

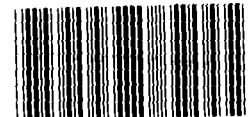
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REPORT BY THE U.S.

General Accounting Office

Comments On Report On Comparable Worth By The United States Commission On Civil Rights

GAO is commenting on the United States Commission on Civil Rights report on comparable worth which served as the basis for the Commission's decision to recommend the rejection of comparable worth. The Commission's report defines comparable worth differently from comparable worth advocates, and it is the report's definition of comparable worth that the Commission recommended be rejected. The report also contains internal inconsistencies and other errors.



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GAO/GGD-85-59
JUNE 14, 1985

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

**GENERAL GOVERNMENT
DIVISION**

B-218874

The Honorable William D. Ford
Chairman, Committee on Post Office and
Civil Service
House of Representatives

The Honorable Daniel J. Evans
United States Senate

This analysis was made in response to your request that we review the U.S. Commission on Civil Rights' draft report on comparable worth. (See app. I.) The term "comparable worth" is often used interchangeably with pay equity and refers to the theory that, all other factors being equal, jobs of equal value to an employer should be equally paid. The Commission's draft report served as a primary basis for the agency's decision on April 11, 1985, to recommend that federal civil rights enforcement agencies and the Congress reject comparable worth.

The draft report was based on a consultation held at Commission headquarters on June 6 and 7, 1984, involving both proponents and opponents of comparable worth. The results of the consultation were published in two volumes, the first consisting of papers that were presented by consultation participants and the second being a transcript of the proceedings. Our review is based on the draft report. There was, however, little substantive change between the draft and the final report.

The issue of comparable worth is controversial, with both proponents and opponents seeking to present data that supports their position. As requested, our review of the Commission's comparable worth report is limited to the accuracy and reliability of the information presented. We did not comment on the overall report or its findings and recommendations. We do not have a position on the issue of comparable worth.

Our specific observations on the Commission report are included as appendix II. In general, though, we believe the report presents a view of comparable worth that is different

from that which comparable worth advocates support. For example, the report states that comparable worth requires that pay be set without regard to such factors as merit, seniority, or supply and demand. Comparable worth advocates, on the other hand, believe such factors can be incorporated into equitable compensation plans. The Commission recommended that comparable worth, as it defined it, should be rejected. Also, we believe the report does not accurately characterize the positions of many comparable worth advocates and contains inconsistencies and errors in presenting the positions of participants in the consultation.

In conducting our review, we relied on (1) our prior knowledge of federal classification systems and pay equity,¹ (2) the two volumes from the Civil Rights Commission's consultation (Comparable Worth: Issue for the 80's, Volume 1 and Volume 2: Proceedings), (3) data we obtained from the Department of Labor's Bureau of Labor Statistics (BLS) and the Department of Commerce's Bureau of the Census, and (4) published material on issues related to pay equity or comparable worth. In addition, we contacted several of the authors cited in the report to determine whether their views had been accurately represented and to ensure that we correctly characterized their positions.

Finally, we met with the Executive Director of the National Committee on Pay Equity (NCPE) to obtain the Committee's views on how accurately comparable worth advocates were represented and to determine whether the report accurately portrayed the Committee's view of comparable worth. The Committee has about 300 organizational and individual members, including international labor unions and major women's and civil rights groups. The Executive Director said she was authorized to speak for the Committee's members on this issue.

Our work was conducted between April 16 and May 15, 1985. At your request, we did not obtain comments from the Commission on this analysis.

¹Description of Selected Systems for Classifying Federal Civilian Positions and Personnel (GAO/GGD-84-90, July 13, 1984); Distribution of Male and Female Employees in Four Federal Classification Systems (GAO/GGD-85-20, Nov. 27, 1984); and Options for Conducting a Pay Equity Study of Federal Pay and Classification Systems (GAO/GGD-85-37, Mar. 1, 1985).

As arranged with your offices, unless you publicly announce the contents of our analysis earlier, we plan no further distribution until 10 days from the date of this analysis. At that time, we will send copies to interested parties and make copies available to others upon request.

W. J. Anderson

William J. Anderson
Director

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House of Representatives
Committee on Post Office
and Civil Service
Washington, DC 20515

TELEPHONE (202) 225-4054

April 16, 1985

The Honorable Charles A. Bowsher
Comptroller General of the
United States
General Accounting Office
Washington, D.C. 20548

Dear Mr. Bowsher:

Representative Mary Rose Oakar, Chairwoman of the Subcommittee on Compensation and Employee Benefits, has sent me the enclosed letter requesting a study of the U.S. Civil Rights Commission's draft report on pay equity.

I would appreciate your conducting a study, as described in the attached letter, and providing the Committee with the results. If you have any questions, please contact Jerry Klepner on 226-7546.

Your assistance in providing this information is appreciated.

With kind regards,

Sincerely,



WILLIAM D. FORD
Chairman

WDF:lmf

Enclosure

WILLIAM D. FORD, MICHIGAN, CHAIRMAN

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House of Representatives
Committee on Post Office
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Washington, DC 20515

TELEPHONE (202) 225-4054

April 15, 1985

The Honorable William D. Ford
 Chairman
 Committee on the Post Office
 and Civil Service
 309 Cannon House Office Bldg.
 Washington, DC 20515

Dear Chairman Ford:

The Subcommittee on Compensation and Employee Benefits has conducted two days of hearings on sex-based wage discrimination and the General Accounting Office report entitled, "Options For Conducting A Pay Equity Study Of Federal Pay And Classification Systems." The Subcommittee is also focusing on H.R. 27, "The Federal Pay Equity Act of 1985," and H.R. 375, "The Pay Equity Act of 1985."

On the second day of hearings, Mr. Clarence M. Pendleton, Jr., Chairman of the U.S. Civil Rights Commission, testified with the Staff Director on a draft report concerning pay equity that the Commission was considering for adoption. This report relates to the substance of both H.R. 27 and H.R. 375.

On April 11, the Civil Rights Commission approved findings and recommendations condemning pay equity on a vote of 5-2. The Commission also adopted the draft report, subject to technical review and corrections.

In this regard, I would greatly appreciate it if you would request the General Accounting Office (GAO) to review the draft Commission report, especially the statistical data and the source documentation cited by the Commission. It is crucially important that the Commission report be based upon accurate information and reliable data. I would also appreciate it if the GAO could complete its review prior to May 2, 1985, when I have scheduled a third day of hearings on sex-based wage discrimination. Based

The Honorable William D. Ford
April 15, 1985
Page 2

upon their expertise and the substantial work that GAO has already completed on this important subject, I am confident that it will be able to meet this deadline.

Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in cursive script, reading "Mary Rose Oakar".

Mary Rose Oakar, Chair
Subcommittee on Compensation
and Employee Benefits

DANIEL J. EVANS
WASHINGTON

United States Senate

WASHINGTON, D.C. 20510

May 23, 1985

Honorable Charles A. Bowsher
Comptroller General of the U.S.
General Accounting Office
Washington, D.C. 20548


Dear Mr. Bowsher:

On April 16, 1985, Representative Ford, Chairman of the House Committee on Post Office and Civil Service requested that you prepare an analysis of the U.S. Civil Rights Commission's draft report on comparable worth.

As you know, the Senate currently is considering the pay equity issue and GAO's findings will be extremely helpful to our deliberations. Therefore, I would like to be listed as a co-requester of this study along with Representative Ford.

Please keep me informed of developments in the preparation of this report.

Sincerely,


Daniel J. Evans
UNITED STATES SENATOR

GAO COMMENTS ON THE U.S. COMMISSION ON CIVIL RIGHTS'
REPORT ON COMPARABLE WORTH

Our comments in this appendix are organized in the same order as the chapters in the Civil Rights Commission report. We did not comment on the Commission's findings and recommendations. In each section, we briefly describe the Commission's report and comment on particular segments in the order of their presentation. Each of our comments references the page number of the relevant section in the Commission's final report.

INTRODUCTION

The introductory chapter provides an overview of the report, notes that a variety of definitions of comparable worth have been put forward in the literature and the courts, and presents the Commission's view of comparable worth.

Comment 1

In a number of places in the Introduction, the dimensions of "comparable worth doctrine" and the positions of comparable worth advocates are described. For example:

- On page 1 the report states that "some" (advocates of comparable worth) believe that any pay disparity between comparably evaluated male- and female-dominated jobs is "usually the result of, or is itself, discrimination on the basis of sex," and that the pay in those jobs "must be equalized."
- On page 2 the report states that "(u)nder many formulations of comparable worth doctrine, a wage disparity between purportedly comparable, but different jobs by itself constitutes the violation of law. The employer is not even permitted to escape liability by presenting legitimate, nondiscriminatory reasons for the unequal wages."
- On page 2 the report states that "two underlying premises of comparable worth" are "(1) that the pay gap largely reflects discrimination against women; and (2) that pay disparities between different, but purportedly comparable, jobs reflect discrimination."

The report also states (p. 2) that "(f)or the purpose of this report, comparable worth refers to the general formulation that employees in jobs held predominantly by females should be paid the same as jobs of comparable worth to the employer held predominantly by males."

Although there is no universally accepted definition of comparable worth, the report's view of comparable worth and its characterization of the views of comparable worth advocates are different from the positions of the comparable worth advocates we spoke with in developing our report Options for Conducting a Pay Equity Study of Federal Pay and Classification Systems (GAO/GGD-85-37, Mar. 1, 1985). (See app. V of that report for a list of the organizations and individuals we contacted.) Also the National Committee on Pay Equity (NCPE), which has about 300 organizational and individual members, including the American Federation of State, County, and Municipal Employees (AFSCME), the National Organization for Women, and the Women's Equity Action League, disagreed with the report's view of comparable worth and its characterization of the position of comparable worth advocates.

For example, the NCPE Executive Director said that, although the Committee believes that unequal pay for comparable jobs is an indication of discrimination, it and other pay equity advocates have always contended that one must distinguish between legitimate (e.g., merit or seniority) and illegitimate (e.g., discrimination) factors contributing to that pay differential. Thus, it said, all legitimate compensable factors must be considered before any equalization of pay would be required under comparable worth. NCPE also said that it has consistently maintained that pay disparities in an organization must be examined before any conclusive determination can be made as to what portion of the pay gap is due to discrimination.

The NCPE Executive Director also said that the Committee does not believe that a disparity in wages between comparably evaluated jobs automatically constitutes a violation of law, especially if the wage disparity is caused by legitimate compensable factors such as merit or seniority. The Executive Director said advocates are seeking to eliminate only that portion of the wage gap that is due to discrimination. Finally, she said that pay equity advocates believe that employers should be permitted to present nondiscriminatory reasons for unequal wages in their organizations to courts of law, and she noted that relevant equal employment opportunity laws allow employers to present justifications for their actions. For example, the Equal Pay Act of 1963 (29 U.S.C. section 206(d)) allows pay disparities between employees holding the same jobs if they are based on seniority, merit, productivity, or "any other factor other than sex." Also, under Title VII of the Civil Rights Act of 1964 (42 U.S.C. section 2000e-2(a)), an employer may rebut a presumption of discrimination by producing evidence that its actions were legitimate and nondiscriminatory. (See, for example, Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981).)

In summary, the NCPE Executive Director said the report's definition of comparable worth is a "straw concept," and is not what they view as comparable worth. Furthermore, NCPE believes that the statements ascribed to advocates of comparable worth in the Commission's report do not accurately reflect the current positions of pay equity proponents.

The Commission report notes on page 1 that comparable worth has been defined variously and that commentators have employed different definitions of the term. It goes on to say (p. 2) that "comparable worth must be considered on its own merits, not confused with a politically satisfactory label that may mask the principles underlying comparable worth and the mechanics of its implementation." We agree that a clear understanding of the term is needed so that its advantages and disadvantages can be properly considered. Both proponents and opponents of comparable worth should define the term in the same way, even though they may disagree on its merits. The Commission report and comparable worth advocates we talked to do not define comparable worth in the same way. Furthermore, it is the report's definition of comparable worth that the Civil Rights Commission recommended be rejected.

CHAPTER I: "BRIEF OVERVIEW OF WOMEN IN THE WORKFORCE"

Chapter I of the draft report discusses the growth of female employment in the United States, causes for the recent rise in the labor force participation of women, protective legislation enacted in this century, and the role of earnings ratios in the comparable worth controversy.

Comment 1

As part of its discussion of why women enter and leave the labor force, the report states (p. 7) that overall statistics do not support the claim that during certain periods, large numbers of women were fired in order to give their jobs to men. The report then states that although women's employment declined between 1945 and 1946 by 2.5 million people, these women were not replaced by men because total male employment declined during the time period by 3.2 million.

In our opinion, no conclusions can be drawn about whether women were or were not replaced by men from such overall statistics. For example, the total number of men's jobs may have declined by 5.7 million between 1945 and 1946 and men may have taken 2.5 million women's jobs, thereby limiting their losses to only 3.2 million jobs. Alternatively, more than 2.5

million women may have lost their jobs to men but remained in the labor force in other jobs.

Historical information does suggest, however, that some women were, in fact, replaced by men after World War II. For example, a publication of the Department of Labor's Womens' Bureau¹ described how women working in certain occupations in Bridgeport, Connecticut, lost their jobs to men:

"The few women taken on as cutters in the garment trades are quickly being replaced by men; the cutters, highest paid of the clothing workers, are traditionally men. In the bus company, where women were taken on as bus drivers, bus cleaners, bus washers, stock and tool-crib attendants, and garage helpers, management has already replaced all but the drivers and a few cleaners with men, and, while women drivers with union seniority will be retained, no more women will be hired for this job."

Alice Kessler-Harris² cited a 1944 policy statement for the Women's Bureau describing what would happen to women's jobs in power laundries, where they had taken over virtually all operations. "Work as washman and extractor operator may be crossed from the list for women unless their pay is so low as not to attract competent men. The Army has given many men training in these jobs, and servicemen should have first chance at the work if they want it." Ruth Milkman³ indicated that at one auto plant, management hired inexperienced men in place of thousands of women laid off after V-J Day, some with seniority dating back to the prewar years. Nancy Gabin⁴ reported that some jobs were reclassified after the war to prevent women from holding them. Sheila Tobias and Lisa Anderson⁵ pointed out that some women

¹Women Workers After VJ-Day in One Community, April 16, 1947, p. 12.

²Out to Work: A History of Wage Earning Women in the United States, New York, Oxford University Press., 1982, p. 297.

³"Female Factory Labor and Industrial Structure: Control and Conflict Over 'Woman's Place' in Auto and Electrical Manufacturing," Politics and Society, 12 (1983), pp. 159-203.

⁴"Women Workers and the UAW in the Post World War II Period, 1945-1954," Labor History, 21 (Winter 1979-80), p. 5-30.

⁵"Whatever Happened to Rosie the Riveter?," Ms, 1 (June 1973), p. 94)

filed lawsuits to prevent such reclassifications. Although most such suits were denied, "31 women from the Chrysler Corporation were awarded a back pay settlement of \$55,000 in 1948 to compensate for having been let go and for violation of their seniority when they were not recalled." (See also Karen Anderson, Wartime Women: Sex Roles, Family Relations and the Status of Women During World War II, Westport, CT, Greenwood Press, 1981, p. 154-182.)

Comment 2

In its discussion of male-female earnings ratios (p. 10), the report notes several instances where the wage gap has narrowed in particular industries and occupations since 1815. For example, the report states that in clerical and sales work, the female-male earnings ratio increased from 0.49 in 1890 to 0.71 in 1930, indicating a narrowing of the wage gap. According to the report, the statistics are from an article by Claudia Goldin⁶ in Volume I of the published reports of the Civil Rights Commission consultation Comparable Worth: Issue for the 80's (hereafter referred to as the "Consultation"), (p. 11, Table 3, Part B). A table in that article shows the ratio of female to male earnings in 1890, 1930, and 1970.

However, the report does not state that the referenced table also indicates that the earnings ratio went in the opposite direction in both occupational categories between 1930 and 1970, indicating a widening of the wage gap. Part B indicates that in clerical work the ratio dropped to 0.69, and in sales jobs the ratio dropped to 0.44--below the earnings ratio in 1890.

On the other hand, more recent information indicates further changes in these earnings ratios, particularly a narrowing of the wage gap for sales workers. Data from the Bureau of Labor Statistics indicates the female-male ratio among wage and salary workers who worked full time in occupations employing 50,000 or more in 1982 was 0.55 for sales workers and 0.68 for clerical and kindred workers.⁷

⁶Claudia Goldin, "The Earnings Gap in Historical Perspective," in Comparable Worth: Issues for the 80's, a Consultation of the U.S. Commission on Civil Rights, June 1984, Washington, D.C., pp. 3-20.

⁷Earl F. Mellor, "Investigating the Differences in Weekly Earnings of Women and Men," Monthly Labor Review, 107 (June 1984), p. 21.

Comment 3

The report states (p. 11) that the "women who entered the work force after 1950 were, on the whole, less educated than the women who were already working." No source or documentation for this statement is cited.

Neither the Bureau of the Census nor the Bureau of Labor Statistics collects data on the educational levels of women who entered the workforce after 1950. However, BLS data do indicate that the average level of educational achievement for women in the labor force has increased during this period. According to the Handbook of Labor Statistics 1975-Reference Edition, Table 12, page 55, the median number of school years completed by women in the civilian labor force (persons 18 years of age and over) rose from 12.0 in 1952 to 12.4 in 1970. By 1982, these women's median school years completed had risen to 12.7 years (BLS Handbook of Labor Statistics, December 1983, Table 65, p. 151). The proportion of women in the labor force with 4 years of high school or more rose from 50.3 percent in 1952 to 69.4 percent in 1970 and to 80.7 percent in 1982.

Thus, the data suggest that women who entered the work force after 1950 were, on the whole, more educated than the women who were already working, not less educated.

Comment 4

The report states on page 11, that "(f)ew studies attribute even as much as half of the wage gap to occupational segregation," implying that occupational segregation is relatively unimportant in explaining the wage gap between men and women.

While there is no direct or simple interpretation for measures of association between an independent variable (such as occupational segregation) and a dependent variable (such as pay), we believe that any variable that explains close to half of the variance in a dependent variable is very important.

Also, studies that we reviewed in preparing our prior report indicate that occupational segregation may be an important factor in explaining wage differences between men and women (GAO/GGD-85-37, pp. 15-17). The National Academy of Sciences' study Women, Work, and Wages⁸ indicated that the more an occupation is dominated by women, the less it pays. The Academy found that, using detailed occupational classifications, it was

⁸Donald J. Treiman and Heidi I. Hartmann, editors, Washington, D.C., National Academy Press, 1981, pages 28-29.

able to explain from 35 to 40 percent of the wage differential between men and women. In the previously cited Monthly Labor Review article,⁹ the author notes that more of the wage gap can be explained by differences in the employment of men and women among occupations than by age or education.

CHAPTER II: "THE WAGE GAP"

This chapter of the report continues the discussion of the earnings ratio begun in chapter I and discusses possible causes of the wage gap as well as problems encountered in measuring discrimination.

Comment 1

On page 13, the report quotes Brigitte Berger's paper in the Consultation¹⁰ as saying that "advocates of comparable worth argue for wage adjustments in 'women's jobs' rather than opportunities to work in other jobs." Berger, in turn, cites Treiman and Hartmann's Women, Work, and Wages as evidence of this position.

However, our understanding of the positions of comparable worth advocates indicates that they support both wage increases for women's jobs and occupational integration. For example, although the report correctly quotes Berger's statement in the Consultation, our review of Women, Work, and Wages as well as conversations with Treiman and Hartmann and comparable worth advocates indicate Berger's statement is a mischaracterization of their positions. Both Treiman and Hartman stated that they did not agree with Berger's statement and said they support any measures which would reduce pay inequity or occupational segregation, including improved opportunities for women to work in other, traditionally male jobs. Treiman pointed out that Women, Work and Wages states (p. 65) that one way to end discrimination would be to "encourage women and minorities to train for and enter untraditional jobs."

The Executive Director of the National Committee on Pay Equity said she had not heard of any pay equity advocate contending that there should be wage adjustments in women's jobs instead of opportunities to move into nontraditional jobs. She said that pay equity advocates have always contended that women and minorities are entitled access to all jobs and to fair pay in all jobs they choose to enter.

⁹Mellor, op. cit., p. 18.

¹⁰Brigitte Berger, "Comparable Worth at Odds with American Realities," in the Consultation, pp. 65-71.

Comment 2

The report quotes both Berger's¹¹ and Ray Marshall and Beth Paulin's¹² articles in the Consultation, placing both quotations in the same sentence (p. 13). The sentence in the report states that "'(a)dvocates of comparable worth argue for wage adjustments in women's jobs rather than opportunities to work in other jobs,' for '(i)t is no answer to say that those women who already are in predominantly female jobs could solve their problem by applying for men's jobs'"

However, Marshall and Paulin contend that both pay increases and the movement of women into nontraditional jobs are important to the elimination of pay and occupational discrimination. Marshall told us that he also believes his position has been mischaracterized in the report. The full Marshall and Paulin quotation from the Consultation (p. 206) reads as follows:

"Similarly, although women might have 'chosen' traditional occupations, they do not choose to be paid lower wages than men for work of equal value to the employer or to be discriminated against in periodic wage adjustments. It is no answer to say that those women who already are in predominantly female jobs could solve their problem by applying for men's jobs--it is not very practical for women who already are established in their careers to be told they should train for and seek to enter predominantly men's jobs. More women will enter nontraditional jobs as we break down overt and institutional discrimination, but that is no argument against ending pay discrimination against women who (1) already have made their career choices or (2) really want to be in 'traditional' women's jobs. Not many women or men want to have their choices restricted; occupational discrimination restricts choices for men and women."

Comment 3

In footnote 2 on page 13, the report cites Andrea Beller's testimony where "she argues that the intended beneficiaries of the comparable worth concept are older women who, unlike many

¹¹Ibid.

¹²Ray Marshall and Beth Paulin, "The Employment and Earnings of Women: The Comparable Worth Debate," in the Consultation, pp. 196-214.

younger women, are not availing themselves of the increased opportunities to enter male-dominated occupations."¹³

In her testimony cited in the report (p. 18 of Volume 2 of the Consultation), Beller explains that there has been a decrease in the relative earnings of older age groups of women, and that these women continue to crowd into the same occupations.

"It is these older women who, in their lifetime, will see no change in their labor market position and who may be suffering the effects of discrimination. It is this population that, it seems to me, serves as the basis of an argument for comparable worth: The older cohorts of women crowded into traditionally female occupations are receiving no benefit in terms of their wages, which may be lower than they would be in the absence of discrimination."

Beller told us that the statement attributed to her in the report that older women "are not availing themselves of the increased opportunities to enter male-dominated occupations" mischaracterizes her position. She said that she has always contended that it is unrealistic to expect older women to change jobs after spending years in traditionally female occupations.

Comment 4

On page 14, the report states that the earnings differential between men and women who have never married was only 2.4 percent (or a 97.6 percent ratio), citing page 43 of Solomon Polachek's article in the Consultation.¹⁴ According to the report, he was citing from the "Current Population Survey."

According to the Consultation, however, Polachek was reporting an income ratio. (The report does note in a footnote that Polachek calculates an "income gap.") Income data includes earnings as well as any other source of income, such as interest, dividends, and inheritances. Also, Polachek's data

¹³Statement of Andrea H. Beller, Assistant Professor, Department of Family and Consumer Economics, University of Illinois, Comparable Worth: Issue for the 80's, Volume 2: Proceedings pp. 15-18.

¹⁴Solomon William Polachek, "Women in the Economy: Perspectives on Gender Inequality," in the Consultation, pp. 44-53.

were from the U.S. Census 1/1000 sample,¹⁵ not the "Current Population Survey." The author does not indicate whether median or mean incomes were used in calculating the ratios.

Census officials were not able to provide a copy of the 1970 Census 1/1000 sample. However, the 1970 Census of Population ("Marital Status," PC(2)-4C, Table 7) indicates the median annual income for single men age 14 and over in 1969 was \$2,093; for women it was \$1,997. Thus, the income ratio for these median incomes was 95.4 percent. If mean incomes are used the ratio is 92.0 percent.

Comparable data from the 1980 Census of Population ("Marital Characteristics," PC80-2-4C, Table 6) indicates the male-female income gap between men and women age 15 and over who were single had widened since the 1970 Census.¹⁶ The 1980 Census data indicate that the income ratio was 77.5 percent in 1979 based on median incomes; the ratio was 80.4 percent based on mean incomes.

Comment 5

The report (p. 15) quotes Andrea Beller's paper in the Consultation¹⁷ to indicate that women have "increased their share of employment in the vast majority of male white-collar occupations during the 1970's." In the quoted section, Beller points out a number of indicators of women's advancement into traditionally male white-collar occupations.

However, the report does not include the following portion of Beller's article in the Consultation (p. 28), which immediately follows the quoted material:

"Counterbalancing that increase in women's entry into nontraditional occupations is the continued tendency for women to enter the clerical occupations Another factor keeping the overall level of segregation high is that women had little success in entering

¹⁵Census officials told us this is a statistical sample drawn from the full Census of Population.

¹⁶The reader should note that 14-year-olds were included in the 1970 Census data but were not included in the 1980 Census data. Census officials told us they did not believe this change would significantly affect the earnings ratios.

¹⁷Andrea H. Beller, "Occupational Segregation and the Earnings Gap," in the Consultation, pp. 23-33.

the traditionally male, blue-collar occupations. Their relative share of crafts, operative, and laborer jobs remained relatively constant during the seventies. This has particular significance for the male-female earnings gap because the crafts occupations are relatively high paying. . . . Also of significance for the male-female earnings gap is whether the dramatic changes, especially in the managerial occupations, represented real gains or merely 'job title inflation,' whereby job titles change but compensation does not."

Later in her article (p. 32), she states that at the current rate "it would take 75-100 years for occupational segregation to be eliminated". By not including these portions of Beller's article, the report presents an incomplete portrayal of Beller's position.

Comment 6

After quoting a section from Beller's article in the Consultation about occupational segregation, the report says (p. 17) that "(t)he assumption implicit in much of this commentary is that all occupational segregation necessarily reflects employer discrimination."

However, the conclusion does not appear to be warranted from Beller's comments. In the quoted section, Beller states that many women "still might prefer certain types of work to other types (for example, working in an office to operating a crane)." Thus, Beller notes that choice may contribute to occupational segregation, and does not imply that all occupational segregation reflects employer discrimination.

Also, we noted in our prior report (GAO/GGD-85-37, pp. 15-17) that there is a wide diversity of opinion as to the causes of occupational segregation. None of the comparable worth advocates we spoke with in preparing that report or in conducting this review said that all occupational segregation is caused by employer discrimination.

Comment 7

On page 18, the report says that Andrea Beller testified at the Consultation that the human capital theory and the crowding

theory¹⁸ were both equally persuasive in explaining the wage gap and occupational segregation. Immediately after discussing the human capital theory as an explanation of the wage gap, the draft states that "(e)ven those who are skeptical of this theory admit that it has some explanatory power. '(T)heoretically,' said one commentator [Beller], 'I find them both (the human capital theory and the crowding theory) persuasive, and you know, if I had to take a stab, I'd say I think it's 50-50.'"

However, Beller's testimony provided at the Consultation indicates that she was actually discussing the relative importance of choice and discrimination in explaining occupational segregation and the wage gap, and was not discussing the human capital and crowding theories. The following transcript is from Volume 2 of the Consultation, page 42:

"COMMISSIONER DESTRO. The last question for you is that in your paper you indicate that even in the absence of discrimination, women might choose other occupations. Wouldn't that explain part of the gap? Wouldn't that be one of the factors?

"DR. BELLER. I do not deny that choice may play a role in the occupations that women are in. I just argue that the empirical evidence has not been strongly in favor of that explanation. But, as I said, theoretically I find them both persuasive, and, you know, if I had to take a stab, I'd say I think it's 50-50."

Beller told us that, while choice and the human capital theory may be equivalent, crowding is only one theory of discrimination, and she was referring to the broader issue of discrimination.

¹⁸Human capital is defined as an individual's stock of productive skills. The theory is based on a presumed relationship between those skills and productivity. Crowding theory is defined as the tendency for women to move into occupations in which they perceive they would not be discriminated against causing an oversupply of workers in that occupation and a commensurate diminution of wages. For a discussion of the theories, see our prior report, Options for Conducting a Pay Equity Study of Federal Pay and Classification Systems (GAO/GGD-85-37, Mar. 1, 1985), pp. 13-17.

Comment 8

On page 21, the report states that another researcher (citing p. 60 of Paula England's paper in the Consultation)¹⁹ "suggests that certain human capital factors explain 44 percent of the earnings differences between white men and white women, 32 percent of the differences between white men and black women."

However, England told us that she believes this is a mischaracterization of her position. In her paper in the Consultation, England cites a study by Corcoran and Duncan which indicated that a variety of human capital variables explained 44 percent of the earnings difference between white men and white women, and 32 percent of the earnings differences between white men and black women. She pointed out, however, that in the most important of these human capital factors, the years during which the employer is providing training, women may not be free to choose amounts of training (i.e. employers often decide on the amount of employee training). England told us that by ignoring this, the draft implies that she believes that all of the earnings differences explained by these human capital variables are legitimate when, in fact, they may partially reflect discrimination.

Comment 9

The report states (p. 21) that "some advocates of comparable worth maintain that the market is still discriminatory and that, moreover, women still suffer from the effects of past discrimination. . ." "Thus," the report continues, "whenever workers in a job held mostly by women are paid less than workers in a job held mostly by men, antidiscrimination measures must be taken." The report cites an article by Ruth Blumrosen as evidence for this statement.²⁰

However, Ruth Blumrosen told us that this is a mischaracterization of her position. She said paying male-dominated jobs more than female-dominated jobs raises an inference of discrimination, but does not require that antidiscriminatory measures be taken.

¹⁹Paula England, "Explanations of Job Segregation and the Sex Gap in Pay," in the Consultation, pp. 54-64.

²⁰The Commission report cites Ruth Blumrosen's Wage Discrimination, Job Segregation, and Title VII of the Civil Rights Act of 1964, 12 Mich. J.L. Ref. 399 (1979).

Also, as we stated earlier in Comment 1 in the Introduction, none of the comparable worth advocates we spoke with when we conducted our review said antidiscrimination measures must be taken if women's jobs are paid less than men's jobs. National Committee on Pay Equity representatives said that, while pay disparities would indicate antidiscriminatory measures should be considered, they do not advocate that antidiscriminatory measures be taken if legitimate, nondiscriminatory reasons for pay differences exist.

CHAPTER III: "JOB EVALUATION, WAGE DETERMINATION, AND COMPARABLE WORTH"

Chapter III notes the role of job evaluations in the comparable worth controversy and discusses neoclassical and institutional economic concepts of wage determination.

Comment 1

The report says on page 23 that job evaluations purport to measure job value "independently of the market," and cites the Washington State case as an example of the use of nonmarket based job evaluation to establish whether there is discrimination in an employer's pay system.

However, as we pointed out in our prior report on options for a federal pay equity study (GAO/GGD-85-37, p. 27),

"... market considerations play a role in most job evaluation systems. The factor weights in commercially-available evaluation systems are often developed on the basis of what the market pays for a given job content characteristic. The number of points a job receives in the evaluation process is commonly compared to the salaries of similar jobs in the relevant labor market to establish pay for that organization."

Furthermore, the factor weights in the Norman D. Willis and Associates' evaluation system used in Washington State were developed on the basis of analyses of market pay rates.

The assertion that job evaluations are used independent of the market is also contradicted by several statements in the Commission report. A representative from Hay Associates, a major practitioner in the field of job evaluation, is quoted in this chapter as saying that "(i)mPLICIT in our (firm's) ultimate pricing recommendations to (our) clients was the principle that jobholders were drawn from, and, therefore, should be paid competitively with, a defined labor market" (p. 24). The report

later emphasizes a quotation from Herbert Northrup in the Consultation²¹ in which he notes that the "market also plays a role in the classification scheme" (p. 24). On page 25 the report states that a "complex relationship exists between any form of job evaluation or classification system and the external labor market. Each contributes to determining the wage or salary level of any job or group of jobs in the firm. . . ."

Comment 2

The report states on page 26 that the use of the labor market to set wages "assures employees that they are being fairly compensated in relation to their fellow workers." The report goes on to state that the use of external market rates in pay setting "holds employee dissatisfaction with organizational wage-setting policies to a minimum, and can be useful in attracting and retaining key employees."

However, our understanding of the personnel and compensation literature indicates that both internal and external factors are important in wage setting, and that both the above statements contain errors. The first statement implies that the use of wage surveys of the external labor market to set pay permits the achievement of equity within organizations (i.e., fair compensation between workers). However, wage surveys are used to develop an externally competitive pay structure, and job evaluations are used to achieve internal alignment. (See, for example, George Mellgard, "Achieving External Competitiveness Through Survey Use," in Milton L. Rock's Handbook of Wage and Salary Administration, Second Edition, New York, McGraw-Hill, 1984, chapter 34, p. 5.)

The second statement infers that the use of wage and salary surveys can reduce pay dissatisfaction and can help attract employees and reduce employee turnover. However, research on employee turnover indicates that

"pay dissatisfaction itself does not strongly influence employees' stay-leave decisions. This is probably due to a combination of two factors. First, pay is but one potentially important aspect or dimension of the job. It is likely that employees make trade-offs between pay satisfaction and satisfaction with these other job aspects. Second, equity theory stresses that leaving the organization is only one of

²¹Herbert R. Northrop, "Comparable Worth and Realistic Wage Setting," in the Consultation, pp. 93-98.

many possible ways to reduce feelings of pay dissatisfaction."²²

These statements are also contradicted by other portions of the Commission report. As the report noted previously (p. 23), comparable worth advocates contend that the market is discriminatory, and therefore does not assure employees that they are being fairly compensated. The report later states (p. 27) that employers began to use job evaluations to establish a wage system "that appeared equitable to his or her workforce," and thereby reduce dissatisfaction among the employees. Still later (p. 32), the report says that voluntary job evaluation plans are "aimed at achieving labor peace and assuring employees that they are being paid fairly." The report does not explain why job evaluation would be necessary to establish a pay system that appears equitable to employees if the market already assures employees that they are receiving fair wages.

Comment 3

On page 31, the Commission report states that "(c)omparable worth doctrine calls for the mandated use of a 'bias free job evaluation system by each covered employer.'" According to the report, the quoted portion of the sentence is from page 99 of Ronnie Steinberg's article in the Consultation.²³

However, the quoted portion of the sentence does not appear on the cited page or anywhere in Steinberg's article. Also, the sentence implies that comparable worth advocates, particularly Steinberg, call for the mandated use of job evaluations by all employers. Steinberg told us that she does not adhere to that view, and that she has even advised some organizations not to use job evaluations because they would be inappropriate in their organization.

Neither the National Committee on Pay Equity nor any of the other comparable worth advocates with whom we spoke in preparing our earlier report believe that all employers must use job evaluations. NCPE representatives said that the decision of whether

²²Herbert G. Heneman, III, and Donald P. Schwab, "Work and Rewards Theory," in Motivation and Commitment, ASPA Handbook of Personnel and Industrial Relations, edited by Dale Yoder and Herbert G. Heneman, Washington, DC, BNA, 1975, pp. 6-18.

²³Ronnie J. Steinberg, "Identifying Wage Discrimination and Implementing Pay Equity Adjustments," in the Consultation, pp. 99-116.

to use job evaluation in pay setting is up to each employer. However, if job evaluation is used, they said that they believe the employer has an obligation to do so in a nondiscriminatory manner.

Comment 4

The report states (p. 31) that "there is widespread disagreement among experts about the precise extent to which job evaluation systems are used by American industry," but it then attempts to indicate the absence of such systems. For example, the report quotes Donald Schwab's paper in the Consultation²⁴ that "most firms in the private sector probably do not use job evaluation." Schwab, in turn, cites reviews of surveys of compensation practices by David W. Belcher²⁵ and Donald J. Treiman²⁶ but says the studies tend to overrepresent large firms and therefore overstate the extent of job evaluation use.

Although there is no definitive estimate of the extent of job evaluation use, both of the cited publications indicate that job evaluations are prevalent in the private sector. Belcher (p. 93) states that "(i)n the United States, job evaluation is used in organizations employing approximately two-thirds of the employed labor force" (in 1974). He then cites several surveys by the Bureau of Labor Statistics and others to support his statements. Treiman's review of surveys of compensation practices led him to conclude that "the majority of large firms utilize formal job evaluation procedures." The Commission report itself states that job classification systems "had won wide acceptance in major corporations" by the 1950s (p. 28).

While job evaluations seem to be more prevalent in large organizations, the data indicate they also appear to be used by many small organizations as well. A survey by the Bureau of National Affairs indicated that 75 percent of large organizations and 60 percent of small organizations used job evaluations to determine wage rates in 1972. In 1956, only 40 percent of small organizations reported using job evaluations.

²⁴Donald P. Schwab, "Using Job Evaluation to Obtain Pay Equity," in the Consultation, pp. 83-92.

²⁵Compensation Administration, Englewood Cliffs, N.J., Prentice-Hall, Inc., 1974.

²⁶Job Evaluation: An Analytic Review, Washington, D.C., National Academy Press, 1979.

Thus, as one textbook stated, it appears that "a considerable number of surveys on wage practices in organizations indicate that this approach is used (either singly or with other approaches) in most organizations."²⁷

Comment 5

On page 32, the report states that the absence of a single, universally accepted job evaluation system "undoubtedly reflects the fact that no one can 'prove the inherent validity of any method of job evaluation.'" The quoted portion of the statement from the report is from page 77 of Bellak's paper in the Consultation.

However, there is no logical relationship between the absence of a universally accepted evaluation system and an inability to prove the inherent validity of any job evaluation method. Bellak told us that he believed there was no relation between the two parts of the statement in the report, but he pointed out that they could be true if they were reversed. That is, if any method of job evaluation was inherently valid, it would be universally accepted.

Moreover, although the quoted portion of the sentence is from Bellak's article, Bellak told us he does not believe the statement accurately reflects his views. The full quote from his article in the Consultation is as follows:

"Since neither Hay nor anyone else can prove the inherent validity of any method of job evaluation, it is quite understandable that large organizations have selected multiple methods to be applied to the multiple segments. The resultant evaluations are, therefore, valid only to the extent that they are credible."²⁸

Bellak told us that he was explaining why many large organizations choose to use multiple methods of job evaluation and was not discussing reasons for the absence of a universal job evaluation procedure.

²⁷Allan N. Nash and Stephen J. Carroll, Jr., The Management of Compensation, Monterey, CA, Brooks/Cole Publishing Company, 1975, pp. 106-107.

²⁸Bellak, op. cit., p. 77.

Comment 6

In pages 31-33, the report points out that a degree of subjectivity is inherent in all job evaluation systems, and that "different techniques and different evaluators may yield different values for the same job." The report says the "most important thing determining wage and salary rates is the supply of, and demand for, the specific job skills or services in question." Wage and salary surveys are commonly used to determine the market wage rate for particular jobs.

However, wage and salary surveys are also subjective and are susceptible to error and manipulation. For example, one author recently stated that "(t)he inadequacies of wage surveys are well known. They include problems of defining comparable jobs, the differences caused by size or location of company, and the errors created by combining data from different industries."²⁹ He also noted that (1) competitors may misrepresent actual pay scales in wage surveys to keep competitive levels down; (2) such surveys are by nature inflationary; and (3) wage data may be affected by tradition rather than factual differences in jobs. Another author states that

"(t)he use of salary survey data to help shape compensation policies is increasingly recognized as a sort of 'black art' among compensation professionals. Dubious comparisons, meaningless averages, questionable sampling methods, and a general aura of unreality pervade the results of most salary surveys, whether provided by government agencies, professional associations, or consulting firms."³⁰

Textbooks in compensation administration also indicate problems with market pricing.³¹ Thus, just as there is no absolutely objective method of job evaluation, there is no absolutely objective method of collecting wage and salary data for market comparisons. As we stated in Comment 2 to this chapter, both job evaluations and market surveys are important in sound compensation policies.

²⁹Jerome S. Kornreich, "Myths," Personnel Journal, June 1984, p. 67.

³⁰Michael A. Conway, "Salary Surveys: Avoid the Pitfalls," Personnel Journal, June 1984, p. 62.

³¹See, for example, Richard I. Henderson, Compensation Management: Rewarding Performance, Reston, VA., Reston Publishing Company, 1979, pp. 213-214.

Comment 7

On page 35, the Commission report questions whether it is possible to design a credible evaluation-based compensation system that can respond to seniority requirements or shortages of workers in particular fields.

Our work on job evaluation and classification in the federal and nonfederal sectors indicates that such capabilities are built into many evaluation-based compensation systems. For example, within-grade increases are granted periodically in the federal General Schedule system to reward experience and performance. The federal special rates program allows certain hard-to-fill occupations to be paid more than other occupations in the same grade in order to attract and retain employees in those fields.

Comment 8

The report states (p. 35) that in a comparable worth pay plan jobs would have to be reevaluated over time as employers' responses to changes in supply and demand, job content, and seniority alter the original "equitable" pay arrangements.

Reevaluations would indeed be called for if the jobs change (or the evaluation instrument is altered). However, it is not clear why changes in policy regarding seniority or market forces would require reevaluation of jobs. One of the basic tenets of job evaluation is that only the job is measured, not the job incumbent. Changes in the market may precipitate changes in pay rates for particular jobs, but not the jobs' comparative worth to the employer.

Comment 9

On page 35, the report quotes "other experts" as stating that "[t]he Comparable Worth strategy can be seen as an attempt to bring wages of female-dominated jobs up to the going market wage rates for similar type work that is not female-dominated." The report then states (p. 36) that the above quotation "reflects a mistaken view of market wage setting; market factors largely affect wages for different jobs through supply and demand for the different jobs, not through a comparative job evaluation process, which sometimes is used as an aid in pay setting."

We believe the report mischaracterizes the quoted material and that it overstates the role of the market in wage setting. The quote is from Joy Ann Grune's article in the

Consultation,³² citing an article by Heidi Hartmann.³³ Hartmann told us the quoted sentence does not assert that wages are set through a comparative evaluation process, but that comparable worth may be seen as an effort to pay similar jobs fairly without regard to the sex of the job incumbents.

With regard to the statement that wages are actually set through supply and demand, several authors in the field of compensation administration indicate that this is not the case in many organizations. For example, Allan N. Nash and Stephen J. Carroll, Jr.,³⁴ say that research suggests that market information is usually used "only as a general guide in setting (wage) levels, and that job evaluation is relied on to precisely establish specific job rates within the wage structure." The authors also said that wage surveys "do not provide enough controlled information on all relevant variables so that they can be relied on exclusively to set individual job rates." Another author³⁵ found that only 7 percent of the firms in his sample indicated wage surveys were the only factors considered in setting pay levels. Other factors, particularly job evaluation, were given equal or greater importance. A 1972 Bureau of National Affairs survey suggests that wage surveys are most commonly considered "useful as a guide" rather than "very helpful" or "absolutely necessary" in pay setting.

Also, as the Commission report previously noted (pp. 26-27) and as we noted in our prior report (GAO/GGD-85-37, pp. 17-19), institutional economic theory contends that supply and demand and external labor markets may play a small role in wage setting in certain organizations. In some occupations, there may not even be an external market.

Comment 10

On page 36, the Commission again quotes the Hartmann article as cited in the Grune paper in the Consultation and says the author is calling for the government to "intervene to ensure

³²Joy Ann Grune, "Pay Equity is a Necessary Remedy for Wage Discrimination," in the Consultation, pp. 165-176.

³³"The Case for Comparable Worth," Equal Pay for Unequal Work, Eagle Forum Education and Legal Defense Fund, 1984, p. 11.

³⁴The Management of Compensation, op. cit. pp. 88-89.

³⁵R. S. Stockton, Wage Policies and Wage Surveys, Columbus, Ohio State University, Bureau of Business Research, 1959.

that each employer does not use sex as a factor in setting wages." The sentence in Hartmann's article states: "(g)iven that there is discrimination in the labor market, which depresses the wages of women's jobs, intervention is necessary to remove discrimination and its effects."³⁶

However, both Grune and Hartmann told us that the sentence actually refers to efforts by employers to remove any discrimination found in the labor market which depresses the wages of women's jobs, not to government intervention. Grune noted that the quotation and her article go on to say that job evaluation systems can be used by employers to remove the effects of discrimination. Later in her article, Grune points out that her view of pay equity does not require the federal government to "develop a master job evaluation for all work places. This will take place workplace by workplace as it does now. Of course, it does not require establishing wage boards to determine wages."

Comment 11

The report states on page 36 that comparable worth theory calls for "converting a general percentage pay gap between females and males into a conclusive determination of labor market discrimination while ignoring all of the nondiscriminatory factors accounting for the wage gap." It also states that comparable worth theory claims that "any disparity between predominantly female and predominantly male jobs purportedly of comparable worth is sex discrimination within a firm. . . ."

As stated in Comment 1 of the Introduction, none of the comparable worth advocates we spoke with adhere to this version of "comparable worth theory." Also, on page 35, the report itself quotes a former Executive Director of the National Committee on Pay Equity as stating that in a pay equity wage structure "it is possible to build in contingencies that permit an employer to respond legitimately and fairly to real shortages, to seniority requirements, to employment needs of a labor pool," any of which could create legitimate pay disparities between predominately male and female jobs. (Emphasis in the report but not in the quoted source.)

Comment 12

The report states on page 36 that job evaluations "have not been used and cannot be used to determine discrimination."

³⁶In Grune, op. cit., p. 169.

This statement is inconsistent with an earlier portion of the Commission report. On the first page of this chapter, the report states that job evaluations "have been used to establish whether there is discrimination in an employer's pay system (e.g., the Washington State case)." Also, the National Academy of Science study Women, Work, and Wages³⁷ said job evaluation plans "provide measures of job worth that, under certain circumstances, may be used to discover and reduce wage discrimination for persons covered by a given plan."

Comment 13

The report says on page 36, that comparable worth theory compels employers to "disregard the labor market and to deploy job evaluation systems."

As noted previously in Comment 3, comparable worth advocates we spoke with and those cited in the Consultation and earlier portions of the Commission report do not call for compulsory use of job evaluation. Neither do such evaluation systems "disregard the labor market" (see Comment 1 above). A pay equity advocate quoted on page 35 of the report states that

"(p)ay equity does not mean the destruction of an external, market-based, salary-setting scheme that will be replaced by a purely internal one. The goal of pay equity is to eliminate bias and discrimination in wage setting. This bias may operate through market rates, through the way the employer responds to or relies on the market, through biased job evaluation systems, or through purely subjective judgments made by employers. The objective of pay equity is not to overturn the market, but merely to eliminate bias, whatever its sources. It would be virtually impossible for firms to establish wages with no reliance on the market, and pay equity activists have not asked employers to do so." (Emphasis in the report but not in the quoted source.)

NCPE representatives we spoke with said that all comparable worth advocates recognize that there needs to be a balance between internal and external equity requirements.

CHAPTER IV: "LEGAL ISSUES"

Chapter IV of the Commission report discusses the legal bases for claims of sex-based wage discrimination, focusing on

³⁷Op. cit., p. 95.

Title VII of the Civil Rights Act of 1964 and court cases interpreting that legislation.³⁸

Comment 1

On page 57, the report concludes that it is inappropriate to apply the disparate impact theory³⁹ to claims involving sex-based wage discrimination.

This conclusion is not compelled by existing law, as noted in other sections of the Commission report. For example, in its legal analysis (page 55), the report acknowledges that a number of courts, including the federal district court in AFSCME v. State of Washington, 578 F.Supp. 846 (W.D. Wash. 1983), have applied a disparate impact analysis to wage discrimination claims.

Comment 2

The report also states on page 57 that the "better view" concerning the disparate impact theory is represented by the Ninth Circuit's decision in Spaulding v. University of Washington, 740 F.2d 686 (9th Cir. 1984), cert. denied, 53 U.S.L.W. 3403 (U.S. Nov. 26, 1984) (No. 84-515). This conclusion characterizes the Spaulding decision as holding that "only claims of intentional wage discrimination should be cognizable under Title VII."

This characterization is inaccurate, for, as the report notes on page 54 the court in Spaulding specifically stated that its holding should not be construed as "making any broad statement as to the general availability of the impact model in other broad based sex-wage cases."

³⁸See our prior report on Options for Conducting a Pay Equity Study of Federal Pay and Classification Systems, GAO/GGD-85-37, March 1, 1985, Appendix III, for a discussion of this legislation and case law.

³⁹The disparate impact theory is one of four general theories of discrimination, and generally holds that a policy may be discriminatory if it adversely affects members of a protected class and is not justified by business necessity. For a complete discussion, see Barbara Lindemann Schlei, Employment Discrimination Law, Washington, D.C., Bureau of National Affairs, 1976, pp. 65-181.

Comment 3

On page 59, the report concludes that Title VII wage discrimination claims not involving equal work should be governed by burdens of proof developed under Title VII, rather than those which apply to the Equal Pay Act.

However, this conclusion is not compelled by existing law. As the report acknowledges in its legal analysis on page 58, the Supreme Court has not decided this issue and there is a difference of opinion among the lower federal courts.

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