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The Third Quarterly Report of the
Attorney General to the President and the
Cabinet Council on Legal Policy as
Required by Executive Order No. 12336

Prepared by the
Civil Rights Division
U.S. Department of Justice

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INTRODUCTION AND HIGHLIGHTS

This is the Third Quarterly Report of the Attorney General to the President and the Cabinet Council on Legal Policy as Required by Executive Order No. 12336. It has three sections. Section One is a list of Federal statutes that contain substantive sex discrimination. Section Two is comprised of reports from 17 agencies on reviews of Federal laws, regulations, policies, and practices for sex discrimination. Section Three is a list of Federal statutes that prohibit sex discrimination in Federal financial assistance programs.

Executive Order No. 12336

On December 21, 1981, President Reagan signed Executive Order No. 12336 (the Order) "to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities...."

Section One of the Order establishes the Task Force on Legal Equity for Women (Task Force). Task Force members are nominated by heads of 21 Executive agencies to the President for appointment.

Section Two of the Order sets forth three functions of the Task Force. First, the members of the Task Force are "responsible for coordinating and facilitating in their respective agencies ... the implementation of changes ordered by the President in sex-discriminatory Federal regulations,

policies, and practices." Second, the Task Force is to "periodically report to the President on progress made ... implementing the President's directives." Third, the Attorney General is to "complete the review of Federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or which effectively discriminates, on the basis of sex." The Attorney General or his designee is to report quarterly on the findings of the review.

The Attorney General has delegated the review task to the Assistant Attorney General for Civil Rights. Coordination of this effort has been assigned to the Coordination and Review Section (CRS) of the Civil Rights Division. CRS staff work with the Federal agencies providing guidance in the review process. The staff reviews the agency submissions and requests additional information as necessary.

The First Quarterly Report: Summary

The First Quarterly Report of the Attorney General (First Quarterly Report) was forwarded to the President and the Cabinet Council on Legal Policy on June 28, 1982. It included a list of Federal statutes containing substantive sex bias based on a 1976 computer search of the United States Code (USC); a review of select issues; and a summary of some of the progress made to date by departments and agencies in correcting remaining discrimination in their laws, regulations, policies, and practices.

The Second Quarterly Report: Summary

On August 10, 1982, the Assistant Attorney General for Civil Rights sent letters to the heads of 42 Federal departments and agencies requesting their assistance in reviewing their laws, regulations, policies, and practices, and requesting submissions on their progress to include in the Attorney General's quarterly reports. Contact persons were designated to serve as liaison to coordinate the agency reviews with CRS .

The 42 agencies were divided into two groups. Meetings were held with the department and agency contact persons from the first group of 17 agencies, and those agencies have reported for this report. Meetings have been held with the 25 remaining agencies. Reports from those agencies are expected for future quarterly reports.

The Third Quarterly Report

This report is divided into three sections.

Section One is a list of Federal statutes that contain substantive distinctions based on sex.

The Assistant Attorney General for Civil Rights authorized a new and comprehensive computer-assisted search of the USC and the Code of Federal Regulations (CFR) using a 1981 data base. This new search was conducted by the Coordination and Review Section of the Civil Rights Division. This report contains the results of the USC search. The computer search is the most

comprehensive and thorough Federal effort to identify substantive distinctions based on sex in the USC.

The current list omits the thousands of terminological provisions in the USC. Hundreds of instances, for example, were found in the USC of enlisted man, he, his, and Chairman.

Section Two consists of initial reports from the first 17 agencies, preceded by a summary of agency efforts to accomplish the Attorney General's review. Progress by agencies in reviewing their laws, regulations, policies, and practices varies significantly from agency to agency, depending on the complexity of the review, the commitment of the agency to the project, and the degree to which agencies had previously conducted substantive reviews. Some agencies, as noted, are close to completing their reviews. CRS staff are assigned to agencies to provide guidance in coordinating the review.

Section Three of this report is a list of Federal statutes that prohibit sex discrimination in Federal financial assistance programs.

SEX DISCRIMINATION AGENCY REPORTS AND SUMMARIES

This section of the report consists of submissions from the first 17 agencies under the Attorney General's review. The agencies reporting are:

ACTION

Central Intelligence Agency

Civil Aeronautics Board
Defense, Department of
Education, Department of
Environmental Protection Agency
Federal Communications Commission
Federal Emergency Management Agency
General Services Administration
Health and Human Services, Department of
Labor, Department of
National Aeronautics and Space Administration
Pension Benefit Guaranty Corporation
Small Business Administration
State, Department of
Transportation, Department of
Veterans Administration

Because of the lack of consistency in agency submissions and because many agencies have not reviewed their laws, regulations, policies, or practices or addressed certain problems, summaries precede each report. The summaries highlight the status of the agency's review, problems identified, and note areas to be covered in subsequent agency submissions.

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Federal Statutes That Contain Substantive
Distinctions Based on Sex*

DEPARTMENT OF AGRICULTURE

Uncorrected Sex Bias:

42 U.S.C. §1773(c) - Provides a preference, among others, in apportionment of funds for the school breakfast program, in schools where there is a "special need for improving the nutrition and dietary practices of children of working mothers"

DEPARTMENT OF COMMERCE

Uncorrected Sex Bias:

33 U.S.C. §857-4 - Commissary privileges extended to widows of members of the National Oceanic and Atmospheric Administration Uniformed Services.

*The statutes were identified through a computer search using key words that made distinctions on the basis of sex. All such statutes have been included without regard to whether the sex-based distinctions are legally permissible or impermissible. Statutes that may "effectively discriminate" on the basis of sex but do not contain one of the key words are not included in this Report although such statutes may be identified by an agency's review.

MILITARYDepartment of Defense

Uncorrected Sex Bias:

10 U.S.C. §311(a) - Militia consists of "all able-bodied males at least 17 years of age ... and of female citizens of the United States who are commissioned officers of the National Guard."

10 U.S.C. §520 Note, Pub. L. No. 97-252, §403 - Limits the number of males enlisted or inducted into the Army during FY '83, who are not high school graduates to 35% of all males joining that year.

10 U.S.C. §772(c) - Allows retired officers of Army, Air Force, Navy, and Marine Corps to wear retired-grade uniforms, but a retired officer of Navy Nurse Corps may wear her retired-grade uniforms only under conditions prescribed by Secretary of Navy.

10 U.S.C. §1451 - Provides for reductions in monthly annuities for a widow with one dependent child by the lesser of (a) an amount equal to mother's benefit under title II of the Social Security Act, or (b) an amount equal to 40% of the monthly annuity to which entitled.

10 U.S.C. §2102 as amended by Pub. L. No. 95-485, title VIII, §809, 92 Stat. 1623 - Military colleges allowing women to enroll must provide the opportunity, but may not require, participation in military training.

37 U.S.C. §551 - Includes "wife" and not husband in the definition of dependent of a member of the uniformed service for the purpose of payments to missing persons.

50 U.S.C. App. §530(1) - Prohibits eviction from house of wife, children, or other dependents of person in military service. A related provision is found at §530(4).

70 Stat. 124 (1980) - Provides for burial in national cemeteries of the remains of commissioned officers of the United States Public Health Service who were detailed for duty with the Army or Navy during World War I, and of the wife, widow, or minor child. Also, at the discretion of the Secretary of the Army, the remains of the wife, widow, or children may be removed from the national cemetery proper to the post section if, upon death, the related officer is not buried in the same or adjoining gravesite.

Department of the Army

Uncorrected Sex Bias:

10 U.S.C. §3683 - Certain service as nurse or woman medical specialist to be credited in computing years of active service.

10 U.S.C. §3963 - A provision for crediting service for retirement purposes referring to certain female officers.

10 U.S.C. §4309 - Rifle ranges constructed with Federal funds may be used by all able-bodied males capable of bearing arms.

10 U.S.C. §4651 - Authorizes arms and equipment to certain educational institutions which have a course in military training and which have at least 100 physically fit male students over 14 years of age.

10 U.S.C. §4712 and §4713 - Disposition of effects of deceased persons by summary court martial and the Soldiers' Home. Priority list of recipients discriminates on the basis of sex.

50 U.S.C. App. §1591 - Refers to female dietitians and only to female persons having the necessary qualifications for appointment in the Army Nurse Corps and Army Medical Services.

50 U.S.C. App. §1593 - Separate provisions for retirement grade and pay of members of Army Nurse Corps and females appointed under §1591.

50 U.S.C. App. §1595 - Computation of length of service of female dietetic and physical therapy personnel.

50 U.S.C. App. §1596 - No uniform allowance for women appointees of Army Nurse Corps; rather a completed issue of uniforms, insignia, etc. will be provided.

50 U.S.C. App. §1597 - Blanket appointment of female officers in Army Nurse Corps and Army Medical Service by President.

50 U.S.C. App. §1598 - Transportation allowances for women appointees in Army Nurse Corps and Army Medical Service.

Corrected Sex Bias:

10 U.S.C. §3504 - Ordering retired members to active duty - Director of Women's Army Corps. Repealed, Pub. L. No. 96-513, §210 (1980).

10 U.S.C. §3848 - Different years for men and women for separation of officers or transfers to retired reserve. Amended by Pub. L. No. 95-485, §820(h) (1978).

10 U.S.C. §3888 - Retirement for age - N/A Women's Army Corps - Repealed, Pub. L. No. 96-513, §216 (1980).

10 U.S.C. §3916 - Different deferral periods for mandatory retirement for men and women. Repealed Pub. L. No. 96-513, §217(a) (1980).

10 U.S.C. §3927 - Mandatory retirement of regular commissioned officers - not applicable to Army Nurse Corps or Women's Army Corps generally. Repealed, Pub. L. No. 96-513, §217(a) (1980).

Department of the Air Force

Uncorrected Sex Bias:

10 U.S.C. §8549 - Female members of Air Force may not be assigned to aircraft engaged in combat missions.

10 U.S.C. §8683 - Certain service as nurse or woman medical specialist to be credited in computing years of active service.

10 U.S.C. §8848 - Different years for men and women for separation of officers or transfers to retired reserve.

10 U.S.C. §8963 - A provision for crediting service for retirement purposes referring to certain female officers.

10 U.S.C. §9651 - Authorizes arms and equipment to certain educational institutions which have a course in military training

and which have at least 100 physically fit male students over 14 years of age.

10 U.S.C. §9712 and §9713 - Disposition of effects of deceased persons by summary court martial and the Soldiers Home. Priority list of recipients discriminates on the basis of sex.

Coast Guard

Uncorrected Sex Bias:

14 U.S.C. §§371, 372, 373 - Provides that "male citizens in civil life may be enlisted as, and male enlisted members of the Coast Guard with their consent may be designated as, aviation cadets." Although these statutes remain in the United States Code the Coast Guard no longer has aviation cadets.

14 U.S.C. §487 - Provides for procurement and sale of items to Coast Guard officers, enlisted men, and to their widows. (This provision originally applied to certain isolated stations for which the Coast Guard purchased goods for resale. These purchases are no longer made. However, surviving spouses have exchange privileges.)

33 U.S.C. §§771-775 - Provides for benefits to "widows" of Lighthouse Service Personnel. (Lighthouse personnel have been phased out beginning in 1941 and there are presently none. There

are no known female lighthouse personnel and therefore no class of "widowers." There are some widows of lighthouse personnel presently receiving benefits under the Act.)

Department of the Navy

Uncorrected Sex Bias:

10 U.S.C. §5896 - Reserve officers to be recommended for promotion - separate subsections for eligible women. [Note: Amended but not cured by Pub. L. No. 96-513, §503(34) (1980).]

10 U.S.C. §5897 - Certification of reports by selection boards for promotion of reserve officers. Separate treatment of women and men.

10 U.S.C. §5898 - Submission of selection board reports to President for approval. Separate treatment of women officers.

10 U.S.C. §5899 - Promotion zones for reserve officers. Separate provisions for women.

10 U.S.C. §6015 - Women not to be assigned to combat duty nor to vessels other than hospital and transport ships. Amended by Pub. L. No. 95-485, §808 to provide:

"... [W]omen may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be

assigned to other than temporary duty on vessels of the Navy except hospital ships, transports, and vessels of a similar classification not expected to be assigned combat missions."

10 U.S.C. §6403 - Separate statute determining how Secretary of Navy can eliminate Naval Reserve and Marine Corps Reserve women officers from active status. [Note: Technical Amendments made, but not cured Pub. L. No. 96-513, §503(49)(A)-(D) (1980).]

10 U.S.C. §6915 - Provisions for appointment of enlisted members of Naval Reserve and Marine Corps Reserve as student aviation pilots.

10 U.S.C. §6964 - Midshipman sentenced to imprisonment for hazing may not be confined with men convicted of crimes or misdemeanors.

10 U.S.C. §7601 - Secretary of the Navy may designate items to be procured and sold to members of naval service, Coast Guard, and widows of the Services. (Department of Defense Regulation No. 1000.13 defines widowers as a class eligible to make purchases.)

DEPARTMENT OF HEALTH & HUMAN SERVICES

Uncorrected Sex Bias:

42 U.S.C. §411 - Establishes rules for crediting earnings for persons who are self-employed. In community property states all of the income derived from a trade or business is treated as income of the husband "unless the wife exercises substantially all of the management and control of such trade or business ...". This provision was held to be unconstitutional in Hester v. Harris, 631 F.2d 53 (5th Cir. 1980); Carrasco v. Secretary of Health, Education and Welfare, 628 F.2d 624 (1st Cir. 1980); and Becker v. Harris, 493 F. Supp. 991 (E.D. Cal. 1980). See 20 C.F.R. §404.1086.

42 U.S.C. §413(a) - Defines "quarter of coverage" for purposes of determining insured status. There is a savings provision for people who reached retirement age between Jan. 1, 1955 and July 1, 1957 and had too few quarters of coverage to be eligible because earnings were credited in the quarter in which they were paid instead of when they were earned. Retirement age at that time was 62 for women and 65 for men.

42 U.S.C. §415(f)(5) - Provides for recomputation of benefits for survivors of men who died between age 62 and age 65 using the date of death as the computation point. This provision only applies to men who would have reached age 65 before 1972 because age 62 is the computation point for women and for younger men.

42 U.S.C. §602(a)(19)(G)(iv) - Permits a mother to choose among available child care services, but not to refuse such services. Amended by Pub. L. No. 96-272, 94 Stat. 512 (1980) but discriminatory provisions were not changed.

42 U.S.C. §1307 - Provides penalties for obtaining information from the Social Security system by misrepresentation. Applies to various individuals including divorced wives but does not include divorced husbands.

Corrected Sex Bias:

42 U.S.C. §402 - Establishes eligibility requirements for various Social Security benefit categories. Gender based distinctions in

these eligibility requirements were eliminated by the Social Security Amendments of 1983, Pub. L. No. 98-21.

42 U.S.C. §402(b) and (c) - Establishes old-age benefits for wives and husbands including divorced wives but not divorced husbands, respectively, of individuals entitled to old age or disability benefits. Amended by the Social Security Amendments of 1983 to provide benefits for divorced husbands on the same basis as divorced wives. Pub. L. No. 98-21, §301.

42 U.S.C. §402(b)(1)(B) - Provides benefits for the wife of a retired or disabled individual who has in her care a dependent child of that individual. Benefits were extended to similarly situated husbands by the 1983 Amendments, Pub. L. No. 98-21, §306.

42 U.S.C. §402(d) - Provides benefits for dependent children of disabled, retired, or deceased workers. Benefits of a disabled child married to a disabled worker or to another disabled child were terminated when the spouse recovered if the child was the wife, but not if the child was the husband. The 1983 Amendments provided that benefits to a disabled child married to a disabled child are not affected by the recovery of the spouse, regardless of sex. Pub. L. No. 98-21, §307.

42 U.S.C. §402(e) and (f) - Establishes benefits for widows and widowers respectively including benefits for surviving divorced

wives, but not for surviving divorced husbands. Surviving divorced husbands were added to §402(f) by the 1983 Amendments, Pub. L. No. 98-21 §301.

42 U.S.C. § 402(b), (c), (e), (f), (g) and (h) - Benefits for divorced wives, widows, mothers, and parents to a childhood disability beneficiary (CDB), were terminated if the CDB spouse recovered, but benefits for widowers or male parents married to CDB's were not. The Social Security Amendments of 1983 also amended the sections on wives, mothers, and parents benefits to eliminate termination of benefits because of the recovery of a CDB spouse. Widow's benefits were not included because section 131 of the amendments provides that benefits for widows and widowers are no longer affected by remarriage.

42 U.S.C. §402(f)(1) - Cut off benefits for widowers who remarry before age 60. Widows who remarry before age 60 also lose eligibility, but regain it if the subsequent marriage terminates. Subsection 402(f) was amended to provide equal treatment of widowers and widows by the 1983 Amendments. Pub. L. No. 98-21, §302.

42 U.S.C. §402(g) - Provides "mothers" benefits for widows and surviving divorced wives who are caring for a dependent child of the decedent. Benefits for fathers and surviving divorced fathers were added by the 1983 Amendments, Pub. L. No. 98-21, §306.

42 U.S.C. §416 - Establishes rules for determining relationships between potential beneficiaries and insured workers. The 1983 Amendments amended it to provide that an illegitimate child may be entitled to benefits on the basis of its mother's record on the same terms as it would on the basis of the father's record. Pub. L. No. 98-21, §303.

42 U.S.C. §417 - Provides that military service during World War II may be treated as covered employment for the purpose of determining eligibility for and the amount of Social Security benefits, unless the veteran is eligible for another federal pension based, in whole or in part, on that service. Subsection 417(f) provides that the widow of a veteran who is entitled to a military retirement benefit may elect to have the military service treated as covered employment by waiving her right to the military retirement benefit. The 1983 Amendments established an equivalent provision for widowers of World War II veterans. See 20 C.F.R. §404.1343(b).

42 U.S.C. §427 - Provides benefits for persons who were 72 years old or older in 1969 and who have some covered employment, but not enough to qualify for benefits under the general rules. Benefits were also provided for wives and widows, but not husbands and widowers, of persons who were eligible under this section. The 1983 Amendments established benefits for spouses regardless of sex. Pub. L. No. 98-21, §304.

42 U.S.C. §428 - Provides benefits for individuals who were 72 years old or older in 1968 and who have too few quarters of coverage to be eligible for old-age insurance benefits. However, prior to the 1983 Amendments if a husband and wife were both eligible for this special benefit, the amount of the wife's benefit was reduced by one-half. See 20 C.F.R. §404.383. The Amendments provide that each spouse receives a full benefit. Pub. L. No. 98-21, §305.

42 U.S.C. §602(a)(19)(A) - Exemptions from requirement to register for "manpower" services: "(v) a mother or other relative of a child under the age of six who is caring for the child; or (vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home" Amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 854 (1981), to eliminate gender bias.

42 U.S.C. §607 - Benefits are provided for families with dependent children if the father, but not the mother is unemployed. In 1979, the Supreme Court found this distinction to be unconstitutional and extended benefits to families with unemployed mothers. Califano v. Westcott, 443 U.S. 76 (1979). Amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 853 (1981), to eliminate gender bias.

42 U.S.C. §633 - Priority for placement in Work Incentive jobs is given first to unemployed fathers and then to mothers. Amended by Pub. L. No. 97-300, 96 Stat. 1398 (1982) by striking out "unemployed fathers" and inserting in lieu thereof "unemployed parents who are the principal earners"

42 U.S.C. §1395mm(a)(4) - Formerly 42 U.S.C. §1395mm(a)(3)(A)(iv) which permitted use of sex as an actuarial factor in determining payments to health maintenance organizations. As amended, the section eliminates the explicit reference to sex, but provides that actuarial tables be based "on adequate and other information and data."

IMMIGRATION AND NATURALIZATION

Uncorrected Sex Bias:

8 U.S.C. §1353 - Allows for payment of travel expenses for employees, their "wives and dependent children," when transferred outside the United States.

8 U.S.C. §1432 - A child born outside U.S. of alien parents or an alien parent and a citizen parent who subsequently lost citizenship, automatically becomes a citizen upon naturalization of both parents, or if the child is illegitimate, upon naturalization of the mother providing that other requirements are met.

8 U.S.C. §1451(e) - Provides that a "wife or minor child" of a naturalized alien shall not lose any right or privilege that would have been derived or available if the alien's naturalization status had not been revoked.

8 U.S.C. §1452 - Procedures to procure certificates of citizenship for persons who derived U.S. citizenship through the naturalization of a parent or a husband.

8 U.S.C. §1489 - Provides that notwithstanding the provision of any treaty or convention to the contrary no woman is to lose her citizenship due to marriage or subsequent residence abroad either of which occurred within a timeframe specified in the statute.

8 U.S.C. §1557 - Prohibits the transportation in foreign commerce of women and girls for the purposes of prostitution and debauchery.

22 U.S.C. §214 - Provides that no passport fees shall be collected from, among others, the "widow ..." of a deceased member of the Armed Forces traveling to visit a grave of such member.

DEPARTMENT OF INTERIOR

Uncorrected Sex Bias:

25 U.S.C. §13 - Bureau of Indian Affairs may direct, supervise, and expend monies for the benefit, care, and assistance of Indians in United States including employment of field matrons.

25 U.S.C. §137 - Authorizes supplies and annuities to be distributed to able-bodied males for service done on reservations for Indians.

25 U.S.C. §181 - White man may not acquire a right to tribal property by marrying an Indian woman.

25 U.S.C. §182 - Indian woman who marries U.S. citizen becomes U.S. citizen and does not lose any tribal property rights.

25 U.S.C. §183 - Evidence which is admissible to prove the marriage of a white man to an Indian woman.

25 U.S.C. §184 - Children of marriage between white man and Indian woman married after June 8, 1897, shall have rights and privileges of mother's tribe.

25 U.S.C. §274 - Authorizes the Commissioner of Indian Affairs to employ Indian girls as assistant matrons and Indian boys as farmers and industrial teachers in Indian schools.

25 U.S.C. §342 - Permits removal of Southern Utes to new reservation with consent of the majority of the adult male tribal members.

25 U.S.C. §371 - For the purpose of determining heirs of any deceased Indian, illegitimate children are deemed to be the legitimate issue of their father for purpose of descent of land.

25 U.S.C. §933(c) - Provides that tribal assets (Catawba tribe) remaining after distribution are to be appraised without including any improvements placed on an assignment by an assignee, or his wife or children.

25 U.S.C. §973(c) - Provides that payment for selections of tribal land (Ponca tribe) for homesite purposes does not include

any improvements or repairs made by member, his wife, children, or ancestors.

43 U.S.C. §§161-2, 164, 166-8, 170, 255, 243A, 272, 278, 279, 240, 271 - Provisions contain substantive discrimination and relate to entry on public lands and benefits flowing from such entry. For example, §161 entitled "Entry of unappropriated public lands" sets forth general provisions for "every person who is the head of a family, or who has arrived at the age of twenty-one years." Although §162 requires an affidavit from the "head of a family," whether a he or a she, §164 provides for issuance of a certificate or patent three years from a person's date of entry, or upon his death, to his widow, or in the case of her death his heirs or devisee, or in the case of a widow making such entry her heirs or devisee. Section 166 provides that an unmarried woman who has settled and married before a certificate is issued shall not on account of her marriage forfeit her right to make entry and receive a patent, providing the man she marries is not at the time of their marriage, claiming a separate tract. Section 167 addresses marriage of an entryman to an entrywoman and §168 relates to the marriage of an entrywoman to an alien. Code sections above were repealed in part, but remain applicable in Alaska until 1986. Pub. L. No. 94-579, 90 Stat. 2787 (1976). A savings provision states that the repeal does not affect any valid lease, permit, patent, etc.

50 U.S.C. App. §§563, 564 - Provisions relate to entry on public lands and effect of military service subsequent to entry.

INTERSTATE COMMERCE COMMISSION

Uncorrected Sex Bias:

49 U.S.C. §10722 - Common carriers subject to jurisdiction of the Commission may provide free transportation to employees' families: family includes the widow but not the widower of an employee.

DEPARTMENT OF JUSTICE

Uncorrected Sex Bias:

42 U.S.C. §1986 - Provides for damages to the "widow" (if none, to the "next of kin") of a deceased person as a result of a wrongful conspiracy in violation of §1985.

DEPARTMENT OF LABOR

Uncorrected Sex Bias:

29 U.S.C. §12 - President must appoint a woman as Director of Women's Bureau, Department of Labor.

30 U.S.C. §843(d) - Authorizes Secretary of Health, Education and Welfare to provide for autopsy of deceased miner with the consent of widow.

30 U.S.C. §§902(a)&(e) - Defines a dependent of a miner as a child or a "wife," and a "widow" as a surviving wife. The Department of Labor has amended its regulation implementing this statute to define dependent as including both spouses. 20 CFR §§718, 725, 727. However, the Social Security Administration administers part of this program and has not amended its regulations. See 20 C.F.R. §§410.210-.215.

30 U.S.C. §§902(g), 921, 922(a), 922(b), 923(b), 924(a) and (e), 931, 934 - Provisions utilizing the discriminatory definition of "dependent" and "widow."

33 U.S.C. §909(b) - Under the Longshoremen and Harbor Worker's Compensation Act, death benefits are paid to a widow or widower, (if the deceased has no child), during widowhood, but only during

dependent widowhood, with two year's compensation, in one sum upon remarriage.

33 U.S.C. §909(c) - Death benefits provided under above Act where there is more than one surviving child of the deceased, but no widow or dependent husband.

33 U.S.C. §909(g) - Compensation provided under Act to nonresident aliens or aliens about to become residents are to be the same as for residents, except for dependents in a foreign country which is provided only to a surviving wife and child or children.

33 U.S.C. §914(j) - Reference to American Experience Table of Mortality and the remarriage tables of the Dutch Royal Insurance Institution for the probability of remarriage of the surviving wife.

41 U.S.C. §§35(d) & 36 - Establishes different minimum ages for male persons (age 16) and female persons (age 18) to contract with executive departments, independent establishments, or other instrumentalities, etc. The Department of Labor has amended its implementing regulations to establish a minimum age of 16 for both sexes. 41 C.F.R. §50-201.1(d) & 41 C.F.R. §50-201.1(f).

Uncorrected Sex Bias:

45 U.S.C. §231a(c)(1) - Provides that a husband, but not a wife, is only entitled to an annuity as a spouse if he received at least one-half of his support from his wife at the time his wife's annuity began.*

45 U.S.C. §231a(c)(1)(ii)(C) - Provides that benefits be paid to wives, but not husbands, with children in their care.

45 U.S.C. §231a(c)(4) - Entitles a divorced wife, but not a divorced husband, to an annuity.*

45 U.S.C. §231a(d)(1)(i) - Provides that a widower, but not widow, is entitled to a survivor annuity only if he was receiving at least one-half of his support from his deceased spouse at the time of her death.*

45 U.S.C. §231a(d)(1)(ii) - Provides that the widow, but not widower, of a deceased employee with a minor child of the employee in her custody may receive a survivor annuity.*

45 U.S.C. §231a(d)(1)(v) - Entitles a remarried widow, surviving divorced wife, and a surviving divorced mother of a deceased

employee, but not a remarried widower, surviving divorced husband, or surviving divorced father, to survivor annuity benefits.*

The following sections also contain language reflecting the substantive differences in benefits noted above: 45 U.S.C. §§231, 231a, 231b, 231c, 231d, 231e, and 231f.

SELECTIVE SERVICE SYSTEM

Uncorrected Sex Bias:

50 U.S.C. App. §453 - Male citizens register for draft. See Rostker v. Goldberg, 453 U.S. 57 (1981) (upholding Constitutionality of all male registration for draft)).

50 U.S.C. App. §455 - Men selected for training and service.

50 U.S.C. App. §456 - Deferments relating to men.

50 U.S.C. App. §466 - Men in definition.

DEPARTMENT OF TRANSPORTATION

Uncorrected Sex Bias:

*Based on court cases holding this provision or a parallel one under the Social Security Act unconstitutional, the Railroad Retirement Board no longer applies the gender limitation contained in this provision. See, e.g., Railroad Retirement Board v. Kalina, 431 U.S. 909 (1977), affirming mem. 541 F.2d 1204 (6th Cir. 1976); Baker v. Harris, 503 F. Supp. 863 (D.D.C. 1980).

46 U.S.C. §152 - Distinctions between berthing provisions for male passengers not occupying berths with their wives and unmarried female passengers on steamships.

46 U.S.C. §153 - Distinctions between number of water-closets required to be provided for male and female passengers.

46 U.S.C. §154 - Provides for the provision of milk for infants and young children traveling with their mothers.

46 U.S.C. §561 - Provides for apprenticing boys to the sea service and for Coast Guard to determine "if the boy has voluntarily consented to be bound, and that the parents or guardian of such boy have consented to such apprenticeship."
(This procedure is no longer followed.)

46 U.S.C. §599(b) - Authorizes a merchant seamen to stipulate in his shipping agreement that a portion of his wages be allotted to his grandparents, parents, wife, sister, or children.

46 U.S.C. §601 - Attachment of seaman's wages not permitted except pursuant to court order regarding payment for support and maintenance of "wife and minor children."

46 U.S.C. §627 - Authorizes the distribution of the effects of a merchant seaman or apprentice to his "widow."

DEPARTMENT OF THE TREASURY

Uncorrected Sex Bias:

26 U.S.C. §1402(a)(5)(A) - Provides that for purposes of defining net earnings from self-employment in community property jurisdictions, all gross income and deductions attributable to a trade or business shall be treated as gross income and deductions of the husband unless the wife exercises substantially all of the management and control of such trade or business, in which case all such gross income and deductions shall be treated as the gross income and deductions of the wife.

CRIMINAL STATUTES

Uncorrected Sex Bias:

18 U.S.C. §2198 - Penalties for seduction of a female passenger during voyage by a master, officer, seaman, or other employee while on American vessel. Further, testimony of seduced female is insufficient for a conviction, absent other evidence.

18 U.S.C. §3614 - A court may order that a fine for violation of §2198 be paid to the seduced female or her child, if she has any.

18 U.S.C. §2421 - Prohibits transportation across state lines, of any woman or girl, for the purpose of prostitution, debauchery, or other immoral purposes.

18 U.S.C. §2422 - Prohibits coercion or enticement of any woman or girl to cross state lines for purposes of prostitution, debauchery, or other immoral purposes.

18 U.S.C. §2424 - Any person who keeps, maintains, controls, supports, or harbors an alien girl or woman within 3 years of her entry in the United States for prostitution or immoral purposes, must report certain information regarding her location to INS.

18 U.S.C. §3056 - Refers to the President of the United States, his wife, his widow and "until her remarriage."

MISCELLANEOUS

Uncorrected Sex Bias:

5 U.S.C. §2108(3)(F) and (G) - Defines as "preference eligible" for employment, the mother, but not the father, of a deceased or service connected permanently and totally disabled veteran, if: (1) her husband is totally and permanently disabled; (2) she is widowed, divorced, or separated and not remarried; or (3) she remarried but is widowed, divorced, or legally separated when the preference is claimed.

5 U.S.C. §5561 - Dependent of an employee of an Executive agency or military department is defined to include a wife but not a husband.

12 U.S.C. §1715m(g) - When a serviceman (who has been issued a housing certificate) dies while on active duty in armed forces of U.S., Coast Guard, or National Oceanic and Atmospheric Administration, leaving a surviving widow as owner of the property, the period of ownership is extended for 2 years from date of death or date the widow disposes of the property, whichever is first.

15 U.S.C. §1052(c) - Provides that no trademark may be registered if it includes the name, signature, or portrait of a deceased President of the U.S. during the lifetime of his widow unless she provides written consent.

Pub. L. No. 85-745, 72 Stat. 838 (1980), as amended - Provides for pensions to widows of Presidents.

22 U.S.C. §2151(k) - Requires that the Foreign Relations Assistance Act be administered to give particular attention to programs that tend to integrate women into the national economies of developing countries. Requires that up to \$10,000,000 each fiscal year be used to encourage the participation and integration of women in the development process by supporting activities that increase their productivity and income earning capacity. It does not authorize a separate development assistance program for women.

22 U.S.C. §2225 - Requests the President to instruct U.S. representatives to international organizations to carry out their duties, so as "to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policymaking positions of such organizations." The President is also requested to take into account the progress or lack thereof by such organizations in furthering the above goals in making U.S. contributions to these organizations.

24 U.S.C. §52 - Any inmate of a home who receives a government pension may direct Veteran's Administration to pay part or all of the pension to his wife, child, or parent.

24 U.S.C. §165 - Pensions of male inmates of St. Elizabeths Hospital to be used for the benefit of the pensioner and in the case of a male pensioner, his wife, minor children, and dependent parents, or if a female pensioner, for the benefit of her minor children.

24 U.S.C. §191 - St. Elizabeths Hospital may admit insane persons including men who were insane while in military service, and become insane again after discharge.

28 U.S.C. §604 - Although the Judicial Survivors Annuities Reform Act and Pub. L. No. 96-504 extended payment of annuities from

"widows" to "widows and widowers," the duties listed for the Director of the Administrative Office of the United States courts were not expanded to include the payment of annuities to widowers.

36 U.S.C. §671 - Requires that one of the eight national officers of AMVETs be a woman.

42 U.S.C. §1652 - Provides for benefits to dependents of aliens and non-nationals which include a surviving spouse residing in the United States, but if the surviving spouse is residing outside the United States, only a female surviving spouse is entitled to benefits.

48 U.S.C. §§1413, 1415, 1418 - Provides for the protection of rights of the widows of discoverers of guano islands.

48 U.S.C. §1461 - No polygamist, bigamist, or person cohabiting with more than one woman, and no woman cohabiting with any person just described is eligible to vote or hold office in any United States territory or other place over which the United States has exclusive jurisdiction.

Corrected Sex Bias:

28 U.S.C. §375 - Previously limited payment of annuities to widows of Supreme Court Justices. Repealed by Pub. L. No.

96-504; annuities to widows and widowers of Supreme Court Justices are now provided by 28 U.S.C. §376.

31 U.S.C. §43(b) - Sets out the survivorship benefits of widows and children of Comptrollers General. The Comptrollers are assumed to be male. The recodification of title 31, Pub. L. No. 97-258 (1982), now provides survivorship benefits to surviving spouses, 31 U.S.C. §§771-776.

31 U.S.C. §97 - General Accounting Office may disallow claims for pay and bounty where the payments have already been made to the soldier or his widow. This section has been superceded by 31 U.S.C. §3526 of revised title 31, Pub. L. No. 97-258 (1982). The superceding section omits the reference.

31 U.S.C. §125 - Provides for payments from special deposit account for withheld foreign checks to widows of a veteran and her children. Corrected in the recodification of title 31, Pub. L. No. 97-258, see 31 U.S.C. §§3329 & 3330.

There are several categories of laws not included in this report. They include Federal laws that prohibit discrimination on various bases but fail to include sex; certain curative laws that extend benefits or make the law otherwise applicable to one sex or the other; certain statutes that provide benefits to one sex that have had the benefits extended to the other sex by a statute,

and, laws that relate to or provide for special status or benefits to organizations whose membership is limited to one sex.