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TOWARD A NATIONAL OLDER
WORKER POLICY

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(II)

PREFACE

One of the most important issues before the Congress today is the need to find ways of expanding employment opportunities for those older men and women who want to work full or part time, in contrast to the idea of total retirement. We know that substantial numbers of retired people would like to do productive work, if more appropriate and flexible opportunities to continue working on a flexible basis were made available to them, and if existing financial disincentives were removed.

This report is a condensation and revision of a much larger study prepared by the Federal Council on the Aging in March 1980. The Council was created by Congress under the 1973 amendments to the Older Americans Act, with responsibility for the review and development of policies affecting older Americans. Its work on the subject of older worker policy deserves wide dissemination.

While the Special Committee on Aging as yet does not endorse any specific recommendation made by the Federal Council on the Aging, the substance of the report and the options raised can serve usefully as a springboard for consideration and debate of a national older worker policy.

The purpose of an older worker policy is certainly not to reverse the achievements of the past decades or to abridge the retirement benefits that elderly people now enjoy. On the contrary, those retirement programs can be strengthened and better preserved if the Nation adopts supportive employment policies which encourage older people who are able and willing to remain in the labor force on a full- or part-time basis.

Thus, even as we guarantee an adequate level of retirement benefits for older Americans who, for whatever reasons, choose not to work any longer, it is absolutely essential that industry, government, labor unions, and others work together to create a broad range of employment opportunities that will utilize the skill and experience of older workers.

The need for a national policy will become all the more important as our society ages, and we, as a Nation, are blessed with larger numbers of older people living longer and healthier lives. But to achieve such a policy, the debate must begin now. The ideas discussed in this report serve as excellent starting points.

JOHN HEINZ, *Chairman.*

LAWTON CHILES,
Ranking Minority Member.

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TOWARD A NATIONAL OLDER WORKER POLICY

EXECUTIVE SUMMARY

Age discrimination in employment continues to play a destructive role in limiting employment opportunities for older workers, as manifested by the increasing number and scope of complaints reaching the Equal Employment Opportunity Commission (EEOC) and litigation pending in the Federal courts. The Age Discrimination in Employment Act (ADEA) provides basic civil rights protection for older workers and for older persons seeking to reenter the labor force. But recent developments and cases suggest that there are weaknesses in the law which should be corrected.

Older worker employment programs in the United States have varied greatly in design, funding levels, and emphasis over the past years.

Although the Comprehensive Employment and Training Act (CETA) represented the Nation's basic manpower policy, older workers participated minimally in this program. Title V of the Older Americans Act of 1965, as amended, provides part-time work for older persons who meet certain Office of Management and Budget (OMB) poverty criteria. The program serves more than 54,000 older individuals. The larger, more expensive training and employment programs, however, appear to be directed at disadvantaged youth. The smaller, part-time work program is directed at older workers. There are certain values and policy implications involved in this dichotomy which deserve careful scrutiny.

Current employment programs sponsored by the U.S. Government can be changed to provide more equitable services to older workers. And there are many new policy and program initiatives which can and must be explored over the coming decade if the Nation is to develop a policy recognizing the older worker as a valuable human resource.

For example, an affirmative action program for workers between the ages of 40 and 70 might assure that these individuals (including older women and minorities) gain ready access to jobs made available through Federal contracts to major employers in the United States.

Congress could design and legislate special unemployment insurance and job retraining programs for middle-aged and older workers to enable them to remain in—or reenter—the labor force when external economic pressures would otherwise force them into premature labor force withdrawal.

Congress should also explore alternative employment programs which would provide older workers with incentives to defer retirement; provide employers with motivation and incentives to develop retention programs for older employees; and promote part-time employment opportunities for retired individuals seeking limited work opportunity.

Further, officials from the Departments of Commerce and Labor, along with representatives from the Administration on Aging,

could assess and develop economic impact programs which can lead to job opportunities for older workers along with the other age groups in the labor force.

Current retirement policies should also be reconsidered. Various experts and observers have pointed out that continuing the present level of retirement income support is largely dependent on a combination of economic and demographic factors. If, for example, double-digit inflation abates over the coming years and if the economy as a whole does not slide into serious recession and the U.S. labor force achieves reasonable levels of productivity, then we may be able to afford current benefit levels. And older persons most likely will continue to retire at the expected early or normal retirement age.

But if economic conditions are more severe, then the support of an additional 5 million older persons in "full" retirement at the end of the decade, and millions more in subsequent decades, raises many questions. Will the retirement income, from whatever combination of sources, be adequate? Will able, older retirees be forced to engage in some sort of employment activity to make ends meet? Much has been written about how inflation has eroded the incomes of older persons who retired 10 or more years ago on what then seemed to be an adequate retirement income. Retirement policies should focus on removing the disincentives which tend to push, or lure, older workers into retirement. A policy objective is to provide options within the retirement system which would allow for continued, part-time work, periodic callback to the workplace, and provisions for hiring new older workers.

Employment as an alternative to retirement should be thoroughly examined as one means to alleviate financial stress on the public and private pension systems as the Nation's older population expands over the coming decades. But, once again, new knowledge and tools are needed if employment and retention options are to become practical realities for older workers and prospective employers.

If a national older worker policy is to be developed, a major effort at organizing and disseminating present research and knowledge on age, work, and retirement must be made. The employer community at large and, specifically, personnel administrators and human resource managers, need to know how to utilize older workers; and they need the tools and methods to do so. Furthermore, new knowledge is needed about older workers, their productivity and job aspirations, and how organizations can develop and utilize the skills and experience of older workers in new and effective ways. The gradual aging of our population makes this knowledge all the more necessary.

Schools of gerontology, business administration, and industrial relations need to collaborate and share their experience as it applies to the aging process and the adjustment of work and retirement systems to accommodate this process in the workplace. Schools of medicine with established programs in geriatrics also need to cooperate in generating research and information which can help in the development of flexible employment and/or retirement systems.

The specific recommendations made by the Federal Council on the Aging are contained in appendix A.

Chapter 1

NEED FOR AN OLDER WORKER POLICY

At the beginning of 1981, the nearly 26 million Americans 65 and over made up over 11 percent of the population. Projections show that 36 million persons will be over 65 in the year 2000 (13 percent), and that number will increase to 65 million (20 percent) in 2030. At the same time, these projections also foresee a dwindling of the size of the youth population who will replace retirees in the labor force. The net effect of this will be that by the early part of the 21st century the ratio of working age population to elderly will decline by about 50 percent, i.e., from its current level of 5 to 1 to 2.5 to 1.

This increase in the aged dependent population means that, under current retirement patterns, fewer young workers will be paying taxes for programs benefiting retired persons, such as social security, supplemental security income, and medicare. Private pension plans will also suffer severe financial strain under current patterns of retirement. The U.S. economy could also suffer if highly skilled older workers within critical occupations continue to withdraw from the labor force in large numbers.

The trend toward early retirement has been one of the most significant factors affecting the composition of the labor force in the post-World War II era. As a result, the increase in the older population has not been matched by a corresponding growth in the older labor force. Virtually all of the decline in the labor force participation of older workers is attributable to older men. While this decline has been occurring for a long time, it has accelerated since the mid-1940's for males over age 65 and since the mid-1960's for males age 55 to 64. Table 1 shows that despite a doubling of the population aged 65 and over since 1950, the number of labor force participants in this age bracket was approximately the same in 1980 as it was in 1950. This was principally due to older males whose population increased by over 80 percent while their labor force participation declined by 21 percent. During this period, the male labor force participation rate declined by 27 percentage points from 46 percent in 1950 to 19 percent in 1980.

TABLE 1.—CIVILIAN POPULATION AND LABOR FORCE BY SEX FOR INDIVIDUALS 65 YEARS AND OVER

(In thousands)

Year	Total			Males			Females		
	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²
1950.....	11,378	3,038	26.7	5,358	2,454	45.8	6,021	584	9.7
1955.....	13,718	3,306	24.1	6,379	2,526	39.6	7,358	780	10.6
1960.....	15,356	3,194	20.8	6,909	2,287	33.1	8,398	907	10.8
1965.....	14,461	3,108	17.8	7,638	2,131	27.9	9,760	976	10.0

(3)

TABLE 1.—CIVILIAN POPULATION AND LABOR FORCE BY SEX FOR INDIVIDUALS 65 YEARS AND OVER—Continued

(In thousands)

Year	Total			Males			Females		
	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²
1970.....	18,947	3,221	17.0	8,075	2,164	26.8	10,887	1,056	9.7
1971.....	19,294	3,145	16.3	8,192	2,089	25.5	11,126	1,057	9.5
1972.....	19,917	3,107	15.6	8,287	2,022	24.4	11,667	1,085	9.3
1973.....	20,295	2,963	14.6	8,368	1,908	22.8	11,843	1,054	8.9
1974.....	20,709	2,920	14.1	8,594	1,925	22.4	12,146	996	8.2
1975.....	21,297	2,939	13.8	8,783	1,906	21.7	12,446	1,033	8.3
1976.....	21,772	2,874	13.2	8,946	1,816	20.3	12,902	1,058	8.2
1977.....	22,214	2,910	13.1	9,179	1,845	20.1	13,148	1,065	8.1
1978.....	22,701	3,042	13.4	9,380	1,923	20.5	13,333	1,120	8.4
1979.....	23,343	3,073	13.2	9,617	1,928	20.0	13,726	1,145	8.3
1980.....	23,892	3,021	12.6	9,839	1,877	19.1	14,053	1,144	8.1

¹ Population figures are derived from data on the size of the labor force and labor participation rate for each year.

² Labor force participation rate is given in percent.

Source: U.S. Department of Labor, "Employment and Training Report of the President," Washington, U.S. GPO, 1981.

During the past decade, the tendency toward early withdrawal from the labor force also spread to males age 55 to 64. Table 2 illustrates that the male labor force in this age group was smaller in 1980 than in 1970, even though the numbers in this group increased from 8.6 to 9.8 million. Labor force participation declined from 83 percent to 72 percent. In contrast, the labor force participation rate for women age 55 to 64 has remained relatively stable during the 1970's.

TABLE 2.—CIVILIAN POPULATION AND LABOR FORCE BY SEX FOR INDIVIDUALS 55-64 YEARS OF AGE

(In thousands)

Year	Total			Males			Females		
	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²	Population ¹	Labor force	LFP ²
1950.....	13,462	7,633	56.7	6,667	5,794	86.9	6,811	1,839	27.0
1955.....	14,308	8,513	59.9	6,965	6,122	87.9	7,357	2,391	32.5
1960.....	15,412	9,386	60.9	7,373	6,400	86.8	8,027	2,986	37.2
1965.....	16,721	10,350	61.9	7,994	6,763	84.6	8,727	3,587	41.1
1970.....	18,248	11,277	61.8	8,583	7,124	83.0	9,658	4,153	43.0
1971.....	18,505	11,362	61.4	8,693	7,146	82.2	9,825	4,215	42.0
1972.....	18,903	11,361	60.1	8,867	7,138	80.5	10,033	4,224	42.1
1973.....	19,115	11,182	58.5	8,944	7,003	78.3	10,168	4,179	41.1
1974.....	19,288	11,187	58.0	9,083	7,030	77.4	10,214	4,157	40.7
1975.....	19,557	11,226	57.4	9,211	6,982	75.8	10,351	4,244	41.0
1976.....	19,857	11,279	56.8	9,357	6,971	74.5	10,482	4,308	41.1
1977.....	20,161	11,411	56.6	9,518	7,043	74.0	10,651	4,367	41.0
1978.....	20,415	11,555	56.6	9,642	7,087	73.5	10,792	4,468	41.4
1979.....	20,713	11,718	56.6	9,782	7,141	73.0	10,931	4,579	41.9
1980.....	20,982	11,755	56.0	9,908	7,165	72.3	11,074	4,591	41.5

¹ Population figures are derived from data on the size of the labor force and labor participation rate for each year.

² Labor force participation rate is given in percent.

Source: U.S. Department of Labor, "Employment and Training Report of the President," Washington, U.S. GPO, 1981.

Survey data indicate that health considerations exert a strong influence on the decision to retire, and, in fact, may be the most important overall reason for early retirement. Yet, health does not

account for the decline in the labor force participation rates of middle-aged and older workers described above (Quinn, 1978). Apparently the most significant cause of this decline is the perception of future income security coverage. Higher benefit levels combined with the extension of private pension plans to a larger number of workers and improved disability coverage have all contributed to declining participation rates. A reversal of early retirement trends will probably not occur until it becomes economically unattractive and/or the desires and preferences for continued work by middle-aged and older Americans change.

Although the data indicate that the trend toward retirement seems to be continuing into the 1980's, many experts predict that this trend will be reversed. The basic elements needed to induce that reversal are beginning to surface. Several of the findings of the 1979 Harris survey (Harris & Associates, 1979), for example, tend to support a claim for a reversal in attitudes toward early retirement.

Recent rapid increases in the cost of living have imposed severe financial difficulties on a significant segment of retirees. The Harris survey found that more than 40 percent of present retirees claim that inflation has seriously reduced their standard of living. Employees currently approaching retirement also feel the effects of inflation which limit their ability to save for retirement while increasing the nominal level of income needed to maintain prereirement consumption.

For the elderly, then, inflation will continue to cause a deterioration of their standard of living. Reasons for this are numerous. Since the elderly are no longer in the labor force, they have a reduced chance of maintaining their living standards through wage income—the form of income that is the best protection against inflation. Instead, their income is largely in forms which are either unprotected against inflation, such as private pension payments, or less than fully protected, like social security benefits. Inflation in recent years has been most rapid with respect to necessities such as food, housing, fuel, and medical care, which are a larger part of the expenditure pattern of the elderly than in the population as a whole. Now, the cost-of-living adjustments accorded social security and Federal retirees are being brought into question.

The Harris survey also reports that nearly half (46 percent) of present retirees would prefer to be currently employed. A large number of responses were probably influenced by the current high rates of inflation. Nevertheless, the survey notes that assuming adequate retirement income, 53 percent of current retirees would have preferred to continue in some kind of employment. The implication is that there may be noneconomic benefits to employment beyond the "normal" retirement age; the importance of such benefits to middle-aged and older workers may also influence their continued labor force participation.

In the future, older persons may want to remain in the labor force longer or they may be more apt to reenter the labor force if they had previously retired. Yet, many older persons have severe problems either remaining in or reentering the labor force once they have been displaced. Regardless of their skill levels, older persons are more likely to experience major difficulties in their

search for reemployment than younger workers. Unemployed older workers are also much more likely to abandon the job search and withdraw from the labor force. These situations occur, in part, because of discriminatory practices in certain industries. Doubts about the ability of aging workers to be productive and impressions that older workers raise labor costs are apparently still held by some employers even though 14 years have passed since the Age Discrimination in Employment Act became law.

These doubts, along with general economic conditions, undermine the demand for older workers throughout the economy. Employers have tended to prefer younger workers.

Many research studies have tried to assess the life cycle pattern of job performance on productivity (Riley et al., 1968, and Clark et al., 1978). While some decline in group averages is generally observable, the variations of productivity within age groups often exceed those across age groups. Individual functional capacity is a much better predictor of an employee's productive potential than the average performance for one's age group. The cost of gathering and analyzing individual performance data may have encouraged firms to adopt age-based personnel policies. These policies tend to restrict employment opportunities for older workers as employers do not consider older persons for new employment and apply mandatory retirement policies to terminate the employment of existing older workers. These policies are determined by employer impressions of the relationship between age and productivity, and these perceptions may be slow to change.

Firms base their employment decisions not only on a worker's contribution to the company, but also on the worker's cost. Since earnings typically rise with job tenure, older workers usually receive a higher wage than younger workers. Thus, if two workers are equally productive, but the older worker has a higher salary, the firm has an incentive to encourage the older worker to leave and the younger worker to stay. It is also argued that older workers increase the cost of providing fringe benefits such as life and health insurance.

In response to perceived cost and productivity differentials, firms have adopted a number of personnel policies to encourage and even force the retirement of older workers. The introduction of mandatory retirement and the growth of pension plans are primary examples of such policies. The use of mandatory retirement terminates many employment opportunities for older workers. Bowen and Finegan estimate that mandatory retirement policies lowered the labor force participation rate of males, 65 and over, by approximately 5 percentage points (Bowen and Finegan, 1969).

A firm can alter significantly the incentive for a worker to retire by modifying specific characteristics of the pension plan. These changes include liberalizing benefits, reducing age and service requirements for full benefits, and lowering the penalties for early retirement. In recent years, there has been greater use of these incentives for early retirement.

These and other personnel policies have the effect of encouraging older workers to retire from the firm. Once an older worker loses seniority and job rights, he or she may have difficulty finding

employment. Thus, retirement from a particular job frequently results in permanent withdrawal from the labor force.

Theories of life cycle economic behavior predict—and survey data confirm—that individuals would prefer to reduce the number of hours they work as they grow older. This desire for reduced work-time is reflected in the increased incidence of part-time work after age 55. But many firms are reluctant to offer short hours because of added labor costs. These costs include payroll taxes on earnings below a fixed ceiling, fringe benefits that must be paid if a worker is on the payroll, employee startup costs and any fixed costs of hiring extra workers (National Commission for Manpower Policy, 1977, 1978).

If firms require that all employees work a full week, many older workers may choose to retire rather than work 40 hours per week. Such restrictions on hours for many jobs most likely have raised the retirement rate among individuals who would otherwise prefer to continue working at fewer hours per week.

These policies were developed during an era of rapid growth of a younger and better educated labor force. The probability that similar policies will be as profitable when firms are confronted with alternative labor market conditions is extremely low.

As the labor force ages, profit-oriented firms will realize the need to change many of these biased personnel policies. A survey of Fortune double 500 company attitudes toward retirement preparation—conducted for the National Council on the Aging—suggests that such a reversal may be developing. There is a tendency among personnel directors in some industries to consider older workers valuable in themselves (Research & Forecasts, Inc., 1979). If this perceived shift in attitudes is accurate and extends into the future, a formidable barrier that formerly precluded needed and/or desired employment by older workers will have been lifted; and labor force participation rates will rise.

PUBLIC SECTOR RESPONSE

The public sector has acted in two ways to assist older Americans who want or need to work. First, laws and regulations have been developed to protect certain employment benefits and rights of the American labor force, including older Americans. Second, publicly funded employment programs have been created. However, these programs have emphasized placement of older workers in publicly financed jobs rather than private sector employment.

Furthermore, Federal efforts to influence the policies of the private sector regarding older workers have as yet been unsuccessful. Long-run implications of an aging labor force have only recently received serious consideration by policymakers, and appropriate legislation has not yet been devised.

The Employee Retirement Income Security Act (ERISA) and the Age Discrimination in Employment Act (ADEA) typify the public sector's response in the area of law and regulation and represent attempts to address some problems facing older people in the labor market. ERISA protects certain pension rights and sets minimum standards for that protection. This law, however, does not encourage, promote, or allow innovative benefit packages that accommo-

date older persons. Thus, current private pension systems continue to encourage early retirement.

The ADEA covers the employment of workers between the ages of 40 and 70. It prohibits age discrimination in employment-related matters, and covers most worksites with more than 20 people. The 1978 amendments to the ADEA prohibit mandatory retirement before age 70. Changes in the act have helped to focus public attention on the fact that older Americans, like other groups of citizens, have employment-related civil rights. Yet, the lesser known and more powerful consequences of the act are the growing numbers and the widening scope of cases reaching the Federal courts. These cases cover every personnel function in an employment system, from hiring through termination and retirement. Regulatory laws and adversary relationships between older workers and employers cannot generate positive policies needed to assure productive and rewarding utilization of older workers. But they do underscore the need for such policies and suggest that the most recent ADEA amendments have not had the desired impact.

There are two major Government employment programs available for older persons. The first is the Comprehensive Employment and Training Act (CETA). The second is title V of the Older Americans Act. Both are administered by the Department of Labor. Since the inception of CETA, the Nation's fundamental manpower policy, relatively few funds have been expended on older workers. Participation rates for older workers in the various CETA programs are relatively insignificant. Certain planning and program requirements for older workers were included in the 1978 CETA amendments. However, the limited response to these requirements and the funding levels do not assure an effective older worker program.

The title V program, the senior community service employment program (SCSEP) especially designed for older persons, provides part-time community service employment for low-income persons age 55 and older. As with CETA, the emphasis has been on the creation of public sector jobs. By October 1, 1981, 54,250 slots will be available with only 15 percent of those expected to be nonsubsidized jobs, either public or private. Title V is viewed by many as a quasi-employment program, with main emphasis on income transfer to the eligible, elderly poor. It lacks the training, job development, and job placement components essential for a complete employment program.

PRIVATE SECTOR RESPONSE TO OLDER WORKERS

The private sector's response to older workers has been fragmented and uncoordinated. In different parts of the country there have been isolated successful attempts to help older people expand their economic horizons through entrepreneurship and creative employment opportunities. Recent hearings conducted by the Senate Special Committee on Aging have provided evidence that corporations such as Xerox, Polaroid, and Bankers Life & Casualty have all instituted programs that capitalize on the skills and experience of older workers and promote hiring practices and work patterns that accommodate the needs and desires of these workers.

Private industry, however, being basically pragmatic in nature, will probably respond only if it can be convinced that it is good

business to do business with older workers. Only an extensive education and awareness program mounted by the Government—one that explodes myths and provides meaningful statistical and demographic information—can hope to persuade industry to mount voluntary programs to protect older workers' interests, as well as their own.

Industry is capable of a voluntary response to the problem. If Government fails to convince industry or if industry fails to develop older worker policies, the conclusion, in all probability, will be expensive civil rights litigation or the enactment of yet another affirmative action program.

Chapter 2

AGE DISCRIMINATION IN EMPLOYMENT

Age discrimination in employment continues to play a pernicious role in blocking employment opportunities for older workers. Increasing numbers of complaints filed with the U.S. Department of Labor over the years and more recently with the Equal Employment Opportunity Commission (EEOC), as shown in table 3, illustrate the symptoms of this hard-to-detect type of bias in the workplace.

The reason why older workers are filing more complaints and taking employers to court is that they are becoming more aware of their job-related civil rights protections and are acting upon them.

TABLE 3.—COMPARISON OF FISCAL YEAR 1979 AND FISCAL YEAR 1980 ADEA CHARGE PROCESSING

	Fiscal year	
	1979 ¹	1980
Charges/complaints received.....	5,374	8,779
Directed investigations initiated.....	663	200
Compliance closure actions.....	5,168	6,488
Conciliations (per determination).....	4,062	4,956
Successful conciliations (per determination).....	(²)	1,270
Investigations.....	1,106	1,322
Dollar benefits.....	\$11,263,000	\$12,312,000

¹ EEOC assumed responsibility for the ADEA in July 1979.

² Information not available.

Source: "Age Discrimination in Employment Act of 1967, As Amended," a report covering activities under the act during the last quarter of fiscal year 1979 and fiscal year 1980. The U.S. Equal Employment Opportunity Commission, July 1981, p. III-1.

This litigation underscores serious problems in the personnel policies of the Nation's employers. Why are older workers refused jobs? Why, when employed, are older worker denied promotions, access to job retraining, equitable salary and wage increments, and other opportunities in the employment system? Why are they singled out, as many court cases indicate, for termination or forced early retirement by company decisionmakers? Furthermore, what are the social and economic costs of age discrimination?

BACKGROUND

Title VII of the Civil Rights Act of 1964 has come to represent the main Federal effort to bring about equal employment rights and opportunities for minority groups encountering discrimination in employment. The statute prohibits in every aspect of employment and personnel functions discrimination against individuals

based on race, sex, religion, ethnic background, and other minority status. But it did not protect against age discrimination.

Age protections were considered while title VII was passing through the legislative process. Congress, however, decided not to include age as a protected category. Rather, the statute directed the Secretary of Labor to conduct a study on the matter and report back to Congress on the prevalence and seriousness of age discrimination in the U.S. labor market. The 1965 report submitted to Congress concluded, in part, that:

There is a persistent and widespread use of age limits in hiring that in a great many cases can be attributed to arbitrary discrimination against older workers on the basis of age and regardless of ability. The use of these age limits continues despite years of effort to reduce this type of discrimination through studies, information, and general education by the Government. The possibility of new non-statutory means of dealing with arbitrary discrimination has been explored. That area is barren.

The report left little to the imagination as far as the seriousness and extent of age discrimination is concerned. The Department of Labor had performed extensive surveys of older workers, personnel in the State employment agencies and employers (U.S. Department of Labor, 1952 and 1956b). Placing age limits of 45 on job applicants was common; and employer views of older workers were, in the main, negative.

The report also analyzed labor force trends affecting the older worker, such as participation and unemployment rates and duration of unemployment. What was found then remains true today. Labor force participation rates for older workers were in decline and unemployment rates for older workers were lower than their younger counterparts. Length of unemployment, however, was greater for older workers, with a larger proportion of this group suffering the longest duration of joblessness.

Congress responded quickly to the report and held hearings as a backdrop for the Age Discrimination in Employment Act of 1967. The general theme of the hearings is instructive. The issues discussed at that time recur frequently in subsequent litigation under the act—and are still with us today.

FINDINGS: AGE DISCRIMINATION IN HIRING

The traditional problems which unemployed workers over age 45 face are to find job opportunities and to overcome conscious or unconscious age barriers that stand in the way. Knowing how to look for a job, interviewing for a position, and avoiding discouragement is problematic for such workers who have been employed in the same position for a number of years.

When a plant shuts down, when a firm moves to a new location, or when older workers are terminated for any of a variety of reasons, several sets of problems develop. Where will the older worker find a new job? Who will help in the job search? Does finding a new job mean relocation? What about family and community ties? Is it better to "wait out" unemployment or pursue a job elsewhere? There are no easy answers to these questions.

Employment agencies, especially those in the private sector, tend to find older job applicants more difficult to deal with. The applicants need more counseling and take up more time, which translates into higher costs. Furthermore, employers often want and request younger applicants.

Employers also raise questions about job applicants in their middle or older years. Why hire an older person when a younger one will work at a lower wage or salary? Why assume the supposedly higher benefits and costs associated with hiring an older worker? Can the older worker produce; can he or she learn new skills? Why is the older worker unemployed anyway? Biases and stereotypes are, ironically, often perpetuated by older managers who have the decisionmaking authority to hire.

JOB DISMISSALS

When cutbacks in a corporation or government agency are required, one method used is to lay off the most dispensable workers. Both the newly hired and the older workers can fall into this category. The newly hired have little seniority protection. Dismissing older workers, however, is a far more subtle and serious matter. They are usually at higher salary levels. Payroll costs, therefore, can be reduced considerably by focusing on this group. Older workers in time of retrenchment can become dispensable. Again, subsequent ADEA litigation has confirmed these observations.

RETIREMENT AND EARLY RETIREMENT

The upper end of the employment cycle, as far as age goes, may be most prone to age discrimination. Retirement systems tend to be highly varied insofar as age factors are concerned. Different industries, occupations, and organizations have different retirement rules or traditions which operate despite the level of retirement benefits.

Police and fire departments have set relatively early age standards for both hiring and retirement. The United Steel Workers negotiated an end to mandatory retirement far in advance of the Federal Government's action to raise it to age 70. Comparatively few steelworkers reach the so-called normal retirement age of 65, not to speak of going beyond. Rates and flows of retirement and early retirement can be controlled by incentives and rewards to retire early, or veiled and not-so-veiled threats of job reassignment, downgrading, or relocation if a current early retirement option is not accepted by the older worker.

Based on the findings of the Secretary of Labor's report and the hearings, the Age Discrimination in Employment Act of 1967 was enacted into law.

THE AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

The statement of purpose of the ADEA reads as follows:

It is therefore the purpose of this act to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employ-

ment; to help employers and workers find ways of meeting problems arising from the impact of age on employment. (29 U.S.C. 621, et seq.)

While the statement of purpose in any major piece of legislation tends to be general and lofty, it may be noted that there is a special emphasis on developing information, conducting studies, communicating and disseminating results to labor and management and other related groups. In fact, section 3 of the act authorizes an education and research program to accomplish that directive. No such program has ever been developed or implemented.

The parts of the legislation that have become of greatest concern to employers are the prohibitions, that is, what one must do or refrain from doing to avoid either Federal prosecution or privately initiated lawsuits.

ADEA PROHIBITIONS

As amended, the ADEA declares illegal any discriminatory actions against individuals between the ages of 40 and 70 in the area of hiring, job retention compensation, and the "terms, conditions, and privileges of employment," (29 U.S.C. 621 et seq., 92 Stat. 189 (1978)). In effect, there is no area in personnel systems or functions where age, of itself, can legally be used to discriminate against an individual.

As originally passed, the statute protected individuals between the ages of 40 and 65. It applied only to private sector employers of more than 25 workers and labor organizations of the same number. In addition, both public and private employment agencies which serve employers were covered by the act. Like most regulatory laws, however, the ADEA admits to exceptions.

EXCEPTIONS IN THE ADEA

The 1967 ADEA contained the following exceptions which read as follows:

It shall not be unlawful for an employer, employment agency, or labor organization to:

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

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

(3) discharge or otherwise discipline an individual for good cause. (29 U.S.C. 624.)

It is important to examine the exceptions, especially the first two, because they set the scene for important litigation.

The so-called bona fide occupational qualification (BFOQ) exception is based on the assumption that sooner or later the effects of aging will limit an individual from performing certain job functions. The question that comes to mind is whether an employer is bound to hire older job applicants for heavily demanding jobs, or retain an incumbent older worker in such a job if there is evidence that the worker's performance is not keeping up with job demands. Does age, of itself, become a limiting factor so that employers can make accurate judgments on the hiring and termination of older workers? The litigation surrounding the BFOQ issue is ambiguous, to say the least.

The "reasonable factors other than age" (RFOA) part of section 4(f)(1) is also ambiguous. For an employer to terminate or refuse to hire an older worker on the RFOA grounds means that there must be objective evidence in support of the action to show that age was coincidental to the personnel procedure which has an adverse impact on the older worker. This is difficult to demonstrate.

The second exception which allowed employers and labor unions to collectively bargain for a mandatory retirement age lower than 65, was also challenged in the courts and abolished by the 1978 ADEA amendments. The exception permitted an early retirement stipulation as part of a bona fide pension plan (one that pays a specified amount to beneficiaries), if it was not a subterfuge to violate the protections of the act.

The third exception allows employers to terminate or otherwise discipline employees for good cause. Insubordination and related matters could constitute good cause.

LITIGATION IN THE AREAS OF HIRING, RETENTION, AND INVOLUNTARY RETIREMENT

One of the earliest and most controversial cases to reach the courts was *Hodgson v. Greyhound Bus Lines, Inc.* The company had a policy of not hiring driver applicants over the age of 35 on the grounds that these employees had to take "extra board" driving assignments which entailed long, arduous, and hazardous conditions. This requirement for newly hired drivers was part of the established seniority system. Greyhound claimed the BFOQ exception to the ADEA as the justification for the early hiring limit. Both the physical demands and the psychological stress associated with "extra board" duty constituted risks to efficient and safe driving necessary for the delivery of company services. It must be noted that Greyhound admitted that its corps of older drivers had better safety records than their younger counterparts. The company attributed this to the senior drivers who had regularly scheduled runs and less demanding conditions associated with these easier schedules.

Both parties to the case introduced medical and other experts to testify about the effects of aging on the driving duties in question. The Federal district court ruled in favor of the Government; however, the appellate court reversed the decision. In the end it was the issue of public safety that prevailed. In summary, Greyhound had, and still has, the right to refuse to hire anyone over age 35 on the grounds that all or substantially all individuals in the group above that age would be unable to perform the job in question in a

safe and efficient way. The employer, therefore, can apply a general exclusion when he can demonstrate that it is impossible or highly impractical to measure and predict individual capacity to meet specific job demands.

In contrast, a recent case involving the BFOQ which did not raise the public safety issue is instructive. In *Marshall v. Goodyear Tire and Rubber Co.*, over 500 applicants in the ADEA-protected group filed suit under the act when denied access to production line jobs involved in the manufacture of tires. Goodyear had, in its Tennessee facility, a policy of not hiring individuals over the age of 40 on the grounds that they could not meet the strenuous demands of the jobs. This was the BFOQ rationale for not hiring. In addition, Goodyear claimed that these workers would be less productive and thus, the company would suffer loss. This was the RFOA defense.

Again, medical data, job descriptions, and performance factors were introduced as evidence during the trial. The court upheld the older workers in this case when it became evident that Goodyear, in a similar plant located in Alabama, not only hired workers over age 40, but that the performance record of these individuals was as good, if not superior, to younger workers in the demanding production jobs.

But, the BFOQ exceptions hang over the heads of many older workers. In the *Goodyear* case, the fact that public safety was not an issue along with the company's inability to justify the rule played an important part in the court decision. In the *Greyhound* case the issue of public safety and stereotypes about job performance at certain ages clouded the issue of older worker capability.

At present, many police and fire departments have age restrictions in hiring and compulsory retirement. The Equal Employment Opportunity Commission has a number of ADEA cases pending on this issue. If the courts decide the issues in a pattern established by *Greyhound* and related cases, it appears that BFOQ standards set by employers will prevail regardless of the ability of workers over age 40 to perform efficiently and safely. Age, in effect, becomes a surrogate for excluding or terminating large numbers of individuals allegedly protected by the ADEA. The BFOQ exception appears to be the rule.

JOB RETENTION

To illustrate how ambiguous the BFOQ issue remains, one more case is worth noting. In *Houghton v. McDonnell-Douglass, Inc.*, management grounded three of its senior production test pilots. One apparent reason was that the company was undergoing a retrenchment and was under pressure to reduce costs. Cutbacks and reassignment of personnel would help. But management also informed one of the pilots; Philip Houghton, that he was too old to perform his duties. Houghton filed suit under the ADEA, claiming age discrimination. The case was joined by the U.S. Department of Labor.

McDonnell claimed the BFOQ defense and raised public safety issues along with it. One claim was that individuals in Houghton's age group were more subject to sudden, disabling events, such as cardiac arrest, and therefore, constituted a public safety hazard. By

age definition Houghton fell among this group and should be grounded.

Again, several rounds of expert witnesses on both sides presented evidence. McDonnell, however, drew upon medical data on the health status of the general population and age groups encountering disabling episodes. The Department of Labor introduced massive evidence from the armed forces of various countries, the airlines, and data on test pilots in particular, indicating that incidents of sudden disability of pilots in Houghton's age group were minimal and the likelihood of Houghton encountering such a disability insignificant.

The district court ruled in favor of McDonnell, citing the public safety concern. The appellate court reversed the decision based on the "mountain of evidence" which stood in the plaintiff's favor. By refusing to hear McDonnell's appeal, the U.S. Supreme Court sustained that rule. Houghton eventually received 3 years of back pay, but was not reinstated at McDonnell as a test pilot.

The policy issue that emerges throughout the above discussion is the prejudicial use and applications of the BFOQ. It appears to be a seesaw issue upheld in some courts but not in others as an employer defense for not hiring or terminating older workers. The real issue seems to be the lack of functional criteria available to employers on which to base fair and sensible judgments regarding the ability of older workers to meet the demands of specific jobs.

PERFORMANCE APPRAISALS

Job retention, promotions, salary increments, and expanded job opportunities are often based on some system of performance evaluation. Also, when a public or private sector employer is faced with the need to reduce personnel, the performance appraisal system is extremely important. Individuals should be selected for reduction in force (RIF) on some objective basis and not at the whim of supervision or management.

Two contrasting ADEA cases raise management policy concerns. In *Mistretta v. Sandia Labs, Inc.*, the company, for economic reasons, was forced to cut back on personnel. It became apparent that the majority of individuals selected for the RIF procedure were in the ADEA-protected group. A number of workers filed suit against the company. In addition, the Department of Labor, which at the time had jurisdiction over the ADEA, conducted an investigation and eventually joined the other private cases which were consolidated under *Mistretta*.

The issue was whether or not Sandia used age as the criterion for selecting workers for the RIF action. After a thorough review of age statistics applying to the RIF procedure and all other major personnel functions as well, the Federal district court ruled that Sandia had engaged in a "pattern and practice" of age discrimination against individuals age 52 to 64. The statistical review demonstrated that the separation action for individuals in the age group 52 to 64 could not have happened by chance. For those between ages 40 and 62, the court did not deny that age discrimination occurred, but stated that it could not be proven on the basis of statistics. The lower age group had opportunity to prove discrimination on other grounds.

The heart of the case was this: Older engineers, physicists, and other high technology professionals bore the brunt of the RIF. Sandia management may have selected this group because, (a) they were at higher payroll levels and greater across-the-board savings could be achieved by terminating the older workers or forcing them into early retirement, or (b) they were less productive or perceived to be less productive than their younger counterparts.

Court investigation of the Sandia performance appraisal system found it to be all but nonexistent. The older individuals in the RIF were assessed on the opinions of their managers and finally by top management with whom they had very little contact. There were no objective criteria, qualitative or quantitative, on which the older workers were evaluated and compared to others in the Sandia work force. The court, in part, ruled:

The (performance) rating system has been described in a preceding section of this opinion. The system is extremely subjective and has never been validated. Supervisors were not told to consider specific criteria in their ratings . . . Courts have condemned subjective standards fostering discrimination. Thus, they have declined to give much weight to testimony when a company's justification of its decision or policy is based on subjective criteria. (16 F.E.P., 1690, D.N.M., 1977.)

In contrast, in *Gill v. Union Carbide, Inc.*, the employer was upheld by the courts in a personnel action which resulted in the termination of several older workers. In this case the performance appraisal system, while not completely objective, had the following characteristics: It was a reasonable set of evaluation procedures directly relevant to the work being done in the Union Carbide facility. The system was comprehensive; it applied to all employees from executives to service workers, allowing for occupational differences. It had been communicated to the work force. Everyone knew of the evaluation system and how it applied to specific jobs. Finally, it was fair. No one group seemed to be favored and all had to receive an evaluation related to their job functions at specified time periods.

The lessons and policy implications here include:

- The purpose of the ADEA is to assure that age discrimination does not occur in any aspect of personnel systems. Fundamental compliance with the law, which means becoming familiar with its provisions, is a first step toward building a fair personnel system.
- Litigation is a costly and time-consuming way to make management decisions affecting older workers. It appears that employers need information as a means to deal with older workers rather than through the adversary relationship of the courts.
- Along with strengthening any weaknesses in the ADEA, management must be stimulated and encouraged to develop positive human resource policies for middle-aged and older workers.
- In the absence of fair treatment, older workers will use the ADEA to protect their job rights.

FORCED RETIREMENT

The classic case involving the issue of involuntary retirement is *United Airlines v. McMann*. The details of the case are as follows: McMann was a flight engineer for United. He requested permission to continue working beyond age 60, which was the retirement age stipulated in the pension plan. Upon denial, McMann sued United, claiming that the plan was a subterfuge denying his protections under the ADEA.

The district court upheld United, but the decision was reversed upon appeal. The Supreme Court agreed to hear the case because a similar case resulting in a contrary decision had developed in another appellate circuit. The High Court ruled in favor of United, stating that United's plan had been in effect prior to the enactment of ADEA, and that its provisions, therefore, could not be construed as a subterfuge to violate the statute.

In taking note of the *McMann* decision and the fact that there were many older workers who could be retired involuntarily as a result of the section 4(f)(2) exception and the Supreme Court ruling, Congress amended the act.

AMENDMENTS TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Since 1967, the ADEA has been amended twice. The first set of amendments occurred in 1974 when the provisions of the act were extended to include Federal, State, and local government employers. Also, the number of workers in establishments and labor organizations covered by the act was reduced from 25 to 20.

The most recent amendments occurred in 1978, and the most popular feature was the raising of the mandatory retirement age from 65 to 70.

There were no changes in the BFOQ section. It remains as problematic as it was in 1968 when the ADEA went into effect. Congress did, however, amend section 4(f)(2) so that:

No such . . . employee benefit plan (pension plan) shall require or permit the involuntary retirement of any individual specified by section 12(a), which raises mandatory retirement to age 70, because of the age of such individuals. (29 U.S.C., 621 et seq., 92 Stat. 189, 1978.)

No union or employer can, therefore, either arrange or collectively bargain for early retirement prior to age 70, as the condition for participating in an employee benefit plan.

Other features of the 1978 amendments are:

- Permits compulsory retirement of bona fide executives and high policymakers at age 65.
- Allows colleges and universities to retire tenured employees at age 65, until July 1, 1982.
- Authorizes a jury trial to determine issues of fact under any ADEA action.
- Allows an aggrieved party to file a charge of age discrimination against an employer rather than a notice of intent to sue.
- Puts a hold on the running of the statute of limitations for up to 1 year, while conciliation procedures are in effect.

—Abolishes mandatory retirement for most Federal employees except Federal prison guards, air traffic controllers, foreign service officers, and some other special groups.

There are still many areas left unsettled, however. Section 3 of the ADEA reads in part that:

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

This section of the act has never been implemented and should be carried out.

Also, regulations to the 1978 amendments specify that employers are not bound to credit years of service worked beyond age 65 to final pension benefit levels. This is clearly an inequity that is directly age-related and should be changed. Furthermore, while employers must contribute as much to life insurance and disability insurance for workers over age 65, they are not bound to pay out the same level of benefits as they would to younger workers. Clearly the assumption about who is too old and too costly to insure can be challenged. Most likely, these regulations, which are discriminatory on the basis of age, will be challenged in the courts. Thus, while it may take time, older workers will most probably advance along two fronts:

First, in the courts, where they will have to battle out the civil rights aspects of their employment protections just as other minorities have done in the past. Second, through more positive approaches by personnel administrators and human resource developers who will come to recognize the experience and skills of older workers and utilize them accordingly.

ENFORCEMENT AND THE ROLE OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

As a result of the President's Reorganization Plan No. 1 of 1978, enforcement responsibility for the ADEA shifted from the U.S. Department of Labor to the Equal Employment Opportunity Commission (EEOC). The notion behind this shift was to consolidate all Federal enforcement of job-related civil rights in one agency. While logical, the move created some problems.

First, the Department of Labor had gained much experience in enforcing the act during the prior 10 years. Could that experience be transferred to the EEOC? Second, the Department of Labor, through its Wage and Hour Division, had a nationwide network of over 300 offices and outreach stations through which complaints could be placed. The EEOC has 22 district and 27 area offices throughout the country. This suggests problems of access for older workers seeking to file charges of age discrimination. Third, there is a problem of agency orientation to a new "protected" group. Will the EEOC, primarily involved in the enforcement of title VII which is geared toward the job protection of blacks, women, and other minorities, be able to exert similar efforts for a group which tends to be white and generally in middle-income brackets?

At hearings held before the House Select Committee on Aging in July 1980, these issues and many other questions on enforcement were raised. The EEOC has had jurisdiction over the ADEA for 3 years. Continued oversight by appropriate congressional committees is in order until all parties concerned with enforcement of the act are satisfied that the EEOC is vigorously and effectively meeting its ADEA mandate.

CONCLUSIONS

What lies behind age discrimination? What are its effects and its costs?

Age discrimination can affect every facet of personnel systems and can be practiced consciously or unconsciously by employers in the public and private sectors. It is, ironically, often practiced against older workers by other older workers in decisionmaking roles who have ingrained views on the limitations of age and aging in relation to work.

Age discrimination cases are symptomatic of poor personnel practices and misuse of human resources. Litigation under the ADEA is on the increase not because employers are on some active campaign to practice discrimination, but because the discrimination always existed in the past. The difference is that older workers are recognizing the practices and challenging them.

A report from the EEOC places the number of complaints received during fiscal year 1980 at 8,779. The number may well exceed 10,000 by the end of fiscal year 1981. Last year there were close to 600 ADEA cases filed by both the Government and the private bar. Over 2,000 older plaintiffs were involved. In 1980 money payouts under the act amounted to over \$12 million; but EEOC cases now in court, along with private lawsuits, could significantly increase that figure depending on their outcomes.

The real costs of age discrimination involve more than monetary value; they involve the misuse or incomplete use of thousands of older workers and untold amounts of lost productivity. The loss to the labor force and to the economy, and the burden to the retirement income system, are too complex to quantify, but they are nevertheless real. The costs can be reduced and hopefully eliminated only through a vigorous civil rights strategy and an educational awareness program.

Chapter 3

A REVIEW OF FEDERAL OLDER WORKER POLICIES

Over the years, the Federal Government has made some direct and indirect efforts to help older workers. These efforts have been a series of separate programs, rather than a comprehensive older worker policy. Some of these programs were developed by the U.S. Employment Service to help older jobseekers and to influence employer hiring practices. Some were job programs focused specifically on the elderly poor. Still other efforts for older workers came as part of the large Federal manpower programs developed over the last two decades. These programs deserve careful attention from legislators, Federal officials, and groups concerned with older workers, because they often contain lessons and policy elements which will be important in developing a national older worker policy in the coming years.

THE DEVELOPMENT OF OLDER WORKER EMPLOYMENT PROGRAMS

There have been several overlapping phases in the development of older worker policy and programs on the part of the Federal Government. The first phase consisted of a directed effort by the DOL to identify and to respond to the specific needs of older workers seeking jobs. The effort began in the early 1950's and has continued in one form or another to the present.

A second phase began with the Manpower Development and Training Act of 1962 (MDTA), which represented the Nation's first major attempt to train individuals for job opportunities. The Comprehensive Employment and Training Act (CETA) carried this effort forward, but through different jurisdictional procedures. Neither the MDTA nor the CETA has been particularly responsive to older workers, as shall be noted later.

A third phase could be said to have begun with the 1978 amendments to the ADEA and CETA. The ADEA amendments signaled both employers and older workers that individuals have the right to continue working beyond the so-called normal retirement age of 65. The CETA amendments contained specific planning directives and program components referring to older workers. While it is somewhat arbitrary to classify the development of older worker policy into the above phases, the division will help in tracking that development and the major changes which have occurred.

THE DEPARTMENT OF LABOR AND OLDER WORKER PROGRAMS

The first effort to define and deal with problems facing older jobseekers came through a series of research and demonstration programs carried out by the Bureau of Employment Security (BES) of the U.S. Department of Labor (DOL) in the early 1950's. The BES was the umbrella agency for the network of State Employment Security Agencies (SESA's) responsible for labor market exchange functions throughout the Nation. The BES has evolved into the U.S. Employment Service (USES) and currently, the National Job Service (NJS). Its functions have also evolved over time.

Various SESA staff and BES officials became concerned with the general difficulties encountered by older individuals seeking jobs. They did not know whether employers discriminated against these older workers or whether they themselves were not providing the appropriate service to meet the older worker's job search needs. They conducted a series of studies in selected labor markets across the Nation and arrived at the following conclusions (U.S. Department of Labor, 1951, 1952, 1956a, 1956b, 1957, 1965):

- Employers placed age restrictions on job orders placed with the SESA's. The SESA staff tended to follow the age restrictions since there were few State laws and no Federal statute to prevent discrimination of this sort.
- The restrictions were arbitrary; they involved referral cutoff at ages 25, 30, 40, and 55. The clerical, management, sales, and professional occupations were the ones most affected by age restrictions.
- Once unemployed, older jobseekers, because of prior and longer attachment to a single employer, often lacked the knowledge needed for a successful job search. The SESA staff was basically unfamiliar with such problems and often lacked adult counseling skills.
- Without special assistance, the longer older workers were unemployed, the greater the likelihood they would remain unemployed. Furthermore, discouragement frequently led to complete labor force exit.
- Older women seeking work encountered special problems and needed special services.
- Because of a long-term job in a single occupational category, older workers needed job retraining in order to make them valuable workers in changing labor markets.
- Unemployment rates for older workers have been consistently lower than those of their younger counterparts. Too often the lower rates are taken as indicators that older workers have relatively few labor market problems (table 4).

TABLE 4.—UNEMPLOYMENT RATES AND AVERAGE DURATION OF UNEMPLOYMENT OF ADULT MEN AND WOMEN, 1980 ANNUAL AVERAGES

Age	Unemployment rate	Average duration of unemployment (in weeks)
Adult men:		
20 to 24 years	12.5	12.2
25 to 34 years	6.7	15.0
35 to 44 years	4.1	15.1

TABLE 4.—UNEMPLOYMENT RATES AND AVERAGE DURATION OF UNEMPLOYMENT OF ADULT MEN AND WOMEN, 1980 ANNUAL AVERAGES—Continued

Age	Unemployment rate	Average duration of unemployment (in weeks)
45 to 54 years	3.6	17.2
55 to 64 years	3.4	16.9
65 years and over	3.1	14.2
Adult women:		
20 to 24 years	10.3	9.6
25 to 34 years	7.2	10.6
35 to 44 years	5.3	12.0
45 to 54 years	4.5	13.0
55 to 64 years	3.3	13.4
65 years and over	3.1	14.0

Source: U.S. Department of Labor, Bureau of Labor Statistics, September 1981.

BES officials learned that counselors and staff of the SESA system needed special training if older workers were to achieve job placements. Furthermore, employer representatives would have to be trained in ways to alter the age preferences made on job orders placed by employers. The training took place on a limited basis, and in order to assess its effectiveness, the BES conducted another study, referred to as the Seven Cities Study (U.S. Department of Labor, 1956a). The focus was to provide an experimental group of older job applicants with special services including counseling, testing, job training, and special help with job seeking skills. A control group of older applicants received regular service without any reference to age. In all 7 cities, the experimental group fared much better in securing jobs.

As a result of the demonstrations, the BES initiated a national older worker program. Its own personnel received older worker training and, in turn, trained the various SESA staff. Older worker State supervisor positions were established on the State level, and older worker specialists were placed in the network of local employment service offices.

The age of the "older worker" was designated at 45 due to the extended duration of unemployment for individuals who were that age or older.

To help alter employer attitudes about older workers, the BES conducted a number of studies relating to productivity and work habits of older employees. The results of these studies created much of what has come to be accepted as the positive "profile" of older workers (U.S. Department of Labor, 1957). That is:

- Older workers are absent less frequently than younger workers.
- Turnover among older employees is less frequent than for younger workers and they give stability to a company work force.
- Job performance among older workers is equal to, if not better than, that of younger workers. This is especially true of incumbents in white-collar positions.
- There are some correlations between age and decreasing productivity, especially in heavy industry and physically demanding jobs.

In all, the program represented a clearly defined older worker policy by the Federal Government. The older worker was viewed as a labor force resource, but needed special assistance in times of unemployment. Because of the semiautonomous relationship between the SESA's and the BES or DOL however, older worker programs in the States developed in an uneven fashion.

State priorities influenced the budget and personnel strength for the program. In States or areas with a larger older population, the SESA program tended to be more viable and effective. In other States with different population compositions, lesser efforts were made. Economic conditions would also effect the program performance with SESA service targeting on younger workers in times of high unemployment. Traditionally, although older workers encounter longer terms of unemployment than younger workers, the unemployment rate for older workers tends to be lower.

The older worker program still exists in State employment agencies where such program priorities and concerns still are held important. There is no longer any major effort on the Federal level to conduct studies, carry out demonstrations, or educate employers about older workers.

LABOR FORCE EXCHANGE PROGRAMS FOR OLDER WORKERS

Although the U.S. Employment Service efforts for older workers have diminished, an innovative private sector project in a major city offers some promising policy considerations if the Government ever intends to revive the older worker program.

Operation ABLE (ability based on long experience), located in Chicago, has undertaken a broad labor exchange function for older workers. It is, in effect, a job clearinghouse for employers and older jobseekers. The program, using extensive and sophisticated media strategies, has penetrated the city job market in a highly effective manner. Employers place job orders with the program drawing upon a network of agencies and organizations which have access to older applicants. The diversity of the network is important, varying from the local Forty-Plus Club, vocational and training institutions, CETA programs, and the local senior community service employment program (SCSEP). The broad range of applicants enables the project to meet employer requests.

Furthermore, ABLE has become very involved with the private sector and provides a range of services, including education and training on utilizing the skills of older workers. Employers are on the board of the organization and are frequently involved in its projects. ABLE also has developed sophisticated skill assessment methods, a critical function for matching job orders with qualified older applicants. There are important policy implications that can be derived from the project:

- Getting jobs for older workers requires constant contact and communication with local employers. It also involves educational efforts and the cooperation of local employers.
- A centralized job-broker function reduces the need for individual agencies and groups concerned with employment of older workers to build extensive job development networks on their own. The coordination of resources pays off for employers, support agencies, and older workers.

THE MANPOWER DEVELOPMENT AND TRAINING ACT (MDTA)

The MDTA of 1962 marked a new era in employment and job training policies developed by the Federal Government. Because of the rapid expansion of technology, especially computer technology, Government planners felt that major disruptions might occur in the labor force causing extensive unemployment. To prepare for this and to prevent disruptions, if possible, extensive skill conversions would be needed. It was felt that training and education, along with counseling, would serve as the major tools to bring about needed job changes. The anticipated disruption, however, never really occurred. As a result, the MDTA shifted its job training emphasis to a new segment of the population, the young and the disadvantaged, especially minorities with limited education.

Furthermore, in changing from its general function as a labor exchange agent, the USES system had to learn and manage a new series of manpower development functions. Instead of just dealing with referrals, job applicants, job orders, and providing counseling support, USES had to become familiar with recruitment, outreach, intake, and new training procedures for disadvantaged minority youth.

Given the new priorities and programs under the MDTA, the Equal Opportunity Act (EOA), and the Civil Rights Act of 1964, the older worker program received less attention. Older worker specialists assumed broader and more varied functions. Local offices dealt with minority group advocates and they altered staff resources to meet the desires of those who made their needs and demands heard more vigorously—often through political pressures. Furthermore, programs developed for older Americans under the "Great Society" banner were not focused on employment, but rather on housing, health and social services. Also, the emphasis on job training for youth and the traditional negative stereotypes of older workers held by many policymakers contributed to the decline of employment services for older individuals.

In the 1968 amendments to the EOA, a part-time work program, Operation Mainstream, was developed. It was directed at the handicapped, older worker, and youth who needed part-time employment to supplement their incomes. Participants were placed primarily in subprofessional work roles in human service agencies. The Federal Government subsidized the wages of participants for a period with the expectation they would be hired by the agency or a similar one, once the subsidy ended. With a modest funding base of \$5 million and limited older participants, about 2,000, the program was to become the model for the senior community service employment program.

THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP)

The basic model for the SCSEP program, title V of the Older Americans Act, has not changed since its development in the late 1960's. What have changed are the size and scope of the program and its funding level. The following table presents a breakdown of the program and its demographics. It also includes the services participants perform and their occupational categories.

TABLE 5.—Senior Community Service Employment Program

[Performance report for the 1980-81 program year (July 1, 1980 to June 30, 1981)]

I. Funding.....	\$258,324,000
II. Enrollment levels:	
Authorized positions established.....	52,250
Unsubsidized placements.....	5,880
III. Summary of characteristics—persons actually enrolled (March 31, 1981):	
Sex:	Percent
Male.....	33
Female.....	67
Education:	
8th grade and under.....	36
9 to 11.....	22
High school grad or equivalent.....	28
1 to 3 yrs. college.....	10
4 yrs. college and above.....	4
Veteran.....	9
Ethnic group:	
White.....	68
Black.....	21
Hispanic.....	6
American Indian/Alaskan.....	2
Asian/Pacific Islands.....	3
Economically disadvantaged (100 percent of poverty level).....	100 86
Age:	
55 to 59.....	20
60 to 64.....	28
65 to 69.....	27
70 to 74.....	16
75 and Over.....	9
IV. Areas of community service in which program participants were employed:	
Services to the general community.....	51
Education.....	12
Health/hospitals.....	4
Housing/home rehabilitation.....	2
Employment assistance.....	1
Recreation, parks, and forests.....	9
Environmental quality.....	2
Public works and transportation.....	4
Social services.....	10
Other.....	7
Services to the elderly.....	49
Project administration.....	3
Health and home care.....	6
Housing/home rehabilitation.....	3
Employment assistance.....	1
Recreation/senior citizens.....	9
Nutrition programs.....	12
Transportation.....	3
Outreach/referral.....	9
Other.....	3
V. Average hourly wage.....	\$3.45

Note: The fiscal year 1981 appropriation level for the SCSEP is \$277.1 million, which supports 54,200 job slots. The Omnibus Reconciliation Act of 1981 includes a level of \$277.1 million for fiscal year 1982 and \$293.7 million for fiscal year 1983.

Source: Office of Older Worker Programs, U.S. Department of Labor, Washington, D.C., July 30, 1981.

The majority of the SCSEP job slots are managed by eight national organizations:

(1) Green Thumb, Inc., Washington, D.C., an agency of the National Farmers' Union. Funding level: \$76.7 million.

(2) National Council on the Aging, Washington, D.C. Funding level: \$22 million.

(3) National Council of Senior Citizens, Washington, D.C. Funding level: \$43.2 million.

(4) National Retired Teachers Association/American Association of Retired Persons, Washington, D.C. Funding level: \$32.2 million.

(5) U.S. Department of Agriculture, Forest Service, Washington, D.C. Funding level: \$15.5 million.

(6) National Caucus and Center on the Black Aged, Washington, D.C. Funding level: \$2.4 million.

(7) National Association for Spanish-Speaking Elderly, Los Angeles, Calif. Funding level: \$2.6 million.

(8) National Urban League, New York, N.Y. Funding level: \$4.2 million.

State agencies on aging across the Nation manage SCSEP programs in their respective jurisdictions. The total funding level is: \$59.8 million.

The program serves a number of salutary purposes by providing jobs and thereby income to the elderly poor. It yields many individual and social rewards to participants as well. Being in a helping role provides a sense of worth and dignity for older persons who might otherwise be financially and socially dependent. The wide variety of jobs in which the aides are placed meet many community service needs. Older participants give much more time and effort than the hourly requirement. Careful program management and job design accommodate the older worker resource pool of lifetime skills and experience. The program is worthwhile and has most probably more than repaid the Federal Government's investment of tax dollars.

One major problem is that, because of its very popularity, high visibility, and general overall success, the SCSEP may come to represent national older worker policy. This would be a narrow view of older worker potential and of the senior aide model itself. For all its apparent success, the program has internal limitations. For example, legislation does not provide for intensive training needed to move the participants into nonsubsidized positions. There is too little emphasis on private sector job placement. This not only limits the labor force potential of participants, but can keep them in subsidized jobs.

Title V program managers interviewed in this study have also made other comments about the limits and the potential of the SCSEP. The following list suggests the diversity of views:

- The program is fine the way it is. What is needed is more money for more older participants.
- The program, especially in rural areas, must be coordinated with efforts toward economic development. Older workers should have the proportionate benefit of any labor market growth stimulated by either Federal or corporate investment in given areas.
- Managing organizations should have more funds—and more flexibility—to develop creative and innovative variations in the SCSEP model. An example would be collaboration with private

sector employers in job development for the senior aides. Provision of subsidized wages to employers in return for promises to hire should be considered. Some of the strategies and incentives used in CETA programs to gain job opportunities for young workers should be allowed in the SCSEP.

- Labor Department managers of the SCSEP appear too timid to make or permit any changes in the program.
- There are several levels to the SCSEP concept. One is the current arrangement which deals with income and job-related needs of the elderly poor. Another level is needed to deal with the group above the poverty criteria, but over age 55, who are rapidly, due to double-digit inflation, about to join their officially poor peer group. Preventive efforts would include the use of the SCSEP model, free of its income restrictions (at least up to \$9,000 per annum) as a means of developing alternate work patterns as an option to retirement. Another level almost totally different from SCSEP would build on CETA title III, section 308, and develop a full service employment and training program for older workers similar to that provided to younger workers under title II of CETA.
- Forcing older workers into the SCSEP as their single employment option another form of age discrimination in employment. They need other employment options.
- Apprenticeship-type programs and second career training should be made available to workers who are over age 50 and who have more than 20 years of labor force potential.

Individuals associated with the title V program clearly see its value. Older worker policy in the United States, however, must be more than one comparatively small program which works well.

THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA) AND OLDER WORKER OPPORTUNITY¹

The main difference between CETA and its predecessor—the MDTA—lies in its administration. With the MDTA, administration of the various programs was the responsibility of the Federal Government through the Department of Labor, the Department of Health, Education, and Welfare (now the Department of Health and Human Services), and other related agencies. CETA changed the administrative approach by handing program administration and management over to State and local jurisdictions. Local jurisdictions, it was felt, knew their employment problems and labor markets better than the Federal Government and could manage programs better than the Federal Government. The Federal Government, however, reserved the right to specify policies, planning, management, and evaluation criteria associated with the CETA programs.

CETA has been primarily concerned with youth and young adults. As the table indicates, the older an individual becomes, the less likely he or she is to participate in any CETA program. Individuals age 45 to 54 constitute less than 10 percent of participants. Those age 55 to 64 don't reach the 6-percent level, and those over

¹ Although CETA programs have been cut back due to recent budget reductions, the above discussion on its general response to older workers is appropriate.

65 do not reach the 1-percent mark of the total program's participants. Furthermore, the reporting system is apparently unable to provide detailed information about age and sex—or age and race of participants. Participants over 55 are lumped into a single group.

TABLE 6.—CETA PARTICIPANTS BY TITLE AND AGE GROUPS, 1976 AND 1980

	Title I ²	Title II ²	Title VI ²
1976			
Total participants (100 percent)	1,425,000	197,500	431,600
Under 22 (percent)	56.5	22.2	21.4
22 to 44 (percent)	36.5	63.9	64.7
45 to 54 (percent)	4.1	8.8	8.8
55 and over ¹ (percent)	2.9	5.0	5.0
	Title II(b)(c) ²	Title II(d) ²	Title VI ²
1980			
Total participants (100 percent)	1,113,800	486,400	410,400
Under 22 (percent)	47.9	36.1	24.2
22 to 44 (percent)	45.7	51.5	62.8
45 to 54 (percent)	4.1	7.5	7.6
55 and over ¹ (percent)	2.3	5.0	5.4

¹ Age breakouts 55 to 64; 65 and over are not reported.

² As a result of the 1978 CETA amendments, the title numbers changed. The programs under the different titles have not changed.
Source: U.S. Department of Labor, Employment and Training Administration.

This neglect of older workers is not supported by the legislation. The 1978 amendments to CETA provided some specific references to age. Before funds are allocated to State and local jurisdictions, the "prime sponsors," locally elected officials who have overall CETA program responsibility, must submit an annual plan which, in part, includes:

A description of the eligible population identified by race, sex, national origin, and *age* (emphasis added), and the proposed activities and services for participants from these *significant* segments, (emphasis added) of the eligible population. (Title I, section 103(b)(2).)

Older workers, regardless of sex and racial or ethnic groups, have employment-related problems and are thus eligible for CETA services. The legislation continues:

A description of specific services for individuals who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skill development, have a limited English-speaking ability, are handicapped, are disabled or Vietnam veterans, are offenders, are displaced homemakers, are public assistance recipients, are *55 years of age or older* (emphasis added), are single parents, are women, or are other individuals who the Secretary determines have particular disadvantages in the labor market. (Title I, section 103(b)(3).)

The last section may indicate a major weakness of CETA. Service to so many groups could well translate into service for very few individuals. However, many in the specific groups referred to may be 55 years of age or over. Planners could use age, of itself, as a benchmark and means for reaching a large number of individuals eligible for CETA services.

Another section lists some sanctions against prime sponsors, including termination of funding for:

Failure to make opportunities available equitably among the significant segments of the eligible population. (Title I, section 106(b)(2)(A).)

Since age must constitute a significant segment of any given population, it clearly serves as a matter for oversight.

One other title I directive is worth noting. Section 122(b)(1)(A) refers to special conditions applicable to public service employment:

Public service employment under this act is intended for eligible persons who are most severely disadvantaged in terms of the *length of unemployment* and the prospects for finding employment. (Emphasis added.)

Older workers, on the average, suffer the longest terms of unemployment of any age group in the labor force. Age, then, should serve as a critical oversight criteria for the CETA program.

Title II of CETA lists a large variety of approaches, methods, and programs which can be developed by prime sponsors to meet the needs of eligible participants. Some of these relate to older workers and can be used as benchmarks for program evaluation.

Section 211(12) allows for part-time, flexitime, and other alternative working arrangements for individuals who are unable, because, of age, handicap, or other factors, to work full time. Section 215 specifies services for older workers and reads as follows:

Services for older workers under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by older workers, including skills that are obsolete or no longer needed in the community, changing physical characteristics associated with aging, reluctance to hire older workers, financial barriers to labor force participation, and lack of appropriate job opportunities. (Title II, section 215(a).)

The Secretary shall insure that each prime sponsor's plan for serving eligible older workers under this part includes provisions for utilizing activities, including activities described in section 308 and coordinating services for older workers under this part with programs and services provided by senior centers, area agencies on aging as designated under the Older Americans Act of 1965, section 215(b).

CETA PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

Title III, section 308, of CETA represents an effort to allow a variety of sponsors to develop unique approaches in the training and employment of older workers. It allows for the use of a variety

of human resource development techniques not found in other parts of the CETA program. Above all, the program seeks to develop employment and training opportunities which are different from those found in the SCSEP approach.

Programs falling under title III are discretionary. The Secretary may allocate funds to programs which are not covered under other titles or may choose not to fund a program.

Section 308 calls for a variety of training programs for middle-aged and older workers over 55. It also calls for research about the relationships between age and employment and the dissemination of information to employers to help them better understand and utilize older workers.

New program approaches are needed. For example, sponsorship of programs under this section is not limited to the CETA network, but may include business organizations, labor unions, educational institutions, and a variety of community-based organizations not usually involved with older workers. Special emphasis is placed on skill assessment of participants and the use of functional norms, rather than formal testing as means to place older workers in jobs.

Section 308(b)(4) calls for the establishment of second career opportunities for older workers. Emphasis is placed on cooperation between older program participants and program managers. They are to mutually develop and work out career objectives, determine the steps to achieve them, and define accountability measures for both parties in pursuing the second career objective.

The DOL allocated \$2 million to implement the section 308 program in fiscal year 1981. The Omnibus Budget Reconciliation Act of 1981 did not provide a specific authorization for the program. Up to 5 percent of the \$219 million for all title III programs can go to section 308.

CONCLUSION

Of the available programs, the SCSEP program is the most effective and popular. Many feel that it only needs expanded funding and participation rates. Others feel the program needs a thorough evaluation, and that it should be redesigned to include many more training and job development functions.

Defining the universe of need is a major question. How many "senior aides" could participate in the program if they had the chance? Are the poverty criteria for the program realistic in today's inflationary climate? Are there new program models, such as private sector employment programs, which could build on the SCSEP experience and prove more effective in the employment of older persons?

Although the program has been successful, it offers many new challenges for the coming years. The SCSEP does not constitute a comprehensive national policy on older workers. There have not been enough positive efforts to develop the older worker resource through CETA or through any other Federal effort. The SCSEP is an important part of older worker policy which should be expanded and elaborated after careful evaluation.

Chapter 4

STIMULATING NEW EMPLOYMENT OPPORTUNITIES FOR OLDER WORKERS

National policy on older workers must address a central question. It has to do with older workers and their potential as human capital. One can raise the question that if older workers and older worker programs are not economically rewarding, then why make investments in them? This is a fair question. Too few people, however, in Government, industry, labor, or even the agencies concerned with older workers, have made any effort to answer it. Indeed, the older worker/human capital equation is perhaps the most salient and most practical challenge facing policymakers today.

A HUMAN CAPITAL APPROACH TO OLDER WORKER PROGRAMS

In general terms, a human capital approach to older workers compares the costs of employing and retaining them to the benefits for employers and firms. Ability, general health, education, training, job experience, and accumulated skills constitute the value of older workers. Compensation, pensions and retraining make up some employer costs.

AGE FACTORS AND HUMAN CAPITAL

It is often assumed that younger workers offer the greater value and promise, as far as future benefits go, to a company. Younger workers bring to an employer a higher level of education and training at a lower cost in terms of compensation. They will be "worth" more, the argument goes. Older workers use up their human capital on present projects and cost more in terms of increasing salary and pension investments. They will become less valuable over time. Investments in training and development, it is assumed, are best made in younger workers who will:

- Take less time to learn new methods of achieving work goals and pay off in terms of training investments.
- Be more productive than their older counterparts.
- Stay with the company or agency for a longer period of time and, therefore, contribute more.

Older workers, on the other hand, are seen as:

- Less able to take new training and convert this to productive work.
- Less productive than younger workers and more expensive to hire or retain.
- More prone to leave the work force through retirement or early retirement.

All these observations can be regarded as true under most present personnel and retirement policies. There are studies, however, which demonstrate the turnover rates among older workers are less than those of younger workers (Aging and Work, 1980). There is other research that indicates that older workers can be retrained effectively if specialized methods are used. The studies and information which are lacking have to do with compensation, pension systems, and older workers. The system seems to reward workers during their early adult and middle years and then, in effect, penalize them. As workers age and make higher wages or salaries they are wrongly thought to be more costly, less productive and, therefore, less valuable to the firm. Early retirement and pensions then seem to take over as a means to both get rid of the older or not-so-old worker and give them a final "reward" for their services.

As it stands now, some of the negative assumptions about the value of older workers to firms become self-fulfilling prophecies. It might be wise for firms to consider new approaches to the older worker resource.

Older worker retraining should be tied to their worth to the firm and not neglected due to artificial personnel procedures or untested assumptions about the cost and value of these workers.

The outcomes of hiring, retaining, and investing in older workers can and should be measured by performance criteria which are related to job performance. The same should be the case with younger workers.

New and flexible wage and compensation policies, along with innovative retirement and pension policies need to be developed as means to hire and retain older workers.

A new perspective on older workers as a resource needs to be developed to replace current policies which tend to view them as liabilities.

OLDER WORKERS AND AFFIRMATIVE ACTION

The concept of affirmative action evolved as an extension of title VII of the Civil Rights Act of 1964. Prohibiting employers from discriminating against blacks, women, and other minorities in the areas of hiring, promotion, and other terms, conditions, and privileges of employment, is one issue. The statute addresses itself to this requirement. But changing policies in personnel systems to bring about a positive change is something else.

The Federal Government, through its vast contracting networks in the defense industry and other related areas of procurement, has developed, by means of executive orders, a mechanism which forces Federal contractors to adopt positive employment policies for the active recruitment of minorities. Federal contractors were required to undo past discrimination by actively seeking out minorities, training them for jobs, and providing them with the opportunity for advancement. This came to be known as affirmative action, administered by the Office of Federal Contract Compliance (OFCC) of the U.S. Department of Labor (DOL).

Aside from one very weak and unenforced executive order pertaining to age and employment (Executive Order 11011, March 14, 1961), age simply does not enter into any Government-mandated affirmative action program.

Why such an omission? Why doesn't the Federal Government use the mechanisms already in place, affirmative action and the OFCC, to assure older workers, at least in the ADEA-protected group, fair hiring and job advancement opportunities with employers under contract with the Federal Government?

The Federal Government can develop affirmative action programs for older workers. Performance criteria, job-related training, job redesign, job transfers, flexible working arrangements, part-time work, job sharing, etc., are all means to achieve fair hiring and personnel practices for this group. The Government can simply add age to the already existing affirmative action categories. There is almost no cost associated with this policy step, since it builds on existing programs. Because of equity factors and other reasons stated above, the Federal Government, by executive order or appropriate extension of current OFCC authority, should mandate an affirmative action program for workers protected by the ADEA.

UNEMPLOYMENT ADJUSTMENT INSURANCE AND JOB RETRAINING: AN OLD PROGRAM WITH NEW POTENTIAL

One of the most distressing labor force statistics on jobless workers over age 40 is their duration of unemployment.¹ The term of unemployment expands almost in proportion to the increasing age of the older job seeker. Unemployed workers over age 60, generally women, show the longest terms of unemployment. This pattern has remained consistent for a long period of time.

In addition, special studies involving plant shutdowns, mergers, or other events which affect local economies and job markets underscore the same phenomenon. Once out of a job, the older and middle-aged worker will accept available unemployment insurance for as long a period as possible. After that period expires, the older worker is likely to leave the labor force completely and resort to available pension support and other forms of welfare dependency (Sheppard and Belinsky, 1966, and Sheppard, 1971).

The general purpose of unemployment insurance is to tide workers over during a period of joblessness. It is not envisioned as a permanent source of income. But unemployment insurance, of itself, is not adequate to help older workers displaced from jobs to find other employment. What's called for is more of an "adjustment" strategy rather than traditional unemployment insurance.

The general purpose of adjustment programs is to put displaced workers back into the labor force and avoid extended periods of unemployment or premature labor force exit. The Nation has had experience with adjustment programs. Regrettably, these programs have never been very effective. However, it is worth examining the precedents in order to examine some new older worker policy areas.

TRADE EXPANSION ACT OF 1962 (TEA)

With new and more open trade options developing in the early 1960's, the Federal Government felt that it was important to provide protection to industries and workers experiencing adverse effects from lowered tariffs and increased foreign competition. To

¹ Charts illustrating unemployment rates and duration appear on pages 39 and 40.

assure this type of protection, the Congress passed the Trade Expansion Act (TEA). By its provisions, companies which could demonstrate that their business was severely and negatively affected by foreign imports allowed by new Federal policies, or which shut down due to foreign trade competition, were eligible for certain Federal grants which would help them regain a competitive status or switch over to another line of production. Workers who were displaced from such companies and forced into unemployment as a result of Federal trade policies could petition, as a group, or through their appropriate labor union, for special adjustment assistance.

They could receive expanded adjustment allowances. That is, the usual unemployment insurance was classified as adjustment grants because the workers would be eligible for reemployment assistance due to the adverse impact of Federal policies, such as special testing, counseling, job retraining, and placement assistance. They were also eligible for relocation allowances.

The program, however, never really worked. Its failure was due mainly to the fact that the U.S. Employment Service (USES) simply did not have the resources to carry it out. The adjustment allowances were administered through unemployment insurance offices. Along with payments, notices were sent stating that recipients were eligible for testing, counseling, and job training assistance. This aspect of the TEA program was administered by the local State employment service agencies. Often the workers simply never bothered to go to these agencies. They were satisfied with the expanded and higher "adjustment" cash benefit.

In many cases, the workers displaced by trade policies and impacts were older—over age 45. It is regrettable that the adjustment effort failed because it contained many of the elements, including job retraining, needed to help older workers find other employment (Kagan, 1972).

TRADE ACT OF 1974

Aside from different types of trade agreements affecting foreign imports, the 1974 Trade Act didn't change the adjustment component for adversely affected industries and worker groups very much. The level and duration of adjustment benefits were expanded.

Although there have been no major studies on the impact of the Trade Act on worker groups it appears that eligible older workers were utilizing the expanded adjustment benefit as a means to leave the labor force and take early retirement. There are several explanations for this.

Older workers were often less willing to relocate to take jobs. Family roots in the community are strong and often discourage such activity.

Older workers were also less willing to seek reemployment assistance from the helping agencies. They may regard the status of retirement as being better than that of unemployment or they may be too proud to admit needing help in a job search.

Older workers often lacked job-seeking skills.

Another reason why the adjustment program didn't function well for older workers was that policymakers and program managers

either did not see reemployment of these individuals as important or had other priorities.

ADJUSTMENT PROGRAMS: POTENTIAL FOR OLDER WORKERS

Current trade adjustment programs and strategies should work more effectively for participants over 40. Neglect of this group tends to lead to early and unnecessary retirement. Furthermore, such neglect may well indicate a neglect of their civil rights.

Perhaps testing and job counseling and retraining ought to be made a mandatory requirement for the receipt of trade adjustment benefits. Too often the effort to provide this help is superficial. New program standards with solid job training opportunities should and can be developed.

Research and program experience indicate that it can take longer to counsel and place older workers in new jobs. Careful evaluation must be made of current job training programs which weigh the costs and benefits of training and reemployment for older workers against the costs of early retirement. Government adjustment programs may not be popular at the present time, but the functional components, as described above, should be considered for any training or retraining efforts directed at older workers.

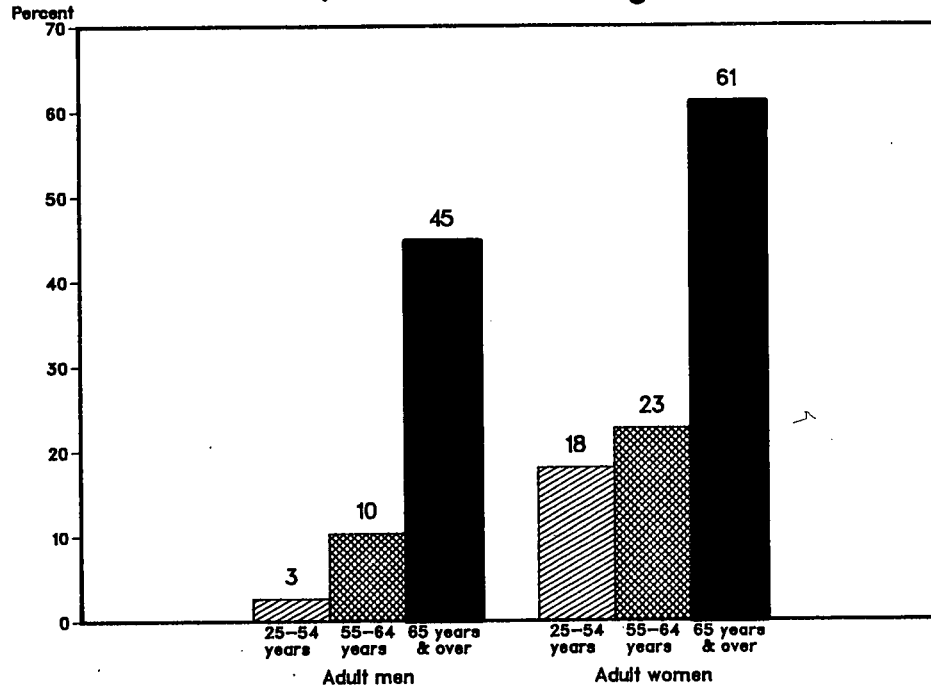
PART-TIME EMPLOYMENT OF OLDER WORKERS

Part-time work can be a means to carry out a broad employment policy for older workers. Part-time scheduling, flexible hours, job sharing, or other arrangements have wide popular appeal. But the conditions of part-time work need to be carefully analyzed. Employers can avoid, or limit, employee benefits such as pensions, health coverage, life and disability insurance, and even the annual leave provisions normally associated with full-time work. As popular as part-time work is, it can, in some cases, result in worker exploitation.

For men aged 45 and over, part-time work, up to 34 hours per week, does not become a significant labor force option until after age 65. In 1978, less than 10 percent of working men under that age engaged in part-time work. Close to 40 percent of employed men between the ages of 65 and 70 work on a part-time basis. Of working men over age 70, 60 percent are employed on a part-time basis (Rhine, 1978).

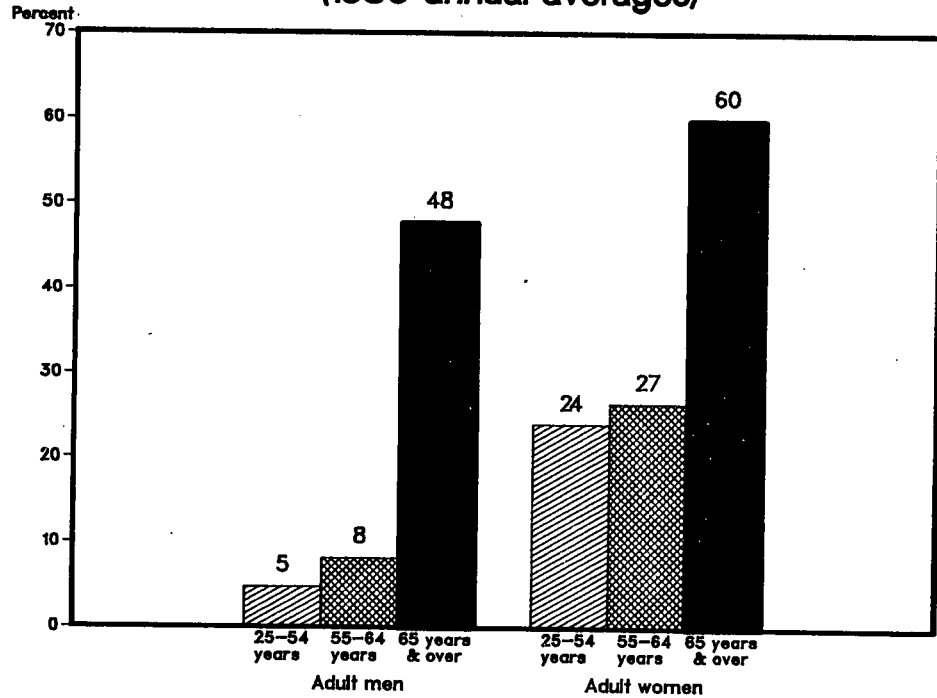
For women, part-time work has always been an important option. In 1978, close to 28 percent of working women between the ages of 42 and 62 held part-time jobs. From age 62 upwards the percentage of part-time working women steadily increases with 38 percent between ages 62 and 64, 58 percent between the ages of 65 and 70, and close to 70 percent for working women over age 70 (Rhine, 1978). As the first two charts indicate, older men and women continue to be interested in part-time work.

Proportion of unemployed adults looking for part-time jobs (1980 annual averages)

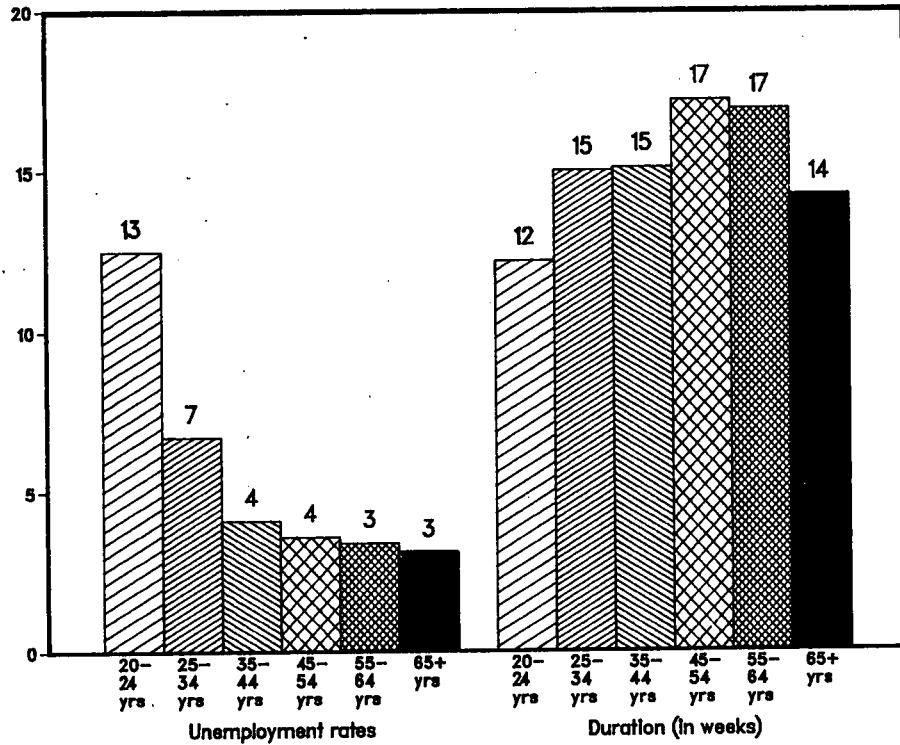


Bureau of Labor Statistics
September 1981

Proportion of employed adults working part time (1980 annual averages)

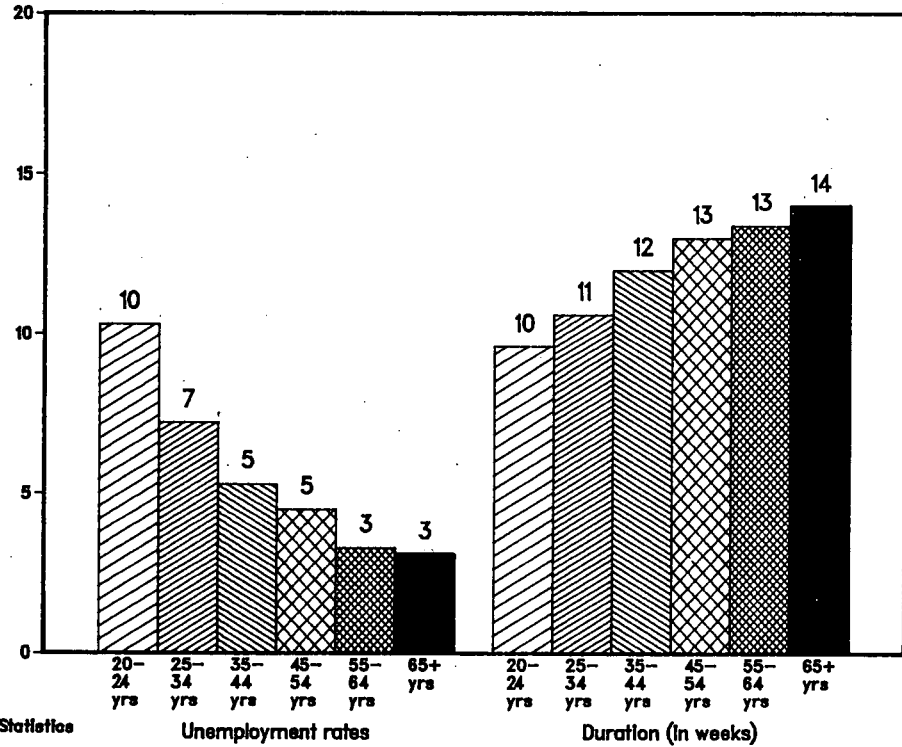


Unemployment rates and average duration of unemployment of adult men, 1980 annual averages



Bureau of Labor Statistics
September 1981

Unemployment rates and average duration of unemployment of adult women, 1980 annual averages



Bureau of Labor Statistics
September 1981

Part-time work can be designed in such a way as to incorporate particular skills accumulated by older employees. But, above all, the part-time work mechanism should fit into a wider policy context.

If older workers are retained on a part-time basis, this could alter the declining labor force participation rates for this group. Furthermore, a large part-time work strategy for older workers could possibly reduce the costs of retirement income provisions from social security and other sources. Continued part-time work could build up the retirement income resources of older workers who remain in the labor force.

There are many mixed motivations and incentives for older workers to seek part-time jobs, remain working, or stay on in part-time capacities. The economic motive may be the most important. But, as a recent study conducted by the Andrus Gerontology Center of the University of Southern California indicated, a significant number of workers approaching retirement would continue working beyond the normal retirement age if given the opportunity to do so (McConnell, et al., 1980). Most preferred to remain in their own jobs at a reduced number of hours rather than moving into lower level positions. Those indicating a preference to stay on the job in a part-time capacity report themselves as healthy and interested in their job assignments. While this study was limited to a major aerospace company and Government employer, it supports the general part-time work motivations described above.

EMPLOYER INCENTIVES FOR RETAINING AND HIRING OLDER WORKERS

Some progressive companies value older workers and offer both retention and hiring opportunities as a positive feature of their personnel policies. Older workers are viewed by management as productive, reliable, and in every way well worth the wage and salary. Furthermore, the cost of benefits for the older workers is not viewed as an obstacle for retaining or hiring them. The same approach holds true for other "showcase" companies which have positive older worker policies (Work in America Institute, 1980).

For most companies, however, the matter of retaining or hiring older workers is entirely a matter of costs. If an older worker is valued because of experience or special skills, arrangements to keep him or her on are usually made. Many companies, even prior to the raising of mandatory retirement, had policies for retaining older, able workers beyond the usual retirement age if the workers requested this option and management recommended the extension. In some cases, annual physical examinations were required to support the continued work option.

Hiring older workers raises a series of problems for employers. They are often viewed as less productive, expensive to train, and of limited use to employers since they have shorter tenure than younger workers. The static nature of personnel policies and systems seems to be the chief disincentive for retaining or hiring older workers on a full- or part-time basis. Since recruitment, hiring, and development usually focus on younger workers, and since older workers are approaching retirement, they tend to be ignored by the system. Policies and practices which value and utilize older workers are the exception—not the rule.

Collectively bargained agreements between labor unions and management also raise questions. Retaining older workers beyond the usual retirement age can interfere with anticipated seniority status for younger workers. Arranging for part-time work can create problems with employee benefits. Pension policies, insurance and health coverage, along with other benefits defined in collectively bargained agreements, cannot easily be redefined for part-time workers. Thus unions, in general, have not been supportive of alternative work arrangements for older members.

In all, the disincentives for retaining and hiring older workers currently outweigh the incentives to do so. Older worker policy, therefore, will have to develop different sets of incentives to change employer attitudes. The incentives for retaining and hiring older workers will have to be cost-related if the policy is to be realistic and effective.

The most direct incentives for influencing employers to retain and hire older workers are financial. If employers can see an economic advantage from utilizing older workers, they will be more likely to do so. Tax credits already serve as a strategy for getting employers to hire the disadvantaged. These can and should be extended to include older workers.

THE TARGETED JOBS TAX CREDIT PROGRAM (TJTC)

Through the Revenue Act of 1979 employers are allowed a tax credit of 50 percent of first year wages up to a limit of \$6,000 for each eligible employee hired under the TJTC program and a 25-percent tax credit for the second year of employment of such individuals. The purpose of the TJTC is to promote employment for individuals who traditionally have a hard time finding jobs. The categories of eligible workers are as follows:

- Handicapped persons referred from vocational rehabilitation programs or from the Veterans Administration.
- Young people, age 18 through 24, who are members of economically disadvantaged families.
- Recipients of supplemental security income (SSI).
- Vietnam-era veterans under age 35 who are economically disadvantaged.
- Persons who have received general assistance for more than 30 days.
- Youths age 16 through 18 who are participating in cooperative education programs.
- Ex-offenders who are economically disadvantaged and are hired within 5 years of prison release.

The operation of the TJTC program is relatively simple. Participants are declared eligible if they are in the above categories and certified as such by State employment offices. To claim the tax credit for hiring a participant, the employer files the appropriate IRS form along with the rest of his tax return. There are certain limits associated with the program. The wages on which an employer can claim credit cannot exceed 30 percent of the total wages subject to the Federal unemployment insurance taxes paid by the employer during the first year of participation in the TJTC program. There are other limitations, as well, which need not be discussed here.

The incentive to hire is based on employer tax savings. Since it is cost-related, it appeals to the self-interest of employers. By joining the program the employer gains a certified and usually a trained worker. Many referrals come from CETA-sponsored training programs of one kind or another. The employer is not bound to retain the worker if job performance criteria are not met.

A direct older worker category could be included in the TJTC. For example, if an employer is given a TJTC-type incentive, he might well consider keeping older workers employed on a full- or part-time basis. The size of the credit need not be exactly that of the other TJTC participants, but it must be large enough to serve as a cost saving for employers. Eligibility for older workers could be based on the following:

- Workers over age 45 who have been unemployed for 15 or more weeks.
- Older workers who meet the poverty and age criteria (55) for participating in the SCSEP.
- Any older worker age 65 and above.

These are the types of criteria the Government should consider for including older workers in the TJTC program.

In keeping with the human capital principles discussed earlier, Government policymakers need to balance the investment costs and the benefits associated with a tax credit payment. Thus, the Federal Government loses certain tax revenues with the TJTC approach. On the other hand, the Government gains tax revenue from the earnings of the participants. In the case of older workers, the Government might save social security resources which would have to be paid to individuals if they choose full retirement instead of TJTC-sponsored work. Furthermore, other dependency costs associated with retirement can be avoided. The overall benefit, however, is that the economy gains a contributing and productive worker.

Perhaps the best approach the Government can take to TJTC opportunities for older workers is to develop demonstration programs measuring the investment and the benefits. This could then serve as a foundation for developing other incentive programs for older workers.

AGE, SEX, AND APPRENTICESHIP PROGRAMS

A great number of apprenticeship programs which recruit, select, and employ entrants into the skilled trades apply upper age limits for aspiring workers. The majority of the trades set their own national apprenticeship and training standards which are certified by the DOL. Local apprenticeship programs tend to use these standards as guides in recruitment. One report on the subject noted:

The upper age limits included in national standards vary from trade to trade. The range for nonveteran, non-employee entering apprentices is from 24 for union electricians, to 35 for plasterers and nonunion electricians. In between are such limits as 25 for the sheet metal industry, 26 for IUOE, UAW, and the lathing industry, and 30 for truck mechanics. In fact, in the national standards certi-

fied by the DOL for use in 1978, no two trades using age limits adopted the same set of upper and lower age limits.

National standards set by the DOL do allow some form of exceptions when veterans or current industry employees are involved, but these do not reach very high age levels.

Why have such standards been set and should they be maintained? The rationale is one of tradition. Apprentices are recruited when they are young, take the training, and become journeymen. The system allows for an orderly progression pattern, especially since many of the trades involve work under collectively bargained early retirement agreements. A second rationale for the upper age limits is that younger individuals are considered more trainable than older workers. Furthermore, the younger the apprentice, the longer he or she will be able to contribute to the trade. A third rationale is that these programs should help minority groups and not older workers.

The Federal regulations which govern the standards prohibit discrimination on the basis of race, color, religion, national origin, or sex. There is no reference to age. Certain States, such as California and Michigan, have introduced statutes to prohibit age discrimination in apprenticeship programs, but the enforcement of such statutes is difficult. Many older individuals, accustomed to age restrictions in trade apprenticeship programs, simply do not apply for them.

ECONOMIC DEVELOPMENT PROGRAMS AND OLDER WORKERS

If Federal tax dollars are spent to help employers build and/or expand facilities and projects in depressed areas with a view toward stimulating economic growth, then older workers in the local labor force deserve a fair share of the employment and job opportunities resulting from such grants.

Furthermore, the older population in an economic impact area affected by Federal grants represents a cost to the jurisdiction one way or another. They will utilize Federal, State, and local tax revenues and services. If more able-bodied older persons seeking work opportunity were given the chance to take on part- or full-time employment, such costs might be reduced. The value of the work the individual contributes to the local economies also has to be considered.

Although the role of the Economic Development Administration (EDA) has been greatly reduced, one of its legislative mandates was job creation—especially in rural and related jurisdictions which suffer economic stagnation or decline. The focus of the grants administered by the EDA were labor-intensive, industrial or public work projects. The grants were passed through local Economic Development Districts (EDD) of the EDA and were part of an overall economic growth plan for the various districts.

In 1977, the U.S. Department of Commerce, through the Economic Development Administration, conducted an older worker demonstration program in five economic development districts. The program was conducted under contract with the National Council on the Aging.

The demonstration in question attempted to examine the impact of EDA grants on job opportunities for older workers and what programs, if any, were needed to promote such opportunities. Technical assistance was provided to participating EDD's on how to analyze the local labor force by comparative age groups. Because the standard analysis tended to show the traditional low participation rates for older workers, special efforts were made to gain other data which might reflect a larger labor force pool of older workers than might be expected. Thus, area agencies on aging were consulted and efforts made to examine data on older persons which pertain to employment interests on their part.

The local State employment agencies were consulted in an attempt to gain information on the number of older workers seeking jobs and how the agencies helped them. CETA projects, where appropriate, were consulted for the same purposes as were title V SCSEP projects.

The demonstration indicated that there were more older workers in the district areas who would take part- or full-time work if given the chance. One accomplishment of the demonstration was the development of more sophisticated means to assess the local labor force in terms of older worker needs and potential to enter job markets.

The next phase of the demonstration focused on employers and labor unions. Educational programs and materials on older workers were developed for local employers—especially recipients of EDA assistance, chambers of commerce, labor unions, and other groups which could assist in the hiring and job development for older workers. Topics included the ADEA information which supported the capability and productivity of older workers, alternative working arrangements, especially the option of part-time work which appeals to many older workers.

This resulted in greater awareness in the respective EDD communities of the needs and abilities of older workers. Employers were given technical guides to help them analyze their own work forces in terms of comparative age groups. By this means they could: (1) Assure that they were in compliance with the Federal ADEA and, in some instances, State laws on age discrimination, and (2) examine their own personnel practices from a viewpoint of improving productivity by making wider and more efficient use of older workers.

The demonstrations went on to involve other relevant community resources. Other agencies and programs, such as the local SCSEP senior aide program, the area agencies on aging, CETA projects, State employment service agencies, senior centers, and other groups were consulted and asked to help in both promoting employment opportunities for older workers and assisting in job development efforts, especially service programs. Employer groups, such as chambers of commerce and personnel associations, as well as labor unions, were asked to assist in the job development effort.

The modest demonstration projects were regarded as highly successful by the participating EDD's. The project design, procedures, and approaches were written up as technical assistance guides and distributed throughout the EDA network of economic development districts. If nothing else, making EDA grantees aware of their

responsibilities under the ADEA, and perhaps the Age Discrimination Act (ADA), as well as greater awareness of older worker potential, can be regarded as a positive achievement.

Both from the demonstration program described above and the testimony of key participants from national aging organizations, the following conclusions can be reached.

Linking economic development programs sponsored by the Federal Government to job opportunities for older workers can provide employment, full or part time, for these individuals and ought to be a major part of national older worker policy.

Intensive awareness and educational efforts are needed to reach employers who can provide job opportunities and agencies which often neglect or deemphasize employment as a way to help older persons.

A central agency should assume the coordinating role. The demonstrations described above illustrate how EDD's can perform such a function. But SCSEP programs, administered by State or national contractors, can also perform such functions, as well as CETA-type programs on State and local levels. What is required is a policy and supporting legislation which will give direction to an economic development program in support of older workers.

Chapter 5

RETIREMENT INCOME POLICIES

A fundamental conflict exists between retirement and employment policies, especially in the area of social values versus economic costs. For example, raising mandatory retirement to age 70 represents a value inherent within the American system. If an individual is capable of working beyond the normal retirement age, he or she should have the right to do so. Few in this Nation would question that value. The civil rights statutes passed by Congress reflect the consensus of the Nation that people are to be judged on their merits and not by their color, sex, or particular background or age.

From another viewpoint, the Nation is deeply committed to a retirement policy that looks to the care of its elders. The costs of the social security system and related income support for older Americans consume a large part of the annual Federal budget. The latest estimates by the Social Security Board of Trustees indicate that even under the best of assumptions about the economy over the coming years, the cost of maintaining increasing numbers of older persons in retirement will grow.

But there is a larger issue. Employment policy poses a challenge to traditional retirement policies. Unless the Federal Government develops employment policies and programs that make extended worklife an appealing proposition in lieu of retirement, things will not change.

Without a positive older worker policy in the coming years, the expected sets of problems will undoubtedly affect the Nation and the economy. Can we afford our present retirement policies over the next few decades? We either accept the status quo in retirement policy—and figure out new ways to pay for it—or we change the rules and develop employment policies for older workers which can reduce retirement dependency and contribute to the maintenance of older citizens and the economy in new ways. There are some signs on the horizon that suggest new perspectives on retirement policy are needed.

SOCIAL SECURITY INCENTIVES AND DISINCENTIVES

The earnings limitation in the social security law is a clear disincentive for older workers to remain working once the limit is reached. The limit sometimes puts the older worker into a state of forced idleness. Also, as the President's Commission on Pension Policy has recently indicated, the eligibility age (62) for early retirement benefits also serves as a work disincentive. Taken togeth-

er, the earnings test and the early eligibility option are obstacles to a policy of retaining older workers.

Many of those who are involved with older worker programs feel that the earnings limitation should be abolished at age 65 or at least raised to allow older workers to earn needed income in today's climate of inflation. The earnings limit is scheduled to rise to \$6,000 in 1982. And the social security benefit increment for remaining employed beyond age 65 is scheduled to rise to a 3-percent increase in benefits for each year worked beyond 65. Neither liberalization is adequate, especially in a period of high inflation. If the Federal Government wishes to develop incentives for older workers to stay in the work force or to take new jobs, then more substantial changes must be made. At the very least, an earnings limit of \$10,000 to \$12,000 should be considered. The 3-percent delayed retirement credit should be raised to 9 percent. The Social Security Administration should track the total costs and the total benefits to the Nation of such arrangements as a basis for further changes that might need to be made.

There are possibilities for increased employer incentives within the social security system also. For example, the Federal Government could allow a reduction in the employer payroll tax (FICA contribution) for individuals over age 62 who are retained in some form of work and who might otherwise have retired. What is needed is a clearer sense of investments and costs compared to the benefits gained by the Federal Government, employers, and older workers. Demonstration programs are needed to develop larger program efforts.

CONGRESSIONAL CONCERN WITH RETIREMENT AND EMPLOYMENT POLICIES

Both the Senate Special Committee on Aging and the House Select Committee on Aging have conducted extensive hearings over the past year pertaining to employment policies. The Senate Committee convened a group of experts on aging and work to present data on new work options in the 1980's for workers over age 65. In a subsequent hearing, distinguished industrialists were invited to present testimony (U.S. Senate Special Committee on Aging, 1980).

The House Select Committee on Aging conducted oversight hearings on the Equal Employment Opportunity Commission and its fulfillment of ADEA responsibilities. These sets of hearings were focused on new employment options and the guarantee of civil rights protections for older workers.

The coordination of retirement policies and employment policies has not yet really begun. Hearings in 1980 before the Subcommittee on Oversight of the House-Committee on Ways and Means have raised the following critical issues:

- Is our social security system facing serious change? Has the concept of wage replacement given way, in a de facto manner, to one of an annuity guaranteed to Americans? If this is so, what are the implications for disincentives—especially the earnings limitation? Should it be abolished or liberalized further?
- Given the forecast of increasing numbers of older persons in the population, how can the costs of escalating benefits be met?

Should taxes be raised to assure benefit levels? Will benefit levels have to be reduced? Should the eligibility age be raised?

- Will a smaller, younger generation in the future accept retirement income transfers to a larger generation of elders on the grounds that it, too, will receive that transfer from a subsequent generation? Will the arrangement have to change? What will new terms be?
- Should there be a dual system of social security—one that guarantees income for the elderly poor but pays limited benefits to those with adequate resources?
- Can alternative working arrangements be developed for older individuals as means to keep them in the labor force for a longer period of time and to conserve limited retirement income resources? Does income through earnings offer a solution to the difficulties facing our current retirement policies?

This beginning of a coordinated view of retirement and employment policies is significant. As we learn more about the costs and benefits of having older persons work longer, it will develop further. The context of resolving retirement policy matters must be broadened so that legislators and policymakers are not blind to the role which a national policy on employment for older workers can play in helping to resolve retirement income matters. National retirement policy, as manifested through the social security system, and regulatory laws affecting pensions, should be reassessed with a view toward encouraging continued employment opportunity for older workers as well as continuing to provide adequate income upon final labor force exit.

Chapter 6

EDUCATIONAL DEVELOPMENT AND INFORMATION DISSEMINATION

There are at least three major strategies the Federal Government can pursue in carrying out educational support of older worker policies and programs.

The first and most immediate strategy rests upon the educational mandates contained in the ADEA. These are mainly directed at employers and labor unions.

The second strategy looks to the training of professionals in industrial and occupational gerontology. Such professionals could be individuals currently employed in personnel administration, human resource management, equal employment opportunity programs, and retirement benefit administration, as well as students training to assume such roles.

The third strategy is to carry out needed research projects to support older worker policy as it develops over the coming years. This chapter explores these three strategies.

EDUCATIONAL PROGRAMS FOR EMPLOYERS AND LABOR GROUPS

The most explicit congressional mandate for the development and implementation of educational programs on older workers is contained in sections 3(a) and 6(b) of the ADEA, which reads as follows:

The Secretary of Labor shall undertake studies and provide information to labor unions, management, and the general public, concerning the needs and abilities of older workers, and their potentials for continued employment and contribution to the economy. In order to achieve the purposes of this act, the Secretary of Labor shall carry on a continuing program of education and information, under which he may, among other measures:

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

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

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

(4) sponsor and assist State and community informational and educational programs. (29 U.S.C. 622.)

Section 6(b) reads as follows:

The Secretary shall have the power to cooperate with regional State, local, and other agencies and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this act. (29 U.S.C. 626.)

As it now stands, the Secretary of Labor still has responsibility for carrying out section 3(a) of the act while the EEOC has responsibility for section 6(b). Neither agency has carried out these directives in any systematic way. This is unfortunate because the implications for policy are that court decisions and not education are the primary means to implement the act.

Investigations and litigation are necessary for achieving the goals of the law and this was especially true when the ADEA was first passed. But now, with a large and growing body of cases resolved and under litigation, it would seem that employers could learn some lessons from the enforcement activity. A positive program describing the litigation would, of itself, be helpful to employers. Management could review its own policies and check for possible violations of the ADEA thereby avoiding costly and time-consuming litigation.

An educational program about older workers definitely needs to be developed. The Government has developed guidelines, awareness programs, and brochures to help employers comply with title VII of the Civil Rights Act. Special materials have been published emphasizing the abilities of blacks, women, and other minorities, and how management can hire and accommodate them in their work force. The same can and should be done to support the hiring and utilization of older workers.

The Federal Government has already produced research and other materials pertaining to older workers. In many cases, however, the information is too technical or is not communicated in ways that instruct management or labor union officials. What is needed is a series of effective communications about older workers.

First, an awareness brochure should be developed. This could describe the act and state why it was passed. It should outline the occupational profiles of older workers in the labor force and underscore the specific problems they encounter when seeking jobs. The awareness brochure should describe the causes of discrimination and the false views many people have about older workers.

Second, a series of publications covering the following topics could be developed and circulated to the employer community:

- Older workers, health, and job safety.
- Older workers, productivity, and job performance.
- Costs and benefits to be derived from hiring and retaining older workers.
- Testing and retraining older workers—which methods work.
- Alternative work arrangements and new ways to utilize them in the workplace.
- Summaries of ADEA cases—management lessons to be learned.

These topics address some of the concerns employers have about older workers and would present them with new information.

Another type of publication would be a summary of major research about older workers such as ability to learn, physical capacity to perform in various occupations, performance appraisal methods which are objective, costs (pension and benefits) of utilizing older workers compared to other age groups, etc. It should be noted that the Department of Labor partially supports the journal "Aging and Work," published by the National Council on the Aging. But its circulation among employers and labor unions is limited. Perhaps new formats and supplemental types of publications are best suited to reach management and labor officials who can afford hiring and development programs for older workers.

Over the past decade, organizations have designed and conducted employer conferences and seminars which explain the content of the civil rights law, its regulations, and guidelines issued by the Federal Government on such matters as testing, affirmative action, or other positive efforts to advance employment opportunity for these minority groups. But the ADEA, age factors, and older workers are often neglected.

If it is not the role of Federal Government to sponsor and conduct these kinds of seminars directly, it could at least encourage them to help employers meet their ADEA responsibilities and foster positive older worker programs in the private sector. The Department of Labor, which has the major older worker educational mandate under the ADEA, could collaborate with the EEOC, the Administration on Aging, and other Federal agencies involved with older worker issues to stimulate such programs.

TRAINING PROFESSIONALS IN INDUSTRIAL GERONTOLOGY

One of the reasons employers discriminate against older workers in hiring and retention policies is ignorance. Personnel administrators and employee relations managers are not trained in gerontology. Few schools of business administration, if any, offer courses on the psychology of aging and its effects on older workers. It is not surprising, therefore, that management falls into negative older worker practices.

Institutes and schools of gerontology are also negligent regarding employment issues. Few gerontologists are trained in the management sciences or industrial relations regarding the utilization of older workers.

What is called for is a Federal policy that provides for education in the area of employment and work for older persons, which is at least as effective as its current policies that develop professionals to meet the different social service needs of the elderly. Management experts dealing with human resource programs need to know the fundamentals of gerontology. Gerontologists concerned with employment options for older persons need to learn the fundamentals of personnel and human resource management.

Such an approach would be helpful to all concerned. Management would benefit; gerontologists would have access to a new service area for older persons; and the elderly would have new choices for continued work in lieu of traditional retirement.

Title IV-A of the Older Americans Act provides at least one modest resource to develop such education and training in gerontology and the management sciences. Labor Department programs supporting industrial relations research could also be utilized. Given the projected changes in the age structure of the population and the labor force, both management specialists and gerontologists should collaborate in developing extended employment options for older workers.

NEW KNOWLEDGE AND RESEARCH NEEDS IN SUPPORT OF OLDER WORKER POLICY

Along with the two educational approaches described above, the Federal Government needs to develop solid research to support an evolving older worker policy. The Administration on Aging through title IV-B of the Older Americans Act supports an applied research program which does, in part, deal with issues of age, work, and retirement. But compared to housing, transportation, and general social service needs for older persons, the funding levels for research about older workers has not been significant.

The National Institute on Aging (NIA) does a good deal of research on the biomedical aspects of aging. This topic is of great interest and concern for our general policies in dealing with present and future generations of the elderly. The NIA does not support much employment-related research or research on health and related issues affecting older worker policy.

The Department of Labor has, over the years, supported some research pertaining to older workers. The studies on preretired men are most significant and can influence a developing older policy. The Department of Labor also commissioned a research and development agenda on older workers some years ago with the American Institutes for Research (U.S. Department of Labor, 1979).

The following kinds of information are needed:

Age and labor force data.—There is a need to report age-related data and labor force activity in a more specific manner. Labor force participation in federally funded programs should be reported in 5-year age bands. Data relating to workers age 55 and over or even 65 and over is simply not focused enough. Since much of the age-related data already exists, the reporting format can sharpen the focus. What is required is a policy decision to do so.

In addition, more information is needed on age groups within the labor force in general and specific occupations in particular. This information is essential if we are to utilize extended and part-time work strategies for older individuals. Furthermore, more age-specific data is needed on subgroups of older workers including minorities and women.

Part-time work arrangements.—Much has been written about part-time work arrangements for older individuals, but comparatively little is known. What are the conditions of employment and benefits, associated with part-time worker and older individuals? Are older part-time workers being taken advantage of, and, if so, in what types of employment?

Pension issues.—Pension policies need to be monitored and the effects of the 1978 amendments to the ADEA tracked. The Labor Department is currently managing a study mandated by the

amendments to assess the impact of the new retirement age both on the number of older workers who continue working, and the terms, conditions, and privileges of employment, including pensions for workers over age 65. This study will provide important baseline information against which future changes can be measured. This older worker study should be continued beyond its congressionally mandated report date.

Personnel systems.—New research on age factors in personnel systems is needed. Too much reliance is placed on one-time surveys of employers or companies reporting their older worker practices. The result is useful but superficial information. Collaboration with employers to help them better understand the range of personnel functions—and not just retirement policy that affects older workers and productivity—is essential. Managers are looking for problems and answers in their dealings with older workers. Litigation under the ADEA is not the best way to find either. Careful research, stimulated by the Government, on employment practices is a more positive approach.

Training and career development.—An almost neglected area of research about older workers lies in the area of training and development. The "T. & D." function of large industries has a bearing on older workers. Do employers invest in training and career development for older employees? If so, what are the benefits compared to costs? What methods work best? What can other employers learn from them? What can other employers learn from successful cost/benefit retraining investments in older workers?

Older women workers.—Special research should be made about older women workers and career changes from a homemaker to paid employment. What retraining strategies and job development techniques are needed to help this group? Where do they work and for what compensation? Are they underutilized and do they encounter both sex and age discrimination? These are critical issues which need to be analyzed since we can expect older women to live longer and have the need for extended work, better jobs and benefits during their middle years.

The elderly minority.—Minority groups can face the prospect of a sort of mandatory employment rather than any real retirement option. Poorer individuals face old age without the prospect of adequate social security benefits or any income support except SSI. Demonstration programs beyond the scope of the title V senior aide effort are in order for this group.

Age discrimination.—There has been no comprehensive study of the causes and effects of age discrimination since the 1965 report completed by the Department of Labor. This type of study should be repeated so that policymakers can assess the effectiveness of the entire ADEA program (not just the impact of the 1978 amendments) and the improvements which need to be made.

Chapter 7

IMPLEMENTING AN OLDER WORKER POLICY

The Federal Government can help to develop, maintain, and retrieve the skills and knowledge of older Americans and utilize these resources fairly and effectively in the labor force and the economy—as long as these individuals are able and willing to work. Three objectives that can move the Nation in that direction are:

(1) Ongoing, vigorous enforcement of the Age Discrimination in Employment Act as the fundamental guarantee of job rights for older Americans.

(2) Continuous utilization of all Federal agencies, programs, grants, contracts, and projects supported by tax dollars as a tool for providing equal employment opportunities for older workers.

(3) Stemming the decline in labor force participation rates for older workers (over age 55) and then raise these participation rates by target percentages set by appropriate Federal officials and advisory groups.

The key for developing and implementing an older worker policy is collaboration among the Federal Government, employers, labor unions, advocacy groups which support older Americans, and older Americans, themselves.

ROLE OF CONGRESS

Congress, through a variety of committee actions, has begun the hard task of oversight and reevaluation of retirement and, to some degree, employment policies and programs. This effort is both necessary and commendable. But Congress cannot examine employment policies and programs in a vacuum or solely in a negative manner. If corrective action is needed or greater enforcement effort is required, then Congress should provide the guidance by passing new legislation and including greater appropriations to see that the job gets done. It should also hold continuous oversight hearings.

Congress must review all current employment policies and determine if older workers are receiving a fair share of these resources. New policies and legislation may be needed to correct inadequate representation of older workers in Government programs or to develop special older worker employment programs. If Congress adopts the goal of gradually increasing older worker labor force participation rates over the next 5 to 10 years, a range of current and new policies and programs will have to be directed toward that effort. An ideology of full employment is commendable, but specifically directed resources, including public employment programs, may be called for, in addition.

Such challenges are complex. Changing employment policies for older workers will involve changing retirement policies, social security legislation and, to some extent, the Nation's domestic policy. There is no overall policy to deal with aging in America or older worker employment in particular. However, Congress can and should take more steps toward building an older worker policy than it has in the past.

EMPLOYERS AND LABOR UNIONS

If the Government tries to stimulate older worker policies rather than just passing regulations, employers will most likely join the effort in a cooperative manner. The educational strategies discussed in this report offer some modest steps toward achieving such an objective. The educational programs can help employers achieve compliance with Federal and State age discrimination statutes, and more importantly, develop improved human resource management programs. This type of collaboration is productive for employers and government.

Employer organizations, such as the Business Round Table, the National Chamber of Commerce, and the American Management Association, can help in this effort by providing information and assistance to their employer constituents on how to revise and develop new personnel policies for older workers.

Labor unions and employers can collaborate on older worker policies by careful review of collectively bargained agreements. More flexibility on the part of both management and labor is called for in order to develop alternative work arrangements involving part-time work.

Pensions and employee benefits are usually regarded as sacrosanct and any changes, other than new or higher benefits, come slowly. The use of pension fund resources as a means to retain middle-aged and older workers should be explored. Under current rules such a use of pension funds would be impossible. But with a flexible and creative approach this might be a part of future older worker policy. Such change assumes that management and labor both see the value of extended employment for older workers and cooperate to achieve such changes.

OLDER WORKERS

Gaining the collaboration of the Nation's older workers may be the most difficult step of all. Many of them are unfamiliar with age discrimination protections or don't know that they can work beyond the normal retirement age of 65. Many accept current employer retirement policies and traditions which emphasize earlier rather than later retirement.

The advocacy groups for the elderly support a wide variety of legislation and programs which affect the well-being of their older members and constituents. They are especially concerned with social security policies and other benefits the elderly need. In the main, their emphasis is to guarantee adequate income support, health care, and social services for retired older persons.

Aside from managing title V programs, most of these organizations are not overly involved in employment policies. With their

ability to reach older people and lobby on their behalf with policy-makers, it would be useful for the development of older worker policies if these associations were more formally involved with employment issues. Advocacy agencies representing older persons, such as the National Council on the Aging, the National Council of Senior Citizens, the American Association of Retired Persons, National Retired Teachers Association, and the National Center on the Black Aged, could stress employment issues in their policies and communicate these through materials and newsletters. With more knowledge and greater awareness of employment issues, older workers can be expected to take more active roles in policy developments affecting them.

It has been observed that policy development of any kind is the result of a series of political, economic, and social forces, or the combined efforts of individuals with foresight. The pressures to build an older worker policy will probably confirm that observation. Older people vote in large numbers, and as they become more aware of employment-related issues, they will exercise political power on their own behalf to achieve their share of employment resources.

The rising costs of more people living in retirement will have clear consequences for our economy over the coming years. The resources to support these older retirees will have to come from somewhere. Investing in employment for older persons and providing incentives for them to remain working can alleviate the cost burden.

The public awareness of the income support required in terms of tax dollars for a large, older generation by a smaller, younger generation, raises serious social policy issues. Promoting independence and continued self-support beyond normal retirement through extended work can avoid negative social repercussions from changing demographics.

As far as the future goes, congressional committees have already demonstrated their concerns for retirement and employment policies. Congress must continue its efforts and take a leadership role in the development of a national policy on older workers. It is hoped that this report, in a modest way, will contribute toward that effort.

Appendix A

FINAL RECOMMENDATIONS ADOPTED BY THE FEDERAL COUNCIL ON THE AGING

AGE DISCRIMINATION IN EMPLOYMENT

(1) The Equal Employment Opportunity Commission (EEOC) should change the current set of regulations on ADEA which permit employers to not credit years of service beyond age 65 in calculating a worker's final retirement benefit.

(2) Congress should remove the provision in ADEA (Public Law 95-256, 92 Stat. 189, 1978) which permits employers to refuse to hire or to terminate a worker if age, of itself, can be shown to be a bona fide occupational qualification (BFOQ) essential for the performance of a special job.

(3) The Department of Labor, pursuant to the mandates of the ADEA, should develop and implement, in collaboration with other appropriate Federal agencies, a specific research, training, and information dissemination program directed at employers in order to highlight the skills and experience that middle-aged and older workers possess.

(4) The mandatory retirement limit, set at age 70 in the 1978 amendments to the ADEA, should be abolished.

OLDER WORKERS EMPLOYMENT PROGRAM

(1) The Department of Labor should direct regional administrators and local prime sponsors to comply with the specific CETA planning requirements, outlined under titles I and II of the act, directing that a special labor force analysis be completed on older workers and other targeted groups. The results of the analysis are to be used in formulating special service programs for these groups. Specifically, the Department of Labor should carry out appropriate procedures, including regional and local oversight hearings, if necessary, to assure compliance with the Age Discrimination Act (ADA) of 1975, as amended, especially as this statute applies to all CETA training programs.

(2) Federal regulations which exclude workers from participating in apprenticeship programs funded by the U.S. Government solely on the basis of age should be abolished.

(3) The Department of Labor should allocate at least \$10 million in fiscal year 1981 to implement the middle-aged and older worker program described in title III, section 308, of the 1978 CETA amendments.

(4) The Department of Labor should design and put into effect a national older worker program as required by statute.

(5) The senior community service employment program under title V of the Older Americans Act should be expanded on the basis

of: (a) An assessment of the proportion of workers in need of the program over the next 5 years; and (b) an assessment of the impact and effectiveness of the program in terms of benefits to participants, services to agencies and people served, and the overall benefit to the economy and the government.

NEW EMPLOYMENT OPPORTUNITIES

(1) The Department of Labor should develop an affirmative action program for middle-aged and older workers to assure that these individuals gain access to jobs made available through Federal contracts to major employers in the United States.

(2) Congress should establish a special unemployment insurance and job retraining program for middle-aged and older workers to enable them to remain in or reenter the labor force when economic pressures force them to withdraw from the labor force involuntarily.

(3) Congress should establish a retirement alternative employment program which would: (a) Provide workers with incentives to defer retirement; and (b) provide employers with incentives to develop retention options for older employees.

(4) The Departments of Commerce, Agriculture, and Labor should collaborate with the Small Business Administration and the Administration on Aging to develop and assess economic impact programs which will identify entrepreneurial, job and other self-employment opportunities for middle-aged and older workers.

RETIREMENT POLICIES

National retirement policy, as manifested through the social security system and regulatory laws affecting pensions, should be reassessed with a view toward encouraging continued, varied and nontraditional employment opportunities for middle-aged and older workers.

Appendix B

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