and labor organization: To discharge, expel, or discriminate for opposing, filing charges, testifying or assisting in proceedings.	Up to \$100 fine, up to 30 days in jail, or both, for second or subsequent convictions.	Equal Opportunity Commission
Nevada	Employers; employment agencies; labor organizations; joint labor-management committees; State and political subdivisions.	None	Employers of fewer than 15; private membership clubs; religious corporations, associations, or societies.	Employer: To refuse to hire, to discharge or to otherwise discriminate in compensation, terms, conditions or privileges of employment; to limit, segregate or classify employees; to deprive of employment opportunities or otherwise adversely affect status. Employment agency: To refer or to classify on basis of age or otherwise discriminate. Labor organization: To exclude, expel or otherwise discriminate; to limit, segregate, classify or refuse to refer; to cause employer to discriminate. All three: To discriminate because of complaints or assistance in complaints; to advertise indicating preference, limitation, specification, or discrimination. Employer, labor organization, or joint labor-management committee: To discriminate in admission, or employment in any apprenticeship or other training program.	Contempt of court citations.	Equal Rights Commission

*See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*				
New Hampshire	Employers; State and political subdivisions; employment agencies.	Less than 65	Employers of fewer than 6; family employment; domestic service; and nonprofit social, fraternal, charitable, educational, or religious associations or corporations.	Employer: To refuse, bar, discharge or otherwise discriminate in compensation, terms, conditions or privileges of employment. Employer and employment agency: To print and circulate any material, to use application forms, or to make inquiries or records with limitation, specification or discrimination. Person: To discriminate against persons who oppose forbidden practices, file a complaint, testify or assist in any proceeding under the law; to aid, abet, incite, compel or coerce a person to do or attempt an act forbidden by this law.	Up to \$500 fine, up to 6 months in jail, or both.	Commission for Human Rights
New Jersey	Employers; employment agencies; labor organizations.	Over 21	Nonprofit social clubs, fraternal, charitable, educational, or religious organizations, associations, or corporations; domestic service; family employment.	Employer: To refuse, bar, or discharge from employment or to discriminate in compensation, terms, conditions, or privileges of employment. Employer and employment agency: To advertise, print or circulate any material, or use application forms which suggest age limitations. Labor organization: To exclude, expel or discriminate in any way; to discriminate against persons in apprenticeship or other training programs. Person: To take reprisals for opposition to any practices or acts forbidden under the law or because of testimony, complaint, or assistance in any proceedings under the law; to aid, abet, incite, compel, or coerce discrimination.	Up to \$500 fine, up to one year in jail, or both.	Division on Civil Rights

See footnotes at end of table..

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
New Mexico	Employers; State and political subdivisions.	None	Employers of fewer than 4.	<u>Employer:</u> To refuse to hire or to promote, to discharge or demote, or to discriminate in matters of compensation. <u>Person and employer:</u> To aid, abet, incite, compel or coerce the doing of any act forbidden by the law; to engage in threats, reprisals, or discrimination for opposition to unlawful practices, for filing a complaint, testifying or participating in any proceeding under the law.	Damages up to \$1,000.	Human Rights Commission
New York	Employers; employment agencies; labor organizations; licensing agencies.	18 to 65	Employers of fewer than 4; domestic service; family employment.	<u>Employer:</u> To refuse, bar, or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment. <u>Employment agency:</u> To discriminate in receiving, classifying, disposing or otherwise acting upon applications for service, or in referring applicants to employers. <u>Employer, employment agency and licensing agency:</u> To advertise, publish or use application forms which suggest age limitations. <u>Labor organization:</u> To exclude, expel or discriminate in any way. <u>Licensing agency, employer:</u> To refuse to hire, employ or license and to discriminate in promotion, compensation or terms, conditions, or privileges of employment. <u>Employer, employment agency, licensing agency:</u> To encourage or compel the accomplishment of any forbidden action under the law, or because individual has opposed, complained, testified or assisted in any proceeding.	Up to \$500 fine, up to one year in jail, or both.	Division of Human Rights

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
		Age limits*					
North Carolina	State, and political subdivisions.	40 to 65	None		Department or agency: To deny equal employment opportunity.	None	None
North Dakota <u>2/</u>	Employers.	40 to 65	None		To refuse to hire, employ, or license; to bar or discharge.	Up to \$25 fine, up to one day in jail, or both.	None
Ohio <u>3/</u>	Employers; State and political subdivisions.	None	Employers with gross annual sales of less than \$95,000; baby-sitters, live-in companions. Certain employees of political subdivisions: Police, fire protection agencies, or students in part-time or seasonal work.		Employer: To discriminate in payment of wages or against persons complaining, instituting or testifying in proceedings.	Minor misdemeanor.	Department of Industrial Relations
Oklahoma <u>4/</u>	State.	40 to 65	None		To discriminate.	None	None

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage		Prohibited practices	Penalties	Enforcement agency
		Age limits*	Exclusions and exemptions **			
Oregon	Employers; State and political subdivisions; employment agencies; labor organizations.	18 to 65	Domestic service; family employment; nonprofit religious institutions; correctional institutions; State and city police, sheriffs; employees of Liquor Control Commission and State Agriculture Department; firefighters; weighmasters of the State Department of Transportation.	<u>Employer</u> : To refuse, bar, discharge, dismiss, reduce, suspend, or demote. <u>Employer and employment agency</u> : To advertise, publish, use application forms, or make inquiry about prospective employment which suggest limitations, specifications or discrimination. <u>Employer, employment agency, labor organization</u> : To discharge, expel or discriminate against persons who oppose forbidden practice, complain, testify, or assist in any proceeding under the law; to encourage or compel any forbidden action. <u>Public employer</u> : To disqualify or discriminate in any civil service entrance, appointment, or promotion; to refuse to hire or reemploy; or to bar, discharge, reduce, suspend, or demote.	Up to \$500 fine, up to one year in jail, or both.	Bureau of Labor (except for public employment)
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Outer Continental Shelf Lands	No law.					

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Pennsylvania	Employers; State and political subdivisions; employment agencies; labor organizations.	40 to 62	Employers of fewer than 4; domestic service; family employment; agriculture; live-in workers.	<u>Employer:</u> To refuse, bar, discharge from employment or to otherwise discriminate in compensation, hire, tenure, terms, conditions, or privileges of employment. <u>Employment agency:</u> To fail or refuse to classify properly, refer, or to otherwise discriminate. <u>Employer, employment agency, and labor organization:</u> To advertise, publish or use application forms that suggest limitations, specifications or discrimination. <u>Labor organization:</u> To exclude, expel or discriminate in any way. <u>All three:</u> To discriminate against any person who has opposed forbidden practice or has made a charge, testified or assisted in any investigation or proceeding under the law; to aid, abet, incite, compel or coerce the doing of an unlawful act under the law; to deny or limit employment or membership through a quota system; to confine or limit recruitment or hiring to an employee-referring source serving persons in predominantly the same age group. <u>Any individual:</u> To publish any advertisement expressing preferences or limitations for a prospective employer.	Not less than \$100 nor more than \$500 fine, not more than 30 days in jail, or both.	Human Relations Commission

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See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Law applies to--	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
		Age limits*					
Puerto Rico	Employers; agencies and instrumentalities of the Commonwealth operated as private businesses or enterprises; employment agencies; labor organizations.	30 to 65	None		<u>Employer:</u> To discharge, suspend, demote, reduce the salary, impose more burdensome working conditions, or refuse to employ or reemploy, to advertise, publish, or use application forms which suggest age limitations. <u>Employment agency:</u> To make inquiries, establish limitations or exclusions; to publish or circulate statement, advertisement or notice expressing limitations or exclusions. <u>Labor organization:</u> To limit, divide, or classify membership.	Various civil and criminal penalties including double damages, up to \$1,000 fine, up to 90 days in jail, or both.	Department of Labor
66 Rhode Island	Employers; State and political subdivisions; employment agencies; labor organizations.	45 to 65	Nonprofit social clubs; fraternal, charitable, educational or religious organizations, associations, or corporations; domestic service; farm labor.		<u>Employer:</u> To dismiss or refuse to employ or rehire; to discharge for furnishing evidence on a complaint. <u>Employment agency:</u> To fail or refuse to classify or refer. <u>Employer and employment agency:</u> To advertise, publish, or use application forms, to make inquiry which expresses intent to dismiss, or refuse to employ or rehire. <u>Labor organization:</u> To deny full and equal membership, or fail or refuse to classify or refer for employment.	None	Department of Labor

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage		Exclusions and exemptions **	Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*				
South Carolina	State and political subdivisions.	None	None	Department or agency: To fail or refuse to hire, bar, discharge; to advertise, publish or use application forms suggesting age limitations. Person: To aid, abet, incite, compel or coerce the doing of a forbidden act; to retaliate, discharge, expel or discriminate because person has opposed, filed a complaint, testified or assisted in any investigation, proceeding, or hearing.	None	Human Affairs Commission
South Dakota	State.	18 to 65	None	To discriminate.	None	None
Tennessee	No law.					
Texas	State and political subdivisions.	21 to 65	Law enforcement personnel; peace officers; firefighters; institutions of higher education.	To deny employment.	None	None

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Utah	Employers; employment agencies; labor organizations; joint apprenticeship committees; vocational schools.	40 to 65	Family employment.	<u>Employer</u> : To refuse to hire or promote, discharge or demote, or discriminate in compensation. <u>Employment agency</u> : To refuse to list, classify, or refer; to comply with an employer's discriminatory request. <u>Labor organization</u> : To exclude, or expel from membership or otherwise discriminate. <u>Employer, labor organization, joint apprenticeship committee and vocational school</u> : To deny or withhold admission or participation in training programs; discriminate in terms, conditions, or privileges. All five: To print, circulate, advertise, publish or to use application forms expressing discrimination. <u>Person</u> : To aid, abet, incite, compel or coerce the doing of a forbidden act; to obstruct or prevent compliance; or to commit a discriminatory act.	None	Industrial Commission
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Vermont	No law.					
Virginia	No law.					

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Virgin Islands	Employers; employment agencies.	None	None	<u>Employer</u> : To refuse to hire; to bar or discharge from employment; to discriminate in compensation, terms, conditions, or privileges of employment. <u>Employer and employment agency</u> : To advertise, publish, or use application forms which suggest age limitations.	Up to \$200 fine for first offense; up to \$500 for second and subsequent offenses.	Department of Labor
Wake Island	No law.					
Washington 69	Employers; State and political subdivisions; employment agencies; labor organizations; licensing agencies.	40 to 65	Employers of fewer than 8; nonprofit religious or sectarian organizations; domestic service; family employment.	<u>Employer and licensing agency</u> : To refuse, discharge, or bar from employment or licensing; to discriminate in compensation or other terms, or conditions of employment. <u>Employer, licensing agency and employment agency</u> : To advertise, publish or use application forms, make inquiry suggesting limitations, specifications or discrimination. <u>Labor organization</u> : To deny membership or full membership rights, expel or discriminate in any way. <u>All three</u> : To expel or otherwise discriminate against a person because he has opposed a forbidden practice or because he has filed a charge, testified or assisted in any proceeding under the law.	Misdemeanor.	Human Rights Commission

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Continued)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
West Virginia	Employers; State and political subdivisions; employment agencies; labor organizations; joint labor-management committees.	40 to 65	Employers of fewer than 12; private clubs; family employment; domestic service.	<p><u>Employer:</u> To discriminate with respect to compensation, hire, tenure, terms, conditions, or privileges of employment.</p> <p><u>Employment agency:</u> To fail or refuse to classify properly, refer for employment or otherwise discriminate.</p> <p><u>Labor organization:</u> To deny full and equal membership rights or otherwise discriminate in hiring, tenure, terms, conditions or privileges of employment.</p> <p><u>All three:</u> To elicit information, keep records, use forms, print or publish advertisements showing preference, limitation, specification or discrimination; to deny or limit employment or membership through a quota system; to engage in reprisal or otherwise discriminate against individual who has opposed a forbidden practice, filed a complaint, testified or assisted in any proceeding under the law.</p> <p><u>Employer, labor organization, employment agency or joint labor-management committee:</u> To select trainees on any basis other than qualifications; to discriminate in right to be admitted to and to participate in the pursuit of such training, in terms, conditions or privileges of such program; to print or publish any statement, advertisement or publication which expresses discrimination or any intent to discriminate.</p>	Not less than \$100 or more than \$500 fine, up to 30 days in prison, or both.	Human Rights Commission

See footnotes at end of table.

Table 6 . Summary of provisions under State laws pertaining to discrimination in employment because of age, December 1, 1976
(Concluded)

State	Coverage			Prohibited practices	Penalties	Enforcement agency
	Law applies to--	Age limits*	Exclusions and exemptions **			
Wisconsin	Employers; licensing agencies; employment agencies; labor organizations.	40 to 65	Nonprofit social clubs; fraternal, or religious associations; family employment; hazardous occupations; law enforcement or fire-fighting personnel.	<u>Employer, labor organization and licensing agency:</u> To refuse to hire, employ, admit, license, bar, or terminate or to discriminate in promotion, compensation, or in terms, conditions or privileges of employment. <u>Employer, employment agency and licensing agency:</u> to advertise, publish or use application forms which suggest age limitations or to discharge or otherwise discriminate against person who has opposed discriminatory practices or because he has made a complaint, testified or assisted in any proceeding under the law.	None	Department of Industry, Labor, and Human Relations
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Wyoming	No law.					

*Age limits refer to birthdays.

**In addition to the listed exclusions and exemptions, many laws are also inapplicable to other specified persons or circumstances, such as, the establishment of bona fide occupational qualifications, the operation of a bona fide retirement or pension plan, persons immediately eligible for retirement benefits, apprenticeship programs, and other situations.

1/ Louisiana: An attorney general's opinion declared that bus drivers are engaged in hazardous work, therefore exempt.

2/ North Dakota: Under the personnel system law, age discrimination is prohibited in all appointments and promotions in the State classified service.

3/ Ohio: In 1975, Ohio added age discrimination to its equal pay law, reported in the table, which deals only with discrimination in pay. Under another law dealing with age discrimination in other employment conditions, an employer is prohibited from refusing an opportunity for an interview or from discharging persons 40 to 65; there is no enforcement agency designated under this law.

4/ Oklahoma: A resolution declares it to be the legislative intent and purpose that departments and agencies of the State government conform as nearly as practicable to the Federal "Age Discrimination in Employment Act."

Note: Data for American Samoa, Wake Island, the Canal Zone, and the Outer Continental Shelf Lands are as of February 1, 1974.

Table 7. Number and percent of employees in private nonagricultural establishments with compulsory retirement based on age only, United States, September 1973

(Numbers in thousands)								
Employee group	Number and percent of employees in establishments with compulsory retirement based on age only							
	With retirement plans 1/							
	Maximum age of retirement							
	Number		Percent		Number		Percent	
	: Under : 65	: Over 65 :			: Under : 65	: Over 65 :		
	: Total :	: 65 :	: years :	: years :	: Total :	: 65 :	: years :	: years :
Total employees	10,712	106	9,045	1,560	100	1	84	15
Professional, administrative, executive, and supervisory	2,649	23	2,282	344	100	1	86	13
Nonsupervisory office	2,341	21	2,046	274	100	1	87	12
Nonsupervisory nonoffice	5,722	63	4,717	943	100	1	82	16
With formal policies 2/								
Employee group	Maximum age of retirement							
	Number		Percent		Number		Percent	
		: Under : 65	: Over 65 :		: Under : 65	: Over 65 :		
		: Total :	: 65 :	: years :	: years :	: Total :	: 65 :	: years :
Total employees	10,148	3/	8,648	1,500	100	3/	85	15
Professional administrative, executive, and supervisory	2,258	3/	1,909	349	100	3/	85	15
Nonsupervisory office	2,079	3/	1,810	269	100	3/	87	13
Nonsupervisory nonoffice	5,812	-	4,929	883	100	-	85	15

1/ Establishment had a pension, profit sharing, and/or other plan (excluding Social Security, Railroad Retirement, and lump sum severance pay) that provided employees with retirement income.

2/ A formal compulsory retirement policy referred to a policy, separate from any provision of a retirement plan, which required retirement based on age or age and years of service.

3/ Number less than 50 and percent less than 0.5 percent.

- No data reported.

Note: Details may not add to totals because of rounding and differential reporting.

Source: Survey conducted by the Bureau of Labor Statistics for the Employment Standards Administration.

Table 8. Number and percent of employees in private nonagricultural establishments with compulsory retirement based on a combination of age and years of service, United States, September 1973

		(Numbers in thousands)							
		Number and percent of employees in establishments with compulsory retirement based on a combination of age and years of service							
		With retirement plans 1/				Maximum age of retirement			
Employee group		Number				Percent			
		: Under : 65	: Over 65 :	: Total :	: Under : 65	: Over 65	: Total :	: Under : 65	: Over 65
		: Total :	: 65	: years	: years	: Total :	: 65	: years	: years
Total employees		8,542	218	7,360	964	100	3	86	11
Professional, administrative, executive, and supervisory		1,852	44	1,683	125	100	2	91	7
Nonsupervisory office		1,848	20	1,703	125	100	1	92	7
Nonsupervisory nonoffice		4,842	154	3,974	714	100	3	82	15
		With formal policies 2/							
		Maximum age of retirement							
Employee group		Number				Percent			
		: Under : 65	: Over 65 :	: Total :	: Under : 65	: Over 65	: Total :	: Under : 65	: Over 65
		: Total :	: 65	: years	: years	: Total :	: 65	: years	: years
Total employees		1,617	109	1,295	213	100	7	80	13
Professional, administrative, executive, and supervisory		326	25	284	17	100	8	87	5
Nonsupervisory office		350	8	334	9	100	2	95	3
Nonsupervisory nonoffice		940	76	678	187	100	8	72	20

1/ Establishment had a pension, profit sharing, and/or other plan (excluding Social Security, Railroad Retirement, and lump sum severance pay) that provided employees with retirement income.

2/ A formal compulsory retirement policy referred to a policy, separate from any provision of a retirement plan, which required retirement based on age or age and years of service.

Note: Details may not add to totals because of rounding and differential reporting.

Source: Survey conducted by the Bureau of Labor Statistics for the Employment Standards Administration.

APPENDIX A

GENERAL PROVISIONS OF THE ACT

The Age Discrimination in Employment Act was enacted to promote the employment of persons who are at least 40 years of age and under 65 based on their ability rather than age and to prohibit discrimination in employment because of age in matters such as hiring, job retention, compensation and other terms, conditions, or privileges of employment. Most employers of 20 or more persons are subject to the Act's provisions, as are public and private employment agencies serving such employers. Labor organizations having 25 or more members, or which refer persons for employment to covered employers, or represent the employees of covered employers, are also subject to the provisions of the statute. Since May 1, 1974, the term "employer" includes Federal, State, and local governments. 1/

Employers, employment agencies, and labor organizations under the Act's jurisdiction are not permitted to use printed or published notices or advertisements relating to employment which indicate any preference, limitation, specification, or discrimination based on age.

1/ The 1974 Amendments to the ADEA (contained in Section 28 of the Fair Labor Standards Amendments of 1974, P.L. 93-259, enacted April 8, 1974), among other things, amended the definition of "employer" to expand coverage to employees of State and local governments, effective May 1, 1974.

Certain exceptions to the Act's application are provided. These involve situations where age is a bona fide occupational qualification reasonably necessary to the normal operation of a particular business; where a differentiation is based on reasonable factors other than age; where the differentiation is caused by observing the terms of a bona fide seniority system or employee benefit plan which is not a subterfuge to evade the purposes of the Act; or, where the discharge of an individual is for good cause. The Act provides, however, that no employee benefit plan shall excuse the failure to hire job applicants between the ages of 40 and 65.

Each covered employer, employment agency, or labor organization is required to post in a conspicuous place on the premises the official notice furnished by the Secretary of Labor which outlines the rights of individuals covered by the Act and provides information on how to locate and contact the nearest office of the Wage and Hour Division.

Enforcement procedures are essentially similar to those of the Fair Labor Standards Act. The major difference is that the age discrimination law specifically requires that the Secretary attempt to eliminate discriminatory practices through informal methods of conference, conciliation, and persuasion before instituting any legal proceedings. The law also requires that individuals give the Secretary 60 days' notice before filing their own actions; the Secretary is directed to attempt conciliation in these matters, but his failure to do so does not bar such actions.

The Civil Service Commission has enforcement responsibility for Federal employees.

Question A3. Should mandatory retirement be eliminated?

Answer A3. The age limits in the ADEA, which exclude individuals age 65 and over (and persons under 40) from protection under the Act, were set by the Congress in 1967, and are contained in Section 12 of the Act.

Under Section 4(f)(2) of the Act, some employers have asserted a right to force employees under age 65 to retire. Section 4(f)(2) currently provides that it is not unlawful for an employer, employment agency or labor organization to observe the terms of a bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of the Act, except that no such plan may excuse an employer's failure to hire any individual. The Department of Labor has taken the position that this section does not permit mandatory retirement prior to age 65--the current age limit in the Act-- unless the retirement is justified by some factor other than age, such as a disability or a federally imposed age restriction on the employer's occupation. This issue is currently before the Supreme Court, which heard arguments in a case involving an employer's assertion that mandatory retirement prior to age 65 is always allowable under Section 4(f)(2), provided that retirement benefits are paid.

The Congress is currently considering legislation to amend Sections 12 and 4(f)(2) of the ADEA. On September 23, 1977, the House of Representatives passed a bill (H.R. 5383) which would raise the upper age limit in the Act from 65 to 70. On October 19, 1977, the Senate also passed a version of H.R. 5383 which would raise the upper age limit to 70. These bills also contain a clarifying amendment to Section 4(f)(2) of the Act to assure that employee benefit plans, such as pension plans or seniority systems, cannot be used to justify forced retirements prior to the Act's upper age limit, where such retirements are based on age.

On September 23, 1977, President Carter sent a letter to Senator Williams, the Chairman of the Senate Human Resources Committee, in which he stated this Administration's position concerning this legislation. Enclosed for your information is a copy of the President's letter to Senator Williams.

THE WHITE HOUSE

WASHINGTON

September 23, 1977

To Senator Williams

I understand that you have inquired about my views concerning legislation before the Senate Committee on Human Resources to amend the Age Discrimination in Employment Act, which presently covers persons aged 40 to 65 years, to protect persons up to the age of 70 years.

As you may know, I have long opposed the concept of arbitrary age discrimination. Because of these long-standing views, I support the principle of the proposed amendments. My administration has already testified in favor of legislation which would remove the mandatory retirement ceiling for Federal civil service employees after a careful study of the consequences in this limited area.

There are two matters which I would urge the committee to consider carefully.

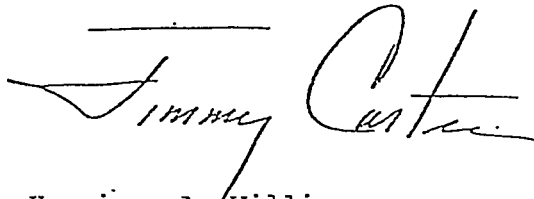
First, I believe it is important that the legislation clearly permit the establishment of a designated retirement age less than age 70 where age has been shown to be an important indicator of job performance. Certain types of law enforcement activities and air traffic control are frequently mentioned as examples.

Second, a number of my advisers have expressed concern that the economic impact of the bill, including impact on employment opportunities for younger persons, women and minorities in certain occupations has not been adequately studied.

-2-

If the committee decides to act favorably on the proposed legislation at this time, I would suggest that the effective date be extended to January, 1979 rather than the proposed six months from enactment. This will permit employers and employees to plan for a smooth transition. It will also permit the Federal Government and other interested parties to evaluate the potential impact of the new law and make any appropriate recommendations to the Congress.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harrison A. Williams". The signature is written in a cursive style with a large, sweeping initial "H" and "A".

The Honorable Harrison A. Williams
United States Senate
Washington, D.C. 20510

Question A4. Would the elimination of mandatory retirement have any effect on the problem?

Answer A4. Legislative changes under active consideration in the Congress are designed to deal with the problem of mandatory retirement. Along with a strong enforcement effort, they would strengthen current ADEA protection in dealing with the problems of age discrimination in employment.

In the Department's view, the ADEA, which has as its primary purpose the protection of employment opportunity, would be severely undermined by the interpretation of Section 4(f)(2) asserted by some employers which would permit an employer to force the retirement of an employee covered under the Act, simply because the employer's pension plan permits such a practice. Such an interpretation would create a very serious loophole in the Act's protections. In our view, this is precisely what Congress intended to prohibit by making it unlawful for an employer "to discharge any individual . . . because of such individual's age."

On October 4, 1977, the Supreme Court heard arguments in the case of *United Airlines, Inc. v. McMann*. The U. S. Court of Appeals for the Fourth Circuit held that forced retirement prior to age 65 is not excused by Section 4(f)(2). In that case, United Airlines required Mr. McMann, a supervisor of flight engineers, to retire at age 60 simply because its pension plan provided for retirement at that age. Recognizing that the Act's primary purpose is to protect employment, the appeals court held that forced retirement is indistinguishable from discharge and is thus inconsistent with the purposes of the Act. We wholeheartedly agree with the Fourth Circuit.

It is useful to note that there are ambiguities in the definition of the terms "retirement" and "mandatory retirement." This difficulty is demonstrated by the following quotes from a recent Social Security Bulletin article and DOL's 1977 Annual Report on activities under the ADEA in 1976, respectively:

***no single concept or measure of retirement is accepted, either by social gerontologists or policymakers. In fact, what measure is used normally depends on either the issue under consideration or the available data. It may relate to the extent or continuity of work or earnings--or the lack thereof--to the termination of a specific career (in the Armed Forces, for example), to receipt of a retirement pension (regardless of age, health, or continuity of employment), to an individual's

A #A4 p.b

perception of his status, or to some combination of these factors. Thus, such apparently simple questions as 'How many workers retired last year?' or 'How many retirees are there in the United States?' cannot be answered directly. */

Although much has been written on retirement, many facets still are unknown. For example, how many people are involuntarily retired in the United States between the ages of 40 and 65? Are they really "involuntary retired" or are they "voluntary retirements?" To complicate matters further, it is often not feasible to obtain recent retiree lists from employers to study involuntary retirement because of possible legal complications, or because the recordkeeping systems of some employers do not provide for the ready retrieval of such data." **/

Findings in recent studies indicate that:

- Mandatory retirement on the basis of age is applicable to approximately half of the employment in the nonagricultural private sector.
- Approximately 85 percent of the employees subject to mandatory retirement on the basis of age would be subject at age 65.
- About one percent would be subject to mandatory retirement before age 65.
- Although few private pension plans stipulate mandatory retirement before age 65, what BLS has characterized as "forced early retirement provisions" are included in many plans. Such provisions, which allow retirement before normal retirement age if certain minimum age and service requirements are met, are concentrated in pension plans in the communications, public utilities and automobile and farm equipment manufacturing industries.

*/ Lenore E. Bixby, "Retirement Patterns in the United States: Research and Policy Interaction" Social Security Bulletin (August 1976, p.3).

A #A4 p.c

Given the prevalence of age 65 as an age for mandatory retirement, amendment of the ADEA to raise the upper age limit to 70 and to clarify the application of Section 4(f)(2) is important insofar as the elimination of mandatory retirement is concerned. However, the practical importance of mandatory retirement requirements is diluted by widespread withdrawal from the labor force before age 65--which is to some extent encouraged by the availability of increasingly generous pension benefits.

We estimate that if mandatory retirement had been prohibited for workers under age 70 in 1976, the labor force would have been increased by 150,000 to 200,000 people. (Compared with a total labor force of over 90 million and the fact that the workforce has been increased by three million jobs over the past year, this represents an extremely small labor force impact.)

(FNS cont'd)

**/ U.S. Department of Labor, Employment Standards Administration, Age Discrimination in Employment Act of 1967, Report Submitted to Congress under Section 13 of the Act, 1977.

Question B. Department of Labor policies evaluate CETA training and public service employment programs in terms of their success in placing persons in unsubsidized employment. This policy appears to result in "creaming" of potential applicants and applications. Thus, persons most likely to be placed are selected. Those over 45 are considered more difficult to place and are underrepresented. What steps should be taken to modify this policy or to build in incentives or other means for including these "more difficult to place" persons so that age distribution of participants more nearly reflects the unemployment percentages?

Answer B. The Department considers placement as a goal, rather than as a requirement for CETA participants. Our assessment procedures stress the overall quality of the program rather than using placement rates as the sole criterion of program success. Thus, the prime sponsors should not feel a need to "cream" in making participant selections in order to achieve a satisfactory evaluation. The criteria used for the review of planned performance and for evaluation of actual performance have been made available to the prime sponsors. In addition, the evaluation criteria were published in the Federal Register in August 1976 and those for the review of planned performance were published in August 1977.

Although we do not feel that our evaluation procedures encourage "creaming," we nevertheless are aware that a "creaming" problem does exist and we are making an effort to eliminate it. A current effort, described more fully in the answers to questions A1 and C, is to require the prime sponsors to identify all significant segments of their unemployed population and to justify variances in providing services to each significant group.

Question C. Manpower CETA prime sponsors rely on age categorical programs (such as Title IX of the Older Americans Act) to serve certain age groups thus relieving the prime sponsor of the responsibility to use CETA funds for that purpose. It also appears that this reliance is limited to categorical programs for older persons.

1. How should such a justification be treated when it permits skewing of CETA funds particularly in light of the priority for older workers in the law and regulations?
2. Why is Title IX so heavily relied on as opposed to programs such as Job Corps, Summer Youth Employment and WIN?

Answer C. We do not condone the use of age categorical programs by prime sponsors as an excuse to minimize service to older workers under CETA titles I, II and VI. We are continually working towards raising the consciousness of the prime sponsors to the needs of older workers. In fact we have strengthened our CETA regulations for fiscal year 1977 to insure that under the basic CETA titles the unemployed population is served equitably in terms of age, race, and sex. Prime sponsors are required to present a demographic breakout of their unemployed population, to indicate the significant segments they plan to serve, and to provide adequate justification in instances where service to a significant segment results in a variance of 15 percent or more from a demographic group's incidence in the unemployed population. We feel this emphasis on identifying groups for service will stress the need for prime sponsors to consider all groups, including older workers, in planning their CETA programs.

Question D1. What steps can be taken to ensure that the Employment Service meets the needs of older workers and younger persons who have never had contact with the labor force?

Answer D1. For over 20 years, the Employment Service has operated a program of specialized counseling and job placement service for middle-aged and older workers who have difficulty in finding employment. It should be noted that many workers in this category, with requisite skills, have no special problems in becoming reemployed. To implement this program, most offices of the ES system have either full-time or part-time older worker specialists who have been trained in techniques particularly pertinent to assisting older persons with employment problems. In addition, there are about 3,200 counselors in the system who have been trained in techniques of vocational assessment, guidance and counseling, tests and measurements, and interpersonal relationships which are applicable to jobseekers of any age, including middle-aged and older workers.

While there has been some erosion in the number of older worker specialists due to turnover and the demands of new programs, a 1975 survey conducted by the Employment Service revealed that 1,500 of the 2,400 local offices had full-or part-time older worker specialists and the majority of States had a staff member in their State administrative offices either on a full- or part-time basis, to give Statewide leadership to the older worker program.

A host of priorities prescribed by law, executive orders, and court decisions have been set for the Employment Service. These include veterans, youth, migrants and seasonal farmworkers, minorities, older workers, women, and individuals impacted by foreign competition and assisted under the Trade Act of 1974. It should be noted that all of these worker groups except youth would likely have a significant number of older workers.

Obviously, older workers who need special help, will continue to be given that help by counselors and older worker specialists. These services consist of vocational assessment, employment, referral for training and support services (e.g., to CETA), job development and job placement in the private sector or, where that is not possible, in subsidized public service jobs. Manuals describing the special needs of older workers and how to serve these needs as regards employment have been in the hands of operating personnel in State and local offices of the ES for many years. Training programs for new personnel have been conducted periodically in the specialized techniques described in these instructions.

A #D1 p.b

Within the limit of available resources, these added steps could be taken:

- a. Incorporate a larger program emphasis for older workers in the national annual planning guidelines (give special emphasis in States and localities having large numbers of older persons).
- b. Inaugurate refresher training on a wide scale in the techniques for assisting older workers with their employment problems.
- c. Apply on a wider basis a pilot project in five States which utilizes senior aide enrollees under Title IX of the Older American Act to do essentially counseling and job development for older workers.
- d. Investigate the use of trained volunteers to assist in finding employment for older workers (an extension of Forty-Plus Club concept).
- e. Continue participation in National Employ the Older Worker Week with emphasis on a year-round program of service.
- f. Encourage, with the support of Chamber of Commerce and local employer committees, seminars for employers to combat age stereotypes and to present the advantages of hiring older workers.
- g. Coordinate with the Employment Standards Administration in disseminating information concerning the ADEA and other anti-discrimination programs, and urge Employment Service personnel to refer apparently serious violations of antidiscrimination laws to appropriate enforcement agencies.

It should be noted that the State Employment Services are covered under the ADEA. As employment agencies covered under the Act, it is unlawful for them to discriminate against persons aged 40 to 65 in their referral, classification, or advertising practices.

A D1 p.c

With respect to youth who have never had contact with the labor force, the Employment Service has had over many years a cooperative program with the secondary schools with the objective of assisting youth who are potential or actual dropouts and graduating students not planning to go on to higher education. Again the program involves aptitude testing, counseling, providing occupational and job opportunities information, job development and job placement. In many instances, the program is conducted on school premises and utilizes school and employment service personnel. About 25 percent of the Nation's schools are served through this program.

It is possible that this program could be extended to more schools when the newly passed Youth Employment and Developmental Projects Act of 1977 is fully implemented. Currently, about 1/3 (4.6 million) of the intake in State employment service offices are youth under the age of 22 and more than 1/3 (1.4 million) of all placements were in this age group. It is unlikely that this could be substantially increased unless resources for such activities as outreach and job development were available.

Question D2. Should the older worker counselors which were once required be reinstated?

Answer D2. In general we believe that it is preferable to have counselors trained to work with all age groups and all types of disadvantaged clients. From both a fiscal and workload standpoint, it would not be feasible to have counselor specialists for the handicapped, youth, older workers, veterans, minorities, migrants, etc, except perhaps in the largest offices where the volume of cases involving a particular group would justify it. Furthermore, the basic skills involved in counseling are universal with respect to all client groups, with minor variations for some. Specialization does occur in job development with employers and tie-ins with agencies providing supportive services. For example, all offices have a local Veterans Employment Representative whose responsibilities are largely job development and maintaining relationships with the Veterans Administration and veterans organizations. In a similar manner, the local office older worker specialists seek to develop job openings in behalf of older jobseekers, to relate to Commissions on the aging and senior citizens organizations and to spearhead promotional campaigns such as National Employ the Older Worker Week.

At this time, we believe that this arrangement is preferable to reinstating the older worker counselor concept.

Question D3. Could the formula used to allot funds to the Employment Service be modified to provide incentives for accepting hard to place workers?

Answer D3. The present formula for allocation of resources to State ES agencies already gives additional weight to older workers, along with eight other target groups. The United States Employment Service of the Employment and Training Administration makes periodic reviews of these target groups and of other potential target groups to determine whether any modification of weights is warranted.

Question D4. Should the notion of apprenticeship programs be expanded to include all or most ages?

Question D5. Should the cap on age restrictions which are in most apprenticeship programs be removed?

Answer D4/D5. Historically, apprenticeship has been considered an extension of the basic educational process and thus has been directed toward younger individuals. This has particularly been the case in some of the construction trades. It is this characterization of apprenticeship as a training experience rather than an employment relationship which has been the basis of many of the requirements which have been imposed.

Employers are concerned that they be allowed to recoup their investment in the training process. A specific example of how this concern has been addressed is a provision of the Oregon law which states that an individual must have 20 years of working life after apprenticeship so that the employer can benefit from his investment.

Some states, by law, have eliminated age restrictions in apprenticeship programs. In other instances, the programs themselves have eliminated age restrictions. A specific example is the carpenters, whose standards at the national level do not have an age limitation.

Question D6. Should the connection between entry into apprenticeship programs and CETA participation be qualified or removed? What steps would be necessary to achieve any modification recognizing that the Department of Labor does not control directly apprenticeship program requirements but also recognizing the Federal funds involved in training and entrance testing?

Answer D6. CETA prime sponsors are encouraged to develop linkages with other employment and training programs. An appropriate form of linkage would be CETA assistance to apprenticeship programs. For example, CETA can fund the reimbursement of apprenticeship training costs including on-the-job and off-job instruction. There is no direct connection between entry into the apprenticeship participation and into CETA participation. The participant must be able to meet the requirements of both programs. However, the apprenticeship program receiving CETA assistance must, among other things, meet the CETA nondiscrimination requirements.

Question E. Title I's participant emphasis on youth carries from a belief in training persons for "the world of work"; a practice of orienting training to persons who have not had prior experience in the labor force. Thus, older workers fail to participate in expected numbers because training does not include notions of retraining or upgrading of skills of persons who have had work experience. What modifications would be necessary and should be undertaken to correct the imbalance in participation rates by age and the offerings of these programs?

Answer E. Our statistics indicate a slight increase in the percentage of older workers involved in Title I programs (2.8% in FY 1976; 3.2% in FY 1977 through the 3rd quarter). Nonetheless, it appears that older workers have not received their proportionate share of Title I opportunities. Two of the reasons for this are: (1) the heavy national emphasis on the critical youth unemployment problem which has encouraged prime sponsors to gear their Title I programs to youth; and (2) certain legislative restrictions which have hampered prime sponsors in providing upgrade training which would be one of the most logical services for older workers. To remedy this situation, we are currently in the process of reviewing CETA to determine what revisions in the Act can be recommended to insure that we are able to provide the fullest possible range of Title I services to participants of all ages.

Question Fl. What plans, if any, does the Department of Labor have for developing a data base that will allow prime sponsors to include the "discouraged worker" in the planning process?

Answer Fl. Data for the BLS program on current employment analysis are obtained from the Current Population Survey, which is conducted for BLS by the Bureau of the Census. In this survey of about 47,000 households, respondents in households are interviewed to obtain information on the labor force status of each household member 16 years of age and over. For persons not in the labor force, information includes previous work history, present desire for work, future jobseeking intentions, and detailed reasons for nonparticipation, including discouragement.

CPS data are intended as a comprehensive measure of national employment and unemployment. Plans are underway to expand CPS so that ultimately reasonably reliable estimates on a monthly basis will be available for the 50 States and the District of Columbia. However, it is too early to know to what extent the expanded CPS will provide data at the prime sponsor level. Moreover, because counts of discouraged workers for any given area are exceedingly small, it is as yet uncertain whether reliable data for this category will be available from the expanded data gathering system.

Public Law 94-444 established a National Commission on Employment and Unemployment Statistics to have responsibility for examining the procedures, concepts, and methodology involved in employment and unemployment statistics and suggesting ways and means of improving them. Among the areas of study assigned to the Commission are the following:

--The need for additional special statistical surveys and reports on a continuing basis.

--The need for additional data and analysis on job vacancies, job turnover, job matching, discouraged workers, part-time workers, youth, minorities, and other labor force participants, including older workers.

Question F2. What steps could be taken, in addition to developing a data base which would identify the discouraged worker, to ensure that the "discouraged worker" receives consideration in the planning of, and the opportunity to participate in, the CETA program?

Answer F2. Other than the targeting requirement and other regulations explained above, we have taken several other actions aimed at insuring consideration of the older worker:

(a) Prime sponsors are being urged to actively reach out and recruit the groups they have targeted for service, including the older workers.

(b) A guide has been developed and issued to all prime sponsors entitled, "Serving the Elderly." The guide describes steps a prime sponsor may take to identify and account for the older worker during the strategic planning process and gives a blueprint for building a senior community service employment project into the CETA system.

(c) Prime sponsors have been encouraged to include projects to serve and/or employ the older worker under title VI. Many descriptions of such projects have already been received by the national office. One of particular interest would employ an insurance investigation team to investigate unscrupulous companies selling terminal disease insurance policies to the elderly and to warn senior citizens of the hoax.

(d) A copy of The National Council on the Aging's "Industrial Gerontology" magazine is sent quarterly to each prime sponsor in order to keep all prime sponsors abreast of the problems and potentials of older workers.

Question G. A number of CETA prime sponsors assess the needs of only a portion of the population, excluding older workers. For example, one prime sponsor had assessed the employment needs of the population between the ages of 14 and 55 ignoring those over 55. What modifications are needed in the requirement that needs assessments be conducted to ensure that the needs of all age groups are taken into consideration?

Answer G. The targeting requirement discussed in "C" above, should insure consideration for all age groups in the planning process.

Question H. Testimony was given concerning the responsibility for enforcement of the various antidiscrimination laws in federal programs administered by the Department of Labor. The Commissioners requested that the enforcement responsibilities be detailed and entered into the record as an exhibit.

Answer H.

Enforcement Organization for the
Equal Pay Act and Age Discrimination
in Employment Act

The Wage-Hour Division of the Employment Standards Administration, U. S. Department of Labor has over 1,000 compliance officers who have been trained and are experienced in investigating for equal pay and age discrimination violations. The compliance officers work out of 300 field and area offices located throughout the United States. If policy questions arise during an investigation, they consult with their particular regional office, which in turn may consult with the national office, headed by the Wage-Hour Administrator. If a legal issue arises, they consult with the appropriate regional solicitor or regional attorney (15 offices located throughout the United States.

After investigating, Wage-Hour attempts to obtain voluntary compliance, if violations are indicated, through negotiations with company officials. The bulk of complaints under these Acts are handled administratively. However, where the investigator cannot obtain corrective action, the case file is forwarded to the regional solicitor for consideration of litigation. If the regional solicitor determines that litigation is warranted and it is not required to forward the file to Washington, the regional solicitor may then institute a suit in Federal court. Those files involving national concerns (companies doing business in more than one region), new or novel issues of law or state governments must be cleared prior to any suit by the Washington Solicitor's Office (Fair Labor Standards Division). The trial litigation, however, is still performed by the regional office. After institution of litigation, the complaint, the region's legal analysis, important pleadings filed, and any settlements are forwarded to Washington for review.

If a major legal policy position is required, the Solicitor may be consulted at any point.

Once a district court decision is received, any court of appeals litigation which may ensue will be handled by the Washington Solicitor's Office (Fair Labor Standards Division). The Washington Solicitor's Office assists the Solicitor General in conducting litigation in the Supreme Court.

A #H p.b

Enforcement Organization for Executive
Order 11246; the Rehabilitation Act of
1973; and the Vietnam Era Veterans
Readjustment Assistance Act

The Office of Federal Contract Compliance Programs (OFCCP), except for general rulemaking, is responsible for administering Executive Order 11246 and the affirmative action requirements in Veterans and Handicapped laws. With respect to the Executive Order, 11 compliance agencies are responsible for achieving compliance among Federal contractors. These agencies have authority to find a contractor in compliance or noncompliance and their decisions are final unless the Director of OFCCP reverses the decision within 45 days. However, if litigation is required to achieve compliance the Director of OFCCP must approve it prior to filing.

The day-to-day field enforcement activities under the Executive Order, therefore, are carried out by compliance agencies. However, OFCCP has 10 regional offices and two area offices. These offices, as far as the Executive Order are concerned, primarily serve a monitoring and coordinative role with respect to the compliance agencies. The single exception is that OFCCP regional officials do have enforcement responsibility for contractors who are subject to construction hometown plans. In performing this function OFCCP field staff have the same responsibilities and authority as that described above for compliance agencies. OFCCP regional personnel report directly to the Employment Standards Administration (of which OFCCP is a part) Regional Administrator, who is accountable directly to the Assistant Secretary for Employment Standards.

With respect to the Veterans and Handicapped statutes, OFCCP regional personnel have direct enforcement responsibility. This responsibility includes investigative activity and conciliation. Regional personnel, therefore, are authorized to conclude a compliance investigation if the contractor is agreeable to conciliating the matter. When conciliation fails, however, the regional staff refers the matter to the Regional Solicitor for the purpose of determining whether enforcement action should be taken. Although the Director of OFCCP must authorize any litigation administrative complaints are issued by the Associate Solicitor for Labor Relations and Civil Rights.

PUBLIC LAW 95-93—AUG. 5, 1977

91 STAT. 627

Public Law 95-93
95th Congress

An Act

To provide employment and training opportunities for youth, and to provide for other improvements in employment and training programs.

Aug. 5, 1977
[H.R. 6138]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Youth Employment and Demonstration Projects Act of 1977".

Youth
Employment and
Demonstration
Projects Act of
1977.
29 USC 801 note.

TITLE I—YOUNG ADULT CONSERVATION CORPS

AMENDMENT ESTABLISHING THE CORPS

Sec. 101. The Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new title:

29 USC 801 note.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"Sec. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

29 USC 993.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"Sec. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

29 USC 993a.

Administration.

"SELECTION OF ENROLLEES

"Sec. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

29 USC 993b.

"(b) (1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages sixteen to twenty-three, inclusive;

91-STAT. 628

PUBLIC LAW 95-93—AUG. 5, 1977

“(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees;

“(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual’s enrollment.

“(2) Individuals who, at the time of enrollment, have attained age sixteen but not attained age nineteen and who have left school shall not be admitted to membership in the Corps unless they give adequate assurances, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

Candidate
referral.

29 USC 812.
29 USC 872.

29 USC 873.

“(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors qualified under section 102 of this Act, sponsors of Native American programs qualified under section 302 of this Act, sponsors of migrant and seasonal farmworker programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary of Labor may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

29 USC 844.

Maximum
enrollment
period.

“(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment, including areas of substantial unemployment determined by the Secretary of Labor under section 204 (c) of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

“(e) (1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve-month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual’s enrollment is continuous after having attained the maximum age.

“(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

“ACTIVITIES OF THE CORPS

Residential and
nonresidential
Corps centers.
29 USC 993c.

“Sec. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work on projects in such fields as—

“(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

“(2) wildlife habitat improvements and preservation;

“(3) range management improvements;

“(4) recreation development, rehabilitation, and maintenance;

“(5) fish habitat and culture measures;

“(6) forest insect and disease prevention and control;

“(7) road and trail maintenance and improvements;

“(8) general sanitation, cleanup, and maintenance;

“(9) erosion control and flood damage;

“(10) drought damage measures; and

“(11) other natural disaster damage measures.

“(b) (1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

16 USC 1600
note.

“(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

“(c) To the maximum extent practicable, projects shall—

Corps projects.

“(1) be labor intensive;

“(2) be projects for which work plans could be readily developed;

“(3) be able to be initiated promptly;

“(4) be productive;

“(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

“(6) provide work experience to participants in skill areas required for the projects;

“(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title, in areas where existing residential facilities for the Corps members are available; and

“(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

“(d) (1) The Secretary of the Interior and the Secretary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportation, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this part. To minimize transportation costs, Corps members shall be assigned to projects as near to their homes as practicable.

Facilities,
supplies, and
equipment.

“(2) Whenever economically feasible, existing but unoccupied or underutilized Federal, State and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

“(e) The Secretary of Labor, in carrying out the purpose of this title, shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

Academic credit
granted for work
experience.

“CONDITIONS APPLICABLE TO CORPS ENROLLEES

“SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employ-

29 USC 993d.

ment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

“(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

Work injuries compensation.
5 USC 8101.

“(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term ‘employee’ as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term ‘performance of duty’ shall not include any act of a Corps member while absent from the member’s assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

Tort claims.
28 USC 2671.

“(3) For purposes of chapter 171 of title 28 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term ‘employee of the Government’ as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

Quarters allowances.

“(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term ‘employee’ as defined in that section, and provisions of that section shall apply.

Wages, hours, and working conditions.

“(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

“(1) rates of pay which shall be at least at the wage required by section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended;

“(2) reasonable hours and conditions of employment; and

“(3) safe and healthful working and living conditions.

“STATE AND LOCAL PROGRAMS

Grants.
29 USC 993e.

“SEC. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

“(1) after consultation with the Governor, with any State agency or institution;

“(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B) (i) any public agency or organization, or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal public lands or waters or any project involving work on both non-Federal and Federal lands and waters.

Grant applications.

“(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such time as each such Secretary may prescribe. Each grant application

shall contain assurances that individuals employed under the project for which the application is submitted—

- “(1) meet the qualifications set forth in section 803 (b),
- “(2) shall be employed in accordance with section 805 (b), and
- “(3) shall be employed in activities that—
 - “(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,
 - “(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),
 - “(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,
 - “(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and
 - “(E) will not result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

“(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

“SECRETARIAL REPORTS

“SEC. 807. The Secretary of Labor, the Secretary of the Interior and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

Report to
President and
Congress.
29 USC 993f.

“ANTIDISCRIMINATION

“SEC. 808. (a) No persons with responsibilities in the operations of such programs shall discriminate with respect to participation in such programs because of race, creed, color, national origin, sex, political affiliation, or beliefs.

29 USC 993g.

“(b) The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

“TRANSFER OF FUNDS

“SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.

29 USC 993h.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 810. There are authorized to be appropriated such sums as may be necessary for the fiscal year 1978 and for each fiscal year ending prior to October 1, 1980, for the purpose of carrying out this title.”

29 USC 993i.

TITLE II—YOUTH EMPLOYMENT DEMONSTRATION
PROGRAMS

YOUTH PROJECTS AND ACTIVITIES AUTHORIZED

Sec. 201. Title III of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new part:

“PART C—YOUTH EMPLOYMENT DEMONSTRATION PROGRAM

“STATEMENT OF PURPOSE

- 29 USC 891. “SEC. 321. It is the purpose of this part to establish a variety of employment, training and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation’s youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment opportunities after they have completed the program.

“SUBPART I—YOUTH INCENTIVE ENTITLEMENT PILOT PROJECTS

“ENTITLEMENT PILOT PROJECTS AUTHORIZED

- 29 USC 892. “SEC. 325. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training, for economically disadvantaged youth between the ages of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

Prime sponsors. “(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 327(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

“ (c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 327(a)(4)(F).

"EMPLOYMENT GUARANTEES

"Sec. 326. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or combination thereof: 29 USC 892a.

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, or projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 801(f) of the Elementary and Secondary Education Act of 1965); institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associations, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government. Part-time employment. 20 USC 881. 20 USC 1141.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

"(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks, in any of the institutions described in clause (1) of this section. Full-time employment.

"SELECTING PRIME SPONSORS

"Sec. 327. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall— 29 USC 892b.

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title I and section 304(a) (1), (2), and (3) of this Act for the purpose of carrying out a youth incentive entitlement project or for supportive services; 29 USC 811, 874.

"(3) take into consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and

monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of section 352 and 353 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and postsecondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

29 USC 811.

"(F) an agreement that title I funds planned for economically disadvantaged youth employment programs and funds available for the summer youth program under section 304 for youth eligible under subsection (a) will be used in support of the project authorized under this subpart;

29 USC 874.

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 328;

"(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

29 USC 214.

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

“(I.) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the report required by section 320.

“(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

Efficacy tests for certain projects.

“(1) the use of a variety of subsidies to private for-profit employers, notwithstanding the provisions of sections 326 and 328(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

“(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

“(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

“(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

“(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

“(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

“SPECIAL PROVISIONS

“Sec. 328. (a) Employment and training under this subpart shall develop the participant’s role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

Participant development.
29 USC 892c.

“(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project or where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

“REPORTS

“Sec. 329. The Secretary shall report to the Congress not later than March 15, 1978, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1978 concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

Reports to Congress.
29 USC 892d.

“(1) the number of youths enrolled at the time of the report;

“(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"SUBPART 2—YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS

"STATEMENT OF PURPOSE

- 29 USC 893. "Sec. 331. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title I of this Act.
- 29 USC 811.

"DEFINITIONS

- 29 USC 893a. "Sec. 332. As used in this subpart, the term—
- 29 USC 812. "(1) 'eligible applicant' means any prime sponsor qualified
- 29 USC 872. under section 102 of this Act, sponsors of Native American programs qualified under section 302(c) (1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act;
- 29 USC 873. "(2) 'project applicant' shall have the same meaning as in
- 29 USC 981. section 701 (a) (15) of this Act;
- "(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and
- "(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials and supplies available without cost; and conservation, maintenance; or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

- 29 USC 893b. "Sec. 333. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 per

centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

“(b) Of the funds available for this subpart 2 percent shall be available for projects for Native American eligible youths, and 2 percent shall be available for projects for eligible youths in migrant and seasonal farmworker families.

“(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

“COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROJECTS

“SEC. 334. The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel. 29 USC 893c.

“PROJECT APPLICATIONS

“SEC. 335. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant. 29 USC 893d.

“(b) In accordance with regulations prescribed by the Secretary, each project application shall—

“(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

“(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

“(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

“(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

“(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

“(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

“(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

“PROPOSED AGREEMENTS

“SEC. 336. (a) (1) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and 29 USC 893c.

all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

29 USC 844.
Contents.

“(2) The definition and functions of a program agent shall be as set forth in section 204(d) of this Act.

“(b) The proposed agreement submitted by any eligible applicant shall—

29 USC 815.

“(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105 of this Act, and also including a description of arrangements with school systems and the public employment service (including school cooperative programs);

“(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

“(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

Project applications, submittal to planning councils.
29 USC 814.

“(c) (1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such application shall have been submitted at the time of such application to the prime sponsor's planning council established under section 104 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council (and the youth council established under section 346) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

29 USC 872.
29 USC 873.

“(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

“APPROVAL OF AGREEMENTS

29 USC 893f.

“Sec. 337. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

“(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

“(1) the standards set forth in subpart 4 of this part will be satisfied;

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“(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

“(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

“WORK LIMITATION

“SEC. 338. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary. 29 USC 893g.

“SUBPART 3—YOUTH EMPLOYMENT AND TRAINING PROGRAMS

“STATEMENT OF PURPOSE

“SEC. 341. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title I of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized employment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart. 29 USC 894.
29 USC 811.

“PROGRAMS AUTHORIZED

“SEC. 342. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to— 29 USC 894a.

“(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements, and related activities; Community betterment activities.

“(2) productive employment and work experience in fields such as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control, preservation of historic sites, and maintenance of visitor facilities;

“(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

“(A) outreach, assessment, and orientation;

“(B) counseling, including occupational information and career counseling;

“(C) activities promoting education to work transition;

“(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

“(E) services to youth to help them obtain and retain employment;

“(F) literacy training and bilingual training;

“(G) attainment of certificates of high school equivalency;

“(H) job sampling, including vocational exploration in the public and private sector;

“(I) institutional and on-the-job training, including development of basic skills and job skills;

“(J) transportation assistance;

“(K) child care and other necessary supportive services;

“(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

“(M) community-based central intake and information services for youth;

“(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

“(O) programs to overcome sex-stereotyping in job development and placement; and

“(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

Contracts.

“(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 701 (a) (15)) or employers organized for profit but payments to such employers shall not exceed the amounts permitted under section 101 (5), or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

29 USC 981.

29 USC 811.

“ALLOCATION OF FUNDS

29 USC 894b.

Prime sponsors.

“SEC. 343. (a) From the sums available for this subpart—

“(1) an amount equal to 75 percent of such funds shall be made available to prime sponsors for programs authorized under section 342 of this Act;

Statewide youth services.

“(2) an amount equal to 5 percent of the amount available for this part shall be made available to Governors for special statewide youth services under subsection (c) of this section;

Native American eligible youth.

“(3) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 333 (b) of this Act);

Migrant and seasonal farmworker families, eligible youth.

“(4) an amount equal to not less than 2 percent of the amount available for this part shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 333 (b) of this Act); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 348.

"(b) (1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that— State allocations.

"(A) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 percent thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 204(c) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and 29 USC 844.

"(C) 25 percent thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 701(a) (4) of this Act) within each State as compared to the total number of such persons in all States. 29 USC 981.

"(2) In determining allocations under this subsection, the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as— Statewide youth services plans.

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d) (1) Not less than 22 percent of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth. In-school youth.

carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

Community-
based
organizations.

“(a) Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 342 of this Act, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

“ELIGIBLE APPLICANTS

29 USC 894c.
29 USC 812.
29 USC 872.

“Sec. 344. Eligible applicants for purposes of this subpart, except section 348, are prime sponsors qualified under section 102 of this Act, sponsors of Native American programs qualified under section 302(c) (1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

29 USC 873.
29 USC 894d.

“Sec. 345. (a) Eligible participants for programs authorized under this subpart shall be persons who—

“(1) (A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

“(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 percent of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 342(a).

Notwithstanding the provisions of this subsection, 10 percent of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

“Lower living
standard income
level.”

“(b) For purposes of this section, the term ‘lower living standard income level’ means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent ‘lower living standard budget’ issued by the Bureau of Labor Statistics of the Department of Labor.

“CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

29 USC 894e.

“Sec. 346. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 342 unless

such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe. Each such application shall—

“(1) describe the programs, projects or activities to be carried out with such assistance, together with a description of the relationship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 105 and 106 of this Act, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

29 USC 815,
816.

“(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title I, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

29 USC 811.

“(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

“(4) provide assurances satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 111(a) of this Act and such regulations as the Secretary may prescribe for this subpart;

Regulations.
29 USC 821.

“(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 104;

29 USC 814.

“(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under the section 104 of this Act) in accordance with subsection (b) of this section;

“(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

“(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

“(9) provide that the funds available under section 343(d) shall be used for programs authorized under section 342 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or postsecondary educational institution or institutions; and

“(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

Youth councils.

29 USC 814.

“(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 104 of this Act with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

Work experience for in-school youth, program agreements.

“(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

“(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment not subsidized under this in-school program;

“(2) be administered, under contracts with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section.

“(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

“(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

“(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment;

“(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"SEC. 347. The provisions of sections 108, 109, and 110 of this Act shall apply to all programs and activities authorized under 342. 29 USC 894f.
29 USC
818-820.

"SECRETARY'S DISCRETIONARY PROJECTS

"SEC. 348. (a)(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems. Experimental programs.
29 USC 894g.

"(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary. Funds, transfer.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"(c)(1) In carrying out its responsibilities under this subsection and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following: 20 USC 1341.

"(A) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(B) Assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access; State occupational informational systems.

Youth in
correctional
institutions.

Computer on-line
terminal
programs,
technical
assistance.

“(C) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

“(D) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

“(E) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

“(F) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers and offices.

20 USC 1341. “(2) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

“SUBPART 4—GENERAL PROVISIONS

“AUTHORIZATION OF APPROPRIATIONS; DISTRIBUTION OF FUNDS

29 USC 895. “SEC. 351. (a) There are authorized to be appropriated for the fiscal year 1978 such sums as may be necessary to carry out the provisions of this part.

“(b) Of the sums available for carrying out the provisions of this part—

“(1) fifteen percent shall be available for subpart 1;

“(2) fifteen percent shall be available for subpart 2; and

“(3) seventy percent shall be available for subpart 3.

“WAGE PROVISIONS

29 USC 895a. “SEC. 352. Rates of pay under this part shall be no less than the higher of—

29 USC 206. “(1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

29 USC 214. “(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

“(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

“(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

“(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within 30 days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

“(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

“(D) in the case of projects to which the provisions of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under \$5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

40 USC 276a
note.

“SPECIAL CONDITIONS

“Sec. 353. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

“(b) The Secretary shall determine that the activities assisted under this part—

“(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

“(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the

Financial
assistance.
29 USC 895b.

hours of non-overtime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with.

Notice to labor organizations.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

Full-time employment opportunities.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where such employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

Program participation qualifications.
29 USC 895c.

"SEC. 354. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subparts 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who

are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

“(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days’ advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

Reallocation of funds.

Publication in Federal Register.

“(c) The provisions of section 605(b) of this Act shall apply to subparts 2 and 3 of this part.

29 USC 965.

“ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

“SEC. 355. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

29 USC 895d.

“(b) The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

“(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to, (1) permanent jobs in the public or private sector, or (2) education or training programs.

“DISREGARDING EARNINGS

“SEC. 356. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth’s family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

29 USC 895e.

“RELATION TO OTHER PROVISIONS

“SEC. 357. The provisions of title VII of this Act shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.”

29 USC 895f.
29 USC 981.

TITLE III—MISCELLANEOUS PROVISIONS

TRANSITION PROVISIONS

29 USC 993i
note.

Ante, p. 122.

Sec. 301. In order to provide for an orderly transition to youth employment and training activities funded under part C of title III and title VIII of the Comprehensive Employment and Training Act of 1973 (as added by this Act), the Secretary of Labor shall use the funds available from appropriations under the Economic Stimulus Appropriations Act of 1977 for youth employment and training activities, to the maximum extent consistent with law, in such a manner as to be in accordance with the provisions of such part C and such title VIII.

TRANSFER OF FUNDS TO NATIONAL OCCUPATIONAL INFORMATION
COORDINATING COMMITTEE

29 USC 802.

Sec. 302. Section 4 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

“(f) Of the amounts available for the Secretary’s discretionary use under this Act, the Secretary shall transfer an amount which shall be not less than \$3,000,000 and not more than \$5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161 (b) of the Vocational Education Act of 1963, for the purposes described in section 348 (c) (1) of this Act.”

20 USC 1341.
Ante, p. 645.

NATIVE AMERICAN PROGRAMS

29 USC 872.

Hawaiian natives.

Sec. 303. (a) The heading of section 302 of the Comprehensive Employment Training Act of 1973 is amended to read as follows: “NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS”.

(b) Section 302 (a) of such Act is amended (1) by striking out the word “and” in clause (1) of such section and inserting in lieu thereof a comma, and (2) by inserting after “native” in such clause (1) a comma and the following: “and Hawaiian native”.

(c) Section 302 (b) of such Act is amended by inserting before the semicolon at the end of clause (2) a comma and the following: “and Hawaiian natives”.

(d) The first sentence in section 302 (c) (1) of such Act is amended by inserting after “body,” the following: “and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian natives.”

29 USC 981.

(e) Section 701 (a) of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following: “(16) ‘Hawaiian native’ means any individual any of whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.”

WAIVER OF LIMITATION ON FUNDS FOR TITLES III AND IV

Summer youth
employment
programs.
29 USC 802 note.
29 USC 911.

Sec. 304. The limitations of section 4 (e) of the Comprehensive Employment and Training Act of 1973 shall not apply to appropriations for summer youth employment programs under section 304 (a), part C of title III (as added by this Act), and title IV of such Act for the fiscal year 1978.

PUBLIC LAW 95-93—AUG. 5, 1977

91 STAT. 651

SPECIAL VETERANS PROVISIONS

SEC. 305. (a) With respect to programs carried out with funds appropriated after January 1, 1977, for each of the fiscal years 1977 and 1978 under the Comprehensive Employment and Training Act of 1973, as amended, the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take appropriate steps to provide for the increased participation in public service employment programs and job training opportunities supported under such Act of qualified disabled veterans (as defined in section 2011(1) of title 38, United States Code) and those qualified Vietnam-era veterans (as defined in section 2011(2)(A) of such title) who are under thirty-five years of age (hereinafter in this section referred to collectively as "eligible veterans"), including, but not limited to—

29 USC 803.

29 USC 801 note.

(1) providing for individual prime sponsors to develop local goals, taking into account the number of qualified eligible veterans and the number of qualified persons in other significant segments of the population in the area served by such sponsors, for the placement of such eligible veterans in job vacancies occurring in such public service employment programs; and

(2) requiring that representatives of appropriate veterans organizations or groups be invited to serve as temporary members of prime sponsors' planning councils (established under section 104 of such Act), the States' Manpower Services Councils (established under section 107(a)(1) of such Act), and the National Commission for Manpower Policy (established under section 502 (a) of such Act).

29 USC 814.

29 USC 817.

29 USC 952.

(b)(1) The Secretary shall make available such sums and shall assign such personnel as may be necessary to carry out fully and effectively his responsibilities under subsection (a). The Secretary shall report to the Congress within 60 days of enactment of this Act on the amount so made available and the personnel so assigned.

Report to
Congress.

(2) In preparing the regular reports on the client characteristics of participants under the Comprehensive Employment and Training Act of 1973, the Secretary shall take all reasonable precautions to ensure that eligible veterans are not counted more than once.

(c) The Secretary, in carrying out his responsibilities under this section, shall consult with and solicit the cooperation of the Administrator of Veterans' Affairs.

SPECIAL CONSIDERATION

SEC. 306. (a) Section 205 of the Comprehensive Employment and Training Act of 1973 is amended by adding at the end thereof the following new subsection:

Teaching
positions.
29 USC 845.

"(d) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title."

(b) Section 602 of such Act is amended by adding at the end thereof the following new subsection:

29 USC 962.

91 STAT. 652

PUBLIC LAW 95-93—AUG. 5, 1977

“(f) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each eligible applicant shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that applicant is located and who are otherwise eligible under the provisions of this title.”

CLARIFYING AMENDMENT

29 USC 968.

SEC. 307. Clause (A) of section 608(a)(1) of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

“(A) who has been eligible for unemployment compensation benefits for fifteen or more weeks;”.

Approved August 5, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-314 (Comm. on Education and Labor) and No. 95-456 (Comm. of Conference).

SENATE REPORT No. 95-173 accompanying S. 1242 (Comm. on Human Resources). CONGRESSIONAL RECORD, Vol. 123 (1977):

May 17, considered and passed House.

May 25, 26, considered and passed Senate, amended, in lieu of S. 1242.

July 19, House agreed to conference report.

July 21, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 32:

Aug. 5, Presidential statement.

Item 10. Problems and Issues Faced by the Department of Labor Relative to the term "Reasonable" in the Age Discrimination in Employment Act.

During testimony, Carin Claus, Solicitor, Department of Labor, was requested to submit information regarding the term "reasonable" as used in the Age Discrimination in Employment Act. Ms. Claus was contacted concerning the exhibit following the hearing. This information had not been received at the time the record was printed.

Exhibit No. 10

[FACSIMILE]

MR ROBERT BYNUM'S STATEMENT

THE ROLE OF AGE AS A FACTOR IN THE REFERRAL OF
DISABILITY APPLICANTS FOR VOCATIONAL REHABILITATION

This statement describes the Social Security Administration's policy on vocational rehabilitation and information and referral. Social Security's interest in referring applicants to State vocational rehabilitation agencies for possible services goes back to the earliest days of the disability cash benefits program. The 1956 Social Security Amendments contained a referral provision. Congress specified that referrals would be made to State vocational rehabilitation agencies. To stress rehabilitation in the disability program, Congress further specified that whenever possible the State vocational rehabilitation agency should be the contracting agency to make disability determinations for social security. Moreover, benefits could be withheld if the disability beneficiary refused rehabilitation services without good cause.

In the Social Security Amendments of 1965, Congress provided that disability insurance trust fund money could be used to reimburse the States for the cost of rehabilitation services to selected disability beneficiaries. When the Supplemental Security Income program was authorized in 1974, Congress included a provision authorizing payment out of general revenues for the cost of vocational rehabilitation services provided to Supplemental Security Income disability/blindness recipients. A referral mechanism,

linking social security and its contracting State Disability Determination Services with State vocational rehabilitation agencies similar to that in the regular social security disability insurance program, was created.

Social Security Administration Referrals and Vocational Rehabilitation: Agency Screening of Referrals:

Prior to the 1956 Amendments, there was a disability "freeze" program with a vocational rehabilitation referral provision, but referral was not mandatory at that time. The vocational rehabilitation referral experience during that period was unfavorable. The vocational rehabilitation agencies were inundated with referrals and the mass of paperwork in these agencies undermined every attempt at serious vocational rehabilitation consideration. When the disability benefit program was established with mandatory referrals and sanctions for refusal of vocational rehabilitation services, a more productive referral system was needed. It was obvious that some kind of screening was necessary to assure that vocational rehabilitation counselors would not continue to be flooded with referrals, most of which involve poor candidates for vocational rehabilitation.

The system adopted was as follows: The Social Security Administration would refer every disability applicant to the vocational rehabilitation agency for vocational rehabilitation consideration. However, the Social Security Administration's referral would be transmitted to the State office responsible for making Social Security Administration disability determinations. In most States, this State office was a component of the vocational rehabilitation

agency and would conduct a screening of all disability claims for vocational rehabilitation in conjunction with determining disability. In those few States where the State office was not a component of the vocational rehabilitation agency, the vocational rehabilitation agency would be expected to out-station staff to conduct a screening. Screen-ins by the State office or out-stationed staff would be referred further into the vocational rehabilitation pipeline, eventually reaching counselors in the field. It is this screening process which is most commonly called the referral process.

The Social Security Administration does not dictate to the screeners in the State offices whom to screen-in. In most States, a set of national criteria are used. These criteria were developed by a task force composed of the Rehabilitation Services Administration, Social Security Administration, and State vocational rehabilitation agency representatives and the first version was issued in 1970. A revised version was issued in 1974 and new versions are being developed. The vocational rehabilitation agencies in 18 States are using modified national criteria or special criteria developed by the vocational rehabilitation agency. The vocational rehabilitation agency decides which criteria are to be used. Their objective is to assure that only those persons with vocational rehabilitation potential are referred to the counselors.

National Screening Criteria:

As previously indicated, the national criteria were developed by a Federal/State task force. The stated purpose of the screening criteria was to provide guides for

increasing productive referrals to vocational rehabilitation agencies to insure that all disability applicants with rehabilitation potential were given the opportunity to receive services. It was also decided that the vocational rehabilitation agency in collaboration with the State Disability Determination Services should refine and adjust the screening criteria to the individual State's situation. Therefore, the age factor as well as any other factor used in determining vocational rehabilitation potential can be raised, lowered, or excluded depending upon the combination of services and jobs available to disabled persons who have been rehabilitated. The Social Security Administration does not impose any limits on the kind of screen-ins. However, limitations are occasionally imposed by the State vocational rehabilitation agency usually due to a shortage of funds or unmanageably high caseloads. The point is that the State vocational rehabilitation agency is virtually autonomous in determining the profile of disability applicants who could be expected to derive the most benefit from the vocational rehabilitation counselor's time, funds, services, and the rehabilitation facilities available. Perhaps it would be useful to take a closer look at the screening criteria especially as they relate to questions raised concerning the possibility of an inherent age bias.

The national screening guidelines used by the Disability Determination Services in determining whether to refer social security and supplemental security income disability applicants to State vocational rehabilitation agencies for possible services are divided into three categories:

A. Automatic Screen-In (Referral) Criteria: There are 10 "screen-in" criteria. An analysis shows that nine of these criteria may be met, and the applicant screened in for vocational rehabilitation services, regardless of the applicant's age. For example, an applicant whose condition has a favorable prognosis or can be corrected or substantially reduced with the aid of physical restoration or other medical treatment automatically meets the criteria whether that applicant is 20 or 60 years of age. (Age is mentioned in only one criterion which calls for the automatic screen-in of applicants between age 15 and 45, unless, of course, vocational rehabilitation screen-in is contraindicated by information elsewhere in the file.)

B. Automatic Screen-Out Criteria: There are seven automatic "screen-out" criteria. Reflecting the considered judgment of rehabilitation professionals over the years, these criteria are indicative of relatively poor vocational rehabilitation potential and, when present in an applicant's profile, may serve as grounds for screen-out. In the application of these "screen-out" criteria, age alone is not a consideration. Two criteria do refer to age, but only in conjunction with other factors. One screens out applicants of advanced age, who have "such severe organ and system impairment that potential to adjust to or sustain work is doubtful." The other screens out the older applicant of advanced age, who "has a significant impairment and also presents a sparse work record or has a markedly limited education and a 35-year work history confined to arduous, unskilled labor."

C. Criteria for Deciding Cases Which Are Not Automatically Screened In or Out: The third category provides guidelines for the so-called "grey area" screening. Included is a screening table listing various factors (including age) with graduated vocational rehabilitation potential values of "excellent," "good," and "guarded" assigned to each factor. Academic level, attitude toward work, mental aptitude, physical limitations, medical prognosis, work history, and work performance are considered in addition to the person's age. No single factor is determinative. While the age factor in a person over 50 is considered "guarded" according to the screening table, the assessment of vocational rehabilitation potential takes into account all other factors. For example, the Disability Determination Services might be considering an applicant with a stable medical prognosis ("good") who is 60 years of age ("guarded"). This person would be screened in for vocational rehabilitation services under these guidelines because other factors in the case outweigh the single factor of age. We should also point out that even if a claimant's vocational factors do not fall into a screen-in pattern, but it is strongly felt that the individual has vocational potential, the national guidelines call for a screen-in to be made.

Screen-Ins Broken Out by Age:

Data on 102,354 screen-ins for the period January through June 1977 show the following age breakout:

Age	Screen-Ins
Under 15	282 (0.2%)
15-45	25,745 (25.1%)
46-54	21,679 (21.1%)
55 plus	52,565 (51.3%)
Unknown	2,083 (2.0%)

In the 55 plus group, there were 26,731 persons age 60-64. This subgroup comprised 26 percent of all screen-ins.

Self Referrals:

It is important to note that the referral and screening process described earlier is not the only mechanism for moving disability applicants into the vocational rehabilitation process. Every individual who visits a Social (page 5 missing from text) costing \$70,000, or a 25-year-old needing services at a cost of \$5,000, with a prospective employment period of only a few years, might not meet the "savings" requirement, a 60-year-old needing short-term services costing \$1,000 might.

The Relationship of Age to the Determination of Disability:

Age, as an adjudicative factor in the disability programs, is only one of the factors that must be taken into account in cases where a decision has not first been made on a purely medical basis; or where the decision has not been made on the basis of criteria for individuals with a long history of arduous unskilled work who cannot, because of a medically determinable impairment, perform their past work. Only when adjudication is not made on either of these two bases does age become an adjudicative factor. As required by law, it is considered in interaction with all other

pertinent factors; namely, the individual's medical condition, work experience, education, and training. Age, in itself, is never determinative of disability. While chronological age is a factor considered in determining whether an individual is or is not able to work, it is the actual physiological manifestations which result from the aging process which are the bases for a finding of disability. In a normal sequence of events, the human aging process is correlated with a concomitant reduction in functional capacity. When functional capacity is reduced to the point where one cannot work, disability occurs. There is no mandate within the age factor to allude to a specific "retirement" age, or to consider employer attitudes toward age. In fact, in determining whether an applicant for disability is able or unable to work, the law specifically excludes from consideration employer hiring practices or whether a specific job vacancy exists.

Determinations of disability are made without regard to whether an individual will receive rehabilitation services. If as suggested in the list of issues prepared for this hearing, any discriminating treatment of individuals is found to result from the consideration of age in the disability insurance program, the solution may be legislative or may involve action by the States as well as the Rehabilitation Services Administration and the Social Security Administration.

THE POLICY OF THE SOCIAL SECURITY ADMINISTRATION RELATIVE TO THE ROLE OF THE DISTRICT OFFICES IN PROVIDING INFORMATION AND REFERRAL SERVICES TO SUPPLEMENTAL SECURITY INCOME ELIGIBLES ABOUT OTHER SERVICES FOR WHICH THEY MAY QUALIFY.

Traditionally, the Social Security Administration provides information and referral as part of its service to the public. In the process of accomplishing its primary mission of determining eligibility and paying benefits, information is provided concerning, and referrals made to, other services which are available in the community. The information and referral service provided in Social Security Administration offices is, of course, more limited than that provided in agencies where the provision of information and referral or social services is a full-time function. The supplemental security income program has heightened the NEED for information and referral and we have increased efforts to improve the awareness of interviewing staff in assessing th applicants' needs and pinpointing the appropriate referral.

Our policies on information and referral which have been provided to field installations regarding the scope and purpose of information and referral services to be provided in the field are:

A. Every district and branch office and teleservice center will have available to all interviewers an up-to-date file of resources information about all agencies and other organizations providing social or related services to the communities in the district.

B. Each office will maintain the degree of interviewer technical expertise required to assist inquirers in identifying their social service needs. Such expertise should not extend into the field of professional counseling, but should be directd specifically toward identification of

need and association with available services that may be expected to meet that need.

C. Persons who need services will be provided information about the nature and availability of programs which may be expected to meet those needs. When appropriate, individuals should be referred to non-Social Security Administration organizations engaged in providing the needed services. These policies have been put into action through a number of different types of activities. For instance, district offices routinely inform all supplemental security income applicants about potential eligibility for Medicaid and State supplements. In fact, district offices make the determination of entitlement to Medicaid in 28 States and to State supplements (optional or mandatory) in 29 States. Social Security interviewers are trained and field offices equipped and informed to refer applicants and inquirers to all appropriate providers of aid or services, including food stamp and social service programs provided through State agencies. Our involvement in the Medicaid and food stamp programs will be discussed in more detail later. In their quarterly district office visits, area directors, who have line supervision over several district offices in a given geographical area, have reviewed resource files to insure that they are up to date and complete.

Written agreements between the Social Security Administration and nearly all States specify the areas in which referrals are suitable and the procedures for making these referrals. These agreements are amended from time to time as the occasion arises --- e.g., changes in State or

Federal laws. The Social Security Administration is currently participating in outstationing experiments which involve State employees working in Social Security Administration district offices to provide information and referral services. Training sessions given by outstationed workers have improved the knowledge of Social Security Administration interviewers and increased their sensitivity to social service needs and the availability of services through the welfare offices. In some instances, district office employees have also been outstationed in State offices to provide information and take appropriate action for individuals who may qualify for programs administered by the Social Security Administration. The structure of outstationing experiments depends on local needs as determined by regional and district offices and their State or local counterparts. Information and referral training has been integrated in the basic training package for interviewing personnel. Cross-training sessions between Social Security Administration employees and representatives of public and private organizations providing aid or services are a part of our EFFORTS to keep employees informed of programs available to applicants. Such organizations include the Administration on Aging and public welfare agencies. Social Security Administration's other activities in this area have included the following:

---We have worked with the Social and Rehabilitation Service to improve procedures for referring disabled children identified through the supplemental security income program to State Early and Periodic Screening and Diagnosis and Testing Programs (EPSDT). Procedural agreements on the

referral techniques agreed upon between the Social and Rehabilitation Service and the Social Security Administration have been transmitted to the regions. Furthermore, recently enacted legislation now requires the referral of disabled and blind children under age 16 eligible for supplemental security income to the agency which administers the State plan for services appropriate for children. We are arranging to implement this provision as soon as possible.

---Social Security Administration participated in the Federal Executive Board's effort to improve information and referral services in major metropolitan areas which has resulted in the development of a comprehensive inventory of Federal services available to many Federal field agencies and made it possible for personnel in the Federal agencies in their areas to be trained in the use of the resource file.

---Social Security Administration is represented on the Interdepartmental Task Force on Information and Referral. This task force, developed in 1974 by the Administration on Aging, responds to a legal mandate under the Older Americans Act to assure that elderly persons are provided information and referral services. The task force developed a working agreement which was signed by 14 different Federal departments and agencies. The meetings of the task force on a national basis have resulted in each agency's assessing its information and referral services and conveying pertinent data to its regional, State and local counterparts. Similar task forces have been convened on a regional basis.

Steps Taken to Effect Better Linkages Between District Offices and Local Welfare Agencies:

Linkage is the term used to describe the process of assuring that supplemental security income applicants are effectively referred from social security offices to the appropriate State offices to be considered for eligibility for various social services provided by the States. These include counseling, medical support and services, housing assistance and rent subsidies, food stamps, meals on wheels, homemaker services, and other services. When aid to the aged, blind and disabled were State welfare programs, linkage to State social services was only a matter of consulting another State employee. With the transition of these programs into the Federal supplemental security program, the process of getting supplemental security income applicants to the appropriate State officials became more complicated. Under the general direction of the Social Security Administration headquarters, Social Security Administration regional offices met with State representatives to develop mutually acceptable referral processes, some of which were adopted Statewide and some of which were supplemented locally. These involved a variety of devices such as referral forms, introductory letters or telephone appointments. Many resulted in written Social Security Administration-State agreements which have been periodically updated and renewed and which are still operational. Where local conditions dictated special procedures, local Social Security Administration and welfare managers arranged them. Employees in each location were cross-trained and oriented to the other's programs to permit

informed guidance to prospective clients. Written guidelines and special training on who to refer and how to do so were also provided to social security offices. At various times, volunteers and specially hired and trained older employees were used as "referral specialists" in social security offices. Our experiments in "outstationing" welfare department employees in social security offices to provide information and referral services have been only partially successful. We have concluded that a better way to accomplish linkage is for well-informed social security interviewers of applicants to be sensitive to possible needs not met by social security programs and to provide effective referrals, by whatever device is used in that State or locality, to the appropriate State offices.

Linkage Between SSI and Medicaid:

The Secretary may enter into an agreement with any State that so desires under which the Social Security Administration (SSA) will make determinations of Medicaid eligibility for aged, blind, and disabled individuals who are determined eligible to receive an SSI benefit and/or a federally administered State supplementary payment. Federal determinations can be made on behalf of a State only if the State elects to provide Medicaid eligibility to all recipients of an SSI benefit and/or a federally administered State supplementary payment. Currently, 28 States and the District of Columbia have entered into this Federal/State partnership.

In general, Social Security Administration's responsibilities under the Medicaid agreement may fall into four major areas:

1. determining and redetermining Medicaid eligibility;
2. providing SSI application information to the State;
3. providing additional information secured in the district office (DO), necessary for the State's administration of its Medicaid program; and
4. referring SSI claimants or recipients to appropriate medical assistance agencies.

Where States do not elect Federal determinations of Medicaid eligibility, Social Security Administration will, if requested, provide selected SSI eligibility information and will respond to State requests, where administratively feasible, for such services as referral and the collocation of State workers in DO's to facilitate application and referral activity. In these States, district office personnel inform the SSI applicant of a probable eligibility for Medicaid and refer the applicant to the appropriate State agency. The SSI allowance notice that is sent when eligibility is established contains a reminder regarding eligibility for Medicaid.

In every instance, States continue to be responsible for all other administrative and operational aspects of their Medicaid program. In those States where Social Security Administration makes Medicaid eligibility determinations, notification is made to the State via the State Data Exchange (SDX). The Social Security Administration DO's collect and input eligibility data (and additional Medicaid information, where appropriate) to the SSI system, which then internally generates a Medicaid eligibility indicator code and Medicaid effective data. Such accretions, deletions and changes are conveyed weekly

to the State on SDX magnetic tapes. A monthly SDX file is also provided which, depending on the type of agreement between Social Security Administration and the State, contains either a record for every individual who received a payment at the beginning of the month (option 1) or a record only for each individual whose payment amount differs from the previous month (option 2). Where cases cannot be immediately processed through the SSI system and reflected in the SDX, manual Medicaid eligibility notification procedures have been established between Social Security Administration DO's and State offices to provide the necessary data on SSI recipients.

Linkage Between SSI and the Food Stamp Program:

The Food and Agriculture Act of 1977 is expected to be signed into law by the President very shortly. This legislation requires that a system be devised whereby an SSI applicant who lives in a household of which there is no non-SSI member may apply for food stamps at a Social Security office. We estimate that about 75 percent of all SSI applicants live in households in which all members are SSI recipients or applicants. Once this legislation is implemented, there will be no need to refer these people to another agency to file for food stamps. It should also be pointed out that California and Massachusetts have "cashed-out" SSI recipients from the food stamp program. Approximately 18 percent of all SSI applicants live in these two States.

A joint Social Security Administration-Department of Agriculture work group has been established to plan for the implementation of this Act. Among the options being

considered are co-location of a State food stamp agency employee and development of special food stamp applications that would be completed with assistance from SSA employees who would receive special training. While we have not worked out exact implementation agreements, we are, of course, considering the impact of the various options on the SSI applicants who are specifically covered in the law and on those SSI and Title II (social security) applicants to whom we are not required to offer this service. Our concern is that the interest of the applicants be served in the most effective way from their perspective and from ours as well.

In conclusion, age is certainly a factor in the various programs in which SSA plays a major role. An obvious example is retirement insurance benefits for which young workers do not qualify. As this statement has pointed out, criteria for referring people for vocational rehabilitation or social services are not always under the control of the Social Security Administration. In areas where we do have such control, it is our policy to provide a high level of service to all regardless of age.

WORKER DISABILITY ALLOWANCES, 1973

TABLE 10.--DIAGNOSTIC GROUP BY AGE AND SEX

DIAGNOSTIC GROUP	INTER-NATIONAL CODE	TOTAL	UNDER 30.	30-49	40-44	45-49	50-54	55-59	60 AND OVER
TOTAL									
TOTAL.....	---	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
INFECTIVE AND PARASITIC.....	000-136	1.6	2.3	3.0	2.7	1.8	1.2	1.2	.9
NEOPLASMS.....	140-239	10.3	6.6	7.5	8.9	11.5	11.4	11.1	10.2
ENDOCRINE, NUTRITIONAL AND METABOLIC..	240-279	3.7	2.8	3.4	3.0	3.7	4.1	4.0	3.5
BLOOD AND BLOOD-FORMING ORGANS.....	280-289	.3	.7	.5	.5	.4	.2	.2	.2
MENTAL DISORDERS.....	290-315	9.6	31.0	21.5	16.5	12.5	9.3	6.2	4.3
NERVOUS SYSTEM AND SENSE ORGANS.....	320-389	6.3	11.4	10.3	8.6	6.4	5.7	5.3	5.4
CIRCULATORY SYSTEM.....	390-458	32.2	3.7	11.8	21.8	27.1	33.5	36.7	40.2
RESPIRATORY SYSTEM.....	460-519	7.0	.5	1.6	3.5	5.0	6.7	8.8	9.4
DIGESTIVE SYSTEM.....	520-577	3.0	1.4	3.1	3.9	4.2	3.5	2.8	2.5
GENITOURINARY SYSTEM.....	580-629	1.0	2.4	1.4	1.4	1.4	.7	.8	.8
SKIN AND SUBCUTANEOUS TISSUE.....	680-709	.4	.4	.5	.5	.6	.3	.4	.3
MUSCULOSKELETAL.....	710-738	17.4	10.0	19.2	18.5	16.6	16.7	17.9	18.1
CONGENITAL ANOMALIES.....	740-759	1.1	2.8	2.1	2.1	1.2	1.0	.8	.6
ACCIDENTS.....	800-999	6.2	23.9	13.9	7.7	6.7	5.1	3.9	3.7
OTHER.....	---	.1	.2	.1	.2	.0	.0	.0	.0

Exhibit No. 11

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
 SOCIAL SECURITY ADMINISTRATION
 BALTIMORE, MARYLAND 21235

REFER TO: IDI-412

OCT 19 1977

Mrs. Eileen Bradley
 Director
 Age Discrimination Study
 U. S. Commission on Civil Rights
 1730 K Street, NW. Suite 214
 Washington, D. C. 20425

Dear Mrs. Bradley:

During my appearance before the Commission on Civil Rights on September 26, 1977, I was asked to provide some additional data.

One of the questions asked was the median age of rehabilitants. The following represent the median age of rehabilitants reported to the Social Security Administration by the State vocational rehabilitation (VR) agencies. It should be understood that these figures are accumulated by us only on social security beneficiaries reported rehabilitated and who have been provided case services with the special funds made available to the VR agencies under the Social Security Act. Additionally, the data represent only reported rehabilitations; not all have been terminated from the social security disability insurance or supplemental security income rolls.

<u>Fiscal Year</u>	<u>Number of Rehabilitations</u>	<u>Median Age</u>
1974	7,102	41
1975	10,242	41
1976	7,570	39

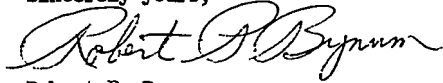
It should be kept in mind that information on rehabilitation in general should be sought from the Rehabilitation Services Administration and that the above data on rehabilitations does not necessarily apply to the regular rehabilitation programs.

The other question asked related to data on allowed claimants by impairment category and age. I am enclosing a table showing this information for 1973, the latest year we have available.

NOV 3 REC'D

I hope the information I have provided will be helpful to you. If you have any further questions, please advise.

Sincerely yours,

A handwritten signature in cursive script that reads "Robert P. Bynum". The signature is fluid and elegant, with the first letters of the first and last names being capitalized and prominent.

Robert P. Bynum
Associate Commissioner
for Program Operations

Enclosure

Exhibit No. 12

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
 SOCIAL AND REHABILITATION SERVICE
 WASHINGTON, D.C. 20201

REGULATION

ACTION TRANSMITTAL
 SRS-AT- 76-129 (MSA)
 August 25, 1976

TO: STATE ADMINISTRATORS AND OTHER INTERESTED
 AGENCIES AND ORGANIZATIONS

SUBJECT: Title XIX, Social Security Act: Home Health
 Services

REGULATION
 REFERENCE: 45 CFR 249.10(a)(4), (b)(7)

ATTACHMENT: Final Medicaid regulations on requirements for
 home health services under State Medicaid plans.

EFFECTIVE: November 23, 1976

ACTION REQUIRED: States must review program operations to assure
 that all eligible persons have access to home
 health services and that the required services
 are provided.

PLAN MATERIAL: SRS-AT-76-130 (MSA) contains instructions for
 revising the preprinted State plan.

BACKGROUND: Proposed regulations were transmitted by SRS-AT-75-
 76, August 21, 1975. Also, see the Notice of
 Intent published on the same date as these final
 regulations which describes the Department's plans
 for public hearings and a new Notice of Proposed
 Rule Making on the general subject of home health
 services (SRS-AT-76- 131).

INQUIRIES TO: SRS Regional Commissioners


 Acting Administrator

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Home Health Services

Notice of proposed rule making was published August 21, 1975 (40 FR 36702) revising existing regulations on the provision of home health services under State plans for medical assistance (title XIX, Social Security Act). The purpose of the proposed revisions was to remove certain restrictions and ambiguities which prevented full realization of the benefits of such services. The basis for the proposal was the Department's desire to increase the availability of home health services to Medicaid recipients and to encourage their use in appropriate cases as one alternative to institutionalization.

In summary, the regulations as proposed would have:

Permitted certain types of qualified health service agencies, in addition to those which meet Medicare standards, to provide home health services under Medicaid programs;

Prescribed the standards which those agencies must meet, which paralleled those for Medicare but were appropriately adjusted for differing needs under Medicaid;

Permitted proprietary agencies to participate if they met the standards, subject to any licensing law of the State;

Clarified that States must make available under the State plan the three main types of services needed in home care: nursing, home health, aide, and supplies and equipment, and also permitted them to provide various therapies as home health services;

Clarified the Medicaid recipients to whom home health services must be available, specified the requirements for a physician's determination of medical needs recorded in a plan of care and periodically reviewed, and clarified that Medicare requirements relating to need for certain types of "skilled" care and the prior hospitalization applicable to the Medicare Part A home health benefit do not apply under Medicaid.

Nearly 1300 comments were received from a broad range of interested parties: Members of Congress, private citizens, national health and welfare organizations, consumer and senior citizen groups, public and private providers and provider organizations, State and local agencies, etc. The comments themselves represented a broad range of opinion from approval of the changes to strong objections in whole or in part. Evidence of widespread interest was also presented by the holding of public hearings on Oc-

tober 28, 1975 by subcommittees of the Senate and House Committees on Aging, and by the convening of an all-day session on the major issues to which the Department invited State, congressional, consumer and provider representatives.

The greatest controversy arose over the proposal to drop from Medicaid the restrictions on proprietary agency participation applied by statute under Medicare, thus allowing their participation in the Medicaid program on the same basis and under the same standards as nonprofit agencies. Another major issue was the establishment of standards differing in some respects from Medicare's, including the provision for single service agencies to participate in Medicaid (those offering only nursing or only home health aide services). In addition, however, these were questions and suggestions on virtually every detail of the proposed regulations.

In light of the great public interest and widely varying opinions the Medicaid regulations are being published at this time with only those revisions necessary to clarify the previous ambiguities on persons eligible to receive home health services and types of services State must provide. This should increase understanding of the requirements on the part of States, recipients and home health agencies and facilitate the appropriate provisions of the services. The issues raised by the proposed rule making will be included for discussion in the overall review of home health care on which the Department has announced public hearings (see Notice of Intent, FR Doc. 76-24916 published elsewhere in this issue).

With respect to the eligibility provisions, comments received were affirmative. Comments on the services requirements and the Department's response are summarized below:

(a) Clarify when services may be provided in an intermediate care facility. This has been done by giving an example.

(b) Change the 90-day physician's review to the Medicare requirement of 60 days. This has been done.

(c) With respect to use of a "solo" nurse in the absence of a qualified agency: Drop the requirement, make it optional, clarify when no agency is considered "available", require States to hold public hearings prior to such a finding, clarify "direction" by a physician.

The requirement has been retained since it is necessary for the provision of services in certain areas, primarily rural. Approximately 23 States now make use of this provision and the Department considers it essential for all States to

have such arrangements in effect. However, the requirement has been strengthened by restricting its applicability to use of registered nurses.

The non-availability of an agency has been clarified by changing the wording to "no such agency exists in the area". This clarification also makes it unnecessary to provide for public hearings on whether an agency is not "available". The wording on "direction" by a physician has been replaced by more specific language.

(d) Clarify whether the home health agency itself must furnish the medical supplies, equipment and appliances required by § 249.10(b) (7) (i) (C).

It is the State's responsibility to make payment for any such item. The items may be supplied by direct prescription of the physician and not necessarily by the home health agency.

(e) Many respondents suggested that a variety of other services—nutrition, homemaker, social services—should be required and that the therapy services listed as optional should be mandated.

The Department recognizes that many of these services would enhance the benefits gained from home health services. However, some of the suggested services are solely custodial in nature and readily available under other federally-assisted programs and, therefore, do not appear to be appropriate for inclusion under title XIX of the Act, the primary purpose of which is to make medical care and services available to indigent people. The therapy services have been retained as optional since it is felt that in the light of current fiscal restraints, this should be a State decision. Such services are optional in State Medicaid programs for provision to any recipient as well as under home health programs. However,

all suggestions on services will be considered in the development of possible legislative proposals as a result of the NOI and public hearings discussed above.

A comment was also received on the definition of a medical rehabilitation facility which may provide therapy services under these regulations. It pointed out an inconsistency between the specification that the major portion of services be provided in the facility and the fact that home health services are provided in the patient's residence. The wording has been clarified.

Accordingly, the proposed regulations, as modified, are hereby adopted.

During the year following the publication of these regulations, the Department will evaluate the utilization and delivery of home health services under both Medicare and Medicaid. Modifications in the legislation and regulations of both programs will be considered on the basis of this evaluation.

Chapter II, Title 45, Code of Federal Regulations, is amended as follows:

1. Section 249.10 is amended by revising paragraphs (a) (4) and (b) (7) to read as set forth below:

(Sec. 1102, 49 Stat. 648 (42 U.S.C. 1302).)

Effective date: The regulations in this section will be effective November 23, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Answers to specific questions may be obtained by calling Robert Silva, 202-245-0251.

Dated: August 13, 1976.

DON WORTMAN,
Acting Administrator, Social
and Rehabilitation Service.

Approved: August 20, 1976.

WILLIAM A. MORRILL,
Acting Secretary.

[FR Doc.76-24915 Filed 8-24-76;8:45 am]

§ 249.10 Amount, duration, and scope of medical assistance.

(a) *State plan requirements.*—A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Specify that at least the first five items of medical and remedial care and services, as set forth in paragraph (b) (1) through (5) of this section, will be provided to the categorically needy.

(2) Specify that, if the plan includes the medically needy, at least the following items of medical and remedial care and services will be provided to the medically needy:

(i) The first five items as set forth in paragraph (b) (1) through (5) of this section; or

(ii) (A) Any seven of the items as set forth in paragraph (b) (1) through (16) of this section; and

(B) If the plan includes inpatient hospital services or skilled nursing facility services, physicians' services to eligible individuals when they are patients in a hospital or skilled nursing facility, even though physicians' services as defined in paragraph (b) (5) of this section are not otherwise included for the medically needy.

(3) In carrying out the requirements in paragraph (a) (1) and (2) of this paragraph with respect to the item of care set forth in paragraph (b) (4) (ii) of this section, provide:

(i) For establishment of administrative mechanisms to identify available screening and diagnostic facilities, to assure that individuals under 21 years of age who are eligible for medical assistance may receive the services of such facilities, and to make available such services as may be included under the State plan;

(ii) For identification of all eligible individuals, including those who are in need of medical or remedial care and services furnished through title V grants, and for assuring that individuals eligible for title V services are informed of such services and are referred to title V grants for care and services, as appropriate;

(iii) For agreements to assure maximum utilization of existing screening, diagnostic, and treatment services provided by other public and voluntary agencies such as child health clinics, OEO Neighborhood Health Centers, day care centers, nursery schools, school health programs, family planning clinics, maternity clinics, and similar facilities;

(iv) That early and periodic screening and diagnosis to ascertain physical and mental defects, and treatment of conditions discovered within the limits of the State plan on the amount, duration, and scope of care and services, will be available to all eligible individuals under 21 years of age; and that, in addition, eyeglasses, hearing aids, and other kinds of treatment for visual and hearing defects, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and

maintenance of dental health, will be available, whether or not otherwise included under the State plan, subject, however, to such utilization controls as may be imposed by the State agency. See § 205.126(c) of this chapter relating to reduction in Federal financial participation under title IV-A of the Act for failure to provide early and periodic screening, diagnosis, and treatment of children.

(4) Provide for the inclusion of home health services which, as a minimum, shall include nursing services; home health aide services, and medical supplies, equipment and appliances, as specified in paragraph (b) (7) of this section. Under this requirement, home health services must be provided to all categorically needy individuals 21 years of age or over; to all categorically needy individuals under 21 years of age if the State plan provides for skilled nursing facility services for such individuals; and to all corresponding groups of medically needy individuals to whom skilled nursing facility services are available under the plan. Eligibility of any individual to receive home health services available under the plan shall not depend upon his need for, or discharge from, institutional care.

(5) (i) Specify the amount and/or duration of each item of medical and remedial care and services that will be provided to the categorically needy and to the medically needy, if the plan includes this latter group. Such items must be sufficient in amount, duration and scope to reasonably achieve their purpose. With respect to the required services for the categorically needy (subparagraph (1) of this paragraph) and the medically needy (subparagraph (2) of this paragraph), the State may not arbitrarily deny or reduce the amount, duration, or scope of such services to an otherwise eligible individual solely because of the diagnosis, type of illness or condition. Appropriate limits may be placed on services based on such criteria as medical necessity or those contained in utilization or medical review procedures.

(ii) Specify that there will be provision for assuring necessary transportation of recipients to and from providers of services and describe the methods that will be used.

(6) Provide that the medical and remedial care and services made available to any categorically needy individual included under the plan will not be less in amount, duration, or scope than those made available to other individuals included under the program, except that:

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(6) *Medical care and any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law.* This term means any medical or remedial care or services other than physicians' services, provided within the scope of practice as defined by State law, by an individual licensed as a practitioner under State law, except that chiropractors' services shall include only services which (i) are provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5) of the Act; and (ii) consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

(7) *Home health services.* (i) This term means the following services and items provided to a recipient in his place of residence. Such residence does not include a hospital, skilled nursing facility or intermediate care facility, except that these services and items may be furnished as home health services to a recipient in an intermediate care facility if they are not required to be furnished by the facility as intermediate care services (for example, short-term registered nurse service during an acute illness to avoid transfer to a skilled nursing facility). Any such service or item provided to a recipient of home health services must be ordered by his physician as part of a written plan of care which is reviewed by his physician at least every 60 days. Those services listed in paragraphs (A), (B) and (C) are required to be made available by the State as home health services; those listed in paragraph (D) may be provided as home health services at State option.

(A) Nursing service, as defined in the State Nurse Practice Act, provided on a part-time or intermittent basis by a home health agency or, in the case where no such agency exists in the area by a registered nurse who is currently licensed to practice in the State, who receives written orders from the patient's physician, documents the care and services provided, and has had orientation to acceptable clinical and administrative record-keeping from a health department nurse.

(B) Home health aide services provided by a home health agency.

(C) Medical supplies, equipment and appliances suitable for use in the home.

(D) Physical therapy, occupational therapy or speech pathology and audiology services, provided by a home health agency or by a facility licensed by the State to provide medical rehabilitation services.

(ii) The term "home health agency" means a public or private agency or organization, or a subdivision of such an agency or organization, which is qualified to participate as a home health agency under title XVIII of the Social Security Act, or is determined currently to meet the requirements for such participation.

(iii) A "facility licensed by the State to provide medical rehabilitation services" means one which is operated under competent medical supervision and which provides therapy services for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of (i) medical evaluation and services, and (ii) psychological, social, or vocational evaluation and services. The facility must be operated either in connection with a hospital or as a facility in which all medical and related health services are prescribed by, or are under the general direction of, persons licensed to practice medicine or surgery in the State.

(8) *Private-duty nursing services.* "Private-duty nursing services" are nursing services provided by a professional

registered nurse or a licensed practical nurse, under the general direction of the patient's physician, to a patient in his own home or in a hospital, skilled nursing home, or extended care facility when the patient requires individual and continuous care beyond that available from a visiting nurse or that routinely provided by the nursing staff of the hospital, nursing home, or extended care facility.

- 4a -

(9) *Clinic services.* "Clinic services" are preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient by or under the direction of a physician or dentist in a facility which is not part of a hospital but which is organized and operated to provide medical care to outpatients.

(10) *Dental services.* "Dental services" are any diagnostic, preventive, or corrective procedures administered by or under the supervision of a dentist in the practice of his profession. Such services include treatment of the teeth and associated structures of the oral cavity, and of disease, injury, or impairment which may affect the oral or general health of the individual. The term "dentist" means a person licensed to practice dentistry or dental surgery.

(11) *Physical therapy, occupational therapy, treatment of speech, hearing, and language disorders.* The services are defined as follows and include the use of such supplies and equipment as are necessary.

(i) "Physical therapy" means those services prescribed by a physician and provided to a patient by or under the supervision of a qualified physical therapist. A "qualified physical therapist" is a graduate of a program of physical therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association, or its equivalent, and where applicable, is licensed by the State.

(ii) "Occupational therapy" means those services prescribed by a physician and provided to a patient and given by or under the supervision of a qualified occupational therapist. A "qualified occupational therapist" is registered by the American Occupational Therapy Association or is a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association and is engaged in the required supplemental clinical experience prerequisite to registration by the American Occupational Therapy Association.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
SOCIAL AND REHABILITATION SERVICE
WASHINGTON, D. C. 20201

GUIDE

ACTION TRANSMITTAL
SRS-AT-77-26 (MSA)
February 16, 1977

TO: STATE AGENCIES ADMINISTERING MEDICAL ASSISTANCE PROGRAMS

SUBJECT: MSA Medical Assistance Manual: Home Health Services

REGULATION REFERENCE: 45 CFR 249.10(a)(4) and (b)(7): Amount, Duration and Scope of Medical Assistance, Home Health Services, transmitted by AT-76-129(MSA) August 25, 1976

ATTACHMENT: Answers to various questions concerning requirements for home health services as stated in the amended regulations.

EFFECTIVE: On issuance

MANUAL MAINTENANCE: Insert the attached pages in Part 5 of the Medical Assistance Manual at 5-50-00 and post on Record of Receipt Form.

INQUIRIES TO: SRS Regional Commissioners

W. J. Wilgus

Commissioner
for Medical Services Administration

**Medical
Assistance
Manual**Part 5. Services and Payment in Medical Assistance Program5-50-00 Home Health Services5-50.1-00 Answers to QuestionsQuestion 1

May a State limit home health services to individuals who require a skilled level of care as defined by Medicare (i.e. skilled nursing and therapy services) and to those who have had prior hospitalization or are in need of institutional services?

Answer

No. Under Medicare, patients must first require "skilled" care before they are entitled to home health aide services. Under Medicaid there can be no test for "skilled" services. For example, if a patient requires only home health aide services, he is entitled to those services without respect to the need for skilled services.

The Part A Medicare requirement for prior hospitalization or a requirement related to institutional care may not be imposed as a prerequisite for home health services.

Home health is an appropriate alternative to unnecessary institutionalization and all levels of care are required to implement proper care and placement. Medicaid's requirement differs from Medicare's in several respects since Medicaid benefits individuals with long term illnesses, has no statutory base for requiring skilled care and includes many persons whose condition is stable rather than post-hospital.

Thus, home health patients may receive home health aide services without the Medicare concomitant requirement of a skilled service. The agency, however, must meet the standards for home health aide services as specified in 20 CFR 405.1227 which require a biweekly supervisory visit by a registered nurse.

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5-50-00 Home Health Services
5-50.1-00 Answers to Questions
Question 2

Must States provide therapy services? (45 CFR 249.10(b)(7)(1)(D))

Answer

No. Therapy services are optional both as a service to all Medicaid eligibles and as home health care. Thus, the State at its option may provide therapy service as a home health benefit without making it available to other groups, provided that it is ordered by a physician in the home health plan of care. Federal matching is available for such service.

Question 3

Must home health services be provided in an ICF?

Answer

No. This is optional with the State. It is intended to make registered nurse services available to ICFs in periods of an emergency or acute illness, if the ICF is not regularly required to provide that service. For example, if there is an outbreak of infectious disease and the RN consultant is not available the State may provide the services of a RN through a home health agency to supervise nursing care; if additional nursing service would prevent transfer of a resident to a SNF, a home health agency may provide care. It is expected, however, that home health services in an ICF will rarely be required.

Question 4

What is a medical rehabilitation center?

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Answer

In addition to the description in § 45 CFR 249.10(b)(7)(iii), a medical rehabilitation center is also described, somewhat differently, in Medicare's "Conditions for Participation" for such centers (20 CFR 405.1720). There are approximately 300 such centers in the country. About 111 are certified to participate as medical rehabilitation centers under Medicare. Of the 111, eleven are also certified by Medicare as home health agencies. They have a capability to provide therapy services in the home. Under Medicaid States may purchase therapy services for home health patients from any rehabilitation center which meets the definition in 45 CFR 249.10(b)(7)(iii) or from one of the 11 Medicare-certified home health agencies.

Question 5

May the State limit medical supplies and equipment? (45 CFR 249.10(b)(7)(i)(C))

Answer

Yes. States may place a money ceiling upon medical supplies and equipment based on a reasonable, fixed dollar amount per month or per year; or may require prior authorization for items costing more than a certain amount; or may list those items for which it will reimburse; or may require prior authorization for durable equipment. A list of reimbursable items, however, may be more restrictive than perhaps the State intended and may cost more than another method. For example, if an item is not on the list, such as an insulin syringe magnifier (a relatively inexpensive item), a weekly nursing visit to fill seven insulin syringes would be many times

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more costly than the price of the magnifier. We suggest, therefore, that in addition to items on the list a statement "other items available with prior authorization" be included.

Question 6

What is the meaning of the statement "where no home health agency exists"? (45 CFR 249.10(b)(7)(i)(A))

Answer

In many States there are geographic areas not covered by a certified home health agency or there may be an agency that refuses to accept Medicaid patients; in both cases, services to recipients in their own homes are not available. If there is no agency in such jurisdiction, the State under its "Statewide" provisions must arrange for this mandatory service by having a provider agreement with a local registered nurse who is currently licensed in the State according to the State's Nurse Practice Act. The nurse then provides nursing services, when the patient's physician orders such care.

Question 7

Must every home health agency provide home health aide services?

Answer

No. The home health agency must meet all standards in Medicare's "Conditions for Participation as a Home Health Agency". This requires the agency to provide at least one service in addition to "skilled" nursing. That additional service need not be home health aides, but may be a therapy or medical social work. The State, however, has an obligation to make home health aide services available on a Statewide basis. This does not mean that every agency must provide home health aide services. The State may impose such a condition in accordance with State law, but is not required to do so under Federal regulations.

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Question 8

May home health services be utilized in Early and Periodic Screening, Diagnosis and Treatment programs?

Answer

Yes, just as any other Medicaid service. Follow-up of care for individuals in EPSDT programs is a legitimate home health service in appropriate cases. In some instances a single visit may be all that is needed, and in other cases intermittent visiting may be required.

Question 9

Will Medicaid reimburse home health agencies for follow-up visits by registered nurses to monitor drug and diet therapy and complications resulting from renal dialysis?

Answer

Yes. Follow-up visits in situations involving drug therapy, diet or other complications resulting from the patient's medical condition or treatment may be made when ordered by a physician. In some instances a single visit may be sufficient.

Exhibit No. 13

Information supporting the Department of Health, Education and Welfare's Policy of Targeting Preventive Health Care Services to Young Children.

The following items were submitted for this exhibit by Robert A. Derzon, Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, and are on file at the U.S. Commission on Civil Rights:

1. Joe L. Frost and Billy L. Payne, "Hunger in America: Scope and Consequences." Nutrition and Intellectual Growth in Children; the Association for Childhood Education International, Washington, D.C. pp. 5-61.
2. M. B. Stock and P. M. Smythe, "Does Under-nutrition During Infancy Inhibit Brain Growth and Subsequent Intellectual Development?" Archives of Disease in Childhood, Vol. 38, 1963, pp. 546-552.
3. Nevin S. Scrimshaw, Ph.D., M.D., "Malnutrition, Learning and Behavior," The American Journal of Clinical Nutrition, Vol. 20, No. 5, May 1967, pp. 493-502.
4. Jane S. Lin-Fu, Children, Vol. 17, No. 1, Jan/Feb. 1970.
5. George C. Cunningham, M.D., "Phenylketonuria Early Detection, Diagnosis and Treatment," California Medicine, Vol. 105, No. 1, January 1966, pp. 1-7.
6. John Gordon Freymann, M.D., "Medicine's Great Schism: Prevention vs. Cure: An Historical Interpretation," Medical Care, Vol. 13, No. 7, July 1975, pp. 525-536.
7. A. Frederick North, Jr., M.D., "Screening in Child Health Care: Where Are We Now and Where Are We Going," Pediatrician, Vol. 54, No. 5, November 1974.

8. Kathyryne Bernick, "Issues in Pediatric Screening," A paper prepared by the Harvard Child Health Project under a grant from the Robert Wood Johnson Foundation, July 1976.
9. U.S. Department of Health, Education, and Welfare, Office of the Assistant Secretary for Program Coordination, "Maternal and Child Health Care Programs," October 1976.
10. Vera Caback and R. Najdanvic "Effect of Undernutrition in Early Life on Physical and Mental Development," Archives of Disease in Childhood, Vol. 40, 1965, pp. 532-534.
11. Lester Breslow, M.D. and Anne R. Somers, "The Lifetime Health-Monitoring Program: A Practical Approach to Preventive Medicine," The New England Journal of Medicine, Vol. 296, No. 11, March 17, 1977, pp. 601-608.
12. Carol H. Ehrlich, Esther Shapiro, Bud D. Kimball, and Muriel Huttner, "Communication Skills in Five-Year-Old Children with High Risk Neonatal Histories," Journal of Speech and Hearing Research, Vol. 16, No. 3, September 1973, pp. 522-529.
13. Herbert G. Birch, M.D., Ph.D., "Malnutrition, Learning, and Intelligence," A paper presented at Leadership Institute held by the President's Committee on Mental Retardation in Charleston, South Carolina, DHEW Publication No. (OS) 73-96.
14. William K. Frankenburg, M.D. and A. Frederick North Jr., M.D., A Guide to Screening for the Early Periodic Screening, Diagnosis and Treatment Program (EPSDT) Under Medicaid, prepared by the American Academy of Pediatrics under Contract SRS 73-31, Social and Rehabilitation Service, U.S. Department of Health, Education, and Welfare, June 1974.

Exhibit No. 14

[FACSIMILE]

STATEMENT OF DAVID S. TATEL,
DIRECTOR, OFFICE FOR CIVIL RIGHTS,
BEFORE UNITED STATES CIVIL RIGHTS COMMISSION

The Office for Civil Rights is pleased to have the opportunity to share with the Commission on Civil Rights its plans for enforcement of the Age Discrimination Act of 1975. Under the statute, the Department of Health, Education, and Welfare must issue general regulations establishing standards and broad guidelines for interpretations of the statute. Individual agencies will subsequently issue specific regulations. The Department has already been working actively to develop an understanding of the implications of the current statutory language, recommendations for possible changes, and proposed interpretative regulations.

Our staff has worked closely over the past several months with Civil Rights Commission officials who are responsible for preparation of the study of age discrimination mandated by the Congress. We have shared information with each other and exchanged impressions and ideas about the strength and weaknesses of the law as it is currently worded. As does Secretary Califano, the Office for Civil Rights looks forward to the completion and publication of your study, which we know will provide needed guidance both to the Congress and to executive agencies as preparation for enforcement of the act goes into high gear.

Regulation Drafting

Between now and January 1, 1979, OCR's major responsibility is the drafting of an effective and comprehensive general regulation for enforcement of the Age Discrimination Act. We welcome this challenge; we have had significant experience in elucidating and interpreting the meaning of broadly phrased anti-discrimination provisions enacted by the Congress. For example, major drafting responsibilities for the regulations under Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973 were shouldered by OCR staff.

There are, however, some very difficult problems which must be resolved before regulations under the Age Discrimination Act can be finalized. Unlike the two statutes to which I have just made reference, the Age Discrimination Act of 1975 as it is currently worded does not simply prohibit recipients of Federal financial assistance from discriminating on the basis of age. In the first place, Congress has stated explicitly its intention to bar only "unreasonable" age discrimination. We believe that this language indicates a congressional intention to legitimize at least some of the age-related criteria and practices which characterize some federal benefit and services programs. There is little guidance, however, in the legislative history or in the wording of the statute itself concerning the intended reach of the prohibition. It seems logical to conclude that the Congress looked to this Commission and its soon-to-be-completed study to provide guidance in this area. The Office for Civil Rights likewise will carefully examine the Commission's report as it drafts

regulatory language interpreting the meaning of "unreasonable discrimination."

The Age Discrimination Act also contains a general exemption for Federal programs which define eligibility for benefits or classes of beneficiaries in age or age-related terms. Interpreted most broadly, this exemption could nullify the act, at least with respect to most if not all of HEW's programs. While such a broad reading does not appear appropriate in light of the clear Congressional intention to eliminate unnecessary age distinctions, the statutory language challenges us to develop comprehensible and enforceable distinctions between covered and exempted programs. Our examination of programs within our own Department to date indicates that a great number of statutes and regulations contain age and age-related terms which affect the distribution of benefits and services to ultimate recipients. We will have a better idea of the magnitude of this problem when the study which the Secretary today ordered is completed in mid-December. The Act also contains language legitimizing otherwise prohibited discrimination if it is "necessary to the . . . achievement of statutory objectives." This language has no counterpart in any existing antidiscrimination statute, nor is there a body of case law to which reference can be made for its interpretation. This is another major area in which the present generalized wording of the statute will require that we draft clear distinctions so that recipients are adequately on notice concerning what is prohibited and what is permitted by the Age Discrimination Act. These are not insoluble problems but they do present difficulties of which

the Commission and the Congress, we believe, should be aware. Again, we hope that the Commission's study will provide guidance on some of these issues and will bring to the attention of the Congress the need for additional clarification in some of these areas.

Enforcement Plans

I am pleased to tell you that OCR is making every effort to ensure that upon the effective date of the Act, January 1, 1979, we will be in the best possible position to commence its enforcement. Initially, of course, and as is the case with Section 504 of the Rehabilitation Act of 1973, OCR will do everything it can to bring about voluntary compliance with the statute. We will attempt to provide technical assistance where appropriate, and will conduct a vigorous public information campaign when the regulations are drafted to ensure that recipients have been notified well in advance of the January 1, 1979 effective date about their responsibilities and obligations. We shall be pleased to work cooperatively with the Commission and other agencies of the Federal Government in this endeavor to guarantee full and immediate compliance with the provisions of the law.

We are also working to ensure that we will be in a position to make enforcement of the Age Discrimination Act an integral part of our compliance and enforcement program. To this end, we have recently reorganized the Office for Civil Rights and have established an Age Discrimination Branch within the Office of Policy, Planning, and Research. It is in that branch that the regulations will be drafted and that policy guidance for the enforcement of the Act will be developed. We have also created a new Compliance Review

Branch which will develop procedures and standards for the conduct of compliance reviews so that OCR can ensure that age issues under the statute and regulations become an integral part of ongoing compliance reviews. This is important because we plan to begin next year conducting a greatly expanded number of compliance reviews, which are our most effective enforcement procedure. Finally, we have created a permanent Training Institute to prepare OCR investigative personnel. The Institute, which will begin operations later this fall, will include age discrimination issues in its curriculum in time to ensure that our investigators are capable of assuming their new responsibilities under the Act. It is important, however, that the Commission understand that OCR may not, by January 1, 1979, be in a position to handle complaints of age discrimination as expeditiously as we would like. As I am sure the Commission knows, OCR now has a serious complaint backlog problem. As of October 1, 1977, we will have a backlog of 3,392 Title VI, Title IX and Section 504 complaints, and expect to receive an additional 2,455 complaints during the fiscal year. With current resources, we will be able to process 2,244 complaints, thus ending FY 1978 with an increased backlog of 3,703. Thus, we will continue to have a substantial backlog of complaints at the time we begin assuming responsibility for processing age discrimination complaints.

However, we are taking several steps to ensure that we begin to reduce the backlog, and in fact, eliminate it completely by mid-Fiscal Year 1980. We are in the process of filling all of our vacancies, which have, in part, been

responsible for the rapid expansion of our complaint backlog. We are also instituting a variety of new procedures which will make us able to utilize existing resources more efficiently, and we are seeking substantial additional resources in an FY 1978 supplemental appropriation request and an expanded FY 1979 budget. Included in the projections for both of these budgets are our best estimates as to the number of age discrimination complaints we will be receiving during FY 1978 and FY 1979. While we are confident that new resources, better efficiencies and better management techniques will enable us to eliminate our backlog by the middle of FY 1980 and become current at that time, there will be some inevitable delays in the processing of age discrimination complaints. We will, however, allocate to age discrimination a fair proportion of our investigative resources to ensure that it receives equal priority with our other responsibilities.

In summary, OCR looks forward to a productive 1978 when we shall lay the groundwork for sound interpretation and meaningful enforcement of the Age Discrimination Act commencing the following year. This is a great and worthy effort which the Federal Government will undertake to end irrational and arbitrary age-based limitations upon all citizens who take part in or benefit from Federally-funded activities.

THE WHITE HOUSE
WASHINGTON

July 20, 1977

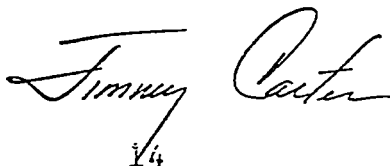
MEMORANDUM FOR THE HEADS OF
EXECUTIVE DEPARTMENTS AND AGENCIES

Title VI of the Civil Rights Act of 1964 writes into law a concept which is basic to our country -- that the government of all the people should not support programs which discriminate on the grounds of race, color, or national origin. There are no exceptions to this rule; no matter how important a program, no matter how urgent the goals, they do not excuse violating any of our laws -- including the laws against discrimination.

This Administration will enforce Title VI. This means, first, that each of you must exert firm leadership to ensure that your department or agency enforces this law.

Second, there must be central guidance and oversight of Title VI enforcement. Executive Order 11764 places with the Attorney General the responsibility for coordinating Title VI enforcement and for approving rules, regulations and orders which departments or agencies issue under Title VI. I want the Attorney General to work closely with each of you to help you make sure that your department or agency is doing an effective job, and I have asked him to give this matter a high priority. The Department of Justice will shortly be contacting each department and agency to determine what action has been taken to comply with the Attorney General's Title VI regulations. You should insist that your staff cooperate fully with the Department of Justice staff as they carry out this task and their other responsibilities under the Executive Order.

Finally, as you know, Title VI was intended to provide an administrative mechanism for insuring equal treatment in Federal programs. Consequently, administrative proceedings leading to fund terminations are the preferred method of enforcing Title VI, and this sanction must be utilized in appropriate cases. There may be some instances, however, where litigation is in order. You must make sure such cases are referred to the Department of Justice. The effective use of the sanctions provided by Title VI is an essential element of this Administration's effort to guarantee that Federal funds do not flow to discriminatory programs.



Jimmy Carter

14

Exhibit No. 15

The following items were submitted for the record by Sandford Brandt, National Board Member, Mental Health Association, and are on file at the U.S. Commission on Civil Rights.

1. Leo E. Hollister, M.D., "Drugs for Mental Disorder of Old Age," Journal of the American Medical Association, Vol. 234, No. 2, October 13, 1975, pp. 195-198.

2. Statement of the National Association for Mental Health, Inc., and the Tennessee Mental Health Association, "Mental Illness Medicare, and National Health Insurance," presented to the Health Subcommittee of the Committee on Ways and Means of the U.S. House of Representatives, July 23, 1976.

3. Statement of the Mental Health Association "HR 6706 Child Health Assessment Act of 1977," presented to the House Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee, September 9, 1977.

4. President's Commission on Mental Health, Preliminary Report to the President, September 1, 1977.

5. "The New Education Law: What Does it Mean?" Closer Look, U.S. Department of Health, Education and Welfare, Bureau of Education for the Handicapped, 1976-1977, pp. 1-6.

6. Press Release on the Child Health Assessment Act of 1977, Mental Health Association, issued September 16, 1977.

7. NIMH Budget Information on Fiscal Year 1976 Funds Spent for Children and Youth Mental Health Activities.

8. "Child and Youth Activities of the National Institute of Mental Health, 1976," presented to the December 7, 1976 meeting of the National Advisory Mental Health Council by S. P. Hersh, M.D., Assistant Director for Children and Youth National Institute of Mental Health.

9. Edward J. Zoble, Ph.D., "A Comparison of Psychiatric and Medical Surgical Charges to Medicare," Menninger Foundation, Topeka, Kansas, December 1, 1975.

10. "Adapting to Long Life," Washington Post, September 18, 1977, p. B1 and B5.



mental health association

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Tom J. Caldwell, Jr.
Rosalyn Carter
Gary H. Carver, Ph.D.
Jerry W. Cole
Mrs. T. Wilkins Davis
Malcolm L. Denise
Charles H. Davis
Clayton Drouillard
Suzanne Elson
Philip Emjay, Jr.
Mrs. Ray Fairabee
Rev. Charles Flegg
Ruth Allen Fouché, Ph.D.
Mrs. Charles Gaylord
Mrs. Joseph Gerlach
Arcile Owens, Jr.
Samuel S. Glickstein
Mrs. Doris Gumperson
Richard C. Hardenbergh
Mrs. Roy L. Hollander
James W. ("Chico") Hizer
John S. Hour
Robert W. Hicks
Raoul C. Kennedy, M.D.
Perry Knauth
Mrs. Albert Kohn
Henry S. Konyukui
Milne Leach
Don Levy
Robert Levy
Marilyn Loeving
Mrs. Beverly B. Long
Carter L. Long
Larry R. Marshall
Mrs. Roger Marshall
Charles Francis Mahoney
Walker J. Matthews
Mrs. Jan E. McCow
Eugene McCowan, Jr.
William G. McFadden
Mrs. Nancy P. McVey
Mrs. Lois Melnick
Herbert Miller
Allan R. Molzen
Franklin H. Moore, Sr.
Mrs. John Oliver (Julia)
Lorenzo Patino
Mrs. Wilbur F. Pell
Earl Phipps
William Pulos, Ed.D.
Mrs. James W. Reilly, Jr.
Mrs. Jack W. Robbins
Norbert Roberts, M.D.
Alexander Rodriguez
Harry J. Rubin
Mrs. R. D. Schorogge
Mrs. John Scholze
A. Wilson Simmons, Jr.
Juliette M. Simmona, M.D.
Mrs. R. C. Sloan
Mrs. Lail Valand
Adrian Vandermaast
Mrs. Max W. Van Dicks
Mrs. C. Alice Vernon
John L. Vitale
Mrs. Wilma Walker
E. Blair Warner
Thomas H. Watkins
Mrs. Marjorie West
Linda E. Wheeler
Justin K. Witt
Edwin D. Wolf

November 18, 1977

Ms. Laura Wilmot
1718 P Street, N.W., Apt. 409
Washington, D.C. 20036

Dear Ms. Wilmot:

Hilda Robbins asked that I provide the enclosed information to you regarding services provided by Community Mental Health Centers to various age groups. If the enclosed data aren't sufficient, please let us know.

Sincerely,

Robert M. Smucker
Director, Program Department

RMS:clg
Enclosure

cc: Hilda Robbins



2) "Of those who are estimated to be in need of mental health services in the child and youth population, only 10% (at best) are receiving such services." (Case #)

3. MHA Fact Sheet - Attachment on CMHC's in 1974-75

A breakdown of admissions to CMHCs by age group shows that a majority of those seen (69 %) are in the 20-54 age group, only 14 % are under 15, and less than 4 % over age 65.

Age	% of Patients Seen	% in U.S. Population
Aged 0 - 14	... 14.3 %	... 28.4 %
15 - 19	... 13.1 %	... 9.4 %
20 - 24	... 15.5 %	... 8.1 %
25 - 44	... 36.9 %	... 23.6 %
45 - 64	... 16.6 %	... 20.6 %
65 +	... 3.6 %	... 9.9 %

Two apparently underserved groups, therefore, are children and elderly persons.

11. Provisional Data on Federally CMHC's 1975-76 NIMH 4/77

Sex and age	1969	1970	1971	1972	1973	1974	1975
Both sexes	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Under 15	13.0	15.4	14.3	17.2	16.7	16.6	16.0
15-24	26.5	27.3	28.6	26.9	26.7	26.3	26.1
25-44	37.6	36.2	36.9	35.9	36.8	37.2	38.5
45-64	18.9	17.2	16.6	16.2	16.0	16.0	15.4
65+	4.0	3.9	3.5	3.8	3.8	3.9	4.0

13.

HOW MANY ARE ILL?

One in 10 people in the United States have some form of mental illness, ranging from mild to severe, that would benefit from professional help. Twenty-one million families have someone in their immediate family affected by mental illness — that is, more than one in four.

Children also suffer from mental illness in the same proportion as adults; 3 percent have severe emotional problems; another 8 percent have less severe problems, but are still unable to function normally.

One person in every 35 (about 7 million) is receiving treatment for mental and emotional problems. That is less than one third of those who need it.

MHA - Facts

About Mental

Illness - 1975-1976?

A 1971 study by the American Psychiatric Association showed there were almost 24,000 psychiatrists in the U.S., 16,267 of them practicing. They spent about 43 percent of their time in private office practice and 18 percent in inpatient services. Ten percent of all practicing psychiatrists (1,034) are child psychiatrists. Nationally, there are 11 psychiatrists for every 100,000 people; however, these professionals are unevenly distributed across the U.S.

Exhibit No. 17

[FACSIMILE]

STATEMENT OF THOMAS EHRLICH

PRESIDENT OF THE LEGAL SERVICES CORPORATION

ON

AGE DISCRIMINATION AND THE DELIVERY OF LEGAL SERVICES

BEFORE THE

U.S. COMMISSION ON CIVIL RIGHTS--

AGE DISCRIMINATION STUDY

SEPTEMBER 27, 1977

On behalf of the Legal Services Corporation staff, I am pleased to accept this Commission's invitation to testify on age discrimination and the delivery of legal services. As this Commission knows, the Legal Services Corporation is not a Federal agency, although the Corporation does receive its funds from the Congress. In fulfilling our Congressional mandate to support civil legal assistance for the poor, we share your concern to prevent any discrimination on the basis of age in the delivery of legal services.

This statement addresses four areas: the basic purpose and activities of the Corporation; the Corporation's special efforts on behalf of juveniles and the elderly; the work of legal services programs around the country to serve those groups; and the steps necessary to ensure that the elderly and juvenile poor are treated fairly in the delivery of legal services.

I. The Legal Services Corporation is a private non-profit Corporation established and funded by the Congress to provide civil legal assistance to the poor. There are approximately 29 million poor people, of all ages, in the United States, persons whose income and resources are below

subsistence levels. For all but a very few of those people, the predominant issue in their lives is survival. Access to the legal system can be a vital means for poor people to obtain basic necessities, such as income, food, shelter, clothing, medical care and education.

When the Corporation began operations in October 1975, nearly 20 million of the nation's 29 million poor people had little or no access to legal services. Either they lived in areas where no programs existed, or the programs in their areas could not provide sufficient service because of limited resources. As an initial priority, we undertook a short-term plan to provide a bare-minimum level of service throughout the country---the equivalent of at least two lawyers per 10,000 poor persons.

In 1977, the Corporation received an appropriation of \$125 million. This increase permitted, for the first time in this decade, a significant expansion of legal services programs in areas where the poor had little or no access to legal assistance. Expansion grants have been made to new or existing programs in 40 States, making a minimum level of legal assistance available to approximately 3.8 million poor persons who were previously unserved. The \$205 million appropriation we will receive in 1978 will enable us to expand service to an additional 8.3 million poor people at that level. With continued adequate funding from the Congress, we will be able to reach our short-term goal by the end of fiscal 1979.

The process of stabilizing, strengthening, and expanding local legal services programs has special significance for groups---such as the elderly and juvenile

poor---for whom the problems of too few programs and too few lawyers are compounded by a lack of physical access to legal services. With the security of continued funding, and substantially increased funds in many areas, programs will be able to undertake the outreach activities and expansion of services that were impossible in the years of retrenchment caused by frozen legal services budgets from 1970 through 1974.

Further, it is a condition of each program's grant from the Corporation that it not discriminate in the provision of its services---or in its employment practices---on grounds of age or on any other basis prohibited by law. We have developed a complaint review procedure to ensure that any complaint against a local program alleging such discrimination can be thoroughly reviewed. We will continue to do all we can to ensure that no such discrimination in fact occurs.

At the bare minimum level of funding afforded by the minimum access plan, however, it will be impossible to meet all of the legal needs of poor people. In contrast to the short-term goal of the equivalent of two attorneys for each 10,000 poor persons, there are fourteen attorneys in private practice for each 10,000 persons in the general population. It is against this background of a severe shortage of funding that the efforts of the Corporation and its grantees to meet the legal needs of poor persons of all ages must be considered.

Of necessity, programs must set priorities in the allocation of their resources. The Corporation requires that in setting priorities, programs take into

consideration, among other factors, the urgency of particular legal problems of eligible clients, and the general effect of the resolution of a particular category of cases on persons least able to afford legal assistance in the community served. Because of the enormous diversity in local circumstances, the Corporation does not mandate what procedure a local program should follow to determine its priorities. We do require, however, that clients as well as employees of the programs participate in the priority-setting process, and that the demographic distribution of eligible clients be considered.

This regulation has been in effect for nine months. Our regional offices, in their quarterly monitoring visits, are now actively working to ensure compliance with the regulation. In addition, in their applications for refunding, programs must describe the nature of their priorities and the process through which they were set. Some programs have utilized surveys of community needs to help them in establishing their priorities. Such surveys have enabled them to reach a broad cross-section of potential clients, in addition to those who have requested the program's service. Through their boards of directors, surveys, and community meetings, programs are making a special effort to include the views not only of elderly and juvenile potential clients, but also of the community agencies that focus on the problems of those groups.

II. Although our mandate is to provide legal assistance to all poor people regardless of age, race, or background, the Corporation has undertaken a number of activities, and is planning others, designed to increase the

capacity of legal services programs to serve the elderly and the young.

The Corporation has entered into a joint agreement with the Administration on Aging to ensure that the resources of both organizations are coordinated to provide the maximum legal services for the elderly. Based on that agreement, we have assigned an experienced legal services attorney to assist AoA in managing its program for legal services development specialists and in developing policies that will encourage the expansion of legal services for the elderly. The Corporation and AoA will work together to stimulate cooperative relationships between the aging networks and legal services programs. Legal services programs will be encouraged, for example, to make use of the outreach, education, and transportation resources of the aging network to expand services to the elderly. The exchange of training and community education materials on the legal rights of the elderly will also be facilitated and encouraged.

The Corporation is now engaged in a major study of legal services delivery methods. A primary purpose in that study is to explore new means of serving groups with special problems of access to legal services. Eight of the 38 demonstration projects selected for the study focus particularly on the problems of the elderly poor. The remaining 30 projects will all include the elderly in their client groups.

The first nineteen demonstration projects have been operating since the beginning of this year. Of that group, Utah Legal Services is providing specialized legal services to the elderly in the southern rural part of the State,

through a judicare project that utilizes the existing aging network to reach eligible clients. A key element of the project is the provision of training and support materials for the judicare attorneys on the legal problems of the elderly. Judicare of Anoka County, Inc. in Minnesota is providing general legal services to eligible clients, with a special emphasis on reaching the elderly through the existing aging network in the county, to be supplemented if necessary by an outreach worker. The Corporation contracted with a private law firm in Birmingham, Alabama to provide certain services that the local program does not offer. One-quarter of the grant is set aside to provide wills and testamentary instruments for eligible clients, a service that is particularly important for the elderly. Group Legal Services in Los Angeles is providing pre-paid legal services to groups of clients selected from Social Security and public assistance rolls. That selection process ensures that a significant portion of the clients are elderly. The project focuses on providing advice and other assistance by telephone, eliminating the need for a client to visit the office. Clients requiring further legal assistance are referred to private attorneys.

In August, 1977, an additional nineteen proposals were selected for the second round of the study. Four of these programs concentrate entirely on the delivery of services to the elderly poor through a variety of methods, and all include the elderly among their eligible clients. The Philadelphia Bar Association will provide general legal services to elderly clients in Philadelphia, through a panel of private attorneys recruited from the Bar Association's

lawyer reference service. Bet Tzedek, "House of Justice," a private non-profit Corporation that currently operates a pro bono project, will enlist additional volunteer private attorneys to provide general legal services to poor elderly clients in an area of Los Angeles, California. The American Association of Retired Persons/National Retired Teachers Association will expand its legal services to indigent elderly clients in the District of Columbia through the use of senior citizen volunteer paralegals and attorneys and a pro bono referral panel. Consumers Group Legal Services, an adjunct to a consumer cooperative, will provide general legal services, through its staff and a closed panel of private attorneys, to a specified group of elderly persons in Berkeley and Richmond, California.

The Corporation does not expect that its research efforts will identify any single best method of delivering legal services to the elderly or to any other client group. They will, however, provide valuable insights and information to local programs on improving their own methods of servicing eligible clients. The Corporation will implement the results of its delivery research without delay, and will share those results with AoA and other interested groups.

The Corporation conducts research in substantive areas of the law through its Research Institute on Legal Assistance. Many of the Institute's activities concern the legal rights of juveniles and elderly people. Two research projects, for example, focus on improving the foster care system for child placements. The Research Institute has also begun a major study of the proposed juvenile justice

standards. The study will suggest any revisions that may be needed to protect the rights of low income juveniles. One seminar sponsored by the Institute was devoted entirely to problems of child abuse, neglect, foster care, and adoption.

In the area of elderly rights, one research fellow is preparing a major study on guardianship laws and practices, and two others are writing an article on problems of released mental patients in after care facilities. The Research Institute also holds seminars to bring legal services practitioners up to date on developments in new areas of the law. Several projects have been undertaken in the area of health care, a matter of substantial interest to the old and young alike. This work has produced several articles and a number of seminars and training conferences.

As part of its support activities for local programs, the Corporation provides training for legal services lawyers and paralegals. All lawyers and paralegals who work in programs supported by the Corporation---even if their positions are funded by sources other than the Corporation---are eligible to receive this training. In 1977, the Corporation provided basic skills training to more than 500 paralegals, approximately 10 percent of whom were elderly paralegals employed in special programs for the elderly poor. Next year, the Corporation will provide comprehensive training regarding the rights of the elderly for several hundred legal services lawyers and paralegals. In addition, there will be training sessions concerning the procedural and substantive problems encountered in representing clients in Supplemental Security Income (SSI) cases, an area that affects primarily the elderly. We are also undertaking an

advanced training series for paralegals in general administrative representation. Because the bulk of legal services cases before administrative agencies concern Aid to Families with Dependent Children, Food Stamps, and SSI programs, substantial numbers of juvenile and elderly clients will be benefited by the increased availability and improved quality of this representation. Finally, we plan to train hundreds of lawyers in the special problems of the rural poor. This effort may also have a significant impact on the elderly.

Materials on the particular legal problems of juveniles and the elderly, in addition to general legal issues affecting the poor, are disseminated monthly through the Clearinghouse Review, a publication of the Corporation's Office of Program Support. The Review reports regularly on developments in matters litigated by legal services programs around the country and on legislative developments. In-depth analyses of particularly complex areas of the law appear in each issue, and these frequently concern the problems of juveniles and the elderly poor. A major portion of the July 1977 issue, for example, was devoted to developments in juvenile law.

III. We do not know the exact number of individual elderly and juvenile clients served by Corporation-funded legal services programs. The crisis atmosphere surrounding the entire program in the years prior to creation of the Corporation made a detailed analysis of legal services caseloads impossible. Now that the period of uncertainty is behind us, we are attempting that analysis. Through data collection activities in connection with the Delivery

Systems Study and a reporting system for all programs that we fund, we will learn a good deal about our programs and the clients that they serve, including their age groupings. In the meantime, we can describe generally for the Commission the activities of legal services programs on behalf of the elderly and the young.

In addition to service provided by programs to elderly and juvenile clients as part of their general caseloads, many programs have established special units or have designated individual attorneys and paralegals to serve those groups.

Four programs funded by the Corporation devote all of their efforts to the elderly---the National Senior Citizens Law Center in Los Angeles, Legal Services for the Elderly Poor in New York, the Council of Elders in Boston, and the Senior Citizens Project of California Rural Legal Assistance. Two other grantees---the Youth Law Center in San Francisco and the Juvenile Law Center in St. Louis---concentrate solely on the problems of juveniles.

Further, more than one-fifth of our programs receive approximately \$1.7 million in funds under Title III of the Older Americans Act to provide legal services specifically to the elderly poor. These funds have been used in a variety of ways, such as establishing specialty units, hiring elderly attorneys or paralegals, or purchasing vans to serve as mobile legal services units. Other programs have been unable to obtain Title III funds, but have used funds from sources such as revenue sharing for similar purposes.

The addition of a special elderly component invariably serves to increase the program's focus upon the problems of the elderly. When Title III funds have been used to add paralegals or attorneys to perform aggressive outreach and community education activities, for example, more cases of elderly clients are generated than the specially funded staff can handle. The additional cases are handled by regular staff. Supervision of elderly paralegals is often provided by attorneys funded by other sources, and necessary support services for specialty units are usually funded from the general program budget. The existence of elderly specialists, moreover, often helps the entire staff of a program to be more sensitive to the special legal needs of the elderly. As a result, major litigation efforts may be undertaken, which are likely to involve the time and expertise of other attorneys on the program's staff, and the program may undertake additional legislative efforts on behalf of elderly clients. In short, the receipt of grants for the elderly often results in a larger proportion of a program's resources being devoted to their problems than would otherwise be true.

In addition to the efforts of legal services programs in representing elderly and juvenile clients, much of the work done by those programs benefits the members of the groups as a whole. The National Senior Citizens Law Center in Los Angeles, for example, has represented clients before courts and legislative bodies, and has assisted other programs in litigation concerning problem areas such as SSI, Social Security, pensions, and nursing homes. These matters are of enormous importance to the elderly as a group. The

Juvenile Law Center and the Youth Law Center perform similar work on behalf of young people.

The National Health Law Program in Los Angeles has carried on major work in all areas of the Medicaid and Medicare programs, including assisting local programs with litigation to enforce the Federal requirement for the early and periodic screening, diagnosis and treatment of poor children. The Health Law Program has also concentrated its resources on enforcement of the home health care provisions of Federal law, an alternative to nursing homes. The Center on Social Welfare Policy and Law in New York, together with the Senior Citizens Law Center, has been a leader in litigation and administrative representation to enforce the rights of the elderly and disabled poor under the SSI program. The Center devotes the bulk of its resources to the Federal AFDC program, which is vital to the subsistence of millions of poor children throughout this country. Most of the work of the Center for Law and Education in Cambridge, Massachusetts benefits poor children.

Having described briefly some of the specialized legal services activity on behalf of the elderly and juvenile poor, one point must be stressed: the overwhelming majority of legal problems that affect these groups occur because they live in poverty, not because of particular problems associated with their age. The problems of income maintenance, adequate shelter, health care and nutrition are basic survival issues that affect all poor people. When legal services programs achieve major victories in these areas---by assuring a warranty of habitability in private housing; by protecting the right of fair admissions to

public housing; by preventing unlawful mortgage foreclosures; by winning the right to a reasonable utility rate; by forcing State governments to carry out their mandate to notify all eligible persons of their right to participate in the food stamp program: and to provide food stamp benefits on an emergency basis where needed---all poor people benefit, regardless of the age of the actual clients. For these reasons, no statistical count of the number of individual clients served by an office will ever accurately reflect the number of poor persons for whom that office has actually performed an invaluable service.

IV. We do not suggest that legal services programs are meeting the needs of the elderly and juvenile poor for legal services, any more than they can serve adequately any other groups of poor people. The lack of mobility of elderly people and juveniles creates special problems in the delivery of legal services. The Corporation and the legal services community recognize their obligations to work to overcome those problems, as my previous comments have demonstrated. A few additional words, however, may be helpful. The most obvious difficulty facing legal services programs in helping the elderly and juveniles is the critical lack of resources for those programs. The fact that certain groups may receive less individual service than their proportion of the population does not mean that programs are discriminating against those groups. When legal services offices are already besieged with many more requests for service than they can meet, their failure to expend the time and money necessary to reach out to other

parts of the community is an understandable response to totally inadequate funding conditions.

Because many programs are now receiving substantial amounts of new funds, and because new programs are now being established, we expect that substantial outreach activities into all segments of the poverty community will be made. Those activities are essential to increasing service to the elderly and juveniles. In the next several years considerable energy will also be directed toward assisting rural programs to develop the best possible means of overcoming the barriers of distance and lack of transportation that adversely affect all of the rural poor, but especially the elderly and juveniles.

Further, some of the need that poor people have for legal services can be met by the effective provision of information, without necessarily requiring the one-on-one services of an attorney or a paralegal. To help people to recognize their legal rights, and to arm them with the knowledge necessary to avoid legal problems and help themselves to gain public benefits to which they are entitled, the Corporation is now embarking on an important project in the area of preventive law. We will for the first time assemble the materials and techniques now in use in various programs throughout the country, and conduct training and technical assistance efforts to help those programs with on-going preventive law efforts to improve their services, and to facilitate other programs undertaking such activities.

Commission staff members have asked us about the possible restrictive effect on representation of juveniles

of Section 1007(b) (4) of the Legal Services Corporation Act. The intent of that section was to prevent improper interference by legal services programs in parent/child relationships, and it forbids representation of juveniles without parental consent or court appointment only in actions directly against their parents or non-institutional guardians. Representation of a juvenile is specifically permitted in cases involving child abuse or neglect or child custody, and in cases of status offenses and conditions of confinement, as well as in any other matter in which the parent or guardian requests representation. This section does not appear to have had a substantially adverse effect on the number or nature of juvenile cases handled by legal services programs, but its complexity may have created confusion in some local offices, and may have discouraged them in particular cases from undertaking representation of juveniles. Moreover, as a matter of principle we oppose all the restrictions in the Act on particular categories of cases, because we believe that legal services clients should have the same rights to advice and representation in civil matters as other clients. The determination of what kinds of cases to take should rest with local program boards.

In assessing the adequacy of service by local legal services programs to particular groups in the population, another provision in the Act should be kept in mind---the restriction against representing otherwise eligible clients in fee-generating cases. Many jurisdictions provide for payment of a fee to private attorneys representing juveniles in neglect and abuse cases, juvenile quasi-criminal proceedings, and sometimes in domestic custody disputes.

Programs in those jurisdictions are forbidden by the Act from representing juveniles in such cases unless private representation is not available. A greater number of legal matters involving the elderly poor may also be fee-generating than the legal problems of the poor population in general. Representation in Social Security and SSI benefit claim cases carries a statutory fee of 25 percent of the benefits awarded. Programs must attempt to refer these cases to the private bar before themselves undertaking representation. Many programs, of course, do continue to represent a substantial number of benefit claimants in these areas, as the sums involved may be too little to furnish a sufficient fee to members of the private bar.

One final point. From time to time some have urged a requirement that all legal services programs use a particular method for providing service to the elderly---such as a separate specialty unit---or that a portion of the Corporation's appropriations be earmarked for service to the elderly. We think that those steps would be most unwise.

The immense variety in local circumstances and the needs and priorities of local programs dictate against any one best delivery model for any group. The Corporation has funded several local programs which serve only elderly clients. Through these programs, as well as the many other specialized elderly units operated by local legal services programs and the model projects funded by the Administration on Aging, we will in the next several years be able to learn in much greater depth which delivery mechanisms yield the best results under differing local conditions. For example, training local senior citizens to act as paralegals may be a

very successful delivery method in some areas, but may prove to be needlessly inefficient in others. We will assist local programs to make the best possible delivery decisions under their local circumstances.

We also oppose earmarking a portion of the Corporation's appropriations for service to any particular group. The Corporation's mandate is to provide service to all of the poor, concentrating only upon those least able to afford such service. Earmarking funds for any group would inevitably mean less efficiency in working toward that goal. It would mean that other clients or groups would be denied access to the legal system altogether. Such trade-offs should not be necessary when the sound solution is to provide the Corporation with sufficient resources to perform the job for which Congress established it. The Legal Services Corporation is vitally concerned with ensuring equal access to the system of justice for all of the nation's poor, regardless of age, race, or background. We recognize that securing that access for some groups in the population is more difficult than for others. We believe we have made progress in improving the quality and quantity of service to the nation's elderly and juvenile poor. We are aware that many problems remain, and we know that more must be done in the future. Given adequate resources, we will do the job.

STATEMENT OF UNDERSTANDING
between
THE ADMINISTRATION ON AGING
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
and
THE LEGAL SERVICES CORPORATION

The need for legal services among persons who are elderly is becoming increasingly apparent. While older persons have the same legal problems as any other age-group -- housing and consumer matters, for example -- they also have unique problems associated with their age, such as discrimination in employment, pensions, nursing homes and home health care, and an increasing reliance on public benefits. In addition, the relative lack of mobility of many older persons often causes difficulty in gaining access to legal services, even when they are available.

Congress has assigned responsibility for providing older persons access to legal assistance to both the Legal Services Corporation and the Administration on Aging. The Legal Services Corporation Act of 1974 authorizes the Corporation to provide financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford such assistance. This group includes a substantial number of elderly people. The 1975 amendments to the Older Americans Act designated legal services as one of four priority services to be provided older persons through funds available to state and area aging agencies under Title III of that Act.

- 2 -

Because local legal services programs, in their efforts to deliver services to the elderly, confront particular problems of outreach, education, and transportation, and because the aging network is particularly suited to alleviating such problems, cooperation at the local level can lead to expanded services to the elderly. In many communities, where lack of funding limits local legal services programs to the general practice of law, the availability of resources under the Older Americans Act can make possible specialized services for the elderly. The participation of local legal services program personnel in the activities of the aging network, including education of older persons about their legal problems and training and technical assistance to network personnel working with older persons, can increase access to legal services for the elderly.

The purpose of this agreement is to promote such cooperative working relationships between the Administration on Aging and the Legal Services Corporation, and more importantly to encourage those relationships between LSC funded legal services programs and AoA funded projects and agencies at the state and local level, to maximize the capacity of both to provide access to legal services for the elderly, and to use their combined influence to encourage greater participation in such efforts by the private bar and by law schools. To realize that goal, the Administration on Aging and the Legal Services Corporation are committed to the following objectives:

1. To expand the awareness by legal personnel of the legal concerns and problems facing older persons;
2. To expand the understanding by older persons of their legal rights;
3. To increase the number of legal personnel trained to serve and working on behalf of the elderly of the nation; and

- 3 -

4. To improve the access of older persons to existing legal services and to increase the number of communities in which such services are available.

OBJECTIVE ONE: To expand the awareness by legal personnel of the legal concerns and problems facing older persons today.

In order to promote the achievement of this objective, the Administration on Aging will: (1) prepare a report on the social and legal problems facing older persons for distribution to law schools, legal organizations, legal services programs and legal journals; (2) encourage the inclusion of the legal concerns for older persons issue in national, regional and State legal conferences; (3) sponsor the drafting of suggested curricula materials relating to older persons for use in legal training programs; (4) encourage State and Area Agencies on Aging to be in contact with state and local bar associations and with legal services programs to discuss the legal problems of older persons and to explore ways in which the bar associations, legal services programs, and the National Network on Aging can cooperate to expand legal services to the elderly; (5) make available to law schools, legal organizations and legal services programs materials developed by legal services model project grantees; (6) sponsor the conduct of national and regional workshops on legal-social issues and the elderly; and (7) other activities which are appropriate to the achievement of this objective.

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The Legal Services Corporation will: (1) make available the National Clearinghouse for Legal Services for the dissemination of materials prepared by the Administration on Aging and its grantees; (2) provide technical assistance to the Administration on Aging in the preparation of materials and in the conduct of workshops and conferences on the legal needs of the elderly; (3) encourage participation in such workshops and conferences by legal services program personnel; (4) directly or through the programs it funds, develop materials on substantive areas of the law affecting the elderly poor, and make such materials available to any program providing legal services to the elderly poor; (5) encourage local legal services programs to take steps to include among client members of their boards of directors older persons or representatives of the network on aging; and (6) other activities appropriate to the achievement of this objective.

OBJECTIVE TWO: To expand the understanding by older persons of their legal rights.

In order to promote the achievement of this objective, the Administration on Aging will: (1) develop, and encourage to be developed at the State and local level, a public education program designed to expand the awareness by older persons of their legal rights; (2) encourage national organizations on aging to disseminate information concerning the legal rights of older persons; (3) encourage State and Area Agencies on Aging to finance education programs on the legal rights of older persons with the resources

- 5 -

available under Title III and Title VII of the Older Americans Act; and (4) other activities which are appropriate to the achievement of this objective.

The Legal Services Corporation will: (1) encourage legal services programs to publicize the availability of legal services, through posters, pamphlets, newsletters, and other means, in senior citizens centers, nutrition sites, and areas where the elderly live; (2) encourage legal services programs to make regular visits to nutrition sites, senior citizens centers, elderly housing projects, and other places where older persons congregate, to explain their legal rights and remedies; (3) work with the Administration on Aging in the development of community education materials directly related to the legal problems of the elderly; (4) to the extent that resources are available, encourage legal services programs to provide information and technical assistance, where appropriate, to local aging agencies and programs serving the elderly; (5) disseminate the Legal Services Corporation newsletter to state and area aging agencies; (6) make available the services of the National Clearinghouse for Legal Services to state and area aging agencies; and (7) other activities appropriate to the achievement of this objective.

OBJECTIVE THREE: To increase the number of legal personnel trained to serve and working on behalf of the elderly of the nation.

In order to promote the achievement of this objective, the Administration on Aging will: (1) develop suggested curricula materials on legal services

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to the elderly for use in legal training programs; (2) obtain base line data on the number of legal and paralegal personnel trained and working on behalf of the elderly; (3) identify legal services as a priority for the use of Title IV-A training funds; (4) expand the number of community service advisers, paralegals, and attorneys trained to serve the elderly; (5) continue and improve technical assistance to programs which are training legal personnel on legal problems of the elderly; and (6) other activities which are appropriate to the achievement of this objective.

The Legal Services Corporation will: (1) provide training to legal services program attorneys and paralegals on substantive areas of the law that affect the elderly; (2) utilize materials prepared by the Administration on Aging model projects and training grantees, as appropriate, for training of legal services program personnel; (3) encourage participation by legal services program personnel in state and local training programs funded under the Older Americans Act; (4) explore with the Administration on Aging the possibility of joint training activities at a regional level; (5) work with the law school clinics funded by the Administration on Aging to assure that students trained in serving the elderly are aware of employment possibilities in legal services programs and encourage local legal services programs to recruit personnel with such clinical experience; and (6) other activities appropriate to the achievement of this objective.

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OBJECTIVE FOUR: To improve the access of older persons to existing legal services and to increase the number of communities in which such services are available.

In order to promote the achievement of this objective, the Administration on Aging will: (1) develop model program materials on legal services to the elderly; (2) expand the availability of technical assistance on problems of older persons to legal services programs at the State and local levels; (3) encourage State and Area Agencies on Aging to utilize Older Americans Act resources to stimulate the expansion of legal services for the elderly, awarding funds to existing legal services programs whenever possible; (4) encourage State and Area Aging Agencies to utilize existing outreach and transportation capabilities and resources available under Title III and Title VII of the Older Americans Act to enable older persons with legal problems to utilize legal services programs; (5) make available Title IV-A funds to train, and encourage State and Area Agencies on Aging to train social service, outreach, I&R and nutrition project personnel to identify and refer older persons experiencing legal problems; (6) disseminate to State and Area Agencies on Aging, legal services programs, bar associations and law schools materials which identify sources of funds for developing legal services to the elderly; (7) issue policies and guidelines for operation of legal services to the aging to the National Network on Aging; (8) inventory State and Area Aging Agencies to determine the extent to which they are funding legal services activities and the nature

- 8 -

of those activities; and (9) other activities which are appropriate to the achievement of this objective.

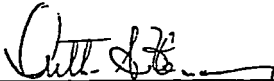
The Legal Services Corporation will: (1) establish a Project Reporting System that will yield data for each legal services program funded by the Corporation on the number of elderly clients served and the nature of the services provided; (2) inventory legal services programs funded by the Corporation to determine the extent to which they are working with the aging network, and to identify any specialized activities for older persons within existing legal services programs; (3) if the Project Reporting System and the inventory suggest that a program is seriously underserving the elderly poor, investigate the cause and assure that affirmative steps are taken as necessary to correct the imbalance; (4) work with the legal services development specialist program of the Administration on Aging at both the national and the state level to expand legal services accessible to older persons; (5) as part of the delivery system study, provide funds to test alternative models for delivering legal services to the elderly poor, particularly in rural areas; (6) subject to available funding, increase the capacity of existing legal services programs to serve all eligible clients, including those who are elderly; (7) subject to available funding, create new legal services programs in areas where none now exist to serve eligible clients, including those who are elderly; (8) encourage the development of local agreements between legal services programs and area aging agencies; and (9) other activities appropriate to the achievement of this objective.

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In implementing each of the objectives listed above, the Administration on Aging and the Legal Services Corporation will consider joint activities, wherever feasible, to avoid duplication of efforts and to maximize the effective use of the resources of each organization.

The Commissioner on Aging and the President of the Legal Services Corporation will designate each a staff person to ensure that this agreement is properly implemented. One year following the signing of this agreement, the Administration on Aging and the Legal Services Corporation will prepare a report summarizing the specific progress made and obstacles confronted in implementing this agreement. The report will be disseminated to the aging network, Administration on Aging grantees, recipients of Legal Services Corporation funds, and other interested individuals and organizations, including appropriate Members of Congress and Congressional Committees.

Signed in Washington, D.C., on January 18, 1977



Arthur S. Fleming
Commissioner
Administration on Aging
U. S. Department of Health,
Education and Welfare



Thomas Ehrlich
President
Legal Services Corporation
Washington, D.C.

The following materials were submitted by Thomas Ehrlich, President, Legal Services Corporation, for the record and are on file with the U. S. Commission on Civil Rights:

1. Paralegal Utilization Training Materials
2. Outline of the Supplemental Security Income and Disability Representation Training Program
3. Fundamental Advocacy and Skills Training Program Manual

Exhibit No. 18**LEGAL SERVICES CORPORATION**

733 Fifteenth Street, N.W., Washington, D. C. 20005 (202) 376-5100

Thomas Ebrlich
President
 E. Clinton Bamberger, Jr.
Executive Vice-President

October 3, 1977

Mr. Arthur S. Flemming
 Chairman
 Age Discrimination Study
 U.S. Commission on Civil Rights
 Washington, D.C. 20425

Dear Mr. Flemming:

At the hearing on September 27, 1977, one of the Commissioners asked me to supply further information concerning our experience with training paralegals in general, and elderly paralegals in particular.

The Corporation plans to train approximately 700 paralegals in fiscal 1978, in fundamental advocacy skills and community education techniques, and in the more advanced skills and substantive knowledge needed for administrative representation. As in 1977, elderly paralegals will be eligible to participate in our training programs on the same basis as all other paralegals.

Of the elderly paralegals our Office of Program Support has been able to train thus far, many do work in specialized elderly units of legal services programs. Many others, however, perform general paralegal tasks as part of the basic Legal Services Corporation-funded operations.

The Corporation shares a view expressed by the Commissioners: The development of paralegals has enormous potential for the effective and efficient delivery of legal services throughout the country. Our Paralegal Training and Career Development unit carefully monitors developments in the rules governing paralegal practice in the various states and nationally. In addition, the unit trains legal services managers in ways to use paralegals effectively, including methods of long-term career development.

BOARD OF DIRECTORS

Roger C. Cramton
 Ithaca, New York
 Marshall J. Breger
 Austin, Texas

J. Melville Broughton, Jr.
 Raleigh, North Carolina
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Robert J. Kutak
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 Santa Ana, California

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 New Orleans, Louisiana
 Glee S. Smith, Jr.
 Larned, Kansas

Glenn C. Stophel
 Chattanooga, Tennessee
 Samuel D. Thurman
 Salt Lake City, Utah



LEGAL SERVICES CORPORATION

Mr. Arthur S. Flemming

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October 3, 1977

I am enclosing the following materials, which I think will be of interest to the Commission members and staff: (1) Paralegal Utilization Training Materials; (2) Outline of the Supplemental Security Income and Disability Representation Training Program; (3) Fundamental Advocacy and Skills Training Program Manual. Each of these training manuals is regularly revised to include current law and improved techniques.

Thank you for the opportunity to testify before the Commission.

Cordially,

A handwritten signature in cursive script that reads "Tom Ehrlich".

Thomas Ehrlich

Enclosures

Exhibit No. 19**LEGAL SERVICES CORPORATION**

733 Fifteenth Street, N.W., Washington, D. C. 20005 (202) 376-5100

December 1, 1977

Ms. Laura Wilmot
 U.S. Commission on Civil Rights
 Age Discrimination Study
 1730 K Street, NW
 Suite 214
 Washington, DC 20425

Dear Ms. Wilmot:

On November 14, you requested seven items of information for inclusion in the record of President Ehrlich's testimony before the Commission on September 27. We have gathered what information is available.

1. Last two quarters of reports from the office of Field Services - As you and I discussed, this information would be voluminous and overly burdensome as the regional offices submit monitoring reports on each of the more than 300 programs each quarter. You agreed that your General Counsel had acquiesced during the testimony to the Commission sending staff here to look at whatever reports it wishes that are part of the public record.

2. Statistics concerning paralegal training - 670 paralegals have been trained by the Legal Services Corporation to date. Another approximately 960 paralegals will be trained in Fiscal 1978.

3. Board members - Only 9 of the 10 positions on the Legal Services Corporation Board of Directors are currently filled. Each of the directors is male. Seven are White, one is Black and one is Hispanic American. Their age distribution is as follows:

	<u>Age Category</u>	<u>Number of Board Members Falling Into Age Category</u>
Thomas Ehrlich President		
E. Clinton Bamberger, Jr. Executive Vice-President		
BOARD OF DIRECTORS		
Roger C. Cramton, Chairman Ithaca, New York	30 - 34	1
Marshall J. Breger Austin, Texas	35 - 39	1
J. Melville Bronghton, Jr. Raleigh, North Carolina	40 - 44	1
Marlow W. Cook Washington, D. C.	45 - 49	1
Robert J. Kutak Omaha, Nebraska	50 - 54	2
Rodolfo Montejano Santa Ana, California	55 - 59	2
Reynold O. Orique, Jr. New Orleans, Louisiana	60 - 64	<u>1</u>
Glee S. Smith, Jr. Larned, Kansas		9
Glenn C. Stophel Chattanooga, Tennessee		
Samuel D. Thurman Salt Lake City, Utah		

Ms. Laura Wilmot
Page Two

December 1, 1977

4. Cross classification of Corporation employees by age, race, and sex - These figures are the most current we have available, though they are changing daily as our staff is rapidly expanding. Corporation employees include the staff of the nine regional offices as well as the headquarters in Washington, D.C. Of 131 Corporation employees, 64 (48.8%) are White, 57 (43.5%) are Black, 3 are Asian, 1 is Native American, 6 are Hispanic. Of these 131 employees, 47 (35.9%) are male, and 84 (64.1%) are female. Age information was available for 137 Corporation employees:

<u>Age Category</u>	<u>Number of Corporation Employees Falling Into Age Category</u>
16 - 20	1
21 - 25	15
26 - 30	44
31 - 35	41
36 - 40	20
41 - 45	9
46 - 50	4
51 - 55	2
56 - 60	<u>1</u>
	137

There are currently 190 employees of the Legal Services Corporation.

5. Cross classification by age, race and sex of field program employees - The best information we have available at this point is based on a sample questionnaire which was sent to non-clerical field program staff in August, 1977. Of the 651 respondents, 71% were attorneys, 23% were paralegals and 6% were employed in non-attorney administrative or management positions. The race, sex and age breakdown of these field staff follow. A complete breakdown of race, sex and age groupings for all employees of field programs will be available in several months. Of the survey respondents, 69.9% were White, 13.7% were Black, 9.3% were Hispanic, 3.4% were Native American, 1.4% were Asian, and 2.3% did not indicate racial or ethnic group. 65% of the respondents were men, and 35% were women. The age distribution of the respondents was as follows:

<u>Age Category</u>	<u>Number of Field Employees Falling Into Age Category</u>	<u>%</u>
Under 20	2	.3
21 - 25	75	11.5
26 - 30	318	48.9
31 - 35	155	23.8
36 - 40	38	5.8
over 40	60	9.2
not available	<u>3</u>	<u>.5</u>
	651	100.0

Ms. Laura Wilmot
Page Three

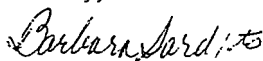
December 1, 1977

6. Cross classification by race and sex for clients - The best information we have at this point is based on a survey conducted in March and April, 1977 to which 274 field programs responded. The statistics given by some programs were based on hard case intake data. In many other cases, the programs were offering their educated judgments about the race and sex breakdowns of their clients. The programs indicated that 52% of their clients were White, 29% were Black, 9% were Hispanic, .3% were Native American, .8% were Asian American, and 8.9% were other minorities. 55% of the clients were men, and 45% were women.

As my assistant mentioned to you on the telephone, I am unclear what kind of administration project on the elderly you may be referring to. If you can clarify further for us what information it is you wish, we will be happy to try to provide it. There are no studies or reports available to our knowledge that illustrate the difference in learning capacities, if any, among older persons.

We hope this information is satisfactory.

Sincerely,



Barbara Sard
Special Assistant to the Executive
Vice President

BS:ts

Exhibit No. 20

STATEMENT OF EDWARD C. KING,
DIRECTING ATTORNEY OF THE
WASHINGTON, D.C. OFFICE
OF THE
NATIONAL SENIOR CITIZENS LAW CENTER

BEFORE THE

U.S. COMMISSION ON CIVIL RIGHTS
AGE DISCRIMINATION STUDY

SEPTEMBER 27, 1977

WASHINGTON, D.C.

My name is Edward King and I am directing attorney of the Washington, D.C. office of the National Senior Citizens Law Center ("NSCLC"), on whose behalf I am pleased to accept the Commission's invitation to testify on age discrimination and legal services.

NSCLC is currently funded under two grants. The first grant, from the National Legal Services Corporation, of which Mr. Ehrlich is President, allows us to give substantive assistance to advocates in legal services programs funded by the Legal Services Corporation so that they can better serve the elderly poor. The second grant is from the Administration on Aging and is to assist State and Area Agencies on Aging in 29 states to develop and expand legal services delivery to the nation's elderly. NSCLC's main office is in Los Angeles, California but we also maintain a substantial office here in Washington, D.C.

In our statement here today, we propose to review the nature of the activities of legal services programs with respect to the elderly and to consider characteristics of the elderly poor. We will also suggest why special action is needed to address their needs, make recommendations and address the Commission's enumerated issues point by point.

Nature Of Activities Of Legal Services
Programs With Respect To The Elderly Poor

Legal services must be recognized as extraordinary among federally funded programs. Since 1965, legal services programs across the nation, consistently underfunded and staffed by persons working at a financial sacrifice in crowded, low rent offices with minimal equipment, have aggressively and effectively worked to recognize and represent the interests of those who could not afford to pay for their legal representation.

It cannot be seriously contended that there is significant, if any, affirmative discrimination against the elderly in legal services programs. Without notable exception, legal services programs have dedicated themselves to serving all financially eligible persons who have requested legal assistance, and many thousands of the elderly poor are among those who have received representation by legal services programs during the past decade.

There can also be no doubt that the elderly poor have received considerable benefits from legal services efforts beyond direct representation. As President Ehrlich has aptly pointed out, the interests of the poor and the powerless are typically linked so that development of a point of law for one poor client may well benefit all, or at least many other poor persons. Ehrlich Statement, p. 14.

In addition to those more general factors, the Corporation has undertaken several measures for the direct benefit

of the elderly poor. Since its own establishment in 1975, the National Legal Services Corporation, as successor to the Office of Economic Opportunity and the Community Services Administration, has continued to fund national resource centers whose function it is to provide support to the efforts of local programs to assist the poor especially in matters of relatively greater complexity or broader impact. For the legal problems of the elderly, the National Senior Citizens Law Center is a principal national resource, but the efforts of other resource centers, including the Center on Social Welfare Policy and Law, The National Housing and Economic Development Law Project, the Health Law Program, the Consumer Law Center, and others are also often of benefit to the elderly.

As noted by President Ehrlich, the Corporation has also entered into an interagency agreement with the Administration on Aging, calling for greater cooperation between those two entities and those funded by them, for the benefit of the elderly.

Finally, the alternative delivery studies referred to by President Ehrlich, particularly those emphasizing legal services to the elderly, are salutary attempts to understand and respond to the special problems of the elderly.

The Elderly Are Relatively Underserved

Recognition that the Corporation and legal services programs have made some efforts to recognize the special

problems of the elderly poor, should not be seen as a statement that those efforts have been sufficient. Even with those efforts, we are left with statistical information compiled by the Commission indicating that the elderly account for a considerably lower portion of the legal services caseload (approximately 8%) than their proportionate part of the poor that is eligible for legal services (approximately 20%).^{2/}

These figures^{1/} are not surprising or contrary to our experience or expectations but merely confirm our own impressions. They are also in general agreement with the testimony offered in 1975 at the hearings held by the United States Senate Special Committee on Aging concerning legal representation for the elderly and with that Committee's conclusions. See generally Hearings of Special Committee on Aging of the U.S. Senate, Improving Legal Representation For Older Americans, (94th Cong., 2nd Sess., 1976).

Indeed, we are aware of no information tending to refute the import of the Commission's figures and we believe the figures fairly reflect the proportions of the legal services caseload comprised by the elderly poor.

^{1/} Statistics supplied by Dr. Herman Brotman, statistician and special consultant to the Senate Special Committee on Aging.

^{2/} It should be noted that, in several locations, there are special legal programs exclusively for the elderly, usually funded under Title III of the Older Americans Act, or Title XX of the Social Security Act. If such programs existed in the locales covered by the Commission's study but are not reflected in the figures, the elderly poor may to that extent have received a higher proportion of federally funded legal services than is suggested by the study. Even so, the study seems to stand as an accurate reflection of legal services rendered to the elderly poor by programs funded by the National Legal Services Corporation.

In short, the figures confirm an existing impression that the elderly receive substantially less than their proportionate share of legal services rendered to the poor by legal services programs.

This "shortfall" cannot be explained by lower needs of the elderly for legal services. In fact, the reality is to the contrary. No segment of the nation's society finds itself so affected by and dependent upon the myriad of complex governmental programs, statutes and regulations as the elderly poor. In every direction, the elderly poor find themselves confronted by governmental and other outside impersonal institutions that inevitably give rise to a host of legal problems. See generally, Nathanson, Legal Services for the Nation's Elderly, 17 Ariz.L.Rev. 275 (1975). In light of the nature of their lives and impinging institutional forces, it seems probable that, all other factors being equal, the elderly would normally be expected to have a slightly greater need for legal services than other groups of the poor.

These considerations suggest that the explanation for the lower use of legal services by the elderly lies with the relationships between the elderly and legal services programs rather than with other forces.

We have already indicated our belief that legal services programs do not affirmatively discriminate or intentionally treat the elderly poor differently than other segments of the poor. To understand the problem calls for an examination of

the other factor in the equation - the elderly.

Characteristics Of The Elderly

Reflection upon certain characteristics of the elderly poor reveals the ironic fact that a major cause of "underservice" to the elderly is the failure of legal services programs and the Corporation to discriminate, that is, to distinguish the special needs of the elderly as discrete from those of other segments of the poor, and to meet those needs. In particular, the following general characteristics would seem to call for special action by legal services programs in order properly to serve the elderly poor.

1. Reduced Mobility - A significant portion of the elderly poor have physical problems which may affect their mobility to a greater or lesser degree. Even the hardest of the elderly may find it somewhat more difficult to get around than they did in their earlier days. These physical factors tending to reduce mobility are exacerbated by other realities. One is crime victimization. The elderly have increasingly found themselves the objects of physical assaults and robberies in recent years and there can be no doubt that, on a broad scale, this has reduced the willingness of the elderly to venture away from the immediate vicinity of their homes and apartments.

Also, a sizeable number of the poor are institutionalized, most frequently in nursing homes, and would find it either very difficult or practically impossible to visit a legal

services office. All of these restraints upon elderly mobility call for compensatory action to assure access of all the elderly to legal services programs in their area.

A few legal service programs have acquired vans to make home visits or to meet with clients in places more accessible to the elderly than the legal services offices. There is generally an effort to locate legal services offices in the communities where the poor live and in some instances programs have devoted special attention to the elderly by sending persons to senior centers to meet with possible clients, or by working out arrangements for visits to nursing homes in order to provide access for institutionalized persons. The Corporation's funding of several alternative delivery programs for elderly legal services is another encouraging sign in this regard although these programs have tended to emphasize forms for providing legal services (e.g., adjudicare, pre-paid legal services, pro bono and volunteer work, contracts with private firms, etc.) rather than outreach methods.

Nevertheless, the continuing reality is that the vast majority of legal services programs make little or no provision for the special mobility problems of the poor, rendering legal services only to those who are able to make their way to the office.

Other legal services witnesses have explained to the Commission that, because legal services programs are badly underfunded and find themselves barely able to serve

the clients who come to their offices seeking assistance, there is presently a general reluctance of legal services programs to engage in outreach which inevitably will result in more clients seeking legal assistance. While this attitude perhaps is understandable, the result is a skewed and arbitrary discrimination against those groups, especially the elderly and handicapped, with special mobility and other "outreach" problems. In effect, the test for determining whether an eligible person will receive needed legal assistance becomes the physical ability of the person to get to the office, rather than the nature or severity of the problem or any other rational factor.

The fact is, so long as legal services programs respond to underfunding by avoiding outreach and limiting caseload to those who are able to learn of the office and what it has to offer, and can get to it, the aged and other groups with special access problems will suffer disproportionately as compared to more physically able groups and age discrimination in the sense described in the first two examples of the "General Findings and Issues" of the Commission's eight (8) page paper entitled "Age Discrimination Study" will occur.

2. Image and Education - In addition to mobility, there are other characteristics of the elderly which point to the necessity for special outreach programs in order to provide adequate legal services to senior citizens.

First, many elderly simply do not think of themselves as persons eligible for legal services under a federally funded

program or, for that matter, as potential recipients of benefits under any governmental programs for the poor. A recent experience of an NSCLC staff member is illustrative. Working with various church programs, she enlisted elderly volunteers to address elderly groups to assure that all persons eligible for supplementary security income benefits would be aware of their rights and apply for benefits. The programs were extremely useful in dispensing information and identifying persons otherwise unaware of their eligibility for SSI benefits. Still, most striking to our staff member was the fact that several volunteers, who had not even considered the possibility that they themselves might be eligible, learned of their own eligibility as a result of their attempts to assist those whom they saw as needing help. Many elderly, now classified as "poor" have all their lives been part of the mainstream of middle America. Many have never participated in governmental assistance programs of any kind, and have no facility for "working the system." Such persons may fail to apply for available and desperately needed benefits.

The elderly tend also to have great respect for governmental authorities and the major institutions of our society. The "typical" elderly person may not be so likely as other poor persons to doubt the bureaucrat who declares him ineligible for SSI or social security benefits; to suspect his corporate employer of age discrimination; or to recognize unlawful deprivation of pension benefits to which long years of hard work have entitled him. Many elderly, newly dependent upon governmental and institutional decisions, require community education to assist them to develop

an awareness that they have important rights vis-a-vis particular institutions and that these rights are not subject to arbitrary or capricious withdrawal by authorities.

Other attitudes also contribute to underservice of the elderly poor. For example, some elderly persons have an affirmative aversion to being considered "poor", hence dislike the idea of going to a legal services office. On the other hand, legal services advocates, typically themselves young, often empathize more with, and place greater emphasis upon, the problems of minority and younger clients, than upon those of the elderly.^{1/}

All of these problems and attitudes call^d for special educational efforts, not only to educate the elderly but also to sensitize and train staff persons to deal with the problems of the elderly.

The response of legal services programs generally has been inadequate, although understandable. As pointed out in earlier Commission hearings in connection with this age discrimination study, practically all legal services programs have a client overload already, and are reluctant to conduct community education programs or do anything else which might increase the number of persons seeking legal assistance.

A vicious cycle is created. With no effective outreach, the elderly constitute a disproportionately low part of the legal services caseload. There is therefore little perception of the

^{1/} See Terris, Legal Services For the Elderly (Senior Opportunity and Services Technical Assistance Monograph 9) Nat. Council on Aging 1972).

need for sensitization of the staff to elderly needs. This in turn permits staff to remain oblivious to the need for outreach ... and so on.

3. Unique Substantive Problems - President Ehrlich has pointed to income maintenance, shelter, health care and nutrition as the basic survival issues affecting all of the poor. Ehrlich Statement, p. 14. He suggests that the "overwhelming majority" of legal problems in these areas arises because of the poverty, rather than the age, of the individual, and he correctly reminds the Commission that when legal services programs achieve major victories in these basic areas all poor people benefit, regardless of age.

It is certainly true that the elderly poor have many problems in common with other impoverished groups and that a victory establishing an important legal principle for one poor person may well be of great benefit to all. Yet, it is important also to recognize the limitations of these generalizations as they apply to the elderly.

Even in the basic survival areas outlined by President Ehrlich, the elderly poor encounter substantive problems unique to their age group. Thus, while the elderly person shares with other poor the need for maintenance of income, an elderly person seeking to maintain his income faces legal issues and participates in programs specially aimed at his age group. If he seeks to maintain his income through employment, the elderly person is quite likely to face mandatory retirement, or other forms of age discrimination. If unemployed, he probably relies almost entirely

upon age-related income programs: social security, SSI, veterans benefits, or private or public pensions.

Similar considerations apply in the other basic survival areas mentioned by President Ehrlich. For health care, elderly persons depend upon Medicare, a program focusing upon senior citizens. As to housing, the National Housing Act contains special provisions for elderly housing; and many elderly persons live in nursing homes - a circumstance shared by few younger poor persons. For nutrition, there are special food stamp and other nutrition programs for the elderly.

Response To Identified Issues

The following responses to the issues identified by the Commission are made against the background of the preceding remarks.

Issue 1: One difficulty in assessing whether young or old are underserved is the lack of a standardized data collection system. Should there be a uniform and enforced data collection effort?

A desire for scientifically developed, unassailable statistics should not immobilize the Commission or the Legal Services Corporation. President Ehrlich has correctly pointed out that:

...no statistical count of the number of individual clients served by an office will ever accurately reflect the number of poor persons for whom that office has actually performed an invaluable service.

Ehrlich Statement, p. 14. Moreover, as discussed supra, pages 3 to 6, information already developed plainly establishes that

the elderly poor do not receive legal services in proportion to their percentage of the poor. Remedial action should not await attempts to develop more refined and definitive data.

This is not to discourage a uniform data collecting effort, however. Effective data collection will undoubtedly be useful in demonstrating to legal service programs that the elderly are being underserved and are deserving of more attention and effort.

Issue 2: Should Legal Services programs be forced to take outreach efforts? If outreach is to be mandated, should special funds be authorized for this purpose? Should Legal Services Corporation Act provision regarding outreach efforts be mandatory or advisory?

Since the elderly have special access problems and needs for community education and outreach efforts, it is inevitable that the elderly will be disproportionately underserved in the absence of outreach. While outreach will increase the overall costs, and costs per person served, of legal services, continued failure to provide outreach will have the effect of continuing discrimination against the elderly. Thus, outreach to the elderly, and special sensitization and training of advocates should be required of all programs.

It is important to recognize that underfunding of legal services is the fundamental cause of discrimination against the elderly in this milieu. It is not wholly unreasonable for an underfunded legal services program, in trying to maximize the results which it can produce from its funds, to provide only direct services and to avoid outreach. This arguably

is the most efficient approach and will enable the largest number of persons to be served with the least amount of money. Efficiency certainly is to be desired when even those groups receiving the most legal services are underserved.

Yet, the price of this efficiency is effective discrimination against the elderly and other groups who can receive their fair share of legal services only if special outreach efforts are devoted to them.

Perhaps the greatest service the Commission could perform for the elderly in this context would be to lend its efforts to the removal of this "Hobson's choice" by pointing to the need for an increase in funding for legal services through the Legal Services Corporation. In addition, special efforts for the elderly, including outreach, can and should be financed by legislation such as Sen. Kennedy's S.1282 and Rep. Brademas' H.R.9079. We urge this Commission specifically to recognize the need for such increased funding and special legislation to assure that the elderly will receive their fair share of legal services.

It seems clear that many elderly persons will not receive needed legal services unless outreach is provided. Thus, outreach should be mandatory and an outreach requirement could reasonably be imposed as a condition to an award of "S.1282 or H.R.9079" funds to any legal services program.

Issue 3: Is there effective monitoring of the requirement that local legal services programs set priorities? Should programs be required to make an attempt to have impact from potential beneficiaries representing a cross-section of demographic factors?

With legal services funded inadequately to meet the full needs of client groups, priority setting is essential to maximize benefits and assure that major issues and client groups are not overlooked. The Corporation does require each legal services program to have a priority setting system but this is not done in such a way as to assure that the needs of the elderly will be considered in setting priorities. Obviously, priorities are not likely to be set for the benefit of groups unrepresented in the priority setting team. The Corporation does not presently concern itself with whether older persons are involved in setting priorities. As President Erlich said in his testimony before the Commission, the Corporation does not have, nor has it sought, data concerning the ages of Board members of programs. Plainly, priority setting systems are not effectively monitored to assure representation of elderly interests in the system. Programs should be required to make an attempt to have input from potential beneficiaries representing a cross-section of demographic factors, including age.

We should not pass over priority setting and general sensitivity without noting a related point, the Corporation's failure to include the elderly among those groups entitled to affirmative action for employment purposes.

The Corporation has adopted guidelines calling for affirmative action, quite properly urging that steps be taken to assure that racial minorities be given an opportunity to be employed, both by the Corporation and by local programs. The Corporation has no difficulty in recognizing that the

employment of racial minorities is important, not only for purposes of providing job opportunities but also to enhance sensitivity, compatibility and credibility. It is felt that, among other things, minority staff members are more likely to be aware of the priorities among minority persons and may be able to relate to other minority persons better. In addition, the minority staff members may provide a kind of informal outreach by taking back with them to their communities the fact that legal services are available for members of the community. Similarly, the presence of minority members within an office may set a tone making members of that minority group feel more comfortable about coming to the office.

While the Corporation has adopted an affirmative action employment policy for minority groups and has recognized that hiring of minority persons enhances the ability of programs and the Corporation to serve those groups, it has not applied this knowledge to the elderly. Thus, a leading characteristic of Corporation and local program staff is their relative youth and, in contrast to its concern about other client groups, the Corporation makes no attempt to encourage or monitor the hiring of older persons. This not only reflects a lack of concern about underservice to the elderly but undoubtedly also is a contributing cause.

Issue 4: Does the existence of non-LSC funded components or separate programs to serve the elderly absolve a legal services program of its obligation to serve eligible clients who are 60 or over?

It does not. There is no indication of Congressional intention in the Legal Services Corporation Act that the

Corporation may discriminate against any portion of the poor for any reason. When additional funds for special purposes become available to a legal service program from other sources, this should not affect the proportion of the Legal Services Corporation funds devoted to the interests of that group. The Corporation and the programs which it funds retain their responsibilities to all groups in the same proportions. The Corporation and its programs should be required to maintain their efforts for a particular group despite the influx of new funds from some other source.

Issue 5: Do the access problems and need for sensitivity in dealing with the elderly lead to the conclusion that the best way to serve the elderly is through a separate component? If so, should LSC funds be earmarked by the Corporation or by Congress for such components?

A separate component for legal services to the elderly, or to any other group with special access problems, is certainly one effective and appropriate way of assuring that the particular group is not discriminated against.

If the elderly constitute some 20% of a program's eligible client community, the program could devote 20% of its budget to the special elderly program, which would then determine the most efficient and effective way to serve the elderly in that community. In our judgment, the establishment of a separate component would often be the best way of serving the elderly. At the very least, steps should be taken to assure that there will be some attorneys in every program with

specialized training and sensitivity to the legal problems of the elderly.

The Corporation should be given an opportunity to demonstrate its awareness of the special needs of the elderly and of other groups. To the extent possible, the Corporation and legal service programs should be given the flexibility to deal intelligently with the various problems and specific mandates should be avoided.

The Corporation has earmarked funds for legal services to some groups (e.g., migrants, American Indians) and no insurmountable problems seem to have arisen. Yet, earmarking would reduce the Corporation's flexibility to respond intelligently to needs as they arise. For that reason, it is hoped that the Corporation will demonstrate its sensitivity to the special problems of the elderly and take the steps needed to remedy the present underservice to older persons, without the imposition of earmarking.

Demonstration of such sensitivity would require some changes in present Corporation policy however. In addition to the problems already mentioned, the Corporation's present program for expansion will inevitably increase the problem of underservice of the elderly poor.

The Corporation's announced priority at the present time is one of "geographical access." In essence, this means that before taking steps to increase the funding of existing programs, the Corporation will fund new programs in previously unserved, predominantly rural, areas.

There are of course large numbers of elderly persons in rural areas and it is certainly desirable that legal

services be available everywhere. Yet, this expansionist policy has ramifications for the elderly which may not be immediately apparent. In this statement we have emphasized that in order to serve the elderly properly, it is necessary to provide increased outreach, through community education and special provision for physical access. Equally great is the need for special efforts aimed at increasing the sensitivity of legal services staff to the needs of the elderly and for special training and support for elderly advocates.

The Corporation's "geographical expansion" policy fails entirely to address these needs. By choosing to expand the number of programs, rather than increase the capabilities of existing programs to provide the special services needed by the elderly, the Corporation will be extending to new areas the basic elements which inevitably result in underservice to the elderly. Indeed, because of the greater distances involved in rural programs, underservice to the elderly may well be even more marked in the new rural programs. The problem will be compounded by the likely inexperience, and lack of elderly law background, of the vast majority of the staff persons who will be hired in these new areas.

If the Corporation were sufficiently concerned with the problems of the elderly, it could take steps to alleviate the problems which will otherwise arise from expansion. In their testimony before the Commission, Corporation officials have recognized and emphasized the importance of support centers within the network for providing high quality legal

services for the elderly. Mr. Joaquin Celaya of the Corporation's San Francisco regional office agreed that the elderly appeared to be underserved by local offices, but emphasized that back-up centers were important in service to the elderly because such centers can focus on the particular problems of the elderly, and can provide training and sensitization for field program staff. San Francisco Hearings, Transcript, pp. 480-82 (June 28, 1977). President Ehrlich also emphasized the importance to the elderly of the National Senior Citizens Law Center, , the Center on Social Welfare Policy and Law, the National Health Law Program and other support centers. Ehrlich Statement, pp. 12-14.

In the context of legal services to the elderly, a support center such as the National Senior Citizens Law Center can be an invaluable resource. Because the Center specializes in elderly matters, it has dealings with gerontologists, national aging organization and the Administration on Aging "aging network" as well as with legal services programs across the nation. Such a specialized center can quickly assist a local legal services attorney to locate other social agencies which may be helpful to clients; to be sensitive to the special needs of the elderly; to understand the substantive law involved; and to view the elderly citizen as a total person, responding to gerontological considerations and issues, rather than simply seeing isolated substantive law issues.

Thus the decision to expand legal services into new areas, even at the cost of proliferating the number of greviously underfunded programs across the nation, would not necessarily bespeak insensitivity to the elderly if this expansion were coupled with an increase in support center

funding calculated to assure that support centers will have the capability of responding to a greatly expanded number of field programs. Unfortunately however, while the Corporation is moving to increase greatly the number of field programs across the nation it is decreasing its proportionate commitment to support centers, reducing funding of support centers from 3.2% of the Corporation's fiscal year 1977 budget to 1.9% of the projected 1979 budget. This de-emphasis of support centers, coupled with proliferation of new field programs will inevitably result in the elderly receiving even a smaller portion of the legal services provided by Legal Services Corporation funding.

Conclusion

We greatly appreciate this opportunity to address the Commission concerning the disparity between the proportions of legal services provided for the elderly and those provided to other low income groups.

Exhibit No. 21

List of Local Public Works Projects that have not been refunded because of lack of performance during the first funding cycle.

Ms. Porter was contacted to submit the information for this exhibit. The information had not been received by the time the record was printed.

Exhibit No. 22

UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Washington, D.C. 20230

November 23, 1977

Mrs. Laury Wilmot
Age Discrimination Study
1730 K Street, N. W.
Suite 214
Washington, D. C. 20425

Dear Mrs. Wilmot:

The Economic Development Administration's (EDA) comments regarding the questions posed by Commissioner Horn are as follows:

As we indicated in a response to an earlier question, the legislative history, the Conference Report and EDA regulations under Round II of the Local Public Works Program (LPW) do not speak to the issue of Union Labor requirements. The Local Public Works Act of 1976 requires that EDA provide grants of 100% to political jurisdictions. Those grants are to be used primarily for the construction of public facilities. The actual construction of the facility is contracted out to a private contractor and subcontractors. If the contractor is a union contractor then most of the subcontractors will also be union subcontractors and will probably utilize union hiring halls and the traditional union methods of recruitment. If the prime contractors are not union contractors, then the subcontractors may also not be union contractors and may use different methods of recruiting skilled and unskilled labor for the construction of the project.

The Economic Development Administration does enforce Executive Order 11246 under the leadership of the Department of Labor. That Executive Order requires nondiscrimination on the grounds of race, sex, color, national origin and religion in all Federally assisted construction projects. Under the leadership of the Department of Labor many areas in the Country have been

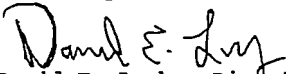
- 2 -

designated as plan areas. Within these areas which number about 90 in the United States, a written monthly report is required to be submitted to the Federal Agency which is funding the construction. That report indicates the number of minority man-hours worked each month in each trade covered by the plan. The report also indicates whether the minority man-hours equal or exceed the goals set for that trade in that plan area. EDA is monitoring those reports.

EDA investigates all discrimination complaints which allege discrimination on the above grounds.

Thank you for your patience in awaiting the above comments. Please let me know if you need further information.

Sincerely,

A handwritten signature in cursive script that reads "David E. Lasky".

David E. Lasky, Director
Office of Civil Rights

[FACSIMILE]

STATEMENT BY ALAN A. BUTCHMAN,
DEPUTY SECRETARY OF TRANSPORTATION
BEFORE THE UNITED STATES
CIVIL RIGHTS COMMISSION, ON AGE DISCRIMINATION IN
FEDERALLY-ASSISTED PROGRAMS

September 27, 1977

Mr. Chairman and members of the Commission:

Thank you for your invitation to discuss the Department of Transportation's activities to improve transportation for our Nation's senior citizens.

With me today is Martin Convisser, Acting Assistant Secretary for Environment, Safety, and Consumer Affairs.

The improvement in the quantity and quality of transportation services for this Nation's senior citizens is an important element in the Department of Transportation's programs. Activities that are sponsored by the Department for the achievement of this objective, particularly in the field of mass transportation, include the support of (1) research aimed at identifying the transportation problems experienced by senior citizens; (2) development activities aimed at uncovering hardware solutions to physical barriers encountered by the elderly in transportation systems; (3) demonstrations that are designed to develop service strategies as a means of improving the availability of transportation services; (4) planning assistance for transportation planners and providers to enable them to plan and provide transportation services that are geared toward meeting the special transportation needs of senior citizens; and (5) grants to help pay for the cost of purchasing and

operating mass transit facilities and equipment for the general public, and especially for the elderly and handicapped.

In these efforts, we work closely with the Administration on Aging (AoA). Since 1974, that relationship has been formalized in an interagency agreement between the Department and AoA, which I will describe briefly later in my testimony.

Let me now give some specific examples of how the resources of the Department of Transportation are being used to help improve transportation services for the elderly.

Research

In the area of research, the Department is supporting studies that are designed to (1) identify driver licensing requirements for older drivers; (2) identify motor vehicle design deficiencies that might lead to accidents by elderly and handicapped drivers; and (3) identify driver visual limitations of the elderly driving population and treatment requirements for correcting the vision problems. These are but a few examples of research underway in the Department with respect to transportation for the elderly.

Development

Secretary Adams' Transbus decision of May 19, 1977 represents a significant outgrowth of a Transbus development project supported by the Department. This decision mandates that all new Federally-financed mass transit buses ordered after September 30, 1979 must have an effective floor height, including a "kneeling" feature, of not more than 18 inches, and a ramp for boarding and exiting far easier for

elderly passengers, who often have difficulty in climbing the high steps of current buses.

Demonstrations

The Department is presently supporting two demonstrations to test the concept of user subsidies for elderly and handicapped persons. We anticipate that by subsidizing the elderly and handicapped's transportation costs, they will be able to obtain needed transportation services directly from existing providers of such services.

Under the Rural Highway Public Transportation Demonstration program established by section 147 of the Federal-Aid Highway Act of 1973, the Department is now supporting a total of 106 demonstration projects in 48 States. The selection and evaluation criteria for application for funds under this program specifically require consideration of the adaptability of transportation systems to the needs of elderly and handicapped persons.

Another demonstration project that is being supported by the Department is one which is designed to determine the extent to which transportation for the elderly and handicapped can be improved by coordinating the transportation resources of various social services agencies, public transit agencies, and private transportation providers.

Planning Assistance

The Urban Mass Transportation Administration and the Federal Highway Administration provide financial and technical planning assistance to approximately 250 metropolitan and 50 State agencies. These agencies are now required to make "special efforts" to plan public mass

transportation facilities and services that can effectively be used by elderly and handicapped persons.

Construction Activities

As of July 1, 1976, a Federal-aid highway requirement has been in effect which requires States to provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, on all new or improved curb construction projects at all pedestrian crosswalks in the State. This activity can be especially helpful to elderly pedestrians who often have difficulty in negotiating curbs.

Capital Grants

In addition to these activities, the Department makes available grants to public agencies, and through them, to private agencies, to assist in the purchase and operation of mass transportation equipment. These capital grants fund up to 80 percent of the cost of buses and other capital equipment. Recipients of such Federal financial assistance may not charge elderly and handicapped persons during off peak hours more than one-half of the regular fare charged nonhandicapped and elderly during peak hours.

Also of considerable importance, under section 16 (b) (2) of the Urban Mass Transportation Act, the Department awards grants specifically to assist private non-profit organizations and agencies in the acquisition of capital equipment for the provision of transportation services to the elderly and handicapped. Since the program began in fiscal year 1975, a total of \$31 million has been committed to almost 1,200 private nonprofit organizations and agencies. These organizations have received close to 3,000

vehicles to assist them in the provision of much needed transportation services for elderly and handicapped persons all over the country, in both urban and rural areas.

Let me give you two examples of how these funds are used. In Boston, Massachusetts, Federated Dorchester, a non-profit agency, is presently operating a total of seven vans, five of which are purchased with funds under the section 16(b) (2) program. These vans carry approximately 1,500 persons per month to medical, nutrition, shopping, and recreation centers.

In Lower East Side New York, Easy Ride, a free bus service supported primarily with Federal funds and operated by the Vera Institute of Justice, provides about 1,000 rides per week to elderly and disabled persons. When the program began about a year ago, elderly persons called only for transportation to medical appointments. Now, Easy Ride is taking them to beauty salons, museums, and other points of cultural interest. The project manager believes that the transportation service provided by Easy Ride reduces medicare costs by providing social service activities for patients who formerly went to a physician's office primarily to talk to someone. Further, she believes that it reduces the length of hospital stays by making it easier for the patient to return for needed care on an out-patient basis.

Transportation Safety

Under the State and Community Highway Safety Program of the National Highway Traffic Safety Administration, States are encouraged to plan and execute their own projects to benefit the elderly using Federal, State, and local funds. Broad Federal guidelines are provided to States in the areas

of instructional programs, pedestrian safety programs, special course materials about the elderly for driver education instructors, and driver simulations and audio-visual aid information for the elderly. Projects that have been carried out by some States include instructional programs for senior citizens in highway safety and driver improvement programs for the elderly.

During the past several years, there has been considerable discussion among public officials, operators of public and private transportation systems, and administrators of social service agencies about how the lack of government coordination among Federal, State, and local agencies and public transportation operators contributes to the fragmented nature of transportation services for older people. In an effort to foster coordination at the Federal level, a working agreement was signed between the Administration on Aging and the Department of Transportation in June, 1974. It represented a major step in coordinating Federal-level activities to improve the mobility of older persons, and was intended to be used as a tool for coordination at the State and local levels. The agreement focused primarily on the 16(b) (2) program of capital grants to nonprofit organizations for transportation projects specifically serving the elderly and handicapped. Funds for this program, authorized under section(b) (2) of the Urban, Mass Transportation Act of 1964, became available for the first time in FY 1975. The joint working agreement encouraged the establishment of close working relationships between the State and Area Agencies on Aging and the State agencies designated to administer the section 16(b) (2)

program (generally State departments of transportation or State highway commissions), and the local service providers.

Subsequent to the signing of the 1974 working agreement, a number of legislative and administrative actions necessitated an update of the agreement to encourage continued growth of coordinated transportation activities at the State and local levels. Those developments include:

- * Implementation of the Rural Highway Public Transportation Demonstration Program authorized by section 147 of the Federal-Aid Highway Act of 1973, as amended, which I mentioned earlier;

- * Mandated reduced mass transit fares for elderly and handicapped persons, authorized by the National Mass Transportation Act of 1974;

- * Authorization of \$500 million under the above-cited act for capital assistance to non-urbanized areas; and

- * Publication in the Federal Register of UMTA's proposed rules governing public transportation for the elderly and handicapped.

In September 1975, the 1974 agreement was updated, setting forth a variety of objectives and activities to achieve those objectives. In general the 1975 agreement calls for the Administration on Aging, and DOT's Urban Mass Transportation Administration and Federal Highway Administration to work closely in the implementation of transportation projects supported with funds provided through these agencies. For example, the agreement specifically calls for the issuance of joint technical assistance memoranda to Federal regional office personnel, State and area agencies on aging, State departments of

transportation or highways, explaining the guidelines and procedures to be followed for effective implementation of Federally-supported transportation projects, the holding of joint workshops dealing with transportation for the elderly, and cooperation in research and demonstration efforts aimed at the improvement of transportation services for the elderly.

I am submitting a copy of the agreement for the record.

I am pleased to report that, for the most part, the objectives of the 1975 agreement have been achieved, and we are now in the process of upgrading that agreement. In general, the new agreement will seek to (1) improve coordination among Federal agencies as a means of improving transportation for elderly and handicapped persons; (2) increase the provision of technical assistance by Federal agencies to State and local agencies responsible for transportation for elderly and handicapped persons; and (3) improve older and handicapped persons' access to transportation service which is more responsive to their needs.

That concludes my prepared statement. I will be happy to answer any questions that the Commission may have.



THE DEPUTY SECRETARY OF TRANSPORTATION
 WASHINGTON, D.C. 20590

Honorable Arthur S. Flemming
 Chairman
 United States Civil Rights Commission
 Washington, D.C.

Dear Mr. Chairman:

During my recent testimony before the Civil Rights Commission on age discrimination, you requested that we supply for the record information about progress being made in the use of school buses for providing transportation for senior citizens.

We have discussed this matter with personnel in state agencies on aging in a sampling of sixteen states. We have learned from this survey that:

- (1) States are gradually enacting legislation giving local school boards the option of allowing their buses to be used to provide transportation for the elderly. Among those states contacted which have passed such legislation within the past three years are Georgia, Florida, Louisiana, Kentucky, Colorado, Maryland, and Iowa.
- (2) School districts in some states allow their buses to be used quite extensively to transport elderly persons to congregate meal sites. For example, the Board of Education in Birmingham, Alabama, operates four congregate meal programs for senior citizens in four different schools, and school buses are used to transport elderly persons to and from each of these sites.
- (3) School boards in other states allow their buses to be used primarily for transporting senior citizens to special events. Arizona, Delaware, and Florida are examples of such states.

In short, it appears that there has been an increase in the use of school buses for transporting the elderly. However, there are problems and barriers that remain which inhibit

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the use of school buses as a dependable source of transportation services for the elderly. These include:

- (1) Concern about the suitability of school buses for transporting elderly persons -- some senior citizens experience considerable difficulty in boarding and unboarding the vehicles;
- (2) Concern about the safety of school buses for transporting elderly persons;
- (3) Reluctance by some school boards to permit school buses to be used to provide general transportation services for the elderly which might compete with other providers of such services;
- (4) Arriving at a formula for reimbursing school boards for use of vehicles to provide general transportation services for senior citizens; and
- (5) Difficulties in acquiring liability insurance at reasonable rates for school buses that are used to transport older persons.

I trust that the Commission will find this information helpful.

Sincerely,


Alan A. Butchman

SUMMARY OF UMTA ACTIVITIES TO IMPROVE TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

INTRODUCTION

Improving transportation services and mobility for elderly and handicapped persons is an important and legislatively required goal of the Urban Mass Transportation Administration (UMTA). Section 16 of the Urban Mass Transportation (UMT) Act of 1964, as amended, states that "It is hereby declared to be the National policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services . . . (and) that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to the elderly and handicapped persons of mass transportation which they can effectively utilize will be assured . . .".

Secretary of Transportation Brock Adams stated on May 19, 1977, that "I believe it is my responsibility to insure to the extent feasible that no segment of our population is needlessly denied access to public transportation. It is now within our technological capability to insure that elderly and handicapped persons are accorded access to urban mass transit buses. This access is fundamental to the ability of such persons to lead independent and productive lives"

BASIC PROGRAMS OF UMTA RELATING TO TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

A. Planning Assistance Program (Section 9 of the UMT Act of 1964, as amended*)

* Full text of the UMT Act of 1964, as amended, is available from any regional office (Appendix I) and the UMTA Office of Public Affairs in Washington, D.C. (202/426-4043).

UMTA's Section 9 program provides 80 percent matching money to States and local public agencies for transportation planning, engineering, design and evaluation of urban mass transportation projects. UMTA regulations on "Transportation for Elderly and Handicapped Persons" state that transportation planning at the local level *must* include "special efforts" to plan mass transit facilities and services that can effectively be used by elderly and handicapped persons, including wheelchair users. UMTA also requires its grantees to budget for and implement specific projects for the elderly and handicapped, including wheelchair users and semiambulatory persons.

Section 9 funds may be used to satisfy the UMTA requirement that the planning and provision of transit services for elderly and handicapped persons involves all existing public, private and non-profit transportation operators to the maximum extent possible. The expense involved with planning for the coordination of transit services, in order to foster consolidated, multipurpose and efficient service, is fundable under Section 9 grants. UMTA encourages all providers of transit services, including non-profit organizations, to make their agencies' needs and services known to the local Metropolitan Planning Organization.

The UMTA regulations on "Transportation for Elderly and Handicapped Persons" are available upon request from any UMTA regional office or the UMTA Office of Public Affairs in Washington, D.C. (see Appendix I for addresses and telephone numbers of all UMTA offices).

B. Capital Assistance Program (Section 3 of the UMT Act of 1964)

Funds are available to public agencies and private operators (through contracts with public agencies) to fund 80 percent of the cost of capital acquisitions, including new bus and rail car purchases and construction costs of maintenance facilities, bus garages, new rail lines, etc.

The UMTA regulations on "Transportation for Elderly and Handicapped Persons" require many vehicle and fixed facility (stations, terminals, etc.) features that can make

transit use easier for these individuals. The requirements include such things as improved handrails and stanchions, nonslip flooring, lighting in the bus step well, priority seating signs for elderly and handicapped persons, warning strips next to boarding platforms and other hazard warnings in transit-related buildings. In addition to the above requirements for the currently available transit bus, all newly designed, full-size transit buses advertised for bid and purchased with UMTA grant funds after February 15, 1977, will be required to have front door step risers not exceeding eight inches in height. This is the same accessibility standard now applied to buildings.

In addition, for new-design buses advertised for bid and purchased after February 15, 1977, and up until September 30, 1979, UMTA has required that manufacturers offer, as an option, a wheelchair accessibility package consisting of a level-change mechanism (lift or ramp), sufficient front door and passageway clearances to permit a wheelchair to reach a securement location in the bus and at least one securement device to hold a wheelchair in place. All buses offered for bid with Federal assistance after September 30, 1979, will be required to meet new bus specifications. These specifications include: a bus floor height of not more than 22 inches, capable of kneeling to 18 inches above the ground; and a ramp for boarding.

C. Operating Assistance Program (Section 5 of the UMT Act of 1964, as amended)

UMTA provides matching funds on a 50/50 basis to States, local public bodies in urbanized areas of 50,000 or greater population (such as a city, county, or regional transit authority), and private and non-profit organizations through contracts with public agencies to cover up to 50% of the operating cost deficits involved in providing transit service.

Operating costs include such expenses as salaries, administrative expenses, advertising, maintenance and routine bus replacements. All conventional transit operations receiving Section 5 funds may not charge elderly and handicapped persons more than one-half of the regular fare applied to

general transit users during peak hours. This requirement is applicable only in off-peak or non-rush periods. For example, if the regular bus fare is 40¢, elderly and handicapped persons would pay only 20¢ a ride between the non-rush hours (i.e., 9:00 a.m. to 3:30 p.m. and 6:00 p.m. to 6:30 a.m.).

The Section 5 funds distributed among eligible recipients within each urbanized area are determined by the area's Metropolitan Planning Organization (MPO), which is composed of local and State officials and public transit operators. UMTA's regional offices can identify the local MPO for your area.

D. Capital Assistance Program for Private Nonprofit Organizations to Transport Elderly and Handicapped Persons [Section 16(b)(2) of the UMT Act of 1964, as amended].*

UMTA administers a special capital assistance program, known as the "16(b)(2) Program", to provide 80% Federal capital grant funds to private nonprofit organizations for the purchase of vehicles to provide transportation services to elderly and handicapped persons. In fiscal year 1975, \$20.8 million was committed to more than 1,000 private nonprofit organizations under this program; \$22 million was allocated for fiscal year 1976 and \$22 million for fiscal year 1977. A total of 2500 vehicles have been purchased, to date, under this program.

More detailed information about this program is available from any UMTA regional office or the Office of Public Affairs in Washington, D.C. In addition, a listing of 16(b)(2) contacts is located at the end of this brochure.

E. Non-Urbanized Area Transit Assistance

The National Mass Transportation Assistance Act of 1974 provided up to \$500 million for use in non-urbanized areas during the six-year period from 1975 to 1980. Such non-

* Section 16(b)(1) of the UMTA Act is not a funding "program." It is a statement, added to the Urban Mass Transportation Act in 1970, which expresses Congressional concern about transportation of elderly and handicapped persons and urges that the special needs of these persons be considered when providing capital assistance (Section 3) grants.

urbanized areas include cities, towns, and rural places with less than 50,000 population. Funds are available for planning and program development activities (Section 9), demonstration activities (Section 6), vehicle acquisition and other capital investments (Sections 3 and 16) in support of general or special transit services, including those services provided for elderly, handicapped and other transit-dependent persons. "Summary Information About Non-Urbanized Area Transit Assistance" is available from the UMTA Office of Public Affairs and provides more detailed information on this program activity.

RESEARCH

In order to acquire a better understanding of the problems elderly and handicapped persons encounter in using public transportation and to solve some of those problems, UMTA conducts research and development studies and projects under Section 6 of the UMT Act of 1964, as amended.

A summary of several current UMTA sponsored research activities follows:

1. A major national study, entitled Research on the Transportation Problems of the Transportation Handicapped, has been underway since April 1976. This project's objective is to determine the travel requirements of various classifications of handicapped people and to develop multi-modal transportation service alternatives which can cost-effectively satisfy such requirements. The primary emphasis of this national needs study is a market research effort of persons with disabilities which make it difficult to use current transportation systems and facilities.

Although much research has already been undertaken in this area, UMTA recognizes the need to fill the information void about the nature of the transportation problems of the handicapped. This research study will describe a national program for improving the mobility of transportation handicapped persons and estimate the

cost of implementing such a program; conduct a cost/benefit analysis and rank the alternative approaches for meeting the transportation needs of the transportation handicapped; develop minimum standards and guidelines for a range of alternative service and equipment improvements; develop a manual for urban transportation planning for the transportation handicapped; develop criteria for selection of representative urban environments where actual operating demonstrations may be designed to evaluate proposed solutions; and recommend operational demonstration projects to be conducted in three urban areas.

More information about this project may be obtained from Patricia Cass, the UMTA Project Manager (Office of Service and Methods Demonstrations 202-426-4984). The estimated completion date of this project is Fall, 1977.

2. A project that has recently been completed is the "Small Bus Requirements, Concepts, and Specifications" program. This program: (a) examined small bus operations and projected desired operations in the United States; (b) established needed and desired operating features for small buses; (c) determined desirable features for accommodating the special needs of the elderly and handicapped, including wheelchair travelers; (d) generated conceptual small bus designs to meet the operating features; and (e) established a performance standard for a small bus suitable for mass transit service in the United States. UMTA is analyzing a plan to bring the small bus specification to the point of manufacture and production. More information on this project is available from the UMTA Office of Bus Technology Development (202/426-4035).
3. The TRANSBUS program, now essentially completed, provided for the development of three prototypes of new standard 50-passenger city transit buses containing special equipment that can readily be used by elderly and handicapped persons, including wheelchair passengers. Extensive testing of the prototypes has been

completed and on May 19, 1977, the Secretary of Transportation announced that all buses offered for bid after September 30, 1979 must meet the TRANSBUS specifications.

The regulations on Transportation for Elderly and Handicapped Persons, issued April 30, 1976, utilized and were based on information gathered from the Transbus project.

4. Research is underway for the preliminary design of a wheelchair accessibility package for current model buses. This investigation will produce a design for a lift for production line installation in current, high-floor buses. Future research is also anticipated for retrofitting *existing* buses with lifts and securement devices. More information on this research is available from Charles Daniels, Program Manager for Bus Technology in the UMTA Office of Technology Development and Deployment. (202/426-4035).
5. Other areas of ongoing research include a project to assess the use of inclined elevators in transit stations in Stockholm, Sweden. This case study will determine the potential value of the inclined elevator in transit stations in the U.S. Research also is anticipated to determine whether modification of existing escalators is a feasible way to help elderly and handicapped persons change floor-levels in those transit stations where escalators exist.

Another piece of hardware research in progress is the development of a wheelchair elevator for the Standard Light Rail Vehicle (SLRV). This lift system is designed to allow wheelchair users to board the SLRV at those grade-level stops which require steps. The lift prototype to be developed will pivot from outside the vehicle, up the vehicle, up the steps and around so that the user ends up facing into the car.

In addition, UMTA plans to join with the National Highway Traffic Safety Administration (NHTSA) to

develop a "crash-protection system" to protect handicapped passengers while traveling on transit and school buses. Detailed information on these activities is available from Patricia Simpich in the UMTA Office of Technology Development and Deployment (202/426-4023).

6. The UMTA Service and Methods Demonstration Program provides funding support to develop, test and promote innovative and nationally relevant transportation services and methods. Program funds may cover part or all of the project expenses involving capital investments, operations, administration and evaluation. As an example, demonstration projects have included testing the viability and effectiveness of user-side subsidies for the elderly and handicapped in Danville, Illinois; starting a large city transport service in Chicago, Illinois that is coordinated with health and social service agencies; and conducting an exemplary demonstration of a comprehensive, transit company operated, special transport system for the elderly and handicapped in Portland, Oregon.

More detailed information on projects funded under the Service and Methods Demonstration Program is available in a publication entitled "Service and Methods Demonstration Program, Annual Report, November 1975." This report is available from the National Technical Information Service (5285 Port Royal Road, Springfield, Va. 22151, Order No. PB 251-325).

LEGISLATION, REGULATIONS AND GUIDELINES

The following laws specifically relate to transportation and the elderly and handicapped:

1. The Urban Mass Transportation Act of 1964, as amended, Sections 5(m) and 16.
2. Federal-Aid Highway Act of 1973, as amended. Sections 147 and 165(b).
3. Department of Transportation and Related Agencies Appropriation Act, 1975. Section 315.

4. Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504.

Copies of legislation are available from the Congressional Document Room, U.S. Capital, Washington, D.C., 20510.

The following list of regulations and guidelines have been issued by the Urban Mass Transportation Administration and contain elements concerning transportation for the elderly and handicapped.

1. "Transportation for Elderly and Handicapped Persons." Volume 41, *Federal Register*, No. 85, p. 18234-18241 (April 30, 1976). [Note: This regulation has been amended several times. The revisions are listed as numbers 2 and 3 below.]
2. "Completion of Transit Bus Requirements." Vol. 41, *Federal Register*, No. 202, p. 45842 (October 18, 1976).
3. "Transportation For Elderly and Handicapped Persons—Transit Bus Requirements." Vol. 42, *Federal Register*, No. 49, p. 13816-17 (March 14, 1977).
4. Decision by Secretary Brock Adams to Mandate TRANSBUS, U.S. Department of Transportation, Washington, D.C., May 19, 1977.
5. "Transportation Improvement Program." Volume 40, *Federal Register*, No. 181, p. 42976-42984 (September 17, 1975).
6. "Major Urban Mass Transportation Investments." Volume 41, *Federal Register*, No. 185, p. 41512-41514 (September 22, 1976).
7. "Proposed Policy on Paratransit." Volume 41 *Federal Register*, No. 204, p. 46412-46413 (October 20, 1976).

Copies of these materials may be obtained from the UMTA Office of Public Affairs, Washington, D.C. 20590.

REFERENCES

The following list of reports highlight a selected group of documents in the area of transportation for the elderly and handicapped:

1. Abt Associates, Inc. *Transportation Needs of the Handicapped*, prepared for U.S. Department of Transportation August 1969 (NTIS* Order No. PB 187-327).
2. Mark Battle Associates, Inc. *Transportation for the Elderly and Handicapped*, prepared for the Urban Mass Transportation Administration, Washington, D.C., July 1973 (NTIS Order No. PB 225-283).
3. Brooks, SuAnne. "Mobility for the Elderly and Handicapped," *Transit Journal*, pp. 45-50, May 1975 (published by the American Public Transit Association, Washington, D.C.).
4. Davies, Shane and John Corley. *The Transportation Problem of the Mentally Retarded*, University of Texas, Austin, December 1974.
5. DeBenedictis, John A. and Edmond J. Dougherty. *A Directory of Vehicles and Related System Components for the Elderly and Handicapped*. Prepared for the Urban Mass Transportation Administration at Franklin Research Laboratory, Philadelphia, June 1975 (NTIS Order No. PB 244-474).
6. Garner, D.P. "Transportation for the Elderly and Handicapped," *Transportation Research Board Special Report 154*, pp. 61-65 Washington, D.C., 1974.
7. Gelick, Michael and Marshall Silver. *Design for the Handicapped in Elevated Transportation Systems*, prepared for UMTA at the University of Illinois at Chicago Circle, January 1975 (NTIS Order No. PB 243-650).
8. Institute for Public Administration. *Planning Handbook—Transportation Services for the Elderly*, prepared for Department of Health, Education and Welfare, Administration on Aging, Washington, D.C., November 1975 (NTIS Order No. PB 247-958).
9. Institute of Public Administration. *Transportation for Older Americans—The State of the Art*, prepared for Department of Health, Education and Welfare, Admin-

* National Technical Information Service, 5285 Port Royal Road, Springfield, Va., 22151. 703/321-8543.

- istration on Aging, Washington, D.C., March 1975 (NTIS Order No. PB 243-441).
10. Loydahl, J. Leonard. "Transportation for the Elderly and Handicapped," Transportation Research Board *Special Report* 154, pp. 66-68, Washington, D.C., 1974.
 11. Public Technology, Inc. *Transportation for Elderly and Handicapped Persons*—An Information Bulletin of the Transportation Task Force of the Urban Consortium for Technology Initiatives, Washington, D.C., October 1976.
 12. U.S. Department of Health, Education and Welfare. *Proceedings of the Interdisciplinary Workshop on Transportation and Aging*, Washington, D.C., May 24-26, 1970 (DHEW Publication No. SRS-72-20232).
 13. U.S. Department of Transportation, Transportation Systems Center. *Transportation and the Elderly and Handicapped—A Literature Capsule*, January 1977 (Available from Transportation Systems Center, Office of Technology Sharing, Kendall Square, Code 151, Cambridge, Massachusetts 02132).
 14. U.S. Department of Transportation, Transportation Systems Center. *The Handicapped and Elderly Market for Urban Mass Transit*, prepared for the Urban Mass Transportation Administration, Cambridge, Ma., October 1973 (NTIS Order No. PB 222-828/6).
 15. U.S. Department of Transportation, Urban Mass Transportation Administration. *The Additional Cost of Providing Mobility for the Elderly and Handicapped on the Washington Rail Rapid System*, Washington, D.C., May 1973 (NTIS Order No. 223-108).
 16. U.S. Department of Transportation, Urban Mass Transportation Administration. *Service and Methods Demonstration Program Annual Report—1975*, November 1975 (NTIS Order No. 251-325/7GI).
 17. U.S. Department of Transportation, Urban Mass Transportation Administration. *Transportation Problems of the Transportation Handicapped*, edited by Crain and

Associates, August 1976 (NTIS Order No. 258-578/FTS).

- Vol. I—The Transportation Handicapped: Population, Definition and Counts
 - Vol. II—Roles of Government and the Private Sector in the Provision of Mobility Systems for the Transportation Handicapped
 - Vol. III—Alternative Planning Methodologies
 - Vol. IV—Transportation Solutions for the Handicapped
18. U.S. House of Representatives, Select Committee on Aging, Subcommittee on Federal, State and Community Services. *Senior Transportation—Ticket to Dignity*, Ninety-Fourth Congress, Washington, D.C., May 20, 1976 (available from Government Printing Office).
 19. Wachs, Martin and Robert Blanchard. "Lifestyle and Transportation Needs of the Future Elderly," presented at 1976 Annual Meeting of the Transportation Research Board, January 1976, Washington, D.C.

APPENDIX I

UMTA Field Offices

REGION

- I** Peter N. Stowell, Regional Director
 Transportation Systems Center
 Kendall Square
 55 Broadway
 Cambridge, Massachusetts 02142
 (617) 494-2055
- II** Hiram Walker, Regional Director
 Suite 1811
 26 Federal Plaza
 New York, New York 10007
 (212) 264-8162
- III** Franz K. Gimmler, Regional Director
 Suite 1010
 434 Walnut Street
 Philadelphia, Pennsylvania 19106
 (215) 597-8098
- IV** Doug Camplon, Regional Director
 Suite 400
 1720 Peachtree Road, N.W.
 Atlanta, Georgia 30309
 (404) 526-3948
- V** Theodore Weigle, Regional Director
 Suite 1740
 300 S. Wacker Drive
 Chicago, Illinois 60606
 (312) 353-0100

REGION

- VI** Glen Ford, Regional Director
 Suite 9A32
 819 Taylor Street
 Fort Worth, Texas 76102
 (817) 334-3787
- VII** Lee Waddleton, Regional Director
 Room 303
 6301 Rock Hill Road
 Kansas City, Missouri 64131
 (816) 926-5053
- VIII** Louis Mraz, Regional Director
 Suite 1822
 Prudential Plaza
 1050 17th Street
 Denver, Colorado 80202
 (303) 837-3242
- IX** Dee Jacobs, Regional Director
 Suite 620
 Two Embarcadero Center
 San Francisco, California 94111
 (415) 556-2884
- X** F. William Fort, Regional Director
 Suite 3106
 Federal Building
 915 Second Avenue
 Seattle, Washington 98174
 (206) 442-4210

HEADQUARTERS

Office of Public Affairs
 Room 9330
 400 Seventh Street, S.W.
 Washington, D.C. 20590
 (202) 426-4043

URBAN MASS TRANSPORTATION ADMINISTRATION REGIONS



APPENDIX 2

16(b)(2) STATE CONTACTS

Alabama Comm. on Aging
Attn: 16(b) (2) Program Manager
740 Madison Avenue
Montgomery, Alabama 36104
205/832-6640

Alaska Department of Highways
Attn: 16(b) (2) Program Manager
P.O. Box 589
Douglas, Alaska 99824
907/364-2121

Arizona Department of
Transportation
Attn: 16(b) (2) Program Manager
206 South 17th Avenue
Phoenix, Arizona 85007
602/261-7434

Arkansas State Highway
Department
Attn: 16(b) (2) Program Manager
P.O. Box 2261
Little Rock, Arkansas 72203
501/569-2286

California Department of
Transportation
Attn: 16(b) (2) Program Manager
1120 N Street
Sacramento, California 95814
916/322-5480

Colorado Division of Highways
Attn: 16(b) (2) Program Manager
4201 E Arkansas Avenue
Denver, Colorado 80222
303/757-9372

Connecticut Department of
Transportation
Mass Trans. Planning Division
Attn: 16(b) (2) Program Manager
24 Wolcott Hill Road
P.O. Drawer A
Wethersfield, Connecticut 06109
203/566-3961

Delaware Authority for
Specialized Transportation
Attn: 16(b) (2) Program Manager
P.O. Box 265
Wilmington, Delaware 19899
302/571-2995

D.C. Department of Highways
and Traffic
Attn: 16(b) (2) Program Manager
District Building
Washington, D.C. 20004
202/629-3284

Florida Department of
Transportation
Division of Mass Transit
Attn: 16(b) (2) Program Manager
605 Suwannee Street
Tallahassee, Florida 32304
904/488-7390

Georgia Department of
Transportation
Attn: 16(b) (2) Program Manager
2 Capitol Square
Atlanta, Georgia 30334
404/656-6000

Hawaii Department of
Transportation
Attn: 16(b) (2) Program Manager
869 Punchbowl Street
Honolulu, Hawaii 96813
808/548-6934

Idaho Department of
Transportation
Attn: 16(b) (2) Program Manager
3103 Airport Way
Boise, Idaho 83705
208/384-3183

Illinois Department of
Transportation
Division of Public Transportation
Attn: 16(b) (2) Program Manager
300 N State Street
Chicago, Illinois 60610
312/793-2111

Indiana Commission on Aging
Attn: 16(b) (2) Program Manager
215 North Senate Avenue
Indianapolis, Indiana 46202
317/633-5948

Iowa Department of
Transportation
Attn: 16(b) (2) Program Manager
Des Moines, Iowa 50319
515/247-4297

Kansas Department of
Transportation
Attn: 16(b) (2) Program Manager
State Office Building
Topeka, Kansas 66612
913/296-3841

Kentucky Department of
Transportation
Attn: 16(b) (2) Program Manager
421 Ann Street
Frankfort, Kentucky 40601
501/564-7700

Louisiana Bureau of Aging
Attn: 16(b) (2) Program Manager
P.O. Box 44282
Baton Rouge, Louisiana 70804
504/389-2171

Maine Department of
Transportation
Bureau of Planning
Attn: 16(b) (2) Program Manager
Transportation Building
Capitol Street
Augusta, Maine 04333
207/289-2841

Maryland Public Transportation
Development Division
Attn: 16(b) (2) Program Manager
Mass Transit Administration
109 East Redwood Street
Baltimore, Maryland 21230
301/383-7060

Massachusetts Executive Office of
Transportation and Construction
Attn: 16(b) (2) Program Manager
One Ashburton Place
Boston, Massachusetts 02103
617/727-8955

Michigan Department of Highways
and Transportation
Attn: 16(b) (2) Program Manager
P.O. Drawer K
Lansing, Michigan 48904
517/374-9183

Minnesota State Planning Agency
Attn: 16(b) (2) Program Manager
100 Capitol Square Building
St. Paul, Minnesota 55101
612/296-2533

Mississippi Council on Aging
Attn: 16(b) (2) Program Manager
510 George Street
Jackson, Mississippi 39216
601/354-6590

Missouri Department of Transportation vision of Transit in: 16(b)(2) Program Manager P.O. Box 1250 Jefferson City, Missouri 65101 314/751-4922	North Carolina Department of Trans. and Highway Safety Mass Transit Division Attn: 16(b)(2) Program Manager P.O. Box 25201 Raleigh, North Carolina 27611 919/829-4713
Montana Department of Community Affairs Attn: 16(b)(2) Program Manager Capitol Station Helena, Montana 59601 406/449-3757	North Dakota Highway Department Attn: 16(b)(2) Program Manager Capitol Grounds Bismarck, North Dakota 58501 701/224-2537
Nebraska Department of Roads Attn: 16(b)(2) Program Manager P.O. Box 94759 Lincoln, Nebraska 68509 402/473-4694	Nevada Department of Highways Attn: 16(b)(2) Program Manager 1263 South Stewart Street Carson City, Nevada 89701 702/885-5610
New Hampshire Transportation Authority Attn: 16(b)(2) Program Manager 3 Capitol Street Concord, New Hampshire 03301 603/271-2563	Ohio Department of Transportation Attn: 16(b)(2) Program Manager 25 South Front Street Columbus, Ohio 43215 614/466-8955
New Jersey Department of Transportation Attn: 16(b)(2) Program Manager 1035 Parkway Avenue Trenton, New Jersey 08625 99/292-4952	State of Oklahoma Attn: 16(b)(2) Program Manager Special Unit on Aging Department of Institutions P.O. Box 25352 Oklahoma City, Oklahoma 73125 405/521-2281
New Mexico State Highway Department Attn: 16(b)(2) Program Manager P.O. Box 1149 Santa Fe, New Mexico 87503 505/983-0600	Oregon Department of Transportation Attn: 16(b)(2) Program Manager Highway Building Salem, Oregon 97310 503/378-8200
New York State Department of Transportation Attn: 16(b)(2) Program Manager 1220 Washington Avenue State Campus, 4-134 Albany, New York 12232 518/457-7245	Pennsylvania Department of Transportation Bureau of Mass Transit System Attn: 16(b)(2) Program Manager 1215 Transportation & Safety Building Harrisburg, Pennsylvania 17120 717/787-7540

Department of Transportation
and Public Works
Attn: 16(b) (2) Program Manager
Box 8218
San Juan, Puerto Rico 00910
809/726-4095

Rhode Island Department of
Transportation
Attn: 16(b) (2) Program Manager
Planning Division
245 State Office Building
Providence, Rhode Island 02903
401/277-2694

South Carolina Budget and
Control Board
Attn: 16(b) (2) Program Manager
Division of Motor Vehicle
Management
300 Gervais Street
Columbia, South Carolina 29201
803/758-7816

South Dakota Department of
Transportation
Attn: 16(b) (2) Program Manager
Transportation Building
Pierre, South Dakota 57501
606/224-3155

Tennessee Department of
Transportation
Attn: 16(b) (2) Program Manager
Nashville, Tennessee 37219
615/741-2781

Texas Department of Highways
and Public Transportation
Attn: 16(b) (2) Program Manager
P.O. Box 5051
Austin, Texas 78763
512/475-7466

Utah Department of
Transportation
Systems Planning Division
Attn: 16(b) (2) Program Manager
405 South Main Street
Suite 800
Salt Lake City, Utah 84114
801/533-5707

Vermont Agency for Transportation
Attn: 16(b) (2) Program Manager
133 State Street
Montpelier, Vermont 05602
802/828-2678

Virginia Department of Highways
and Transportation
Attn: 16(b) (2) Program Manager
221 East Broad Street
Richmond, Virginia 23219
804/786-1058

Washington Office of
Community Development
Attn: 16(b) (2) Program Manager
Olympia, Washington 98504
206/753-2222

West Virginia Office of the Governor
Attn: 16(b) (2) Program Manager
Department of Federal State
Relations
Charleston, West Virginia 25305
304/348-2246

Wisconsin Department of
Transportation
Planning Division
Attn: 16(b) (2) Program Manager
P.O. Box 7913
Madison, Wisconsin 53707
608/266-1650

Wyoming State Highway
Department
Planning and Programming
Attn: 16(b) (2) Program Manager
P.O. Box 1708
Cheyenne, Wyoming 82001
307/777-7552

Exhibit No. 25

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
OFFICE OF HUMAN DEVELOPMENT
WASHINGTON, D.C. 20201

OCT 27 1977


Ms. Eileen Bradley
Age Discrimination Study
U.S. Commission on Civil Rights
1730 K Street, N.W., Suite 214
Washington, D. C. 20096

Dear Ms. Bradley:

When I testified at the hearing on age discrimination on September 27 conducted by the Commission, I agreed to submit some additional information for the record on the title XX and the vocational rehabilitation programs. I am enclosing that information for your use in completing the record of the hearing.

If I can be of assistance to you in any other way, please let me know.

Sincerely,


Arabella Martinez
Assistant Secretary for
Human Development Services

Enclosure

NOV 4 1977

Information Requested by the U.S. Commission on Civil Rights
at the Age Discrimination Hearings on 9-27-77

I States which included group eligibility in their FY'78
Comprehensive Annual Service Plans for Title XX Services.

This information is still being evaluated and compiled, and the list which follows represents a contractor's effort at providing the data. Some of the information was taken from proposed plans, and some from final ones. This list therefore, should be considered as an approximation, as changes and clarifications are anticipated, and all States' final plans have not yet been received in Central Office/APS.

GROUP CRITERIA

SERVICE

Pennsylvania (proposed)

60 years of age or older

Counseling
Group Dining
Life Skills Education
Socialization and
Recreation Services
provided within Title
XX Senior Citizens
Centers
(Transportation to
Senior Citizen Centers)

Juvenile delinquents

Counseling
Employment Services
Life Skills Education
Services Planning -
Case Management
Socialization/Recreation
Transportation

Page 2

GROUP CRITERIASERVICEMaryland (proposed)

Senior citizens.

Multi-purpose Senior Centers (group socialization activities
Home Delivered/Congregate Meals)Delaware (final)

Children migratory workers.

Day Care for Children Review CASP. No specific service indicated in the eligibility section.

Minnesota (proposed)

Children of migratory agricultural workers (provided for in public law 94-401).

Day Care Services

Ohio (final)

All persons 60 years of age and older.

Services listed in CASP (needs clarification)

Agricultural migrant workers.

Day Care Services (see attached discussion - migrant services)

Drug Abusers

Alcoholics

Mentally ill (prof. diagnosed/ unable to leave independently/ chronically unemployed/coming out of a crisis situation).

Developmentally disabled (professionally diagnosed as being MR or suffering from autism, cerebral palsey, or epilepsy to a degree that it constitutes substantial handicap).

Page 3

GROUP CRITERIASERVICE

Educationally deficient (determine Title XX eligible by DPA and/or is 16 yrs. or older does not have a high school diploma and is not enrolled in school.

Children of migrant parents.

Day Care Services

Wyoming (proposed)

Migrant seasonal agricultural workers (meet DOL standards for poverty adjusted for family size).

Day Care Services

The developmentally disabled.

State work activity centers for the developmentally disabled.

Blind
(This may have been deleted from final plan)

Lions Summer School for the Blind

Connecticut (proposed)

- Current recipients of town General Assistance
- Persons determined currently eligible for State medical services under Medicaid.
- Persons determined currently eligible for the State's "Connecticut Aid and Medical Assistance to the Disabled"
- Persons determined currently eligible for the "Food Stamp" program.

Services listed in the CASP (except for child day care, unless the day care is limited to children for migratory workers).

Tenants of public housing residing in public auspices housing projects.

Counseling
Housing Improvement
Home Management
Health Related Services

Page 4

GROUP CRITERIA

The developmentally disabled (mental retardation, down's syndrome, epilepsy, cerebral palsy, or autism).

Recipients of crippled children's services (applicants for or recipients of services from Division of Crippled Children's Services of West Virginia Department of Welfare.

Blind individuals (individuals legally blind).

(These may have been deleted from final plan)

Montana (final)

Aged

(check Indians)

New Mexico (proposed)

All American Indians (enrolled member tribe/res. reservation, with exclusion Navajo nation at their request).

Michigan (proposed)

Senior citizens.

Migrant families.

SERVICE

Housing Related Services

Health Related Services
Counseling

Home Management Services
Home Delivered Meals
Special Services to the Blind
Health Related Services

Transportation
Meals Program

All services with exception of Day Care

Multi-purpose Senior
Citizen Centers

Day Care Programs for
Children

Page 5

GROUP CRITERIASERVICEUtah (final)

65 years of age and older.

Socialization and Re-
assurance Services
TransportationNavajo Tribe (residing in
San Juan County).Counseling Services
Developmentally Disabled
Services
Education and Training
Services
Socialization and Re-
assurance Services
Transportation ServicesWest Virginia (proposed)Children available for adoption
legally free or expected to be
legally free.

Adoption Services

Juvenile offenders under 18 and
are under auspices of the juvenile
justice system.Community Delinquency
ServicesTroubled Youth - children under
18 experiencing problems coping
with home, school or community
and are exhibiting problematic
behavior.

Youth Services

Children in the care and cus-
tody of the W. Virginia Depart-
ment of Public Welfare.

Foster Care Services

Adolescent or single parents
(under 21 having or expecting
a child regardless of marital
status).Social, Education, and
Training for Adolescent
or Single ParentsPatients of public institu-
tions - persons currently
patients of public institu-
tions for mentally or chroni-
cally ill or patients in those
institutions within previous
6 months.Pre-institutionalization,
Admission and After Care
Services

Page 6

GROUP CRITERIA

Senior Citizens, 60 years of age or older.

All individuals in a retardation foster home, a retardation group home, a retardation community residential treatment center, or a retardation institution and/or all retarded individuals eighteen (18) years of age or older.

Children of migratory workers.

All Medicaid eligible persons ages 0 through 21 in need of Social Services to utilize the Early and Periodic Screening Diagnosis and Treatment (EPSDT) program.

Individuals under 18 years of age receiving foster care.

Persons 60 years of age or older who are residents of Dade County (DHUD) Public Housing and Key West Housing Authority public housing.

Indian (final)

Persons 60 years of age and older.

SERVICE

Home Management
Health Related Services
Housing Improvement
Services
Counseling
Home Delivered Meals

All Title XX Funded
Services (except Child
Day Care).

Child Day Care

Escort
Health Support
Transportation

All Title XX Funded
Services (except Child
Day Care).

Dade HUD CIS Transporta-
tion Services
Dade HUD Homemaker/Chore
Services
Monroe County Social
Service Transportation

Personal Care Assessment
for the Elderly
Chore and Handyman
Services
Home Health Aide Services
Housing Services

Page 7

GROUP CRITERIASERVICE

Wards of the courts.

Residential Treatment
Services for Children
Adoption Services
Foster Care ServicesMentally retarded and devel-
opmentally disabled.Day Activity Programs
for the Developmentally
Disabled
Diagnostic & Evaluation
Service for the Devel-
opmentally Disabled

Adult and juvenile offenders.

Diagnostic Services for
Offenders
Day Treatment for
Juvenile Offenders
Employment Services for
OffendersWisconsin (final plan)

60 years of age or older

Elderly persons 75 and over

Home and financial man-
agement; personal ser-
vices; chore; counseling
(directed at goal 4).Adult developmentally dis-
abled (18 years and over)Sheltered employment
(directed at goal 1);
day services (directed
at goal II, goal III-B,
goal IV).

Indians

All services directed at
goal I.Migrant laborers
In accord Ch. 17 Wisconsin
statute. (Temp. leaves
ppr outside state and comes
to Wisconsin for not more
than 10 months to accept
employment in agricultural
sector).

(Goal I) All services.

Page 8

GROUP CRITERIASERVICEFlorida (final plan)

Delinquent children and youth placed in short-term intensive treatment facilities for the purpose of receiving residential treatment.

Residential Treatment of Delinquent Children and Youth in Short-term Intensive Treatment Facilities.

Residents of the Dozier Training School, the Lancaster Training School, the MacPherson School and the Okeechobee School.

All Title XX Funded Services (except Day Care).

Participants of multi-purpose senior centers.

Social Group Services

Patients enrolled in the Children's Medical Services Program.

All Title XX Funded Services (except Child Day Care).

Blind or visually handicapped individuals in need of services (excluding services associated with the Talking Book Library) provided by or through the Office of Blind Services, Department of Education.

Information and Referral
Counseling
Health Support
Training and Related
Social Group
Transportation

In addition to the above list, the following States include group eligibility in their proposed CASP's. The Key Target groups are the aged and youth and migrant workers' children (day care).

Illinois
Louisiana
Mississippi
New York
Oregon
Washington
South Dakota

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II List of States which were at their ceiling at the inception of Title XX:

Data Source: February 1976 - Quarterly Report FY'75

Alabama
California
Colorado
Connecticut
District of Columbia
Florida
Idaho
Kentucky
Massachusetts
Minnesota
New York
Oregon
Washington
Wisconsin

III List of States at their ceiling in FY 1977:

Data Source: July 1977 Quarterly Report for FY'77

Alaska
Colorado
District of Columbia
Florida
Iowa
Michigan
Minnesota
Montana
New Mexico
North Dakota
Oregon
South Dakota
Texas
West Virginia
Wisconsin

Question: Do State vocational rehabilitation agencies provide interpreters for non-English speaking handicapped individuals who are eligible for the vocational rehabilitation program?

Answer: Many State vocational rehabilitation agencies have made available interpreters and forms written in their native tongue for clients who are non-English speaking to increase the awareness and understanding of the rehabilitation program as well as to help avail themselves fully of benefits under the State-Federal program of vocational rehabilitation.

An objective of the Rehabilitation Act of 1973, as amended, which mandated the individualized written rehabilitation program (IWRP) was to promote the involvement and participation of handicapped individuals in the development, evaluation, and carrying through of their own rehabilitation plans. To meet the needs of its non-English speaking citizens who are eligible for rehabilitation services, 6 State vocational agencies, for example, have such IWRP's written in Spanish and French as well as bi-lingual counselors available to serve them.

Also, in the special projects for handicapped migratory and seasonal farmworkers authorized by Section 304(b) of the Federal statute, significant numbers of Spanish-speaking people are served, especially by those projects located in New York, New Jersey, Wisconsin, Texas, California, and Idaho. Bi-lingual counselors are employed in all of these programs to facilitate communication with the Mexican-American and Puerto Rican persons they serve. In addition, informational materials are published in Spanish, and vocational training by bi-lingual instructors is arranged when appropriate.

Question: How is "homemaker" as a vocational goal defined in the Vocational Rehabilitation program and what is the rationale used for rehabilitating handicapped individuals as homemakers?

Answer: The Dictionary of Occupational Titles (DOT), Volume I, 1965 includes the following definition:

Homemaker (General Maid) (Housekeeper, home)

Performs any combination of the following duties in keeping private home clean and orderly, in cooking and serving meals, and in rendering personal services to family members: Plans meals and purchases foodstuffs and household supplies. Prepares and cooks vegetables, meats, and other foods according to employer's instructions or following own methods. Serves meals and refreshments. Washes dishes and cleans silverware. Oversees activities of children, assisting them in dressing and bathing. Cleans furnishings, floors, and windows, using vacuum cleaner, mops, broom, cloths, and cleaning solutions. Changes linens and makes beds. Washes linen and other garments by hand or machine, and mends and irons clothing, linens, and other household articles, using hand iron or electric ironer. Performs additional duties, such as answering telephone and doorbell, and feeding pets. When employed in motherless home, may be designated HOUSEKEEPER, WORKING; or when employed by welfare agency to take charge of home because of illness of or for working mother, may be designated HOME MAKER.

In the Vocational Rehabilitation program, "Homemaking" is recognized as gainful work and therefore as a legitimate vocational goal for selected clientele. The statute defines a "handicapped individual" as one with a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment, and who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services.

In the Individualized Written Rehabilitation Program required for each eligible person a decision on vocational objective and services needed to achieve that objective is made jointly by the State agency and the client.

In the case where the agreed upon objective is "homemaker" the "homemaker functions which the individual is unable to perform because of a physical or mental disability must be identified along with a service plan to reduce or eliminate those barriers to performing necessary tasks.

- 2 -

When services have been completed and it is demonstrated that the individual is able to perform the "homemaker" functions required in his situation, then the case is considered to be vocationally rehabilitated.

In a 1974 Study financed by the Rehabilitation Services Administration and conducted by the Berkeley Planning Associates on Valuation of Homemaker Services, a dollar value on homemaker wages based on the replacement value for the pro-rata cost of many of the homemaker functions described in the DOT and assuming an average full time work week of 54 hours came to \$5,138.64 per year.

Question: What has been the experience of the vocational rehabilitation program over the past several years regarding numbers of cases you have been unable to find jobs for after they have received necessary vocational rehabilitation services?

Answer: Our data does not provide a specific answer to the question of the time lag between completion of services and placement. However, it does show that roughly six percent of the total cases on hand in active statuses on June 30 from 1972 through 1975 were in Status 20 (ready for employment). In 1976 the proportion remaining in status 20 on that date increased to seven percent. Currently, seven percent of the cases in the active statuses on June 30, 1977 were in "ready for employment" (54,570 cases).

An individual is placed in the "ready for employment" status when he has completed preparation for employment and is ready to accept a job but has not yet been placed, or has been placed but has not yet begun employment.

The foregoing data do not indicate any delays or problems in job placement. They only show the number of clients who are prepared to work but have not started working as of June 30.

Materials Requested from Assistant Secretary Martinez

The following materials requested from Assistant Secretary Martinez had not been received by the time the record was printed:

- Data on the number of persons who have completed the Vocational Rehabilitation Program for the last two complete reporting years and data on the rate of placement for those persons.
- Data on the Title XX Program by service category.

[FACSIMILE]

TESTIMONY OF
CAROL TUCKER FOREMAN,
ASSISTANT SECRETARY
FOR FOOD AND CONSUMER SERVICES, DEPARTMENT OF AGRICULTURE
BEFORE HEARINGS OF THE UNITED STATES COMMISSION ON CIVIL
RIGHTS ON THE AGE DISCRIMINATION ACT OF 1975,
Washington, D.C.

Ladies and gentlemen of the Commission, I am pleased to be here today to present testimony for the Department of Agriculture on the Age Discrimination Act of 1975. Like others, I fear that not enough attention has been paid to the possibility of age discrimination in Federally-assisted programs. These hearings should be useful in focusing government attention on this need. The Department of Agriculture has a long history of concern with people and especially older persons. Many of the programs we administer are specifically targeted toward older persons or contain components which directly affect older persons. For example:

1. Under the Older American Community Service Employment Program (Title IX of the Amendments to the Older Americans Act of 1965), the Forest Service is productively employing more than 2,500 low income men and women age 55 or older in 40 States and Puerto Rico in community service projects like conservation, beautification, timber stand improvement, campground rehabilitation and the like.

2. Since 1963, the Farmers Home Administration has financed more than 35,000 rural rental and cooperatively

owned housing units for older persons (persons 62 years of age or older). Last year, the Farmers Home Administration made over 2,800 home purchase loans to older persons. This year, under a program previously authorized but not funded in recent years by Congress, the Farmers Home Administration will provide over 1,800 home repair grants to persons 62 years of age or older. In addition, older persons are the recipients or among the beneficiaries of farmer loans, business and industrial loans and community facility loans provided by the Farmers Home Administration. The latter loan programs are especially pertinent to the problems of older persons because they help provide needed community services like rescue squads, nursing facilities and the like.

3. The Consumer and Food Economics Institute of the Agricultural Research Service prepares Family Food Plans based upon scientifically determined needs for food and nutrients in human diets. One of the food plans specifically covers the needs of persons 55 and over. In addition, ARS has prepared publications dealing with "Nutrition Programs for the Elderly," "Food Guide for Older Folks" and "Budgeting for Retirement." The decennial national food consumption survey, which began last April and will conclude in March 1978, will enable researchers to know the general food consumption habits of persons 65 and older.

4. Finally, a considerable amount of research supported in part by the Cooperative State Research Service is conducted at colleges and universities which directly relates to older people. This includes human nutrition, housing and patterns of living. For example, this research

has shown us that only 65 percent of the rural residents in Arkansas have medical insurance coverage compared to 80 percent of urban residents. In Texas, research has shown that older low income people spend approximately one-third of their income for food---twice the proportion spent by all families in America.

5. A significant portion of the programs and activities of the Cooperative Extension Service is directed toward older people. Educational programs and information are provided regarding consumer help, energy conservation, nutrition, community services, recreation, preventive medical care, estate planning, hobby workshops, working with youth and the like. Extension agents work with more than 600,000 volunteer leaders in the communities of America to provide this help. Indeed, it is clear that as further human development programs for older persons are implemented, extension workers will continue to play an important role.

The Department of Agriculture is also aware of the implications of the age structure of the population. Until recently, the average age of American farmers has been rising and this was a source of concern (although the average age for farmers is not significantly higher than other persons who are self-employed). Since 1970, the number of farmers who are under 35 has increased and so this earlier concern has been mitigated somewhat. But the Department of Agriculture is also concerned about people other than farmers too. Already we know that a greater proportion of the older population lives in rural areas (more than one-third) than in the population as a whole (27

percent) and that about 22 percent of this number live in poverty as compared to 13 percent who live in urban areas and are in poverty. Of all older people who are in poverty, half live in nonmetropolitan areas. Our demographers have noted that not only is population increasing in nonmetropolitan areas but that a substantial portion of the increase is being supplied by persons who are at or near retirement (persons in their low 50's who are still active). From 1960 to 1970, there were some 370 nonmetropolitan counties where this trend was noted and we believe that it is continuing in the 70's. These events have tremendous implications for national growth and rural development policies because we already know that rural areas do not have the necessary medical, housing and transportation resources to adequately support, in a quality of life sense, this growing segment of the population. But, I understand that the special concern of these hearings is discrimination in Federal programs because of age and that of the programs administered by the Department of Agriculture, you are looking at this question with respect to food programs.

As you know, Congress has passed a new food stamp act which awaits President Carter's signature. Many of the features of this act represent explicit attempts to address the problems of the elderly and have the potential for significantly improving services to the elderly. I am going to describe these features to you in a few minutes, but first, I want to discuss the current status of our service to the elderly and some of the problems that have encumbered the program in the past.

Let's begin by looking at the numbers. As a rough measure, we believe that over 5 million persons over the age of 60 may qualify for food stamps under the current law. I should note that the new law restricts eligibility and will therefore somewhat shrink this estimate.

Of these 5 million people, 2.2 million---or 44%---were served by the program according to our 1976 survey of households characteristics. Because SSI recipients are categorically eligible for food stamps under the current law, we are concerned about their participation. We know there are 3.45 million SSI recipients in this country, excluding those in Massachusetts and California, where SSI households' food stamp benefits are cashed out in the form of a supplement to their SSI checks.

Most, but not all, of these SSI recipients are eligible for food stamps. (Some who live with persons not on SSI may be ineligible if those persons have incomes that place the household over the income eligibility limit.) We know, however, that about 1 million households with SSI income are receiving food stamps, and that some of these households contain more than one SSI recipient. Overall, this data indicates that between one-third and one-half of all eligible SSI recipients are receiving food stamps.

The 1974 Food Stamp Act explicitly requires that the States "undertake effective action...to inform low-income households concerning the availability and benefits of the Food Stamp Program and insure the participation of eligible households." A 1974 lawsuit, *Butz v. Bennett*, found the Department's enforcement of this requirement inadequate and, accordingly, stringent outreach instructions were issued.

Responsibility for actually conducting outreach is lodged with State agencies; the Department must monitor their efforts to determine whether effective outreach is actually being conducted.

While the 1974 suit resulted in a flurry of outreach activities within the States (and expenditures of \$1.9 million in FY 76---of which half was Federal matching funds) there is no conclusive evidence that these activities and expenditures significantly increased participation. In fact, participation has declined from a high of 19.3 million in the spring of 1975 to a level of 16 million in July of 1977. This decline principally reflects improvements in the economy. Would participation be still lower in the absence of outreach activities? We really don't know.

We do know that it is time to assess systematically the effectiveness of various outreach techniques and to design regulations that will make it as easy as possible for all eligible households to enter and use the program. We also know that outreach must mean far more than simply providing information. It must mean a program that is readily accessible and easy to use, so that people can act on the information they have.

This Administration is committed to making assistance programs serve---and serve well---the people for whom they are intended. One instance of this commitment is our recent cancellation of the Federal match for outreach costs to the State of Indiana for its failure--since corrected---to submit an acceptable outreach plan. A special FNS review team examined other aspects of program administration in Indiana this summer and we are now taking action to remedy

other problems which affect participation in that State. Similarly, a special FNS review team is currently assessing food stamp operations in New York State to identify program violations. If corrective action is found to be necessary, we will take it.

A formal warning to the State of Iowa for deficiencies in its outreach program resulted in the State's taking corrective action. We are going to continue to increase our monitoring the State performance and to impose sanctions on those States that do not meet our requirements.

As I mentioned before, the new food stamp act gives us many of the tools we need to overcome barriers to participation by the elderly. There is no mystery as to what these barriers have been. They include:

1. Lack of clear information explaining eligibility and where and how to apply for assistance.
2. Stigma associated with receipt of assistance.
3. Transportation problems which make it difficult or impossible for the elderly to reach certification and issuance offices.
4. Complexity of the application process.
5. Lack of civility and helpfulness on the part of some certification workers.
6. Lack of cash to purchase food stamps.

While it would be naive to hope that the new law will remove all of these barriers, we do believe that the provisions of the law coupled with close monitoring and tight enforcement can significantly reduce obstacles to participation by the elderly. Here are the features of the law which address these problems:

1. Probably the most important provision in the new law is the elimination of the requirement that households purchase their food stamps. Because many households have been unable to come up with the cash to "buy into" the program, they have been unable to obtain the benefits to which they are legally entitled. Studies conducted by the Maryland State Office of Aging in 1975-76 and by the University of Mississippi in 1974 found that the purchase requirement posed a significant obstacle for elderly persons. Elimination of the purchase requirement will make it easier for the elderly and for all households to use the program.

2. Because the food stamp program requires that people shop with food coupons, which are conspicuous, some people--particularly the elderly--may feel embarrassed at being readily identifiable as food stamp users. With elimination of the purchase requirement, households will receive only their bonus stamps rather than an entire allotment representing both the bonus and their purchase requirement. With fewer food stamps to use, this sense of stigma will be somewhat reduced.

3. The new legislation directly addresses the problems of program accessibility in several ways. It calls upon the Secretary of Agriculture to set standards for points and hours of certification and issuance. Congress' intent is that these services be provided in such a way that people need not travel long distances to apply for and obtain their food stamps. The use of "roving certifiers" who make periodic visits to senior citizen and other community

centers to take application for food stamps can certainly help to improve accessibility.

4. Additionally, the Department is directed to prescribe standards under which States are required to use the mails, telephone interviews and/or home visits to certify people who because of age, disability or transportation problems are unable to reach a certification office or to apply through an authorized representative. In other words, where the elderly cannot reach the program, the program must reach the elderly.

5. Furthermore, one of the most important provisions of the law as regards the elderly is the requirement that households in which all members receive SSI be able to apply for food stamps in SSI offices. This will completely eliminate the need for these households to make a separate trip to the food stamp office. We have already begun planning the implementation of this policy with SSA and feel it is going to significantly increase the number of SSI households served by the program. I should note that categorical eligibility for SSI households is terminated under the new bill, but this should have a minimal effect on SSI recipient's actual eligibility.

6. Simplification of the application process through replacement of eight itemized deductions by two standard and two itemized deductions should help to make that process less forbidding, as well the use of a simplified, easy-to-read national application form.

7. The Secretary is also directed to prescribe standards for State staffing which will determine the maximum number of cases an eligible worker can handle in an

efficient manner. Short-staffing of local food stamp offices has created lengthy delays in the certification process in many places and contributes to less than courteous and careful treatment of many applicants. State agencies will also be responsible for a continuing and comprehensive training program for certification staff, which should serve to ensure more courteous and accurate processing of applicants. And the law requires that bilingual certification workers be hired in localities where significant percentages of the population speak a language other than English. For the elderly who are not fluent in English, this will mean a decided improvement in service.

8. Under the new law, eligible households must be given an opportunity to submit an application for food stamps on the day they request it, and an opportunity to obtain their food stamps within 30 days from the date of application. This, too, will ensure prompter service to all households. For elderly households, certification periods of up to 12 months will be permitted, and all households must be notified of the expiration of their certification period in time to reapply without loss of benefits. For eligible households with no income, food stamps must be issued on an expedited basis and households with good cause will be permitted to designate an authorized representative to apply for, obtain and use food stamps for them. While these features may seem technical, they contribute to a more responsible program that recognizes the urgency of the need for food assistance and the difficulties faced by many households in obtaining it.

9. Other features of the bill deserve mention, as well. The requirement that households have access to cooking facilities has dropped from 65 to 60. Reimbursements to volunteers--many of whom are elderly--for expenses incurred will not be counted as income. The more generous assets limit of \$3,000 for households of two or more persons, one of whom is over 60, has been retained. The limit for all other households has been increased from \$1,500 to \$1,750.

The law continues to permit the use of food stamps to pay for meals served by private establishments (including restaurants) which contract to offer meals for the elderly at concessional prices, (persons 60 or over and their spouses). The elderly may also purchase meals from authorized home meal delivery services such as Meals on Wheels. Previously only persons who were both elderly and disabled were given this option. We hope this will encourage the development of more meals on wheels services. For persons 60 or over and their spouses, food stamps may be used to purchase meals prepared by and served in senior citizen centers, apartment buildings occupied primarily by such persons, and to residents of Federally subsidized housing for the elderly.

Finally, I want to turn back to the subject of outreach. While the new act deletes the requirement that State agencies "insure participation," it specifically directs them to inform households about the availability, eligibility requirements, and benefits of the program, with specific reference to SSI recipients. Again, while this informational outreach is important, I want to stress that

outreach in the largest sense means designing a program that is genuinely responsive to the varying needs of its target population. We believe the provisions of the act I've outlined for you go a long way towards this goal. Once it is signed into law, the challenge to us will be to make that law a reality at the local level, where people are served. We appreciate your concern in this matter and will be glad to keep you informed of our progress.

In terms of actions the Department of Agriculture plans to implement in order to be more responsive, to the spirit and intent of the Age Discrimination Act:

1. We presently prohibit discrimination by USDA employees on the basis of race, color, religion, sex or national origin in all direct assistance programs and activities (7 C.F.R. 15.50). Using the authority available to all executive department heads in 5 U.S.C. 301, we plan to add an age discrimination prohibition to these regulations.

2. In response to the President's August 26 Memorandum on sex discrimination we are currently conducting a review of all USDA programs to identify regulations, guidelines or policies which result in unequal treatment based on sex. We plan to include age discrimination problems in this review.

In terms of recommendations to the Commission regarding the coordination of intergovernmental processes for implementing the Age Discrimination Act, we recommend:

1. Every Federal Agency administering programs subject to the Act assign responsibility for assuring compliance to appropriate staff within the Agency's civil rights office.

OMB and Congress should be requested to support additional staffing requests necessary to carry out this function.

*Exhibit No. 27*UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF EQUAL OPPORTUNITY
WASHINGTON, D.C. 20250

NOV 18 1977

Ms. Eileen Bradley
Age Discrimination Study
U.S. Commission on Civil
Rights
1730 K. Street, N.W., Suite 214
Washington, D.C. 20006

Dear Ms. Bradley:

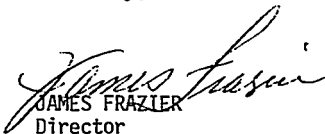
During the Department's testimony on September 27, questions were raised by the Commission regarding (1) differences in the age used for reporting different USDA programs and (2) availability of selected program data by age.

Enclosed are responses to these inquiries from the three USDA agencies referred to in our statement for the record. In general, age requirements for the programs referred to that are administered by the Forest Service and the Farmers Home Administration were established by law. The breakouts for reporting by age in the plans and surveys administered by the Agricultural Research Service were established to provide comparability of data to previous plans established by the National Research Council or to conform to survey requirements established by the Social Security Administration.

On related matters, as promised in our testimony, the Secretary has issued orders for a comprehensive review of laws, regulations, guidelines, programs and policies which may result in unequal treatment because of age (copy enclosed). In addition, the Department is preparing to publish notice of intent to add age to the list of prohibited discrimination in its direct assistance programs, 7 CFR 15.51 (copy enclosed).

I trust that this is responsive to your requests and interest in the Department of Agriculture's program for implementing the Age Discrimination Act. Please contact my office if we can be of further assistance.

Sincerely,



JAMES FRAZIER
Director

Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
WO

REPLY TO: 1860 Senior Community Service Employment Program

OCT 13 1977

SUBJECT: Inquiry from Civil Rights Commission Hearings on Age
Discrimination (Yr. ref: 9100-16, October 5)



TO: James Frazier, Director
Office of Equal Opportunity

The following information is provided in response to your letter of October 5 regarding the Older American Community Service Employment Program:

1. Is the age 55 limit in the program established by the law itself or by administrative regulation?

The age limitation of 55 years of age or older was established by Public Law 94-135.

2. Is information available for the total program participation broken down by age, race, and sex?

The following represents age, race, and sex data for the Forest Service Senior Community Service Employment Program conducted during July 1, 1976 through June 1, 1977. The statistics provided show actual numbers of persons.

<u>AGE</u>		<u>RACE</u>		<u>SEX</u>	
Under 55*	24	White	1,254	Male	1,176
55 - 59	335	Black	93	Female	299
60 - 64	420	American Indian	46		
65 - 69	435	Spanish American	45		
70 - 75	195	Other	37		
75 and Over	66				

Under 55* - The Forest Service as of June 30, 1977 had 24 persons enrolled in the SCSEP under age 55. These persons were initially enrolled in the Operation Mainstream Program. At that time, projects having 85% Indian enrollment were allowed to accept applicants 22 years of age and above without restriction to age ratios. These persons were carried over into the SCSEP. Through attrition and placement into unsubsidized positions, the figure has decreased since the Operation Mainstream consolidation into the SCSEP.

John R. McGuire
JOHN R. MCGUIRE
Chief

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
WASHINGTON, D.C. 20250

OFFICE OF THE ADMINISTRATOR

OCT 19 1977

SUBJECT: Your October 5 Memorandum Regarding Inquiry from
Civil Rights Commission Hearings on Age Discrimination

TO: James Frazier, Director
Office of Equal Opportunity

Public Law 87-723 (September 1962) states that an elderly person is to be considered as one who has reached the age of 62. However, FmHA reports on age of borrowers make the break at age 60.

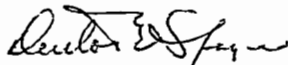
Enclosed are copies of our Report Code 710, "Rural Housing Loans - Use of Funds," for the periods of July 1, 1975, through September 30, 1976, and October 1, 1976, through March 31, 1977. These reports will provide you with the breakout of 502 loans made by age.

Report Code 891, "Distribution of Loans Made by Six Specified Types by Race or Ethnic Groups," for Fiscal Year 1976 is also enclosed, and it provides the racial data on Rural Housing loans made. The Rural Housing loans referred to in this report are Sections 502 and 504 (combined).

The sex of the recipients of individual housing loans is not available for prior years. There was no racial or sexual data collected on the tenants of the Rural Rental Housing programs in prior years.

The total number of 504 grants made in Fiscal Year 1977 equals the total number made to the elderly as only elderly were eligible for this type of loan. Report Code 205, "Status of Loan and Grant Obligations Allotments or Distributions Fiscal Year 1977," indicated that 1,882 initial 504 grants were made in Fiscal Year 1977 (copy enclosed).

If we can be of any further assistance, please advise.



DENTON E. SPRAGUE
Acting Deputy Administrator
Financial and Administrative
Operations

Enclosures

*Farmers Home Administration is an Equal Opportunity Lender.
Complaints of racial or ethnic discrimination should be sent to:
Secretary of Agriculture, Washington, D. C. 20250*

UNITED STATES DEPARTMENT OF AGRICULTURE
 FARMERS HOME ADMINISTRATION
 FINANCE OFFICE

 RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT AND INSURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE	NAME	TOTAL NUMBER	AVERAGE AGE	UNDER 30	PER CENT BY AGE GROUP					2 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD				
					30 TO 39	40 TO 49	50 TO 59	60 AND OVER	3 OR 4		5 OR 6	7 OR 8	9 OR 10	MORE THAN 10	
01	AL	1,156	32.3	55.5%	23.0%	8.7%	7.4%	5.4%	32.8%	47.2%	15.4%	3.3%	0.5%	0.8%	
02	AZ	353	31.2	50.9%	26.1%	9.3%	4.2%	3.4%	23.8%	54.7%	15.6%	3.7%	1.4%	0.8%	
03	AR	1,342	31.8	56.6%	23.0%	9.9%	6.5%	4.0%	31.0%	54.0%	11.8%	1.2%	0.5%	1.0%	
04	CA	1,174	32.7	52.7%	25.4%	11.2%	6.4%	4.3%	17.6%	54.3%	21.3%	5.6%	0.7%	0.5%	
05	CO	560	29.4	63.8%	25.4%	7.0%	2.0%	2.0%	34.3%	50.0%	13.0%	2.5%	0.0%	0.2%	
06	CT	246	28.8	70.7%	19.9%	4.1%	4.5%	0.8%	24.0%	63.4%	11.0%	1.2%	0.0%	0.4%	
07	DE	81	31.6	46.9%	37.0%	8.6%	4.9%	2.5%	33.3%	50.6%	16.0%	0.0%	0.0%	0.0%	
08	FL	912	32.3	53.8%	24.2%	11.0%	7.0%	3.9%	33.2%	48.6%	13.6%	3.3%	0.8%	0.5%	
09	GA	876	31.1	57.1%	25.5%	9.4%	5.3%	2.9%	30.1%	49.5%	15.8%	3.3%	0.6%	0.7%	
10	ID	690	28.4	70.9%	19.3%	5.5%	2.3%	2.0%	33.5%	49.6%	14.8%	1.7%	0.4%	0.0%	
11	IL	743	28.4	69.9%	19.5%	7.1%	2.7%	0.8%	33.4%	51.1%	13.3%	1.5%	0.1%	0.5%	
12	IN	992	27.4	72.4%	19.6%	5.0%	1.8%	1.2%	29.8%	56.9%	11.0%	1.8%	0.2%	0.3%	
13	IA	1,312	27.8	72.0%	18.6%	5.7%	2.9%	0.8%	29.0%	55.6%	12.9%	1.6%	0.5%	0.4%	
14	KS	1,130	28.9	66.4%	21.9%	7.3%	3.0%	1.5%	32.1%	51.8%	12.9%	2.6%	0.4%	0.3%	
15	KY	1,463	30.9	59.1%	24.3%	8.5%	5.2%	2.9%	26.9%	54.0%	15.0%	2.7%	0.2%	0.0%	
16	LA	1,246	32.1	54.7%	22.9%	11.6%	7.1%	3.0%	26.7%	45.5%	19.7%	5.0%	2.1%	1.0%	
17	ME	494	29.3	64.2%	22.7%	8.9%	3.2%	1.0%	28.1%	57.3%	11.7%	1.4%	0.8%	0.6%	
18	MD	412	29.1	67.5%	20.6%	7.8%	3.2%	1.0%	30.6%	51.5%	15.0%	1.9%	0.2%	0.7%	
19	MA	419	29.1	65.4%	26.3%	3.0%	3.0%	0.7%	21.5%	61.6%	12.9%	1.9%	0.7%	1.4%	
20	MI	793	28.2	69.5%	22.1%	5.8%	1.8%	0.9%	27.9%	55.9%	12.9%	2.9%	0.0%	0.5%	

UNITED STATES DEPARTMENT OF AGRICULTURE
 FARMERS HOME ADMINISTRATION
 FINANCE OFFICE

RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT AND INSURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE	NAME	TOTAL NUMBER	AVERAGE AGE	UNDER 30	PER CENT BY AGE GROUP			60 AND OVER	2 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD					MORE THAN 10
					30 TO 39	40 TO 49	50 TO 59			3 OR 4	5 OR 6	7 OR 8	9 OR 10		
27	MN	646	28.2	70.0%	21.5%	5.9%	1.7%	0.9%	28.2%	53.6%	13.9%	2.9%	0.5%	0.9%	
28	MS	1,335	34.5	50.4%	21.3%	11.7%	9.4%	7.2%	20.4%	49.0%	14.9%	4.9%	1.6%	1.2%	
29	MO	1,179	29.8	63.3%	22.5%	7.9%	4.1%	2.3%	29.3%	54.5%	12.7%	2.5%	0.6%	0.3%	
31	MT	318	30.1	62.9%	24.2%	8.2%	3.8%	0.9%	26.4%	57.9%	12.9%	2.5%	0.3%	0.0%	
32	NE	623	29.0	66.6%	22.6%	6.1%	2.9%	1.6%	26.0%	56.2%	15.6%	1.8%	0.2%	0.3%	
33	NV	67	33.8	49.3%	26.9%	10.4%	7.5%	6.0%	37.3%	47.8%	10.4%	3.0%	0.0%	1.5%	
34	NH	265	30.0	60.8%	29.1%	6.4%	1.9%	1.9%	26.0%	55.5%	15.5%	2.6%	0.4%	0.0%	
35	NJ	501	30.0	63.5%	21.6%	9.4%	4.2%	1.4%	23.0%	58.9%	14.0%	3.0%	0.4%	0.8%	
36	NM	308	28.3	69.2%	22.7%	4.5%	1.9%	1.6%	27.9%	55.8%	14.0%	1.9%	0.3%	0.0%	
37	NY	1,470	28.7	68.1%	23.0%	6.2%	2.1%	0.6%	26.3%	57.6%	13.7%	2.1%	0.0%	0.3%	
38	NC	2,218	30.3	60.4%	24.8%	8.3%	4.7%	1.9%	30.2%	53.6%	13.2%	2.2%	0.3%	0.6%	
39	ND	330	28.6	72.1%	16.7%	7.3%	3.3%	0.6%	29.4%	52.7%	13.9%	3.3%	0.3%	0.3%	
41	OH	470	28.0	71.5%	19.4%	5.3%	3.0%	0.9%	29.4%	53.6%	13.4%	3.4%	0.2%	0.0%	
42	OK	1,640	30.5	60.0%	24.0%	8.7%	4.7%	2.6%	29.4%	55.4%	13.2%	1.8%	0.1%	0.2%	
43	OR	817	30.1	63.4%	22.8%	6.9%	3.8%	3.2%	31.1%	53.7%	13.8%	1.2%	0.0%	0.1%	
44	PA	430	28.1	72.3%	21.2%	4.0%	2.3%	0.2%	25.6%	56.5%	13.5%	3.5%	0.9%	0.0%	
45	RI	36	27.5	75.0%	13.9%	11.1%	0.0%	0.0%	25.0%	50.0%	19.4%	2.8%	0.0%	2.8%	
46	SC	956	31.0	58.6%	23.1%	9.8%	5.6%	2.8%	27.0%	52.2%	15.9%	3.5%	1.2%	0.3%	
47	SD	528	28.5	68.4%	22.3%	4.9%	3.8%	0.6%	27.3%	55.9%	13.6%	2.7%	0.2%	0.2%	
48	TN	1,920	30.8	59.0%	23.4%	9.5%	5.3%	2.8%	30.5%	51.9%	13.9%	2.9%	0.2%	0.6%	

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 RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT AND INSURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE	NAME	TOTAL NUMBER	AVERAGE AGE	UNDER 30	PER CENT BY AGE GROUP				60 AND OVER	2 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD				%GRE THAN 10
					30 TO 39	40 TO 49	50 TO 59	3 OR 4			5 OR 6	7 OR 8	9 OR 10		
49	TX	935	33.0	53.2%	23.4%	10.9%	6.6%	5.9%	25.3%	54.1%	15.5%	4.0%	0.4%	0.0%	
52	UT	456	28.5	79.8%	14.0%	4.4%	1.3%	0.7%	21.7%	61.6%	14.0%	2.2%	0.0%	0.2%	
53	VT	437	28.9	68.0%	22.9%	6.2%	2.1%	0.9%	32.0%	53.8%	11.7%	2.1%	0.5%	0.0%	
54	VA	1,143	31.9	54.7%	24.1%	11.1%	7.2%	2.9%	31.6%	48.9%	16.4%	2.4%	0.7%	0.1%	
55	WA	499	29.6	67.5%	18.6%	7.8%	3.2%	2.8%	35.3%	51.1%	13.0%	0.6%	0.0%	0.0%	
57	WV	683	30.3	63.1%	21.8%	7.9%	4.1%	3.1%	26.6%	53.6%	15.5%	2.2%	0.1%	0.0%	
58	WI	599	28.5	70.1%	19.2%	7.0%	2.2%	1.5%	24.2%	59.1%	12.5%	2.8%	0.8%	0.5%	
59	WY	182	28.4	65.4%	26.8%	6.0%	1.1%	0.5%	28.6%	58.2%	10.4%	2.2%	0.0%	0.5%	
60	AK	91	30.1	57.1%	31.9%	9.9%	0.0%	1.1%	31.9%	47.3%	17.6%	3.3%	0.0%	0.0%	
61	HI	121	33.8	46.3%	33.1%	7.4%	6.6%	6.6%	29.8%	49.6%	18.2%	2.5%	0.0%	0.0%	
62	WP	68	33.5	47.1%	25.0%	20.6%	4.4%	2.9%	7.4%	45.6%	29.4%	8.8%	5.9%	2.9%	
63	PR	1,044	32.4	50.7%	29.5%	10.6%	5.2%	3.8%	20.8%	52.9%	21.0%	3.4%	1.4%	0.6%	
64	VI	71	35.2	29.6%	45.1%	15.5%	9.9%	0.0%	22.5%	42.3%	19.7%	12.7%	1.4%	1.4%	
NATL TOTAL		38,780	30.3	61.8%	22.9%	8.3%	4.5%	2.5%	28.5%	53.3%	14.5%	2.7%	0.5%	0.5%	

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 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT AND INSURED INITIAL SECTION 502 LOANS TO SENIOR CITIZENS

STATE CODE NAME	TOTAL NUMBER	AVERAGE AGE	82 TO 64	PER CENT BY AGE GROUP			PER CENT BY NUMBER IN HOUSEHOLD			
				65 TO 69	70 TO 74	75 AND OVER	1	2	3	4 OR MORE
01 AL	25	70.1	16.0%	44.0%	20.0%	20.0%	16.0%	56.0%	16.0%	12.0%
02 AZ	6	68.5	16.7%	33.3%	33.3%	16.7%	0.0%	83.3%	16.7%	0.0%
03 AR	47	69.3	21.3%	38.3%	17.0%	23.4%	21.3%	65.0%	8.5%	4.3%
04 CA	36	68.6	27.8%	22.2%	33.3%	16.7%	22.2%	66.7%	5.6%	5.6%
05 CD	1	66.0	0.0%	100.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%
09 FL	8	70.5	25.0%	25.0%	25.0%	25.0%	25.0%	37.5%	12.5%	25.0%
10 GA	7	41.6	71.4%	0.0%	14.3%	14.3%	0.0%	28.6%	57.1%	14.3%
12 ID	2	67.5	0.0%	50.0%	50.0%	0.0%	0.0%	100.0%	0.0%	0.0%
16 IA	16	68.9	31.3%	25.0%	25.0%	18.8%	12.5%	87.5%	0.0%	0.0%
18 KS	8	67.0	12.5%	62.5%	25.0%	0.0%	62.5%	25.0%	0.0%	12.5%
20 KY	23	69.2	17.4%	43.5%	26.1%	13.0%	26.1%	30.4%	17.4%	26.1%
22 LA	26	67.7	19.2%	53.8%	15.4%	11.5%	3.8%	46.2%	19.2%	30.0%
24 MD	3	65.3	33.3%	66.7%	0.0%	0.0%	0.0%	66.7%	0.0%	33.3%
28 MS	59	67.7	23.7%	52.5%	11.9%	11.9%	20.3%	47.5%	11.9%	20.3%
29 MO	8	64.9	62.5%	25.0%	12.5%	0.0%	12.5%	75.0%	0.0%	12.5%
31 MT	1	65.0	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%
32 NE	3	72.3	0.0%	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	0.0%
35 NJ	3	73.3	0.0%	33.3%	0.0%	66.7%	33.3%	66.7%	0.0%	0.0%
36 NM	4	69.0	0.0%	50.0%	50.0%	0.0%	25.0%	75.0%	0.0%	0.0%
37 NY	8	66.6	25.0%	62.5%	12.5%	0.0%	0.0%	87.5%	12.5%	0.0%

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 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT AND INSURED INITIAL SECTION 502 LOANS TO SENIOR CITIZENS

STATE CODE NAME	TOTAL NUMBER	AVERAGE AGE	62 TO 64	PER CENT BY AGE GROUP			PER CENT BY NUMBER IN HOUSEHOLD			
				65 TO 69	70 TO 74	75 AND OVER	1	2	3	4 OR MORE
38 NC	20	66.8	25.0%	40.0%	20.0%	15.0%	20.0%	40.0%	20.0%	20.0%
42 OK	24	68.9	20.8%	41.7%	20.8%	16.7%	25.0%	58.3%	12.5%	4.2%
43 CR	12	67.9	25.0%	41.7%	33.3%	0.0%	8.3%	75.0%	8.3%	8.3%
44 PA	1	43.0	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%
46 SC	6	68.0	33.3%	33.3%	16.7%	18.7%	0.0%	33.3%	16.7%	50.0%
48 TN	19	69.0	15.8%	47.4%	21.1%	15.8%	31.6%	57.9%	5.3%	5.3%
49 TX	24	65.3	41.7%	29.2%	25.0%	4.2%	29.2%	50.0%	12.5%	8.3%
53 VT	2	50.0	50.0%	0.0%	50.0%	0.0%	0.0%	0.0%	0.0%	100.0%
54 VA	24	66.8	20.8%	41.7%	25.0%	12.5%	12.5%	54.2%	16.7%	16.7%
56 WA	8	67.9	25.0%	37.5%	25.0%	12.5%	12.5%	62.5%	12.5%	12.5%
57 WV	3	69.7	66.7%	0.0%	0.0%	33.3%	33.3%	33.3%	33.3%	0.0%
53 WI	2	67.0	50.0%	0.0%	50.0%	0.0%	0.0%	50.0%	0.0%	50.0%
NATL TOTAL	439	67.6	24.8%	39.6%	21.6%	13.9%	18.9%	55.6%	11.8%	13.7%

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 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	NAME	TOTAL NUMBER	F A M I L Y I N C O M E				N E T W O R T H				A G E O F B O R R O W E R S					
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
01	AL	47	0	0	19	28	15	14	5	13	64.3	0	4	11	14	18
02	AZ	2	0	0	0	2	0	0	0	2	49.5	1	0	0	1	0
03	AR	145	0	5	38	102	34	38	22	51	62.4	6	10	41	44	44
04	CA	4	0	0	0	4	2	0	0	2	65.0	0	1	0	1	2
05	CO	5	0	0	1	4	1	2	1	1	47.8	2	1	1	0	1
06	CT	1	0	0	0	1	0	0	0	1	50.0	0	0	1	0	0
09	FL	6	0	0	4	2	0	1	1	4	70.0	0	0	0	3	3
10	GA	11	0	0	5	6	4	5	1	1	64.7	0	1	2	4	4
13	IL	8	0	1	1	6	3	1	2	2	54.8	1	1	2	3	1
15	IN	3	0	0	1	2	0	1	1	1	66.7	0	0	0	2	1
16	IA	21	0	2	6	13	7	7	3	4	69.7	1	1	0	6	13
18	KS	10	0	1	3	6	5	3	1	1	62.0	2	0	0	5	3
20	KY	68	0	0	15	53	15	21	12	20	52.6	15	16	14	11	12
22	LA	15	0	1	9	5	6	5	1	3	55.1	2	4	2	4	3
23	NC	18	0	1	2	15	6	2	3	7	53.1	4	4	3	4	3
24	MD	3	0	0	1	2	0	0	0	3	74.0	0	0	0	1	2
25	MA	5	0	0	0	5	0	1	0	4	57.6	0	2	1	0	2
26	MI	2	0	0	0	2	1	0	0	1	40.5	1	0	1	0	0
27	MN	6	0	0	1	5	0	1	1	4	68.2	0	0	1	2	3
28	MS	109	2	4	31	72	33	25	19	32	60.3	14	9	16	39	31

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 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	NAME	TOTAL NUMBER	F A M I L Y I N C O M E			N E T W O R T H				A G E O F B O R R O W E R S						
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
29	MD	35	1	0	14	20	8	9	8	10	61.1	5	3	4	13	10
31	MT	1	0	0	1	0	0	1	0	0	41.0	0	1	0	0	0
32	NE	1	0	0	0	1	0	0	0	1	52.0	0	0	1	0	0
34	NH	1	0	0	0	1	0	0	0	1	62.0	0	0	0	1	0
35	NJ	2	0	0	1	1	0	0	0	2	66.0	0	0	1	0	1
36	NM	27	0	3	10	14	8	5	7	7	54.6	5	5	5	5	7
37	NY	25	0	0	2	23	8	4	4	9	53.3	6	3	6	6	4
38	NC	52	0	2	13	37	9	20	15	8	63.4	3	5	9	17	18
40	ND	9	0	0	3	6	5	3	0	1	58.9	2	0	1	3	3
41	OH	6	0	0	2	4	0	2	1	3	65.7	0	1	1	2	2
42	OK	19	0	1	5	13	9	7	2	1	65.8	1	2	2	6	8
43	OR	7	0	0	1	6	1	0	0	6	54.9	1	1	2	3	0
44	PA	16	0	0	6	10	5	3	2	6	54.3	3	3	3	5	2
46	SC	6	0	0	4	2	4	1	1	0	60.2	1	0	0	5	0
47	SD	4	0	0	0	4	1	3	0	0	55.8	0	1	1	1	1
48	TN	7	0	1	1	5	2	2	2	1	53.9	1	2	2	0	2
49	TX	85	1	1	35	48	30	24	15	16	66.6	2	8	10	25	40
52	UT	2	0	0	1	1	1	0	0	1	70.0	0	0	0	1	1
53	VT	4	0	0	0	4	2	0	0	2	53.3	1	0	2	0	1
54	VA	10	0	0	4	6	3	2	2	3	62.3	1	0	3	3	3

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 OCTOBER 1, 1976 THROUGH MARCH 31, 1977

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	NAME	TOTAL NUMBER	F A M I L Y I N C O M E				N E T W O R T H				A G E O F B O R R O W E R S					
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
56	WA	1	0	0	0	1	0	0	0	1	66.0	0	0	0	1	0
57	WV	7	0	0	2	5	1	3	1	2	61.1	1	1	0	2	3
58	WI	8	0	0	1	7	4	0	0	4	57.4	1	2	0	4	1
59	WY	1	0	0	0	1	0	0	0	1	56.0	0	0	1	0	0
61	HI	1	0	0	0	1	1	0	0	0	54.0	0	0	1	0	0
62	WP	48	1	0	7	40	7	5	5	31	39.5	30	10	5	2	1
63	PR	79	1	9	23	46	30	27	14	8	47.1	25	15	25	11	3
NATL TOTAL		953	6	32	273	642	271	248	152	282	58.5	138	117	181	260	257

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RURAL HOUSING LOANS & USE OF FUNDS
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 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INBURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE	STATE NAME	TOTAL NUMBER	AVERAGE AGE	UNDER 30	PER CENT BY AGE GROUP			60 AND OVER	8 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD				MORE THAN 10
					30 TO 39	40 TO 49	50 TO 59			3 OR 4	5 OR 6	7 OR 8	9 OR 10	
01	AL	3,007	32.1	55.9%	22.1%	11.1%	7.5%	3.4%	29.3%	50.4%	14.7%	4.0%	0.9%	0.6%
02	AZ	1,771	30.6	50.9%	24.0%	0.2%	6.3%	1.9%	26.6%	52.9%	15.5%	4.6%	0.7%	0.1%
03	AR	3,363	31.3	56.9%	24.1%	9.4%	7.0%	2.5%	28.5%	51.5%	16.1%	3.2%	0.5%	0.3%
04	CA	3,675	31.5	56.0%	25.5%	10.2%	9.8%	1.9%	19.0%	50.4%	20.0%	5.7%	1.1%	0.5%
05	CO	1,712	29.1	66.5%	22.0%	7.4%	2.6%	1.5%	30.6%	53.9%	13.4%	1.7%	0.6%	0.2%
06	CT	706	28.6	67.6%	24.6%	6.2%	1.4%	0.1%	22.5%	50.1%	19.9%	3.1%	0.3%	0.1%
07	DE	603	29.0	65.0%	23.4%	8.5%	2.6%	0.5%	30.0%	52.6%	13.7%	2.9%	0.6%	0.3%
09	FL	3,407	30.9	57.8%	23.6%	10.4%	6.4%	1.7%	34.4%	46.0%	14.6%	2.1%	0.7%	0.2%
10	GA	2,020	30.8	59.8%	23.4%	9.4%	5.2%	2.1%	26.4%	53.6%	14.8%	4.4%	0.5%	0.3%
12	ID	2,508	28.2	68.9%	21.8%	5.8%	2.9%	0.6%	30.6%	52.9%	13.3%	3.2%	0.3%	0.2%
13	IL	2,683	27.9	70.2%	20.8%	6.1%	2.3%	0.6%	28.6%	57.6%	11.6%	1.6%	0.3%	0.1%
15	IN	3,726	27.5	72.2%	19.8%	6.0%	2.0%	0.2%	29.5%	56.9%	11.7%	1.0%	0.3%	0.2%
16	IA	3,209	28.5	68.4%	21.1%	6.5%	3.1%	0.9%	20.1%	55.3%	13.3%	2.4%	0.6%	0.3%
18	KS	2,727	29.4	64.1%	23.5%	7.9%	3.2%	1.3%	26.6%	52.6%	14.3%	2.6%	0.6%	0.3%
20	KY	4,191	30.7	59.2%	25.5%	9.5%	5.0%	1.0%	22.7%	54.1%	16.3%	3.1%	0.5%	0.5%
22	LA	2,736	32.3	54.0%	22.6%	13.1%	0.7%	2.6%	24.5%	49.7%	17.6%	5.4%	1.4%	0.9%
23	ME	2,060	29.0	66.0%	22.0%	7.4%	3.2%	0.6%	26.9%	54.6%	15.6%	2.4%	2.4%	0.1%
24	ND	2,103	29.5	64.0%	22.7%	8.1%	4.4%	0.5%	27.2%	54.3%	19.0%	2.6%	0.9%	0.1%
25	MA	936	28.2	69.6%	24.1%	4.4%	1.5%	0.5%	17.7%	60.1%	13.1%	2.3%	0.4%	0.2%
26	MI	3,545	27.9	71.6%	20.4%	5.2%	2.2%	0.5%	26.9%	56.6%	13.4%	2.3%	0.3%	0.2%

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RURAL HOUSING LOANS - USE OF FUNDS
SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INSURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE	NAME	TOTAL NUMBER	AVERAGE AGE	UNDER 30	PER CENT BY AGE GROUP				60 AND OVER	2 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD				MORE THAN 10
					30 TO 39	40 TO 49	50 TO 59	60 AND OVER			1 OR 2	3 OR 4	5 OR 6	7 OR 8	
27	HN	2,302	23.7	66.6%	23.0%	6.5%	2.4%	0.7%	23.3%	56.3%	16.3%	3.4%	0.5%	0.2%	
28	MS	3,477	33.7	49.2%	23.2%	12.5%	9.8%	4.2%	24.7%	49.0%	17.4%	4.8%	2.1%	1.2%	
29	MO	3,442	30.1	61.7%	22.5%	9.0%	5.1%	1.7%	27.5%	54.3%	14.8%	3.1%	0.4%	0.3%	
31	MT	1,031	30.1	60.1%	29.0%	6.4%	3.0%	1.5%	23.9%	56.5%	14.6%	2.4%	0.5%	0.2%	
32	NE	1,615	28.2	70.1%	20.4%	5.5%	2.5%	1.0%	25.5%	55.5%	13.4%	2.3%	0.3%	0.2%	
33	NV	242	31.7	50.0%	35.1%	9.7%	6.9%	2.3%	31.3%	48.9%	10.7%	2.7%	0.0%	0.4%	
34	NH	400	29.2	65.0%	26.0%	6.2%	2.3%	0.3%	22.5%	57.2%	16.2%	3.2%	0.7%	0.1%	
35	NJ	2,176	29.1	65.6%	22.3%	7.9%	3.5%	0.7%	28.0%	54.5%	14.4%	2.8%	0.3%	0.1%	
36	NH	992	29.9	61.7%	23.6%	9.6%	3.7%	1.4%	28.3%	51.1%	15.4%	4.1%	0.9%	0.1%	
37	NY	4,500	28.7	67.8%	23.2%	5.9%	2.2%	0.6%	23.4%	57.2%	14.8%	2.0%	0.4%	0.3%	
38	NC	6,755	30.7	59.7%	23.2%	9.7%	5.7%	1.6%	27.8%	54.1%	14.5%	2.7%	0.7%	0.3%	
40	ND	708	30.1	60.7%	25.1%	8.9%	4.0%	0.4%	20.5%	55.1%	20.2%	3.5%	0.4%	0.3%	
41	OH	2,363	28.2	70.5%	19.6%	5.9%	3.0%	1.0%	26.7%	57.0%	13.6%	2.1%	0.5%	0.0%	
42	OK	4,124	30.2	61.8%	22.9%	8.2%	4.8%	2.4%	29.0%	54.2%	14.3%	2.1%	0.2%	0.1%	
43	OR	2,304	30.4	61.5%	24.2%	7.2%	4.5%	2.7%	27.8%	56.4%	13.2%	2.2%	0.2%	0.2%	
44	PA	1,938	29.1	64.6%	25.3%	6.0%	2.5%	0.7%	19.1%	62.1%	15.4%	2.8%	0.4%	0.2%	
45	RI	344	28.6	72.1%	18.3%	5.8%	3.2%	0.2%	26.5%	57.3%	12.2%	1.5%	0.6%	0.0%	
46	SC	2,063	30.5	60.3%	21.8%	8.8%	6.4%	2.7%	30.4%	51.3%	13.8%	3.3%	0.8%	0.5%	
47	SO	1,517	29.5	64.7%	22.8%	7.6%	3.4%	1.5%	25.4%	55.6%	14.6%	3.0%	0.4%	0.3%	
48	TN	6,829	30.4	60.7%	23.2%	8.4%	5.5%	2.0%	29.3%	53.9%	13.6%	2.5%	0.4%	0.4%	

UNITED STATES DEPARTMENT OF AGRICULTURE
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RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INSURED INITIAL SECTION 502 LOANS EXCLUDING SENIOR CITIZENS

STATE CODE NAME	TOTAL NUMBER	AVERAGE AGE	UNDER .30	PER CENT BY AGE GROUP			60 AND OVER	2 OR LESS	PER CENT BY NUMBER IN HOUSEHOLD					MORE THAN 10
				.30 TO .39	40 TO 49	50 TO .59			3 OR 4	5 OR 6	7 OR 8	9 OR 10		
49 TX	3,377	31.6	57.2%	23.6%	9.1%	6.2%	3.0%	24.9%	53.2%	16.5%	3.6%	1.0%	0.3%	
52 UT	2,316	26.7	77.9%	16.0%	3.6%	1.4%	0.3%	22.0%	50.2%	16.1%	2.6%	0.6%	0.3%	
53 VT	1,319	29.7	69.7%	21.4%	5.9%	2.7%	0.4%	27.7%	57.2%	12.4%	2.2%	0.4%	0.1%	
54 VA	5,483	31.2	57.2%	23.0%	10.5%	4.9%	2.1%	29.9%	51.4%	14.1%	3.6%	0.5%	0.2%	
56 WA	2,277	29.3	66.2%	21.9%	6.9%	3.3%	1.4%	30.4%	54.2%	12.6%	2.2%	0.4%	0.0%	
57 WY	2,735	29.8	62.4%	24.0%	7.8%	4.5%	1.3%	27.4%	53.2%	15.1%	2.4%	0.5%	0.3%	
58 WI	2,107	28.5	67.4%	22.9%	6.5%	2.4%	0.0%	19.6%	53.3%	17.3%	4.2%	0.6%	0.1%	
59 WY	555	30.1	62.5%	24.9%	7.9%	2.9%	1.5%	31.0%	48.6%	16.9%	3.1%	0.2%	0.0%	
60 AK	203	29.1	67.1%	21.4%	7.0%	3.7%	0.0%	29.5%	45.7%	11.9%	8.9%	0.0%	0.0%	
61 MI	875	33.5	46.5%	29.3%	12.9%	6.3%	2.7%	22.3%	40.2%	20.7%	7.1%	1.6%	0.1%	
62 GU	31	32.8	51.6%	25.8%	19.4%	3.2%	0.0%	9.7%	30.7%	22.6%	16.1%	9.7%	3.3%	
63 PR	2,725	32.8	47.7%	31.2%	13.4%	5.0%	2.7%	16.3%	52.2%	22.3%	4.7%	1.4%	0.0%	
64 VI	83	36.9	27.7%	36.1%	20.5%	14.3%	1.2%	14.5%	41.0%	27.7%	15.7%	1.2%	0.0%	
NATL TOTAL	126,874	30.8	62.4%	23.0%	8.3%	4.6%	1.6%	26.7%	54.3%	15.0%	3.1%	0.6%	0.3%	

UNITED STATES DEPARTMENT OF AGRICULTURE
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RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INSURED INITIAL SECTION 502 LOANS TO SENIOR CITIZENS

STATE CODE NAME	TOTAL NUMBER	AVERAGE AGE	PER CENT BY AGE GROUP				PER CENT BY NUMBER IN HOUSEHOLD			
			62 TO 64	65 TO 69	70 TO 74	75 AND OVER	1	2	3	4 OR MORE
01 AL	186	67,7	28,2%	45,5%	16,0%	10,3%	16,0%	53,2%	14,1%	16,7%
02 AZ	25	67,6	36,0%	36,0%	12,0%	16,0%	20,0%	52,0%	16,0%	12,0%
03 AR	143	67,5	31,3%	39,3%	16,0%	13,6%	20,3%	50,3%	11,0%	10,4%
04 CA	126	68,0	29,4%	33,3%	29,4%	7,9%	16,7%	50,7%	10,3%	14,7%
05 CO	14	68,3	21,4%	42,9%	21,4%	14,3%	21,4%	57,1%	7,1%	14,7%
06 CT	1	67,0	0,0%	100,0%	0,0%	0,0%	0,0%	0,0%	100,0%	0,0%
07 DE	4	66,3	50,0%	0,0%	50,0%	0,0%	25,0%	25,0%	0,0%	50,0%
09 FL	65	68,2	27,1%	41,2%	18,6%	12,9%	20,0%	63,3%	8,2%	0,2%
10 GA	25	68,0	24,0%	44,0%	16,0%	16,0%	0,0%	56,0%	20,0%	10,0%
12 ID	24	65,5	54,2%	37,5%	4,2%	4,2%	4,2%	91,7%	0,0%	4,2%
13 IL	21	65,9	19,0%	52,4%	23,6%	4,6%	14,3%	66,7%	4,6%	14,3%
15 IN	17	63,8	52,9%	23,5%	23,5%	0,0%	11,8%	76,5%	17,9%	8,9%
16 IA	29	68,1	31,0%	37,9%	17,2%	13,6%	20,7%	63,5%	6,9%	6,9%
18 KS	35	65,8	37,1%	37,1%	20,0%	5,7%	31,4%	57,1%	11,4%	0,0%
20 KY	92	66,0	43,5%	33,7%	14,1%	6,7%	21,7%	44,9%	14,1%	15,2%
22 LA	150	67,0	34,0%	42,0%	12,0%	12,0%	22,0%	42,7%	10,7%	24,7%
23 ME	29	66,7	27,6%	51,7%	17,2%	3,4%	10,3%	62,1%	10,3%	17,2%
24 MD	21	69,8	23,8%	33,3%	23,8%	19,0%	9,5%	66,7%	19,0%	4,6%
25 MA	1	71,0	0,0%	0,0%	100,0%	0,0%	0,0%	100,0%	0,0%	0,0%
26 MI	10	66,9	30,0%	50,0%	10,0%	10,0%	10,0%	60,0%	10,0%	20,0%

UNITED STATES DEPARTMENT OF AGRICULTURE
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 RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INBURD INITIAL SECTION 502 LOANS TO SENIOR CITIZENS

STATE CODE NAME	TOTAL NUMBER	AVERAGE AGE	PER CENT BY AGE GROUP				PER CENT BY NUMBER IN HOUSEHOLD			
			62 TO 64	65 TO 69	70 TO 74	75 AND OVER	1	2	3	4 OR MORE
27 MN	8	67.4	50.0%	12.5%	25.0%	12.5%	0.0%	67.5%	12.5%	0.0%
28 MS	267	66.0	25.4%	39.4%	16.7%	18.5%	17.0%	44.3%	20.2%	17.0%
29 MO	101	66.6	37.6%	37.6%	10.9%	13.9%	24.8%	51.5%	9.9%	13.9%
31 MT	7	67.1	26.6%	42.9%	14.3%	14.3%	26.6%	71.4%	0.0%	0.0%
32 NE	17	64.6	35.3%	41.2%	5.9%	17.6%	35.3%	52.9%	5.9%	5.9%
33 NY	6	65.8	50.0%	33.3%	16.7%	0.0%	33.3%	50.0%	0.0%	16.7%
34 NH	1	66.0	0.0%	100.0%	0.0%	0.0%	100.0%	0.0%	0.0%	0.0%
35 NJ	26	67.8	30.8%	46.2%	11.5%	11.5%	15.4%	73.1%	11.5%	0.0%
36 NM	23	65.3	39.1%	30.4%	17.4%	13.0%	17.4%	47.8%	26.1%	6.7%
37 NY	26	67.3	30.8%	38.5%	23.1%	7.7%	15.4%	65.4%	7.7%	11.5%
38 NC	120	66.7	37.5%	40.8%	14.2%	7.5%	16.7%	45.0%	13.3%	25.0%
40 ND	8	66.6	37.5%	50.0%	12.5%	0.0%	12.5%	75.0%	0.0%	12.5%
41 OH	20	67.2	45.0%	45.0%	10.0%	0.0%	15.0%	60.0%	15.0%	10.0%
42 OK	109	68.7	17.4%	45.0%	24.8%	12.8%	26.6%	53.2%	10.1%	10.1%
43 OR	64	67.2	29.7%	50.0%	12.5%	7.8%	14.1%	70.3%	10.9%	4.7%
44 PA	5	67.0	40.0%	40.0%	20.0%	0.0%	0.0%	60.0%	0.0%	20.0%
45 RI	1	68.0	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%	100.0%	0.0%
46 SC	30	66.7	33.3%	50.0%	10.0%	6.7%	10.0%	40.0%	26.7%	23.3%
47 SD	21	67.8	47.6%	19.0%	14.3%	19.0%	26.6%	57.1%	9.5%	4.8%
48 TN	122	67.3	33.6%	40.2%	14.8%	11.5%	18.9%	44.3%	23.8%	13.1%

UNITED STATES DEPARTMENT OF AGRICULTURE
 FARMERS HOME ADMINISTRATION
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 RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO AGE OF BORROWERS AND NUMBER IN HOUSEHOLD
 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT AND INSURED INITIAL SECTION 502 LOANS TO SENIOR CITIZENS

STATE- CODE NAME	TOTAL NUMBER	AVERAGE AGE	PER CENT BY AGE GROUP				PER CENT BY NUMBER IN HOUSEHOLD			
			62 TO 64	65 TO 69	70 TO 74	75 AND OVER	1	2	3	4 OR MORE
49 TX	123	68.4	22.0%	43.1%	17.1%	17.1%	30.9%	39.0%	10.6%	19.5%
52 UT	15	65.6	46.7%	40.0%	13.3%	0.0%	13.3%	60.0%	6.7%	20.0%
53 VT	3	66.0	0.0%	100.0%	0.0%	0.0%	33.3%	66.7%	0.0%	0.0%
54 VA	136	67.8	27.2%	43.4%	22.8%	6.6%	16.2%	50.0%	16.9%	16.9%
56 WA	31	66.8	45.2%	32.3%	19.4%	3.2%	6.5%	64.5%	12.9%	16.1%
57 WV	45	66.5	35.6%	42.2%	20.0%	2.2%	26.7%	48.9%	11.1%	13.3%
58 WI	17	66.1	23.5%	47.1%	17.6%	11.8%	11.8%	50.8%	17.6%	11.8%
59 WY	7	65.3	57.1%	28.6%	14.3%	0.0%	57.1%	28.6%	0.0%	14.3%
60 AK	4	64.0	75.0%	25.0%	0.0%	0.0%	25.0%	50.0%	0.0%	25.0%
61 HI	45	68.3	20.0%	51.1%	15.6%	13.3%	13.3%	37.0%	11.1%	37.0%
63 PR	23	67.2	34.8%	39.1%	13.0%	13.0%	0.0%	34.8%	26.1%	39.1%
NATL. TOTAL	2,479	67.3	31.0%	40.7%	17.0%	11.3%	19.0%	52.2%	13.5%	15.3%

UNITED STATES DEPARTMENT OF AGRICULTURE
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RURAL HOUSING LOANS - USE OF FUNDS
SELECTED DATA AS TO FAMILY INCOME, NET WORTH AND AGE OF BORROWERS
JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	STATE NAME	TOTAL NUMBER	FAMILY INCOME				NET WORTH				AGE OF BORROWERS					
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE:	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
01	AL	112	1	15	34	62	25	52	22	13	62.8	8	10	16	49	32
02	AZ	11	0	1	5	5	4	3	1	3	57.5	8	0	3	3	13
03	AR	325	0	19	106	209	64	109	65	70	61.6	21	35	66	117	69
04	CA	17	0	0	1	16	1	2	2	12	60.4	2	3	0	4	0
05	CO	30	0	3	8	19	9	13	4	4	54.6	14	15	7	8	6
06	CT	2	0	0	0	2	0	0	0	3	57.5	0	0	1	1	0
07	DE	1	0	0	1	0	0	1	0	0	74.0	0	0	0	0	1
09	FL	10	0	0	4	6	5	2	2	1	63.3	11	13	0	1	14
10	GA	17	0	3	4	10	7	6	2	2	60.8	1	13	4	5	14
12	ID	1	0	0	0	1	0	0	0	1	71.0	0	0	0	0	1
13	IL	19	0	3	2	4	2	4	3	0	61.2	0	1	2	4	2
15	IH	10	0	2	4	9	8	4	1	2	61.5	1	1	2	9	2
14	IA	55	0	2	22	31	16	23	4	12	63.9	13	13	10	20	17
18	KS	23	0	5	8	10	4	19	7	13	64.1	1	1	2	9	10
20	KY	257	0	14	50	193	52	84	47	74	53.9	45	53	96	72	31
22	LA	111	4	23	51	33	51	42	10	8	61.9	6	12	18	46	27
23	ME	63	0	2	21	60	6	26	10	41	56.7	11	16	17	21	10
24	MD	23	0	2	7	14	4	13	2	14	64.0	1	13	5	3	11
25	MA	7	0	0	0	7	2	2	0	3	45.6	4	0	1	1	1
26	MI	16	0	0	1	15	5	14	0	7	50.2	13	4	13	1	13

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 RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO FAMILY INCOME, NET WORTH AND AGE OF BORROWERS
 JULY 1, 1975 THROUGH SEPTEMBER 30, 1976

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	NAME	TOTAL NUMBER	FAMILY INCOME				NET WORTH				AGE OF BORROWERS					
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
27	NM	39	0	0	13	26	1	3	3	32	61.2	6	1	4	16	12
28	HB	440	3	36	163	238	106	136	93	100	63.4	16	43	76	160	145
29	ND	141	0	12	41	80	36	46	21	30	61.2	13	9	27	25	37
31	MT	4	0	1	0	3	2	0	1	1	67.0	1	0	0	0	3
32	NE	7	0	0	3	4	1	2	2	2	60.1	1	0	1	3	2
34	NH	4	0	0	1	3	0	1	0	3	43.5	1	1	2	0	0
35	NJ	6	0	0	2	4	1	1	1	3	59.3	0	3	1	2	0
36	NM	57	0	10	32	55	33	31	16	17	56.3	16	15	23	22	21
37	NY	19	0	0	2	17	3	4	2	10	52.1	5	15	0	5	4
38	NC	193	0	17	49	127	39	84	38	32	62.7	12	19	45	60	61
40	ND	8	0	0	0	8	2	1	2	3	58.0	1	1	1	4	1
41	DH	4	0	0	1	3	1	0	1	3	53.0	0	2	1	1	0
42	OK	43	0	4	17	22	16	12	4	11	65.0	0	3	8	19	13
43	OR	19	0	0	4	15	5	2	2	10	61.4	1	4	2	5	7
44	PA	43	0	3	15	25	12	6	4	21	59.3	7	3	6	15	12
46	SC	32	0	2	12	18	10	17	2	3	60.2	2	1	10	12	7
47	SD	22	1	0	4	17	11	7	2	2	57.5	6	1	2	8	5
48	TN	41	0	2	12	27	11	16	5	9	61.1	2	3	15	10	11
49	TX	334	3	44	126	161	118	131	44	41	65.3	17	29	38	105	145
52	UT	1	0	0	0	1	0	1	0	0	64.0	0	0	0	1	0

UNITED STATES DEPARTMENT OF AGRICULTURE
 FARMERS HOME ADMINISTRATION
 FINANCE OFFICE

REPORT CODE 710

RURAL HOUSING LOANS - USE OF FUNDS
 SELECTED DATA AS TO FAMILY INCOME, NET WORTH AND AGE OF BORROWERS
 JULY 1, 1973 THROUGH SEPTEMBER 30, 1976

DIRECT INITIAL SECTION 504 LOANS

STATE CODE	NAME	TOTAL NUMBER	F A M I L Y I N C O M E				N E T W O R T H				A G E D F B O R R O W E R S					
			UNDER \$1,000	\$1,000 TO 1,999	\$2,000 TO 2,999	\$3,000 AND OVER	UNDER \$3,000	\$3,000 TO 4,999	\$5,000 TO 6,999	\$7,000 AND OVER	AVERAGE AGE	UNDER 40	40 TO 49	50 TO 59	60 TO 69	70 AND OVER
93	VT	7	0	0	1	6	1	2	1	3	47.1	3	0	3	1	0
94	VA	27	0	0	10	17	9	10	2	6	60.4	2	4	8	4	9
96	WA	4	0	0	2	2	0	0	0	4	62.3	0	1	0	1	2
97	WV	33	0	3	6	24	5	14	9	5	59.0	6	2	12	10	3
98	WI	23	0	0	4	19	2	7	2	12	56.2	6	2	3	8	4
62	GU	1	0	0	0	1	0	0	1	0	30.0	1	0	0	0	0
63	PR	269	1	31	77	160	45	125	58	41	49.2	80	50	70	53	16
(ATL	TOTAL	2,939	13	259	920	1,797	759	1,048	503	603	59.9	316	353	571	954	749



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WASHINGTON, D.C. 20250

OCT 26 1977

Subject: Inquiry from Civil Rights Commission
Hearings on Age Discrimination

To: J. Frazier, Director
Office of Equal Opportunity

This is in reply to your memorandum of October 5 concerning the rationale for using 55 and over as a cutoff point in the family food programs and 65 and older as a cutoff point in the food consumption survey.

The cutoff point of 55 years' and older was the basis for the family food plans because this was the age grouping used in USDA's 1965-66 nationwide food consumption survey, the source of information on food used in the development of the plans. The selection of this age group for the 1965-66 survey was determined basically by the age groups established for the 1964 Recommended Dietary Allowances (RDA) by the Food and Nutrition Board, National Academy of Sciences-National Research Council. The RDA's are widely employed to evaluate the nutritional quality of diets. In the 1964 RDA's the oldest age group was those 55-75 years.

For the 1977-78 food consumption survey, the cutoff of 65 and older was set by the Social Security Administration of the Department of Health, Education, and Welfare as they funded for the most part the supplementary survey of elderly. The supplemental elderly survey was necessary since the basic sample would not provide an adequate number of observations among the elderly receiving social security or Supplemental Security Income (SSI) payments to permit in-depth analysis of sectors of concern in evaluations relating to Federal programs and policy alternatives.

A handwritten signature in cursive script, appearing to read "Ralph J. McCracken".

Ralph J. McCracken
Acting Administrator

NOV 02 1977

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

October 27, 1977

MEMORANDUM TO HEADS OF DEPARTMENT AGENCIES

Sex Discrimination

Attached is the President's August 26 Memorandum regarding sex discrimination. I am designating the Director, Office of Equal Opportunity, as the lead official to coordinate USDA activities implementing the President's Memorandum.

Two actions are required at this time:

1. Review all programs you administer to identify any regulations, guidelines, programs and policies which result in unequal treatment based on sex. Report the results of your review to the Office of Equal Opportunity not later than November 15, 1977. Negative reports are required.
2. Develop proposals to change any laws, regulations and policies which discriminate on the basis of sex. It will be necessary for you to coordinate all actions under this requirement with the General Counsel. The Office of Equal Opportunity should be kept informed of all actions until completion.

Although the thrust of the President's Memorandum is directed toward problems of sex discrimination in Federal assistance programs, I believe the actions he directs are equally appropriate to problems of discrimination based on age, and since the Age Discrimination Act of 1975 (P.L. 94-135, dated November 28, 1975) becomes effective in January 1979, you are also requested to include this aspect in your review of laws, regulations, guidelines, programs and policies.


Secretary of Agriculture

Attachment

CLEARANCE AND APPROVAL SHEET FOR DEPARTMENTAL DIRECTIVES

(See instructions on reverse side)

KIND OF ISSUANCE		SUBJECT OF ISSUANCE	
Rules and Regulations		Age Discrimination	
PREPARED BY		OFFICE	EXT.
Raymond C. Small		Office of Equal Opportunity	74806
		DATE	11/15/77

ROUTING AND CLEARANCE

CLEARED	INITIALS	DATE	CLEARED	INITIALS	DATE
1. William C. Payne, OEO	<i>WCP</i>	11/15	6. J. Fred King, 212-F		
2. James Frazier, OEO			7. Bob Bergland, Sec. for signature		
3. Pres Davis, OMF			8.		
4. OGC, Rm. 2330-S			9.		
5. CRO - Rm. 223-W			10.		

IF PROPOSED ISSUANCE IS A MEMORANDUM, WILL ANY OF ITS PROVISIONS BE CODIFIED IN THE ADMINISTRATIVE REGULATIONS?

 YES NO

(Use "Remarks" section to explain, if necessary)

REMARKS (Use for instructions or information that will be helpful to reviewers. If desired, use for the text of amendments to the Administrative Regulations that do not require signature in the Office of the Secretary.)

The Age Discrimination Act of 1975 will prohibit age discrimination in Federal assistance programs effective January 1, 1979. In testimony before the U.S. Commission on Civil Rights on this subject, September 27, 1977, the Department informed the Commission that it would act upon its own authority to prohibit age discrimination in any USDA direct assistance program or activity. The attached amends USDA nondiscrimination regulations, 7 C.F.R. 15.51, to include a prohibition against age discrimination in USDA direct assistance programs or activities.

**This is a revised version of the original age discrimination amendment dated October 5, 1977. It incorporates a change offered by OGC. The new change is the addition of a new subsection (c) to the proposed age discrimination amendment which sets out certain exemptions corresponding to the exemptions contained in Section 304(b) of the Age Discrimination Act.

NOTE: Before putting directive into clearance, check for ease of reading by using form on the reverse side.

DEPARTMENT OF AGRICULTURE

7 CFR Part 15

NONDISCRIMINATION - DIRECT USDA PROGRAMS AND ACTIVITIES

Proposed Prohibition of Age Discrimination

AGENCY: Department of Agriculture.

ACTION: Proposed rule change.

SUMMARY: The Department of Agriculture proposes to amend Subpart B of its rules and regulations governing nondiscrimination in direct USDA programs and activities. This amendment is made in order to bring the Department's nondiscrimination regulations affecting direct assistance in line with the Age Discrimination Act of 1975. The rule change will prohibit discrimination based on age in any direct assistance program or activity administered by the Department.

DATES: Comments must be received on or before December 27, 1977.

ADDRESS: Comments must be submitted to the Secretary, Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

James Frazier, Director, Office
of Equal Opportunity, USDA,
Washington, D.C. 20250, telephone
202-447-4256

SUPPLEMENTARY INFORMATION: On November 28, 1975, the Age Discrimination Act was enacted as part of the Older Americans Amendments (P.L. 94-135). On January 1, 1979, this law will become effective

and will prohibit age discrimination in programs and activities receiving Federal financial assistance. In testimony before the U.S. Commission on Civil Rights on September 27, 1977, the Department informed the Commission that USDA would act upon its own authority in prohibiting age discrimination in USDA direct assistance programs and activities.

It is proposed that Title 7, Part 15, Subpart B, of the Code of Federal Regulations be amended by adding the word "age" after the word "sex" in §15.51(a) and (b). It is further proposed that a new subsection (c) be added which sets out certain exemptions corresponding to the exemptions contained in Section 304(b) of the Age Discrimination Act. The amendments and addition to 7 CFR 15.51 are as follows:

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, religion, sex, age, or national origin deny to any person in the United States (1) equal access to buildings, facilities, structures, or lands under the control of any agency in this Department and (2) under any program or activity of the Department, equal opportunity for employment, for

participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

(c) It shall not be a violation of this section if (1) as a matter of policy, age is taken into account as a factor necessary to the normal operation of the achievement of any statutory objective of any program or activity; or (2) the program or activity is established under a law which (A) provides any benefits or assistance to persons based upon the age of such persons, or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

Dated:

BOB BERGLAND
Secretary of Agriculture

The Department of Agriculture also submitted copies of their publication Reaching People for the record. The following issues of this publication are on file at the U. S. Commission on Civil Rights: August 1975, February 1976, May 1976, November 1976, February 1977, May 1977, and August 1977.

519

Exhibit No. 28

City of Chicago



Michael A. Bilandic, Mayor
Robert J. Ahrens, Director
Andree Oliver, Deputy Director

180 North LaSalle Street
Chicago, Illinois 60601
Phone 312/744-4016

November 28, 1977

Ms. Laura Wilmot
Age Discrimination Study
U.S. Commission on Civil Rights
1730 K Street, N.W. #214
Washington, D.C. 20006

Dear Ms. Wilmot:

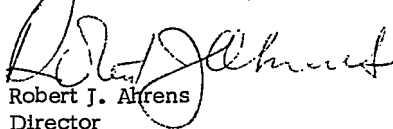
I have talked with staff to see if there is anything further we might offer on the subject of age discrimination, before your study closes its books this week.

The concensus seems to be that it has all been said, in my Washington testimony before the Commission in behalf of the Urban Elderly Coalition, and in the September statement we submitted. (A copy is again enclosed.)

The critical issue now, it seems to me, is the regulations that the federal government will propose to implement the Age Discrimination Act of 1975. When this was mentioned to HEW Secretary Califano at a meeting in May he professed unawareness of the Act, but indicated he would act quickly to propose regulations, as had not been done for the handicapped under the Rehabilitation Act.

Our job now is to get all of the necessary forces working together to provide education on the problem and the Act, and to use the forthcoming report of your Study, in every useful way possible.

With all best wishes,



Robert J. Ahrens
Director

Enclosure

RJA:bjc
+3

City of Chicago

Michael A. Bilandic, Mayor
Robert J. Ahrens, Director
Andree Oliver, Deputy Director



330 South Wells Street
Chicago Illinois 60606
Phone 312/744-4016

AGE DISCRIMINATION AND THE ELDERLY

Statement by Robert J. Ahrens

Prepared by the

Mayor's Office for Senior Citizens & Handicapped

City of Chicago

in behalf of the

URBAN ELDERLY COALITION

Public Hearing of the
U. S. Commission on Civil Rights
Room 1309A, 2201 C Street, NW
September 27, 1977

I would like to preface this testimony by indicating that, as Director of the Mayor's Office for Senior Citizens and Handicapped in Chicago and President of the Urban Elderly Coalition, my remarks will concentrate on age discrimination as it relates to senior citizens. While I realize that the Age Discrimination Act of 1975 applies to all ages, I fully agree with the preliminary findings of the U. S. Civil Rights Commission's Age Discrimination Study, which indicate that while "no age group seems particularly immune from discrimination on the basis of age . . . persons aged 45 and over appear to be the most consistently affected age group."

In 1970 Time magazine entitled its cover story on the elderly, "The Old in the Country of the Young--Growing Old in America--The Unwanted Generation. The title was apropos at that time and unfortunately it remains so today. Older people (65+) comprise 10% of the population of this country, or approximately 21 million people, however, they comprise 20% of this country's poor. The median income for older people is \$4,800, compared with \$12,400 for those 18 to 64. Approximately 27% of all elderly males participate in the labor force and only 10% of the elderly females. Although only 5% of the elderly population is institutionalized, 85% of the rest have at least one chronic condition requiring treatment. Given these factors it is easy to understand that relatively few people, less than 2% according to the 1975 Harris study ("The Myth and Reality of Aging in America"), consider the retirement years the most desirable time of life. However, the study also makes it clear that except for health and fear of crime, the problems of the young and old are quite similar. Unfortunately, the young and many of the old as well have accepted the myth that old people are a problem rather than people that have problems.

The myths that prevail about old age have resulted in a society that fears old age and shunts its old people off to its fringes. Age discrimination is a direct product of these attitudes.

The Age Discrimination Study has noted that "age discrimination exists to some extent in each of the federally assisted programs or activities we have studied," and that "discriminatory elements may be introduced and actuated at the federal, state or local agency level." It further notes that discrimination exists in program planning, operation, coordination and evaluation. It is the very multifaceted nature of the problem of age discrimination that makes it so difficult to control.

For years, those of us in the field of aging have supported categorical programs for older people because publicly funded programs, purporting to serve all members of the community, in fact served few, if any, older people. The needs of older people are consistently given low priority in age-comprehensive programs. Thus, the findings of the Commission come as no surprise. We understand that such discrimination is often without malice, but rather results from the decisions of administrators who have little understanding of the needs and abilities of older people and must stretch limited funds over a large client population. We understand the causes but will not accept the results. In Chicago, for example, it was not too long ago that our Health Department did not serve senior citizens because of the mistaken impression that Medicare somehow covered all the health problems of the elderly. My Office was able to provide funds, from those allocated to us from Title III of the Older Americans Act, to begin a much-needed geriatric services program. That program has been continued with City of Chicago funds and today senior citizens make up more than 50% of the Health Department's clients.

One of the major barriers to the equitable distribution of funds in age-comprehensive programs is the failure of agencies to collect age-related data on clients. For several years we have worked without success to get this data

from several departments of our state government. Our former Lt. Governor also tried and failed. As a result, we are unable to judge accurately the extent to which older people participate in state programs and objected strongly in 1975 when the state failed to earmark funds for older people in its Title XX Comprehensive Annual Services Plan. This year only 2% of the Title XX funds are earmarked for the elderly although they comprise 15% of the state's population. How such an allocation can be made without the data necessary to insure an equitable distribution of funds remains a mystery. One is forced to assume that the data is unavailable because it would be embarrassing if it became public information.

Illinois is not the only state that operates in this manner. California's Title XX agency, the Department of Health, also does not collect age-related data, and its plan for FY 1977 includes expenditures of only 6.1% for all adult services (18+). In fact, there are very few states in which the elderly fare well in Title XX allocations.

The pattern of discrimination on the basis of age is perhaps most clearly seen and understood as it relates to employment. There has been some progress made in this area with the passage of the Age Discrimination in Employment Act of 1967 and the recent introduction of legislation, both federal and state, to eliminate mandatory retirement. In the light of these gains it is ironic that the public service employment programs of the Comprehensive Employment and Training Act (CETA) do not serve older workers (45+) very well.

In Chicago, we are fortunate to have a CETA plan that earmarks 20% of the funds for older workers based on a needs assessment. Other cities, however, have not fared as well. In San Francisco, only 4.3% of the persons enrolled in Title I programs and 9.3% of the persons in Title II programs were older workers.

Education is another area in which older people quite clearly suffer discrimination. Studies have demonstrated clearly that the ability to learn does not decrease with age, but our society certainly makes it difficult to obtain a formal education. Older people face discriminatory admissions policies and financial assistance rules and also find programs developed especially for them to be among the first dropped when budget cuts are made.

The incidences cited here are but the tip of the iceberg. The Commission has listed many areas where age discrimination is practiced and will uncover many more before the study is completed. We believe, however, that the Age Discrimination Act of 1975, if properly administered, can have a tremendous impact on the lives of senior citizens. Clear-cut regulations, mandating that plans for the use of federal funds in age-comprehensive programs or activities must clearly demonstrate that they serve all age groups equitably, are essential, and we offer the following recommendations:

1. The regulations should mandate that affirmative action plans be developed by participating agencies to insure immediate steps toward compliance with the Act.
2. The regulations should mandate the collection of age-related client data by all agencies receiving federal funds and such data should be included in any required evaluation report.
3. The regulations should mandate that funds be earmarked, when possible, to insure at least a per capita allocation of funds for senior citizens (although there are many factors--income, health, minority status, etc., that might argue in favor of a greater percentage).
4. The regulations should be clear-cut and training should be provided at all levels of government to insure consistent interpretation and enforcement.

Exhibit No. 29

[FACSIMILE]

The following material contains the resolutions passed by the National Association of Area Agencies on Aging on the subject of age discrimination; also a statement by the National Association of Area Agencies on Aging on causes of age discrimination.

5. Whereas mandatory retirement is a detriment to older persons; and

Whereas this matter continues to affect the ability of older persons to return to the work force or to remain in the work force;

Therefore be it resolved that the Association go on record with all Federal agencies and the Congress seeking repeal on a national level of all mandatory retirement regulations.

6. Whereas elderly people are not receiving their fair share of mental health services or funds as required in the Federal mental health/mental retardation funding legislation; and

Whereas elderly people have at least as much need of the services as people in other age groups;

Therefore be it resolved that the Association take the action necessary to ensure implementation of the intent in the legislation that the mental health needs of the elderly be addressed and fulfilled.

#7. Whereas it is the intent of the Older Americans Act to allow for either public or non-profit private organizations to be designated as Area Agencies on Aging; and

Whereas the provision of high quality aging services are not solely dependent upon either non-profit private or public organizational status; and

Whereas local communities should be afforded the opportunity of self-determination in designing the most responsive Area Agencies on Aging system to meet their needs;

Therefore be it resolved that the National Association of Area Agencies on Aging unequivocally supports the principle of local self-determination of public or private non-profit status for Area Agencies on Aging; and

Be it further resolved that the National Association of Area Agencies on Aging oppose any State's efforts to force uniform status of its Area Agencies on Aging.

#16. Be it resolved that the National Association of Area Agencies on Aging urge the Administration on Aging to rescind the program restriction requiring a given percentage of Title IV-A funds to be allocated to post-secondary institutions.

#17. Whereas the National Association of Area Agencies on Aging desires to call attention to the plight of the aged who are in need of nursing home care; particularly the aged who are eligible for this care under Medicaid; and

Whereas the present system of Medicaid reimbursement to nursing homes may result in the denial of admission to nursing homes of Medicaid patients except under a quota system that limits the number of Medicaid admissions; and

Whereas there are several many such aged in need of nursing home care who have been and are being denied the

care they desperately need, because of this present method of reimbursement;

Therefore be it resolved that the National Association of Area Agencies on Aging go on record as being critical of the present reimbursement system; the National Association of Area Agencies on Aging urges all public and private agencies concerned with the problems of the elderly and all nursing homes to attempt to reach a fair solution that will result in care made available to all who need it regardless of the source of reimbursement.

#18. Whereas the income difficulties of the aged, when retired, are serious in themselves and inflation rates and rising costs complicate the older person's income situation more thoroughly; and

Whereas an older person, who is working to supplement his income, must comply with the Social Security regulation which requires that for every \$2.00 earned, Social Security benefits are reduced \$1.00, and

Whereas older persons are entitled to their fair share of Federal resources generated by federally funded employment programs; and

Whereas public and private agencies practice age discrimination in employment, despite the demonstrated physical and mental capacity of older persons to accomplish the job effectively;

Therefore be it resolved that:

- 1) The proper authorities immediately investigate why this law has not been enforced in behalf of older workers' fair share of employment positions, and

- 2) That the Administration on Aging demand that directors of funded CETA programs comply with the law regarding participation of older workers and explain their failure to do so, and
- 3) That Social Security requirements (\$1.00 out of every \$2.00) be completely eliminated.

#19 Whereas Senior Centers are a vital link;

Therefore be it resolved that the National Association of Area Agencies on Aging advocate for the implementation and immediate release of funds allocated under Section A of Title V of the Older Americans Act; and

Be it further resolved that the Association urge Congress to appropriate adequate funds under Section B of Title V of the Older Americans Act during the 1977-78 legislative session.

STATEMENT OF NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING

As an Area Agency Director and First Vice President of the Board of Directors, I would like to just outline areas that we have encountered as a coordinating and contracting agent for T-XX, T-VII and T-III.

AGE DISCRIMINATION AGENCY EMPLOYMENT; In hiring individuals 60 and over who are eligible for Social Security, but who want to work, started salaries require a decrease in Social Security benefits if the person wants to work and is capable. Paperwork for the reduced benefits is

burdensome, time consuming, and a disincentive to work. On the other hand, you can't pay the older person the maximum allowable income under Social Security without being charged with paying a person a lower rate of pay for the same job that others in the agency are doing.

Insurance, health plans, pension plans, are considerably more in cost when you have more old people on staff. For example, we have just completed a study for new Life, DA, Health Insurance and Pension Plan. We asked for two rates - one for full-time staff, which has three older people over 55, and another rate for part-timers who are site managers, mostly 55 and over. The difference in cost was significant to the point we could not provide the full health benefit plan to the part-timers because of the increased risk established by the insurance companies.

- T-XX Contracts: Many service providers will hire older people and pay the minimum rate of pay with no benefits. They create a pool of workers who are utilized within maximum Social Security benefits but receive no standard benefits or job security.

- Property Tax: Abatements are established at the age of 70, a move which creates an inconsistency with benefits under the Social Security Act at the age of 62 or 65. It is the feeling of older people that the abatements should be started at 62 or at retirement, at which time the fixed income is in place.

- Property Value: At present with the increased appreciation on homes that many older people have owned for many years, the increased value is significant and older people find themselves with little or no abatement.

Example: Appreciation doubled in the last five years, but abatement has stayed the same, thereby an actual reduction because of inflation.

- Social Security Benefits: Women who have worked most of their lives and whose husband passed away early, are not able to receive benefits from their husband's contributions to Social Security. Also, an increase in Social Security benefits denotes a decrease in Veterans benefits for older people.

- Income limitations created for T-IX program is a subtle form of discrimination. - Hiring policies and practices are subtle in their means of age discrimination. Many of these problems can't be documented, but a person 55 and over who applies for a position knows by the attitude of the interviewer and the regret letter. Also, the turnover of staff at various age levels is a point of confirming such subtleties if you are allowed to analyze personnel files of older workers.

These are areas of age discrimination that we encountered through our operation and by our extension interviews with older people.

September 27, 1977

National Association of Area Agencies on Aging, Inc.
1828 L Street, N.W., Suite 505
Washington, D.C. 20036

ADDENDUM
AGE DISCRIMINATION

MEDIA - The media portrays older people as frail, inferior, senile and ignorant. This public judgement is a blatant form of age discrimination - it creates, in the eyes of the public, an image of older people which is a great disservice to the 23 million older persons in this country.

MENTAL HEALTH SERVICES - Mental health services are very limited for older people, even though the need is great. This is due to loneliness, depression, loss of friends, and spouse. Also, there is a decidedly less than enthusiastic attitude of the medical community to consider therapy for rehabilitative purposes. This attitude is one of disregard for the value that an older pension can contribute to our society.

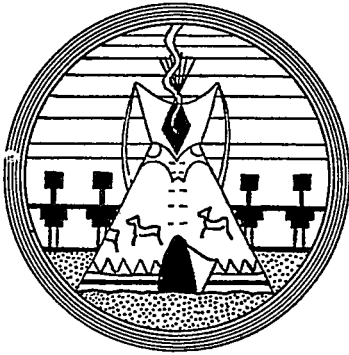
WELFARE PROPOSAL - At present one of the positions displayed in the Administration's welfare proposal is that older people don't want to work or are unable to work. This assumption is inherently discriminatory. By establishing the income guidelines proposal, the Administration is discriminating against the older person's choice to work. One characteristic in this manner can make a public policy that affects all older people.

COMPREHENSIVE EMPLOYMENT TRAINING ACT - The guidelines created for the CETA program are discriminatory for older people. The large amount of federal dollars available and the miniscule effort made to employ older people is tragic. Again, it is an attitude. No consideration for retraining of older people for the job market, or utilizing older people's skills in retraining program activities. Present guidelines do not sufficiently take into consideration the desire or need for older people to participate in the work force.

*Exhibit No. 30*BACKGROUND AND PERSPECTIVETHE INDIAN WORLD TODAY

760,572

There are approximately one million Indians and Native Americans in the U.S. of which 450,000 live on reservations and in Alaskan Native Villages. 266 Federally recognized tribes, bands, and groups exist within the continental United States, along with 200 recognized Native Villages in Alaska.



48% of Indians on reservations are living below the poverty level.

Approximately 55% of all Indian housing on reservations is recognized as inadequate.

58% of Indian children on reservations drop out of school before they complete the 6th grade.

The life expectancy of the average American Indian is ten years less than that of other Americans.

Although exact figures are hard to obtain, the situation of the off-reservation Indians is still roughly comparable to their reservation counterparts.

The average unemployment on reservation is over 40%. In nonreservation areas, it is 20%.

Source of Information: Bureau of Indian Affairs

Table 1
TOTAL AND AMERICAN INDIAN RESIDENT POPULATIONS, ALL AGES
AND 55+, BY STATE, 1970^{1/}

State	Total, all ages			55+		
	Total	Indians		Total	Indians	
		Number	Per cent of total		Number	Per cent of total
U.S. Total.....	203,210,158	760,572	0.4	38,751,312	88,566	0.2
Alabama.....	3,444,148	2,153	0.1	648,056	409	0.1
Alaska.....	300,382	16,281	5.4	20,751	1,667	8.0
Arizona.....	1,770,893	93,508	5.3	315,079	8,845	2.8
Arkansas.....	1,923,240	2,144	0.1	438,596	327	0.1
California.....	19,957,304	88,271	0.4	3,515,658	9,634	0.3
Colorado.....	2,207,259	8,112	0.4	360,910	752	0.2
Connecticut.....	3,031,705	2,387	0.1	574,617	443	0.1
Delaware.....	548,093	488	0.1	87,764	133	0.2
District of Columbia.....	756,492	700	0.1	141,611	151	0.1
Florida.....	6,789,383	6,196	0.1	1,700,643	877	0.1
Georgia.....	4,589,569	2,236	*	752,232	175	*
Hawaii.....	768,559	1,216	0.2	97,285	67	0.1
Idaho.....	712,567	6,315	0.9	134,761	526	0.4
Illinois.....	11,109,450	9,756	0.1	2,142,219	1,049	*
Indiana.....	5,193,665	3,266	0.1	946,946	469	*
Iowa.....	2,824,376	2,829	0.1	620,166	282	*
Kansas.....	2,246,578	8,106	0.4	477,626	1,121	0.2
Kentucky.....	3,218,697	1,269	*	634,202	116	*
Louisiana.....	3,640,442	4,992	0.1	612,711	652	0.1
Maine.....	993,663	1,961	0.2	208,656	152	0.1
Maryland.....	3,922,391	3,705	0.1	623,724	250	*
Massachusetts.....	5,688,903	4,137	0.1	1,179,479	741	0.1
Michigan.....	8,875,068	15,944	0.2	1,505,230	1,975	0.1
Minnesota.....	3,804,971	22,369	0.6	741,449	2,082	0.3
Mississippi.....	2,216,850	3,731	0.2	426,205	352	0.1
Missouri.....	4,676,495	4,895	0.1	1,026,729	920	0.1
Montana.....	694,409	26,094	3.8	132,879	2,527	1.9
Nebraska.....	1,482,412	6,690	0.5	323,658	779	0.2
Nevada.....	488,738	7,329	1.5	72,907	954	1.3
New Hampshire.....	737,681	277	*	144,880	37	*
New Jersey.....	7,168,143	4,185	0.1	1,396,573	786	0.1
New Mexico.....	1,015,998	70,986	7.0	146,468	6,596	4.5
New York.....	18,236,882	25,266	0.1	3,809,102	3,562	0.1
North Carolina.....	5,082,036	43,614	0.9	851,535	4,442	0.5
North Dakota.....	617,761	13,697	2.2	125,113	1,222	1.0
Ohio.....	10,650,903	6,110	0.1	1,944,477	921	*
Oklahoma.....	2,559,175	97,179	3.8	555,624	17,122	3.1
Oregon.....	2,091,385	13,110	0.6	433,286	1,343	0.3
Pennsylvania.....	11,793,864	5,701	*	2,489,972	951	*
Rhode Island.....	948,844	1,441	0.2	198,179	271	0.1
South Carolina.....	2,590,509	1,809	0.1	403,189	188	*
South Dakota.....	665,507	30,661	4.6	142,595	3,349	2.3
Tennessee.....	3,923,726	1,443	*	753,083	290	*
Texas.....	11,195,416	17,231	0.2	1,955,768	1,977	0.1
Utah.....	1,059,273	10,575	1.0	155,695	602	0.4
Vermont.....	444,330	233	0.1	87,657	19	*
Virginia.....	4,648,479	4,829	0.1	751,154	431	0.1
Washington.....	3,409,161	31,036	0.9	627,676	3,259	0.5
West Virginia.....	1,744,236	579	*	376,789	116	*
Wisconsin.....	4,417,731	18,724	0.4	879,349	2,279	0.3
Wyoming.....	332,416	4,806	1.4	60,399	376	0.6

^{1/} Data based on 15-percent sample.

* Less than 0.05 percent.

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

Table 2

AMERICAN INDIAN RESIDENT POPULATION, 55+ AND SELECTED AGE GROUPS, BY STATE AND SEX, 1970^{1/}

State	55+											
	Total					55-59			60+			
	Both sexes	Percent distribution	Percent of all ages	Male	Female		Number	Percent distribution	Percent of all ages	Number	Percent distribution	Percent of all ages
					Number	Percent of both sexes						
U.S. Total.....	88,566	100.0	11.6	42,191	46,375	52.4	24,757	100.0	3.3	63,809	100.0	8.4
Alabama.....	409	0.5	19.0	183	226	55.3	97	0.4	4.5	312	0.5	14.5
Alaska.....	1,667	1.9	10.2	886	781	46.9	516	2.1	3.2	1,151	1.8	7.1
Arizona.....	8,845	10.0	9.5	4,575	4,270	48.3	2,486	10.0	2.7	6,359	10.0	6.8
Arkansas.....	327	0.4	15.3	174	153	46.8	89	0.4	4.2	238	0.4	11.1
California.....	9,634	10.9	10.9	4,448	5,186	53.8	3,112	12.6	3.5	6,522	10.2	7.4
Colorado.....	752	0.8	9.3	372	380	50.5	211	0.9	2.6	541	0.8	6.7
Connecticut.....	443	0.5	18.6	221	222	50.1	73	0.3	3.1	370	0.6	15.5
Delaware.....	133	0.2	27.3	57	76	57.1	6	*	1.2	127	0.2	26.0
District of Columbia.....	151	0.2	21.6	40	111	73.5	58	0.2	8.3	93	0.1	13.3
Florida.....	877	1.0	14.2	409	468	53.4	249	1.0	4.0	628	1.0	10.1
Georgia.....	175	0.2	7.8	78	97	55.4	69	0.3	3.1	106	0.2	4.7
Hawaii.....	67	0.1	5.5	28	39	**	31	0.1	2.5	36	0.1	3.0
Idaho.....	526	0.6	8.3	261	265	50.4	117	0.5	1.9	409	0.6	6.5
Illinois.....	1,049	1.2	10.8	438	611	58.2	297	1.2	3.0	752	1.2	7.7
Indiana.....	469	0.5	14.4	198	271	57.8	177	0.7	5.4	292	0.5	8.9
Iowa.....	282	0.3	10.0	101	181	64.2	111	0.4	3.9	171	0.3	6.0
Kansas.....	1,121	1.3	13.8	522	599	53.4	392	1.6	4.8	729	1.1	9.0
Kentucky.....	116	0.1	9.1	46	70	**	14	0.1	1.1	102	0.2	8.0
Louisiana.....	652	0.7	13.1	280	372	57.1	184	0.7	3.7	468	0.7	9.4
Maine.....	152	0.2	7.8	59	93	61.2	36	0.1	1.8	116	0.2	5.9
Maryland.....	250	0.3	6.7	147	103	41.2	73	0.3	2.0	177	0.3	4.8
Massachusetts.....	741	0.8	17.9	328	413	55.7	117	0.5	2.8	624	1.0	15.1
Michigan.....	1,975	2.2	12.4	1,004	971	49.2	587	2.4	3.7	1,388	2.2	8.7
Minnesota.....	2,082	2.4	9.3	1,018	1,064	51.1	616	2.5	2.8	1,466	2.3	6.6
Mississippi.....	352	0.4	9.4	186	166	47.2	68	0.3	1.8	284	0.4	7.6
Missouri.....	920	1.0	18.8	419	501	54.5	254	1.0	5.2	666	1.0	13.6
Montana.....	2,527	2.9	9.7	1,270	1,257	49.7	776	3.1	3.0	1,751	2.7	6.7
Nebraska.....	779	0.9	11.6	342	437	56.1	206	0.8	3.1	573	0.9	8.6
Nevada.....	954	1.1	13.0	462	492	51.6	271	1.1	3.7	683	1.1	9.3
New Hampshire.....	37	*	13.4	17	20	**	13	0.1	4.7	24	*	8.7
New Jersey.....	786	0.9	18.8	338	448	57.0	233	0.9	5.6	553	0.9	13.2
New Mexico.....	6,596	7.4	9.3	3,315	3,281	49.7	1,772	7.2	2.5	4,824	7.6	6.8
New York.....	3,562	4.0	14.1	1,593	1,969	55.3	968	3.8	3.8	2,614	4.1	10.3
North Carolina.....	4,442	5.0	10.2	2,209	2,233	50.3	1,392	5.6	3.2	3,050	4.8	7.0
North Dakota.....	1,222	1.4	8.9	654	568	46.5	337	1.4	2.5	885	1.4	6.5
Ohio.....	921	1.0	15.1	418	503	54.6	276	1.1	4.5	645	1.0	10.6
Oklahoma.....	17,122	19.3	17.6	7,761	9,361	54.7	4,237	17.1	4.4	12,885	20.2	13.3
Oregon.....	1,343	1.5	10.2	674	669	49.8	411	1.7	3.1	932	1.5	7.1
Pennsylvania.....	951	1.1	16.7	450	501	52.7	218	0.9	3.8	733	1.1	12.9
Rhode Island.....	271	0.3	18.8	86	185	68.3	35	0.1	2.4	236	0.4	16.4
South Carolina.....	188	0.2	10.4	100	88	46.8	69	0.3	3.8	119	0.2	6.6
South Dakota.....	3,349	3.8	10.9	1,610	1,739	51.9	887	3.6	2.9	2,462	3.9	8.0
Tennessee.....	290	0.3	20.1	118	172	59.3	78	0.3	5.4	212	0.3	14.7
Texas.....	1,977	2.2	11.5	932	1,045	52.9	541	2.2	3.1	1,436	2.3	8.3
Utah.....	602	0.7	5.7	352	250	41.5	137	0.6	1.3	465	0.7	4.4
Vermont.....	19	*	8.2	8	11	**	--	--	--	19	*	8.2
Virginia.....	431	0.5	8.9	202	229	53.1	130	0.5	2.7	301	0.5	6.2
Washington.....	3,259	3.7	10.5	1,531	1,728	53.0	947	3.8	3.1	2,312	3.6	7.4
West Virginia.....	116	0.1	20.0	52	64	**	46	0.2	7.9	70	0.1	12.1
Wisconsin.....	2,279	2.6	12.2	1,011	1,268	55.6	666	2.7	3.6	1,613	2.5	8.6
Wyoming.....	376	0.4	7.8	208	168	44.7	91	0.4	1.9	285	0.4	5.9

^{1/} Data based on 15-percent sample.

* Less than 0.05 percent.

** Percent not shown where the base is less than 133.

-- Denotes zero.

Note: Percent distributions may not add to total because of rounding.

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

Table 3

AMERICAN INDIAN RESIDENT POPULATION, TOTAL AND 55+ AGE GROUPS,
IN STATE RANK ORDER, 1970^{1/}

Total, all ages					55+				
Rank	State	Number	Percent		State	Number	Percent		Rank
			Dis- tri- bu- tion	Cumu- la- tive			Dis- tri- bu- tion	Cumu- la- tive	
1	Oklahoma.....	97,179	12.8	12.8	Oklahoma.....	17,122	19.3	19.3	1
2	Arizona.....	93,508	12.3	25.1	California.....	9,634	10.9	30.2	2
3	California.....	88,271	11.6	36.7	Arizona.....	8,845	10.0	40.2	3
4	New Mexico.....	70,986	9.3	46.0	New Mexico.....	6,596	7.4	47.6	4
5	North Carolina.....	43,614	5.7	51.7	North Carolina.....	4,442	5.0	52.7	5
6	Washington.....	31,036	4.1	55.8	New York.....	3,562	4.0	56.7	6
7	South Dakota.....	30,661	4.0	59.9	South Dakota.....	3,349	3.8	60.5	7
8	Montana.....	26,094	3.4	63.3	Washington.....	3,259	3.7	64.1	8
9	New York.....	25,266	3.3	66.6	Montana.....	2,527	2.9	67.0	9
10	Minnesota.....	22,369	2.9	69.6	Wisconsin.....	2,279	2.6	69.6	10
11	Wisconsin.....	18,724	2.5	72.0	Minnesota.....	2,082	2.4	71.9	11
12	Texas.....	17,231	2.3	74.3	Texas.....	1,977	2.2	74.2	12
13	Alaska.....	16,281	2.1	76.4	Michigan.....	1,975	2.2	76.4	13
14	Michigan.....	15,944	2.1	78.5	Alaska.....	1,667	1.9	78.3	14
15	North Dakota.....	13,697	1.8	80.3	Oregon.....	1,343	1.5	79.8	15
16	Oregon.....	13,110	1.7	82.0	North Dakota.....	1,222	1.4	81.2	16
17	Utah.....	10,575	1.4	83.4	Kansas.....	1,121	1.3	82.4	17
18	Illinois.....	9,756	1.3	84.7	Illinois.....	1,049	1.2	83.6	18
19	Colorado.....	8,112	1.1	85.8	Nevada.....	954	1.1	84.7	19
20	Kansas.....	8,106	1.1	86.8	Pennsylvania.....	951	1.1	85.8	20
21	Nevada.....	7,329	1.0	87.8	Ohio.....	921	1.0	86.8	21
22	Nebraska.....	6,690	0.9	88.7	Missouri.....	920	1.0	87.8	22
23	Idaho.....	6,315	0.8	89.5	Florida.....	877	1.0	88.8	23
24	Florida.....	6,196	0.8	90.3	New Jersey.....	786	0.9	89.7	24
25	Ohio.....	6,110	0.8	91.1	Nebraska.....	779	0.9	90.6	25
26	Pennsylvania.....	5,701	0.7	91.9	Colorado.....	752	0.8	91.4	26
27	Louisiana.....	4,992	0.7	92.5	Massachusetts.....	741	0.8	92.3	27
28	Missouri.....	4,895	0.6	93.2	Louisiana.....	652	0.7	93.0	28
29	Virginia.....	4,829	0.6	93.8	Utah.....	602	0.7	93.7	29
30	Wyoming.....	4,806	0.6	94.5	Idaho.....	526	0.6	94.3	30
31	New Jersey.....	4,185	0.6	95.0	Indiana.....	469	0.5	94.8	31
32	Massachusetts.....	4,137	0.5	95.5	Connecticut.....	443	0.5	95.3	32
33	Mississippi.....	3,731	0.5	96.0	Virginia.....	431	0.5	95.8	33
34	Maryland.....	3,705	0.5	96.5	Alabama.....	409	0.5	96.3	34
35	Indiana.....	3,266	0.4	97.0	Wyoming.....	376	0.4	96.7	35
36	Iowa.....	2,829	0.4	97.3	Mississippi.....	352	0.4	97.1	36
37	Connecticut.....	2,387	0.3	97.6	Arkansas.....	327	0.4	97.5	37
38	Georgia.....	2,236	0.3	97.9	Tennessee.....	290	0.3	97.8	38
39	Alabama.....	2,153	0.3	98.2	Iowa.....	282	0.3	98.1	39
40	Arkansas.....	2,144	0.3	98.5	Rhode Island.....	271	0.3	98.4	40
41	Maine.....	1,961	0.3	98.8	Maryland.....	250	0.3	98.7	41
42	South Carolina.....	1,809	0.2	99.0	South Carolina.....	188	0.2	98.9	42
43	Tennessee.....	1,443	0.2	99.2	Georgia.....	175	0.2	99.1	43
44	Rhode Island.....	1,441	0.2	99.4	Maine.....	152	0.2	99.3	44
45	Kentucky.....	1,269	0.2	99.5	District of Columbia.....	151	0.2	99.4	45
46	Hawaii.....	1,216	0.2	99.7	Delaware.....	133	0.2	99.6	46
47	District of Columbia.....	700	0.1	99.8	Kentucky.....	116	0.1	99.7	47t
48	West Virginia.....	579	0.1	99.9	West Virginia.....	116	0.1	99.9	47t
49	Delaware.....	488	0.1	99.9	Hawaii.....	67	0.1	99.9	49
50	New Hampshire.....	277	*	100.0	New Hampshire.....	37	*	100.0	50
51	Vermont.....	233	*	100.0	Vermont.....	19	*	100.0	51

^{1/} Data based on 15-percent sample.

* Less than 0.05 percent.

t Tied to ranking. State with identical numbers receive identical rank with following rank skipped.

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

Table 5

AMERICAN INDIANS OF ALL AGES AND 65+ LIVING ON IDENTIFIED RESERVATIONS,^{1/}
IN STATE RANK ORDER, 1970^{2/}

Rank	Total, all ages				65+				Rank	1976 BIA*
	State	Number	Percent		State	Number	Percent			
			Dis-tribution	Cumu-lative			Dis-tribution	Cumu-lative		
(X)	Total, 22 States.	213,770	100.0	(X)	Total, 22 States.	11,853	100.0	(X)	(X)	
1	Arizona.....	72,992	34.1	34.1	Arizona.....	(3,714)	31.3	31.3	1 (6,573)	
2	New Mexico.....	41,247	19.3	53.4	New Mexico.....	(2,181)	18.4	49.7	2 (4,793)	
3	South Dakota.....	22,894	10.7	64.1	South Dakota.....	1,384	11.7	61.4	3 1,810	
4	Montana.....	18,088	8.5	72.6	Montana.....	947	8.0	69.4	4 1,142	
5	North Dakota.....	7,468	3.5	76.1	Minnesota.....	522	4.4	73.8	5 748	
6	Minnesota.....	7,266	3.4	79.5	North Dakota.....	454	3.8	77.6	6 770	
7	Washington.....	6,884	3.2	82.7	New York.....	437	3.7	81.3	7 724	
8	Wisconsin.....	6,766	3.2	85.9	Washington.....	(407)	3.4	84.8	8 (1,616)	
9	New York.....	4,947	2.3	88.2	Wisconsin.....	(350)	3.0	87.7	9 997	
10	Utah.....	4,837	2.3	90.5	Idaho.....	229	1.9	89.6	10 420	
11	North Carolina.....	3,455	1.6	92.1	North Carolina.....	188	1.6	91.2	11t 333	
12	Wyoming.....	3,319	1.6	93.6	Utah.....	188	1.6	92.8	11t 404	
13	Idaho.....	3,112	1.5	95.1	Wyoming.....	152	1.3	94.1	13 223	
14	Oregon.....	1,953	0.9	96.0	Nevada.....	(137)	1.2	95.3	14 359	
15	California.....	1,821	0.9	96.9	California.....	(123)	1.0	96.3	15 (2,615)	
16	Nebraska.....	1,796	0.8	97.7	Colorado.....	115	1.0	97.3	16 77	
17	Nevada.....	1,412	0.7	98.4	Nebraska.....	95	0.8	98.1	17t 176	
18	Colorado.....	1,341	0.6	99.0	Oregon.....	95	0.8	98.9	17t 149	
19	Maine.....	751	0.4	99.3	Maine.....	46	0.4	99.2	19 **	
20	Florida.....	561	0.3	99.6	Kansas.....	40	0.3	99.9	20 118	
21	Iowa.....	422	0.2	99.8	Florida.....	36	0.3	99.9	21 55	
22	Kansas.....	146	0.1	99.9	Iowa.....	13	0.1	100.0	22 29	
(X)	Other.....	292	0.1	100.0	Other.....	--	--	--	(X)	
					Alaska.....				2,210	
					Louisiana.....				26	

^{1/} As identified for the 1970 census. See inside front cover for further information.
^{2/} Data based on 20-percent sample. State in rank order of decreasing percentages.
 — Denotes zero.
 (X) Not applicable.
 t Tied in ranking. States with identical numbers receive identical rank with following rank skipped.
 Note: Percent distributions may not add to total because of rounding.
 Source: U. S. Bureau of the Census - 1970 Census. TOTAL . . . 32,440

*Statistics from Bureau of Indian Affairs, April 1976, of Indian population, aged 65 and over, on and adjacent to federal reservations.
 **In 1976, Indians in Maine were not under the jurisdiction of the Bureau of Indian Affairs.

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WORKING PAPER

April 1977

SOCIAL SERVICES TO AMERICAN INDIANS THROUGH TITLE XXProvision of Law

The provisions of Title XX of the Social Security Act as amended in 1974, place administrative and supervisory responsibility for social service programs within a single State agency. The 45 CFR 228.5 clarifies the authority and responsibility of the State as follows:

"There shall be maintained within the State agency the authority and responsibility for:

- (1) The State plan;
- (2) The services plan;
- (3) The projection of estimated expenditures;
- (4) The accountability for Federal funds;
- (5) The establishing and maintaining of standards for the determination of eligibility;
- (6) The administration or supervision of the administration for the provision of service;
- (7) Operating the program on a Statewide basis;
- (8) Complying with any program reporting requirement;
- (9) Maintaining a working relationship between the Secretary and the State; and
- (10) Overall supervision, control and oversight of Title XX activities." 1/

A 2.5 billion dollar allocation has been made by Congress for social services nationally.^{2/} Each State has a fixed dollar amount allocated on the basis of census population figures, which include American Indians.

Delivery of social services to American Indians is complicated by the unique relationship between American Indians and the Federal Government and the administration of Title XX through State agencies. The task is additionally complicated by the existence of multiple service efforts and by cultural differences. These factors in combination with limited financial, technological, and professional resources, affect the provision of services.

On reservations, Indian tribes retain many attributes of sovereignty which characterize States, including the authority to determine and adopt

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forms of government, enact and enforce legislation regulating domestic relationships and behavior of tribal members, levy and collect taxes.^{3/} Further, tribes, and in certain instances members of tribes living on reservations, are not subject to control of the States wherein the reservations are located but are entitled to receive State and federally funded benefits and services. Thus, for example, even though States have limited capacity to tax income or property on reservations, they must provide income maintenance and social service benefits to Indians on reservations because such persons are citizens of the States in which they reside and, as such, are guaranteed constitutional rights of equal protection and entitlement.^{4/} Similarly, in the instances of child welfare programs, States have limited capacity to impose or execute *parens patrie* authority through State legislation and court activity, but are required to honor court orders issued by reservation tribunals with regard to Indian children residing on reservations^{5/} and are required to provide services. Some States have demonstrated clear reluctance to provide child welfare services on reservations and have cited lack of jurisdiction as a basis for that reluctance.^{6/}

Non-Title XX Programs

The Bureau of Indian Affairs (BIA) administers a program of social services on every major reservation and in the States of Oklahoma and Alaska. There are 280 Federally recognized tribes, residing on reservations in the cities and in rural areas. BIA statistics for 1973 report that 542,900 Indians reside on or near Federal reservations.^{7/}

The BIA program of social services undertakes to provide necessary assistance and social services for Indians on reservations when such assistance and services are not available through State or local public welfare agencies. It is the general position of the Bureau that Indians should have the same relationship to public welfare agencies as non-Indians, and that public welfare agencies should have the same responsibility for providing services and assistance as they have for non-Indians in similar circumstances. It is recognized, however, that there are certain services required by some Indians which are not provided by the State and local welfare agencies, and the tax-exempt status of Indian lands may affect the ability of some States or local governments to meet the needs of Indians, particularly if Indians constitute a considerable portion of their population.

Bureau responsibilities for social services and related activities differ somewhat on different reservations, depending upon economic conditions on reservations, the availability of tribal resources, the responsibilities assumed by State or local welfare agencies, differences in local customs and attitudes, and the degree to which tribal institutions and controls are effective. Within the limits of its resources, the primary objectives of the Bureau's program of social services are: (1) to provide financial assistance (called general assistance) to needy Indian families living

on reservations when employment is not available and when such assistance is not available from other sources; (this includes assisting interested Indian tribes to sponsor tribal work projects for recipients of assistance); (2) to provide counsel and guidance to Indians with family problems or other serious social problems; (3) to provide child welfare assistance and services when these are not available from established child welfare agencies, including arrangements for the protection and care of dependent, neglected, and handicapped children, planning for adoption, and securing appropriate institutional care; (4) to interpret the social needs of Indian families and children to tribal governing bodies and tribal courts and provide assistance, when necessary and appropriate, in the development of tribal programs to meet those needs; (5) to provide information and liaison assistance to Indians to enable them to secure needed welfare services and assistance from State and local welfare programs for which they may be eligible; (6) to provide advice and counsel to Indians, when necessary, in planning constructive use of their own and their children's funds; and (7) to interpret the needs of Indians to community agencies away from the reservations and promote the acceptance of Indians on an equal basis with non-Indians.

General assistance is provided directly by the Bureau when need has been determined. The same budgetary standards used by the State welfare agency for State public assistance programs are used to determine the individual's or family's general assistance needs. Provision is also made for care of Indians requiring care in institutions or nursing homes. The number of Indians requiring general assistance varies considerably on a seasonal basis.^{8/}

Probably the single most important source of assistance for urban Indians has been the Indian centers financed by private sources. Having lost the unity provided by the tribes, Indians developed these centers as places where their needs are represented. Some of the centers have evolved from very small gatherings for recreational purposes decades ago into many-sided operations capable of sustaining programs in education and vocational training, defense of Indian rights, counseling; various kinds of entertainment, and provision of emergency relief.^{9/}

The relationship among the Indian tribes, Federal Government and State Government is summarized by the November 7, 1975 Inter-Tribal Council of Arizona final report for the Title XX Planning Project.

"The tribes have historically dealt with the Federal Government and particularly with the Bureau of Indian Affairs and the Indian Health Service where Federally funded human services planning was concerned. Within the National Office of the Department of Health, Education, and Welfare, there is an Office of Native American Programs that funds tribes for such programs and services. There have evolved over the years

fundamental and essential principles that are adhered to in Federal-Tribal relationships. The State and its subdivisions coordinate and cooperate within the framework of laws and regulations formulated over a considerable period of time. Given the special character of the tribes and the Federal Government, it cannot be expected that the tribal structure can suddenly develop a relationship with the State structure without some special adjustments on the part of the State and the tribes. In order that the tribes can relate to the State, they will want to maintain the necessary and desirable relationships they have with the Federal structure and particularly with the Federal agencies mentioned above."^{10/}

Public Law 83-280

However, it should be noted that in 1952, Public Law 83-280 extended State jurisdiction over criminal and civil offenses to all Indian lands within the State boundaries of California, Minnesota, Nebraska, Oregon, and Wisconsin. It allowed any State to amend the State constitution or existing statutes to remove legal impediments to the assumption of civil and criminal jurisdiction in accordance with the provisions of the act.^{11/}

The law denied authority to encumber or tax trust lands owned by Indians, or other Indian lands owned by Indians, or other Indian lands subject to Federal restriction against alienation; such as allotted lands.

The States took the following actions:

1. Arizona has extended its jurisdiction only for air and water pollution laws.
2. Florida has asserted exclusive civil and criminal jurisdiction.
3. Idaho exercises civil and criminal jurisdiction with respect to school attendance, juvenile delinquency, dependent and neglected children, mental illness, ^{Pa} domestic relations, public assistance, and motor vehicle laws. Other jurisdiction may be asserted with tribal consent.
4. Montana has extended criminal jurisdiction only over the Flathead Reservation, although other tribes may consent if the relevant county commissioners also consent, and a tribe may obtain retrocession after two years.

5. Nevada assumed civil and criminal jurisdiction, with limited exceptions, in 1955.
6. In New Mexico, a constitutional amendment to assert jurisdiction was rejected in a popular vote in 1969.
7. North Dakota amended its constitution in 1965 and passed legislation assuming civil jurisdiction over tribes or individuals with their consent. Thus far no tribe has consented.
8. South Dakota submitted legislation allowing the governor to assume jurisdiction by proclamation to a referendum vote in 1965, and the proposal was defeated.
9. Utah passed legislation in 1971 to assert civil and criminal jurisdiction, with the condition that Indian consent be obtained.
10. Washington passed legislation in 1957 under which civil and criminal jurisdiction was asserted over nine tribes at the request of the tribes. In 1963 it asserted criminal and civil jurisdiction over all fee patent lands on reservations, with civil jurisdiction asserted over all reservation lands in the areas of school attendance, public assistance, domestic relations, mental illness, juvenile delinquency, adoptions, dependent children, and traffic laws--all without the consent of the tribes.

No other States have chosen to assert jurisdiction under the provision of P.L. 83-280. Certain eastern States, including New York and Maine, have long asserted jurisdiction on ground of early States' treaties with tribes, special Federal statutes, or State establishment of reservations.^{12/}

Purchase of Service Contracting

One approach for practical resolution of some conflicts in social service program delivery through the Federal, State and tribal structures has been the initiation of purchase of service (POS) contracts between State governments and tribal governments or tribal groups. Maine, New Mexico, South Dakota and Arizona have entered into Title XX purchase of service contracts with Indian tribes.

These State contracts, the amount of money involved and the services provided are listed below:

Maine	POS contract \$70,000 for services to 150 addicts. (State Dept. of Indian Affairs put up match). POS contract \$289,000 with Indian Educ. Council for child day care. Maine has a deliberate policy of serving Indians in regular program. Problems over licensing Indian foster homes Maine Agency est. expend for XX and IV-B on Indians several times multiple of per capita allotment.
New Mexico	No direct Agency services on reservations. POS contract with Navaho nation for 1.7 million in FY '77 (same level in FY '76) for homemaker and chore, health support, I&R, counseling. Indians donated funds for XX funding. POS contract with Mescalero Apaches for \$168,000 in FY '77 for child day care. POS contract with Jicarillo Apaches for \$58,000 for multi svcs. to isolated elderly; and \$75,000 for child day care.
S. Dakota	Title XX only used for AFDC of which over 50% are Indians. State agency est. 50% of exp. are Indians. POS contract Rosebud Tr. Homemakers Tr. puts up match. POS contract Child Day Care. Admin. by Tr. Proposal pending from Sissetons to do all CVS. Title XX funds - \$80,000 FY '77, \$300,000 FY'78. State agency rigid re FIDCR: several tribal centers not lic. POS for foster care spending. State agency est. 3% of soc. svcs. Exp. on Indians.
Arizona	<u>POS Contract - Navahos</u> FY '77 estimated costs and population served as follows:
	Health Related Svcs. 2,800 \$420,000
	Home Mgmt. Svcs. 400 95,000
	Housekeeper Svcs. 450 149,600
	Info & Referral 12,000 192,000

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Arizona con't	Family Planning	
	190	\$15,200
	Social Problem Solving	
	3,000	461,000
	Transportation Svc.	
	1,000	167,000

POS FY '77 Contract with Gila River tribe, all the Title XX svcs. (adoption, etc.) (\$ not available). POS FY '77 contract with White River tribal org. day care svcs. To be provided by the tribe on the reservation. (\$ not available).

North Carolina has entered into contracts with Indian groups in the rural sections of that State. The services there include chore services, meals on wheels, day care, educational support services, and transportation.

The difficulties in establishing services through Title XX are largely jurisdictional. Other problems which enter into the complex implementation of Title XX are:

- . Monitoring by the State for services provided by purchase of service contracts to Indians^{14/}
- . Eligibility problems ^{15/}
- . Caution on the part of Tribal Governments to contract with States for services^{16/}
- . Difficulty on the part of Tribal Governments to come up with the 25% match money for services
- . State-wideness of social services plan^{17/}
- . States are reluctant to include Indians in State service plan because of jurisdictional problems.
- . States are reluctant to contribute the 25% match necessary for services to Indians under Title XX based on the contention that Indians do not pay taxes.
- . Lack of clarity in the definition of Indian tribe and Indian Council Present definition overlooks urban Indian. ^{18/}
- . Confusion about Bureau of Indian Affairs Social Services and Title XX services to Indians in a State

The single most frequently recommended proposal for the resolution of problems with social services is direct funding to Indian Tribal Governments, Tribal Councils and Indian groups. 19/

The recommendations go on to suggest that direct funding be optional for tribal governments. If a tribal government chooses to receive direct funding then it should "function exactly as States in relation to the Federal Government, including provision of the matching share and adherence to Federal or Federally-approved tribal standards." 20/

"In such cases, the number of Indian reservation residents would be subtracted from a State's total population in calculating the Title XX appropriation, with separate allocations going to the State and the appropriate tribal authority." 21/

Other recommendations include the National Congress of American Indians statement that "a waiver provision regarding tribes share of matching funds, i.e., 100% funding of all tribes" 22/

"8. Specific legislation language protection for tribes who enter into Title XX contracts with State agencies protecting tribal sovereignty." 23/

"7. Reinforce the rights of tribes and urban Indian Communities to form separate geographic planning and service delivery areas for Title XX." 24/

The Final Report of the Policy Alternatives in Indian Child Welfare

A workshop held at Dobbs Ferry states:

"The panel expressed strong support for the direct funding of all tribes--including tribes in Oklahoma and Native Alaskan communities in Alaska which do not have reservations." 25/

In summary, the complexity of this problem is at least three fold: first, the definition of Indian tribe (Federal reservation, landless, terminated, State recognized, off reservation), jurisdictional (State, or Federal), and financing of services.

The recommendation by several study groups is direct funding to Indians for social services. It should be noted that this recommendation has been implemented through other Federal programs. Primarily, the "Comprehensive Employment and Training Act of 1973," the State and Local Fiscal Assistance Act of 1972 (authorizing the General Revenue Sharing Program), the Housing and Community Development Act of 1974 (authorizing the Community Block Grant Program) and Title IV of the Public Works and Economic Development Act of 1965 (authorizing eligibility for EDA's program).

FOOTNOTES

1. Department of Health, Education and Welfare; Social and Rehabilitation Service. Federal Register, Vol. 42, No. 20, January 31, 1977. 45 CFR 228.5
2. \$2.7 billion was expended for FY'77. Essentially the additional \$500 million were for day care services to assist states in meeting Federal Day Care standards.
3. Center for Social Research and Development, Denver Research Institute/ University of Denver, Legal and Jurisdictional Problems in the Delivery of SRS Child Welfare Services on Indian Reservations; October 1975, p.5.
4. Center for Social Research and Development; Indian Child Welfare: A State of the Field Study; Children's Bureau, Office of Human Development/ Office of Child Development, U.S. Department of Health, Education and Welfare, (Washington D. C.: 1976). p.5.
5. U.S. Department of Health, Education and Welfare, Social and Rehabilitation Service; Assistant Payments Administration, State letter No. 1080. "To State Agencies Administering Approved Public Assistance Plans", mimeographed (Washington D.C.: 1970).
6. Center for Social Research and Development: Indian Child Welfare: A State of the Field Study, p.5.
7. Estimates of Resident Indian Population and Labor Force Status by State and Reservation: March 1973, Department of the Interior, Bureau of Indian Affairs, Statistics June 1973, p.2.
8. U.S. Department of Interior; Bureau of Indian Affairs, Information About Social Services Programs, June 1976, p.1.
9. Report on Urban Rural and Non-Reservation Indians, Alfred G. Elgin, Chairman (Washington D.C.: U.S. Government Printing Office, 1976) p.41.
10. Inter-Tribal Council of Arizona, Title XX Planning Project, November 7, 1975, p.42.
11. Center for Social Research and Development, Denver Research Institute/ University of Denver, Legal and Jurisdictional Problems, p.11.

12. Ibid., p.9.
13. Administrator, Social and Rehabilitation Services/U.S. Department of Health, Education and Welfare, "Delivery of Title IV-B and Title XX services to Indians on Reservations", (unpublished memo to the Under Secretary, HEW), November 30, 1976.
14. This monitoring process is directly related to jurisdictional problems.
15. State personnel are usually responsible for determining eligibility for a service. The location of a state office in relation to the residence of an Indian receiving services could create a hardship in receiving that service. States are reluctant to send workers to reservations due to jurisdictional problems.
16. This is directly related to the jurisdictional Federal-Tribal relationship issue.
17. Some States have provisions for services on a State-wide basis rather than the provision of different districts of the state, as permitted by the Title XX legislation, thereby excluding service needs of certain Indian tribes or groups.
18. Under 45 CFR 228.1, "Indian tribe" means any Indian tribe, band, nation or other organized group or community, including any Alaska Native region, village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or any Indian tribe, band, or nation or other organized group or community which is recognized as an Indian tribe by any State commission, agency or authority which has the statutory power to extend such recognition.
- 19.a. Policy Alternatives in Indian Child Welfare: A Workshop Final Report, p.2.
 - b. National Conference on Social Welfare, Mitchell I. Gingsberg, chairman, Current Issues in Title XX Programs (Columbus, Ohio, 1976), p.30.
 - c. National Congress of American Indians, Position Paper on Title XX, presented at the NCAI Convention, October 30, 1976, p.1.
20. National Conference on Social Welfare, Current Issues in Title XX Programs, p.31.

21. Ibid., p.31.
22. National Congress of American Indians, Position Paper on Title XX, presented at the NCAI Convention, October 30, 1976, p.1.
23. Ibid., p.2.
24. Ibid., p.2.
25. Policy Alternatives in Indian Child Welfare: A Workshop Final Report, p.2.



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH
WASHINGTON, D. C. 20201

OCT 18 1977

Dr. Arthur Fleming
Chairman
U. S. Commission on Civil Rights
1730 K Street, N. W., Suite 214
Washington, D. C. 20425

Dear Dr. Fleming:

Due to time constraints at the time of my appearance before the Age Discrimination Study hearings in Washington, D. C., I was unable to answer several questions which the Commission wished to ask.

Enclosed for the record are the answers to those questions.

If I may be of further assistance to the Commission in their study, please let me know.

Sincerely yours,

A handwritten signature in cursive script that reads "Julius B. Richmond".

Julius B. Richmond, M.D.
Assistant Secretary for Health

Enclosure

I. Community Mental Health Centers

B. Centers offer various reasons for not serving older and younger patients: for example (1) services to each of these groups are more expensive or (2) appropriately trained personnel are unavailable.

1. On what basis has it been determined that services to younger or older patients are more costly and in light of the Age Discrimination Act, to what extent, if at all, should cost considerations come into play in determining who will/will not receive services?
2. What action is being taken or should be taken to ensure that skilled personnel are available to treat older persons and children? What kind of training is currently being provided in these areas particularly in light of the statutory mandate and the oft expressed problem in meeting it?

1. A Community Mental Health Center is to provide comprehensive mental health care to the total catchment area population and does not make a distinction on providing services with regard to age or ability to pay. However, there are fiscal restraints which hinder the development or operation of programs for the elderly and children. Medicare has limited coverage of outpatient services for the elderly. Because of the limitation the aged who have sought mental health care have done so through other health care settings for which Medicare reimbursement is available. One such setting is the nursing home where up to 75 percent of the residents may have mental illness diagnosis. Medicaid is a state administered program. Although up to 75 percent may be federally funded, the state for the most part determines the eligibility of recipients and provider status. In many states, community mental health centers (CMHC's) have not been designated as qualified providers of mental health care or have children under age 21 been eligible recipients of mental health care through a CMHC.

In both cases the fiscal restraint has made it difficult for these age groups to receive services from centers.

2. Currently, there are shortages of trained professional and paraprofessional personnel for the aged, specifically in CMHCs and longterm facilities and the community. One of the programs the NIMH is giving priority to in FY 1978 is the Mental Health Training of Primary Care providers. Since most children, and for that matter, elderly are seen initially in a general health setting, the development of mental health skill in primary care physicians should go a long way to filling the gap of mental health services to these two groups. However, we realize the psychiatric and psychological curriculum needs to be strengthened with regard to geriatric services. Priority in the award of NIMH training grants will be given to those programs which address the priorities of services to special target populations (the aged and children being two) and training for personnel to work in underserved areas.

C. Needs Assessment activities carried out by Community Mental Health Centers and State Mental Health Authorities generally do not inform resource allocation or program development decisions. State agencies generally view the State Plan as a "hoop to jump through" rather than a utilitarian planning document. Community Mental Health Centers often lack available data to assess needs of particular age groups and the financial staff resources to do a competent job.

2. Is the needs assessment process really a feasible or worthwhile process at all if generally ignored in implementation of services? Will it ever become useful despite any progress in the technology?

2. By assessing the need for mental health services on a statewide basis, State Mental Health Authorities can develop a rational plan for setting priorities and phasing-in services. CMHCs use the assessment of need for mental health services in their catchment area to identify the most vulnerable groups in their service area and to plan appropriate interventions to meet their needs.

The requirement for annual review and approval of State Mental Health Authority progress reports on the implementation of state plans should help encourage them to meet the needs identified in their plans. The Community Mental Health Centers Act expires in 1978; in the proposed renewal of the Act it is the desire of NIMH and PHS to require CMHCs to provide services on the basis of the identified needs of the population residing in the catchment area. The careful monitoring of such requirements helps to focus the state and local efforts on meeting identified needs. While in the ideal it would be quite useful for a CMHC to conduct extensive needs assessments of older people in its catchment area, the feasibility of doing this is not an easy matter. But costs and staff time are major factors to consider in the context of a CMHC's total program. The issue is a familiar one of balancing program priorities with limited resources.

D. Two other problems identified relative to services to older persons and young children include the lack of outreach by centers and negative staff attitudes in treating these two groups.

1. What efforts can be made to overcome the outreach problem?
2. What kinds of linkages between Centers and other community agencies could be effectuated?
3. What kind of training is being or should be instituted to curb the effects of staff attitudes on age distribution of program participants?

1. Direct service outreach is a most costly service, but attention should be paid to those who need it, most specifically to those who are least able to get to the center. It should be noted that as stated in the OCR Issues List, "Where outreach was carried out it was oriented to young families and juveniles." It would not be advisable generally for children under five to be seen without family contact at CMHCs.

The assumption also is that outreach will be a cost effective "case finding" mechanism; however, there is no data to back this up. Most outreach done by centers is to identified patients, and 42% of all new center patients in 1975 were either self, family, or friend referred. From this information we can speculate that more elderly and children can be helped in CMHCs by continuing ongoing educational programs so that specific elderly and children can be identified as people in need.

2. Because of the health needs of both children and the elderly, they would benefit from linkages with other health areas. There has been an effort over the last two fiscal years for CMHCs located in rural areas to link with Rural Health Initiative and Health Underserved Rural Areas grantees. Also, beginning in FY 1978, there will be grants from BCHS in the PHS to support a CMHC staff person to be located in and supervised by a community health center staff. This will allow for mental health triage where appropriate to people who present themselves to CHCs.

Other important linkages which centers enter into are with other health providers (i.e., HMOs), social service agencies, vocational rehabilitation agencies, courts, and law enforcement agencies, among others. One of the most successful liaisons has been with schools. Many centers have developed both direct referral relationships from schools, as well as a C&E role in the schools. More recently, there have been increasing linkages with both nursing homes and organizations of elderly such as the golden age groups.

3. Quite often an older person has more than a mental health problem. He or she may have severe arthritis, heart trouble, a need for adequate housing, etc. All of which are contributing to the mental state the person is in but which the mental health professional feels incapable of dealing with because he/she does not have the resources available to assist the older person in these situations. It is felt that the priority we have given to services to the elderly and children will begin to address this issue.

II. Community Health Centers

A. The Public Health Service has advocated a policy of preventative health care with particular emphasis on mothers, infants and children. More specifically Center and regional officials feel that emphasis is being placed by PHS on preventive medicine for youth through the EPSDT program, immunizations, nutrition, family planning, WIC and pre-natal care.

1. What are the origins and basis for the preventive health care thrust?
2. Is it indeed intended to result in a services focus on children, youth, and mothers of child bearing age? If so, why?

1. The origin and basis for the preventive health care thrust, particularly with respect to child health goes back to the last half of the 19th century. It was during this period that Health Departments were formed in some States; City Health Departments established milk stations and developed nursing services; school health programs began; citizen groups organized around problems of children and the first children's hospital was established.

This climate led to the first White House Conference on Children in 1909 and, at the urging of the Conference, creation of the Children's Bureau in 1912. Creation of this Bureau marked the beginning of Federal involvement in the field of child health. That Bureau's studies of infant and maternal mortality established a definite link between the health of the mother and the baby's chances of survival. Proper care during the prenatal period, the most direct way of improving the health of mothers and infants, culminated in the Shephard-Towner Act of 1921. This offering of public health care to pregnant women was the first time that such a Federal formula grant program was established in the health field. Although the Act expired in 1929 it paved the way for inclusion of child health programs in subsequent legislation.

The Social Security Act of 1935 provided social security legislation with special provisions for the aged, the handicapped and other groups of Americans with special needs. Title V of this Act was specifically directed toward promoting and improving the health of all mothers and children and included a provision for services to handicapped and crippled children. This Federal focus on child health and prevention has continued to the present time. Soon after President Carter took office he made it quite apparent that he is sensitive to the health needs of mothers and children. One of the major changes he proposed in the FY 1978 budget was the creation of a program of Comprehensive Health Assessments and Primary Care for Children (CHAP), to identify and treat medical problems in poor children. Even more recently, the Secretary, DHEW outlined a major drive to improve the immunization status of millions of American children.

These recent actions are highly supportive of DHEW priorities established within recent years. Prevention has been one of the Health Services Administration's (HSA) major Forward Plan themes of the past several years. Because of his vital concern for child health, the last Assistant Secretary for Health appointed a Special Assistant for Child Health Affairs and provided him with a staff to assure that an effective job of PHS coordination was achieved at the Secretary's level. Within the Bureau of Community Health Services (BCHS), program integration and linkages have been encouraged through the development of a Child Health Strategy which is designed to build capacity and resources, promote prevention and access to primary care with linkages to secondary and tertiary care, and to move the delivery and health care programs into integrated statewide systems.

Studies indicate that despite advances in medical knowledge and technology and increasing expenditures for health care, deficiencies and problems in the child health care delivery system persist.

- . The percentage of children inadequately immunized has increased. In 1975 over 35% of children were inadequately immunized for polio as compared to approximately 26% in 1965.
- . Adolescent pregnancies continue to be a serious problem. In 1974, about 595,000 girls between 15-19 years of age and nearly 13,000 under 15 years of age gave birth. This represents about 19% of total births compared to 15% in 1964.
- . 16% of all infants born to adolescent girls under 15 years of age are low birth weight compared to 7% of the infants born to women over 20 years of age. There is no question that morbidity including mental retardation, cerebral palsy, and other central nervous system deficiencies occur more commonly as birth weight falls. The economic, social, emotional costs of such developmental disabilities on individual lives, families and communities are well known.

To respond to the problems and deficiencies of the child health care delivery system, BCHS developed a child health strategy with a goal focused on improving health status and outcome--specifically decreasing morbidity, disability and mortality.

To tactically implement the strategy, we are focusing on 5 major areas in the maternal and child health care cycle.

- . Family Planning--an estimated 30 million women, 15-44 years of age are at risk of unwanted pregnancy and in need of family planning. Of these 6.2 million fall below 150% of the poverty line. Emphasis will be on improving access to organized services with priority to high risk individuals such as adolescents and improving the quality of services.

- Prenatal Care--a minimum of 3.2 million are estimated to need care. Twenty-five percent of these are low income. Emphasis will be on high-risk mothers with the goal to increase the number of women receiving care in the first trimester. Referral and tracking systems are to be established and amniocentesis and genetics consultation capacity developed.
- Perinatal Care--an estimated 3.2 million pregnant women including 1.6 million high risk women and their infants will need services. Identification of high risk women and development of referral capabilities to integrated systems of care will receive emphasis as well as continuity of care and followup services. Priority will be given to States with the highest infant mortality rates, highest number of births to adolescents and other such criteria. These States are Alabama, District of Columbia, Illinois, Louisiana, Mississippi, North Carolina, South Carolina, West Virginia, Florida, South Dakota, Tennessee, Arkansas and Georgia.
- Child Health Care (0-12yrs)-- is required by over 45 million children from birth to adolescence. Emphasis will be given to preventive health services such as immunization, screening and counseling services, accident prevention, dental health, nutrition services, parenting education, habilitative services for children with handicaps and linkages with schools and other child care systems.
- Adolescent Health--services will be needed by nearly 30 million children aged 13-19 years. Attention will be directed to special problems of youth, including drug abuse, mental illness, pregnancies, venereal disease and preparation for parenthood. Improvement of provider capability to serve adolescents will be addressed through inservice education, guidance materials, etc.

The Child Health Strategy will assure development, extension, and improvement of child health care through all service delivery programs. It will provide a State-based, organized/integrated system with a focus for leadership and linkage of efforts and resources. It will extend and improve preventive health services/primary care, facilitate quality improvement and contribute to cost containment and conservation of human resources.

2. This preventive health care thrust is intended to result in a services focus on children, youth and mothers of child bearing age. It has long been recognized that early preventive health care for children can lead to the development of healthy, well integrated individuals who maintain positive long-term attitudes about health. An important first concern in ensuring at least adequate health status of the child is the health of the mother during pregnancy. Her failure to get appropriate prenatal care can result in the birth of children with retardation, deformities and other disabilities which will force them to suffer needlessly throughout their infancy, early youth and perhaps entire lifetime.

Besides the human aspects of such suffering, the economic, social and emotional costs of developmental disabilities on individual lives, families and communities are well known. e.g. In its March, 1976 Report, the President's Committee on Mental Retardation maintained that "the present number of severely and profoundly retarded persons is estimated at 300,000. They require total care at an annual average cost approaching \$18,000 each. If by the year 2000 prevention could cut the number of such persons in half, the annual savings would be \$2.7 billion. The savings in non-economic costs of emotional distress, family disruption and quality of life would be incalculable."

The social, economic, emotional and human aspects of the health and welfare of mothers and children make it apparent that emphasis on maternal and child health is a wise and absolutely necessary approach to public health.

B. Formal needs assessments of catchment areas are not performed even though required by regulation. Informal methods are used such as "observation" of health needs and discussions with knowledgeable people in the community.

1. What sort of monitoring of this requirement is/should be exercised by PHS?
2. What role is "needs assessment" expected to play in the delivery of health services and allocation of health services?

1. Formal needs assessments of catchment areas served by projects are performed on three levels. First, by law catchment areas must be located in Medically Underserved Areas (MUAs). These areas are only designated if serious medical underservice is indicated. The Department has constructed an index that combines a number of factors which expert opinion associated with medical underservice. These factors include:

- . Available health resources in relation to size of the area and its population, eg. physician/population ratio
- . Health indices for the population of the area, eg. infant mortality rate
- . Demographic factors affecting the populations need and demand for services, eg. % population over 65 years
- . Economic factors affecting the populations access to health services, eg. % population below poverty level

Data indicate that there are 45 million Americans residing in about 7,200 urban and rural areas which are characterized by these factors. Of these, 111 Standard Metropolitan Statistical Areas and 216 rural counties have been identified as areas of highest priority for action.

In urban areas, 111 Standard Metropolitan Statistical Areas (SMSA) have been identified as "high priority areas" based on the following criteria:

- o a minimum of 10 thousand persons to be served
- o a NUA
- o an area designated or designatable as a Critical Health Manpower Shortage Area (CHMSA)
- o a high infant mortality area
- o a high teenage fertility area

There are approximately 8 million people residing in these urban areas.

In rural America 216 "high priority" rural counties have been identified based on each county meeting at least three of the four following criteria:

- o a MUA
- o designated or designatable as a CHMSA
- o high infant mortality area
- o high migrant impact area

Approximately 3.7 million people reside in these rural areas.

In order to address unmet primary health care needs in MUAs, we expect to develop over 1,500 primary health care centers by 1983. These centers would serve over 13 million people.

Second, the precise boundaries of the catchment area to be served by the applicant are reviewed on an annual basis by knowledgeable, experienced Regional Office personnel who review the grant applications. In other words, the application must provide information to the effect that the catchment area meets the following criteria: (a) the size of the catchment area is such that the services to be provided are available and accessible to the people in the catchment area promptly and as appropriate (b) the boundaries of the catchment area conform to relevant political subdivisions, school districts, etc. (c) the boundaries of the catchment area eliminate, to the extent possible, barriers resulting from the area's physical characteristics, residential patterns, economic and social groupings, available transportation, etc.

Third, Health Systems Agencies review each application for funding under the Public Health Service Act. These Agencies review the applications in terms of the relationship of the health services being reviewed to the long range plans for the area and annual implementation plans. While this process can be reviewed and perhaps refined, we believe it is sound as a needs assessment resource allocation approach.

2. Large segments of the U.S. population are not receiving adequate health care, particularly in rural areas and deprived inner city areas. Health resources are maldistributed. While services are unavailable in some parts of the Nation there is duplication of services in other areas. Because of these and related problems it is necessary for health services and resources to be appropriately allocated so that the most effective and efficient delivery of services will be available and accessible to the maximum number in need. The "needs assessment" approach is designed to assure that these requirements are met.

- C. The Health Services Administration conducted a study on the effect of stepping up outreach and transportation services on utilization rates of centers and found that the provisions of such services had no demonstrable effects on increasing utilization by age.

1. Please highlight the major findings of the Study? What weight is being given to the findings?

1. (a) Summary of Findings

The major findings as stated in the study of the relationships of transportation and outreach services to health services accessibility are:

- o A number of case studies in which a single health care provider setting is used as the point of reference are included in the general literature. The majority of these studies indicate a positive impact of transportation and outreach services on utilization of ambulatory health care services. However, there are exceptions.
- o Those analytical studies in the general literature which attempted to quantify the impacts of either transportation services or outreach services on health services utilization found either a small (but positive) impact, no discernable impact, or (in one case) a negative impact on utilization.
- o The term "transportation services" as used in the CHC program actually includes a number of functions (messenger service, delivery service) besides the provision of transportation to patients. Given that this is so, the costs associated with the function do not appear to be highly excessive in the CHC program. The term "outreach services" includes a rather wide range of functions from health education, homemaker services, and casefinding to home health care, diagnostic screening, and public relations activities.
- o The contractor's impression is that the provision of outreach services in CHC's is costly, perhaps beyond the point of reasonableness, in view of the benefits derived. In fact, highly intensive outreach services may even be counterproductive as noted in one of the studies which we reviewed. Unfortunately, we were able to discover only minimum evidence to support this impression. Consequently, it is given here as mere speculation.
- o The contractors were unable to demonstrate a robust statistical relationship between resources devoted to transportation and outreach services in Comprehensive Health Centers, and utilization of health services.

- b. In the study conducted by GEOMET in 1977 it was concluded that the provision of transportation and outreach services did not result in increased utilization. However, we do not believe that this study constitutes a solid basis upon which to formulate a Bureau policy which addresses approaches to outreach and transportation services. The reasons are as follows:
1. As stated in the GEOMET study itself, the observations and conclusions reached were based on secondary data which was generated as a result of previous studies the major focus of which were not related to transportation and outreach services.
 2. Outreach services encompass a wide range of functions which are unrelated to actual patient utilization (health education, homemaker services, casefinding for home health care, diagnostic screening, community organization, environmental, social services) and the provision of transportation services is to make primary health services accessible to those in need. Yet the methodology used in this study focuses on the assumption that provision of outreach and transportation is designed to increase utilization.
 3. Some type of control or clearly defined distinction between urban versus rural centers is an essential element in assessing the effects of outreach and transportation services. The GEOMET study did not make this distinction.
 4. As noted in the summary of findings section of the study, GEOMET was unable to demonstrate a strong statistical relationship between resources devoted to transportation and outreach services in (Community) Health Centers, and utilization of health services.
 5. As also noted by GEOMET, their findings could not be stated with any degree of firm assurance, and that these findings more appropriately constitute a point of departure for further research than a device for developing funding or evaluative policy for transportation and outreach services.

While viewing the findings of the study to be nonconclusive, it is believed that an in-depth analysis of outreach and transportation services would clearly benefit this Bureau in determining the relative value of such services from the perspectives of funding support and clarification and specification of related guidelines.

- D. Centers claim that older persons require more and longer treatments: (a) it takes more time to get a medical history from an adult; (b) adult problems are more often multiple and therefore require longer diagnosis; and (c) since adult problems are more complex, treatment periods are longer or indefinite for chronic problems. Staff appear to reflect "societal attitudes" of lack of patience, interest, or "success" in treating older persons.

1. What kind of training or technical assistance is currently available or could be provided to overcome these proffered justifications for not serving older persons?
2. Should cost considerations, if valid, come into play in determining the target populations for service delivery?
3. In light of the Age Discrimination Act, can cost continue to be used as a valid justification? On what grounds?

1. There is little question that older patients, as a group, are seen more often (6.8 medical encounters per person per year) and that they tend to have multiple and often complex problems which require longer periods for diagnosis and treatment. To make judgements about attitudes of all the CHC staff members would require an extensive survey; however, the attitudes described, though unfortunate, are frequently found among health professionals.

The Bureau of Community Health Services is working to improve the quality of care provided through all of its projects. While program attention is directed to activities which benefit the elderly and help to maintain their health, high priority is given to primary health care, including preventive health services for children, youth and young adults. It is expected that such preventive services will help to reduce the numbers and kinds of health problems that future generations of aged persons will have.

We have recently expanded our focus on specific health problems which affect a significant proportion of elderly people. These include efforts directed to the screening, detection, diagnosis, prevention and referral for hypertension. BCHS has been given the responsibility of administering recently enacted legislation Section 314(d)(7)(B) of the PHS Act, which is concerned with identifying persons with hypertension and helping to assure that they establish and maintain a proper, medically supervised treatment program. Guidelines have been published for the development and operation of State hypertension programs; Regional personnel have been identified as focal points for assistance to the States; and as a means of enhancing the knowledge of State and Federal personnel involved in hypertension control programs, a conference was co-sponsored by the Bureau and the National Heart, Lung and Blood Institute. Regional, State and territorial health and Federal representatives exchanged information on planning and operating high blood pressure control programs and States discussed undertaking regionally operated hypertension control programs.

Earlier this year an Associate Bureau Director position was established for the purpose of coordinating BCHS programs with NIH and other health agencies, to expedite the dissemination of new knowledge and technology. This activity is designed to ensure that the highest quality of care is made available to the medically underserved population for which the Bureau has a responsibility. The focus, thus far, has been on such conditions as diabetes and glaucoma as well as hypertension. New guidance materials emphasizing preventive aspects will be developed and disseminated to BCHS projects in FY 1978.

Through a joint Bureau of Community Health Services and Bureau of Health Manpower effort to provide continuing education and educational linkages for all health providers in the many practice sites throughout the nation, National Health Service Corps (NHSC) personnel are provided medical information through a "Telephone Dial Access Library." Personnel may dial around-the-clock to find out current medical information which is useful in carrying out the delivery of health care services. Cardiovascular diseases, incontinence, dying patient and diabetes are but a few of the topics of particular concern in the treatment of older patients. In addition, NCSC medical personnel are provided a medical research and document photocopy service through a contract with the AMA. The personnel may request information relevant to clinical decision-making or practice management by querying the AMA Library where their requests are analyzed, articles retrieved and evaluated according to the information requested and photocopies of the selected materials are sent to the user.

Designed to offer medically desirable and often cost-saving alternatives to institutionalized care in hospitals and nursing homes, the BCHS Home Health program is specifically directed toward meeting the needs of the elderly and attempting to maintain older people in familiar surroundings. In 1977, 14 new and 42 expansion agencies were funded. In 1978, it is expected that an additional 70-90 developmental and expansion grants will be awarded. In addition, 22 Community Health Centers are currently certified as home health agencies by Medicare.

2. Cost considerations have to play a part in determining target populations for service delivery. With respect to the aged, many health problems which become prevalent in later years of life have frequently developed and become manifest far earlier in life. It is imperative that tendencies toward certain conditions be detected and treatment initiated at as young an age as possible. Such factors may need to be considered in determining the type and volume of expenditures for various age groups.

BCHS has initiated discussions with the Administration on Aging with a view toward furthering interrelationships between community health centers and projects supported by AOA and the various State agencies on aging. As these activities develop and evolve, additional support will be given to improving approaches to health care of the aged in BCHS projects.

3. Cost alone cannot be used as a valid justification in determining target populations. BCHS provides health services to the underserved or disadvantaged through the development and maintenance of primary health services delivery capacity in medically underserved urban and rural areas. In determining medical underservice, four factors are taken into consideration: (1) the proportion of aged people in the area; (2) the proportion of poor people; (3) the number of doctors in the area; and (4) the infant mortality rate. Use of the number of aged, as well as the poverty factor, focuses attention on the elderly. By directing attention to the establishment of health services in these areas the Bureau promotes a healthy aged population while making efficient use of health dollars.

Services to Targeted Populations: Children and the Elderly

The CMHC Act of 1975 requires that special attention be paid to the mental health needs of children and the elderly. While these groups have always received care at CMHCs, the specialized nature of their needs and the limited availability of appropriate services requires that CMHCs devote greater attention to these opposite ends of the age spectrum. For both children and the elderly, a full range of diagnostic, treatment, liaison and followup services must be provided. While special requirements for each group will be discussed separately, there are a number of factors which are common to the adequate delivery of services to both children and the elderly and these are presented below.

For children's services and services to the elderly, CMHCs should:

- a) identify a professional person on the staff, knowledgeable of each groups special needs, with responsibility and accountability for the development/implementation/coordination of programs on a full-time basis;
- b) identify additional administrative and clinical staff for the provision of services;
- c) identify and earmark financial resources in the CMHC budget; and
- d) ensure that governing and advisory boards will have adequate representation of persons who are knowledgeable of and advocates for programs for children and the elderly.

It should be stressed that community mental health services must be based on a mental health needs assessment of the catchment area population. Such assessment should include needs for indirect and preventive services as well as direct treatment services. A CMHC must be prepared to provide evidence of support for its programs for children and the elderly by accounting for the proportion of resources allocated to these age groups. If such resource allocation is less than the percentage of the age group in the catchment area population, the center may be requested to provide appropriate justification and supporting data. The intent behind such procedures is to ensure that centers devote a meaningful portion of their resources to addressing the needs of these age groups.

In addition to the factors noted above, services for children must include the full range of services made available through the center, appropriately geared to the needs of children at different stages of development. Thus, for example, a therapeutic nursery may be an appropriate means of providing day care for younger children.

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It is important that services to children be provided by skilled and knowledgeable persons. Staffing arrangements for children's services should include the following:

- a) professionals representing multiple disciplines who have clinical training and experience specifically related to child mental health;
- b) supervision of non-professional personnel by professionals with child expertise; and
- c) training and supervision of center staff without specific child mental health background regarding their work with children by those with child mental health background.

The center shall be expected to provide as many of its services as possible close to where the children live. However, in the case of highly specialized program elements, such as 24-hour care services and day treatment programs targeted to specific groups (such as multiply handicapped children), centers can, wherever level of demand and distances make it appropriate, combine efforts with centers in other catchment areas. Where children and their families cannot be appropriately served in base facilities of the center, arrangements shall be made for seeing them in other locales, for example, satellites and homes. There shall be a variety of treatment modalities made available for children. Facilities which house children's services shall be required to be geared to the needs of children and, where appropriate, to the participation of the family. It shall also be required that they be adapted to the needs of physically handicapped children.

Programs for the elderly must similarly address the full range of services made available through the center geared to the physical and emotional needs of the elderly. It is important that programs for the elderly be integrated within the center's program to avoid a sense of isolation.

In planning programs for the elderly, attention should be paid to the special problems of old age. Diagnostic services, for example, should include a physical health assessment, performed by a physician, in addition to relevant cognitive, emotional and social evaluations. Treatment services should stress accessibility, recognizing the difficulties some elderly persons may face trying to reach services. Accordingly, outreach services and home visits should be an integral part of any program of service to the elderly. Liaison services should focus on those resources and agencies which regularly deal with elderly populations so as to promote coordination and more ready access to other health and human services.

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Since for many elderly, opportunities for social contact are restricted, it is particularly important that followup services be carefully planned and implemented with the aim of maintaining therapeutic gains and reducing the impact of isolation.

III. National Health Planning and Resources Development Act

Q: What role will/should the health systems agencies play in developing appropriate alternative care delivery systems?

A: Planning is not an exact science, but there are some basic concepts which are useful. One is population based planning and its relationship to the needs of the elderly and children. Another concept central to health systems agency planning is the use of a systems perspective.

The systems perspective recognizes that there are various different ways to achieve a coordinated health care system. The Health Systems Plan guidelines issued by the Bureau of Health Planning and Resources Development strongly stress this concept, and they present a system-wide framework in which agencies can better determine alternative means of providing health care services and assess the impact of Plan goals and objectives on the health care system. The guidelines also stress the need to look at the existing health care system in terms of an entire range of health care services⁴² and settings in which they are provided, both to determine gaps in service delivery patterns, and alternative services and settings such as home health services, community health centers, and HMOs. Finally, all services and settings are to be analyzed in terms of cost, quality, accessibility, availability, acceptability, and continuity.

Through the use of these concepts we believe the plans developed by health systems agencies will play a key role in assessing the potential for and developing alternative health care delivery

systems. Widespread community participation is essential, of course, to developing alternatives and to determining their acceptability.

Q: What role will/should health systems agencies play in planning for older persons and children and ensuring that the needs of these groups are taken into account in the development and operation of center programs and other area health programs?

A: P.L. 93-641 provides that each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency.

In planning guidelines issued by the Bureau of Health Planning and Resources Development, the need for population based planning -- planning that begins with the health problems of a population, and devising ways to solve these problems -- is stressed. Population based planning seeks to answer such questions as -

- . Who is unhealthy? Why?
- . What groups are experiencing the most serious problems?
- . What services do the population need?
- . How should those services best be organized and coordinated?

The role of the health systems agencies is to develop a process by which the needs of people are cooperatively defined, which needs should have highest priority, and which strategies are most desirable to meet those needs. At either end of the age spectrum planning for adequate medical care is a priority -- for the young, the need is to prevent ill health in the long run; for the elderly, the need is to provide coordinated medical care to meet the increased needs experienced by that segment of the population.

-2-

Each agency is responsible for determining how to best meet these needs based on the capacity of the current health care systems, or planning to provide new services effectively and efficiently.

Each health systems agency has a governing body which is a critical element in this process. That governing body must have a consumer majority broadly representative of the community as well as physicians, nurses, hospital administrators, and other health professionals representing various provider groups and institutions in the area served by the agency.

Moreover, each health systems agency is responsible for ensuring that there is adequate community participation so that the differing age and other population groups affected by the agency's planning are taken into account.

LABOR

Reprinted from "U.S. News & World Report"

BIG FIGHT OVER RETIREMENT

Millions of people, young as well as old, will feel the impact of a legislative drive to outlaw mandatory retirement before age 70.

Businessmen and their employes soon may be adjusting themselves to this new circumstance: People cannot be forced to leave their jobs at age 65.

Despite a clear trend in many industries and occupations toward early retirement, Congress seems likely to pass legislation that would, in effect, outlaw mandatory retirement before age 70 for most workers. The House passed such a bill on September 23 by a 359-to-4 vote. Its version also prohibits forced retirement within the Federal Government at any age.

Edge of the wedge. Many legislators in Washington see the forthcoming law as the entering wedge toward abolishing compulsory retirement entirely in private industry. Says Representative Faul

Findley (Rep.) of Illinois: "Mandatory retirement will be outlawed. This bill is just a step toward that goal."

Even the first step, should it become law, will have an impact on employment practices of U.S. businesses and upon the lives of many workers:

- The size of the nation's work force will grow and so, in all likelihood, will unemployment.

- Pension plans that contain mandatory-retirement dates will need to be renegotiated by union and management representatives.

- The financial burden on the Social Security system will be eased a bit as some workers stay on the job longer.

- Younger people may have to wait longer for promotions because those ahead of them will not be moving out as fast.

- Some businesses may decide to fire marginal workers in mid-career rather than letting them stay on until age 70.

The long-term impact of the pending legislation is far from clear. Will corporations need to devise objective standards for deciding which older workers can no

longer perform their duties effectively? Will attitudes of people change as a result of the law, causing larger numbers of people to work beyond 65? Will executives be prone to stay on the job longer than those in subordinate positions do?

"We're about to make a major change in the structure of industry, and nobody is sure what will happen as a result," says one key Government official who is involved in Administration discussions of the proposed law. "You can construct completely opposite scenarios—that older workers will be helped or hurt, that the economy will benefit or suffer."

According to the Economic Unit of *U.S. News & World Report*, about 25 per cent of the nation's 81 million workers are subject to mandatory retirement at age 65 because of company rules. If of every 4 persons facing mandatory retirement in the next five years were to continue working past age 65, some 600,000 to 650,000 older workers would be added to the labor force—an average of about 125,000 per year.

The impact of these additional work-

WHAT CONGRESS IS HEARING ABOUT RETIREMENT

From testimony during hearings by the Select Committee on Aging of the House of Representatives—

AGAINST MANDATORY RETIREMENT

W. Averell Harriman, former Governor of New York, age 85. A man or woman should not be forced out of work at a given age unless they are not able to continue further. . . . While I was Governor, Johnson & Johnson shoe manufacturers did not have compulsory retirement. In fact, when men got older, they made work for them to do in order to keep them occupied. I was introduced to a man who was working at an old-fashioned bench, hand-sewing a special type of shoe.

I have never forgotten this, because this was a special shoe with a limited market [which] filled the needs of certain people. [It] was being provided by this old man, who was allowed to work as many hours as he wanted to, and he was able to have an interesting life, which he enjoyed very much, and also could contribute to our society.

Ruth Gordon, actress, age 80. Work is life, and life is work. I do not know what people do who are born rich, because I was not. I do not think they enjoy life as much as I do. Yesterday, I went out speaking; today, I am speaking, and Sunday, Canada wants me, and I am going up there. . . . Well, that is a lovely set of engagements, and where would I be without that? I would be dead. . . . I would not know how to fill my time if I did not work.

Thomas G. Corcoran, Washington lawyer, age 76. I can remember . . . that your Congress told my old boss, Franklin

Roosevelt, that you did not think it wise to require, by law, that a judge should retire from the Supreme Court at 70. Do you remember, my friends, what trouble we had with your Congress on Mr. Roosevelt's suggestion of that kind? I also remember that I was the secretary of Supreme Court Justice [Oliver Wendell] Holmes when he was 83, and he stayed on the bench in full possession of his faculties until he was 90.

Will Geer, actor, age 75. It is my belief that it is criminal, absolutely criminal, that old people should be put on a shelf and told they can no longer work when they want to work and they can. . . . The good Lord upstairs, the "Man upstairs," your genes, your ancestors, and your own life style determine how long you are going to keep on working and living. Retirement will come from all those forces together naturally, just as it does in mother nature.

Representative Mario Biaggi (Dem.), of New York, age 49. In addition to the human reasons supporting the abolishment of mandatory retirement, there are economic factors which indicate that a favorable cost-benefit ratio would be derived from it. As older workers are forced to retire, they tax an already strained Social Security system. Social Security benefits are financed by payroll taxes contributed by employes, employers, and the self-employed. Declining birth rates, coupled with increasing retirement rates, have resulted in fewer workers supporting the system. A few years ago, the ratio of workers to Social Security beneficiaries was 4 to 1; today, the ratio is 3.2 to 1; by the year 2030, the ratio will approach 2 to 1. The abolishment of manda-

AT AGE 65

ers on the nation's unemployment rate, other things being equal, would be to raise it slightly more than one tenth of a percentage point each year, or six tenths of a percentage point over five years, says a study by the Economic Unit. The unemployment rate is presently 7.1 per cent of the labor force.

If the age of forced retirement is raised to 70, no further growth of unemployment would be likely after five years, since by then a normal retirement cycle would have resumed.

On the other hand, the labor force has grown by 2.3 million persons in the last 12 months, and 2.9 million additional jobs were added to the economy. Proponents of ending age bias on the job cite such figures in arguing that the pending bill will not glut the labor market with many more workers than it can handle.

Some estimates of how the proposed law would affect the labor market suggest a large jump in unemployment. Sears, Roebuck & Company surveyed its own employees, then projected the findings to include the country's total labor force. The company discovered that one

third of its nonmanagement employees would work past age 65 if the firm's mandatory-retirement age were raised by law to 70.

Applying that same ratio to the entire economy, Sears predicted that the proposed law would raise unemployment by one half of 1 percentage point next year, and by 1 percentage point by 1982. Sears said that its own hiring of new workers would be reduced by 7 per cent, and that promotions below the management level in the company would decrease 8.3 per cent. The company gave its study wide distribution among Congressmen and Administration officials in a move to hold back enactment of the pending bill.

If later retirements prevented jobs from opening up, young workers would find their job opportunities stunted, some businessmen complain. "If legislation is passed to eliminate mandatory retirement, a slowdown in turnover within the work force, with increased unemployment, will follow automatically," says Arthur C. Prime, Jr., vice president of R. R. Donnelley & Sons. "And we know that the major impact of unemployment unfortunately falls on younger and minority workers."

But testimony in the House by corpo-

rate executives opposed to raising the mandatory-retirement age disclosed few fears that large numbers of workers would refuse to retire at 65. "Our experience," said George B. Morris of General Motors Corporation, "would indicate that a mandatory-retirement age is more or less academic. People are not staying that long. People are retiring earlier and earlier every year."

GM's retirement age for hourly paid workers is 68. But only 2 per cent of the workers last year—in a company employing 450,000 production workers—are waiting till age 68 to retire. The experience of other big corporations with pension plans permitting early retirement is similar.

Now over 65. Inland Steel Company, whose contract with the United Steelworkers of America bans forced retirement, notes that just 41 out of 18,243 production workers at its mill near Chicago are over age 65.

But for the minority of workers who relish the income or enjoyment of their jobs, retirement at any age seems absurd. Says William H. Hightower, Jr., board chairman of Thomaston Mills in Georgia: "I can tell you this: I'm in my 66th year, and I'm not about to retire—to hell with Social Security." Or, as 77-

tory retirement would alleviate this lopsided ratio and help insure continued retirement benefits.

FOR MANDATORY RETIREMENT

Gene F. Jankowski, executive vice president, CBS Broadcast Group, CBS, Inc., age 43. The retirement-at-65 policy is not ideal, but we believe its advantages outweigh the disadvantages. . . . Primarily, it eliminates unequal treatment stemming from individual judgments as to who should and who should not continue to work after a certain age. Employees know they are receiving treatment equal to other employees. It opens up promotional opportunities inside the company for younger people, assuring the company of fresh ideas in vital areas. It allows the employee to plan better for his or her own future, by completely removing any doubt as to the required age of retirement. It also provides the retirees with the freedom and income to pursue fulfilling goals in other areas while they are still young enough to do so. And it allows the company to plan far more efficiently for its future.

George A. Skoglund, executive vice president, Bank of America, age 59. I am sure you will understand my concern that to the extent elimination of mandatory retirement would increase the number of individuals age 65 and over in the work force, it may simply shift the tax burden from Social Security to unemployment and other social-welfare programs. . . . I am also concerned about the mandatory-retirement issue from the standpoint of the productivity of those employees who would elect to continue working beyond age 65. . . . Managers would be understandably reluctant to force out older employees whose productivity has

diminished, particularly in those jobs without objective performance standards.

H. J. Lartigue, Jr., manager of employe relations, Exxon Company, USA, age 44. Up to this time, we have not perceived a need, nor have we been asked by the unions that represent our employes, to provide employment beyond the . . . age of 65. . . . Experience indicates a strong employe preference for retirement well before age 65. . . . The issue of mandatory retirement appears to us in Exxon to be directly related to adequacy of retirement income rather than to a widespread desire to continue working at regular jobs beyond mandatory-retirement age.

It is our opinion that mandatory retirement at a specific age assures that all employes will be treated equally and minimizes disputes concerning retirements and therefore reduces ill will between employes and the company. It clearly signals a target time for employes to have planned their retirement emotionally, psychologically and financially.

George B. Morris, Jr., vice president, General Motors Corporation, age 60. There's one fundamental . . . aspect of having a fixed mandatory-retirement age, and that is the dignity of the individual. . . .

It's customary when people retire in General Motors to have a retirement party. There's reason for celebration. The man or woman has earned retirement, and they have a big, fun party. . . . You're not saying poor old Joe no longer has the mental or physical power so he's got to go. Everybody knows that [at GM] at age 68, people are going to be retired. There is no stigma attached to that, and we think that is an important psychological matter to maintain his or her own dignity.

(continued from preceding page)

year-old Representative Claude Pepper (Dem.), of Florida, says, "Some people dodder at 30, others at 80, and some pass through life without doddering at all."

Even so, many executives complain they will be hard-pressed to make a fair determination about whether employees who want to work past 65 are physically and mentally competent to do so.

Henry J. Lartigue, Jr., manager of employe relations for Exxon Company, USA, puts the problem this way: "If an individual said, 'I don't want to retire,' then the company would have to make a judgment that he was not able to work effectively. That would cause disputes and problems between the company and employes. It would cause grievances and more concerns and pose more potential discrimination than a policy that is uniform for all. It would disrupt the orderly system that has really worked and served our employes very well."

Removal of deadwood. For some companies, the answer may be to clear out deadwood amid the ranks of workers by dismissing, even before normal retirement age, those whose work is unsatisfactory. Out of fear that a worker will hang onto a job far past age 65, the boss might fire him or her at age 65 instead.

But some executives of companies with no mandatory-retirement age assert that they have encountered few management nightmares of that sort. "It seems that the older employe is among the first to realize when the job is suffering," says Gerald L. Maguire, of Bankers Life & Casualty Company. "If it looks like the person can do the job, we still hire people 55 or 70 years old—but it has to be on the basis of ability." Maguire's own boss, Chairman John D. MacArthur, is 80.

The new law could relieve financial pressure on the Social Security system. For several years, contributions to the system would be higher, and payouts to retirees lower, than presently planned, because people who otherwise would have begun receiving benefits at age 65 would continue working a while longer. The same holds true for private pension plans. Health-insurance costs of companies would be little affected, since at age 65 medicare assumes most of the cost of health-care payments once financed by employers.

As a political issue, mandatory retirement is a relative newcomer. When the Social Security Act took effect four decades ago, age 65 was set as the time of eligibility for full benefits—but retirement then or at any other age was never made mandatory. Forced retirement was written into many private pension plans begun after World War II.

For management, this was a tool for gracefully getting rid of older workers whose output had declined. For unions, few of whose blue-collar members wished to work past 65 anyway, it was an easy way to cope with unemployment among younger workers.

As years went by, the benefits of private pension plans were beefed up, and pensions were made available at earlier and earlier ages.

An auto worker, for example, now can retire at any age with a \$650-a-month pension after 30 years of work. In 1972, for the first time, a majority of all Social Security retirement checks went to early retirees.

In response to complaints that older workers of all ages were being unfairly treated in the business world, Congress in 1967 passed the Age Discrimination in Employment Act banning job-related bias against persons between the ages of 40 and 65. Most private employers of more than 20 persons are covered by that legislation, and so are all levels of government.

Efforts in Congress to raise or eliminate the age ceiling in the law began about four years ago. Each year, more and more lawmakers signed on as co-sponsors, until the number reached 115 in the House. Extensive hearings were held last March. Yet, few people thought the legislation would clear Congress any time soon.

When the bill came to the House floor for debate on September 13, the only dissenting voice was that of Representative John N. Erlenborn (Rep.), of Illinois. He urged that the effective date be made two years after enactment instead of six months afterward. "At least," he said, "we can have second thoughts about it before it takes effect."

"Tremendous pressure." Caught off guard, many business groups and corporations opposed to the bill concentrated their lobbying efforts on the Senate, where a vote has not been scheduled. "Business is putting a tremendous amount of pressure on now," said a staff member of the Senate Human Resources Committee. Joining the corporations in fighting the bill were many colleges and universities, which claimed that mandatory retirement is the only practical way of getting rid of tenured professors. The AFL-CIO, opposed to mandatory retirement but unhappy that the legislation would interfere with the negotiated pension plans now requiring it, took little part in the debate.

Few congressional sources give opponents much chance of stopping the bill from reaching President Carter's desk by some time next year, at the latest. And few observers doubt that the President will sign it.

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THE OLDEST MEMBERS OF THE HOUSE are W. R. Poage (Dem.) of Texas, born Dec. 23, 1899; Claude Pepper (Dem.) of Florida, born Sept. 8, 1900, and George Mahon (Dem.) of Texas, born Sept. 22, 1900, all of whom are 77. Eleven others are in their 70s. Twenty-three members are 65 through 69.	
ALL TOLD, 68 of the 635 members of Congress are 65 or older.	



END OF YOUTH CULTURE



Changes It Will Bring

Less crime, higher Social Security taxes, changes in jobs, foods, life styles—big adjustments are coming for business and people of all ages as part of the "graying of America," already under way.

The steady aging of America's population is bringing significant changes in the way people work, relax and raise families.

Citizens of all ages are feeling the results of this "graying of America." Effects range from grade-school closings and high

unemployment in certain age groups to a threat to the solvency of the Social Security system.

Even bigger changes, many of them beneficial, are expected in the years ahead.

Crime rates may decline. Many people, less burdened by the expenses of raising large families, will have more money to spend on themselves. Prevailing tastes may change in such diverse fields as music and fashion, long dominated by young people.

In many respects, say population experts, the trend is likely to bring an end to the "youth culture."

A look at U.S. Census figures, summarized in the charts on these pages, shows the scope of this process. Since 1970, the median age of the U.S. population has risen 1½ years to 29.4

COMING: A NEW AGE MIX...

Today More than half of Americans are under 30



In 2000 Middle-aged will outnumber the young



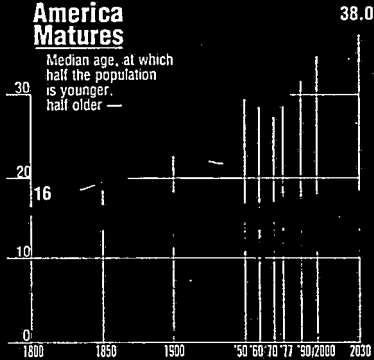
In 2030 Elderly will number nearly 1 in 5 Americans



...AND ITS IMPACT

How America Matures

Median age, at which half the population is younger, half older —



EFFECT of nation's graying will be felt in spending patterns, tastes, crime, medicine, taxes — across the board.

TREND — American median age has nearly doubled since 1800. It will double again by 2030 and will climb still



and is expected to continue climbing to an all-time high of 38 over the next 53 years.

This aging is due largely to historic childbearing cycles: a big drop during the Great Depression of the 1930s, followed by a "baby boom" after World War II and a "baby bust" that has driven birth rates sharply downward since the 1960s.

The result of these cycles is two age groups that are much bigger than the generations that surround

them. The older segment, born more than a decade before the depression, now is retiring by the millions. An even-larger postwar "boom" group of young adults is moving into an overcrowded job market.

In addition, a reduction in deaths from heart disease has boosted Americans' average life expectancy at birth by more than one year since 1972, to 77 years for women and 69.1 for men.

Emerging from these shifts is a series of economic and social changes that are likely to shape the lives of all Americans, young and old, for a long time to come.

For one thing, demographers say, a person's chances for success and happiness are going to depend to a greater extent on the year in which he or she was born. A relative

lack of competition for jobs and status is cited as one reason for the prosperity and social stability enjoyed by the small generation of "depression babies" who entered adulthood during the 1950s. Now, however, these middle-aged citizens are being followed by the teeming ranks of baby boomers, who are fighting for jobs and often settling for lower-level positions that are also needed by the next wave of job seekers.

As these "underemployed" workers pile up, more and more Americans will find career ladders blocked by a glut of senior employees, says Princeton University sociologist Charles F. Westoff. At that point, Westoff predicts, "our view of America as the land of opportunity is going to fade."

Such fundamental changes will have a big effect on the nation's political outlook, too, experts say. Because a growing number of Americans are moving into the more-settled age brackets, some analysts expect a trend toward conservatism. Others, however, predict growing pressure for a welfare state as workers frustrated by fierce competition and meager rewards demand economic security.

Shift in priorities. Philip M. Hauser, director of the Population Research Center at the University of Chicago, says: "What this all adds up to is that you're going to have a huge generation for whom the American system has not worked. As a result, the cry for free enterprise and for the rights of the individual increasingly is going to be overshadowed by the rights of the whole society."

Already shaping up is a conflict over the nation's Social Security and pension plans. As growing numbers of older Americans demand improved benefits, payments to retirees and their dependents or survivors have quadrupled in the last 10 years.

Unless taxes are raised to cover mounting deficits, as recently proposed by President Carter, analysts predict that the old-age portion of Social Security will go broke by 1983. All this is only a small part of the strains that will be felt when the baby-boom group starts retiring in about 40 years, demographers say. Within 50 years, 1 beneficiary will be drawing Social Security for every 2 workers paying into the system, instead of 1 for every 3, as it stands today.

If the source of revenue remains unchanged, this will drive the tax up nearly 150 per cent, until it eats up 27 per cent of the taxable payrolls instead of the 11 per cent that it consumes now.

Without drastic measures, medical costs will keep soaring, too, because the elderly get proportionately three times as much health care as younger citizens. Already, people 65 and over consume half of tax-supported health expenditures, although they total only one tenth of the population.

Who will pay these bills? Americans who are working, sociologists say.

Complicating the problem is the likelihood that attempts to trim benefits will run into more and more opposition as larger numbers of Americans move toward old age. Already, Congress is showing respect for the political heft of older people by advancing a bill that would levy additional billions in payroll taxes to shore up Social Security. Furthermore, under the rescue package approved by the Senate Finance Committee in mid-September, the annual amount that an elderly employe could earn without losing benefits would be doubled to \$8,000 over the next two years.

Also making its way through Congress is legislation that would outlaw mandatory retirement until age 70 and correct a flaw in the formula for computing cost-of-living increases in future Social Security benefits, thereby cutting the system's projected deficit by one half.

Another controversy spurred by the graying of America centers on State legislation legalizing the discontinuation of costly life-support measures for those who are judged hope-

ON SOCIAL SECURITY

1977



3.1

beneficiaries are supported by



10 workers

By 2030



5.2

beneficiaries will be



supported by
10 workers

IN PROSPECT: working people will have to pay 20 times more money in form of taxes to keep the system solvent

END OF YOUTH CULTURE

[continued from preceding page]

lessly ill. In mid-July, an internal memorandum suggesting that the Carter Administration might support such laws to cut health costs was attacked by a Roman Catholic official as "placing the lives of elderly and sick persons in a danger zone."

As such conflicts heat up, some sociologists warn that the U.S. could be headed toward a war between the ages that would make the generation gap of the 1960s seem tame.

Demographer Hauser says: "Now that the high expectations of these rising generations are starting to collide with reality, the stage is set for a lot of social strife. The frustration is going to be especially acute among the fast-growing minority groups, such as Hispanics and blacks."

Not all aspects of the so-called graying of America are grim, however. The incidence of crime and traffic accidents, for example, is expected to decline. That is because the next 15 years will bring a drop in the number of teen-agers and young adults, who are responsible for a disproportionate share of those tragedies.

In addition, having fewer dependent children will leave middle-aged wage earners with more per capita income to help care for the elderly or to spend on themselves. Since 1960, children and teen-agers have fallen from 39 per cent of the population to less than 34 per cent and are projected to drop below 27 per cent over the next 50 years.

As a result, the total proportion of people in the so-called dependent ages at both ends of the age spectrum will decline at least until the baby-boom generation starts retiring 40 years from now.

With fewer children to raise, women will continue to be drawn into the job market at a record pace. The readjustment, Government officials say, may add to unemployment problems. But the impact of this could be reduced substantially, according to economists, if employers continue to capitalize on the desire for part-time work, especially among mothers and older employees.

Fewer youth fads. The declining numbers of young people also are expected to reduce this nation's preoccupation with the concerns of youth. Many scholars believe that there will be fewer fads in such areas as dress and popular music, along with a decline in youth-oriented "junk food" and what critics call infantile programing on television.

Recreation, after years of emphasis on lively sports played mainly by young people, is considered likely to expand into more-sedate pursuits. Noted already is a revival in many areas of such leisurely pastimes as ship cruises and ballroom dancing.

Sociologists say that far more clout and sophistication can be expected from older people than in the past. One reason is that they are becoming less poor. In just five years, the number of senior citizens below the official poverty level has fallen from 25 to 15 per cent, compared with 12 per cent for the rest of the population.

Another big difference is the rapidly rising level of education. A generation ago, many people over age 65 were illiterate and only 1 out of 5 had a high-school diploma. Today, 1 in every 3 senior citizens is a high-school graduate, and the ratio is expected to climb to one half by 1990, with a growing number possessing college degrees.

Older people, who can count on decades of experience, also have learned to organize effectively, using their combined strength to present their concerns forcefully to politicians, bureaucrats and businessmen. One group, the American Association of Retired Persons, has a membership of more than 12 million.

Alex Comfort, a Stanford University gerontologist, re-



Changes in birth rate may have far-reaching effects on U.S.

marks: "Businessmen, like politicians, are going to have to start taking older people more seriously. They are going to find out that these people aren't going to be tied down by old-fashioned habits and 'product loyalties' any more."

Shift from apartments. One industry that is feeling the impact of this age shift is housing. The generation born in the baby boom, who once drove up the market for apartments, has reached an age at which many are clamoring for single-family homes, at unheard-of prices. Many inner cities, too, are benefiting from an influx of young, affluent and often childless urbanites setting up their own homes.

In the future, growing numbers of retirees are expected to boost migration to their favorite "sunbelt" States, from Florida to Arizona, where elderly populations have jumped as much as 45 per cent since 1970. The number of students will continue to dwindle as the generation born during the baby bust proceeds from the lower grades into high schools and colleges over the next five years.

Increasingly, these institutions, long the symbol of America's vitality as a young and growing nation, are being hit by problems that may afflict other youth-centered industries: budget cuts, layoffs of younger workers, aging staffs, flagging promotions and sagging morale. Still, at least a small upturn in enrollments is expected in the earliest grades by the mid-1980s, even if per-family birth rates fail to increase. The reason is that a record number of women are now entering their prime childbearing years, ages 20 to 34.

It is this large group of women, born during the postwar splurge, who will provide the answer to unresolved questions about the nation's population structure, demographers say. So far, these women have been telling census takers that they plan to have an average of 2.1 children, although they actually have been averaging only about 1.8.

Now some demographers see signs that those in the leading edge of this age group, approaching their 30s, may be catching up in their childbearing plans, which previously had been delayed in favor of careers. If this pattern continues, it could add many millions of younger Americans to the nation's population mix because so many potential mothers are involved.

Barring such developments, the U.S. has a chance to reach, perhaps in 40 years, a state of "zero population growth." In that situation, the number of births plus net immigration would equal the number of deaths, and there would be just as many people over age 50 as those under 15. Some experts believe that the total U.S. population would stabilize at about 250 million.

Concludes Professor Hauser: "There are all kinds of pitfalls in these enormous, glacial changes." But because he sees a danger of eventual overpopulation associated with younger, rapidly growing populations, he adds, "It's a journey we have to make, so I hope we can make the most of it."

The foregoing was reported and written by Associate Editor James Mann.

"START PLANNING EARLY" TO CUSHION THE HARDSHIPS OF AGE

Interview With Author Jane Otten

Help for the elderly is on the rise, but most families don't know how to get in on it. In this exclusive interview, an expert who has investigated the opportunities tells how to avoid poverty, isolation and dependence in old age.

Q. Mrs. Otten, what are the best ways to help aging people who can no longer take care of themselves?

A. There are lots of ways—more than most people imagine. The first thing to understand is that there are many sources available for anybody to use—including government and philanthropic agencies, volunteer organizations and church groups. Middle-class people, especially, aren't used to taking advantage of these aids, and often overlook them.

More and more of these benefits are designed to help elderly people live on their own rather than going into caretaking institutions or becoming an intolerable burden on their families. Help can range from cash aid to assistance with household chores.

Several national organizations, for example, can supply part-time housekeepers and home-health aides for elderly people's homes. These helpers are usually women, who will help frail people with everything from dressing and bathing to cooking and light housecleaning. In some communities, there's even an organization that will provide, for a fee, a high-school student to do chores such as grocery shopping and lawn mowing for the elderly.

Q. If aging parents are very frail or chronically ill, should they be encouraged to go into a nursing home?

A. Not necessarily. There is a small but growing number of day-care centers, for example, that accept elderly patients every morning and allow them to go home in the evening. These centers provide physical care, as well as social opportunities, to keep even debilitated patients out of institutions as long as possible.

Local units of the Visiting Nurses Association also will send nurses and home-health aides to an elderly person's home during the day.

Q. Do these services tend to be expensive?

A. Not nearly as much as full-time care. Some public programs are free, and many charge fees on a sliding scale based on the old person's ability to pay.

In some cases, elderly parents should be encouraged to cut their living expenses by applying for all the tax breaks and discounts that are

cropping up for people over 65. These can cut the cost of everything from property taxes and clothing to theater tickets and bus fares.

In fact, federal-income-tax breaks for the elderly are so numerous and complex that it's estimated half the people over 65 end up paying more than they should in income taxes. That's why the Internal Revenue Service and organizations of retired people have special pamphlets and staff trained to help the aged with tax matters and other common problems.

Q. Are there tax breaks for grown children who help support their parents?

A. Yes. If your parent's taxable income, not counting Social Security, is less than \$750 and you contribute more than half of his support, you can claim him as a dependent. That entitles you to a \$750 exemption plus possible deductions for any medical expenses paid out of your pocket. To meet the standard of paying half the support, grown children who are sharing the financial load can take turns annually to qualify for these tax benefits.

Q. What should a family do if, despite its best efforts, it still can't afford to support an aging parent?

A. There's an answer to that, although it's one that many middle-class families don't like, and that's medicare—the health-care plan for low-income people. The standards to qualify vary from State to State.

But children are not legally responsible for their parents' support. So if your parent has too many personal assets to qualify, he might consider giving some to other family members over a period of time and then applying for medicare.

Many older people are not going to look at this gladly, but it can make a lot of sense. The coverage for prolonged illnesses, either in a nursing home or at home, often is far greater under medicare than it is under private insurance plans or medicare, which provides health care for people 65 years old or more.

Help is also available in the form of food stamps and financial benefits that many elderly people are too proud to accept.

When parents are in need, families should do what senior citizens' groups are suggesting: accepting these benefits as rights they have earned through a lifetime of work and paying taxes, not just "welfare" or "charity."

Q. Is the problem of poor nutrition widespread among the aging?

A. It certainly is. Fortunately, you can usually find volunteer groups bringing "meals on wheels" or even "markets on wheels" that will bring nu-



CUSHIONING THE HARDSHIPS OF AGE

(Interview continued from preceding page)

tritious food right to an old person's door. For those who can get out, there is also a national nutrition program for the elderly that provides one solid meal a day at thousands of community centers. Meeting in these dining rooms also helps to break up the loneliness and isolation that afflict many aged people.

Q What agencies provide all these services for aging people, and how can you get in touch with them?

A Many are offered by religious organizations, but in most cases you don't have to belong to any denomination to take advantage of them. Others are run by government agencies, volunteer groups or as private businesses.

The best way to find out what's available is to look in the phone book for a listing such as "family-service agency" or "community-service society" or the local government's health or human-resources department, and ask them.

Each State has an office on aging, and there are well over 500 city and area agencies on aging throughout the country. In rural areas, the home economist at the U.S. Department of Agriculture's local extension service will usually be able to give you guidance, although there may be fewer services available.

If a parent needs a wide range of services, inquire about getting a social worker assigned to co-ordinate the help. The social worker can also visit your parent regularly to see how things are going, which is a big help especially if you don't live nearby.

In addition, organizations such as Friendly Visitors will call or drop in on an elderly person regularly to relieve loneliness and check on his or her condition.

FOR "THOSE WHO CHERISH INDEPENDENCE"—

Q What kinds of special residences are currently available for senior citizens?

A There are all kinds—from residential hotels to whole communities for living independently. If the older person can afford it, these can be excellent because they can provide a tailor-made mix of housekeeping, transportation, recreation and medical services.

Those who cherish their independence, for example, can start in so-called lifetime-care facilities, where they can live with a minimum of aid in their own apartment but can move into a nursing home in the same complex during periods of disability. Similar advantages, on a more modest scale, can sometimes be found in public-housing complexes for the elderly.

Q When is it a good idea to take aging parents into the home of an offspring?

A It's a good idea if the child and the parents both want that. Actually, only about 5 per cent of people over 65 are in institutions such as nursing homes. The rest are either living on their own or with members of their families.

Sometimes this is definitely the best way to take care of an aging parent. Usually it's the cheapest. Some families find great satisfaction and practical advantages in having two or three generations helping to care for each other under one roof.

But nobody should go into this without sitting the whole family down and carefully considering the possible effects. Some sick or frail parents are simply going to demand more attention than their offspring can provide. This is especially true if a couple has its own children to raise, or if husband and wife both have jobs.

Also, bringing a parent into your home can cause terrible emotional strains on both you and your parents—even if you

have only normal needs for independence and privacy. Particularly in the case of a severely ailing parent, the personal agony involved can create raging, destructive emotions on both sides that would not be aroused in a nursing home, where an atmosphere of professional detachment prevails.

If a doctor advises that a parent needs constant supervision because he is disoriented all the time or cannot take care of himself, then the protected environment of a nursing home probably is better both for the older person and the family.

CHECKING OUT A NURSING HOME—

Q How do you choose a good nursing home?

A There are lots of ways. Local health departments, for instance, often have geriatric nurses and social workers who have worked with the licensed homes in their area and are willing to sit down and discuss the advantages and drawbacks of each. Your parent's doctor can advise you. A friend or relative who has had dealings with a particular institution can also offer valuable advice.

After you have a place in mind, it's probably a good idea to drop in and see how the residents are being cared for at different times of the day. If it's possible, your parent should visit, too.

Following scandals about nursing-home care in New York City and elsewhere, there have been efforts to improve nursing homes, including more government money to help train their personnel. But there are still enormous variations in the kind and quality of services they provide.

Q What can be done if a seriously ill parent refuses to enter a nursing home or let anyone help straighten out his or her financial affairs?

A There are drastic legal measures, such as court decrees of "conservatorship," whereby elderly people can be judged incompetent to make their own decisions. But these are being used less and less because they run roughshod over the older person's most basic rights.

Q What steps can be taken by or for older people who don't have any immediate family to cushion the hardships of old age?

A Since there won't be anyone to help them in an emergency, these people should start planning early, while they are still in good health. Because these people aren't tied down by family obligations, they should think about where they want to live—whether it's in a warmer climate, in the country, or nearer to the public transit and cultural attractions of a big city.

And, like all older people, they should make sure they have enough to do when they retire. This can include college courses, a hobby or joining volunteer efforts manned by the elderly, such as the national Foster Grandparents program or the Retired Senior Volunteer Program. Studies show that those who are used to being independent are much better at coping with the psychological problems accompanying retirement and old age, perhaps because they are used to being alone more.

Q As older people become a larger part of the American population, they are demanding more and more attention from the rest of the nation. In your opinion, what is their greatest need?

A The main thing we have to realize is that when you grow old, your basic desires don't change. Even when you're sick, you still need a place of your own where you feel you belong.

For that reason, the country needs more services, such as those I have mentioned, that allow older people to live comfortably without entering an institution or becoming a burden on the younger generations.

Exhibit No. 33

PACIFIC/ASIAN COALITION • MID-ATLANTIC REGION

Testimony Presented to
The U.S. Commission on Civil Rights
National Hearing
on
Age Discrimination
Tuesday, September 27, 1977
Washington, D. C.

My name is Angie Cruz. I am a member of the National Board of the Pacific/Asian Coalition, the only national Asian and Pacific American organization in the country. I am also former Co-Chairperson of the Asian American Council of New York and the present Vice-Chairperson of the Philippine Americans for Community Action and Development.

The plight of our Asian and Pacific Island American elderly is one of the major concerns of the Pacific/Asian Coalition and of the other organizations to which I belong.

In its first estimate of the Asian and Pacific Island American elderly population based on the 1970 Census and Immigration and Naturalization Service figures--only made in the Spring of this year --the Administration on Aging's National Clearinghouse on Aging stated that, as of June 1975, there were about 250,000 Asian and Pacific Island American elderly. (Asian Americans include mainly: Chinese, Filipinos, Koreans, Japanese, Asian Indians, Pakistanis, and other South and East Asians; the Pacific Islanders include: Native Hawaiians, Guamanians, and Samoans.) These Asian and Pacific Island American elderly are 12% of the entire Asian and Pacific American population and 0.7% of the total elderly population. Of course, these figures do not reflect the gross Census undercounts and the Immigration figures of the last two Fiscal Years.

It has been said quite frequently that the Asian and Pacific Island Americans are the invisible minority, "the minority among the minorities." (Although for purposes of discrimination, they are extremely visible because of their very different physical appearance.) Add to this the disadvantage of being in the "aging minority" and the problems are compounded. I would like to discuss some of the major problems that play a tremendous role in the failure of social service delivery programs to help the Asian and Pacific Island American elderly.

A. Lack of Statistics:

Aside from Census and INS figures mentioned earlier, little else is known of the Asian and Pacific American elderly. In a recent survey conducted by the AoA-funded Pacific/Asian Elderly Research Project (PAERP) of 116 Area Agencies on Aging in 7 states (California, Colorado, Illinois, Massachusetts, New York, Hawaii, and Washington--states that include the largest concentrations of Asian and Pacific Americans) and Mariana Islands to determine whether Area Agencies on Aging have collected information on the Asian and Pacific American elderly, 45 (64%) of the 70 Area Agencies responding had no information at all. Of the remaining 25 that did have some information, the predominant type was 1970 Census data only. There was very little information on the other topics in the survey like needs assessment, baseline data, and service utilization--the very information that constitute precisely the data required to serve populations in need.

The first in a series of AoA-funded metropolitan studies published by the Gerontological Society, Senior Citizens in Great Cities: The Case of Chicago, does not include the plight of the Asian American elderly in that city, which conservatively number about 5,000. This was such an unfortunate omission, especially because the study had as one of its criteria to focus on groups about whom little is known. It is also unfortunate when we consider the fact that AoA is the principal Federal agency responsible for carrying out the Older Americans Act of 1965 whose declared primary aim is "to provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development or training project grants..."

B. Operational "positive" stereotypes:

It is a common and accepted misconception that Asian and Pacific Island American elderly have no problems, that they manage to be self-sufficient and cope with their own needs, that they do not want or need any assistance of any kind, and that the Asian and Pacific Island communities generally take care of their own. Contrary to this myth, the Asian American Concerns Session at the 1971 White House Conference on Aging reports: "A quick look at Asian American communities would verify that they do indeed have problems and the problems in many respects are more intense and complex than the problems of the general senior citizen population. When the Asian American aged suicide rate in certain areas is three times the national average, when 34% of Asian American aged who were studied have never had a medical or dental examination, it should be obvious that the problems facing Asian American aged are overwhelming to the point that it is impossible for Asian American aged to look only to their families for help."

C. Strong Immigrant Background:

According to the 1970 Census, two-thirds of the Asian American elderly are foreign-born. Most of them came to this country earlier in the century and personally experienced racial discrimination and economic exploitation deliberately cast into law, among the most blatant of which were: the Chinese Foreign Miners Tax from 1850 to 1870, the Chinese Exclusion Act of 1882, the Japanese Alien Land Law of 1913, the Filipino Exclusion Act of 1934, the incarceration of Japanese Americans in concentration camps in 1941. First-generation Asians in 1922 were denied citizenship, and anti-miscegenation statutes were passed in 1935, some persisting until the Supreme Court ruling of 1967 (*Loving vs. Virginia*).

a major segment of the Asian and Pacific American elderly. As Dr. Sharon Fujii, member of the Federal Council on the Aging and principal investigator of the AoA-funded PAERP said in her paper, Elderly Asian Americans: Obstacles to Full Participation in American Society, "Without exception, the denial of citizenship, the denial of the right to own property, the threat of deportation, the lengthy incarceration in the camps, and the numerous exclusion acts took a very heavy toll. Such legislation was clearly racist in nature and severely hampered the economic well-being of the elderly Asian Americans. Also, such legislation has contributed to a feeling of distrust and fear of government, helplessness and a sense of vulnerability and powerlessness, which has alienated elderly Asian Americans from the society at large (Owan, 1975:52). Many refuse or are reluctant to avail themselves of public social and health services. That they fail to take advantage of their entitlements to public services can be attributed to a general fear and distrust of government agencies, based on previous experiences rather than to the erroneous conviction that Asian Americans "take care of their own".

Just last night, at a forum sponsored by the National Democratic Forum on President Carter's Amnesty proposal, Raul Ysaguirre, Director of the National Council of La Raza and my fellow panelist in these hearings, made mention of the Filipino oldtimers in California as he expressed his fear about the non-deportable alien status in the Amnesty Proposal: "We have visions of the Filipinos who were admitted in this country as workers but could not go back to their own country, could not marry. In California, we see all these old men whose life is empty because they remained an underclass."

Many of these old-timers never became American citizens, resulting in their hesitancy to approach governmental agencies and in the mistaken assumption that public services and "entitlements" are only for citizens.

Let me cite the testimony of the late Larry Itliong, an oldtimer himself and a member of the first elected Board of the Pacific Asian Coalition. The testimony, prepared for the House Select Committee on the Aging a few months before Itliong's death, was never delivered due to his lack of funds to go to Washington, D.C. It is an indictment of the present society which has not made up for the wrongs of the past: "Bear in mind that in terms of my own community, the elderly are the Filipino pioneers who arrived in the first decades of this century because growers wanted cheap labor while exclusionary immigration laws against Asians were also prevalent and marriages between the farm laborers and white women were prohibited. There are still 500 of these Filipino oldtimers in my area of Delano alone. They range in age from 62 to 90 and some must continue to work part-time to make ends meet. These are the men who spent their lives bent over in the fields, who were prevented from raising families, and who for a long time hung on to the dream of the day when their fortunes would be won and they could sail back home across the Pacific. These are the men whose youthful dreams, for the most part, never came true."

As Betty Lee Sung, author of the DOL-funded report, Chinese American Manpower and Employment (1975), and member of the Census Advisory Committee on the Asian and Pacific American Population in the 1980 Census, pointed out in the paper she presented at the Smithsonian Institute Conference on New Immigrants in November 1976, more and more Asian American elderly are among the new immigrants coming to the U.S. in recent years.

Many young professional immigrants of the late 1960's have become citizens and have petitioned for their parents. The newly-arrived Asian elderly do not suffer the scars of those who grew old in this country, but their problems are as serious and as alarming.

According to Ms. Hanhi Yoon, a social worker active in the Korean American Community Development Association of New York City, such elderly parents among the Koreans have immigrated here recently never expecting to be mere baby-sitters for their grandchildren while both mother and father work. This serves as a cultural shock to them, having expected to remain at the head of their families as they were in Korea. I know for a fact that the same situation holds true in the Filipino community. Another Korean from Washington D.C., Dr. Jacob Kim, sounds the danger of the growing threat of alcoholism among the elderly as they turn to drink to escape loneliness and alienation.

Given the backgrounds of the present Asian and Pacific American elderly in this country, one can better understand why they are not inclined to fight for their rights or to avail themselves of the benefits that are specifically earmarked for them.

D. Uniqueness of Asian and Pacific Island Americans

According to Dr. Fujii, the Training Project for Asian Elderly funded by the AoA reported that "there is a strong sentiment that Asian American elderly do not receive social services because of language, racial and cultural barriers." Racial and cultural barriers include: cuisine, innate "shame" to ask for help, different ideas of leisure time activities. These problems are multiplied by the different ethnic groups within the main classification known as Asian American and Pacific Island Americans. Hence, the Chinese whose cuisine is very different from that of the Koreans or Filipinos would naturally prefer their own to be served in the Nutrition Centers to which they might go. This is the reason why an AoA-funded Asian American Nutrition Center in Seattle, contracted to a Japanese American organization, did not meet the dietary needs of the Chinese and Filipinos, and unexpected-

ly posed a quandary to the Area Agency in Seattle a few years ago.

Regarding "shame" or "hiya" as we say it in Tagalog, let me share with you an experience I had while working with the Filipino elderly in New York City. The Philippine Americans for Community Action and Development (PACAD) was trying to get a housing project for a group of Filipino elderly who lived near the docks and waterfront of South Brooklyn. The project was much needed in light of their sub-standard housing conditions. However, the project never got off the ground because the oldtimers claimed that their housing was good enough for them and that they did not need help from the government. To underline this, they provided snacks on the house whenever a group of us visited their meeting place and they even gave money to the little boy of a fellow PACAD member.

E, Lack of homogeneous neighborhood boundaries.

With the exception of the Chinatowns in many of the states, and the Manilatowns and Little Tokyo's in California and Hawaii, Asian and Pacific Island Americans are scattered throughout metropolitan areas. They may have cultural communities but these are usually not within the boundaries of homogeneous neighborhoods. For programs that are aimed for the biggest need of the biggest number of residents in a concentrated geographic area, this may mean that Asian and Pacific Island American needs will never be addressed.

The guidelines for the Nutrition Program, for example, state that grantees/contractors for nutrition projects must, among other things, (1) furnish a site in "as close proximity to the majority of eligible individuals' residences as feasible..." (2) "utilize methods of administration, including outreach, which will assure the maximum number of participants;" (3) "provide special menus, where feasible

and appropriate, to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic background of eligible individuals;" (4) "provide a setting conducive to expanding the nutrition project and to include, as part of such project, recreational activities, informational, health and welfare counseling and referral services, where such services are not otherwise available."

In view of these guidelines, one is inclined to wonder how many geographically defined communities will have enough numbers of Asian and Pacific Americans to trigger outreach from the responsible agencies to them, and have information and referral services, Nutrition Programs and recreational activities set up according to their needs.

F. Asian and Pacific Americans are usually left out.

1. There are very few agencies informing Asian and Pacific Island American elderly of their rights and the benefits that are available to them. This is true at the Federal, State, and local levels. As was shown earlier, few agencies collect data on Asian and Pacific Island Americans on the one hand, and very few agencies direct their outreach to this population, on the other hand. In New York City up to last year, for example, I know of no attempts made by the New York State or NYC Area Agencies on Aging to meet with or inform the Koreans and the Filipinos, or other smaller Asian and Pacific Island American groups regarding the services they provide. While the NYC Area Agency may have been in contact with the Japanese, no programs or projects had been funded for them.

2. There are very few professional Asian and Pacific Island American employees in the Federal Government. There seem to be fewer or none in agencies dealing with the aging.

As Dr. Fujii said in her statement prepared for the hearing con-

ducted by the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging in Los Angeles on August 23, 1977: "The experience of the Pacific/Asian Elderly Research Project to date also raises serious questions as to the participation of Pacific/Asians throughout the aging network. For example, there is only one Asian American in the AoA's central office." May I add that I have heard, from very reliable sources, that that lone Asian American may still be only a temporary employee. In any case, the employee came on board just this past Spring, after AoA continued for years without even a single Asian American among the 120 employees of its headquarters staff here in Washington, D.C.

Dr. Fujii continued: "There are, we believe, only 2 Asian Americans who occupy professional positions in AoA regional offices, one in Region X and one in Region V. We have not been able to ascertain the numbers of Pacific/Asians who are on state agency and area agency staff; however, we believe there are very few, if any." I would like to comment that Region II does not have an Asian American on its staff, although it includes NYC Chinatown, the biggest Chinatown in the country and although immigration patterns have been shifting with heavy increases of Asian newcomers coming to the East Coast.

3. Asian and Pacific American elderly are usually left out in the funding of grants and projects. Not only are they rarely notified about available funds, but they are also not provided with the necessary technical assistance to apply for them. Going back to the same 8-23-77 statement of Dr. Fujii: "Another serious need discovered by the PAERP is technical assistance for Pacific/Asian communities in such areas as program development, program evaluation, proposal writ-

ing, securing resources, and the execution of community based research."

The December 1976-January 1977 issue of Aging, AOA's own publication, reported that one of the three new priorities for Title III Model Projects, as added by the OAA Amendments in 1975, was intended to provide for the "special needs of low-income, minority, Indian, limited English-speaking, and rural elderly." Although Asian and Pacific Americans can come easily under all the priority categories, except Indian, not one of the 16 projects, funded in the FY 1975 and the transition period from July to October 1976, was designed for them.

4. Asian and Pacific Americans are usually the last to be invited to conferences dealing with their concerns, if they are invited at all:

a. At the 1971 White House Conference on the Aging, it was only after the militant effort of some concerned Asian Americans that a session on the Asian American elderly was finally included, and that addition was made barely a month before the Conference. As you are well aware, preliminary planning for the Conference had been going on for more than two years.

b. Apparently, this kind of omission is not an isolated incident; no Asian American was invited to the May, 1977 White House meeting convened by Ms. Rosalynn Carter to discuss the concerns of the aging.

c. Although these U.S. Commission on Civil Rights hearings have been going on since June (and it may be safely assumed that pre-planning was on the way much before then), efforts to contact our national organization were only made about two weeks ago, through the kind and persistent efforts of Ms. Laura Wilmot of Age Discrimination Study, U.S. Commission on Civil Rights.

Reading the Older Americans Act of 1965 as amended, one is led to believe that everything is designed to be nice and dandy for all our elderly, majority and minorities alike. The objectives declared are ideal, so are the provisions for the different Titles. However, ideals based on assumptions are never totally present in reality. Program implementation oftentimes fail to serve the needs of the Asian and Pacific Americans. Agencies responsible for programs fail to make outreach to their communities.

The Nutrition Program is ideal on paper, but as I have mentioned earlier, it does not substantially help the Asian and Pacific American elderly.

The Food Stamp Act that allows the elderly to use coupons to purchase meals in specified places is often geared to Western needs. Little provision is made to ensure utilization by the Asian and Pacific American elderly. Thus, a tragic irony results in that many of the old-time Asian Americans who tilled the fields and harvested the crops to place food on America's dining tables find themselves hungry in their declining years.

Medicaid is a program meant to alleviate the health problems of the elderly. Health centers are founded also for the same ends. However, recent studies point out that 34% of San Francisco Chinatown residents have never had any physical check-up and 50% of them never a dental or eye examination. A related question comes to mind: do these Medicaid programs and health centers allow for the ancient Oriental treatments and medicine that many of our Asian and Pacific American elderly grew up with.

Mental health centers are many, but they seem to be neglectful of our Asian and Pacific American elderly. We wonder how much assistance

such centers could have given to them to have avoided the tragic report in the March 30, 1977 issue of East West (a San Francisco weekly): "According to the San Francisco coroner's office, Chinatown has the highest rate of suicide for any one district in the city."

With regard to Title XX of the Social Security Administration grants, I again saw admirable goals; but when I read that one of the requirements is to take into account "the needs of all residents of, and all geographic areas in, the state", I began to worry if we will have enough Asian and Pacific American residents in any specific area to warrant the development of a plan for a services program.

We hear a lot about how Federal, State, and local agencies dealing with housing tirelessly labor to give decent housing to the elderly. However, two recent incidents indicate gross neglect and disregard of the Asian American community in these efforts.

1. The infamous scandal at the International House in San Francisco which made the national press is still fresh in our minds.

Not only was it callous to evict the long-time senior-citizen residents, made up mostly of Asian Americans, but the manner of eviction, at 3:00 in the morning with policemen in riot gear using brute force on the elderly, was most inhuman.

2. According to Robert Santos, Executive Director of the International District Improvement Association in Seattle, a less publicized, though equally shocking, incident happened in his area.

The findings of a HUD investigation of housing patterns in Seattle reported "segregated housing" in the case of the International Terrace Apartments, a complex with 100 units, 80% of which were occupied by Asian American elderly. These apartments were erected in the International District (formerly Chinatown) in 1974, under the HUD Turn Key

Project, and are now operated by the Seattle Housing Authority. Based on this finding, a recommendation was made that Federal monies be withheld until the complex is desegregated. The Seattle Housing Authority was mandated not to allow more than 35% of the apartment dwellers to be minorities.

The International District Alliance fought for the rights of the Asian American elderly and for exemption from the Compliance Agreement. They won, but not till after a tough fight all the way to Washington, DC.

At this juncture, I would like to repeat the statement of Ms. Victorina Peralta, Director of the Department of Public Welfare's Adult and Aging Services in Philadelphia: "The Asian elderly, like other minorities, need decent housing. Our hearts bleed and ache for our Asian American elderly--who are mostly less educated than we are, living in sub-standard inhuman rooming houses. We call attention to their need for better housing with provisions for proper bathroom and kitchen facilities."

RECOMMENDATIONS:

1. Asian and Pacific Island American elderly are getting short-changed by the way programs, intended to benefit all members of the public, are implemented. This situation persists despite the priorities for minority groups written into the legislation and regulations governing most Federal Programs for the elderly. Therefore, we recommend that a provision pertaining to Asian and Pacific Island American elderly, similar to that which safeguards the welfare of the Indian elderly(OAA of 1965, as Amended and Related Acts: p. 18, #3A, under the "Area Planning and Social Service Programs) be explicitly built into the OAA of 1965.

2. Since one of the major setbacks of the Asian and Pacific American elderly community in trying to get funds for programs is the lack of homogeneous neighborhoods such as the few Chinatowns, we recommend that the agencies concerned, on the Federal, State, and local levels, experiment with service delivery models for dispersed populations as our groups are, particularly the Filipinos, Indians, Japanese, and Koreans scattered throughout large metropolitan areas.

We request the appropriate agencies, on the Federal, State, and local levels, to assist us to focus on identifying and gaining funds for the logistics necessary in overcoming the distance factor preventing our elderly from getting to appropriate Centers or Area Agencies outside their own immediate communities.

3. We demand the employment of more Asian and Pacific Americans at all levels in the different agencies (Federal, State, and local) that deal with their concerns. This is a very real necessity, especially when we consider the uniqueness of the Asian and Pacific Americans, their different language and culture. Sam Yuen, Director of the Self Help for the Elderly Program in San Francisco, put it so aptly: "Services must be provided by Chinese in Chinatown or made accessible through the medium of Chinese workers as "go-betweens" who can speak the language, and be identified as members of the "Chinese family". The experience of Self Help for the Elderly has demonstrated that such workers do effectively overcome barriers and make services accessible to the elderly and newly-arrived Chinese." This is true not only for the Chinese, but also for the other Asian and Pacific Island Americans.

In the same light, we request that Asian and Pacific Americans be invited to participate in conferences, forums, hearings, and the like that deal with their concerns. Similarly, Asian and Pacific Americans should be invited to serve on Advisory Councils to agencies that vitally

affect their lives in this country. Only Asian and Pacific Americans can truly know, only Asian and Pacific Americans can genuinely feel the problems of Asian and Pacific Americans--and their insights may give more light on the best solutions to the problems. In this regard, I would like to call the attention of the Commission to the ethnic diversity in the Asian and Pacific American community for which provisions should definitely be made.

4. As expressed by a group of concerned Asian Americans in Seattle, Washington, headed by Martin Matsudaira, Executive Director of the Washington Commission on Asian American Affairs, in a testimony they submitted to the House Select Committee on the Aging, there is a "lack of publicity and outreach to the Asian community regarding new regulations, revisions, or services offered (i.e. temporary assistance to those applying for SSI not known by Asian elderly)." We recommend that greater and better outreach and follow-up be made to the Asian and Pacific American communities to inform them of their rights and entitlements. Where and when necessary, as in applications for grants; technical assistance should also be provided.

5. We strongly recommend that Asian and Pacific American elderly be included in any future studies of senior citizens in the different cities. We hope that the unfortunate omission of the Asian American elderly from the AoA-funded metropolitan studies, Senior Citizens in Great Cities: The Case of Chicago, which I have mentioned earlier, will never be repeated.

I would like to end my testimony by again quoting Larry Itliong, an Asian American elderly who came here as a fifteen-year old youngster, hoping to be a scholar but ending up as an exploited farm worker, who later led the first grapepickers' strike and was joined by Cesar Chavez

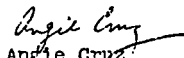
in the struggle, and who fought to his dying day for the rights of the Asian and Pacific American rural elderly:

"Our Asian American elderly have spent their lives toiling in the fields for American farmers and consumers. We know we have been good, hard workers. Those of us who have survived are now set to pasture, so to speak. We do not ask for charity. All we ask is that federal agencies, like the Administration on Aging help us document our needs. Then we can get government agencies and other organizations to provide the programs that are supposed to be for all the elderly, including us."...

Larry Itliong is no longer with us. But his words still ring in our ears. Can we look to you, Commissioner, and to the Commission on Civil Rights, to see that our elderly did not live and work in vain, that in their last days and weakest moments when they are most in need, they get the benefits that are justly due them?

Thank you for this opportunity to present our case before the Commission.

Submitted by:


Angie Cruz
National Board Member
Pacific/Asian Coalition

Page 8 Section B ☆☆
 Aug. 21, 1977
 S.F. Sunday Examiner & Chronicle

I-Hotel tenants count loses

By Raul Ramirez

Some of them are still shaken by the events of 17 days ago, when they were evicted from the International Hotel at 3 a.m. by sheriff's deputies under the glare of TV cameras and amid shouts, clubbings and shattering doors and windows.

Some resent their new surroundings, the old Stanford Hotel in the financial district, just a few blocks from where their former home awaits the wrecker's ball.

Some are just happy to still be together.

But most of the former International Hotel tenants — about 50 elderly men and women — echoed the words of Felix Ayson, a 73-year-old Filipino American, who said:

"There is no place like home. The International Hotel was my home. We are now here in the middle of the financial district. We are surrounded by the high-rises that we were opposing, so we feel we are under siege," he said, pointing at the towering steel and concrete office buildings that dwarf their new temporary home.

"For some of us, it's a little better than the I-Hotel, physically," Ayson said. "Some of the rooms are bigger. But it's not our home any more. We are guests in somebody else's home."

Ayson and others complained that the Stanford is far from grocery stores and from the small, inexpensive Chinese and Filipino restaurants where some of the tenants ate many of their meals.

This is a major hardship for the elderly residents, Ayson said.

"For now we remain happy because we are still together, rather than going to the places that the City offered," he said. "They tried to divide us in nine sections — they tried one more time to break us up, to divide us. They have failed again."



Former tenant Wahat Tompaio outside I-Hotel

Tenants voiced bitterness at the manner in which the eviction was carried out and have asked for restitution from the City for property damaged, lost or stolen during the eviction.

"They spent \$250,000 to train people to evict the poor people in the hotel and they don't even care where they put them — elderly people just dumped in the street at 3 o'clock in the morning," said Wahat Tompaio, a tenant leader. "My wrist watch was taken. My television was taken. My two good fishing poles, worth about \$200, were taken. I don't know why the sheriff's people had to take all that," Tompaio said.

Since their eviction in the pre-dawn hours of Aug. 4, the tenants have loaded their scant belongings aboard a green bus operated by the International Hotel Tenants Association and moved three times — twice to temporary donated housing in the Mission District and then to the Stanford Hotel last week.

As more rooms become available at the Stanford, other former I-Hotel tenants have moved in — 40 so far. Another 10, all elderly Chinese, have moved into apartments with friends and relatives in the Chinatown area.

Those at the Stanford will pay from \$65 to \$135 monthly for their rooms if they stay there past this month. Tenant leaders have urged city officials to pay for their first month's rent as a "relocation" aid, and City Hall sources have said this is likely to occur. At the I-Hotel, rents ranged from \$40 to \$60 monthly.

After surviving the shock of eviction, tenants and their supporters are trying again to save the 150-room International Hotel from demolition. The Four Seas Investment Corp., which owns the hotel, wants it torn down to make way for a commercial project.

The tenants have sought to at least delay demolition while they

try to rally support for a plan to acquire the hotel and keep it as city-owned, low-rent housing for the crowded Chinatown area.

At the Stanford, meanwhile, a "food committee" has been authorized by the hotel's management to cook meals for all of the I-Hotel refugees because there is no cooking allowed in the rooms.

The Stanford lobby, once quiet and desolate, is bustling with regular Stanford residents and their new neighbors.

"This place is alive now," said a long-time Stanford resident.

But most of the I-Hotel tenants would rather be elsewhere:

Yeung Chang Yip, 72, who for months has worn a "Yippie" button given him by a supporter, said: "Tell the people that what they have done is wrong. I want to leave this place. I want to go home."



United Press International

Mounted police ride into demonstrators who tried to prevent eviction of hotel tenants in San Francisco.

Police, Protesters Clash at Eviction In San Francisco

SAN FRANCISCO, Aug. 4 (UPI)—Hundreds of police, some on horseback, broke through a human barricade of 1,000 chanting demonstrators before dawn today to evict 45 elderly tenants from a rundown hotel.

One demonstrator was charged with resisting arrest and interfering with an officer. Five persons were treated at a hospital for minor injuries, and another dozen were treated by volunteer medics.

Officers smashed doors and windows to get inside the rooms. The tenants, mostly elderly Orientals, were escorted or carried out by officers. One was 93 years old.

The court-ordered eviction, made by 350 police and sheriff's deputies, was the climax of nine years of battling through the courts by the owners of the International Hotel at the edge of Chinatown to evict the residents and tear down the hotel. The tenants' effort to stay was turned down by the California Supreme Court.

Hundreds of officers in riot gear stormed the hotel several times during the 3½-hour operation, with 11 mounted patrolmen swinging clubs as they tried to break through.

They were repulsed four times by the demonstrators — locked arms in a line and four deep — who then stood aside to avoid further injuries. More demonstrators clogged the lobby and hallways and officers had to carry each one outside.

The owner of the building, Four Seas Investment Co. of Bangkok, plans to raze the hotel and develop the lot with three adjacent sites.

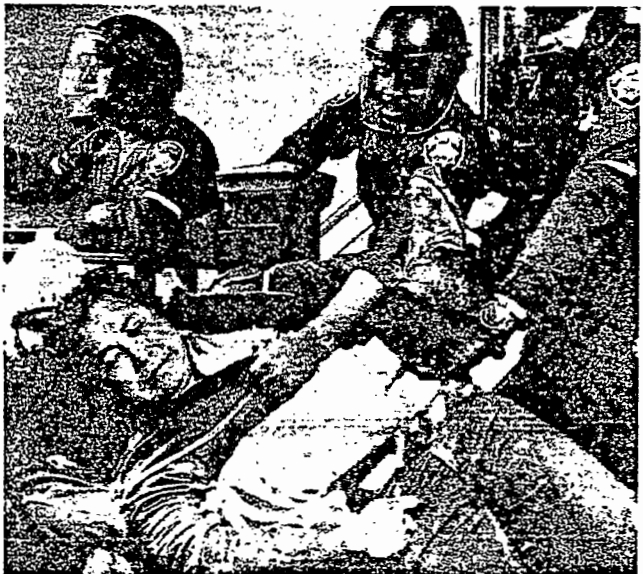
Sheriff Richard Hongisto, who spent five days in jail last spring for refusing to serve the eviction notice, personally directed the officers along with San Francisco Police Chief Charles Gahn. Hongisto wielded a hammer at one point to break open a door.

"It's certainly the most distasteful thing I've had to do since I've been in office," he said. "Some of the elderly poor I saw here were absolutely pathetic."

Hongisto said housing has been arranged for all tenants who want it.

THE WASHINGTON POST — Friday, August 5, 1977

A3



San Francisco sheriff's deputies remove Emil de Guzman, chairman of International Hotel Tenants Association, from hotel. Demonstrators tried to prevent eviction of elderly tenants from hotel. Story, Page A1.

San Francisco sheriff's deputies remove Emil de Guzman, chairman of International Hotel Tenants Association, from hotel. Demonstrators tried to prevent eviction of elderly tenants from hotel. Story, Page A1.

Associated Press

*Exhibit No. 34*SUMMARY: SURVEY OF STATE AND AREA AGENCIES
FOR DATA ON THE PACIFIC/ASIAN ELDERLY

One of the purposes of the Pacific/Asian Elderly Research Project (P/AERP), funded under Title IV-B of the Older Americans Act, is to systematically compile and analyze data pertaining to the delivery and utilization of social and health services by the Pacific/Asian elderly. In pursuit of this purpose, several specific research objectives have been implemented by the Project since its inception in September of 1976.

One of the Project's objectives is to compile more complete baseline data which describe the characteristics of the Pacific/Asian elderly in the United States. Thus far available census information and other statistical data on the Pacific/Asian elderly have been compiled and analyzed resulting in the preparation of Summary Fact Sheets on the Pacific/Asian Elderly, A Guide for Community Groups on How to Use Census Materials on the Pacific/Asian Elderly, and a detailed report of statistical data.

In addition, the Project has examined needs assessment and service utilization studies. As part of this activity, the Project surveyed 56 state agencies and 116 area agencies on aging in an effort to determine what other materials on the Pacific/Asian elderly are available, and to discover the extent to which these components of the Administration on Aging's network have gathered data on the needs of the Pacific/Asian elderly. According to the Administration on Aging, Title III regulations of the Older Americans Act, as amended, require state and area agencies to undertake or arrange for the regular collection of data on the needs of the elderly. These data must identify the location, special needs and living conditions of vulnerable or target groups, such as low-income and minority older persons, for the purpose of determining those individuals that will be given priority in the use of funds.

The findings from the Pacific/Asian Elderly Research Project's surveys of state and area agencies are summarized below.

STATE AGENCY SURVEY

The Pacific/Asian Elderly Project surveyed 56 state agencies in March of 1977 (see appendix for questionnaire). The purpose of the survey was to determine whether the state agencies have collected information on the Pacific Island and Asian American elderly (age 60 and over), and if they have what specific data have been gathered.

A total of 39 questionnaires were returned (see appendix for a listing by specific state agency). Only 15 of the responding state agencies had information on the Pacific/Asian elderly. Table 1 indicates what data are available by type.

Table 1

STATE AGENCY	CENSUS INFO.	NEEDS ASSESSMENT	BASELINE DATA	SERVICE UTILIZATION	DATA COLLECTION IN PROCESS
1. Alaska	x				
2. California	x				x
3. Colorado			x		
4. Connecticut	x				
5. Hawaii	x	x			x
6. Idaho	x				
7. Illinois			x		
8. Indiana	x				
9. Minnesota	x				
10. Mississippi	x		x		
11. New York	x				
12. North Dakota	x				x
13. Rhode Island	x				x
14. Trust Territory	x				
15. Washington	x	x		x	
Total	13	2	3		4

The state agencies were asked to identify any specific information on the Pacific/Asian elderly (e.g., reports, studies, etc.). On the whole, very few sources were identified. However, the following were noted:

1. Colorado - Final Research Report of Colorado State Survey of Minority Elderly, prepared by Interstate Research Associates, June 1974.
2. Hawaii - Survey of the Status and Needs of the Aging, prepared by Tom Way Wong Associates, 1974.
3. Illinois - Characteristics of Older Persons in Illinois, Vol. III; and Older Persons in Illinois.
4. Mississippi - State Needs Analysis of Population 60+.
5. Rhode Island - Minority Characteristics of Rhode Island's Elderly Population.
6. Washington - Special 1970 Census Tape 55+, 60+; Washington State Elderly by Selected Characteristics and Area; 1972 Washington State Needs Assessment; and 1976 Washington State Needs Assessment.

The agency for California which has largest numbers of Pacific Island and Asian American elderly apparently has no needs assessment, baseline or service utilization data.* It was noted, however, that the state agency is in the process of collecting information on the Pacific Asian elderly.

Although New York State does not have as many elderly Pacific/Asian residents as California, it does have a relatively large number (12,708 age 60 and over, according to 1970 census). The New York State agency similarly indicated that it has no specific data on its Pacific/Asian American elderly residents with the exception of 1970 census statistics.

In sum the information collected from the responding state agencies on aging attest to the general absence of basic information on the Pacific Island and Asian American elderly. It would seem appropriate for such data collection activities to be initiated, especially in states with reasonably large numbers of Pacific Island and Asian American elderly residents (i.e., California, Illinois, and New York). This should be to comply with the intent of Title III regulations of the Older Americans Act, as well as to aid in planning and providing services to the Pacific/Asian elderly who are frequently underserved.

*According to the 1970 census there were 53,193 elderly Asian Americans in California, age 60 and over. (See Fact Sheets on the Pacific/Asian Elderly. P/AERP, April 1977).

AREA AGENCY ON AGING SURVEY

The P/AERP also surveyed 116 area agencies on aging in March of 1977 (see appendix for questionnaire). Area agencies in the states of California, Colorado, Illinois, Massachusetts, New York, Hawaii, and Washington were surveyed. Additionally, a survey questionnaire was sent to the area agency in Saipan, Mariana Island.

Seventy (70) area agencies responded to the questionnaire (see appendix for listing). Of those responding 44 or 63 percent had no information on the Pacific/Asian elderly for their respective planning and service areas. Only twenty-five responding area agencies had any information on the Pacific/Asian elderly. Table 2 specifies the type of information which is available.

Table 2

AREA AGENCY*	CENSUS INFO.	NEEDS ASSESSMENT	BASELINE DATA	SERVICE UTILIZATION	DATA COLLECTION IN PROCESS
1. Sacramento, CA					x
2. Concord, CA	x				
3. Redwood City, CA	x				
4. San Jose, CA	x				
5. San Bernardino, CA	x				
6. Santa Ana, CA	x	x	x	x	x
7. San Diego, CA	x				
8. Los Angeles City, CA	x				x
9. Denver, CO	x				
10. Pueblo, CO	x				
11. Chicago, IL					x
12. Northampton, MA	x				
13. Mayville, NY	x				
14. Poughkeepsie, NY	x				
15. Elizabeth, NY	x				
16. Canandaiga, NY	x				
17. Hauppauge, NY	x				
18. New York, NY	x				
19. Lihue, HI	x	x		x	
20. Wailuku, HI	x	x			
21. Honolulu, HI	x	x			x
22. Vancouver, WA	x	x		x	
23. Bellingham, WA	x	x			
24. Spokane, WA	x			x	
25. Saipan, Mariana Islands	x			x	
*By location	23	6	1	5	5

Like the state agencies, most information on the Pacific/Asian elderly which the area agencies had on hand was limited to 1970 census figures. There were very few needs assessment, baseline and service utilization studies. Similarly, very few sources of specific information on the Pacific/Asian elderly were identified. Among the sources identified are the following:

1. Orange County Council on Aging, Inc. - Santa Ana, CA - Racial/Ethnic Composition of Population 60+ in Orange County; and Analysis of Needs of Older Persons, Resources and Deficiencies in Orange County.
2. Region III Office on Aging - Denver, CO - Area plan for Delivery of Services to the Aging, 1977-1978.
3. New York City Dept. for the Aging - New York, NY - Selected Demographic Characteristics of Elderly Asians and Pacific Island Americans in New York City.
4. Kauai County Office of Elderly Affairs - Lihue, HI - OEO Annual Reports; Housing Study; and Kauai Socio-economic Profile.
5. Hawaii County Office of Aging - Hilo, HI - Comprehensive Master Plan for the Elderly by Gordon Associates for Hawaii State Commission on Aging.
6. Southwest Washington Agency on Aging - Vancouver, WA - An Assessment of the Needs of the Elderly in Washington State.
7. Northwest Regional Council Area Agency on Aging - Bellingham, WA - Area Needs Assessment Survey, Office on Aging, DHEW.
8. Spokane Regional Agency on Aging - Spokane, WA - Minority Participation in SRAA Programs.

Regrettably, the findings support the general absence of basic information on the Pacific Island and Asian American elderly. Such information is essential for effective planning and delivery of services by the Administration on Aging's network.

Ms. Cruz also submitted a copy of a report of Abstracts of Selected Sources on the Pacific/Asian Elderly. This report is on file at the U. S. Commission on Civil Rights.

*Exhibit No. 35*NATIONAL HEARING ON AGE DISCRIMINATIONU. S. COMMISSION ON CIVIL RIGHTS

Washington, D. C.
September 27, 1977

STATEMENT ON AGE DISCRIMINATION CONCERNING AMERICAN INDIANS

by
Samuel Cagey
Chairman, Lummi Tribe
Member, National Tribal Chairmen's Assn.

My name is Samuel Cagey. I am a member of the Lummi Tribe of the State of Washington. I serve as the elected tribal chairman of my tribe and also am a member of the National Tribal Chairmen's Association. The Association represents elected chairmen of Indian tribes across the country.

I am here today to provide testimony on age discrimination of the American Indian in general and on age discrimination of the Indian aged in employment programs in particular, since the unemployment of Indians on the reservations for all able-bodied Indians is four times the national average and is certainly worse for elderly Indians.

I think Congress has passed some laws which should help the older Indians. Our problem comes from the negative decisions made by the Labor Department and the organizations which carry out the programs. So my comments will be directed toward those two groups.

First I want to give you some necessary background on the Indians I represent, then I want to refer to some legislation I have questions about, and then refer to the record of performance of the Department of Labor under Title IX of the Older Americans Act. I will finish up with some goals for action by the Department of Labor regarding elderly Indians.

Background

There are over 250 Indian tribes and groups whose citizens are under either the states or the federal/tribal jurisdiction.

It is currently estimated that the total national Indian population is about 1,000,000 which includes Indians, Aleuts, and Eskimos. About 15% are age 55 or older. I believe that most of the elderly Indians live on the Indian reservations because they prefer that lifestyle. The five most populated tribes are the Navajo, the Cherokee, the Sioux, the Chippewa, and the Pueblos.

My own state of Washington has about 35,000 Indians.

The Indian family

It is recorded history that the Indian family was a close knit, self-contained unit where the elderly had a position of respect and authority. The Indian culture, the language, the lifestyle and control over the youth was exercised by the elderly.

In recent times the incidence of divorce, school dropout, and other social problems have increased in direct proportion to the loss of involvement of the elderly.

In a number of research studies it has been documented that the involvement of the elderly has helped young people with the improvement of their self-image, improvement of school work, and reduction of youth problems.

Indian elderly are a work society — they have always worked — first with putting food on the table, with shelter and with training and controlling the youth as well as counselling and advising the young and middle-aged parents and leaders.

The influence and contribution of the elderly to the Indian lifestyle is once again needed to turn around the problems which have been introduced by alcohol, drugs, and extended poverty.

The specific way this can be done is through increased employment of the elderly Indians on the reservations.

Legislative authority

I think a point can be made by looking at the Older Americans Act of 1965, as amended. Section 901 of Title IX authorizes the Secretary of Labor to enter into agreement with national organizations, states . . . as well as Indian tribal organizations . . . in order to foster and promote useful part-time . . . employment for low-income elderly who have poor employment prospects.

This is why I earlier said the problem is not in the legislation, but with those who administer the Act.

The record.

Even though Indians as tribal organizations have no problem meeting the criteria set forth in the Older Americans Act as amended, a look at what the Labor Department has not done for the Indians will point up the problem.

Indian leaders have taken a look at the performance of the Labor Department in funding national organizations, state, and tribal organizations. All of which are eligible under Title IX.

Indian leaders have observed the following:

- A. National organizations — and there are five national contracts under Title IX — have let no subcontracts to Indian tribes , even though tribes are eligible and the Act provides it.
The number of Indian enrollees who are employed under the national organizations comes to a total of 13 Indians since 1965.
- B. State programs under Title IX have no subcontracts to Indian tribes and no record of Indian enrollees.
- C. The Department of Labor has awarded no national contracts to national Indian organizations such as the National Tribal Chairmen's Association, which is eligible and which applied to become a prime sponsor earlier this year. This

practice has gone on since 1965 even though in 1977 the Labor Department had an increase of Title IX funds from \$55 million to \$115 million.

- D. The Lummi tribe of Washington and the Lac Courte Oreilles tribe of Wisconsin have been turned down for a subcontract from the National Council of Senior Citizens this year even though that organization received an increase of funds from \$12 million to 27 million and has never funded an Indian tribe since its beginning in 1968.

This lack of responsiveness is baffling and unacceptable.

The pattern is clear.

Individual Indians systematically have not been included in enrollment in local programs.

Second, my own tribe and the Lac Courte Oreilles tribe of Wisconsin have been refused subcontracts. It has been reported to me that an official of the National Council of Senior Citizens — one of the national organizations funded by the Labor Department to carry out the Senior Community Employment Service program — has said, "Yes, the Indian organizations are mentioned in the Act, but we don't have to fund them."

Third, the National Tribal Chairmen's Association, representing over 190 federally-recognized Indian tribes, has not been selected by the Labor Department as a prime sponsor for the Senior Community Employment Service program even though the Older Americans Act as amended clearly states that such organizations are eligible.

Other Practices

Indian leadership has also learned of the following unfair practices:

1. That one national sponsor had reported to a senator's office that an Indian project with 65 slots had been funded in the state of Washington. It was found that the local sponsor was not a tribal organization and that only four enrollees were Indians, and that two of those left the program.
2. That one national sponsor had instructed its local sub-contract project sponsor to record Spanish-speaking enrollees as Indian enrollees to improve enrollee statistics on Indians.
3. That in one local sub-contract project, a person from India had been counted as an American Indian to show participation from the Indian community.

Corrective measures

The Indian leadership finds these practices to be arbitrary and discriminatory to Indians.

To correct this pattern of neglect, the the Indian leadership proposes that the Department of Labor take the following corrective measures:

- A. Have funding effected for the Lummi Tribe of Washington and the Lac Courte Oreilles Tribe of Wisconsin.
- B. Provide funding for a national prime sponsor contract under Title IX from the expanded funding to the National Tribal Chairmen's Association, which has a membership ov over 190 federally-recognized Indian tribes.

Indian people have always felt that the American society can allow many different cultures to flourish in harmony. For that to happen, there must be the opportunity for choice. Our choice, under Title IX of the Older Americans Act, is to be able to participate through the National Tribal Chairmen's Association as a prime sponsor for all Indian tribes, rather than through other organizations which are not knowledgeable of, sympathetic to, or forthcoming on the needs of American Indian elderly.

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Exhibit No. 36

Proceedings of the Symposium
on Chicanos and Welfare

This publication was submitted for the record by Raoul Yzaguirre, Director, National Council of La Raza, and is on file at the U. S. Commission on Civil Rights.

B CC


NATIONAL ASSOCIATION OF THE DEAF

 301-587-1788
 814 THAYER AVENUE
 SILVER SPRING, MARYLAND 20910

Reply to:

 Mervin D. Garretson, President
 3509 Kayson St., Silver Spring, Md. 20906

October 14, 1977

 Ms. Barbara N. Copeland
 Community Services Administration
 Office of Human Rights
 1200 19th Street, N.W.
 Room B-408
 Washington, D.C. 20036

Dear Ms. Copeland:

Subject: Remarks on the age discrimination study, U.S. Commission on Civil Rights, September 27, 1977.

If you will recall, I represented the National Association of the Deaf at the above mentioned hearing and you requested a copy of my notes. Unfortunately I had just prepared some pencil jottings which I left with the examiner at the State Department. However, I have finally gotten around to checking up on the data and will try to share with you as nearly as I can recollect what was reported through the interpreter that day.

Under a contract with the Department of Health, Education and Welfare, from 1970-1973 the National Association of the Deaf did a comprehensive census count of the deaf population of this country. Project director was Jerry Schein; coordinator of survey research, Marcus T. Delk, Jr. Both men are now with the Deafness Research and Training Center of New York University. As a result of this study our organization published a book in 1974, The Deaf Population of the United States, Schein and Delk, 336 pp.

The count shows 13,362,842 hearing-impaired persons in this country, or 6,603 people per 100,000 population (6.6%). By the term hearing-impaired we mean both profound deafness and hard-of-hearing. Of this group 1,767,046 persons have significant bilateral loss (873 per 100,000 people).

A 1971 National Health Survey gives the following rates per 100,000 for age groups with significant hearing loss:

<u>Age group</u>	<u>Rates per 100,000</u>
Under 6	262
6 to 16	852
17 to 24	862
25 to 44	1,356
45 to 64	4,478
65 and over	17,368

Ms. Barbara N. Copeland
October 14, 1977
Page 2.

Several quick observations are possible: 1) Incidence of hearing loss increases with age, particularly after age 45; 2) The 45-79 group is 7 times that of the entire severely deaf group below age 45, and 3) 17 times that of the 25-44 age group alone.

The biggest problem (and handicap) of deafness at any age is the communication factor. The fact that a sign language interpreter was at the hearing should make this obvious. Older deaf persons placed in homes or nursing units for the aged are particularly isolated because they are left out of all conversation, unable to enjoy television or radio, or use an ordinary telephone.

That is why the deaf community has established homes for the aged in a number of cities, New York City, Columbus, Ohio, Philadelphia, Detroit, and in California and Florida. Frequently operated by deaf administrators (or a hearing person skilled at sign language), these homes provide a place for human interaction and eliminate the stark loneliness experienced in ordinary homes for the aged.

We are also able to equip the phones with special teletypewriter units, and later on when hidden captioning becomes a reality, they will be able to enjoy television by utilizing the Line 21 portion of the TV screen. Included in the better homes are Braille adaptations for the deaf-blind, closed circuit television, special doorbell and emergency signal systems, and stress on visually pleasing structural architecture.

I am enclosing a number of items which may be of interest to you.

Sincerely,



Mervin D. Garretson
President

MDG:bk

Enclosures

P.O. Box 5
 Elwyn, Pa. 19063
 24 September 1977

Mr. Mervin Garretson
 Gallaudet College
 Fla. Ave & 7th St. NE
 Washington, D.C. 20002

Dear Mr. Garretson:

It was a pleasure to talk with you at the Workshop this past week in Ocean City, Md. As you requested I am submitting a few of the observations we discussed. They came about during my work as Director of the George W. Nevil Home for the Aged and Infirm Deaf and Deaf-Blind, usually known as simply the Nevil Home.

1. The fact that there are only five facilities for the aged deaf only is, perhaps, considering that there are thousands of deaf people over the age of 65 a frightening thing for a deaf person to consider. In my personal investigations in the Philadelphia area, I find that the majority of the nursing homes and residential facilities which offer less intensive care admit to having one to 6 deaf people in the home. In only one home was I told there were no deaf people.

As far as I could determine, approximately three fourths of these people were deaf before the age of 45, the balance apparently became deaf or hard of hearing as a result of increasing age.

There were never any special arrangements made for the hearing impaired residents. Most of those who became hearing impaired after the age of 45 were involved socially, but those who had been hearing impaired before that time were thought of as "queer" or "dumb" because all they did was sit around.

2. From what I have been able to find out, it appears that every one of the Homes for the deaf are full to capacity and have a long waiting list. Because of the low income of the deaf population most of them charge considerably less than a similar facility in the area for hearing people, but in many cases the deaf person needs more financial assistance because even with social security or supplemental security income there is not enough money to meet the requirements. In some facilities the sponsoring group or facility makes up the difference, in others it doesn't work that way and there is no way a deaf person can afford to go there.

3. In over 90 percent of the cases the hearing impaired individual when asked said that they would much prefer to be in a home where the residents are also hearing impaired and the staff could use total communication. It also surprised me to find that among the people who did not know the sign language there was a large majority who said that they would be happy to learn signs in order to be able to communicate better with the staff and residents of such a home if they could be placed in such a home. They feel they would have a better social life than they enjoyed in the present facility.

4. Many people who would like to enter one of the present facilities do not apply because they know that they have long waiting lists and that

-2-

it would be several years before they could enter. Here at the Nevil Home we accepted a man a short time ago who had been on the waiting list for approximately six years. What is needed are homes which are large enough to require a wait not exceeding one year. In most cases the deaf people do not know how to make arrangements some years in advance, some figure they won't live that long so why worry, some feel that their families will continue to take care of them, etc.. As a result, when they need the services, they are not available.

5. My personal feeling is that the following ideas might bring us a bit closer to better services:

a) Each state, in the North East at least with its large deaf population, should have its own home for the aged deaf. This home should be made up of three parts: an apartment building for those who are self sufficient with the rent being paid by the occupant. An intermediate home (like the Nevil Home) where the residents would have their meals prepared and served, laundry and cleaning work done for them. And, finally, a nursing home situation with full medical care. Each area should be paid for as much as possible by the individual, but some form of financial aid will be necessary in many cases.

b) A competent staff of both deaf and hearing people, all required to have total communication ability. This would include recreation personnel, nursing and other medical personnel, supervisors and counselors. They should be able to obtain the part time services of a social worker, psychologist and/or psychiatrist and such other specialists as may from time to time be necessary. My personal observation here at the Nevil Home is that there is a real need for a mental health program for the aged deaf and the personnel must be able to communicate with the residents without relying on an interpreter.

I hope you will forgive my long winded blabbing, but I feel very strongly about this subject. There is no doubt but that we are going to have more and more aged deaf, just as there will be an increasing number of senior citizens in the U.S. for the next few generations. The deaf people need to be considered because of their special needs which are not being met when they are scattered in homes all over the nation and are pushed into dark corners to brood the rest of their lives away because they can't communicate as well as other people can.

If there is any way I can be of help in a campaign, planning or what have you way, please believe that I will be happy to do all I can.

Sincerely,



Robert V. Nagel, Director
George W. Nevil Home

NATIONAL ASSOCIATION of the DEAF

Mervin D. Garretson, President

Charles C. Estes, Secretary-Treasurer

Frederick C. Schreiber, Executive Secretary

Civil Rights: Implications and Movements

In signing the Reorganization Act of 1977 in April, President Carter indicated that high priority would be placed on a review of civil rights laws. One immediate outcome was designation of a Civil Rights Task Force which has been requesting input and recommendations from various groups and individuals.

Initial focus was directed toward enforcement of equal employment laws. According to Howard A. Gluckstein, task force director, the present program appears to be "fragmented, duplicative and lacking in consistent standards with a coherent plan of enforcement." This explains why many of us have been questioning the ability of the government to move quickly and decisively to enforce current laws such as Sections 503/504 of the Rehabilitation Act of 1973, P.L. 94-142 and others which prohibit employment discrimination against handicapped persons. The Office for Civil Rights itself is hardly a model in this respect. As far as I know, OCR does not have a single deaf employee among its national and regional staff members, nor does it maintain a regular interpreter, nor a telephone communication device for deaf Americans who like other citizens may wish to register a complaint or ask questions by phone.

On August 1, 1977, representatives of various organizations for the handicapped were invited to a briefing at the Department of Health, Education and Welfare on implementation plans of the Office for Civil Rights. Although as the NAD representative I was assured that an interpreter would be present, this never materialized. For the first 15 or 20 minutes I was by far the most handicapped individual in the room as the blind, the paraplegics, parent advocates and others exchanged greetings, views and comments with OCR staff members. I find such a situation highly disturbing. It does strange things to one's sense of orientation and self-concept, accentuating as it does a feeling of exclusion and non-participation. In fairness to the OCR, arrangements had been made for an interpreter who apparently did not want to walk through the rain from another building. As it chanced, Jan Jacobl was representing Executive Director Frank Bowe of the ACCD. Finding herself the only person fluent with signs, she abandoned her notetaking and began to interpret as the session got officially underway. If Jan had not been present, I would have had to walk out of a civil rights meeting which could have excluded the 13,000,000 deaf people of this country.

More individuals in Federal and other agencies need to be sensitized to the severe communication handicap of deaf persons and of the crucial importance of ensuring a qualified interpreter at all times with preferably a backup alternative. Certainly, with its huge secretarial staff the OCR is in a position to arrange training for a couple of clerk-typists or secretaries to serve as part-time interpreters, available when needed. For that matter, I believe that every floor of the various buildings of the Department of Health, Education and Welfare should have at least one individual who is able to interpret whenever a deaf person needs such assistance.

Thanks to Jan we did receive information from Director David Tittel and his staff about OCR reorganization plans, FY 1978 budget operations, attempts to fill vacancies in regional offices, status of the enforcement plan and public affairs activities. Reorganization was to have been completed by September 1, 1977. Copies of the 1979 annual operation plan and budget are to be mailed to organizational representatives for review and reaction. OCR reported a backlog of over 3,000 complaints awaiting response and action. Deployment of staff is set at 55 percent for complaints and 45 percent in compliance review. Mention was made that some 38,000 institutions and agencies receiving Federal monies had

President's Message

—Mervin D. Garretson



been sent letters and forms for Section 504 compliance and as of August 1, OCR had received 19,000 completed documents. All new grant applicants will be required to sign Form 641 (signifying compliance with Section 504) at the time of application.

The deaf community is in full accord with placing priority on equal employment laws. However, in addition to employment we continue to be concerned over such areas as television, telephone devices and rates, interpreter accessibility and other communication-related barriers, continuing insurance difficulties and in educational matters. Granted the impossibility of sharing a comprehensive listing in this space, we will try to highlight some current happenings and problem spots as they relate to overall civil rights for deaf people.

Employment/Underemployment. Competition for appropriate and gainful employment at all levels of the job market continues to be intense. However, with the advent of new Federal legislation the inroads of automation may be somewhat equalized. As most of us know, the problems of employment for the deaf involve a great deal more than just finding a job. Once accessibility has been overcome we face the additional problem of job mobility within the corporate operation. Underemployment (promotions), restrictions in task assignment, departmental selectivity in placement and other forms of discrimination continue to be pervasive.

Through the years the Federal government with its intricate network of agencies and branches has developed into the biggest employer of deaf persons. The Government Printing Office (GPO) has long been receptive to deaf applicants from the printing crafts, and, indeed continues to maintain a large contingent of deaf journeyman printers. However, once a deaf person is hired, he faces the situation of remaining practically forever where he is. That is to say that on the outside, in terms of accessibility, the GPO retains a very positive image, but on the inside, underemployment, lack of task mobility and other form of discrimination have persisted. Year after year veteran deaf printers have helped to train and have shared their expertise with newcomers only to see them move ahead to supervisory or other positions among the variety of work situations at the GPO. The deaf element is more or less restricted to certain types of work and is discouraged from attempts to move up or to transfer to another department. Vague allusions are made to their deafness, to the telephone or some other excuse is given. As far as we know there has been no attempt to make reasonable accommodation described in Section 504. While Sections 503-504 do not apply to Federal agencies and operations as such, it would appear inequitable if the government does not at least make a real effort to incorporate its own regulations for grant recipients and others doing business with the Federal government.

In no way are we pinpointing the GPO as an isolated case of "inside" employment discrimination. Like the monolithic Federal printing operation, other branches of the government have had more or less an "open door" approach toward employment of deaf persons, as have a number of corporations in the private industry sector such as Samsontite Luggage, Goodyear, Firestone, Lockheed, Boeing and other aircraft companies, General Motors, Ford and other automobile makers, some of the manufacturing and service-oriented industries. Generally the positive aspects are at the entry level, while

the rest of the employment picture leaves much to be desired. At the same time some government agencies and private industries simply refuse to hire deaf people at all. So while we are not altogether "knocking" those that will consider a deaf worker, I don't think our deaf population should have to continue to take what "crumbs" they can get.

While we're at it, we'd like to salute the U.S. Senate, which has incorporated in its Code of Official Conduct, Rule 504 prohibiting within Senate offices all forms of employment discrimination "with respect to promotion, compensation, or terms, conditions, or privileges of employment on the basis of race, color, religion, sex, national origin, age, or state of physical handicap."

To review briefly the employment aspect of Section 504 of the Rehabilitation Act of 1973, Subpart B goes beyond job entry discrimination, covering as it does the entire gamut of employment practices. The law is applicable to recipients of Federal funds in excess of \$2,500 (who are also subject to Section 503). Section 84.11 prohibits discrimination on the basis of handicap in employment, including "positive steps" to employ and advance in employment qualified handicapped persons. Among specific activities covered in this section are recruitment, hiring, upgrading, promotion, award of tenure, rates of pay, job assignments, job classifications and other designations.

Section 84.12 of the law requires that a recipient of funds from the Department of Health, Education and Welfare make reasonable accommodation for handicapped applicants or employees unless it can be demonstrated that such an accommodation would impose undue hardships on the operation of the program. Types of reasonable accommodation might be modification of work schedules, job restructuring, communication accessibility (TTY's interpreters, secretary/interpreters) and the like. The larger and more extensive a program, be it an agency or a corporation, the more likelihood and feasibility we find for reasonable accommodation.

Employment Discrimination in Education. Instances of discrimination against deaf teachers continue to filter through to the NAD, such as the Nomeland case cited later on in this message. One board member characterized the situation in his area as "long-standing, subtle, and capricious." Pending actions appear to be shaping up against administrative personnel in at least two other residential schools for the deaf.

At the same time we would be remiss not to acknowledge the significant progress made in this area in the last five years. A number of programs now have deaf administrators at both top and middle management levels, the most recent being Harvey Corson, superintendent of the Louisiana State School for the Deaf, Larry Newman, assistant superintendent of the California School at Riverside, and Larry Forestal, newly appointed principal of the Millburn Day School for the Hearing Impaired in New Jersey.

Postsecondary education in this country has a history of generally positive involvement of deaf persons in teaching, administration and auxiliary services. However, in recent years concerns have been raised about some of the practices in well-known higher institutions for the deaf. Take for instance a job description which requires a Ph.D., or a CSC certificate, either of which tends to eliminate many capable and experienced deaf educators. Then the program may expend from \$2,000 to \$5,000 in orientation and in-service training on deafness and sign language, making "reasonable accommodation" for the non-handicapped hearing personnel.

Within reasonable proportions, this type of provision is desirable and justifiable, but sometimes a promising deaf person may be screened out because of lack of pre-set qualifications which precludes any type of in-service training as he never reaches the campus. It is our feeling that position descriptions should recognize that some individuals with an M.A., plus accompanying sign language skills and a knowledge of deafness may be more experienced, skilled and effective than one with a doctorate gleaned from cramming over books in the sterile halls of academe. The NAD strongly urges postsecondary programs, particularly CSUN, Gallaudet and the NTID, to study possibilities for making reasonable accommodation for highly qualified deaf applicants with the M.A. degree and commensurate educational experience.

Teacher Certification. At this time some 20 states apparently require general education credentials, including practice teaching in regular public schools, before one may qualify for a certificate to teach deaf children. This sort of Catch-22 situation tends to discriminate against the deaf person who has completed all the requirements for a CTE certificate, including an M.A. but is not permitted to teach because of the practicum requirement. Ron Sutcliffe of Gallaudet, whose doctoral studies have gone into the areas of affirmative action planning and equal employment opportunity, suggests that such a requirement may be contrary to Section 504 and P.L. 94-142 as it discriminates against the potential deaf teacher.

The Legal Defense Fund (LDF). Operating under a grant of \$62,000 from the National Association of the Deaf, the LDF is the legal defense arm of the National Center for Law and the Deaf. Members of the Board of Directors include Glenn Goldberg, president; Sy DuBow, director of legal services; John F. Banzhaf, III, John S. Schuchman, Laurence Hewes, and two NAD Board members, David Myers and Charles McKinney. Marc Charnatz serves as litigation attorney. The LDF has moved swiftly and decisively in a long neglected and uncharted area with impressive results. Their activities have gone into discriminatory practices in communication, employment, education and insurance and include a number of significant advances for deaf people. A number of these cases have received national coverage such as the privilege of interpreter confidentiality and the Converse College case, but at this time we will just cite two LDF cases.

The Nomeland/Minnesota Case. Following dismissal of both the original complaint and the appeal by Dr. Ronald Nomeland against the Minnesota School for the Deaf, the LDF has filed an appeal in the Minnesota State District Court alleging that the Minnesota Department of Human Rights failed to follow statutory and constitutional due process procedures. According to Marc Charnatz, Dr. Nomeland had filed an employment discrimination claim against the Minnesota School for the Deaf claiming that the school used pre-employment questioning of his deafness to exclude him from appointment to a principal position. The Human Rights Department found no probable cause for the complaint. In addition to the above, Dr. Nomeland now claims that he was not given a due process hearing as required by Minnesota law. In particular, he was not permitted to introduce evidence, that he was not informed of the appeal hearing until the day of the hearing, that he was limited to a 10-minute presentation, and that the review hearing was delayed for 284 days when the statute requires a hearing within 30 days.

The Converse College Case. A significant aspect of the Converse College victory was the ruling that a handicapped person has a private right of action, bypassing the slow and cumbersome machinery of the Department of Health, Education and Welfare and the Office for Civil Rights with its 55-45 distribution for action and its backlog of 3,000 unresolved complaints. Utilizing Section 504, Nelda K. Barnes, a deaf teacher at the South Carolina School for the Deaf and Blind, received a judgment that she was entitled to interpreter services at the expense of Converse College during her summer course work on that campus. The Legal Defense Fund has a similar case against the University of North Carolina.

Civil rights relates to human rights. It may appear strange that the handicapped are forced to battle for civil rights in a nation which within the larger scheme of affairs has gone all out for international human rights. At press time the NAD received a report of an attempt at intimidation of a deaf professional by a stateside school administrator which included a subtle threat of job "jeopardy." Just as President Carter deplored harassment of reform-minded individuals in a number of totalitarian countries, the NAD cannot condone such attitudes on the part of any member of our professional field. The membership will continue to be informed as the organization moves into a future of greater equalization of civil rights for all deaf people.

"Reprinted from THE DEAF AMERICAN, September 1977"

Item #4 notes on the Deaf Population submitted by Dr. Marvin Garretson, President National Association of the Deaf (NAD)

National Health Examination Survey (1960-1962)

Per 100,000 with some hearing impairment

18-44 yrs. of age	1,906 per 100,000
45-64	7,182 per 100,000
65 and over	34,342 per 100,000

The incidence or prevalence of hearing impairment of Americans over 65 is 26.5 times that of people under 65.

Major problems of the deaf are underemployment and employer attitudes (chiefly because of the communication problem).

National Census of the Deaf Population

This census was done by the NAD with a grant from Social and Rehabilitation Service (now RSA) in 1970-1973. It was the first nationwide study of deafness since 1930. The Chief investigators were Dr. Jerome D. Schein, Director of Deafness Research and Training Center, NYU., and Marcus T. Delk, Jr., Coordinator of Survey research at DRTC, NYU.

The findings were published by the NAD in 1974.

It was found that 13,362,842 hearing impaired are in USA (non-institutionalized, civilian population). That is 6,603 per 100,000 people (6.6% of the total population).

Of this group, 410,522 were identified as having total, profound deafness before the age of 19. So the implications are that most hearing impairments are acquired after leaving school.

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Exhibit No. 38

STATEMENT OF THE
NATIONAL REHABILITATION ASSOCIATION, INC.

PREPARED FOR THE
SUBCOMMITTEE ON THE HANDICAPPED
OF THE
SENATE COMMITTEE ON HUMAN RESOURCES

IN HEARINGS CONDUCTED
ON THE EXTENSION OF THE REHABILITATION ACT

JUNE 20, 1977

Mr. Chairman, I am E. Russell Baxter, Chairman of the National Rehabilitation Association's Legislative Commission. Here at the witness table with me is Mr. Cornelius L. Williams, President of the National Rehabilitation Association. We appear before you on behalf of the Association and in support of the programs and services made possible through the implementation of the Rehabilitation Act.

The National Rehabilitation Association's membership of approximately 30,000 individuals has been represented before this Subcommittee on many occasions during its fifty-two years of existence, and we feel certain that the impact of our Association on the rehabilitation movement in general and on the lives of handicapped people in particular is secondary only to the actions of Congress and this Subcommittee.

Senator Randolph, we would like to personally commend you for prompt decisive action in conducting oversight hearings on the Rehabilitation Act earlier this year, and now, at the most opportune time, in conducting these hearings on the extension of the Act. Your actions for many years in the past have been continuously stalwartly and your current interests in the rehabilitation movement is exemplary.

EXTENSION OF THE ACT

As you well know, the authority for the current Act expires as of September 30, 1978. The National Rehabilitation Association feels that, with few exceptions, the provisions of the current Act have served America's disabled population well. Almost 1.5 million

Americans have been able to return to gainful employment because of the services they have received under the Rehabilitation Act of 1973. Several additional millions of disabled citizens have received services through the provisions of the Act and even though these individuals may not have been able to return to gainful employment their lives and personal functioning have shown significant gains because of the services. Also, as you know, in addition to the basic program, the Act provides for innovation and expansion grants, counselor training, research, client assistance projects, special projects, facility grants, and others. We will speak to some of these issues later in our testimony. What is important here is to point out the fact that the legislation has provided well balanced programs and services for disabled individuals.

The National Rehabilitation Association feels strongly that in view of the success of this legislation and in view of the scope of services that it made possible, it should unquestionably be renewed and extended for a minimum of five years. It should also be noted that a five-year extension would allow the various states to plan more comprehensively and allow state legislatures to make more accurate preparations in terms of state appropriations for the rehabilitation program. A five-year extension, therefore, is essential to the continued success and growth of the rehabilitation program which is necessary to serve an ever-increasing number of disabled Americans.

BASIC STATE GRANTS

The basic state grant program provides formula grants to the various vocational rehabilitation agencies for the purpose of providing direct rehabilitation services to handicapped youths and adults. The direct services program provides for a wide range of services and activities necessary to render handicapped individuals employable. Services may also be provided to families of handicapped individuals when such services will contribute substantially to the rehabilitation of the disabled individual.

With the passage of the 1973 Rehabilitation Act and subsequent amendments, increased emphasis has been given to provide services to those individuals with the most severe disabilities. The National Rehabilitation Association enthusiastically endorses this congressional mandate, and the state vocational rehabilitation agencies have been doing a creditable job in carrying out this emphasis. In fiscal year 1977 it is expected that the state vocational rehabilitation agencies will serve over 1.8 million disabled individuals of which approximately 48% are defined as having severe disabilities. An estimated 295,000 individuals will be rehabilitated during fiscal year 1977, which includes over 130 thousand or 44% who are severely disabled.

It is generally recognized that it costs from 2 to 2½ times more money to rehabilitate a severely disabled individual as compared with the cost of rehabilitating a non-severely disabled individual. Therefore, the shift in the emphasis to provide services to severely

disabled individuals has necessitated an adjustment by the vocational rehabilitation agencies in that fewer people can be rehabilitated for the same amount of money. Added to this cost factor are the additional expenses created by such legislative mandates as services to members of the disabled individual's family, post employment services, and annual reviews of ineligibility. Again, the increased demands on state vocational rehabilitation agencies have come about without significant increases in appropriations.

The National Rehabilitation Association feels strongly about the provisions authorized by Section 110 of the Rehabilitation Act and certainly feels that these provisions should be continued and extended without major revision for a minimum of five years. The National Rehabilitation Association also feels that increased amounts of money should be authorized to more nearly provide for all of the services mandated by this Section. It is felt that a minimum authorization of \$800 million should be authorized for fiscal year 1979 and subsequent yearly authorizations for the following four years should be increased by \$40 million annually. A recent survey of the states indicated that the various states would have no difficulty in effectively utilizing and matching an amount far exceeding \$800 million.

INNOVATION AND EXPANSION

The innovation and expansion program is a formula grant program

allocated to states on the basis of population. States must use their allotment to fund projects, generally in annual increments for a maximum of three years, with the federal share not to exceed 90% of the cost. Innovation and expansion grants are for two general types of projects: (1) The planning, preparation, and initiation of special programs to expand vocational rehabilitation services; and (2) The establishment of special programs to initiate or expand services to handicapped individuals who have unusual or difficult problems in connection with their rehabilitation and whose responsibility for treatment is shared by the state vocational rehabilitation agency and other agencies.

This program is considered essential if new and expanded methods of providing services to severely handicapped individuals are to be developed. Allotments granted under this authority have funded projects which will provide the new knowledge relative to services to handicapped people. These necessary and successful projects have become the "leading edge" and have pointed the direction for rehabilitation service delivery in many instances. The National Rehabilitation Association urges this Subcommittee to retain and extend the innovation and expansion grant provisions as contained in the 1973 legislation and provide authorizations that are compatible with the needs. This means that for fiscal year 1979 the authorization should not be less than \$25 million, with adequate increases for each of the following four years.

TRAINING

Under the authority of Section 203 of the Rehabilitation Act of 1973 as amended, the Secretary, through the Commissioner of the Rehabilitation Services Administration, may make grants to, and contracts with, states and public or non-profit agencies and organizations to pay for the cost of training, traineeships, and related activities. More than 9,000 individuals were assisted under the training grant program during the last academic year. If quality services are to be continued, availability of qualified trained personnel must keep pace with changing priorities and goals mandated by Congress. Not only must there be college and university emphasis on rehabilitation as an academic discipline, but state vocational rehabilitation agencies and support organizations must have the capability to upgrade staff through in-service training and the ability to purchase or receive specialized training of a short, intensive nature to improve staff skills.

The training authority as contained in the Rehabilitation Act has proven to be an important and essential component of the entire legislation. It is the recommendation of the National Rehabilitation Association that the training authority be continued and extended. It is further recommended that the training authorization for fiscal year 1979 not be less than \$35 million, with substantial and adequate increases for each of the succeeding four years.

RESEARCH

As previously indicated, the Rehabilitation Act of 1973 as amended reemphasizes services to those individuals with most severe disabilities, and directs and authorizes a research program to develop new methods of applying the most advanced medical technologies, scientific achievement, and psychological knowledge directed at success outcomes with this population. Funds appropriated under this authority support nineteen research and training centers throughout the country. In addition to the R & T Centers, grants are made available for research and demonstration projects.

The National Rehabilitation Association recognizes and supports the activities carried out under this authority of the Act and recommends that the rehabilitation research authority be continued and extended. Also, the National Rehabilitation Association recommends that the authorization for research activities for fiscal year 1979 be a minimum of \$45 million. Adequate and significant amounts should be added to this authorization each of the following four years.

SPECIAL PROJECTS AND DEMONSTRATIONS

The Rehabilitation Act provides for a series of projects and demonstrations including client assistance projects, migratory worker projects, projects with industry, technical assistance and projects designed to maximize the vocational potential of severely disabled individuals. The projects have proven to be uniquely effective and valuable to the total rehabilitation thrust. The client assistance

projects have helped to resolve difficulties that some clients were having in terms of being knowledgeable relative to the available benefits and other services provided to them under the Act. The migratory worker projects have assisted in reaching out to serve areas that were heretofore under-served in terms of providing rehabilitation services to those disabled individuals who were seasonal or migratory workers. The projects with industries have proven to be extremely successful inasmuch as the disabled individual receives training and employment in realistic work settings. Projects for severely disabled including spinal cord injuries, older blind individuals and others have also been effective in demonstrating new methods of providing services to severely handicapped individuals.

The National Rehabilitation Association feels that the special projects and demonstration authorities as contained in the Act has proven to be valuable in terms of assisting in areas where clients need special attention. It is recommended that these authorities be retained and extended and an authorization for these programs for fiscal year 1979 be a minimum of \$20 million with additional sufficient increases in these areas for the succeeding four fiscal years.

SUMMARY

To briefly summarize our statement, the National Rehabilitation Association realizes there are areas and topics we have chosen not to discuss at this time in hopes that future hearings will be held on possible amendments to the Act after it has been extended. Currently,

we feel there are three basic factors with respect to the Rehabilitation Act of 1973 as amended that should receive serious and immediate consideration by this Subcommittee. First, it is generally agreed that the Rehabilitation Act of 1973 as amended is a well balanced statute providing for authorities extending from basic services to innovation and expansion, research, training, special projects, and others. Furthermore, the provisions of this law have served the American disabled public extremely well since its inception. Secondly, in view of the success of this Act, the National Rehabilitation Association feels that the authorities provided by the Act should be extended to the greatest length possible and certainly not less than a minimum of five years. Thirdly, the National Rehabilitation Association feels that this Subcommittee should continue its strong support of the provisions of the Act by recommending sufficient and adequate authorization amounts to perform the mandates included in the Act in the manner that was intended by Congress. In establishing the authorizing levels, the Subcommittee should consider not only the job to be done but the necessity of program growth and the ever-increasing cost of goods and services.

The National Rehabilitation Association appreciates the opportunity to appear before this Subcommittee and stands ready to assist the Subcommittee or its staff in any way possible in providing further information or assistance for the purposes of extending the authorities under this Act.

[FACSIMILE]

THE NATIONAL REHABILITATION ASSOCIATION, INC

PRESENTATION AT THE HEARINGS SPONSORED BY THE
UNITED STATES COMMISSION ON CIVIL RIGHTS,
SEPTEMBER 27, 1977, ON AGE DISCRIMINATION

Elizabeth H. Anderson, President-Elect

The National Rehabilitation Association, Inc., throughout its 52-year history, has been an active proponent and catalyst for services for handicapped persons. Its major purpose, goals and mission have been to ensure recognition of persons who are disabled and the development of programs to restore, evaluate, train, and place disabled persons as well as make it possible for societal as well as architectural accessibility to prevail as an essential part of our American ethos.

The Rehabilitation Act of 1973, and its amendments, is surely a landmark in carefully elucidating needs, services and gaps in service which are well under way, including Title V, Section 4, which states: "No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The Secretary of Health, Education, and Welfare, in the May 4, 1977 Federal Register, Part IV, published regulations on nondiscrimination on basis of handicap on programs and

activities receiving or benefiting from Federal financial assistance.

The National Rehabilitation Association has had a leadership role in developing and providing global information to our legislative and executive branches of government on the requirements for services to handicapped persons regardless of upper age limits.

Through the 1977 Mary Switzer Seminars honoring the memory of this great lady of rehabilitation, our Mary Switzer fellows developed a publication on elderly blind persons.

The work of our organization through our 30,000 plus membership in chapters, divisions, regions, councils and commissions, affiliates and associates, is testament to a continuing and abiding faith and a commitment to applying our skills and efforts to make our laws do what they, in fact, say they are supposed to do for handicapped individuals. Our policy on aging is: "The NRA shall support and encourage comprehensive legislation and programs for the aging. Furthermore, the Association will encourage that a full range of services be provided to older disabled individuals by the State vocational rehabilitation agencies. Also the Association will encourage its organizational units to support comprehensive State and local programs for older people that emphasize complete rehabilitation services, employment, recreation, housing, transportation and other services to older people in these needs.

"It shall be the policy of the NRA to work with its own organizational units and other State and national organizations for the purpose of helping to assure full

ementation of the various social security programs that assist handicapped people. Furthermore, the Association will promote activities designed to assure that a greater number of SSI and SSDI referrals through the State vocational rehabilitation agencies become rehabilitated. The Association will also promote legislation that will expand the percentage of money available from the disability insurance trust fund which can be used for rehabilitation of disability insurance beneficiaries."

PREFACE

The foregoing is a basic attempt to bring together and assemble a series of policy statements relative to legislative and interagency issues. These policy statements have arisen out of NRA Board action, resolutions passed by the delegate assembly or statements that are being proposed. All statements, prior to becoming policy, will be approved by the Commission on Interagency Activities and State-Federal Legislative Concerns and the NRA Board of Directors. Both the Commission and the Board will have sufficient opportunity to review and make suggestions with respect to the statements prior to the time final approval is requested.

It is expected that the approved policy statements will become a section of a complete policy manual for the Association. The policy statements should be considered as policy and not procedure statements. Procedural activities will be developed by the staff of the Association which will help assure that the policy will be carried out. It is expected that each succeeding commission will review and

recommend modifications to the policy statements on a yearly basis.

POLICY ON ESTABLISHING NRA LEGISLATIVE GOALS

It shall be the policy of NRA to annually establish or reaffirm legislative goals relative to current issues and their impact on programs and services for the handicapped and NRA's ability to carry out its functions. The NRA, through its national office, chapters and divisions shall work aggressively toward the achievement of substantially greater participation in key policy decisions made by the Federal administration, especially in the establishment of priorities with respect to individuals to be served, emphasis in rehabilitation training and research, and the policies governing the expenditures of funds appropriated under rehabilitation legislations.

POLICY ON STATE AND FEDERAL ADMINISTRATION

It shall be the policy of the NRA to support a viable Federal and State structure for delivering of rehabilitation services. NRA insists that in any administrative arrangement for the Rehabilitation Services Administration, the Commissioner be given, in fact, the responsibilities specified by law, i.e., responsibility to be the principal officer of the Secretary of HEW in the administration of the direct service State-Federal vocational rehabilitation program and its related research and demonstration and

training activities, and that the Commissioner report to or have direct access to the Office of the Secretary.

Furthermore, NRA will use its full resources to maintain at local, State and Federal levels strong and visible vocational rehabilitation programs encompassing a unified system of services at administrative levels sufficiently high to assure exposure of the programs to the highest executive and legislative levels of government and in which the fiscal and administrative integrity of the agencies are maintained. Under no conditions shall the State rehabilitation program be factionalized or its administration dispersed. In all instances, the State program shall be headed by a full time director who is responsible for policy making, budgeting, staffing of the rehabilitation program and other management and administrative practices.

POLICY ON WAGE SUPPLEMENTS

It shall be the policy of the NRA to support the concept of wage supplements for individuals employed in rehabilitation facilities. However, prior to any legislative initiatives the NRA should fully explore all of the issues involved with wage supplements, i.e., subsidies to the client or to the facility; disincentives that may exist, etc. NRA is encouraged to review in depth the New York and Minnesota experience with respect to wage supplements. Consideration should also be given toward conducting conferences on this topic.

NRA recognizes that many employees of workshops do not earn enough to assure for themselves an adequate standard of living and the Association will work toward the end that the wages that such individuals earn will be supplemented to overcome their economic problems.

POLICY ON TAX EXEMPTIONS

It shall be the policy of the NRA to support legislation providing for additional tax deductions or exemptions for severely disabled persons for transportation expenses related to work activities. Also, it will give careful consideration to other tax benefits that are proposed to assist such individuals. Other types of tax exemptions will be explored by the NRA.

VOCATIONAL REHABILITATION PROGRAMS UNDER THE REHABILITATION ACT

NRA believes that the State-Federal vocational rehabilitation program supported under the Vocational Rehabilitation Act is the key element in a comprehensive program for the rehabilitation of disabled individuals. NRA will insist that the direct service vocational rehabilitation facilities, research and training continue to be financed under this act and will attempt to strengthen all these programs by continually improving their legislative base, as well as working for more money to finance them.

Furthermore, the NRA encourages a renewal of the appropriation authority under the Rehabilitation Act for a minimum period of three years with an increase in the appropriation authority for the basic program of 10% per year in appropriations.

POLICY ON APPROPRIATIONS AND ALLOTMENT

It shall be the policy of the NRA to aggressively seek funds for programs for disabled individuals at the maximum in authorizing legislation. The Association will be prepared to support appropriation needs with adequate facts to justify any such request.

It is proper that from time to time consideration be given to the formulae by which rehabilitation funds are allotted to the States. If any changes are made in the allocation formula, NRA will insist that allotments to each State in future years will be not less than its grant in fiscal 1975, providing the State maintains its effort. NRA believes that both the number of disabled individuals and the ability of the State should continue to be factors in allocations.

The NRA will continue to support the 80% Federal share of payment of costs for the basic program and 90% Federal share of costs for the innovation and expansion grant program.

POLICY ON INDEPENDENT LIVING

It shall be the policy of the NRA to support the concept of "Rehabilitation for Independent Living". The Association recognizes that many severely disabled individuals desperately need rehabilitation services that will enhance their ability to live independently even though the services may never bring about the employment of the handicapped person.

NRA feels that leadership in providing independent living rehabilitation services should be assigned by law to the State VR agencies, although the services of many other programs should be brought to bear on the solution of problems of these severely disabled persons. However, the services provided in this manner should be independently financed through appropriations separate and apart from appropriations provided for the basic State-Federal grant program

POLICY ON REVENUE SHARING

It shall be the policy of the NRA to encourage various agencies providing human services to disabled persons to seek additional funds provided to State and local municipalities through General Revenue Sharing to help support the costs of providing these human services.

Furthermore, the NRA shall make an "in depth" study of the various implications with respect to Special Revenue Sharing. Special Revenue Sharing refers to the "earmarking"

of revenue funds for the financial support of various identified programs.

POLICY ON DEVELOPMENTAL DISABILITIES

It shall be the policy of the NRA to support the Developmental Disabilities program and seek adequate funding of such. The Association shall also encourage the development and implementation of cooperative programs between the State developmental disabilities agency and the State vocational rehabilitation agency.

POLICY ON NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE

It shall be the policy of the NRA to support national standards to govern State no-fault motor vehicles insurance. Furthermore, such national standards should include a requirement for prompt referral of accident victims to vocational rehabilitation agencies. The Association shall also support the idea that the costs of total rehabilitation services should be paid through the insurance premiums.

POLICY ON NATIONAL STANDARDS FOR WORKMEN'S COMPENSATION

It shall be the policy of the NRA to support national standards for workmen's compensation agencies. Such standards should encourage prompt referral of the injured worker to vocational rehabilitation agencies for complete rehabilitation services.

Furthermore, the NRA also supports the concept that payment for rehabilitation services for the injured worker should be the responsibility of the insurance carrier.

POLICY ON INCOME MAINTENANCE

It shall be the policy of the NRA to work cooperatively with the various agencies of the Federal government that administer income maintenance programs, i.e., Social Security, Welfare, etc., to help assure the adequacy of the programs, and proper administration as they relate to the well-being of disabled persons.

NATIONAL HEALTH INSURANCE

It shall be the policy of the NRA to support a national health insurance system. The health system should include the following services:

- A. A system under which everyone is covered.
- B. A system that provides all the health and health related services one needs.
- C. A system that provides all services without regard for income of the individual.
- D. A system that emphasizes primary and secondary prevention and early treatment.
- E. A system that defines health and health related services so as to encourage comprehensive services delivered on an interdisciplinary basis as in a rehabilitation center.

- F. A system that encourages a coordinated system of community services.
- G. A system that offers the opportunity for a regional approach to providing services for groups with special problems.
- H. A system that includes quality controls and performance standards.
- I. A system that encourages experimentation with new methods and techniques.
- J. A system that recognizes the value of prepaid group practice and encourages development of such practice.
- K. A system that includes cost-quality controls.
- L. A system that services institutionalized individuals in facilities meeting quality standards.
- M. A system that provides cumulative confidential records.
- N. A system that emphasizes efficient use of facilities.

AGING (1973 Resolution)

The NRA shall support and encourage comprehensive legislation and programs for the aging. Furthermore the Association will encourage that a full range of services be provided to older disabled individuals by the State vocational rehabilitation services, employment, recreation, housing, transportation and other services to older people in these needs.

MINIMUM WAGES (1971 Resolution)

It shall be the policy of the NRA to support the Fair Labor Standards Act as it relates to the payment of wages to handicapped workers. The NRA shall encourage proper implementation of the fair labor standards by the Department of Labor and the Association shall on a periodic basis review the provisions of that act as it relates to wages for handicapped persons and make necessary legislative recommendations.

CIVIL AND HUMAN RIGHTS FOR THE HANDICAPPED

It shall be the policy of the NRA to support laws, regulations and policies which will assure that handicapped individuals have the opportunity to take advantage of the services available to all non-handicapped persons.

It shall be policy to work toward the total removal of all environmental, social, psychological, and other barriers faced by disabled persons; that the National Rehabilitation Association urge its national office, divisions, and chapters to work aggressively toward the removal of all barriers to the full participation of disabled persons in the mainstream of American society; that the National Rehabilitation Association urge its national office, chapters, and divisions to exercise leadership in cooperation with handicapped persons themselves in the development and implementation of a "Bill of Rights" for handicapped individuals, which may be promoted by the Association at all levels; and that that National Rehabilitation Association urge its national office, chapters, and divisions in planning meetings to set an

example for other organizations by scheduling such meetings in facilities accessible to and useable by handicapped persons. (1972-73-74)

AIR TRAVEL

It shall be the policy of the NRA working with other organizations of and for disabled people, to continue its efforts to assure that FAA regulations finally issued do not in any way limit the right of handicapped people to air travel. Further, NRA urges that commerical aircraft be made accessible to handicapped persons. (1974)

BARRIER-FREE ENVIRONMENT

It shall be the policy of the NRA to recognize the inherent right of all citizens, regardless of physical disability, to the full development of their economic, social, and personal potential, through the free use of the manmade environment, and that the adoption and implementation of this policy requires a mobilization of the resources of the private and public sectors to integrate handicapped people in their community. It shall be the policy of the NRA to cooperate in the attainment of the desired goals of a barrier-free environment. It shall also be the policy of the NRA to support legislation to permit tax payers to treat certain capital expenditures as tax deductions when these expenditures are incurred in making buildings accessible to handicapped people. (1970-73)

SOCIAL SECURITY PROGRAMS

It shall be the policy of the NRA to work with its own organizational units and other State and national organizations for the purpose of helping to assure full implementation of the various social security programs that assist handicapped people. Furthermore, the Association will promote activities designed to assure that a greater number of SSI and SSDI referrals through the State vocational rehabilitation agencies become rehabilitated. The Association will also promote legislation that will expand the percentage of money available from the disability insurance trust fund which can be used for rehabilitation of disability insurance beneficiaries.

COMPREHENSIVE SERVICES FOR THE BLIND

It shall be the policy of the NRA to support comprehensive programs designed to meet the needs of blind individuals. It will further become involved in the necessary activities to help assure full implementation of the Randolph-Sheppard Act as amended. Furthermore, the NRA will work cooperatively through its own organizational units and other State, national and international associations for the purpose of promoting programs and services for blind individuals.

WELFARE PROGRAMS

It shall be the policy of the NRA to encourage through legislative activities the proper referral of disabled welfare recipients to State vocational rehabilitation agencies. The Association will also work to improve the relationships that exist between those two agencies in order to enhance the rehabilitation of welfare clients. It will also insist that financial resources be made available for the rehabilitation of such referrals.

TRAINING OF PROFESSIONAL REHABILITATION COUNSELORS

It shall be the policy of the NRA to support training programs of rehabilitation counselors, particularly the training program as provided for under the Rehabilitation Act. Furthermore, the Association will endeavor to seek adequate funding of the counselor training program to the maximum extent authorized by law. The NRA will also support other training programs designed to train rehabilitation counselors and participate and organize organizations and individuals to help assure adequate funding and program content that will enhance the rehabilitation counseling profession.

POLICY ON ADEQUATE HOUSING FOR PERSONS WITH DISABILITIES

It shall be the policy of the National Rehabilitation Association to actively support and promote the concept that persons with disabilities have equal right to the freedom of choice and privacy with respect to their housing needs. NRA will support activities that provide housing opportunities for persons with disabilities that exist along a continuum

ranging from a nursing home environment to independent home living. NRA will further promote the concept that persons with disabilities must be involved in the planning and development of adequate housing.

TRANSPORTATION

It shall be the policy of the National Rehabilitation Association to promote and support activities that will increase and facilitate transportation opportunities for persons with disabilities. The Association recognizes the need for adequate accessible transportation for persons with disabilities to allow them to pursue employment, obtain services and goods, pursue recreational and educational activities and to help fulfill and enrich other basic living requirements. NRA will promote and support activities designed to educate the community and the general public with respect to the transportation needs of persons with disabilities.

ACCESSIBILITY OF PUBLIC FACILITIES

It shall be the policy of the National Rehabilitation Association to promote and support activities that will assure that public facilities are accessible to persons with disabilities. NRA shall further promote the concept that no person shall be denied normal access and use of any facility intended for activities for the general public because of structural barriers.

[FACSIMILE]

THE IMPACT OF FEDERAL LEGISLATION ON OLDER
BLIND AND SEVERELY VISUALLY IMPAIRED PERSONS

(A paper prepared by Irvin P. Schloss, Director of Governmental Relations, American Foundation for the Blind, for the Mary E. Switzer Memorial Seminar held in New York, N.Y., January 17-19, 1977)

During the past 45 years, a considerable body of Federal legislation has been enacted in the human services area. The programs established by Congressional action range from income maintenance for individuals administered directly by the Federal Government to Federal financial grants to State and local governments for a variety of purposes, such as health care for expectant mothers, treatment for handicapped children, education, employment and training services, and vocational rehabilitation of the disabled.

Some are designed for special groups relatively small in number; others are virtually universal or cover large segments of the population. Some have very specific Federal requirements for compliance; others allow broad authority to States and localities in carrying out a program as long as basic general requirements are met. Whatever the type of federally-assisted program, the important thing to emphasize is that, for nearly half a century, the pattern in the United States has been to establish a federally-assisted program to deal with special needs.

How effective are these programs in achieving their objectives? This is a question raised by Congressional committees when considering legislation to extend programs

due to expire. In recent years, it is a question raised by Congressional committees at more frequent intervals as they increasingly exercise oversight of programs within their legislative jurisdiction. Representatives of the Administration and of advocate organizations appear before these committees and attempt to answer this question within the limitations of the statistical measuring systems available to them.

Periodically, an administration in power becomes concerned with proliferation of federally-assisted human services programs and seeks authority from Congress to combine several---the allied services concept--or give States and localities broader latitude in administering the program by allocating Federal funds for a broad purpose---special revenue sharing. Perhaps the broadest approach to Federal financial aid to State and local governments became law when, despite the misgivings of several of its leaders, the Congress enacted the State and Local Fiscal Assistance Act of 1972--general revenue sharing---through which the Federal government annually gave States and units of local government some \$6 billion a year in the aggregate for a period of five years. This Act was extended in 1976 for an additional three years and nine months at an annual rate of some \$6.7 billion.

The Congress enacted the Congressional Budget and Impoundment Control Act of 1974 as a means of achieving two major objectives. The Congress established its own budgeting procedures with revenue and spending ceilings and a timetable for enactment of appropriations bills. Second, it established procedures requiring the President to seek

formal Congressional action on appropriated amounts he intended to defer spending or not spend at all. Previously, the President could avoid spending money for any program despite Congressional wishes expressed in an appropriation act. Both aspects of this law have important implications for our concern.

With specific regard to the small special group we are focusing on during this conference---the older blind and severely visually impaired--the impact of federally created and assisted programs is great from both a positive and negative viewpoint. On the other hand, many of the federally created programs, particularly those involving income maintenance and health services for older persons, are especially helpful to our special segment of that population. On the other hand, the special programs designed for younger people with limited or no sight are not routinely available to older persons with the same vision problems. Ironically, by far the largest segment of the blind and severely visually impaired population remains the most neglected.

As participant in a panel discussion on the older blind at a regional meeting of the American Association of Workers for the Blind held in September 1970, in this city, I stated: "It's tough to be old---unless you're healthy and wealthy! The numerous problems which inevitably come with growing old are further complicated by the economic, social, and housing patterns of the United States today. The three-generation family living together in one household---a means by which many families solved or migrated some of these problems in past generations---is increasingly rare today,

for the personal desires of the family members of the several generations are 'to do their own thing' without interfering with the way of life of others. Today's urban decay and suburban sprawl, with the attendant transportation and shopping problems, are additional complications.

'Money---the lack of it---is the number one problem of older people in America,' says John D. Martin, Special Assistant to the President for Aging and Commissioner of the U.S. Administration on Aging. 'Older Americans have many problems,' Martin goes on, 'problems of health, loneliness, isolation, housing, transportation, nutrition. But the lack of income is the greatest, contributing to all the other difficulties. Faced with a 50 to 60 percent automatic drop in income upon retirement, retirement often mandatory, our older citizens are becoming the new poor of America.'

'It's tough to be old, but it's even tougher to be old and blind. Just think for a moment of all the problems just mentioned and add to them newly acquired blindness---a condition which imposes severe economic, social, physical, and psychological problems on an individual who is also faced with many similar problems already just because he is old. Just imagine learning to do the simplest of everyday tasks like eating, cooking, going from one room to another, going for a walk without sight, after 50, 60, or 70 years---a lifetime---of doing these things with sight, easily, automatically, and without special concentration. And just imagine someone having to acquire all of these new skills on his own or with the aid of inept, frightened, and impatient family members (who make him feel even more tense or helpless) because professional services aren't available

where he lives or because he can't afford the cost of the few that are available."

Despite substantial improvements since then in the basic income maintenance programs, the Older Americans Act of 1965, and some of the other social service programs, this statement remains essentially true today, six years later. The downturn in the economy and allocation of substantially greater Federal financial resources for unemployment compensation, the projected high inflation rate, sharply increased living costs, the proliferation of Federal financial assistance programs, general and special revenue sharing approaches which foster competition between various population groups for the same dollar---all of these are major factors. A new factor in delaying the Congressional establishment of needed specific programs to assist older blind and severely visually impaired persons may be the Congressional Budget and Impoundment Control Act of 1974. Under its provisions the Congress must determine its spending priorities in conjunction with projected revenues for each fiscal year, and its priorities may not encompass ours.

Similarly, the incoming Administration's spending priorities may not cover the needs we see as essential for our special population group as quickly as we would like, despite indications during the election campaign that the programs will come. In a complex international and national economy, many factors may dictate other priorities for our national resources.

Before discussing major existing programs and their impact and the goals we seek to reach, let us examine the

best available statistical information on the older blind and severely visually impaired persons with whom we are concerned.

The Severely Visually Impaired Population

Blindness and severe visual impairment are conditions whose handicapping effects vary with the individual, depending on the degree of remaining useful sight; the person's ability to use residual sight effectively and efficiently in the performance of various tasks; the presence of other impairments, such as loss of hearing or loss of tactual sensitivity; and age. It is estimated that 90 percent of all information is received by humans through sight. With loss of sight, humans must rely principally on the sense of hearing followed by the sense of touch.

The aging process inevitably results in loss of hearing in the high frequency range----the range useful for orientation and mobility for blind persons. Younger individuals blinded in explosions, such as servicemen blinded in combat or civilians subjected to bombing or shelling, invariably lose high frequency hearing from nerve damage as well. Noise pollution in modern urban centers is accelerating hearing impairment at an earlier age in persons who may later suffer serious vision loss, as well as in younger blind persons who would otherwise not incur the same degree of hearing loss until later in life.

The principal problems resulting from blindness are loss of mobility, ability to read print, employability, and ability to perform other daily living activities.

The National Society for the Prevention of Blindness (NSPB) estimates that there are some 484,000 persons in the

United States who are legally blind. The definition of blindness used in arriving at this estimate is the same as that used in Section 216(i) (1) of the Social Security Act; i.e., central visual acuity of 20/200 or less in the better eye with correcting glasses, or a contraction in the field of vision to 20 degrees or less in the better eye if central visual acuity is better than 20/200. The prevalence rate of legal blindness is 2.25 per 1,000 of population.

The NSPB also estimates that 75 percent of the legally blind population is 40 years of age and older. It also estimates some 45,000 Americans become legally blind each year and that 75 percent of this number is 40 and older.

Based on its 1971 household interviews, the National Center for Health Statistics of the United States Public Health Service estimates that there are some 1,306,000 non-institutionalized individuals in the United States who have severe visual impairment. The definition of severe visual impairment used in reaching this estimate was inability to read ordinary newspaper print with the aid of correcting glasses. The prevalence rate is 6.5 per 1,000.

The National Center estimates that 121,000 of these individuals are under age 45 (prevalence rate .8 per 1,000), that 276,000 are between the ages of 45 and 65 (prevalence rate 6.6 per 1,000), and that 909,000 are 65 and older (prevalence rate of 47 per 1,000).

Based on a 1969 survey of 816,000 nursing home patients, the National Center of Health Statistics found that 36,086 were blind. We have no authoritative estimates of the number of blind or severely visually impaired

individuals in other types of institutional settings, such as homes for the aged.

The leading causes of blindness in the United States---senile cataracts, diabetic retinopathy, glaucoma, and macular degeneration---are conditions which primarily affect people over 40. In addition, blindness is sometimes caused by cardiovascular diseases, such as arteriosclerosis, hypertension, and stroke, as well as other conditions which frequently accompany the aging process. Since the prevalence of blindness in the United States in the light of current scientific knowledge is a function of population growth, we can expect that the number of older blind persons will increase as the number of older persons in the population increases.

Of the total estimated population of severely visually impaired persons, 503,000 are male while 803,000 are female. For the age group under 45, approximately 69,000 are male and 51,000 are female. For those 45-64, it is estimated that 119,000 are male, and 157,000 are female. For the group 65 and older, 314,000 are male while 595,000 are female.

In 1971, according to the National Center for Health Statistics, 518,000 severely visually impaired individuals had less than \$3,000 annual family income. Of this number, 427,000 were 65 and older.

This same survey revealed the following prevalence rates per 1,000 of population for severe visual impairment on a regional basis; South, 68.2; Northeast, 39.1; North Central, 38.7; and West, 32.7.

For additional data on the severely visually impaired and individuals with other impairments, I would refer seminar participants to "Prevalence of Selected Impairments, United States, 1971", a publication of the National Center for Health Statistics in the 10-99 series.

Another source of current information on the economic status of severely visually impaired persons is the Social Security Administration (SSA), which administers the program of supplemental security income for the aged, blind, and disabled (SSI). According to the SSA, 9 percent of the approximately 2,280,000 individuals on the SSI aged rolls, or 205,200, are severely visually impaired, including legal blindness. The SSA does not presently know how many of this number are legally blind. We would estimate 82,000. All persons on the SSI aged rolls must be 65 or older to qualify.

Approximately 75,000 legally blind persons of all ages are on the SSI blind rolls. The medium age is 59.

The SSA estimates that 4.7 percent of the approximately 2,000,000 individuals on the SSI disabled rolls, or 94,000 persons, are severely visually impaired. The SSA does not presently know how many of these individuals are legally blind or how many have other serious disabilities in addition. The SSI disabled rolls cover persons of all ages. The medium age is 55.

Thus, there are approximately 374,200 severely visually impaired individuals in financial need serious enough to be eligible for SSI payments. Of that number, it is likely that approximately 194,400 are legally blind.

No one knows the exact number of totally blind individuals in the United States. Authorities associated with rehabilitation centers for the blind and other agencies providing direct services to blind persons estimate that between 12 and 18 percent of the legally blind population have no useful vision. Therefore, we can assume that a maximum of 90,000 persons in the United States are totally blind or have only light perception without light projection. The rest have varying degrees of residual sight, which may be useful to them in the performance of various tasks, especially if the usefulness is enhanced by optical aids, training in various techniques, and other aids and devices.

Income Security

Old Age, Survivors, and Disability Insurance

The basic income security program for most Americans is the Old Age, Survivors, and Disability Insurance (OASDI) program under Title II of the Social Security Act. Originally enacted in 1935 at the height of the "Great Depression", this Title of the Act provides for a uniform, national old age pension program financed through equal contributions by both employees and employers of a percentage of the employee's wages. It has been subsequently improved since 1935 to cover survivors of wage-earners, the self-employed, and individuals so disabled by physical or mental impairment for at least 12 months that they are unable "to engage in any substantial gainful activity."

The need for higher income taxes to finance World War II and postwar international and defense obligations

resulted in a substantial delay in implementing projected increases in the Social Security tax rate and taxable wage base (the portion of wages to which the Social Security tax applies). At the same time, wage levels, living standards, and living costs substantially increased. As a result, despite periodic increases in benefit levels by the Congress, persons retiring in the 1950's or 1960's, who were wholly or largely dependent on Social Security retirement, found that income increasingly inadequate to meet basic needs. The high inflation rates of the 1970's exacerbated their problem.

In 1972, the Congress moved to relieve this problem by enacting a 20 percent increase in Social Security benefit levels. Effective in 1975, it provided for automatic adjustments in benefit levels effective in July of each year in accordance with increases in living costs and for increases in the taxable wage base effective in January of each year. In July 1976, benefit levels were increased by 6.4 percent; in January 1977, the taxable wage base became \$16,500.

For a worker retiring at age 65 in December 1976, the maximum Social Security benefit was \$387.30 monthly. For a retired worker and spouse aged 65, the maximum monthly benefit was \$580.95. The average monthly benefit for a worker retiring at age 65 in December 1976 was \$218.00, while the average monthly benefit for that worker and spouse aged 65 was \$372.00. The minimum monthly benefit for a worker retiring at age 65 in December 1976 was \$107.90 and the minimum monthly benefit for that worker and spouse aged 65 was \$161.85.

A worker may retire on actuarially reduced benefits at age 62. The spouse would be entitled to actuarially reduced cash benefits when she reached age 62. The exception is a retired worker and younger spouse with dependent children under 18 (or 22 if the dependent children are in school). The maximum family benefit under such a circumstance is currently \$685.29. It should be noted that the family would retain only the retired worker's benefit after dependent children reached 18 (or 22 if they are in school) and would not regain the spouse's benefit until she reached age 65.

The Social Security Amendments of 1972 liberalized widows' cash benefits to make them equivalent, if applied for at age 65, to the benefit amount the deceased worker would have been entitled to receive. A widow may receive actuarially reduced benefits beginning at age 60. A disabled widow with children under 18 (or 22 if they are in school) in her care may receive cash benefits at any age. Disabled widows, widowers, and surviving divorced wives, who must be unable to engage in any gainful activity because of their disability in order to qualify, may begin receiving actuarially reduced cash benefits at age 50. A worker who is 55 and blind may qualify for disability insurance cash benefits if he is unable "by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."

Retired workers may supplement their income by earning up to \$230.00 a month or \$2,760.00 annually before their Social Security benefit is reduced. After earnings in that

amount are reached, benefits are reduced by one dollar for every two dollars of earnings. The earning ceiling, which is called the "retirement test," is now automatically adjusted annually in accordance with increases in living costs and wage rates. It should be noted that unearned income in any amount, such as income from investments or other retirement plans, will not reduce Social Security benefits, nor will earnings from employment not covered by Social Security. Also, a retired worker aged 72 may have earnings in any amount without having benefits reduced.

The major disability insurance provisions of the Social Security Act were designed to assure a degree of income protection for workers who have serious long-term disabilities which prevent them from engaging "in substantial gainful activity". The provisions have been periodically liberalized over the years, including the requirement that a disability must be expected to last for at least 12 months. After a five months waiting period, a qualified disabled worker may receive cash benefits based on his wage record as if he had reached age 62 and was retired. Disability insurance cash benefits cease at age 65 and become regular Social Security retirement benefits paid from a different trust fund.

A legally blind worker who is fully insured for Social Security purposes and who is unable "to engage in any substantial gainful activity" may qualify for disability insurance cash benefits. An individual with a serious visual impairment who is not legally blind, but who is determined to be unable "to engage in any substantial gainful activity" because of that visual impairment must be

"fully insured" and also have 20 out of the 40 quarters preceding the onset of the disability in employment covered by Social Security.

"Substantial gainful activity" for disability insurance purposes is defined as earnings in excess of \$200.00 a month or \$2,400.00 annually in regulations of the Secretary of Health, Education and Welfare. Proposed regulations not yet made final would equate the dollar amount of the definition to that in the "retirement test" previously mentioned and automatically increase it when the dollar amount in the retirement test is increased.

Although most blind and severe visual impairment occurs after age 40, there is another income security program under Title II of the Social Security Act which can be important to those individuals who become disabled from loss of sight before age 22 and who cannot work long enough to build up a wage record for benefits under the two major programs. This program authorizes the payment of "disabled child's benefits" for life when the parent on whose wages the child is dependent dies or retires.

Seminar participants are undoubtedly aware that the Social Security System has developed some anomalies and problems. The intent of this social insurance program is to protect individuals and their families against the loss of part of their earnings resulting from retirement, death, or disability. It is deliberately designed to replace a larger proportion of the earnings of low earners. However, the Congressionally enacted formula for automatic increases is having the unintentional result of benefit payments to some individuals being higher than their earnings during their

working years. It is likely that the 95th Congress will correct this anomaly, especially in view of readily foreseeable financing problems.

There is a short-term financing problem in the Social Security Trust funds which will become acute in the 1980's if not corrected. It is likely that the 95th Congress will take appropriate action.

Of a more serious nature is the long-term financing problem predicted to become acute around the year 2025. There is no question that the 95th or succeeding Congresses will take appropriate action, including the possible use of general revenues, to preserve the financial integrity of the Social Security System.

Supplemental Security Income

The Social Security Amendments of 1972 established Supplemental Security Income for Aged, Blind, and Disabled (SSI) administered by the Social Security Administration under Title XVI of the Social Security Act. The SSI program became effective in January 1974 and supplemented the Federal State welfare program under Title I (old age assistance), Title X (aid to the blind), Title XIV (aid to the permanently and totally disabled), and Title XVI (aid to the aged, blind, and disabled), of the Social Security Act for eligible individuals in the 50 States and the District of Columbia.

This new, federalized program established a uniform, national income security program for needy individuals which is more positive, less demeaning, less impoverishing, and generally more liberal than the 51 programs it supplanted. Under the old programs, not only was there considerable

variation in payments to recipients from State to State, but there was also considerable variation in benefit amounts paid to the three categories of recipients within each State.

As our statistical section indicates, there are substantial numbers of blind and severely impaired persons in the aged and disabled categories. Virtually all of these were transferred to the SSI rolls from State rolls.

Under the SSI program an eligible individual could receive up to \$167.80 a month and an eligible couple up to \$251.80 a month as of December 1976. For SSI purposes, "an eligible couple" is one where both spouses are 65 or older, legally blind, disabled, or any combination of these three criteria. The definition of disability for SSI is the same as that for disability insurance; i.e., "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months..." The definition of "substantial gainful activity" is also the same as previously discussed.

An individual who is severely visually impaired but not legally blind and who meets income and resources criteria would have to be 65 or older or determined to be disabled to qualify for SSI payments.

There is provision for a number of income disregards. For example, \$20 a month of income from any source may be disregarded, thus making persons receiving low Social Security benefits eligible for some SSI payments. In addition, the first \$65 a month of earnings plus half of

monthly earnings over that amount may be disregarded for SSI purposes, thus enabling those recipients capable of working and finding employment to augment their total income. For those on the blind rolls, work-related expenses, such as income taxes, Social Security taxes, transportation costs to and from work, and the like, may also be disregarded for SSI purposes.

Amendments enacted in 1976 provide for the disregard of assistive housing payments under the various housing laws, as well as the total value of any SSI recipient's house. Also, there will no longer be a reduction in SSI payments for beneficiaries residing in group homes which house up to 16 persons.

Veterans Pensions

On the basis of the National Society for the Prevention of Blindness prevalence rate of 2.25 per 1,000 for legal blindness, it can be assumed that approximately 67,000 of some 30 million living veterans of wartime and peacetime service in the United States today are legally blind from non-service-connected causes. Those with annual income below \$300 are entitled to the maximum monthly disability pension of \$185. If the veteran is blind, he or she may also be entitled to an aid and attendance allowance of \$155 monthly. Pension rates are higher if there are dependents. In addition, the widows of veterans who die of non-service-connected causes are entitled to death pensions provided they are in financial need. Some of these widows will be legally blind, the number increasing with age. The maximum death pension for legally blind widows is \$199 a month for an annual income below \$300 [sic]. Regular Social Security

payments are taken into account in determining annual income. Veterans disability and death pensions are offset dollar for dollar against SSI payments. Since veterans disability determination criteria become progressively more liberal for veterans over 65, it is likely that older veterans who are severely visually impaired but not legally blind will qualify for disability pensions provided they meet the financial need test.

Pension Reform and Income Tax

Increasingly, private pension plans are becoming a major source of retirement income for many workers in addition to Social Security. To protect these workers from loss of private pension income at retirement owing to business failures, company mergers, or the worker changing jobs, the Congress enacted the Employee Retirement Income Security Act of 1974 (commonly referred to as the Pension Reform Act of 1974). Its provisions for "vesting" in the worker of his right to pension income, as well as "portability" of his pension rights, are particularly important features. The Internal Revenue Code has a number of features designed to foster provision for retirement pensions as well as to benefit persons who are blind or 65 and older.

One of these features permits persons who are employees of private nonprofit organizations classified as tax exempt under Sec. 501(c)(3) of the Internal Revenue Code to defer payment of Federal income tax on that portion of gross income paid into a private pension plan until retirement, when total income and special exemptions may make the tax rate more advantageous. Another provision, commonly called

the "Keogh Plan," permits self-employed persons to defer payment of Federal income tax on 15 percent of gross income, up to a maximum of \$7,500 annually, if those funds are invested in a retirement plan. Similarly, an employee whose company does not have a private pension plan may defer payment of income tax until actual retirement on 15 percent of his gross income, up to \$1,500 annually, placed in an Individual Retirement Account (IRA).

There is an additional \$750 exemption on Federal income tax for a taxpayer who is blind or who is supporting a blind spouse. Also, there is an additional exemption of \$750 for a taxpayer who is 65 or older or is supporting a dependent who is 65 or older. Thus, a blind taxpayer age 65 who is supporting a spouse also 65 may claim a total of five exemptions of \$750 each in computing Federal income tax.

Other features of the Internal Revenue Code are advantageous for individuals who are 65 or older. These include the retirement tax credit as well as benefits related to the sale of a house.

Health Care

Medicare

The major improvements in federally financed health care for older persons came in 1965, when the Congress added Title XVIII (medicare) and Title XIX (medicaid) to the Social Security Act.

Under Title XVIII, persons who are 65 and older and entitled to receive Social Security cash benefits are eligible for hospitalization, nursing home care, home health services, as well as surgery, other medical services, various ancillary health services, prosthetic aids and

appliances, other special devices, and in-patient prescription drugs. Services may be provided on an in-patient, out-patient, physician's office, or home health basis under a variety of conditions and restrictions. There are limits to the number of days of hospitalization, nursing home care, and home health services. There are also deductibles and co-insurance amounts which the patient must pay for various services. Mental health services are severely restricted.

For supplementary medical insurance benefits, the part of medicare which functions like major medical private health insurance, the patient pays a monthly premium currently set at \$7.20, which is deducted from Social Security benefit checks. Patients may be reimbursed for up to 80 percent of authorized expenses after a \$60 deductible for supplementary medical insurance benefits.

Disability insurance beneficiaries may now qualify for Medicare after they are on the disability insurance rolls for two years.

There are a number of shortcomings in the Medicare program. Although eye surgery and clear-cut medical treatment for serious eye conditions are covered, only cataract lenses and ptosis rods (for weak eyelid muscles) are covered. Low vision services, including prescribed low vision lenses, routine eye care, and eyeglasses to correct special or ordinary vision problems are not covered. Orientation and mobility services, rehabilitation teaching services, and other services designed to restore a patient to maximum functional independence after loss of sight are not covered. Similar basic rehabilitation services, such as

physical therapy or speech therapy, are covered for persons with other disabling conditions. For example, a stroke victim who loses full use of limbs and has slurred speech is covered for the services of a physical therapist or speech therapist. If he is blinded by the stroke, he is not entitled to therapeutic services which would enable him to function more independently without sight.

Among other shortcomings are lack of coverage of services in a free-standing rehabilitation center, the requirements of three days of hospitalization before a patient can be covered for nursing home care, and lack of coverage of prescription drugs outside of a hospital or nursing home. In addition, increasing health care costs result in increasing costs of supplementary medical insurance benefit premiums, deductibles, and co-insurance payments for the patient, making it highly desirable for those eligible for Medicare to be able to afford, and to be accepted for, private health insurance to cover these costs.

Although Medicare is administered by the Social Security Administration, it contracts with intermediaries, such as Blue Cross-Blue Shield affiliates or profit-making insurance companies for the day-to-day handling of claims by providers of health care services. Not infrequently, there seems to be variation in interpretation of covered services by intermediaries in different parts of the country.

Medicaid

Title XIX (medicaid) of the Social Security Act authorizes a Federal-State matching fund program to provide health care services to recipients of SSI, aid to families with dependent children, and other welfare programs, as well as those not receiving cash assistance payments but determined to have low enough incomes to be called medically indigent. A Social Security beneficiary may be entitled to both Medicare and Medicaid and may select non-duplicative benefits more advantageous under either.

Under Medicaid, the Federal Government gives each State which meets certain State plan requirements between 50 percent and 83 percent of the cost of providing health care services to its eligible residents. At the Federal level, the program is administered by the Medical Services Administration in the Department of Health, Education, and Welfare. At the State level, the program is administered by State or local welfare or social services agency. The program varies from State to State; and in addition to the range of health care services available under medicare, it may include services in intermediate care facilities, low vision services, and provision of outpatient prescription drugs.

Generally, SSI recipients are entitled to medicaid. A law enacted by the 94th Congress immediately before adjournment assures individuals who lose entitlement to any SSI payments by virtue of cost-of-living increases in regular Social Security of continued entitlement to Medicaid. This is particularly important to residents of

States where Medicaid benefits, such as general coverage of prescription drugs, are more advantageous than Medicare.

Veterans Health Program

The Veterans Administration operates a large network of hospitals, out-patient clinics, and domiciliaries. It also reimburses State nursing homes and homes for the aged for part of the cost of treating or housing veterans. Drugs prescribed by VA or private physicians for eligible veterans are available free from VA pharmacies on a mail-order basis.

Veterans seeking treatment for a service-connected condition have the highest priority. Veterans with a service-connected condition seeking treatment for a non-service-connected condition have the next highest priority. Veterans without service-connected conditions seeking treatment for non-service-connected conditions are eligible for in-patient services on a "space available" basis and for other services on a generous financial-need basis. In recent years, dependents of veterans with permanent and total service-connected disabilities were made eligible for coverage of health care services by private providers and can use VA facilities only when they have a unique capability.

Following World War II, when the Army closed its rehabilitation center for blinded servicemen and women, the VA established the Central Blind Rehabilitation Center at the VA Hospital, Hines, Illinois, for blinded servicemen and women and veterans of all branches of the Armed Forces. Subsequently, the VA established similar centers at its hospitals in Palo Alto, Calif., and West Haven, Conn. A fourth is projected at the VA Hospital, Birmingham, Ala.

Like the Army, the VA considers restoration of a blinded veteran to maximum functional independence a health service after it has been established that medical, surgical, and optometric services to restore maximum useful sight have been completed. In contrast, rehabilitation centers for nonveteran blind persons, which were also established after World War II as residential or nonresidential facilities generally based on the Army and VA example, are operated by local voluntary agencies serving blind persons, by State agencies for the blind, or by State vocational rehabilitation agencies.

In addition to veterans with service-connected blindness, the VA's blind rehabilitation centers serve veterans with non-service-connected blindness on a space-available basis. Blind dependents of veterans with total service-connected disabilities are also eligible for training at the VA centers, since they have unique capability.

Low vision service is also increasingly available in VA facilities. In addition, because of the increasing age of the World War I, World War II, and Korean Conflict veteran population, the VA's Department of Medicine and Surgery is focusing more attention on geriatric problems generally.

National Health Insurance

The past several Congresses have held extensive hearings on proposed national health insurance legislation but failed to approve any. In 1974 and 1975, the American Foundation for the Blind recommended inclusion in a national health insurance program of provisions for special services to blind and severely visually handicapped persons. These

special provisions would: (1) cover low vision services to enable blind and severely visually impaired individuals to make maximum use of residual vision; (2) cover services in a rehabilitation facility for the blind; (3) cover services of a mobility therapist for the blind and a rehabilitation teacher of the blind to blind persons in hospitals, extended care facilities, homes for the aged, and in their own homes on an inpatient, outpatient, and home health service basis to assist them in achieving maximum functional independence without sight; (4) authorize periodic comprehensive audiological examinations for all blind and severely visually impaired individuals.

Biomedical Research

The major source of financing for biomedical research into the causes, cures, and prevention of blindness and vision disorders is the National Eye Institute of the National Institutes of Health, created by Congressional action through the Public Health Service Act. Research activity by investigators in a variety of settings continues to go forward; and hopefully, means will eventually be found to prevent, or substantially retard the progress of, the major blinding eye diseases. The appropriation for the National Eye Institute for the current fiscal year is \$64 million.

In addition, the Veterans Administration has an active across-the-board medical research component, which is substantially smaller in scope and financing than that of the National Institutes of Health. The Va's medical research activity also encompasses prosthetics research; and over the years since World War II, VA prosthetics research

has helped to finance research and development of various mobility and reading devices for the blind.

To a substantially smaller extent, several national voluntary organizations finance biomedical research on blinding eye diseases.

The National Institute on Aging was established in 1974 at the National Institutes of Health. It focuses on medical, biological, psychological, and social aspects of research relevant to improving the health of the elderly. The appropriation for this Institute for the current fiscal year is \$30 million.

Health Manpower

In its report accompanying its version of the Health Professions Educational Assistance Act of 1976, the Senate Committee on Labor and Public Welfare indicated the need for training as allied health personnel additional mobility therapists for the blind, rehabilitation teachers of the blind, and low vision aid therapists, particularly to meet the need to serve the large numbers of unserved older blind and severely visually impaired persons. If the Secretary of HEW observes the intent of the Senate Committee, regulations to implement the revised allied health provisions of the Public Health Service Act should specifically cover training programs for these specialists.

Another provision added by the new law authorizes the Secretary of HEW to make grants and contracts for projects on "training in the diagnosis, treatment, and prevention of the diseases and related medical and behavioral problems of the aged."

Food and Nutrition

The various federally financed food and nutrition programs can be a valuable supplement to the income of older blind persons. The Nutrition for the Elderly program under the Older Americans Act of 1965 provides for low-cost nutritious meals served to persons 60 years of age or older and their spouses, preferably in congregate settings. Individuals may pay nominal sums at their own option for these meals. The appropriation for the current fiscal year for the Nutrition for the Elderly program is \$203.5 million, which is estimated to provide approximately 400,000 meals. This program is administered at the Federal level by the Administration on Aging in HEW as formula grants to the States' programs with a 90 percent Federal share.

The Food Stamp Act of 1964 authorizes a program administered by the Department of Agriculture at the Federal level and through State and local welfare agencies. On the basis of income, eligible individuals may purchase varying amounts of food stamps, which can then be used as legal tender for the purchase of food in participating local stores. Elderly persons may use food stamps to purchase meals delivered to their homes by nonprofit organizations if they are unable to prepare meals themselves. They may also use food stamps to pay for meals served in congregate facilities. The appropriation for this program for the current fiscal year is \$4,794,400,000.

It is likely that both of these programs are underutilized by eligible older blind and severely visually impaired persons for a variety of reasons, including pride, ignorance of their existence, inability to get to places

where meals are served or food stamps are distributed, and bureaucratic red tape in the distribution of food stamps. Some Members of Congress believe that a more generally available mobile meal delivery service, such as "Meals on Wheels", would make it possible for older persons unable to cook for themselves to avoid costlier institutionalization.

Housing

The various Federal housing laws have programs, including rent supplementation and other assistive housing payments, designed to assist low-income families, or those with elderly or disabled family members. For the so-called Section 8 rent assistance program, the criterion of eligibility is income below 50 or 80 percent of the median income of the specific metropolitan area.

In addition, there is a specific program of low interest loans to foster construction of housing for the elderly and handicapped. The Housing Authorization Act of 1976 authorized \$1.4 billion for the current fiscal year, \$2.4 billion for fiscal year 1978, and \$3.3 billion for fiscal year 1979 for this program.

In some areas, local housing authorities with Federal financial assistance are purchasing luxury and other apartment houses for occupancy by low-income older persons.

Probably the ideal housing arrangement for elderly persons who do not require nursing home care and who do not want the institutional life of regular homes for the aged would be to have available to them multiple family units with congregate dining and recreational facilities, which they can use at their own option. In addition, there should be readily available transportation services. This would

insure privacy, permit independent living, assure the availability of nutritious meals, assure ready access to health services when needed, and prevent social isolation and loneliness. Residents should be required to pay for accommodation and services. Government programs should subsidize in whole or in part residents who cannot afford to pay the full cost of residential accommodation or services.

Rehabilitation Services

The Vocational Rehabilitation Act and its successor, the Rehabilitation Act of 1973, has as its principal purpose restoration of handicapped individuals to employment. Preparation for, and placement in, jobs with pay commensurate with the handicapped individual's aptitude and ability have far-reaching implications for his old age, since earnings during the working years govern income in retirement.

This is a Federal-State matching fund program, with a Federal share of 80 percent of the cost of case services. It is administered at the Federal level by the Rehabilitation Services Administration in the Department of Health, Education, and Welfare and operated by State vocational rehabilitation agencies or State agencies for the blind.

Since physical restoration to eliminate or ameliorate a handicapping condition is an integral part of the program, it also covers health services which cannot be obtained under other existing programs, including private health insurance.

Low vision services can be provided to maximize the efficient use of residual sight. Similarly, State agencies

can provide rehabilitation center training, as well as orientation and mobility and other daily living skill services outside of a center.

The fiscal 1977 appropriation for basic State grants for rehabilitation services is \$740 million.

On the basis that rehabilitation services were not as readily available to individuals who lost their sight in middle age and later, the six major national organizations of and for the blind urged the 92nd Congress to enact a pilot target program of grants to States for rehabilitation services to older blind persons. This program was included in the Rehabilitation Act of 1972 for blind persons aged 55 and older, as was a special program authorizing comprehensive rehabilitation services without a clear-cut vocational objective. The bill was pocket vetoed by President Nixon. An identical bill was vetoed by the President early in 1973, and the Congress failed to override.

The Rehabilitation Act of 1973, which was approved by the President early in the autumn of that year, contained authorization for special projects in the rehabilitation of older blind persons. Projects are currently under way in six States--Arkansas, Colorado, Oregon, Texas, Virginia, and West Virginia--at a cost of \$441,000.

During the Presidential election campaign last fall, President-elect Carter's Campaign Committee issued a statement indicating that he supported enactment of legislation providing for independent living rehabilitation services for handicapped persons. If such a program were enacted, it would have great potential for improving the

lives of most older blind and severely visually impaired persons given adequate appropriations. Under Titles II and XVI of the Social Security Act, disability insurance beneficiaries and SSI blind and disabled beneficiaries under 65 considered suitable candidates for vocational rehabilitation are referred to State rehabilitation agencies, with the full cost of services covered by the Federal Government. Referrals from both programs are very selective, and Congressional intent is clearly vocational rehabilitation for employment to remove beneficiaries from the rolls in both income security programs.

The appropriation for the disability insurance program for the current fiscal year is \$92,332,000. The current appropriation for referrals from the SSI program is \$52,770,000. It is probable that a minimal number of people referred from both programs are over 50.

Historically, research and demonstration project funds under the vocational rehabilitation program have been used to develop programs which benefit blind and severely visually impaired persons of all ages. Examples are establishment and operation of low vision clinics, services for deaf-blind adults, training of orientation and mobility specialists, and rehabilitation center services specifically for older blind persons.

Social Services

In 1956, the Congress added authority for provision of social services to promote "self-care" of cash public assistance recipients to the cash assistance titles of the Social Security Act. State welfare or social services agencies, which administered the cash assistance programs, also administered the social services program, except in Delaware, Massachusetts, New Jersey, North Carolina, and Virginia where separate State agencies for the blind then administered the Title X cash maintenance and the social services program for legally blind recipients of all ages. The Federal Government paid 50 percent of the cost of social services to promote self-care, with the Federal share provided on an open-end funding basis.

The Public Welfare Amendments of 1962 strengthened these provisions and authorized Federal reimbursement to the States of 75 percent of the cost of specified social services designed to promote self-care and self-support and "prevent dependency." Financing was still open end, with the Federal Government obligated to reimburse States for approved services.

Except in the five States where separate State agencies for the blind had specific legal authority to obtain reimbursement from the Federal Government, there does not appear to have been much evidence that these social services funds were being used to provide or purchase specialized services for blind persons, particularly for older blind persons. It is possible that older blind persons benefitted to some degree in some States from more general social services.

In 1972, as a result of concern in both the Congress and the Administration over the rapidly increasing cost to the Federal Government of social services on an open-end funding basis, Congress put a ceiling of \$2.5 billion on the authorization of appropriations for social services while still retaining a 75 percent Federal share. Late in 1974, the Congress enacted Title XX of the Social Security Act, establishing a block grant mechanism under which requirements for States to obtain Federal funds for social services were minimal and States were given maximum latitude as to the social services they provided.

There is a statutory requirement that States must spend 50 percent of social services funds on recipients of SSI, aid to families with dependent children, and medicaid. State agencies for the blind which had previously administered social services programs for blind persons could continue to do so under Title XX. However, as a result of State reorganization, only agencies in Massachusetts, North Carolina, and Virginia now administer Title XX State plans for blind persons.

Amendments to Title XX in 1976 authorized States to have the option of providing social services on a group eligibility rather than individual means test basis in geographic areas of the State where substantially all of the residents have incomes below 90 percent of the State median income. This has implications for provision of social services to older persons in senior centers, as well as older blind and severely visually impaired persons.

In preparing A Guide to Expanding Social Services to the Blind Under Title XX of the Social Security Act,

published by the American Foundation for the Blind in September 1976, John L. Duncan of the Foundation's Governmental Relations staff reviewed the first year Comprehensive Annual Social Services Program (CASSP) plans of 49 States and the District of Columbia. He found that only 17 States indicated that they would provide specialized services to blind persons, such as orientation and mobility and rehabilitation teaching services. According to Duncan, these first year CASSP plans estimated that 62,044 blind and severely visually impaired persons would receive these specialized services at a cost of \$10.7 million. There was no way of ascertaining whether an individual would receive more than one service. As this is likely, the total number served would actually be lower. It is also likely that blind persons received other general social services, such as homemaker services.

Through distribution of the publication cited above and the activity of its six regional consultants at State and local levels, the AFB is making a deliberate effort to foster inclusion of specialized services to blind persons in future CASSP plans, as well as utilization of valuable general services. However, the block grant mechanism fosters competition for services at State levels among a large variety of target groups and their advocates, thus making the comparatively small eligible blind population vulnerable to the effort of substantially larger and better organized groups in the political process involved given the limited amount of funds.

If the Foundation's effort proves unsuccessful, it will be necessary to seek other ways of assuring provision of

these services. One of these ways will be to seek an amendment to Title XX establishing a categorical program of social services to blind persons with its own authorization of appropriations.

Older Americans Act

The Older Americans Act of 1965 was enacted to assure provision of a wide variety of necessary services to the growing proportion of older persons in the population who need them. This is to be accomplished through the establishment with Federal financial assistance under the Act of State and area agencies on aging, which can serve as advocates to assure utilization by older persons of other federally-financed programs, as well as through programs established by the Act itself.

We have already discussed the Nutrition for the Elderly program. There is also authority for model projects, including specific provisions for special services to older handicapped Americans. Amendments enacted in 1975 require State agencies on aging to spend not less than 20 percent of their allotments for community services for transportation services, home services, legal and other counseling services, and residential repair and renovation programs.

Administered at the Federal level by the statutorily established Administration on Aging, the Older Americans Act of 1965 must still be regarded as having its greatest impact on the lives of older blind and other handicapped persons at some time in the future. Except for the Nutrition for the Elderly program, the bulk of Federal funding has necessarily been devoted to the establishment and operation of State and area agencies on aging, research programs, training of

personnel, and increasingly for social services. Special services to blind and other handicapped older persons can be handled on a model project basis as well as through community services. Obviously, substantially higher appropriations will be needed in the future--coupled with expanded program authority--if the Older Americans Act of 1965 is to fulfill its potential for assuring essential services to older blind and handicapped persons, let alone the needs of low-income older persons without serious handicapping conditions.

Reading Services

One of the major handicapping effects of severe visual impairment, including legal blindness, is inability to read printed material with ordinary correcting lenses. Readily available low vision services financed under a comprehensive national health insurance program--or medicare for those 65 and older and disability insurance beneficiaries--would help to solve the reading problem for many severely visually impaired persons. Others will still have to depend on systems which convert the written word into tactile or audible reading methods.

In 1931, Congress enacted the Pratt-Smoot Act, which authorized the Library of Congress to purchase books in braille to be lent to blind readers through regional distributing libraries. In 1933, Congress expanded the program to include sound recordings of books and equipment on which the records could be played. Subsequent amendments extended the program to blind children; removed the ceiling on the authorization of appropriations; and in 1966, extended the program to other physically handicapped

individuals of all ages who cannot handle ordinary printed material.

Administered by the Division for the Blind and Physically Handicapped of the Library of Congress, the program covers books in braille and recorded form, instructional music texts and braille music, and playback equipment for pressed records and cassette tapes. Eligible readers may borrow books and playback equipment through regional distributing libraries--many of them State or municipal libraries or State agencies for the blind--which can receive a small amount of Federal financial aid for this service under the Library Services and Construction Act, administered by the Office of Education in HEW. In some areas, playback equipment is distributed by local agencies for the blind. Books are generally borrowed and returned to libraries by mail at no cost to readers as a result of Federal legislation which subsidizes this cost to the U.S. Postal Service.

The Books for the Blind and Physically Handicapped program is the most significant current source of recreational and informational reading material for older blind and severely visually impaired persons. As most of them lose their sight in middle age or later, comparatively few will learn to read braille proficiently enough to enjoy extensive reading tactually. Most blind persons now use the recorded books. The FY 1977 appropriation to the Library of Congress for this program is \$21.7 million.

Radio Reading Services are a recent development helpful to persons who cannot read ordinary printed material. These are operated by a variety of agencies, including those

established specifically for that purpose, and use a subcarrier channel of a cooperating local commercial or educational FM radio station to carry their programs. A pretuned FM radio receiver is required by those who use the service. The Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976 authorized grants to public broadcasting facilities to cover 75 percent of the cost of these radio receivers.

Programming varies with each Radio Reading Services organization, but generally does include live reading of local newspaper articles and grocery and other retail store advertisements. The Corporation for Public Broadcasting, which receives a direct Federal appropriation, is actively interested in Radio Reading Services and already has the authority to make grants for some programming if it decides to do so.

Grants and contracts from the Rehabilitation Services Administration, the Bureau for the Education of the Handicapped in the Office of Education, the Veterans Administration, and the National Science Foundation have assisted in the research and development of a variety of devices to read print using tactile and audible signals. The most promising of these appear to be the Opticon, which converts print into magnified tactually discernible form, letter by letter, and the Kurzweil Reading Machine, which converts print into synthetic speech. The latter is still in prototype form, and individual machines will be expensive unless advances in computer technology make cost reduction feasible.

Prohibition of Discrimination

No discussion of the impact of Federal legislation on older blind and severely visually impaired persons would be complete without mention of some of the developments in legislation prohibiting discrimination. The Age Discrimination in Employment Act of 1967 prohibits discrimination in employment on account of age for individuals between the ages of 40 and 60.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against otherwise qualified handicapped individuals in federally-assisted programs. The Office for Civil Rights in HEW has not yet issued final regulations to implement this provision.

The Age Discrimination Act of 1975 prohibits discrimination on account of age in federally-assisted programs, including general revenue sharing. It specifically exempts from its coverage the Age Discrimination in Employment Act of 1967 and programs targeted on specific age groups, such as Headstart. It has a statutory timetable for the promulgation of regulations and becomes fully effective January 1, 1979. It authorizes a study by the U.S. Commission on Civil Rights of patterns of discrimination on account of age in Federal financial assistance programs.

The State and Local Fiscal Assistance Amendments of 1976 prohibit discrimination on account of race, color, national origin, sex, age, and handicapping conditions in programs financed with general revenue sharing funds.

All of these laws can have considerable impact on older blind persons if properly enforced.

Conclusion

I have briefly described the highlights of major Federal laws which have created programs of benefits and services of considerable significance to older blind and severely visually impaired persons. Shortcomings in some major programs--income security, health care, food and nutrition, housing--affect all eligible persons for a variety of reasons but may be more acutely felt by older blind persons because of the serious problems added by the handicapping effects of severe vision loss. Shortcomings in other major programs--vocational rehabilitation, the Older Americans Act, social services under Title XX of the Social Security Act--stem from the need to focus on handicapped persons of optimum employable age, underfinancing, or the vast scope of diverse services coupled with too many eligibles for the funds available. In addition, the new block grant method for administration of Title XX creates competition at State level for available funds and services between beneficiary groups.

Major gaps in services to older blind and severely visually impaired persons continue to be lack of general availability of quality low vision services with the cost covered by private health insurance or a government-financed program, as well as the lack of adequate financing of specialized services designed to foster independent living and prevent premature institutionalization. No federally-created health care program covers low vision services for all who might benefit, and the only federally-financed program under which specialized services for independent living of older blind persons can currently be provided--

Title XX of the Social Security Act--has too many demands upon it.

I believe that the most effective way of assuring older blind and severely visually impaired persons of low vision and specialized independent living services, such as rehabilitation center training, orientation and mobility services, and training in other daily living skills, is to cover them as health and allied health services under medicare and, subsequently, under a comprehensive national health insurance program. Similarly, long-term care services, such as homemaker and mobile meal services, should be covered under medicare and a national health insurance program for those who need them as a means of delaying costlier institutionalization.

The advantages of coverage of these services as part of a comprehensive national health insurance program are uniformity of entitlement and payment mechanisms and assurance of quality professional standards through accreditation of providers of services. Unlike existing Federal-State matching fund programs, a comprehensive national health insurance program would not be subject to the vagaries of Federal and State appropriations processes with their dependence on matching fund allocation formulas and inevitable limitation on the numbers of people served.

Until a truly comprehensive national health insurance program is implemented, a separate title should be added to the Rehabilitation Act of 1973 to cover independent living rehabilitation services to handicapped persons of all ages without regard to potential employability. A Federal-State matching fund program of this type could be phased down as

medicare and national health insurance increasingly cover the cost of these services.

The history of human services programs in the United States has demonstrated that Federal financial assistance is essential to assure their continued support and development. The adequacy of these programs is inextricably dependent upon a healthy economy to produce the revenues needed to underwrite their cost. Therefore, the rate of development of needed human services programs can never be permitted to exceed the ability of the national economy to support them without prejudicing the existence of the programs themselves.

[FACSIMILE]

September 23, 1977

To the Civil Rights Commission,
Arthur S. Flemming, Chrmn.

To supplement my testimony before the Commission,
I offer for the record of these hearings on discrimination
against the aging, the attached document which is
excerpted from the Staff Report to the Advisory Committee
on Aging, American Foundation for the Blind, titled, "A
Perspective on Aging and Blindness" by Dorothy Demby, April
26, 1977.

Respectfully submitted,
Reese H. Robrahn,
American Council of the Blind

II. BACKGROUND¹

THE OLDER BLIND POPULATION:

Blindness and visual impairment among older people are
on the increase not only because the major causes of
blindness are associated with aging, but because people are
living longer, in spite of chronic illnesses and multiple
disabilities.

¹Excerpts from Dorothy Demby's presentation at Western
Gerontological Society Meeting, March 29, 1976 San Diego,
California, "Blindness and Visual Impairments Among Older
Population---An Overview."

FACTS AND FIGURES:

Data does not exist to permit being definitive as to the number or characteristics of the blind and visually impaired population in the United States. However, a general survey of actual cases gives added support to the estimates and the research information that is available to us by pointing out that over one million, or about 65%, of severely visually impaired are 65 years of age and older, with a complexity of service needs.

Authorities are agreed that generally, the older blind are newly blinded, with some remaining vision; they are over 75 years of age; they are multiply impaired, poor, non-white, and tagged to be in an institution. A significant number of this population is hidden, not known, or identified as legally blind, and because they are most often persons who have become blind later in life, they must cope, not only with a vision impairment, but also with decline, or loss of hearing, taste, balance, movement, and so forth. These are the very sensory mechanisms needed in learning to cope with a visual handicap. It is a frustrating situation and can be expected to bring about emotional problems. It is not easy to contend with difficult situations in today's world, and so, some blind individuals withdraw in a variety of ways, due to the compounded problem of growing old and becoming blind.

On the positive side, we find among older blind people, human beings who do cope with stresses of blindness and old age. Each blind person has a potential with differing capabilities to live a satisfying life. Blindness need not be a handicap. Each person can be helped. A good many will

have a positive and patient outlook on their impairment, aiming to make the most of his or her potential and capability.

CAUSES AND PREVENTION OF BLINDNESS:

What are the causes of blindness among older people? Can blindness be prevented? According to the National Society for the Prevention of Blindness, 50% of blindness is preventable. The two leading causes of blindness are senile cataract and glaucoma. These eye conditions are most prevalent among the aged. However, blindness, in most cases, is needless. Through early detection and appropriate treatment blindness from glaucoma can generally be prevented. Vision can be restored through surgical removal of a lens in those suffering vision impairment from cataracts. This procedure is 95% successful in those cases for which surgery is recommended, it is said.

Perhaps, only as one realizes that 78% of our communication takes place through vision, will one place importance all one's life on preventive measures such as periodic screening of the eyes.

SERVICE NEEDS:

What are the needs of older blind people? What special services should they receive? In spite of the fact that more is being done these days about disabilities and impairments such as blindness and existing services for older blind people, by no means are they adequate in quality or in quantity.

What is needed are programs, services, and attitudes in institutions and in communities that lead each older visually impaired person to his or her maximum functional independence. This means, programs, services, attitudes that assist and support the older blind person with orientation to surroundings in, or out of an institution; mobility skills, and communication skills. It also means a freedom of choice for the older blind person, like any other human being--a choice, an opportunity and recognition.

GOALS AND OBJECTIVES--PROGRAMS FOR SERVICE:

Goals and objectives of any individual, group or agency, wishing to do something about the needs of the older population's sight difficulties should be concerned with:

- Provision and maintenance of quality services (accessible, available, adequate, acceptable to the consumer).
- Reduction of loneliness among those who are old and blind.
- Opportunities for service in the mainstream of the community.
- Widening the network of services of aging to include the blind.
- Need for public understanding of the blind person, his potential and his needs.
- Training Centers for Independent Living, daily living skills, personal care, mobility and orientation.
- Comprehensive Health Care Programs and services including Vision Care.

PERSONAL GOALS OF THE ELDERLY PERSON:

Personal goals for a older person who has become blind should be aimed toward:

- An independent life as opposed to dependency.
- Continuing interest in the world and the people around him or her.
- Participation in a useful or interesting activity in development of individual inner resources.

EXISTING PROGRAMS--NATIONAL EFFORTS:

To focus nation-wide attention on the problems and needs of older blind persons, the American Foundation for the Blind made a commitment in 1969 to be an advocate for programs and services that would lead toward the personal and economic independence of older people with sight difficulties, whether they were in, or out of an institution.

The Foundation has assumed its advocacy commitment in a variety of ways, with the help of 1968 Research Conference on Aging and Blindness; 1969, formation of a National Task Force on Geriatric Blindness, which Garson Mayer and Dr. Robert Morris co-chaired; 1972--Board Advisory Committee on Aging; 1975--First National Conference on Aging and Blindness.

Specific and related activities on the national level so as to make an impact on services to older people directly include:

- The development of a National Policy Statement on Aging and severe visual impairment;

---A session on Blindness at the White House Conference on Aging and Blindness in 1971;

---A Pilot Project in New York, Albuquerque, St. Petersburg, Florida on integration of services in community programs and in Retirement Communities;

---In home services in Chehalis, Washington, and Independence, Missouri, with follow-up activities for each by way of a festival for Low Vision in Albuquerque, and project "Eye Tips" in St. Petersburg, Florida.

---Development of training guidelines, information, publications, including a Fact Sheet on Aging; legislative activities;

---National and Regional Conference on Aging and Blindness.

III. CURRENT ISSUES, PROBLEM, GAPS

The Foundation's current thrust in national program development in the interest of services and independent living for older people with sight difficulties, has as a focal point and goal, a continuum of social services at the local level to meet the range of needs of the older blind person. We still see as current issues, problems, and gaps, a variety of concerns related to short-comings in legislation, information exchange, advocacy, prevention of blindness, continuity of services, an organized body of knowledge and opportunities, options and choices for the older blind consumer.

RESULTING LOCAL PROGRAMS:

One of the most heartening moments has been to reflect on what others are doing about aging and blindness, due in part to the Foundation's advocacy efforts to date. A wide range of interest on Aging and Blindness is now evident all over the country. Universities are adding courses related to Aging and Blindness. Planning bodies on the State and local levels are formed. A new Geriatric Adjustment Center for the Visually Impaired is being established. Alternates to institutional care are being tested. Aging programs are being reviewed in reference to services to the blind. Outreach services are being provided. Funds are being sought and provided. New technological devices are being tested on the elderly. Research is being done, results are being publicized and staff training is taking place.

LEGISLATIVE ACTIVITIES:

Recent legislative developments show significant advances in the provision of social services. Title XX of the Social Security Act has been a current focus in advocacy. A model plan was developed to assist States in seeking Title XX Funds to serve local blind persons.

As to why the Foundation continues to single out this age group as a priority for aging goals, authorities continue to agree that the larger proportion of blind persons in the United States is over 65 years of age, and that less than 9% of the special services for the blind in the United States are for the elderly, and that there is a reluctance to include blind in aging programs, and there is a continuing interest in the numbers, proportions, life

expectancy of the older population, resulting in a growing number of visually impaired older people.

While it is felt that the Foundation has had a degree of success in its advocacy efforts to date, unresolved, unanswered, unmet, mounting issues prevail and continue to affect lives of people who are old and blind. Let's consider some of these issues.

ISSUES AND GAPS:

In spite of what has been accomplished to date, a complexity of gaps in information and service for the older blind person persist. New needs, new resources, new approaches are being identified in reference to older people in general, and, as you know, services for the visually impaired older population must keep pace through planned change. A body of knowledge is yet to be assembled, based on the special problems of the elderly blind. Existing programs or services most often fail to take into account the whole person who is visually impaired; the whole situation; who is being served; what special needs exist; why and where are the resources; how to match these needs with resources on a personal, local, State or national level, for that matter.

Definitive information does not exist, as I have already mentioned, even though there is a growing core of knowledge being developed at random by practitioners, specialists, and researchers based on actual practice, experience, and expertise. A need exists to develop and systematize the current knowledge so that all practitioners work toward a common goal for the older visually impaired

person so that they can maintain a life of dignity, in spite of their impairment. There are basic difficulties in meeting this need. An excellent discussion of these difficulties can be found in two publications: "The Making of Blind Men" by Robert Scott, and, "The Blindness System" by Donald Schon. Basic problems and issues mentioned in these publications are: 1. the definition of blindness, 2. the problem of data, 3. the mix match of services and clients. Suffice it to say that agreement does not exist as to a single definition on blindness, sources, statistics, programs, guidelines, or priority of services to the blind.

Disparity compounds the quality or quantity of services needed in programs of prevention, detection, referral, treatment, personal care, whatever, and so a problem still exists for older visually impaired people at this moment to maintain their identity, go on living, in spite of their impairment.

When it is realized that a significant number of the population of whom we speak are multiply impaired, factors, such as money, isolation and personal care, become a greater concern.

When it comes to planning programs, how often do we find the service based on the needs as expressed by the consumer, and if this were the case, would we not find more low vision programs, or opportunities in the mainstream, based on a freedom of choice? Would we not find more financial support?

Philanthropic organizations have only recently begun to become sensitized to the needs of the elderly, and it is, therefore, doubly important to set up a special plan to

inform the staff and trustees of funding agencies to the Blindness System, and to the needs as well as the potential of such a specialized group as the older person with vision problems.

GAPS IN FEDERAL LAWS:

When it comes to meeting older blind persons' needs in health care, income maintenance, housing, home care, employment, we still find that current legislative provisions, through Social Security Act, the Older Americans Act, and other laws benefiting older people, find older blind individuals falling between the cracks. Another problem is the competition for funding, or the failure to include the kind of specialized service, needed by the elderly visually impaired person.

PRIORITIES:

In recent months, the Government has identified the following as priorities for the older citizen: income, social security, health, employment, drugs, medicaid, medicare, housing, transportation, and crime, and there is not one of these issues that, unless given special attention, can we say will adequately meet the needs of the older blind person.

INDEPENDENT LIVING:

Too often, the individual is institutionalized unnecessarily, or faced with blindness, without adequate rehabilitation services. Provisions of the Rehabilitation Act have so far provided only a beginning in delivering the kind of rehabilitation services that would be meaningful to this age group. The three RSA Projects in six States to demonstrate different methods of delivering rehabilitation services are mandated to continue after the project year. However, the estimated 1,000 persons who will be rehabilitated is a small portion of these needing such services in our country.

MULTIPLE IMPAIRMENTS:

The aging process brings with it a gradual deterioration and loss of hearing, sense of touch. Yet, these are needed by the blind older person to compensate sight loss. Not enough attention is given to what it means to be blind, multiply impaired, and old. Programs and services for older blind people need to consider multiple impairments.

CONSUMER INVOLVEMENT:

The voice of the older blind consumer has not been heard. This is due in part to the lack of necessary support in advocacy. Our guest speaker tonight, Bob O'Donnell, will discuss the implication for the blind of senior power in other domains.

WRITTEN STATEMENT OF

THE AMERICAN COALITION OF CITIZENS WITH DISABILITIES
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SUBMITTED FOR THE RECORD AS TESTIMONY
AT HEARINGS ON DISCRIMINATION AGAINST THE AGING
BEFORE THE U. S. CIVIL RIGHTS COMMISSION
SEPTEMBER 27, 1977

PREPARED BY REESE H. ROBRAHN, ATTORNEY-AT-LAW
ACB'S DIRECTOR OF RESEARCH AND GOVERNMENTAL AFFAIRS
ACCD BOARD MEMBER

THE AMERICAN COALITION OF CITIZENS WITH DISABILITIES (NONPROFIT) IS A MEMBERSHIP COALITION OF 62 NATIONAL ORGANIZATIONS OF HANDICAPPED INDIVIDUALS AND STATE COALITIONS AND LOCAL ORGANIZATIONS OF HANDICAPPED INDIVIDUALS.

THE AMERICAN COUNCIL OF THE BLIND IS A NATIONAL ORGANIZATION (NONPROFIT) PRIMARILY OF INDIVIDUALS HAVING VISUAL IMPAIRMENT, AND HAVING 50 AFFILIATED ORGANIZATIONS, 40 STATE MEMBERSHIP ORGANIZATIONS AND 10 PROFESSIONAL AND SPECIAL INTEREST ORGANIZATIONS.

DURING THE YEAR LONG STUDY OF DISCRIMINATION AGAINST THE AGING BY THIS COMMISSION, THE RECORD BY NOW IS NO DOUBT FILLED WITH TESTIMONY AND EVIDENCE OF THE WIDESPREAD DISCRIMINATION PRACTICED AGAINST THE AGING POPULATION OF THIS NATION; AND THEREFORE THE AGING PROCESS HAS SPECIAL IMPLICATIONS FOR THE RANGE OF THE PARTICIPATION OF AGING INDIVIDUALS IN THE MAINSTREAM OF SOCIETAL ACTIVITIES--IN THE FACILITY, CHOICE, AND ACCOMPLISHMENT OF THAT PARTICIPATION.

ATTITUDES OF THE GENERAL PUBLIC TOWARDS THE AGING RAISE MORE RESTRICTIVE IMPLICATIONS FOR THE AGING THAN DO THE NATURAL CONSEQUENCES OF THE AGING PROCESS ITSELF.

THE FOREGOING STATEMENTS ARE ALSO TRUE FOR HANDICAPPED CITIZENS OF THIS NATION. THE CONDITION OF AGING COUPLED WITH A HANDICAPPING CONDITION OR

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A DISABILITY RESULTS IN A MAGNIFICATION OF THESE IMPLICATIONS AND A COMPOUNDING OF THE PROBLEMS OF THE PROTECTION OF THE CIVIL RIGHTS OF AGING HANDICAPPED INDIVIDUALS, AND IN CHANGING THE ATTITUDES OF THE PUBLIC CONCERNING THE AGING PROCESS AND HANDICAPPING CONDITIONS OR DISABILITIES. NO ACCURATE FIGURES ARE AVAILABLE WHICH ESTABLISH THE INCIDENCE OF A HANDICAPPING CONDITION OR DISABILITY AMONG THE MEMBERS OF THE AGING POPULATION. WHILE STUDIES HAVE BEEN CONDUCTED TO OBTAIN SUCH PERTINENT INFORMATION, IT IS RECOGNIZED THAT THE RESULTS OF SUCH STUDIES ARE NOT WHOLLY RELIABLE FOR A NUMBER OF REASONS. IN THE FIRST PLACE, MANY INDIVIDUALS REFUSE TO REVEAL THE FACT THAT THEY HAVE A HANDICAPPING CONDITION OR DISABILITY. IN THE SECOND PLACE, MANY DO NOT REALIZE THAT THEY SUFFER FROM A HANDICAPPING CONDITION OR A DISABILITY, SUCH AS LOSS OF VISION OR HEARING, BECAUSE FREQUENTLY THE LOSS OF VISION OR HEARING OCCURS THROUGH A SLOW DIMINUTION; AND THERE IS NO RECOGNITION OF THE LOSS UNTIL IT BECOMES SO SEVERE THAT IT SUBSTANTIALLY INTERFERES WITH THE INDIVIDUAL'S EMPLOYMENT OR PERFORMANCE OF DAILY LIVING ACTIVITIES. NOTWITHSTANDING THE FOREGOING, THE INFORMATION PRODUCED BY SUCH STUDIES IS SUFFICIENTLY COMPLETE AND RELIABLE TO ESTABLISH THE FACT THAT A VAST MAJORITY OF THE AGING POPULATION SUFFER FROM ONE OR MORE MAJOR DEBILITATING CHRONIC CONDITION(S) SUCH AS BLINDNESS, DEAFNESS, HEART DISEASE, ARTHRITIS, AND DIABETES.

IT IS ALSO RECOGNIZED THAT A VAST MAJORITY OF THOSE WHO ARE OVER THE AGE OF 65, BECOME ISOLATED FROM AND DO NOT PARTICIPATE IN COMMUNITY AND SOCIAL ACTIVITIES. THIS IS THE RESULT OF THE LACK OF OR AVAILABILITY OF APPROPRIATE SOCIAL AND HEALTH SERVICES, AND BECAUSE OF MANY IMPEDIMENTS OR BARS CREATED BY SOCIETY WHICH EXCLUDE AND WHICH PREVENT FULL PARTICIPATION.

SOME OF THE BARS TO FULL PARTICIPATION ARE AS FOLLOWS;

1. INFORMATION SOURCES CONCERNING AVAILABLE COMMUNITY SERVICES AND RESOURCES ARE NOT AS BROADLY OR READILY AVAILABLE TO MANY AGING INDIVIDUALS WITH CERTAIN HANDICAPPING CONDITIONS (IE. PRINT INFORMATION SOURCES ARE NOT READILY AVAILABLE AND ARE NOT APPROPRIATE WITH INDIVIDUALS WITH VISUAL IMPAIRMENT, AND RADIO AND TELEVISION ANNOUNCEMENTS ARE NOT READILY AVAILABLE AND ARE NOT APPROPRIATE FOR THE DEAF). THUS ANY OUTREACH PROGRAM FOR THE AGING MUST BE PLANNED SO THAT THERE IS ACCOMMODATION TO SPECIAL COMMUNICATION MEDIA NEEDS OF THE AGING.
2. ALWAYS A PROBLEM, AND A MAJOR ONE, FOR AGING HANDICAPPED INDIVIDUALS IS THE COMING AND GOING TO THE PLACES WHERE SERVICES AND ACTIVITIES MUST BE ARRANGED OR PARTICIPATED IN. MOST AGING HANDICAPPED INDIVIDUALS CANNOT DRIVE AN AUTOMOBILE, AND THEREFORE THEY MUST RELY ON TRANSPORTATION FURNISHED BY A MEMBER OF THE FAMILY OR A FRIEND OR RELY ON PUBLIC TRANSPORTATION WHICH IS MANY TIMES NOT AVAILABLE, INACCESSIBLE OR TOO EXPENSIVE.

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3. FREQUENTLY COMMUNITY SERVICES PROGRAMS ARE RESTRICTED TO CERTAIN GROUPS FOR ELIGIBILITY PURPOSES, SUCH AS BY AGE, OR THEY ARE CHURCH OR CLUB RELATED AND SPONSORED ACTIVITIES AND MEMBERSHIP IN THE SAME IS A PREREQUISITE.

4. SOMETIMES THE SERVICE PROGRAMS ARE RESTRICTED TO CERTAIN ETHNIC OR CULTURAL GROUPS WITHIN THE COMMUNITY WHICH FREQUENTLY HAVE RESTRICTING ATTITUDES AGAINST THE AGING AND HANDICAPPING CONDITIONS.

5. MANY TIMES THERE ARE WAITING LISTS FOR ENROLLMENT IN COMMUNITY SERVICE PROGRAMS AND/OR AN INORDINATELY LONG TIME LAG IN THE PROCESSING OF AN APPLICATION FOR SERVICES; AND INDIVIDUALS SEEKING SUCH SERVICES MAY BECOME DISCOURAGED, LOSE INTEREST, AND MOTIVATION, OR MAY BE REQUIRED TO EXHAUST ALL RESOURCES WHILE WAITING, IF INDEED HE OR SHE POSSESSES SUCH RESOURCES.

6. THE STAFF AND PERSONNEL OF MANY COMMUNITY RESOURCE AND SOCIAL SERVICE PROGRAMS ARE INADEQUATELY OR POORLY TRAINED, OR MAY HAVE NO EXPOSURE TO THE NEEDS AND CAPABILITIES OF AGING HANDICAPPED INDIVIDUALS, AND THEREFORE EXCLUDE AGING AND HANDICAPPED INDIVIDUALS FROM THE PROGRAM.

7. FREQUENTLY AGING HANDICAPPED INDIVIDUALS BELIEVE THAT THEY CANNOT PARTICIPATE IN A WORK RELATED OR SOCIAL ACTIVITY BECAUSE OF THEIR CONDITION OF AGING OR HANDICAP, AND THEY ARE NOT AWARE OF CERTAIN ADAPTIVE SKILLS WHICH IF MASTERED BY THEM WOULD MAKE POSSIBLE THEIR FULL PARTICIPATION ON AN EQUAL AND SATISFYING BASIS; AGENCIES AND PROGRAMS WHICH COULD TEACH SUCH SKILLS, ALL TOO FREQUENTLY, BUDGET MOST AVAILABLE FUNDS FOR SERVICES TO OTHER SERVICE TARGET POPULATIONS.

8. IN ADDITION TO THE FOREGOING, THERE EXISTS IN THE AMERICAN CULTURE TWO PERVASIVE CONCEPTS OR ATTITUDES WHICH SIGNIFICANTLY AFFECT THE PROVISION OR AVAILABILITY OF NECESSARY AND APPROPRIATE SERVICES FOR THE AGING AND/OR THE HANDICAPPED AND THE FIXING OF PRIORITIES IN THE FUNDING PROCESSES.

A. THE CONCEPT OF THE NUCLEAR FAMILY EXCLUDES AS MEMBERS OF THE FAMILY, GRANDPARENTS AND OTHER RELATIVES WHICH RESULTS IN THE FAILURE OF DELIVERY OF SERVICE SYSTEMS TO PROVIDE FOR SERVICES TO SUCH RELATIVES AS MEMBERS OF THE FAMILY.

B. THE ATTITUDES OF ANCIENT CULTURES TOWARDS CERTAIN HANDICAPPING CONDITIONS OR DISABILITIES SUCH AS BLINDNESS AND DEAFNESS, CHARACTERIZED AS A "FATE WORSE THAN DEATH," IN DEGREE IS STILL A PART OF THE AMERICAN CULTURE AND MORES; AND WHILE MUCH PROGRESS HAS BEEN MADE TOWARD THE ERADICATION OF SUCH ATTITUDES IN RECENT

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DECADES, THE AGING HANDICAPPED INDIVIDUAL IN THE MIND'S EYE OF THE AVERAGE ADULT AMERICAN IS STILL LOOKED ON AS HELPLESS, AN OBJECT OF PITY, AND OF NOT MUCH WORTH AS A MEMBER OF SOCIETY. THE NUCLEAR FAMILY CONCEPT AND THE ATTITUDES TOWARD AGING AND HANDICAP CONSTITUTE A VERY SIGNIFICANT BAR TO THE PROVISION AND AVAILABILITY OF NECESSARY AND APPROPRIATE SERVICES TO AGING AND HANDICAPPED INDIVIDUALS.

WHILE THERE IS VERY OBVIOUS AND PERVERSIVE PRACTICE OF DISCRIMINATION IN THE EMPLOYMENT OF AGING INDIVIDUALS, PERHAPS THE GREATER SERVICE NEEDS OF THE AGING POPULATION MAY BE CLASSIFIED AS HEALTH, WELFARE, AND OTHER SOCIAL SERVICES, WHICH ARE SYSTEMATICALLY DENIED TO THIS POPULATION THROUGH MANY INSIDIOUS DISCRIMINATORY PRACTICES. CARE SHOULD BE TAKEN IN THE DEVELOPMENT OF REGULATIONS TO IMPLEMENT CIVIL RIGHTS ACTS FOR THE AGING AND THE HANDICAPPED TO INSURE THE PROVISION OF SUCH SERVICES WITHOUT DISCRIMINATION.

THE ATTENTION OF THIS COMMISSION IS DIRECTED TO SECTION 84.22 OF THE SECTION 504 REGULATION, ENTITLED "EXISTING FACILITIES," PARAGRAPH (C) "SMALL HEALTH, WELFARE, OR OTHER SOCIAL SERVICE PROVIDERS," WHICH EXCLUDES RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE WITH FEWER THAN 15 EMPLOYEES FROM THE REQUIREMENTS OF THE ACT AND REGULATION WITH REGARD TO ACCESSIBILITY OF FACILITIES AND PROGRAM, AND PERMITS SUCH RECIPIENT TO REFER THE HANDICAPPED APPLICANT FOR SERVICE TO OTHER PROVIDERS. IT IS RESPECTFULLY SUBMITTED THAT THIS PROVISION WILL RESULT IN THE DENIAL OF MANY SERVICES TO MANY AGING HANDICAPPED INDIVIDUALS, ESPECIALLY IN RURAL AREAS OF THE COUNTRY, WHERE A VAST MAJORITY OF THE HEALTH SERVICE PROVIDERS WILL HAVE FEWER THAN 15 EMPLOYEES AND WHERE REFERRAL TO OTHER PROVIDERS WILL MEAN PROHIBITIVE ADDITIONAL TRAVEL REQUIREMENTS AND TRAVEL COSTS. IT IS OUR RECOMMENDATION IN THIS REGARD THAT ANY SIMILAR EXEMPTING PROVISION SHOULD REQUIRE SUCH EXEMPTED RECIPIENTS TO FURNISH ANY ADDITIONAL OUT OF POCKET TRAVEL EXPENSE OF AN APPLICANT FOR SERVICE RESULTING FROM SUCH REFERRAL.

IN CONCLUSION WE STRONGLY URGE AND RECOMMEND THAT THE REGULATION FOR THE IMPLEMENTATION OF THE ACT PROHIBITING DISCRIMINATION AGAINST THE AGING SHALL ADOPT THE COMPLIANCE AND ENFORCEMENT PROCEDURES ADOPTED FOR TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED, PURSUANT TO HEW REGULATIONS.

Committee on Policy for the Aging

Policy Statement on Social Security

The American Public Welfare Association reaffirms its position that the Social Security cash benefit program (old age, survivors, and disability insurance) should be strengthened in its fundamental and historic role as the basic source of income protection for older people upon retirement.

We urge the Congress and the Executive Branch of the federal government to develop constructive national policies to address critical issues and questions raised in recent years concerning the integrity and administration of the Social Security cash benefit program. These issues and questions involve: the short- and long-range fiscal soundness and methods of financing the program; the adequacy of the benefit structure; the dual role of the program as both an income replacement and income redistribution mechanism; the existence of inequities under the law; the alleged regressive nature of the Social Security payroll tax; and disincentives to continued employment after retirement. We support adherence to the following principles and objectives in improving and strengthening the old age, survivors, and disability insurance (OASDI) program:

1. The Social Security cash benefit program should continue to be the primary mechanism for assuring that people do not experience a major decline in their overall standard of living upon retirement. It should assure, as well, that all older people have a basic retirement income commensurate with their earnings while employed. We support the principle of a weighted benefit level and urge (a) continued efforts to improve the benefit structure for all workers and (b) action to improve the benefits received by currently retired persons.
2. The adequacy and equity of the OASDI benefit structure for single workers, widows and widowers, and working couples should be improved. For many persons in these groups, Social Security benefits do not meet even a low standard of sufficiency. To help correct this situation, action should be taken to increase the ratio of primary benefits to a worker's wages.
3. The Social Security benefit structure should be further improved to reflect increases in national productivity and overall national wage levels.
4. Efforts should be continued to achieve universal coverage of all persons employed in the nation's labor force, and ways should be found to coordinate the various public retirement systems with the basic OASDI program.
5. Further action should be taken to liberalize the "retirement test" provisions of the law, as these apply to persons age sixty-five to seventy-two, to encourage older persons to continue to earn some income from employment if they wish.
6. The protection afforded older women, particularly older widows, under Social Security should be strengthened, and action should be taken to equalize the protection afforded to women workers generally. To help assure improved benefit protection, the following actions are recommended:
 - The twenty-year "duration of marriage" requirement for a divorced spouse to qualify for benefits should be reduced, and the "consecutive years" requirement should be eliminated.
 - Disabled widows or widowers and disabled surviving spouses should be eligible for Social Security without regard to age; their benefit should not be subject to an actuarial reduction, as is now the case. Disabled spouses of Social Security beneficiaries should also be entitled to monthly benefits.
 - An age sixty-two computation point should be made applicable for men born before 1913 as a means of providing increased benefits for retired male workers, older women, aged widows, and others.
7. Finally, the financial integrity of the Social Security cash benefit program should be ensured and its financing base improved in terms of both short- and long-range financing. We recommend the following measures:
 - The current maximum on the taxable wage base should be gradually increased until the full wages of virtually all wage earners are covered.

- The basic contributory character of the OASDI program should be preserved, but general revenue financing should be progressively introduced. The long-range objective should be to establish a tripartite system based on contributions from the covered employee, the employer, and general tax revenues.

- Action should be taken to "decouple" those benefit provisions of the current law that raise the prospect of future beneficiaries receiving, in effect, a double upward adjustment of their benefits upon retirement. This action should be accompanied by the introduction

of some system, such as wage-indexing, that would help stabilize the present replacement rates provided in the automatic benefit provisions of the act.

- To lessen the impact of the Social Security payroll tax on low-wage earners, a permanent system should be adopted that would allow either an income tax credit or a direct refund of a portion of taxes. This should be equivalent to the combined contributions of the individual and his employer.—Adopted by the APWA Board of Directors on December 9, 1976

Report on Social Security

The old age, survivors, and disability insurance (OASDI) program is presently the largest social insurance program in the world. Likewise, it is the basic underpinning of the nation's entire income maintenance program.

- Close to thirty-two million people currently receive OASDI benefits due to retirement from work, permanent and total disability, or the death of the family breadwinner.

- Included in this group are twenty-one million older people who are retired workers, widows, or the survivors or dependents of retired workers.

- Over 90 percent of all people age sixty-five and over in the United States are either drawing Social Security benefits or will be eligible to do so upon retirement.

- An estimated 104 million individuals—employed by others or self-employed—were covered under the program in 1976, and 90 percent of all jobs in the current labor force were covered.

- Expenditures for OASDI cash benefits in calendar 1976 were estimated at \$76 billion.

Over the last twenty-five years, OASDI has become the primary source of income support for the majority of the older population upon retirement. The cash benefit program operates within a context that emphasizes the importance of individual contributions by covered

workers and their employers, but it also includes provisions to meet certain social goals.

It has been estimated that one out of every two older persons who currently receive benefits would be living in poverty were it not for their Social Security benefits. The program, while needing further improvements, has tended to work

It is important to focus present and future debates on ways to improve and strengthen the Social Security system.

well for many of those covered as a means of at least preventing economic destitution in old age.

Issues Confronting the Program

In many respects, the Social Security cash benefit program is at an unusual stage in its forty-one year history. On the one hand, it is larger and possibly more effective and encompassing than ever before—in fact, it is almost a fully matured system. On the other hand, it is undergoing more intensive scrutiny than at any time since its early years because of its size, fiscal impact, and the increases in payroll tax rates necessary to pay for steady improvements in benefit levels since 1965. The issues and questions raised recently involve—

- the financial integrity of the Social Security system, both from a short- and long-range perspective;

- the method of financing to be used to assure adequate funding of the program now and in future years;

- the adequacy of the present benefit structure, both for those currently retired and for those who will be future beneficiaries;

- the dual role of the program involving both income replacement and income redistribution;

- the existence of inequities under the law relative to various groups of covered workers, with particular reference to the married woman who has worked in covered employment and the treatment of women workers generally;

- the alleged regressive nature of the Social Security payroll tax on low-income and moderate-income wage earners; and

- the disincentives to continue employment believed to be posed by the "retirement test" provisions of the program for persons between ages sixty-five and seventy-two with earned income.

It can be expected that a program as large and complex as OASDI will be the object of periodic controversy and public examination. However, it is important to focus present and future debates on ways to improve and strengthen the Social Security system. We believe that the administration and the Congress should affirm, during this current period of discussion, the paramount and vital role of the OASDI program in assuring an adequate and decent standard of living for all older persons upon retirement and in old age.

Discussions about the Social Security program in the next few years will necessarily emphasize the critical subject of future financing. But serious attention must be given, as well, to strengthening the adequacy of the Social Security benefit structure for both current and future beneficiaries, to dealing with major inequities for certain beneficiaries, and to continuing and improving both the income replacement and "social adequacy" features of the program.

Recommendations

With these issues and facts in mind, the Committee on Policy for the Aging recommends the following objectives for the Social Security program:

1. *The Social Security cash benefit program should continue to be the primary mechanism for assuring that people do not experience a major decline in their overall standard of living upon retirement. It should assure, as well, that all older people have a basic retirement income commensurate with their earnings while employed.*

Despite some of its limitations, the Social Security program has evolved as one of the most highly effective and socially viable instruments for assuring a basic retirement income for most Americans and for preventing widespread poverty and economic dependency in old age. At the present time, many (but not all) workers can expect their retirement income to approximate their preretirement earnings (earnings in the year immediately preceding retirement). Under a system of *weighted* benefits, the Social Security Administration estimates that the person who retires in the future, after working regularly under the program, will receive a benefit—payable to husband and wife—as follows:

- a little over 50 percent of pre-retirement earnings for the worker who earned the maximum covered wage amount;
- nearly 70 percent of pre-retirement earnings for the worker who earned the median wage for male workers; and
- nearly 85 percent of pre-retirement earnings for the worker

who earned the federal minimum wage.

The committee supports the weighted benefit level principle as socially desirable. At the same time, we support (a) continued efforts to improve the benefit structure for all workers and (b) action to improve



OASDI has become the primary source of income support for the majority of the older population upon retirement.

benefits for currently retired beneficiaries.

2. *In line with these concerns, improvements should be made in the adequacy and equity of the OASDI benefit structure for single workers, widows and widowers, and working couples.*

The need to strengthen the adequacy of Social Security benefits for certain groups of workers is particularly urgent. For many people—especially single workers, widows, and widowers—benefits do not meet even a low standard of sufficiency. To help correct this situation, action should be taken to increase the amount of the benefit payable to the primary wage-earner. For example, the "primary benefit" payable to all workers could be increased by 12.5 percent and the benefit for the accompanying spouse re-

duced from its current one-half of the primary amount to one-third. This change, in many instances, would maintain the present *total* benefit received by the couple. At the same time, it would materially improve the income protection available to single workers, widows, and widowers. Also, in most instances, it would improve the relative position of two-worker married couples in comparison to one-worker couples.

3. *The Social Security benefit structure should be further improved to reflect increases in national productivity and overall national wage levels.*

Since the Social Security Act amendments of 1972, the OASDI program has included provisions to authorize automatic increases to beneficiaries in relation to annual changes in the cost of living. This feature has materially improved the overall adaptability of the program. To further improve the *adequacy* of the program, a national policy should be adopted whereby adjustments would be made periodically in benefits to reflect increases in national wage levels and national productivity. In the long run, such an approach would help guarantee that OASDI beneficiaries not only maintain their purchasing power in relation to changing prices, but also that they share in the rising standard of living and wage levels of the currently employed population.

4. *Continued efforts should be made to achieve universal coverage of persons employed in the nation's labor force, and ways should be found to coordinate the various public retirement systems with the basic OASDI program.*

Coverage of all workers in the labor force, including federal government employees and persons employed by state and local governments, should be a high priority objective. It is poor policy to permit voluntary withdrawal by large groups of government employees from a system that must be both compulsory and universal if it is to operate effectively and efficiently as a basic social insurance program. A special effort is also needed to coordinate the various public retirement systems that have been developed for federal, state, and local

government employees with the basic OASDI benefit program.

5. Further action should be taken to liberalize the "retirement test" provisions of the law, as these apply to persons age sixty-five to seventy-two, to encourage older persons to continue to earn some income from employment if they wish.

One of the most controversial provisions of the Social Security Act is the so-called "retirement test"—the measurement of earnings for a given period to determine if wages are within the amount allowed beneficiaries of Social Security. At present, Social Security benefits are payable upon attainment of age seventy-two, whether or not the beneficiary has retired. The retirement test is applied below this age, based on the concept that Social Security is a means of replacing earned income lost at retirement, rather than an annuity. The amount of income now allowed under the retirement test is presently scheduled to increase with escalations in wage levels.

The committee believes that the retirement test provisions should be retained, but they should be liberalized as a major incentive to continued employment for older people who wish to work past the age of sixty-five. We support the existing provision that permits the amount of income allowed under the retirement test to increase with escalations in wage levels, and we recommend two additional measures aimed at liberalizing the retirement test:

- The law that now directs the withholding of \$1 for every \$2 of earnings above the base amount (currently \$230 a month, or \$2,760 a year) should be changed; we recommend withholding \$1 for every \$3 earned above the base amount.

- There should be an equitable increase in the benefit payable upon retirement to persons between the ages of sixty-five and seventy-two for each year of delayed retirement.

The present law provides for an increase of 1 percent in benefit levels for each year in which a covered individual did not receive Social Security benefits because of application of the retirement test. The amount of

this annual increment should be increased to at least 2 or 3 percent to encourage the continued employment of older people past the normal retirement age of sixty-five.

6. The protection afforded older women, particularly older widows, under So-



The economic status of older women should be a matter of priority — concern.

ocial Security should be strengthened, and action should be taken to equalize the protection afforded to women workers generally.

The economic status of older women—in particular, the low income of nearly eight million older widows—should be a matter of priority concern in the development of future national policy to improve the OASDI cash benefit program. To help assure improved benefit protection for women, the Committee on Policy for the Aging recommends the following actions:

- Currently, the law has a twenty-year marriage requirement for a divorced spouse to qualify for benefits. In addition, the marriage must have been continuous. The committee believes that the twenty-year "duration of marriage" requirement should be reduced, and the "contin-

uous marriage" requirement should be eliminated.

- Disabled widows or widowers and disabled surviving spouses should be eligible for Social Security without regard to age, and their benefits should not be subject to an actuarial reduction as is now the case. Disabled spouses of Social Security beneficiaries should also be entitled to monthly benefits.

- An age sixty-two computation point should be made applicable for men born before 1913 as a means of providing increased benefits for retired male workers, older women, aged widows, and others.¹ This change would provide larger benefits, not only to the retired male worker, but also to older married women and widows who receive secondary benefits based on the primary insurance amount of a living or deceased male worker.

7. Finally, the financial integrity of the Social Security cash benefit program should be ensured and its financing base improved in terms of both short- and long-range financing.

To help preserve the financial integrity of the OASDI program and to facilitate the financing of needed improvements in benefits, the committee proposes that the following actions be taken:

- The current maximum on the taxable wage base should be gradually increased until the full wages of virtually all wage earners are covered.

- The basic contributory character of the OASDI program should be preserved, but financing from general revenue funds should be gradually introduced. The long-range objective should be to establish a tripartite system based on contributions from the covered employee, the employer, and general tax revenues.

- Action should be taken to "de-couple" those benefit provisions of the current law that raise the prospect of future beneficiaries receiving, in effect, a double upward adjustment of their benefits upon retirement. The present "coupling" situation is a complicated one. It results from changes made in the benefit formula by the 1972 amendments to the Social Security Act. The in-

tion of the automatic cost-of-living provision of the amendments was simply to guarantee that increases in monthly benefit checks would correspond with increases in prices over the years. However, the automatic cost-of-living increase was applied to the benefit formula, rather than directly to monthly benefit checks. As a result, the following "double indexing" situation was created: Currently, as prices go up, the wages of most workers increase, thereby increasing the "average monthly earnings" on which their future Social Security benefits will be based. At the same time, the Social Security benefit schedule is increasing because of the automatic cost-of-living provision. Thus—unless the law is changed—future beneficiaries will receive not only higher monthly benefits based on in-

creased wages during employment, but also higher Social Security benefits based on increases in the benefit formula.

Proposals to correct this situation are called "decoupling." Such a change would substantially ease the long-range financial difficulties of the Social Security system. However, the committee recommends that decoupling should be accompanied by the introduction of some system, such as wage-indexing, that would help stabilize the present replacement rates provided for in the automatic benefit provisions of the act.

• To lessen the impact of the Social Security payroll tax on low-wage earners covered under the program, a permanent system should be adopted that would allow either an income tax credit or a direct refund

of a portion of taxes. This should be equivalent to the combined contributions of the individual and his employer.

Notes and References

1. Prior to the 1972 Social Security amendments, retirement benefits for men were figured differently, and less advantageously, than benefits for women. In general, in the case of retired male workers, benefits were computed on the basis of earnings averaged over a number of years equal to the number elapsing after 1950 and before age sixty-five. For women workers, on the other hand, benefits were based on the number of years up to age sixty-two, which gave them, in effect, three additional drop-out years (in figuring their average monthly earnings). The 1972 amendments (P.L. 92-603) provided an age sixty-two computation point for men, but only for those born after 1912. U.S. Congress, Senate, Special Committee on Aging, *Women and Social Security: Adapting to a New Era*, prepared by the Task Force on Women and Social Security, 94th Cong., 1st sess., 1975, p. 26.

Policy Statement on Supplemental Security Income

The American Public Welfare Association proposes the adoption of needed changes in the existing supplemental security income (SSI) program for the aged, blind, and disabled. The proposal calls for continuing improvements in the basic federal benefit levels of the program; more sensitive administration; and clearer entitlement and access of SSI beneficiaries to other federal programs designed to meet basic needs. Specifically, we recommend the following policy objectives:

1. *The basic federal payment level should be increased to at least equal an objectively established and annually determined and updated United States government "poverty level."* After such a federal payment floor or level is reached, there should be further efforts to improve this standard

to provide for a more adequate and realistic minimum income. Also, there should be federal efforts and financial incentives to encourage all the states to provide supplemental assistance to SSI beneficiaries, at least up to the annually determined and updated low-income level as determined by the United States Bureau of Labor Statistics. Federal financial participation should be available to meet part of the costs of state supplementation.

2. *The responsiveness of the SSI program, its eligibility criteria, and methods of eligibility determination should be improved, in order to assure more objective and sensitive administration of the program. We recommend the following steps:*

a. Less emphasis on such factors as family structure

and living arrangements in determining eligibility and more emphasis on financial need. In particular, the present provision in law requiring a one-third reduction in the basic SSI payment when the beneficiary lives in another person's or family's household should be eliminated. This provision is patently arbitrary. Only actual cash contributions should be counted as income in such joint living arrangements.

b. The SSI law should be amended to require that initial decisions on an application by an aged person be made within thirty calendar days. In the case of a blind or disabled person making application, decisions should be made within sixty calendar days from the date of application. This longer period for the blind and disabled would sometimes be necessary because of the need for medical determination of legal blindness or permanent and total disability. Additionally, the law should require that beneficiaries receive their SSI check within forty-five days of the date of initial eligibility.

c. The development and implementation of a permanent "outreach" program, operated at the district office level of the Social Security Administration, should be mandated by law to assure continuous efforts to locate low-income aged, blind, and disabled persons who may not be aware of benefits to which they are entitled.

d. Annual redeterminations of eligibility should involve direct assistance by Social Security staff, including home visits, for those beneficiaries who are homebound. Similar assistance by Social Security staff should also be made available, as a matter of standard practice, to the homebound aged, blind, or disabled person at the time of original application for assistance and when there has been a change in the individual's financial situation that requires an adjustment of the SSI benefit. SSI beneficiaries who are homebound should not be expected to experience delays in their eligibility status, solely because of their inability to come into a Social Security district office.

3. *SSI beneficiaries should be automatically entitled and have clear access to such other basic programs as Medicaid, food stamps, public social services provided under Title XX of the Social Security Act, services for older people developed under the programs of the Older Americans Act, and vocational rehabilitation services, including rehabilitation and restorative services that may improve overall independent functioning and services related to a return to employment.* Appropriate titles of the Social Security Act and related legislation should be amended to provide for automatic eligibility of SSI beneficiaries for the programs and services cited above.—Adopted by the APWA Board of Directors on December 9, 1976.

Report on the Supplemental Security Income Program

The supplemental security income (SSI) program, established under the provisions of the 1972 amendments to the Social Security Act, has undergone a torturous and turbulent implementation. Established as a federally administered program on January 1, 1974, the SSI program federalized the previous state-administered adult assistance programs of aid to the aged, blind, and disabled. Under the provisions of Title XVI of the act, the major responsibility for the administration of the new program was placed with the Social Security Administration.

The initial payment level provided under the law was \$130 for a single individual and \$219 for a married couple. Subsequent changes in the payment level have increased this monthly payment to \$167.80 for a single person and \$251.80 for a couple. Because of a cost-of-living feature added to the law in 1973, fu-

ture payment levels will be adjusted to reflect major increases in price levels. At the end of 1975, some 4.3 million persons were receiving benefits under the program, including some 2.3 million aged persons. An estimated 4.6 million persons were receiving benefits by the end of 1976. The number of aged persons covered under the program is substantially less than the estimates originally projected when the pro-

From the beginning, the program's conceptualization and actual intent have not been clear.

gram was before the Congress for consideration in 1972.

Issues

Few social welfare programs in our national history have experienced the type and the scope of problems that accompanied the

early implementation of the SSI program. The program is unusually complex and has involved a massive, extremely difficult conversion effort by the Social Security Administration (SSA). It also has necessitated a host of new administrative relationships between SSA and state public welfare agencies that in and by themselves have proven to be complicated, confusing, and often frustrating.

A recent report by a special study group appointed by the secretary of health, education, and welfare and the commissioner of the Social Security Administration made several proposals for administrative and legislative improvements in the program. The study group's recommendations were in the areas of benefit levels; eligibility; the overall performance of the administrative agency (SSA); and phases of the program involving planning, staffing, training, district office operations, and data processing systems. The report is now being used by SSA as a basis for formulating needed changes in the overall operation of the program and as a base for future

legislative planning.

In general, the many issues confronting the program can be divided into four broad categories:

1. In the judgment of this committee, the overriding issue is the inadequacy of the basic federal payment now made to the needy aged, blind, and disabled.

2. There are a set of issues related to administrative efficiency of the program, many of these stemming from the numerous relationships between the SSI program and other social welfare programs—including Medicaid, food stamps, public social services, vocational rehabilitation, and the payment of state supplementary payments authorized under the legislation.

3. There are important coverage issues that remain critical. These include the failure of the program, as it has operated, to reach all of those who are potentially eligible and the gap that exists in the provision of emergency financial assistance to those who receive SSI.

4. Finally, there are a number of issues stemming from the precise tests of eligibility required under the law, particularly those relating to the determination of other income, real and personal property, household composition, and the earned and unearned income of noneligible spouses.

Discussion

The SSI program that became effective on January 1, 1974, emerged out of the lengthy debate in the Congress on the proposed Family Assistance Plan recommended by the Nixon administration. From the beginning, the program's conceptualization and actual intent have never been clear. On the one hand, it was initially put forth as a national minimum income program for the needy aged, blind, and disabled. In fact, the basic law retains most of the highly individualized and precise eligibility tests that characterized the former federal-state adult assistance programs.

If SSI is to be a guaranteed minimum income program, it should provide benefits, through the basic federal payment, at least equal to the poverty line standard or above.



It is currently estimated that the federal cost of providing payments at this level would be slightly in excess of \$3 billion (over the \$4.7 billion in federal SSI costs for fiscal year 1977). Many states are presently providing an optional supplement—at their own expense—in order to bring SSI benefits up to a more adequate level. Thus, the gap between the federal payment level and the poverty line adds to the administrative complexity of the program and thwarts efforts to rationalize its operation.

Since there are many issues and problems that result from the present working relationships between SSI and other programs, attention should be given to modifications in the SSI law that would (1) attempt to deal with interface issues more coherently than now is being done administratively and (2) clarify the intent of the law as a national minimum income program that is substantially different from the traditional public assistance model based on highly individualized test-

ing of income and resources. It is particularly important to remove from the current law references to mandatory work registration tests and the like.

Despite present shortcomings in both administration and adequacy, the SSI program does represent a major policy breakthrough in establishing a national minimum income standard for the aged, blind, and disabled. Also, it does represent an in-place mechanism for income redistribution—in fact so much so, that ultimately the question must be faced as to whether it should be utilized as the way to replace many of the income redistribution functions of the present old age survivors, and disability insurance (OASDI) cash benefit program. If SSI were to become the major income redistribution mechanism available to the low income aged, blind, and disabled, the OASDI program could be geared solely to what many feel its major job should be—i.e., the replacement of a certain portion of income during retirement.

Committee on Policy for the Aging

Policy Statement on Social Services for the Aging

The American Public Welfare Association recommends the adoption of public policies that will assure the eventual development of a universal system of public social services. We believe these services should be available and accessible to all persons who need them, without regard to economic status, and that they should be available to older persons as a matter of statutory right.

As major steps toward the implementation of a universal system of public social services, we recommend: (1) clarification of the scope of social services for older persons that should be developed under Title XX of the Social Security Act; (2) broadening of the universal social services for older people included under Title XX; and (3) an improved federal financing base for the Title XX program. We also propose continued expansion of the Older Americans Act and support the Social Security Administration's efforts to give more attention to the social services needed by beneficiaries of old age, survivors, and disability insurance (OASDI) and supplemental security income (SSI). We specifically recommend the following objectives:

1. *A broader and improved base of federal financing for public social services.* The ceiling on federal matching expenditures for social services should be gradually raised to permit the progressive development of a universal public social services system serving older people, as well as other adults, families, children, and youth.

2. *A federal program of "personal" social services needed by older people.* These services, which attempt to enhance or maintain the social functioning of the elderly, must be clearly defined and developed if a basic floor of universal services for older people is to be established in the future.

3. *Universal eligibility and entitlement for public social services.* Social services for older people should be available to all persons in the elderly population, regardless of their economic status.

4. *Improved standards and accountability in public social services for older people.* A national board, composed of outstanding professionals in the field of public and voluntary social welfare, older people, and the general public, should be named to advise the federal government on national and state standards for social services provided to older persons. The standards should be designed to assure the effectiveness, efficiency, intended scope, and quality of these services.

5. *Continued expansion of various programs of the Older Americans Act related to the planning, development, and provision of social services to older people.* Specifically, the provisions of Titles III, V, and VII of the act should be strengthened to: (a) further the development of comprehensive and coordinated state systems of services for older people; (b) encourage the development of multi-purpose senior centers that emphasize the provision of social services; and (c) expand the programs and services of the national nutrition program for the elderly, particularly in regard to providing nutritional services for additional numbers of older persons, including the homebound.

6. *Improved coordination of social services for older people.* The federal government should work with state and local governments to coordinate social services under the Older Americans Act and Title XX of the Social Security Act and should encourage coordination with other public and private social services programs serving the elderly.

7. *Demonstration efforts by the Social Security Administration in the areas of social services for the aging.* The Social Security Administration should be encouraged to develop and demonstrate information and referral services and other linking services within its general operations for OASDI and SSI beneficiaries. These efforts should be coordinated with state and local public social services agencies.—Adopted by the APWA Board of Directors on December 9, 1976

Report on Social Services for the Aging

The recommendations contained in this report by the Committee on Policy for the Aging pertain to national policies on social services for the aging and are based on these philosophies.

1. Older people, regardless of their social or economic status—be it poor, middle class, or affluent—should have access to a comprehensive range of personal social services and other support services, such as transportation and legal services. These services should be designed to help the elderly meet the basic and special needs they experience in maintaining their personal and/or familial identity and well-being, whether they live in the community or in a protected social or institutional environment.

2. The base for development of a range of social services should be a system of universal public social services. This system should be operated under strong federal policy leadership, but should be directly administered by state and local governments. State and local units should also be responsible for the actual delivery of social services. This universal system should be complemented, for some years to come, by a public system solely concerned with the needs of the aging. The role of the latter should be to ensure that comprehensive, coordinated social services are planned and developed throughout the United States and appropriately linked to income maintenance, employment, housing, health care, and other functional programs serving older people.

3. The planning and operation of a universal social services system should be aimed at helping older people obtain needed services quickly and should facilitate access to a range of services, if these are required. It should provide for an assessment of the "need for service" that takes into account the judgments and preferences of both the client and the provider of service.

Older persons should be offered a selection of services and the opportunity to choose the manner in which those services are to be delivered. The public social services system also should adhere to standards of operation that stress accountability of performance and maintenance of the quality of services provided. In keeping with this objective, providers of service should be required to carefully monitor the quality of their services and should follow through to make certain additional services are provided, if these are needed.

4. The services offered through a universal public social services system should clearly be *personal* social services. APWA, and other national organizations active in the social

Congress has enun-
ciated a national goal
for planning and
implementing "com-
prehensive and coor-
dinated service systems"
for older people.

services area, should make strong and continuous efforts to assure that the role of personal social services is distinctly understood and is not confused with or subsumed by medical, health, or employment services.

What are *personal* social services? APWA's Committee on Social Services Policy defines them as "services that address social problems or conditions that are significantly affecting people and, if ignored, would result in undesirable consequences for the individual and/or society." This definition is akin to what Alfred J. Kahn, professor, Columbia University School of Social Work, calls "the general social services." In Kahn's words, social services are one of the normal functions of a modern society. He describes them as "social inventions which seek to meet the needs of man in his interrelationships and roles, much as technical innovation is a response to the requirements of modern living."

These two similar definitions are vastly different from traditional views of social services that characterize them as aids to the poor and dependent, either in the form of cash payments or free professional services. It is also important to stress that these newer concepts separate personal social services from other social welfare programs (e.g., income maintenance, housing, health, and education). From this perspective, social services have their own identity.

Universal Public Social Services for Older People

What specific services should be included in a universal system of public social services? What should be the objectives of such services? The following represents an initial effort to define the range of social services we believe should eventually be included in a universal social services system for older people:

1. *Services designed to help older people utilize various benefits, resources, and entitlements and to deal with the complexities of institutional policy, language barriers, age, and other circumstances.* These should include information and referral, legal services, follow-up, case advocacy, planning, and "outreach" services. The latter should be located at sites commonly used by older people.

2. *Services to prevent or protect the older person from abuse, neglect, and exploitation.* These should include organized protective services—especially the legal right to intervention—and protection through the provision of medical care, housing, emergency financial assistance, and social services.

3. *Twenty-four hour emergency services for older people who may be in extreme jeopardy or without any means of self-support or self-care.* These should include emergency homemaker or other in-home services, emergency financial assistance, emergency health care, and emergency housing arrangements.

4. *Services that provide appropriate social care arrangements on a temporary or permanent basis for older people who cannot remain or be cared for by others in their own homes.* These should include counseling and assistance in

locating and using such arrangements as organized day care, personal care group homes, and residential congregate housing.

5. *Services that enable older people to remain in their own homes or to readily return to their own homes following a period of care in a hospital, nursing home, or other institution.* These should include homemaker services, home help services, transportation assistance, counseling services, friendly visiting, and other "one-to-one" services, such as telephone reassurance and shopping assistance.

6. *Services to help older persons understand and deal with changes in their interpersonal relationships and crisis situations arising from the loss of a spouse, retirement from work, illness, or other circumstances.* Individual and group counseling should be provided, including specialized preretirement and postretirement counseling programs and specialized casework services for the older widow and widower.

7. *Services that provide older people with opportunities for continued participation in social activities and constructive use of free time.* Access to community recreation and educational programs should be provided, including participation in the programs and activities of multipurpose senior centers or other specialized facilities primarily designed for use by older people. Participation as a volunteer or paid employee in such programs should be promoted.

Background

There have been a number of significant developments in national policies affecting social services for the aging in recent years. First, the Older Americans Act of 1965 has undergone several major expansions. Annual appropriations for the act now total in excess of \$400 million. Much of the expansion has been for social services programs—either for a general purpose or special purpose (nutrition)—conducted under Titles III, V, and VII of the act. Second, Title XX of the Social Security Act, which established a separate title for support of social services and an annual federal authorization of \$2.5 billion, includes some elements of



universality. For example, three social services have been designated by Title XX as universal services—i.e., provided without regard to financial eligibility. These are information and referral, protective services for children, and family planning.

At the same time—with the advent of supplementary security income (SSI), and the subsequent physical separation of many SSI beneficiaries from the state and local agencies providing social services—it has been generally recognized that a basic range of social services is needed for the SSI population, many of whom are aged.

Still another development has been the recent identification by the Federal Council on Aging of a group among the older population that it calls "the frail elderly." The council recommends that these persons, beset with chronic health and social problems, should be given priority for entitlement to essential social "care" services.

Despite these developments, a basic program of universal social services for the older population

does not now exist in the United States, nor does it appear that one will be implemented in the immediate future. With the exception of a few "universal" services being developed under Title XX, older people still lack any basic entitlement to services. As in past years, the receipt of a given social service largely depends on where one resides, rather than on any other factor.

It is possible that a basic universal social services program for the older population could eventually result from the gradual implementation of the Older Americans Comprehensive Services Amendments of 1973 and 1975. Congress has enunciated (in the Older Americans Act and its amendments) a national goal for planning and implementing "comprehensive and coordinated service systems" for older people. The Area Agencies on Aging, created by the 1973 amendments, are expected to provide much of the actual leadership in working toward this goal at the local level. These area agencies are seen primarily as planning agencies, rather than as direct

providers of social services. They have been called "service brokers" and are charged with building a "network" of social services that is both "comprehensive" and "coordinated."

Currently, there are some five hundred Area Agencies on Aging in operation, and there has been a noticeable increase in social service programs either started or expanded as a result of their activities. At the same time, it does not presently appear that a uniform program of social services is emerging from this effort. Social services developed at the local level generally are not universally available, and there is considerable unevenness in the range of social services provided from community to community and from state to state. To a great extent, the success or failure of the area agency approach depends on whether the agencies can tap into the funding for social services under other programs, most notably Title XX. However, Title XX gives the states great latitude regarding the social services they can choose to provide to older people or to other groups. There is no firm national mandate that requires the Title XX state agency to progressively broaden the scope of services made available to older persons, other adults, or children and families.

The uncertainty of this situation is compounded by the physical separation of income maintenance and social services that accompanied the creation of the federally administered SSI program. In effect, the division of responsibility between the state and local public welfare agencies and the Social Security Administration has literally cast many SSI beneficiaries "adrift"; they no longer have a relationship with an agency that provides the social services they require. The Social Security Administration (SSA) has begun to recognize the need to go beyond income maintenance and give some attention to the social service needs of SSI beneficiaries. However, the problems in communication and coordination that now exist between the SSA and state and local public welfare agencies are real and widespread. They constitute

some of the most serious organizational problems faced in the field of public social services today.

Finally, there are implicit issues raised by the Federal Council on Aging's concern with the needs of the "frail elderly." The council's proposal to give priority to basic social care services for this group is carefully developed. If implemented successfully, it could have major implications for the future of long-term care, moving these services away from a medical context and into essentially a social services context.

The Administration on Aging also has identified various sub-popu-

There is far greater concern about the need to broaden services to older people than existed just a decade ago.

lations at risk within the older population that require attention. These groups include: (1) persons age sixty and over with incomes below the poverty line; (2) the elderly who reside in hospitals, nursing homes, intermediate care facilities, and domiciliary care facilities; (3) the physically and mentally impaired elderly who do not live in institutions; and (4) persons forty-five to sixty years of age who are faced with various midlife crises and the need to prepare for approaching old age.

Given the scarcity of resources, it seems unlikely that a national policy authorizing universal public social services for any of these special groups—or for the general population—will be enacted in the near future. Many obstacles stand in the way of quick acceptance of this goal by national policymakers, including questions about how such a program would be financed, what its priorities would be, what the role of the federal government would be, and how the program would be organized and staffed at the national, state, and local levels.

Nevertheless, experiences in the implementation of Title XX of the Social Security Act and Titles III and

VII of the Older Americans Act have produced documentation of the tremendous need for social services that exists among the older population. There is far greater concern about the need to broaden services than existed just a decade ago. It is likely that this trend will persist and that older people and the organizations representing and working with them will continue to press for the universal availability of social services.

Recommendations

The Committee on Policy for the Aging recommends that the AFWA Board of Directors support national policies that will ultimately lead to the establishment of universal public social services. This program should be administered jointly by the federal government and the states under legislation that clearly embodies the right of older people, children, families, and other groups to a comprehensive range of personal social services, regardless of their economic status.

A program of universal social services should operate under federal and state policies that assure (1) consumer participation in the formulation of standards; (2) appropriate assessments of need and case management procedures that guarantee continuity, uniform availability, and access to the required range of services; and (3) adequate and continuing federal support of basic personal social services—including information and referral, legal services, outreach, and protective services.

Services specifically developed for older persons under the program should include (1) supportive services that enable them to remain in or return to their own homes; (2) opportunities for continued social participation; (3) twenty-four-hour emergency services in times of personal crisis; (4) appropriate social care living arrangements for those requiring an alternate living arrangement; and (5) basic casework and counseling services, including assistance in obtaining various benefits and services and help in adjusting to major changes in personal circumstances.

Committee on Policy for the Aging

Policy Statement on Health Care for the Aging

The American Public Welfare Association is committed to encouraging short- and long-range national health policies that will (1) provide more comprehensive protection in meeting the health care costs of older people and (2) provide for a more rational system of delivering health care and related services to the aging. We support the following objectives:

Short-range

1. *Action should be taken to broaden the coverage of the existing Medicare and Medicaid programs, as well as that of other basic national health care programs, so that they provide more comprehensive protection for older people.* Greater protection is needed, especially against such basic health care costs as essential out-of-hospital prescription drugs; dental, eye, and hearing care; and medically prescribed prosthetic devices and equipment. These health care services contribute not only to the health of the elderly, but also to their social functioning and mobility.

2. *Medicare and Medicaid, in particular—and where appropriate, other basic federal programs—should include provisions for the development of preventive health and social services that will enable the elderly to maintain the best possible physical and mental health.* The support for these initiatives should come from the research and development authority of such basic federal programs or legislation as Medicare, Medicaid, the Older Americans Act, and the Research on Aging Act (the act that established the National Institute on Aging). Within the scope of this undertaking, special emphasis should be placed on the development of early and periodic diagnosis and treatment services for older persons, including access to specialized geriatric and primary care clinics.

3. *Coordinated systems of home-delivered and congregate-delivered services should be developed through Medicare, Medicaid, and other programs.* These systems of services should be designed with a two-fold purpose: to maintain the elderly in their own homes and to reduce the incidence of admission to and the length of stay in acute or long-term institutions. To fulfill these purposes, the scope of benefits under the above-men-

tioned programs should be broadened to include comprehensive inpatient and in-home geriatric assessment, home health care maintenance, and acute treatment services. In addition, Medicaid benefits should include provisions for payment of day and night hospital care and day care services for the severely mentally and/or physically impaired elderly, in order to provide temporary relief for the in-home caretaker. As a necessary complement to the expansion of benefits, the federal government should undertake strong efforts to further the actual development of community-based services and resources for older people.

4. *Steps should be taken toward the development of specialized care services to help the terminally ill patient through the dying process.* These measures should be initiated under the research and development authority of such basic federal programs and legislation as Medicare, Medicaid, the Older Americans Act, and the Research on Aging Act of 1974. Through such services, the terminally ill patient could be assisted by careful management of pain and the maintenance of maximum social support. This could occur within a general hospital or similar institutional setting, or specialized staff of these facilities could go into the community to help the terminally ill patient and his family at home.

5. *The existing Title XIX (Medicaid) of the Social Security Act should be continued until a comprehensive national health insurance program—one that finances all of the health care services required by older persons—has been fully implemented.* Continuation of Medicaid will be necessary during the period of implementation of a comprehensive national health insurance program to assure that basic health care services are available to persons with low incomes. To ease the financial burden this would impose on the states, the federal government should assume the total Medicaid costs of persons receiving supplemental security income. The states should be mandated to provide Medicaid coverage, with federal guidelines and federal sharing of the costs, for medically needy older persons who do not receive cash support.

Long-range

1. A national health insurance program should be planned and implemented in a manner that gives major attention to the health needs of older people, along with other vulnerable groups to be covered under a universal program. In the administration of national health insurance, there should be a strong concern with how health services are, in fact, provided. Consumer involvement in the administration of the program should be assured.

2. National health insurance should provide a broad range of essential health care services. For older people, coverage should include preventive health and health-care related services, services connected with acute hospital in-patient care, long-term care, and transportation to and from needed health care services.

3. National health insurance should be viewed as a social insurance program, available to all persons as a matter of statutory right.

4. National health insurance should be financed by a combination of (a) employer contributions, (b) employee contributions, and (c) earmarked general revenues. All three sources should provide a sufficient base to cover both employed persons and persons outside the work force because of retirement, disability, unemployment, and other circumstances. It is essential that the base of financing also be predictable.

5. A national health insurance program should impose no deductibles or coinsurance on the elderly. The existence of deductibles and coinsurance provisions in the present Medicare and Medicaid programs has caused many of the elderly—the poor elderly in particular—to increase their "out-of-pocket" expenditures for health care, often at the expense of reducing the income available for the purchase of other essentials of normal living.—Adopted by the APWA Board of Directors on December 9, 1976

Report on Health Care for the Aging

The Committee on Policy for the Aging is deeply committed to encouraging public policy that will (1) provide comprehensive protection for older people in meeting overall health care costs and (2) provide for a more rational system of delivering health care and health-related services to older persons, regardless of their individual living arrangements or place of residence. The committee strongly favors short-range improvements in the basic coverage provided by the existing Medicare and Medicaid programs. We support long-range action to establish a national health insurance program that would ultimately provide comprehensive coverage of essential health care services for older people and others in the population—including those services connected with the prevention of disease and disability and the provision of long-term care.

The facts supporting our position are these:

- The number of Americans sixty-five years old and over increased from 3 million (4 percent of the population) in 1900, to 22 million (10 percent of the total population) in

1975. (With the inclusion of persons age sixty to sixty-five, the "older" population totaled more than 31 million persons in a 1974 count.) Projections of the aging population for the next decade indicate that the number of persons age sixty-five and over will climb to approximately 28 million by 1990, and the number of persons in this age group may reach 33.2 million by 2010. Additionally, these future cohorts of older persons are expected to live five years longer than their present cohorts.

By 1975, the average annual health care bill for a person age 65 or over in the United States was \$1,360.

- About one in five Americans age sixty-five and over requires multiple, intensive, and often extensive social and health care services. Nearly 5 percent of the population age sixty-five and over resides in institutions. Approximately 45 percent of persons age sixty five and over have some limitation on activity due to one or more chronic conditions, and 39 percent of these have major limitations on activity due to such conditions. About one in four

older persons is hospitalized each year; this is twice the rate of hospitalization for those under age sixty-five. It is also known that older people have a much higher utilization of physicians' services, drugs, eyeglasses and other appliances, and nursing home care.

- Between fiscal years 1960 and 1970, annual health care expenditures in the United States increased dramatically from \$25.9 billion to \$69.2 billion. By fiscal year 1975, expenditures for health care rose to an annual level of \$118.5 billion—an increase of more than 450 percent in the space of fifteen years. Among the various areas of health care, the largest proportional growth during the 1960-70 decade was in nursing home care.

- The soaring costs associated with virtually all health care services have affected all Americans, but they have weighed heavily on the older population. In 1965, the year before implementation of the Medicare program, the average per capita cost for health care services among the older population was \$445. By 1975, the average annual health care bill for a person age sixty-five or over in the United States was \$1,360—about three times that of people aged nineteen to sixty-four, and six-and-one-half times that of persons under age nineteen.
- It is commonly held that the

older population enjoys much better protection against the costs of medical care than was the case ten years ago. This is true only up to a point. The Medicare and Medicaid programs now have a total combined expenditure of over \$30 billion annually. In fiscal 1975, the total cost of Medicare was \$15.5 billion; for Medicaid, it was approximately \$14.3 billion. Well over half of the Medicaid dollars represented payments in behalf of the elderly. Although never intended to meet all of the health care needs of the elderly, the coverage provided by Medicare shrinks yearly. Currently, it is estimated that only 38 percent of the total health care dollars paid by older people are covered under either Part A or Part B of Medicare. Older people covered under Medicare continue to be confronted with increasing deductible amounts and coinsurance provisions that add to their "out-of-pocket" expenses for health care. Major gaps in Medicare coverage also exist in regard to essential prescription drugs needed on an out-of-hospital basis; regular eye, hearing, and dental care; home health care services; mental health services; and long-term care.

• The Medicaid (Title XIX) program has not filled the gaps in the Medicare program. This has been due, in part, to the wide variations in eligibility requirements and benefits among the states and, in part, to the serious problems many states have experienced in trying to fi-

nance a comprehensive program of health care services. Additionally, both programs—Medicare and Medicaid—have been fraught from the beginning with serious problems in attempting to control both the costs of the program and the quality of care paid for by public funds. In this regard, nursing home care costs have been particularly difficult to control.

It is not necessary to elaborate further on the growing health needs and health care costs inherent in the present unequal, unplanned, and often uncoordinated health care system on which the aged—particularly the poor aged—must depend. As an organization, the American Public Welfare Association has expressed concern over the years for those who are least able to command services through their own resources. We believe APWA should now endorse the enactment of a national health insurance program for all Americans. Such a program should include provisions for expanded and specialized health programs and facilities, in addition to rehabilitative and preventive care. These provisions should be complemented by the development and enforcement of national standards to assure that the services provided are of high quality and contribute to decent living conditions for the elderly.

The committee believes a national health insurance program should include adequate coverage of the long-term care expenses often asso-

ciated with a serious and continuing illness. We also believe it should be planned and administered in a way that encourages the provision of *preventive* health care services, rather than crisis-oriented services. Further, we support the concept that a national health insurance program should be viewed as a statutory right and as a social insurance program. Toward this end, we believe the program should involve contributions from employers, employees, and general tax revenues.

No doubt it will be necessary for a national health insurance program to be gradually implemented over a period of years. We recommend that some form of the Medicaid program remain intact until a fully comprehensive program of national health insurance is in place.



Exhibit No. 41

FEDERAL COUNCIL ON THE AGING
WASHINGTON, D.C. 20201

December 29, 1975

The President
The White House
Washington, D.C. 20025

Dear Mr. President:

On behalf of the Federal Council on the Aging, I am pleased to submit a "Study of the Interrelationships of Benefit Programs for the Elderly."

This study was undertaken to fulfill the legislative mandate of the 1973 Amendments to the Older Americans Act, Section 205 (g):

The Council shall undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government agencies. Following the completion of this study, but no later than eighteen months after enactment of this Act, the President shall submit to Congress recommendations for bringing about greater uniformity of eligibility standards, and for eliminating the negative impact that one program's standards may have upon another.

The 1975 amendments to the Older Americans Act extended the time by which the President is to submit recommendations to January 1, 1976.

Recommendations based on the findings of this study are also included for your consideration.

Sincerely,

Bertha S. Adkins
Chairman

**The
Interrelationships
of Benefit Programs
for the Elderly**

December 29, 1975



**FEDERAL COUNCIL ON THE AGING
WASHINGTON, D.C. 20201**

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I. PREFACE

The 1973 Amendments to the Older Americans Act direct the Federal Council on the Aging to:

"Undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State, and local government agencies. Following the completion of this study, but no later than eighteen months after enactment of this Act, the President shall submit to Congress recommendations for bringing about greater uniformity of eligibility standards, and for eliminating the negative impact that one program's standards may have on another."

The 1975 amendments to the Older Americans Act extended the time by which the President is to submit recommendations to January 1, 1976.

The Council contracted with the Urban Institute on June 25, 1975 to carry out the study under contract #HEW-100-75-0120. The staff of the Human Resources and Income Security Project of the Institute compiled the supporting data for this activity which is contained in the three Appendices described briefly as follows:

- Appendix I - "Handbook of Federal Programs Benefiting Older Americans" presents each of 34 programs in a consistent framework based primarily upon common program elements, such as mode of financing, eligibility criteria, benefit formulae, magnitude of program cost and number of beneficiaries.
- Appendix II - "Programs for Older Americans in Four States: A Case Study of Federal, State, and Local Benefit Programs" reports on visits to four States for the purpose of identifying and describing benefit programs for the elderly which would be illustrative, although not necessarily statistically representative of State-level activities nationwide.
- Appendix III - "The Combined Impact of Selected Benefit Programs on Older Americans: A TRIM Analysis" focuses on the interrelationships among selected benefit programs for the elderly and attempts to measure the level and extent of these interrelationships. It contains the results of the computer simulation model utilized for the analysis.

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The conclusions and recommendations herewith presented, while based upon the findings of the Urban Institute study, reflect the formal unanimous action of the Federal Council on the Aging taken at its meeting of December 3-5, 1975 in Washington, D.C.

The Secretary of the Department of Health, Education, and Welfare and the Commissioner on Aging are ex-officio members of the Council, but they do not participate in the development of recommendations by the Council because of the fact that such recommendations are made, under the law, to them, to the President, and to the Congress.

II. PHILOSOPHY AND SCOPE OF WORK

Over the past 15 years government expenditures on social welfare programs have increased dramatically. Much of this growth has been due to increased participation in and the expansion of coverage of the public assistance programs enacted in the 1930s. Equally important, however, has been growth resulting from the creation of new programs. While new programs have most often been established in response to a real need, very little concern has been shown for the relationships among programs. Not only is each individual program complex, but each program's specific provisions are often unique, even though its goals might be similar to those of another program. This has led to administrative complexity and expense, inequities in the distribution of benefits and requirements for eligibility, and confusion among the potential recipients. Indeed, in some cases there has been great divergence between planned and actual impact. The situation has been made even more complicated and confusing by the tangled mix of benefits, which now include cash, food, housing, and medical care, as well as a long list of services. Different kinds of benefits flow from different programs.

Clearly the present situation should be improved. However, no simple solutions are available. One major difficulty is the lack of information about the extent and, in some cases, the nature of the problem.

The objective of this study is to provide information and make recommendations regarding the effects of the interrelationships of benefit programs for the elderly. The elderly are a particularly significant group to consider because they have special needs, a high incidence of poverty,

are the focus of several programs, and are particularly likely to participate in more than one benefit program. Having surveyed Federal programs nationwide and State programs in four States, and after analyzing the interaction of the major Federal programs affecting the elderly (via the Transfer Income Model¹ and other analysis), we have now developed a set of recommendations which would mitigate or eliminate the most serious problem arising from the complex of overlapping programs for Older Americans.

Our recommendations flow largely from the nationwide study since the State studies were limited to four States. TRIM analysis has demonstrated that in 1975 approximately 22 percent of older Americans will receive assistance from at least one of the three income-conditioned programs - SSI, Food Stamps and Medicaid. Of these beneficiaries, 49 percent are estimated to participate in only one program, 34 percent in two programs and 17 percent in all three programs. The most significant overlap is between SSI and Medicaid with 41 percent of the recipient units receiving assistance from both. The Food Stamp/Medicaid overlap affects 26 percent of the recipient units while the Food Stamp/SSI overlap involves only 18 percent. Thus, considerable overlap exists between programs. Over 50 percent of the participants, nearly 3.5 million units, receive benefits from 2 or more programs, and all of these units are likely at some time to be affected by program interactions.

The purpose of this study is spelled out in the report of the House Education and Labor Committee that accompanied the 1973 Amendments to the Older Americans Act:

" . . .the Council is to undertake a study of the interrelationships of benefit programs for the elderly operated by Federal, State and local government agencies. At least nine major programs, operated by five Federal departments and agencies,

¹See "The Combined Impact of Selected Benefit Programs of Older Americans" for a description of the Transfer Income Model, Appendix I.

impinge directly on each other. These include social security (OASDI), veterans benefits, old age assistance, medicare, medicaid, low rent public housing, Federally assisted private housing (Section 202, 236), food stamps, and manpower training.

At the present, problems occur when older people are eligible for assistance from more than one of these programs, For instance, when there is an increase in social security benefits, an individual who receives both social security and old age assistance may, unless corrective action is taken each time there is an increase, receive no increase in total income since his old age assistance benefit is reduced to take account of his increase in social security. The study called for in these amendments should provide the information necessary to come up with a comprehensive solution to this and to similar problems that occur in other areas."

We have, therefore, limited the scope of our work to the existing framework of programs. In particular, we have not attempted to design a new set of programs to provide income and services for the elderly. The set of recommendations given here is far more modest.

We have made no effort to address the issue of what constitutes a fair share of the national income for the elderly. Wherever possible, the recommendations made in this report are intended to be neutral with respect to this issue. In no case have we made a recommendation whose sole purpose was to increase or decrease the fraction of national income going to the aged population. Wherever accurate data were available either from outside sources or from analysis performed by The Urban Institute, we have made estimates of costs associated with our recommendations.

Our underlying philosophy has been to make recommendations which would move our society towards a system in which all elderly individuals in similar economic circumstances would be treated the same. Often the failure of the existing set of programs to meet this standard is caused by the interrelationships among the programs. It is in this area that most of our recommendations are focused. However, if a program fails to meet this standard even if another program is not involved, we have sometimes made recommendations for change.

The issue of racial and other discrimination in administration of benefit programs was beyond the scope of this study. This is not to say that there is no racial discrimination in the provision of benefits to the elderly.

Our recommendations fall into five broad areas. First, we consider the implications of the ways in which some programs count income received from other programs. Some programs reduce their benefit as benefits from other programs increase. While the principle underlying this benefit reduction is sound, it can lead to (1) the failure to pass through cost-of-living adjustments, and (2) high cumulative benefit reduction rates on earnings and other non-transfer income. In some cases (the State supplements to the Supplemental Security Income (SSI) program) this may have been intentional. However, where the benefit reduction rules have led to inequity, we have recommended changes in the rules.

Second, we consider the income tests used in the program for older Americans with low incomes. Currently some of the tests (1) do not always take into account changes in the cost of living, (2) vary substantially (even in their definition of income) from program to program and (3) do not always phase out benefits smoothly as income increases. In some programs the standard income tests is waived entirely if a person is already receiving benefits from another program. We recommend changes which would at least partially remove inequities caused by the income tests currently used.

Third, we consider the asset tests used in most programs for older Americans with low incomes. Currently the tests (1) do not phase out benefits smoothly as assets increase, (2) treat homeowners and renters differently, (3) may discriminate against the elderly versus the nonelderly and (4) vary substantially (both in the treatment and definition of assets)

from program to program. We recommend study of changes which would at least partially remove the inequities caused by the asset tests currently used.

Fourth, we note that several programs have low rates of participation. This leads to a situation where some persons are getting benefits, while other similarly situated persons are not. We recommend study of changes which should bring about increased participation and, thus, diminish the degree of inequality.

Fifth, we consider administration and program evaluation. Currently, the application process for the needs-tested programs is spread across several agencies. We recommend consideration of consolidating this process. In addition, we recommend that a study be undertaken to consider the larger issue of what an ideal set of programs for the elderly should be.

III. RECOMMENDATIONS

A. Reduction in Benefits in One Program Resulting
from Increasing Benefits in Another

Introduction

Many of the programs which provide income for older Americans reduce their level of support as the individual's income from other sources increases. Usually benefits are reduced by less than a dollar for every dollar of income from other sources. There are even cases where benefits are reduced by more than one dollar when income from other sources rise by one dollar. Benefits must be reduced as income rises if the program is to be restricted to the low-income group. However, high rates of benefit reduction discourage a person from helping himself.

Examples

Often, the benefit from one program depends upon the income received from other programs. Examples include the following: (1) SSI reduces its benefits by one dollar for every dollar of benefits received from other cash benefit programs except the State supplemental SSI payments (and a \$20 per month exclusion). (2) The mandatory State portion of the SSI program reduces its benefits by one dollar for every dollar of benefits received from all other cash benefit programs (including the Federal SSI program). (3) The Food Stamp program reduces the bonus value of the stamps by approximately 30 cents for every dollar of benefits received from cash benefit programs. (4) The Veterans' Pension program reduces benefits by 36 cents to 96 cents for every dollar from unemployment compensation benefits. This form of benefit reduction prevents recipients

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from collecting full benefits simultaneously from a whole set of programs and, thereby collecting more than a reasonable level of transfer payments-- given their income from other sources. (Of course, it also holds down the cost of the programs by providing reduced benefits.) For a program such as SSI whose purpose, in part, is to fill gaps left by other programs, a 100 percent benefit reduction rate on income received from other programs is entirely appropriate. However, such benefit reduction can have undesirable side-effects if it is not designed carefully. Two of these side-effects are the cancelling out of cost-of-living increases and high, cumulative rates of taxation of earned income.

Cancelling Out Cost of Living Increases

During periods of price stability, the level of benefits received by participants from all programs would remain the same--barring a change in the laws or a change in individual circumstances. During periods of price inflation, however, the total benefits of some recipients rise at the same rate as the Consumer Price Index (CPI), while the total benefits of other recipients do not increase at all. The latter happens to all persons who receive benefits from two or more programs, one of which does not automatically increase its benefit levels and, in addition, reduces its benefits by one dollar for every dollar of benefits received from other programs which are indexed to the CPI.

One important example of this situation is the relationship between SSI State supplements, on the one hand, and the Federal SSI payments and

Social Security retirement benefits on the other.¹ The SSI State supplements are not as a rule increased at the same rate as the CPI.² Furthermore, SSI Federal payments and Social Security payments are considered to be part of countable income. The result is that as long as the individual is entitled to a supplement, that supplement will be reduced by the amount his SSI Federal payment and Social Security income is increased (except for the few States where the supplements themselves are indexed). In other words, every additional dollar the Federal government gives to the recipient to compensate him for the increase in the cost of living is taken away by the State government.

Over time, if there is continuing inflation and States do not increase their supplemental income standards, the level of supplemental payments will decrease and ultimately stop altogether. A uniform national standard will have been reached, but the elderly in the States which had been paying supplements will be worse off than they were before the inflation. The

There are two types of SSI State supplements--optional and mandatory. Congress authorized the States to pay supplements which would be excluded from countable income in calculating the Federal SSI benefit. This allowed the States to supplement the Federal payments if they so desired. Later Congress required States to pay all persons who had been receiving State public assistance the difference between the benefit a recipient would be getting currently if the State's public assistance program were still in effect plus other income (the sum of the two being the State income standard) and the Federal SSI payments plus other income (the sum of the two being the Federal income standard). (This provision was intended to make sure that no one's income was reduced as a result of the changeover to SSI.) Many States have elected not to provide optional supplements. There are a few States which have mandatory supplements but not optional supplements.

²The mandatory supplements are increased only if the CPI declines, since this is the only instance in which the Federal SSI payments would decline. Some of the optional supplements may be increased if the actual rent or other expense of a recipient goes up. Only three States increase their optional supplements at the same rate as the CPI.

elderly in the States which paid no supplement will be just as well off as before. In order to reduce the inequity of this situation, we make the following recommendation.

RECOMMENDATION 1: We recommend that mandatory SSI State supplements remain unchanged when benefits from Federal social insurance and needs-tested programs (including SSI and Social Security) are increased due to increases in the cost of living.

If mandatory SSI payments had not been reduced due to cost-of-living adjustments in the Federal SSI program, the total cost of mandatory SSI payments would be at most \$150 million per year greater in 1975 than it is without them. Over time annual costs of this change will rise as the amount of inflation experienced since the program's inception rises. However, by the year 2000 the annual cost of this change will have fallen to near zero since the mandatory supplemental payments are made only to persons receiving payments from the State-administered Old Age Assistance programs before SSI began.

High Cumulative Rates of Benefit Reduction

High cumulative rates of benefit reduction can occur when two programs simultaneously reduce their benefits as a third source of income increases. A further complication occurs if one of the two programs reduces its benefits as benefits from the other program increase.

This occurs when a person is receiving Social Security and a Veteran's Pension for a Non-service-connected Disability. In this case suppose there is an elderly couple eligible for the minimum Social Security payment in 1975 of \$152.10 per month (two-thirds being his entitlement and one-third hers) who are also eligible for a Veteran's Pension for a Non-service-connected Disability. This example is shown in Table 1. Because the wife's Social

TABLE 1
MONTHLY INCOME DETERMINATION FOR A
COUPLE RECEIVING SOCIAL SECURITY
AND A VETERANS' PENSION*

1	2	3	4	5	6
Earnings	Social Security Benefit**	Countable Income for Veteran's Benefits	Veteran's Benefit (from Benefit Schedule)	Total Income (Cols. 1 + 2 + 4)	Benefit Reduction Rate
\$0	\$152.10	\$ 86.19	\$157.97	\$310.07	!
100	152.10	186.19	117.63	369.73	40%
210	152.10	296.19	59.29	421.39	53%
250	132.10	324.86	37.14	419.24	105%
270	122.10	339.19	24.37	416.48	114%
290	112.10	353.52	0	402.10	172%
310	102.10	367.86	0	412.10	50%
330	92.10	382.19	0	422.10	50%
474.20	20.00	482.87	0	494.20	50%
514.20	0	514.20	0	514.20	0%
550.00	0	550.00	0	550.20	0%
558.20	0	558.20	0	558.20	0%

*The figures in this example would be substantially changed if the couple were also receiving income from a private pension.

**One-third of this benefit belongs to the wife and is, therefore, not included in countable income. In addition, 10 percent of the total benefit is not included in countable income.

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BENEFIT SCHEDULE

PENSIONS FOR VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES

Monthly countable income:	Monthly Benefit ¹
\$0 to \$41.67.....	\$172.
\$41.68 to \$58.33.....	\$172, less 24% of monthly income in excess of \$41.67.
\$58.34 to \$150.00.....	\$168, less 36% of monthly income in excess of \$58.33.
\$150.01 to \$250.00.....	\$135, less 48% of monthly income in excess of \$150.00.
\$250.01 to \$291.67.....	\$87, less 60% of monthly income in excess of \$250.00.
\$291.68 to \$316.67.....	\$62, less 72% of monthly income in excess of \$291.67.
\$316.68 to \$333.33.....	\$44, less 84% of monthly income in excess of \$316.67.
\$333.34 to \$350.00.....	\$30, less 96% of monthly income in excess of \$333.33
\$350.00.....	\$14.
\$350.01 and above.....	\$0.

¹For veteran and spouse.

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Security benefit and 10 percent of the total Social Security benefit for the couple are not counted for purposes of calculating the veteran's benefit, only \$86.19 per month is considered part of countable income.¹ This is \$1,034 per year and entitles them to a veteran's pension of \$157.97 per month, which, when added to their Social Security benefits, yields a total monthly income of \$310.07.

If the husband decides to work and earns \$100 per month, their Social Security benefit remains unchanged, but their countable income grows by \$100 to \$186.19 per month, thus reducing their veteran's pension to \$117.63--a benefit reduction rate of 40 percent.

As earnings rise by another \$110 (to \$210) per month, the veteran's pension drops by \$58.34 to \$59.29 as countable income increases to \$296.19. This is a benefit reduction rate of 53 percent. Total income reaches \$421.39 per month.

When earnings increase by another \$40 (to \$250), the question arises as to the husband's "retirement" status. Social Security benefits for husband and wife are reduced by \$20 per month and the husband continues to receive two-thirds of the Social Security benefit and the wife one-third. Since the wife's benefit and 10 percent of the total benefit are not counted, only \$74.86 of the Social Security benefit is included along with the \$250 earnings as countable income for the veterans program. Thus, countable income is \$324.86 per month, and the veteran's benefit is, therefore, reduced to \$37.14. Since the sum of the reduction in Social Security payments and veteran's pension exceeds \$40 per month, the benefit reduction rate is greater than 100 percent, and total income has actually declined by about \$2.

¹The veterans program treats private pension income and Social Security benefits in the same way. Social Security, however, does not count private pension income in calculating benefits.

As earnings continue to increase, the question of his retirement status progressively takes on more relevance. Benefits continue to decline by a larger amount, so that by the time earnings have reached \$290 per month, total income has dropped to \$402.10 per month--\$19 per month lower than when the husband was earning only \$210 per month. As earnings increase from \$270 to \$290 per month, the benefit reduction rate is 172 percent.

After becoming ineligible for veteran's benefits, the couple's benefit reduction rate drops to the 50 percent rate used by Social Security. Total income rises back to \$422.10 by the time earnings reach \$330 per month. This means that over the range of monthly earnings from about \$210 up to \$290 per month, total income does not increase.

High benefit reduction rates discourage the elderly from working to support themselves. Benefit reduction rates which exceed 100 percent actually punish persons who work to help themselves.

RECOMMENDATION 2. We recommend that the President direct the Veterans Administration to study the problem of the high benefit reduction rates caused by simultaneous receipt of benefits from Pensions for Veterans with Non-service-connected Disabilities and other Federal programs (particularly Social Security payments) because in our findings there appears to be an inequity.

An example of how these benefit reduction rates in excess of 100 percent could be eliminated is illustrated in Table 2. In this example we have substituted SSI's basic cash guarantee and its treatment of earned and unearned income for the schedule of benefits and the treatment of income currently used by the Veteran's Pensions for Non-service-connected Disabilities. A 50 percent benefit reduction rate has been applied to earnings in excess

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TABLE 2

HYPOTHETICAL INCOME DETERMINATION FOR A COUPLE RECEIVING SOCIAL SECURITY AND A VETERAN'S PENSION

(Assuming basic cash guarantee and treatment of earned and unearned income used by SSI)

1	2	3	4	5	6	7	8
Earnings	Social Security Benefit	Countable Income for Veteran's Benefits	Basic Cash Guarantee	Veterans Benefit (Column 4 minus Column 3)	Total Income (Cols. 1+2+5)	Benefit Reduction Rate	Change in Total Income Over Existing Rules
\$0	\$152.10	\$132.10	\$236.60	\$104.50	\$256.60		- \$53.47
100	152.10	149.60	236.60	87.00	339.10	18%	- 30.63
210	152.10	204.60	236.60	32.00	394.10	50%	- 27.29
250	132.10	204.60	236.60	32.00	414.10	50%	- 5.14
270	122.10	204.60	236.60	32.00	424.10	50%	+ 7.62
290	112.10	204.60	236.60	32.00	434.10	50%	+ 32.00
310	102.10	204.60	236.60	32.00	444.10	50%	+ 32.00
330	92.10	204.60	236.60	32.00	454.10	50%	+ 32.00
474.20	20.00	204.60	236.60	32.00	526.20	50%	+ 32.00
514.20	0	214.60	236.60	22.00	536.20	75%	+ 22.00
550.00	0	232.50	236.60	4.10	554.10	50%	+ 4.10
558.20	0	236.60	236.60	0	558.20	50%	0

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of \$65 per month, and a 100 percent benefit reduction rate has been applied to other income in excess of \$20 per month. This change generally results in benefit reduction rates of 50 percent being applied as long as the veteran is receiving payments from either of the two programs. However, some beneficiaries would have smaller total incomes under this hypothetical example as can be seen from the last column of Table 2.

Whatever changes are made, the benefit schedule should be modified in such a way as to keep total costs of the program the same as they are now.

B. Income Tests

Adjusting for Changes in the Cost of Living

Many of the transfer programs for the elderly do not adjust their allowable levels of income or their benefit levels for changes in the cost of living. Since benefit levels usually depend upon the level of countable income (with benefits eventually reaching zero when countable income reaches a certain point), these two problems can be considered together.

If benefits and allowable levels of income are fully adjusted for changes in the cost of living, the real level of income being paid to recipients remains constant regardless of what is happening in the rest of the economy. However, if benefits and allowable levels of income are not adjusted for changes in the cost of living, all recipients will experience a decline in their real level of income during periods of inflation, and some recipients will lose eligibility altogether.

In the Federal SSI program benefits and allowable levels of income are increased at the same rate as the overall increase in the cost of living, but the amount of earned and unearned income which is not counted as part of income for purposes of the income test remains at a fixed level regardless of inflation. In addition, allowable levels of assets remain at a fixed level. Similarly, for Food Stamps, the face value of coupons awarded and the income standards are increased at the same rate as the cost of food. However, the wage and salary income exclusion is fixed at a maximum of \$30 per month. In addition, allowable levels of assets remain at a fixed level.

For Medicaid recipients eligible by virtue of receiving SSI payments, allowable levels of income are increased at the same rate as the cost of living since SSI income standards are adjusted. For other Medicaid recipients, income standards are not generally adjusted. Since the program pays the full cost of medical expenses to eligibles who have met the income test, there is no need to adjust benefits for changes in the cost of living.

Pensions for Veterans with Non-service-connected Disabilities and Pensions for Widows and Children of Veterans do not automatically increase with the cost of living.

RECOMMENDATION 3. We recommend that the income standards, benefit schedules, income disregards, allowable asset levels, and exclusions from assets of the SSI, Food Stamps, Medicaid, Pensions for Veterans with Non-service-connected Disabilities, and Pensions for Widows and Children of Veterans programs be increased at the same rate as the cost of living.

Programs providing particular types of goods or services rather than money should use the increase in the price of goods or services they provide rather than the overall Consumer Price Index. According to the Transfer Income Model, SSI would cost about 2 percent more (an increase of about \$72 million) in 1976 if the amount of earned and unearned income which is not counted by SSI for purposes of the income test had been increased at the same rate as the cost of living since the program's inception. The cost of Pensions for Veterans with Non-service-connected Disabilities and Pensions for Widows and Children of Veterans programs would probably be less in 1975 if automatic adjustments for the cost of living were made. This is because legislated changes in the benefit schedules have exceeded changes in the cost of living.

The increased cost of Food Stamps resulting from the proposed change

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was not calculated, but we estimate the percentage increase to be about the same as for SSI--namely about 2 percent in 1976.

Because of the diversity of Medicaid rules, we have been unable to estimate the increased cost resulting from the recommendation. Since Medicaid income standards are not generally increased at the same rate as the cost of living currently, the percentage increase in costs would probably exceed 2 percent.

To adjust allowable levels of assets, ideally one would use a price deflator particular to the type of asset being deflated. For example, the \$25,000 limit on owner-occupied housing in SSI would be increased by the same percentage as a housing price index (preferably an index specific to the area where the person lived although currently separate indexes do not exist for all areas). However, in the interests of simplicity the Consumer Price Index (CPI) would probably suffice. According to our analysis, if the SSI homeowner exemption had been increased at the same rate as the overall cost of living, total benefits paid out by the Federal SSI program would have increased in 1975 by about 1.6 percent (approximately a \$58 million increase). Although we have not calculated the increase in costs resulting from similar changes in the other benefit programs, the percentage increase in costs should be roughly the same.

Uniformity in Definition of Income

Uniformity Across Programs

An additional problem with income tests of the low-income programs is the lack of uniformity of the definition of countable income for purposes of the income test. This lack of uniformity complicates the

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application process and, in addition, results in persons in similar economic circumstances but receiving benefits from different programs being treated differently.

Examples of the lack of uniformity are many. SSI excludes from countable income \$20 per month of Social Security benefits if they are the sole alternative source of income, while Pensions for Veterans with Non-service-connected Disabilities excludes 10 percent. SSI includes 50 percent of the earnings of both the recipient and spouse, while the veterans program totally excludes the earnings of the spouse. This means, in this example, that families with widely different incomes can receive the same benefit. SSI and Food Stamps each have about a dozen categories of income excluded from their income tests. However, only in one case (infrequently earned income up to \$30 per quarter) are the exclusions the same. For Medicaid the standards differ widely from one State to another.

The philosophical justification for exclusions is that certain expenditures of income (e.g., food, medical expenses, educational expenses) are essential or highly desirable and should, therefore, not be included as part of countable income. Since the programs were designed by different Congressional committees at different times under different Administrations, it is not surprising that the lists of exclusions are not identical or defined in the same way.

However, the widely varying rules have created a very confusing and complex situation from the standpoint of administration. While we recognize that some heterogeneity among the programs may be necessary, we feel that all of the programs should be viewed together and that adjustments in definitions of countable income be made to achieve greater uniformity wherever possible. One promising way to deal with this problem is to allow

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a "standard deduction" from income in lieu of a set of particular exclusions. This approach is being recommended in currently pending legislation to alter the Food Stamps Program.

RECOMMENDATION 4. In order to reduce complexity as well as improve equity, we recommend that what is included in countable income and allowable exclusions be made more uniform across the income-conditioned programs.

The cost implications of these changes would depend upon the exact nature of the changes. However, there are many combinations of changes which would involve no change in total costs.

Links in Eligibility Between Programs

Another problem with the income tests occurs because in certain cases with Medicaid and Food Stamps the program's income standards are entirely ignored in establishing eligibility. In most States receipt of SSI payments results in automatic eligibility for Medicaid. In all States receipt of SSI payments results in eligibility for Food Stamps if all members of the household are eligible for SSI. This means that a person whose income is comprised of earned income and Social Security benefits might fail to qualify for Medicaid or Food Stamps, while a person with equal total income comprised of SSI and earned income would qualify for both programs.

If the link between Medicaid and SSI were broken, one consequence would be a dramatic increase in lack of uniformity among the States of eligibility criteria for Medicaid. This is because the States have a great deal of leeway in establishing eligibility for Medicaid for persons who are not receiving benefits from SSI or the Aid to Families with Dependent Children (AFDC) program. The result would be a large decline in persons eligible

for Medicaid. In order to prevent this from happening while, at the same time, treating persons similarly who are in similar economic circumstances, uniform national income standards could be established to determine eligibility for Medicaid. However, the costs, changes in caseloads, and distribution of benefits of taking this step are not known.

RECOMMENDATION 5. We, therefore, recommend that the Department of Health, Education, and Welfare study the advisability of breaking the eligibility link between SSI, on the one hand, and Food Stamps and Medicaid on the other, the administrative complications of breaking these links; and - in relation to such removal of links - the advisability of establishing uniform national standards for determining eligibility for Medicaid.

If national standards are established, a provision should be included that will permit persons who currently qualify for Medicaid under the current standards to continue to receive benefits even if they do not qualify under the new national standards.

The cost of this change will depend upon the national standards which are chosen and, therefore, should be estimated as part of the study.

Smoothing the Phase out of Benefits

In all means-tested programs there are income tests which result in all benefits being cut off if income rises above some level. In some cases, notably the Federal SSI program, benefits decline smoothly as income rises. In other programs, including Medicaid, Food Stamps, Pensions for Veterans with Non-service-connected Disabilities, Pensions for Widows and Children of Veterans, Low Rent Public Housing and the Rent Supplement Programs, a benefit ranging from a few dollars up to hundreds of dollars per year can be cut off if income increases by a small amount (in some cases even by one dollar).

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Medicaid

In many States an elderly person's eligibility for Medicaid depends upon whether he is eligible for SSI.¹ If an elderly person's income increases enough to make him ineligible for SSI, he also becomes ineligible for Medicaid. In 1973 the average monthly Medicaid payment to persons age 65 and over who received medical services was \$154. This benefit can be wiped out by an increase in monthly income of a few dollars if that increase makes the recipient ineligible for SSI. In other States the medically needy are eligible for Medicaid even if they are not eligible for SSI. However, the income test for being found medically needy is often more stringent than the income test for SSI (if the State pays substantial supplemental benefits). Thus, if a person in one of these States loses eligibility for SSI, he may be forced to spend all of his income in excess of the medically needy income standard to meet his medical expenses before becoming eligible again for Medicaid. This person could be forced to spend on medical expenses all of his income between the SSI and the medically needy income standards because of a slight increase in countable money income.

One possible way to eliminate this abrupt decrease would be to allow elderly persons to establish eligibility for Medicaid by spending all income in excess of the SSI income limit or the State medically needy standard (whichever is greater) on medical expenses.² However, this proposal would probably cause a substantial change in the cost of the Medicaid program by, in effect, setting national standards for all elderly persons. The cost, caseload, and distribution of benefits could all be estimated in the study outlined earlier in Recommendation 5.

¹According to TRIM analysis approximately 1,000,000 elderly families receive SSI payments and qualify for Medicaid as well.

²This assumes that the link between Medicaid eligibility and SSI eligibility is retained. If not, a uniform national standard could be used in lieu of the SSI standard. See Recommendation 5 (above). The Federal eligibility standards for SSI are currently uniform nationwide. The standards for Medicaid vary widely from State to State.

Food Stamps

In the case of Food Stamps the benefits received at a level of income just below the cut-off point is small enough that the loss in benefits as income rises by one dollar total income is minimal. For example, when an elderly (over 65) person's earnings rise from \$376 to \$377 per month, he becomes ineligible for SSI. If his eligibility for Food Stamps depends upon his being on SSI, he loses a Food Stamp benefit worth \$10 per month.¹ As the result of the \$1 increase, his total income has actually dropped by \$9 per month. The abrupt cessation of benefits in the Food Stamps program as income increases could be eliminated easily by changing the benefit schedule slightly. The amount of money involved is so small, however, that we do not recommend a change.

Pensions for Veterans with Non-service-connected Disabilities and Pensions for Widows and Children of Veterans

Pensions for Veterans with Non-service-connected Disabilities are limited to veterans with \$250 or less in countable monthly income. If monthly income rises by a small amount (even one dollar), benefits fall from \$5 per month to zero. For veterans with one dependent benefits fall from \$14 per month to zero if income increases from \$350 to \$351. Pensions for Widows and Children of Veterans are handled similarly.

The abrupt cessation of benefits in the Pensions for Veterans with Non-service-connected Disabilities could be eliminated by gradually reducing benefits as countable income approaches the maximum allowable level. The amount of money involved is so small, however, that we do not recommend a change.

¹According to TRIM analysis approximately 80,000 elderly families receive both SSI and Food Stamp benefits.

Low-Rent Public Housing and Rent
Supplement Programs

In the Low-Rent Public Housing program income ceilings are set by local housing authorities. Thus, there exist in each local jurisdiction some ceiling beyond which the tenant becomes ineligible for the program and (in theory, at least) could be forced to leave the project. In practice this ceiling may be flexible and allow for individual circumstances, but the law itself provides no protection against a full loss of benefits to the tenant whose increase in income makes him ineligible.

There is, in effect, up to a 25 percent benefit reduction rate applied to income since tenants generally are obliged to pay only one-quarter of their income for rent (in some cases less). At some point, this subsidy ceases and the tenant pays the full rent charged by the authority. If the housing unit is being rented at market value, then there is no subsidy at this point and, therefore, a smooth reduction in benefits. If, however, rents are set below market value, the tenant is receiving a subsidy even though he is paying the full rental charge. This subsidy is then entirely cut off if income eligibility is lost and the tenant has to move.

The Rent Supplement Program generally uses the same income standard as public housing. However, tenants do not have to move if they lose eligibility. They merely pay the full market rent to their landlords. However, since the minimum supplement is 10 percent of the full market rent, there is an abrupt cessation of benefits when a tenant becomes ineligible. For example, if a tenant were paying \$90 per month of a \$100 per month rent, a one dollar increase in income which resulted in the tenant losing

eligibility could lead to a \$10 per month loss of a subsidy. This probably does not occur very often in practice but could easily be eliminated, if this were deemed desirable, by eliminating the floor on the payment and gradually decreasing the benefit as income rose.

C. Asset Tests

How Programs Treat Assets and the Resulting Inequities

Several programs which help Older Americans, including SSI, Medicaid, Food Stamps, Pensions for Veterans with Non-service-connected Disabilities, and some housing programs, use asset tests as well as income tests in determining eligibility for participation. The rationale for employing an asset test is that persons with substantial wealth should not be helped even if their measured income is low since assets can either be sold and used for support or be converted into income-producing assets (if they are not already).

Asset tests as presently used cause four types of inequities. First, a small increase in a person's assets (in theory even one dollar) can result in loss of eligibility for a program yielding sizable benefits. For example, an individual with \$1,500 worth of stocks and bonds and no other assets would be eligible for SSI provided he met all the other tests, while an individual with \$1,501 worth of stocks and bonds and no other assets would be ineligible even though his income might be the same or lower than the first individual's income. Second, because there is usually an exemption for owner-occupied housing, asset tests discriminate against persons who rent rather than own housing. Third, asset tests discriminate against the aging vis a vis the non-aging since elderly persons of a given economic status are more likely to have accumulated wealth than the young and middle-aged and are more dependent upon wealth income. Finally, definitions of countable assets vary among the programs, leading to inconsistencies and complexities among the programs.

An individual receiving SSI benefits may have no more than \$1,500 in

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non-excluded assets. (A couple is allowed \$2,250.) Excluded assets include a home worth up to \$25,000, non-liquid income-producing property, household goods and personal effects up to \$1,500, an automobile worth less than \$1,200, and the cash surrender value of life insurance up to \$1,500. If assets rise beyond the asset limit they must be disposed of and used for support, and until that is done all benefits are lost. For example, a reassessment of a house triggered by inflation could push a family over the \$25,000 exclusion and force the family to sell the house. Selling the house and using most of the proceeds to purchase a less expensive house or to pay living expenses can re-establish eligibility as long as not over \$1500 remain. These are both wrenching and expensive procedures for an elderly person to undertake. Furthermore, the elderly in some areas may be unable to sell their houses.

Even so the homeowner with no mortgage is treated better than the renter. The homeowner with no mortgage lives rent-free and pays only taxes, insurance, and maintenance.¹ (In many States property taxes are substantially reduced for the elderly homeowner.) Yearly taxes, insurance, and maintenance expenses usually amount to about 5 percent of the market value of a house. (For example, the yearly taxes, insurance, and maintenance expenses on a \$25,000 house would be approximately \$1,250 per year.) However, the annual rent for a house is usually about 10 percent of its market value. (For example, the yearly rent on a \$25,000 house would be approximately \$2,500 per year.) The homeowner, who pays no rent but does pay taxes, insurance, and maintenance expenses, is getting approximately a 5 percent implicit return on his house. (For example, the owner of a \$25,000 house would have to pay \$2,500 per year in rent to live

¹Homeowners with sizable mortgages are in effect paying rent in the form of interest payments. In the following discussion, therefore, they resemble renters rather than homeowners.

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in a comparable house which he did not own. In fact, he pays only \$1,250 per year in taxes, insurance, and maintenance. He, therefore, is getting \$1,250 per year in implicit income from owning his own house.) Neither the asset nor its return is considered in determining eligibility for SSI. If a homeowner receiving SSI benefits were no longer able to maintain a \$25,000 house due to illness, for example, and sold the house, he would then have \$25,000 in assets other than a house. Although his true economic condition would be unchanged, he would become ineligible for SSI unless he spent most of those assets. Alternatively a renter with the same income but with \$25,000 of liquid assets would be ineligible for SSI. However, by purchasing a \$25,000 house, he could establish eligibility. Furthermore, a renter with no assets can be getting exactly the same SSI payment as a homeowner with \$25,000 in assets if their countable incomes are the same. Since the homeowner is getting rent-free housing (even after paying taxes, insurance, and maintenance expenses) while the renter is spending income on housing, this would seem inequitable.

The Medicaid program's treatment of assets is similar to that of SSI. In fact, for those persons qualifying for Medicaid because of their eligibility for SSI, the treatment is identical and the same inequities result. For those persons attempting to qualify under the "medically needy" criteria, the rules vary from State to State but usually include asset tests with sizable exemptions. As long as there is a limit to total assets there will be an abrupt cessation of benefits as assets rise in value, and, as long as certain types of assets are excluded, persons in similar economic circumstances will be treated differently.

The elderly can qualify for Food Stamps by meeting either the SSI or the Food Stamp eligibility criteria. While the asset test for Food Stamps

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is less stringent than the asset test for SSI, both have a limit to total assets and a set of excluded assets. Thus, the same objections apply in this case as in the SSI case discussed above.

For Pensions for Veterans with Non-service-connected Disabilities, there is an asset test which depends upon whether the veteran's assets are small enough to be depleted during his remaining lifetime. If so, he is eligible. Survivors are subject to the same test. A dwelling, lot, and personal affects are excluded. Even though this case is less well-defined than SSI, the same objections apply.

The Low-rent Public Housing program has no Federal asset test. However, the Department of Housing and Urban Development encourages local housing authorities to establish limits. Wherever HUD's recommendation is followed, there will be an abrupt cessation of benefits as assets rise in value. In the rent supplement program and the low-interest housing program there is a similar problem since assets for the elderly are limited to \$5,000 (with no housing exclusion, obviously). However, since the asset limit is only \$2,000 for the nonelderly, framers of the legislation have taken into account the argument that the elderly should be penalized less for asset-holding than the rest of the population.

Reducing the Inequities of Asset Tests

In all of the above cases applying a cost-of-living adjustment to the asset limitation would keep constant over time the relationship between real asset levels and benefit levels. This was recommended as part of Recommendation 3 (above).

While this recommendation would prevent persons from creeping across asset limits with no change in real asset holdings, it would not address the more fundamental problems caused by the absolute limit to assets and the

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exclusions, as well as the unfair treatment of the elderly vis a vis the remainder of the population.

FCA ACTION 1. The Federal Council on the Aging will initiate a study of the philosophical and administrative rationale connected with the way in which assets and asset income are considered in determining eligibility for benefit programs and the various options available to reduce the inequities in the existing asset tests.

In carrying out this study, the Federal Council on the Aging will draw upon existing analysis and data and work closely with concerned Federal departments and agencies.

Several important issues will have to be addressed by this study. First, what is the best way to phase out benefits as asset holdings increase? One alternative is to include in countable income some fraction of asset holdings and eliminate the asset test. Another alternative is to allow persons to exclude assets from the asset test by converting them into irrevocable life annuities. Yet, a third alternative would be to have a benefit schedule in which the level of benefits depended upon both countable income and assets (with benefits decreasing as either income or assets increased). In this study these and other alternatives should be studied as to their effects and feasibility of operation.

A second issue to be addressed should be the degree to which a beneficiary should be required or encouraged to consume his assets during his lifetime, rather than passing the assets on to his/her heirs. Almost any asset test provides some incentive for the elderly person to consume or give away part of his/her asset holdings. However, the tests can be designed to provide little incentive, a large incentive, or even compel consumption as a condition of receiving benefits.

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A third issue is whether the owner-occupied home should get special treatment by the asset test. As was noted above, exclusions for owner-occupied housing can discriminate against renters. However, rules which encourage homeowners to sell their houses may impose hardships. The difficulty is compounded by the problem of making a fair determination of the market value of a house. In some areas assessed value may be only a small fraction of market value, while in declining areas, assessed value may exceed market value.

Finally, as part of this study there should be a survey of a representative sample of the aged population (including both program recipients and non-recipients) which would gather detailed data on the value of assets by type of asset and transfer income by type, as well as the usual demographic and economic data. This survey would provide valuable information on the likely impacts upon caseloads, costs, and the distribution of benefits of changing the asset tests currently used by transfer programs serving the elderly.

Because there is a strong tendency for persons to under report asset holdings when they are surveyed, an attempt should be made to estimate the degree of under reporting and adjust the survey data for this problem. One way in which this might be accomplished would be to examine audit information collected in the course of checking to see the error rates in calculating benefits for the various programs. (SSI has conducted a sizeable investigation of the degree to which there are overpayments and underpayments of benefits due to inaccurate information on application forms. Accuracy was checked by auditing beneficiaries' checking and savings accounts.)

Furthermore, the Office of the Assistant Secretary for Planning and Evaluation within the Department of Health, Education, and Welfare is planning to undertake an annual, comprehensive income survey. The Federal Council on

the Aging supports their efforts and urges them to pay special attention to the problem of assets. The Council will cooperate with this effort, in particular in regard to the assets study which the Council plans to undertake.

The cost of implementing the recommendations resulting from this recommended study will depend upon the particular recommendations made. However, it will be possible to design the recommendations in such a way as to leave costs unchanged.

D. Participation of Eligibles

Programs for the elderly can be grouped under three broad categories: retirement programs (including Social Security), other entitlement programs which are categorical in nature (e.g. one must have low income, or be disabled, or be a veteran to qualify), and programs which have closed-ended funding and thus must ration their benefits to less than the number eligible. In the latter two groups of programs, the issue of participation arises.¹ Consider first the entitlement programs which have categorical eligibility requirements. These include SSI, Food Stamps, Pensions for Veterans with Non-Service Connected Disabilities, Pensions for Widows and Children of Veterans, Medicare and Medicaid. All have open-ended funding, and those who qualify are legally entitled to benefits. Yet a large number of eligible older Americans do not receive benefits from some of these programs. The two most outstanding cases are the SSI and Food Stamp programs.

When SSI was implemented in January 1974, DHEW estimated that about 3.8 million non-institutionalized units (families or single individuals) age 65 or over would be eligible for Federal benefits. However, about half this number actually received SSI benefits in the first six months of operation (January - June, 1974). Our analysis using the TRIM model suggests that there will be about a 65 percent participation rate (ratio of recipients to eligibles) in 1975.²

¹There is a set of issues which might be broadly regarded as participation issues involving retirement programs for older Americans, such as vested rights, the relationships of contributions to benefits, and whether everyone who is entitled to benefits actually receives them. However, the scope of this section will be limited to the more common concept of participation, that being in the other types of programs available to the elderly.

²This figure is not directly comparable to the former because it is for 1975. Also, the CPS does not provide the value of owner-occupied homes, a critical factor in the number eligible for SSI (persons with homes valued in excess of \$25,000 are ineligible for SSI payments). We therefore used the 1970 Census Public Use Sample, which has information on the value of owner-occupied homes, to make adjustments to the number of eligibles calculated from the CPS.

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The precise numbers are not as important as the fact that, by any estimate, a large number of older low-income people who are eligible for SSI are not receiving benefits.

Estimates of participation in the Food Stamp Program by eligible households have ranged from 30 to 60 percent, though there is evidence that some of the non-participants are eligible for only short periods of time during any given year. The Chilton Survey (commissioned by the Food and Nutrition Service of the Department of Agriculture, at the request of the Subcommittee on Fiscal Policy, Joint Economic Committee) indicates that participation by eligible households headed by a person over age 65 is even less than the national average.¹

With the exception of Medicare, where participation among eligibles is quite high, there is little information on the participation rates in the other entitlement programs.

For entitlement programs, we hold the view that all families or individuals eligible for benefits from programs with open-ended funding should have the opportunity to receive those benefits. This does not mean that they actually receive them; rather it means that eligible families should be aware of the fact that they are--or might be--eligible for benefits, that they know how to apply for benefits should they choose to receive them, and that applying should be relatively simple. Nonparticipation by eligibles can only be for three reasons: (1) ignorance about the program, (2) the benefits are less than the "cost" of getting them (psychic costs from the stigma of the program or demeaning treatment, nonmonetary costs such as long waiting lines and the time and inconvenience of filling out forms, and monetary costs such as traveling to the agency), or (3) outright denial of benefits through discriminatory practices, lack of personnel to process all applications, or for whatever reason.

¹ A possible reason for higher participation among the non-aged is that local welfare offices also certify Food Stamp eligibility, thus AFDC recipients are made aware of their potential eligibility for Food Stamps.

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Information

There is a need to know not only how many eligibles do not participate in these entitlement programs, but who they are and why they don't participate. Such information would be useful to both the government for evaluating the administration of programs and to the administrators themselves for determining how to improve upon their present practices and procedures. One would like to know how participation rates are related to:

1. Knowledge of Programs: Knowledge of a particular program, by age, level of education, residence, etc. would reveal who is unaware of the program, and thus to whom educational efforts should be directed, as well as the form that these efforts should take (e.g., information dissemination to literate vs. illiterate or rural vs. urban individuals would take a different form). This type of information is also necessary to evaluate the cost of educational programs relative to the increase in participation rates that might result, in order to assess the desired amount of investment in increasing knowledge.

2. Attitudes Towards Programs: Given participation rates less than 100 percent, it is important to know if attitudes inhibit participation--and, if so, who holds these attitudes (the uneducated or the educated, blacks or whites, rural or urban, etc.). A knowledge of what these inhibitive attitudes are and an identification of who holds them is essential to determine (1) whether an informational program should be undertaken to change them (e.g., whether they are based on erroneous information rather than moral positions), and (2) what information should be disseminated (e.g., some may not participate in Medicaid because they believe that, if the government pays the bill, it can also dictate what treatment they must have or how long they must stay in the hospital; or low participation in the Food Stamp program may be due to a reluctance of some poor families to enter banks and stand in the "welfare line" to buy the stamps).

3. Availability of the Program: There is inadequate knowledge about the impediments to availability of specific programs to specific segments of the population (e.g., those with no car living in a town with no welfare office, or the infirmed who cannot leave their home). We are not aware of any comprehensive study of participation rates in a spatial context, relating the geographic location of offices to participation rates by residence, age, sex, level of income, and education. The cost to the participant in terms of transportation and time has by and large been ignored in studies of participation rates. A knowledge of impediments to availability is necessary to determine the optimum administrative approaches for each program--number of offices, their location, office hours, the need for home vs. office contacts, etc.

With some modification the above discussion of participation in the entitlement programs is also applicable to those programs with closed-ended funding. These are programs which have limited funding and therefore have a limited number of "units of service" (as under Title VII of the Older Americans Act, Title XX of the Social Security Act, and under the various housing programs). Participation in these cases is more of a privilege than a right, and there are usually more eligible individuals or families who want to participate than there are service units available. In those cases the agency must ration the available service units, usually allowing participation on a first-come, first-served basis and keeping a waiting list in chronological order of application and certification of eligibility, or utilizing procedures to rank the applicants by priority needs for service.

All of these types of Federal programs are State or locally administered, and in many cases there are insufficient data at the national level to know who among the eligibles apply for the services and, among those that apply, who receive benefits. In other words, we do not have sufficient data to construct

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profiles of those receiving services, those on waiting lists, and those who for one reason or another do not apply at all. Lack of such information also limits the ability to determine how many of these recipients participate in other programs, and therefore does not allow an assessment of the magnitude of the problems, if any, of deleterious program interactions.

RECOMMENDATION 6. We recommend that the Administration on Aging conduct a study to determine the magnitude and the distribution (by age, sex, education, income, race, health status, size of community, urban versus rural, region) of (a) eligibles, (b) participants, and (c) eligible nonparticipants for all of the Federal income-conditioned benefit and service programs for the elderly; and to determine the reasons for nonparticipation of those who are eligible.

This study should build upon the work which has already been done in this area. However, it should pay particular attention to programs which have not already been studied.

Outreach

As mentioned earlier, one of the outcomes of the above study would be information on the extent to which ignorance about the programs inhibits participation and on who among the eligibles lack knowledge. This, in turn, would give some indication of the extent of outreach necessary, and to whom that outreach should be directed. There is a third important element of outreach not addressed by this study, however, and that is the effectiveness of various methods of outreach. It is not enough to know who lacks information if we do not know how to reach them.

Of all the major income-conditioned programs, the SSI program has probably had the most ambitious outreach effort. Several outreach projects have been

launched, employing various methods and techniques.¹ However, these have not been conducted in a setting to allow an evaluation of the effectiveness of alternative methods. Moreover, some methods may be highly effective for some groups and relatively ineffective for others. For example, some older people are illiterate, others are infirmed, others are mentally incompetent, others have no television, others may not perceive themselves as poor, others may find applying for a program to be degrading. In short, an effective outreach program may contain a mix of methods, but to date there have been insufficient evaluations of past and current outreach efforts to allow the Social Security Administration to maximize the effectiveness of outreach expenditures by making choices among methods and modes of outreach.

While outreach efforts have been less for other programs such as Food Stamps, the relative effectiveness of various outreach methods has not been carefully evaluated for these programs either. Even in the Veterans programs, with their large, informal outreach program carried out by the veterans service organizations, there is no careful study of the most effective mix of outreach methods.

There is a need for a careful evaluation of a wide variety of outreach methods. Relative effectiveness can best be measured in a controlled experiment, and such an experiment could explore the effectiveness of utilizing existing institutions as well as alternative methods of outreach (e.g. radio, TV, mail, personal contact by peers, personal contact by agency personnel).

RECOMMENDATION 7. We recommend that the Administration on Aging conduct a series of controlled experiments to test the relative effectiveness of various methods of outreach, by socio-economic-demographic subgroups of the population.

¹These include letters to Social Security recipients, the SSI Alert program funded by the Administration on Aging, the Mass Saturation Projects in selected areas of Alabama and Kansas, and MBR Leads, which used Social Security's Master Beneficiary Records (MBR) of earnings and contributions to identify persons who might be eligible for SSI benefits.

As with the preceding recommendation this study should build on existing information wherever possible.

It is essential that the study address the issue of the effectiveness of alternative methods of outreach for minority groups and for various age cohorts of the elderly (e.g., different methods for persons who are 85 than for persons who are 65).

Finally, the study should focus on attitudinal issues. No outreach effort will work effectively unless the climate of the administering agency is perceived by the elderly to be encouraging and sympathetic.

E. Administration and Program Assessment

Central Determination of Eligibility and Benefits

Our study of programs for Older Americans has shown that an elderly individual or family could conceivably receive benefits at the same time from a social insurance program (Old Age, Survivors, and Disability Insurance), five separate income-conditioned Federal programs (Supplemental Security Income, Medicaid, Food Stamps, Pensions for Veterans with Non-Service-Connected Disabilities, and one of several housing programs)--not to mention State-level income-conditioned programs and other State and Federal programs for which eligibility is not conditioned on income. If benefits were only received from the Federal social insurance and income-conditioned programs mentioned above, an elderly person would have to deal with four or five separate agencies,¹ be certified for initial eligibility six separate times, and report back to these four or five offices at various (and different) times throughout the year to report income and assets for recalculation of benefit levels. Finally, in determining benefits each of the programs has different definitions of income and assets, different income and asset disregards, and, in some cases, different accounting periods (the length of time income is averaged for calculating benefits).

The practice of having separate agencies to administer each program and the diversity of practices and procedures across agencies is confusing, if not

¹Social Security and SSI are administered by the same office, and, in most States, Medicaid and Food Stamps are administered by one agency.

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bewildering, to even the most sophisticated potential beneficiary--and it is inefficient, imposing an unnecessary expense on taxpayers. Separate administering agencies exist presumably because the programs are funded by separate Federal agencies under different legislation. Furthermore, the income-conditioned programs have a means test while the social insurance retirement benefit is dependent on one's covered employment record. But this need not necessarily lead to separate administration of determination of eligibility.

There are several ways in which administrative functions could be combined. One is to simply have one local office collect income, asset, and other personal data from elderly applicants, and then send that information to each of the separate offices for eligibility certification and determination of benefits. This would at least relieve the elderly of having to report this same information to several different offices, and would substantially reduce the time and cost on the part of both applicants and government personnel. After the initial application, however, the applicant would have to continue to deal with four or five separate offices to receive benefits and to periodically have the level of benefits adjusted as their economic or family situation change.

A greater degree of centralized administration could be achieved by also having that one office be the sole contact with elderly persons receiving income-conditioned benefits from Federal programs. This could be achieved in one of two ways: (1) by having that one office send the relevant information about the applicant to the other agencies, who would certify eligibility and level of benefits, and return the decision to the intake office; or (2) by having the intake office determine eligibility and level of benefits (including subsequent periodic adjustment of benefits) and simply provide information to the other agencies regarding who is eligible and what benefits they should receive.

The highest degree of centralization would be to have eligibility determination and the dispensing of benefits be delegated to one office by the various Federal agencies, in the manner in which Public Assistance offices now administer the Food Stamp program. Even maintaining the same diversity of eligibility rules, a single administering office for all Federal programs for the elderly would allow the beneficiary to deal with only one office for initial certification and recertification, would require the recipient to give income and assets information only once for use in determining the level of benefits from all six programs, and would greatly facilitate outreach efforts. This would (1) save the taxpayer a great deal of money, (2) save the potential beneficiary a large amount of time and expense, and (3) dramatically increase participation rates among eligibles.

Moreover, the heterogeneity in definitions of income, assets, set asides, exclusions, and accounting periods could be substantially reduced (as recommended elsewhere in this paper), leading to further reductions in administrative costs. Such simplification makes sense even with separate administrative agencies; when this simplification of definitions is combined with administration by a single agency it could substantially reduce (perhaps by as much as 50 percent) the current administrative costs and reduce by more than half the "cost" to the recipients. The administrative expenses could be shared by the separate funding agencies (much like the Food Stamp Program and AFDC now share administrative costs). Such centralization would benefit both the "givers" (taxpayers) and the "receivers" (aging beneficiaries).

There are, we realize, some outstanding issues, such as the degree of centralization discussed above, whether the one proposed office should be an existing one (e.g., Social Security) or a new creation, and which programs could feasibly be administered by one office. For example, there are a large

number of State-administered programs, partially or wholly Federally financed. Within the time constraints of this study we could not give ample consideration to the advantages and disadvantages of having the same office also administer State-operated programs.

Neither do we want to open up the issue here of whether the administration of income maintenance programs should be completely separated from public social services. The Federalization of income maintenance programs for the aged, blind, and disabled, which was brought about by enactment of SSI, is still too new for assessment of its impact on State- and local-operated social services based on Title XX of the Social Security Act.

Finally, there is an alternative approach to the centralization outlined above. Local offices for each of the various programs could be retained, but each local office would at least process applicants, and perhaps also calculate benefits, and dispense benefits for all of the programs. While this decentralized approach might cost more than the centralized approach described above, it would have the benefit of being a less intimidating operation than having all local program operations concentrated in one very large local office. The study proposed below should bear in mind this important human element.

Thus, while we endorse in principal the notion of some centralization of local administration of a number of Federal programs, we recognize that the issue must be given further study to arrive at the most efficacious organizational structure.

RECOMMENDATION 8. We recommend that the Executive Branch should study the desirability, feasibility, cost effectiveness, and convenience to the elderly of having a simplified system at the local level to determine eligibility and benefit levels for all Federally funded income-conditioned programs

(including services) for those age 65 and older. The relationship to the administration of the social insurance programs should also be considered.

Whatever body is chosen to look at this problem should include State representatives since there are many Federal programs which are influenced by the State administration.

The study should look at a wide range of options for local organization. It should develop a set of administrative proposals, and should bear in mind that enabling legislation may be required for many of the changes which are recommended. While all programs should be included in the study, the study may show that not all of the programs should be incorporated in the new recommended local system.

While the FCA strongly endorses information and referral services, they should not be considered a substitute for the simplified system approach contained in recommendation 8.

Reassessment of Programs for the Elderly

A number of programs for older Americans are designed for, and available to, those at all income levels. Some of these are recreational in nature, others attempt to mitigate loneliness or insecurity, still others are designed to convert the free time of retired people into productive uses, beneficial to both the elderly and the community. Another set of programs are available only to elderly individuals or families who are in economic need. Their purpose is to provide in-kind benefits or services which the more financially secure can afford to purchase and which society deems as necessities (food, medical care,

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housing), or to provide cash to buy these and other necessary goods and services. This latter set of programs--available only to those in economic need--are commonly called income-conditioned programs; the level of cash or in-kind benefits are highest for those with the most need (lowest incomes), and are less for the less needy (i.e., decline as income rises, with benefits diminishing to zero at modest levels of income). All of these programs are intended to raise the economically deprived to a standard of living which society deems as "minimally acceptable".

Some argue that there should be only one program for the elderly who are in economic need, that being an income-conditioned cash program which raises the income level of all older Americans to a minimally acceptable standard. Others argue that such a simple approach is unsatisfactory because (1) the elderly may not have sufficient knowledge to spend the money in a way to maximize their own well-being (e.g. spend too little on food), or (2) they may not spend the money in a way which those who are providing the money (taxpayers) would like them to spend it (e.g. not enough on housing, resulting in unsightly neighborhoods), or (3) that the needs of the elderly vary so much due to health, initial housing facilities, etc., that one program cannot adequately take account of their special needs, or (4) that it is inefficient for the private market to provide their special needs on a pay-for-service bases.

For whatever reason, or combination of reasons, there are at least eleven Federal and Federally-subsidized State benefit programs,¹ plus a number of social service and health programs designed to assist the low-income and vulnerable elderly. There is some question as to whether the Federal monies for all of these programs are best spent in such a variety of programs; whether the same amount of Federal funds would be more effective if devoted to fewer

¹These include Medicaid, SSI, Food Stamps, four different housing programs and four separate programs for veterans.

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programs, since most of the programs have the same basic objective, namely to help those older Americans who have insufficient resources to help themselves.

As is pointed out in Appendix I and in the discussion and recommendations in this report, the money income-conditioned programs for the elderly are not well coordinated. They are conceived and funded by different Congressional committees over time, and administered by different agencies with different purposes in mind; and a consolidation of administration of existing programs, while a decided improvement over the present situation, would not eliminate the deleterious and redundant effects arising from the overlap and interactions of the many existing programs. While it is beyond the scope and the time constraints imposed on the present study, our research into State and Federal programs reveal that there is a need for another study whose purpose would be to explore the rationale for the present set of programs for the elderly. Building on the findings and recommendations of the present study, such a proposed study could (1) explicitly define the needs of the low-income elderly population, (2) outline a set of policies to meet these needs, and (3) recommend a minimum set of programs which would fulfill the stated policy objectives. Hopefully the proposed set of programs would (1) be internally consistent, (2) provide equitable treatment among the low-income elderly population, and (3) reduce the number of programs, and thereby reduce administrative costs to the government and participation "costs" to the recipients. These changes would lead to a reallocation of funds among programs but would not affect the total level of benefits going to the elderly. Consequently total costs should be lower.

FCA ACTION 2. Studies will be initiated by the Federal Council on Aging to develop recommendations for a minimum and internally consistent set of income-conditioned benefits and services for the elderly to replace the current set of overlapping, often-inconsistent set of State and Federal programs now in existence.

ANNEX. DESCRIPTION OF PROGRAMS CONSIDERED

For many programs designed to aid the elderly, the receipt of benefits is a privilege rather than a right. All of the housing programs and the various programs under the Older Americans Act fall in this "privileged" category. The reason is that they have closed-ended funding. For example, the Rent Supplement program will pay the difference between the rental value of the apartment and 25 percent of an individual's (family's) income if that individual lives in an apartment building built with PL89-117 funds. But there are not nearly enough such buildings to house all low-income older people who apply for the program. So only a privileged few get any benefits from this type of program.

In a second category of programs the individual (or family) is lawfully entitled to benefits. There are two such types: (1) contributory retirement programs (including Social Security) and (2) categorical programs with open-ended funding. Of the latter, the six most relevant programs to Older Americans are--Supplemental Security Income (SSI), Food Stamps, Medicare, Medicaid, Pensions for Widows and Children of Veterans and Pensions for Veterans with Non-Service-Connected Disabilities (under the latter program veterans are defined to be disabled when they reach age 65).

In the analysis for this report we have paid particular attention to the major programs with open-ended funding and with categorical eligibility requirements (group (2) above)--and within this subset, to those for which benefits are conditioned upon income and are thus targeted on the low-income elderly population. Among the retirement programs, we have considered only Social Security, since it is the only one for which benefits are earnings-conditioned. Except for two housing programs, we have given little attention to those with closed-ended funding because they interact minimally with other programs and because, in some cases, data on the number of elderly participants is virtually nonexistent.

The eight programs given particular attention in our analysis are listed and briefly described below. A more complete description of these and other programs are contained in another report entitled "Handbook of Federal Programs Benefiting Older Americans."

The Supplemental Security Income Program

The Supplemental Security Income (SSI) Program, Title XVI of the Social Security Act, was designed to provide a nationally uniform minimum cash assistance program to the aged (persons over age 65), blind and disabled. The SSI program replaced the State administered programs of Old Age Assistance, Aid to the Blind, and Aid to the Permanently and Totally Disabled. The program consists of three basic components: the basic Federal SSI program; State mandatory supplementation; and State voluntary supplementation. The basic Federal SSI program provides monthly benefits of \$157.50 to a single eligible individual and \$236.60 to an eligible couple with no other income. The State mandatory supplementation "holds harmless" individuals who were transferred from those programs replaced by SSI, by requiring the States to totally compensate them for any decrease in income which they may have suffered as a result of the change to the Federal SSI program. In addition each State may choose at its own option to supplement these basic payment levels by any amount they select through the Voluntary State supplementation component.

The Old Age, Survivors, and Disability Insurance Program

The Old Age, Survivors, and Disability Insurance Program, commonly referred to as Social Security, includes a retirement program, where retirement benefits received are based on the contributions paid in. In addition, the program also provides benefits to survivors of eligibles or to persons becoming disabled after establishing eligibility. Approximately 90 percent of the employed

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labor force currently contributes to the OASDI program; contributions are paid in at a 5.85 percentage rate for both the employer and the employee and at a 7.9 percentage rate for self-employed persons on the first \$15,300 of the earner's income. The benefit is calculated as a percentage of the retired worker's average monthly earnings that were subject to the Social Security tax. The percentage is higher for low wage earners. Workers retiring at age 62 to 64 and electing to start receiving benefits at that time receive permanently reduced benefits. The minimum benefit payable in June 1975 to a 65 year old individual was \$101.40 per month and for a couple was \$152.10 per month. The maximum benefit payable to an individual was \$341.70 per month. The benefit payment level is automatically adjusted for inflation by a formula based upon changes in the Consumer Price Index.

Medicare

The Medicare program, Title XVIII of the Social Security Act, provides medical insurance for those persons receiving or entitled to OASDI or railroad retirement. Noneligible persons over 65 who met special requirements can purchase coverage. Part A provides limited Hospital Insurance which covers inpatient hospital care and post-hospital care after payment of a deductible. Part B, Supplementary Medical Insurance, is a voluntary program to cover certain physician's services and other outpatient medical services after the payment of a co-insurance. All recipients have to pay a premium for this coverage. However, practically all who are eligible have enrolled. The Federal government, out of general revenues, matches the total of the premiums paid.

Medicaid

The Medicaid program was enacted in 1965 as Title XIX of the Social Security Act to enable each State, at its option, to furnish medical assistance to needy families and aged, blind or disabled individuals, and to provide such services as may be required by these persons to attain independence. Thirty-five states provide coverage to SSI recipients and the remaining 16 states have chosen to limit coverage to this group to those individuals who would have been eligible

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under the medical assistance standards in effect on January 1, 1972. These individuals may qualify for assistance by spending on medical care that portion of their income which is in excess of the 1972 medical standards. The benefits of this program are medical care services for which full or partial payment is made on behalf of eligible beneficiaries. The cash value of the basic Medicaid benefit is determined by the reasonable cost of medical care, which may be reduced by a deduction related to the recipient's income and resources.

The Food Stamp Program

The Food Stamp program was enacted by Public Law 88-525 in 1964 as a means of providing low-income families with an opportunity to purchase nutritionally adequate diets and as a means of expanding the market for domestically produced food. The program was not available in every county until July 1, 1974. The maximum allowable income standards, which vary by household size, were standardized at this time. The Food Stamp benefit is a payment "in-kind" in that the "benefit" is the dollar value difference between what the recipient must pay for the Food Stamps, and the actual value of the stamps. The dollar amount of the stamps which eligible households are permitted to buy are automatically adjusted semi-annually according to changes in food prices.

Low Rent Public Housing

The Low Rent Public Housing program was enacted in 1937 to provide decent, safe and sanitary low-rent housing for low-income families. The program provides loans and grants to local housing authorities and covers the difference between rents paid by tenants and rent payable to the owner (plus the local housing authority's operating expenses). A tenant family must consist of two or more related persons, or a single elderly (age 62 or over) disabled, handicapped or displaced person, or the remaining member of a tenant family. Families must be unable to afford acceptable housing as supplied by

private enterprise. Income limits are set by local housing authorities and vary according to housing costs in the area. Tenants benefit from the low rental charges made possible through Federal assistance to local housing authorities.

Rent Supplements

The Rent Supplement Program was enacted in 1965 in order to make rental housing available to lower-income families. Specified individuals or organizations are permitted to operate approved private housing projects. Eligible tenants include: persons age 62 or over; handicapped or displaced persons; occupants of substandard housing; or military personnel serving on active duty or their spouses. The income limits are generally the same as those set by the local housing authorities for public housing projects. The benefits to the tenants take the form of the difference between the fair market rental established for the rental unit and 25 percent of adjusted family income, with the provision that the supplement must be between 10 and 70 percent of the market rent.

Pensions For Veterans with Non-Service-Connected Disabilities

This program was established in 1933 (and was later revised in 1960) to assist wartime veterans who have insufficient income and resources and are age 65 or over, or have non-service-connected disabilities. Both laws remain in effect with the first covering veterans who were on the pension rolls prior to July 1, 1960 and electing to remain covered under that law and the second covering veterans who became eligible on or after that date. In order to qualify for eligibility, the veteran must: (1) have had 90 or more days of active wartime duty or if the service period was shorter than 90 days, the early discharge must have been due to a service-related disability; (2) be either permanently and totally disabled or have attained the age of 65.

Pensions For Widows and Children of Veterans

This program was enacted in 1933 and revised in 1960. It was designed to provide a partial means of support for low-income widows and children of veterans who died as a result of non-service related causes. As with the Pension for Non-Service-Connected Disabilities program, two laws are currently in existence. Only those needy, not-presently-married widows with low incomes who were receiving benefits prior to July 1, 1960 may continue receiving benefits under the first law. The current law permits payments to not-presently-married widow or child of a deceased veteran who (1) had 90 days or more of active wartime duty, or was discharged prior to 90 days due to a service-related death or (2) at the time of death was receiving compensation or military retirement pay for a service-connected disability.

1975 CAA SAMPLE SURVEY

AUGUST 15, 1976

-ALL CAAs

90 REPRESENTING 843 CAAs

TABLE III. PARTICIPANT CHARACTERISTICS

A. DIRECT PARTICIPANTS (NON DUPLICATED)

TOTAL NO. (ESTIMATED)	SEX		P E R C E N T A G E S B Y					ETHNICITY							
	MALE	FEMALE	0-5	6-21	22-54	55+	AI	AS	BL	HA	WH	OTH	UNK		
(843 CAAs) 15438813	37.45	48.17	14.38 *	8.87	28.38	26.17	18.30	18.30 *	1.06	0.49	38.27	11.23	26.58	0.87	21.49 *
(865 CAAs) 15.8 MILLION				10.9	34.7	32.0	22.4								

B. DIRECT PARTICIPANTS BY PROG-AREA

NO. OF PERSONS SERVED	SEX		P E R C E N T A G E S B Y					ETHNICITY							
	MALE	FEMALE	0-5	6-21	22-54	55+	AI	AS	BL	HA	WH	OTH	UNK		
MANPOWER 1431072	37.95	38.47	23.58 *	7.01	48.67	24.14	14.08	6.10 *	2.83	2.25	39.76	21.04	27.34	0.30	6.48 *
ECON DEVEL 1093058	25.24	68.12	6.64 *	0.21	79.65	13.16	2.19	4.79 *	0.00	0.03	88.44	3.34	6.70	0.12	1.36 *
EDUCATION 1014281	36.37	43.70	19.93 *	5.35	53.54	8.11	1.31	31.68 *	2.49	3.83	21.59	8.60	8.77	4.34	50.37 *
CHILD DEV 519155	33.19	40.41	26.39 *	74.97	4.04	4.81	0.00	16.17 *	1.34	0.84	34.42	15.88	27.09	1.15	19.42 *
HEALTH 1615170	27.45	47.61	24.94 *	11.53	26.98	29.16	16.66	15.70 *	5.41	0.09	19.94	23.16	28.85	0.08	22.48 *
TRANSPORT 2032553	26.47	45.79	27.87 *	3.62	7.53	17.51	43.76	27.57 *	1.27	0.04	34.71	7.01	22.75	0.05	34.17 *
RECREATION 1635794	30.92	50.76	18.32 *	7.44	53.91	8.19	7.72	22.75 *	0.25	0.06	58.66	2.74	20.45	0.00	17.84 *
HOUSING 216209	42.87	52.38	4.75 *	4.22	21.40	47.61	14.57	12.20 *	1.06	2.94	37.43	33.75	18.93	0.00	6.20 *
COMMUN FEN 2164186	35.89	54.41	9.71 *	11.95	33.33	10.61	32.87	11.25 *	0.33	0.02	38.83	7.58	44.86	0.05	8.41 *
LEGAL SVCS 249703	49.79	49.38	0.83 *	0.87	17.39	59.78	12.01	9.94 *	1.14	0.11	18.58	7.83	61.90	0.31	10.13 *
ENERGY 222291	11.27	22.96	65.77 *	0.00	0.45	11.87	23.70	63.98 *	1.13	0.00	22.08	1.35	22.65	0.27	52.52 *
NEIGHB SS 8204824	26.33	46.70	42.61 *	3.67	14.71	27.66	12.00	41.96 *	0.30	0.19	29.55	11.67	14.77	0.27	43.31 *
CITIZ PART 1025034	29.50	43.34	29.94 *	0.88	12.54	44.00	20.87	21.74 *	2.88	0.54	29.12	19.71	28.85	0.36	19.00 *
TRAINING 125656	15.10	24.55	60.35 *	0.11	13.08	22.37	2.65	61.79 *	0.44	0.00	19.32	8.61	48.90	0.00	22.73 *
SENIOR OPP 2951745	18.05	31.92	50.03 *	0.02	0.18	1.18	85.22	13.41 *	0.59	0.95	16.28	5.13	28.13	0.08	48.84 *
YOUTH SVCS 1661687	16.54	17.92	69.75 *	1.01	30.85	4.35	0.27	63.53 *	0.20	0.40	19.19	4.38	8.91	0.13	66.78 *
OTHER 1552002	36.60	55.44	11.65 *	1.86	6.64	21.79	14.87	54.85 *	0.20	0.01	29.45	2.60	19.44	0.38	47.93 *

C. EACH DIRECT PARTICIPANT IS SERVED BY AN AVERAGE OF 1.8 PROGRAMS.

D. MAJOR LANG SPOKEN OTHER THAN ENGLISH

NUMBER OF CAAs, WHERE 5% OR MORE OF THE DIRECT PARTICIPANTS SPEAK -
 1. SPANISH 222 , 2. FRENCH 14 , 3. PORTUGUESE 17 , 4. NATIVE INDIAN 94 , 5. OTHER 51

59

30%

Exhibit No. 42

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1975 CAA SAMPLE SURVEY

AUGUST 15, 1976

-ALL CAA'S

TABLE II-1. PROGRAM EXPENDITURES--SUBTABLE 1. TOTAL FUNDING SOURCES--

90 REPRESENTING 843 CAA'S
AGGREGATE

	CSA	OTHER FEDERAL	TOTAL FEDERAL	STATE	LOCAL	PRIVATE	GRAND TOTAL
HANPOWER	8805393	358397304	367202697	4660186	5743281	5190134	382796297
ECONOMIC DEVELOPMNT	11691528	1729139	13420667	52500	1942488	1851170	172668251
EDUCATION	8060878	10110965	18171843	3073318	1955813	1648487	24849461
CHILD DEVELOPMENT	2533842	307674012	310207854	30822209	18597429	61450686	421078177
HEALTH	7508606	28872035	36380641	7084238	3052613	3737705	50255197
TRANSPORTATION	3982191	3746789	7728980	3190332	836767	1184800	12940879
RECREATION	2980602	13664578	16645180	2349956	1385791	1858452	22239379
HOUSING	7105019	16684749	23789768	375187	2245795	1377619	27788369
COMM FOOD&NUTRITION	8703532	18574755	27278287	4801798	2443025	2617481	37140591
LEGAL SERVICES	17868382	0	17868382	562716	731283	2286064	21448444
ENERGY	4105677	666546	4772223	835871	81799	453084	6142976
NEIGHBORH SERV SYS.	105971676	2451598	108423276	2923107	15966072	21581882	148894337
CITY, PART & COMM ORG	19564382	1055598	20619980	855590	8052254	5256441	34784266
TRAINING & TECH ASST	2563825	2657137	5220962	2019295	3390097	833377	11463731
SENIOR OPDOR & SVCS.	9377889	16884224	26262115	10024861	3428401	8723224	48438599
YOUTH SERVICES	16747884	61864834	78612718	8091234	2665421	5449909	94819282
CAA ADMINISTRATION	69914862	13767099	83681962	5364732	6221234	8435679	103703607
OTHER	20088822	9060000	29148822	6247503	11033535	6916745	53346605
TOTAL (843 CAAs)	327574992	867861363	1195436355	93334632	89773097	140852938	1519397022

10 (PROJECTED)
TO 865 CAAs

336.1	890.5	12267	95.8	92.1	144.5	1559.1	MILLIONS
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1975 CAA SAMPLE SURVEY

AUGUST 15, 1976

-ALL CAAS

90 REPRESENTING 843 CAAS

TABLE IV. ORGANIZATIONAL CHARACTERISTICS-SALARY AND STAFFING--- AGGREGATE

	SALARY RANGES				TOTAL F-T	FULL TIME	PART TIME	NUMBER OF CAA STAFF		
	<5000	CAA FULLTIME STAFF ONLY 5-9999	10-14999	15000+				TOTAL PAID	VOLUN TEER	TOT CAA STAFF
PROFESSIONAL	889	9991	5145	1756	17781	17781	1113	18894	72230	91123
PARA-PROFESSIONAL	10750	17727	1077	4	29558	29558	7043	36601	100348	136949
CLERICAL	1784	5244	356	0	7384	7384	2067	9452	40289	49740
OTHER & N.R.	6265	2515	170	35	8985	8985	6420	15406	119352	134758
TOTAL	19688	35477	6749	1795	63708	63708	16644	80352	332218	412571

	NUMBER OF DELEGATE AGENCY STAFF				TOT CAA STAFF	COMBINED FULL TIME	STAFFS - PART TIME	CAA AND DEL AGENCY STAFF		
	FULL TIME	PART TIME	TOTAL PAID	VOLUN TEER				TOTAL PAID	VOLUN TEER	TOT CAA STAFF
PROFESSIONAL	7863	1031	8894	3723	12616	25644	2144	27787	75952	103740
PARA-PROFESSIONAL	9966	1804	11771	46927	58698	39524	8848	48372	147275	195647
CLERICAL	3754	583	4337	407	4744	11139	2650	13789	40696	54485
OTHER & N.R.	1743	1343	3086	12040	15126	10728	7764	18492	131392	149884
TOTAL	23326	4761	28087	63098	91185	87035	21405	108440	395316	503755

11

(FOR 865 CAAS) 89- 22- 111- 406- 517-

-THOUSANDS-

778

1975 CAA SAMPLE SURVEY

AUGUST 15, 1976

-ALL CAAs

90 REPRESENTING 843 CAAs

TABLE II-1. PROGRAM EXPENDITURES---SUBTABLE 3. FEDERAL FUNDING

HOR %

	HEW	DOL/CETA	DOL OTHER	HUO	USDA	OTHER	TOT FED NON-CSA	CSA	TOTAL FEDERAL
MANPOWER	0.00	80.13	11.12	0.20	0.06	6.10	97.60	2.40	100.00
ECONOMIC DEVELOPMNT	0.00	1.65	0.00	11.23	0.00	0.00	12.88	87.12	100.00
EDUCATION	18.45	1.23	0.00	25.95	1.34	8.67	55.64	44.36	100.00
CHILD DEVELOPMENT	95.11	0.06	0.11	1.02	2.08	0.79	99.18	0.82	100.00
HEALTH	65.88	2.45	0.00	6.74	1.22	3.07	79.36	20.64	100.00
TRANSPORTATION	24.56	10.59	0.97	6.92	0.00	5.43	48.48	51.52	100.00
RECREATION	0.93	79.13	1.26	0.77	0.00	0.00	82.09	17.91	100.00
HOUSING	0.00	0.48	0.00	69.65	0.00	0.00	70.13	29.87	100.00
COMM FOOD&NUTRITION	37.31	2.59	0.00	0.00	21.55	6.65	68.09	31.91	100.00
LEGAL SERVICES	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	100.00
ENERGY	0.00	5.03	0.00	0.00	0.00	8.94	13.97	86.03	100.00
NEIGHBORH SERV SYS.	0.46	0.23	1.17	0.41	0.00	0.00	2.26	97.74	100.00
CIT. PART & COMM ORG	0.45	1.66	0.00	0.73	0.00	2.28	5.12	94.88	100.00
TRAINING & TECH ASST	7.43	43.47	0.00	0.00	0.00	0.00	50.89	49.11	100.00
SENIOR OPPOD & SVCS.	32.61	2.51	5.92	0.53	4.04	18.68	64.29	35.71	100.00
YOUTH SERVICES	0.84	60.94	8.62	1.25	2.17	4.87	78.70	21.30	100.00
CAA ADMINISTRATION	5.11	7.45	1.82	1.86	0.00	0.20	16.45	83.55	100.00
OTHER	3.26	1.71	18.04	4.74	0.00	3.32	31.08	68.92	100.00
TOTAL	29.28	30.87	4.84	2.88	1.34	3.39	72.60	27.40	100.00

5.7

774

Exhibit No. 43

[FACSIMILE]

STATEMENT OF

PATRICIA ROBERTS HARRIS

Mr. Chairman, members of the Civil Rights Commission, I welcome this opportunity to testify before the Commission this morning and I commend your valuable work on behalf of older Americans.

The Age Discrimination Act of 1975 provides that pursuant to the regulations developed to implement the Act:

"No person in the United States shall on the basis of age, be denied the benefits of, or be subjected to discrimination under any programs or activity receiving Federal financial assistance."

Although the purpose of the Act is to protect any person from discrimination on the basis of age, its legislative history indicates a special concern for the treatment of older Americans by Federal departments, policies and programs. Accordingly, I will focus my brief remarks on the Department of Housing and Urban Development's programs and policies toward older Americans.

Mr. Chairman, regardless of our individual differences - those racial, ethnic, economic, political, social and cultural variables which contribute to our individuality, we share at least one common condition: We are all aging, and more than ever before older Americans comprise a significant portion of our population.

In 1900, for example, only four percent, or three million people, were 65 years or older. Today, more than 21 million persons, and at least ten percent of the total population are in that age bracket.

Clearly, the dimensions of the problems relating to age have changed, and are still changing as the elderly portion of the population steadily increases.~

One of our principal responsibilities at HUD is to provide housing opportunities for low and moderate income people. This responsibility is an outgrowth of a 40 year commitment to a "decent home and suitable living environment for every American family."

Since 1956, Federal Housing policy has recognized the special shelter needs of older Americans, and this special user status for elderly families and individuals has been retained in subsequent legislation authorizing the various Federally assisted housing programs.

Partly because of Federal concern, and partly because of the general economic advances of the 1960's, the housing conditions of the older Americans showed significant improvement in the 1970 Federal Census.

*The proportion of elderly headed households living in standard quality housing rose from 80 percent in 1960 to 92 percent in 1970.

*For the approximately 30 percent of the elderly who rent, rent-income ratios decreased from 24.1 percent to 21.9 percent.

*And, more than 70 percent of all elderly headed households own their own homes.

Despite improvements in the housing conditions and housing opportunities for older Americans, we know that there is still a substantial unmet need.

The 1970 Census showed that of the nearly 3.8 million older Americans who rent, nearly 1.5 million had annual

incomes of less than \$3,000 and paid more than 35 percent of that income for rent.

Although income for older Americans is rising more rapidly than income for other Americans, the rate of increase is still not a comfortable cushion against the increased cost of living. Further, the purchasing power of a person who is 65 years of age is most often half of what that person's purchasing power was at 45.

Clearly, there is the continuing need for the Federal Government to maintain its commitment to providing older Americans a life which, in Lewis Mumford's phrase, offers "an even greater degree of self-direction, self-expression and self-realization."

Members of the Commission, decent, safe and affordable housing is the foundation of that commitment.

SECTION 202

On September 15, I announced the commitment of 637 million to finance the construction and substantial rehabilitation of approximately 21,000 additional housing units for the elderly and handicapped.

More than 200 private non-profit sponsors were awarded reservations under Section 202 of the Housing Act of 1959, as amended.

Section 202 is perhaps the Department's most visible and popular program for older Americans. With the eventual construction of this year's allocations, it will bring to more than 65,000 the number of units constructed under this program.

Section 202 is a direct loan program. It carries with it Section 8 housing assistance commitments to guarantee

that low income elderly persons will not be excluded from the program's benefits.

Because the annual demand far exceeds the annual authorizations, (this year's requests were from 1,300 applicants for 194,000 units - more than 8 times the authorized level), and because it is an effective way to provide better housing for older Americans, HUD will continue the 202 Program, and give it full support under the Carter Administration.

I want to state for the record that of the 21,000 units reserved this year under section 202, 3,000 units (or 14%) were reserved for minority sponsors.

The Carter Administration is cognizant of its other commitments to social justice.

In addition to the housing provided by the Section 202 program, even greater opportunities have been provided through other HUD programs.

As of April 1st of this year, some 260,300 units of housing for the elderly have been provided under the various assistance and insurance programs offered by the Department.

Section 232, the Nursing Home Mortgage Insurance Program, has provided 128,000 of these units.

In addition to these 325,000 units, the low rent public housing program has provided some 500,000 units in the past 21 years.

We expect the Section 8 Program, under its construction, rehabilitation and existing components to have reserved more than 300,000 additional units for the elderly by December 31, 1977, and we are committed to getting these reservations built and occupied.

The grand total of all programs exceeds more than 1,125,000 units for the elderly.

It is a record of accomplishment that reflects the Department's philosophy toward older Americans: We will do whatever is necessary to meet the housing needs of the elderly.

As the record indicates, our commitment to older Americans is not rhetorical and I am pleased to state that it extends beyond our Housing Programs.

In order to provide more information on the full range of activities and programs on behalf of older Americans, I have asked Mr. Chester McGuire, Assistant Secretary for Fair Housing and Equal Opportunity, Monsgr. Geno Baroni, Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection, Ms. Marilyn Melkonian, Deputy Assistant Secretary for Direct and Insured Loan Programs, Ms. I. Toni Thomas, Citizen Participation Advisor to the Assistant Secretary-Community Planning and Development, to make themselves available to the Commission to answer any questions which you may have about our programs.

In conclusion, it is my belief that through our various programs, HUD has expressed, in real and tangible terms, our national concern for the special housing needs of older Americans.

You can be assured that under this Administration there will be renewed determination to meet those special needs.

Thank you.



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS
AND CONSUMER PROTECTION

DEC 12 1977

IN REPLY REFER TO:

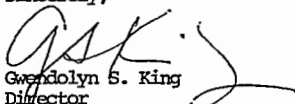
Ms. Laura Wilmot
United States Commission on Civil Rights
1730 K Street, N. W.
Room 214
Washington, D. C. 20006

Dear Ms. Wilmot:

Attached is the additional material from the Department of Housing and Urban Development which was promised to you at the Commission's hearings last September. We apologize for the unconscionable delay in forwarding these materials.

If you have any questions concerning any of the information enclosed, please do not hesitate to contact me at 755-5353.

Sincerely,


Gwendolyn S. King
Director
Division of Consumer Complaints

Enclosures

What is the present status of the Elderly Program in HUD?

The Elderly Program, located in the office of NVACP, serves as the focal point within HUD for matters pertaining to housing and related facilities and services for the elderly.

I will be convening, at the Secretary's request, an internal review committee to thoroughly review the Elderly Program with a view toward making recommendations to the Secretary about the mission and staffing and proper location of the program in the Department.

George Brown, the Acting Deputy Director of the Program is here with us today and will be happy to respond to any specific questions you may have now, or in writing to be submitted later.

Does your office monitor participation of elderly in HUD programs?

We have no single mechanism to monitor all programs at the present time. Most of the Department's business concerns the guarantee of loans made by lending institutions. Because it is a Federal Guarantee, mortgagees and sponsors of housing must comply with fair housing and equal opportunity laws.

We do monitor complaints about our programs, however, and complaints from elderly consumers are closely monitored as well.

Do you believe that adequate consumer protection laws exist at the present time to protect the elderly with respect to the purchase or rehabilitation of housing?

There are some areas of concern which have come to our attention and which have subsequently been strengthened by additional laws.

Many young people and elderly reside in mobile homes in this country. Title VI of the 1974 Housing and Community Development Act charged HUD with responsibility for development and enforcement of National Mobile Home Construction and Safety Standards. Prior to this law we had many complaints about products not being up to standard. This is no longer the case. All mobile homes constructed in this country must now meet the provisions of the standards.

Our Office of Interstate Land Sales Registration also serves a consumer protection role against land sales fraud. Our new efforts in real estate practices and in the area of condominiums will also provide protections.

ISSUE A - 1

Question: Has the Department made any assessment of the effectiveness of the citizen participation requirements as carried into practice by grantees?

Answer:

The Department has made assessment of the effectiveness of the citizen participation requirements in the Second Annual Report to Congress in the Community Development Block Grant Program. According to the City Experience Survey, local officials of most cities studied (80%) report that citizen participation was an important influence on selection of activities.

Another approach used to evaluate citizen participation in the CDBG Program was to measure the influence of citizen recommendations on the activities and target areas included in the block grant application. The disposition of citizen recommendations offers a measure of the success of the citizen participation process in involving citizens. After recommendations are made, positive response indicates that citizen had effective access to the decision-making process, had been able to express preferences and influenced the selection of activities. Of the 33 cities studied in-depth, 197 recommendations were made concerning activities and 47 recommendations were made concerning target areas for locating activities. Overall, 78 percent of the recommendations were accepted completely, 7 percent were accepted partially and 16 percent were rejected. In 91 percent of the cities studied, the citizen groups

achieved some degree of success. At a minimum, one recommendation was made by the groups interviewed and accepted for funding by the city council. At a maximum, twelve recommendations were accepted.

The presence of accepted recommendations does not necessarily indicate that officials accepted whatever proposals citizens made. Some were rejected and others accepted only after considerable negotiation with officials and staff.

Question: How does the Department monitor performance in this area?

Answer:

The Department monitors all block grant recipients, and all complaints on citizen participation are tracked as to appropriate response. Over 200 specific on-site visits have been made concerning citizen participation issues. Monitoring of citizen participation in CDBG is done for compliance with stated procedures. Citizen participation accounted for 11.7 percent of the technical deficiencies found in monitoring of the CDBG program in FY 1976. Some localities lack or have inadequate records on citizen participation including lack of minutes of public meetings and recorded listings of citizen participation advisory members. Another frequent finding indicated the lack of citizen participation procedures relating to revisions in the approved CDBG program.

Issue A(1)

Question: Has the Department issued any guidelines concerning methods for improving such participation?

Answer: Performance standards for citizen participation in the regulations for the CDBG program are at present the only published guidelines for citizen participation in CDBG. It is through these also that participation of certain identifiable segments of society is encouraged. Guidelines and performance standards are in the process of being revised currently.

Question: What Model Cities program experiences in this area have carried over to the successor CDBG program?

Answer:

The scope of citizen participation for CDBG planning was city-wide according to the specifics of the regulations. Newly created citizen participation structures studied in the Second Annual Report, to Congress also had city-wide scopes. Therefore since the Urban Renewal and Model Cities programs emphasized project area citizen participation, the structures that were in force for these programs had not been necessarily formally included in the larger structures of the CDBG programs. The most significant difference between the cities which had Model Cities experience and those which did not is the more extensive use of resident and neighborhood based selection of members of citizen advisory committees (CAC's). Members of CAC's in non-Model Cities and Urban Renewal cities were more often appointed by local officials.

ISSUE A(2) (a)

Question A(2) (a): "Data collected in connection with the CDBG program does not appear currently to allow for a determination of the age of beneficiaries.... In light of the prospective implementation of the Act, how might the Department monitor performance of grantees?"

Answer

The Department has the same problem in monitoring the performance of grantees in the area of benefits provided to the elderly that it does in providing data on benefits provided to low and moderate income households: many of the activities supported by CDBG funds are of a service-area benefit or citywide benefit and it is difficult, and in some cases, impossible to measure benefit to the particular age group in question. The benefits of a park in a mixed-age area of a street improvement available to all passers-by for instance, are difficult to measure. The principal methods for measurement are costly:

- (1) Evaluation studies;
- (2) Data supplied by the grantees on the Grantee Performance Report.

The Department has taken and is continuing to take steps to measure benefits to low and moderate income households. From its sample

data on 151 entitlement communities, 76 urban counties and 610 discretionary recipients it also can provide some data on benefits to the elderly--primarily by showing the amount of funds targeted for direct and indirect services to the elderly and by showing funds budgeted for areas containing larger than normal proportions of the elderly. To go beyond this kind of reporting will involve more costly field evaluation studies or costly (and difficult to control) data gathering and reporting by the recipients in their Grantee Performance Reports. The latter may well be necessary, however, in order for the Department to adequately monitor performance in this area.

ISSUE A - (2)

Question: Are grantees encouraged to solicit participation from interest groups advocating on behalf of the concerns of certain sub-groups of the population?

Answer:

The Department does not encourage grantees to solicit participation from interest groups. This type of activity is left to the discretion of the grantees.

Issue A-2

Question: Monitoring Under CDBG - How might the Department monitor performance of grantees re age discrimination?

Answer: HUD does not currently monitor for nondiscrimination on the basis of age, but does for non-discrimination on the basis of race and sex.

One of the possibilities for dealing with age discrimination would be to include a section on age non-discrimination in the grant agreement and the regulations as we do now for other forms of discrimination. Grantee performance would be monitored on a sample basis, and complaints investigated as required.

Secondly, we could require reporting data on local actions for prohibiting age discrimination in the Annual Grantee Performance Report required of all entitlement applicants.

ISSUE A (2)

Question: "What practical relationship does the Department see between the current prohibition against discrimination on the basis of handicap and the future - effective ban on age discrimination?"

Answer:

When I established the Office of Independent Living in June of this year, I did so with the recognition that the right of tenancy or ownership to decent, accessible and affordable housing for all people with disabilities would be applicable for all HUD programs regardless of the age of the disabled person.

Prior to the establishment of OILD, the practical correlation between housing for the handicapped and the age of the applicant was very strong. During the entire history of the department, there have been only 1100 units constructed in eight projects solely for non-elderly people with disabilities. During the period 1959-74, more than 500,000 HUD-assisted units were developed which were specifically designed for the elderly, many of whom were also handicapped. Prior to this administration, virtually the only way you as a handicapped person could find a HUD-assisted dwelling unit would be if you were also more than 62 years of age. In fact, HUD's only organizational response to the needs of the handicapped up to this time was to formally join the handicapped with the elderly in a departmental advisory office of elderly and handicapped programs.

C. General/Other Issues which May Be Raised

2. Urban renewal projects financed in part with Department funds may involve razing units where older persons live and have lived for years forcing residential relocation.
- . What role has the Department played in assisting in the process of relocation? What kind of directive or assistance are local entities operating under relative to this problem?

Response

The Department has issued regulations and procedures which explain the objectives and requirements in relocating all persons displaced by HUD-assisted activities, including the urban renewal program. These regulations and procedures are in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act).

Our regulations require that any participant with a HUD-assisted program contemplating displacement of any families and individuals must submit an assurance that adequate housing will be available prior to displacement. In addition to the assurance, communities participating in HUD programs which may involve displacement, must develop a program for the orderly and systematic relocation of area residents who may be forced to move because of program activities.

2

Not only is the formal establishment of OILD proof enough of the validity of the position that housing for the handicapped should be provided regardless of age of the applicant. With the Executive Order from the President accompanying the signing by the Secretary of HEW of the Rehabilitation Act of 1973, HUD regulations will be amended to include language which specifically prohibits any form of discrimination against people with any of a wide range of disabilities. In this way, handicapped people of all ages will be formally allowed physical and programmatic access to all federally supported buildings.

We recognize that the housing needs of our Nation's older Americans sometimes differ markedly from those of handicapped citizens of any age. As housing for non-handicapped elderly as well as housing for handicapped non- elderly begin to be assimilated into neighborhoods throughout cities and towns in America, a major goal of this Administration will have been achieved: That is, to provide housing for people, regardless of age, both handicapped and able bodied, which is affordable, decent, and accessible.

2

Under the Uniform Act, relocation payments are authorized to cover moving expenses and, where appropriate, financial assistance to help defray the cost of obtaining replacement housing. In addition to relocation payments, all persons displaced by a HUD-assisted activity receive assistance in finding and obtaining replacement housing and other necessary assistance to lessen the impact of displacement.

Finally, to assure that the objectives of the relocation program are accomplished and to assure that persons displaced receive the maximum benefits available, the Department, in November 1975, implemented a compliance monitoring system. This system involves a detailed review of case files of persons displaced. As a result of this review, where it can be determined that the person displaced did not enjoy the benefits available or did not receive the full amount of any payments to which entitled under the Uniform Act, the locality causing the displacement will be required to take corrective action.

HUD-26 (7-75) PREVIOUS EDITION MAY BE USED

*Memorandum*U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT*King*

TO : Geno Baroni, Assistant Secretary for
Neighborhood Voluntary Associations
and Consumer Protection, M
Attn: Gwendolyn King, Special Assistant, V

DATE: **4 OCT 1972**

IN REPLY REFER TO:

FROM : Chester C. McGuire, Fair Housing and Equal Opportunity, B

SUBJECT: Issues for Age Discrimination Hearing

APPROPRIATIONS
OCT 11 11:56

This is in answer to your request for responses to the questions and concerns which might fall into our program areas regarding the issue of Age Discrimination.

As you may know, Title VIII of the Civil Rights Act of 1968, does not extend its coverage to include discrimination based on age. This Office, however, frequently receives complaints on the WAT's Line (800-424-8590) alleging the denial of housing because of the age of the complainant. We receive numerous complaints in this area, particularly from students who find it difficult to find housing in university areas. We seldom, however, receive complaints alleging the denial of housing to the older citizen. The few that we have received deal with the lack of affordable, safe housing for the elderly in a given area. There are a few states which prohibit discrimination in housing because of age and complaints arising within this jurisdiction are referred to such states.

Complaints involving the denial of financing in housing are now referred to the appropriate financial regulatory agency for investigation as per Regulation B implementing Title VII (Equal Credit Opportunity Act) of the Consumer Credit Opportunity Act.

It may interest you to know that one of the most frequent complaints received, on the WAT's Line and by mail, involves the denial of housing because of the number of children in the family. Unfortunately, Title VIII does not extend its coverage to include children. Due to the frequency of this type of complaint, our Office has found it necessary to respond by means of a form letter (copy enclosed). Also the complainant is advised to file with state or local agencies extending such coverage. It appears that some state or local agencies may be extending coverage to children under age discrimination prohibition.

Chester C. McGuire
Assistant Secretary



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D. C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

IN REPLY REFER TO:

This will respond to your recent correspondence to this Office regarding discrimination in housing based on the fact that there are children in the family.

Please be advised that this Office is responsible for administering Title VIII of the Civil Rights Act of 1968, the Federal Fair Housing Law, as amended, which prohibits discrimination in the rental, sale, or financing of most housing for reasons of race, color, religion, sex, or national origin. Unfortunately, Title VIII does not provide for discrimination based on the fact that there are children in the family. While a number of complaints are received with respect to this subject, the Department is without authority to act in such matters.

You may be interested to know that Section 207 (Rental Housing Insurance) of the National Housing Act of 1967, prohibits discrimination in FHA-insured rental housing on the basis that there are children in the family. That section of the Act provides in part, that in rental housing insured by FHA ". . . no mortgage shall be insured . . . unless the mortgagor certifies under oath in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family"

2

In order to obtain a listing of such facilities by FHA in your area, you may contact:

Sincerely,

Kenneth F. Holbert
Director
Fair Housing Enforcement
and Contract Compliance

BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

EQUAL CREDIT OPPORTUNITY

REGULATION B
(12 CFR 202)

Effective March 23, 1977



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STATUTORY AUTHORITY

This regulation is based upon and issued pursuant to provisions of section 703 of the Equal Credit Opportunity Act, U.S.C., Title 15, sec. 1691 *et seq.*

REGULATION B

(12 CFR 202)

Effective March 23, 1977

EQUAL CREDIT OPPORTUNITY

SECTION 202.1—AUTHORITY, SCOPE, ENFORCEMENT, PENALTIES AND LIABILITIES, INTERPRETATIONS

(a) **Authority and scope.** This Part¹ comprises the regulations issued by the Board of Governors of the Federal Reserve System pursuant to Title VII (Equal Credit Opportunity Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. § 1601 *et seq.*). Except as otherwise provided herein, this Part applies to all persons who are creditors, as defined in section 202.2(l).

(b) **Administrative enforcement.** (1) As set forth more fully in section 704 of the Act, administrative enforcement of the Act and this Part regarding certain creditors is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), Administrator of the National Credit Union Administration, Interstate Commerce Commission, Civil Aeronautics Board, Secretary of Agriculture, Farm Credit Administration, Securities and Exchange Commission, and Small Business Administration.

(2) Except to the extent that administrative enforcement is specifically committed to other authorities, compliance with the requirements im-

posed under the Act and this Part will be enforced by the Federal Trade Commission.

(c) **Penalties and liabilities.** (1) Sections 706(a) and (b) of the Act provide that any creditor who fails to comply with any requirement imposed under the Act or, pursuant to section 702(g), this Part is subject to civil liability for actual and punitive damages in individual or class actions. Pursuant to section 704 of the Act, violations of the Act or, pursuant to section 702(g), this Part constitute violations of other Federal laws that may provide further penalties. Liability for punitive damages is restricted by section 706(b) to non-governmental entities and is limited to \$10,000 in individual actions and the lesser of \$500,000 or one percent of the creditor's net worth in class actions. Section 706(c) provides for equitable and declaratory relief. Section 706(d) authorizes the awarding of costs and reasonable attorney's fees to an aggrieved applicant in a successful action.

(2) Section 706(e) relieves a creditor from civil liability resulting from any act done or omitted in good faith in conformity with any rule, regulation, or interpretation by the Board of Governors of the Federal Reserve System, or with any interpretations or approvals issued by a duly authorized official or employee of the Federal Reserve System, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or otherwise determined to be invalid for any reason.

¹ As used herein, the words "this Part" mean Regulation B, 12 CFR 202.

(3) As provided in section 706(f), a civil action under the Act or this Part may be brought in the appropriate United States district court without regard to the amount in controversy or in any other court of competent jurisdiction within two years after the date of the occurrence of the violation or within one year after the commencement of an administrative enforcement proceeding or a civil action brought by the Attorney General within two years after the alleged violation.

(4) Sections 706(g) and (h) provide that, if the agencies responsible for administrative enforcement are unable to obtain compliance with the Act or, pursuant to section 702(g), this Part, they may refer the matter to the Attorney General. On such referral, or whenever the Attorney General has reason to believe that one or more creditors are engaged in a pattern or practice in violation of the Act or this Part, the Attorney General may bring a civil action.

(d) **Interpretations.** (1) A request for a formal Board interpretation or an official staff interpretation of this Part must be addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Each request for an interpretation must contain a complete statement, signed by the person making the request or a duly authorized agent, of all relevant facts of the transaction or credit arrangement relating to the request. True copies of all pertinent documents must be submitted with the request. The relevance of such documents must, however, be set forth in the request, and the documents must not merely be incorporated by reference. The request must contain an analysis of the bearing of the facts on the issues and must specify the pertinent provisions of the statute and regulation. Within 15 business days of receipt of the request, a substantive response will be sent to the person making the request, or an acknowledgement will be sent that sets a reasonable time within which a substantive response will be given.

(2) Any request for reconsideration of an official staff interpretation of this Part must be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, within 30 days of the publication of such interpretation in the *Federal Register*. Each request for reconsideration must contain a statement setting forth in full the reasons why the person

making the request believes reconsideration would be appropriate, and must specify and discuss the applicability of the relevant facts, statute, and regulations. Within 15 business days of receipt of such request for reconsideration, a response granting or denying the request will be sent to the person making the request, or an acknowledgement will be sent that sets a reasonable time within which such response will be given.

(3) Pursuant to section 706(e) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this Part. This designation shall not be interpreted to include authority to approve particular creditors' forms in any manner.

(4) The type of interpretation issued will be determined by the Board and the designated officials by the following criteria:

(i) Official Board interpretations will be issued upon those requests that involve potentially controversial issues of general applicability dealing with substantial ambiguities in this Part and that raise significant policy questions.

(ii) Official staff interpretations will be issued upon those requests that, in the opinion of the designated officials, require clarification of technical ambiguities in this Part or that have no significant policy implications.

(iii) Unofficial staff interpretations will be issued where the protection of section 706(e) of the Act is neither requested nor required, or where time strictures require a rapid response.

SECTION 202.2—DEFINITIONS AND RULES OF CONSTRUCTION

For the purposes of this Part, unless the context indicates otherwise, the following definitions and rules of construction shall apply:²

(a) **Account** means an extension of credit. When employed in relation to an account, the word use refers only to open end credit.

(b) **Act** means the Equal Credit Opportunity Act (Title VII of the Consumer Credit Protection Act).

(c) **Adverse action.** (1) For the purposes of notification of action taken, statement of reasons for denial, and record retention, the term means:

² Note that some of the definitions in this Part are not identical to those in 12 CFR 226 (Regulation Z).

(i) a refusal to grant credit in substantially the amount or on substantially the terms requested by an applicant unless the creditor offers to grant credit other than in substantially the amount or on substantially the terms requested by the applicant and the applicant uses or expressly accepts the credit offered; or

(ii) a termination of an account or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of a creditor's accounts; or

(iii) a refusal to increase the amount of credit available to an applicant when the applicant requests an increase in accordance with procedures established by the creditor for the type of credit involved.

(2) The term does not include:

(i) a change in the terms of an account expressly agreed to by an applicant; or

(ii) any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account; or

(iii) a refusal to extend credit at a point of sale or loan in connection with the use of an account because the credit requested would exceed a previously established credit limit on the account; or

(iv) a refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or

(v) a refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.

(d) **Age** refers only to natural persons and means the number of fully elapsed years from the date of an applicant's birth.

(e) **Applicant** means any person who requests or who has received an extension of credit from a creditor, and includes any person who is or may be contractually liable regarding an extension of credit other than a guarantor, surety, endorser, or similar party.

(f) **Application** means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that does not exceed a previously established credit limit. A completed application for credit means an ap-

plication in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral); provided, however, that the creditor has exercised reasonable diligence in obtaining such information. Where an application is incomplete respecting matters that the applicant can complete, a creditor shall make a reasonable effort to notify the applicant of the incompleteness and shall allow the applicant a reasonable opportunity to complete the application.

(g) **Board** means the Board of Governors of the Federal Reserve System.

(h) **Consumer credit** means credit extended to a natural person in which the money, property, or service that is the subject of the transaction is primarily for personal, family, or household purposes.

(i) **Contractually liable** means expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.

(j) **Credit** means the right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(k) **Credit card** means any card, plate, coupon book, or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, or services on credit.

(l) **Creditor** means a person who, in the ordinary course of business, regularly participates in the decision of whether or not to extend credit. The term includes an assignee, transferee, or subrogee of an original creditor who so participates; but an assignee, transferee, subrogee, or other creditor is not a creditor regarding any violation of the Act or this Part committed by the original or another creditor unless the assignee, transferee, subrogee, or other creditor knew or had reasonable notice of the act, policy, or practice that constituted the violation before its involvement with the credit transaction. The term does not include a person whose only participa-

tion in a credit transaction involves honoring a credit card.

(m) **Credit transaction** means every aspect of an applicant's dealings with a creditor regarding an application for, or an existing extension of, credit including, but not limited to, information requirements; investigation procedures; standards of creditworthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures.

(n) **Discriminate against an applicant** means to treat an applicant less favorably than other applicants.

(o) **Elderly** means an age of 62 or older.

(p) **Empirically derived credit system.** (1) The term means a credit scoring system that evaluates an applicant's creditworthiness primarily by allocating points (or by using a comparable basis for assigning weights) to key attributes describing the applicant and other aspects of the transaction. In such a system, the points (or weights) assigned to each attribute, and hence the entire score:

(i) are derived from an empirical comparison of sample groups or the population of creditworthy and non-creditworthy applicants of a creditor who applied for credit within a reasonable preceding period of time; and

(ii) determine, alone or in conjunction with an evaluation of additional information about the applicant, whether an applicant is deemed creditworthy.

(2) A **demonstrably and statistically sound, empirically derived credit system** is a system:

(i) in which the data used to develop the system, if not the complete population consisting of all applicants, are obtained from the applicant file by using appropriate sampling principles;

(ii) which is developed for the purpose of predicting the creditworthiness of applicants with respect to the legitimate business interests of the creditor utilizing the system, including, but not limited to, minimizing bad debt losses and operating expenses in accordance with the creditor's business judgment;

(iii) which, upon validation using appropriate statistical principles, separates creditworthy and non-creditworthy applicants at a statistically significant rate; and

(iv) which is periodically revalidated as to its predictive ability by the use of appropriate

statistical principles and is adjusted as necessary to maintain its predictive ability.

(3) A creditor may use a demonstrably and statistically sound, empirically derived credit system obtained from another person or may obtain credit experience from which such a system may be developed. Any such system must satisfy the tests set forth in subsections (1) and (2); provided that, if a creditor is unable during the development process to validate the system based on its own credit experience in accordance with subsection (2)(iii), then the system must be validated when sufficient credit experience becomes available. A system that fails this validity test shall henceforth be deemed not to be a demonstrably and statistically sound, empirically derived credit system for that creditor.

(q) **Extend credit and extension of credit** mean the granting of credit in any form and include, but are not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity.

(r) **Good faith** means honesty in fact in the conduct or transaction.

(s) **Inadvertent error** means a mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(t) **Judgmental system of evaluating applicants** means any system for evaluating the creditworthiness of an applicant other than a demonstrably and statistically sound, empirically derived credit system.

(u) **Marital status** means the state of being unmarried, married, or separated, as defined by applicable State law. For the purposes of this Part, the term "unmarried" includes persons who are single, divorced, or widowed.

(v) **Negative factor or value**, in relation to the age of elderly applicants, means utilizing a factor, value, or weight that is less favorable regarding elderly applicants than the creditor's experience warrants or is less favorable than the factor, value, or weight assigned to the class of applicants that

are not classified as elderly applicants and are most favored by a creditor on the basis of age.

(w) **Open end credit** means credit extended pursuant to a plan under which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device as the plan may provide. The term does not include negotiated advances under an open end real estate mortgage or a letter of credit.

(x) **Person** means a natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(y) **Pertinent element of creditworthiness**, in relation to a judgmental system of evaluating applicants, means any information about applicants that a creditor obtains and considers and that has a demonstrable relationship to a determination of creditworthiness.

(z) **Prohibited basis** means race, color, religion, national origin, sex, marital status, or age (provided that the applicant has the capacity to enter into a binding contract); the fact that all or part of the applicant's income derives from any public assistance program, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act³ or any State law upon which an exemption has been granted by the Board.

(aa) **Public assistance program** means any Federal, State, or local governmental assistance program that provides a continuing, periodic income supplement, whether premised on entitlement or

³The first clause of the definition is not limited to characteristics of the applicant. Therefore, "prohibited basis" as used in this Part refers not only to the race, color, religion, national origin, sex, marital status, or age of an applicant (or of partners or officers of an applicant), but refers also to the characteristics of individuals with whom an applicant deals. This means, for example, that, under the general rule stated in section 202.4, a creditor may not discriminate against a non-Jewish applicant because of that person's business dealings with Jews, or discriminate against an applicant because of the characteristics of persons to whom the extension of credit relates (e.g., the prospective tenants in an apartment complex to be constructed with the proceeds of the credit requested), or because of the characteristics of other individuals residing in the neighborhood where the property offered as collateral is located. A creditor may take into account, however, any applicable law, regulation, or executive order restricting dealings with citizens or governments of other countries or imposing limitations regarding credit extended for their use.

The second clause is limited to an applicant's receipt of public assistance income and to an applicant's good faith exercise of rights under the Consumer Credit Protection Act or applicable State law.

need. The term includes, but is not limited to, Aid to Families with Dependent Children, food stamps, rent and mortgage supplement or assistance programs, Social Security and Supplemental Security Income, and unemployment compensation.

(bb) **State** means any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(cc) Captions and catchlines are intended solely as aids to convenient reference, and no inference as to the substance of any provision of this Part may be drawn from them.

(dd) Footnotes shall have the same legal effect as the text of the regulation, whether they are explanatory or illustrative in nature.

SECTION 202.3—SPECIAL TREATMENT FOR CERTAIN CLASSES OF TRANSACTIONS

(a) **Classes of transactions afforded special treatment.** Pursuant to section 703(a) of the Act, the following classes of transactions are afforded specialized treatment:

(1) extensions of credit relating to transactions under public utility tariffs involving services provided through pipe, wire, or other connected facilities if the charges for such public utility services, the charges for delayed payment, and any discount allowed for early payment are filed with, or reviewed or regulated by, an agency of the Federal government, a State, or a political subdivision thereof;

(2) extensions of credit subject to regulation under section 7 of the Securities Exchange Act of 1934 or extensions of credit by a broker or dealer subject to regulation as a broker or dealer under the Securities Exchange Act of 1934;

(3) extensions of incidental consumer credit, other than of the types described in subsections (a)(1) and (2):

(i) that are not made pursuant to the terms of a credit card account;

(ii) on which no finance charge as defined in section 226.4 of this Title (Regulation Z, 12 CFR 226.4) is or may be imposed; and

(iii) that are not payable by agreement in more than four instalments;

(4) extensions of credit primarily for business or commercial purposes, including extensions of

credit primarily for agricultural purposes, but excluding extensions of credit of the types described in subsections (a)(1) and (2); and

(5) extensions of credit made to governments or governmental subdivisions, agencies, or instrumentalities.

(b) **Public utilities credit.** The following provisions of this Part shall not apply to extensions of credit of the type described in subsection (a)(1):

(1) section 202.5(d)(1) concerning information about marital status;

(2) section 202.10 relating to furnishing of credit information; and

(3) section 202.12(b) relating to record retention.

(c) **Securities credit.** The following provisions of this Part shall not apply to extensions of credit of the type described in subsection (a)(2):

(1) section 202.5(c) concerning information about a spouse or former spouse;

(2) section 202.5(d)(1) concerning information about marital status;

(3) section 202.5(d)(3) concerning information about the sex of an applicant;

(4) section 202.7(b) relating to designation of name, but only to the extent necessary to prevent violation of rules regarding an account in which a broker or dealer has an interest, or rules necessitating the aggregation of accounts of spouses for the purpose of determining controlling interests, beneficial interests, beneficial ownership, or purchase limitations and restrictions;

(5) section 202.7(c) relating to action concerning open end accounts, but only to the extent the action taken is on the basis of a change of name or marital status;

(6) section 202.7(d) relating to signature of a spouse or other person;

(7) section 202.10 relating to furnishing of credit information; and

(8) section 202.12(b) relating to record retention.

(d) **Incidental credit.** The following provisions of this Part shall not apply to extensions of credit of the type described in subsection (a)(3):

(1) section 202.5(c) concerning information about a spouse or former spouse;

(2) section 202.5(d)(1) concerning information about marital status;

(3) section 202.5(d)(2) concerning information about income derived from alimony, child support, or separate maintenance payments;

(4) section 202.5(d)(3) concerning information about the sex of an applicant to the extent necessary for medical records or similar purposes;

(5) section 202.7(d) relating to signature of a spouse or other person;

(6) section 202.9 relating to notifications;

(7) section 202.10 relating to furnishing of credit information; and

(8) section 202.12(b) relating to record retention.

(e) **Business credit.** The following provisions of this Part shall not apply to extensions of credit of the type described in subsection (a)(4):

(1) section 202.5(d)(1) concerning information about marital status;

(2) section 202.9 relating to notifications, unless an applicant, within 30 days after oral or written notification that adverse action has been taken, requests in writing the reasons for such action;

(3) section 202.10 relating to furnishing of credit information; and

(4) section 202.12(b) relating to record retention, unless an applicant, within 90 days after adverse action has been taken, requests in writing that the records relating to the application be retained.

(f) **Governmental credit.** Except for section 202.1 relating to authority, scope, enforcement, penalties and liabilities, and interpretations, section 202.2 relating to definitions and rules of construction, this section, section 202.4 relating to the general rule prohibiting discrimination, section 202.6(a) relating to the use of information, section 202.11 relating to State laws, and section 202.12(a) relating to the retention of prohibited information, the provisions of this Part shall not apply to extensions of credit of the type described in subsection (a)(5).

SECTION 202.4—GENERAL RULE PROHIBITING DISCRIMINATION

A creditor shall not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction.

SECTION 202.5—RULES CONCERNING APPLICATIONS

(a) **Discouraging applications.** A creditor shall not make any oral or written statement, in adver-

tising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.

(b) **General rules concerning requests for information.** (1) Except as otherwise provided in this section, a creditor may request any information in connection with an application.⁴

(2) Notwithstanding any other provision of this section, a creditor shall request an applicant's race/national origin, sex, and marital status as required in section 202.13 (information for monitoring purposes). In addition, a creditor may obtain such information as may be required by a regulation, order, or agreement issued by, or entered into with, a court or an enforcement agency (including the Attorney General or a similar State official) to monitor or enforce compliance with the Act, this Part, or other Federal or State statute or regulation.

(3) The provisions of this section limiting permissible information requests are subject to the provisions of section 202.7(e) regarding insurance and sections 202.8(c) and (d) regarding special purpose credit programs.

(c) **Information about a spouse or former spouse.** (1) Except as permitted in this subsection, a creditor may not request any information concerning the spouse or former spouse of an applicant.

(2) A creditor may request any information concerning an applicant's spouse (or former spouse under (v) below) that may be requested about the applicant if:

(i) the spouse will be permitted to use the account; or

(ii) the spouse will be contractually liable upon the account; or

(iii) the applicant is relying on the spouse's income as a basis for repayment of the credit requested; or

(iv) the applicant resides in a community property State or property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a State; or

⁴ This subsection is not intended to limit or abrogate any Federal or State law regarding privacy, privileged information, credit reporting limitations, or similar restrictions on obtainable information. Furthermore, permission to request information should not be confused with how it may be utilized, which is governed by section 202.6 (rules concerning evaluation of applications).

(v) the applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

(3) A creditor may request an applicant to list any account upon which the applicant is liable and to provide the name and address in which such account is carried. A creditor may also ask the names in which an applicant has previously received credit.

(d) **Information a creditor may not request.** (1) If an applicant applies for an individual, unsecured account, a creditor shall not request the applicant's marital status, unless the applicant resides in a community property State or property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a State.⁵ Where an application is for other than individual, unsecured credit, a creditor may request an applicant's marital status. Only the terms "married," "unmarried," and "separated" shall be used, and a creditor may explain that the category "unmarried" includes single, divorced, and widowed persons.

(2) A creditor shall not inquire whether any income stated in an application is derived from alimony, child support, or separate maintenance payments, unless the creditor appropriately discloses to the applicant that such income need not be revealed if the applicant does not desire the creditor to consider such income in determining the applicant's creditworthiness. Since a general inquiry about income, without further specification, may lead an applicant to list alimony, child support, or separate maintenance payments, a creditor shall provide an appropriate notice to an applicant before inquiring about the source of an applicant's income, unless the terms of the inquiry (such as an inquiry about salary, wages, investment income, or similarly specified income) tend to preclude the unintentional disclosure of ali-

⁵ This provision does not preclude requesting relevant information that may indirectly disclose marital status, such as asking about liability to pay alimony, child support, or separate maintenance; the source of income to be used as a basis for the repayment of the credit requested, which may disclose that it is a spouse's income; whether any obligation disclosed by the applicant has a co-obligor, which may disclose that the co-obligor is a spouse or former spouse; or the ownership of assets, which may disclose the interest of a spouse, when such assets are relied upon in extending the credit. Such inquiries are allowed by the general rule of subsection (b)(1).

mony, child support, or separate maintenance payments.

(3) A creditor shall not request the sex of an applicant. An applicant may be requested to designate a title on an application form (such as Ms., Miss, Mr., or Mrs.) if the form appropriately discloses that the designation of such a title is optional. An application form shall otherwise use only terms that are neutral as to sex.

(4) A creditor shall not request information about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. This does not preclude a creditor from inquiring about the number and ages of an applicant's dependents or about dependent-related financial obligations or expenditures, provided such information is requested without regard to sex, marital status, or any other prohibited basis.

(5) A creditor shall not request the race, color, religion, or national origin of an applicant or any other person in connection with a credit transaction. A creditor may inquire, however, as to an applicant's permanent residence and immigration status.

(e) **Application forms.** A creditor need not use written applications. If a creditor chooses to use written forms, it may design its own,⁴ use forms prepared by another person, or use the appropriate model application forms contained in Appendix B. If a creditor chooses to use an Appendix B form, it may change the form:

(1) by asking for additional information not prohibited by this section;

(2) by deleting any information request; or

(3) by rearranging the format without modifying the substance of the inquiries; provided that in each of these three instances the appropriate notices regarding the optional nature of courtesy titles, the option to disclose alimony, child support, or separate maintenance, and the limitation concerning marital status inquiries are included in the appropriate places if the items to which they relate appear on the creditor's form. If a creditor uses an appropriate Appendix B model form or to the extent that it modifies such a form

⁴ A creditor also may continue to use any application form that complies with the requirements of the October 28, 1975 version of Regulation B until its present stock of those forms is exhausted or until March 23, 1978, whichever occurs first. The provisions of this Part shall not determine and are not evidence of the meaning of the requirements of the previous version of Regulation B.

in accordance with the provisions of clauses (2) or (3) of the preceding sentence or the instructions to Appendix B, that creditor shall be deemed to be acting in compliance with the provisions of subsections (c) and (d).

SECTION 202.6—RULES CONCERNING EVALUATION OF APPLICATIONS

(a) **General rule concerning use of information.** Except as otherwise provided in the Act and this Part, a creditor may consider in evaluating an application any information that the creditor obtains, so long as the information is not used to discriminate against an applicant on a prohibited basis.⁷

(b) **Specific rules concerning use of information.** (1) Except as provided in the Act and this Part, a creditor shall not take a prohibited basis into account in any system of evaluating the creditworthiness of applicants.⁸

(2)(i) Except as permitted in this subsection, a creditor shall not take into account an applicant's age (provided that the applicant has the capacity to enter into a binding contract) or whether an applicant's income derives from any public assistance program.

(ii) In a demonstrably and statistically sound, empirically derived credit system, a creditor may use an applicant's age as a predictive variable, provided that the age of an elderly applicant is not assigned a negative factor or value.

(iii) In a judgmental system of evaluating creditworthiness, a creditor may consider an applicant's age or whether an applicant's income derives from any public assistance program only

⁷ The legislative history of the Act indicates that the Congress intended an "effects test" concept, as outlined in the employment field by the Supreme Court in the cases of *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and *Albemarle Paper Co. v. Moody*, 422 U.S. 405 (1975), to be applicable to a creditor's determination of creditworthiness. See Senate Report to accompany H.R. 6516, No. 94-589, pp. 4-5; House Report to accompany H.R. 6516, No. 94-210, p. 5.

⁸ This provision does not prevent a creditor from considering the marital status of an applicant or the source of an applicant's income for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness. Furthermore, a prohibited basis may be considered in accordance with section 202.8 (special purpose credit programs).

for the purpose of determining a pertinent element of creditworthiness.⁹

(iv) In any system of evaluating creditworthiness, a creditor may consider the age of an elderly applicant when such age is to be used to favor the elderly applicant in extending credit.

(3) A creditor shall not use, in evaluating the creditworthiness of an applicant, assumptions or aggregate statistics relating to the likelihood that any group of persons will bear or rear children or, for that reason, will receive diminished or interrupted income in the future.

(4) A creditor shall not take into account the existence of a telephone listing in the name of an applicant for consumer credit. A creditor may take into account the existence of a telephone in the residence of such an applicant.

(5) A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of the applicant because of a prohibited basis or because the income is derived from part-time employment, or from an annuity, pension, or other retirement benefit; but a creditor may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. Where an applicant relies on alimony, child support, or separate maintenance payments in applying for credit, a creditor shall consider such payments as income to the extent that they are likely to be consistently made. Factors that a creditor may consider in determining the likelihood of consistent payments include,

⁹ Concerning income derived from a public assistance program, a creditor may consider, for example, the length of time an applicant has been receiving such income; whether an applicant intends to continue to reside in the jurisdiction in relation to residency requirements for benefits; and the status of an applicant's dependents to ascertain whether benefits that the applicant is presently receiving will continue.

Concerning age, a creditor may consider, for example, the occupation and length of time to retirement of an applicant to ascertain whether the applicant's income (including retirement income, as applicable) will support the extension of credit until its maturity; or the adequacy of any security offered if the duration of the credit extension will exceed the life expectancy of the applicant. An elderly applicant might not qualify for a five-percent down, 30-year mortgage loan because the duration of the loan exceeds the applicant's life expectancy and the cost of realizing on the collateral might exceed the applicant's equity. The same applicant might qualify with a larger downpayment and a shorter loan maturity. A creditor could also consider an applicant's age, for example, to assess the significance of the applicant's length of employment or residence (a young applicant may have just entered the job market; an elderly applicant may recently have retired and moved from a long-time residence).

but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time that the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor, including the credit history of the payor where available to the creditor under the Fair Credit Reporting Act or other applicable laws.

(6) To the extent that a creditor considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness, a creditor shall consider (unless the failure to consider results from an inadvertent error):

(i) the credit history, when available, of accounts designated as accounts that the applicant and a spouse are permitted to use or for which both are contractually liable;

(ii) on the applicant's request, any information that the applicant may present tending to indicate that the credit history being considered by the creditor does not accurately reflect the applicant's creditworthiness; and

(iii) on the applicant's request, the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse that the applicant can demonstrate accurately reflects the applicant's creditworthiness.

(7) A creditor may consider whether an applicant is a permanent resident of the United States, the applicant's immigration status, and such additional information as may be necessary to ascertain its rights and remedies regarding repayment.

(c) **State property laws.** A creditor's consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute unlawful discrimination for the purposes of the Act or this Part.

SECTION 202.7—RULES CONCERNING EXTENSIONS OF CREDIT

(a) **Individual accounts.** A creditor shall not refuse to grant an individual account to a creditworthy applicant on the basis of sex, marital status, or any other prohibited basis.

(b) **Designation of name.** A creditor shall not prohibit an applicant from opening or maintaining

an account in a birth-given first name and a surname that is the applicant's birth-given surname, the spouse's surname, or a combined surname.

(c) **Action concerning existing open end accounts.** (1) In the absence of evidence of inability or unwillingness to repay, a creditor shall not take any of the following actions regarding an applicant who is contractually liable on an existing open end account on the basis of the applicant's reaching a certain age or retiring, or on the basis of a change in the applicant's name or marital status:

- (i) require a reapplication; or
- (ii) change the terms of the account; or
- (iii) terminate the account.

(2) A creditor may require a reapplication regarding an open end account on the basis of a change in an applicant's marital status where the credit granted was based on income earned by the applicant's spouse if the applicant's income alone at the time of the original application would not support the amount of credit currently extended.

(d) **Signature of spouse or other person.** (1) Except as provided in this subsection, a creditor shall not require the signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument if the applicant qualifies under the creditor's standards of creditworthiness for the amount and terms of the credit requested.

(2) If an applicant requests unsecured credit and relies in part upon property to establish creditworthiness, a creditor may consider State law; the form of ownership of the property; its susceptibility to attachment, execution, severance, and partition; and other factors that may affect the value to the creditor of the applicant's interest in the property. If necessary to satisfy the creditor's standards of creditworthiness, the creditor may require the signature of the applicant's spouse or other person on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable State law to make the property relied upon available to satisfy the debt in the event of default.

(3) If a married applicant requests unsecured credit and resides in a community property State or if the property upon which the applicant is relying is located in such a State, a creditor may require the signature of the spouse on any instrument necessary, or reasonably believed by the

creditor to be necessary, under applicable State law to make the community property available to satisfy the debt in the event of default if:

(i) applicable State law denies the applicant power to manage or control sufficient community property to qualify for the amount of credit requested under the creditor's standards of creditworthiness; and

(ii) the applicant does not have sufficient separate property to qualify for the amount of credit requested without regard to community property.

(4) If an applicant requests secured credit, a creditor may require the signature of the applicant's spouse or other person on any instrument necessary, or reasonably believed by the creditor to be necessary, under applicable State law to make the property being offered as security available to satisfy the debt in the event of default, for example, any instrument to create a valid lien, pass clear title, waive inchoate rights, or assign earnings.

(5) If, under a creditor's standards of creditworthiness, the personal liability of an additional party is necessary to support the extension of the credit requested,¹⁰ a creditor may request that the applicant obtain a co-signer, guarantor, or the like. The applicant's spouse may serve as an additional party, but a creditor shall not require that the spouse be the additional party. For the purposes of subsection (d), a creditor shall not impose requirements upon an additional party that the creditor may not impose upon an applicant.

(e) **Insurance.** Differentiation in the availability, rates, and terms on which credit-related casualty insurance or credit life, health, accident, or disability insurance is offered or provided to an applicant shall not constitute a violation of the Act or this Part; but a creditor shall not refuse to extend credit and shall not terminate an account because credit life, health, accident, or disability insurance is not available on the basis of the applicant's age. Notwithstanding any other provision of this Part, information about the age, sex, or marital status of an applicant may be requested in an application for insurance.

¹⁰ If an applicant requests individual credit relying on the separate income of another person, a creditor may require the signature of the other person to make the income available to pay the debt.

**SECTION 202.8—SPECIAL PURPOSE
CREDIT PROGRAMS**

(a) **Standards for programs.** Subject to the provisions of subsection (b), the Act and this Part are not violated if a creditor refuses to extend credit to an applicant solely because the applicant does not qualify under the special requirements that define eligibility for the following types of special purpose credit programs:

(1) any credit assistance program expressly authorized by Federal or State law for the benefit of an economically disadvantaged class of persons; or

(2) any credit assistance program offered by a not-for-profit organization, as defined under section 501(c) of the Internal Revenue Code of 1954, as amended, for the benefit of its members or for the benefit of an economically disadvantaged class of persons; or

(3) any special purpose credit program offered by a for-profit organization or in which such an organization participates to meet special social needs, provided that:

(i) the program is established and administered pursuant to a written plan that (A) identifies the class or classes of persons that the program is designed to benefit and (B) sets forth the procedures and standards for extending credit pursuant to the program; and

(ii) the program is established and administered to extend credit to a class of persons who, pursuant to the customary standards of credit-worthiness used by the organization extending the credit, either probably would not receive such credit or probably would receive it on less favorable terms than are ordinarily available to other applicants applying to the organization for a similar type and amount of credit.

(b) **Applicability of other rules.** (1) All of the provisions of this Part shall apply to each of the special purpose credit programs described in subsection (a) to the extent that those provisions are not inconsistent with the provisions of this section.

(2) A program described in subsections (a)(2) or (a)(3) shall qualify as a special purpose credit program under subsection (a) only if it was established and is administered so as not to discriminate against an applicant on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), income derived

from a public assistance program, or good faith exercise of any right under the Consumer Credit Protection Act or any State law upon which an exemption has been granted therefrom by the Board; except that all program participants may be required to share one or more of those characteristics so long as the program was not established and is not administered with the purpose of evading the requirements of the Act or this Part.

(c) **Special rule concerning requests and use of information.** If all participants in a special purpose credit program described in subsection (a) are or will be required to possess one or more common characteristics relating to race, color, religion, national origin, sex, marital status, age, or receipt of income from a public assistance program and if the special purpose credit program otherwise satisfies the requirements of subsection (a), then, notwithstanding the prohibitions of sections 202.5 and 202.6, the creditor may request of an applicant and may consider, in determining eligibility for such program, information regarding the common characteristics required for eligibility. In such circumstances, the solicitation and consideration of that information shall not constitute unlawful discrimination for the purposes of the Act or this Part.

(d) **Special rule in the case of financial need.** If financial need is or will be one of the criteria for the extension of credit under a special purpose credit program described in subsection (a), then, notwithstanding the prohibitions of sections 202.5 and 202.6, the creditor may request and consider, in determining eligibility for such program, information regarding an applicant's marital status, income from alimony, child support, or separate maintenance, and the spouse's financial resources. In addition, notwithstanding the prohibitions of section 202.7(d), a creditor may obtain the signature of an applicant's spouse or other person on an application or credit instrument relating to a special purpose program if required by Federal or State law. In such circumstances, the solicitation and consideration of that information and the obtaining of a required signature shall not constitute unlawful discrimination for the purposes of the Act or this Part.

SECTION 202.9—NOTIFICATIONS

(a) **Notification of action taken, ECOA notice, and statement of specific reasons.**

(1) **Notification of action taken.** A creditor shall notify an applicant of action taken within:

(i) 30 days after receiving a completed application concerning the creditor's approval of, or adverse action regarding, the application (notification of approval may be express or by implication, where, for example, the applicant receives a credit card, money, property, or services in accordance with the application);

(ii) 30 days after taking adverse action on an uncompleted application;

(iii) 30 days after taking adverse action regarding an existing account; and

(iv) 90 days after the creditor has notified the applicant of an offer to grant credit other than in substantially the amount or on substantially the terms requested by the applicant if the applicant during those 90 days has not expressly accepted or used the credit offered.

(2) **Content of notification.** Any notification given to an applicant against whom adverse action is taken shall be in writing and shall contain: a statement of the action taken; a statement of the provisions of section 701(a) of the Act; the name and address of the Federal agency that administers compliance concerning the creditor giving the notification; and

(i) a statement of specific reasons for the action taken; or

(ii) a disclosure of the applicant's right to a statement of reasons within 30 days after receipt by the creditor of a request made within 60 days of such notification, the disclosure to include the name, address, and telephone number of the person or office from which the statement of reasons can be obtained. If the creditor chooses to provide the statement of reasons orally, the notification shall also include a disclosure of the applicant's right to have any oral statement of reasons confirmed in writing within 30 days after a written request for confirmation is received by the creditor.

(3) **Multiple applicants.** If there is more than one applicant, the notification need only be given to one of them, but must be given to the primary applicant where one is readily apparent.

(4) **Multiple creditors.** If a transaction involves more than one creditor and the applicant expressly accepts or uses the credit offered, this section does not require notification of adverse action by any creditor. If a transaction involves more than one

creditor and either no credit is offered or the applicant does not expressly accept or use any credit offered, then each creditor taking adverse action must comply with this section. The required notification may be provided indirectly through a third party, which may be one of the creditors, provided that the identity of each creditor taking adverse action is disclosed. Whenever the notification is to be provided through a third party, a creditor shall not be liable for any act or omission of the third party that constitutes a violation of this section if the creditor accurately and in a timely manner provided the third party with the information necessary for the notification and was maintaining procedures reasonably adapted to avoid any such violation.

(b) **Form of ECOA notice and statement of specific reasons.**

(1) **ECOA notice.** A creditor satisfies the requirements of subsection (a)(2) regarding a statement of the provisions of section 701(a) of the Act and the name and address of the appropriate Federal enforcement agency if it provides the following notice, or one that is substantially similar:

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is (name and address as specified by the appropriate agency listed in Appendix A).

The sample notice printed above may be modified immediately following the required references to the Federal Act and enforcement agency to include references to any similar State statute or regulation and to a State enforcement agency.

(2) **Statement of specific reasons.** A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in check-list or letter form or may use all or a portion of the sample form printed below, which, if properly completed, satisfies the requirements of subsection (a)(2)(i). Statements that the adverse action was based on the creditor's internal standards or pol-

REGULATION B

§ 202.9

icies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

STATEMENT OF CREDIT DENIAL,
TERMINATION, OR CHANGE

DATE _____

Applicant's Name: _____

Applicant's Address: _____

Description of Account, Transaction, or Requested Credit: _____

Description of Adverse Action Taken: _____

PRINCIPAL REASON(S) FOR ADVERSE ACTION CONCERNING CREDIT

- ___ Credit application incomplete
- ___ Insufficient credit references
- ___ Unable to verify credit references
- ___ Temporary or irregular employment
- ___ Unable to verify employment
- ___ Length of employment
- ___ Insufficient income
- ___ Excessive obligations
- ___ Unable to verify income
- ___ Inadequate collateral
- ___ Too short a period of residence
- ___ Temporary residence
- ___ Unable to verify residence
- ___ No credit file
- ___ Insufficient credit file
- ___ Delinquent credit obligations
- ___ Garnishment, attachment, foreclosure, repossession, or suit
- ___ Bankruptcy
- ___ We do not grant credit to any applicant on the terms and conditions you request.
- ___ Other, specify: _____

DISCLOSURE OF USE OF INFORMATION OBTAINED FROM AN OUTSIDE SOURCE

- ___ Disclosure inapplicable
 - ___ Information obtained in a report from a consumer reporting agency
- Name: _____

Street address: _____

Telephone number: _____

___ Information obtained from an outside source other than a consumer reporting agency. Under the Fair Credit Reporting Act, you have the right to make a written request, within 60 days of receipt of this notice, for disclosure of the nature of the adverse information.

Creditor's name: _____

Creditor's address: _____

Creditor's telephone number: _____

[Add ECOA Notice]

(3) **Other information.** The notification required by subsection (a)(1) may include other information so long as it does not detract from the required content. This notification also may be combined with any disclosures required under other titles of the Consumer Credit Protection Act or any other law, provided that all requirements for clarity and placement are satisfied; and it may appear on either or both sides of the paper if there is a clear reference on the front to any information on the back.

(c) **Oral notifications.** The applicable requirements of this section are satisfied by oral notifications (including statements of specific reasons) in the case of any creditor that did not receive more than 150 applications during the calendar year immediately preceding the calendar year in which the notification of adverse action is to be given to a particular applicant.

(d) **Withdrawn applications.** Where an applicant submits an application and the parties contemplate that the applicant will inquire about its status, if the creditor approves the application and the applicant has not inquired within 30 days after applying, then the creditor may treat the application as withdrawn and need not comply with subsection (a)(1).

(e) **Failure of compliance.** A failure to comply with this section shall not constitute a violation when caused by an inadvertent error; provided that, on discovering the error, the creditor corrects it as soon as possible and commences compliance with the requirements of this section.

(f) **Notification.** A creditor notifies an applicant when a writing addressed to the applicant is deliv-

ered or mailed to the applicant's last known address or, in the case of an oral notification, when the creditor communicates with the applicant.

SECTION 202.10—FURNISHING OF CREDIT INFORMATION

(a) **Accounts established on or after June 1, 1977.** (1) For every account established on or after June 1, 1977, a creditor that furnishes credit information shall:

(i) determine whether an account offered by the creditor is one that an applicant's spouse is permitted to use or upon which the spouses are contractually liable other than as guarantors, sureties, endorsers, or similar parties; and

(ii) designate any such account to reflect the fact of participation of both spouses.¹¹

(2) Except as provided in subsection (3), if a creditor furnishes credit information concerning an account designated under this section (or designated prior to the effective date of this Part) to a consumer reporting agency, it shall furnish the information in a manner that will enable the agency to provide access to the information in the name of each spouse.

(3) If a creditor furnishes credit information concerning an account designated under this section (or designated prior to the effective date of this Part) in response to an inquiry regarding a particular applicant, it shall furnish the information in the name of the spouse about whom such information is requested.¹²

(b) **Accounts established prior to June 1, 1977.** For every account established prior to and in existence on June 1, 1977, a creditor that furnishes credit information shall either:

(1) not later than June 1, 1977

(i) determine whether the account is one that an applicant's spouse, if any, is permitted to use or upon which the spouses are contractually liable other than as guarantors, sureties, endorsers, or similar parties;

¹¹ A creditor need not distinguish between participation as a user or as a contractually liable party.

¹² If a creditor learns that new parties have undertaken payment on an account, then the subsequent history of the account shall be furnished in the names of the new parties and need not continue to be furnished in the names of the former parties.

(ii) designate any such account to reflect the fact of participation of both spouses;¹³ and

(iii) comply with the reporting requirements of subsections (a)(2) and (a)(3); or

(2) mail or deliver to all applicants, or all married applicants, in whose name an account is carried on the creditor's records one copy of the notice set forth below.¹⁴ The notice may be mailed with a billing statement or other mailing. All such notices shall be mailed or delivered by October 1, 1977. As to open end accounts, this requirement may be satisfied by mailing one notice at any time prior to October 2, 1977, regarding each account for which a billing statement is sent between June 1 and October 1, 1977. The notice may be supplemented as necessary to permit identification of the account by the creditor or by a consumer reporting agency. A creditor need only send notices relating to those accounts on which it lacks the information necessary to make the proper designation regarding participation or contractual liability.

NOTICE

CREDIT HISTORY FOR MARRIED PERSONS

The Federal Equal Credit Opportunity Act prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided that a person has the capacity to enter into a binding contract); because all or part of a person's income derives from any public assistance program; or because a person in good faith has exercised any right under the Federal Consumer Credit Protection Act. Regulations under the Act give married persons the right to have credit information included in credit reports in the name of both the wife and the husband if both use or are responsible for the account. This right was created, in part, to insure that credit histories will be available to women who become divorced or widowed.

If your account with us is one that both husband and wife signed for or is an account that is being used by one of you who did not sign, then you are entitled to have us report credit

¹³ See footnote 11.

¹⁴ A creditor may delete the references to the "use" of an account when providing notices regarding closed end accounts.

information relating to the account in both your names. If you choose to have credit information concerning your account with us reported in both your names, please complete and sign the statement below and return it to us.

Federal regulations provide that signing your name below will not change your or your spouse's legal liability on the account. Your signature will only request that credit information be reported in both your names.

If you do not complete and return the form below, we will continue to report your credit history in the same way that we do now.

When you furnish credit information on this account, please report all information concerning the account in both our names.

Account number	Print or type name
	Print or type name
	Signature of either spouse

(c) **Requests to change manner in which information is reported.** Within 90 days after receipt of a properly completed request to change the manner in which information is reported to consumer reporting agencies and others regarding an account described in subsection (b), a creditor shall designate the account to reflect the fact of participation of both spouses.¹⁵ When furnishing information concerning any such account, the creditor shall comply with the reporting requirements of subsections (a) (2) and (a) (3). The signature of an applicant or the applicant's spouse on a request to change the manner in which information concerning an account is furnished shall not alter the legal liability of either spouse upon the account or require the creditor to change the name in which the account is carried.

(d) **Inadvertent errors.** A failure to comply with this section shall not constitute a violation when caused by an inadvertent error; provided that, on discovering the error, the creditor corrects it as soon as possible and commences compliance with the requirements of this section.

¹⁵ See footnote 11.

SECTION 202.11—RELATION TO STATE LAW

(a) **Inconsistent State laws.** Except as otherwise provided in this section, this Part alters, affects, or preempts only those State laws that are inconsistent with this Part and then only to the extent of the inconsistency. A State law is not inconsistent with this Part if it is more protective of an applicant.

(b) **Preempted provisions of State law.** (1) State law is deemed to be inconsistent with the requirements of the Act and this Part and less protective of an applicant within the meaning of section 705(f) of the Act to the extent that such law:

(i) requires or permits a practice or act prohibited by the Act or this Part;

(ii) prohibits the individual extension of consumer credit to both parties to a marriage if each spouse individually and voluntarily applies for such credit;

(iii) prohibits inquiries or collection of data required to comply with the Act or this Part;

(iv) prohibits asking age or considering age in a demonstrably and statistically sound, empirically derived credit system, to determine a pertinent element of creditworthiness, or to favor an elderly applicant; or

(v) prohibits inquiries necessary to establish or administer a special purpose credit program as defined by section 202.8.

(2) A determination as to whether a State law is inconsistent with the requirements of the Act and this Part will be made only in response to a request for a formal Board interpretation. All requests for such interpretations, in addition to meeting the requirements of section 202.1(d), shall comply with the applicable provisions of subsections (b)(1) and (2) of Supplement I to this Part. A determination shall be based on the factors enumerated in this subsection and, as applicable, subsection (c) of Supplement I. Notice of the interpretation shall be provided as specified in subsection (e)(1) of Supplement I, but the interpretation shall be effective in accordance with section 202.1. The interpretation shall be subject to revocation or modification at any time, as provided in subsection (g)(4) of Supplement I.

(c) **Finance charges and loan ceilings.** If married applicants voluntarily apply for and obtain individual accounts with the same creditor, the

accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under any Federal or State law. Permissible loan ceiling laws shall be construed to permit each spouse to become individually liable up to the amount of the loan ceilings, less the amount for which the applicant is jointly liable.¹⁶

(d) **State and Federal laws not affected.** This section does not alter or annul any provision of State property laws, laws relating to the disposition of decedents' estates, or Federal or State banking regulations directed only toward insuring the solvency of financial institutions.

(e) **Exemption for State regulated transactions.** (1) In accordance with the provisions of Supplement I to this Part, any State may apply to the Board for an exemption from the requirements of sections 701 and 702 of the Act and the corresponding provisions of this Part for any class of credit transactions within the State. The Board will grant such an exemption if:

(i) the Board determines that, under the law of that State, that class of credit transactions is subject to requirements substantially similar to those imposed under sections 701 and 702 of the Act and the corresponding provisions of this Part, or that applicants are afforded greater protection than is afforded under sections 701 and 702 of the Act and the corresponding provisions of this Part; and

(ii) there is adequate provision for State enforcement.

(2) In order to assure that the concurrent jurisdiction of Federal and State courts created in section 706(f) of the Act will continue to have substantive provisions to which such jurisdiction shall apply; to allow Federal enforcement agencies to retain their authority regarding any class of credit transactions exempted pursuant to subsection (e)(1) and Supplement I; and, generally, to aid in implementing the Act:

(i) no such exemption shall be deemed to extend to the civil liability provisions of sections 706 or the administrative enforcement provisions of section 704 of the Act; and

(ii) after an exemption has been granted, the requirements of the applicable State law shall

¹⁶ For example, in a State with a permissible loan ceiling of \$1,000, if a married couple were jointly liable for unpaid debt in the amount of \$250, each spouse could subsequently become individually liable for \$750.

constitute the requirements of the Act and this Part, except to the extent such State law imposes requirements not imposed by the Act or this Part.

(3) Exemptions granted by the Board to particular classes of credit transactions within specified States will be set forth in Supplement II to this Part.

SECTION 202.12—RECORD RETENTION

(a) **Retention of prohibited information.** Retention in a creditor's files of any information, the use of which in evaluating applications is prohibited by the Act or this Part, shall not constitute a violation of the Act or this Part where such information was obtained:

(1) from any source prior to March 23, 1977;¹⁷ or

(2) at any time from consumer reporting agencies; or

(3) at any time from an applicant or others without the specific request of the creditor; or

(4) at any time as required to monitor compliance with the Act and this Part or other Federal or State statutes or regulations.

(b) **Preservation of records.** (1) For 25 months after the date that a creditor notifies an applicant of action taken on an application, the creditor shall retain as to that application in original form or a copy thereof:¹⁸

(i) any application form that it receives, any information required to be obtained concerning characteristics of an applicant to monitor compliance with the Act and this Part or other similar law, and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request;

(ii) a copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum with respect thereto made by the creditor):

(A) the notification of action taken; and

¹⁷ Pursuant to the October 28, 1975 version of Regulation B, the applicable date for sex and marital status information is June 30, 1976.

¹⁸ "A copy thereof" includes carbon copies, photocopies, microfilm or microfiche copies, or copies produced by any accurate information retrieval system. A creditor who uses a computerized or mechanized system need not keep a written copy of a document if it can regenerate the precise text of the document upon request.

(B) the statement of specific reasons for adverse action; and

(iii) any written statement submitted by the applicant alleging a violation of the Act or this Part.

(2) For 25 months after the date that a creditor notifies an applicant of adverse action regarding an account, other than in connection with an application, the creditor shall retain as to that account, in original form or a copy thereof:¹⁹

(i) any written or recorded information concerning such adverse action; and

(ii) any written statement submitted by the applicant alleging a violation of the Act or this Part.

(3) In addition to the requirements of subsections (b)(1) and (2), any creditor that has actual notice that it is under investigation or is subject to an enforcement proceeding for an alleged violation of the Act or this Part by an enforcement agency charged with monitoring that creditor's compliance with the Act and this Part, or that has been served with notice of an action filed pursuant to section 706 of the Act and sections 202.1(b) or (c) of this Part, shall retain the information required in subsections (b)(1) and (2) until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

(4) In any transaction involving more than one creditor, any creditor not required to comply with section 202.9 (notifications) shall retain for the time period specified in subsection (b) all written or recorded information in its possession concerning the applicant, including a notation of action taken in connection with any adverse action.

(c) **Failure of compliance.** A failure to comply with this section shall not constitute a violation when caused by an inadvertent error.

SECTION 202.13—INFORMATION FOR MONITORING PURPOSES

(a) **Scope and information requested.** (1) For the purpose of monitoring compliance with the provisions of the Act and this Part, any creditor

¹⁹ See footnote 18.

that receives an application for consumer credit relating to the purchase of residential real property, where the extension of credit is to be secured by a lien on such property, shall request as part of any written application for such credit the following information regarding the applicant and joint applicant (if any):

(i) race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; White; Hispanic; Other (Specify);

(ii) sex;

(iii) marital status, using the categories married, unmarried, and separated; and

(iv) age.

(2) "Residential real property" means improved real property used or intended to be used for residential purposes, including single family homes, dwellings for from two to four families, and individual units of condominiums and cooperatives.

(b) **Method of obtaining information.** Questions regarding race/national origin, sex, marital status, and age may be listed, at the creditor's option, either on the application form or on a separate form that refers to the application.

(c) **Disclosure to applicant and joint applicant.** The applicant and joint applicant (if any) shall be informed that the information regarding race/national origin, sex, marital status, and age is being requested by the Federal government for the purpose of monitoring compliance with Federal anti-discrimination statutes and that those statutes prohibit creditors from discriminating against applicants on those bases. The applicant and joint applicant shall be asked, but not required, to supply the requested information. If the applicant or joint applicant chooses not to provide the information or any part of it, that fact shall be noted on the form on which the information is obtained.

(d) **Substitute monitoring program.** Any monitoring program required by an agency charged with administrative enforcement under section 704 of the Act may be substituted for the requirements contained in subsections (a), (b), and (c).

STATUTORY APPENDIX

Equal Credit Opportunity Act (as amended
March 23, 1976)

TITLE V—PUBLIC LAW 93-495

Sec.

502. Findings and purpose.
503. Amendment to the Consumer Credit Protection Act.

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all credit-worthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90-321) is amended by adding at the end thereof a new title VII:

TITLE VII—EQUAL CREDIT OPPORTUNITY

Sec.

701. Prohibited discrimination; reasons for adverse action.
702. Definitions.
703. Regulations.
704. Administrative enforcement.
705. Relation to State laws.
706. Civil liability.
707. Annual reports to Congress.
708. Effective date.
709. Short title.

§ 701. Prohibited discrimination; reasons for adverse action*

(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction—

(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);

(2) because all or part of the applicant's income derives from any public assistance program; or

(3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

(b) It shall not constitute discrimination for purposes of this title for a creditor—

(1) to make an inquiry of marital status if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness;

(2) to make an inquiry of the applicant's age or of whether the applicant's income derives from any public assistance program if such inquiry is for the purpose of determining the amount and probable continuance of income levels, credit history, or other pertinent element of creditworthiness as provided in regulations of the Board;

(3) to use any empirically derived credit system which considers age if such system is demonstrably and statistically sound in accordance with regulations of the Board, except that in the operation of such system the age of an elderly applicant may not be assigned a negative factor or value; or

(4) to make an inquiry or to consider the age of an elderly applicant when the age of such applicant is to be used by the creditor in the extension of credit in favor of such applicant.

(c) It is not a violation of this section for a creditor to refuse to extend credit offered pursuant to—

(1) any credit assistance program expressly authorized by law for an economically disadvantaged class of persons;

(2) any credit assistance program administered by a nonprofit organization for its members or an economically disadvantaged class of persons; or

* Effective date for amendments to section 701 is March 23, 1977. All other amendments are effective upon enactment.

(3) any special purpose credit program offered by a profitmaking organization to meet special social needs which meets standards prescribed in regulations by the Board;

if such refusal is required by or made pursuant to such program.

(d)(1) Within thirty days (or such longer reasonable time as specified in regulations of the Board for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

(2) Each applicant against whom adverse action is taken shall be entitled to a statement of reasons for such action from the creditor. A creditor satisfies this obligation by—

(A) providing statements of reasons in writing as a matter of course to applicants against whom adverse action is taken; or

(B) giving written notification of adverse action which discloses (i) the applicant's right to a statement of reasons within thirty days after receipt by the creditor of a request made within sixty days after such notification, and (ii) the identity of the person or office from which such statement may be obtained. Such statement may be given orally if the written notification advises the applicant of his right to have the statement of reasons confirmed in writing on written request.

(3) A statement of reasons meets the requirements of this section only if it contains the specific reasons for the adverse action taken.

(4) Where a creditor has been requested by a third party to make a specific extension of credit directly or indirectly to an applicant, the notification and statement of reasons required by this subsection may be made directly by such creditor, or indirectly through the third party, provided in either case that the identity of the creditor is disclosed.

(5) The requirements of paragraph (2), (3), or (4) may be satisfied by verbal statements or notifications in the case of any creditor who did not act on more than 150 applications during the calendar year preceding the calendar year in which the adverse action is taken, as determined under regulations of the Board.

(6) For purposes of this subsection, the term "adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms

requested. Such term does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default, or where such additional credit would exceed a previously established credit limit.

§ 702. Definitions

(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

(b) The term "applicant" means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

(c) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(d) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment or to purchase property or services and defer payment therefor.

(e) The term "creditor" means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

(f) The term "person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

§ 703. Regulations

(a) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. In particular, such regulations may exempt from one or more of the provisions of this title any class of transactions not primarily for personal, family,

or household purposes, if the Board makes an express finding that the application of such provision or provisions would not contribute substantially to carrying out the purposes of this title. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

(b) The Board shall establish a Consumer Advisory Council to advise and consult with it in the exercise of its functions under the Consumer Credit Protection Act and to advise and consult with it concerning other consumer related matters it may place before the Council. In appointing the members of the Council, the Board shall seek to achieve a fair representation of the interests of creditors and consumers. The Council shall meet from time to time at the call of the Board. Members of the Council who are not regular full-time employees of the United States shall, while attending meetings of such Council, be entitled to receive compensation at a rate fixed by the Board, but not exceeding \$100 per day, including travel time. Such members may be allowed travel expenses, including transportation and subsistence, while away from their homes or regular place of business.

§ 704. Administrative enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association.

(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed

under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce any Federal Reserve Board regulation promulgated under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

§ 705. Relation to State laws

(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: *Provided, however*, That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided*, That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

(e) Where the same act or omission constitutes a violation of this title and of applicable State law, a person aggrieved by such conduct may

bring a legal action to recover monetary damages either under this title or under such State law, but not both. This election of remedies shall not apply to court actions in which the relief sought does not include monetary damages or to administrative actions.

(f) This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to credit discrimination, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this title if the Board determines that such law gives greater protection to the applicant.

(g) The Board shall by regulation exempt from the requirements of sections 701 and 702 of this title any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this title or that such law gives greater protection to the applicant, and that there is adequate provision for enforcement. Failure to comply with any requirement of such State law in any transaction so exempted shall constitute a violation of this title for the purposes of section 706.

§ 706. Civil liability

(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for any actual damages sustained by such applicant acting either in an individual capacity or as a member of a class.

(b) Any creditor, other than a government or governmental subdivision or agency, who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, in addition to any actual damages provided in subsection (a), except that in the case of a class action the total recovery under this subsection shall not exceed the lesser of \$500,000 or 1 per centum of the net worth of the creditor. In determining the amount of such damages in any action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of

failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(c) Upon application by an aggrieved applicant, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this title.

(d) In the case of any successful action under subsection (a), (b), or (c), the costs of the action, together with a reasonable attorney's fee as determined by the court, shall be added to any damages awarded by the court under such subsection.

(e) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any official rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) Any action under this section may be brought in the appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction. No such action shall be brought later than two years from the date of the occurrence of the violation, except that—

(1) whenever any agency having responsibility for administrative enforcement under section 704 commences an enforcement proceeding within two years from the date of the occurrence of the violation,

(2) whenever the Attorney General commences a civil action under this section within two years from the date of occurrence of the violation,

then any applicant who has been a victim of the discrimination which is the subject of such proceeding or civil action may bring an action under this section not later than one year after the commencement of that proceeding or action.

(g) The agencies having responsibility for administrative enforcement under section 704, if

unable to obtain compliance with section 701, are authorized to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted.

(h) When a matter is referred to the Attorney General pursuant to subsection (g), or whenever he has reason to believe that one or more creditors are engaged in a pattern or practice in violation of this title, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(i) No person aggrieved by a violation of this title and by a violation of section 805 of the Civil Rights Act of 1968 shall recover under this title and section 812 of the Civil Rights Act of 1968, if such violation is based on the same transaction.

(j) Nothing in this title shall be construed to prohibit the discovery of a creditor's credit granting standards under appropriate discovery procedures in the court or agency in which an action or proceeding is brought.

§ 707. Annual reports to Congress

Not later than February 1 of each year after 1976, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with the requirements of this title is being achieved, and a summary of the enforcement actions taken by each of the agencies assigned administrative enforcement responsibilities under section 704.

§ 708. Effective date

This title takes effect upon the expiration of one year after the date of its enactment. The amendments made by the Equal Credit Opportunity Act Amendments of 1976 shall take effect on the date of enactment thereof and shall apply to any violation occurring on or after such date, except that the amendments made to section 701 of the Equal Credit Opportunity Act shall take effect 12 months after the date of enactment.

§ 709. Short title

This title may be cited as the "Equal Credit Opportunity Act."

APPENDIX A

FEDERAL ENFORCEMENT AGENCIES

The following list indicates which Federal agency enforces Regulation B for particular classes of creditors. Any questions concerning a particular creditor should be directed to its enforcement agency.

National Banks

Comptroller of the Currency
Consumer Affairs Division
Washington, D.C. 20219

State Member Banks

Federal Reserve Bank serving the district in which the State member bank is located.

Nonmember Insured Banks

Federal Deposit Insurance Corporation Regional Director for the region in which the nonmember insured bank is located.

Savings Institutions Insured by the FSLIC and Members of the FHLB System (except for Savings Banks insured by FDIC)

The Federal Home Loan Bank Board Supervisory Agent in the district in which the institution is located.

Federal Credit Unions

Regional office of the National Credit Union Administration serving the area in which the Federal credit union is located.

Creditors Subject to Civil Aeronautics Board

Director, Bureau of Enforcement
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, D.C. 20428

Creditors Subject to Interstate Commerce Commission

Office of Proceedings
Interstate Commerce Commission
Washington, D.C. 20523

Creditors Subject to Packers and Stockyards Act
Nearest Packers and Stockyards Administration area supervisor.**Small Business Investment Companies**

U.S. Small Business Administration
1441 L Street, N.W.
Washington, D.C. 20416

Brokers and Dealers

Securities and Exchange Commission
Washington, D.C. 20549

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks and Production Credit Associations

Farm Credit Administration
490 L'Enfant Plaza, S.W.
Washington, D.C. 20578

Retail, Department Stores, Consumer Finance Companies, All Other Creditors, and All Nonbank Credit Card Issuers (Creditors operating on a local or regional basis should use the address of the FTC Regional Office in which they operate.)
Federal Trade Commission
Equal Credit Opportunity
Washington, D.C. 20580

APPENDIX B**MODEL APPLICATION FORMS**

This Appendix contains five model credit application forms, each designed for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form (which should be removed prior to reproduction). The first sample form is intended for use in open end, unsecured transactions; the second for closed end, secured transactions; the third for closed end transactions, whether unsecured or secured; the fourth for use in transactions involving community property or occurring in community property States; and the fifth for use in secured residential real estate transactions. The real estate form should be used only when a lender's representative is available to assist an applicant in completing the form.

The forms contained in this Appendix are models; their use by creditors is optional. In all instances, the use or modification of these forms is governed by section 202.5(e) of this Part and the directions contained in this Appendix.

In addition to deleting any information request printed on the forms or rearranging their format, as specified in section 202.5(e), a creditor is expressly permitted to modify any of the model forms contained in this Appendix by adding any of the following three items:

(1) an inquiry about the names in which an applicant has previously received credit as authorized in section 202.5(c)(3);

(2) a request to designate a courtesy title as authorized in section 202.5(d)(3); or

(3) an inquiry about an applicant's permanent residence and United States immigration status as authorized by section 202.5(d)(5).

The fifth form contained in this Appendix, the model residential real estate mortgage loan application, was prepared in conjunction with the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. It is substantially identical to the joint FHLMC 65/FNMA 1003 (Rev. 3/77) form, except for type face and the inclusion on the FHLMC/FNMA form of certain items required by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. If a creditor wishes to participate in the secondary mortgage market involving the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, or Government National Mortgage Association, it should either modify the model form as specified by the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association or use form FHLMC 65/FNMA 1003 (Rev. 3/77) with supporting schedule FHLMC 65A/FNMA 1003A. Use of the FHLMC 65/FNMA 1003 (Rev. 3/77) form constitutes full compliance with subsections (c) and (d) of section 202.5 of this Part.

[Open end, unsecured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check If you are applying for an individual account in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D.
- Appropriate If you are applying for a joint account or an account that you and another person will use, complete all Sections, providing information in B about the joint applicant or user.
- Box If you are applying for an individual account, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /

Present Street Address: Years there:

City: State: Zip: Telephone:

Social Security No.: Driver's License No.:

Previous Street Address: Years there:

City: State: Zip:

Present Employer: Years there: Telephone:

Position or title: Name of supervisor:

Employer's Address:

Previous Employer: Years there:

Previous Employer's Address:

Present net salary or commission: \$..... per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?
 Yes (Explain in detail on a separate sheet.) No

Have you ever received credit from us? When? Office:

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with you: Telephone:

Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /

Relationship to Applicant (if any):

Present Street Address: Years there:

City: State: Zip: Telephone:

Social Security No.: Driver's License No.:

Present Employer: Years there: Telephone:

Position or title: Name of supervisor:

Employer's Address:

Previous Employer: Years there:

Previous Employer's Address:

Present net salary or commission: \$..... per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years?
 Yes (Explain in detail on a separate sheet.) No

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with Joint Applicant, User, or Other Party: Telephone:

Relationship: Address:

SECTION C—MARITAL STATUS (Do not complete if this is an application for an individual account.)

Applicant: Married Separated Unmarried (including single, divorced, and widowed)

Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
4.						
5.						
6.						
Total Debts			\$	\$	\$	

(Credit References)

Date Paid

1.	\$	
2.		

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes" for whom? _____ To whom? _____

Are there any unsatisfied judgments against you? Yes No Amount \$ _____ If "yes" to whom owed? _____

Have you been declared bankrupt in the last 14 years? Yes No If "yes" where? _____ Year _____

Other Obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature _____ Date _____ Other Signature (Where Applicable) _____ Date _____

[Closed end, secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

- Check Appropriate Box
[] If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete Sections A, C, D, and E, omitting B and the second part of C.
[] If this is an application for joint credit with another person, complete all Sections, providing information in B about the joint applicant.
[] If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying.

Amount Requested Payment Date Desired Proceeds of Credit
\$. To be Used For

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Previous Street Address: Years there:
City: State: Zip:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$ per No. Dependents: Ages:
Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: court order [] written agreement [] oral understanding []
Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
[] Yes (Explain in detail on a separate sheet.) No []
Have you ever received credit from us? When? Office:
Checking Account No. Institution and Branch:
Savings Account No. Institution and Branch:
Name of nearest relative not living with you: Telephone:
Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /
Relationship to Applicant (if any):
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$ per No. Dependents: Ages:
Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
Alimony, child support, separate maintenance received under: court order [] written agreement [] oral understanding []
Other income: \$ per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?
[] Yes (Explain in detail on a separate sheet.) No []
Checking Account No.: Institution and Branch:
Savings Account No.: Institution and Branch:
Name of nearest relative not living with Joint Applicant or Other Party:
Relationship: Address:

SECTION C—MARITAL STATUS

Applicant: [] Married [] Separated [] Unmarried (including single, divorced, and widowed)
Other Party: [] Married [] Separated [] Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
Total Debts			\$	\$	\$	

(Credit References)

	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes" for whom? _____ To whom? _____

Are there any unsatisfied judgments against you? Yes No Amount \$ _____ If "yes" to whom owed? _____

Have you been declared bankrupt in the last 14 years? Yes No If "yes" where? _____ Year _____

Other obligations--(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT Briefly describe the property to be given as security:

.....

and list names and addresses of all co-owners of the property:

Name	Address
.....
.....

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature	Date	Other Signature (Where Applicable)	Date
-----------------------	------	------------------------------------	------

[Closed end, unsecured/secured credit]

CREDIT APPLICATION

IMPORTANT: Read these Directions before completing this Application.

Check
Appropriate
Box

- If you are applying for individual credit in your own name and are relying on your own income or assets and not the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete the first part of Section C and Section E.
- If you are applying for joint credit with another person, complete all Sections except E, providing information in B about the joint applicant. If the requested credit is to be secured, then complete Section E.
- If you are applying for individual credit, but are relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as the basis for repayment of the credit requested, complete all Sections except E to the extent possible, providing information in B about the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, then complete Section E.

Amount Requested Payment Date Desired Proceeds of Credit
\$..... To be Used For

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
Present Street Address: Years there:
City: State: Zip: Telephone:
Social Security No.: Driver's License No.:
Previous Street Address: Years there:
City: State: Zip:
Present Employer: Years there: Telephone:
Position or title: Name of supervisor:
Employer's Address:
Previous Employer: Years there:
Previous Employer's Address:
Present net salary or commission: \$..... per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

Yes (Explain in detail on separate sheet.) No

Have you ever received credit from us? When? Office

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with you: Telephone:

Relationship: Address:

SECTION B—INFORMATION REGARDING JOINT APPLICANT OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /

Relationship to Applicant (if any):

Present Street Address: Years there:

City: State: Zip: Telephone:

Social Security No.: Driver's License No.:

Present Employer: Years there: Telephone:

Position or title: Name of supervisor:

Employer's Address:

Previous Employer: Years there:

Previous Employer's Address:

Present net salary or commission: \$..... per No. Dependents: Ages:

Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.

Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced before the credit requested is paid off?

Yes (Explain in detail on separate sheet.) No

Checking Account No.: Institution and Branch:

Savings Account No.: Institution and Branch:

Name of nearest relative not living with Joint Applicant or Other Party: Telephone:

Relationship: Address:

SECTION C—MARITAL STATUS

(Do not complete if this is an application for individual unsecured credit.)

Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, and widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Joint Applicant or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
Total Debts			\$	\$	\$	

(Credit References)

	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "Yes" for whom? _____ To whom? _____

Are there any unsatisfied judgments against you? Yes No Amount \$ _____ If "Yes," to whom owed? _____

Have you been declared bankrupt in the last 14 years? Yes No If "Yes," where? _____ Year _____

Other obligations—(E.g., liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

.....

 and list names and addresses of all co-owners of the property:

Name	Address
.....
.....

If the security is real estate, give the full name of your spouse (if any):

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature	Date	Other Signature (Where Applicable)	Date
-----------------------	------	---------------------------------------	------

[Community property]

CREDIT APPLICATION**IMPORTANT: Read these Directions before completing this Application.**

- Check If you are applying for individual credit in your own name, are not married, and are not relying on alimony, appropriate If you are applying for individual credit in your own name, are not married, and are not relying on alimony, child support, or separate maintenance payments or on the income or assets of another person as the basis for repayment of the credit requested, complete only Sections A and D. If the requested credit is to be secured, also complete Section E.
- Box In all other situations, complete all Sections except E, providing information in B about your spouse, a joint applicant or user, or the person on whose alimony, support, or maintenance payments or income or assets you are relying. If the requested credit is to be secured, also complete Section E.

Amount Requested Payment Date Desired Proceeds of Credit
 \$..... To be Used For

SECTION A—INFORMATION REGARDING APPLICANT

Full Name (Last, First, Middle): Birthdate: / /
 Present Street Address Years there:
 City: State: Zip: Telephone:
 Social Security No.: Driver's License No.:
 Previous Street Address: Years there:
 City: State: Zip:
 Present Employer: Years there: Telephone:
 Position or title: Name of supervisor:
 Employer's Address:
 Previous Employer: Years there:
 Previous Employer's Address:
 Present net salary or commission: \$..... per No. Dependents: Ages:
 Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: court order written agreement oral understanding
 Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
 Yes (Explain in detail on a separate sheet.) No

Have you ever received credit from us? When? Office:
 Checking Account No.: Institution and Branch:
 Savings Account No.: Institution and Branch:
 Name of nearest relative not living with you Telephone:
 Relationship: Address:

SECTION B—INFORMATION REGARDING SPOUSE, JOINT APPLICANT, USER, OR OTHER PARTY (Use separate sheets if necessary.)

Full Name (Last, First, Middle): Birthdate: / /
 Relationship to Applicant (if any): Years there:
 Present Street Address:
 City: State: Zip: Telephone:
 Social Security No.: Driver's License No.:
 Present Employer: Years there: Telephone:
 Position or title: Name of supervisor:
 Employer's Address:
 Previous Employer: Years there:
 Previous Employer's Address:
 Present net salary or commission: \$..... per No. Dependents: Ages:
 Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.
 Alimony, child support, separate maintenance received under: court order written agreement oral understanding

Other income: \$..... per Source(s) of other income:

Is any income listed in this Section likely to be reduced in the next two years or before the credit requested is paid off?
 Yes (Explain in detail on a separate sheet.) No

Checking Account No.: Institution and Branch:
 Savings Account No.: Institution and Branch:
 Name of nearest relative not living with Spouse, Joint Applicant, User, or other Party: Telephone:
 Relationship: Address:

SECTION C—MARITAL STATUS

Applicant: Married Separated Unmarried (including single, divorced, and widowed)
 Other Party: Married Separated Unmarried (including single, divorced, widowed)

SECTION D—ASSET AND DEBT INFORMATION (If Section B has been completed, this Section should be completed giving information about both the Applicant and Spouse, Joint Applicant, User, or Other Person. Please mark Applicant-related information with an "A." If Section B was not completed, only give information about the Applicant in this Section.)

ASSETS OWNED (Use separate sheet if necessary.)

Description of Assets	Value	Subject to Debt? Yes/No	Name(s) of Owner(s)
Cash	\$		
Automobiles (Make, Model, Year)			
Cash Value of Life Insurance (Issuer, Face Value)			
Real Estate (Location, Date Acquired)			
Marketable Securities (Issuer, Type, No. of Shares)			
Other (List)			
Total Assets	\$		

OUTSTANDING DEBTS (Include charge accounts, instalment contracts, credit cards, rent, mortgages, etc. Use separate sheet if necessary.)

Name of Creditor	Type of Debt or Acct. No.	Name in Which Acct. Carried	Original Debt	Present Balance	Monthly Payments	Past Due? Yes/No
1. (Landlord or Mortgage Holder)	<input type="checkbox"/> Rent Payment <input type="checkbox"/> Mortgage		\$ (Omit rent)	\$ (Omit rent)	\$	
2.						
3.						
Total Debts			\$	\$	\$	

(Credit References)

	Date Paid
1.	\$
2.	

Are you a co-maker, endorser, or guarantor on any loan or contract? Yes No If "yes," for whom? To whom?

Are there any unsatisfied judgments against you? Yes No Amount \$ If "yes," to whom owed?

Have you been declared bankrupt in the last 14 years? Yes No If "yes," where? Year

Other obligations—(E.g., Liability to pay alimony, child support, separate maintenance. Use separate sheet if necessary.)

SECTION E—SECURED CREDIT (Complete only if credit is to be secured.) Briefly describe the property to be given as security:

.....

and list names and addresses of all co-owners of the property:

Name	Address
.....
.....

Everything that I have stated in this application is correct to the best of my knowledge. I understand that you will retain this application whether or not it is approved. You are authorized to check my credit and employment history and to answer questions about your credit experience with me.

Applicant's Signature	Date	Other Signature (Where Applicable)	Date
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[Residential real estate mortgage loan]

RESIDENTIAL LOAN APPLICATION

MORTGAGE APPLIED FOR	<input type="checkbox"/> Conventional <input type="checkbox"/> FHA	Amount \$ _____	Interest Rate % _____	No. of Months _____	Monthly Payment Principal & Interest \$ _____	Escrow/Impounds (to be collected monthly) <input type="checkbox"/> Taxes <input type="checkbox"/> Hazard Ins. <input type="checkbox"/> Mtg. Ins. <input type="checkbox"/>		
Prepayment Option _____								
1. SUBJECT PROPERTY	Property Street Address _____		City _____	County _____	State _____	Zip _____	No. Units _____	
	Legal Description (Attach description if necessary.) _____						Year Built _____	
	Purpose of Loan: <input type="checkbox"/> Purchase <input type="checkbox"/> Construction-Permanent <input type="checkbox"/> Construction <input type="checkbox"/> Refinance <input type="checkbox"/> Other (Specify) _____							
	Complete this line if Construction-Permanent or Construction Loan # _____		Lot Value Data _____	Original Cost _____	Present Value (a) _____	Cost of Improv. (b) _____	Total (a + b) _____	ENTER TOTAL AS PURCHASE PRICE IN DETAILS OF THIS PURCHASE.
	Complete this line if a Refinance Loan		Year Acquired _____	Original Cost _____	Purpose of Refinance _____		Describe Improvements [] made [] to be made	
	Year Acquired _____		Amt. Existing Liens _____	Title Will Be Held In What Name(s) _____				Cost: \$ _____
	Manner in Which Title Will Be Held _____		Source of Down Payment and Settlement Charges _____					

This application is designed to be completed by the borrower(s) with the lender's assistance. The Co-Borrower Section and all other Co-Borrower questions must be completed and the appropriate box(es) checked if another person will be jointly obligated with the Borrower on the loan, the Borrower is relying on income from alimony, child support, or separate maintenance or on the income or assets of another person as a basis for repayment of the loan, or the Borrower is married and resides, or the property is located, in a community property state.

2. BORROWER

3. CO-BORROWER

Name _____ Age _____ School _____	Name _____ Age _____ School _____
Present Address _____ No. Years _____ <input type="checkbox"/> Own <input type="checkbox"/> Rent _____	Present Address _____ No. Years _____ <input type="checkbox"/> Own <input type="checkbox"/> Rent _____
Street _____	Street _____
City/State/Zip _____	City/State/Zip _____
Former address if less than 2 years at present address _____	Former address if less than 2 years at present address _____
Street _____	Street _____
City/State/Zip _____	City/State/Zip _____
Years at former address _____ <input type="checkbox"/> Own <input type="checkbox"/> Rent _____	Years at former address _____ <input type="checkbox"/> Own <input type="checkbox"/> Rent _____
Marital <input type="checkbox"/> Married <input type="checkbox"/> Separated	Marital <input type="checkbox"/> Married <input type="checkbox"/> Separated
Dependents other than listed by Borrower	
No. _____ Ages _____	No. _____ Ages _____
Status <input type="checkbox"/> Unmarried (incl. single, divorced, widowed)	Status <input type="checkbox"/> Unmarried (incl. single, divorced, widowed)
Name and Address of Employer _____	Name and Address of Employer _____
Years employed in this line of work or profession? _____ years	Years employed in this line of work or profession? _____ years
Years on this job _____	Years on this job _____
<input type="checkbox"/> Self Employed	<input type="checkbox"/> Self Employed
Position/Title _____	Position/Title _____
Type of Business _____	Type of Business _____
Social Security Number _____	Social Security Number _____
Home Phone _____	Home Phone _____
Business Phone _____	Business Phone _____

4. GROSS MONTHLY INCOME

5. MONTHLY HOUSING EXPENSE

6. DETAILS OF PURCHASE

Item	Borrower			Co-Borrower			Total		Present*		Proposed	
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
Base Empl. Income												
Overline												
Bonuses												
Commissions												
Dividends/Interest												
Net Rental Income												
Other* (Before completing, see notes under Describe Other Income below.)												
Total	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

7. DESCRIBE OTHER INCOME

B-Borrower	C-Co-Borrower	NOTICE: * Alimony, child support, or separate maintenance income need not be revealed if the Borrower or Co-Borrower does not choose to have it considered as a basis for repaying this loan.	Monthly Amount \$ _____
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8. IF EMPLOYED IN CURRENT POSITION FOR LESS THAN TWO YEARS COMPLETE THE FOLLOWING

B/C	Previous Employer/School	City/State	Type of Business	Position/Title	Dates From/To	Monthly Income \$

9. THESE QUESTIONS APPLY TO BOTH BORROWERS

If a "yes" answer is given to a question in this column, explain on an attached sheet. Have you any outstanding judgments? _____ In the last 14 years, have you been bankrupt? _____ Have you had property foreclosed upon or given title or a deed in lieu thereof? _____ Are you a co-maker or endorser on a note? _____ Are you a party in a law suit? _____ Are you obligated to pay alimony, child support, or separate maintenance? _____ Is any part of the down payment borrowed? _____	Borrower Yes/No Co-Borrower Yes/No _____ Borrower Yes/No Co-Borrower Yes/No _____ Do you have health and accident insurance? _____ Do you have major medical coverage? _____ Do you intend to occupy the property? _____ Will this property be your primary residence? _____ Have you previously owned a home? _____ Sale price of previously owned home \$ _____
--	--

* All Present Monthly Housing Expenses of the Borrower and Co-Borrower should be listed on a combined basis.

This statement and any applicable supporting schedules may be completed jointly by both married and unmarried co-borrowers if their assets and liabilities are explicitly listed so that the statement can be truthfully and fairly presented on a combined basis; otherwise separate statements and schedules are required. If the Co-Borrower section was completed about a spouse, this statement and supporting schedules must be completed about that spouse also.

Completed Jointly Not Completed Jointly

10. ASSETS		11. LIABILITIES			
Indicate by (*) those liabilities that will be satisfied upon sale of real estate owned or upon refinancing of property.					
	Description	Cash or Market Value	Creditor's Name, Address, Account Number	Acct. Name (If Not Borrower(s))	Mo. Pmt. and Mos. left to pay
STATEMENT OF ASSETS AND LIABILITIES	Cash Deposit Toward Purchase Held By	\$	Instalment Debts (include "revolving" charge accounts)		\$ Pmt./Mos. \$
	Checking and Savings Accounts (Name of Institution/ Acct. No.)				/
					/
	Stocks and Bonds (No./description)		Automobile Loans		/
	Life Insurance Net Cash Value				/
	Face Amount (\$)		Real Estate Loans		X
	SUBTOTAL LIQUID ASSETS \$				
	Real Estate Owned (Enter Market Value from Schedule of Real Estate Owned)				X
	Vested Interest in Retirement Fund		Other Debt, Including Stock Pledges		
	Net Worth of Business Owned (Attach Financial Statements)				
	Automobiles (Make and Year)				/
	Furniture and Personal Property		Alimony, Child Support, and Maintenance Payments (Owed To)		X
	Other Assets (Items)				X
			TOTAL MONTHLY PAYMENTS		\$
	TOTAL ASSETS A	\$	NET WORTH (A minus B) \$		TOTAL LIABILITIES B

SCHEDULE OF REAL ESTATE OWNED (If Additional Properties Owned Attach Separate Schedule)							
Address of Property (Indicate S if Sold, FS if Pending Sale or R if Rental being held for income)	Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Taxes, Ins., Maintenance & Misc.	Net Rental Income
		\$	\$	\$	\$	\$	\$
TOTALS		\$	\$	\$	\$	\$	\$

12. LIST PREVIOUS CREDIT REFERENCES							
	B-Borrower	Co-Co-Borrower	Creditor's Name and Address	Account Number	Purpose	Highest Balance	Date Paid
<input checked="" type="checkbox"/>							

List any additional names under which credit has previously been received _____

AGREEMENT: The Underlined applies for the loan indicated in this application, to be secured by a first mortgage or deed of trust on the property described herein, and represents that the property will not be used for any illegal or restricted purpose and that all statements made in this application are true and are made for the purpose of obtaining the loan. Verification may be obtained from any source named in this application. The original or a copy of this application will be retained by the lender, even if the loan is not granted.

Borrower's Signature _____ Date / / Co-Borrower's Signature _____ Date / /

VOLUNTARY INFORMATION FOR GOVERNMENT MONITORING PURPOSES

If this loan is for purchase or construction of a home, the following information is requested by the Federal Government to monitor the lender's compliance with Equal Credit Opportunity and Fair Housing Laws. The law provides that a lender may neither discriminate on the basis of this information nor on whether or not it is furnished. Furnishing this information is optional. If you do not wish to furnish the following information, please initial below.

<p>BORROWER: I do not wish to furnish this information (initials)</p> <p>Race/National Origin</p> <p><input type="checkbox"/> American Indian, Alaskan Native SEX <input type="checkbox"/> Female <input type="checkbox"/> Male</p> <p><input type="checkbox"/> Asian, Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> White</p> <p><input type="checkbox"/> Other (specify) _____</p>	<p>CO-BORROWER: I do not wish to furnish this information (initials)</p> <p>Race/National Origin</p> <p><input type="checkbox"/> American Indian, Alaskan Native SEX <input type="checkbox"/> Female <input type="checkbox"/> Male</p> <p><input type="checkbox"/> Asian, Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> White</p> <p><input type="checkbox"/> Other (specify) _____</p>
--	---

FOR LENDER'S USE ONLY

SUPPLEMENT I

Procedures and criteria under which a State may apply for an exemption pursuant to section 705(g) of the Act and section 202.11(e) of this Part.

(a) **Application.** Any State may apply to the Board pursuant to the provisions of this Supplement and the Board's Rules of Procedure (12 CFR 262) for a determination that, under the laws of that State,¹ a class of credit transactions² within the State is subject to requirements that are substantially similar to, or provide greater protection for applicants than, those imposed under sections 701 and 702 of the Act,³ and that there is adequate provision for State enforcement of such requirements. The application shall be in writing, addressed to the Board, signed by the Governor, Attorney General, or State official having primary enforcement or interpretive responsibilities under the State law that is applicable to the class of credit transactions, and shall be supported by the documents specified in subsection (b).

(b) **Supporting documents.** The application shall be accompanied by:

(1) A copy of the full text of the State law that is claimed to contain requirements substantially similar to those imposed under sections 701 and 702 of the Act, or to provide greater protection to applicants than sections 701 and 702 of the Act, regarding the class of credit transactions within that State.

(2) A comparison of each provision of sections 701 and 702 of the Act with the corresponding provision of the State law, together with reasons supporting the claim that the corresponding provisions of the State law are substantially similar

to, or provide greater protection to applicants than, provisions of sections 701 and 702 of the Act regarding the class of credit transactions and explaining why any differences are not inconsistent with the provisions of sections 701 and 702 of the Act and do not result in a diminution in the protection otherwise afforded applicants; and a statement that no other State laws (including administrative or judicial interpretations) are related to, or would have an effect upon, the State law that is being considered by the Board in making its determination.

(3) A copy of the full text of the State law that provides for enforcement of the State law referred to in subsection (b)(1).

(4) A comparison of the provisions of the State law that provides for enforcement with the provisions of sections 704 and 706 of the Act, together with reasons supporting the claim that such State law provides for:

(i) administrative enforcement of the State law referred to in subsection (b)(1) that is substantially similar to, or more extensive than, the enforcement provided under section 704 of the Act;

(ii) civil liability for a failure to comply with the requirements of the State law that is substantially similar to, or more extensive than, that provided under section 706 of the Act, including class action liability and the ability of the State Attorney General or other appropriate State official to commence a civil action under circumstances substantially similar to those prescribed in section 706 of the Act, except that such State law may provide a greater damage remedy or other, more extensive remedies;

(iii) a statute of limitations that prescribes a period for civil actions of substantially similar duration to that provided under section 706(f) of the Act, or a longer period; and

(iv) a scope of discovery relating to a creditor's credit granting standards under appropriate discovery procedures in a court action or agency proceeding that is substantially similar to, or more extensive than, that provided under section 706(j) of the Act.

(5) A statement identifying the office designated or to be designated to administer the State law referred to in subsection (b)(1), together with complete information regarding the fiscal arrangements for administrative enforcement (including

¹ Any reference to State law in this Supplement includes a reference to any regulations that implement State law and formal interpretations thereof by a court of competent jurisdiction or duly authorized agency of that State.

² As applicable, references to "class of credit transactions" in this Supplement include one or more such classes of credit transactions.

³ Any reference in this Supplement to sections 701 and 702 of the Act includes a reference to the corresponding and implementing provisions of this Part, the Board's formal interpretations thereof, and official interpretations or approvals issued by an authorized official or employee of the Federal Reserve System. Additionally, any reference to sections 701 and 702 of the Act includes a reference to sections 705(a), (b), (c), and (d) of the Act and the corresponding provisions of this Part, which, though technically not a part of sections 701 and 702, implement and relate to substantive requirements of sections 701 and 702.

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the amount of funds available or to be provided), the number and qualifications of personnel engaged or to be engaged in enforcement, and a description of the procedures under which such State law is to be administratively enforced, including, if relevant, administrative enforcement regarding Federally-chartered creditors.⁴ The statement should also include reasons to support the claim that there is adequate provision for enforcement of such State law.

(c) **Criteria for determination.** The Board will consider the criteria set forth below, and any other relevant information, in determining whether the law of a State is substantially similar to, or provides greater protection to applicants than, the provisions of sections 701 and 702 of the Act regarding the class of transactions within that State, and whether there is adequate provision for State enforcement of such law. In making that determination, the Board primarily will consider each provision of the State law in comparison with each corresponding provision in sections 701 and 702 of the Act, and not the State law as a whole in comparison with the Act as a whole.

(1) In order for provisions of State law to be substantially similar to, or provide greater protection to applicants than, the provisions of sections 701 and 702 of the Act, the provisions of State law⁵ at least shall provide that:

(i) Definitions and rules of construction, as applicable, import the same meaning and have the same application as those prescribed by sections 701 and 702 of the Act.

(ii) Creditors provide all of the applicable notifications required by the provisions of sections 701 and 702 of the Act, with the content and in the terminology, form, and time periods prescribed by this Part pursuant to sections 701 and

⁴ Transactions within a State in which a Federally-chartered institution is a creditor shall not be considered subject to exemption, and such Federally-chartered creditors shall remain subject to the requirements of the Act and administrative enforcement by the appropriate Federal authority under section 704 of the Act, unless a State establishes to the satisfaction of the Board that appropriate arrangements have been made with such Federal authorities to assure effective enforcement of the requirements of State laws regarding such creditors.

⁵ This subsection is not to be construed as indicating that the Board would consider adversely any additional requirements of State law that are not inconsistent with the purpose of the Act or the requirements imposed under sections 701 and 702 of the Act.

702; however, required references to State law may be substituted for the references to Federal law required in this Part. Notification requirements under State law in additional circumstances or with additional detail that do not frustrate any of the purposes of the Act may be determined by the Board to be consistent with sections 701 and 702 of the Act.

(iii) Creditors take all affirmative actions and abide by obligations substantially similar to or more extensive than those prescribed by sections 701 and 702 of the Act under substantially similar or more stringent conditions and within the same or more stringent time periods as are prescribed in sections 701 and 702 of the Act.

(iv) Creditors abide by the same or more stringent prohibitions as are prescribed by sections 701 and 702 of the Act.

(v) Obligations or responsibilities imposed on applicants are no more costly, lengthy, or burdensome relative to applicants' exercising any of the rights or gaining the benefits of the protections provided in the State law than corresponding obligations or responsibilities imposed on applicants in sections 701 and 702 of the Act.

(vi) Applicants' rights and protections are substantially similar to, or more favorable than, those provided by sections 701 and 702 of the Act under conditions or within time periods that are substantially similar to, or more favorable to applicants than, those prescribed by sections 701 and 702 of the Act.

(2) In determining whether provisions for enforcement of the State law referred to in subsection (b)(1) are adequate, consideration will be given to the extent to which, under State law, provision is made for:

(i) administrative enforcement, including necessary facilities, personnel, and funding;

(ii) civil liability for a failure to comply with the requirements of such a State law that is substantially similar to, or more extensive than, that provided under section 706 of the Act;

(iii) a statute of limitations for civil liability of substantially similar or longer duration as that provided under section 706 of the Act; and

(iv) a scope of discovery relating to a creditor's credit granting standards that is substantially similar to, or more extensive than, that provided under section 706(j) of the Act.

(d) **Public notice of filing and proposed rule making.** In connection with any application that has been filed in accordance with the requirements of subsections (a) and (b) of this Supplement and following initial review of the application, a notice of such filing and proposed rule making shall be published by the Board in the *Federal Register*, and a copy of such application shall be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank for each Federal Reserve District in which the State making the application is situated. A period of time shall be allowed from the date of such publication for interested parties to submit written comments to the Board regarding that application.

(e) **Exemption from requirements.** If the Board determines on the basis of the information before it that, under the law of a State, a class of credit transactions is subject to requirements substantially similar to, or that provide greater protection to applicants than, those imposed under sections 701 and 702 of the Act and that there is adequate provision for State enforcement, the Board will exempt the class of credit transactions in that State from the requirements of sections 701 and 702 of the Act in the following manner and subject to the following conditions:

(1) Notice of the exemption shall be published in the *Federal Register*, and the Board shall furnish a copy of such notice to the State official who made application for such exemption, to each Federal authority responsible for administrative enforcement of the requirements of sections 701 and 702 of the Act, and to the Attorney General of the United States. Additionally, the Board shall include any exemption granted in an appropriate listing in Supplement II to this Part. Any exemption granted shall be effective 90 days after the date of publication of such notice in the *Federal Register*.

(2) The appropriate official of any State that receives an exemption shall inform the Board in writing within 30 days of any change in the State laws referred to in subsections (b)(1) and (b)(3). The report of any such change shall contain copies of the full text of that change, together with statements setting forth the information and opinions regarding that change that are specified in subsections (b)(2) and (b)(4). The appropriate official of any State that has received such an exemption also shall file with the Board from time to time such reports as the Board may require.

(3) The Board shall inform the appropriate official of any State that receives such an exemption of any subsequent amendments of the Act (including the implementing provisions of this Part, the Board's formal interpretations, and interpretations or approvals issued by an authorized official or employee of the Federal Reserve System) that might necessitate the amendment of State law for the exemption to continue.

(4) No exemption shall extend to the administrative enforcement or civil liability provisions of sections 704 and 706 of the Act. After an exemption is granted, the requirements of the applicable State law shall constitute the requirements of sections 701 and 702 of the Act, except to the extent such State law imposes requirements not imposed by the Act or this Part.

(f) **Adverse determination.** (1) If, after publication of a notice in the *Federal Register* as provided under section (d), the Board finds on the basis of the information before it that it cannot make a favorable determination in connection with the application, the Board shall notify the appropriate State official of the facts upon which such findings are based and shall afford that State authority a reasonable opportunity to demonstrate or achieve compliance.

(2) If, after having afforded the State authority such opportunity to demonstrate or achieve compliance, the Board finds on the basis of the information before it that it still cannot make a favorable determination in connection with the application, the Board shall publish in the *Federal Register* a notice of its determination regarding the application and shall furnish a copy of such notice to the State official who made application for such exemption.

(g) **Revocation of exemption.** (1) The Board reserves the right to revoke any exemption granted under the provisions of this Supplement if at any time it determines that the State law does not, in fact, impose requirements that are substantially similar to, or that provide greater protection to applicants than, those imposed under sections 701 and 702 of the Act or that there is not, in fact, adequate provision for State enforcement.

(2) Before revoking any such exemption, the Board shall notify the appropriate State official of the facts or conduct that, in the Board's opinion, warrants such revocation, and shall afford that State such opportunity as the Board deems

SUPPLEMENT I

appropriate in the circumstances to demonstrate or achieve compliance.

(3) If, after having been afforded the opportunity to demonstrate or achieve compliance, the Board determines that the State has not done so, notice of the Board's intention to revoke such exemption shall be published as a notice of proposed rule making in the *Federal Register*. A period of time shall be allowed from the date of such publication for interested persons to submit written comments to the Board regarding the proposed rule making.

(4) If such exemption is revoked, notice of such revocation shall be published by the Board in the *Federal Register*, and a copy of such notice shall be furnished to the appropriate State official, to the Federal authorities responsible for enforcement of the requirements of the Act, and to the Attorney General of the United States. The revocation shall become effective, and the class of transactions affected within that State shall become subject to the requirements of sections 701 and 702 of the Act, 90 days after the date of publication of the notice in the *Federal Register*.

Secretary Harris was also requested to submit information on the housing needs and experiences of the elderly. This information had not been received by the time the record was printed.

*Exhibit No. 44***national council** OF

COMMUNITY MENTAL HEALTH CENTERS, INC.
2233 Wisconsin Avenue, N.W., Washington, D.C. 20007 • 202-337-7530

February 1976

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Seattle, WA 98148

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Region I MHC
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Coeur d'Alene, ID 83814

EXECUTIVE DIRECTOR

John C. Wolfe, Ph.D.

MEMO TO: All NCCMHC Members

FROM: John C. Wolfe, Ph.D.

SUBJECT: Summary of NCCMHC Membership Survey
on Medicare and Medicaid Participation

Enclosed is the summary of the survey by Morris Associates for the National Council of Community Mental Health Centers of NCCMHC membership on Medicare and Medicaid participation, conducted in June, 1975. Data analysis was made difficult by virtue of strange answers given by some centers; follow-up letters were mailed to clarify original responses.

The data does support our Medicare/Medicaid strategy very well; it shows, generally, that free standing centers cannot participate fully in these programs; and this is what we are trying to change through amendments to Title XVIII.

NATIONAL COUNCIL OF COMMUNITY MENTAL HEALTH CENTERS
2233 Wisconsin Avenue, N.W., Washington, D.C. 20007
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SURVEY OF NCCMHC MEMBERS REGARDING CMHC
PARTICIPATION UNDER MEDICARE AND MEDICAID PROGRAMS

December, 1975

Explanation of Survey

In June 1975, NCCMHC surveyed its member centers to obtain information on the provider status of community mental health centers under the federal Medicare and Medicaid program. The questionnaire was designed to find out how many centers are receiving reimbursements under these two programs and for which services. The questionnaire did not address the important related issue of the extent of coverage of services. Thus problems such as limitations on the length of treatment for which payment will be made and reimbursements made at a rate which is less than the cost of providing treatment do not show up in the results summarized below.

182 centers responded to the survey, 24 (13%) of them were centers operated by a hospital; 113 (69%) of them were affiliated with a hospital for the provision of inpatient care; and 43 (24%) were free-standing.

MEDICARE

Medicare provides mental health coverage through two parts: Part A, institutional services, funds mental health inpatient services within certain limits; Part B, supplementary medical services, funds outpatient and other ambulatory services, within certain limits.

Of the 182 responding centers, 178 responded to the question "does your center have a provider number issued under Part A of Medicare?" Of these 178:

- * 108 -- 61% did have Medicare Part A provider status
- * 70 --- 39% did not have Medicare Part A provider status

A breakdown of these responses which compares the center's Part A provider status to its hospital relationship is shown below:

Table 1: CORRELATION BETWEEN MEDICARE PART A PROVIDER STATUS AND HOSPITAL RELATIONSHIPS

	<u>With Part A Status</u>	<u>Without Part A Status</u>	<u>TOTAL</u>
Hospital-Affiliated	77 (69%)	34 (31%)	111 (62%)
Hospital-Operated	24 (100%)	0	24 (13%)
Free-Standing	<u>7 (16%)</u>	<u>36 (84%)</u>	<u>43 (24%)</u>
TOTAL	108 (61%)	70 (39%)	178 (100%)

As the table shows all of the centers operated by a hospital have been able to obtain provider status under Part A. This is not surprising since Medicare legislation specifically includes both general and psychiatric hospitals as providers under Part A. Of the centers which are affiliated with a hospital for provision of inpatient care a substantial number (69%) have also obtained provider status, or are receiving indirect reimbursement for inpatient services because the affiliated hospital collects Medicare payments for center patients. However, another 34 centers (31% of the hospital-affiliated centers) are without Part A status. Included in this number are centers which have affiliation agreements with a state mental hospital for inpatient services, many of which do not have Medicare provider status. Unfortunately, the survey did not include a question to enable these state hospital affiliated centers to be differentiated.

Of the centers with provider status, the great majority (93%) are either hospital-operated or hospital-affiliated.

On the other hand, a majority (84%) of free-standing centers, i.e. those with inpatient units entirely separate from a hospital, have been unable to obtain Part A provider status. However a few of these centers do have Part A provider status.

While complete information as to how these seven centers obtained provider status under Part A is not available, some report they qualified as psychiatric hospitals under state standards (but are not necessarily JCAH accredited) and thus obtained recognition as a provider by the Medicare carrier.

Centers were also asked whether they had provider status under Part B (supplementary medical insurance program). A total of 178 centers responded to this question:

* 102 --57% did have Medicare Part B provider status

* 76 -- 43% did not have Medicare Part B provider status

A breakdown of these responses which compares the center's Part B provider status to its hospital relationship is shown below:

Table 2: CORRELATION BETWEEN MEDICARE PART B PROVIDER STATUS AND HOSPITAL RELATIONSHIPS

	<u>With Part B Status</u>	<u>Without Part B Status</u>	<u>TOTAL</u>
Hospital-Affiliated	64 (58%)	47 (42%)	111 (62%)
Hospital-Operated	20 (83%)	4 (17%)	24 (13%)
Free-Standing	<u>18 (42%)</u>	<u>25 (58%)</u>	<u>43 (24%)</u>
TOTAL	102 (57%)	76 (43%)	178 (100%)

There is a less direct relationship between hospital-affiliation and Part B provider status than between hospital affiliation and Part A provider status, since outpatient services are provided by the centers, not through the affiliated

hospital. However, once again hospital operated centers obtain outpatient and other ambulatory care reimbursements more often than those centers affiliated with a hospital, and free-standing centers obtain Part B status even less often than hospital affiliated CMHCs.

Of the hospital operated centers 83% have provider status; of the affiliated centers, 58% have provider status and of the free-standing centers 42% have provider status under Part B. Altogether 102 of the centers responding have Part B status, compared to 108 which have Part A status.

Centers were also asked for which services they received reimbursement (note, this does not indicate the extent of reimbursement, only whether the center received some payment from Medicare for these services). The following tables show the number of centers receiving reimbursement for the various services, with a breakdown between hospital affiliated, hospital operated and free-standing centers. In the first table partial hospitalization services have been divided between day and night care; in the second table these two subcategories have been combined into one.

Table 3: CORRELATION BETWEEN MEDICARE STATUS, CMHC SERVICE REIMBURSEMENTS AND HOSPITAL RELATIONSHIPS

	<u>In-</u> <u>Patient</u>	<u>Out-</u> <u>Patient</u>	<u>Day</u> <u>Care</u>	<u>Night</u> <u>Care</u>	<u>Other</u>	<u>TOTAL</u>
Hospital-Affiliated	74 (67%)	74 (67%)	42 (38%)	5 (4%)	16 (14%)	111 (100%)
Hospital-Operated	23 (96%)	21 (87%)	18 (75%)	5 (21%)	3 (12%)	24 (100%)
Free-Standing	<u>7</u> (16%)	<u>20</u> (46%)	<u>5</u> (12%)	<u>1</u> (2%)	<u>2</u> (5%)	<u>43</u> (100%)
TOTAL	104 (58%)	115 (65%)	65 (36%)	11 (6%)	21 (12%)	178 (100%)

Table 3A: CORRELATION BETWEEN MEDICARE STATUS, CMHC SERVICE REIMBURSEMENTS AND HOSPITAL RELATIONSHIPS (collapsing Day and Night into Partial as a single variable and eliminating Other as a variable)

	<u>In-</u> <u>Patient</u>	<u>Out-</u> <u>Patient</u>	<u>Partial</u> <u>Hospt.</u>	<u>TOTAL</u>
Hospital-Affiliated	74 (67%)	74 (67%)	42 (38%)	111 (100%)
Hospital-Operated	23 (96%)	21 (87%)	18 (75%)	24 (100%)
Free-Standing	<u>7</u> (16%)	<u>20</u> (46%)	<u>5</u> (12%)	<u>43</u> (100%)
TOTAL	104 (68%)	115 (65%)	65 (36%)	178 (100%)

A comparison of the responses tabulated in tables 1, 2 and 3 shows some discrepancies. For instance, although 77 hospital-affiliated centers have Part A provider numbers only 74 are receiving reimbursements for inpatient services

while three receive no reimbursements. One of these three centers indicated in its response that although a provider number had been issued, no reimbursements were made because the center did not meet accreditation standards for psychiatric hospitals (a requirement for Part A reimbursement of inpatient care). In other instances, it is possible that the number has only recently been obtained and reimbursements are not yet flowing to the CMHC.

One of the hospital operated centers also has a Part A provider number but has received no inpatient reimbursement.

Comparing table 2 with table 3, 64 hospital-affiliated centers, 20 hospital operated centers and 18 free-standing centers have provider numbers under Part B, but 74 hospital affiliated centers, 21 hospital operated centers and 20 free-standing centers receive outpatient reimbursements. This is because even without a provider number reimbursement for physicians' outpatient services are available to the centers. However, those centers obtaining a provider number are reimbursed on the basis of reasonable cost of their services (including such factors as administrative costs and overhead), while those centers without provider numbers receive payment only on a physician fee-for-service basis.

An examination of table 3A where day and night care have been combined into one partial hospitalization category, clearly shows that hospital operated centers have obtained reimbursements more often than hospital affiliated centers, while free-standing centers have obtained reimbursement for partial hospitalization services only rarely. Three-quarters of the hospital operated centers receive reimbursement for some form of partial hospitalization; 38 per cent of the hospital affiliated centers receive such reimbursement, while only 12 per cent of the free-standing centers receive partial hospitalization payments through Medicare.

Conclusion

As these tables clearly show, hospital operated centers have very little difficulty obtaining reimbursement for traditional mental health services (inpatient and outpatient services) which are clearly covered under the legislation. All but one of the responding hospital operated centers receive inpatient reimbursements and 87 % also receive outpatient reimbursements. A substantial number (75%) also are able to obtain reimbursement for day care services which Medicare intermediaries often include under outpatient services. However, only 21% of these centers have obtained reimbursement for night-care, a service which is provided by community mental health centers but which is often not provided in other settings. Three hospital operated centers also receive Medicare reimbursements for other services (which includes emergency and mental retardation services).

Of the hospital-affiliated centers, 67% receive reimbursement for inpatient services, and the same number have obtained outpatient reimbursements. Thus, these centers which receive reimbursement for inpatient care through their hospital-affiliation have found it reasonably easy to obtain outpatient reimbursement. However, 64 of them have Part B provider numbers (indicating that they receive reimbursement as a provider facility) while 47 do not (indicating that they receive fee-for-service reimbursement for physician-directed services). These centers have also had more difficulty in obtaining day care reimbursements than inpatient and outpatient reimbursement, and few (4%) have received payment for night care.

Finally, the free-standing centers clearly have the most difficulty obtaining reimbursements. Only 16 per cent have obtained any inpatient reimbursement, less than half (46%) outpatient reimbursement (18 have provider numbers; while 25 receive reimbursement only on a fee-for-service basis); 12 per cent have received day care reimbursements and only one center (2 per cent) received night-care reimbursement.

These data show that hospital operated centers have the least trouble in obtaining reimbursements from Medicare, particularly for the services which are clearly covered under the law, inpatient and outpatient. These centers also have had less difficulty in obtaining payments for less usual services, such as day care and night care, than free-standing or hospital-affiliated centers.

The hospital-affiliated centers have more difficulty obtaining Medicare reimbursements than the hospital operated centers, but a large percentage of them do obtain both inpatient and outpatient reimbursements, and a substantial number receive reimbursement for day care services.

Free-standing centers, on the other hand, are rarely able to obtain reimbursements for inpatient care, day care, or night care and generally receive outpatient reimbursements through the physicians on their staff who obtain their own provider status under the program.

From the responses regarding services reimbursed, it is apparent that of the 43 free-standing centers responding to the survey 51% report no reimbursement from Medicare at all. On the other hand, all of the hospital operated centers receive reimbursement for 2 or more services while 54% of the hospital-affiliated centers receive reimbursement for two or more services.

Reimbursement Problems

Centers were also encouraged to comment on their problems in obtaining Medicare reimbursements. The following is a summary of these comments, which for purposes of clarity have been divided into comments from centers which have not requested provider status; those in the process of applying for such status; those which have been refused provider status; those receiving reimbursements, and finally comments from centers which are not being reimbursed under Medicare.

1. CMHCs Which Have Not Requested Provider Status Under Medicare

Six centers reported they had not applied for provider status under Medicare, three of which made comments:

- a) Have not applied because the procedure in this state is more expensive than the possible benefits to us at this time.
- b) Have not applied for provider status since our staff psychiatrist bills under his authorization for our reimbursement
- c) New Jersey Medicare officials discouraged us from applying; they said the amount of funds we could receive would not justify the amount of paper work involved. It was implied that our application would be turned down anyway.

2. CMHCs With Pending Applications For Provider Status

Ten responding centers had applied for provider status, but had not yet received it; the following comments were made by some of these centers:

- a) Awaiting ruling by DSS officials regarding whether a CMHC can be a provider (Michigan)
- b) We have applied; however, were earlier informed that we were not eligible (North Carolina)
- c) Application submitted to carrier (Blue Cross-Blue Shield); no response yet, two follow up inquiries have been made. (Utah)
- d) Have tried for several years; our request has now moved from state to regional office in Chicago (Indiana)
- e) Carrier does not even answer our requests (New Hampshire)

3. CMHCs Refused Provider Status

Fifteen responding centers indicated they had been refused provider status under Medicare, and made the following comments:

- a) All CMHCs in Mississippi have been refused; reason not given
- b) Medicare carrier refuses to pay a salaried physician as in the case of our psychiatrist clinical director; and they will not pay other than a physician (North Dakota)
- c) No procedure in North Dakota for recognizing CMHC as provider -- our physician receives Medicare reimbursements and remits to the center, reimbursement is for inpatient only
- d) Refused provider status because services were "not covered under Medicare". We sent in bills; turned down. (Washington)
- e) Refused because we are neither hospital nor private practice (Virginia)
- f) Refused because (i) clients not required to pay for CMHC services; (ii) we are not physician-directed clinic; (iii) we receive federal funds (Virginia)
- g) Refused because MD director is required (Wyoming)
- h) We were refused; unclear why, given run around. (Illinois)
- i) Receive federal funds (Utah)
- j) Not hospital based (Pennsylvania)
- k) Medicare has instructed us to have physician assignment authorizations (payments then made directly to clinic) we cannot get any clear ruling on being a provider or an agency. (Arizona)
- l) No reason given. All attempts to find out why have resulted in statement "it is bogged in Baltimore". (Indiana)

- m) Refused because we do not have full time psychiatrist on staff
- n) Benefits denied for psychologist services -- our staff consists of licensed clinical psychologists

4. Comments From CMHCs Receiving Medicare Reimbursement

Five centers which received Medicare reimbursements made comments, as follows:

- a) Individual staff MDs are reimbursed directly under the individual provider status numbers
- b) It took a very long time and much hasselling before they finally gave us a provider number (Texas)
- c) Reimbursed through contract with state division of mh (Georgia)
- d) Refused provider status at first because services were provided in satellite units; after various congressmen intervened, the issue was settled in our favor (Pennsylvania)
- e) We have provider number for both Parts A and B; however, we can't bill against Part A because we are not accredited by JCAH as a hospital

5. Other Comments from CMHCs Not Receiving Medicare Reimbursement

Two other centers which do not receive Medicare payments, made the following comments:

- a) We do not have a full time MD, our psychiatrist comes to the CMHC two days a week and would have to give up the number used in private practice if it were to be assigned to the CMHC (Texas)
- b) We understand that Medicare patients are only covered if services are provided by MD and in a hospital setting (Alaska)

MEDICAID

Medicaid is a federal-state program which provides coverage for a certain number of minimum services, including general hospital inpatient mental health services and physician services furnished to certain individuals. Medicaid also includes a number of optional services which states may include in their Medicaid programs. One of these optional services, clinical services, is the service through which the greatest reimbursement for CMHC services can be made. Also optional are inpatient services in institutions for mental diseases for individuals over age 65 or under 21.

Of the 182 responding centers, 179 responded to the question, "Does your state agency recognize your CMHC as a provider of Medicaid services and reimburse for some center services?" Of these 179:

- 146 — 82% participated in the Medicaid program
- 33 -- 18% did not participate in Medicaid

A breakdown of these responses which compares the centers which participate in Medicaid and those which do not to the hospital relationship of the center is shown below:

Table 4: CORRELATION BETWEEN CMHC'S MEDICAID PROVIDER STATUS AND HOSPITAL RELATIONSHIPS

	<u>With Medicaid</u>	<u>Without Medicaid</u>	<u>Total</u>
Hospital-Affiliated	93 (83%)	19 (17%)	112 (63%)
Hospital Operated	21 (87%)	3 (12%)*	24 (13%)
Free Standing	<u>32 (74%)</u>	<u>11 (26%)</u>	<u>43 (24%)</u>
TOTAL	146 (82%)	33 (18%)	179 (100%)

As in the Medicare program, centers operated by a hospital have the least problem in participating in Medicaid, with 87% participating; hospital-affiliated centers have a slightly lower rate of participation than hospital operated centers, but still the majority of these centers (83%) participate, and free standing centers have the lowest participation rate. However 74 percent of free standing centers do participate in Medicaid which is a much higher rate of participation than is found in Medicare. This is because many of these free standing centers have qualified as clinics under their state plan.

Since Medicaid requires provision of inpatient and outpatient mental health services to certain individuals when furnished by a general hospital, those CMHCs affiliated with a hospital have generally been able to participate and receive reimbursement. However, a high number, 19, do not participate in Medicaid at all. Two of these centers are in Arizona which has no Medicaid plan, two others were in the process of applying for Medicaid; five others gave no indication as to why they did not participate in the program, but ten of the centers had been turned down when they applied for Medicaid reimbursements.

Three of these were turned down because CMHC services were not covered under their state plan; three others because state requirements that services be provided by or under direct supervision of a physician excluded the center from participation according to the state agency, and the remaining four (all located in North Dakota) because publicly funded agencies "should not be obligated to pay each other for services".

* One of these centers is located in Arizona which has no Medicaid program; one had not applied for Medicaid, and one provided no information as to why it does not participate.

Centers were also asked for which of their services they received Medicaid reimbursements, and the data from this question is shown in the table below.

Table 5: CORRELATION BETWEEN MEDICAID STATUS, CMHC'S SERVICE REIMBURSEMENTS AND HOSPITAL RELATIONSHIPS

	<u>In-Patient</u>	<u>Out-Patient</u>	<u>Partial Hosp.</u>	<u>TOTAL</u>
Hospital Affiliated	68 (61%)	91 (81%)	58 (52%)	112 (63%)
Hospital Operated	21 (87%)	21 (87%)	19 (79%)	24 (13%)
Free Standing	<u>7</u> (16%)	<u>29</u> (67%)	<u>8</u> (19%)	<u>43</u> (23%)
TOTAL	96 (54%)	141 (79%)	85 (47%)	179 (100%)

Since Medicaid requires coverage of hospital inpatient and outpatient mental health services in general hospitals, 87% of the hospital operated centers receive some reimbursements from Medicaid for these two services. However, there are other problems with these reimbursements (see comments below). On the other hand 21% of the hospital operated centers are not receiving reimbursement for partial hospitalization, either day care or night care. These services are not specifically required under the federal statute.

Hospital affiliated centers also are generally able to receive reimbursements for inpatient and outpatient services, but more of these centers receive outpatient reimbursements (81%) than inpatient (61%). This results from coverage under some state plans of psychiatric hospital and clinic services (through which it is possible for centers to obtain reasonable reimbursement for their outpatient and other ambulatory care services).

Free standing centers generally receive reimbursement for outpatient services (67% of responding centers receive such payments) but few receive reimbursement for partial hospitalization or inpatient care. However, seven free standing centers have received Medicaid reimbursements for inpatient care, as shown in the following chart:

<u>State</u>	<u>CMHC</u>	<u>Services Reimbursed</u>	<u>Reason Cited for Inpatient Reimbursement</u>
Calif.	Central City CMHC	All three services	Calif. reimburses all Short-Doyle contractors in the state for inpatient services under its Medi-Cal program
Indiana	MH Ctr. of Ft. Wayne, Inc.	All three services	Receive inpatient reimbursement for physician services only

Wis.	Marathon Cty Hlth Care Center	All three services	Licensed under state law as a special hospital; therefore eligible for inpatient reimbursements for individuals over age 65
Hawaii	Maui MH Service	In and Outpatient	CMHC and general hospital both operated by the state. Medicaid reimbursements are available for hospital inpatient services and for CMHC inpatient physician services. However, payment does not go to center, but instead is channeled into state general fund. Does not benefit the CMHC program.
Mich.	Genesee Cty CMH Services	All three services	N/A
Wis.	Counseling SJR	In and Outpatient	N/A
Ark.	W. Ark. Counseling & Guid. Ctr.	In and Outpatient	N/A

Coverage of services under Medicaid, as under Medicare, does not mean that the CMHC receives reimbursement for all services provided to Medicaid eligible individuals. Centers were asked to comment on state agency decisions regarding their reimbursements, and these comments are summarized below.

1. Comments from Centers Not Participating in Medicaid

Of the 33 centers which do not participate in Medicaid, 14 made comments. Nine of these were unable to receive reimbursement because the state does not cover services, one did not receive reimbursements for other reasons, and 2 were applying for recognition as providers of Medicaid services.

a) Centers in States Which Do Not Cover Services

Arizona

There is no Medicaid program in Arizona; supposed to go into effect July 1976 with little or no mental health benefits.

Colorado

State has discontinued all payments to mental health centers in Colorado; state has consistently changed guidelines retroactively and held all pending claims until new guidelines are published. Then pending claims are sent back to center for compliance with new guidelines. Under latest guidelines, Medicaid payment will be less than 10% of cost for most claims.

California

Medicaid benefits denied for psychologists services

State agency provides coverage for psychiatric care only in psychiatric wing of general hospital.

New Hampshire

CMHC refused reimbursement because of receipt of state mental health dollars; it was felt clients should receive services free.

CMHC denied reimbursement because not authorized by New Hampshire.

New Mexico

MH services not in official state Medicaid plan

North Dakota

CMHC is supported largely by governmental funds. Clinic services were deleted from state plan when this center approached state agency. Physician services reimbursement are refused to us because of public funding.

b) CMHCs Unable to Receive Reimbursement for Other ReasonsOhio

We have yet to qualify as an ambulatory care center. It is difficult for CMHCs to meet these standards because they were designed for medical centers primarily. Also, reimbursement is limited to services by physicians and licensed clinical psychologists.

2. Comments From CMHCs Which Participate in Medicaid

Another 32 centers, all of which participate to some extent in Medicaid, made comments summarized below:

Alabama

Day treatment service not recognized as continuation of hospital care

Alaska

Funding requests cut frequently -- we bill for \$250, authorized \$100; bill for \$350 for two months denied because "limited funds in GRM preclude approval of this expense"; requested reimbursement for 7 to 10 sessions, authorized five sessions; requested 12 sessions @\$25 per hour, six sessions authorized; requested four visits per month, authorized two per month.

Arkansas

Current Medicaid regulations allow payment for MD services only.

State does not participate in clinic services option

California

Denied reimbursement because money not available. Have closed end contract; once reach limit there is no additional reimbursement regardless of patient need.

Some services have been questioned regarding Medical eligibility under our overall CMHC provider number, i.e. aftercare services to state hospital, and board and care home. No refusals so far.

Colorado

Does not pay for some therapists -- will not pay for occupational therapy.

Our staff psychiatrist bills under his authorization for our reimbursement

Florida

Only physician services are reimburseable

Hawaii

Certain diagnoses were to be regarded as reimburseable by specifically provided funds for such, appropriated by department of health

Illinois

Does not cover nurses, social workers, non-certified psychologists

Indiana

Neither Medicare nor Medicaid want to pay for mental health, and are immune from any practical action by a center or even group of centers; you take what you can get.

Inpatient services of this CMHC not covered.

Kansas

Kansas has regulation which does not allow payment for room rate of inpatients between 21 and 64 nor for partial hospitalization

Varying situations -- confusion arises as to how billings are to be done and who can provide the services

Does not pay for partial hospitalization services, we are presently trying to negotiate for these services with the state

Maine

Partial hospitalization is not seen as a medical program

Maryland

Medicaid does not recognize day hospitalization at present

Massachusetts

Refused reimbursement for staff member's services (professional occupational therapist) since not included in participation agreement

Michigan

Only reimburses services provided directly by a physician; services provided by other mh personnel, even under supervision of MD, have been rejected

Missouri

Psychological testing, educational evaluation and partial hospitalization are not covered services

Services rendered by mental health professionals other than MD or DO are not covered; only services administered directly by a physician are considered for reimbursement by state agency

Montana

There is an eight-hour limit due to financial cutback

Nevada

We do not receive any Medicaid payments unless patient is over 65 and it then covers only the coinsurance portion.

New Hampshire

Pays for evaluations, but only if authorized in advance by carrier

New Jersey

Hospital inpatient, outpatient, partial hospitalization and emergency services are covered, but there are problems with partial hospitalization and emergency. State does not have guidelines for partial hospitalization programs, so they are counted as outpatient visits. While emergency visits would be covered, the small number of non-phone emergencies and the difficulties of getting names and addresses of callers makes billing impractical for this service.

North Dakota

Our center can collect only through a center physician who bills as a private practitioner and in turn reimburses the CMHC

Utah

Medicaid would not pay for psychological testing

Vermont

Currently only allowed up to \$500 per year per patient. Will not reimburse full difference in charges between Medicare and Medicaid

Virginia

Doesn't recognize partial hospitalization or milieu therapy. We can only get \$7.00 group therapy rate

West Virginia

Procedures are cumbersome and generally require prior authorization and physician referral so that in effect coverage is not good, especially for urgently needed treatment.

Finally, the survey attempted to determine which states have adopted policies requiring CMHCs to deduct federal funds received through a categorical grant from the National Institute of Mental Health before calculating the costs of the services provided to Medicaid eligible individuals. Such a policy was in force during 1974-1975 for social services funding which is provided through the Social and Rehabilitation Service of HEW, and some states adopted similar policies. The SRS policy has since been discontinued, in recognition of the fact that centers are expected to generate funds from all available sources and to use the NIMH funding as 'last dollar' funding for providing services to those for whom no other reimbursement can be obtained.

The response to the survey shows that in four states policies have been adopted requiring the deduction of federal staffing grant funds before Medicaid costs can be calculated. These states are: California, Missouri, North Dakota (which has since initiated a policy that no CMHC can receive any reimbursements through Medicaid), and Wisconsin. Also, in Colorado such a policy is to be implemented in the immediate future. In one state, Massachusetts, only one center responded to this question and reported that deductions are required but that these are not related to the amount of the federal grant.

Conflicting reports were received from CMHCs in another four states, with some centers responding that they do have to deduct federal funds and other reporting that they do not, as follows:

<u>State</u>	<u>CMHCs Reporting Fed. Fund Deductions Required</u>	<u>CMHCs Reporting No Deduction Required</u>
Florida	1	3
Minnesota	1	2
Ohio	1	4
Texas	1	3

Centers in 33 states reported that they are not required to deduct federal categorical grants before calculating Medicaid costs of services. These states are: Alabama, Alaska, Arkansas, Connecticut, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia.

No information was obtained regarding this issue in seven other states: Delaware, Louisiana, Nebraska, Oregon, Rhode Island, South Dakota, and Wyoming.

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October 5, 1977

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United States Commission on Civil Rights
Age Discrimination Study
1730 K Street, N.W., Suite 214
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Attention: Laura Wilmott

Dear Ms. Wilmott:

Attached is a copy of William Pierce's written
testimony for the hearing held on September 28, 1977.

Please do not hesitate to call if we can be of
further assistance.

Sincerely,

Candace P. Mueller
Candace P. Mueller
Director, Hecht Institute

CPM/pc
attachment



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Statement Presented to the
United States Commission on Civil Rights
Age Discrimination Study
by William L. Pierce
Assistant Executive Director
Child Welfare League of America, Inc.

September 28, 1977

The Child Welfare League of America is pleased to participate in these hearings on Age Discrimination.

Established in 1920, the League is the national voluntary accrediting organization for child welfare agencies in the United States. It is a privately supported organization devoting its efforts completely to the improvement of care and services for children. There are 376 child welfare agencies affiliated with the League. Represented in this group are voluntary agencies of all religious groups as well as nonsectarian public and private nonprofit agencies.

The League's primary concern has always been the welfare of all children regardless of their race, creed, or economic circumstances. The League's special interest and expertise is in the area of child welfare services and other programs which affect the well being of the Nation's children and their families. The League's prime functions include setting standards for child welfare services, providing consultation services to local agencies and communities, conducting research, issuing child welfare publications, and sponsoring annual regional conferences.

It is imperative for this Commission to be concerned about discrimination against children. The basic barrier which limits the participation of children and youth in federally assisted programs is the lack of resources. Scarce funds lead many deserving groups to compete with each other for shrinking slices of the pie. Until we have enough resources, choices will have to be made between groups. These choices are and will be made on the basis of the political clout of the demanding groups. Children are not a powerful voting block! Ethics and concern for meaningful social policies are not often considered. As advocates for children, however, we cannot

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demand resources at the expense of others.

We would like to share with you some statistics which the distinguished Congresswoman from Colorado, Patricia Schroeder, shared with the Congress. In 1975 Federal benefits and services averaged \$180 per child and \$1,800 for each elderly person. Children and youth, representing 38 percent of the population, received 9 percent of the 1975 Federal budget for their special programs compared to the 24 percent of the Federal budget devoted to the special programs of the aged, who represent only 10 percent of the population. (Congresswoman Schroeder's remarks are attached at Appendix A.)

We would like to comment specifically on several Federal programs which affect children and the services they receive.

Title XX—Social Services: Resource Allocation Patterns

This public social services program is for families and individuals of all ages. States have the authority and responsibility to allocate Title XX funds to those groups most in need. How has this been implemented?

1. According to HEW, *Social Services, U.S.A.*, statistical information available for the quarter October–December 1975, over 2.6 million children and adults received public social services under Title XX, Title IV-B, WIN, and AFDC. Overall, 64 percent of all recipients were adults, with 36 percent (1 million) being children. This does not indicate that more children than adults receive public social services.

2. According to HEW, *Technical Notes: Summaries and Characteristics of States' Title XX Plans for FY 1977*, "at least 60 percent of Title XX planned expenditures are for services directed to children. Child day care alone accounts for one-fourth of the Title XX estimated expenditures." This includes adult oriented services for the purpose of protecting the child. However, HEW has indicated that less than 25 percent of the total Title XX program is used for child welfare services which includes: adoption, substitute care, services to unmarried parents, protective services, day care services used in protective cases, day treatment, homemakers,

and counseling.

Supplemental Security Income for Disabled and Blind Children: Implementation Problems

The former Federal-State disability program limited eligibility to individuals 18 or older. Supplemental Security Income (SSI), effective in FY 1974, provides cash benefits for disabled and blind children.

1. The development of guidelines for determining childhood disabilities proved to be difficult and the process a slow one. Finally in March 1977, five years after enactment of the law, regulations describing children's eligibility as a disabled individual were issued.

2. Only 141,000 children are currently receiving SSI benefits, although over 500,000 children are eligible. In replying to a questionnaire sent to the Governors by the Senate Finance Committee staff in April 1975, most states indicated that there were many children who had not been properly referred to the Social Security district offices for eligibility determination.

3. Not until 1976 was a special provision made for children with regard to the requirement that all disability recipients be referred for vocational rehabilitation services. Now disabled children under 16 are to be referred to the crippled children's agency or another designated State agency. For three years, 1977-79, the Congress is mandated to appropriate \$30 million for the provision of services to children under six who are recipients of SSI. On September 9, 1977, the Social Security Administration of HEW finally issued preliminary information (not regulations) on the availability of these program funds. None of the \$30 million for FY 1977 has yet been made available.

4. According to HEW, *Social Services, U.S.A.*, statistical information available for the quarter October-December 1975, approximately 49,000 children or 22 percent of all children on SSI were receiving social services under Title XX. The services included transportation, health-related services, education and training, counseling

and day care services.

There had been a definite lack of coordination between the various programs serving disabled children to ensure that those eligible for SSI are applying. Likewise, there is a greater need for the Social Security district offices to be sure that SSI-eligible children are also referred and are receiving other available services whether it be through crippled children's agency, Title XX, Medicaid, or Food Stamps.

A concerted outreach program should also be undertaken focusing on public and voluntary agencies which routinely come into contact with low income families and disabled children.

Aid to Families with Dependent Children and Medicaid: Relation to Teenage Pregnancy

Services responsive to the health and welfare needs of pregnant minors continue to be denied on the basis of age. We believe that all medical services should be provided to minors in need of services who request them.

1. Twenty States and two Territories do not consider a low-income pregnant woman with no other dependents eligible for AFDC until after she has delivered her baby. The States who do not have an eligibility provision for the unborn child are:

Alaska	Maine	Puerto Rico
Arizona	Michigan	Virgin Islands
Arkansas	Mississippi	
Connecticut	Missouri	
Florida	New Hampshire	
Georgia	New Jersey	
Illinois	North Carolina	
Indiana	Oklahoma	
Iowa	Texas	
Kentucky	Virginia	(As of October 1, 1976)

2. Seven out of ten mothers under age 15 do not get any prenatal care through the first trimester of pregnancy. If these pregnant adolescents were able to obtain a Medicaid (Title XIX) card for prenatal care and get cash assistance to maintain minimal nutritional standards, the risk to mothers and babies would be much less.

Community Mental Health Services for Children: The Need for Renewed Emphasis on the Nonmedical Model

1. Our nation has over seven million children with mental health needs. Unfortunately, only 10 percent of these children are receiving care and treatment. According to NIMH of HEW, *Community Mental Health Centers: The Federal Investment* (June 1977), relative to the number of children in the catchment area, children are served at roughly one-third the rate and elderly at less than one-fourth the rate of the 25-44 year-old group.

2. Mental health professionals need more training in child counseling, play therapy, and other techniques so that children are included in the array of mental health service recipients.

3. Special attention should be given to the importance of nonmedical counseling and delivery of mental health services. Professionals in social work, guidance and counseling, clerical counseling, and human development are all viable resources for serving the mental health needs of children. Funding through private insurance or public programs should not be contingent upon the serving agency's accreditation as a hospital. Discrimination against both children and the aged occurs in agencies where emphasis is placed on a medical model for the delivery of mental health services.

Thank you for the opportunity to testify before this Commission.

APPENDIX A

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live and program analysis in a wide range of fields, including labor and welfare, education, manpower, income maintenance, and science programs. Dr. March presented the following comments to the Citizens for Children at Portland, Oreg.:

FEDERAL BUDGET PRIORITIES AND CHILDREN AND YOUTH.

(Comments by Dr. Michael S. March)

I have been asked to talk about Federal programs and priorities as they affect children and youth. This is a vital topic which deals with the central issue of creating a just society. My comments, of course, are my personal views as a professional analyst of national priorities.

Let us consider the gap between our professed national attitudes toward children and our national performance in assuring them full opportunities for their development.

We have had plenty of pronouncements regarding children and youth from many forums since 1969. There have been seven decennial White House Conferences on Children and Youth. We have had the Federal Interdepartmental Committee on Children and Youth, and the National Council of State Commissioners for Children and Youth, and many other private and public organizations to promote the welfare of children.

In these organizations we have clearly seen that the quality of the United States as a society is being shaped for the decades ahead by how we rear and educate our children and youth. The attitudes and the capabilities of our 80 million young people are the most important guaranty we have that our society and our constitutional form of government will last through the decades ahead.

The people who attended the successive White House Conferences were intelligent and very dedicated. They made many perceptive statements and they were influential in coloring the pronouncements of national leaders. The 1969 Conference, for instance, boldly proclaimed "the children's chapter," which was an admirable statement.

All the Presidents since Theodore Roosevelt have responded by making strong verbal commitments on behalf of children in their messages and press releases. President Nixon, in 1969, called, for example, for a "national commitment to providing for all American children an opportunity for healthy, stimulating development during the first five years of life." But then in 1971 he vetoed the Child Development bill for day care of preschool children.

Broadly speaking, the implementation of the lofty promises made in the last 60 years regarding programs for children has been poor. President Johnson's "Great Society" efforts made a good start in the anti-poverty and education areas, but social progress was side-tracked in favor of prosecuting the costly and divisive Vietnam War. By any reasonable standard of feasible humanitarian performance for this affluent country, the United States has failed its children and youth. The parents in the past have failed them in distressingly large numbers—and deterioration of the family structure augurs ill for the future. Many school districts and communities have failed their children. I doubt that any State can say it has succeeded in doing a proper job. Certainly the Federal Government has failed to do its fair share. The failures have been the result of inadequate commitment to good, poor organization, and allocation of insufficient money.

The record has bright spots, to be sure. Let me cite two.

We have conquered most communicable diseases and have sharply reduced infant and child mortality. We are also the most educated, if not the best educated, country in the world.

FEDERAL BUDGET PRIORITIES FOR CHILDREN AND YOUTH

HON. PATRICIA SCHROEDER

of Colorado

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 1975

Mrs. SCHROEDER. Mr. Speaker, our children and youth represent America's greatest human resources. Although the majority of us agree to the inestimable value of our children and their contribution to our future society, in our national priorities this is often not evident.

I am alarmed that the President's proposed budget for 1976 does not include two programs that are essential to the well-being of our children and youth. I speak of the women, infant and children—WIC—program and the supplemental food program for families.

This is of particular concern in my district. The Denver Department of Health and Hospitals has participated in the USDA—Commodity Supplemental Food Program since late 1969. It was designed to provide highly nutritious foods to those groups considered most vulnerable to malnutrition, for example, women during pregnancy and up to 1 year after and children under 6 years of age. This is vital to children. Any infant who is malnourished in early life or whose mother is malnourished may have irreversible brain damage. The commodity supplemental food program is in the end less costly and certainly more humane than undernourishment and hunger. Underinvestment in children generates a vicious cycle of poverty and welfareism.

Michael S. March, who has retired from a senior career position in the U.S. Office of Management and Budget after 33 years of Federal service, has accepted a joint appointment as assistant vice president for budgeting and planning of the University of Colorado Medical Center at Denver and as professor of public affairs in the University's Graduate School of Public Affairs. During 23 years as a staff member of the Bureau of the Budget and the Office of Management and Budget, he was engaged in legisla-

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Management and Budget, who is now a professor of public affairs at the University of Colorado;

REVIEW OF FEDERAL LEGISLATIVE AND BUDGETARY DEVELOPMENTS AFFECTING CHILDREN

Let us consider the question of what recent Federal policies and budgetary action may mean for children and youth—and for the States and local governments, as well as for the Federal agencies in this field. Two sets of somewhat related policies developed by the Nixon Administration have very important implications for all of us who are concerned about the future of the country's children.

One is the policy of severe Federal budgetary stringency which was initiated late in calendar 1972 and made fully evident in President Nixon's budget for the fiscal year 1974.—Numerous impoundments were attempted to kill off whole programs and even agencies, such as OEO. These actions deprived our children and youth.

The Federal budget is in trouble. In fiscal 1974 and 1975 the deficits each year exceeded \$25 billion. For the fiscal years 1973 and 1974, the deficits totalled nearly \$18 billion. For 1975, the problem is to prevent an increase in the \$9 billion deficit bequeathed by President Nixon.

Past deficits have been the root cause of our present runaway inflation—the worst inflation since World War II. Inflation is recognized as being harmful to families and destructive of economic strength.

President Ford is currently driving his Cabinet to cut \$5 billion out of the 1975 budget and hold it to \$300 billion. These actions will hit controllable programs very hard—and many programs for children and youth are in the controllable category. The Congress is never enthusiastic about tax increases—and especially so when unemployment is high and rising. Reallocation of resources within the Federal Budget is also very difficult to achieve.

The restrictions on the Federal budget mean that States, local governments, and families will have to shoulder directly a greater burden for their children. The Federal Government is already overcommitted, given its present tax level. But States and cities, too, are hit hard by double digit inflation. In many States education programs are being cut back because of inflation.

The second major set of policies comes under the label of the "new Federalism." It was President Nixon's policy to encourage States and localities to take over more of the job which government faces. He wanted decisions to be made as close to the people as possible, rather than in Washington. He pressed for the decentralization of Federal programs to the 10 Federal regions. However, this policy has not carried any action to achieve a Federal-State-local partnership in developing coherent, coordinated programs for children and youth. For children and youth the "new Federalism" so far represents a perpetuation of "business as usual" neglect.

Federal revenue sharing, which became law October 20, 1972, is an important facet of "the new Federalism." Its purpose is to use Federal fiscal power to help States and local jurisdictions—which have serious problems but lack fiscal capability. General revenue sharing will provide Federal aid of \$30 billion to the States, cities, and other local governments during the fiscal years 1972 through 1976.

General revenue sharing provides no major help for children and youth.

Two thirds of the allocations go to local "special" governments. Children's programs are left out of the share in two ways. First, school districts which are classified as "special" units of government, as is true in most States, are not eligible at all. Moreover, services for children and youth are omitted from the priority list for funds received by local

governments—and the so-called "use reports" indicate that the localities turn their backs on educational needs.

The States receive the other one-third of the general revenue sharing funds. Education was initially the largest purpose of proposed State use. However, some of this was substitution—offset by tax cuts. Moreover, there are great variations in use. The State of Colorado has allocated much of its share for sewers and for building at Colorado State University. As of June 30, 1974 it had actually spent only \$7 million, the remainder of the \$16 million of its general revenue sharing was sitting in a trust fund drawing interest. Meanwhile the State Institutions for the mentally retarded were so grossly underfunded that, reportedly, a Federal investigation of abuses was in progress. Also, serious socio-economic disparities prevail in the State. The infant mortality rate, which is indicative of general conditions, in the worst county is nearly 80 per 1,000 births—or four times the average in Colorado.

The Federal revenue sharing programs are both an opportunity and a responsibility for the States and local governments. They will have to create mechanisms to set right priorities. If elementary and secondary education is to receive its share of local general revenue sharing, the proponents of children and youth will have to lobby the Committees of the Congress to allow school districts to share and to list children as a priority use by other local units. If the children and youth lose out on the use of the revenue sharing funds, the responsibility will be that of the States, cities, and counties.

Another thrust of the "new Federalism" effort was to consolidate existing categorical grants into "block" grants. There have recently been two major Congressional enactments which rather significantly change the earlier rules of the road and bear careful watching by those who care for children and youth.

The Housing and Community Development Act of 1974 became law on August 22, 1974. It carries new funding authorizations of \$11.9 billion for fiscal years 1975, 1976, and 1977. It initiates a major consolidated community development program, amends public housing laws and starts a new leased housing program, and has various other provisions.

It reserved one-fifth of the community development money for non-metropolitan areas.

The Education Amendments of 1974 (P.L. 93-380) received Presidential approval on August 21. This law contains new allocation formulas for the distribution of funds for the educationally deprived and also authorized advance funding. The authorized level for appropriations totals \$25 billion for 4 fiscal years, starting with \$7.16 billion for fiscal year 1975. There is a sharp boost in the funding authorization for education of handicapped children in the first year. President Ford has made clear that he opposes what he calls "excessive funding" authorized in this law and will try to get the Congress not to appropriate the full amounts, according to a New York Times story on August 14.

REVENUE SHARING CONTINUES NATIONAL NEGLECT OF CHILDREN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 1975

Mrs. SCHROEDER. Mr. Speaker, we have a national paradox of lofty ideals and low-level performance when it comes to children. This problem begins in our homes, but much of it carries over to our public policies in local school districts and counties, States, and Federal agencies. Hundreds of thousands of our children are virtually condemned to failure on the day they were born because of the social and economic disadvantages of their parents and inadequate communities.

In terms of revenue sharing, children are neglected in two ways. First, school districts are not eligible for revenue sharing grants, and, second, services for children and youth are omitted from the priority list for funds received by local governments.

Furthermore, the Federal Government and States have been guilty of not utilizing programs for children that have been mandated by the Congress. A glaring example of this has been the preventive child health care services amended to the Social Security Act in 1967. The early and periodic screening, diagnosis and treatment, EPSDT program was aimed at providing eye, ear, dental, and other preventive care and treatment for 13 million children eligible under medicaid. In January the General Accounting Office reported that not only had HEW been slow in developing EPSDT regulations, but an 8-State survey showed that of 1.8 million children eligible, only 3 percent had been screened.

I submit to the Record the following comments by Dr. Michael S. March, a retired budget analyst with the Office of

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**CHILDREN ARE LARGEST SINGLE
GROUP OF AMERICAN POOR**

HON. PATRICIA SCHROEDER
OF COLORADO

IN THE HOUSE OF REPRESENTATIVES
Saturday, March 22, 1975

Mrs. SCHROEDER. Mr. Speaker, it alarms me that children are the largest

single group of American poor, representing 47 percent of the 24.5 million poor people, yet receive such low budgetary priority in our allocation of funds. Children and youth are shortchanged in the Federal budget. Although expenditures have increased, Federal benefits and services average \$180 per child or \$1,800 for each elderly person, the aged being one-fourth as large a group as children and youth.

A constituent who retired after 33 years of Government service as a budget analyst is presently a professor of Public Affairs at the University of Colorado. I submit to the Record the following comments by Dr. Michael S. March, who retired recently after long service with the Office of Management and Budget:

COMMENTS BY DR. MICHAEL S. MARCH, PROFESSOR OF PUBLIC AFFAIRS, UNIVERSITY OF COLORADO

"As one who has devoted his life to the public service—and spent more than a quarter of a century in the Bureau of the Budget and the Office of Management and Budget at the heart of the Federal Government—I have a strong feeling that public agencies have a large responsibility for meeting the presently unfulfilled needs of our Nation's children and youth.

If my feeling is correct, this means that State governments and the Federal Government will have to take more action, because as we know the resources of local governments are heavily strained and are very uneven. From Federal action, to jurisdiction, as court decisions on education in California and Texas have brought out. In saying this I do not mean that individual families, and that private organizations as well as local communities, do not have a very important role. However, their financial means may be inadequate to their family and community responsibilities.

To say that the Federal Government must do more for children and youth, especially given the President's policies on cutting expenditures, immediately raises the issue of priorities. The \$304 billion Federal budget already takes more than 20% of the GNP. The Government is, however, beleaguered on all sides by demand for scores of billions in additional spending. But there is also a reluctance to raise taxes. The competition for available budget resources is brutal, and if the young are to receive more, other purposes will have to receive less. Or, taxes will have to be raised to finance meritorious new programs.

Thus, if children and youth are to get their fair share, they need to be represented better in the Congress and at the Executive Office of the President. The decision-makers will have to be willing to provide more money for family planning, education, health, food and nutrition, day care, welfare, juvenile delinquency prevention, and the many other services for the normal and the exceptional children of the country.

During a sabbatical in 1969-70 to study at the Brookings Institution, I had occasion to review comprehensively the performance of the Federal Government with regard to its budgetary priorities. It seems fair to say that in the Federal budget the children suffer. The Federal Government must make hard choices, and other groups lobby more persuasively. In the absence of an effective advocacy system and because children do not vote, it is often said they do not get their fair share, even though they are the largest single group among the poor and represent 38 percent of the entire population.

I do not believe that either the policy makers or the people of the country understand the extent to which children and youth

are shortchanged in the Federal budgetary and legislative processes.

Let me cite some facts: From 1960 to 1969, during the New Frontier-Great Society years, the Federal outlays for the approximately 80 million children and youth under age 21 increased by about \$10.5 billion to around \$14.1 billion. The total averaged out to something less than \$180 per head for all education, health, cash benefits, and other special assistance per child and youth.

During the same span of time, 1960-1969, Federal benefits and services for persons over age 65 increased by about \$20.9 billion to \$34.2 billion. Federal expenditures for the aged averaged about \$1,800 per aged person in 1969. Thus the 10 million aged, who are only one-fourth as large a group as children and youth, received increases in Federal benefits and services more than twice as large in absolute terms as the children and youth. And per person Federal aid for the aged was about 9.5 times as large on the average in 1969 than for the young. These figures cover only benefit and service programs such as cash benefits, health services, education, training, food, housing aid, and the like. They do not include allocations of general programs such as defense, law enforcement, aid to business, etc., which may less directly serve or benefit both the aged and the young.

The more recent estimates of the change from fiscal 1969 to the budget for 1975 as recommended by President Nixon show a continuation of the trend—and even a worsening of the comparison. Data for 1975 released in a budget "special analysis" (and somewhat adjusted by me to include minor omitted programs and to exclude outlays for "elderly" people not yet 65) show a striking increase for the aged.

The estimated increase in Federal outlays for the aged in the 6 Nixon years from 1969 to 1975 is \$40.2 billion. Hence, in fiscal 1975 total planned Federal outlays for the aged will be \$74.4 billion, or an average of more than \$3,500 for every one of the 21 million aged persons in Federal funds alone. Needless to say the budget analysts carefully bring together these figures, for the politicians see profit in catering to the aged.

There is no available official tabulation of the corresponding increase for children and youth, nor of the aggregate amount spent for their benefit. My rough estimate of their increase is \$13.9 billion for the period of fiscal 1969 to 1975. This brings their total in 1975 to about \$28 billion, or roughly \$350 per young person—or only one-tenth of the per person outlay for aged persons.¹

The absolute dollar increase in the 6-year period for the aged is \$40.2 billion versus only \$13.9 billion for the young, so the aged got three times as much in total. The young, however, are roughly 4 times as numerous—80-plus million vs. 21 million aged. Hence, the increase for the aged was 12 times as much per capita as for the young in the last 6 years.

Over 12 million of the children and youth are in poverty (in 1972) compared to an estimated 3.7 million aged in poverty (in 1972), according to Census estimates. (The 20 percent increase in social security benefits in 1973 plus the enactment in 1972 of Federal supplemental security income payments for the aged should pull the figure for the aged poor down sharply by 1974)....

Overall, the aged who are only about 10 percent of the whole population in fiscal 1975 will receive 24 percent of all Federal budget outlays in special assistance; the children and youth who are 38% of the population will receive about 9% of the budget; in their ap-

¹The Consumers' Price Index rose 24% from calendar 1969 to 1969 and about 35% from 1969 to 1974—thus cutting into the budget increases.

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tial programs. Moreover, the aged receive the great bulk of their portion in cash; the children and youth are being credited largely with educational, manpower, health, and other services for which teachers and other workers in other families really get the money. No one knows to what extent the children and youth really benefit from some of these expenditures. A little table at the end of this paper summarizes the comparative figures by broad category.

The foregoing illustration is not intended to suggest that present benefits for the aged should be cut so the funds can be given to the young. It is intended to show what can be done by a determined and united group of advocates. It is conceivable that if the Government focused on its people priorities meaningfully, it might want to favor both the young and the aged and to deemphasize other programs. Expenditures for the young are probably the best investment the United States can make for its future strength as a society and Nation.

The facts on our failures with our children and the figures from the budgets suggest that the people of our country do not care enough about the children to advocate their cause when it comes to money. If they do care, they do not know how to get their legislators and their Presidents to set human resources priorities in the Federal budget equitably and constructively.

The Nixon Administration made much propaganda about having "changed Priorities" by having reduced "defense" from 45 percent of the budget in 1968 to 39 percent in 1975, and having increased "human resources" programs from 32 percent in 1968 to 50 percent in 1975. They include in "human resources" all the veterans' programs for war-injured servicemen and nearly all the \$74 billion in cash, medical, and other assistance for the aged. The latter benefits really are a form of "welfare", as recent press reports indicate. President Ford and his staff are calling them, rather than an "investment" in productive people, as the term "human resources" connotes. Education, health, and related services for children and youth who will become producers in the future are probably the most genuine "human resource" investments the country can make—but these have been neglected. This sort of corruption of budget presentations for political purposes is one cause of the Government's big credibility gap. Such comparisons are damaging to the public well-being because they misled the people about budget priorities.

My former boss at the office of Management and Budget, Director Roy Ash, in Washington has recently floated a "trial balloon" about a possible effort to cut back some of the programs for which the Nixon Administration used to take credit. He has suggested possible reductions of all things, in aid to Families with Dependent Children, social security, and revenue sharing.

Senator Proxmire, almost simultaneously, called attention to a little-known tax loophole by which big-business could change accounting practices for inventories, and realize \$6 to \$9 billion of tax breaks this year. This would be on top of \$60 billion of tax loopholes which previously have been identified by the Joint Economic Committee. The Ford Administration is promoting more tax loopholes for business rather than closing them—at the same time that it proposes to cut "people" programs. If the Treasury and Chairman Wilbur Mills could close half the Federal tax loopholes now in existence, the Government could finance new programs for children and youth which would change our society for the better in a remarkable way.

Thus it becomes clear that at the center of the problem of the neglect of priorities for children and youth is the issue of reor-

dering the budgetary priorities of the country. One important recommendation of the 1970 White House Conference on Children in this regard was that "At the national level . . . the proportion of our gross national product devoted to public expenditures for children and youth be increased by at least 50% during the next decade, and that the proportion of the Federal budget devoted to children be at least doubled during that period." In the 6 years since 1969, the share of children and youth in the Federal budget has gone only from 8% to 9%. The goal suggested by the White House Conference would be to reach 16 percent of the Federal budget by 1990.

When the Federal programs and the State and local programs are taken into account with what the families themselves can finance, the inadequacy of the provisions for the young is strikingly highlighted by the fact that there are probably 4 or 5 times as many children as aged persons living in poverty in 1974.

This situation is further aggravated by the huge disparities which prevail among the States (up to two and one-half fold) in total public per child outlays for education, which is very important. There are sharp differences in fiscal capacity, within States, for example, between suburbs and central cities or rural areas. Children in disadvantaged areas need "compensatory" services of high order to overcome their other deficits. The problem of disadvantaged children in low income areas with high concentration of disadvantaged children (and of disadvantaged parents, too) are not likely to be solved unless substantial additional resources are provided from State and Federal budgets for a broad range of cash benefits and services. Some States do not have the fiscal capacity or the willingness to equalize spending, let alone to provide extra funds for compensatory services in the heavily disadvantaged communities.

This is not just a problem in budgetary arithmetic. We know that low support for benefits and services for children is often associated with high failures in education and frequently with high rates of delinquency—and poverty in later, adult life. Underinvestment in children thus generates a vicious cycle of poverty and welfareism.

In a large measure, we have the sort of society that we are willing to pay for in our taxes. How we care for our children today determines the condition of our society a generation hence. Private action and local public action is on the whole insufficient to overcome the externalities which individual self-seeking generates. Realistically, the national Government is the only entity with the money capacity and the power to give all our children a fair start in life.

The nature of the task ahead is made clear by some of the plans and priorities that were voiced by the Conference on Children held in Washington in December 1970. My own analysis of the priority poll taken at the Children's Conference suggests the following action needs, more or less in the order listed: Comprehensive services, especially for young children; action to eliminate racism; action to improve education; creation of organized efforts to follow through on the recommendations; forwarding of our national priorities to accord greater weight to children and youth; organization for child advocacy at the local, State and national levels; comprehensive health services for mothers and children; justice for children, etc.

The passage of time has only confirmed the insight and the wisdom of the Conference—even though the Nixon Administration did not identify with the recommendations of the Conference. President Nixon had convened.

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Exhibit No. 46

SUMMARY OF TESTIMONY

BEFORE THE

U. S. COMMISSION ON CIVIL RIGHTS

NATIONAL HEARING ON AGE DISCRIMINATION

PRESENTED BY:

CHAUNCEY A. ALEXANDER, ACSW

EXECUTIVE DIRECTOR

NATIONAL ASSOCIATION OF SOCIAL WORKERS

WASHINGTON, D. C.

SEPTEMBER 28, 1977

On behalf of the 75,000 members of the National Association of Social Workers, I welcome the opportunity to present our views on age discrimination in federally assisted programs.

Issues of discrimination on the basis of age must be viewed in the context of societal attitudes which at best are condescending toward the elderly and the very young and at worst are rejecting, demeaning and scornful.

Within this context I would like to address three areas of major concern: 1) Barriers to Service Delivery, 2) Issues Relating to Organizational Location, and 3) Problems of Administration and Outreach.

Barriers to Delivery of Services

Lack of a network of supporting social and other ancillary services to facilitate access to existing programs is a primary obstacle to their full utilization by populations at risk due to their particular age status. For example, inadequate child care/day care services often bars young mothers from job and training opportunities; lack of transportation is a common obstacle faced by the elderly (particularly the frail elderly) to utilization of community facilities.

Because we lack a comprehensive social and health care system, cost-effective and relevant services are often rejected in favor of more expensive and less beneficial alternatives. In the absence of adequate home health care and a network of supportive services, institutionalization, particularly of minimally incapacitated elderly, has become a common resort. As noted by

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Dr. Arthur S. Flemming, U. S. Commissioner on Aging in testimony before the House Subcommittee on Health and Long-Term Care on November 19, 1975:

Although a wide range of in-home and community based services are available to maintain older persons in their homes, most of these services are fragmented, financed under different Federal programs with differing eligibility requirements, income levels, and sometimes conflicting regulations.

A continuum of social health services is needed perhaps utilizing the case manager concept which has been put forward by the Federal Council on Aging. Dr. Stanley Brody of the University of Pennsylvania has said:

While the aged have need for acute medical care, their major requirement is in the continuum of services for the chronically disabled that will enable them to function optimally. Any health system which continues to be limited to a disease orientation will not meet the increasing needs of the aging community. Medical services must take their place as a part - and only a part - of the continuum of health care. 1/

Adherence to a medical model of health care delivery limits access to the system and denies services which might well be provided by qualified non-medical health personnel.

Various Federal programs which are targeted to meet the special needs of certain age groups are rendered less than maximally effective because multiple entry is denied. For example, under Medicare and Medicaid, reimbursement for services provided by qualified clinical social workers is denied. And yet clinical social workers are the largest provider group within the traditional mental health team. Social workers are in the best position to provide outreach services, we are the profession which has specifically addressed itself to the special needs of disadvantaged

1/ Stanley Brody: "Comprehensive Health Care for the Aged: An Analysis," The Gerontologist, Winter, 1973.

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groups - minorities, the elderly, children at risk, those who are impoverished.

Organizational Location

1. Federalization of S.S.I. - Administrative separation of financial aid and social services has frequently resulted in non-service at the local/delivery level for the aged (and blind and disabled). Essential linkages needed to connect the elderly with community services and facilities have often been non-existent. Necessary information, referral, counseling and follow-up services are simply not being provided; there is inadequate response to emergency needs. S.S.I. should not become the model for welfare reform without modification.

2. Program Administration - At the Federal level a multiplicity of agencies and organizational arrangements have created problems in program coordination and effective use of resources. The recommendations contained in the January 1976 report of the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging: "New Perspectives in Health Care for Older Americans" should be seriously considered. Among other things the Subcommittee called for are: a) creation of an assistant secretary for elderly health, and b) the importance of establishing a continuum of services.

Outreach/Administrative Attitudes

The concepts of affirmative action should be applied to populations at risk because of age. The special needs of the very young and the very old must be addressed in the design and delivery of federally assisted programs.

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Legal rights and entitlements of children and of the aged are frequently neglected - the programs may exist (e.g., S.S.I.) but access is lacking. Expanded legal services for the elderly are essential; a decade after the Gault decision, children still are inadequately represented in juvenile court hearings and are denied due process rights when confronted with involuntary incarceration in mental institutions. NASW has taken positions on these issues in the Parham case now pending before the U. S. Supreme Court and in Memel vs. Mundy, a suit arising in Wisconsin.

Special training is required if those charged with outreach and service delivery are to adequately meet the needs of various age groups. Attitudinal training is particularly needed. In this age of specialization and rapidly expanding knowledge, generic principles are no longer sufficient to enable us to deal with the unique problems of young children, the elderly and those in transitional stages of adolescence, young adulthood and middle years. Such training must be provided both on an in-service basis to those who are already part of the delivery system and to those in colleges and universities. Many of our more than 80 accredited graduate schools of social work provide courses in gerontology or are connected with university gerontological centers. Expanded federal financial support for such training programs is vital if we are to keep abreast of new knowledge and deliver quality services.

Other Issues

Since the early 1960's consumer participation has been incorporated as a basic component in various federal legislation. In

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recent years the Health Planning and Resources Development Act of 1974 and Title XX have mandated elaborate planning requirements. Yet little if any effort is taken to ensure broad representation across the age spectrum in these planning processes. More energetic efforts are needed to recruit and utilize the talents of retired persons such as professional social workers who are skilled in advocacy, in planning and in mobilizing community resources on behalf of the disadvantaged.

Conclusion

The U. S. Civil Rights Commission has for the past two decades played a lead role in identifying discrimination and in raising the nation's level of consciousness in matters of civil rights and denials thereof. The Commission is to be commended for its efforts in this direction and for its recognition that inequities in receipt of program benefits is not always deliberately contrived but is also a reflection of systemic, institutionalized patterns of inequitable service delivery and shortcomings in public policy and planning.

Nearly 10 years ago the Commission in its excellent and provocative report, "A Time to Listen and a Time to Act" identified the discriminatory impact inherent in a range of federally assisted educational, health, housing, welfare and other programs. The concept of institutional racism is also applicable to age discrimination.

We are pleased that the Commission has been examining these issues and we appreciate the opportunity to contribute our views to this effort.



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October 6, 1977

Commissioner Murray Saltzman
U.S. Commission on Civil Rights
Washington, D.C. 20425

Dear Commissioner Saltzman:

In response to your request for our further thinking regarding "affirmative action" on behalf of the elderly we are pleased to submit the attached statement. Under separate cover we are sending a copy of this statement and a summary of our earlier testimony to Eileen Bradley with the request that these views be included in the hearing record.

Thank you for your interest.

Sincerely yours,

Chauncey A. Alexander, ACSW
Executive Director

ATTACHMENT

cc: Eileen Bradley, Director, Age
Discrimination Study

Dr. Arthur J. Katz, President, NASW

CAA:RHC:jaw

Supplementary views and recommendations re Age Discrimination submitted by the National Association of Social Workers to the U.S. Commission on Civil Rights, October 7, 1977.

The Concept of Affirmative Action as
Applied to the Elderly

The principles of affirmative action which have been developed with respect to racial and ethnic minority groups and women have applicability for vulnerable age groups, especially the elderly. We recognize however that a basic distinction exists between these categories. In the case of the former, affirmative action programs are designed to compensate for or overcome the effects of past discrimination as well as to serve as a counter-balance to existing discrimination (especially institutionalized discrimination).

With respect to the elderly, the issue of past discrimination does not necessarily come into play. Data indicate that while women comprise a disproportionately large segment of the aged population, Blacks, Chicanos and Native Americans are under represented at the upper rungs of the age ladder. For many there does exist the multiple burden in our society of age, sex and race; although for others (non-minority men) discriminatory treatment has not been their heritage but rather is a phenomenon first encountered in their later years of life. Thus special efforts might either be designed to address both past and existing discrimination against the elderly or might be geared to the current situation only.

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What sort of efforts do we envision? Certainly, the major issues of employment and education with which affirmative action is most commonly associated are either not relevant or only minimally so with respect to the aged. However in the areas of housing, health care, social services, income supports, transportation, recreational and ancillary services, creative programming is needed and is feasible. Affirmative action concepts can and should be brought into play with respect to preferential consideration for access to federally assisted programs, for example priority access to decent housing (including subsidized rental and/or other additional financial assistance); expansion of social service programs to provide outreach, home care, and a continuum of support for the elderly; modification of transportation systems to ensure the availability of easy-to-use, low cost (or fully subsidized) means of transit; a vastly expanded home health care system designed to enable the elderly to retain optimal physical, mental and social functioning within their own homes and communities.

Expansion of outreach efforts to inform the elderly and families of the elderly of available services and opportunities and to involve them in policy development and program planning is needed. This is especially true with respect to inner city and rural elderly who are particularly isolated and vulnerable.

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The specifics of preferential consideration, program redesign, concentration of resources and outreach/recruitment efforts will of course vary with each program. We would strongly urge that just as enforcement of other civil rights requirements is lodged with those Federal agencies and managers which administer programs of financial assistance, responsibility for implementation of the letter and spirit of the Age Discrimination Act also be vested in those who design, deliver and monitor them. However, to ensure that adequate attention is given to the unique problems and needs of the elderly, we strongly recommend that a position of Age Discrimination Compliance Officer be created within the appropriate Federal agencies analogous to those previously created to monitor race, ethnic, religious and sex discrimination. We believe that our experience, as well as the findings of your own Commission indicate that the intent of Congress to ensure non-discrimination in programs of federal financial assistance can best be met by integrating the compliance monitoring function within each program rather than relying solely on external monitoring or enforcement at the delivery level alone.

By developing the age discrimination compliance function within each agency there is better opportunity to influence policy and planning decisions which impact on programs affecting vulnerable age groups. Moreover, creative program design, in-service train-

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ing to raise consciousness and modify attitudes and other activities specifically tailored to the program and population(s) in question, become possible.

We hope these additional observations will assist the Commission in developing its report and recommendations.

Thank you for soliciting our views.

Exhibit No. 47

Testimony September 28, 1977 - prepared for submission to the Civil Rights Commission Hearings on the Age Discrimination Act of 1975.

Mr. Chairman and members of the Civil Rights Commission. I am Frank T. Rafferty, a Psychiatrist and Child Psychiatrist and Director of the Institute for Juvenile Research of the Illinois Department of Mental Health and Developmental Disabilities, Professor of Psychiatry at the Abraham Lincoln School of Medicine at the University of Illinois. This morning I have the privilege of presenting testimony before you on age discrimination or ageism. Ageism can be defined as the automatic attribution of disability, incompetence, insignificance, or lack of merit to an individual or group on the basis of age. Ageism is as pervasive, as destructive, and as deeply imbedded in human society as is racism and sexism. It is equally difficult to identify, to delineate, and to eradicate.

I come here as a representative of three major professional and service-provider organizations, the American Psychiatric Association, the American Academy of Child Psychiatry and the American Association of Psychiatric Services for Children. The American Psychiatric Association is a primary professional body for over 23,000 psychiatrists. The American Academy of Child Psychiatry represents over 1900 child psychiatrists, and the American Association of Psychiatric Services for Children is composed of over 7,200 individuals of all the mental health disciplines working in over 100 member agencies.

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Mr. Chairman I am sensitive to your desire and need to focus in depth on discrimination in specific federally funded programs. I am sure that your previous hearings have made you aware of the difficulties in accumulating data to document the age discrimination that is apparent to the casual observer. The multitude of factors involved interfere with valid and clear interpretation of the data that we do have. However, let me respond with some of the indicators of age discrimination, no matter how imperfect they may be.

With respect to the Community Mental Health Centers, the data as reported in 1971 by the National Institute for Mental Health, Division of Biometry and Epidemiology indicated that of the new patients admitted to the center, 25 % were under the age of 18 and 4 % over the age of 65. At that time these age groups represented approximately 40 % and 10 % of the population. Most recently, information from the same source is essentially the same data for the child and adolescent population. This is quite confusing because as long ago as 1971 it was evident that Community Mental Health Centers had failed to serve children and Congress responded with a special program referred to as Part F that appropriated for the entire nation the amount of \$10 million dollars. President Nixon impounded that for several years. In Public Law 94-63 passed last year, Congress again tried to correct the problem by mandating child and adolescent services. This effort has generally been rated a short-term failure because of inadequate money, lack of trained personnel, and the administrative difficulties encountered.

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Accumulative statistics obscure the real picture of pervasive ageism practiced against two groups, the young and the old. Accumulative statistics include some services devoted exclusively to those age groups usually pre-existing the Community Mental Health Centers and funded from other sources. An example of this is the Child Guidance Clinic programs that existed in many communities prior to the Community Mental Health Center. These communities were later the places where successful Community Mental Health Center Services for children were developed. The impact of ageism is such that in some centers, few if any children or elderly may be treated in that particular center. The accumulative data also obscure the discriminatory practice of providing only consultative services to children in school, and the elderly in nursing homes, thus inflating the number served without providing substantial services.

With respect to Medicare and Medicaid, the data is even more difficult to interpret since these programs were designed to correct problems of inadequate health service to the young and the old. Ageistic attitudes are reflected in these programs by other programs that cause the young and the old to receive inferior health care. Discrimination on the basis of age is thoroughly mixed with discrimination against the poor and the mentally ill. Basically, there are fewer and less well-trained physicians and psychiatrists available to the communities that are impacted with the poor who are more apt to be young or old. Hospitals in such communities become too dependent on reimbursement from Medicare and Medicaid and thus subject to serious administrative problems. Many of these hospitals operate on the brink of economic disaster. In such circumstances,

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adequate mental health services are frequently unavailable to any age group. Medicaid and Medicare programs have built-in discriminatory provisions that prevent the young and the old from having fair access to mental health services. For example, only 29 states, as of June 1st., have elected to reimburse under Medicaid provision for inpatient psychiatric treatment for children and adolescents. Equally about half the states do not reimburse outpatient clinics and Community Mental Health Centers for services to children and adolescents. Section 1905 Title XIX of the Social Security Act excludes a Community Mental Health Center from reimbursement for inpatient services under Medicaid. It should also be pointed out that services to the elderly under Medicare is limited to \$250.00 per year in outpatient mental health settings.

Proposed legislation - HR-6706 - called the Child Health Assessment Program, would perpetuate the discrimination against the mentally ill young. Although an improvement over the almost totally ineffective EPSDT program, for physical health purposes, the treatment of the identified mentally ill child would be optional to states under Section 1902 (a) (13). As we know from a decade of Medicaid, optional programs for states means no programs.

Discrimination against the aged in mental health services is evident in other practices. For some years, the state hospitals were inappropriately used to provide domiciliary care for the elderly and the mental health services were inferior because of the general under-funding and under-staffing problems of state hospitals. But in the past decade, changes in the Social Security regulations have made possible and desirable major deinstitutionalization programs in many states. The

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elderly person has been transferred to a variety of domiciliary arrangements that in principle protects his civil rights, and allows for residence in less restricted environments. However, in practice, these programs frequently have attenuated the psychiatric and mental health services available to these patients.

The data from one other Federal program may be instructive. The Blue-Cross/Blue-Shield High Option plan for Federal Employees is frequently referred to as a model insurance program. In 1973, the admission rate for mental illness under this program to general and psychiatric hospitals for children and adolescents under 19 was 1.3 per 1,000. For the 65 and older group, the rate was 3.8 per 1,000. By way of contrast, the admission rate for the 35 - 44 age decade was 8.6 per 1,000. For outpatient benefits, the rates were 0.2 per 1,000, for under 19, 0.7 per 1,000, and 65 and over and 1.1 per 1,000 for the 35 - 44 group.

I wish I had statistics to present on the problems of ageism in professional training programs in Psychiatry, Psychology and Social Work supported to a major extent by federal funds. My experience over twenty-five years is that the mental health needs of the young and the old are seriously under-represented in both the didactic and the experiential curriculums of most training programs. This deficiency contributes in a fundamental manner to the inferior services offered to these groups.

As significant as these figures of age discrimination and federally funded programs are, I would like to suggest to the Commission that they are simply the visible and measurable indicators of a much more pervasive and universal

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process taking place in our society, one that I referred to before as ageism. It is the systematic assumption of incapacity, incompetence, and insignificance of a person or a group of people based upon age.

The importance of ageism is more apparent when we consider that the United States is a technological society that emphasizes knowledge, competence, and meritorious achievement as the basis for the differentially distributed rewards of society. With the easily identified age grouping of the young, particularly the adolescent and of the senior citizens, it is easy to develop age stereotypes that deny knowledge and competence to these age groups and to ascribe to them invidious characteristics such as emotional instability, fadism, immaturity, and callousness to the adolescent and a self-centered, rigid, dependency and emfeeblement of mind and body to the aged.

The destructive aspects of ageist stereotypes is amplified by the circularity of social role designation so that on the basis of ageist attributions of lack of knowledge, immaturity, or emfeeblement, the young and the old are ascribed non-participating roles in the economy and in the power structure of the society. In response to this exclusion from social and economic participation, the discriminated age groups defensively turn inward to social isolation with their peers and in fact, exaggerate the labeling characteristics attributed to them, and appear to validate the age stereotypes.

Ageism involves many issues of potential interest to this Commission. Many federal laws and regulations support ageism inadvertently and usually with the in-

tention of providing benefits and protection. These are related to the major institutions of family, school and work and are intimately bound up with the cherished value and belief systems of our citizens.

Dependency may be used as a crucial example of a problem affecting both the young and the old. We are all familiar with it and must manage it every day in many different circumstances. We know that a small child must be fed, cared for, toileted, and that the toddler needs help in crossing the street. We are aware that the successful parent-child interactions throughout childhood maintain a dynamic tension between the needs of the child for dependency care and protection and the increasing need for responsible participation in the significant decisions and actions of family, school, and community. It is difficult for any state law to capture the complexity of evolving growth and maturity. But it also becomes apparent that the much needed in 1910 child labor laws and the current compulsory school attendance laws maintain a destructive, involuntary dependence for thousands of young people. In the past half century, influenced by technological developments and increase in knowledge, our culture has extended the expected family, educational, and economic dependency from about age 12 to the early twenties. Our society has even invented a new legal category of juvenile delinquency called the status offender. This young person is defined by his active opposition to dependence on family, and school by such acts as truancy, running away, car theft, sexual acting-out and the use of drugs and alcohol.

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Similarly, increase in life expectancy, improvement in health, changes in the labor market, technological development and attitudes about retirement have tended to re-establish dependency in senior citizens by reducing the significant participation of the senior citizen in our society. This is most often done under the guise of helpful protection, so that for example, we are establishing retirement housing developments that are, in fact, ghettos for the aged.

Education also reflects many ageistic considerations. Education should not be simply for the young, but should be a continuous process throughout a life-time. Individuals should not be rejected from specific training programs because of age.

It may be worthwhile to make a distinction between schooling of the young, which perhaps should be a compulsory part of the socialization process and end about the age of 14 or 16, and education which certainly should not be coercive but strictly voluntary. Educational considerations feed into the issues of the size of the labor market. Frequently, concern is expressed that one of the major results of compulsory education is keeping young persons out of the labor market. One cannot seriously discuss changing the pattern of compulsory school attendance without also changing the economic structure of society in such a way that there are participating roles for these over the age of 14 who might choose to work for a period before developing a readiness to continue with education.

I understand that the Age Discrimination Act of 1975 specifies that the

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provisions shall not apply to any program or activity established under the authority of any law which provides benefits or assistance to persons based upon the age of such persons. However, I urge the Civil Rights Commission, in their long range plans, to address attention to this exclusionary process of ageism which may unfortunately be reflected in laws originally passed for the benefit of the young and the old, that now work to their detriment instead.

Thank you for the opportunity of submitting this testimony this morning.

Frank T. Rafferty, M.D., Director
Institute for Juvenile Research
Professor of Psychiatry, University
of Illinois
907 So. Wolcott Ave.,
Chicago, Illinois 60612

Exhibit No. 48

Information on whether any Federal regulations or rules apply to the Legal Research and Services for the Elderly to the disadvantage of the aging.

Mr. David Marlin, Executive Director, Legal Research and Services for the Elderly, was contacted to submit this information for the record. At the time the record was printed, the information had not been received.

[FACSIMILE]

STATEMENT OF JOHN B. MARTIN

My name is John Martin. I am Legislative Consultant to the National Retired Teachers Association and the American Association of Retired Persons. As part of my background, I served from 1969 to 1973 as United States Commissioner on Aging. I am glad to be here today to testify with regard to age discrimination in federally financed activities as called for by the Age Discrimination Act of 1975 and the resultant study which is now under way.

The Civil Rights Commission is charged with developing a careful study of the extent of age discrimination and the ways in which it occurs in Federal agencies or departments having programs which involve grants, loans, or contracts to or with providers of service. During the past five months the Commission has conducted an extensive investigation and hearings into some eight or more specific areas where Federal activity makes possible the existence of discriminatory practices. These include Food Stamps, Medicaid, community mental health centers, community health centers, Vocational Rehabilitation, the Comprehensive Employment and Training Act, Title XX of the Social Security Act and Legal Services. In addition, the field of education has been examined at varying levels from elementary and secondary to post graduate education. My statements relate primarily to CETA and Title XX.

The National Retired Teachers Association and the American Association of Retired Persons are aware that instances of age discrimination do occur in many of these

fields, but our member mail does not always reveal them. The reason is probably that such age discrimination in many cases is subtle in character and not readily identified. Also, in many cases the individual discriminated against simply is not aware of his or her rights sufficiently to know that discrimination has occurred. For example, it may be unlikely that an older person would know that in a particular program more younger persons were being found eligible than those from his own age group, or that his age group was receiving benefits which differed from the distribution made to those of another age. In some instances, as for an example in the community mental health program, older people may create their own discrimination by avoiding the mental health clinic on the ground that they don't want to have it known that they are concerned about their mental health. The result on the record is a very small participation of older people in community mental health programs.

In some areas, discrimination is obvious. This is certainly true in the area of employment discrimination. Our experience in this field has shown us and others that persons over age 45, possibly over age 35, have great difficulty getting new jobs once they are thrown out of work. The real extent of discrimination in this case may well be covered up by the fact that older people who experience a long period of unemployment may become discouraged and drop out of the work force entirely. Consequently, they do not show up in unemployment statistics.

Employers appear to find many reasons, most of them based on false stereotypes, why hiring older workers is not favored even though every survey shows that older workers are more steady in their attendance at work, do as good a job or better and are able to produce as efficiently as younger workers.

Another factor enters into the picture in that CETA sponsors are apt to take the view that the Title IX program, which provides part-time work for persons who are poor employment prospects is a substitute for the CETA program and justifies not hiring under the CETA since presumably the same person can find a job under Title IX. In this case, the existence of a categorical program is taken as an excuse for not devoting more time and money to strengthening the position of the older worker specialist in State employment offices.

There is no doubt that older workers who are unemployed have greater difficulty finding a job than younger workers and spend more time on the unemployment rolls than younger workers. Furthermore, many programs are judged by their accomplishments and employment services are judged by how many persons they placed. If this number is unduly small, the conclusion is that the employment service is doing a bad job despite the fact that they may have been doing a very good job in placing workers in unsubsidized employment but at a slower rate. CETA has long had in its basic statutory authorization a requirement that "significant segments" of the population who have employment problems must be served in the programs developed by prime sponsors. The Department has recently published an excellent monograph on the older

worker and has proposed a revision of its regulations which outlines the responsibility of prime sponsors in this regard. The Department has not, however, seen fit to insist that prime sponsors fully implement the statements in their plans.

The tentative findings of the Commission staff that older workers are not placed in jobs until program money for specific placement of older workers is available accords with our own view of the older worker employment problem. We are convinced that employment problems for older workers will not be solved until there is a training and placement program available for older workers and change in the practice of the State employment services throughout the country to provide at least one older worker specialist in each office whose sole job is the placement of older workers. This was true formerly but the older worker specialist has been loaded with so many other specialized jobs that he no longer is effective as an older worker specialist.

Experience shows that it takes more work to place older workers but that it can be done with sufficient time and attention. We would urge the Labor Department to use its experience in this area to develop a corps of trained older worker specialists to place older workers and to work with them to that end.

The finding of staff that the State employment services have almost no outreach, are generally understaffed and view themselves as an agency for private employers, not for public clients, is revealing and creates a special problem for older workers. There is every indication that the older

worker is discriminated against in the CETA program regardless of the testimony of the statute or of the regulations promulgated under the statute. The general attitude seems to be "You have older worker programs under Title IX and this should take care of them. We'll take care of the younger workers under the CETA program." As stated above, this is a violation of the provisions of CETA calling for equal treatment of "significant segments" of the population, but discrimination continues regardless of the wording of the Act.

Another area in which discrimination is fairly apparent is in the operations of Title XX of the Social Security Act which took over the responsibilities under the Social Security Act of Titles IVA and VI. Under the new legislation virtually all of the federally mandated services are eliminated leaving the States the flexibility to define their own services and determine who will be served. States are given the responsibility to conduct an assessment of needs and develop a plan describing who will be served and in what manner. The Federal Government is given the responsibility of evaluation of State performance in relation to these goals. The Comprehensive Annual Services Program, known as CASP, must be drawn up in each State and subjected to public scrutiny. The aging are favored in that each State must provide at least three mandated services to recipients of Supplemental Security Income. These include the aging, blind, and disabled.

Title XX is typically administered by the State and local welfare agencies. Since the total amount of Federal funds for Title XX services is fixed at \$2.5 billion, funds

for services for the aging are often seen as being granted at the expense of services to families and children. A not uncommon attitude which emerged during the first year of Title XX is the view that services to the aging have their own funds under Title III and Title VII of the Older Americans Act even though Title XX funds are designed to service persons of all ages, including the elderly.

The Administration on Aging has assigned the State and Area Agencies the primary responsibility for insuring that older persons receive an appropriate share of services provided under Title XX. Cooperative agreements have been developed between Area Agencies and Title XX agencies. Area agencies are often represented on Advisory Committees of Title XX agencies, and exchange of plans and needs assessment material common.

The Urban Institute finds that in most States the percentage of SSI aged recipients of Title XX services are well below the total percent of aged in the population. Although the percentage of the nation's Title XX funds devoted to services for the aged are not readily ascertainable, the Urban Institute has found that only 7.2 percent of Title XX recipients are aged recipients of SSI. Detailed research in five States suggests that the aged have benefited from Title XX, but not to the extent that some other groups have. The findings of the first year's evaluation is that social service priorities in many States are determined by case workers in response to what services are available and "who walks in the door". The result is a very uneven level of service to the aging varying from

higher in some States than the percentage of SSI recipients to very much less in others.

The Age Discrimination Act of 1975 sets forth a rather elaborate program of enforcement based upon general regulations to be drawn up by the Department of Health, Education and Welfare and subsidiary regulations drawn up by each department or agency which makes loans, grants or contracts to the public. Each agency does its own enforcement work and may withhold or withdraw loans or grants to facilities which discriminate unreasonably in their dealings with the elderly population. Each agency therefore is essentially dealing with its own constituency and an individual agency may have a limited stake in enforcement for the benefit of the aging. It may even have an interest in covering up earlier failure on the part of the agency to spot and prevent discrimination.

It may be important to each agency that it develop its own regulations since this process of self-appraisal may be revealing to it of practices not previously thought of as discriminatory. However, it is at least worth considering whether a review or audit should be made periodically by an independent agency to determine compliance. The knowledge that such an audit would be made should help to keep each agency alert to instances of age discrimination.

One of the problems which arises in generalized programs, that is, programs designed to serve the entire population, is that all too frequently they slight the aging because it is felt that the aging have their own categorical programs which are age-focused. The feeling that this is the case may have had a bearing on the limited amount of

unds devoted to the aging in the Community Development Program, the Revenue Sharing Program, and the Comprehensive Employment and Training Program, on which I have commented previously. This fact presents advocates with a very difficult choice--whether to opt for broad, block-grant programs to which far greater appropriations can be made available or for narrow categorical programs focused on a particular constituency. The choice seems to be dictated by whether a constituency feels it will have success in preempting a substantial part of block-grant funds for itself. Thus far the aging have seen fit to follow the categorical route on the premise of "more money for certain" rather than a chance for even larger sums for which other groups are free to compete. The dilemma is a difficult one to resolve because either choice leads to age discrimination---in the one case from those who regard the categorical approach as having provided fully for the old and on the other from those who do not think the aging ought to have to fight in the marketplace for a piece of the appropriation pie but want to receive an exclusive share to which other groups can assert no claim.



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STATEMENT OF MILLARD H. RUUD BEFORE

THE UNITED STATES CIVIL RIGHTS COMMISSION

September 28, 1977

Executive Director

MILLARD H. RUUD

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STATEMENT OF MILLARD H. RUUD BEFORE
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In response to the request of the United States Civil Rights Commission (hereafter Commission) that a representative of the Association of American Law Schools (AALS) appear before the Commission, Chancellor A. Kenneth Pye of Duke University and President of AALS has asked me to appear today. The AALS is composed of 132 law schools, each of which is approved by the American Bar Association. The AALS is dedicated to the improvement of the legal profession through legal education. I am the Executive Director of AALS, Professor of Law on leave from the University of Texas, and, perhaps it should be noted in this connection, a former Chairman of the Law School Admission Council (LSAC) 1966-69. The Commission's request arrived at a time in the schedule of AALS Executive Committee meetings that did not permit us to develop a statement on this subject that could be adopted by the Executive Committee as an official position of the AALS. Therefore, this statement represents my views and not those of the Association.

As I understand it, the Commission on this occasion is interested in aspects of age discrimination only as they relate to admission to institutions of postsecondary education. This is what I have come prepared to discuss. My experience as a law teacher, chairman of a law school admission committee, involvement for about two decades with the LSAC and my present work with AALS limit what specialized knowledge and experience I have to the questions involved

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in admission to law schools. The Commission, I understand, is interested in learning to what extent age is and should be used in determining whether to admit a student to law school, for example, or to grant financial aid. My knowledge about the latter is very limited; I hope that I can be helpful with respect to the former, though.

The Commission's studies thus far and the hearings this week have disclosed or certainly will disclose some practices in the use of age in making postsecondary admissions that some or all of you may consider desirable and others that you may consider undesirable. However, I am confident that I need not remind you that not all that is desirable should be mandated by law nor all that is undesirable prohibited.

The ultimate question for the Commission is whether this study shows that legislation and regulations are necessary to prevent the unjustifiable exclusion of persons from educational processes on the basis of their age alone. I would urge that legislation and regulations are unnecessary for the simple reason that no problem has yet been shown to exist. The available data, sparse as it may be, tends to indicate that law schools are giving preference in the admission process to older applicants. The data also suggests that this preference may not be justified on the ground of predicting academic performance. Whether it is justifiable on other grounds, such as increasing the heterogeneity of the student body or serving other

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social purposes, is problematical. Surely we have not as a society determined that experimentation by educational institutions to serve these other interests is to be precluded. It may be clear to some that the federal government would have an interest in prohibiting a school from refusing to consider the application of a person over a given age; it is far less clear that the federal government has any interest in whether a school uses age and experience as factors to be taken into account in an ever-changing admission process.

As I stated earlier, my specialized knowledge and experience relates to legal education and, in this particular context, admission to law schools. To put the potential role of age in making law school admission decisions in context, we must clarify the purposes that law schools seek to serve in making admission decisions. Generally, the initial objective is to select those applicants who are likely to be the best law students. Here the effort is to predict law school performance and select those likely to earn better grades. Secondly, some applicants are selected primarily because they are likely to make a special contribution to the educational process and their fellow students. Law students play an important role in educating each other both in class and out. Persons with different work, educational and other backgrounds are likely to make a special contribution to this process. Finally, some applicants are selected for admission because they are likely to make a special contribution once in the profession. The special efforts of law schools to enroll minority group applicants, for example, rests in part on this ground.

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Similar considerations may make age a relevant factor in the admission process. First of all, accredited law schools require at least three years of college prior to admission, a requirement which in practice means possession of a baccalaureate degree. This degree normally is not received by a person under the age of 22. This may be discrimination against teenagers but it is justified by the overwhelming probability that a person without this degree could not successfully complete the law school curriculum. In addition, law schools quite often give preference to an applicant with several years of interesting work experience over an applicant fresh out of undergraduate school. Work experience is a factor that will have a disparate effect on younger age groups, but its use should not be considered discriminatory since it is justifiable on the grounds both of educational policy and of academic performance. These are examples of instances in which a selection criterion based on training and experience will have the effect of treating different age groups differently.

On the other hand, schools might feel the need to take age explicitly into account when dealing with applicants of widely differing ages. In this context, it must be remembered that a decision to admit one applicant is also a decision to reject other qualified applicants. On occasion, the choice could come down to applicants essentially of equal rank on all factors other than age. For example, if a school were faced with a choice of admitting either a twenty-three year old or a sixty year old, it might well choose to admit the twenty-three

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year old on the ground that the investment of resources in educating one of these two persons should be returned by service to the profession and society. The person with the longer life expectancy could be expected to make a greater contribution and thus a greater return on the investment. This argument is particularly pertinent with public institutions at which tuition represents as little as 10% of the cost of education. Even at some private institutions the taxpayer and philanthropist are contributing more than half the cost of education and should be entitled to expect a greater return.

Now let us look at what the available data show with respect to age and law school admissions.

First of all, we should look at how the law schools actually treat applications from different age groups. Some preliminary data has been developed from a study being conducted by Educational Testing Service for the Law School Admission Council. I am able to share some of these preliminary results with you.

The data for this study were obtained through the Law School Data Assembly Service (LSDAS), which provides schools with a report for each applicant that includes LSAT scores, a standardized undergraduate transcript analysis, and limited biographical data. There were 76,760 registrants for the 1975-76 law school application year who had a valid LSAT score, supplied the required college transcript(s), and requested their score be sent to at least one ABA-approved law school. Of that number 76,061 applied to one of the 146 schools that required

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participation in the LSDAS. Forty of these registrants were deleted from the analyses because they reported an invalid age (e.g., reported that they were born in 1851 rather than 1951). The data for this study, then, are based on 76,021 registrants. This number probably represents about 80% of all applicants to law school in 1975-76.

The total sample was divided into four age cohorts as follows:

- Cohort I - applicants who were younger than 23.5 years
(N=36,077)
- Cohort II - applicants who were between the ages of 23.5
and 26.49 (N=19,279)
- Cohort III - applicants who were between the ages of 26.5
and 30.49 (N=12,393)
- Cohort IV - applicants who were older than 30.49 (N=9,272)

For each age cohort the number of applicants in the various undergraduate GPA and LSAT score categories were recorded. Then, using probability rates of acceptance the number of candidates within each category who were admitted to at least one law school was estimated. For example, suppose that 2,000 applicants who were younger than 23.5 years, had an LSAT score of 750 and an undergraduate GPA of 3.5. It is were determined that these applicants had a .9 probability of being accepted, then it was estimated that 1800 of the 2000 candidates with LSAT scores of 750 and undergraduate GPAs of 3.5 were

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admitted. The actual N's could not be used in these calculations because if a candidate were admitted to three law schools, he or she would have been counted three times.

Next, the probability of acceptance rates of the youngest cohort were applied to each of the other three cohorts. Finally, a comparison was made between the numbers estimated to have been accepted when the correct probability rates were applied to the respective cohorts and the numbers estimated to have been accepted when the youngest cohort's probability rates were applied to each cohort.

If the number of candidates estimated to have been accepted were less when using the correct probability rates, it would be indicative that schools were making adverse decisions with respect to older applicants. That is, a 30 year old applicant with an LSAT score of 750 and an undergraduate GPA of 3.5 might have a probability rate of acceptance of .8, while a similarly qualified younger applicant might have a probability rate of acceptance of .9. If one were to apply the correct probability weight of .8 to the 30 year old cohort, the numbers would naturally be less than if the .9 probability weight of the younger cohort were applied.

Likewise, if the number of candidates estimated to have been accepted were greater when using the correct probability rates, it would indicate that schools were making favorable decisions with respect to older applicants.

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Listed below for each of the four age cohorts are the percentage of applicants estimated to have been admitted for each LSAT and undergraduate GPA category (Column A). For the three oldest cohorts the percentage that would have been admitted if the youngest cohort's probability of acceptance rates had been applied are also listed (Column B). The difference between Columns A and B indicates the degree by which older applicants are favored in the admissions process when controlling for LSAT scores and undergraduate GPAs. The differences are listed in Column C.

Category	Cohort I			Cohort II			Cohort III			Cohort IV		
	A	A	B C	A	B C	A	B C	A	B C			
LSAT _ 600	90	82	71 11	77	63 14	79	62 17					
LSAT _ 500	78	67	51 16	61	45 16	61	44 17					
LSAT _ 450	72	61	45 16	56	39 17	56	38 18					
UGPA _ 3.25	82	75	64 11	78	67 11	70	59 11					
UGPA _ 2.75	71	63	49 14	64	49 15	60	45 15					
UGPA _ 2.50	68	58	43 15	58	42 16	55	39 16					
LSAT _ 600 and UGPA _ 3.25	94	90	85 5	93	87 6	95	88 7					
LSAT _ 500 and UGPA _ 2.75	81	93	76 14	74	60 14	75	61 14					
LSAT _ 450 and UGPA _ 2.50	74	77	58 19	64	50 14	64	48 16					

As can be seen, when controlling for undergraduate GPAs and

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LSAT scores, without exception older applicants have higher admission rates than younger applicants. The relatively low advantage of the older applicants with LSAT scores of 600 or above and UGPAs of 3.25 or above is probably because within any age cohort these highly qualified candidates would be admitted.

The apparent preference for older applicants, if differing acceptance rates on the basis of LSAT and UGPA can be called a preference, is probably attributable to the school's attempting to predict academic performance from an applicant's experience and training, attempting to provide a better educational atmosphere through a heterogeneous student body including persons from various backgrounds and walks of life, and seeking to serve the profession and public better by producing lawyers with differing perspectives based on their previous experiences. The first of these goals, attempting to provide better prediction of academic performance, has been subjected to some scrutiny in LSAC research reports.

First, in 1973 Evans and Rock published "A Study of the Effects of Moderator Variables on the Prediction of Law School Performance." The study tended to show that older students were more predictable in terms of their rank ordering on law school performance, but they were slightly overpredicted as a group. This means that prediction equations using LSAT and UGPA would give an accurate picture of where older applicants would fit in the law school class relative to each other but would tend to predict their law school grades to be higher than the actual grades

would prove to be.

A 1976 study updated in 1977 by Pitcher titled "Subgroup Validity Study" tends to confirm these earlier findings, although the level of overprediction for older students is less. Pertinent portions of this report deserve setting out in full and are attached as an appendix to this statement.

If the trends reported in these preliminary studies were known to be accurate across the board, one might conclude that the schools are engaging in a preference for older applicants that is not justifiable by their academic performance in law school. At the same time, in individual cases schools might be likely to engage in preference for a younger over an older applicant, again with no thought that the preference is justified by greater expectations of academic performance. The question is whether these preferences, to the extent that they exist at all, are justifiable on other grounds. Certainly an educational institution has a strong interest in ensuring that its student body has a healthy mix of persons from various backgrounds and types of experience. Moreover, a professional school has a clear interest in the expected contribution of an applicant to the profession and to the public. These interests are best served by continuing to allow wide discretion in the law school admission process for experimentation with the many variables that could be relevant to admission decisions.

APPENDIX A

Subgroups Categorized by Age

A total of 6,538 student records were included in the analyses of subgroups categorized by age. Forty-two law schools were represented. Each of the 42 was represented in each of the three age subgroups, though not necessarily in the same proportions. Overall there were 3,454 (53 per cent) in the subgroup aged 22 or younger, 1,952 (30 per cent) aged 23-25, and 1,132 (17 per cent) aged 26 or older.

Tables 1.1, 1.2, and 1.3 report results based on age subgroups. Means and standard deviations on all predictors and on the criterion, CFYA, are shown in Table 1.1. Validity results are in Table 1.2. Table 1.3 reports mean actual and predicted grades.

The following observations may be made from the results shown in Table 1.1:

On UGPA, the youngest subgroup had the highest mean (3.16). The oldest subgroup had the lowest (2.87).

On LSAT, the middle subgroup had the highest mean (618), the youngest, slightly lower (615), and the oldest had the lowest (603).

On WA, the three means were very similar, 58.5 for the youngest subgroup, 58.8 for the middle, and 58.6 for the oldest.

On law school performance (CFYA), the youngest subgroup had the highest mean (56.3) and the oldest subgroup had the lowest mean (54.5).

The youngest subgroup was consistently the least variable (smallest standard deviation) on all the variables, and the oldest subgroup, the most variable.

Table 1.1
Means and Standard Deviations for Age Subgroups

Age Subgroup		Number of Students	UGPA		LSAT		WA		CFYA	
			Mean	S.D.	Mean	S.D.	Mean	S.D.	Mean	S.D.
22 or Younger	A	1,727	3.15	0.39	615	79	58.2	9.5	56.2	9.4
	B	1,727	3.16	0.41	616	80	58.8	9.6	56.4	9.8
	Total	3,454	3.16	0.40	615	79	58.5	9.6	56.3	9.6
23 - 25	A	976	2.98	0.43	616	83	58.8	9.7	56.5	9.8
	B	976	2.99	0.44	619	82	58.9	9.6	55.9	9.9
	Total	1,952	2.98	0.44	618	82	58.8	9.7	56.2	9.9
26 or Older	A	566	2.86	0.49	604	90	58.4	9.9	54.7	10.7
	B	566	2.89	0.50	602	89	58.9	9.7	54.3	10.4
	Total	1,132	2.87	0.50	603	89	58.6	9.8	54.5	10.5
All Age Subgroups Combined	A	3,269	3.05	0.44	613	82	58.4	9.6	56.1	9.8
	B	3,269	3.06	0.45	615	82	58.8	9.6	55.9	10.0
	Total	6,538	3.06	0.44	614	82	58.6	9.6	56.0	9.9

UGPA is the summary GPA computed in LSDAS or by the law school according to LSDAS procedures. It is on a numerical scale where A=4.0, B=3.0, C=2.0, D=1.0.

LSAT is the Law School Admission Test scaled score. The lowest possible score is 200, the highest possible is 800. The mean score during the years these students took the test was approximately 520.

WA is the Writing Ability scaled score. The lowest possible is 20, the highest possible is 80.

CFYA is the first-year average grade in law school converted to a uniform scale for all schools.

Results are shown for A and B halves of subgroups to provide a comparison of the variation within a subgroup with the variation from one subgroup to another.

Correlational (validity) results are shown in Table 1.2. It should be noted that the coefficients labeled r , R , and R_s were determined on the portion of the subgroup for which they are recorded; those labeled r_c were determined by developing an equation on A and applying it to B or developing it on B and applying it to A. The coefficient r_c for a total subgroup was computed by applying the equation developed on the grand total of all age subgroups to the data for the total of the particular age subgroup.

The following observations may be made from the results shown in Table 1.2:

UGPA appeared to be a more effective predictor for younger students than for older students (validity coefficient .41 for youngest subgroup, .35 for next older, and .26 for oldest), in spite of the larger standard deviation of UGPA for older students (standard deviation of UGPA 0.40 for youngest subgroup, 0.44 for next older, and 0.50 for oldest).

LSAT appeared to be a somewhat more effective predictor for older students than for younger students (validity coefficient .53 for oldest subgroup, .47 for youngest subgroup and .45 for middle subgroup). The oldest subgroup also had the largest standard deviation (89 for oldest subgroup, compared with 79 for youngest, and 82 for middle).

WA also appeared to be a more effective predictor for older than for younger students (validity coefficient .46 for oldest subgroup, .39 for youngest, and .38 for middle).

When UGPA and LSAT were used in combination as predictors of first-year law school grades the combination was equally effective for the youngest and oldest subgroups (multiple correlation .55 and cross-validation coefficient .54 for both the oldest and youngest subgroups, and .51 for the middle subgroup).

Table 1.2
Validity Results for Age Subgroups

Age Subgroup	Number of Students	UGPA		LSAT		WA		UGPA,LSAT			UGPA,LSAT,WA		
		r	SD	r	SD	r	SD	R	R _B	r _c	R	R _B	r _c
22 or Younger	A	1,727	.39	0.39	.46	79	.38	9.5	.53(.53)	.53	.54(.54)	.54	
	B	1,727	.42	0.41	.48	80	.40	9.6	.56(.56)	.56	.57(.56)	.57	
	Total	3,454	.41	0.40	.47	79	.39	9.6	.55(.55)	.54	.55(.55)	.55	
23 - 25	A	976	.31	0.43	.46	83	.36	9.7	.50(.50)	.50	.51(.50)	.50	
	B	976	.38	0.44	.44	82	.39	9.6	.51(.51)	.51	.52(.52)	.51	
	Total	1,952	.35	0.44	.45	82	.38	9.7	.51(.51)	.51	.51(.51)	.51	
26 or Older	A	566	.24	0.49	.57	90	.50	9.9	.59(.59)	.59	.61(.60)	.60	
	B	566	.28	0.50	.48	89	.42	9.7	.52(.51)	.51	.53(.53)	.53	
	Total	1,132	.26	0.50	.53	89	.46	9.8	.55(.55)	.54	.57(.57)	.55	
All Age Subgroups Combined	A	3,269	.33	0.44	.48	82	.40	9.6	.53(.53)	.53	.54(.54)	.54	
	B	3,269	.38	0.45	.47	82	.40	9.6	.54(.54)	.54	.54(.54)	.54	
	Total	6,538	.36	0.44	.48	82	.40	9.6	.53(.53)		.54(.54)		

r with no subscript is the correlation between the predictor (UGPA alone, LSAT alone, WA alone) and the criterion CFYA for the indicated subgroup.

R with no subscript is the multiple correlation of the combination of predictors (UGPA, LSAT or UGPA, LSAT, WA) with the criterion CFYA for the indicated subgroup.

R_B, enclosed in parentheses, is the shrunken value of the coefficient immediately to its left.

$R_B = \sqrt{1 - (1-R^2) \frac{N-1}{N-n-1}}$, where N = number of student records and n = number of predictors.

r_c for A and B is the correlation between CFYA and grades predicted from the regression equation developed on the other half of the subgroup. That is, the formula developed on A was applied to B and the formula developed on B was applied to A.

r_c for each total subgroup is the correlation between CFYA and grades predicted from the regression equation developed on the total of all age subgroups combined.

Results for the combination of the three predictors, UGPA, LSAT, and WA, were very similar to those for the combination of the two predictors, UGPA and LSAT. As usual, WA increased the validity not at all or by a slight amount, .01 or .02. (All the .02 increases occurred for the oldest subgroup.)

Table 1.3 reports results that may also be used to evaluate the predictive effectiveness of the various predictors for the age subgroups, by observing how closely the mean predicted grade resembles the mean actual grade for each subgroup.

The following observations may be made from the results shown in Table 1.3:

In general the mean predicted grades were very close to the mean actual grade for each subgroup. The largest difference was an overprediction of only 1.5 points on the CFYA scale, which would be roughly equivalent to 0.06 to 0.08, less than one-tenth of a point, on a typical A=4.0 scale or 0.6 to 0.8 on a typical 60 - 85 or 70 - 100 scale. This overprediction was for the 26 or Older subgroup using the equation for Writing Ability alone that was developed on the total of all age subgroups combined.

The application of the equations developed on the total of all age subgroups combined to the data for each of the three subgroups resulted in a slight overprediction for the youngest subgroup using UGPA alone or the combinations of UGPA and LSAT or of UGPA, LSAT, and WA, and a slight underprediction using LSAT or WA alone.

The middle subgroup, aged 23-25, was slightly underpredicted from all but LSAT where the mean predicted and actual grades were equal.

For the oldest subgroup there were three overpredictions (LSAT alone, WA alone, and the combinations of UGPA, LSAT, and WA), one very slight underprediction (the combination of UGPA and LSAT), and one where mean predicted and actual grades were equal (UGPA alone).

Table 1.3

Mean Actual and Predicted Law School Grades for Age Subgroups when UGPA, LSAT, and WA are Used Separately and in Combination as Predictors

Age Subgroup		Number of Students	Mean Actual Grade	Mean Predicted Grade Based on:				
				UGPA	LSAT	WA	UGPA,LSAT	UGPA,LSAT,WA
22 or Younger	A	1,727	56.2	56.3	56.4	56.2	56.3	56.2
	B	1,727	56.4	56.3	56.3	56.4	56.4	56.4
	Total	3,454	56.3	56.8	56.1	55.9	56.6	56.6
23 - 25	A	976	56.5	55.9	55.8	55.9	55.8	55.8
	B	976	55.9	56.6	56.7	56.6	56.7	56.7
	Total	1,952	56.2	55.4	56.2	56.1	55.8	55.8
26 or Older	A	566	54.7	54.1	54.4	54.1	54.3	54.2
	B	566	54.3	54.9	54.6	55.0	54.7	54.8
	Total	1,132	54.5	54.5	55.4	56.0	54.4	54.6
All Age Subgroups Combined	A	3,269	56.1	55.8	55.9	55.7	55.8	55.7
	B	3,269	55.9	56.2	56.1	56.2	56.2	56.2
	Total	6,538	56.0					

The predicted grades for subgroup A were computed by using the regression equations developed on subgroup B, for each age category separately. Similarly, equations developed on A were used to compute predicted grades for B. The predicted grades for the total age subgroups were computed by using the regression equations developed on the total of all age subgroups combined.

The scale used for first-year law school grades (CFYA) is uniform across law schools. It is dependent on the relation between law school grades and LSAT scores in a way that would result in a CFYA mean of 50 for a law school that had an LSAT mean of 500, a CFYA mean higher than 50 for a law school that had an LSAT mean higher than 500, and a CFYA mean lower than 50 for a law school that had an LSAT mean lower than 500. Several law schools with the same LSAT means would have different CFYA means depending on the relation between FYA and LSAT at each school. If two schools, for example, have identical LSAT means and standard deviations but different validity coefficients, the one with the higher validity coefficient will have a slightly higher CFYA mean than the other. A difference of about 1 point on this scale would be roughly equivalent to about 0.05 on a typical grading scale of the type where A=4.0, B=3.0, C=2.0, and D=1.0, or to about 0.5 on a typical scale of the type ranging from 60 - 85 or 70 - 100. A difference of 5 points on CFYA would be about 0.2 on the A=4.0 scale and about 2 or 3 points on the 60 - 85 or 70 - 100 scale.

A comparison of the results found here with those of the moderator variable study (Evans and Rock, 1973) is difficult to make because of the division of the students into different age groupings (particularly the fact that there are 3 subgroups in the present study and 2 in the moderator variable study) and because of the use of different combinations of predictors (UGPA, LSAT, and WA were not used separately in the moderator variable study, nor was the combination of UGPA and LSAT used). For the combination of UGPA, LSAT, and WA, which was used in both studies, the results did agree in regard to overprediction for the oldest subgroup, although the amount of overprediction in the present study was very slight (mean predicted grade 54.6, actual, 54.5). In regard to rank ordering of individuals, the present study did not show the higher validity for the oldest age group that the moderator variable study did. In the present study, although the highest multiple correlation ($R=.57$) was found for the oldest subgroup, the application of the total-group equation to the data for the oldest subgroup yielded a coefficient ($r_c = .55$) that was no higher than that for the youngest subgroup (also $r_c = .55$).

In summary, the oldest subgroup tended to have the lowest means and to be the most variable, but, except for predictions from UGPA alone, predictions for the oldest subgroup seemed to be as accurate as for the younger subgroups.

*Exhibit No. 49*STATEMENT OF THE ASSOCIATION OF AMERICAN MEDICAL COLLEGES
CONCERNING AGE DISCRIMINATION
FOR THE RECORD OF
THE UNITED STATES COMMISSION
ON CIVIL RIGHTS

Mr. Chairman and Members of the Commission:

The Association of American Medical Colleges (AAMC), formed in 1976 to work for reforms in medical colleges, has broadened its activities over the years, so that today it represents the whole complex of individuals, organizations and institutions charged with the undergraduate and graduate education of physicians. It serves as a national voice for all of the 120 operational U.S. medical schools and their students, more than 400 of the major teaching hospitals, and 60 learned academic societies whose members are engaged in medical education, biomedical research and the delivery of health care. Through its members, the concerns of the Association range far beyond medical education itself and include the total health and well-being of the American people.

The Association appeared, by specific request of the Commission, at the September 28, 1977 hearing in Washington, D.C. to discuss age discrimination. This statement for the record is intended to delineate some of the issues that the Association believes are important to any discussion of possible age discrimination in medical schools. We also endorse the written statement submitted by the American Council on Education (ACE).

While the Association is articulating this analysis and viewpoint on behalf of the medical education community, we do not intend to suggest that within a constituency as diverse as ours there will not be exceptions to our generalizations and dissenters from our conclusions. Nonetheless, we believe our community speaks with one voice in its general support of a federal ban on unreasonable age discrimination and its appreciation of the sophistication and openmindedness which have governed the Commission's efforts thus far. In particular, our contact with staff of the Age Discrimination Study has been marked by the exceptional commitment of the staff to uncover all the facts

Submitted by John F. Sherman, Ph.D., Vice President, Association of American Medical Colleges to the Age Discrimination Study of United States Commission on Civil Rights, October 28, 1977.

and issues and the remarkable absence on their part of any prejudgment of the Study's conclusions.

In the consideration of age discrimination in higher education, particular attention has focused on medical schools because a number of medical schools indicate that age is a consideration, among others, in their admissions decisions. Interestingly, the issue of medical school admissions as an example of age discrimination which might not be unreasonable, is twice raised in the Act's legislative history (see pages 2 and 6 of the ACE statement).

Medical Education and the Admissions Process

In considering whether there is unreasonable age discrimination in admission to medical school, recognition must be given to the intensity of the competition for the limited positions available and the high level of effort and personal commitment that is required to be a successful student and practitioner of medicine. In 1976 there were 42,155 applicants for each of the 15,774 positions available. (Approximately 2.7 applicants for each position.) The ages of applicants ranged from 17 to 53, but the largest applicant pool was made up of 21 to 23 year olds who were just completing their college education, and the bulk of these (79%) were applying for the first time. The remainder of the applicants were older, and about half of them had applied to medical school previously. All applicants, of whatever age, whether applying for the first, second, or more times, were all in competition for the limited number of available positions.

In making the difficult decisions as to who shall be admitted and who shall be rejected, medical school faculties are provided less latitude than are the faculties of other programs in higher education because of the high expectations which society has for those who achieve the M.D. degree. Higher education at the college level is almost universally available to all persons who, for whatever purpose, desire to extend their formal education beyond high school.

This is accomplished through a diverse group of institutions ranging from publicly supported junior colleges through public and private universities to small, experimental private colleges. These institutions, in the aggregate, provide a broad array of programs requiring varying levels of intensity of effort and time commitment by matriculants. While factors such as financial resources and geographic location may limit the range of options for any particular individual, there are many opportunities open to students of any age who desire to obtain education leading to a baccalaureate degree.

Education beyond the baccalaureate degree is more restrictive. There are fewer institutions which provide such educational opportunities and, in general, policies regarding resource allocations restrict the number of matriculants to these programs to a far greater degree than those for prebaccalaureate study. For medical education, the financial resources necessary to educate a student are so great that the number of positions available in our 120 medical schools is limited and finite, and must be expected to remain so for the foreseeable future.

Post-baccalaureate education also is not uniform in the intensity of effort and time commitment required of matriculants. In some fields, masters and doctoral degrees can be achieved by part-time students who simultaneously continue in full-time or nearly full-time employment. In contrast, the intensity of effort and time commitment required in other post-baccalaureate fields makes part-time student status impossible for all practical purposes. Medicine is such a field. Medical education is a limited resource, intense by nature, and extraordinarily demanding even upon the most talented students. Those who are admitted to study medicine are expected to exert an intensity of effort and time commitment which precludes part-time participation.

Further, post-baccalaureate education, in many instances, is pursued by students as an adjunct to their career development. At some point in life, persons may decide that achieving a masters in

business administration degree or a law degree will be a useful adjunct to their ongoing work. Society places no significant value judgment on whether a law graduate practices law, or whether a holder of an MBA administers a business. Personal growth and interest in the subject, even by themselves, are considered sufficient goals for pursuing most graduate degrees, even professional degrees such as law. This is not true for medicine. Medical students are not expected to use their education as an adjunct to some other career nor to obtain the degree solely because of personal interest. They are expected to deliver medical services to people. This is the paramount rationale for the state and federal financial assistance to medical schools that significantly subsidizes practically every medical career. Those who attain admission to medical school are expected to become practitioners of medicine, and increasingly, this societal expectation is for personal, general or primary care services, available at all times and at all locations. Therefore, medical school faculties, when selecting those to be admitted, seek to identify students who can immediately commit a high level of effort on a full-time basis over a long training period (7 to 10 years), with the ultimate intent of providing high-quality medical services to people who expect physicians to be available to minister to their personal needs.

In making their decisions, medical faculties must first determine whether applicants have the requisite educational requirements to permit them to undertake the rigorous, concentrated course work in biochemistry, anatomy, physiology, microbiology, and pharmacology which form the basic science foundation for medicine. Each school attempts to limit the required courses to the minimum needed for preparation for its particular curriculum. Achievement in these courses is particularly scrutinized. This scrutiny includes an assessment of when required courses were taken and whether they were taken in concert with a normal academic load, or were taken on a schedule which permitted sole concentration on each course separately.

The rate of growth of scientific knowledge in the biological and physical sciences has been so great in recent years that applicants whose undergraduate science courses were taken five or ten years earlier are not prepared to embark on a medical school curriculum. The achievement of older applicants who have returned to college to take required preparatory courses must be judged on the basis of whether their singular concentration on these courses, usually taken on a reduced schedule, provides reasonable evidence that they can handle the intense academic schedule of medical school.

Additional information about applicants' preparation is obtained by examining the scores on a national, standardized exam - the Medical College Admissions Test (MCAT). This examination was recently revised to provide more information about applicants' achievement in the required science areas. The New MCAT was given for the first time in 1977. Analysis by age demonstrates that older applicants achieve less well than younger.

Having satisfied themselves that applicants have achieved sufficiently in their required, preparatory course work, faculties next examine the personal characteristics and backgrounds of applicants to assess their motivation for seeking to enter medicine and their potential to serve human needs as physicians. These judgments are based upon an examination of their baccalaureate majors, their achievement in non-required prebaccalaureate course work, a written statement submitted by all applicants, letters of recommendation, and an interview. Demographic characteristics are also important. All state-supported schools are expected to favor state residents over out-of-state, and thus an applicant's legal residence may be an important factor. Because of increasing federal and state concern over the geographic distribution of physicians, the size and type of community in which applicants were reared may be a factor. In recent years, applicants from small, rural communities have been favored by some schools, with the expectation that a higher proportion of such applicants will return to underserved, rural areas.

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In summary, medical faculties, when making decisions to admit or not to admit, must first satisfy themselves that applicants have the academic qualifications to complete the rigorous medical school curricula and then assess the equally important criteria relating to their motivation and personal qualities. In addition, demographic characteristics may significantly influence the decision to admit or not to admit.

The Older Applicant

The outcome by age groups of the application cycle for medical students admitted in 1976-77 academic year is shown in Table 1.

Table 1

Acceptance Rates of Applicants by Age, 1976-77 First Year Class

Age*	All Applicants			
	No. Applicants	Percent of All Applicants	Number Accepted	Percent Accepted
20 and Under	965	2.3	609	63.1
21-23	25,441	60.4	11,214	44.1
24-27	11,153	26.5	2,939	26.4
28-31	3,376	8.0	803	23.8
32-37	982	2.3	187	19.0
38 and Over+	188	.4	21	11.2
Unknown	50	.1	1	2.0
Total	42,155	100.0	15,774	37.4
<u>Mean Age</u>	<u>24.2</u>		<u>23.0</u>	

*As of September 1976

†The oldest male applicant was 53, and the oldest male accepted was 47.
The oldest female applicant was 51, and the oldest female accepted was 45.

It is clear that the acceptance rate is less for each advancing age group. Whether this declining acceptance rate is based solely on chronological age, or is based upon differences in the academic credentials, motivation, personal qualities, backgrounds and demographic characteristics of older applicants is of concern to the Commission's inquiry. Issues and data relevant to this concern are discussed below.

Academic Credentials:

Older applicants, on the average, have lesser academic credentials than younger applicants. (Table 2)

Table 2

Age	Applicants, 1976-1977		
	n	Science GPA	Science MCAT
22	5,819	3.17	572
26	1,385	3.00	556
30	272	2.92	542
Over 30	889	2.89	533

The Science GPA (which includes biology, chemistry, physics and math) and the science section of the MCAT are strong indicators of achievement in the required science courses necessary to prepare students to complete the medical schools' basic science curricula. The data in Table 2 demonstrate that, on the average, older applicants have lesser essential academic credentials than younger. This weighs against them in the competition for admission. Schools are willing to admit older applicants whose academic credentials approach those of younger applicants. Table 3 shows that older applicants who were offered acceptances had, on the average, academic credentials equivalent to younger applicants.

Table 3
Acceptances Offered, 1976-1977

Age	n	Science GPA	Science MCAT
22	1,873	3.39	609
26	379	3.29	612
30	68	3.31	615
Over 30	174	3.25	602

An examination of the academic qualifications of rejected applicants demonstrates that the average Science GPA and MCAT scores of older rejected applicants are significantly below those of the younger group. This supports the premise that older applicants do not present strong academic credentials and are often rejected because, in the faculty's judgment, their academic qualifications make them less likely to complete their education. This is buttressed by a 1966 study which demonstrated that older students have a much higher academic attrition than younger.*

Table 4
Rejected Applicants, 1976-1977

Age	n	Science GPA	Science MCAT
22	2,596	3.07	553
24	634	2.88	535
30	128	2.77	516
Over 30	511	2.83	516

*Johnson, D.G. and Hutchins, E.B., Doctor or Dropout?: A Study of Medical Student Attrition. Journal of Medical Education, 41:1099-1269, December, 1966.

Motivation, Personal Qualities and Background:

Analyzing the motivations which cause applicants to enter medicine is necessarily based upon less quantifiable data than their academic credentials. The same is true for personal qualities. That these factors can supersede the academic record is demonstrated by the fact that 168 (20%) of the 821 applicants who presented MCAT science scores of 700 or greater, and science GPAs between 3.8 and 4.0 (on a 0 to 4 scale), were not accepted. The acceptance rate for this group of high academic achievers is shown in Table 5.

Table 5

Applicants With MCAT Science Scores of 700 or Higher
and Science GPAs Between 3.8 and 4.0, 1976-1977

Age	Total Applicants	Accepted (%)
20 and Under	54	50 (93)
21-23	641	581 (91)
24-27	98	75 (77)
28-31	22	16 (73)
32-37	4	4 (10)
38 and Over	2	0 (0)

It must be assumed that through their personal statements, letters of recommendation, and interviews, the 168 applicants who were not accepted by any medical school were found to lack the motivation and personal qualities sought by medical faculties.

Quantitative information about the assessment of motivation and personal qualities is not readily available. However, if motivation is related to firmness of purpose to go forward with the intent to attend medical school, data demonstrate that older applicants are more likely to change their minds and withdraw after having been accepted. (Table 6)

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Table 6
Withdrawal After Acceptance

Age	Accepted	Withdrew (%)
22	1,887	62 (3)
26	382	18 (5)
30	71	4 (6)
Over 30	176	15 (8)

In assessing motivation, personal qualities, and the background of older applicants, the fact that they have a longer life history on which to be judged is also an undeniable fact that affects admissions. Their record of accomplishment beyond the college years is proportional to their years after graduation. In some instances this can be a positive factor in the decision to accept them, but in many instances their records weigh against them. In some cases it is apparent that a late decision to enter medicine is based too heavily upon economic motivation. In others, a lack of satisfaction with first career choice is evident. In still others, there may have been frank failure to succeed in their chosen career. All these factors, which generally but not always weigh against a candidate, are supported by the details of a longer life history for older applicants - details which can only be speculated about in graduating students of ages 21 to 23.

Demographic and Other Factors

Data is not available to determine whether older applicants are more or less frequently rejected because of state of residence. Residents of more populous states tend to have a lower probability of success in admission to medical school because of the large number of applicants competing for the limited positions available in those states. If older applicants are more frequently from populous states with large metropolitan areas, their chances of admission would be statistically reduced. Older applicants do file fewer applications

than younger. Presumably, their personal circumstances make them less mobile and they are thus restricted in the options. Data on the entire pool of applicants indicates that those who file fewer applications are less likely to be successful in gaining admission to any school.

Another factor is the high proportion of older applicants who are repeaters (56%, 24-27; 44%, 28-31; 40%, 32-37; and 40%, 38 and over). As emphasized in the beginning, competition is keen and these repeat applicants find themselves presenting their credentials in competition with each year's new crop of college graduates, while their life history becomes one year longer, often with nothing accomplished that significantly improves their competitive credentials.

School Selection Factor Statements

A study made by the Commission of the information provided by 114 schools in the Medical School Admission Requirements (MSAR) book for applicants to the 1977-78 academic year, revealed that 42% of the schools do not mention age as a selection factor and 6% specifically state that there is no discrimination on the basis of age, while 28% give mean age and/or age range of the just-previously admitted class, and 23% make some statement that age is taken into consideration in selection. However, it is important to recognize that in no instance was there an absolute statement of an upper or lower age limit which would result in an applicant's credentials not being reviewed and considered solely because of age.

Those schools which either published a mean age and/or a range for the previously admitted class, or comment on age as a factor in the outcome of the admissions competition, do so not to prohibit older applicants from applying or being considered, but to demonstrate that in the intense competition among all students of all ages who are seeking admission, older applicants do not in the aggregate succeed as well as younger. Schools in the "Selection Factors"

section of their pages in MSAR attempt to provide as much information as possible to applicants so that they may judge their competitive opportunities. The Association believes that the weight of evidence indicates that older applicants fare less well in the admissions process because they are less able to demonstrate to medical school faculties that they have the necessary qualifications to embark upon a long and strenuous educational program which requires a high level of personal commitment. Given the intense competition for the limited positions and the societal expectations that medical schools will select and educate physicians who will serve society's needs for personal health services, it is not unreasonable that older applicants fare less well when seeking to enter medical school.

Finally a conventional reason for discouraging applications from much older candidates is that medical education generally requires seven to ten years of expensive and arduous education, and that the investment by society in educating physicians is so great that the proportional reduction in practicing years makes older candidates a less worthwhile societal investment. This argument can be challenged in individual cases, but the overall consequences of a significant increase in the mean age of entering medical students in the United States would result in a decrease in available physician manpower. For example, if the size of the entering class and the age of retirement from medical practice remained constant, increasing the average age of matriculation by one year would eventually mean a reduction in the total number of practicing physicians by a number approximating the size of the entering class. The Association does not believe that this conventional argument is necessary to a justification of medical school admissions practices, but concedes that it is often discussed (see Legislative History of the Act, as cited on pages 2 and 6 of the ACE statement) and may peripherally affect admissions practices.

Conclusions

1) There is little evidence that chronological age is used as a discriminating factor in admission to medical school. Although older applicants are admitted at a lesser rate than immediate college graduates, the difference in rate of acceptance can be accounted for by factors other than chronological age, such as lesser academic qualifications, lower or questionable motivation, less recent scientific preparation, and fewer applications filed per candidate.

2) No medical school, to the best knowledge of the AAMC, refuses to give individual consideration to an applicant solely because of age.

3) Regulations should not be promulgated which would interfere with the educational mission and societal goals of medical schools by inhibiting them in their efforts to select those individuals with competitive credentials who also can commit to medicine a high level of effort on a full-time basis over a long training period, with the ultimate intent of providing high quality medical services to our citizens.

*Exhibit No. 50*The American College Testing Program,
Assessing Students on the Way to College

Philip R. Rever, Director of the Washington, D. C. office of the American College Testing Program submitted this publication for the record. It is on file at the U. S. Commission on Civil Rights.



**alternatives
for later life and learning:
some programs
designed for
older persons
at state colleges
and universities**

prepared by the
american association of
state colleges and universities

Compiled and Edited
by
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The American Association of State Colleges and Universities (AASCU) has a membership of 313 state-assisted colleges and universities in the United States, Guam, and the Virgin Islands.

It is a diverse membership. In size, the institutions range from 1,200 students to 30,000 students. Their locales vary, from the isolation of rural areas to the heart of major metropolitan areas. Their educational programs span a spectrum of student interest, from restaurant management to philosophy.

Among this diversity there are shared characteristics which draw the institutions together as a national group with common interests. Although some of the colleges and universities were established originally as junior colleges, technical schools, and seminaries, the vast majority were founded as normal schools to prepare teachers for the country's elementary and secondary schools.

During the past decades, as needs within society changed, state colleges and universities sought new academic directions and meaningful roles within their communities and states. The evolution from single-purpose institutions to comprehensive colleges and universities followed the same commitment to teaching excellence and public service as had characterized their foundings. This has created within the state colleges and universities an attitude of flexibility toward student interest and community need.

Although many of the institutions offer work at the master's and doctoral level, their primary emphasis has been on the excellence of undergraduate teaching. Within this context and in response to changing needs within society, many state colleges and universities are applying their teaching resources to new student constituencies--those not reached through the traditional undergraduate campus classrooms, or those not interested in the traditional curriculum.

The new constituency includes working adults, housewives, former college drop-outs, and older persons, either in mid-career or in retirement. To reach this constituency, state colleges and universities have channeled learning resources into external degree programs, off-campus seminars, independent study field learning, and continuing education programs. In addition to expanding access for the new constituency, institutions have tailored academic programs to their educational needs.

The American Association of State Colleges and Universities encourages the seeking of these new directions. Through its committees and staff, AASCU assists its members in examining societal needs and exploring new roles in providing educational service. Within the context of this commitment, the Association has appointed a special Task Force on Educational Opportunities for the Aging to study and recommend ways in which the state colleges and universities can better respond to the needs of older persons. Through examination and exploration such as this, the Association believes the state colleges and universities will continue as a vital and viable part of higher education, still dedicated to the excellence of teaching and the fulfillment of community needs.

Following is a compilation of responses provided by the state colleges and universities to a survey of programs for older persons conducted by the Association in August 1974. The results of the survey were compiled and distributed to participants at the annual conference of the National Council on the Aging in September. The conference theme was "Options and Actions for the Elderly."

The state colleges and universities were requested to list and describe special provisions and programs for older persons under four general headings:

- I. Special provisions for increased access by older persons to the regular academic and cultural offerings of the institution.
- II. Special programs or activities designed for and involving the direct participation of older persons.
- III. Pre-service and in-service training for professionals and paraprofessionals in aging-related fields.
- IV. Other institutional initiatives currently underway which relate to the needs of older persons.

The institutional responses that follow are identified by the Roman numeral corresponding to the headings described above. Institutions are listed alphabetically by state. An addendum beginning on page 47 contains the responses of a number of institutions received too late to be included in the main body of this report.

Approximately 150 state colleges and universities have indicated they do have programs designed for older persons. Many others have indicated that while they do not offer programs at this time, they are quite interested in getting started. Therefore, a listing of all the members of the American Association of State Colleges and Universities is included beginning on page 61. If you believe one of these institutions located in your service area might be able to provide programmatic resources for you or your clientele, please do not hesitate to contact the Office of the President or the Division of Continuing Education at that college of university.

STATE COLLEGE AND UNIVERSITY PROGRAMS
DESIGNED FOR OLDER PERSONS

ALABAMA

University of South Alabama
307 University Blvd.
Mobile, Alabama 36688
(205-460-6101)

- I. Campus facilities accessible to handicapped and disabled.
- II. Offers courses in Recreation for the Elderly and Social Gerontology.

CALIFORNIA

California State College, Sonoma
1801 East Cotati Avenue
Rohnert Park, California 94928
(707-795-2107)

- I. Reduces tuition fees/ modifies admission requirements; reduces fees to events.
Offers special programs off-campus.
Campus facilities accessible to handicapped and disabled.
Minimum age for qualification: 55 and currently retired.
- II. Introduction to Financial Planning for the Retired or About to Retire offers information on financial changes a retired person experiences.
The Personal Essay-Autobiography--participant writes chronological autobiography or personal reminiscence.
Introduction to Creative Activities for Senior Citizens features demonstration and training in art instruction.
Management of Exercise Programs for the Aged is for persons directing physical activity programs for the aged.
Psycho-Social Aspects of Aging.
Living with the Aging Process provides an opportunity to consider some central concerns related to aging.
Health Maintenance offers participants information on preventive medicine, recognizing diseases, proper diet, and effective use of local health resources.

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- IV. Community Involvement Programs--students work in senior citizen centers, convalescent homes, and recreation programs for adults.

California State University, Los Angeles
5151 State University Drive
Los Angeles, California 90032
(213-224-0111)

- I. Campus facilities accessible to handicapped and disabled.
- III. Nursing B.S., option in Primary Care, includes courses on Aging Patient, Acute Care; M.S. in Nursing includes course in Late Adulthood. Contact: Ruth Wu, Chairman, Department of Nursing.

B.S. in Home Economics, option in Food and Nutrition, includes courses in Diet Therapy, Home Management for Elderly and Handicapped, and other Disadvantaged. Contact: Margaret McWilliams, Chairman, Department of Home Economics.

Offers following other courses dealing with aging:

Estate Planning.

The Physiology of Human Development--Maturity and Aging.
Theoretical and Developmental Aspects of Behavior.
Supervised Practice in Rehabilitation Counseling.

California State University, Sacramento
6000 J Street
Sacramento, California 95810
(916-454-6011)

- III. The School of Social Work offers courses leading to the Master of Social Work degree, dealing with the problems of aging; students may do field work with agencies involved in aging.

California State University, San Bernardino
5500 State College Parkway
San Bernardino, California 92407
(714-887-6311)

- III. B.A. in Sociology; Social Work Track is an option for students pursuing a career in social work. Contact: Melvin Hawkins, Coordinator of Social Work Track in Sociology Major.
- IV. Proposed B.A. in Human Services is a flexible, interdisciplinary program to develop skills in interpersonal relations, including interviewing, counseling, and community service.

Humboldt State University
Arcata, California 95521
(707-826-3011)

- III. A.B. degree in Social Welfare. Contact: Kathryn Corbett, Coordinator, Social Welfare Program
- IV. Proposal awaiting legislative approval for a plan whereby all tuition costs, admission requirements, and events fees be waived for enrolled senior citizens.

COLORADO

Metropolitan State College
250 West 14th Avenue
Denver, Colorado 80204
(303-292-5190)

- I. Offers special programs off-campus.
- II. Musicgenarians--a program where music students perform for senior citizens centers and groups. Contact: Dr. Gerald McCollum, Chairperson, Department of Music; Ms. Marilyn Walsh, Student Coordinator.

Center for Human Effectiveness/Friendly Visitor--students visit senior citizen weekly and assist in meeting day-to-day needs. Contact: Ms. Heather Gillingham.

Center for Human Effectiveness/Senior's Community Outreach Programs--students assist with the operation of a Senior Citizens Center in downtown Denver. Contact: Ms. Janet Malloy; Rev. Mason Willis.

- IV. Gerontology courses will be offered in the near future in the Departments of Psychology and Sociology; a specialization in this area will be offered by the Center for Urban Affairs in cooperation with other departments.

Southern Colorado State College
2200 Bonfort Blvd.
Pueblo, Colorado 81001
(303-549-2242)

- I. Reduces tuition/offers special programs off-campus.
Campus facilities accessible to handicapped and disabled.
- II. Retirement Years is a series of 13 videotaped TV programs produced by Southern Colorado State College and Republic National Bank. Contact: Dr. James Barrett, Emeritus Professor.
- III. In-service Workshop for Senior Citizens Resource Development Agency presents eight seminars for the professional and paraprofessional staff of the Senior Citizens Resource Development Agency which brings together college

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personnel and field practitioners. Contact: James B. Kashnew, Ph.D., Chairman, Associate Professor, Department of Sociology-Anthropology.

- IV. Southern Colorado Gerontological Institute, developed by Southern Colorado State College, provides the mechanism for drawing together professionals interested in the aging process for formal courses instituted within the curriculum and provides the mechanism through which both instructional and research activities are carried on.

Western State College of Colorado
Gunnison, Colorado 81230
(303-943-0230)

- I. Waives tuition for auditing courses/waives admission fees to events.

Minimum age for qualification: 60.

- IV. Western State College is cooperating with Friendship House (Adult Day Care Center) to provide weekly programs for the center during the coming year.

CONNECTICUT

Central Connecticut State College
1615 Stanley Street
New Britain, Connecticut 06050
(203-225-7481--ext. 305)

- I. Modifies tuition.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 62.

- III. Psychology of Adulthood (3 hrs.) offers a study of behavior, dynamics, and development processes from early adulthood through old age and death.

Problems of Aging (1 hr.) includes such topics as life cycle; the biological, psychological, and sociological aspects of aging; problems of aging, e.g., developmental, psycho-pathological, including neurosis, the etiology, symptoms, and available help for the aged. Contact: Dr. Earl W. Bihlmeyer, Chairman, Psychology Department.

- IV. Establishment of Ad Hoc Interdisciplinary Committee on Gerontology resulting in Gerontology Workshop for Senior Center Administration and Programming, cosponsored by the Central Connecticut State College and the Connecticut Department of Aging.

Southern Connecticut State College
 New Haven, Connecticut 06515
 (203-397-2101)

I. Waives tuition.

Minimum age for qualification: 62.

- IV. Development is under way on a bachelor's program in general studies that will hopefully appeal to older persons.

DISTRICT OF COLUMBIA

Federal City College (Institute of Gerontology-School of Continuing Education)
 1343 H Street, N.W.
 Washington, D.C. 20005
 (202-727-2778)

- I. Reduces tuition/modifies admission requirements/offers special program off-campus.

- II. Education for Older Persons are four extension education courses for older persons dealing with the following topics: How to Keep Well in Later Life, Planning Retirement, Legal Rights of Older People, and Consumer Protection.

Licensing of Extended Care Facilities assists current and prospective operators to meet standards for operating adequate homes.

Short courses are designed and given for recreation workers, mental health workers, RSVP volunteers, etc., on various aspects of dying.

- III. Offers B.A. and A.A. in Social Welfare with certificate in gerontology. Contact: Calvin Fields, Director, Institute of Gerontology.

Offers M.A. in Adult Education with certificate in gerontology. Contact: Blanche Seymour, Ph.D., Assistant Director for Curriculum, Institute on Gerontology.

Other courses offered in gerontology:

Life Cycle I, II, III.

Nursing Care of the Elderly.

*Aging: Creation or Deterioration.

*Myth and Reality of Aging.

*Structuring the Environment for the Elderly.

*Developing a Therapeutic Community for the Elderly.

Practicum I-Community Services to the Elderly

Practicum II-Concepts of Work and Leisure

Practicum III-Program and Administrative Planning.

Organization and Administration in Aging.

Special Problems of the Black Elderly.

Aging in Other Cultures.

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Legal Aspects of Administration in Aging.
Counseling the Aged.
Thanatology.

*Short courses and workshops, usually held on sites other than in classrooms.

- IV. The Institute gives technical assistance and consultation to the community on problems, program, and services to the elderly.

FLORIDA

Florida International University
Tamiami Trail
Miami, Florida 33144
(303-223-2300)

- I. Waives tuition/modifies admission requirements/waives fees to events/offers special programs off-campus.

Campus facilities accessible to handicapped and disabled.

Mobile education units to reach those incapable of leaving their homes; complete university directory in Braille.

- II. Programming for the Aging acquaints people to the processes of working with the elderly: the psychology, sociology, and physiology of aging and how these areas affect the elderly. Contact: Dr. Michael Kabasky, Coordinator.

Senior Adult Seminar was to inform senior adults of the role of an urban university and the part it can and should play in the continuing activities of adults. Contact: Dr. Michael Kabasky.

Silk Screening Course is an ongoing course started to teach elderly Spanish-speaking people manual arts that would be useful. Contact: Ms. Libia Winslow, Coordinator.

Pre-retirement and Retirement Counseling offers information on adjustments which are to be made for retirement; other possibilities after retirement; special motivation and sensitivity courses.

- III. Process of Aging gives historical overview; conditions associated with aging and how to cope with them, what services available, personnel needed to deal with elderly, nutrition for the aged, etc. Contact: Supervisor or Director, Geriatric Unit.

- IV. Some members of the faculty from the university's Health Sciences department are teaching nutrition and health-related studies at the Wynwood Community Center to elderly Puerto Ricans.

Florida Technological University
 Box 25000
 Orlando, Florida 32816
 (305-275-9101)

- I. Facilities accessible to handicapped and disabled.
- II. INVEST is a project which provides part-time or voluntary activity for older citizens to assist in resolving temporary manpower or social service needs in the area. Contact: Dr. Ronald A. Newell, Director of Continuing Education.

The University of West Florida
 Pensacola, Florida 32504
 (904-476-9500)

- I. Campus facilities accessible for handicapped and disabled.
- III. B.A. degree in social welfare includes course work in Special Problems of Aging. Contact: Dr. Lester Sielski, Chairman, Faculty of Social Welfare.
- IV. Office of Continuing Education keeps contact with social-civic agencies and State Department of Health Rehabilitation Services to identify current educational needs.

GEORGIA

Armstrong State College
 11935 Abercorn Expressway
 Savannah, Georgia 31406
 (912-925-4200)

- II. A special program, "Operation Return," is carried out annually to encourage women between the ages of 30-60 to enter college for the purpose of finishing a degree, retraining, beginning a degree or upgrading. Contact: Dean Anderson, Dean of Continuing Education.

Augusta College
 Augusta, Georgia 30904
 (404-733-2234, ext. 301 or 302)

- I. Modifies admission requirements.
 Campus facilities accessible for handicapped and disabled.
- III. Offers course, Developmental Psychology, focusing on maturity and old age; Department of Nursing includes section on geriatric patient.

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Columbus College
 Columbus, Georgia 31907
 (404-561-5134)

I. Campus facilities accessible to handicapped and disabled.

II. Programs offered:

Adult Development and Aging is a course for community leaders covering problems of the aged, their needs, role in the community and its agencies. Contact: Dr. Franklin M. Berry.

Seminar on Retirement Programming for personnel directors, ministers, educators, etc., covers information dealing with developing and operating retirement programs. Contact: Mr. Richard K. Buchanan.

Nursing Home Activity Workshop for nursing home directors and employees emphasizes patient activity programming. Contact: Mr. Richard K. Buchanan.

Adult Development and Aging covers the physical, economic, emotional, and other considerations attendant to one's latter years; developed for those who work with the elderly in any capacity. Contact: Mr. Richard Buchanan.

Other programs offered by Columbus College of interest to the elderly are: Low Cholesterol Diet, Cardiovascular Resuscitation, and Diabetes Considerations.

Offers the following planned programs:

On Death and Dying is a course for workers with terminally ill patients aimed at assisting the worker to understand his/her own feelings of grief and guilt, etc. Contact: Mr. Richard Buchanan.

Geneology Workshop, cosponsored by the DAR, is for elderly people interested in tracing their family lines. Contact: Mr. Richard Buchanan.

IV. Improving the Competence of Personnel Who Work with the Poor and the Elderly (in planning stage) provides social workers, teachers, hospital workers, etc., with knowledge of how to better communicate with the poor and elderly by improving their knowledge and skills in consumer education, the theories and principles of working with the target groups, and to assist the target audience directly by helping with understanding of family needs. Contact: Mr. J. Doug Chambers.

The Church and Its Role in the Community (in planning stage) to develop a working relationship between the Church and its Community. Contact: Mr. J. Doug Chambers.

Budgeting the Family Income (in planning stage) is to assist families in utilizing their monthly incomes to better satisfy basic family needs. This course is especially designed for those who receive incomes from (a) Social Security, (b) Family and Children's Services, and (c) unemployment benefits, etc. Contact: Mr. J. Doug Chambers.

Adult Counseling (in planning stage) is intended to create understanding of the uniqueness of adults and their concerns by all those who counsel adults. Contact: Mr. Richard Buchanan.

Georgia Southern College
Box 8124
Statesboro, Georgia 30458
(912-764-6611, ext. 551)

- II. Offers senior citizen workshops and short courses on aging and dying.

Valdosta State College
1500 North Patterson
Valdosta, Georgia 31601
(912-244-6340)

- I. Campus facilities accessible for handicapped and disabled.
- II. Offers Pre-retirement Workshops for the industrial plants and agencies in the area covering all aspects of preparation needed prior to retirement. Participants are to be within 10 years of retirement. Conferences held dealing with the sociological, psychological, and financial aspects of aging. Contact: Dr. Thomas W. Gandy, Director of Public Services.
- III. Pre-retirement Workshops (described in II) are held for personnel directors and workers with the aging where, upon completion, certificates are awarded.

Nursing Care for the Aging is a course offering nurses in the region instruction dealing with specific health care needs of older persons. Contact: Mrs. Virginia Harmeyer, Director of Nursing.

- IV. Gives assistance to the Economic Opportunity Agency, Senior Citizens Unit, and with the Neighborhood Service Centers; provides programs for the AARP. A booklet in which agencies are described has also been prepared.

West Georgia College
Carrollton, Georgia 30117
(404-834-4411)

- II. Adult Development and Aging focuses on the various states of old age.

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- III. Sociology of Aging is an introduction to gerontology as an interdisciplinary area of study with emphasis on sociological concepts of aging.
- IV. Department of Continuing Education attempts to develop institutes and short courses as interest is obtained; for example, a recent program was conducted on Death and Dying.

IDAHO

Lewis-Clark State College
Lewiston, Idaho 83501
(208-746-2341)

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events/offers special programs off-campus.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 60.
- IV. Programs relating to retirement and pre-retirement are in the planning stage. Contact: Lee A. Vickers.

ILLINOIS

Northeastern Illinois University
Bryn Mawr at St. Louis Avenue
Chicago, Illinois 60625
(312-581-4050)

- I. Modifies admission requirements.

Campus facilities accessible to the handicapped and disabled.
- II. Board of Governors B.S. Program provides a very flexible framework for completing degree requirements by working adults.

Northern Illinois University
DeKalb, Illinois 60115
(815-753-1000)

- I. Campus facilities accessible to handicapped and disabled.
- II. University Counseling Center provides counseling services on a wide range of issues including retirement and family relations. Contact: Robert Nejedlo.
- III. Graduate Studies Program in Adult Continuing Education (M.A., C.A.S., Ed.D.) includes such courses as Adult Learning: Maturity through Old Age. Contact: Robert Mason, Adult Continuing Education.

Nursing, B.S., includes concepts related to aging. Contact: Beverly LaBelle, Assistant Professor, Department of Nursing.

Home Economics majors in family relations or family services incorporate course work dealing with aging. Contact: Catherine Rockwood, Professor.

A course in Gerontology is offered in the Sociology Department to acquaint students with the social problems of the aged and aging. Contact: Roth Cavan, Adjunct, Professor of Sociology.

- IV. An M.A. in Nursing program in geriatric nursing is in the planning stages.

The Educational Resources Information Center-Clearinghouse in Career Education is housed at NIU and covers problems related to older people and the aging process in such core areas as career and human development through the retirement period, life roles, informal and formal educational practice and educational policy. Contact: David Tiedeman, Director.

Sangamon State University
Springfield, Illinois 62703
(217-786-6000)

- I. Modifies admission requirements.
- III. Offers Gerontology (specialization within B.A. or M.A. program) and Summer Institute on Aging and Dying. Contact: Dr. Gari Lesnoff-Caravaglia, Chairperson, Gerontology Committee.
- IV. Task force studying a bill before the University Assembly, "Request to the Board of Regents to Eliminate Tuition and Fees for Persons 65 Years of Age and Older."

Western Illinois University
900 West Adams Street
Macomb, Illinois 61455
(309-295-1414)

- II. Offers these courses for elderly in Continuing Education program:

Coping with Change from a Psychological Aspect gives participants the chance to share concerns and explore possible solutions to the constant change they face in the world.

Coping with Change from a Philosophical Aspect focuses on personal and social changes in living.

Foods and Nutrition, Particularly for the Senior Citizen discusses changing life styles and how they affect eating habits.

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Contact for the above courses: June A. Tanckhoff, Director of Non-credit Conferences and Workshops, Continuing Education.

Women at the Crossroads-The Mature Women Alone is a workshop covering topics such as Building the New Life, Insurance, Investing for Income, Stretching Your Dollars, Developing New Goals and Interests, Community Services, Traveling on a Budget, and Car Repairs. Contact: Elizabeth A. Kaspar, Assistant to the Dean, Continuing Education.

Project Self involves older women in better understanding their changing family role in today's world. Contact: Elizabeth A. Kaspar, Assistant to the Dean, Continuing Education.

INDIANA

Ball State University
Muncie, Indiana 47306
{317-289-1241}

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events/offers special programs off-campus.

Facilities accessible to handicapped and disabled.

Minimum age for qualification: 60.

- II. Pre-retirement Planning consists of ten meetings. Contact: Dr. H. Mason Atwood, Associate Professor, Adult and Community Education.

Teacher Education Program on Aging involves elementary and secondary teachers who study the aging process and determine ways and means of inserting this content into their school curricula. Contact: Dr. H. Mason Atwood.

- III. Minor in Gerontology in both undergraduate and graduate program. Contact: Dr. John R. Craddock, Director, Institute on Gerontology.

M.A., Adult Education emphasizes working with the older adult. Contact: Dr. John R. Craddock, Director, Adult and Community Education.

- IV. Kilpatrick Memorial Workshop on Aging services professionals and older persons from Kentucky, Indiana, Ohio, Illinois, and Michigan.

IOWA

University of Northern Iowa
Cedar Falls, Iowa 50613
 (319-273-2311)

- I. Reduces tuition/offers special programs off-campus.
- II. Mature Students Organization meets to share educational experiences and hear special speakers on topics related to older students. Contact: Ms. Jo Ann Cummings, Assistant Dean of Students.

 General Studies Major for persons already established in a profession wishing to broaden their experience in liberal higher education. Contact: Dr. Edward Amend, Director of Individual Studies.
- III. Individual study projects at local homes for the aged usually done by social work majors. Contact: Dr. Edward Amend, Director of Individual Studies.
- IV. Individual Studies Board is exploring possibility of multi-generational center.

KANSAS

Kansas State College of Pittsburg
Pittsburg, Kansas 66762
 (316-231-7000)

- I. Reduces tuition/modifies admission requirements.
- II. Planned Education Program for the Aged (Project PEP) includes provision for pre-retirement education, personal development, and income supplementation; offers greater flexibility in format and subject matter than standard campus and continuing education programs. Contact: Dr. Clifford Long, Director, Continuing Education; Dr. Dale Frihard, Professor of Sociology.
- IV. Initial steps being taken to adapt pre-service and in-service gerontological training programs in such professional fields as social work, education, nursing, and counseling.

KENTUCKY

Eastern Kentucky University
Richmond, Kentucky 40475
 (606-622-2101)

- I. W. F. O'Donnell scholarship covers registration fees for individuals over 65 years of age.

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Morehead State University
 Morehead, Kentucky 40351
 (606-783-2221)

- I. Waives tuition/modifies admission requirements/waives admission fees to events.

Minimum age for qualification: 65.

- III. M.A. in Adult and Continuing Education. Contact: Dr. Harold Rose.

Murray State University
 Murray, Kentucky 42071
 (502-762-3741)

- I. Reduces tuition/modifies admission requirements.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

- III. Nursing Home Administrators Seminar. Contact: John Fortin

- IV. Adult Basic Education.
 Life and Learning Committee Service Program.

Northern Kentucky State College
 Highland Heights, Kentucky 41076
 (606-781-2600)

- I. Waives tuition/waives admission requirements/reduces fees to events/offers off-campus programs.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 65.

- II. Social Sciences Department conducts regularly scheduled discussion and lecture classes for senior citizens. Contact: Dr. Jeffrey Williams, Associate Professor of Social Sciences.

Open Forum for Senior Citizens of the Northern Kentucky area holds four weekly meetings enabling senior citizens to describe their needs to area legislators. Contact: Dr. Harold Lew Wallace, Chairman, Department of Social Sciences.

LOUISIANA

Southeastern Louisiana University
 P.O. Box 784
 University Station
 Hammond, Louisiana 70401
 (504-549-2280)

- IV. Southeastern Louisiana University is presently organizing a Division of Continuing Education and is discussing the possibility of offering special courses for the aged and in reference to aging with the Louisiana State Association of Retired Teachers and the Louisiana State Council for the Aging.

University of Southwestern Louisiana
 Lafayette, Louisiana 70501
 (318-233-3850)

- I. Campus facilities accessible to the handicapped and disabled.
- IV. Interdepartmental Committee on Gerontology hopes to be active during this academic year with seminars and other meetings.

MAINE

University of Maine at Fort Kent
 Fort Kent, Maine
 (207-994-3162)

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events.

Offers special programs off-campus for older persons.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

- III. Geriatric Aide training program lasting 22 weeks with certificate awarded upon completion; team approach, on-site training in "Security Homes" plus internship. Contact: Barbara Spath, Director of Counseling and Testing.

University of Maine at Machias
 Machias, Maine 04654
 (207-255-3313)

- I. Waives tuition/modifies admission requirements.

Minimum age for qualification: 65.

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University of Maine at Presque Isle
Presque Isle, Maine 04769
 (207-764-0311)

- I. Waives tuition/modifies admission requirements.

Minimum age of qualification: 65.

MARYLAND

Frostburg State College
Frostburg, Maryland 21532
 (301-689-4111)

- I. Waives tuition (space available basis).

Minimum age for qualification: 65.

St. Mary's College of Maryland
St. Mary's City, Maryland 20686
 (301-994-1600)

- I. Waives tuition*/modifies admission requirements.
 (*To be presented to Board of Trustees for approval
 October 1974.)

Salisbury State College
Salisbury, Maryland 21801
 (301-543-3261)

- I. Reduces tuition/modifies admission requirements/offers special programs off-campus.

Campus facilities accessible to the handicapped or disabled.

Minimum age for qualification: 60 (retired with chief source of income derived from retirement benefits).

- III. Experimental Sociology--deals with technical skills needed by paraprofessionals working with the aged. Contact: Dr. John Shope, Chairman, Sociology Department.

Offers Sociology 499 (3 hrs.) to professionals, paraprofessionals, and elderly as preparation for senior centers. Course is adjunct to the maintenance of the aged in the community programs.

Towson State College
Baltimore, Maryland 21204
 (303-823-7500)

- I. Waives tuition/modifies admission requirements.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 65.

- III. All relevant programs, especially in the Allied Health area, cover topics in gerontology, social welfare, adult education/emphasizing care for older persons.

MASSACHUSETTS

Southeastern Massachusetts University
North Dartmouth, Massachusetts 02747
(612-997-9321)

- I. Reduces dues to events/offers special programs off-campus.
Campus facilities accessible for handicapped and disabled.
- III. Community Health Nursing: A Look at Needs, Problems, and Resources is a program to enhance the nurse's understanding of diverse and evolving community health programs, to provide an opportunity for the nurse to refine the skills utilized in the nursing process, and to identify preventive supervision and anticipatory guidance as important elements of community health nursing. Contact: Sr. Madeleine Clemence Vaillot, Dean, College of Nursing.

Continuing Education for Aides Involved in the Care of the Aged assists the participants to become more effective in their work by increasing their basic knowledge and skill in giving health care in a way that is supportive to the aged. Contact: Maureen Flaherty, College of Nursing.

Continuing Education for Nurses Involved in the Care of the Aged is a program to increase the nurse's knowledge of management principles and her ability to utilize them in directing the care of aged persons in long-term facility. Contact: Maureen Flaherty, College of Nursing.

Institute of Health and Long Life is a two-day program to consider new directions, programs, and services for improving the quality of life for the elderly population in Southeastern Massachusetts. Contact: Dr. Robert Lewis, Director of Continuing Studies and Special Programs.

Westfield State College
Westfield, Massachusetts 01085
(413-568-3311)

- I. Reduces tuition/modifies admission requirements/reduces fees to events.

Minimum age for qualification: 60.

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MICHIGAN

Lake Superior State College
Sault Ste. Marie, Michigan 49783
(906-632-6841)

- I. Campus facilities accessible to handicapped and disabled.
- III. Nursing Home Management is being offered to registered nurses.

Northern Michigan University
Marquette, Michigan 49855
(517-227-3450)

- I. Waives tuition/waives admission requirements/waives fees to events/offers special programs off-campus.
Campus facilities accessible for handicapped and disabled.
Minimum age for qualification: 65.
- II. Senior Citizen Meal Program provides low-cost meals to Marquette senior citizens once a week in the student dining hall.

Saginaw Valley State College
University Center, Michigan 48710
(517-793-9800)

- I. Reduces tuition/modifies admission requirements/offers special programs off-campus.
Campus facilities accessible to handicapped and disabled.
Minimum age for qualification: 60.
- II. Chrysallis Center for the Development of Human Potential offers pre-retirement and retirement counseling and testing. Contact: Rosella Collamer, Project Director.
- III. Major in Psychology: Human Services Concentration is for students who will be working in psychological settings whether it be in social welfare, in gerontology, or allied health care for older persons. Contact: Dr. Margaret Cappone, Chairperson in Psychology.
- IV. Presently working on a Title I grant for innovative special programs for elderly citizens. Contact: John Broadfoot, Director of Continuing Education.

Western Michigan University
Kalamazoo, Michigan 49001
(616-383-1600)

- I. Reduces tuition/modifies admission requirements.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 62.

- III. A minor in gerontology on undergraduate level has been approved; implementation pending; offers following courses:

Gerontology (2 hrs.) offers an overview of the characteristics, circumstances, and needs of the aging population and explores the types of services available.

Introduction to Social Gerontology (3 hrs.) explores the social, psychological, economic, and physical aspects of aging.

Sociology of Aging (3 hrs.) examines the process of aging in American society.

Problem Solving in Gerontology gives attention to problem identification, analysis, and differential approaches to intervention.

Marriage and Family in Maturity (3 hrs) studies marital and family interaction in middle and later years.

Growth, Development and Aging (3 hrs.) covers physical, mental, emotional, and social patterns of growth, development, and aging.

Communication Problems of the Aged (3 hrs.) is designated to acquaint the student with receptive and expressive communication problems common to older adults.

Aphasia in Adults (3 hrs.) deals comprehensively with identification and treatment of communication problems in adult aphasic individuals.

Recreation for the Aging (2 hrs.) gives an overview of aging especially as it relates to leisure pursuits and organized recreation.

Contact: Dr. Ellen Robin, Assistant Professor of Sociology, and Leonard Gernant, Dean of Academic Services.

- IV. For 1974-75, WMU has been designated as a special training center, in cooperation with the Michigan Office of Services to the Aging and the Institute of Gerontology, University of Michigan-Wayne State University.

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MINNESOTA

Mankato State College
 South 5th and Jackson
 Mankato, Minnesota 56001
 (507-389-2463)

- I. Modifies admission requirements/offers special program off-campus.

Campus facilities accessible to handicapped and disabled.

- II. Mankato State College Mini-Course Program offers programs to meet expressed or expected needs of senior citizens. Contact: Dr. Joe Holland, Assistant Director of Institutional Research.

Extended Campus Programs are directed to the mature clientele who cannot attend college full- or part-time at the main campus. Contact: Dr. Harold Fitterer, Dean Community Programs and Services.

- III. Major in Recreation, Therapeutic Track, requires course work on needs of the aged and offers opportunities to intern with senior citizen groups. Contact: Donald Buchanan, Re.D., Chairman, Recreation and Park Administration.

- IV. Approximately 40 faculty members volunteer to share their talents with groups of senior citizens in the MSC service area by providing lectures at the request of these groups.

Sociology Department is developing course work on problems of the older citizen.

Minnesota Metropolitan State College
 LL90 Metro Square
 7th and Robert
 St. Paul, Minnesota 55101
 (612-296-3875)

- I. Reduces tuition/modifies admission requirements.

Winona State College
 Winona, Minnesota 55987
 (507-457-2110)

- I. Offers special programs off-campus.

Campus facilities accessible to the handicapped and disabled.

- II. Pre-retirement classes and workshops available in the continuing education programs. Contact: Dr. Emalou Roth, Associate Director for Continuing Education.

External Studies programs enable adults to complete degree by nontraditional means. Contact: Mr. Duane Petersen, Director of External Studies Program.

MISSISSIPPI

Delta State College
Cleveland, Mississippi 38732

III. B.A. Social Work entails courses which contain some involvement with older persons. Contact: Ms. June Allen, Assistant Professor.

IV. Attempts are being made to meet some in-service training needs of agencies providing services to older persons including efforts to involve participation in workshops and opening classes to community people who are employed by social agencies.

Jackson State College
Jackson, Mississippi 39217
(601-948-8533)

I. Reduces tuition.

III. Social Work Program (B.A., M.A.) in Sociology; eight hours in gerontology are required. Contact: Dr. David C. Bass, Department of Sociology.

Mississippi University for Women
Columbus, Mississippi 39701
(601-328-4760)

I. Modifies admission requirements.

MISSOURI

Missouri Western State College
4525 Downs Drive
St. Josephs, Missouri 64507
(816-233-7192)

I. Modifies admission requirements.

Campus facilities accessible for handicapped and disabled.

III. Bachelor of Social Work and Bachelor of Arts, Major in Social Work, include courses with topics involving gerontology. Contact: Gordon Monk, ACSW, Coordinator of Social Work Program.

Northeast Missouri State University
 Kirksville, Missouri 63501
 (816-665-5121)

- I. Campus facilities accessible for disabled and handicapped.

Offers campus agencies dealing with aging.

Minimum age for qualification: 60.

- IV. Northeast Missouri Institute of Gerontology (proposed for 1975) will offer pre-retirement planning and retirement adjustment facilities. Contact: Leonard M. Witt, Director.

MONTANA

Eastern Montana College
 Billings, Montana 59101
 (406-657-2011)

- I. Reduces tuition/modifies admission requirements.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 62.

Northern Montana College
 Havre, Montana 59501
 (406-265-7821)

- I. Reduces tuition.

Minimum age for qualification: 62.

Western Montana College
 Dillon, Montana 59725
 (406-683-7251)

- I. Waives tuition/modifies admission requirements/modifies admission fees to events.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

NEBRASKA

Chadron State College
 Chadron, Nebraska
 (308-432-4451)

- I. Waives tuition/modifies admission requirements.

Minimum age for qualification: 60.

The University of Nebraska at Omaha
60th and Dodge
Omaha, Nebraska 68131
(402-544-2272)

- I. Offers special programs off-campus.

Minimum age for qualification: 50.

- II. Senior Citizens' Community-Wide Programs offers courses specifically designed for older persons. Contact: Bruce Horacek, Community Service Associate.

Senior Citizens' Celebration Days: A Festival of Education and the Arts provides an opportunity for older persons to come to the University of Nebraska at Omaha for three days and participate in education mini-courses, art exhibits, music performances, and films. Contact: Bruce Horacek, Community Service Associate.

- III. Specialization in Gerontology is not a degree-granting program but is viewed as a multidisciplinary specialty which can supplement an undergraduate or professional degree. Contact: David Peterson, Ph.D., Director of Gerontology Program.

Preceptor Training Program for Nursing Home Administrators who are involved in the training of future Administrators. Contact: Shirley Waskel, Community Service Associate.

NEW HAMPSHIRE

Plymouth State College
Plymouth, New Hampshire 03264
(603-536-1550)

- I. Reduces tuition.

Minimum age for qualification: 65.

NEW JERSEY

College of Medicine and Dentistry of New Jersey
100 Bergen Street
Newark, New Jersey 07103
(201-877-4300)

- I. Provides dental care and denture work for elderly patients in city-operated Health Care Programs and health care services for the Newark Elderly Day Care Center.

Kean College of New Jersey
 Morris Avenue
 Union, New Jersey 07083
 (201-527-2163)

- I. Modifies admission requirements/offers special programs off-campus.

Campus facilities accessible for the handicapped and disabled.

- II. Offers pre-retirement planning package. Contact: John H. Leffler, Administrator.

Legislation for Senior Citizens. Contact: Marion L. Parsons, Director, Office of Summer Session and Special Programs.

Montclair State College
 Upper Montclair, New Jersey 07043

- I. Offers special programs off-campus.

Campus facilities accessible to the handicapped and disabled.

- II. Education for Aging Resource Center provides technical assistance, program monitoring functions, evaluation and replication capabilities for the five model community programs serving older adults in New Jersey. The Center provides a centralized education resource and service center to practitioners and researchers in the field of education for the aging. It offers a seven-day residential adult continuing education program to inform participants about man in society, explore with them some of the questions and issues facing them in their communities and encourage them to become engaged or continue being involved in adult continuing education. The Center is sponsoring a fall series "Aging in America." Contact: Dr. Bernard Gresh, Coordinator.

Pre-retirement Planning: Education Model Services will design, develop, implement, and disseminate throughout New Jersey a set of replicable pre-retirement model learning experiences and counseling service "packages." Contact: Dr. Richard Taubald, Coordinator.

Model Project: Coordinating College and Community Resources for Older Americans is to develop a demonstrable model program that can be implemented for replication throughout the country with the function of coordinating college and community resources to better serve the older adult population. Contact: Dr. Russell R. Claeys, Coordinator.

- III. Teacher Education: The Aging Process and Its Implications for Teachers of Older Adults recognizes the need for more

realistic and functional education instruction for older adults, this project will develop a replicable model for teachers, seeking to make teachers more aware of the components that affect the successful teaching of the older adult. Content will include the psychological, sociological, physiological, and economic aspects of the aging process. Workshops will be conducted in various locations throughout the state. Contact: Ms. Suzanne Fletcher, Director, Community Education Development Center.

The following courses offer students understanding of the needs of older persons:

Psycho-social Aspects of Aging--Dr. Jane Krumacher.
 Social Challenge of Aging--Dr. Steven Lubin.
 Nutrition.
 The Family: Contemporary Needs and Issues.
 Community Nutrition.
 Teaching of Home Economics.
 Money Management.

- IV. Second Career Program is to help adults resume or begin college work by providing special counseling, advance placement opportunities, and reentry seminar. Contact: Kay Andres.

Stockton State College
 Pomona, New Jersey 08240

- I. Campus facilities accessible to the handicapped and disabled.
- III. Social Work program is generic in nature, discussing problems of the elderly and the aging process in various courses offered.
- IV. A research program on the Politics of Aging is being launched by three of Stockton's Political Science faculty investigating the influence of our large senior citizen population on the politics of the local areas. Contact: Dr. Maria Falco, Dr. John Richert, or Dr. Alan Arcuri.

The faculty of Social and Behavioral Sciences plans to hire a sociologist specializing in Gerontology in the fall 1975.

Trenton State College
 Trenton, New Jersey 08625
 (609-711-2121)

- IV. The following proposal submitted by the TSC Division of Continuing Education has been approved by the Office of Aging and will be conducted at Trenton State College:

College Discovery Institute for Retired Senior Citizens intends to provide a specialized two-week live-in learning and recreation program coordinating available state

college educational resources and the services of local governmental agencies on all levels. Some topics proposed for presentation are: health maintenance, Medicare/Social Security, money management, nutrition and food buying, practical law, volunteer opportunities for senior citizens, psychological preparedness for life phase changing, and others.

NEW YORK

Empire State College of the State University of New York
2 Union Avenue
Saratoga Springs, New York 12866
(518-587-2100)

I. Facilities accessible to the handicapped and disabled.

Flexible curriculum and requirements due to the fact that it is a university without a campus.

Queens College (City University of New York)
Flushing, New York 11367
(212-520-7320)

I. Reduces tuition.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

State University of New York College at Brockport
Brockport, New York 14420
(716-395-2211)

I. Reduces tuition/modifies admission requirements.

Campus facilities accessible to the handicapped and disabled.

Provides comprehensive counseling, advisement, and on-campus housing.

II. Mature Adult Program offers a program for persons with or without a high school diploma on changing careers, occupations, or developing a full retirement life-style.
Contact: Patricia Nassar, Counselor.

III. Bachelor of Arts in Liberal Studies is designed for persons beyond the traditional college age. Contact: L. D. Johnston, Director of Continuing Education.

State University of New York College at Fredonia
 Fredonia, New York 14063
 (716-673-3111)

- I. Waives tuition fee for auditing/modifies admission requirements.
 Campus facilities accessible to the handicapped and disabled.
- II. Seminar on Vital Topics for the Elderly includes Social Security, Hearing Conservation, Estate Planning, Consumer Economics, Nutrition, Interpersonal Communication, Legislative Measures, and Community Resources.
- IV. Hope to launch an interdisciplinary program with a focus on aging at the undergraduate level and to offer one or two graduate courses in Adult Education. Working and planning with the County Cooperative Extension Service, County Task Force on Aging, and Advisory Board of the County Office of Aging. Contact: Joseph Totaro, Professor of Education.

State University of New York College at Geneseo
 Geneseo, New York
 (716-245-5536)

- I. Waives tuition/waives admission requirements.
 Minimum age for qualification: 65.
- IV. Retirement counseling programs will be offered during 1974-75. Consideration is being given to development of weekend college program for older persons.

State University of New York College at Oswego
 Oswego, New York 13126
 (315-341-2500)

- I. Waives tuition for audits/modifies admission requirements/offers special programs off-campus.
 Campus facilities accessible to the handicapped and disabled.
 Minimum age for qualification: 60.
- II. Retired Seniors Volunteer Program is ACTION's RSVP program for senior citizens and is sponsored by SUNY-Oswego. Contact: Gloria Finley, Director, RSVP Program, Continuing Education Office.

State University of New York College at Potsdam
 Potsdam, New York 13676
 (315-268-2700)

- I. Facilities accessible for the handicapped and disabled.
- III. Conference on Death and Dying for nursing home personnel.
 Contact: Robert Johnson.
- IV. Developing procedure for course auditing free for those over 60.

State University of New York College at Purchase
 Purchase, New York 10577
 (914-253-5010)

- I. Reduces tuition.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 60.

State University of New York College at Utica/Rome
 811 Court Street
 Utica, New York 13502
 (315-797-3333)

- I. Waives tuition/modifies admission requirements.
 Minimum age for qualification: 60.
- II. Social Gerontology studies the biological, psychological, and social pressures of aging and the problems connected with these processes in our society. Contact: Dean Michael Falcone.
- III. Psycho-Social Care of the Elderly Workshop increases the knowledge base in psycho-social aspects of Gerontology for persons interested in the aged and to assist them in considering ways and means to upgrade the aged.
- IV. The Continuing Education Division is trying to identify and meet the educational needs of the aged, professionals, paraprofessionals, and others interested in the aged.

NORTH CAROLINA

Appalachian State University
 Boone, North Carolina 28608
 (919-262-3040)

- I. Modifies admission requirements.
 Offers special programs off-campus.

- II. Comprehensive Pilot Demonstration Project for the Aging (1) provides training and work opportunities for senior citizens as educational aides; (2) pre-retirement planning, economic and allied programs. Contact: Mr. John Holloway, Director.
- IV. Offers consultative services and works cooperatively with RSVP, Watauga County Project on Aging, and Four-County Project on Aging.

East Carolina University

P.O. Box 2725
Greenville, North Carolina 27834
(919-798-6131)

- I. Campus facilities accessible to the handicapped and disabled.
- III. Courses and programs dealing in social welfare, allied health, and adult education relate particularly or generally to older people.

Elizabeth City State University

Elizabeth City, North Carolina 27909
(919-335-0551)

- III. B.A., Sociology-Pre-Social Work is a field-based degree program requiring internships in social service and/or service oriented agencies. Contact: Dr. Melvin Murphy, Chairman, Department of Social Sciences.
- IV. University Year for Action-Services for the Aged Poor is a project designed to both expand existing services for the elderly poor and initiate new services and opportunities. Problem areas given high priority are: transportation, awareness of available services, social isolation, and idleness and a sense of personal growth. Contact: Ms. Linda Neal, Project Director.

University of North Carolina at Charlotte

Charlotte, North Carolina 28223
(704-597-2000)

- I. Waives admission fees to events/offers special programs off-campus.

Minimum age for qualification: 55.
- II. Senior Scholars is a program to develop educational programs to meet needs or goals of senior citizens in the community.

Philosophy of Older Americans is an introductory course designed for senior citizens focusing on such subjects as friendship, death, happiness, after-life, leisure, and other philosophical issues that pertain to the aged. Contact: Dr. John Lincourt, Assistant Professor of Philosophy.

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NORTH DAKOTA

Valley City State College
 Valley City, North Dakota 58072
 (701-845-7990)

- I. Reduces admission fees to events/offers special programs off-campus.
 Campus facilities accessible to the handicapped and disabled.
- II. Adult education courses for those over 60 are Botanical Workshop and Shop. Tuition support is supplied from Barnes County Care for the Elderly, Inc. Botanical Workshop offers household botany information and use of the campus greenhouse. Contact: Professor Marvin Leraas. Shop deals with woodworking and leathercraft, also using the college facilities. Contact: Professor Glen Hanna.
- III. Associate of Arts degree (General Studies) includes a program of Social Service.
- IV. The college serves as a meals-preparation site for a Title VII (Older Americans Act) program under the direction of the Barnes County Senior Citizens Council. Contact: Samuel Rankin, Jr., Ph.D., Assistant Professor of Social Science, Chairman of the Senior Citizens Council.

OHIO

Bowling Green State University
 Bowling Green, Ohio 43403
 (419-372-0242)

- I. Campus facilities accessible to the handicapped and disabled.
- II. Workshop in Geriatrics: Nutrition consists of meal planning, purchasing and serving of food, psychological and socioeconomic factors affecting dietary problems, practices and preferences among the elderly. Contact: Dr. Jean Kincaid.
 Workshop in Geriatrics: Housing deals with the aging in terms of their housing needs as they relate to their physical and emotional well-being. Evaluation of immediate housing for aging in the area. Contact: Dr. Jean Kincaid.
 Workshop in Geriatrics: Social Adjustment looks at social adjustments confronting the aging and the society they come into contact with in general and specific terms. Contact: Dr. Jean Kincaid.
- III. Offers following courses directly relating to the aged:

Personal and Family Relationships.
 Home Management.
 Foundations for Marriage and Family Relations.
 Family and Consumer Economics.
 Problems in Family Relationships.
 Survey of Child and Family Community Services.
 Geriatrics--relations of the aged to family and to community service.
 Supervised Field Experience.
 Nutrition.
 Meal Management.
 Quality Food Production and Management.
 Legal and Legislative Aspects of Health Care Services Industry.

- IV. Nursing Home Survey by Health Planning Association of Northwest Ohio in partial cooperation with the College of Health and Community Services at Bowling Green State University. Contact: Dr. Sam Long.

The University of Akron

Akron, Ohio 44325
 (216-375-7028)

- I. Modifies admission requirements/reduces fees to events/offers off-campus programs.
- Campus facilities accessible to the handicapped and disabled.
- Minimum age for qualification: 60.
- II. Pre-retirement Planning, a cooperative program with the Firestone Tire and Rubber Co., helps senior employees and their spouses plan financially and psychologically for retirement. Contact: Martin Kohn, Assistant Director, Special Programs.
- Women: Plan for the Second Half of Your Life provides necessary guidance through exercises of introspection to find increased insight into their own potential and how to use their talents and energies. Contact: Kathryn Hunter, Coordinator, Special Programs.
- Financial Planning, Estate Building, and Wills provides information in the stated areas. Contact: Cecil Dobbins, Director, Special Programs.
- New View of the University Lifelong Learning Experience allows the participants to realize the university as a resource for lifelong learning and personal enrichment. Contact: John Laguardia, Assistant Director, Alumni Relations.
- III. Gerontology course trains professionals for working with elderly. Contact: Cecil Dobbins, Director, Special Programs.

- IV. University of Akron offers special courses through pilot programs under the Committee on Consortium Program on Gerontology (with Kent State University); plans are being formulated for projects with AARP; courses being developed with a home for the elderly; approximately 80 credit hour courses offered on the campus related to adults or assisting adult development.

OKLAHOMA

East Central State College
Ada, Oklahoma 74820
(405-332-8000)

- I. Offers special programs off-campus.
Campus facilities accessible to the handicapped and disabled.
- II. Transportation facility for aged.
Working Task Force on Nutrition and Recreation. Contact: Dr. Garner, Dean of Environmental Science and Health Services.
- III. Concentrates on aging for Helping Services major/in-service training for professionals in working with aged. Contact: Dr. James West, Chairman, Department of Human Resources.

Southeastern Oklahoma State University
Durant, Oklahoma
(405-924-0121)

- I. Modifies admission requirements.
Campus facilities accessible to the handicapped and disabled.
Minimum age for qualification: 40.

Southwestern Oklahoma State University
Weatherford, Oklahoma 73096
(405-772-6611)

- I. Modifies admission requirements/reduces admission to events/offers special programs off-campus.
- II. Adult Education consists of courses designed for better use of leisure time, general information on Social Security, estate planning, and skills for supplementing income. Contact: Dr. Ted Guffy, Public Service Office.

OREGON

Portland State University
 P.O. Box 751
 Portland, Oregon 97207
 (503-229-3952)

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events/offers special programs off-campus.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

- II. Retired Persons Association meets twice monthly; develops its own courses and activities. Contact: Bill McCleave, President.

League of Older Students brings older students together to help "new" older students in registration and other procedures. Contact: Shirley Rackner, Student Coordinator.

Generation III is a public service television program in cooperation with KATU-Channel 2. Programming includes calendar of events, news items, information features, and entertainment by older persons. Contact: Dr. John O'Brien, Director, and Laurie Inacy, Production Manager.

Adult Learning Center program is attempting to combine training, research, and service to influence existing social institutions to better meet the needs of older adults. Contact: Donald Legg, Co-Director; John O'Brien, Co-Director; Clifford Deasy, Administrator.

- III. The Institute of Aging conducts training, research, and community services. The training program prepares direct service specialists, planners, policy analysts, administrators, evaluators, etc., for programs and services for older adults. Doctorate: Urban Studies; Master's-- Urban Studies, and various Social Science, Speech, and Social Work. Contact: Dr. John O'Brien, Director; Dr. Leonard Cain, Associate Director for Training.

High Impact Training: Planning, Coordination, Evaluation--the Institute of Aging is working with the Oregon State Program on Aging to develop a series of training sessions statewide for staff members of area agencies on aging, nutrition projects, and other service programs. Contact: Dr. John O'Brien, Director, or S. Donna Lind, Training Specialist.

- IV. Older Student Counseling provides help for older individuals with reentry problems as well as personal problems related to returning to school.

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Southern Oregon College
Ashland, Oregon 97520
(503-482-2311)

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.

PENNSYLVANIA

Bloomsburg State College
Bloomsburg, Pennsylvania 17815
(717-389-3300)

- I. Waives tuition/waives fees for events.

Minimum age for qualification: 55.

- IV. Provides various programs for the Bureau for the Service to Aging and local AARP to present to senior citizens. Future plans call for establishing an institute for middle-aged and older Americans.

East Stroudsburg State College
East Stroudsburg, Pennsylvania 18301
(717-424-3539)

- I. Waives admission requirements/offers special programs off-campus.

- IV. The College Health Services, Counseling Services, and Educational Development Center together with the Pleasant Valley Nursing Home and Pennsylvania Department of Health and Welfare are working toward possible course selections for professionals in the geriatric field.

Edinboro State College
Edinboro, Pennsylvania 16444
(814-732-2834)

- I. Modifies admission requirements/offers special programs off-campus.

Campus facilities accessible to the handicapped and disabled.

- IV. Proposal for a Program for Senior Americans proposes providing information for senior Americans (55 and older) on community resources beneficial to them; assist them in maintaining personal health and a satisfactory standard of living through agencies and programs available at state, local, and federal levels; help with emotional and social development; and provide opportunity for personal enrichment.

Indiana University of Pennsylvania
Indiana, Pennsylvania
 (412-357-2000)

- I. Offers special programs off-campus.
- II. Senior Citizens Day offers senior citizens a day on the campus for activities to make them aware of the opportunities the university has available to them. Contact: Richard Wolfe, Director of Grants and Awards.

Community-University Series is a short, non-credit course on hobbies, cultural matters, and continuing education. Contact: Dr. Roger Axford, Director of Community-University Series.

- IV. Pre-proposal on assessing the needs of the elderly and training paraprofessionals for service.

Lock Haven State College
Lock Haven, Pennsylvania 17745
 (717-748-5351)

- I Campus facilities accessible to the handicapped and disabled.
- IV. Is requesting the Pennsylvania State Board of College Presidents and the Pennsylvania State College and University Board of Directors to consider reduced or free tuition for older persons. Working with the Regional Center on Aging on a proposal. The Social Welfare program which trains professionals includes concepts and experience related to aging persons such as working with community extended-care and aged persons homes.

Millersville State College
Millersville, Pennsylvania 17551
 (717-872-5411)

- I. Waives tuition/waives admission requirements/waives fees to events.
- Special programs offered off-campus.
- Campus facilities accessible to the handicapped and disabled.
- Minimum age for qualification: 65.
- II. Proposes course on Counseling the Aged/Retired. Contact: Dr. Byron Showers, Chairman, Counselor Education Department, and Mr. A. J. Reese, Director, Lancaster Recreation Association.
 - IV. Sociology Department is developing basic course in gerontology.

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Shippensburg State College
Shippensburg, Pennsylvania 17257
(717-532-9121, ext. 361)

- I. Modifies admission requirements/reduces fees to events.
Campus facilities accessible to the handicapped and disabled.
- II. Mid-Career retraining program of armed services personnel who are about to retire. Contact: Dr. Willard Kerr, Dean of Graduate Studies.
- III. M.S. degree in General Counseling is designed to train counselors in all types of community counseling, including old age. Contact: Dr. Richard Rhodes, Chairman, Department of Counseling.

B.S. in Social Welfare trains personnel for all areas of social welfare including gerontology. Contact: Mr. Joseph Anderson, Chairman, Department of Social Welfare.
- IV. Shippensburg has been designated by the Pennsylvania State Department of Education to serve as the center for community education.

SOUTH CAROLINA

Francis Marion College
Box 7500
Florence, South Carolina 29501
(803-669-4121)

- I. Reduces tuition/modifies admission requirements.

Campus facilities accessible to the handicapped and disabled.

Minimum age of qualification: 65.

Winthrop College
Oakland Avenue
Rock Hill, South Carolina 29730

- I. Reduces tuition/modifies admission requirements/reduces fees to special events.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 65.
- II. Lifetime Magazine is a program which identifies the concerns of senior citizens. Part 1 is a film segment on these concerns and part 2 is a discussion of these problems with two professionals in the area of aging by closed circuit TV. Contact: Miriam Williford, Director.

- III. Seminar of the Aging Family (3 hrs.) examines factors relating to the role and status of aging giving attention to health, retirement, income, widowhood, future prospects. Contact: Dr. Neil R. Covington.

Training Workshop (non-credit) is to develop more effective relationships between paid staff and board members of agencies or operating programs for the aging. Contact: Miriam Williford, Director.

- IV. The Joynes Center for Continuing Education is the lead agency for the SSI-Alert office for the tri-county area and actively engages in training volunteers, holding programs in rural areas to publicize SSI, and contacting potential recipients. This office is supported by a grant from the South Carolina Commission on Aging. Contact: Mrs. Martha Simril, Director.

SOUTH DAKOTA

Black Hills State College
Spearfish, South Dakota 57783
(605-642-6111)

- I. Reduces tuition/reduces fees for events.

Campus facilities accessible for handicapped and disabled.

Minimum age for qualification: 65.

Northern State College
Aberdeen, South Dakota 57401
(605-622-2521)

- I. Reduces tuition/modifies admission requirements/reduces fees to events.

Offers special programs off-campus.

Minimum age for qualification: 65.

TENNESSEE

Austin Peay State University
Clarksville, Tennessee 37040
(901-648-7676)

- I. Waives tuition fees.

Minimum age for qualification: 60.

Memphis State University
Memphis, Tennessee 38152
(901-321-0111)

- I. Waives tuition/waives admission requirements/waives fees for special events.

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Minimum age for qualification: 60.

- II. Sits on committee sponsoring Memphis Long Life Team which prepares lectures, programs for senior citizens.
- III. Adult Education. Contact: Dr. Paul Preus, Director of Higher Education.
Social Welfare. Contact: Paul Schwartz, Director.

Middle Tennessee State University
Murfreesboro, Tennessee 37130
(615-898-2300)

- I. Waives tuition/waives admission requirements.
Campus facilities accessible for the handicapped and disabled.
Minimum age for qualification: 60.
- II. Building a Successful Retirement Program deals with topics such as income and nutrition and is offered to MTSU employees who will retire in five years or less. Offers modified version of above course to community residents.
- III. Minor specialization in Gerontology concentrates on courses applicable to Schools of Basic and Applied Science, Business and Economics, Education, Liberal Arts, Graduate and Continuing Education; the core curriculum is Sociology. Contact: Dr. James L. Ward, Professor of Sociology and Gerontology Program Coordinator.

Tennessee Technological University
Cookeville, Tennessee 38501
(615-528-3241)

- I. Modifies tuition.

Minimum age for qualification: 60.

University of Tennessee at Chattanooga
Chattanooga, Tennessee 37401
(615-755-4344)

- I. Reduces tuition fee/modifies admission requirements/offers special programs off-campus.
Minimum age for qualification: 60.
- II. Individualized education program assists adults entering or reentering college. Contact: Dr. Jean Groezinger, Assistant Director for Continuing Education.
Offers non-credit courses including literature for senior citizens and pre-retirement seminars.

The University of Tennessee at Martin
 Martin, Tennessee 38238
 (901-587-7111)

I. Waives tuition.

Campus facilities accessible for the handicapped and disabled.

Minimum age for qualification: 60.

III. Conference on Aging. Contact: Dr. Stanley Williams, Chairman, Department of Sociology and Anthropology.

IV. To study regional need for a curriculum in gerontology.

The University of Tennessee at Nashville
 19th and Charlotte Avenue
 Nashville, Tennessee 37203
 (615-254-5681)

I. Waives tuition/waives admission requirements for auditing courses.

Offers special programs off-campus.

Campus facilities accessible for handicapped and disabled.

Minimum age for qualification: 60.

II. Planning for Your Tomorrow, a ten-week retirement planning seminar. Contact: Dr. Edward Heenan, Director of the Center for the Aging at UTN, and Training Officer for Tennessee Commission on Aging (Title IV).

III. Offers gerontology courses through the Arts and Sciences in Sociology. Conducts for the state of Tennessee training programs for employees of programs on aging. Contact: Dr. Edward Heenan (see above).

IV. Center on Aging provides activities for the aged, gerontology courses with degree credit, training for personnel working with older persons. Contact: Dr. Edward Heenan (see above) and Ms. H. Falkenstein, Associate Director.

TEXAS

Midwestern University
 3400 Taft Boulevard
 Wichita Falls, Texas 76308
 (817-692-6611)

I. Modifies admission requirements/modifies fees for continuing education courses.

IV. Working on waiver/reduction for senior citizens of tuition.

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Stephen F. Austin State University
Nacogdoches, Texas 75961
(713-569-2011)

- I. Reduces tuition fee/modifies admission requirements.

Campus facilities accessible for the handicapped and disabled.

- II. Workshops on aging offer direction and leadership to professionals working in the area of aging and for senior citizens. Contact: Dr. Ben Dickerson, Associate Professor of Sociology.

- III. Offers the following special courses:

Social Gerontology.
Aging and Mental Health.
Nursing Home Administration.

Contact: Dr. Harold Clements, Sr., Professor.

Nursing Home Administration Certificate course includes classroom instruction, field placement, and internship in area of Gerontology of specific interest to student. Contact: Dr. Harold Clements, Sr., Professor.

- IV. Cooperates and assists the Deep East Texas Council of Governments in various efforts to serve the needs of senior citizens in this area.

West Texas State University
P.O. Box 997
Canyon, Texas 79016
(806-656-3963)

- I. Campus facilities accessible to handicapped and disabled.

- IV. In process of developing a Continuous Education Program and hopes to include courses dealing with and for the elderly.

UTAH

Weber State College
3750 Harrison Blvd.
Ogden, Utah 84403
(801-399-5941)

- I. Modifies admission requirements/reduces fees to events/offers special programs off-campus.

- II. Retired Senior Volunteer Program (RSVP). Contact: Beth Orgill, Director.

Convocation Series consists of lectures held once per week on a variety of subjects; retired persons are

invited to participate at no cost. Contact: Dan Martino, Chairman.

Pre-retirement Workshops are designed to prepare persons approaching retirement both financially and psychologically. Contact: Richard Thomas, Conference Coordinator, Division of Continuing Education.

- III. Gerontology Institute, B.A., Academic Training in Gerontology. Contact: Dr. Jerry Borup.

VERMONT

Castleton State College
Castleton, Vermont 05735
(802-468-5611)

- I. Reduces tuition/reduces admission to events.

Campus facilities accessible to handicapped and disabled.

- III. Social Welfare.
Psychology of Aging.

VIRGINIA

The College of William and Mary
Williamsburg, Virginia 23185
(804-229-3000)

- I. Reduces tuition.

Minimum age for qualification: 65.

Old Dominion University
P.O. Box 6173
Norfolk, Virginia 23508
(804-489-6608)

- I. Reduces tuition.

Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 65.

- IV. The Office of Public Services, under the School of Continuing Studies, is planning a program to prepare students in various aspects of gerontology. Currently the university offers courses or content within courses dealing with gerontology through the departments of nursing, sociology, philosophy, education, health, physical education, and psychology.

WASHINGTON

Central Washington State College
Ellensburg, Washington 98926
 (206-963-1646)

I. Reduces fees to events.

II. Senior Scholars Program provides older persons "permanent" residence in campus facilities, engages their skills, knowledge and experience for counseling, teaching, and curriculum development. Contact: W. Hill, Director, Auxiliary Services.

Retirement Planning Workshops for personnel directors in business, labor, and government. Contact: E. Odell, Retirement Planning Committee.

III. Offers programs as follows:

Challenges of Aging.
 Seminar in Retirement Planning.
 Adult Psychology and Aging.
 Problems in Aging.
 Aging and Public Policy.
 Perspectives of Aging.
 Recreation for the Aging.
 Leisure and Man.
 Sociology of Work.
 Sociology of Leisure.

Contact: E. Odell, Chairman, Retirement Planning Committee.

IV. College's Retirement Planning Committee researching the needs for and studying feasibility of introducing the following programs:

Cultivation of Human Resources offering several areas of concentration such as counseling, ministry, family life, social work, aging, teaching, leisure studies, urban planning.

Curriculum and field service component in gerontology auxiliary to or supportive of majors in family studies, sociology, economics, physical education, recreation, psychology, counseling, education, etc.

A cluster of courses in aging or gerontology with advisement by committee members or a coordinator.

Affirmative Action to bring the knowledge and skills of older or retired persons into the classroom and into the processes of program development and implementation.

Social gerontology-major/minor-undergraduate/graduate.

Retirement planning education for staff, faculty, community, and personnel in public and private programs.

Training of professional, paraprofessional, and volunteers in program development and administration for aging: (1) planning; (2) programming; (3) budgeting; (4) management; (5) public relations; (6) accounting; (7) "grantsmanship."

A continuing education program in problems of aging for professionals, paraprofessionals, and volunteers on- and off-campus.

In-service program for administrators and employees of nursing homes, on/off-campus.

Research into needs of older people in Central Washington and into professional, paraprofessional, and volunteer services available.

Western Washington State College
Bellingham, Washington 98225
(206-676-3350)

- II. Fairhaven College, a division of Western Washington State College in Bellingham, gives senior citizens an opportunity to live and learn in a college environment through a federally funded program called The Bridge. Contact: Lenore Western, Director.

WEST VIRGINIA

Concord College
Athens, West Virginia 24712
(304-384-3115)

- I. Reduces fees to events.

Minimum age for qualification: 60.

- II. Continuing Education Services for Senior Citizens. Contact: Gregory Pels, Director.

Southern West Virginia Area Agency on Aging plans and develops Title III, Title VI, and other programs related to and/or funded by the Administration on Aging and the West Virginia Commission on Aging. Contact: James H. Elmore, Director.

- III. Course in Gerontology taught in the Social Work Department. Contact: Harriette Wright, Assistant Professor.

The Southern West Virginia Area Agency on Aging will be providing training workshops open to all interested persons in the field of gerontology for the purpose of providing up-to-date information about the elderly in that region. Contact: Dan Fowler, Director of Social Work.

- IV. Members of the faculty of the Social Sciences Division and the staff of the Area Agency on Aging are coordinately developing a full-scale program in gerontology which, if established, would provide professional and academic training leading to a B.S. degree in gerontology.

WISCONSIN

University of Wisconsin-Eau Claire
Eau Claire, Wisconsin 54701
(715-836-3156)

- I. Waives tuition on audits/modifies admission requirements.
Campus facilities accessible to the handicapped and disabled.
- III. Health Care Administration prepares individuals to become competent members of teams working in health-related industries such as nursing homes. Contact: Dr. John Gerberich, Director of the Division of Allied Health.
- IV. The university provides space for the director of a federally funded project entitled "The Area Agency in Aging for West Central Wisconsin District VI" and works with the director in identifying specific education needs of the elderly.

The university provides office space for an adviser to the elderly in cooperation with the Office of Academic and Career Advising.

University of Wisconsin-Platteville.
Platteville, Wisconsin 53818
(608-342-1261)

- I. Waives tuition fee for auditing courses/modifies admissions requirements.
Campus facilities accessible to the handicapped and disabled.
Minimum age for qualification: 62.

University of Wisconsin-River Falls
River Falls, Wisconsin 54022
(715-415-3011)

- I. Waives tuition fee for auditing courses.
Minimum age for qualification: 62.

University of Wisconsin-Stevens Point
Stevens Point, Wisconsin 54481
(715-346-0123)

- I. Waives tuition for audit/waives admission requirements.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 62.

- II. University Senior Citizen Program for persons 62 years of age and older. Contact: Ms. Barbara Farlow, Extended Services.

Orientation Program for Non-Traditional Students for either part- or full-time students re-entering higher education. Contact: Dr. Helen Godfrey, Associate Dean of Co-curricular Activities.

University of Wisconsin-Superior
Superior, Wisconsin 54880
(715-392-8101)

- I. Waives tuition fees for auditing courses.

Minimum age for qualification: 62.

University of Wisconsin-Whitewater
Whitewater, Wisconsin 53190
(414-472-1181)

- I. Waives tuition fee for audit/offers special off-campus programs.

Campus facilities accessible for the handicapped and disabled.

Minimum age for qualification: 62.

- II. Live In and Learn--senior citizens live in same dorm and take courses for credit or audit. Contact: Jerry Gorley, Director of Housing.
- IV. Proposal in 1975-76 budget for a Program to Educate Senior Citizen Group Information Leaders.

Addendum

ALASKA

University of Alaska, Anchorage
2651 Providence Avenue
Anchorage, Alaska 99504
(907-272-5522)

- I. Campus facilities accessible to handicapped and disabled.
- II. Courses in aging offered in both the Nursing Department and the Sociology Department.

CALIFORNIA

California State College, Bakersfield
9001 Stockdale Highway
Bakersfield, California 93309
(805-833-2241)

- I. Campus facilities accessible to handicapped and disabled.
- III. Medical Technology (Option BS in Health Science) is a four year integrated program which combines a Baccalaureate Degree with eligibility for licensure and certification. Contact: Betty Yearout, Program Director.

Nursing (BS) is designed to help meet the increasing need for health services provided by professional nurses in hospitals, homes, schools, industry, and in public health and other community agencies. Contact: Gordon Ogden, Acting Chairman, Nursing Department.

California State University, Fresno
Fresno, California 93470
(209-487-9011)

- II. Pre-Retirement Counseling Series consists of eight sessions including presentations by specialists on financial planning, legal planning, changing roles, and living arrangements (for college personnel only). Contact: Douglas Calhoun.
- III. Area Health Education Center Workshops held sessions dealing with Communication and the Nursing Home Population; Communication and Rehabilitation with the Chronically Ill and Aged; Meeting the Total Needs of the Aged. Contact: B. J. Henderson, Coordinator.

San Diego State University
 5402 College Avenue
 San Diego, California 92115
 (714-286-6247)

- I. Offers special programs off-campus.

Campus facilities accessible to the handicapped and disabled.

Minimum age for qualification: 55.

- II. Myths and Realities of Aging is a workshop designed and planned by older people for older people. It provides and sharpens skills and knowledge in the multi-avenues available to create more positive attitudes toward aging.

Community Resources for Aging is a workshop consisting of sessions on housing, management of funds, institutional living, alternatives to institutional living, urban mobility, and others. Contact: Dr. Manfield Pettys, Instructor; Mark Schiffrin.

So You Want to Work with the Aged contains information on nutritional problems, health, stress associated with working with the aged, services and resources and meaningful activities. Contact: Dr. Manfield Pettys; Mark Schiffrin.

- III. Geriatric Nursing is contained within the Nursing Department.

Social Welfare, A.B. degree, Master of Social Work, M.S. in Social Work, the School of Social Work offers an opportunity to social welfare and social work students for a specialized academic-practicum study in gerontology. A Center for Aging is located both on-campus and in downtown San Diego in an area where the heaviest proportion of population 65 and over live. Students and faculty provide a wide range of services with and in behalf of older persons. Contact: Dr. Percil Stanford, Professor and Director, Center on Aging, School of Social Work.

- IV. Representatives of 16 departments and programs offering specific courses or units within courses on the aging process or the aged population are informally working together under university encouragement to establish one or more part of a three-point proposal: (1) a campus-wide center in gerontology; (2) a program for older people participating in higher education programs; and (3) advance gerontological content and preparation in the main disciplines and professions for which education is provided on campus.

COLORADO

Adams State College
Alamosa, Colorado
(303-589-7671)

I. Waives tuition

Minimum age for qualification: 65

II. Pre-retirement programs, leisure activities for Retired Persons. Contact: Dr. Donald Eden, Director of Field Experience and Evening Program.

III. Sociology major with emphasis in gerontology offered.

University of Northern Colorado
Greeley, Colorado 80639
(303-351-2019)

I. Waives tuition (for state residents 60 and over).

Campus facilities accessible for the handicapped and disabled.

II. UNC is the sponsoring agency of a federal ACTION grant for RSVP. Contact: Dr. Max Shirley, Chairman, Department of Recreation and Leisure Education.

III. B.S. in Gerontology--primarily leadership and service-oriented; M.A. in Gerontology--primarily administration-oriented. Contact: Dr. Max Shirley.

A Competency-Based Training Program (a grant from HEW, Office of Human Development) to produce better qualified people who are concerned with or serving older persons. Contact: Dr. Max Shirley.

IV. A university-wide (interdisciplinary) Gerontology Committee was appointed by Dr. Richard Bond, President, in 1972 to study the university's responsibility toward older adults.

GEORGIA

Albany State College
504 College Drive
Albany, Georgia 31705

III. B.A. in Sociology with minor in Gerontology consists of 25 hours of courses in Gerontology and a practicum in some agency that delivers services to the elderly. Contact: Dr. Eugene G. Sherman, Jr.

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IDAHO

Boise State University
 1910 College Blvd.
 Boise, Idaho 83725
 (208-385-1205)

- I. Reduces tuition/campus facilities accessible to handi-
 capped. Minimum age for qualification: 60

ILLINOIS

Governors State University
 Park Forest South, Illinois 60466
 (312-534-5000 Ext. 2355)

- I. Campus facilities accessible to handicapped and dis-
 abled. Minimum age for qualification: 60
- II. Grant from AOA for utilization of university resources
 for renewed redirection of the abilities of the
 retired. Contact: Dr. William Katz, Project Director.
- III. Behavior Modification in Aging utilizes various reward/
 denial systems to change antisocial/unproductive
 patterns of behavior.
- IV. "Senior Companions" provides part-time day care, by
 older persons for other "home-bound" senior citizens
 as an alternative to institutionalization. Pending:
 reducing tuition, admission requirements and fees to
 social events.

INDIANA

Indiana State University
 Terre Haute, Indiana 47809
 (812-232-6311)

- I. Reduces tuition/modifies admission/reduces admission
 fees to events.
- Minimum age for qualification: 60
- IV. Anticipates Center for Gerontology will be established
 by January 1, 1975 serving as an administrative unit
 for interinstitutional program for training personnel
 for careers in serving the aging.
- Research presently underway to study congregate
 housing for the elderly.
- Grant has been received to provide training of agency
 personnel for dealing with the elderly.

KANSAS

Emporia Kansas State College
 1200 Commercial Street
 Emporia, Kansas 66801
 (316-343-1200)

I. Modifies admission requirements

Campus facilities accessible to handicapped and disabled.

II. Pre-Retirement Education Workshop provides information on finances, health, recreation, occupations, sociological and psychological aspects of aging. Contact: Dr. Stuart Ervay, Assistant Professor of Education.

IV. Members of the College faculty and staff are working directly with local Area Agency on Aging personnel.

Fort Hays Kansas State College
 Hays, Kansas 67601
 (913-628-4000)

I. Offers special programs off-campus.

II. Senior Companion Program secures work for people over 65 with minimum levels of income to work as companions for people in hospitals, rest homes, and in their own homes. Contact: Mr. Howard Sloan, Director.

Mini-Courses aimed at interests of senior citizens.
 Contact: Dr. John D. Garwood, Dean of Instruction.

III. Nurse Education has courses emphasizing care of older persons. Contact: Ms. Elinor Lounsberry, Acting Dean of Nursing.

Health Services Educational Activities is directed towards those who have a responsibility for caring for older people. Contact: Mr. Pat Silvestri.

KENTUCKY

Western Kentucky University
 Bowling Green, KY 42101
 (502-745-4346)

I. Waives tuition/campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 65

II. Health Problems for the Aged discusses various health problems of older persons: Contact: Dr. J. David Dunn, Head.

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MAINE

University of Maine-Augusta
 University Heights, Augusta, Maine 04330
 (207-622-7131)

- I. Reduces tuition/campus facilities accessible to handi-
 capped and disabled.

University of Maine at Portland-Gorham
 College Avenue
 Gorham, Maine 04038
 (207-839-3351)

- I. Waives tuition.

Campus facilities accessible to the handicapped and
 disabled.

Minimum age for qualification: 65

- II. Selected clinical experiences through the School of
 Nursing and cooperating agencies allow students to
 work with the elderly. Contact: Mary Ann Rost, Direc-
 tor, The Bureau of Continuing Education for Nursing;
 Dr. Doris Pennoyer, Project Director, The Family Nurse
 Associate Program.
- III. Master of Science, Adult Education, requires 33 credit
 hours in adult education. Contact: Donald Kaple, Ph.D.
- B.A., Social Welfare includes such optional courses as
 Aging and Social Policy: a Cross-Cultural View; and
 Developmental Services to the Aging.
- IV. Department of Social Welfare sponsors annual Senior
 Citizen Festival; faculty members have been deeply
 involved in aging research, particularly Steps for
 Maine's Elderly; received Title I HEA grant to develop
 "Multi-Media Informational Program for Older People";
 coordinated research with the New England Gerontology
 Center. Contact: Mr. John M. Romanyshyn, Chairman,
 Department of Social Welfare, College of Arts and
 Sciences.

MARYLAND

Bowie State College
 Jericho Park Road
 Bowie, Maryland 20715
 (301-262-3350)

- I. Reduces tuition.

Minimum age for qualification: 60

- II. Preparing for Retirement offers assistance to senior citizen in making the transition from career-oriented lives to retirement.

Budgeting for the Retired Person attempts to assist the senior citizen plan his/her personal budget and includes principles and methods of management and investment. Contact: Dr. U.S. Young, Director of Evening College.

- IV. Proposed activities: offering a course to senior citizens in the residence hall, provide transportation to and from the college, schedule early evening courses initiate a monthly bookmobile library and conduct a series of senior citizen workshops.

MICHIGAN

Oakland University
 Rochester, Michigan
 (313) 377-2100

- II. Self-exploration programs of 7-8 sessions offered for older persons through local Continuum Center. Contact: Eleanor Waters, Continuum Center.
- III. Undergraduate level courses in psychology department dealing with elderly are Adulthood and Aging, Work with Elderly I and II. Participants have interdisciplinary backgrounds, course work consists of both academic and field experience. Contact: Harold Zepelen, Dept. of Psychology.

Graduate course in Adulthood and Aging is offered in the Psychology Department. Contact: Harold Zepelen.

MINNESOTA

St. Cloud State College
 St. Cloud, Minnesota 56301

- I. Campus facilities accessible to handicapped and disabled.

MISSISSIPPI

University of Southern Mississippi
 Box 1, Southern Station
 Hattiesburg, Mississippi 39401
 (601-266-7101)

- I. Reduces tuition/modifies admission requirements/campus facilities accessible to handicapped and disabled.

MISSOURI

Central Missouri State University
 Warrensburg, Missouri 64093
 (816-429-4116)

- III. MSE, Adult Education is for teachers and/or supervisors of Adult Education. Contact: Gordon Bachus, Coordinator of Adult Education Program.
- IV. Negotiating with the Area Agency for the Aged to conduct special educational seminar program for the aged. It will be a continuing education program taken to the area communities and deal with leisure time activities, arts and crafts, investments, health, etc.

NEW JERSEY

Ramapo College of New Jersey
 P.O. Box 542
 Mahwah, New Jersey 07043
 (201-825-2800)

- I. Modifies tuition/modifies admission requirements/reduces fees to events/campus facilities accessible to handicapped and disabled.

Minimum age for qualification: none if on pension.

- II. Saturday College accommodates adults who can not fit the traditional full-time student position as normally designed.

Womens' Program is designed for women students returning to school after raising a family or pursuing a career.

Lifetime Learning Program offers to retired persons living on pensions an opportunity to take advantage of the instructional program of the College.

NEW YORK

State University of New York College at Cortland
 Cortland, New York 13045
 (607-753-4208)

- I. Waives tuition for audit/waives admission requirements for audit.

Minimum age for qualification: 60

- III. Selected academic course work is available through the college's Health Department on such topics as gerontology; death, bereavement, and suicide; health sciences; health care administration and planning. Contact: Dr. Andrew Banse, Dean of Graduate Studies and Continuing Education.
- IV. The Office of Continuing Education is in the process of developing a noncredit program entitled "Planning for Retirement" consisting of three short courses: (1) Retirement-The Human Element, (2) Financial Planning and Consumer Education, (3) Health, Physical, and Leisure Activities for Retired Persons.

State University of New York, College of Arts and Science
Plattsburg, New York
 (518-564-2000)

- I. Waives tuition for auditing/waives admission requirements/waives admission fees/offers special programs off-campus.

Minimum age for qualification: 60

- II. Forum for Present and Future Senior Citizens consisted of main speaker on topics felt to be of most interest to senior citizens and workshops for senior citizens.
- IV. Currently establishing guidelines for the development of a Center for the Development of Programs for Senior Citizens.

NORTH DAKOTA

Minot State College
Minot, North Dakota 58701

- I. Reduces admission fees to events/offers programs off-campus/campus facilities accessible to handicapped or disabled.

Minimum age for qualification: 65

- III. Two gerontology studies programs: One a studies program, the other a studies major which is a cross discipline project allowing a student to study gerontology regardless of his or her major field of interest.

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- IV. Headquarters for a State program to bring awareness to the problems of the aging population. This Consortium on Gerontology includes students, faculty, aging personnel and aged persons. Contact: Dr. W. H. Stockman.

Senior Citizens United is an organization of older persons in the area of political matters giving them more political prestige on aging legislation.

PENNSYLVANIA

California State College
California, Pennsylvania 15419
(412-938-4000)

- I. Campus facilities accessible to handicapped and disabled.

Minimum age for qualification: 55

- II. Legislative Advocacy for the Aging consists of a one day annual meeting of senior citizens with area legislators and aging experts.

Non-credit Continuing Education Courses offer a variety of programs of interest to senior citizens, such as Preparing for Retirement. Contact: Dr. Willard C. McCartney.

- IV. Proposed certificate program for nursing home employees in teaching Arts and Crafts.

Continued cooperation with the Area Agency for the Aging in developing meaningful programs to serve that segment of the South Western Pennsylvania population.

Clarion State College
Clarion, Pennsylvania 16214
(814) 226-6000

- I. Modifies admission requirements/campus facilities accessible to the handicapped or disabled. Minimum age for qualification: not official, but expected to be 55 (or retirement).
- II. Life Management Services for the Handicapped is a bachelors degree program to train people to work with the handicapped outside of regular state or county institutions.
- IV. New non-credit courses will begin the summer of 1975 in Adult Continuing Education programs designed to appeal to older people and will take advantage of the geographical location near areas of natural beauty and recreational possibilities.

Slippery Rock State College
Slippery Rock, Pennsylvania 16057
(412-794-7229)

- I. Reduces tuition/modifies admission requirements.
- II. Offers one-week workshops on Retirement Planning, Social Aspects of Aging, and Second Careers and Leisure. Contact: Dr. Ann Bicknell, Psychology Department.
- III. Psychology Technicians Program which trains para-professionals to work with the aged includes a supervised internship in a facility that works with or for the aged. Contact: Dr. David Shaw, Chairman, Department of Psychology.
- IV. Investigating the feasibility of instituting a BS degree in Applied Psychology with a track of emphasis in Nursing Home Administration.

SOUTH CAROLINA

College of Charleston
Charleston, South Carolina 29401
(803-722-0181)

- I. Waives tuition/modifies admission requirements; reduces admission fees to certain events/campus facilities accessible to handicapped and disabled/special counseling facilities available to older persons.

Minimum age for qualification: 65

SOUTH DAKOTA

University of South Dakota at Springfield
Springfield, South Dakota 57062
(605-369-2203)

- I. Reduces tuition/modifies admission requirements/reduces admission fees to events/campus facilities accessible to the handicapped or disabled.

Minimum age for qualification: 65
- II. The Older Americans Education Forum brings together older Americans, educators and academic humanists, legislators, and interested citizens to share their ideas and discuss how education can be more realistic to meet the interests and needs of senior adults. Contact: Dr. L.E. Kreiner, Professor of Social and Behavioral Sciences and Vocational Industrial Education.
- III. The associate degree in gerontology program is to prepare personnel to work capably with the aged. Contact: Dr. L. E. Kreiner.

TEXAS

North Texas State University
Denton, Texas 76203

- I. Campus facilities accessible to handicapped and disabled.
- II. In the mini-course program Retirement Planning is offered to explore the various facets of retirement life for both retiree and one anticipating retirement. Contact: Ralph Leach.
- III. Center for Studies in Aging offers short-term training for practitioners. Contact: Coordinator of Short-term Training.

Degree programs offered at Center for Studies in Aging at bachelors and masters level. Contact: Dr. Hiram Friedsam, Director, Box 13408.

VIRGINIA

Mary Washington College
Fredericksburg, Virginia 22401
 (703-373-22401)

- I. Reduces tuition/modifies admission
- IV. Host to annual seminars sponsored by legislators and/or federal agencies.

Norfolk State College
2401 Corprew Avenue
Norfolk, Virginia 23504
 (804-623-8436)

- I. Reduces tuition/offers off-campus programs/campus facilities accessible to handicapped and disabled.
- Minimum age for qualification: 65
- II. Counseling and Leadership offers counseling services in leadership training in conjunction with the Division of Continuing Education. Contact: Mr. Herbert A. Marshall, Chairman, Division of Continuing Education.

Adopt a Grandparent Program enables student volunteers to dedicate one hour a week to visit institutional elderly in a home for the aged. Contact: Dr. Peter Chang, Director, Gerontology Center.

Senior Citizen Program at High Rise for Elderly Cogic is a multi-disciplinary project with a group of instructors and students to discuss problems and needs pre-defined by the elderly themselves. Contact: Mr. Herbert A. Marshall and Dr. Peter Chang.

- III. Certificate in Social Gerontology offers a major and a minor concentration on aging. This program is open to in-service training. Contact: Dr. Peter Chang.
- IV. Survey on needs as defined by home-bound elderly in Norfolk area.

Organizing a city-wide group of persons who will serve as advocates for elderly, with hope that elderly will play a leading role in group.

Radford College
Radford, Virginia 24141
(703-731-5411)

- I. Modified tuition.

Minimum age for qualification: 65

Virginia Commonwealth University
Richmond, Virginia 23384
(703-770-6731)

- I. Waives tuition/waives admission requirements for adults.

Minimum age for qualification: 65

- III. Master of Social Work is a two year graduate program preparing for profession practice in social work with opportunities available for developing expertise in the field of aging. Contact: Elaine Rothenberg, Dean.
- IV. Planning to seek approval for a master's degree in gerontology.

WISCONSIN

University of Wisconsin-LaCrosse
LaCrosse, Wisconsin 54601
(608-784-6050)

- I. Waives tuition for audit/modifies admission requirements.

Minimum age for qualification: 62

- III. Offers courses in Health Aspects of Aging and Social Work with aging.
- IV. An office for program on aging has been established. Contact: Dr. Jack A. Jordon, Center for Human Resources.

ASSOCIATION MEMBERS

ALABAMA

Alabama State University
 Florence State University
 Jacksonville State University
 Livingston University
 Troy State University
 University of Alabama at Huntsville
 University of Montevallo
 University of South Alabama

ALASKA

University of Alaska, Anchorage

ARIZONA

Northern Arizona University

ARKANSAS

Arkansas Polytechnic College
 Arkansas State University
 Henderson State College
 Southern State College
 State College of Arkansas
 University of Arkansas at Monticello

CALIFORNIA

California Maritime Academy
 California Polytechnic State University, San Luis Obispo
 California State College, Bakersfield
 California State College, Dominguez Hills
 California State College, San Bernardino
 California State College, Sonoma
 California State College, Stanislaus
 California State Polytechnic University, Pomona
 California State University, Chico
 California State University, Fresno
 California State University, Fullerton
 California State University, Long Beach
 California State University, Los Angeles
 California State University, Northridge
 California State University, Sacramento
 Humboldt State University
 San Diego State University
 San Francisco State University

COLORADO

Adams State College
 Fort Lewis College
 Mesa College
 Metropolitan State College
 Southern Colorado State College
 University of Northern Colorado
 Western State College of Colorado

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CONNECTICUT

Central Connecticut State College
 Eastern Connecticut State College
 Southern Connecticut State College
 Western Connecticut State College

DISTRICT OF COLUMBIA

District of Columbia Teachers College
 Federal City College

FLORIDA

Florida Agricultural and Mechanical University
 Florida Atlantic University
 Florida International University
 Florida Technological University
 University of North Florida
 University of South Florida
 The University of West Florida

GEORGIA

Albany State College
 Armstrong State College
 Augusta College
 Columbus College
 Georgia College
 Georgia Southern College
 North Georgia College
 Savannah State College
 Valdosta State College
 West Georgia College

GUAM

University of Guam

IDAHO

Boise State College
 Idaho State University
 Lewis-Clark State College

ILLINOIS

Chicago State University
 Eastern Illinois University
 Governors State University
 Illinois State University
 Northeastern Illinois University
 Northern Illinois University
 Sangamon State University
 Southern Illinois University
 Western Illinois University

INDIANA

Ball State University
 Indiana State University

IOWA

University of Northern Iowa

KANSAS

Fort Hays Kansas State College
Kansas State College of Pittsburg
Emporia Kansas State College
Wichita State University

KENTUCKY

Eastern Kentucky University
Morehead State University
Murray State University
Northern Kentucky State College
Western Kentucky University

LOUISIANA

Grambling College
Louisiana Tech University
McNeese State University
Nicholls State University
Northeast Louisiana University
Northwestern State University of Louisiana
Southeastern Louisiana University
University of Southwestern Louisiana

MAINE

Maine Maritime Academy
University of Maine at Augusta
University of Maine at Farmington
University of Maine at Fort Kent
University of Maine at Machias
University of Maine at Portland-Gorham
University of Maine at Presque Isle

MARYLAND

Bowie State College
Coppin State College
Frostburg State College
Morgan State College
Saint Mary's College of Maryland
Salisbury State College
Towson State College
University of Maryland, Baltimore County

MASSACHUSETTS

Boston State College
Bridgewater State College
Fitchburg State College
Framingham State College
Lowell State College
Massachusetts College of Art
Massachusetts Maritime Academy
North Adams State College
Salem State College
Southeastern Massachusetts University
Westfield State College
Worcester State College

MICHIGAN

Central Michigan University
Eastern Michigan University
Ferris State College
Grand Valley State College
Lake Superior State College
Northern Michigan University
Oakland University
Saginaw Valley College
Western Michigan University

MINNESOTA

Bemidji State College
Mankato State College
Minnesota Metropolitan State College
Moorhead State College
Saint Cloud State College
Southwest Minnesota State College
Winona State College

MISSISSIPPI

Alcorn Agricultural and Mechanical College
Delta State College
Jackson State College
Mississippi State College for Women
Mississippi Valley State College
University of Southern Mississippi

MISSOURI

Central Missouri State University
Harris Teachers College
Missouri Southern College
Missouri Western College
Northeast Missouri State University
Northwest Missouri State University
Southwest Missouri State University

MONTANA

Eastern Montana College
Montana College of Mineral Science and Technology
Northern Montana College
Western Montana College

NEBRASKA

Chadron State College
Kearney State College
Peru State College
University of Nebraska at Omaha
Wayne State College

NEVADA

University of Nevada at Las Vegas

NEW HAMPSHIRE

Keene State College of the University of New Hampshire
Plymouth State College of the University of New Hampshire

NEW JERSEY

College of Medicine and Dentistry of New Jersey at Newark
Glassboro State College
Jersey City State College
Kean College of New Jersey
Montclair State College
Newark College of Engineering
Ramapo College of New Jersey
Stockton State College
Thomas A. Edison College
Trenton State College
The William Paterson College of New Jersey

NEW MEXICO

Western New Mexico University

NEW YORK

Empire State College, State University of New York
Queens College of the City University of New York
State University of New York College at Brockport
State University of New York College at Buffalo
State University of New York College at Cortland
State University of New York College at Fredonia
State University of New York College at Geneseo
State University of New York Maritime College
State University of New York College at New Paltz
State University of New York College at Old Westbury
State University of New York College at Oneonta
State University of New York College at Oswego
State University of New York College at Plattsburgh
State University of New York College at Potsdam
State University of New York College at Purchase
State University of New York College at Rome-Utica

NORTH CAROLINA

Appalachian State University
East Carolina University
Elizabeth City State University
Fayetteville State University
North Carolina Central University
Pembroke State University
The University of North Carolina at Charlotte
The University of North Carolina at Wilmington
Western Carolina University
Winston-Salem State University

NORTH DAKOTA

Dickinson State College
Mayville State College
Minot State College
Valley City State College

OHIO

Bowling Green State University
Central State University
Cleveland State University
The University of Akron

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The University of Toledo
Wright State University
Youngstown State University

OKLAHOMA

Central State University
East Central State College
Northeastern State College
Northwestern State College
Oklahoma College of Liberal Arts
Southeastern State College
Southwestern State College

OREGON

Eastern Oregon College
Oregon Institute of Technology
Portland State University
Southern Oregon College

PENNSYLVANIA

Bloomsburg State College
California State College
The Capitol Campus, The Pennsylvania State University
Cheyney State College
Clarion State College
East Stroudsburg State College
Edinboro State College
Indiana University of Pennsylvania
Kutztown State College
Lincoln University
Lock Haven State College
Mansfield State College
Millersville State College
Shippensburg State College
Slippery Rock State College
University of Pittsburgh at Johnstown
West Chester State College

RHODE ISLAND

Rhode Island College

SOUTH CAROLINA

The College of Charleston
Francis Marion College
Lander College
Winthrop College

SOUTH DAKOTA

Black Hills State College
Dakota State College
Northern State College
The University of South Dakota at Springfield

TENNESSEE

Austin Peay State University
East Tennessee State University
Memphis State University

Middle Tennessee State University
 Tennessee Technological University
 The University of Tennessee at Chattanooga
 The University of Tennessee at Martin
 The University of Tennessee at Nashville

TEXAS

Angelo State University
 East Texas State University
 Lamar University
 Midwestern University
 North Texas State University
 Sam Houston State University
 Southwest Texas State University
 Stephen F. Austin State University
 Texas A and I University at Corpus Christi
 Texas A and I University, Kingsville
 Texas Southern University
 Texas Woman's University
 University of Houston at Clear Lake City
 The University of Texas at San Antonio
 West Texas State University

UTAH

Southern Utah State College
 Weber State College

VERMONT

Castleton State College
 Johnson State College
 Lyndon State College

VIRGIN ISLANDS

College of the Virgin Islands

VIRGINIA

Clinch Valley College
 College of William and Mary
 George Mason University
 Longwood College
 Madison College
 Mary Washington College
 Norfolk State College
 Old Dominion University
 Radford College
 Virginia Commonwealth University
 Virginia Military Institute

WASHINGTON

Central Washington State College
 Eastern Washington State College
 The Evergreen State College
 Western Washington State College

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WEST VIRGINIA

Bluefield State College
Concord College
Fairmont State College
Marshall University
Shepherd College
West Liberty State College
West Virginia College of Graduate Studies
West Virginia Institute of Technology
West Virginia State College

WISCONSIN

University of Wisconsin-Eau Claire
University of Wisconsin-La Crosse
University of Wisconsin-Oshkosh
University of Wisconsin-Platteville
University of Wisconsin-River Falls
University of Wisconsin-Stevens Point
University of Wisconsin-Stout
University of Wisconsin-Superior
University of Wisconsin-Whitewater

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Edinboro, Pennsylvania 16412
Tel: 814-732-2000

*Exhibit No. 52*Brochure on the Program's Sponsored by
the National Council of Churches

Reverend Laura Jervis, National Council of Churches, was contacted following the hearing to submit the information for this exhibit. The information had not been received by the time the record was printed.

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Exhibit No. 53

Annual Survey
1976

Rev. Vincent P. Mainelli
Mr. Charles A. Paquette



August 1, 1977

NATIONAL CONFERENCE OF CATHOLIC CHARITIES
1346 CONNECTICUT AVENUE, N.W., WASHINGTON, D.C. 20036

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FRONT COVER: Presidential Candidate Jimmy Carter addresses the 1976 N.C.C.C. Annual Meeting in Denver	
CREDITS:	
PHOTOS by Mark Peterschmidt	
SPECIAL ASSISTANCE - Bettye Jones and Carmen Vickers	

FOREWORD

1976 was a historic year for the National Conference of Catholic Charities as well as for our country. Candidate Jimmy Carter addressed our Annual Meeting in Denver, and our own President Rashey Moten convened the first Charities Congress, at which almost 400 delegates debated and voted on Policy Statements and Resolutions and moved the NCCC forward in its process of broader participation of all the members in policy formulation for the national movement. A major new program—Parish Outreach—began in 1976 with a grant from the Lilly Foundation, and Mr. Jerry Ernst joined the staff as the Director of the new project.

This survey goes behind the scenes and documents the day-to-day activities of hundreds of agencies all over the country.

This is the fourth annual statistical report of the National Conference of Catholic Charities; which has a current membership of 550 agencies in 147 dioceses, 340 institutional and other group members, 2,918 individual members, and three national affiliates: The Ladies of Charity, the St. Vincent de Paul Society and The Christ Child Society. The affiliates have prepared their own reports for this survey.

The data in this survey of 1976 activities is based on the outstanding response of 88% of the diocesan agencies and 68% of the other group members. The exceptionally high response from our members is a tribute to their splendid spirit of cooperation and their national vision.

National Conference of Catholic Charities members served over 4 million people in 1976. The major programs of service were counseling, unmarried parents, information/referral, child welfare, emergency assistance, programs for the elderly, and family life education.

The major social issues dealt with by NCCC are determined by a priority vote of the membership and field experience of our agencies. They include Welfare Reform, Family Life, Respect for Life, Tax Reform, World Hunger, National Health Insurance, Urban Crisis, The Elderly, and Parish Social Ministry.

The expenditures of the National Conference of Catholic Charities members in providing services exceeded \$336 million.

This survey documents an impressive contribution to the welfare of the American people, but it is by no means the total Catholic contribution, which would have to include parish efforts, Catholic hospitals and schools, the Campaign for Human Development, and many others. The survey does give a comprehensive overview of the national effort of the Catholic Charities Movement.

Diocesan Agencies and Other Agencies and Institutions

The data in this report is based on survey forms returned by 129 diocesan agencies or 88% of the diocesan membership of 147 and by 161 other member organizations or 68% of this group. Since 109 of these other group members responded as part of the diocesan survey, the total number of respondents is 181.

The survey form used for three years now has been practically identical. We are more confident of the accuracy of the tabulations this year, however, because we have not had to contract out the computer processing and have accomplished it with our own more knowledgeable staff. But it must be noted, in making comparisons, that the data for 1976 is based on 88% of the diocesan members reporting, whereas in 1975 it was 90%, and in 1974 it was 82%. Several new dioceses have joined in recent years. Most of the dioceses not responding are smaller, more rural dioceses; only one major metropolitan diocese did not respond this year and they are in the midst of reorganization.

This year, we have combined all the responses into the totals and have not broken out diocesan or other institutional responses. We feel this gives a clearer picture of the overall national Charities Movement.

In a few cases, the data may represent a duplicative count for clients served, especially in the category of the elderly who may be served as part of several agency programs, such as counseling, which may not be geared just to the needs of the elderly. Finally, in some cases of more innovative community services, agencies had to approximate the persons served, since client records are not kept as in more direct service approaches. With these minor qualifications in mind, the figures in this report are a very close approximation of the total national figures for the Catholic Charities Movement.

SECTION I - PERSONNEL

Two major concerns about personnel data are the number of minorities employed and the roles of women. We will present data on both questions, but first it should be noted (see Table I) that 57,085 volunteers and 9,316 volunteer board members back up the work of our paid staff of 24,123 persons across the country. Without their unpaid efforts our work would be seriously crippled.

The representation of minority group persons on the staffs of our members seems to be holding steady, with no measurable progress over last year and possibly with a loss in professional staff; but 2% fluctuation over the years may not be statistically significant, since we have 2% fewer agencies reporting this year.

	% 1973	% 1974	% 1975	% 1976
Minority Group Paid Staff	19	19	23	23
Minority Group Prof. Staff	16	14	18	16

A real concern is that minority members are under-represented at the highest executive levels and at board level, and comparatively over-represented at the clerical and "other" levels. There is a continuing need for affirmative action for minority persons, especially for Spanish-surnamed people, who are such a large percentage of the Catholic population.

TABLE I

Personnel

	White		Black		Spanish		Other		Totals
	No.	%	No.	%	No.	%	No.	%	
Diocesan/Executive Dir.	309	94	8	2.4	8	2.4	3	1	328
Asst./Associate Directors	878	89	50	5	53	5	9	1	990
Supervisors/Office Managers	1,287	84	136	9	71	5	39	3	1,533
Other Professionals	5,722	83	633	9	425	6	149	2	6,929
Para-Professionals	3,330	66	1,023	20	538	11	148	3	5,039
Admn. Asst./Exec. Sec.	215	87	11	4	16	7	6	2	248
Clerical	2,146	77	383	14	217	8	50	2	2,796
Board Members	8,295	89	546	6	388	4	87	1	9,316
Volunteers	46,839	82	5,078	9	4,986	9	182	.3	57,085
Other	4,766	76	1,071	17	365	6	58	1	6,260
Totals	73,787	81	8,939	10	7,067	8	739	1	90,830

A new section was added to the annual survey in response to a Resolution at the 1976 National Conference of Catholic Charities Congress.

"BE IT RESOLVED, That the National Conference of Catholic Charities membership go on record as favoring an affirmative action program to bring women into leadership and decision-making positions.

"BE IT FURTHER RESOLVED, That the Board of Directors be directed to initiate within three months the necessary research procedures to ascertain the status of women in leadership roles within Catholic Charities.

"BE IT FURTHER RESOLVED, That the Board of Directors be directed to provide guidance and appropriate monitoring devices to help make an affirmative action program a reality.

"BE IT FURTHER RESOLVED, That the Board of Directors be requested to make a progress report to the Conference at the 1977 Annual Meeting."

In beginning response to that resolution, we developed a parallel personnel section of the survey asking a break-out of female and of male personnel. Practically all of the 181 respondents filled out the section reporting on 87,979 persons out of a total of 90,830 on the previous section.

As one studies Table II, one sees that there was great merit to the resolution on the role of women in Catholic Charities. Women are very under-represented at the highest level of leadership, even though many religious women head up our member institutions. As two recent studies have shown, Diocesan Directors are still overwhelmingly priests (65%-75%). Although the number of lay people has increased greatly in the last few years, only 14 out of 147 are women.

Women achieve a closer parity (based on 50-50) at the second level of administration. But at the level of Supervisors/Office Managers/Other Professionals, they are very much over-represented by the same rate as the men are at the highest level. Women are even more over-represented at the *Para-professional/Administrative Assistant/Clerical/"Other"* levels.

A striking finding was the close parity at the board and volunteer levels. Popular wisdom might have guessed that men would be over-represented on the board level and women over-represented at the volunteer level. The large number of religious women serving on the boards of their own institutions may somewhat account for this close parity. But the large number of male volunteers would seem to raise serious problems regarding the charge that women are an oppressed group in relationship to volunteer work and paid work.

There definitely needs to be greater effort to bring women into the highest executive offices of our members and a greater effort to expand career opportunities for men in the professional levels. The old image of social work as predominantly a female profession is somewhat justified by the data.

The National Conference of Catholic Charities bears a striking similarity to the social work profession as a whole as reported in the Seventeenth Issue of the *Encyclopedia of Social Work*, 1977. The similarity is even more notable when the impact of priests and religious in roles of leadership in the National Conference of Catholic Charities is considered. One would have thought the secular group to be *more equalitarian, less affected by clerical tradition*.

The comments in the *Encyclopedia of Social Work* are right on target.

"Although there has been much progress in raising the quality of personnel practices, a number of issues continue to create obstacles. Institutional racism and sexism continue to operate as a force constraining minorities and women from open mobility and opportunity to win leadership roles in human service institutions. While women's marital status and responsibility for families may account for some of the picture, they cannot explain all of the differences by sex-The data show that the proportion of men in administrative posts in social work is considerably larger than the proportion even for single women." (p. 1028-1029).

TABLE II
Personnel By Sex

	Female		Male	
	No.	%	No.	%
Diocesan/Executive Directors	95	31	211	69
Asst./Associate Directors	473	48	514	52
Supervisors/Office Managers	999	66	503	34
Other Professionals	4,359	68	2,018	32
Para-professionals	3,636	77	1,090	23
Admin. Asst./Exec. Sec.	216	85	37	15
Clerical	2,400	89	298	11
Board Members	3,981	45	4,933	55
Volunteers	29,115	50	29,176	50
Other Personnel	2,649	68	1,276	32
Totals	47,923	55	40,056	45

SECTION II - PROGRAM

Direct Services - Individual and Family

Direct social services has always been one of the primary roles of Catholic Charities. The core services are counseling, unmarried parents, information/referral, adoptions, foster care, and emergency assistance. These six programs are the ones offered by the majority of agencies and institutions. The next six most frequently offered services are programs for the elderly, marriage preparation, residential care for children, school social work, juvenile court referrals and family life evaluation.

Other services are offered by a third or less of the members, but are in the category of up and coming, less traditional services, such as programs for parish social ministry, legal aid, corrections, alcoholism, and divorced Catholics.

In preparing this year's tables, we combined diocesan agencies and other institutions, because it is increasingly difficult to separate the two types of members, since many institutions report through the diocese. The interesting result is that the ranking of services in the top twelve changed very little, and, in lower ranks, a number of social advocacy type programs, e.g., legal aid, prisons, moved up. The combined data gives a more integral national picture.

Notable increases of persons served were registered in several core services, namely counseling, emergency assistance, information and referral. These services would most directly reflect the continuing high unemployment rate and the social impact that unemployment has been demonstrated to have on personal relations, with increased rates of depression, family problems, alcoholism, mental illness, and basic material needs. These increases in our data for the past three years show the real need for a full employment economy.

The number of adoptions seems to be holding at a three-year level with very little variation. The adoption total of 5,942 children included 4,566 White, 469 Blacks, 631 other races, 276 special needs. The passage of Federal legislation supporting the adoption of "hard to place" children may bring about an increase in the special needs category in future years and a decrease of children in long-term foster care. N.C.C.C. has been actively working for such legislation for a number of years.

In youth services, there has been a notable decline in the number of persons served in programs for school dropouts and runaways. But there is a reported increase in employment services to youth.

The number of unwed mothers helped increased substantially, as it did in the previous year. This may mark the increasing number of teenage pregnancies as well as aggressive outreach efforts. NCCC provides a major component of the Church's efforts to provide alternatives to abortion.

The newer innovative services in the areas of marriage preparation, on the one hand, and programs for divorced persons, on the other, have continued to show growth.

Programs for the elderly are treated under a separate section, although many elderly are served by the programs in this section and the count is sometimes duplicated.

The single total of persons served, some of whom may be served by more than one program, is 2,356,068, which is a reported increase of 724,898 over 1975.

TABLE III
Ranking of Programs by Frequency of
Diocesan Agencies and Institutions Involvement
(181 Responses)

	Programs	No.	%
1.	Counseling	151	83
2.	Unmarried Parents	124	69
3.	Information/Referral	121	67
4.	Adoptions	117	65
5.	Foster Care	113	62
6.	Emergency Assistance	108	60
7.	Programs for Elderly	90	50
8.	Marriage Preparation	73	40
9.	Residential Care/Children	70	39
10.	School Social Work	67	37
11.	Juvenile Court Referrals	64	35
12.	Family Life Education	61	34
13.	Maternity Homes	59	33
14.	Day Care	51	28
15.	Group Homes	49	27
16.	Job Finding	48	27
17.	Youth/Camps	48	27
18.	Parish Social Workers	44	24
19.	Youth/Recreation	44	24
20.	Legal Aid	34	19
21.	Retarded	34	19

(TABLE III CONTINUED)

	Programs	No.	%
22.	Prisons	30	17
23.	Alcoholism	29	16
24.	Hospital Social Work	29	16
25.	Job Training	29	16
26.	Basic Education	28	16
27.	Divorced Catholics	28	16
28.	Drug Abuse	26	14
29.	Youth/Employment	25	14
30.	Health Clinics	23	13
31.	Homemakers	23	13
32.	Mental Health Clinics	23	13
33.	Blind	20	11
34.	Home Health Care	19	11
35.	Housing (Elderly)	19	11
36.	Housing Search	19	11
37.	Deaf	17	9
38.	Big Brothers	16	9
39.	Big Sisters	16	9
40.	Runaways	14	8
41.	Housing (Families)	13	7
42.	School Dropouts	13	7
43.	Halfway Homes (Parolees)	7	4

TABLE IV

**Direct Services - Individual & Family Services
(Diocesan Agencies and Institutions)**

	Persons Served		
	1974	1975	1976
A. Counseling	373,422	433,004	639,820
B. Family Substitutes			
Adoptions	5,810	6,103	5,942
Foster Care	17,868	22,846	22,424
Group Homes	2,932	2,610	4,265
Institutional Care	13,761	13,347	15,261
Day Care/Head Start	15,806	16,461	16,108
Other	8,605	9,512	13,351
C. Supportive Services			
Emergency Assistance	327,265	338,486	580,377
Information & Referral	250,910	286,597	393,651
Homemaker Service	3,138	7,532	9,508
Other	67,143	59,320	77,564
D. Youth Services			
Recreation	127,684	128,814	291,237*
Employment	8,426	7,057	8,720
Big Brother/Sister	3,676	4,152	3,872
Court Referrals	6,085	5,562	6,601
Runaway Programs	1,380	2,329	1,364
School Dropouts	12,746	10,379	4,195
Summer Camp	41,821	46,953	31,693
Other	34,895	63,828	56,943

*52% of these persons are involved in CYO in one large, previously unreported diocese.

TABLE V

**Services for Unwed Parents & Special Adult Programs
(Diocesan Agencies & Institutions)**

	Persons Served		
	1974	1975	1976
A. Unwed Parents			
Unwed Mothers	21,090	26,104	31,897
Unwed Fathers	5,494	5,614	6,218
Maternity Home Care	5,513	4,737	4,460
B. Special Adult Programs			
Family Life Education (Marriage Encounter, P.E.T., etc.)	33,885	59,520	48,893
Marriage Preparation	34,879	41,191	42,206
Adult Basic Education	16,099	7,319	8,737
Single-Adult Catholic Group	899	1,808	2,047
Divorced Catholic Group	1,389	1,873	3,587
Other	12,775	18,112	25,127

Services for The Elderly

In 1976, the National Conference of Catholic Charities Commission on the Aging published a new edition of *Serving Older Persons*, which was revised by Sister Maria Mercedes, S.S.N.D. The philosophy presented in that text we reproduce here as the background to the data on programs for the elderly.

In 1976, there were very large increases reported in the number of elderly persons served in programs of advocacy, pastoral ministry, nutrition, telephone reassurance, transportation, communications, and self-development. More agencies are developing programs for the elderly, especially at the parish level. But the very large increases relate to more complete data from a number of large urban and rural members, who have extensive programs for the elderly. These respondents account for the overwhelming majority of the increases in persons served in 1976 over the previous year.

Because every phase of our individual and organizational existence is fitted into our primary life-goal of living and serving God, our philosophy of service to the aging is part of this whole. Service to all groups is spiritually based, since the good work involved is basically an implementation of our creed and a pursuit of our salvation. Serving the aging is a sign of our love for them, and by this giving of ourselves we strengthen our own relationship with God. The older person possesses the same dignity with which every human being is clothed as a beloved and treasured creation of Almighty God and as a brother or sister of Christ Jesus.

Traditionally, both in ancient cultures and in the Christian era, people have looked upon the elder citizen as a wise and experienced individual whose contribution to society was of great value. Community leaders have sought the advice and counsel of the elders, whether that community was a tribe, a city, or a nation, being sure of their response because an experienced and prudent elder was able to see things in the perspective of numerous years and many experiences. Since the elder citizen has had an opportunity to develop his or her own potential for worth and awareness of dignity, increased attention on our part to these considerations is appropriate. Thus, we acknowledge that there is value and importance to life as it is being lived by a creature of God at whatever stage.

A distinct obligation rests upon each of us to give such full consideration to the characteristics of the older person as will result in respect for his person, protection of his rights, and provision for his personal emotional, spiritual, and material needs. In service to all individuals, great importance is placed on the necessity of working with them and serving them at that level of experience and progress which they now occupy. Therefore, we recognize the obligation which rests on us to provide precise programs which are equated with the spiritual, intellectual, social, and physical needs of aging individuals. This demands that we be students of all the elements involved in providing an apt service to individuals whose life, experiences, and needs have an identity all their own.

As leaders in the field of Catholic Charities we, traditionally, have concentrated our attention in the area of personal and social service. Both in institutions and in agency settings, our primary concern has been the providing of adequate social services, physical care, and nursing services as required.

Beyond these areas where direct service is our responsibility, we recognize the additional duty of giving leadership and support to programs in related areas of concern to the aging such as public and private housing, creative activities, including recreation, employment opportunities, educational programs, income maintenance, psychological support and research, as well as opportunities for continuing spiritual growth. Some diocesan offices already involve themselves with their larger community on these matters.

Defining our responsibility to the aging beyond the essential programs already outlined, we recognize a particular and additional duty to amplify services to the aging in their own homes. This acknowledgement of the necessity of varied programs of service to the aging underscores our conviction that aging individuals are exactly that, namely, individualized personalities having specific needs which must be met on an individual basis.

A by-product of this wider view of service responsibility is the advantage which many older persons may have of living in familiar, secure, independent arrangements, thus reducing the necessity of considering institutional programs as the single solution to their problems. It is easily seen that the strengthening of family life and the development of parish programs for the aging are necessary means to accomplish this end. In exercising its prophetic mission, the Church needs to remind grown children of their responsibility toward their parents, and to arouse in the hearts of all men a special concern for the aging.

This extended area of services to the aging provides an increased opportunity for more and more people of every age to be involved in programs of loving their neighbor through personal works of charity. It has the added value of enabling all age groups to learn, through direct contact with the aging, the nature, the characteristics, the attitudes, the personality which are present in aging people, generally. Today's tendency to emphasize the youth-centered motif may thus be overcome, with the result that lives at all ages will be enriched by respectful familiarity with other groups.

This means that the vineyard of charity must beckon individuals of all ages. If we are able to utilize services to the aging as a demonstration, we shall be able to involve children and youth, young adults and young married couples, middle-aged fathers and mothers, and aging themselves in service to one another. Since each age group has its specific needs as well as its valuable potential, works of charity and personal services to the aging will serve to demonstrate the manner in which each can serve the other.

"The livelihood and the human dignity of those especially who are in very difficult circumstances because of illness or old age should be safeguarded." These words of the Fathers of Vatican Council II emphasize that the elderly person whose capabilities are no longer equal to the demands of daily living in a complex and competitive environment can rightfully expect protection and assistance from society. This expectation addresses itself primarily to the members of his family, but social justice carries it beyond these persons to the whole of society. The aged person must be permitted, encouraged, and assisted to live the life of a dignified human being, an image of the Divine Creator, a participator in Christ's Life. Society, through its responsible members and instrumentalities, must assure him the materialities of life, such as adequate income, housing, and medical care. He must be able to live in security and tranquility, in an atmosphere which is not only free from undue worldly anxieties, but also conducive to contemplation of and preparation for a supernatural future.

By espousing this positive approach to ministry to and of the aging we hope to be able to meet specific social needs and, in addition, strengthen and adorn the fabric of Christian living in whatever setting God wishes us to experience it. In fostering this apostolate, we seek to emphasize justice to the virtue of charity which moves us, so that everyone concerned will enjoy the full opportunity to perform the spiritual and corporal works of mercy, upon the performance of which our eternal salvation rests.

TABLE VI

**Ranking of Programs for The Elderly by
Frequency of Diocesan Agency and Institution Involvement**

(Percentage of activity is based on a total response of 181 surveys.)

	Program	Number	Percent
1.	Counseling	90	50
2.	Referral	68	38
3.	Training Volunteers to Work with Elderly	66	37
4.	Visiting/Companionship	61	34
5.	Communications	60	33
6.	Senior Citizen Activities	57	32
7.	Advocacy	55	30
8.	Transportation	51	28
9.	Pastoral Ministry	48	27
10.	Telephone Reassurance	48	27
11.	Self-development	44	24
12.	Extended Care Facility	43	24
13.	Nutritional	42	23
14.	Adult Education	33	18
15.	Housing (Non-Hospital Type)	32	18
16.	Income Maintenance	32	18
17.	Job Finding	26	14
18.	Homemaker Service	20	11
19.	Rehabilitation/Training	17	9
20.	Widowed Persons	17	9
21.	Senior Citizen Day Care	16	9
22.	Health Clinic	15	8
23.	Home Health Care	15	8
24.	Inter-Generational Relations (e.g., Foster Grandparents)	13	7
25.	Co-op Purchasing	12	7
26.	Legal Counsel	12	7

TABLE VII
Services for The Elderly
(Diocesan Agencies & Institutions)

	Program	Persons Served		
		1974	1975	1976
1.	Counseling	24,843	53,330	79,594
2.	Advocacy	52,465	75,879	130,303
3.	Nursing Homes	12,728	22,148	14,529
4.	Pastoral Ministry	24,322	59,693	225,509 *
5.	Adult Education	24,475	39,913	20,228
6.	Income Maintenance	18,189	6,418	15,092
7.	Foster Grandparents	9,948	3,475	1,040
8.	Senior Citizen Day Care	10,508	1,252	23,322
9.	Nutritional	105,220	180,104	544,560
10.	Referral	23,481	26,968	76,795
11.	Training Volunteers to Help Seniors	7,848	8,685	10,383
12.	Telephone Reassurance	8,313	5,443	55,295
13.	Transportation	16,105	31,154	107,206
14.	Visiting/Companionship	46,261	55,274	47,429
15.	Senior Centers or Clubs	75,373	129,250	121,059
16.	Health Clinic	9,974	16,972	24,615
17.	Communications	10,297	89,454	299,560
18.	Self-Development	8,018	24,458	107,636
19.	Housing	6,190	17,972	12,261
20.	Co-op Purchasing	6,772	12,544	17,475
21.	Homemaker	4,421	13,651	9,461
	Totals	505,751	873,947	1,943,382

*Approximately 8/9 of this total is from one large, urban diocese.

Community Services

In 1976, the United States Catholic Conference convened a National Advisory Committee on Ministry to the Handicapped. Catholic Charities is represented on that committee and provides programs in a number of agencies. But with the impetus from the USCC Committee and the White House Conference on the Handicapped, we may expect notable increases in this area.

The new Parish Outreach Project will stimulate a continuing trend to decentralize services and to provide service at the parish level, often with volunteers. The Resolution of the 1976 Charities Congress gave the mandate.

"We propose that the NCCC should assist parishes in the U.S. to establish Parish Ministries of Service that would:

- assess the human needs of its people;
- involve the people of the community in responding to those needs;
- provide a training and support system for those involved;
- inspire continuing commitment to service with the ultimate goal of enabling the poor to fare for themselves and assume more responsibility for their own destiny;
- accept the role of advocacy as well as that of service;
- seek the expertise and cooperation of professional and voluntary groups engaged in social service so that efforts in serving are not duplicated but augmented by each group's particular charism;
- give an opportunity to those who are served also to serve, recognizing the right and responsibility and the call to service given to all of us within the Church by reason of Baptism;
- be aware of emerging trends and be knowledgeable of the needs of the times."

Ministry to the corrections field is being provided by an increasing number of agencies with such innovative programs as a State-wide network of halfway houses. Advocacy for penal reform has become a prominent program in some member agencies, following the call of the American Catholic Bishops and NCCC's own Resolution at its 1976 Congress.

"We, the members of the National Conference of Catholic Charities, therefore pledge:

- to be advocates for penal reform before Congress;
- to coordinate communications and coalition-building among varied groups;
- to provide leadership to diocesan and local Catholic Charities agencies responding to injustices in the juvenile and criminal justice systems;

- to convene on a national level, or to encourage convening on a local level, groups which will evaluate national, State, and local criminal justice systems;
- to help form a critical conscience in the Christian Community related to the criminal justice system;
- to make staff available at the local level to the victims of the present system, both families and ex-convicts."

Some dioceses have special offices for services to the handicapped and to such special ministries as those in correction facilities. Therefore, our data only represent our direct involvement in these areas—not the total Church effort by any means. Also, it is in these areas, as well as in other direct service areas, that advocacy, whether on a case-by-case basis, or as a "class action", is carried on by the agencies. A good number of our members may not offer a particular service but serve as advocates with public bodies, such as welfare and health departments, for those services needed by their clients. With our limited resources, we realize we can not, nor should we, offer all services, some of which are the responsibility of government, and our role is best served by being advocates for those unable to be adequately heard and to help them negotiate the often bewildering red tape and bureaucracy.

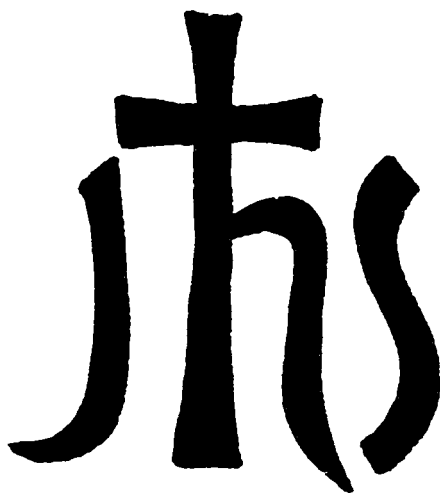


TABLE VIII
Community Services
(Diocesan Agencies & Institutions)

	Persons Served		
	1974	1975	1976
A. Health Services			
Home Health Care	5,017	13,871	9,922
Health Clinics	59,940	49,596	179,083
Alcoholism	141,798*	29,672*	27,451*
Drug Abuse	24,165	16,113	22,279
Mental Health Clinic	33,082	41,964	46,466
Other	360,240*	18,682*	67,247*
B. Employment	10,349	13,606	18,674
C. Housing			
For Elderly	4,139	3,827	4,465
For Families	4,785	2,809	5,159
General Housing Search	3,287	4,767	4,177
D. Handicapped			
Mentally Retarded	11,626	15,664	24,275
Blind	3,540	3,785	5,415
Deaf	4,736	4,721	4,816
Other Disability	7,506	5,283	3,816
E. Corrections			
In Prison Counseling (Men)	15,270	5,696	8,249
In Prison Counseling (Women)	906	1,767	2,115
Halfway House (Paroled Men)	262	377	389
Halfway House (Paroled Women)	135	81	15
Other	20,718	6,236	32,860
F. Legal Services			
Legal Advice	15,362	24,715	13,678
Legal Representation	~1,295	1,480	1,520
G. Special Services			
Hospital Consultation and/or Social Services (76 Hospitals in '74, 101 in '75, 151 in '76)	16,295	23,596	9,797
School Consultation and/or Social Services (582 Schools in '74, 718 in '75, 1133 in '76)	26,013	16,874	26,064
Parish Social Workers 303 Workers - 621 Parishes in 1975 229 Workers - 355 Parishes in 1974 377 Workers - 584 Parishes in 1976			
*Changes are mainly the result of not counting hospitals this year and last year.			

Community Development Programs

In 1976, we began a five-year evaluation of the impact of the National Conference of Catholic Charities self-study, *Toward a Renewed Catholic Charities Movement*, approved by the membership at its Annual Meeting in 1972. The years analyzed were 1971 and 1975. The research was conducted by Dr. Donald Dendinger, now a member of the faculty at the University of Nebraska-Omaha, for his doctoral dissertation at the Graduate School of Social Work at the University of Denver.¹

Dendinger's research found that the Catholic Charities Movement has made a substantial increase in its community development programs, or the roles called "humanizing and transforming the social order" and "convening."

The specific programs measured were the same as those measured in this section of the annual survey. Dendinger's respondents suggested no other categories, so it seems that the annual survey instrument does sufficiently cover what the agencies are doing in the community development field.

He found that between 1971 and 1975 there was a notable 60% increase in resources devoted to such programs. In 1971, 40% of the Catholic Charities agencies used more than 10% of their resources in these program areas; by 1975, that number of agencies increased to 77%; and 23% of the agencies were devoting more than 40% of their resources to community development programs.

While Dendinger's data shows that the renewal program within the National Conference of Catholic Charities has caused a substantial increase in resources, such as personnel, money, and time, being devoted to community development programs, we are not able to measure any further increase, since our annual survey instrument does not ask about the same resources. Rather, we report here the programs being conducted and the issues about which they centered during 1976.

We can document the personnel behind these programs for 1976, there being 866 full-time personnel and 672 part-time personnel.

Practically all of the programs reported below are based in the 129 diocesan agencies reporting.

Community Development Programs in Agencies and Other Group Members

Program	No. w/Program
Legislative Activity	98
Community Organization	83
Recruitment of Volunteers	98
Convening & Social Justice Education	63
Minority Group Services	86
Neighborhood Centers	41
Parish Social Concerns Committees	36

Some dioceses (20 percent of Dendinger's respondents, about 25 percent of this survey) limit themselves to direct service either by preference, or possibly because there is another office in the diocese responsible for social action, and they have not been able to see how to incorporate community development programs into their operations.

¹ Donald C. Dendinger, "Factors Affecting Organizational Change: A Study of the National Conference of Catholic Charities," (Unpublished Doctoral Dissertation, University of Denver, August, 1977).

Dendinger's observations on this problem are to the point: "About 20% of the respondents specifically listed various other departments, agencies or bureaus which had more direct responsibility or shared this responsibility with the Charities agency. On the one hand, this indicated that in some dioceses the total social action and convening effort could not be measured simply by surveying the efforts of the Charities agency. On the other hand a major assumption of the entire Cadre Committee effort was that all agencies regardless of their primary focus should have some role in social action and convening efforts. Therefore, the existence of another office within the diocese with similar responsibility does not mean that the Catholic Charities agency should focus narrowly on direct service efforts exclusively."

Parish Outreach

During 1976, the Lilly Foundation gave a grant to the National Conference of Catholic Charities to begin a national Parish Outreach Program. Mr. Jerry Ernst joined the national staff to head up this major new program of NCCC.

For NCCC to reach out to facilitate parish-level social ministry is a return to our roots. Such parish social ministry was historically the seed bed from which the diocesan agencies grew. An unfortunate tendency to overcentralization and overprofessionalization led to a withering of these roots during the 1930's - 1950's. During the 1960's many dioceses began to decentralize and to develop new programs at the parish level.

Parish social ministry is measured in two places in this survey, in this section and under direct services. We now speak of parish social ministry in the broad context of the 1972 Report (p. 31); "A few years ago, if anyone spoke of a social worker being assigned by Catholic Charities to a parish, it was understood to be a caseworker who handled individual cases within that parish—individuals needing counseling, foster care, etc. Now, it is just as likely to mean a worker who serves as a consultant, a catalyst, and a community organizer—helping the parish plan and develop programs to meet the needs within the parish."

This new national parish thrust of NCCC coincides with the direction coming from the Bishops' Bicentennial Conference held in Detroit in 1976. With such impetus and the special attention of the new national staff, their publications and training programs, we expect to see a dramatic expansion of this area of social ministry. In 1976, 62 dioceses reported such involvement, and at least five others are known to us from field experience.

Charities Congress/Issues

The National Conference of Catholic Charities held its first annual Congress in 1976. Delegates representing the membership debated and voted on Program Concerns, Policy Statements, and Resolutions. That such voting is not an exercise in mere rhetoric is attested to by the following table. There continues to be a close relationship between the votes of the members on program concerns, as expressed by their priority voting at the Annual Meeting, and what they are actually doing in the field as expressed by their involvement in community development programs related to the issues. There is a reinforcing interplay between the priority voting and local programs.

TABLE IX
Community Development Issues

Order of Priorities as Voted at Denver Meeting of NCCC Membership (1976)	Order of Issues as Ranked by Total Number of Dioceses Involved in Each
1. The Economy/Income Security/Welfare Reform	1. Welfare/Income Security and Distribution (70 dioceses)
2. Family Life/Child Care	2. Family Life/Child Care (54)
3. Respect for Life	3. Pro-Life (47)
4. Tax Reform and Economic Justice	4. Hunger (45)
5. World Hunger	5. Housing (43)
6. National Health Insurance	6. Minority Rights (43)
7. Urban Crisis	7. Senior Citizens (42)
8. Frail Elderly/Senior Citizens	8. Criminal Justice (42)
9. Parish Social Ministry	9. Health Care (30)
10. Oppression of Minority Rights	10. Adoption (27)
11. Housing	11. Education (24)
12. Rural Life	12. Mental Health (24)



TABLE X
Minority Group Services
(Special programs designed for a specific minority group)

	No. of Agencies	Persons Served
Blacks	19	6,078
Farm Workers	4	9,500
Hispanic-Americans	35	43,796
Native Americans	5	29,478
Vietnamese	38	28,711
Black and Hispanic American	5	3,042
Other	8	2,546

The number of minority persons served by programs designed expressly for them has grown from 117,353 last year to 152,629 this year. All but two groups have experienced sharp increases. The Church's increasing commitment to its Chicano and Latino members is evident by increases in service to both "Hispanic-Americans" and "Farm Workers." The most radical increase in service this year, but probably expected as well, is to the Vietnamese. The Catholic Charities Movement is one of the major arms of the Church that has helped to open our country to the refugees from Vietnam and make it livable for them.

Equally sharp, but not at all positive, is the drop of Black persons served in these programs from 39,679 last year to the 6,078 reported this year. Almost equally as disturbing is the drop in the category "Black and Hispanic-Americans" from 7,501 last year to 3,042 this year. A few words of caution should be heeded in interpreting these figures. More than a few agencies for the first time included in their list of minorities served the category "White, Black, Hispanic and Asian." It seems that many programs once designed for a specific minority, such as Blacks, are now serving people across racial lines. Another factor was that many urban agencies simply did not report specific minority group services, but serve all minorities as a policy in all programs. Also there may exist an assumption, which employment data disproves, on behalf of some agencies and institutions that Blacks have now entered the mainstream fully enough so that many special programs for them may now be broadened to other groups or discontinued. It may also indicate the increasing difficulty of restricting programs for low-income persons to a particular minority group.

TABLE XI
Recruitment of Volunteers

Total:	25,732
Volunteers Trained:	3,594
Volunteers recruited as:	
Counselor	1,138
Neighborhood Worker	1,949
Organizer	270
Clerical	900
Teacher/Tutor	1,336
Transportation Source	1,053
Home Visiting Aide	318
Recreation Assistants	5,000
Other	9,596
<p>Note: in all, 98 respondents provided the above data. Not all respondents gave a breakdown of service categories for the volunteers, so that the total number of volunteers reported exceeds those in the special categories. Not all respondents gave us the specific data beyond that in Table I.</p>	

Volunteers have grown at a steady pace from last year. Of the 57,085 volunteers reported under personnel only half are reported in this special section. Those reported in this breakdown total 25,732 as compared to 23,636 last year. The most heartening fact about the volunteers is the dramatic increase of those trained entering into programs traditionally reserved for paid staff. Volunteers trained have grown 70% from last year's 2,139. Equally exciting is the growth of volunteers at the level of Counselor and Neighborhood workers. The category "Organizer" is down sharply this year, for a variety of reasons, including a lack of statistics from the urban dioceses which reported them last year. Last year, the other categories all grew, except for Home Visiting Aides, which exhibited a sharp drop off from 2,139 last year to 318 this year. Finally, there is some variation in respondents reporting this year, which would affect our data.

SECTION III - FINANCES

Sources of Agency and Institutions Funds for 1976

The following data has been provided by 129 dioceses and 161 other member organizations. Since 109 institutions reported as part of the diocese, the total number of respondents was 181.

TABLE XII

Finances

		Number Reporting	% of Total Cash Income	Income
1.	United Funds	131	11	34,902,253
2.	Government Grants	140	45	142,428,954
3.	Grant and Foundations	71	2	5,796,184
4.	Investment Income	85	3	10,985,973
5.	Service Fees	142	16	50,633,628
6.	Charities Appeal	62	5	17,079,254
7.	Diocese	102	5	15,017,362
8.	Contributions	143	5	14,825,540
9.	Fund Raising	66	2	5,946,108
10.	Other	110	6	20,469,895
11.	Total Income			318,085,151
12.	Total Expense			336,632,379

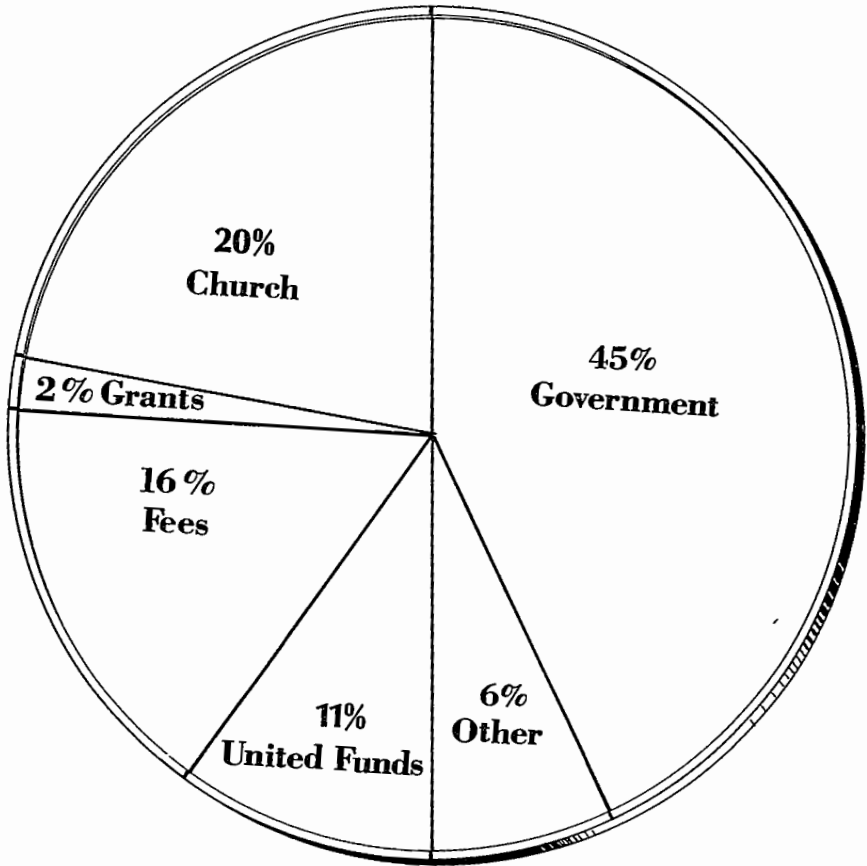
The 1976 survey reveals a substantial contribution by the Church to charitable activities in contributed personnel and space. The total of such in-kind contributions is recorded at almost \$16 million compared to \$14 million last year.

PIE GRAPH

The pie graph shows the relative proportion of major funding sources. For two years the major funding sources have held the same rank. First would be government funds at 45%, second combined Church funds (#4, #6, #7, #8, #9), not counting in-kind contributions, at 20%. In third place would be service fees at 16% and fourth United Fund income at 11%.

The following table shows that the relative proportion of these sources has changed somewhat in the past years, with the exception of government funds.

	1975	1976
Government	43.4%	45%
Church	17.6%	20%
Fees	14.3%	16%
United Funds	13.7%	11%



There was a reported decrease of almost \$2 million in United Way support; there were some individual agency decreases, but most of this large amount is traceable to one large metropolitan diocese which did not report a number of its institutions for 1976.

There were substantial increases in all basic sources, except Grants, which declined \$15 million, and diocesan support which only increased about \$400,000, whereas fees increased about \$11 million and Charities Appeals about \$1 million. Government funds increased about \$17 million.

Many agencies have been making concerted efforts to increase their fee income and to diversify their funding base. Usually no one agency uses all the above funding sources. Government funds are such a high percentage because some institutional programs for the elderly and some for children are highly dependent on government funds from such sources as Medicare, Medicaid and Title XX. Community based service agencies tend to have much lower percentages of government funds and more diversified income sources.

One of the significant findings of the Dendinger research was that a higher dependence on government funding (18% or higher) associated positively with more extensive social action and convening programs. "A tentative explanation for this may be that those agencies which were larger, with more personnel and more income, also have larger more varied programs, and higher percentages of government funding." (pp. 146-147, op. cit.)

Dendinger also suggests "that in this study the larger agencies may be viewed as having greater autonomy, as being less systemic, than the smaller agencies. Because of the larger agencies' diversity of funding sources and links to various systems such as the Church, United Way and government, they may have retained more autonomy than smaller agencies which get more tightly linked to a particular system. Thus, the smaller agencies may be less able to function autonomously when attempting planned change as was the case in this study." (p. 144)

Many have theorized that government funds tend to decrease autonomy and the Catholic hospitals are experiencing this reality. Our present data shows that there can be a positive relation, but we do not yet know at what level government, or any other funds, begin to impede autonomy. It seems that the best working axiom is that of the Filer Commission. "Perhaps the most effective, and most possible, insulation from purse string control is to have more than one purse to draw from."



SOCIETY OF ST. VINCENT DE PAUL NATIONAL REPORT

Special Events and Highlights of 1976

Humberto Cardinal Medeiros participated in a two-day meeting of national officers and regional chairmen in order to help establish SVDP goals and priorities during the six-year tenure of newly-elected President Howard E. Halaska. Under the Cardinal's direction, a national committee was organized to define the role of spiritual advisors and to stimulate priestly involvement.

President Howard E. Halaska traveled close to 40,000 miles to meet with Vincen-tian leaders and members in the United States, eliciting their views about the status and needs of the Society. One result of these contracts has been the introduction of Leadership Développement programs, aimed at assisting Local Council Presidents to maximize their effectiveness in developing the Society.

The establishment of a Social Action Committee, under Glenn W. Humphreys of Albany, generated a new dimension in SVDP national life. The aim of the Social Action Committee is fourfold: 1) the acquisition and dissemination of information on Federal and State legislation, both pending and proposed, which would be of significance to the people SVDP serves; 2) the advocating of writing of letters as individuals to Congressmen, members of State assemblies, newspaper editors, etc., speaking out at public forums, participating in radio and television debates, joining and supporting community groups; 3) the providing of appropriate individuals to give either oral or written testimony on either the local or State level; 4) the furnishing of information on the availability of Federal and State resources of importance to the poor.

A blueprint for involving SVDP at all levels in work with the aged was prepared by Matthew M. Brown, Chairman of the Committee on the Aging. A principal aim is to activate in every Parish Conference a group concerned with the needs and aspirations of the older person in the Church and neighborhood.

Organization of a national committee, headed by Jo Taylor of Denver, to recruit women into the Society was a major extension step taken during the year. The presence and enthusiasm of women were markedly evident at the Society's national meeting. Bishop Maurice Dingman of Des Moines spoke to the group, recalling the principal part played by women in the charities of St. Vincent de Paul in that saint's lifetime and encouraging their active participation in today's SVDP groups.

The Society launched nation-wide among its members a "Food for Life" campaign, whose purpose was to assist SVDP Conferences in stricken and impoverished areas of the world. Through the personal sacrifices of members \$50,000 was raised, of which \$20,000 was allocated for disaster sufferers in Guatemala.

The need for cooperative planning and action in order to assist effectively the victims of disaster was widely promulgated among SVDP Councils in the United States. The Society already has working ties with the National Catholic Disaster Relief Committee. Now, in many, communities, Vincentian groups are entering into joint discussions with local Chapters of the American Red Cross. Details of a national understanding between ARC and SVDP are being worked out through the Society's National Disaster Chairman, Arthur S. Lawless of Dayton.

In other areas, the Society continued to promote longstanding objectives: promotion of the canonization cause of Frederic Ozanam, founder of the Society; the compilation and production of a comprehensive directory of SVDP Council and Conference affiliates in the United States; the development of procedures for handling national resolutions that will encourage the fuller involvement of all members in the national and international life of the Society; the intensification of recruitment efforts among minority groups and among the young; the upgrading of the Stores and Workshops operations of the Society.

SVDP YEAR IN CAPSULE

Membership		Parish Services	
Active	33,000	Families Aided	181,124
Associate	21,316	Home Visits	425,314
Parish Units	4,000	Institutional Visits	950,996
City Councils	270	Friendship Contacts	1,557,434
Central Councils	44	Volunteer Hours	5,200,000
Regional Groups	8	Emergency Aid	\$7,044,700
National Council	1	Clothing, Furniture Given	\$4,000,000
Formation/Planning Meetings	184,300		

Membership and Parish Works

SVDP appears to be more than holding its own with respect to active membership. A current realistic figure is somewhere between 33,000 and 34,000. A sample study, involving 25% of USA Councils, reported an active membership of 10,288. This total constituted an increase of 261 over the previous fiscal year. It would appear that extension groups are making some gains—modest it is true—in attracting new brothers and sisters.

Increases are to be noted with respect to associate members. We classify as associates those who either make a regular and substantial contribution or those who combine with monetary giving an occasional availability in the person-to-person work of the Society. We estimate that approximately 21,316 such associate members are currently identified with the Society in the United States.

The number of parish Conferences shows little change. We record movement in one locale, decline in another. About 4,000 appears to be the number of currently viable Conference units. The number of Particular and Central Councils has shown little change in recent years. A few Councils became inactive; but they were small and struggling units, whose functioning was always a question mark. Even so, there is virtually no change in the number of Council groupings.

The average Vincentian, while not overly burdened because of his SVDP involvement, has appeared to be a consistent performer. One would estimate that the average Vincentian gives about 3 hours each week to the Society and to those it serves. An "average" Vincentian makes about 30 home visits yearly, and this activity is supplemented through an extensive program of institutional visitation. All told, one would conclude that the average Vincentian maintains weekly contact with those in need. Three hours a week seems to be a fair estimate of the time required for SVDP active membership. This adds up to a rather impressive statistic; namely, about 100,000 service hours per week. If one reckoned that service at a minimum wage rate, one would conclude that almost \$250,000 is donated personally by Vincentians every week of the year. A quarter of a million dollars weekly comes to \$12 and a half million in donated services alone each year.

The Society helped about 181,000 families last year, an increase of approximately 10,000 over fiscal '75. Home visits—425,314—were up about 81,000. On the other hand, institutional visits dropped about 43,000. The net gain in personal contacts was about 40,000.

SVDP Conferences are usually called upon to assist the poor on a temporary basis, often in emergency situations. Conferences distributed over \$7 million during 1976 in providing this type of service. This figure too is an increase—about \$66,000.

The Society's stores, in cooperation with the Conferences, were instrumental in providing about \$4 million in free clothing, household appliances, and furniture for those who were in need and without funds.

Special Works and Community Projects

A wide range of special works or community projects are organized and operated by Particular and Central Councils. Their functioning and diversity in a given community depend upon local Vincentian initiatives and resources and the needs of the particular community. During the last year, typical special works of Councils included: summer camps for underprivileged youngsters; organized visitation of the aged, hospitalized, imprisoned, and homebound; the sponsorship of employment services; the awarding of scholarships to needy students; providing of entertainment and gifts for special holidays to those in homes for the aged and nursing homes; the establishment of half-way houses for those released from prison; rehabilitation programming for the physically and mentally handicapped; assisting the victims of local and national disaster; caring for Vietnamese refugee families; the providing of Christian burial for those who died without family and means.

Special attention is directed to the operation of Stores and Workshop facilities under SVDP auspices in the United States. This is the chief special enterprise that can be identified with Vincentianism in this country. The benefits of the store program are many: the opportunity for concerned people to assist the needy by donating usable clothing, furniture, and appliances; the hiring of SVDP personnel, many of whom are older or work handicapped; the providing of certified shelter and work rehabilitative employment; the offering, at nominal cost, of quality merchandise, to persons with limited income; the making available to local SVDP units of an additional resource in their person-to-person contacts with the poor; the potential of the SVDP store in raising funds for other SVDP charitable works through the sale of surplus goods and salvage materials, such as rags and paper. Conferences, after screening those in need and determining the degree amount of almost \$4 million a year. The charity is basically that of the Conference, although in some instances the Council itself absorbs the cost, when needy Conferences are not able to pay for merchandise. Conference requests, moreover, are often given special discount rates. Thus, the store becomes a major factor in enabling Vincentian units to carry out their program of concern and aid to those in need.

"No work of charity is foreign to the Society. Its work, through a person-to-person contact, encompasses every form of aid that alleviates suffering and promotes the dignity and integrity of mankind. The Society strives not only to alleviate need but also to discover and redress the situations which cause it. It serves everyone, regardless of creed, opinion, colour, origin or caste."

Frank V. Buckley
National Secretary
Dudley L. Baker
Executive Secretary

NATIONAL CHRIST CHILD SOCIETY, INC. REPORT 1976

The Christ Child Society is a volunteer service organization which had its beginning in 1887 in Washington, D.C. It was founded by Miss Mary Virginia Merrick, who labored during her entire lifetime for this cause, doing so under trying physical handicaps until her death in 1957.

The primary goal of the Society was serving the needs of children, without regard to race, color, or creed. "*Laborare est Orare*" had been the philosophy of its members, and its motto is "Find a Need and Fill it." As the social needs of the times have changed throughout the years, the Society has expanded its efforts to meet the needs in other fields in addition to that of children. Its contribution toward relief of human needs is reflected in the variety of the works of its members.

Scattered throughout 17 states and the District of Columbia are 33 chapters, with members numbering nearly 10,000. They provide thousands of volunteer hours in community projects as well as donating over a million dollars each year, funds which are raised primarily through their own efforts.

Providing baby layettes for needy mothers was the very first project which launched the Society's efforts. While continuing in this effort, today, many other areas of service are actively pursued, such as, teaching CCD classes for exceptional children; preparing students to receive the sacrament of Confirmation; providing camp sessions for trainable retardates and sheltered activity centers for older retardates; funding transportation for summer Day Camp programs for retarded; staffing schools for children with learning disabilities; assisting as teacher aides in inner city schools; providing temporary shelters for abused and abandoned children; providing transportation for clients of Catholic Social Services; assisting with occupational therapy and nursing in nursing homes; planning field trips for students or schools for the deaf. Christmas charities include donations of clothing, toys, food, and fuel.

Some of the more recent community services rendered concern life at any stage, such as promoting nutritional programs for the elderly; assisting in hospital and nursing homes; providing clothing, shoes, bedding, soap for homeless men; participating in a Golden Age Hobby Shop; giving volunteer hours at Loaves and Fishes, and Meals on Wheels; supporting Birthright and Right to Life; preparing materials to be used in various projects for members unable to do volunteer work outside of their homes; assisting the elderly who live alone; providing volunteer services at a residential treatment center for youths with drug problems.

These are only a few of the many projects which reflect the variety of programs in which the Society is involved. Many hours of time and effort go into fund-raising for the distribution of thousands of dollars in local communities. Still supporting the original project of providing layettes, almost 4000 of these were hand-made, packed, and distributed last year.

The members will be searching for their particular role in responding to the recent Bishop's "Call to Action" Conference as the delegates to that Conference carry forward this beginning process of Christian renewal of the Catholic Church in America.

The spirit of the Society continues to grow in zeal for response to human needs, and the members continue to give generously of their time and effort for love of the Christ Child.

Mrs. Alfred Walsh
President

ASSOCIATION OF LADIES OF CHARITY OF THE UNITED STATES REPORT

The spirit of personal service to God's needy and less fortunate prevails in the hearts and minds of the members of Ladies of Charity. Because of this dedication, Ladies of Charity organizations have continued to carry on works of charity ever since St. Vincent de Paul founded the first unit in the year 1617. It is known to be the earliest established church-related volunteer group in existence and flourishes throughout the world in 38 countries, representing 250,000 active and sustaining members.

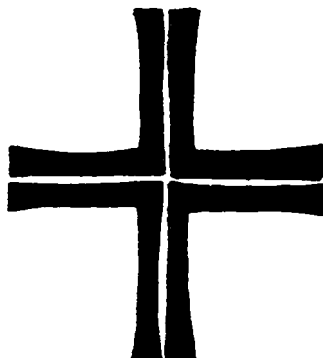
Of this grand total, approximately 40,000 members comprise over 200 units in the U.S. The desire of these individual units to become a more cohesive force in manifesting their purposes and goals in accomplishing works of charity culminated in the formation of a federation entitled Association of Ladies of Charity of the United States, referred to as Alcus.

Concomitant with ALCUS coming into existence in 1960 was its affiliation with the National Conference of Catholic Charities (NCCC). More frequent communication, a deeper understanding of charity, and an exchange of expertise has remarkably improved between volunteers and professionals as a result of such affiliation. By virtue of her office, the President of ALCUS serves on the Board of Directors of NCCC.

The services rendered to the needy by members of the various units of the Ladies of Charity are diverse. Included among the many are calling on families in their homes; administering corporal and spiritual services; providing adults and children with necessary clothing without charge; preparing residents of nursing homes to attend Mass; helping the elderly; working with the handicapped; advocating legislation for the benefit of the needy and oppressed; befriending the lonely; serving meals; sewing and knitting; supporting maternity homes and children's homes; teaching Christian Doctrine; and serving on Boards of private and governmental institutions.

The year 1976 stands out as exceptional in more ways than one for ALCUS. One of the highlights was an invitation to the members of the ALCUS Board of Directors and Committee Chairpersons to hold their annual board meeting in May of 1976 at the Provincial Home of the Daughters of Charity in Emmitsburg, Md., the site of the Shrine of St. Elizabeth Ann Seton who was canonized the previous year. This Saint has been named as one of our patrons in addition to Sts. Vincent de Paul and Louise de Marillac.

Mrs. Alphonse J. Mayer
President



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Exhibit No. 54

Study of service delivery to the elderly in Cleveland conducted by the General Accounting Office.

Copies of this report were not available at the time the record was printed.

Exhibit No. 55

Information requested from John Wesley Davis, Director, EEO Law Project, National Bar Association.

Mr. Davis was contacted to submit the following information for this exhibit:

1. Recommendations for handling the prohibitions under the Age Discrimination Act.
2. Social and Economic Report of the Black Population, U.S. Bureau of Census, 1975.
3. Report of the Senate Special Committee on Aging.
4. Annotated Bibliography.

This information had not been received by the time the record was printed.

NATIONAL COUNCIL OF JEWISH WOMEN

Summary Description

The National Council of Jewish Women (NCJW) is a national membership organization with over 100,000 members. Founded in 1893, the NCJW is "dedicated to furthering human welfare in the Jewish, and general communities, locally, nationally and internationally."

NCJW members become involved with the organization through local sections and units. Program goals and positions on social issues are decided at National Conventions and delineated at District Conventions.

Community service and social action projects undertaken by NCJW have focused on both children and older persons. Council spearheaded an in-depth study of Day Care. The Stuyd's preliminary findings moved the 1970 White House Conference on children and youth toward day care as a priority. In the area of aging, NCJW has established "golden age" clubs and senior citizens centers to draw the elderly out of isolation. Council's Senior Service Corps has also served as the model for the national community Senior Service Corps proposed by Congress.

NATIONAL ORGANIZATION FOR WOMEN (N.O.W.)

Summary Description

The National Organization for Women (N.O.W.) is a national membership organization which was created in 1966 to "take action to bring women into full participation in the mainstream of American society now, exercising all the privileges and responsibilities thereof in truly equal partnership with men."

N.O.W. carries on its work through a Committee and Task Force structure coordinated and "staffed" by N.O.W. members on a volunteer basis. The National Committees were established at the annual conference to address the priority issue areas of the organization.

At its 1977 conference, N.O.W. members and leadership identified, among others, the following as priority areas - homemaker's rights, early childhood development programs, reproductive rights, minority women, economic planning and education amendments. In addition, the conference made a commitment to work for displaced homemaker legislation and to promote the inclusion of displaced homemakers under Federal and State unemployment compensation laws.

On the issue of displaced homemakers and the rights of older women, N.O.W. has presented testimony at a number of Congressional hearings. Most recently, the newly elected N.O.W. President Eleanor Smeal testified before the Subcommittee on Social Security of the Ways and Means Committee on equality in Social Security and its impact on women.

NATIONAL ASSOCIATION OF STATE MENTAL
HEALTH PROGRAM DIRECTORS (NASMHPD)

Summary Description

The National Association of State Mental Health Program Directors was founded in 1953 "to promote the cooperation and exchange of ideas in the administration of public mental health programs including hospital and community, alcoholics and drug addicts, and programs designed to prevent mental illness."

The National Association of State Mental Health Program Directors is a membership organization comprised of fifty-four state and territorial government agencies.

The NASMHPD provides its members with five major services:

- information on state and federal legislation and programs.
- a means for communicating the objectives and needs of the state mental health agencies to the federal government;
- coordination of the actions of the 54 state mental health agencies with national, voluntary and professional associations, and consumer and provider groups;
- data and information on the administration of MHMR programs in the states;
- policy forum for state mental health administrators.

- NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.

Summary Description

Founded in 1969, the National Association of Community Health Centers, Inc., is a national coalition of organizations and individuals "devoted to the growth and development of community-based ambulatory care programs."

The Association has approximately 300 organizational and 1,000 individual members from fifty states and U. S. territories.

The Association's mandate is:

- to develop quality health care delivery systems responsive to community needs;
- to represent the constituency in legislative and professional arenas;
- to foster the development of educational and professional opportunities for community health manpower, and
- to develop innovative projects to strengthen health centers' efforts and expand resources.

The Association carries out its mandate through a broad range of program activities designed to promote and facilitate community health center development. These activities include-- education and training, research, policy analysis, technical assistance, publication and other membership services.

The Department of Policy Analysis is responsible for evaluating Federal legislation and regulations. Major emphasis is placed on policy matters relating to health service programs, and health manpower. Association members are kept informed of developments in legislative and administrative policy through a monthly "Legislative Status Report."

MENTAL HEALTH ASSOCIATION

Summary Description

The Mental Health Association whose primary function is to "promote citizen interest and activity on behalf of the mentally ill and for the cause of mental health" states its origins from 1909 when the National Committee for Mental Hygiene was founded. In 1950, the Committee merged with The National Mental Health Foundation and the Psychiatric Foundation to form the National Association for Mental Health. In 1976, the name was changed to the Mental Health Association.

The principal thrust of the organization's program is social action in the areas of Community care, prevention, research and education. On the national level, the Mental Health Association provides and/or develops research into the causes, treatment and prevention of mental illness, information materials, laws and programs, guides to state and local affiliates, and field support. The State Associations for Mental Health are concerned with legislative action and guidance to local chapters. The local Mental Health Associations provide volunteers to hospitals, clinics, schools, engage in social action and are involved with other treatment programs and Community services.

The Mental Health Association is comprised of 803 chapters serving city, county and Metropolitan areas; State Divisions and a National Headquarters.

The gross revenue of the National Office Divisions and Chapters for fiscal year 1976 was \$17.3 million. About one-half of the revenue is derived from United Way Allocations, the rest from independent sources.

The Mental Health Association has issued position statements on a number of issues. Of particular interest to the Age Discrimination Study are the statements issued on Facilities and Services for the Geriatric Mental Patient, the Position Statement on Manpower and the Position Statement on the Joint Commission on Mental Health of Children Report.

Currently serving on the Board of Directors of the Mental Health Association is First Lady Rosalynn Carter.

URBAN ELDERLY COALITION

Summary Description

The Urban Elderly Coalition is an association of urban offices on Aging which represent the overwhelming majority of older Americans in the country. A major purpose of the Coalition is to serve as an information resource to its members and to facilitate communication between them and policy makers at the Federal level. In existence since 1972, the Urban Elderly Coalition opened its National Office, April, 1977. The five major objectives of the Coalition are:

- . To strengthen urban offices on aging by serving as a clearinghouse for information and providing technical assistance;
- . To serve as liaison between urban offices on aging and the various Federal agencies administering programs for the elderly;
- . To analyze Federal legislation and regulations that affect or have a potential to affect the urban elderly and the city agencies that serve them;
- . To develop a communications network that will facilitate action on behalf of the urban elderly; and
- . To develop cooperative working relationships with organizations of similar interest to pool and coordinate resources and activities.

NATIONAL ASSOCIATION OF STATE UNITS ON AGING

Summary Description

The National Association of State Units on Aging (NASUA) is made up of the executives of the 56 State and territorial agencies on aging established under Title III of the Older Americans Act. The organization was founded in 1966 with the inception of the Older Americans Act of 1965.

The organization states its purpose as being--

to provide a vehicle for exchange of information on the problems and capabilities of older persons among the Federal Government, other national organizations concerned with older Americans and the State Units on Aging;

to provide information on Federal legislation, regulations, policies and deadlines in time for the States to plan for, react to, and have impact on such decisions;

to enable the State Units on Aging to act collectively and permit informed and considered action between the States as a positive force to improve the status of older persons in our society.

NASUA has undertaken to establish a Washington Liaison office to provide 1) NASUA responses to Federal laws and regulations 2) an information clearinghouse on State Aging activities 3) an annual "State Units" report and special issue report 4) information memoranda and bulletins to States 5) booklet on State Unit activities 6) program and management training programs.

NATIONAL ASSOCIATION OF AREA
AGENCIES ON AGING

Summary Description

The National Association of Area Agencies on Aging (NAAAA) arose from a series of regional caucuses of area agencies around the country. "Area Agencies on Aging" were established and are supported under the 1973 Amendments to the Older Americans Act. The organization was formally established in April, 1976. Membership of NAAAA includes well over 500 area agencies now operating around the country.

The organization's activities to date have focussed on legal services for older persons, Title XX, crime and victimization of older persons, housing, transportation and legislative advocacy.

The Pacific/Asian Coalition (PAC)

Summary Description

Founded in 1972 as a non-profit organization, the Pacific/Asian Coalition (PAC), officially known as the National Coalition of Asian Americans and Pacific Island Peoples for Human Services and Action, is a National human services advocacy and research organization of Asian and Pacific Islander Americans.

The National headquarters is in San Jose, California with nine regional components across the country constituting membership. The chief funding source is from the Center for Minority Group Mental Health Program of the National Institute of Mental Health for the years 1973 through 1977. Special Service for Groups, Inc., is the grantee agency and fiscal agent for PAC.

Major issues of concern are with: human rights, mental health, comprehensive health care, immigrants and immigration, delivery of human services, employment, education, cultural isolation and information vacuum.

Some of the accomplishments of PAC include:

- . identifying models in service delivery to Pacific/Asian countries;
- . gathering and disseminating data and information to aid in current and future research and service projects;
- . formulating national research strategies which impact on policy and programs affecting Asian American and Pacific Island peoples;
- . sensitizing government and the general public to the concerns of the Pacific/Asian American communities in the United States;
- . developing concepts, strategies and methods of providing technical assistance to schools, hospitals, mental health organizations, social service organizations and other agencies to help meet the needs of Asian and Pacific Islander Americans.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Summary Description

The National Tribal Chairman's Association (a federally sponsored organization) was organized in 1971 for the purpose of "protecting Indian-owned natural resources for which the Federal Government has a trust responsibility and to which it has a moral and legal commitment." The NTCA has recommended that Congress secure this protection through its authority, and the Federal agencies, and through their programs and appropriated funds. The NTCA sees as one of its priorities the training for Indian youth not only in areas of policy making but also in the technical and professional fields. Additionally, they are encouraged to take training in natural resources.

Membership of this association is comprised of leaders of Federally Recognized Tribal Governments who consist of duly elected or appointed chairmen, presidents, governors or chiefs of reservation Indians or of federally recognized tribes with federal trust land or whose members live on or nearby federal reservations having a local governing entity, and the 12 Alaska Regional Corporations as created by the Alaskan Native Claims Bill.

The Association meets twice a year to discuss and decide on relevant issues associated with their purposes and goals. Among the issues with which the NTCA concerns itself are:

- delivering of services to Indian Tribal members
- development and enhancement of the economic base for Indian tribal society
- protection of Indian-owned natural resources

LULAC NATIONAL EDUCATIONAL SERVICE CENTER

Summary Description

The League of United Latin American Citizens, (LULAC) the oldest and largest Hispanic organization in the United States, established the LULAC National Educational Service Center as an independent, separately incorporated, tax exempt program (LNESEC) in 1973 with funds provided by the Community Services Administration. Its board of directors is nominated and confirmed by the LULAC Supreme Council which is comprised of nationally elected officers and State Directors.

LNESEC grew out of a concern to have more representation of Hispanics in America's colleges and universities. Its goal is "to motivate disadvantaged young people who have the potential to consider a professional career suited to their capabilities and interests." This goal is achieved through the utilization of eleven educational service centers located throughout the United States with the National office in Washington, D.C. taking responsibility for providing:

- . technical assistance to the field offices
- . providing Community Service Administration and LNESEC policies
- . providing detailed fiscal accountability

- . gathering of educational data for field centers use

The field centers provide free counseling services to all applicants who seek assistance. While the centers themselves do not provide educational funds, they have considerable skill in identifying alternative sources for financing a college education.

LULAC National Educational Service Center has been involved in such national civil rights issues as housing, manpower, and education. With regard to education, over the past 40 years, LULAC has challenged the legality of segregated school systems serving Hispanic children in California and in Texas. LULAC takes pride in instituting a unique pre-school program which became a model for Operation Headstart. Among its many accomplishments include placing over 16,000 students in undergraduate and graduate programs, awarding over 200 corporate and foundation scholarships and over 39,500

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students contacted and counseled. Additionally, LNEESC acts as an advocate for improved Federal programs addressing Hispanic higher educational needs.

LNEESC has developed working relationships with such national organization as:

- . American Association of State College and Universities
- . American College Testing Program
- . American Council on Education
- . Association of American Colleges
- . Coalition for Spanish-speaking Mental Health Organization
- . National Association of State Universities and Land-Grant Colleges
- . American Association of University Professors
- . College Entrance Examination Board
- . Committee on Minorities in Engineering
- . Corporation for Public Broadcasting
- . Educational Testing Service
- . El Congreso-National Congress of Hispanic-American Citizens
- . National Association of Student Financial Aid Administrators
- . National Education Association
- . National Institute of Education
- . National Merit Scholarship Corporation
- . National Student Education Fund
- . National Student Lobby SER/Jobs for Progress, Inc.

NATIONAL COUNCIL OF LA RAZA

Summary Description

The Southwest Council of La Raza started in 1968 as a nonprofit non-partisan organization. In 1973, the Southwest Council became the National Council of La Raza (NCLR) thereby changing its role from a regional to a national thrust on behalf of not only Chicanos but all Hispanics. NCLR has a national office in Washington, D.C., where fiscal, national services, and communications operations are directed. The corporate headquarters, Phoenix, Arizona, has the housing and economic development component function.

Serving as one of 25 board members on the Board of Directors for NCLR, is Leonel Castillo, Director of Immigration and naturalization. Another person of note who is an affiliate of NCLR is Arabella Martinez, who is presently Assistant Secretary for Human Development with HEW and Executive Director for the Spanish-Speaking Unit Council, one of the regional components.

The primary funding source of the Council is the Ford Foundation with additional contributions from private citizens, organizations and corporations.

NCLR provides service in five general areas: economic development, public policy, research and analysis, lobbying, communication and housing. Additionally, the Council serves as a firmly established advocate for Chicano issues in a number of areas including immigration (undocumented aliens,) administration of justice, bilingual/bicultural education, census, and other civil rights areas.

NCLR has been able to transmit its goal of "human dignity through attainment of la raza's civil rights" through its renowned advocacy on behalf of affiliate community organizations. This has been accomplished through the Council's assistance in helping community organizations to develop their own capabilities and by voicing their concerns before responsible forums. Such affiliate community organizations are: the Mexican-American Unity Council, San Antonio, the Spanish-Speaking Unity Council, Oakland, and Chicanos Por La Causa, Phoenix, Arizona.

NATIONAL ASSOCIATION OF THE DEAF

Summary Description

The National Association of the Deaf, a private non-profit consumer organization funded in 1880, is dedicated "to protecting and defending the rights of deaf people." NAD is the largest and the oldest consumer organization of the deaf in the United States with over 17,000 members and 45 affiliated State associations. Membership includes deaf and hearing adults, parents of deaf children, organizations of and for the deaf professionals and students in the field of deafness and other concerned individuals.

NAD recommends and promotes legislation on behalf of deaf people in the areas of rehabilitation, education, interpreter laws, hearing aid regulation and captioned television.

The following services are provided:

- information dissemination and referral
- media evaluation (recommends films to be captioned)
- consumer advocacy
- representation at congressional hearings, government meetings, and professional seminars
- public awareness through publications and media campaigns
- training
- research ..

Some of the issues which the NAD supports are better services for hearing impaired elderly citizens, hidden captions on TV programs and legislation to require TV networks to caption programs for the deaf, and implementation of the provisions of Section 504 of the Rehabilitation Act of 1973.

NATIONAL REHABILITATION ASSOCIATION

Summary Description

The National Rehabilitation Association was founded in 1925. It is a private, nonprofit organization whose purpose "is to advance the rehabilitation of all handicapped persons." The Association is "an effective advocate for handicapped people, articulating their rights and needs, and pursuing the best possible means to meet these needs." Membership number 33,000 persons and is available to all interested persons.

NRA's activities include the following areas:

- supporting Federal and State legislative activities in the area of rehabilitation
- professional development through annual conferences and meetings, publications, research and training, and membership in one of seven divisions which promote special interests and needs within the Association
- Interagency cooperation at the local, State, and national levels to achieve the Association's goals
- development of public awareness regarding the needs of handicapped persons.

AMERICAN COUNCIL OF THE BLIND

Summary Description

The American Council of the Blind is a non-profit organization with over 12,000 members most of whom are visually impaired. Some are members-at-large and the majority are members of one of the forty state affiliate organizations or nine special interest organizations. The Council and its services are available to all visually handicapped people and to agencies and facilities that serve the blind.

The purpose of the American Council of the Blind is to strive for the betterment of the blind community through a variety of channels including:

- . serving as a national organization primarily representing the blind
- . providing a forum for the views of the blind
- . improving educational and rehabilitational facilities
- . broadening vocational opportunities

A summary of activities of the ACB includes:

- . working for the signing and implementation of Section 504 of the Rehabilitation Act of 1973
- . requiring public schools to accept handicapped students
- . establishing a comprehensive health care system for all citizens
- . reforming and liberalizing Social Security and Supplemental Income programs.

AMERICAN PUBLIC WELFARE ASSOCIATION

Summary Description

The American Public Welfare Association (APWA), a nonprofit organization, was founded in 1930. It is composed of "individuals and agencies concerned about the effective administration and delivery of publicly funded human services." Members include all State and territorial public welfare agencies, more than 1,700 local and Federal agencies and approximately 7,000 individuals who work in or have an interest in public welfare programs. Membership is open to any individual or agency interested in public welfare and the purpose of the Association.

The objectives of the organization are "to promote the development of sound and progressive national social policies; and to strengthen the professional skills of persons employed in the public welfare field."

Primary functions of the APWA include analysis of social policy at the national level; educational and liaison activities with various Executive Branch agencies and with Congress; publications; conferences and seminars; and research and demonstration projects in public welfare.

Regarding policy development the Association "is involved in a substantial way in all the major national issues affecting public welfare today." Testimony and statements are prepared for committee and subcommittee hearings and recommendations are regularly provided to Federal administrative agencies on a wide range of issues including social services, income maintenance, Food Stamps, Medicaid, long-term care, employment/manpower and other areas.

APWA has also conducted numerous projects over the years in such areas as aging, SSI, and Title XX. The aging project is aimed at developing and demonstrating training programs for public welfare personnel dealing with elderly people.

THE CHILD WELFARE LEAGUE OF AMERICA, INC.

Summary Description

The Child Welfare League of America, Inc. (CWLA), a federation of 400 child welfare organizations, was founded in 1920. It is the only privately supported North American standard-setting agency in the child welfare field. The League develops standards for child welfare services, conducts research, publishes professional materials, provides information, sponsors conferences, publicizes child welfare needs and works to improve policies and legislation affecting the welfare of children. Additionally, the League provides consultation to agencies along with a survey service designed to meet the particular needs of individual agencies and communities. Its goal is "to protect and promote the welfare of children by helping child welfare agencies and communities provide essential social services for children and their families."

Among League members are small agencies with budgets of less than \$100,000 and large agencies with annual expenditures of several millions. Its membership consists of almost 400 agencies, distributed throughout the States, the District of Columbia and six provinces in Canada. They serve more than 50 percent of the children receiving services from agencies.

Direct services provided by League members include: Services for children in their own homes, protective service, day care, homemaker service, foster family care, residential treatment for emotionally disturbed children adoption, and services for unmarried parents.

THE AMERICAN ASSOCIATION OF PSYCHIATRIC SERVICES
FOR CHILDREN (AAPSC)

Summary Description

The American Association of Psychiatric Services for Children, founded in 1948, is the only multidisciplinary group of clinical mental health agencies and professionals in the country.

The Association has a membership of 175 public and private psychiatric clinics and services from all parts of the United States. Since 1975, the Association has also admitted child mental health professionals not on the staff of member agencies.

The AAPSC's main purposes are to:

- encourage the highest quality standards for clinical practice, training, and services;
- offer a national focus for the clinical point of view and represent this perspective in professional and public areas;
- provide consultation to members and others on all aspects of service delivery;
- provide a clearinghouse of information relevant to the field;
- support and/or undertake research projects dealing with child mental health;
- foster prevention of mental and emotional disorders of the young;
- further the responsible development and application of clinical knowledge.

The Association serves as an advocate for its membership at the Federal level on mental health policy issues. Currently, the Government Relations section of the Association is concerned with Early Periodic Screening Diagnosis and Treatment (EPSDT), implementation of state plans for Title XX of the Social Security Act, HEW appropriations legislation, the implementation of health planning legislation, and coverage of children's mental health services in national health insurance.

The American Academy of Child Psychiatry
Washington, D. C.

Summary Description

The American Academy of Child Psychiatry, founded in 1953, is the professional organization of child psychiatrists. Currently the organization has approximately 1700 members from the United States, Mexico and Canada.

The American Academy of Child Psychiatry is concerned with the mental health of children and their families, with the discipline of child psychiatry, and with child psychiatry practitioners.

The Academy functions through a committee structure. Priority areas addressed by the committees include developing profiles for Professional Standards, Review for Child Psychiatry, Early Periodic Screening, Diagnosis and Treatment, and national health insurance coverage for child mental health. Along with the committees, the various directors of training programs in child psychiatry have formed a subgroup in the Academy to improve and advance the training of candidates in this discipline.

Some of the areas on which the Academy has presented testimony to Congress are foster care placement of Native American children and EPSDT.

AMERICAN PSYCHIATRIC ASSOCIATION

Summary Description

Founded in 1844, the American Psychiatric Association is the oldest national medical society in the United States. Today, the Association has 21,000 members from the United States, Canada, Central America and other countries. Members must be physicians with some specialized training in psychiatry.

The objectives of the Association are:

- to improve the treatment, rehabilitation and care of the mentally ill, the mentally retarded, and the emotionally disturbed
- to promote research, professional education in psychiatry and allied fields and the prevention of psychiatric disabilities;
- to advance the standards of all psychiatric services and facilities
- to make psychiatric knowledge available to other practitioners of medicine, to other scientists, and to the public; and
- to foster the cooperation of all who are concerned with the medical, psychological, social and legal aspects of mental health and illness.

The Association's programs and policies originate in the studies and recommendations of its eight councils and the many task forces, committees and commissions which function under their aegis.

The Association's Division of Government Relations provides Congress and the Federal agencies professional guidance in the development of legislation and regulations on national mental health policies and programs. Among some of the Divisions top priorities are national health insurance, appropriations, manpower, research, and confidentiality.

The Association has addressed the mental health needs of older persons and children through task forces and publications. The Association also played an instrumental role in 1971 in increasing appropriations for community mental health centers, children's services, and for combatting alcoholism and drug abuse.

NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.

Summary Description

The National Association of Social Workers (NASW) was created on October 1, 1955, by the merger of seven predecessor social work organizations. With headquarters in Washington, D.C., NASW has a professional membership of over 70,000 persons with separate chapters in each of the States, the District of Columbia and New York City, in Puerto Rico and in Europe. NASW membership is based upon professional education requirements for individuals with training in social work or employed in a social work capacity and for social work students.

The Association's primary functions include professional development of members through educational activities; creation and maintenance of professional standards of social work practice through a Code of Ethics; advancement of sound social policies and programs through professional and technical analysis, testimony, and legislative action; and membership services including journals, other publications and books, insurance and travel benefits. With regard to legislative issues, NASW has testified concerning the amendments to Title XX eligibility requirements; revenue sharing; The Home Health Care Act; Food Stamps; Medicare; Privacy; National Health Insurance; and the Equal Opportunity and Full Employment Act.

For the 1970's NASW has identified as its main goal the "eradication of social problems of racism and poverty" and six key program priorities which are: (1) social services; (2) income maintenance; (3) health; (4) man and woman power; (5) adult and juvenile justice systems; and (6) women in social welfare.

NATIONAL COUNCIL OF COMMUNITY MENTAL HEALTH CENTERS, INC.

Summary Description

The National Council of Community Mental Health Centers is a membership organization made up of nonprofit community mental health centers and agencies providing some mental health services and/or aspiring to become community mental health centers. Comprehensive community mental health centers have full member status while other agencies are associate members.

The National Council of Community Mental Health Centers represents mental health centers in Congress and in state legislatures. The purpose of the organization is to "coordinate the efforts of the community mental health movement and raise the level of its effectiveness." Issues with which the organization has been concerned range from third party reimbursement mechanisms to emerging health care delivery systems. Task forces are created to deal with specific problems in the mental health field.

The Community Mental Health Institute is the education and research unit of the National Council. The Institute sponsors workshops, seminars and training programs, provides technical assistance and consultation services, and makes available workbooks and other resource materials to its members.

Council members are kept informed of developments in legislative and administrative policy affecting community mental health centers through a monthly publication.

NATIONAL LEGAL AID/DEFENDER ASSOCIATION

Summary Description

This organization began in 1911 as the National Alliance of Legal Aid Societies. NLADA is a private, nonprofit organization which receives funding through public and corporate donations, and foundation and government grants.

The membership of NLADA consists of 6,000 attorneys, 3,500 individuals and 850 legal services and defender programs.

The organization has a civil and a defender division. The goal of the civil division is to increase the availability and quality of legal services to the poor. To accomplish this goal, they provide technical assistance, training, education and advocacy to local programs. NLADA was heavily involved in the creation of the Legal Services Corporation.

LEGAL RESEARCH AND SERVICES FOR THE ELDERLY

Summary Description

This program is the legal arm of the National Council of Senior Citizens, Inc. The program began in 1968; it received funding through OEO from its inception through 1972, and funding through AOA from 1974 to the present.

The overall goal of the program is to develop and coordinate legal resources for the elderly. Toward this end, LRSE provides direct service, community advocacy, training of elderly paralegals, technical assistance to aging organizations and social service agencies, drafting of model legislation, and assistance in the development of local legal services programs.

The Director has testified before congressional committees interested in improving legal representation for older persons.

Publications include Bibliography of Law and Aging, Law and Aging Manual and A Handbook of Model State Statutes.

Notable members of the National Advisory Board include John Brademas, Wilbur J. Cohen, Walter Mondale, Bernice Neugarten, Harmon A. Williams and Robert Butler.

NATIONAL CLIENTS COUNCIL, INC.

Summary Description

The National Clients Council was organized about eight years ago under the OEO legal services program. It is presently a non-profit corporation founded by the legal services corporation. NCC is a community oriented, client advocate group whose central purpose is to insure the delivery of appropriate, relevant, quality legal services to all current and potential clients of the Legal Services Corporation. Its major functions are (1) to help organize client advisory councils at the local, state, regional, and national levels of the Legal Services Program; (2) to act as liaison between and offer technical assistance and information to client community groups and Legal Services Programs; and (3) to organize training sessions to help clients function as meaningful participants in decision-making on LSP boards of directors.

PROJECT ADVISORY GROUP

The Project Advisory Group is an organization to which all local projects funded by Legal Services Corporation nominally belong. The function of the PAG is to represent the collective interest of local programs before the corporation and Congress.

The organization is independent of the Legal Service, Corp.; it is supported through membership dues. The PAG is run by a board of directors and an executive committee.

NATIONAL COUNCIL OF SENIOR CITIZENS

Summary Description

The National Council of Senior Citizens (NCSC) was organized in July, 1971 by the late Congressman Aime J. Forand of Rhode Island. Following the Congressman's interest in health insurance for older persons under Social Security, NCSC was a foremost advocate of the Medicare Program. NCSC is a non-profit, nonpartisan organization representing more than 3,500,000 older persons. NCSC has been involved primarily with the following issues:

NCSC is the largest single sponsor of housing for the elderly, after receiving approval on jointly-sponsored applications for Section 202 funds (available through the Department of Housing and Urban Development). Housing sites include North Dade County, Florida; Miami Beach, Florida; Chicago, Illinois; Claremont, New Hampshire; Brooklyn, New York; Jacksonville, Arkansas; and an unnamed location in New Jersey.

Senior AIDES, a nationwide senior citizens service corps co-sponsored by NCSC, places thousands of seniors in community service employment which was previously unavailable.

Legal Research and Services for the Elderly, sponsored by NCSC and the Administration on Aging/HEW, will be evaluating strategies aimed at preventing crime against the elderly in New York, Chicago, Los Angeles, New Orleans, Milwaukee, and Washington, D.C.

NCSC not only supports improvements in Medicare health insurance but also advocates National Health Security. Thousands of seniors, gathered in Chicago for the 13th NCSC Constitutional Convention (Summer, 1976), rallied for the passage of the bill, while at NCSC's urging, numerous petitions were sent to the Committee on National Health Insurance.

NCSC is unsatisfied with a yearly review of the cost of living to determine social security increases. NCSC proposes more frequent reviews to ensure meaningful benefits.

NCSC has backed legislation to lower rates on air and land transportation for senior citizens, on both the national and local levels.

In addition to NCSC's push for better standards in U.S. nursing homes, LRSE's Nursing Home Ombudsman Program is developing patient advocacy in long-term care facilities. Also, the Council's Nursing Home Information Service collects reports on various facilities, including recommendations on the care provided.

NCSC's President Nelson Cruickshank (now former President) is the Counselor on Aging to President Carter.

THE NATIONAL COUNCIL ON AGINGSummary Description

The National Council on the Aging Inc., was founded in 1950. It is a broadly based organization that provides leadership and guidance to the Nation in the development of services for older people in hundreds of communities in every state, as well as Puerto Rico, Canada and other parts of the world.

The organization is divided into divisions, some of the major divisions are as follows:

- . National Institute of Senior Centers. Through this division NCOA has provided national coordination and guidance to the National Conference of Senior Centers. The division was established to meet the widespread demands for expert technical assistance required for effective planning and programming.
- . The National Media Resource Center on the Aging. The purpose of this division is to enable more older persons to participate more fully in the job market, volunteer service, community activities and events by reducing age discrimination whenever it exists; to educate the general public to better understand the processes and potentials of aging; to stimulate the elderly to hold themselves in higher esteem and as worthy needed members of society.
- . The National Institute of Industrial Gerontology. This division provides services and assistance to and for business, labor, agencies and universities on the problems and potentials of working Americans over 40 years of age. They provided throughout the 1970's technical assistance to industry and labor on problems of the older worker.
- . The Center for Older Americans and the Arts. The division has published a definitive study on ways in which the elderly and the arts can be brought together for the mutual benefit of both.

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- . The National Voluntary Organization for Independent Living for the Aged. This division's purpose is to assist older persons maintain their independence by staying in their own homes or other non-institutional settings as long as possible.
- . Public Policy Center. This division keeps abreast of all pending legislation and policy decisions affecting the elderly.
- . Research Department. This division has been involved in the development and dissemination of applied research in the field of aging. Two major projects they are currently involved in is (1) the assessing the impact of the new Title XX Social Service amendment to the Social Security Act on the Nations elderly poor; (2) the early implementation of the employment Retirement Income Security Act of 1974 (pension reform law) and to determine its effects on the employment of middle-aged and older workers and the growth of private pension plans.

THE AMERICAN ASSOCIATION OF RETIRED PERSONS/
THE NATIONAL RETIRED TEACHERS ASSOCIATION

Summary Description

The National Retired Teachers Association (NRTA) and the American Association of Retired Persons (AARP) are non-profit, nonpartisan organizations dedicated to helping older Americans achieving retirement lives of independence, dignity and purpose.

Both organizations were founded by the late Dr. Ethel Percy Andrus. The organizations have a combined membership of more than 10.8 million members, and report to be the Nation's largest organization of older Americans.

The organizations have major divisions as follows:

- . Legislative Representation. Legislative specialists represent the interests of all older Americans, working closely with Federal and State legislators in drafting and sponsoring legislation, advocating the views of older citizens at legislative and administrative hearings, and informing the membership of legislative activities. With volunteer NRTA-AARP Joint State Legislative Committees now active in all 50 states, the Associations are the only national organization of older citizens with significant representation at the state level.
- . Pharmacy Service. Prescription medicines and other health needs are available to members by mail or direct purchase from pharmacies located in Washington, D.C.; Long Beach, California; St. Petersburg, Florida; Kansas City, Missouri; Hartford, Connecticut; Indianapolis, Indiana; and Portland, Oregon.
- . Pre-Retirement. NRTA's retirement education program and AARP's Action for Independent Maturity (AIM) division offer counseling programs and publications designed to help individuals prepare for successful retirement living.

ASSOCIATION OF AMERICAN LAW SCHOOLS

Summary Description

The Association of American Law Schools was founded in 1900. Its principal purpose, as stated by its president in an address delivered in 1902, was "to enable those schools which have similar general conceptions of the object to be attained and the best means of attaining it, to assist each other with a view toward mutual improvement." The present statement of purpose, as embodied in the bylaws of the Association, calls for "the improvement of the legal profession through legal education."

The Association of American Law Schools is unique among educational associations in the United States in that it is essentially a tripartite organization. As a direct consequence of its stated purpose, the Association of American Law Schools shares with the American Bar Association the responsibility for the accreditation of schools of law in the United States. The Association of American Law Schools operates from the point of view of the interests and concerns of the community of scholars and teachers. The Association of American Law Schools also functions as a traditional educational association, providing a wide range of services to its institutional membership, such as assisting schools in identifying various government programs likely to be of importance to those schools, arranging an annual meeting, publishing various studies and reports, and interpreting the mission and needs of legal education to the many outside constituencies, such as government, the general public, and potential students. Finally, the Association of American Law Schools serves as the scholarly society in the academic discipline of the law, representing the law teachers as individuals in the community of scholars. To this end, the Association of American Law Schools is a member of the American Council of Learned Societies and of the Consortium of Social Science Associations.

THE COUNCIL OF GRADUATE SCHOOLS

Summary Description

The Council of Graduate Schools was established in 1961 as the result of a felt need for a national organization of graduate schools which would be broadly representative of American graduate education.

The purpose of the Council is to improve and advance graduate education. The Council examines needs, ascertains best practices and procedures, and renders assistance by initiating research and providing a forum for the consideration of problems and their solutions. In this capacity the Council acts in accordance with the needs of the times and particular situations to disseminate to the public, to institutions, to foundations, to the Federal, State, and local governments, and other groups whose interest or support is deemed of concern, information relating to the needs of graduate education and the best manner of satisfying them.

The Council comprises 357 public and private member institutions located throughout 49 States. The colleges and universities which comprise the Council award 99 percent of all research doctorates and 85 percent of all master's degrees conferred annually in the United States.

The Council of Graduate Schools is governed by a 12-member Executive Committee each of whom represents a member institution. The President, selected by the Executive Committee and assisted by the staff, directs the activities of the Council from the headquarters office in Washington, D.C.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES

Summary Description

The Association of American Medical Colleges was formed in 1876. The Association has as its purpose the advancement of medical education and the Nation's health. In pursuing this purpose, the Association works with many national and international organizations, institutions, and individuals interested in strengthening the quality of medical education at all levels, the search for biomedical knowledge, and the application of these tools to providing effective health care.

As an educational association representative of members having similar purpose, the primary role of the Association of American Medical Colleges is to assist those members by providing services at the national level which will facilitate the accomplishment of their mission. Such activities may include collecting data and conducting studies on issues of major concern, evaluating the quality of educational programs through the accreditation process, providing consultation and technical assistance to institutions as needs are identified, synthesizing the opinions of an informed membership for consideration at the national level, and improving communication among those concerned with medical education and the Nation's health. Other activities of the Association reflect the expressed concerns and priorities of the officers and governing bodies.

The Association appointed its first full-time president in 1968. The previous yearly appointed position of president was replaced by the title of chairman. Between meetings of the Assembly, the Association's affairs are conducted by the Executive Council, a twenty-two member board. The Assembly is the highest legislative body of the Association.

The Association has organized national groups relating to specific functions within the medical schools. These groups, which have formal non-voting status in the Association, are: Group on Business Affairs, Group on Medical Education, Planning Coordinators' Group, Group on Public Relations, and Group on Student Affairs.

The monthly Journal of Medical Education is the major publication of the Association. In the Journal are study reports, reviews, editorials, bibliographies, and other papers, all of which communicate national and international developments related to medical education.

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The Association of American Medical Colleges Directory of American Medical Education is an annual publication listing Association members and giving information about Association organizational structure and activities. Other annual publications are Medical School Admission Requirements. United States and Canada, which has become the authoritative references on admission policies, and Association of American Medical College Curriculum Directory, which provides basic objective data on the curriculum of every U.S. and Canadian medical school.

EDUCATIONAL TESTING SERVICE

Summary Description

The Educational Testing Service is a private, nonprofit organization devoted to measurement and research, primarily in the field of education. It was founded in 1947 by the American Council on Education, the Carnegie Foundation for the Advancement of Teaching, and the College Entrance Examination Board.

The Educational Testing Service is empowered to engage in, undertake, and carry on services, research, and other activities in the field of educational testing and such other activities as may be appropriate to such purpose. Some of the Testing Service research, development, and instructional and advisory services are conducted for governmental agencies, such as the U.S. Office of Education, or for foundations as well as for other independent policy groups.

The main office of the Educational Testing Service is in Princeton, New Jersey, and there are nine regional offices. The Testing Service has 16 trustees. Thirteen are elected for four-year terms. New members of the Board are elected by current trustees. The Presidents of American Council on Education, the College Entrance Examination Board, and the Educational Testing Service also serve as trustees.

The trustees are responsible for the determination of the Testing service policies and objectives; for the maintenance of balance among the services, research, and other activities; and for the examination and revision where necessary of goals and objectives, as research, new educational needs, and changing circumstances demand.

Within the guidelines and policy directions determined by the trustees, the Educational Testing Service is directed by its officers, who head a permanent staff of approximately 2,000 professional and support personnel.

THE AMERICAN COUNCIL ON EDUCATION

Summary Description

The American Council on Education, founded in 1918, and composed of institutions of higher education and national and regional associations, is the nation's major coordinating body for postsecondary education. The members of the Council as of January 1976 numbered 1,330 institutions of higher education and 175 national and regional associations and organizations. Affiliates numbered 61 institutions and organizations.

The Council investigates problems of wide concern throughout postsecondary education and enlists appropriate agencies to help solve such problems; stimulates experimental activities by institutions and groups of institutions; monitors pending legislation affecting the educational enterprise; acts in a liaison capacity in matters common between educational institutions and agencies of the Federal government; is actively involved in international education; and through its publications, makes available to educators and the general public widely used handbooks, informational reports, and volumes of critical analyses of social and educational problems.

A Board of Directors, composed of outstanding leaders in education and broadly representative of the Council's membership, is the governing body of the Council. A chairman, vice-chairman, and secretary are elected annually and take office at the Council's annual meeting in October.

The Chief Executive Officer of the Council is the president, who is selected by the Board of Directors, after consultation with the membership. Other executive officers are appointed by the Board on nomination of the president.

The Council operates through its permanent staff and through advisory commissions and committees. Outstanding leaders in education, in related fields, and in public life serve on Council commissions and committees. Directors of offices and other special programs are responsible for developing Council policy and programs, subject to approval by the president and board. Among the officers of the Council is Stephen K. Bailey, Vice-President and Director of the International Education Project. In addition to sharing responsibility for conducting Council's day-to-day affairs, Dr. Bailey has carried out speaking

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engagements, published numerous articles in professional journals, arranged for the publication of a study entitled "A Cabinet Department of Education: Analysis and Proposal," and worked actively with other associations, foundations, and government agencies including the National Task Force on Citizenship Education, the National Academy of Education's Task Force on Collective Bargaining, the Advisory Committee to the Rockefeller Public Service Awards, the Educational Testing Service Seminar for Soviet educators, and the U.S. National Commission for UNESCO, among others.

Elected members of the Board include Dr. Stephen Horn, President of California State University at Long Beach and Vice Chairman of the U. S. Commission on Civil Rights.

THE AMERICAN COLLEGE TESTING PROGRAM

Summary Description

The American College Testing Program is an independent and nonprofit national educational organization. A primary function of the organization is the transmission of information to students, high schools, and colleges during the students' transition from high school to college. This is accomplished largely through the organization Assessment Program and its central instrument, the Assessment, which includes a Student Profile Section plus a battery of four tests of educational development: English Usage, Mathematics Usage, Social Studies Reading, and Natural Sciences Reading. The test is used each year by approximately one million students and over 20,000 educational institutions.

The American College Testing Program is governed by educational representatives from individual States or regions and a Board of Trustees. The organization has a main office located in Iowa City, Iowa. A Washington staff, under the direction of a Director, conducts the Federal affairs of the organization.

NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES
AND UNIVERSITIES

Summary and Description

The National Association of Independent Colleges and Universities was established in February, 1976, by representatives of independent colleges and universities, to meet the need for an organization that would provide a unified national voice for the shaping of public policy.

The Association, with a potential membership of 1,500 independent institutions, seeks to serve the needs and interest of its members by developing public policies which promote, and public understanding which supports, the ability of independent higher education to continue to meet the education needs of America within a pluralistic system.

The membership of the Association currently numbers almost 700, or approximately one-half of all independent institutions in the United States.

The Association is governed by a 21-member Board of Directors. Fifteen institution presidents are elected to the Board by the full membership. These fifteen elect six additional members three of whom are institution presidents and three are State or national association executive officers. The Association President is an ex-officio member of the Board. Association officers are elected by the Board of Directors from among the members of the Board. A Washington staff under the direction of the President conducts the day-to-day activities of the Association.

AMERICAN ASSOCIATION OF STATE
COLLEGES AND UNIVERSITIES

Summary Description

The American Association of State Colleges and Universities was established in 1961 to assist State institutions in meeting their goals and objectives; to provide them with a voice in the development of national policies affecting higher education; and to engage in those activities which can be done more effectively on a collective basis than individually.

The Association provides analyses of Federal programs and legislation and their impact on the campus; it explores new programs to meet the changing and expanding student population; and it helps in developing new relationships between State colleges and universities and other segments of society, such as State and local governments, public interest groups, corporations, and labor which will increase the effectiveness of the institutions. The overlying purpose of the Association's activities is to assist State colleges and universities translate the demands and pressures of public need, financial resources, and social change into an academic framework which successfully educates students.

The Association comprises 323 State colleges and universities located throughout the United States and in the territories of Guam and the Virgin Islands. The member institutions educate one out of four of all U. S. College students.

The basic policies of the Association are set at the annual meeting each November. The purpose of the meeting is to enable presidents and chancellors of member institutions to explore current issues, and to respond with policy statements and resolutions adopted by the membership. The Board of Directors, elected by the members during the annual meeting, conducts association's business at quarterly meetings. Programs and projects are carried out by a Washington staff, guided by standing committees. Task forces are created as special needs arise. Current task forces include the task force on Athletics and the task force on Educational Opportunities for the Aging. The Association completed a publication in December 1974 entitled "Alternatives for Later Life and Learning: Some programs designed for Older Persons at State Colleges and Universities."

ASSOCIATION OF AMERICAN UNIVERSITIES

Summary Description

The Association of American Universities was founded in 1900 to facilitate an informal exchange of ideas and experiences among the member presidents on matters of mutual interest related to university policy, and to state a public position on matters of high urgency - - such as the Federal financing of higher education.

In 1969, the organization broadened its objectives with the establishment of a Council on Federal Relations whose function is to consider all activities of the Federal government which affect universities, and to make recommendations to the universities presidents who are members of the Association of American Universities.

The Association comprises 48 major public and private universities in the United States and two in Canada.

Effective August 1, the Association will operate under a full-time chief executive in order to improve the effectiveness with which the purposes and needs and problems of the research - intensive university are presented to the government and to the public. Other officers include a vice-president, a past-president, a Chairman of the Council on Federal Relations, and four at-large Executive Committee members. An Executive Secretary who also serves as Director of the Council on Federal Relations, and two Associate Executive Secretaries administer the day-to-day operations of the Association.

AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

Summary Description

A national, nonprofit professional organization, the Association was formed in 1920 as the American Association of Junior Colleges. The name was changed to the American Association of Community and Junior Colleges in 1972 to more accurately reflect expansion of the community college idea. The Association was established to promote two-year college advancement nationally and to provide for interaction of college administrators and faculty through a convention, a national journal, workshops and meetings.

Expansion of community and junior colleges--particularly since the early 1960's--has propelled the Association into a national leadership role in education. The Association now serves an advocacy role before opinion leaders in the administrative branch of government, the Congress, foundations, corporations, and the press. Much of its work is carried out through special projects funded by the Federal government and private philanthropic foundations.

Today, American Association of Community and Junior Colleges has a membership of approximately 900 two-year community, junior and technical colleges. About 100 are privately supported institutions. The membership reflects the fastest growing segment of postsecondary education--with enrollment today totaling 4 million students, as compared to about 700,000 in 1960. The colleges are characterized by open admissions, low costs to students, geographic accessibility, and comprehensive programs. More than one-third of all students are enrolled in programs leading to technical and semi-professional jobs.

The institutions are also deeply committed to lifelong education for older as well as younger Americans. The majority of the colleges are publicly supported (local, State and Federal funding). They employ about 150,000 faculty and staff.

In recent years, the Association has conducted projects in faculty development, occupational education, improvement of college student personnel services, and management development. Two of the current projects include: (1) Women in Occupational Education - The Association, in cooperation with the American

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Association of Women in Community and Junior Colleges, is conducting a study of opportunities for women in non-traditional education in community colleges. Support is from the Carnegie Corporation of New York; and (2) Older American - With assistance from the Edna McConnell Clark Foundation, American Association of Community and Junior Colleges is demonstrating the feasibility of using the experience and know-how of older Americans in the community college setting as volunteer workers or on a paid basis.

The Association elects a chairman, vice chairman and board members who provide national policy-making direction. Councils representing various interest groups within the institutions are affiliated. Task forces and committees deal with special problems. A commission on governmental affairs, made up of representatives of member institutions, provides guidance on governmental relations.

NATIONAL ASSOCIATION OF STATE
UNIVERSITIES AND LAND-GRANT COLLEGES

Summary Description

The National Association of State Universities and Land-Grant Colleges was officially established in 1963 as the result of a merger of three previously established associations: The Association of American Agricultural Colleges and Experiment Stations (1887); the National Association of State Universities (1895); and the American Council on Education (1918).

The Association acts as the catalyst to bring the collective strength of its membership to bear on key educational and scientific issues which concern them all. It is the agency for informing Congress and other units of the Federal government of the positions of State and land-grant universities related to legislation affecting higher education, including such fields as energy, food and agriculture and water. Over the past few years, member institutions of the Association have focused major attention on the problems associated with the implementation of Federal regulations and the financial pressures which have beset all segments of higher education.

The National Association of State Universities and Land-Grant Colleges comprises 136 member institutions which include 72 land grant colleges and universities, 35 State universities, one urban university, and 28 major campuses of multicampus universities.

The Association's principal deliberative, policy-making and legislative body is the Senate, which is composed of the chief executives of all member institutions, and representatives of the Association's seven Councils, five Commissions and its Division of Agriculture. The seven Councils whose membership is made up of chief administrators represent major areas of university life and service and make recommendations to the Senate for action in their respective areas. The Commissions whose membership is made up of primarily deans of academic professional schools appointed by the Association President consider problems in five areas of academic or professional education of major interest to its membership. The Division of Agriculture considers questions relating to the development of science and education in food, agriculture, natural resources and related fields in State and land-grant universities. A 19-member Executive Committee

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acts for the Senate in all policy and business matters. The Committee is composed of Senate representatives, one member from each of the Association's seven Councils and the Division of Agriculture.

The Association's day-to-day business is conducted by a professional staff under the direction of an executive director.

THE NATIONAL CONFERENCE OF CATHOLIC CHARITIES

Summary Description

The National Conference of Catholic Charities (NCCC) was founded in 1910 with funds provided by membership dues of the local agencies and individuals. The current membership is 550 agencies in 147 dioceses, 340 institutional and other group members, 2,918 individual members, and three national affiliates.

The NCCC members served over 4 million people in 1976. The major activities are: counseling unmarried parents, information/referral, child welfare, emergency assistance, programs for the elderly, and family life education.

The major social issues dealt with by NCCC are determined by a priority vote of the membership and field experience. They include Welfare Reform, Family Life, Respect for Life, Tax Reform, World Hunger, National Health Insurance, Urban Crisis, The Elderly, and Parish Social Ministry.

The expenditures of the NCCC members in providing services exceeds \$336 million.

NATIONAL COUNCIL OF CHURCHES

Information has not been received from the National Council of Churches to be included here. The organization represents 30 Protestant and Orthodox denominations throughout the United States. It was founded in 1950 and its headquarters are located in New York.

THE NATIONAL ASSOCIATION OF THE ADVANCEMENT
FOR COLORED PEOPLE (NAACP)

Summary Description

The National Association of the Advancement for Colored People (NAACP) is the oldest and largest Civil Rights organization in the United States. Founded in 1909, it currently has 1,500 branches with a total membership of 400,000 members.

The Association is administered through a Regional system with seven Regions. The National office is divided into Departments/Divisions; as follows:

- . Branch department: concerned with the promotion of new branches and the administration of existing branches.
- . Legal Department: responsible for the appropriate representation of plaintiffs in Civil Rights actions throughout the United States.
- . The Washington Bureau: headed for years by Mr. Parren Mitchell, this office is responsible for all lobbying efforts concerned with Civil Rights issues.
- . Youth and College Division: their priority is the encouragement of academic excellence within the public schools. Promoting new youth units in universities and secondary schools, they try to develop among universities, secondary schools a better understanding of the NAACP, through workshops and seminars.
- . Labor Department: the NAACP's Labor Department under the leadership of Herbert Hill, the Association's Labor Director, conducted a variety of nationwide programs on affirmative action, designed in part to protect the gains made by black workers as well as to open new employment opportunities.

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Housing Department: has assisted the branches to understand and thereby interpret the more sophisticated housing trends as enunciated by the Department of Housing and Urban Development. They have focused their energies on two issues - (1) the redlining of inner city neighborhoods by financial lending institutions; and (2) Federal Community Development Block Grants.

THE NATIONAL URBAN LEAGUE

Summary Description

The National Urban League is an interracial, nonprofit, and nonpartisan community service and civil rights organization. During its 66 year history the League has grown to include 105 affiliates located in cities throughout the United States. The League and its affiliates work to improve the living conditions of Blacks and other disadvantaged minorities and to foster better relations between the races.

The League has 2,500 full-time employees and 2,500 volunteers to carry out its work. There are four regional offices:

- . the Eastern Regional, New York
- . the Central Region, Chicago
- . the Western Region, Los Angeles, California
- . the Southern Region, Atlanta

On the local level the NUL has 105 affiliates in 35 States and the District of Columbia.

National Urban League programs are grouped under two departments, the Community Development and the Economic Development Department. The former include divisions dealing with Health, Housing, Education, Social Welfare, Administration of Justice and Youth Development. Among the program of this Department are:

- . sickle cell education program;
- . an early childhood program for exceptional children;
- . a program devoted to advocacy in support of the minority aged;
- . a child abuse and neglect prevention project;
- . a program providing legal services and bail reform;
- . a minority law enforcement manpower project; and consumer action team program
- . manpower development and training program that have trained and placed over 70,000 people;
- . a military and veteran affairs program that has served over 80,000 veterans and has had an impact on the military as well.

The 105 affiliates in the Urban League family receive their funds through voluntary contributions from labor, business and individuals, foundation grants and the Federal Government.

NATIONAL BAR ASSOCIATION

Summary Description

The National Bar Association was founded in 1925. The NBA represent the the interest of Black attorneys across the country; membership currently exceed, 7,000. The National Bar Association is managed by a board of governors and an executive committee.

The Association has as its purpose to offer continuing education and research in order to increase the professional standing and capabilities of its members by promoting greater knowledge of the law. An important project of the Association is the Equal Employment Opportunity law project, currently funded through a grant from the Equal Employment Opportunity Commission.

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Exhibit No. 57

FRANK CHURCH, IDAHO, CHAIRMAN

EDMUND S. MUSKIE, MAINE
LAWTON CHILES, FLA.
JOHN GLENN, OHIO
JOHN MELCHER, MONT.
DENNIS DE CONCINI, ARIZ.

PETE V. DOMENICI, N. MEX.
EDWARD W. BROOKE, MASS.
CHARLES H. PERCY, ILL.

WILLIAM E. ORNDL, STAFF DIRECTOR
DAVID A. APPELDT, CHIEF COUNSEL
LETTIA CHAMBERS, PH. D., MINORITY STAFF DIRECTOR

United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, D.C. 20510

October 18, 1977

Honorable Arthur S. Flemming
Chairman
U.S. Commission on Civil Rights
Age Discrimination Study
1730 K Street, N.W.
Suite 214
Washington, D.C. 20425

Dear Dr. Flemming:

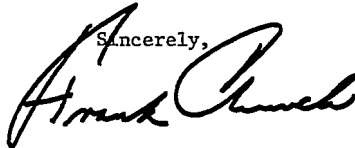
I regret that I was unable to attend the Commission's recent hearings on Age Discrimination.

Enclosed is a statement I would like included in the hearing transcript.

I appreciate the invitation to participate in your most important hearings and offer the assistance of this Committee in any future endeavors of the Commission.

With best wishes,

Sincerely,



Frank Church
Chairman

Enclosure

TESTIMONY OF SENATOR FRANK CHURCH, CHAIRMAN
U. S. SENATE COMMITTEE ON AGING
before the
U. S. CIVIL RIGHTS COMMISSION HEARINGS ON
AGE DISCRIMINATION

Chairman Flemming, and other distinguished members of the Commission on Civil Rights, I am pleased to address the issue of age discrimination, which has been the sole focus of this special study.

I fully appreciate the difficult and sensitive task the Congress has given you. When the Congress first considered what was to become the Civil Rights Act of 1964, the issue of "age" was deliberated at great length. "Age" could not be grasped and defined as easily as race, color, or religion. Later, the Congress extended protection under the Civil Rights Act to include sex.

But "age" was different. Consequently, the Congress directed the Department of Labor to conduct a study, which eventually paved the way for enactment of the Age Discrimination in Employment Act of 1967 (ADEA).

That Act has helped to open the door to new employment opportunities for older workers. But even employment situations raise questions about whether one's age can be a true standard to base one's ability to perform in certain job categories.

Civil Rights Commission Hrngs.
Senator Church's Testimony - 2 -

As you are well aware, this question has been considered by various courts. The Age Discrimination in Employment Act has a "bona fide occupational" clause which closely resembles the provision of the Age Discrimination Act banning "unreasonable discrimination" on the basis of age. Are we then to assume that there are areas of reasonable discrimination on the basis of age? If so, what are these areas?

I am optimistic that the study of the Commission will assist the Congress in answering such questions. The Congressional mandate, of course, was for the Commission to survey and identify any "unreasonable discrimination in Federally assisted programs." I am anxious to see your report and analyze how this sensitive distinction is defined.

As Chairman of the Senate Committee on Aging and a member of the Committee since 1961, I have become keenly aware that "age" influences many decisions made by others.

Senate Committee on Aging hearings make it clear that age discrimination is still widespread throughout our Nation.

Some communities, for example, do not maintain transportation systems for the elderly because no one would insure the vehicles to be used. Vehicles that carry the elderly are assumed to be more dangerous and "risky" and, therefore, older Americans oftentimes go without transportation.

Civil Rights Commission Hrngs.
Senator Church's Testimony - 3 -

A legal services attorney candidly admitted that many lawyers do not represent older Americans because they're hard to understand, take more time, and usually are too confused to relate their problems articulately.

We are also told that many professors don't appreciate having elderly students in their classrooms because they are more demanding than younger students, ask too many questions, and challenge the professors about their knowledge.

Some employers claim that older people don't work as well as younger persons, tire more readily, and lose their mental and physical skills with advancing age. Another excuse is that older workers are purposely overlooked because of the high unemployment. Many Americans still maintain that older persons should make way for the young.

The Committee has heard repeatedly that doctors and nurses don't treat older people or visit nursing homes because the elderly are depressing and usually cannot be cured.

I realize that many of these biases are the result of human insensitivity and cannot be overcome simply by enacting a Federal law. However, I am certain that the Age Discrimination Act, if properly enforced and implemented, would help to overcome some of these biases.

Civil Rights Commission Hrngs.
Senator Church's Testimony - 4 -

The Civil Rights Act has led to fairer treatment of persons, regardless of their race, color, religion, national origin, or sex. More recently, we have become more sensitive of the rights of the handicapped because of the enforcement of Section 504 of Rehabilitation Act of 1973.

Public discussion of mandatory retirement in recent months has created greater awareness of the rights of the aged. I have taken an active part in this debate because I believe that functional capacity -- not chronological age -- should determine whether a person is hired or promoted.

Mr. Chairman and Commissioners, I want to assure you of the support of the Senate Committee on Aging for the Age Discrimination Act. This Act will enable more and more people to make choices in their lives with fewer barriers to overcome. I welcome its enforcement.

The Senate Committee on Aging looks forward to your report and the task of developing equitable and workable regulations. You have contributed significantly to this most worthwhile effort.

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Exhibit No. 58

TESTIMONY PRESENTED TO
THE U. S. COMMISSION ON CIVIL RIGHTS
RE AGE DISCRIMINATION
SEPTEMBER 27, 1977
WASHINGTON, D. C.

Mr. Chairman, as Chairman of the Senate Subcommittee on Aging, I am particularly concerned that the Commission's study on age discrimination which is now nearing completion specifically address the questions raised by Congress in enacting Title III of the Older Americans Act Amendments of 1975.

You will recall that the House-Senate conference committee struggled for months with these amendments to resolve the difficult issues posed by the age discrimination provisions of the House bill. The House bill created a new system to enforce the sanction against age discrimination that is generally parallel to the system embodied in title VI of the Civil Rights Act. Although I, and my colleagues on the Senate side, shared the same concern about the effects of age discrimination, we could not get satisfactory answers to questions like:

In which programs is there age discrimination?

In what numbers?

What is unreasonable age discrimination?

Therefore, Congress mandated a study designed to answer just those questions, and gave the task to this Commission, the agency that has had the broadest experience in analyzing discriminatory situations in federally assisted programs.

Of utmost concern to me is that the Commission define what is unreasonable age discrimination. Unlike race discrimination, age discrimination is not per se arbitrary.

Federal statutes have commonly made distinctions among individuals based upon their age, often for the purpose of defining those eligible for a particular kind of federal assistance. Many federal programs are specifically tailored to meet the needs of young children, teenagers, and the elderly. Given the specific purpose of targeting a program to a particular age group to meet a specific need, does this constitute age discrimination?

I believe it is instructive to look at the interpretation of the laws by the Courts. As long ago as 1920, the Supreme Court set forth the standard that any persons attacking a classification, or class legislation discriminating against some and favoring others, -- whether it be race, nationality, or age -- bears the burden of proving that such classification lacks a rational basis.

In F. S. Royster Guano Co. v. Virginia, 253 U.S. 412, 415 (1920), the Court ruled that any "classification must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike."

In other words, the Court finds no violation of the Equal Protection Clause of the Fourteenth Amendment if it determines that there is a rational basis vis-a-vis a legitimate public objective for such classification.

This was restated more succinctly by the Court in Ferguson v. Skrupa, 372 U.S. 726, 732 (1963): "statutes create many classifications which do not deny equal protection; it is only 'invidious discrimination' which offends the Constitution."

Although the language of the Age Discrimination Act is patterned after the language of Title VI of the Civil Rights Act, it is important to note that the Court has distinguished between age and race as classifications. In McLaughlin v. Florida, 379 U.S. 184, 192 (1964) and Korematsu v. United States, 323 U.S. 214, 216 (1944), the Court defined race and nationality as suspect classifications. Neither age nor sex has been so designated by the Court as a similar suspect classification, and therefore, neither classification has been subject to the same scrutiny.

In a relatively recent Supreme Court decision, Massachusetts Board of Retirement v. Murgia (1976), the Court distinguished among classifications, observing that,

"While the treatment of the aged in this nation has not been wholly free of discrimination, such persons, unlike, say, those who have been discriminated against on the basis of race or national origin, have not experienced a 'history of purposeful unequal treatment' or been subjected to unique disabilities on the basis of stereotyped characteristics not truly indicative of their abilities."

Clearly, the Court, in applying the "rational basis" standard, has signaled its approval of a more relaxed standard with regard to age distinctions which have been challenged under the Equal Protection Clause.

Whatever the standard of "unreasonable" discrimination, it certainly cannot be determined from the statute or the legislative history of the Age Discrimination Act. I trust that your report will clearly define that discrimination which is unreasonable and which the statute will prohibit. I hope that detailed program-by-program recommendations are provided for Congress, so that we may have an opportunity to take such steps as may be called for to provide a more responsible basis respecting unreasonable age discrimination. As Chairman of the Senate Subcommittee, I look forward to working with all members of the Commission, with the necessary data in hand, in developing the kind of legislation necessary to ensure that unreasonable denial of benefits or denial of participation in federal programs is prohibited.

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Exhibit No. 59

SUBMITTED TO

U.S. COMMISSION ON CIVIL RIGHTS

AGE DISCRIMINATION

HEARING

BY

THE NATIONAL ADVISORY COUNCIL ON
WOMEN'S EDUCATIONAL PROGRAMS

SEPTEMBER 23, 1977

The National Advisory Council on Women's Educational Programs was established by Congress under the Women's Educational Equity Act. It consists of 17 public members appointed by the President and confirmed by the Senate, and three exofficio members: the Chairman of the Commission on Civil Rights, the Director of the Women's Bureau, U.S. Department of Labor, and the Director of the Women's Action Program, Department of Health, Education and Welfare. Congress directed the Council to advise the Commissioner of Education with respect to administration of the Women's Educational Equity Act. Additionally, the Council was given a broad mandate to advise the Assistant Secretary for Education and the President and Congress on matters concerning educational equity for women.

With passage of Title IX of the Education Amendments of 1972, the Congress clearly mandated a national policy to end sex discrimination in education by prohibiting many of the overt forms of discrimination. Today, five years after the enactment of Title IX, American women face a pattern of discrimination so pervasive, so subtly enmeshed in the fabric of society, that the problem itself continues to be largely unrecognized, even by those most deeply affected by it. Higher education institutions, like the rest of society, are caught in an almost invisible web of outdated attitudes, stereotypes and assumptions about women. These assumptions become even more pervasive when we explore agism in relation to the educational needs and opportunities for mature women. Using the labor Department's definitions, mature women refers to those 45 years of age and over.

Despite the degree of sophistication generally expressed by educators, most higher education institutions continue to perpetrate practices that inhibit the optimal educational development of mature women. Change in such traditional institutions will be heavily dependent on the enlightened awareness of both Federal policy makers and higher education leaders who have the responsibility to create programs that meet the educational needs of all women, regardless of age.

Federal executive and legislative efforts addressing the problems of sexism have failed to devote much attention to the increasing numbers of mature women. Although women age 65 and over dramatically out-number men and current projections indicate similar trends, educational opportunities have continued to be largely inaccessible to women over 45. Further, the Census Bureau projects that by the year 2050, women in this country will increase their life expectancy to 81 years in contrast to 71.8 for men. Unfortunately, the lack of continued educational benefits will inevitably relegate a large segment of these women to total dependency on social service programs. The National Retired Teachers Association and the American Association of Retired Persons, stated in their 1976 platform proposal that:

Older women today constitute the single poorest group in America--2.3 million women age 65 and older were living below the poverty level in 1974... Since they were traditionally relegated to inferior, low-paying positions in the job market during their working lives, and since family raising duties precluded many of them from earning enough pension credits to insure financial security in retirement, many of the more than 12 million older women in America are confronted with serious financial problems... With an ever-increasing older population, our nation must begin to pay greater attention to the needs of its older citizens.

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The one-dimensional view of women and specifically mature women not only stagnates their intellectual development, but also limits their contributions to the literacy of society and competitive nature of a growing technocracy. Mature women, like men, must be viewed as multi-dimensional beings who have the fundamental right to determine the nature, scope, and longevity of their educational lives.

The scarcity of financial assistance for mature women will continue not only to curtail the educational gains of these women, but will inevitably inhibit their professional development and mobility. Labor Department data clearly show that labor force attachment of mature women is positively associated with educational attainment. In addition, a longitudinal study conducted by Ohio State University indicates that women between the ages of 30 and 44 tend to retrogress in their careers; this was found to be significantly correlated with their level of educational attainment. Similarly, in 1966 Ginzberg found that educational achievement clearly facilitated the professional advancement of mature women. Further, the Ohio study determined that the more education mature women had "the more they earned, the higher was the socioeconomic status of their first job, the greater their upward mobility on the job, and the more likely they were to pursue careers." Noteworthy is the fact that the level of education also affected the duration of unemployment for women, but did not influence the span of unemployment for men. Additionally, as stated in the Labor Department's

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monograph on Women and Work: "The exclusion of women, whether by custom, role stereotyping, or discrimination, from access to knowledge seriously limits their aspiration for general equality." Like the Ohio study, this document also indicates that the professional advancement of women is associated with improvements resulting from training or continued education.

The continuation of educational and occupational subordination is inconsistent with dynamic changes in the participation of women in the labor force. The presence of women in the labor force increased dramatically during the 1960's, and by the end of 1976 almost 50 percent of all women were either employed or seeking employment. A report by the Carnegie Corporation indicates that economic signs support the continued increase in the participation of women in work activities. Further, the report states:

"Since women outnumber men in the population by seven million, and since the labor force participation rates of males has been slowly declining with the trend toward earlier retirement, it may not be too long before one out of every two American workers is a woman. Recognition of these realities should help us to institute new policies that not only make appropriate accommodations but spur wide-ranging reforms in many areas of life."

Clearly, recognition of these realities continues to be ignored, in that 40 percent of all women in the work force are still concentrated in service-related occupations which can be directly correlated with the lack of adequate training and educational opportunities as was concluded in the Ohio State University study.

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Mature women's participation in postsecondary education could have a major impact on their economic security and professional mobility in the labor market. A major factor that could facilitate their participation is increased accessibility of financial aid. Research indicates that even if postsecondary institutions promote educational opportunities for mature women that they would still be restricted by the lack of financial assistance. Historically, private and public financial aid requirements were designed so that they disproportionately limit the participation of older women. Access to financial aid is crucial for mature women in that women generally are required to post-one or interrupt their educational experiences due to family obligations and/or economic considerations:

When considering support of post-secondary education aid to middle-income students, it must be recalled that a growing proportion of post-secondary students in both two and four year institutions are no longer of the traditional age, but are mature students, preponderantly women. They may be part of middle income families, but not have the means to provide for their own education at a time when their children's education takes first priority.

In an exploratory study of the unique needs of women who re-enter higher education institutions, Richards (1976) identified three major problems encountered by mature women: (1) school-related anxiety, (2) financial problems, and (3) counseling deficiencies.

Like Richards, Steele (1974) found that a large segment of women fail to continue their education because of financial problems. In her survey of more than 900 mature female students, less than 9 percent were receiving financial assistance. Steele also found that mature women were uninformed about the availability of fellowships and grants, although it was clearly one of their primary concerns.

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The American Council on Education determined in 1971 that female entering students were generally supported by personal or family resources in contrast to their male counterparts. The Commissioner of Education's report on Sex Discrimination in Education: Access to Postsecondary Education, (HERI, 1976) indicates that more men than women receive graduate assistantships, more men than women receive GI Bill benefits, more service awards are granted to men, and more men than women receive research assistantships. Based on a survey of more than 500 higher education institutions, it was shown in the American Freshman: National Norms for Fall 1975, that less than 1 percent of the female students were 30 years or older, and that 90 percent were concentrated around the ages of 18 and 19. In 1974, 4 million females were enrolled in degree programs. However, it is estimated that less than 10% of this population was 30 or over. One could assume that the limited enrollment of mature women is directly related to the inaccessibility of financial assistance. In a report commissioned by the National Advisory Council on Women's Educational Programs entitled Efforts Toward Sex Fairness in the Use of Federal Funds in the Education Division, the author states that:

Despite the fact that women's education costs an average of \$175 per student per year less than men's, the parents of female students spend an average of \$200 per student per year more on college costs. Reasons for this include: (a) women earn \$211 per capita less than men in term-time jobs; (b) women received \$34 each less in grants than men; (c) women were much less likely than men to obtain loans (one woman obtained a loan for every two men who did so.)

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Inquiries of several Office of Education financial assistance programs, such as Basic Educational Opportunity Grants, College Work Study, Supplemental Opportunity Grants, and the National Direct Student Loan Programs, reveal that, like most federal financial aid programs, data are collected either by age only, or by sex only, with the latter being more typical. In addition, the aforementioned Advisory Council report on the ...Use of Federal Funds in the Education Division indicates that financial aid programs collect data by sex or by race, but not by-sex-by-race. Therefore, although one program collected data by age, there are no apparent plans to collect data by-age-by-sex-by-race. Nevertheless, one can readily assume, based on the level of participation of mature women in higher education and based on the limited availability of information, that financial assistance is disproportionately available to women below 30 and men.

Of the special situations which affect mature women as they seek financial aid for their education, two should be mentioned particularly because they can be remedied through Federal legislation and regulations. One concerns the definition of part-time student in terms of eligibility for Federal financial assistance. The existing programs provide aid for students enrolled at least half-time. However, there are many mature women whose family situation prevents their enrolling for as much as half-time. Therefore, a more liberal definition of part-time would be of particular benefit to such women. The other is the regulation which defines independent students. It is clearly based on a

model of young students and does not consider the circumstances of a mature woman who may herself be a parent and certainly a spouse. Attached to this statement is a copy of comments made recently by the Advisory Council to HEW concerning this matter.

The National Advisory Council on Women's Educational Programs believes that the concerns of mature women and the efforts to achieve educational equity for them cannot be considered in isolation or approached through specialized (some say "ghettoized") programs. Rather, these issues must be infused throughout legislation, regulations, guidelines, program operations and administration.

COUNCIL RECOMMENDATIONS

1. The HEW unit responsible for student aid should sponsor a major study of student aid that includes the following factors:
 - a) financial need in the total population by sex by race and age of students and potential students;
 - b) the total universe of available support including family, private grants, work study, federal and state grants, and public and private loans;
 - c) distribution of each of the types of aid--with amounts--to students by sex by race and age of students;
 - d) a comparison of the distribution pattern with the need pattern by sex, race and age;
 - e) a comparison of the characteristics of applicants who received aid under each program with the characteristics of those who did not.
2. The law should be amended to allow part-time students who attend less than half-time to be eligible for aid.
3. As lifelong educational opportunities are developed with Federal support, they can be of enormous benefit to women. In part because women have a longer life span and in part because they often enter or re-enter the work force later in life and require retraining, they stand to benefit particularly from well planned and implemented lifelong education programs.
4. The Council is acutely aware that there has been insufficient valid research on many problems affecting women. Federal support is needed - as a foundation for policy and action decisions - for research on the complex, deep-seated and subtle

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aspects of sex discrimination and on effective methods of overcoming it throughout our educational system.

5. In planning Federal support for literacy programs for adults special attention should be given to meeting the needs of low-income mature women, often minorities, whose home responsibilities, cultural patterns, rural residence or economic situations may limit their participation in traditionally designed educational programs.
6. Research on the resocialization of mature women is crucial to a better understanding of the psychosocial stresses women encounter upon re-entry to higher education.
7. Longitudinal research should be undertaken to determine the degree to which mature women are entering higher education and the extent to which they are accomplishing their educational social and professional goals.
8. Federal policy should be established to facilitate the enrollment of mature women in higher education and to encourage these institutions to develop intervention strategies geared toward women over 30.
9. Research on institutional alternatives for restructuring educational programs to include mature women should be encouraged.
10. There should be consideration of the special costs involved in providing educational services to mature women in isolated or sparsely populated rural areas.
11. Programs should be generated to encourage mature women to compete for fellowships, research assistantships, and other sources of public and private financial assistance.

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12. Proprietary schools should be investigated to assure educational equity since many of these institutions operate through guaranteed student loans, veterans' benefits, and other sources of Federal funding.

Women's Educational Programs

1812 M St., N.W.
Washington, D.C. 20036
(202) 652-3348

August 25, 1977

ATTACHMENT

Mr. Peter K. U. Voight
Director Division of Basic
and State Student Grants
ROB-3, Room 4714
400 Maryland Ave., S.W.
Washington, D.C. 20202

Dear Mr. Voight:

The National Advisory Council on Women's Educational Programs appreciates the opportunity to comment on the proposed rules regarding student financial assistance, as published in the July 12, 1977 Federal Register.

The Advisory Council, a Presidentially appointed body established by the Women's Educational Equity Act of 1974, is, among other things, mandated to advise the Commissioner of Education on programs, regulations and policy which affect women's educational equity. As you may know, federal financial assistance to students is a major area of concern for the Council because it is assistance such as that available through the Basic Educational Opportunity Grant (BEOG) Program, the National Direct Student Loan (NDSL) Program, the Supplementary Educational Opportunity Grant (SEOG) Program, and the College Work Study Program, which often makes the crucial difference between whether or not an individual can attend school.

Preliminary Council research in this area indicates that in general women are disadvantaged in several ways with respect to student financial aid. For instance, when compared with men, they receive smaller grant awards, they earn less money in part-time and summer jobs and they are less likely to obtain loans. In addition, they suffer disproportionately from legislative restrictions on aid to part-time students. Too frequently these obstacles may serve to bar women from obtaining the post-secondary education and training necessary to achieve economic independence.

The existing and proposed rules for the college work-study, SEOG, NDSL and BEOG programs all contain provisions which serve to discourage the participation of mature individuals (particularly women) in these programs due to the underlying assumption that all applicants will be young (e.g. between 17 and 25 years)

Mary Beth Peters, Pittsburgh, PA, chair
Marquette Golden, Washington, D.C. vice-chair

Joy R. Simonson, executive director

Betty Allen, City Center, KS
Katherine Burgum, Fargo, ND
Fran Campbell, Lincoln, NE
Joann Carlson, Eugene, OR

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Agnes M. Dill, Delta, PA
Elizabeth Z. Fryer, Brentwood, TN
Jan Fuller, Ann Arbor, MI

Thera C. Johnson, Ogden, UT
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Gerald E. Weaver, Columbus, MS

EX OFFICIO MEMBERS

Commissioner on Civil Rights, Director, Women's Bureau, U.S. Department of Labor - Director, Women's Action Program, U.S. Department of Health

-2-

traditional students receiving parental support. The attached materials describing the situation of one would-be returning woman student illustrate that this is not always the case. Therefore, the Council is especially concerned that the seemingly sex-neutral eligibility criteria of federal student aid programs not discriminate against returning women students who desire additional education.

In the light of its research in this and related areas the Council recommends a number of changes to help assure the sex fairness of the existing and proposed rules for student financial aid programs. For example, the rules regarding the definition of independent student and the use of such criteria at all due to its disparate impact on women, should be reconsidered. The differentiation is artificial and often does little to determine actual student need, but may operate to disqualify truly needy individuals who need assistance in order to achieve financial independence. If the differentiation is retained in the rules, the distinction between parental and spousal support should be eliminated.

Similarly, it may be necessary that special income criteria be developed to determine the family contribution schedules for dependent adult spouses, homemakers, and students who are also the parents of students, as well as for independent minors. For example, Section 190.33 (c) should clearly include a student's dependents under the family size offset and unusual expenses sections.

In addition, we would recommend that all sections of Parts 144, 175, 176 and 190 of Title 45 of the Code of Federal Regulations be reviewed for potential disparate impact on women and if necessary be expanded to more equitably, provide financial aid based on need to all students regardless of age, sex, or marital or parental status.

We trust that our comments will be carefully considered and our concerns fully addressed in the final regulations for these programs.

Sincerely,

Mary Beth Peters
Mary Beth Peters
Council Chair

Attachments

August 15, 1977

This is an appeal to female Members of Congress for assistance in doing away with a wrong in a most sensitive area of civil rights. It involves an alleged discrimination against an American mother which if allowed to go unchanged could affect countless others.

My story is told in the three attached letters.

In the first letter, a citizen cries out about a basic flaw in the HEW system of awarding Basic Educational Opportunity Grants (BEOGs) to members of families in need and enrolled in undergraduate education.

In the second letter, the Deputy Director for Civil Rights, HEW Region II, informs the complaining citizen and announces to all the world the following:

**"OUR NON-DISCRIMINATION LAWS DO NOT PROHIBIT
DISCRIMINATION AGAINST MOTHERS"**

Apparently until the word "MOTHER" is added to Title VI of the Civil Rights Act along with the words "race, color, national origin " etc, the Regional guardian of the civil rights entrusted to the care of HEW will tolerate a patently discriminatory situation until 535 lawmakers tell him not to. And then, of course, it must be in writing.

In the third letter, another section of HEW and ironically the Woman's Action Program does what is usually set aside for Death, Divorce and Separation. Washington HEW dismantles the citizen's marriage. HEW does this simply by the misapplication of one of its own pamphlets called the "1977-78 Determination of Basic Grant Eligibility Index". The citizen is skillfully walked through the pamphlet and then informed that although his four (4) college-enrolled daughters have achieved their majority and although they do not reside with him, they are nevertheless "DEPENDENT" upon him. On the other hand, although the citizen's wife resides with him in a presumptive state of natural love and affection, draws upon his modest income for the necessities of her life and that of three (3) minor sons, has no income or resources of her own, she nevertheless is calculated to be "INDEPENDENT" of him. The apparent rationale is that her timing is bad. She is setting out for an education after her child-bearing years instead of in advance of them and by so doing is awarded the badge of "INDEPENDENCE". The HEW letter suggests that the wife and mother turned student may have to PROVE her Dependency upon her husband before any HEW largesse is spread upon her. The thought that the student has enrolled in higher education in anticipation of early widowhood which has been signalled to her via her husband EEGs and EXGs somehow escapes the attention of the federal guardians of our nation's health.

In the long history of mankind, the wife/mother has always been a central and integral part of that unit of civilization called the family. But in the land of HEW and in the year 1977, it is obvious that she is not!!!!
 stands alone on Page 17, HEW pamphlet 1977-725-182/195.

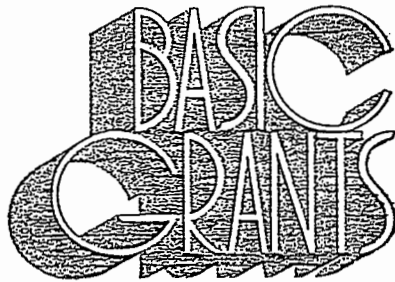
In the meantime, her daughters today and her sons in the future are securely clustered on Page 4 of the same little white book.***

W K Crockett
 William K. Crockett
 Maple Shade, NJ 08052

***Cover attached.

(2)

1977-78
Determination of Basic Grant
Eligibility Index



*Page 4 - for 4 Crockett girls
and their brothers.
Page 17 - Page 17 for their Mother,
Marilo*

W.K. Crockett

July 21, 1977

Office of Civil Rights
 U. S. Department of Health,
 Education, and Welfare
 New York City, New York

Attn: Title IX Compliance Officer

This is a formal complaint which is being filed under Title IX of the Education Amendments of 1972. The complaint is on behalf of my wife, Marilyn Crockett. The grievance of the complaint is that the HEW system of awarding Basic Educational Opportunity Grants (BEOGs) is being administered in an arbitrary, illogical and discriminatory manner. In matter of aggravation, the object of the discrimination is allegedly the most sacred of all individuals—the American mother.

The BEOG program is a federal aid program designed to provide financial assistance to those "who need it to attend post-high school educational institutions". The amount of a BEOG is determined on the basis of the applicant's family financial resources. So says the HEW pamphlet that was issued for the 1977-78 academic year.

In the spring of 1977, I submitted applications, with the necessary documentation, to the BEOG Center, Iowa City, Iowa, on behalf of my four daughters. Accordingly, daughters Deirdre, Danielle, Desiree & Daphne were awarded BEOGs with Eligibility Indexes of 427 for usage at Notre Dame of Maryland, Glassboro State, Fairleigh-Dickinson and Harvard colleges.

(2)

W.K. Crockett

These four young Americans are now applying themselves to higher education with uncommon fervor in order that the Government who is now sponsoring them may enjoy a high return upon its investment.

In June of 1977, I enrolled my wife, Marilu Crockett, into a two-year course leading to an Associate Degree in Legal Technology at the Burlington County College located in Pemberton, NJ. This was accomplished after a negotiation with three minor sons, David, Damian and Dominic, who concurred with the idea of shifting the mantle of housekeeping, at least for a few hours daily, from their mother's shoulder and on to their own.

As for myself, I am employed on a full - time basis but the incidence of past brain surgery and three heart attacks has inhibited my income as much as my health.

And so it was with great surprise that I was informed by the BEOG Center, Iowa City, that my wife's application for a BEOG was denied even though it was applied for with the same documentation and financial information as was previously furnished for my four daughters. I have but one income, a very modest one; my wife has no income, savings or earnings of her own. I therefore challenged the Student Eligibility Report (SER) by making appropriate remarks upon it and returning it to Iowa City, Iowa on June 16, 1977. It was returned to me on June 22, 1977 with no remarks or explanation except a pamphlet which anyone can pick up at any HEW office or high school or college around the country.

W.K. Crockett.

In the BEOG literature published by HEW, student eligibility rests upon five ground rules:

1. Applicant's financial need.
2. Enrollment in an undergraduate course.
3. Enrollment on at least a half-time basis.
4. United States citizenship
5. A four-year limit on BEOG payments.

Marilu Crockett, mother of seven children, qualifies for a BEOG on all five counts above in the same manner as her four daughters have and in the same manner as her sons would were they applicants. To deny the mother's BEOG is to say to that mother-----"you have the duty as an American citizen, along with your husband, to provide for the health, education and welfare of your children for the first 18 years of their lives, to exhort them on to higher education, to make financial sacrifices attendant thereto so that in their flowering years they too will make themselves good citizens, etc..... but you yourself, Mother, after your child-bearing years have passed shall be denied equal footing in the field of higher education with your sons and daughters simply because you are a mother!"

The only inference I can draw from the BEOG Center's treatment of Marilu Crockett's application for financial assistance in time of clearly demonstrable need is the inference of pure discrimination. In so doing I am reminded of some of the words in the 1954 Supreme Court case of *Brown v. Topeka Board of Education* (347 U.S. 483) wherein Chief Justice Warren took judicial notice of the fact that, in America, education which was once the privilege of the few is now the fundamental right of all.

(4)

W.K. Crockett

BEOGs are a form of common public education supported by general taxation founded upon the same principle as our general public education system with the only difference being that the selection of the school or college is a matter decided by the student and not by the government. Great expenditures of tax dollars on all levels of education demonstrate our recognition of the importance of education to our democratic society. But, in the words of Chief Justice Warren cited above, "education, where the state has undertaken to provide it, is a RIGHT which must be made available to ALL ON EQUAL TERMS".

In summary, I believe that the treatment of Marilu Crockett's request for a BEOG is violative of Title IX of the Education Amendments of 1972. I therefore respectfully request that her Student Eligibility Report which I have attached for your ease of reference be reviewed and that she be re-assigned an Eligibility Index of at least 365 if not lower to place her upon a par with her daughters.

Sincerely,

W.K. Crockett
William K. Crockett

Attachment:

1977-78 SER Form
Mary Louise Crockett
039-16-2603



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
 REGION II
 FEDERAL BUILDING
 25 FEDERAL PLAZA
 NEW YORK, NEW YORK 10007

August 2, 1977

OFFICE OF THE
 REGIONAL DIRECTOR

Mr. W. K. Crockett
 3 Paul Road
 Maple Shade, New Jersey 08052

Dear Mr. Crockett:

This is to acknowledge receipt of your complaint which alleges that the Department of Health, Education and Welfare's Office of Education discriminated against your wife (as a mother) in denying her a Basic Educational Opportunity Grant.

We regret to inform you that this matter does not come under our jurisdiction for the following reasons:

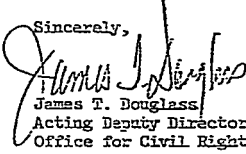
- a. Our nondiscriminatory laws do not prohibit discrimination against mothers. In view of the fact that your daughters are receiving benefits under the HEOG program, there does not appear to be discrimination because of sex. Therefore, Title IX of the Educational Amendments of 1972 would not apply in this case.
- b. This office has not been delegated authority to enforce nondiscriminatory laws in other federal agencies either within HEW or outside of it. Our authority rests solely in the enforcement of certain nondiscriminatory laws which prohibit discrimination based upon race, color, national origin, religion, or sex in private or public institutions or agencies which receive federal financial assistance.

Since the decision to deny approval of your wife's application appears to be of a programmatic nature as opposed to one which might be based on discriminatory factors, we are referring your complaint to the appropriate program agency (the Regional Office of Education) for appropriate disposition (copy attached).

Page 2 - Mr. W. K. Crockett

We regret we cannot be of further assistance at this time.

Sincerely,



James T. Douglass
Acting Deputy Director
Office for Civil Rights

Attachment:

Office of Education
Room 3954.

July 5, 1977

Honorable Edwin B. Forsythe
303 Cannon Building
Washington, D. C.

Dear Congressman:

This is a delayed expression of my gratitude to members of Congress for investing in disadvantaged American youth via the system of Basic Educational Opportunity Grants within the Department of HEW. My association with BEOGs as they are called came about when a higher hand dealt me a brain tumor and 5 heart attacks. The BEOGs, however, do not suffer the misfortunes of the parents to be visited upon the youngsters. Hence, Deirdre, Danielle, Desiree and Daphne Crocketts are respectively in Notre Dame, Glassboro, Fairleigh-Dickinson and Harvard courtesy of substantial support from HEW. The records they are establishing indicate that there will be a high yield on HEW's investment.

This letter is also a request to you for any assistance you might render on clarifying one of the more confusing aspects of the BEOG system that has just arisen in connection with Mrs. Crockett's quest for a higher education. After the four girls were settled in their colleges I negotiated a deal with my three minor sons to heighten their interest in cooking, washing dishes, removing trash, etc, so that their mother might also enter college on a full time basis. The college selected was the Burlington County College wherein Mrs. Crockett has dedicated herself to pursuing a degree in Para-Legal studies.

(1)

M.K. Crockett 3 Paul Road, Maple Shade, New Jersey 08052

national advisory council

on women's educational programs

1832 M St., N.W.
Washington, D.C. 20036
(202) 653-5848

October 12, 1977

Ms. Eileen Bradley
Age Discrimination Study
U.S. Commission Civil Rights
1730 K Street, N.W. Suite 214
Washington, D.C. 20006

Dear Ms. Bradley:

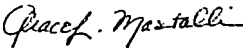
As per conversations with Juanita Wills of your staff, the National Advisory Council on Women's Educational Programs is submitting a supplement to its written testimony delivered to the Commission as part of the hearing held September 26, 27, and 28, 1977.

The decision to do so was based on a review of testimony delivered to the Commission and subsequent recognition that several broad points made by the Council and other organizations concerned with the problems confronting older women in education require additional emphasis and clarification.

The Council comments are divided into two parts: those dealing with general procedural matters--the definition of "reasonable discrimination", self-evaluations as a regulatory requirement, and points related to the enforcement aspects of the Act--and those dealing with substantive matters--admissions, financial aid, counseling and guidance, health facilities, placement, and the special problems of minority and handicapped women. This is not an exhaustive list of problems confronting women victimized by agism in education; it is, rather, a "priority issue" list of concerns the Council views as compelling.

I apologize for the delay in providing this supplement and look forward to the issuance of the Commissions report this November.

Sincerely,



Grace L. Mastalli
Council Legislative Specialist

Mary Beth Peters, Pittsburgh, PA, chair
Marguerite Selden, Washington, D.C. vice-chair

Joy R. Simonson, executive director

Mary Allen, Valley Center, KS
Katherine Burgum, Fargo, ND
Anne Campbell, Lincoln, NB
Joanne Carlson, Eugene, OR

Marjorie Ball Chambers, Denver, CO
Agnes I. Chan, San Francisco, CA
Agnes M. Dill Isleta, NM
Elizabeth Z. Fryer, Brentwood, TN
Jon Fuller, Ann Arbor, MI

Thera C. Johnson, Ogden, UT
Sister Joyce Rowland, Winona, MN
Bernice Sandler, Silver Spring, MD
Theresa Aragon de Chepero, Seattle, WA
Garald E. Weaver, Columbus, MS

EX OFFICIO MEMBERS

Chairman U.S. Commission on Civil Rights Director, Women's Bureau, U.S. Department of Labor - Director, Women's Action Program, U.S. Department of Health, Education and Welfare.

Supplementary Comments of the National Advisory
Council on Women's Educational Programs
to the U.S. Civil Rights Commission
regarding the Age Discrimination Act of 1975
(Title III, Older Americans Act of 1965)

Hearings held September 26, 27, 28, 1977

"REASONABLE" DISCRIMINATION

Since its establishment, the Council has monitored the implementation of Title IX (Education Amendments of 1972; prohibiting sex-based discrimination in educational programs or activities by institutions which receive Federal financial assistance). As members of the Commission are aware (and as documented in Commission publications), Title IX has all but run aground on such regulatory ambiguities as "reasonableness" clauses. While flexibility in regulatory language is desirable, especially when dealing with/as diversified a universe as the education establishment, excessive ambiguity in the guise of flexibility renders a law all but unenforceable. Unfortunately, and too often in the case of civil rights laws, appropriately open-ended statutory language loses its meaning when translated into regulations.

Therefore, the Council urges the adoption of prescriptive measures and tests for "reasonableness" of discrimination, in the regulations developed to implement the Age Discrimination Amendments to Title III, Section 302 and Section 304(5)(b)(1)(B) of the Older Americans Act of 1965. It is only by setting a precise threshold in this matter that the Act's intended beneficiaries will actually be protected.

At a minimum, a threshold definition of "reasonableness" would require that no alternative to age discrimination existed which would have same desired--and essential--effect. Such a watershed definition would force in-program review by program officials and would not violate program integrity. Still, it must be recognized that agism is no less invidious than sexism or racism, and that the intent of such a basic test is only to permit the operation of programs designed to increase the public good by focusing on a particular age group, not to permit the continuation of Federal assistance to programs or institutions which are either covertly or overtly discriminatory.

SELF EVALUATIONS

In order to further accommodate this process of identifying and eliminating unreasonable age-based discrimination, the Council urges that a requirement for self-evaluation be built into the regulations. Ample precedent for such a provision exists in the self-evaluation requirement built into the Title IX Regulation (45 CFR Section 86.3). The Council recommends, however, that flaws in the implementation of the Title IX requirement for self-assessment be prevented here by the incorporation of certain additional requirements. One possibility is a requirement that the completed self-evaluation--including descriptions of remedial actions proposed and undertaken--be reviewed and approved by appropriate Federal agencies as a condition for receipt of Federal funds. This would mainstream responsibility for ensuring that Federal funds are not spent unlawfully, without relying on complaint or other enforcement review procedures.

-2-

Other requirements that could be structured into a self-evaluation component are procedural, and would set a boilerplate under such evaluations. At minimum, these might require the affected institutions and program executives to:

- o identify and eliminate any overt policy or practice which discriminates on the basis of age, unless that discrimination can be justified under the terms stated above as "reasonable" discrimination;
- o conduct comprehensive examinations of criteria which affect participation or delivery of goods and services to determine if facially neutral criteria actually limit the participation of statute beneficiaries in a disproportionate manner;
- o demonstrate that any criteria which so affect statute beneficiaries are essential to the achievement of program objectives and that no alternative criteria exist which might achieve those objectives without limiting participation of statute beneficiaries in the program;
- o utilize quantifiable measures, such as those already developed by the Commission, to determine the level of impact any criterion actually has on participation. Such measures should be gauged to the realities of the program itself rather than to any other measurement universe (for example, an admissions requirement at a postsecondary institution should be gauged against the applicant pool and not the demographic characteristics of the community);
- o provide rationales for the establishment of any criteria which might serve to restrict participation of any class of individuals (e.g., women high school graduates); such rationales should show the criteria to be bona fide to the degree that an individual who does not meet the requirements, in whole or part, could not realize the benefits or services the program is designed to provide; when such criteria are employed for administrative convenience and reflect only a likelihood of potential benefit or success, the institution should provide some form of effective appeal mechanism for those individuals adversely affected by the criteria.

ENFORCEMENT

While it is clear that the scope of the Act is such that some form of voluntary compliance mechanism will be inevitable, the Council recommends that any enforcement efforts take at least the following considerations into account:

- o uniform criteria and procedures for all Federal agencies involved in the enforcement process, with centralization of responsibility wherever possible (except as specified above);
- o a complaint adjudication trigger mechanism which will permit individuals and groups to call investigations into play by use of a simple letter;

-3-

- o incorporation of review for age-based discrimination into any civil rights compliance review initiated by any Federal agency;
- o anti-harrasment protections and sanctions designed to afford maximum protection to complainants;
- o procedural and substantive consistency with Title IX of the 1972 Education Admendments and Title VI of the Civil Rights Act of 1964, with special recognition of the problems of multiple discrimination and the disproportionate impact of agism on women and minorities;
- o special emphasis on the effects of agism on the handicapped;
- o special provisions and requirements for review of Federal agencies to ensure that no Federal programs or policies are themselves violative of the Act.

EDUCATION RELATED CONSIDERATIONS

The Council is directly concerned with the manner in which the Act is interpreted to bear on educational programs and institutions, especially insofar as they affect older women. For purposes of these comments, "older" women may be understood to mean women who are older than the "traditional" age for participation in formal education. As age increases, the problems these women confront are compounded until, for the woman past 60, they become almost insurmountable. Agism is unique in this regard, and presents special difficulties of language and definition. These difficulties will undoubtedly spill over into enforcement and implementation problems, since the weight of myth about age grows increasingly heavy and difficult to unseat as older and older population groups are considered. What must be central to any understanding of age-based discrimination is that the myths of aging tend to circumscribe opportunities by stereotyping abilities and needs--and that "too old" is a judgement that should be, but rarely is, made on an individual basis, as determined by highly specific circumstances. Few admissions officers at graduate or professional institutions would deny that they are reluctant to enroll students over 50--yet, the Golda Meir's and Arthur Rubenstein's of our world are proof that at 50 there may be many decades of enormously creative service left to render. That these people are seen as exceptions is only proof that the stereotypes exist--not that judgements based on the age of applicants are grounded in fact. As the National Council on the Aging has pointed out in its booklet "Facts and Myths About Aging": "In certain societies, where it is not uncommon to find people living--and working--past the age of 100, a person of 65 is considered to be middle-age."

Unfortunately, agism in this country, particularly in education, is often directed at those well under 65. The concern of the Council is that no woman--or man--be victimized by age discrimination in education regardless of the point at which they are considered to be "too old" as a group.

-4-

In some instances, "too old" for education may be 28 and in others 60-- but whatever the point at which the line is drawn, it is almost certainly an arbitrary decision and it almost certainly limits the options of many in a manner that can only work against the public good.

Admissions

Entry to educational programs is the initial hurdle that must be confronted by students who are older (and younger) than the norm. Our concern focuses on three specific entry problems: A) undergraduate postsecondary education, B) graduate/professional education, and C) vocational education.

- A) Undergraduate postsecondary education admission criteria are usually geared to the traditional student. Older students--who may be returning or beginning--face special problems quite apart from any subjective prejudice that may color the decisions of an admissions officer, however, and these are usually codified in facially neutral requirements. Among the types of barriers many older women find nearly insurmountable are requirements designed to favor students with continuous academic progress, often in the form of "expiration" dates for mandatory tests (e.g., the Scholastic Aptitude Test), and the invalidation of course-work taken several years prior to an attempt to re-enter the postsecondary system. Women are more likely than men to be penalized by such requirements since many women interrupt academic careers for non-professional purposes. Often, a male who interrupts his progress for work will find that those years count toward his degree--but for a woman who has spent several years at home raising children, no such "experiential credit" is advanced.

It must be noted that existing economic pressures confronting post-secondary education may be lessening these barriers as the pool of traditional applicants shrinks. Nevertheless, substantial numbers of "neutral" criteria for admission have the effect of limiting enrollment opportunities for older students and particularly older female students. A comprehensive review of admissions criteria would be an invaluable discovery device for institutions which may attempt to bring older students into their programs but which simultaneously place obstacles in the paths of the very students they wish to recruit.

- B) Graduate/professional education admission criteria are, for the most part, distinctly and consciously geared to the student with a continuous academic career. The barriers confronted by older students here are not mitigated by the same "buyers' market" situation that works in favor of the non-traditional undergraduate; competition among traditional students for openings in graduate and professional schools is accelerating.

The problems of "expired" undergraduate or even postgraduate degrees and course work are much more severe at this level of education and take their toll heavily on women. More than "facially neutral" criteria are at fault here, too, as demonstrated by the admissions ratios for older students at medical schools, many of which have explicit maximum age limits.

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In one survey, conducted for the years 1971-72, over 22% of applicants nation-wide who were 28-37 years old were accepted to medical school, while fewer than 12% of those 38 and over were accepted. This systemic discrimination is apparently based in the common belief that graduate education is a form of "investment" which yields fewer returns to the discipline, the practitioner, and the culture as a whole when it is made in an older student. Given the highly subjective admissions processes of most graduate educational programs, this notion and other prejudices against older students are placing barriers before otherwise qualified candidates against which they have no recourse. For women, age discrimination coupled with sex discrimination virtually assures failure. (Note, that in 1974, women earned only 11% of all first professional degrees awarded, and 19% of all doctorates. This is made all the more startling by the fact that women earned 44% of bachelor's degrees and 43% of master's degrees awarded in that same year).

- C) If the pattern of sex-based discrimination compounded by age-based discrimination carries forward in vocational education as clearly as it does in undergraduate and graduate education, then vocational education-admissions represents the most apparent and damaging problem area the Act might affect. For, while women were 40% of the total enrollment in public postsecondary vocational schools in 1974, they were overwhelmingly concentrated in programs leading to low-paying, dead-end jobs--or to no gainful employment at all (home economics). Since National Center for Education Statistics reports that vocational education programs gain in appeal as the age of students increases (almost three times as many vocational program students are 35 years of age and over as are 16-24 years old), older female students are most likely to be directed into training for marginal, low paying or non-paying work. An indication of the limited historical consciousness of the problems of older women students, is that virtually no definitive data exist on the extent and severity of this problem. Of course, the problem here is not simply one of entry--but of entry into training programs which will enable this group of women to support them selves, perhaps for decades after age 35.

Financial Aid

Entry and continuation in educational programs are contingent upon availability of funds; increasingly, Federally supported financial aid programs are central to enrollment and continuation in education at the postsecondary level. While the age of aid recipients has not been studied comprehensively, a number of factors common to many older students--and particularly to older women students--works against their participation in Federal financial aid programs.

- A) Aid is usually limited to full or half-time students. A 1975 report by the National Advisory Council on Extension and Continuing Education (NACECE) noted that "The greatest barriers to would-be learners appear to be cost and time...Women in general feel more constrained by cost. That this has special impact on the part-time student is reflected by the findings of a study run by the Carp-Pererson/Commission: "...some 80 million Americans between the ages of 18 and 60 who are not studying full time are probably interested in continuing their learning, and some 32 million adults have most likely recently engaged in learning."

The adult woman worker shows no appreciable difference in orientation toward education from her home-bound sister, according to the NACECE study, but other data in the study indicate that the homemaker may be especially vulnerable to the problems of funding education. Of respondents in the NACECE study, only 18% indicated that they were paying for their courses with government or other public funds, while 80% listed either self/family (54.6%) or employer (25.9%) as the source of their payment to cover expenses. Since the study also found that three-quarters of participants in adult education were employed (and only slightly more than half of the non-participants), the likelihood that the homemaker is a participant is significantly reduced--and the fact that women non-participants identify cost as a primary barrier assumes additional significance. Even among working women, salary differentials are such that the "discretionary income" available for education is substantially lower than that available for men.

Therefore, since women are less likely to be able to find non-governmental sources of financial support than men, and since adult women are no more likely than men to be able to attend postsecondary educational programs on any but a part-time basis (over two-thirds of all participants were enrolled for four or fewer hours per week--which almost never represents a course load sufficient to qualify for Federal financial aid), this "neutral" limitation on eligibility has an implicitly disproportionate impact on older women.

- B) Aid is often directed explicitly to males of traditional collegiate age. While Title IX prohibits much of this now, the ingrained attitudes which gave rise to the system of preferential treatment to young males--particularly athletes--still has great impact on the decision-making patterns and attitudes of financial aid administrators. This may be reflected in the fact that women receive smaller grants than men on the average when financial aid "packages" are designed, and it is definitely demonstrated in the types of job distribution that occur in college-work/study programs. In addition, many types of graduate fellowship aid are age restricted--breaks taken to raise children may well disqualify returning women for many of these awards.
- C) Family contribution schedules and definitions of "dependent" and "independent" students work against married--older--women. Distinctions between "parental" and "spousal" support must be eliminated uniformly to overcome this problem--and the "sibling overlap" considerations now making themselves felt in determining award eligibility should allow for "parental overlap" as well, particularly by expressly providing for income adjustments to reflect a student's dependents.

Guidance and Counseling

Designed to cope with the emotional and academic problems of young adults, the guidance and counseling units of most institutions--particularly four year, non-vocational institutions--are often completely incapable of dealing with the stresses and pressures on the older student. Special emphasis must be placed on developing these skills among counselors if older students are not to be denied what is taken for granted by their younger counterparts. This problem is especially significant for older women students, who may be facing major life crises associated with becoming "independent"

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after years of home-centered life. The absence of adequate counseling and guidance--especially since her need may be unique and critical-- may well serve to bar this woman from the educational system.

Health Facilities

While more campuses with health facilities and group plans for students are paying attention to female health problems, particularly those of a gynecological nature, few have addressed the often unique problems common to older women.

Placement

Although the Act specifically exempts employment practices from coverage, it does not discuss placement services provided by educational institutions. The Council encourages regulatory language which would extend coverage to these services and promote the development of expertise in handling older graduates with re-entry and late entry problems. This is especially critical for women, most of whom must confront re-entry and late entry problems at some point in their lives.

Minority and Handicapped Older Women

If it is a "double jeopardy" to be elderly and female, then it is a "triple jeopardy" to be either a handicapped or a minority woman who is "too old". In education--where the handicapped and minorities fare generally less well than women as a whole--the compound effect of these barriers may prove devastating. The Council urges that any regulations promulgated under the Act be closely tied into other civil rights laws to afford special protection to these triply vulnerable women--who must daily confront an amalgamation of stereotypes and prejudices that mirror the very worst of the American culture.

Ultimately, even though women today with college educations can expect lower salaries and more limited opportunities than their brothers with high school educations, it is education that affords women the opportunity to achieve self-sufficiency. For women beyond the traditional age for students, education may be the only route to that self-sufficiency. Without adequate regulations to implement this Act the often unconscious prejudice which bars older women from so much of the educational system will continue unabated. We cannot change attitudes with legislation--but we can seek to ensure that all Americans, regardless of barriers born of myth and prejudice, have the same opportunity to exercise their rights to use their talents, and to contribute to the public good. Older women are the single poorest group among us--over 2.3 million women aged 65 and older lived below the poverty level in 1974. This law affords us the chance to begin to change that by opening up education and training programs. It is an opportunity we cannot, in conscience, permit the writers of regulations to overlook. We are each, after all, growing older daily.

Exhibit No. 60

TESTIMONY BEFORE THE UNITED STATES COMMISSION ON CIVIL RIGHTS

Age Discrimination Rights
September 28, 1977
presented by

Nancy van Vuuren, Director
Allegheny County Adult Services/Area Agency on Aging

I am Nancy van Vuuren, Director of Allegheny County Adult Services/Area Agency on Aging. I do want to thank the members of the United States Commission on Civil Rights for receiving testimony on age discrimination. As director of one of the largest Area Agencies on Aging, I wish to raise with you a problem which has a serious discriminating effect on the employment of older people.

As required by Federal, State and local law, Allegheny County Adult Services/Area Agency on Aging has a continuing commitment to comply with the policies and directives relating to the equal employment opportunity and affirmative action. The agency policy is to provide equal and fair opportunity, without discrimination, because of race, color, sex, religious creed, national origin, or age, to all persons who express a desire to become employees of, broaden their careers within, or obtain the services of Adult Services/Area Agency on Aging.

As required by Section 305(a)2 of the Older Americans Act of 1965, Department of Health, Education and Welfare and Federal Commission on Aging directives, we began implementation on February 1, 1977, of an approved merit system. However, there is a problem of compatibility between the two sets of regulations. This problem is universal to Area Agencies on Aging and other agencies. As an Area Agency on Aging, we advocate hiring older adults, yet the impact of the merit system is to systematically discriminate against older people.

The E.E.O.C. has stated, "all aspects of pre hiring must be free of discrimination on the basis of race, color, religion, sex, national origin, or age. The term 'prehire inquiries' includes questions asked on application forms, questions asked in employment interviews, arrest records, or resumes of experience or education required of an applicant or any other kind of written testing".

Yet, the very nature of specific prehire inquiries, namely a written test, blocks older adults from re-entering the job market. "The United States Supreme Court has ruled that Title VII (1964 Civil Rights Act) prohibits not only overt discrimination, but also practices that are fair in form but discriminatory in effect." Our experience shows that requiring a test under the merit system for older adults has a discriminatory effect. Even the qualifying examination has brought several present older staff members to consider resigning. People may have to retire when they are sixty-five (65) because they are "too old to function properly". Yet, there is no set time, date, place, physical or mental condition which gives an exact time for an older worker being unemployable. In fact, there is no sure measure available to tell how a worker will succeed on the job. Use of a standardized test simply emphasizes the exclusion of older people and minority persons untrained in test taking.

Many times what a test measures is not relevant to the purpose for which the test is used. Many job-related variables can not be covered by a test. Supposedly, the content and format of merit tests are to measure ability, knowledge and achievement. But many "handicaps" of the older person are not considered. Gerontology as a science is only fifteen to twenty years old and much is not known or even considered about the aging process. Most testing studies are cross-sectional in nature with very few being longitudinal in orientation. Little is known about organic and mental functions and when, to whom, and what occurs to the aging person. Therefore, the validity and reliability of any test directed towards older persons is questionable.

Other issues involved in determining test validity are: 1) The content and format of the test may not be valid from one generation to the next. 2) The substance, the method, and length of education has changed drastically over the past decades. 3) The education of the past was more memorization with the present day being more problem-solving. 4) Tests contain modern syntax and knowledge

not available to the older person, especially one with reading problems. 5) Many older people are unwilling to volunteer responses to questions because of values or fear. 7) Extent of physical and mental fatigue. An older person's test-taking speed may be slower than a younger person's and time limits apply pressure. 8) The environment of older people is not as intellectually stimulating because of lack of friends, spouses, and relatives. Most are alone ninety percent of the time. 9) Older people may not have the broad subject area knowledge. 10) Society has placed stigmas on the aging process which could cause psychological effects and reduced self-esteem. Many older persons actually believe they are slower and less intellectually able because of the propaganda of society. 11) The nutritional quality of food and health care affects a person's test-taking ability. Along with environmental control problems, these factors could greatly affect an older person's testing scores. 12) Many older people came from foreign countries and have different vocabularies and values. Even living in America for years, they have kept strong cultural ties. The test does not take into consideration cultural differences.

To date no test has been developed which takes into account the effects of aging.

The Older Americans Act of 1965, as Amended Section 305(a)(9) provides that subject to the requirements of merit employment systems of state and local governments, preference shall be given to persons aged sixty or over for any staff positions, (full-time or part-time), in state and area agencies for which such persons qualify. We know from the experience of the past eight months that older adults cannot be employed through the testing requirements of the merit system. To date, we have tested numerous applicants of whom seventy-eight (78) qualified and zero (0) are over age sixty (60).

The requirements of the merit system negate the intent of Affirmative Action and result in excluding older people from employment.

I urge the United States Commission on Civil Rights/Age Discrimination Study to take this problem into consideration to recommend such changes in the merit system as are necessary to allow older people to be employed in all job classes in all federally funded programs.

9/27/77