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FEDERAL EMPLOYMENT

**Progress of Women and Minorities in
Key Federal Jobs and Handling of
EEO Complaints at the Bureau of
Alcohol, Tobacco, and Firearms**

Statement of
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Federal Human Resource Management Issues,
General Government Division



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Progress of Women and Minorities in Key Federal Jobs
and Handling of EEO Complaints at the Bureau of
Alcohol, Tobacco, and Firearms

Summary Statement by
Nancy Kingsbury, Director
Federal Human Resource Management Issues

At the request of the Senate Committee on Governmental Affairs, GAO recently studied the progress women and minorities have made in key federal jobs and examined how the Department of Treasury's Bureau of Alcohol, Tobacco, and Firearms (BATF) has handled sexual harassment and other EEO complaints.

GAO's review of the progress of women and minorities covered 262 key jobs in 25 federal agencies. These jobs are described as key because they can lead to middle- and upper-management positions. GAO found, for the years examined, general improvement in the relative number of women and minorities in key jobs. For example, between 1984 and 1990, the number of minority women relative to white men increased by 34 percent, and the numbers of white women and minority men, relative to white men, each increased by 22 percent. Increases that occurred over time in the relative numbers of women and minorities were generally as large, and sometimes larger, at upper grades (11 through 15) as they were at lower grades.

However, even with the progress that was made, women and minorities were still less well represented in key jobs at upper grades than at lower grades. For example, while there were 1,390 women and minorities for every 1,000 white men at grade 10 or below, there were 343 women and minorities for every 1,000 white men at grades 13-15. While this study did not identify reasons for the disparity, GAO is reviewing, at the Committee's request, how agencies go about identifying and addressing barriers to the hiring and advancement of women and minorities.

GAO found that BATF has not adequately developed, implemented, or communicated the role of its Offices of Internal Affairs, Equal Employment Opportunity, and Law Enforcement in addressing incidents of alleged sexual harassment and other discriminatory behavior. This situation has, on occasion, resulted in separate inquiries on the same incident by these offices. As a result, concerns have surfaced about the confidentiality, objectivity, and independence of some of BATF's inquiries that we reviewed. These range from a perceived lack of confidentiality during internal investigative processes to a disparity in the rights accorded complainants during separate BATF inquiries of the same incident. The BATF Director recently tasked a group to help BATF develop a better program for combating discrimination, sexual harassment, and reprisals.

Chairman and Members of the Committee:

I am pleased to be here today to participate in this hearing on S. 404, a bill which proposes a new structure for handling employment discrimination complaints of federal employees. Over the last several years we have undertaken several reviews at the Committee's request regarding the representation of women and minorities in the federal workforce. Today, I would like to share with you the results of our latest study, which examines the progress women and minorities have made in key federal jobs, and to provide our observations on how sexual harassment and other equal employment opportunity complaints are handled at the Department of Treasury's Bureau of Alcohol, Tobacco, and Firearms (BATF).

BACKGROUND

As a result of the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972 that amended it, federal agencies have been required to develop and implement affirmative employment programs to eliminate the historical underrepresentation of women and minorities in the workforce. The Equal Employment Opportunity Commission (EEOC) provides agencies with guidance on their affirmative employment programs and approves agency plans for those programs.

In May 1991, we issued a report and presented testimony to this Committee on the need for better EEOC guidance and agency analysis of women and minority representation.¹ In testimony before this Committee in October 1991, we said that the representation of women and minorities in the federal workforce had improved overall between 1982 and 1990. We also said that their representation in the government's middle- and upper-management levels had improved.²

However, in that same testimony we noted that even with that improvement, white women and all minorities were still less well represented in the federal workforce in 1990 at upper grades (above grade 11), including the Senior Executive Service (SES), than at lower grades. These groups also were often underrepresented in the key jobs, that is those that can lead to middle- and upper-management positions.

¹Federal Affirmative Action: Better EEOC Guidance and Agency Analysis of Underrepresentation Needed (GAO/GGD-91-86, May 10, 1991) and Federal Affirmative Action: Better EEO Guidance and Agency Analysis of Underrepresentation Needed (GAO/T-GGD-91-32, May 16, 1991).

²Federal Affirmative Employment: Status of Women and Minority Representation in the Federal Workforce (GAO/T-GGD-92-2, Oct. 23, 1991).

I might add that the former Director of the Office of Personnel Management (OPM), Constance Newman, testified at the October 1991 hearing that "the percentages of women and minorities in the SES and the pipeline to the SES are unacceptable."

In our October 1991 testimony, we recommended that EEOC require agencies to analyze hiring, promotion, and other personnel action data to better identify equal employment barriers. Following our testimony, we agreed with the Committee to analyze further the representation of women and minorities in key federal jobs, including their hiring, promotion, and separation from those jobs. We included the results of these analyses in our March 8, 1993, report to the Committee.³

PROGRESS OF WOMEN AND MINORITIES IN KEY FEDERAL JOBS

In doing the work for the March report, our objective was to analyze, by grade, how much change had occurred for women and minorities over recent years in the key job workforce at 25 executive agencies.⁴ We analyzed a total of 262 key jobs that were identified in the agencies' affirmative employment plans. These jobs included occupations such as accountant, computer specialist, and criminal investigator.

The data for the March report, as were those for the October 1991 testimony, were from OPM's Central Personnel Data File (CPDF). Certain data were as of September 1984 and 1990, and other data were for fiscal years 1984 and 1990. All data covered full-time permanent employees.

In this testimony, as in our report, the term "relative numbers" refers to how many women and minority workers there were for every 1,000 white men in a particular category of the key job workforce. We selected white men as the benchmark because they have historically dominated the management levels of the white-collar workforce and because it seemed reasonable to consider how the numbers of women and minorities had changed over time relative to white men.

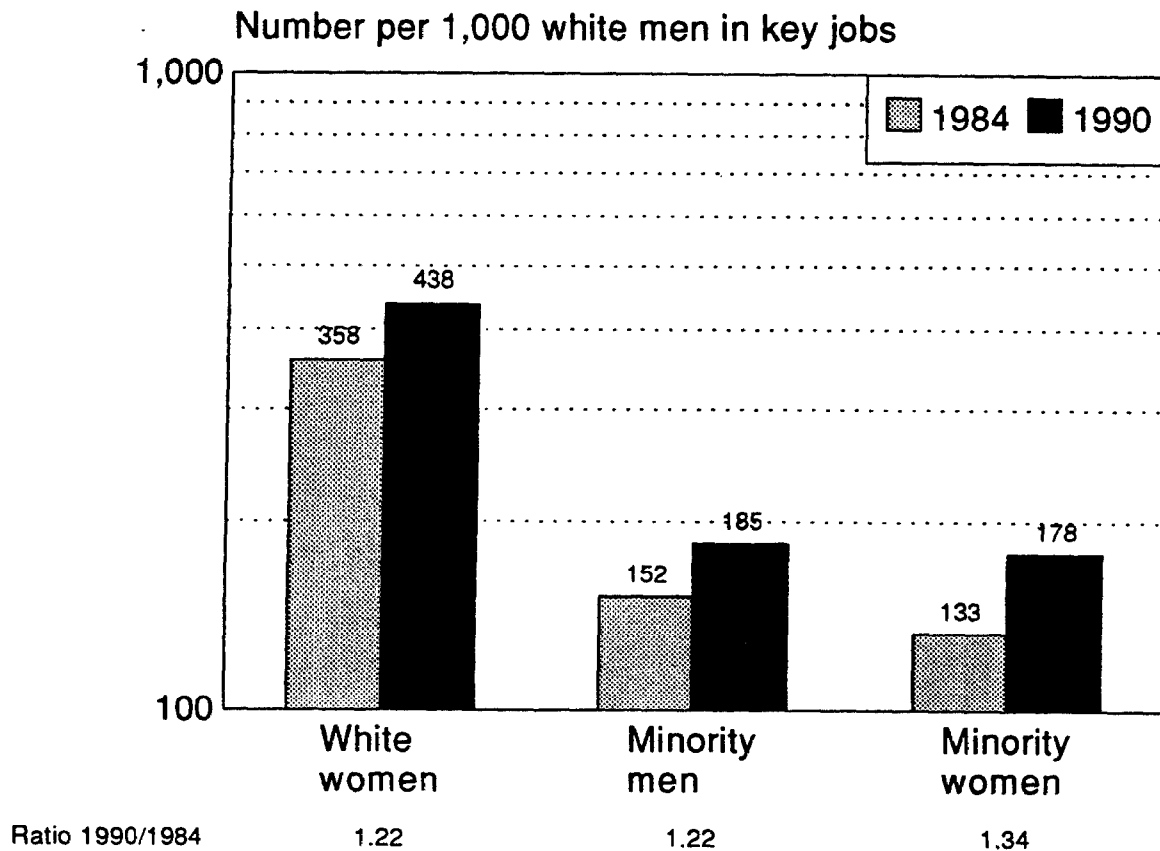
Our March report presented our detailed results. Let me share with you our general findings.

³Affirmative Employment: Assessing Progress of EEO Groups in Key Federal Jobs Can Be Improved (GAO/GGD-93-65, Mar. 8, 1993).

⁴The appendix lists the 25 agencies.

--In the key job workforce of the 25 agencies, the relative numbers of white women and minority men and women at grade 15 and below increased between 1984 and 1990. As figure 1 shows, the relative numbers of minority women increased 34 percent compared with a 22-percent increase among white women and minority men.

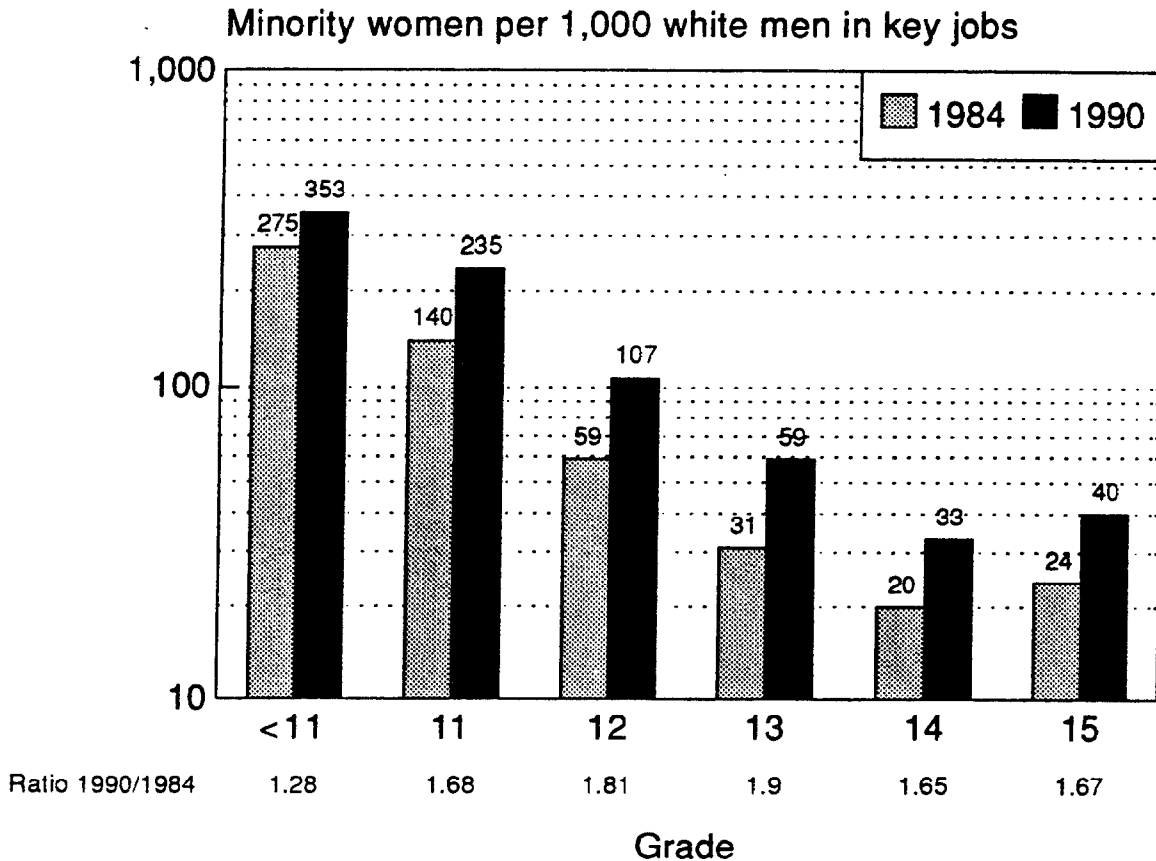
Figure 1: Number of White Women and Minority Men and Women per 1,000 White Men in Key Jobs at 25 Federal Agencies, Fiscal Years 1984 and 1990



--Among specific minorities, except for Native Americans, women increased in relative number more than men. Increases in representation levels were more pronounced for Asian and Hispanic men and women than for black men and women. The relative number of Native American women did not change over this period, while the relative number of Native American men increased by 8 percent.

--Increases that occurred over time in the relative numbers of women and minorities were generally as large, and sometimes larger, at grades 11 through 15 (upper grades) as they were at grades 1 through 10 (lower grades).⁵ Figure 2 shows the increases in the relative number of minority women at various grade levels. Roughly similar changes occurred for white women. Minority men also increased in relative number at all grades, although their increases were smaller.

Figure 2: Number of Minority Women per 1,000 White Men in Key Jobs at 25 Federal Agencies, by Grade, Fiscal Years 1984 and 1990

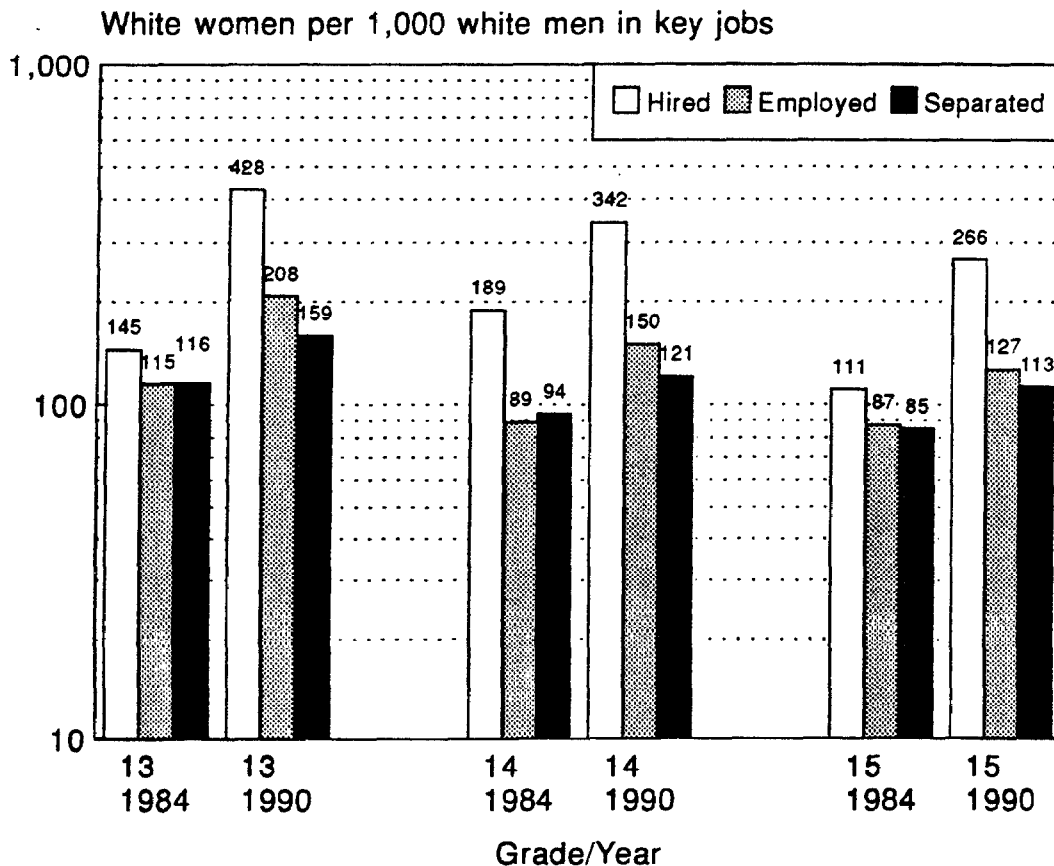


⁵We combined grades 1 through 10 in these analyses. Statements about what happened at lower grades should be understood to imply the aggregated grouping of employees in grades 1 through 10. Upper grades refer to grades 11 through 15.

The observations I have presented so far provide snapshots of the key job workforce in September 1984 and September 1990. I will turn now to some of the personnel events--hiring, promotions, and separations--that help to create the snapshots.

--The relative numbers of white women and minority men and women hired into key jobs increased between 1984 and 1990. Figure 3 shows that, in 1990, the relative numbers of white women who were hired into grades 13, 14, and 15 greatly exceeded the numbers already employed and the relative numbers that were separating from those grades. The same was true for minority men and women.

Figure 3: Number of White Women per 1,000 White Men Employed, Hired, and Separated at Grades 13-15 in Key Jobs, Fiscal Years 1984 and 1990



--With respect to promotions in 1984 and 1990, white women, minority men, and minority women all made relative gains at grades 11, 12, 13, and 14. However, only white women experienced a relative gain at grade 15. I say gain because the relative numbers promoted to those grades were higher than the relative numbers already employed at those grades. For example, the relative numbers of white women promoted to grade 15 were 57-percent higher in 1984 and 61-percent higher in 1990 than the relative number of white women already employed in that grade. Figures 4, 5, and 6 show the relative numbers of white women, minority men, and minority women promoted to the various grades, along with the relative numbers of those groups already employed at those grades.

Figure 4: Number of White Women per 1,000 White Men Employed in and Promoted to Different Grades in Key Jobs, Fiscal Years 1984 and 1990

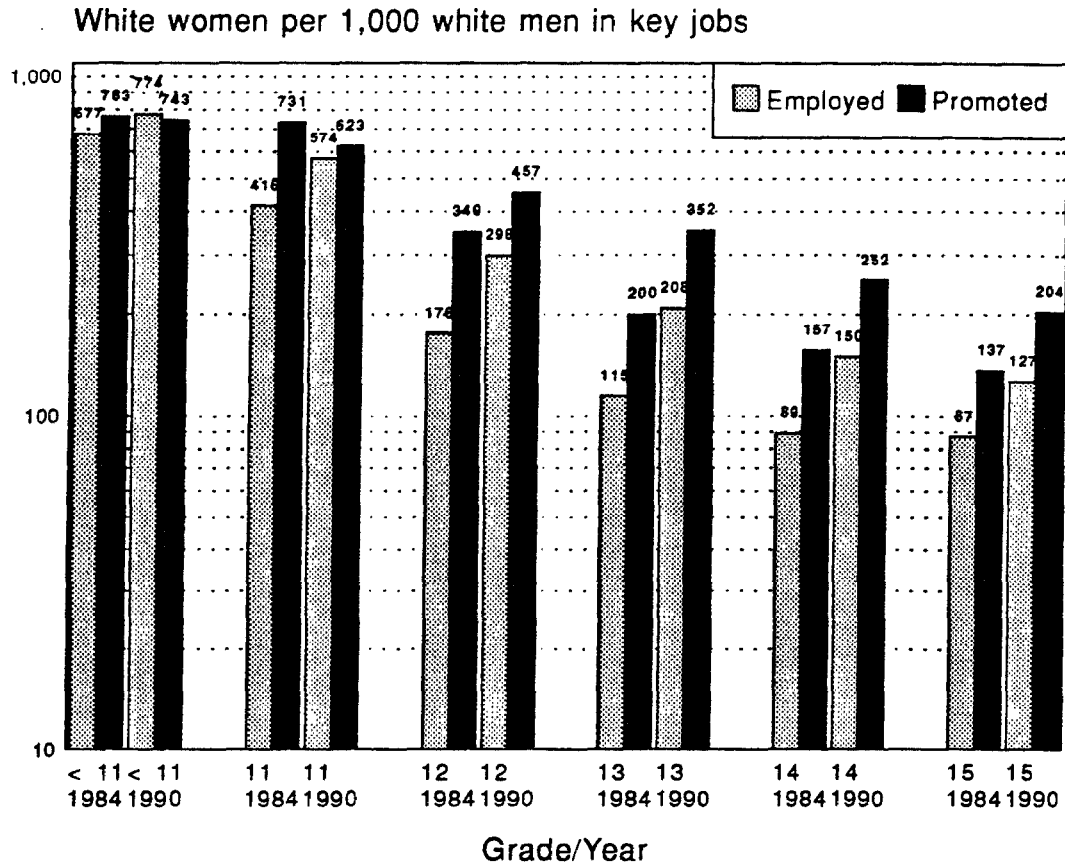


Figure 5: Number of Minority Men per 1,000 White Men Employed in and Promoted to Different Grades in Key Jobs, Fiscal Years 1984 and 1990

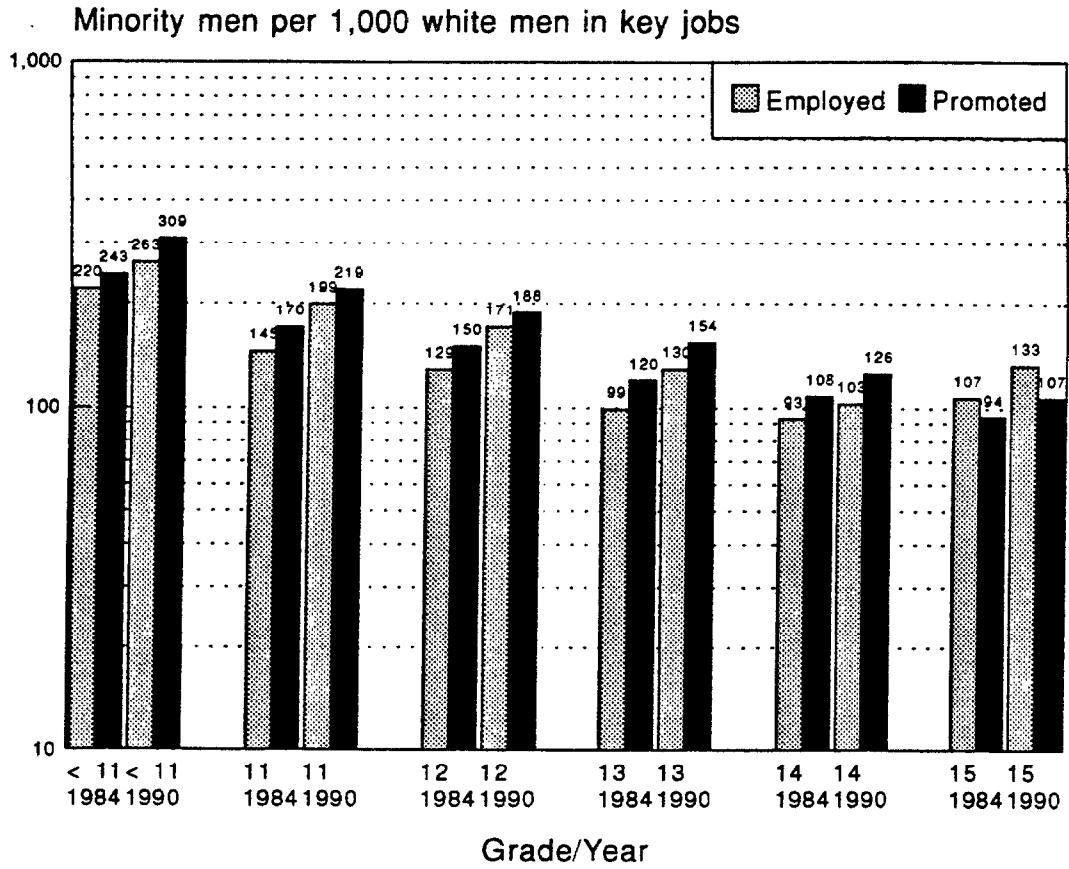
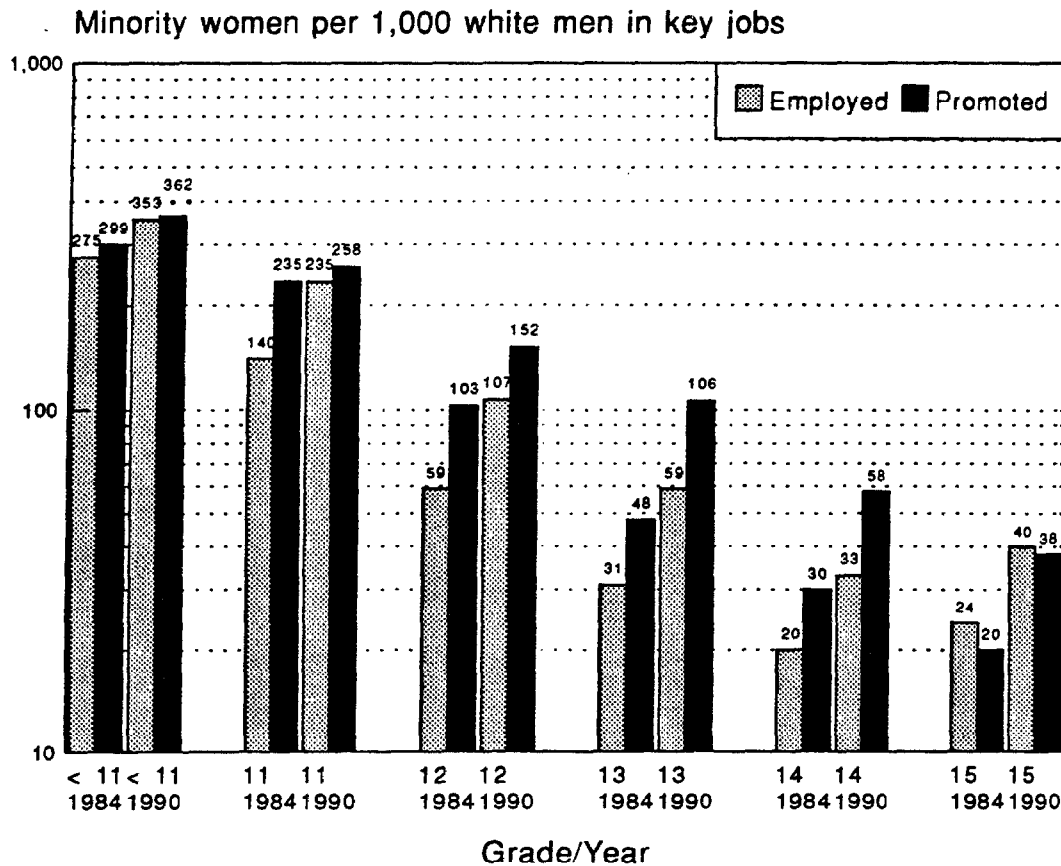


Figure 6: Number of Minority Women per 1,000 White Men Employed in and Promoted to Different Grades in Key Jobs, Fiscal Years 1984 and 1990



Clearly, for the years examined, there was general improvement in the relative number of women and minorities in key jobs and in the upper grades of those jobs. Nevertheless, certain disparities remained.

Women and minorities were still less well represented in key jobs at upper grades than at lower grades. For example, for every 1,000 white men working in key jobs at grade 10 or below in 1990, there were 1,390 women and minorities similarly employed. At grades 13, 14, and 15 in the same year, for every 1,000 white men working in key jobs, there were 343 women and minorities.

Many factors probably contribute to or explain these disparities. Identifying these factors and assessing their impact were beyond the scope of our March report.⁶

However, civil rights groups, we understand, have told the Committee that the current discrimination complaint processing system may often function as a negative factor--a barrier--to the career advancement of women and minorities. Specifically, an employee who raises a discrimination complaint may later receive unfavorable performance ratings and unfavorable job assignments, all of which block career advancement. In connection with the Committee's concerns about allegations of the mishandling of sexual harassment complaints at BATF, you asked us to examine BATF's procedures and practices for investigating and resolving sexual harassment and other equal employment opportunity (EEO) complaints.

PROGRESS OF WOMEN AND MINORITIES
IN BATF'S CRIMINAL INVESTIGATING
OCCUPATION

A key occupation at BATF is criminal investigating (GS-1811 occupation series). For purposes of this hearing, and to gain insight into women and minority representation in BATF's criminal investigating occupation, we examined this occupation using the same methodology as in our March report.

After decreasing in size in the early 1980s, BATF has grown since then. The number of criminal investigators increased from roughly 1,200 in September 1984 to slightly more than 2,000 in September 1992.⁷ Based on our analysis, we can make several general observations about BATF's criminal investigating workforce.

--Women and minorities were far better represented in 1992 than in 1984. In 1984, there were 2.5 women and 6.8 minorities for every 100 white male criminal investigators. By 1992, those numbers had risen to 14.6 women and 23.7 minorities for every 100 white male investigators.

⁶In a separate, ongoing study, we are reviewing how federal agencies go about identifying and addressing barriers to the hiring and advancement of women and minorities. This review is being done at the Committee's request.

⁷These are the number of investigators up through grade 15. Because the numbers of criminal investigators were so small when categorized by race, national origin, gender, and grade, we combined categories in order to be able to make observations. Minority women are counted in two categories: women and minorities.

--At grades 13 through 15, where promotions are competitive, women and minorities were promoted in slightly higher numbers, relative to white men, than the numbers at which they were employed. In 1992, when there were 6 women and 14 minorities employed at those grades for every 100 white men so employed, there were 10 women and 18 minorities promoted for every 100 white men promoted.

--In spite of these favorable changes, in 1992 women and minorities remained less well represented at upper grades than lower grades. There were 25 women and 35 minorities for every 100 white men at grade 12 and below compared with 6 women and 14 minorities for every 100 white men at grades 13 through 15.

OBSERVATIONS ON BATF'S RESOLUTION OF SEXUAL HARASSMENT AND OTHER EEO COMPLAINTS

Our Office of Special Investigations examined BATF's procedures and practices for investigating and resolving EEO complaints, with an emphasis on complaints of sexual harassment. Specifically, we reviewed 11 reported incidents and interviewed over 50 current and former BATF and Treasury Department personnel and private attorneys in 7 states and the District of Columbia. BATF's cooperation and responsiveness in ensuring unrestricted access to personnel and documents greatly facilitated our work.

I will summarize here our major observations about BATF's complaint investigation procedures and practices and provide a comprehensive statement for the record.

In brief, BATF has not adequately developed, implemented, or communicated the role of its Offices of Internal Affairs, Equal Employment Opportunity, and Law Enforcement in addressing incidents of alleged sexual harassment and other discriminatory behavior. This has, on occasion, resulted in separate inquiries of the same incident by these offices. The following concerns and observations have surfaced from among the employees we interviewed or from our analyses about the confidentiality, objectivity, and independence of some of BATF's inquiries that we reviewed.

--The exchange of information about sexual harassment and other complaints among the three BATF offices has created among BATF employees a perceived lack of confidentiality during the internal investigative processes. For example, the identity of an individual who filed an anonymous informal EEO complaint about sexual harassment became apparent to the alleged harasser through offices' sharing of information.

--The procedural rights afforded alleged victims of sexual harassment may differ depending on which of the three BATF offices inquires into the incident. For example, under EEO

regulations, complainants have the right to representation during the EEO process. On the other hand, Internal Affairs policy and practices, in a noncriminal inquiry, permit the investigating agent to deny individuals the opportunity to have anyone present during an interview. According to information we gathered from interviews and affidavits, a complainant we spoke with had asked for a BATF employee to be present during the complainant's initial Internal Affairs interview about alleged sexual harassment. The Internal Affairs investigator, however, denied the request.

- In a limited number of cases, our examination revealed different findings in BATF's internal reviews from those in the external reviews done by Treasury and our investigators. In one case, for example, an Internal Affairs investigation into a sexual harassment complaint developed no evidence from other employees who allegedly had been similarly harassed by the individual accused in the case. However, an external EEO investigator was able to develop evidence that the individual had harassed another employee and that at least one manager knew about it.

- From our discussions with complainants and BATF internal investigators and our review of case files, several concerns surfaced about the techniques used by BATF internal investigators. For example, internal investigators (1) used investigative techniques considered insensitive by some of the complainants, (2) destroyed investigative interview notes that could have been used to resolve later disagreements between the investigator and the interviewee, and (3) failed to interview individuals with relevant information.

- Although the BATF Director has issued a policy requiring a harassment-free workplace, enforcement of the policy varied from office to office. For example, some employees told us that harassing conduct still occurs in their offices, while others indicated that management at their location had taken aggressive steps to ensure compliance.

The BATF Director recently tasked a group to help BATF develop a better program for combating discrimination, sexual harassment, and reprisals. He asked the group to assess (1) the degree to which BATF's present system discourages or encourages employee participation, (2) the comprehensiveness of BATF's existing training programs, (3) the uniformity and seriousness of actions taken in response to findings of discrimination, and (4) the degree to which current and departmental policies and guidelines contribute to any weaknesses disclosed. The task group has not yet completed its work; it expects to do so in June.

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I would now welcome any comments or questions that you may have.

AGENCIES INCLUDED IN THIS STUDY

We reviewed the gender, race, and ethnic origin of people in 262 key jobs at 25 federal agencies. During the phase of our work that resulted in our May 1991 testimony, we reviewed the most recent multiyear affirmative employment plans, covering fiscal years 1988 through 1992, for the 34 largest federal agencies. In fiscal year 1988, these agencies collectively employed about 98 percent of the federal workforce. At the request of the Senate Committee on Governmental Affairs, we also included the National Archives and Records Administration's affirmative employment plan in our review.

Twenty-seven of the 35 agencies complied with EEOC requirements and identified major occupations in their multiyear affirmative employment plans. Eight did not. For this phase of our review, we categorized the major occupations of the 27 agencies into key jobs using a definition approved by EEOC. This definition eliminated clerical jobs and jobs with less than 100 employees. EEOC described key jobs as those with 100 or more employees that offer advancement potential to senior-level positions.

CPDF data were available to analyze the key jobs of 25 of the 27 agencies. The data were unavailable for the remaining two agencies. Following is a list of the 25 agencies whose key jobs we reviewed.

Department of Agriculture
Agency for International Development
Department of Commerce
Defense Logistics Agency
Defense Contract Audit Agency
Defense Mapping Agency
Defense Investigative Service
Department of Justice
Department of Energy
Department of Education
Equal Employment Opportunity Commission
Environmental Protection Agency
General Services Administration
Department of Health and Human Services
Department of Housing and Urban Development
United States Information Agency
Department of the Interior
National Archives and Records Administration
Nuclear Regulatory Commission
Department of the Navy
Office of Personnel Management
Small Business Administration

APPENDIX

Department of Transportation
Department of the Treasury
Department of Veterans Affairs

APPENDIX

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