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## Essay

### How and Why Flexible Work Weeks Came About

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Connecticut Law Review is pleased to include this Essay authored by Riva Poor, whose 1970 book—4 days, 40 hours: Reporting a Revolution in Work and Leisure—played an important role in early experimentation with work weeks other than the traditional five-day, forty-hour week, experiments that today encompass nearly one-third of the United States' work force. Drawing on her research for the book and on her many decades as a management consultant, this Essay outlines a multitude of contexts in which the needs of organizations, as well as those of their employees, have been better served by the organizations' adoption of non-traditional work schedules. This Essay concludes that the critical insight to emerge from the last forty years of these newer work weeks is the re-conception of an organization's work schedule not merely as hours of work, but, far more importantly, as a management tool that can serve the specific interests of both an employer and its employees, and sometimes also of society.

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# How and Why Flexible Work Weeks Came About

RIVA POOR\*

## I. INTRODUCTION: THE PAST

The history of work was for eons unchanged, consisting of relentless daily toil. With the advent of the Industrial Revolution and organized labor, work slowly began to change. Machines increased productivity, and organized labor pushed hard to have at least some of this productivity applied to reducing daily toil. Shorter work hours came about primarily through conflict, often bloody, between labor and owners.<sup>1</sup> When these conflicts were resolved in favor of labor, the shorter hours were codified by legislation, which helped advance labor's gains nationally.

Around 1800, the work week averaged nearly seventy hours, and by 1900, sixty hours were the norm. Then, for a time, change accelerated—around the 1920s, the 5½-day, forty-four-hour work week became standard, followed in the 1940s by the five-day, forty-hour work week (“5/40”).<sup>2</sup>

By 1970, when I published the book *4 days, 40 hours: Reporting a Revolution in Work and Leisure*,<sup>3</sup> 5/40 had been around for so long and was so pervasive that the mere prospect of any other schedule struck all but the eldest among us as revolutionary. By then, almost all work had been fitted into five eight-hour days, good fit or not. A relatively small number of workers, however, had been on a four-day, forty-hour work week (“4/40”) for nearly three decades—primarily truck drivers delivering commodities such as oil and gasoline—but their 4/40 went virtually unnoticed beyond their industries.

Publication of my 1970 book fired people's imaginations. Thousands of newspaper and magazine articles were written about 4/40; including

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<sup>1</sup> The Pinkerton Detective Agency maintained armed forces that it hired out to industry for these conflicts. The 1892 battle at Andrew Carnegie's Homestead, Pennsylvania steel plant, during which nine people died, is a memorable example. Public shock led to Mr. Carnegie's denying culpability (falsely) and sanctioning the plant manager who had only followed his orders. Incidents of this sort turned a previously sleeping public pro-labor, leading to pro-labor changes in work conditions, including work hours. See American Experience, The Homestead Strike, <http://www.pbs.org/wgbh/amex/carnegie/peopleevents/pande04.html> (last visited Apr. 12, 2010).

<sup>2</sup> Robert Whaples, *Hours of Work in U.S. History*, ECON. HIST. ENCYCLOPEDIA, Aug. 14, 2001, <http://eh.net/encyclopedia/article/whaples.work.hours.us>.

<sup>3</sup> 4 DAYS, 40 HOURS: REPORTING A REVOLUTION IN WORK AND LEISURE (Riva Poor ed., Bursk & Poor Publishing 1970).

syndicated columns such as “Ann Landers.” I was invited to do guest appearances on over 200 television and radio shows and to give keynote speeches at hundreds of annual meetings of business and professional organizations.

With such extraordinary media attention, few Americans could fail to notice the new schedules. Soon, instead of management introducing these schedules to workers, workers introduced them to managers.<sup>4</sup> The pace of conversions to these schedules quickened, and additional work week designs evolved such that by 1973, when I published my second book, I titled it, *4 days, 40 hours and Other Forms of the Rearranged Workweek*.<sup>5</sup> Now it was clear that 4/40 was by no means the only new schedule, or even the main one. The new schedules included 4/39, 4/38, down to the 4/32 that organized labor had so long worked toward: three-day weeks (3/37½, 3/36); three days one week, four days the next (averaging thirty-five hours per week); four days on, four days off (averaging forty hours per week); job sharing; staggered work hours; long weekends during warm months only; and even individual schedules, as long as they added up to the organization’s norm.<sup>6</sup>

These changes were accomplished peacefully, through negotiation between the parties, rather than through the bitter conflicts of earlier centuries; and now Washington’s response was to legalize whatever schedules the parties had already agreed to and put into effect across the nation. In 1971, with respect to the longer work days of the new compressed work weeks, Congress held hearings on eliminating the laws that barred women from working more than eight hours per day.<sup>7</sup>

Meanwhile, the U.S. Department of Labor (“DOL”) avidly tracked organizations on 4/40 schedules and continued doing so for decades, reporting in 1987 that “[t]he conventional ‘compressed workweek’ (full-time work completed in under 5 days) has been growing at an accelerated rate. While overall employment growth between 1979 and 1985 was 16 percent, this scheme grew more than four times as rapidly.”<sup>8</sup>

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<sup>4</sup> Personal communications from union and non-union employees by letter and telephone, as well as at talks I gave from 1971 to 1973.

<sup>5</sup> *4 DAYS, 40 HOURS AND OTHER FORMS OF THE REARRANGED WORKWEEK* (Riva Poor ed., New American Library 1973). This volume contains two books: the original book, *4 days, 40 hours*, edited by Riva Poor, and a new book, *The Rearranged Workweek 2 Years Later*, written by Ms. Poor.

<sup>6</sup> I learned of these schedules through personal communications with various company managers in the early 1970s.

<sup>7</sup> See 117 CONG. REC. 23, 30232–30233 (1971) (statement of Sen. Cook) (introducing an amendment to the Walsh Healey Act that permits workers to work in excess of eight hours per day). As far as the author recalls, the organizer of these hearings was Mr. Alan Greenspan.

<sup>8</sup> Shirley J. Smith, *The Growing Diversity of Work Scheduling*, MONTHLY LAB. REV., Nov. 1986, at 7, 10.

## II. TODAY

Today, compressed work weeks abound, but the DOL no longer tracks them; instead, the DOL tracks what people are far more interested in: flexible hours and flextime (i.e., the ability of employees to vary their beginning and ending hours),<sup>9</sup> options made feasible by today's great variety of schedules and the variety of possibilities within some of these schedules. In 2004, the DOL reported that nearly one-third of the American work force—over thirty-six million people—was on flexible hours (of which, some twenty-five percent were part-timers).<sup>10</sup>

A recent scheduling innovation that the Internet has made possible is telework. With telework, employees perform between some and nearly all of their work away from their employers' sites; usually working out of their own homes, but with equipment (e.g., telephones, computers, desks) supplied by their employers. Generally, employees still commute to their organizations' sites a few days per week. Still, there is a significant reduction in commuting and, therefore, a concomitant reduction in inner-city congestion. Today, the U.S. Office of Personnel Management ("OPM") reports that 102,900 federal employees are on telework,<sup>11</sup> and AT&T reports that 140,000 of its employees are on telework.<sup>12</sup>

Of interest are the numerous goals, both public and private, that OPM states are furthered by telework:

Telework clearly has important implications for individuals and even entire communities. Programs have been shown to help individual employees successfully balance the responsibilities of work and family, increase the safety of neighborhoods, and reduce pollution. . . . [W]ith the cost of gas again on the rise [telework] has become a critical tool in the struggle to balance stretched family budgets; with the threats of new strains of influenza, it provides an effective resource in the face of possible pandemic; as our Nation searches for ways to conserve energy, telework provides a valuable asset towards establishing green workplaces.<sup>13</sup>

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<sup>9</sup> See Terence M. McMenamin, *A Time To Work: Recent Trends in Shift Work and Flexible Schedules*, MONTHLY LAB. REV., Dec. 2007, at 3, 3 (examining data from the "Work Schedules and Work at Home" survey, a special supplement to the Current Population Survey conducted in May 2004 by the Division of Labor Force Statistics, Bureau of Labor Statistics).

<sup>10</sup> *Id.*

<sup>11</sup> U.S. OFFICE OF PERS. MGMT., STATUS OF TELEWORK IN THE FEDERAL GOVERNMENT 2 (2009), available at [http://www.telework.gov/Reports\\_and\\_Studies/Annual\\_Reports/2009teleworkreport.pdf](http://www.telework.gov/Reports_and_Studies/Annual_Reports/2009teleworkreport.pdf).

<sup>12</sup> AT&T BUS. SOLUTIONS, NETWORKING FOR SUSTAINABILITY: THE NETWORK OFFSET EFFECT 18 (2009), available at [http://www.att.com/Common/about\\_us/files/pdf/AT&T\\_SustainabilityWhitePaper.pdf](http://www.att.com/Common/about_us/files/pdf/AT&T_SustainabilityWhitePaper.pdf).

<sup>13</sup> John Berry, *Message from the Director*, in U.S. OFFICE OF PERS. MGMT., *supra* note 11.

Again with hindsight, it is now clear that the real innovation was not 4/40 or any other of the many schedules that proliferated after 1970. The innovation was that of tailoring an organization's work schedule to the work it does and to the people doing it, instead of haphazardly fitting work and people into a standard schedule that may suit neither of them. In short, the real innovation in the 1970s was utilizing work scheduling itself as a management tool.

And this is what the innovation remains today, forty years later. Currently, many organizations tailor their work schedules to organizational goals as long as the schedules also suit their employees. Thus, for instance, the goals of the current 4/40 experiment instituted by Utah's governors—Jon Huntsman (formerly) and Gary Herbert (currently)—are to save energy for both the state government and its employees, while offering employees long weekends and the public several later hours of service per day.<sup>14</sup> The goals of the 4½-day schedule of the City of Cambridge, Massachusetts, are similar, offering city employees a 2½-day weekend and the public evening access once per week.<sup>15</sup>

Saving energy—of great concern today—was of no great interest in the early 1970s until 1974 when we found ourselves starved of gasoline. Likewise, quality of life—also of great concern today—was of no great interest in the early 1970s when one parent with one job could support an entire family. But now that both saving energy and improving quality of life are very much our concerns, thoughtfully designed work schedules becomes a means of addressing them. Moreover, as goals continue to change over time, thoughtfully designed work schedules can remain the means of effectuating them.

Why did the use of scheduling as a management tool proliferate? The answer is that work schedules tailored to the needs of both the work and the workers at hand are win-win moves: they leave both employees and employers better off.

### III. HOW DO TAILORED SCHEDULES LEAVE EMPLOYEES BETTER OFF?

The main benefits to employees of work schedules that are tailored to both work and workers are a greater choice of work hours and a repackaging of leisure hours that most of us find more useful. On the benefit of greater employee choice, Nobel Laureate Paul A. Samuelson wrote, "As an economist, I find most interesting about [the new scheduling] the fact

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<sup>14</sup> See Rex L. Facer II & Lori L. Wadsworth, *Four-Day Work Weeks: Current Research and Practice*, 42 CONN. L. REV. 1031, 1041–46 (2010).

<sup>15</sup> For the hours of operation for Cambridge City Hall, see City of Cambridge Home Page, <http://www.cambridgema.gov/> (last visited Apr. 12, 2010).

that it offers new variety of choice in an area where modern man has had the fewest personal options.”<sup>16</sup>

Most of us find the new packages of leisure hours more valuable for our personal lives; enough so that we are happy to trade longer work days for them, change our commutes, and even devote precious home space to home offices. Indeed, one study reports that nearly eighty percent of employees on compressed work weeks are pleased with their schedules.<sup>17</sup> The most obvious benefits of long weekends and/or fewer commutes include greater opportunities for leisure, more time with family, and increased ability to engage in other social activities such as volunteering, dating, visiting friends, exercising, and so on. But there are economic benefits as well, namely, fewer commutes mean lower commuting expenses and greater time savings. Also, some employees enjoy the increased opportunity for education, especially if its purpose is to gain credentials for more lucrative and/or more satisfying employment. Others appreciate the increased opportunity to work overtime and still have a weekend, while some value the increased opportunity to moonlight.

A third type of benefit—often overlooked—is that the new schedules by and large entail fewer work hours without reductions in take-home pay, and often, with increases. Relatively few of the new schedules, even of the compressed work week type, maintain forty-hour weeks. Because the new schedules tend to make work more productive, work hours are often reduced without negative impact on the organization. Indeed, Part IV explores very specifically how tailoring an organization’s work hours to the required work can make work more productive, thereby allowing reduced hours without reduced take-home pay—indeed, often with increased pay.

#### IV. HOW DO TAILORED SCHEDULES LEAVE ORGANIZATIONS BETTER OFF?

For most organizations, tailoring a schedule to meet the exigencies of the work at hand tends to make the organization more productive (always provided that employees are amenable to the change). And for business, greater productivity means greater profits. Exactly how tailoring work

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<sup>16</sup> Paul A. Samuelson, *Foreword* to 4 DAYS, 40 HOURS AND OTHER FORMS OF THE REARRANGED WORKWEEK, *supra* note 5, at 3, 3.

<sup>17</sup> Facer & Wadsworth, *supra* note 14, at 1036. In 1970, I read and collated over 100 protocols answered by employees of the Kyanize Paint Company, located in Everett, Massachusetts, with the same results. That the statistics today are fully congruent with my statistics of forty years ago is most likely due to: (1) the fact that the approximately three dozen companies I studied in 1970 constituted nearly the entire universe of such companies at the time (i.e., there was no opportunity for “sampling error”); and, since human nature does not change, (2) the research results of both eras accurately reflecting people’s reactions to these schedules.

schedules increases productivity depends on the type of work and the type of work force. Here follow several examples, in no particular order.

- For organizations finding difficulty recruiting enough employees and/or skilled enough employees, offering long weekends or other scheduling amenities provides an advantage in hiring. For example, a tool and die company in a farming community created a four days on, four days off schedule to allow people to work their farms while holding down their jobs. This schedule allowed the company to recruit highly qualified employees, which in turn resulted in better utilization of capital equipment and, thus, greater profits.
- For batch processors on a five-day schedule, changing to a four-day schedule means fewer set-ups and clean-ups, resulting in a twenty percent reduction in these costs. If set-up and clean-up times are large, as they are for instance in manufacturing paint, the resultant increase in profits can be substantial. Kyanize Paint Co., of Everett, Massachusetts, one of the early 4/40 pioneers, found its compressed work week so lucrative that it was able both to increase employees' take-home pay and to cut their work hours while still increasing profits for the business.
- For oil companies, a ten-hour drive (as opposed to an eight-hour drive) permits twenty-five percent longer routes, while the two hours between shifts permit more time for truck repair and maintenance, resulting in fewer breakdowns. Thus, 4/40 means optimum utilization of extremely costly capital equipment (i.e., the trucks).
- For companies whose customers tend to buy mostly on four particular days of the week (e.g., automobile tires, women's clothing), staying closed the other three days saves overhead and, on the open days, makes wages and salaries more productive (e.g., more time waiting on customers; less time waiting for them to appear). Designers' Circus, a women's clothing enterprise in Brighton, Massachusetts, runs a number of unusual schedules, among them three 4/40 weeks in Brighton followed by similar stints in Portland, Maine, and elsewhere, all with weeks off in between, thereby reaching a larger clientele, avoiding over-exposure of merchandise, and increasing employee leisure hours.

- For organizations operating twenty-four hours per day, seven days per week, but with daily peaks and valleys in demand (e.g., hospitals, police departments, huge food markets), 4/40 and similar arrangements can schedule more workers during hours of high demand and fewer during slack hours. For hospitals, the benefits include better transfer of information between shifts and less absenteeism, the latter meaning less need to add part-timers to established teams. Both improve the quality of patient care.
- For large organizations in large cities (e.g., banks, insurance companies, government offices), staggered work hours spread out commuting hours while telework also reduces commuting hours. Both reduce downtown congestion, making for a more attractive commute, and thus, greater ease in hiring and/or retaining employees. Moreover, such an organization can increase its work force substantially without increasing extremely expensive downtown office space (more intensive utilization of capital equipment).
- For companies with extensive overtime, scheduling its overtime on a fifth day, instead of a sixth, allows employees a two-day weekend, increasing their willingness to work overtime.
- For companies whose sales depend on their ability to fill orders quickly, longer workdays allow faster throughput.
- For many highly skilled workers, fewer work days are highly desirable whether the purpose is to carry on two types of activities (e.g., both research and practice) or simply for long weekends. One of my physicians works three consecutive nine-hour days and devotes his four-day weekends to art work and his family.

While we know that the organizations save energy, we do not yet know if there is an overall savings in energy for society when governments and businesses close work sites an extra day per week by instituting telework or compressed work weeks. These scheduling changes may simply shift energy usage from organizations to their employees. That is, for all we know, employees may use more heat, air conditioning, and lights while staying home an extra day or more. We also do not know if employees take more frequent and/or longer automobile trips on their longer

weekends. We must look for answers to the research of investigators such as Professors Rex Facer and Lori Wadsworth<sup>18</sup> and those who follow them.

Flexible schedules tend to offer sufficient increases in productivity such that organizations can and do offer fewer hours of work for the same or even better pay, whether work hours are reduced directly (as, for instance, in cutting work hours from forty per week to thirty-six) or indirectly (as in cutting the number of trips employees make to the organization's site). As to the effect on energy savings for society at large, we must wait and see.

#### V. SUMMARY

“The timing of work is continually evolving.”<sup>19</sup> Some 200 years ago when work hours began to decrease, they did so primarily through physical conflict between labor and owners, conflicts whose resolutions, when pro-labor, were codified by legislation that tended to standardize work schedules, which were not particularly fitting for all organizations and workers. In contrast, recent reductions in work hours, as well as other changes in the timing of work, have come about peaceably through tailoring work schedules to the specific needs of both the management and the labor at individual organizations. These are win-win arrangements. And the ensuing legislation has been permissive of changes already adopted, rather than forcing change. Such tailoring of work schedules results in a greater variety of schedules, rather than in stultifying uniformity; and these schedules often reduce the work hours, the shorter hours coming with no sacrifice in pay, but rather, in many cases, with increases in pay.

Professors Vicki Schultz and Allison Hoffman argue very persuasively for shorter work hours for the sake of both family life and also the mental health of individuals.<sup>20</sup> But they do not offer a practicable means for making these changes come about. It is nearly impossible today to force fewer work hours on organizations since organizations will shut down if output diminishes sufficiently. Organizations, however, can, will, and do volunteer to reduce work hours when they see advantages to doing so. Since tailoring the work schedule to the particular work of an organization and its particular workforce most often results in increasing productivity and/or other management goals while at the same time reducing work hours and/or commuting time and increasing take-home pay (or keeping it the same), such tailoring provides precisely the advantages that

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<sup>18</sup> See generally Facer & Wadsworth, *supra* note 14.

<sup>19</sup> McMenamin, *supra* note 9, at 11.

<sup>20</sup> See Vicki Schultz & Allison Hoffman, *The Need for a Reduced Workweek in the United States*, in *PRECARIOUS WORK, WOMEN, AND THE NEW ECONOMY: THE CHALLENGE TO LEGAL NORMS* 131, 149–51 (Judy Fudge & Rosemary Owen eds., 2006).

organizations value. Thus, people interested in creating shorter work hours would perhaps best advance their cause by acquainting both managers and employees with the benefits of utilizing scheduling as a management tool.