
**
** CITY LAYOFFS : **
** THE EFFECT ON MINORITIES **
** AND WOMEN **
**

by

THE NEW YORK CITY COMMISSION ON HUMAN RIGHTS
52 Duane Street
New York, N. Y.

April, 1976

59252

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Mayor

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NEW YORK CITY COMMISSION ON HUMAN RIGHTS

Eleanor Holmes Norton
Chair

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PREFACE

Layoff discrimination is one of the cruelest varieties. But it yields neither easy villains nor ready solutions. Traditional notions of fault apply, but for any employer of any size the roots go back many years when exclusion of minorities and women had wholesale national acceptance both as a matter of law and of custom. In any case, because the employer must cut costs, he is not easily held to a remedy that could prevent or properly redress discriminatory layoffs. The potential for conflict among workers is therefore great. Seniority systems seek to mediate this conflict, and in fact to prevent discrimination, by retaining workers based on their length of service on the job. This formula has the advantage of simplicity and relative fairness. But when race and sex discrimination are factored in, a first-rate case of competing equities emerges. Senior white male workers have a case based on long service and no complicity in the system that has kept minority and women workers out. The previously excluded workers have equivalent claims that they never had

the chance for employment and thus for seniority, and that layoff by seniority compounds the unfairness and makes rectification of discrimination ultimately impossible.

The country has yet to make a willful search for solutions to this urgent problem. In the face of national complacency, especially at the federal level, the New York City Commission on Human Rights has sought almost alone to raise the issue, pose the dilemma, and push for fair solutions. We have written layoff guidelines for consideration by federal agencies, given legal advice and technical assistance to private sector employers and city government agencies, sponsored a working conference of employers, unions, economists, and other experts, issued a major report*, the only resource document available to those seeking alternatives to layoffs, and testified before federal and state lawmakers who can design remedies.

In fact, a decent start toward a range of techniques to help solve this complicated problem is in progress, at least in New York City government, stimulated in no small part by the statistics contained in this report. If it has helped inform and motivate that search, this report and the data it presents have served a useful purpose. For rage alone cannot advance a problem

*Edith F. Lynton, Alternatives to Layoffs, New York City Commission on Human Rights, September 1975.

of this complexity where the chief villain, a lame economy, has proved an elusive adversary.

The problem deserves the most creative analysis and intensive action. The place to begin is with an understanding of the facts, however grim. In their own peculiar way, they must inspire us.

Eleanor Holmes Norton
April 1976

INTRODUCTION

New York City is currently undergoing what is perhaps the worst crisis in its history. All of its citizens have suffered the consequences of fiscal retrenchment. But those who have been affected most directly are city workers who have lost their jobs. These include New Yorkers of all races and backgrounds. But as a group, it is the city's black, Hispanic, Asian, and female workers who have borne the disproportionate burden, a common result of layoffs historically in this country. *

New York City has long been in the forefront of both private and public sector employers in recognizing its responsibility to provide equal employment opportunity for minorities and women. But the disproportionate impact of recent employee cuts is the inevitable consequence of state civil service requirements that provide for layoffs on the basis of inverse seniority, requirements that are well established among private and public employers throughout the country. Since barriers to the employment of significant numbers of minority workers and women are only now being eliminated, the application of the

*This report uses the categories of minorities mandated under Federal racial and ethnic data collection guidelines.

"last in, first out" principle has taken a heavy toll on these groups.

The City Commission on Human Rights early foresaw the impact that layoffs would have on progress made toward improved equal employment opportunity in city government. As an agency with major responsibility for implementation and administration of the City's Equal Employment Opportunity Program*, established by Mayor Beame through Executive Order No. 14, the Human Rights Commission made an early and ongoing effort to mitigate disproportionate impact on minorities and women by alerting City agency officials to the issues involved and suggesting ways to reduce the impact on minorities and women. In memoranda issued to agency heads and equal employment opportunity officers on November 25, 1974, June 6, 1975, and October 21, 1975 (see Appendix) the Commission outlined a method of analysis as well as techniques for mitigating adverse impact on minorities and women, within the limitations set by seniority and other civil service requirements. At the same time the Commission has given technical assistance on an individual basis to many agencies and has been

*The Department of Personnel and the Corporation Counsel also have substantial responsibility under Executive Order No. 14.

pursuing new methods for mitigating the disproportionate race and sex effect.* For it was clear that without new tools and approaches, such unfair results could not be eliminated. Still, it is certain that without the conscious attention of many agencies to the methods outlined in the Commission memos and in individual consultation, the layoff figures described here would have been worse.

Despite the efforts of agencies to use the narrow latitude afforded them under present law, it is clear that city layoffs have had a seriously disproportionate effect on minority and women city workers. It has become increasingly imperative to seek out ways to mitigate this impact. This task will entail enormous effort, imagination, and innovation. The simple answers have all been investigated and found inadequate. Seniority may well be largely responsible for disparate impact, but it would be manifestly unfair to simply shift the burden of layoffs to senior white males who are in no way responsible for the patterns that for so long excluded other groups.

What is needed are ways to mitigate the unfair effect on one group without being unfair to others. A cycle of unfairness and victimization that has remained in effect for generations can

*Lynton, Alternatives to Layoffs, supra.

be broken only if we are careful to devise remedies that will help everyone. But the cycle cannot be broken without an affirmative effort to devise ways to keep minority and women workers attached to their jobs so that they too may have a chance to build precious seniority.

In any event, the paramount consideration in determining layoffs must of course be the city's responsibility to deliver services to its citizens. All cutbacks must be made in such a way as to best meet program priorities, and it is within the parameters of such program considerations that ways can be sought to avoid adverse impact.

The Mayor has recognized this difficult challenge and throughout the period of layoffs has encouraged this Commission to seek ways to avoid unfair racial and sex impact. A special task force operating under Deputy Mayor Paul Gibson is preparing a report for Mayor Beame recommending specific action to help reduce unfairness to groups which have traditionally absorbed layoffs disproportionately.

The report that follows is part of an ongoing effort to identify the dimensions of the problem and to help devise solutions. As data become available our statistics and analysis will be updated and refined. But because the racial and sex

impact of layoffs has raised such wide and immediate concern and interest, we are offering the interim report that follows.

A NOTE ON METHODOLOGY

The data used in this report relates to the mayoral agency workforce, i. e., those agencies under the direct control of the Mayor. It includes as well a few non-mayoral agencies for whom the Department of Personnel keeps statistics, such as District Attorneys and the Office of the Comptroller. It does not include most non-mayoral agencies, such as the Board of Education, Board of Higher Education, Health and Hospitals, Transit Authority, Housing Authority, Judicial Conference, OTB, Triboro Bridge and Tunnel Authorities, or cultural agencies.

The worker reductions described include those resulting from normal attrition (retirements, etc.), as well as those occurring because of cessation of programs funded by federal and/or state grants, and layoffs. During the 16 month period reported here, layoffs are estimated to constitute at least two-thirds of all separations. Future reports will provide data on layoffs alone, but this data was not available for this report.

Though the inclusion of retirements and voluntary separations poses certain problems of interpretation, it probably results in understating the effect of layoffs on minorities and women. Retirees can be expected to be largely white, reflecting the city workforce makeup of earlier years. Voluntary separations may also be expected to be largely white, since whites still tend to have more and better employment options outside of city government than minorities, witness the considerably higher unemployment rates among minorities in bad times and good. If anything, then, it is likely that the inclusion of voluntary attrition in separation figures overstates the effect on whites and understates the comparative impact on minorities. In order to partially correct for this, the analysis of job losses by category (pp. 10-17) is based only on those job titles which had separations of 25 or more employees, on the assumption that these were more likely to have resulted from layoffs, and would be less skewed by retirements and other attrition. Of the 46,435 total separations, 38,260 were in titles in which 25 or more separations took place. The analysis by categories therefore encompasses these 38,000 separations in approximately 110 titles.

The data include about 2,000 employees unreported as to race or sex, because at the time of the base date of June 30,

1974, the initial census was incomplete for some agencies. Therefore, in some instances, totals will not add up to 100%.

New hires during the period in question are also not included. However, during this period hiring was limited almost exclusively to CETA and other federal or state grants, with very few hirings to replace workers lost by attrition and layoffs. In cases where separation figures are derived from a comparison of pre-reduction statistics with post-reduction statistics, where the latter included some hires, percentages of separation figures may add up to more than 100%.

OVERALL EFFECT OF LAYOFFS ON MINORITIES AND WOMEN

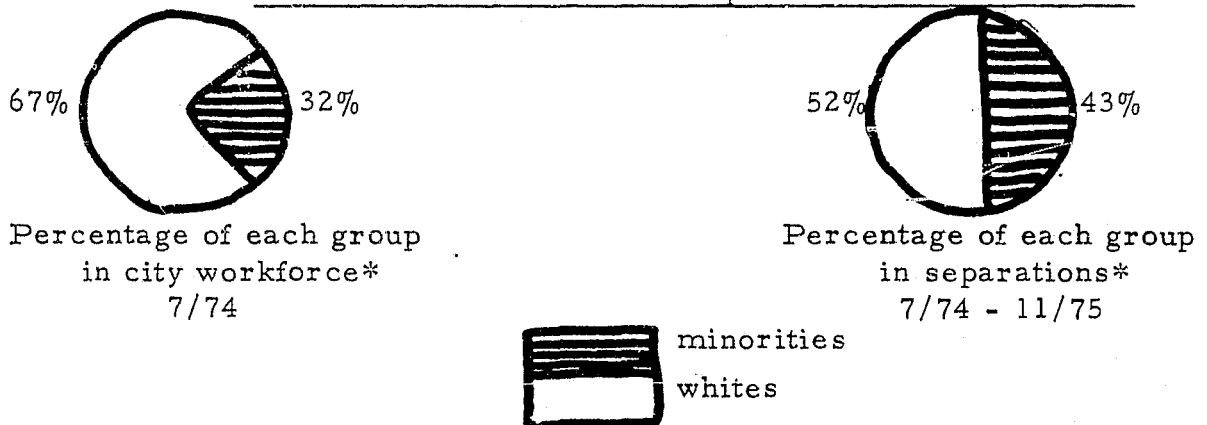
On July 1, 1974, the City's mayoral agency workforce* numbered 164,894. Within sixteen months, by November 7, 1975, 46,435 of these workers, or 28.2% had lost their jobs. This considerable job loss was dramatic in itself, but its effect on the employment of minorities and women was of even greater dimensions.

*See Note on Methodology, p. 5, for basis of these statistics.

In contrast to white workers, who lost only 22% of their number, minorities suffered far greater percentage losses. Hispanics were hardest hit, with more than half (51.2%) of Hispanic workers separated from their jobs. Black employees lost more than a third (35%) of their positions, with black males alone suffering a 40% loss. Other minorities, a category which includes Asian Americans and American Indians, were reduced by 30%.

The disproportionate impact on minorities is underscored when we note the disparity between their representation in the workforce, and the percentage they constituted of all separations. Figure 1 shows that while whites represented 67% of the workforce, they contributed less than their workforce representation, or little more than half (52%) of the separations. Minorities on the other hand, contributed 43% of all separations, 11% more than their participation of 32% in the city workforce.

Figure 1: Comparison of Minority with White Representation in Workforce and in Separations



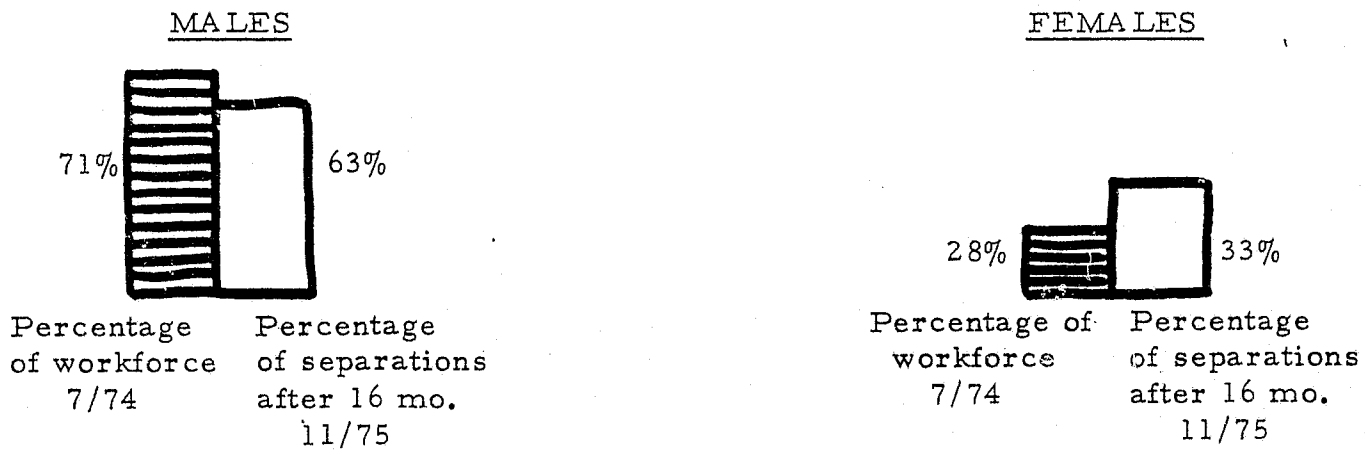
*Figures do not add up to 100% because of small percentage unreported.

The net result of these reductions was to decrease minority representation in the city workforce by 4.5%, while the percentage of whites actually increased from 66.6% to 72.2%.

A similar disproportionate impact is clear respecting women in the city government workforce. Women are greatly outnumbered by men in the mayoral agency workforce, because these agencies include the male-dominated uniformed services and other male-dominated job titles, whereas many traditional, stereotypic female jobs tend to be in the non-mayoral agencies such as the Board of Education and Health and Hospitals. Even though there were two and one-half times as many men as women, female employees lost 33% of their number, in contrast to the male loss of 25%.

Again, women contributed a greater percentage to the separations than their participation in the workforce. Figure 2 illustrates that whereas the workforce was 71% male and 28% female, the separations were 63% male and 33% female.

Figure 2 : Comparison of Male & Female Representation in Workforce and Separations



ANALYSIS BY JOB CATEGORY

A breakdown of the effect of layoffs on minorities and women in specific job categories* dramatizes the impact on traditional and changing job patterns alike. Minorities and women fared poorly not only, as expected, in categories where they had begun to make breakthroughs but also in categories in which they had long been employed in significant numbers. They were affected in two basic ways: categories in which they were heavily represented (mostly low skill, low paying jobs) suffered a disproportionate number of layoffs, thereby taking a heavy numerical toll in minority and female jobs. In other categories, where minorities and women were represented in less significant numbers because of traditional exclusionary patterns, layoffs tended to drastically curtail whatever meagre representation had been achieved by effecting huge percentage cuts in minority and female employment.

The three categories in which minorities and women were most heavily represented — Paraprofessionals, Clericals, and Service/Maintenance — made up a little over half (52.6%) of the workforce. But they contributed nearly three-quarters (73%) of the separations.

*This analysis uses job categories established by the federal Equal Employment Opportunity Commission for annual reporting purposes for state and municipal employers.

It is important to look closely at these three heavily minority and female categories to perceive the full impact and meaning of these layoffs. First, the Paraprofessional category — 75% minority and 58% female — was decimated by cuts, with 85% of its jobs lost. Over 10% of these cuts resulted from the State Legislature's discontinuance of the Work Relief Employment Program (WREP) which provided employment for welfare recipients.

This drastic reduction had a double-barreled effect. First, it left jobless individuals whose low skills and education severely limit their future employment options, deprived them of the training and promotional opportunities traditionally provided by paraprofessional work and in some cases returned to welfare, people who had deliberately been accorded jobs as an alternative to public assistance. A special impact was felt by the WREP workers, whose joblessness leaves them with few alternatives to a return to the welfare rolls from which they came and dependence once again on public funds, this time without the productivity the city derived through the WREP program where recipients worked for their checks. Moreover, paraprofessional jobs are usually those which provide direct community services. For example, they include such titles as Rodent Control Aides, Institutional Aides, School Crossing Guards,

and School Health Aides. Their loss deprives the population of low income and minority New Yorkers of these needed services.

The Clerical category provides the second example of how limited options and discrimination resulting in the concentration of minorities and women in certain jobs make these groups especially vulnerable when cutbacks take place. Clericals are overwhelmingly minority and female, and the separation of 10,000 employees in this category meant the loss of 8400 jobs for women and minority workers.

The Service/Maintenance category provides a third example of the impact of the cuts on a category in which there was a heavy minority concentration. Although this category includes Sanitation Workers, who are mainly white, most of the titles it covers are lower paying jobs with minimum education and experience requirements, such as Laborer, Attendant, Park Helper, and Custodial Assistant, jobs which are largely held by minorities.

Minorities paid a disproportionately heavy toll in this category. Black males lost 54% of their number, Hispanic males 70%, and Asian-American and other minorities 35% of their number. In contrast, white males who held the majority of these jobs — 66% — were cut back only 29%.

This category also provides an example of how recent gains in non-traditional areas by women were wiped out. Although women were only 7% of the employees in the Service/Maintenance category, they lost the vast majority — 79% — of their low representation.

If minorities and women fared poorly in categories at the bottom where they have most often found work, they did not do better in many of the new categories that are beginning to open to them. These are the job categories which traditionally had very low minority and/or female representation and which have recently begun to provide significant employment opportunities to these groups. In these categories, cutbacks had the effect of eroding whatever minimal gains had been made in the employment of minorities and women. Because of their low seniority, these groups bore the brunt of layoffs in these new and better jobs.

A striking example of this is provided by the Protective Services category, which includes such titles as Police Officer and Firefighter, as well as Correction Officer, Special Officer and Traffic Control Agent. Although public concern over the loss of vital services gave the impression that protective services have suffered disproportionate overall losses, this is not the case. On the contrary while protective services represented 31% of the workforce under consideration, they absorbed only 18% of the separations.

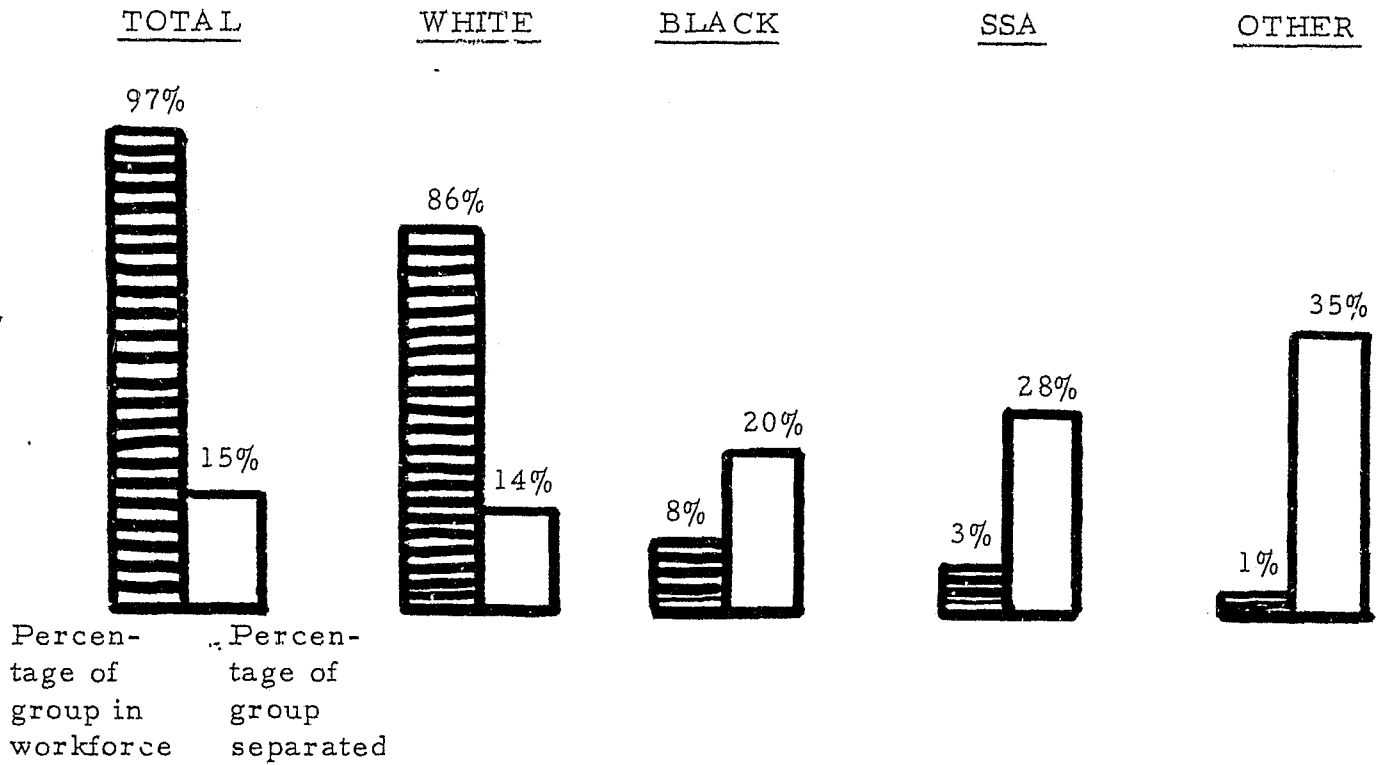
But if the overall impact on protective services was moderate compared to other categories, the effect on minorities and women in this category was enormous, as Figure 3 (p. 15) shows. While white male police officers constituted 86% of all police officers, they lost only 14% of their number. But Asian-American and Other Minority males lost 35%, Hispanics lost 28%, and black male officers were reduced by 20%, losses far out of proportion with their representation in the workforce, which totaled only 11% for all minority males.

The effect on women police officers, whose entry into the force was very recent, was devastating: 78% of Hispanic women, 71% of black women and 61% of white women police officers lost their jobs. The net result was to reduce their pitifully tiny representation of 3% to a third of what it had been — 1%.

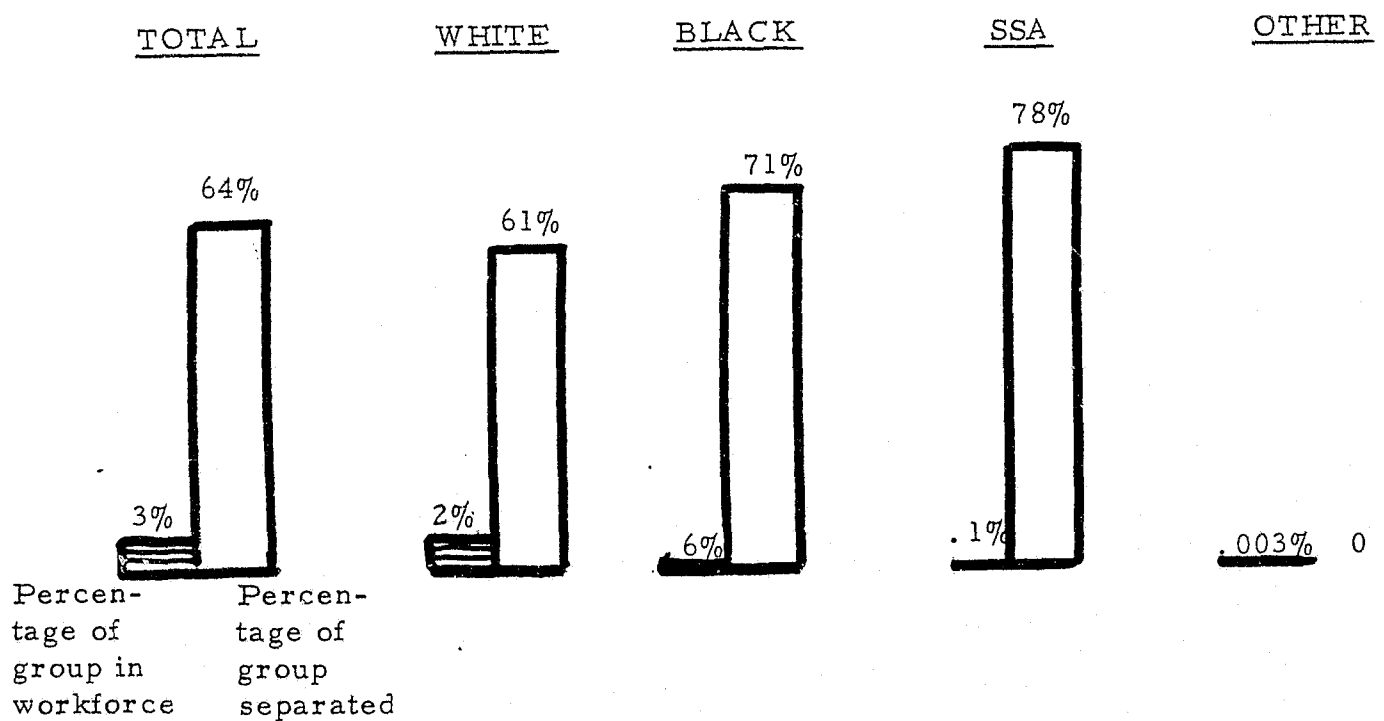
In still another category, Officials and Managers, the pattern is repeated in some areas where small inroads had begun to be made. Layoffs effected huge percentage cuts in minimal gains. Thus, in the title of Battalion Chief, the single Hispanic chief lost his job, totally eliminating Hispanic representation. And of only five women in the title of Principal Quantitative Analyst, 2, or 40%, lost their jobs.

Figure 3 : Percentage of Groups in Workforce Compared with Percentage Loss Through Separations (By Race and Sex)

MALES



FEMALES



The category of Technicians provides another example of how very modest, recently-won gains in representation by minorities and women in traditionally white, male jobs, were seriously eroded by job losses. This category was overwhelmingly (72.8%) white male. But white males lost only a very small percentage — 12% — of their number. Minorities and women fared far worse. Asian-Americans, who had only 5 jobs in this category as of June 30, 1974, lost 4, or 80% of their meager representation. Hispanic employees were reduced by one-third, and black employees lost 31% of their representation. Women lost 30% of their jobs.

CONCLUSION

The implications of these statistics are inescapable. If 16 months of layoffs have produced this spectacular erosion, it is difficult to believe that the remainder of the city's three year austerity program, if it is to involve still more layoffs, can avoid virtually wiping out the city's minority workforce and crippling female representation as well.

With such enormous losses already incurred — one-half the Hispanic workers, 40% of the black males, and one-third of the women — two more years of layoffs could take New York City back to a period that is totally incompatible with the city of today. Equal opportunity is tied to everything — from the city's ability to qualify for federal funds to which civil rights requirements are inalterably attached, to the future viability of the city itself. If disproportionate impact is not checked now, this increasingly black and Hispanic city will shortly be served by a virtually all-white workforce.

Fortunately, the city is well aware of this possibility and is hard at work on a number of possible remedies. But the policy of relying on voluntary attrition has done more to mitigate adverse effect than any single policy and undoubtedly constitutes the best hope for halting the unfairness inherent in the statistics reported here. Moreover an attrition strategy will have the effect of eliminating the new spectre of destructive competition among the various city agencies, such as now exists between the schools and other city agencies. To the extent that the city is able to rely on attrition in making cuts, it will also be rectifying the sombre disproportion reflected in this report. This Commission therefore recommends that whatever devices the Mayor's Special

Task Force on Layoffs and Equal Opportunity considers, the attrition strategy be emphasized as the fairest of the available options to achieve cuts consistent with equal opportunity imperatives.

In all of this, what must not be avoided is the larger effect of city government layoffs on the fragile economy of New York City itself, with its relentlessly high unemployment rate, still in excess of 10%. The layoff figures presented here speak of special suffering on the part of those who have always borne a special burden in our society. But local government in this city represents about 10% of the overall city economy. This of necessity gives every resident and worker in the city a stake in achieving cuts that are not only fair but that come at a pace which does not simply leave wreckage elsewhere in the city's economy. It seems clear that rectification for the most vulnerable in the city government workforce is not at odds with wise public policy.

* * *

APPENDIX



COMMISSION ON HUMAN RIGHTS

52 DUANE STREET, NEW YORK, N. Y. 10007

Telephone: 566-5050

ELEANOR HOLMES NORTON, *Chairman*

DAVID H. LITTER, *Vice Chairman*

PRESTON DAVID, *Executive Director*

In reply refer to:

November 25, 1974

IMMEDIATE ATTENTION

TO: AGENCY HEAD

FROM: CITY COMMISSION ON HUMAN RIGHTS

RE: Anti-Discrimination Guidelines For Layoffs

City Agencies, as a result of economic measures designed to reduce escalating City costs, may be required to reduce staff by layoff.

We have advised the Mayor and indicated to him that we would be advising you of ways to avoid legal difficulties that could arise under Federal, State and City anti-discrimination laws.

Recent Court decisions and the guidelines of federal agencies from which the City receives funds, may subject the City to legal liability if layoffs have a disproportionate racial impact.

Over the past year, there have been several cases in which the courts have ruled on the racial impact of layoffs. One such case is now at the U.S. Circuit Court level; but the precedents are such that it is wise in the interim to avoid wherever

possible disparate layoffs of minorities as defined by the Equal Employment Opportunity Commission. Layoffs which disproportionately affect minorities may be permissible under a business necessity exception; however, business necessity is a very high standard which, in practice, has proved almost impossible to meet. The law is only now being tested with regard to layoffs of women, but the courts have almost always made analogies to sex discrimination from race discrimination law and cases. Thus, the effect of layoffs upon women should also be considered wherever possible.

The Administrative Code, state and federal laws and regulations regarding discrimination in employment, and particularly the Mayor's Guidelines for the implementation of Executive Order No. 14, require a close look at the effect of layoffs on equal employment. For example, New York City's Guidelines (Sec. III,6) state:

"Separation policies and practices which have an adverse impact on minorities or women are discriminatory unless they are job related and dictated by business necessity or operation of law. Separations must be analyzed from the perspective of whether they tend to perpetuate the effect of past discrimination, and alternatives should be developed so as to avoid such impact."

The Government Unit of this Commission is available to assist your EEO Officer if there are any questions. The Unit can be reached at 566-5319, 4250 or 7638. We are concerned as well, that any economic measures which the City may be forced to take, not erode the substantial advances the City government is already making to afford equal opportunity in employment.

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

52 DUANE STREET, NEW YORK, N. Y. 10007

MEMORANDUM

Date: June 6, 1975

To: Agency Heads
Equal Employment Opportunity Officers

From: Eleanor Holmes Norton, Chair

Subject: Layoffs

This memo supplements the City Commission on Human Rights memo on November 25, 1974, entitled "Anti-Discrimination Guidelines for Layoffs". In the face of proposed layoffs, it is necessary that this Commission continue to provide guidance so that city agencies, to the extent possible, can observe their obligations under federal, state, and city laws against discrimination.

Pursuant to Executive Order No. 14 (May, 1974) and Administrative Order No. 12 (September, 1974), agencies continue to have the obligation to analyze proposed layoffs or dismissals to determine whether they will have a discriminatory impact. In addition, many city agencies are under obligations to meet equal employment opportunity provisions in federal and state-funded programs. Therefore, although it is difficult to find ways to mitigate layoffs because most are regulated by civil service laws and regulations, it is still necessary that agencies:

1. Continue to maintain records of separations by sex, minority group and handicap. [N.B. Technical Assistance Paper No. 2, which you are using in preparation of your agency EEO program, contains a sample form for this purpose, on page 23.]
2. Continue to analyze EEO workforce statistics to determine whether selecting specific position titles, divisions, units or employees for dismissal will result in a disproportionate impact on minorities, women or the handicapped.

...Continued

To the extent that there is some agency input into the selection of position titles to be laid off (and there has been some flexibility in that City Hall has allowed agencies to come back with alternatives), in exercising such input, agencies should:

1. Decide what staffing patterns are essential to program priorities;
2. Identify staff who might be terminated with minimal impairment of program operations;
3. Analyze the proposed layoffs to establish whether they will result in an adverse impact on minorities and women; and
4. Determine whether there are acceptable alternatives which would accomplish the objective as well with a lesser differential impact.

In addition, agencies should be aware that in the event of legal action, they will be held to a higher standard of legal accountability with respect to employees who do not come under seniority provisions of civil service laws or union contracts.

Please feel free to call the Government Employment Division of this Commission at 566-5319, which, as you know, offers technical assistance to city agencies on city equal employment problems. Meanwhile, although recognizing the limitations of the agency in these circumstances, we must again stress the importance of giving due consideration to the recommendations made above.

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

52 DUANE STREET, NEW YORK, N. Y. 10007

MEMORANDUM

Date: October 21, 1975

To: Agency Heads/Equal Employment Opportunity
Officers

From: Eleanor Holmes Norton

Subject: Layoffs and Anti-Discrimination Requirements

New York City agencies confront the possibility of having to effect further budget cuts through layoffs.

If layoffs should become necessary, agencies are reminded that under City equal employment requirements, every effort must be made to avoid layoffs which disproportionately affect minorities and women and make the City vulnerable to legal actions, federal fund cut-offs or both. If in making cuts from City tax levy funds, we do not show that we have exercised due care to avoid cuts that have disproportionate race and sex impact, we will be jeopardizing the flow of federal funds when the City needs them most. Now as a result of preparing written agency equal employment opportunity programs under Executive Order No. 14, agencies have a statistical tool available to assist them. The attached copy of the June 6th memorandum on layoffs outlines the prevailing technique for assessing the discriminatory effect of proposed dismissals and should be used in preparing agency plans for reducing budgets.

As noted in the June 6th memo, within civil service and contract limitations, all agencies should give full consideration to this matter in effecting their budget cuts.

END