THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DURING THE ADMINISTRATION OF PRESIDENT LYNDON B. JOHNSON

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

WASHINGTON, D. C.

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PUBLIC HEARING ON EEOC's PROPOSED
APPRENTICESHIP REPORT, FORM EEO-2,
AND LABOR ORGANIZATION REPORT,
FORM EEO-3, AND INSTRUCTIONS.

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Washington, D. C.

21 March 1967

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NATION-WIDE COVERAGE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Washington, D. C.

PUBLIC HEARING

on

EEOC's Proposed Apprenticeship Report,

Form EEO-2, and Labor Organization

Report, Form EEO-3, and Instructions

BEFORE:

Dr. Luther Holcomb, Vice Chairman

Samuel Jackson, Commissioner

Dr. Pauli ~~ne~~ Murray, Consultant

Charles B. Markham, Director of Research

Herbert Hammerman, Acting Chief, Reports Division

Richard Berg, Esq., Office of General Counsel

10:00 a.m.,
Conference Room,
Smithsonian Institution,
Museum of History and Technology,
Washington, D. C.

Tuesday, 21 March 1967

C O N T E N T S

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MR. HOLCOMB: If we may have the attention of everyone, we will begin the hearing.

My name is Luther Holcomb, Vice Chairman of the Equal Opportunity Employment Commission. Our Chairman, Stephen N. Shulman, is unable to be with us this morning because of a previous commitment which takes him out of the city, and he has asked me to preside over this session.

As you know, the Commission is holding this public hearing as required by Section 709(c), Title VII of the Civil Rights Act of 1964. The purpose of this hearing is to afford an opportunity for interested persons to give their views on the Commission's proposed apprenticeship information report, Form EEO-2 and labor organization Form EEO-3, together with instructions and regulations which have been designed by the staff for use by EEOC in carrying out its statutory functions and responsibilities under the provisions of Title VII.

Due notice of this hearing was published in the Federal Register on February 14th, 1967. Notice of the postponement of the hearing date from March 7th to March 21st, 1967 was published in the Federal Register on February 28th, 1967.

On behalf of the Commission and its staff, I want to welcome you and to express our appreciation to each of you for your presence and for taking time to participate in our deliberations on these proposals. We feel sure that the

Commission will profit from the questions and the discussions which follow the presentation of the reporting systems now under consideration.

At this point, I would like to introduce my fellow Commissioner, Samuel Jackson, whom many of you already know and members of the Commission staff who will be available to answer questions.

Sam, do you want to make your one-hour speech now?

MR. JACKSON: We'll defer that.

MR. HOLCOMB: All right. Well, we will be glad to hear from you.

Now may I have the privilege of introducing different members of our staff?

Mr. Richard Berg, to my right, who is acting general counsel.

Dr. Pauli Murray, at the left end of the table here. Will you take a bow, Dr. Murray, so that all can see you?

She is consultant to the Office of Research.

Mr. Charles Markham, whom you will be hearing later, at the other end of the table.

Mr. Herbert Hammerman, chief of reports.

In order to facilitate our deliberation and cover as much ground as possible today, I suggest the following procedure:

Mr. Charles B. Markham, Director of the Office of Research, will explain the background for the development of the apprenticeship report Form EEO-2 and Labor Organization report form EEO-3, from the point of view of the staff and will summarize the written statements submitted by persons who were unable to be present at this hearing.

Mr. Herbert Hammerman, chief of reports, will then present an analysis of the EEO-2 form and explain the problems involved. A half hour question and answer period will follow in which questions may be put to members of the staff who have participated in the development of this form.

Mr. Hammerman will then present a similar explanation of Form EEO-3, which will also be followed by a half hour question period.

This period will be followed by statements of those who wish to be heard; first those who have given advance notice of their desire to speak will be heard in alphabetical order. Second, others will be recognized from the floor. Statements will be limited to 15 minutes for each person, but the other rules for the conduct of the hearing have been provided to you.

Following this hearing, the Commission will deliberate on the views expressed today and make whatever modifications of these reporting systems it deems appropriate. The proposals will then be presented to the Bureau of the Budget for further approval -- for approval. If approved, the forms will then be issued in official form.

The proposed filing date for the apprenticeship report, Form EEO-2, is August 31st, 1967. The proposed filing date for Labor Organization Report Form EEO-3 is October 31st, 1967. Copies of these proposed forms are near the platform for those of you who do not have them.

The record of the hearing will remain open for ten days for the submission of additional statements.

Now before we hear from Mr. Markham, Mr. Markham, do you want to explain about Mrs. Marshall?

MR. MARKHAM: Mrs. Marshall or Miss Robinson from the research staff will be seated in the front row and will have two cards for use in advising the Chairman and the speaker of the time. A white card will be held up when there is one minute to go and a green card will indicate that the time period involved has expired.

MR. HOLCOMB: If any of you are color blind, then I will come to your aid. None of these will apply to Commissioner Jackson, of course.

All right, Mr. Markham.

STATEMENT OF CHARLES B. MARKHAM, DIRECTOR OF RESEARCH.

MR. MARKHAM: Mr. Chairman, I don't know that we are meeting under the best auspices this morning--

MR. HOLCOMB: You had better explain that.

MR. MARKHAM: It's gloomy outside. There's a jack-hammer going downstairs, and we're meeting in a museum. I don't know what this means, but I suppose we'll soon find out.

First, I would like to offer for the record a number of written statements that we have received pursuant to the official notice. I will summarize them briefly. These were statements received through yesterday afternoon at 5:30. They are two endorsements of the proposals from the Missouri Commission on Human Rights, and the City of Chicago Commission on Human Relations.

Very briefly, their points are that these forms are essential to implementation of Title VII; that membership referral and apprenticeship practices of labor organizations are a matter of legitimate concern to Fair Employment Practices agencies; and that the information obtained will be invaluable to State and local FEP agencies.

There are a number of statements in opposition, I think approximately 14. Eleven of them relate to EEO-2, the apprenticeship form, and three relate to both EEO-2 and 3.

These have been received from the following organizations: The Crowder Construction Company, Charlotte, North Carolina;

Joint Apprenticeship and Training Committee, Southern California;

Carpet Linoleum and Soft Tile Crafts, Los Angeles, California;

Volkswagen Pacific, Incorporated, Trade Apprenticeship and Training Committee, Culver City, California;

Nine local unions in Stockton, California;

The 42 Counties' Carpenters Joint Apprenticeship Training Council, Santa Rosa, California;

The Joint Apprenticeship Training Committee, Plumbers and Pipefitters, Burbank, California;

The Joint Electrical Apprenticeship Committee, Omaha, Nebraska;

Retail Meat Cutters Joint Apprenticeship Committee, Los Angeles, California;

Coordinating Council of Apprenticeship Committees for the Painting Industry of Los Angeles, California;

The Lathing Institute of Southern California;

The State Apprenticeship Council, State of Maine;

And the State Council of the United Brotherhood of Carpenters and Joiners, Portland, Oregon.

And the following are the comments from one or more of these organizations:

The proposal -- I must repeat that most of their comments are directed to EEO-2.

They contend that the report would be burdensome on small companies or programs where the management or operation of the program is voluntary;

That the added costs could mean abandonment of the training program.

They protest this additional form of Federal encroachment.

They contend that the proposals or the forms are not necessary since the unions involved have no discriminatory clauses in membership applications, apprenticeship standards and bargaining agreements.

The forms would add to the onerous burden of bureaucratic red tape.

They represent militaristic regimentation.

It is contended they are not necessary since the organization involved is abiding by Title VII.

It is said that they are an unnecessary and cumbersome annoyance;

That "we operate a voluntary program already so deluged with procedures and recordkeeping that a fulltime operating office is required."

And finally, that the reporting proposals are burdensome, unethical, and incompatible with the Federal standards of Bureau of Apprenticeship and Training, and unconstitutional.

I would like now to set forth the legal basis for the reporting and record-keeping requirements, and I will read Section 709 (c) of Title VII, which provides:

"Except as provided in subsection (d), every employer, employment agency, and labor organization subject to this title shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom, as the Commission shall prescribe by regulation or order, after public hearing, as reasonable, necessary, or appropriate for the enforcement of this title or the regulations or orders thereunder."

The section continues:

"The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received, and shall furnish to the Commission, upon request, a detailed description of the manner in which persons are selected to participate in the apprenticeship or other training program."

I would note that the Hawkins Bill which was passed by the House of Representatives, April 27th, 1966, but not considered by the Senate so far, is even more stringent in its provisions respecting apprenticeship surveys. It directs the Commission to make a continuing survey of apprenticeship programs and to make a "full and complete quarterly report to the Congress, containing the results of such survey during the preceding three months."

I would like now to explain the history of these two reporting proposals.

That history begins at least as early as June 15th, 1965, when I arrived in Washington and in about ten minutes was given the assignment of examining Section 709(c) and preparing recommendations to the Commission for action implementing that section.

During the next two months, the Office of Research which consisted of myself at the time, engaged in discussions with all interested persons with respect to this statute, with business groups, labor groups, civil rights organizations, State and local FEP agencies, and other Federal agencies, for the purpose of exploring the entire situation with respect to reporting and record keeping.

Specifically, during this period I had a discussion with representatives of the AFL-CIO and the Construction Industry Joint Conference. At the White House Conference sponsored by this Commission August 19th and 20th, 1965, the staff presented for discussion a full set of reporting and record-keeping proposals with respect to all persons subject to the law. These were discussed and, I may say, discussed very vigorously at four workshops during those two days.

There was a representative of the union movement and of employers appearing as a panelist at each of these workshops and also in the audience.

Following the White House Conference, the staff reappraised the situation and on September 30th, 1965, the Commission approved a proposed apprenticeship form then known as Form X. It is somewhat similar to the form we have today.

On the same date, the Commission adopted a policy statement with respect to a labor organization reporting form which I will read to you now, and this states:

"It will be the policy of the Commission to require an annual report of any labor organization covered by Title VII where membership in or referral by such organization serves as the 'gateway to employment' for any individual.

"Accordingly, labor organizations

maintaining hiring halls or other arrangements in which they effectively control the hiring process shall file annual reports indicating the sex and racial or other minority group breakdown of their membership to the extent the members thereof are subject to such an arrangement. Where referrals are made by such a union, a tally shall be made and preserved of the race and sex of union members and non-members who are referred to employment, and reports showing the totals so obtained shall be filed annually."

It was recognized in this policy statement that in view of the variety of organizational patterns and practices, and the complexities inherent in the trade union structure, that a reporting form embodying these principles must be carefully developed in order to render a reporting system as described, meaningful and effective.

The staff was instructed to proceed with the development of such a system.

Shortly thereafter, the proposed apprenticeship form was circulated formally to the AFL-CIO and the Construction Industry Joint Conference. Simultaneously, research was initiated on the union form.

Between the months of January and May, our staff had five meetings with representatives of the Construction

Industry Joint Conference. Now these meetings were considered appropriate because it was felt that the response to form EEO-2, as "X" had since become known, would primarily come from the organizations affiliated with CIJC.

During this period we also had a few conferences with AFL-CIO representatives of a purely exploratory nature. No form had yet been drafted.

Meanwhile, EEO-2 was also circulated to the Department of Labor for comment on February 8th. Many constructive suggestions were made during these meetings with respect to EEO-2. We accepted many of them and finally the report was submitted to the Bureau of the Budget in August.

Now there were two major changes in this report adopted at the request of the Construction Industry Joint Conference at the time the proposal went to the Bureau of the Budget. First, we expanded the reporting system to cover not only joint labor-management committees but all apprentice programs operated unilaterally by employers or unions, regardless of industry.

And the second major step was that we authorized means other than a visual survey for making the identification necessary to complete the form which was a step not contained in the employer system; and it was represented to us and we believe that in the apprenticeship situation visual surveys are frequently impossible to make.

Meanwhile, by September and October we had a draft of Form EEO-3 which had been circulated among the staff members. We had two conferences with representatives of the AFL-CIO in November and January and again, many constructive suggestions were made and accepted by us.

Both forms were formally approved by the Commission in their present state on February 1st of this year.

Now I want to explain at this point that the form before you does not apply to unilateral programs of apprenticeship except in the construction industry. Now the reasoning behind this change was, first, employers in industries other than construction would have been required to file an EEO-1 form in March and if they operate a unilateral program of apprenticeship, they would have been required to file another form in August in many cases, because of the rule that there must be a report for each craft ~~or~~ more copies of EEO-2 ~~and~~ than EEO-1 would have been required in certain cases, and we did not feel that we could impose this additional burden.

It was also taken into account that there were limited apprenticeship statistics on Form EEO-1, and finally, the construction industry had been exempt from reporting temporary employees on EEO-1 and therefore, in order to get full statistics on apprenticeship it was necessary to bring them in under EEO-2.

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Now we felt, and I can speak only for the staff, that it was more appropriate to get information from unilateral programs not in the construction industry on the employer form itself. Questions on EEO-2 are not always adaptable to the industrial apprenticeship setting.

Now I can speak only for myself but I would certainly propose that the Commission give serious consideration to remodelling EEO-1 to get at some of the questions that we had proposed in EEO-2, but we did feel that we could not require EEO-1 to be filed in March and come back to many of these employers again in August with an additional and in some ways more complicated form.

I believe this explains the major change between the proposal sent to the Bureau of the Budget in August and the one that is before you today.

Finally, I would like to make a brief statement about the necessity for both these forms as we see them.

Obviously, the Commission has the statutory responsibility to investigate complaints and to attempt to conciliate them. That is our major responsibility, but the statute provides us other powers and responsibilities, among them in Section 705(g),-- First I might say Section 705(d) requires the Commission to make reports to Congress and the President on the cause and means of eliminating discrimination and such recommendations for further legislation as may appear desirable.

Section 705(g) authorizes the Commission to furnish technical assistance, to make technical studies, to refer matters to the Attorney General where there is a pattern of practice of discrimination, to conduct educational activities. It authorizes Commissioners to file charges, so there are many other functions the Commission has than the major one of investigating individual complaints.

It is our feeling from the Staff's point of view that the Commission must have adequate information about employment trends, patterns, and opportunities in order effectively to carry out each of the statutory functions and responsibilities.

In the area of minority participation in apprenticeship programs and in unions there is a recognized gap in public information. One of the most respected scholars and students of the trade union movement, Professor Ray Marshall of the University of Texas, recently wrote:

"Statistics on apprenticeship in general are bad and those on Negro participation in these programs almost non-existant."

The Industrial Relations Committee of the California State Assembly last February 5th issued a report recommending establishment of a permanent system for obtaining and passing along reliable data on the ethnic composition of all apprenticeship and training programs, and I think the language of the Hawkins bills is an expression of continuing Congressional concern in this area.

So I would like to close by stating that the primary purpose of both these reporting programs is to gather information. They are both labelled "Information Reports," not investigative reports or incriminatory reports or confessions of non-compliance ~~at all~~ with the law. The adoption or existence of a reporting program applicable to apprenticeship programs or unions does not suggest that one program, or one union, or one international union, or the American labor movement has been derelict in its duties under Title VII.

The simple fact is that this Commission will be no more effective than the information upon which it acts, in the several ways authorized by law, to assure equal employment opportunities for all Americans.

Based on nearly two years of study and extended discussion with all interested parties, the research staff of this Commission feels that the information requested through these reports is obtainable in no other way and is essential for these purposes. In devising these reports, we have conscientiously sought to balance the Commission's need for facts with the respondents' right to be free from costly and unnecessary burdens.

We recognize that in a uniform reporting system the requirements may prove more burdensome in one situation or in one area than another. In the interest of simplicity, we have adopted rules which in a particular situation may not be workable.

The purpose of our discussions during these past two years and, indeed, one of the purposes of this hearing, is to determine the extent of these burdens and to discover unforeseen problems so that we may take action to minimize the burdens if we can, and to correct a requirement that may not be workable in a particular situation. If it is not (workable) there are special procedures to handle it and we would submit, Mr. Chairman, that this is not necessarily to be considered an indictment of the whole program.

We welcome further frank exchange of views such as this hearing provides.

MR. HOLCOMB: Thank you, Mr. Markham. You have given an excellent statement of the background.

We are now going to ask Mr. Herbert Hammerman to give us a description of EEO-2.

STATEMENT OF MR. HERBERT HAMMERMAN, ACTING CHIEF OF REPORTS DIVISION.

MR. HAMMERMAN: We are presenting to this public hearing both the proposed apprenticeship information report, EEO-2, and the proposed regulations requiring the filing of a report and the keeping of specified records. The same is true of the proposed labor organizations' form, EEO-3, and the records applying to it.

The regulations were included in the Notice of Proposed Rule-Making. They were published in the Federal Register February 14th, 1967, Section 1602.15 through 1602.29.

Section 8 of the EEO-2 and Section 10 of EEO-3 contains selections from the regulations applicable to each report form as well as the applicable exerpts from Title VII of the Civil Rights Act of 1964.

Now in discussing EEO-2 I am going to be talking both about reporting and record-keeping requirements. I will start off describing the report and talking mainly about reporting requirements and only those record-keeping requirements that are necessary for reporting, and at the end, I will summarize the record-keeping requirements that are also part of the report.

As Mr. Markham explained, the apprenticeship information report, EEO-2, must be filed by all joint labor-management apprenticeship committees in all industries and by employers and labor organizations in the construction industry which operates singly or in conjunction with others, apprenticeship programs that are not joint labor-management programs, of course with the proviso that such joint committees, employers and labor organizations, are subject to Title VII of the Civil Rights Act of 1964.

I might go on to explain that at the time it is proposed to issue these reports and require them to be filed, Title VII will cover generally all employers of 50 or more employees and all labor organizations with 50 or more members, and also all labor organizations, regardless of size, that operate a hiring hall or hiring office; also, all joint labor-management apprenticeship committees that represent one or more employers or labor organizations that are covered by Title VII.

The EEO-2,-- A copy of EEO-2 will be filed by these organizations for each trade or craft covered by the apprenticeship program. The deadline for filing that is proposed is August 31st, 1967.

EEO-2 consists of five parts. The first is an identification section in which the respondent will give the name of the organization conducting the program, the name and address-- Rather, first the type of organization covered in the program and then the name and mailing address, the Government agency with which it is registered, if any, the trade or craft covered, and the industry covered.

If it is a joint committee, additional information will be requested, such as a listing of trade associations and/or employers participating, a listing of labor organizations participating and their international affiliations, and a general description of the area covered by the joint committee, if it be a plant or if it be a city, a county, et cetera.

The second section, Part B of the form, deal with the standards and selection procedure of the program.

This consists of seven questions, most of which can be answered with a Yes or No answer and some of which require the submission of additional information. These questions are intended to serve as informational questions to the Commission and to the other agency working with it on the program. It is necessary for us to know these types of information by area, by crafts, by industry, so that we get a picture of what is the practice on apprenticeship programs, varied though it may be throughout the United States.

The first question that would be asked is: "Do the apprenticeship standards under which this program is operated contain a formal clause prohibiting discrimination on the basis of --" the bases that are set forth in Title VII, namely, race or color, religion, sex, and national origin.

The second question follows from the first: "Do these apprenticeship standards provide for impartial review, pursuit through grievance procedure, or similar means of appeal by an applicant who claims that he or she has been denied admission to the program or otherwise discriminated against on such grounds?"

The third question asks whether the union has maintained a list of applicants in the chronological order in which applications were received, and the question notes that this is required beginning July 2nd, 1967, by the Equal Employment Opportunity Commission under Section 709(c) of the Civil Rights Act of 1964.

Mr. Markham read you that section and as you heard, it is a required provision which has not been put into effect until now.

However, I should also explain that while this is required or will be required beginning with, shall we say, the next fiscal year, it is not required now and what we are trying to obtain here is some information as to whether or not this has been a practice that is common in apprenticeship programs in the past and to what extent it has been, and where.

Question 4 and question 5 deal with the matter of how information about apprenticeship openings is disseminated. Again, I would like to point out that none of these questions involves any implication of violation of the law. Rather, the Commission is trying to obtain some understanding of whether or not there is a communications gap between these programs and between a minority community and between the minority youth. This is an allegation that has been made by minority group organizations; many times they have claimed that the information about apprenticeships does not come to them. When it does come, it comes too late. It doesn't come in forms that are useful and so on.

So for the needs of our program, we need to know just what means has been used to disseminate the information.

Question 4 consists of a number of parts. The first part asks whether there have been openings for apprentices recently, because if there haven't been any openings, then there would be no need for dissemination.

Then we will ask, " -- have you disseminated information about these apprenticeship openings or opportunities?"

How was it done? Was it done through a Federal or State apprenticeship representative? Was the information circulated by the program directly or by Government information in various ways?

And some people might think that some of these things or some of these ways that are suggested here might not be quite relevant, yet experience with the minority community show that they are. Certainly the State and local public employment service would be, certainly local high schools and trade and vocational schools, but also obtaining the information through organizations representing minority groups, through churches which are basically a community center among many minority groups, as well as other community centers, would be a means and have been tried by organizations successfully as a means of getting to the minority community and assuring them that they are welcome.

Finally, on this subject the fifth question would be:

"Have public statements or notices of apprenticeship openings specifically stated

"(a) that applications will be received without regard to the race, color, religion, sex or national origin of applicants?"

Have they stated clearly the requirements for admission to the program?

Have they stated the time allowed for the filing of applications?

The last two questions deal with the method of selection. Here, too, we are approaching a question which give us information on practices. We are not talking about any particular method that is required by law or that is banned by law.

One question is:

"Do you select apprentices on the basis of qualifications alone in accordance with objective standards?"

And it is noted right next to the question that this method of selection is not required by Title VII.

A related question is:

"Must an applicant for apprenticeship be sponsored or recommended by anyone as a condition for admission to the program?" If so, by whom?

Together with these questions, it would request, regardless of how the answer came out, a submission of a copy of the apprenticeship procedures and standards of selection, application forms, interview forms, et cetera.

. Finally, along this same line, we deal with the question of testing. That would be Question 7 on page 4. The question would ask two things: one, the formal name of the test, the full name of the test; and, secondly, the numerical weights, if any, given to the various parts of the selection procedure.

Now this is a very important thing, an important item in the agenda of the Equal Opportunities Program. The matter of testing has been brought up over and over again; not only in connection with apprentices but throughout American industry, tests have been criticized. In some cases, they have been found to be perhaps unwittingly loaded against certain groups, simply by virtue of being non-objective and having a certain cultural bias.

It is necessary to see if there is any relationship between certain tests and the absence or presence of minority group apprentices.

After Part B we reach Part C, which is apprenticeship statistics.

The heart of Part C is that table under Number 3, Item 3; for each craft the table shows a year-by-year enumeration of the number of apprentices in the program, the total, and by sex and for four minority groups. I might point out that these four minority groups are the same four minority groups that are on the employer report form. They are the Negroes, Spanish American, American Indian, and Orientals.

Also, it is important to explain that for three of these groups, the Spanish Americans, the American Indians, and the Orientals, data are requested and required only where they constitute an identifyable factor in the local labor market area. This also is true of the employer report form, EEO-1.

Now the question, of course, always arises in a context of this type of table: how is it to be done? And I might say that experience with the employer report form dating back to 1963 shows that this question has been raised over and over again, but it also shows that it can be done and has been done with relatively few problems.

We have had-- We are in now our second year of experience with EEO-1 and the number of problems that arise on a question of minority group identification are much fewer than people imagine and, of course, they reduce with time.

The first method that is mentioned here in Section 1 of this Part C is existing records. Now, of course, this is the easiest method by which to obtain the information. If you have a record, all you have to do is to refer to it and make a tally and you have got the data.

The second method, a visual survey, is by far the most wide-spread method, the most widely used method by employers on EEO-1. This is known generally as the method of head-count, and it has served the purposes of the employer report form for the most part. The basic way it is done is by judging the minority group identification of the person involved by his appearance, by how he seems to be regarded in the community, by how he appears to regard himself. If it is a foreign language group, by speech or by name. It has been shown by experience that no anthropological tests are necessary. It is not required to determine whether a person -- to have a standard for determining how much proportion of what minority group a person may have in him. Generally this is done by society. Society determines who is a minority group-- Let's put it this way:

Society determines the sociological status of minority groups and in the same way and by the same methods, the tally can be made.

Now these are, as I said, the two methods I just mentioned are the methods most widely used by employers. It was recognized by the Commission that they may not be adequate for apprenticeship programs or for the union programs and I might add that in discussing these methods of determining minority group status and making a count, I am talking also for my later presentation of the union report form. I don't think it will be necessary to go back and repeat all these things. The same things I say now apply to the comments I will be making later on.

#3 Because apprenticeship programs may be conducted over large areas covering many employers covering many locations, the method of the visual survey may not be adequate. The records may not be available at this time. It might not be possible to just go out and take a look at a person when he may be five miles away, so the Commission now authorizes or proposes to authorize three additional methods for obtaining the same type of information.

One of these would be a tally from the personal knowledge or observation of the people conducting the survey. Persons familiar with the apprenticeship program may examine a roster or other records of apprentices and make a tally of the number of Negroes, Spanish Americans, American Indians, and Oriental apprentices, males and females.

In making this tally, instructors or others invoied in the program may use personal knowledge and acquaintanceship or the appearance of the apprentices.

A fourth method is referred to as self-identification. What we have in mind here is an anonymous survey made through the mail, perhaps a self-addressed postcard or something like that, but because there are a lot of dangers in this method-- For one thing, you do not always get a very high response with this sort of method of trying to get information. It would require that there be a response of at least 90 percent of the apprentices -- of the persons covered in order for this method to be used.

Now all these four methods that I have just mentioned for the record, the visual survey, the tally from personal knowledge or observation, or self-identification, are all legal, permissible. None of them are prohibited under any Federal or State law. They don't raise any problems there of a legal nature, but they may not be adequate for our purposes.

We came to the conclusion that they may not be adequate because of the statements made to us by representatives of employers and unions and JAC's in this field. If they are not adequate, and only if they are not, the Commission would authorize the use of a direct inquiry method, but only under four conditions.

First, the person signing the report would state that none of the other methods described would provide an accurate count;

Secondly, if the other methods were used, less than 90 percent of the total number of apprentices would be covered;

Third, the person who was asked about his race, et cetera, is told that his answer will be kept confidential, will not be used for any purpose other than this report but that the report itself is required under Title VII of the Civil Rights Act of 1964;

Finally, any records made as a result of direct inquiry if preserved are kept separate from any other records previously made or kept by the program.

Now here we do come up against some State laws which would prohibit a direct inquiry against — or rather, a direct inquiry in order to obtain knowledge of a person's identification and on this point, the Commission states and it is set forth in the regulations, I might say, Section 1602.29 of the proposed regulations, and it also states in Section 3 on page 7 of the instructions to EEO-2, that under the principle of Federal supremacy, the requirements imposed by the Equal Employment Opportunities Commission in its regulations and these instructions supercede any provision of State or local law which may conflict with it.

Any State or local law prohibiting inquiries and record-keeping with respect to race, sex, or national origin do not apply to those inquiries and records required to be made by these instructions and the existence of such laws will not be accepted as an excuse for failure to supply the information required on Report EEO-2.

The rest of the report-- The rest of Part C simply asks-- As I have already indicated, Item 1 in Part C provides for checking off which method was used to obtain the information. Item 2 asks for the dates of the reporting period used to obtain the data in Item 3.

You should note here that the data may be gathered during any calendar week or any other appropriate period in the months of July or August.

Part D leaves space for remarks and Part E, for the signature and identification of any authorized, responsible or designated representative of the program.

Now before I complete my remarks about the program I would like to summarize the record-keeping requirements.

In following up the requirements in Section 709(c) that:

"The Commission shall, by regulation, require each employer, labor organization, and joint labor-management committee subject to this title which controls an apprenticeship or other training program to maintain such records as are reasonably necessary to carry out the purpose of this title, including, but not limited to, a list of applicants who wish to participate in such program, including the chronological order in which such applications were received --"

we are proposing Section 1602.20 of the regulations and you will find the applicable-- You will find that section repeated on page 10 of the material that you have because it is contained in the instructions, as part of the instructions to the report form. It is in the right-hand column under subsection (e), 8(e).

It states clearly:

"Every person required to file Report EEO-2 shall make or keep such records as are necessary for its completion under the conditions and circumstances set forth in the instructions accompanying the report, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part.

"In addition, every person required to file Report EEO-2 shall, beginning July 2, 1967, maintain a list containing the names and addresses of all persons who have applied to participate in an apprenticeship program controlled by it, including the date and chronological order in which such applications were received."

Up until now, the regulation simply follows the provisions of 709(c). It then adds:

"Such list shall contain a notation of the sex of the applicant and of the applicant's identification as 'Negro,' 'Spanish American,' 'American Indian,' 'Oriental,' or 'Other'. The methods of making such identification are set forth in the instructions accompanying Report EEO-2, Section 6(c)(2)."

This was added to the regulation and to the instructions in order to develop a method by which the process of making the identification of minority group status; difficult as it may be initially, it will be much facilitated later on because as time goes on, those apprentices who have applied -- those persons who have applied to become apprentices will have been recorded and for the most part, the figures that are required and the countings that are required will then be able to be made through the use of existing records.

I should also add that the time period for which these records are required -- this is set forth in Section 1602.21 in the regulations and follows directly under the part I just read in the instructions, page 10, Subsection (f), and it says:

"Notwithstanding the provisions of Section 1602.14, --" the earlier section dealing with record-keeping --

"-- every person required to file Report EEO-2 shall preserve the chronological list of apprenticeship applicants referred to in Section 1602.20 for a period of five years from the date of the most recent entry thereon; --"

The significance of this provision is that many of the apprenticeship programs, a good many of them, last at least four years and many of them five. The administrators of the program would have, on the basis of this listing and these notations, a record for the maintenance -- or rather, a record for the submission of data on this form or any form that is required in the future for indicating the minority status of their employees.

Some people have asked about the reason for this long period and this is the logic behind it.

The other record-keeping requirements I will just mention briefly.

The rest of Section (f) here states that:

"Every person required to file Report EEO-2 shall preserve . . . any formal application submitted by applicants for five years from their receipt --" that's tied in with the other one --

" -- and shall preserve any other record made solely for the purpose of completing Report

EEO-2 for a period of one year from the due date of the report for which they were compiled."

"Other records," the rest of this Section (f) here states that:

"Except to the extent inconsistent with the law of regulation of any State or local fair employment practices agency, or of any other Federal or State agency involved in the enforcement of an anti-discrimination program in apprenticeship, other records relating to apprenticeship made or kept by a person required to file Report EEO-3 --"

That's a typo; it should be EEO-2.

"-- including but not necessarily limited to test papers completed by applicants for apprenticeship and records of interviews with applicants, shall be kept for a period of two years from the date of the making of the record."

And then it goes on to say where a charge of discrimination is made that records should be kept until the case is over.

The reason for the two years here-- There is a dual reason. For one thing, this is the period that is required under the regulations of the U. S. Department of Labor, Title XXVII, Section 30, I believe it is, of the Code of Federal Regulations. Secondly, the apprenticeship programs are sometimes erratic in the time which transpires, for example, between the acceptance of new groups of apprentices and it was felt that two years would be an adequate period for this.

I think this takes care of all I wanted to say under this, and we will now answer any questions you have.

MR. HOLCOMB: Wait just a minute.

. Thank you, Herb.

For those who came in late, I mentioned that Chairman Shulman is out of the city. It is my privilege to bring you his cordial greetings and to likewise express appreciation for your interest.

The suggestion has been made that perhaps after we had a 30-minute period of questions that we take at least a 5-minute break, and then we would resume our session. In order that you may know the schedule, we would continue at least until 12:45 before we break for lunch.

I introduced those here on the stage. There are others from our Commission here. I will not try to introduce all of them but I do want you to meet Gordon Chase, who is our staff director, and Mr. Warren Cikins, our legislative expert, and Mr. David Shefrin has been in most of the morning. I believe he is out right now.

There are other here, and certainly when we do have a break later, I know they will be glad to meet any of you and visit with you about any matters pertaining to the Commission.

Likewise, in addition to Mr. Markham and Mr. Hammerman, Dr. Murray has worked extensively in preparation for this hearing so, Dr. Murray, you feel free at any time to -- not interrupt, but make any suggestions which you may have.

. Now I believe, according to the schedule, we are going to have a 30-minute period of questions, either to

End 3 Mr. Markham or to Mr. Hammerman or to Dr. Murray.

I would appreciate it if you would state your name and the organization that you are affiliated with.

I think Mr. Markham wants to say something.

MR. MARKHAM: I don't wantthis to come out of the half hour period, but I neglected before to indicate that among the comments we had received were four statements suggesting changes in the form without expressing opposition, or support, necessarily. These are part of the record, and I will not go into them at this time.

I did want to mention there are two important changes that were suggested informally and, therefore, are not part of this record. And I would like to have them made part of the record, with the indication that we will give serious consideration to recommending their adoption.

In EEO-2, change Question B.4(a) to read:

"Since July 2, 1965 have you had any openings for apprentices?"

The reason behind this is that if a program has irregular classes it might answer "No" to the question as it is posed, and would not give the additional information.

In the EEO-3 we want to make it clear in the instructions that statistics about membership and referrals are not expected of international unions unless in some special case they happen to operate a referral situation or a hiring hall; but, generally speaking, we will make this point clear in any final form that is adopted.

We do not want, in effect, a consolidated membership report for a certain international union.

MR. HOLCOMB: Thank you.

Mr. Shefrin, stand up back there.

He has such extensive responsibilities with our Commission until we haven't been able to name them all. But we will give you his title at a later date.

Now are you ready to start timing?

MR. MARKHAM: Let me say first that I will attempt to answer the questions. I may, however, throw the ball to Mr. Hammerman, Mr. Berg, or Dr. Murray. And the half hour period will now begin. And when the green card goes up I will sit down.

MR. LA ROCCA (Construction Industry Joint Conference

I notice Mr.Markham named off all the organizations who made statements to the Commission. And perhaps Ididn't hear, but did you mention the Construction Industry Joint Conference?

MR. MARKHAM: I did not list those statements which primarily suggested changes, of which the Construction. Industry Joint Conference was one. The National Urban League was another. The Louisville Chapter of AGC was a third. And Mr. Felker, Director of Personnel from Douglas Aircraft, was a fourth.

MR. LA ROCCA: Thank you.

MR. HOLCOMB: Next question.

WALTER CHRISTIANSON (Coordinator, Southern California Operating Engineers): On page 10, Section 8.e., the fourteenth line down. We are in compliance right along until we get to there, and then we run into a little problem.

> "Such list contain a notation of the sex of the applicant and of the applicant's identification as "Negro', Spanish American', 'American Indian', 'Oriental', or 'Other'."

We have a problem in that we take all of our applications from Southern California, the main office in Los Angeles. Most of these are by mail. We wouldn't have any way of knowing their sex or ethnic background or anything else until we actually bring them in before the Committee for an oral interview.

Would it be permissible at that time, on the interview rating form, to indicate what their sex would be, or background?

MR. MARKHAM: I think so, yes.

Herb, do you have any comment?

MR. HAMMERMAN: No.

MR. CHRISTIANSON: Do you want this in writing, or will you take our word for it?

MR. HOLCOMB: This is being stenographically recorded, so you've got it in writing.

Dr. Murray?

DR. MURRAY: Is it assumed that all the applicants whose applications are mailed in are interviewed?

MR. CHRISTIANSON: Yes.

MR. HOLCOMB: The answer is "Yes" to your question.

Next question.

Don't hesitate.

Mr. Harris.

MR. HARRIS (AFL-CIO): A couple of picky little questions.

On page 3, in question 6, subdivision a, you have a parenthetical explanation, "Note that this method of selection is not required by Title VII."

However, there are numerous other questions in here where a negative answer similarly does not indicate any violation of Title VII. That is true both in Form 2 and Form 3. I wondered why that particular item was singled out for that explanation.

MR. MARKHAM: I'm frank to say we have had many discussions over the period during which the form was developed with this particular question. I will say that 6.a. as it is phrased is taken from Section 30.3a of the Secretary of Labor's standards. At one point we didn't have

(b) in there, and then it was pointed out that, well, if it were left as it is, just (a) and then going to (c) -- or what is now (c) -- and someone answered "No," that person answering "No" would not necessarily be violating Title VII because he could also be complying with Section 30.3a of the Secretary's standards.

So that is why the language in the particular sentence is in there. We didn't want to suggest to anybody that a "No" answer was a violation of Title VII.

MR. HARRIS: Well, I'm concerned because in various other situations -- and this is particularly true in Form 3 -- the asking of the question I think may raise an inference that a negative answer indicates a violation. And that is not necessarily so. But when you explain that that is not so in one place, and don't explain it in others, it may raise a problem.

On page 15, in Question 4, for example, that might suggest that a negative answer points to a violation. But there again there is nothing in Title VII that says you should do this.

MR. MARKHAM: I think we might well handle this question by -- or this problem by stating on each form at some point that "no" answers to questions so forth and so on will not be construed as a violation of Title VII.

There was a particular and specific reason for putting it in 6(a).

MR. HARRIS: I think a little more explanation of that sort might be a little helpful.

Another question. I notice that at the end of Form 2 there is a parenthetical statement:

"(See Section 4 of Instructions for penalties for failure to file.)"

The same thing is included in the Employer form. There is no such statement in Form 3 that the Union files.

Did you leave that out because you knew that unions had shrewd lawyers, and we know there are no penalties for failure to file?

(Laughter)

MR. MARKHAM: We left that out through inadvertence, I must confess.

I might differ with the distinguished counsel for the AFL-CIO as to whether we really have a penalty here or not. We are, under the statute, entitled to seek a court order compelling the filing of the report.

MR. HARRIS: I don't consider you are right; that the fact that you may be sued is a penalty. And I certainly don't consider it a penalty when it is mentioned immediately following the Title 18 Section 1001 of the criminal code, which has a very heavy criminal penalty. I think the parenthetical phrase loses meaning.

MR. MARKHAM: I might say by way of further explanation that the phrase "penalties for failure to file" is something of a carryover in designing these forms from EEO-1, because there are penalties in the EEO-1 situation other than our rights under Section 710(b); there are penalties applicable to Government contractors. So I guess this is an editorial habit we get into when we work from one form to another.

I think your point is well taken.

CARL LYON (Association of American Railroads): Page 1 of EEO-2 report, under -- about the third paragraph. It begins with the word "Important." The last sentence of that paragraph reads:

> "If you find that you are not subject to the reporting requirements, return the form, completing only Parts A and E, and explaining in Part D why you are not required to report."

I would like to know what authority you have for requiring that someone file the report when they are not subject to the Act.

MR. MARKHAM: Well I would say first that this is one means of protecting a person who, for some reason, is not required to file from further follow-up letters or reminders. We will have a list which will be used as a mailing list for these forms. And if a person is not required to file -- for example, an employer or a union who has a program operating through a joint committee, the form might come into the hands of this organization. Under the Instructions he is not required to file. If he does not check the box in Part A and give us the information and mail it back, as part of the processing of the reports he may be getting more literature about why he hasn't filed.

So it seems to me it is a protection to the respondent.

General Counsel will have to comment on our authority to do so. I would say we have the authority required -- the authority to require somebody to list his name on it; and if he isn't required he can give the information and mail it back. I will have to defer to our Counsel's office, beyond stating that that's my personal opinion.

MR. HOLCOMB: Mr. Berg, do you have any comment to Mr. Lyon?

MR. BERG: Well, I wasn't aware of this problem. But it seems to me that if the form is not required of a particular class it is more or less optional whether they want to so state or go through whatever subsequent correspondence is involved.

I might point out, from my personal experience with Social Security, you do the same thing: you are only supposed to file where there is a tax due. But they keep sending you something every quarter. And if you don't sign off on that they will presumably keep sending it back to you.

I think it is a convenience for all concerned. But if somebody -- if we are about to sue somebody for not filing, and he demonstrates to us at that time that he never was required to file, I suppose at that point that would end it.

MR. MARKHAM: I would say, as the legal staff of the Office of Research, that the proposed regulation requires the filing of a report in conformity with the directions set forth in the form and the accompanying instructions. So I would say the requirement to check Part A and fill in Part B is found in the regulation 1602.15.

MR. HOLCOMB: Any further comment, Mr. Lyon?

MR. LYON: I would like only to say that I think this is also on the new EEO-1 form, and I don't believe there is any authority for it, and it does cause troubles for a number of smaller companies which don't have enough employees to be subject to the Act. And then they are put on notice from the outset, when they receive this form, to file a report and explain why they aren't required to report. I just don't believe there is any authority for it, and I don't think it ought to be on the form.

MR. HOLCOMB: We will give consideration to your comment. And we appreciate your making it.

REESE HAMMOND (National Joint Committee, International Union of Operating Engineers): Mr. Markham has fairly set out that except in unusual circumstances there would be no request for filing of this information from a national level labor organization. Is this true of national joint committees?

MR. MARKHAM: I would think the same principles would apply.

MR. HAMMERMAN: I would think that it is only true of those committees that are operating an apprenticeship program. If they are not operating an apprenticeship program on a higher level, a higher echelon level than the organizations then there would be no need for them to file.

MR. HOLCOMB: Dr. Murray, do you have anything to add?

DR. MURRAY: I believe not.

MR. HOLCOMB: All right.

Is there another question?

(No response)

Mr. Jackson says this is a good place for a break.

Maybe you were waiting for someone else, and there may be some other question. Don't be afraid to stand up.

FRED IRWIN (International Brotherhood of Electrical Workers): I want to ask one question. On page 20, in the lefthand column, right under Part C, reference is made there and in many cases to Local 1. It starts off with "Local 1 of the Electricians' Union." And I notice later on it says--

MR. HOLCOMB: Excuse me, just a minute.

Am I correct, Mr. Markham, that we will be coming to that this afternoon?

MR. MARKHAM: That is related to EEO-3, so the question would be relevant during the half hour period after discussion of EEO-3.

MR. IRWIN: All I want to suggest is that you use a letter instead of a number in identifying the local.

MR. HOLCOMB: Thank you.

MR. MARKHAM: I might suggest that when I wrote the first draft I had a letter in there, and some of my colleagues talked me out of it. So I am exempt anyway.

(Laughter)

MR. HAMMERMAN: We thought it would be confusing to have two different sets of letters.

DR. MURRAY: I think we thought that many locals used numbers, so why didn't we use numbers.

MR. HOLCOMB: Is there another question? If not, in just a moment we are going to take a brief break.

If not, then, look at your watches, and we will reconvene in ten minutes, and then we will continue until twelve forty-five.

(Recess)

MR. HOLCOMB: I think we had better reconvene.

We certainly want to conduct this hearing so as to show consideration to everyone. We have a request from Mr. Joseph Fagan, Chairman of the Industrial Commission of Wisconsin, who for personal reasons needs to make an early appearance before us. And so at this time we're going to recognize Mr. Fagan.

STATEMENT BY JOSEPH C. FAGAN, CHAIRMAN, INDUSTRIAL COMMISSION OF WISCONSIN

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MR. FAGAN: Mr. Chairman, my name is Joseph Fagan. I am Chairman of the Industrial Commission of Wisconsin. I am appearing on behalf of the State Commission regarding the EEO-2 form which you are discussing this morning. And I am suggesting some changes in the proposed use of the form.

I am going to discuss basically our partnership arrangement as contemplated by the procedures and suggest, as a state that has been aggressive in creating opportunities for people in our area, that there be some sharpening up here so we can operate in a better fashion.

I think it is the intention of Congress and of this Commission to encourage its state partners to participate as a first line of activity. So I assume that I am talking in a friendly capacity with the Commission as a partner.

The State of Wisconsin through its Industrial Commission is now committed to, and isoperating a positive program of equal opportunity in apprenticeship. We have 160 joint labor-management committees, and these are advisory groups only. We enter into an indenture agreement by which the Industrial Commission has to be a party signatory. The indenture is between the employer, the apprentice and the Industrial Commission.

The joint committees then are made up of volunteers. They usually have a Secretary, which is either the State Vocational School Director in the area or a member of our Industrial Commission staff.

So that our staff does audit and work with these committees.

We in our Industrial Commission have the apprenticeship program for the State of Wisconsin, the State Employment Service, the Equal Opportunity laws for both housing and fair employment. So that we do have an opportunity for coordination among the various divisions.

We have been making collections of raw data to establish minority group employment profiles in the past. Our most recent attempt was a compilation of 235 pages which we have compiled showing the employment of minorities in the State of Wisconsin.

It is our suggestion to the Commission that the collection of raw data itself is not necessarily going to open up employment opportunities, as I am sure you all know.

The pricking of peoples' consciences when they fill out these forms is helpful. But we have follow-up on these reports with compliance checks. We have had to urge voluntary campaigns and voluntary activities as well as to enforce our state law through the complaint approach in Wisconsin.

The examples of our other kinds of affirmative action programming would include fact-finding hearings, which are held in the building trades employment practices in Racine, Kenosha, Beloit, Janesville, Milwaukee; in high density employment areas, population areas. A large variety of construction trade unions and construction employers were publicly questioned at length on their hiring practices, with emphasis on apprenticeship selection.

Also in 1966 we formed the Greater Milwaukee Construction Committee on Equal Opportunity in Employment. This group, with representatives from management, labor, civil rights organizations and the Industrial Commission, is working diligently to open up opportunities for minority group members. And they are making progress.

We have had some of our first Negro people in some of the building trades in Milwaukee.

Now the Wisconsin Industrial Commission Fair Employment Practices Plan for Apprenticeship I will share with you.

(Handing document to Mr. Holcomb.)

And there are some copies here. Perhaps members of the audience would like to see them. It is appended to the testimony.

These rules as followed by the Industrial Commission with regard to apprenticeship programs compel a review of registered programs to determine (1) their racial, ethnic composition; (2) whether the apprenticeship standards include the required statement regarding the selection of apprentices; (3) whether the selection of apprentices is made on the basis established for the selection of apprentices; and (4) whether the employment and training program of the sponsor operates on a non-discriminatory basis.

The Wisconsin plan has been approved by the Bureau of Apprenticeship and Training of the Labor Department, and a letter is inclosed from Mr. Hugh C. Murphy, Administrator, which states:

> "We are happy to approve this plan and will make it a part of the official records of your State;" and that the plan is in conformity with the provisions of Title 29, CFR, Part 30.

We have recently received a request from the Bureau of Apprenticeship and Training asking for compliance reports in accordance with this equal opportunity plan.

This information will be supplied as soon as procedures are worked out with the Bureau of Apprenticeship and Training.

We suggest that the information asked for by Form EEO-2 will be duplicative of the work we are doing for the Bureau of Apprenticeship and Training; that is, the BAT proposed apprenticeship program report which is due in January, April, July and October, as proposed, would be duplicatory, assuming that EEOC will require a state that wishes to formulate and operate their own program, as we are currently doing in Wisconsin which would comply with their deference section in the proposed rules; that you would then require our state to file a similar report. And we ask that the two Federal agencies who are presumably going to be going down the same road, to coordinate their efforts, to require essentially the same kind of compliance reporting.

We ask further that the joint apprenticeship committees be exempt from filing EEO-2 in states where substantially the same information is reported yearly to an appropriate state agency, such as ours. This apparently can be worked out under the deference provisions. When we have worked out the procedures with the Bureau of Apprenticeship and Training the Industrial Commission will adopt, through its rule-making process, a rule to require the submission of this kind of statistical reporting to the Industrial Commission of Wisconsin, and the rules so adopted will have the full force and effect of law. And that is a criterion which you require in your deference provisions. A copy of these reports, then, or an official summary of them will be supplied to the EEOC on a yearly basis. So that we could then tie into the reports we are making to the Bureau of Apprenticeship and Training.

However, not only to adopt our rules and fulfill our contemplated requirements under the deference requirements that you have set forth, we would like to suggest that you permit us to work so as to accomplish our obligations back home, and move the August 31st 1967 date, which is the proposed required filing date, to a further date, perhaps December 31st, so as to allow our state to act and formulate a program and a plan and communicate and work with you folks on a program.

A summary of our suggested changes, then, to the proposed program under EEO-2 would change the procedures so:

(1) that the Equal Employment Opportunity Commission and the Bureau of Apprenticeship and Training coordinate their programs so that a single report would suffice for both agencies. I also would suggest that we establish a permanent conference of Federal and state equal employment opportunity agencies; because I think this illustrates again our problem: that we are all doing much the same kind of work. And I would suggest that perhaps we could coordinate

in our report program and affirmative action programs, and on some of the special research being conducted.

(2) that apprenticeship groups be exempt from the requirements of EEO-2 when (a) substantially the same information is required by law to be reported to an appropriate state agency, and (b) where the agency enters into an agreement to make copies of these reports available to the Equal Employment Opportunities Commission on a yearly basis.

We frankly have tried to get some of the EEO-1 reports back from Washington, and we were unsuccessful. We understand that Congress requires them to be confidential. When we wrote for them several times we were advised hopefully that there would be procedures worked out so that they would be made available to us. We were advised recently that the EEO-1 forms were still going to be held confidential even if we did receive them back. These forms we use; not just to file them away or to be curious about them: we use them to attempt to find out the practices of some of these people whom we have had before us in public hearings.

MR. HOLCOMB: Did you write to our Commission?

MR. FAGAN: Yes, sir. Mr. Markham said in his letter dated March 9th, 1967:

"Under a recent ruling by the Federal Bureau of the Budget, which has jurisdiction over all Federal forms, we are not allowed to provide any

EEO-1 reports to a state agency until adequate arrangements have been worked out to assure that they will remain confidential."

(3) that the deadline for compliance with the State agency reports to the Equal Employment Opportunity Commission be extended to December 31st, 1967. In order to comply with the requirements of Section 9 of the Instructions to the proposed EEO-2 it would be necessary for us to have additional time to adopt a rule having the force and effect of law requiring conformity of EEO-2 with the state agency.

We appreciate the fact that the Equal Employment Opportunity Commission proposals have the intent of eliminating discrimination in apprenticeship, a goal that we share in full measure with them.

We do feel, however, that this goal will be reached sooner and with less difficulty when it comes under the administration of a positive action program in the state.

The joint apprenticeship committees in Wisconsin are a creation of the Industrial Commission. We enjoy a close working arrangement with these committees and believe that the intent and result of compliance reporting will be more effective if it remains so that it is not distracted from the local administration, local enforcement, and local direction that we are better able to give it.

I realize that you people have problems with fifty states and not just one. But I say that in some states when we talk responsibilities, not rights, we mean it.

We're working hard and we're trying to do a job. But we'd like to work as a partner. And as one of the partners, I suggest respectfully that an agency of the state not be dominated by the other partner.

MR. HOLCOMB: I beg your pardon?

MR. FAGAN: We respectfully submit that one partner, we ask that he not be dominated by the other partner.

Thank you very much.

MR. HOLCOMB: Thank you, Mr. Fagan. We appreciate the effort that you have gone to in order to be present today, and, likewise, the statement that you have made.

MR. FAGAN: Thank you very much for your consideration.

MR. HOLCOMB: We assure you we would like to be partners with Wisconsin.

MR. FAGAN: Thank you,sir.

MR. HOLCOMB: Mr. Markham, do you have any comment?

MR. MARKHAM: I just want to say that this doesn't mean the reports can't be shared with state agencies. We have now worked out the arrangements that I referred to in my letter of March 9th.

Generally speaking, the confidentiality set forth in the statute relates to the publication of data relating to an individual respondent, whatever the reporting system might be. There is no restriction either on our commission or on any state agency which chooses to share a report with us against publishing aggregate data by industry or area.

So I would like the record to show that we are prepared now to discuss with the State of Wisconsin and any other state agencies the arrangements for sharing the reports.

I take it that the thrust of Mr. Fagan's statement was to avoid duplication in the collection of this kind of information. That is not only a desire I think of this Commission, but it is also our Congressional mandate: to avoid duplication.

I think that we must work to prevent an employer or a union or an apprenticeship program from being required to file the same report with the Federal Government or with the state agency or with the local commission. This has been one thing that our Commission has in mind in ~~And~~ the proposed data sharing arrangements. We have been discussing them with state agencies for over a year now. And we certainly intend to pursue this policy of working out arrangements where duplication can be avoided.

And we are conscious, of course, that we must cooperate with the State of Wisconsin.

MR. HOLCOMB: Thank you.

I think perhaps we had better move along now.

We do want to thank you, though, Mr. Fagan. And we will count it a privilege to read what you had to say.

Now, Mr. Hammerman, will you proceed with your description of EEO-3.

#6

STATEMENT OF HERBERT HAMMERMAN, ACTING CHIEF OF REPORTS DIVISION. (EEO-3)

MR. HAMMERMAN: A lot of this I have covered earlier and will apply to 3 as well as 2, and I imagine some of you are getting as hungry as I am.

First of all, the question of EEO-3-- To give you the background of it:

EEO-3 is proposed to be filed by all labor organizations subject to Title VII of the Civil Rights Act of 1964 which generally includes all local unions with 50 or more members, all local unions regardless of size which maintain or operate a hiring hall or a hiring office, and organizations serving as the agents of either type of local union.

Now not all unions will be required to fill in all the information in the report form. As a matter of fact, those local unions who are not referral --- what we define as "referral" unions, and I will get to that later, would only have to file or fill in parts A, D, and F, and would not have to submit any of the employment --- any membership or referral data that is required in Part C.

The filing date, the proposed filing date for EEO-3 is the deadline of October 31st, 1967. There is some-- There are dates in here for the obtaining of the information that is required for filing by referral unions but I guess I might as well get that out now and put it on the record.

While the reporting deadline is October 31st, the referral unions are required to report the information in Part C for a three-month period and may use any consecutive period of three months beginning no earlier than May 1st and ending no later than September 30th. I believe that's about a five-months period.

Now as to the form itself, the first part will be the usual thing: identification, where we ask for the name, including the local number of the union, its address, its mailing address, and the union office if it is different from the mailing address, and an indication of records necessary to verify the reports, the type of organization -- whether it is a local or other. And I might explain here that it may very well be possible that in some instances like a trusteeship and other instances where an organization other than a local union would be in charge of the activities of the union under a referral system, say.

Also, it is possible that a referral program may be handled by an organization larger than a local in which more than one local is involved, in which case that organization would be required to make the report and indicate here what it is.

And finally, there are some questions relating to the affiliation of the unit.

Now Part B deals with labor organization practices, and this would be answered by all unions subject to this report. There are only six questions. They all can be answered by a Yes or No answer. Most of them refer to provisions or practices that are prohibited by law. We expect that in the great majority of these cases the answers will show no violation but it is designed to reveal a few instances where violations may exist.

There are two questions that have nothing to do with prohibitions by law. One of them was brought out by Attorney Tom Harris earlier today. I will refer to these as I run through them.

The first question asks:

"Does your organization have any Constitutional Provision, By-Law or Practice Which Restricts Membership on the following bases: --"

And then there are the usual bases, race or color, religion, sex, or national origin.

In this question and in this question only we ask for additional information: If the answer is Yes to any of the above, describe how the restriction works.

The second question deals with the possibility of departmentalization of members into segregated units. It is very similar to a question we have in the employer report form:

"Are your members divided into divisions, departments or units of the union in which they separate on the basis of --" the four criteria we had listed before.

The third question does not deal with possible violations but deals with positive action:

> "Does your organization have a provision in its Constitution or By-Laws which prohibits discrimination on the basis of race or color, religion, sex, national origin."

This is also related to question 4 which asks whether the union has:

" -- a special procedure for handling claims of discrimination --" other than the grievance procedure such as civil rights committee or department, anti-discrimination committee, fair employment practices committee, et cetera.

These two questions are intended to give us some indication of the spread of provisions directed toward achieving equal employment in a positive sense.

Question 5 deals with collective bargaining agreements and here the question is:

> "Do any of your organization's collective bargaining agreements formally provide for the separate classification of employees in any major work force units, divisions, departments, or job classifications --" et cetera.

And 6 has the same intent but is directed towards seniority provisions:

"Do any of your organizations' collective bargaining agreements formally provide for separate seniority lines on the basis of race, color, religion, sex or national origin in (1) plant or office; (2) Department or work unit; (3) job classification.

Part C, Membership and Referral Information is to be answered only by referral unions.

You are not going to find the term "referral union" in the dictionary. We had to work up a term which would cover what we intended to cover and then develop some sort of a definition that would mean what we intended it to mean.

In general, we mean by a referral union those that maintain formal or informal hiring halls or in some other manner affect or influence the process by which persons obtain employment opportunities. In order to make this as clear as we can I think -- reluctantly I think I should do some reading from our definitions here because it will give the idea of what we have in mind.

On page 19 of the material, under "Instructions," Section 5:

"A 'referral union' is defined as any labor organization subject to Title VII which affects or influences the hiring of an individual.

"While the above definition may cover a variety of situations, a labor organization is clearly deemed to be a 'referral union' if it has any arrangement, formal or informal, by which an employer is obligated or required to accept for employment, or customarily and regularly accepts for employment, persons referred by that labor organization or any of its officers, agents or employees. The term 'customarily and regularly accepts for employment' does not include situations where there are casual and occasional referrals of persons to an employer who relies on non-union sources for a substantial majority of his new hires; thus, the fact that a shop steward in an industrial plant occasionally recommends new employees at the employer's request would not automatically result in the classification of the steward's union as a 'referral union'."

We know, to depart from the text for a moment, we know there are many situations where a steward would be -- or anyone else in the employ of a union or a representative of a union working for a company may have some influence with management. He may have a friend and recommend him, that this friend get a job. This does not make a union a referral union.

What we are talking about is not this accidental sort of thing.

"The type of arrangements which would qualify a labor organization as a 'referral union' include, but are not limited to, the following:

"(a) Union Local 1 maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer.

"(b) Union Local 2 has a collective bargaining agreement under which an employer must accept for employment only those persons referred by the union.

"(c) Union Local 3 has a collective bargaining agreement under which an Employer is required to consider for employment all or a specified portion of the persons referred by the union.

"(d) Union Local 4 customarily and regularly refers persons for employment, and the employer customarily and regularly hires such persons, even though he is not obligated to do so, and hires from non-union sources as well."

Now we ask you to note that the language used in the above definition of a referral union is adapted from Item 9 of last year's Employer's Information Report EEO-1, wherein employers were required to submit the name and address of those labor organizations with which they have referral arrangements of the type described.

Now, of course, there are some complicated situations which are not easily -- do not easily fall within the classificationsthat one sets up in a report form of this sort. You cannot always -- or you can never really predict what type of situation you will meet.

We do here try to make some provisions for two types of situations. One is where a labor organization acts in part as a referral union and part as a non-referral union. An example of that is given on page 20, the first column, the second paragraph which says there are labor organizations which have different classes of units and divisions. One class may meet the test of a referral union and the other may not.

> "For example, Local of of the Electrician's Union has three classes of membership: Class A members are employed in the buildingtrades and the local operates a hiring hall through which journeyman and apprentices obtain employment with one or more electrical contractors in the area; Class B members are employed by a public utility company; and Class C members are employed in the manufacture of electrical equipment. Under the union security clasue in collective bargaining agreements, persons obtaining

employment become members of Classes B and C of the union within a specified period after entering upon employment but are initially hired solely at the discretion of the employer, and without referral by the union. Under these circumstances Local 1 is required to complete Part C only with respect to its Class A membership."

And not with respect to its Class B or Class C membership.

The other type of situation, the more complicated situation is where:

"A referral union may operate its hiring hall or other referral --" arrangements jointly with other referral unions, through a joint board or council.

"In the example cited above, assume that Local 1's hiring hall for Class A members is operated by the Joint Electrical Board for City X, or the Building Trades Council for City X. In these circumstances, Local 1 need not complete Items 6, 7, and 8 of Part C. However, Local 1 and any other referral unions participating in the joint system must cause the central body involved to supply the information required in Items 6, 7, and 8 on a separate Report EEO-3, and each must identify in its own report, Part E, the name and address of the agency administering the joint system. Where employment opportunities for more than one trade or craft are provided through the central hiring hall, a separate report must be filed for each trade or craft and each must be clearly identified on the separate report."

To get to the form, the requirements here are, first of all, if the local is in whole or in part a referral union under these definitions, it should indicate under Number 1 the total membership and under Number 2, the number of members to which referral arrangements apply.

Question Number 3 asks for that number of members for which referral arrangements apply, a breakdown of the statistics, the same type of statistics that I described earlier that are required for EEO-2, namely, total members, total male and female and the breakdown by sex for each of the four minority groups.

Questions 4 and 5 deal with applicants for membership over a three-month period, the three-month period which I referred to earlier, and 4 is the total number of applicants accepted in the three-month period.

I might say here on the question of membership, questions may be raised about it. We tried not to second-guess every union as to what constitutes membership. We have a very general statement definition here on page 20, at the bottom of column 1, after the words "Items 1 -- 5."

"Membership Information. The word 'member' as used in Items 1 - 5 of Part C means 'active members' as of the date the report is signed. In compiling the report, the referral union involved may use those standards for determining the status of 'active members' on which it relies in the normal conduct of its affairs; e.g., persons who are members for the purpose of determining liability for payment of dues, voting in union elections, right to hold office, etc., will be considered as members for the purposes of Part C."

And the same would be used for purposes of not only Part C but also 4 and 5.

Items 6 and 7 here deal with referrals, job referrals. 6 is the number of persons registered with the union for job referral or applying for working permits during a three-months period, and No. 7, the number of persons referred by the union for jobs or issued working permits during a three-months period.

And 8, the number of persons referred by the union who were accepted for employment during that three-month period.

These items are explained on page 21, under "Job Referrals".

"These items are designed to obtain

information about the number, race, ethnic group and sex of persons affected by the union's referral procedures during any three-month period beginning no earlier than May 1 and no later than September 30. Total figures as to referrals are significant. While it is recognized that an individual may seek referral to a job and be referred to an employer more than one time during the period, all such applications, referrals and hires are to be included in these Items. The language of Item 6 . . . includes all situations where an individual, by whatever means, seeks an employment opportunity through a referral union, and is not intended to be limited to those situations where there is a physical act of registration or a formal application for a work permit. Nor are Items 6 through 8 concerned only with members of the union seeking employment; information must be gathered and reported with respect to all persons affected by the union's referral process."

Finally, we have one last question, 10, which simply asks whether members must be sponsored -- applicants must be sponsored -- that is, applicants for membership must be sponsored by anyone and if so, by whom.

The same methods for acquiring the information in Part C as in EEO-2 are authorized, again directing -- 3 may be used as a last resort and then only under the specified conditions, and the authority here is set forth in Section 2 of the instructions. I don't have to read it. It's the same thing as -- the same type of provision as stated earlier in connection with EEO-2.

Finally, Part D simply asks for identification of apprenticeship programs that are operated unilaterally by unions. It's the only source of information we have for this type of apprenticeship program and we're trying to find out what they are, where they are.

E for remarks and F for the signature and identification of the authorized designated or otherwise responsible representative, whoever it may be.

On the subject of record-keeping, I refer to page 22, Section 10, Subsection (b), referring to the regulation Section 1602.22.

> "Requirements for Filing and Preserving of Report.
>
> "On or before October 31, 1967, and annually thereafter, every labor organization subject to Title VII of the Civil Rights Act of 1964 shall file with the Commission or its delegate executed copies of Labor Organization Information Report EEO-3 in conformity with the directions set forth in the form and accompanying instructions.

Every such labor organization shall retain at all times among the records maintained in the ordinary course of its affairs a copy of the most recent report filed, and shall make the same available if requested by an officer, agent or employee of the Commission under the authority of Section 710(a) of the Title VII. It is the responsibility of all covered labor organizations to obtain from the Commission or its delegate necessary supplies of the form."

And then following that under Subsection (d), quoting Section 1602.27 of the regulation:

"Records to be made or kept.

"Every labor organization shall make or keep such records as are necessary for the completion of Report EEO-3 under the circumstances and conditions set forth in the instructions accompanying it, which are specifically incorporated herein by reference and have the same force and effect as other sections of this part."

And then Subsection E:

"All records made by a labor organization solely for the purpose of completing Report EEO-3 shall be preserved for a period of one year from the due date of the report for which they were compiled."

And then all other records -- I don't want to read this whole thing:

" -- any labor organization identified as a 'referral union' in the instructions accompanying Report EEO-3 shall preserve other membership or referral records (including applications for same) made or kept by it for a period of 6 months from the date of the making of the record."

And finally:

"Where a charge of discrimination has been filed, or an action brought by the Attorney General, --" the records shall be kept until the action is terminated.

MR. HOLCOMB: Since it is 12:45, we can either take some questions right now or adjourn for lunch. On the advice of General Counsel, I understand there is a good cafeteria in this building, and inasmuch as Mr. STAIMAN ~~Shulman~~ just arrived I don't know whether we really ought to adjourn.

7 I'm sure we have had several questions from those who are wanting to make plane schedules. Suppose we in just a few minutes do adjourn for one hour for lunch, and we will convene in here at 1:45. I see no reason why perhaps we will not announce a firm adjournment and if you want to make other plans, we ought to be through around 3:30.

Now Commissioner Jackson does have a speaking engagement this afternoon. Don't you want to say a word?

MR. JACKSON: Only to say that the Commission certainly does appreciate your interest which all of you have shown by coming to the hearing today, and whether you get a chance to make a statement or ask a question, we certainly are going to keep the record open and invite you to send us whatever information you think would be of help to us, in making sure that these forms as adopted serve the purposes intended and are not a burden but yet a help to the elimination of discrimination in union practices and in the operation of apprenticeship programs.

MR. HOLCOMB: All right, thank you, Commissioner.

We will adjourn for one hour, and we will reconvene at 1:45.

(Whereupon, at 12:45 p.m., the hearing was recessed to reconvene at 1:45 p.m. the same day.)

AFTERNOON SESSION

(1:55 p.m.)

MR. HOLCOMB: We appreciate the promptness with which each one has returned.

During the noon hour, someone found a set of keys and I am sure that with the weather being what it is, you would have a special interest in them a little later so we will leave them right on the table, or if you want to come up and get them, feel free to do so.

It is difficult right now to indicate a firm time for adjourning, other than I do want to express appreciation for the manner in which we moved through the hearing this morning and I am sure that we will continue this afternoon with the same promptness.

I'm going to ask Mr. Markham to refresh our memories as to where we were when we adjourned for lunch, and as to whether you want to limit the questions to a given form.

MR. MARKHAM: We concluded Mr. Hammerman's explanation of Form EEO-3. Under the program, we will now be available for one-half hour for questions.

MR. HOLCOMB: If it does not take the half hour --

MR. MARKHAM: -- we will be glad to yield the time back to the rest of the program.

MR. HOLCOMB: Do you have a question?

MR. SCHRANCK: J. T. Schranck, Building Trades Council, Delaware.

On page 21 under "Job Referrals," you state that it:

"-- includes all situations where an individual, by whatever means, seeks an employment opportunity through a referral union, and is not intended to be limited to those situations where there is a physical act of registration or a formal application for a work permit."

Does this include casual conversations, telephone calls, notes in the door, et cetera?

MR. MARKHAM: Well, we realized that there were countless varieties of referral arrangements, that it would be impossible to spell them all out here. We did intend to suggest that we are talking about something more than a formal registration or a physical act like turning in an application or something like that, or entering one's name on a roster.

If you will examine the same page, the same column, we also recognize that under these varieties of arrangements there may be situations where it has been impossible for the union to compile data where a referral is accomplished by telephone or where it is handled in some informal manner of the type that you described.

In those cases we are saying in effect: Do the best you can within the five methods of identification that we have set forth and you are expected to maintain whatever records will enable you to fill out the report. It states:

> "In many instances, a daily notation of the race, ethnic group and sex of persons appearing . . . will be sufficient. In other cases, records must be made through self-identification or direct inquiries as suggested above."

And we have recognized that 100 percent accuracy and 100 percent completion is not possible by including on the form on page 17, Item C-9; if you are able to make a record of the total persons referred but are unable to further identify them, the number for whom no identification was made is to be listed by Items 6, 7, and 8.

MR. HOLCOMB: Does that answer your question, or are you more confused than before you asked it?

MR. SCHRANCK: I don't really know.

(Laughter.)

MR. MARKHAM: I think, as I said in my opening statement, that we cannot define a system that is going to be applicable to every conceivable arrangement. If so, the form would be about this thick (indicating).

We do provide, in the case of both forms, for requests for special procedures and I would suggest that if there is one that is -- one or maybe several hundred or a thousand -- I don't know -- that will not fit into the patterns set forth in the form, we will attempt to evaluate the situation in the light of a letter or whatever evidence you want to submit, and if it is utterly impractical to work out any arrangement that will give us information within the pattern of your operations, then we will, in that circumstance, provide an exception, I would think.

But I am sure we all realize that you cannot compress every possible pattern into a four-page form or a three-page set of instructions.

We do want to give very thoughtful consideration to every unusual problem. We would not know what they are unless we hear them from you in this forum or through further correspondence.

MR. HOLCOMB: Do you keep track of those who obviously are not qualified for a particular job which they seek?

MR. MARKHAM: Would you repeat the question, please?

MR. HOLCOMB: Must a local union keep track or keep account of the number, - included in this tabulation, of those who are obviously not qualified for the job which they seek?

MR. MARKHAM: I think the answer to that is Yes.

MR. HOLCOMB: Another question?

MR. DAHNKE: Vern Dahnke, with Operating

Engineers, Local 12, Los Angeles, California.

On Number 6, I would like to give you the confusing situation we have. It says the number of persons registered with the union for job referral within a three-months period.

We have some 13 dispatch halls in Southern California and Southern Nevada, and we allow our members to register on more than one work list. He very well could be on all 13. He may well be on 2. He may be on 1. So any figure we would compile in a three-months period would be fictitious because any person could be on any of the work lists so how would you handle this situation? We need this answer ourselves.

MR. MARKHAM: Did I understand you to say earlier that part of the people came to the hiring hall or office and that others were called in by telephone?

MR. DAHNKE: To register on the other work lists. If they already have a work card established, they can do it by telephone. The first time around they have to come in personally, but on the referral system, most of our members come to the halls and pick up their referral slips, but in outlying areas we may very well call the men on the telephone. If he accepts the job, then we mail the referral to him, so we have no way of knowing what minority group he might fall in.

MR. MARKHAM: What proportion comes to the hall rather than are contacted by telephone?

MR. DAHNKE: Pardon?

MR. MARKHAM: What proportion of the membership would you say --

MR. DAHNKE: I would say 90 percent.

MR. MARKHAM: Come to the hall?

MR. DAHNKE: Yes.

MR. MARKHAM: Well, in that case you could make a tally.

MR. DAHNKE: Yes, but can you answer my first question on the out-of-work list?

MR. MARKHAM: Well, you would have to explain the "outer work list" for me to answer your question.

When you say "outer-work list," do you mean the 10 percent whom you deal with by telephone, or are you talking about something altogether different?

MR. DAHNKE: No, an out-of-work list is when the man is out of work.

MR. MARKHAM: Oh, out-of-work list.

MR. DAHNKE: He gets on our out-of-work list, but he may be registered in more than one dispatch office and you want to know the number who are registered with us in a three-month period.

MR. MARKHAM: Well, again I must say, as I did to the previous questioner, that we don't know all the answers here in a half an hour. If my colleagues are able to offer any on-the-spot enlightenment, perhaps they can help me out. I am not able to visualize that situation in order to give you an answer here.

MR. HOLCOMB: Let's let Mr. Berg do it.

MR. BERG: Let me ask you this:

Assuming that we were not bothered about the inflated nature of the figure. Would you be able to do it by cumulating your various figures?

MR. DAHNKE: It would be fictitious.

MR. BERG: In what respect? You see, it seems to me if what we are talking about is the possibility of discrimination against particular groups and we are more interested in comparisons of figures than with gross figures, ~~er~~ Gross figures in any category indicate duplication of the same individual, so if, for example, your figures were all multiplied by five as a wild number, for our purposes they still would have considerable value, if you follow me.

MR. DAHNKE: I don't want to keep going here, but perhaps I can explain it this way:

Take John Doe. He is on all 13 out-of-work lists. He would come up in this figure, but he may be one of those 10 percent that we get a job for over the telephone, and we mail those referrals so he would end up down here in the figure with no identification, so we could end up with 8,000 people out of work and never send out a minority person, and this is not the information you are seeking.

MR. HOLCOMB: Dr. Murray?

DR. MURRAY: Could you require-- Can you hear me? Can you require a person to indicate what other lists he is registered on when he registers on the list in your office?

MR. DAHNKE: We have no provision for that at this time.

MR. BERG: You mean to say when somebody is re-ferred-- Let's assume somebody is on 13 out-of-work lists. When you refer him to one job, there is no way of taking him off the other 12 lists?

MR. DAHNKE: Oh, yes, we send out a daily list to each office, indicating those people dispatched, and the next day, he would automatically come off the other lists, but we have no way of knowing how many lists he is registered on to start with.

MR. BERG: It seems to me that when your other offices bring in their totals to your total compilation, there would be some way for this to be reflected.

MR. DAHNKE: No, only the number of men dispatched per day, per week, per month.

MR. BERG: I don't see that really it can be worked out at this time but it seems to me that if the 13 different offices have some way of reflecting on their own list that the guy is off the out-of-work list because he got a job, that there is some way that that data can eventually be compiled into your total computation.

MR. DAHNKE: Except for Number 6.

MR. BERG: For our purposes-- 6 is only significant, I think, since it is broken down and if the breakdown is roughly accurate, the fact that all these figures may reflect an inflated number of individuals doesn't bother me.

MR. MARKHAM: You may refer that same man ten times during that three-month period but I think our instructions say--There we're talking about referrals and not about the number of individuals.

MR. BERG: I would say cumulate your figures and if it gives an inflated figure, well, the inflation is uniform so we will have to take it.

MR. HOLCOMB: Thank you.

As we have indicated earlier, the record is going to be open and it might be helpful if you and Mr. Markham had a personal visit at some time.

MR. HAYCRAFT: William Haycraft of Baltimore, Local 37, Internation Union of Operating Engineers.

I was under the impression that this thing was simply for apprentices. If I'm wrong, tell me; I'd appreciate it.

This information here is more or less for the parent organization. I can't see any application here to apprenticeships. They want to know here, for example-- I attended a couple of these meetings before, last May in Baltimore, and since we are very new and setting up this program, the organization said they wanted no reference on an application form as to what color a person was. We left these off.

Now I have to find out, I have to go back and change all the applications again to give you an accurate count. In our parent organization, as such, -- of our regular union body, I'm speaking now -- we have no record of this either. What do we have to do, have a field day here to find out who belongs to what? Do we have to break out a new application?

MR. MARKHAM: If I understand your first question, you say there is nothing on Form EEO-3 about apprentices. That is correct, because EEO-2 is the form relating to apprenticeships and EEO-3 relates to unions generally.

Your second question, I take it, is in view of some information apparently from the State of Maryland or elsewhere, you were informed that you could not keep a record of the race or ethnic group on applicants for apprenticeships. Is that your point?

MR. HAYCRAFT: This is true; right.

MR. MARKHAM: Well, this form and the position taken in the form is that if there is such a State rule that the Federal rule would supercede any State rule to the contrary, and I think our Counsel is prepàred to comment on that point.

MR. HAYCRAFT: Getting back to the other question, how would this be in relation to the apprentice program, this EEO-3? This is strictly the parent union again we're talking about here.

MR. MARKHAM: It has no relationship.

MR. HAYCRAFT: I was under the impression that this was strictly for apprentices here today. That's what I can't understand.

MR. MARKHAM: I think all the notices that were published in the Federal Register and the press releases and the stories carried by the Daily Labor Report and other services of that kind indicated that the hearing was for the purpose of considering both EEO-2 and 3.

You are correct; they are two different matters.

MR. HOLCOMB: Is there another question?

MR. HARRIS: AFL-CIO.

Mr. Markham, on page 15, the question at the top, Number 2, is that meant to get at the problem of segregated locals?

MR. MARKHAM: Page 15, Question B-2?

MR. HARRIS: Question 2, the one at the top of the page, the first one, Number 2.

MR. MARKHAM: I believe so.

Am I right, Dr. Murray?

DR. MURRAY: I'm just checking.

I think so.

MR. HARRIS: Well, you see it doesn't do it. I don't think there is any real problem in identifying separate, segregated locals anyway. The Commission I know has a good deal of information on that now. We have some information on it, but the problem is to eliminate them, not really to identify them.

But in any event, let's assume you have an all-Negro local and they get this question:

> "Are you members divided into divisions, departments or units of the union in which they separate on the basis of race or color --"

They fill that out and they say No. They are all Negroes. They don't separate anybody under division of race. The same way if it is an all-white local.

Now your preceding question would reveal a local which excluded people on grounds of race and it might have some utility but I cannot see any utility to this question which is also very confusing.

DR. MURRAY: If I understand Mr. Harris correctly, he is suggesting that we need to revise the question but not to omit it.

MR. HARRIS: I think you could just leave it out and rely on the preceding question.

DR. MURRAY: I'm not sure that the preceding question will do it. There may be no admission of formal or informal arrangement -- that there is the exclusionary situation but it may be, as a matter of fact, a union local will be all-white or all-Negro or all-male or all-female.

MR. HARRIS: Well, your preceding question is, does your organization have any practice which restricts membership on the basis of race, and if they are an all-white local I should think the answer to that would be Yes.

Now I have a little bit of difficulty with the question, "Practice". The statute is written much more simply. It would just say, "Do you restrict," but I don't see that you need both that question and 2. I don't see anything you're going to get out of 2. It looks, as I say, like it is aimed at segregated locals but if you think about it a little, you can see that it will not reveal a segregated local. Those are the very locals that are going to say No.

MR. HOLCOMB: Thank you for the question, Mr. Harris.

MR. HARRIS: I have an indefinite number of further questions but I don't want to take up the time if there are other people; if other people have questions, I would like to yield to them. Otherwise I have two or three more.

MR. HOLCOMB: Does anyone want to yield to Mr. Harris?

#8 Go ahead while you're on your feet.

MR. HARRIS: Well, when we get over to the referral and membership referral information, this I think is the real guts of the questionnaire, pages 16 and 17. The material on page 16 puzzles me.

You start out in Question 2: "Number of members to which referral arrangements apply." Well, I wouldn't know how to answer that because referral arrangements don't apply to members. They apply to bargaining units or jobs or employers. There never was a referral arrangement which just applied to members.

Now your questions here, 2, 3, 4, and 5, seem to assume that unions will refer only members and that that is the way the arrangement with the employers are made. Well, on the contrary, it is a violation of the National Labor Relations Act to have an arrangement of that sort. Unions have to refer without regard to union membership.

So that your coverage might be with a bargaining unit. You could say-- You could name the number of employers with which you have got referral arrangements. You might estimate the number of jobs that are covered by the arrangements but you cannot answer in terms of membership.

Now I just don't see what--

MR. MARKHAM: Well, the purpose of the question, however inelegantly phrased, is to handle the situation where a local union may have several divisions, only one division of which would be required or would come under this referral, this Part C. In other words, in the example given in the instructions giving instructions, the union has three divisions, in one division of which the members were engaged in the construction industry, in another division were employees of a public utility, and the third were in the manufacture of electrical products.

And in the definition of "referral" that union local would have to give membership and referral information only to unit 1; but what we had in mind in Questions 1 and 2, and so forth, was, if the Union in the example had 10,000 members of which 3,000 worked in the construction industry, the figure in 1 would be 10,000, and the figure in 2 would be, say, 3,000.

MR. HARRIS: But your referral arrangements wouldn't apply to members. They apply to jobs.

MR. MARKHAM: I think your question is well taken if you are objecting to the way the question is phrased. We would certainly consider clarifying that.

MR. HARRIS: I would think you would say that Part C applies only to plants or marketing units or construction jobs to which a union performs a referral role. I would then have the problem, though-- I don't see the purpose of asking such a union a lot of membership information as you have got in 3, 4, and 5 here on 16, which is not asked of other unions.

I do see the purpose of asking it for the information on 17 in the boxes there as to how many applicants it has and as to how they're broken down by race, as to who it refers and as to who gets hired, but just because it's a referral union I don't see the reason for the membership information.

MR. HOLCOMB: Thank you, Mr. Harris. Certainly the purpose of the hearing is that we might get information such as you have brought to our attention.

Mr. Newman, which side are you on?

(Laughter.)

Mr. Newman was formerly with our Commission.

MR. NEWMAN: I'm now with the United Steel Workers of America, but not on a different side. I don't think the Steel Workers' position is different from the Commission's in terms of what we want to do. We may have some disagreements in particular areas and particular cases, but in terms of our over-all position, I don't think there can be any difference.

MR. HOLCOMB: Thank you, Win. Go ahead.

MR. NEWMAN: A few questions, if I may.

The Employer Report Form, EEO-1, applies to employers with 100 employees. The Commission did not exercise it jurisdiction and reduce that figure to 50 and I think does not intend to do so. I am curious as to why this form now covers unions with 50 members.

The concern is because with a union of 50 members it is difficult enough to get people to run for office, let alone to give them forms to fill out, people in a shop who know nothing about filling out forms and who find this extremely complicated whenever they have any forms. It really scares people who are not used to handling them.

Now can you tell me what the theory was in reducing union jurisdiction down to 50 when the employers are at 100 -- I mean the forms?

MR. MARKHAM: Well, we have not technically reduced the unions. We are starting off with a union report and when we started off with the employer report, we started with the then-covered number.

In the employer situation we felt that by going down to 75 members that the added number of employees covered by this route was statistically so small that it would not be worth the greatly-increased processing cost to bring them in, to be very frank with you, and it was also felt that a great many of these employers would be covered under the EEO-1 reporting system anyway because it applies to Government contractors with 50 or more, so there were these two elements.

I think we would have gotten, under the EEO-1 proposal, to go down to 75 or 50, about a 3 percent increase in information and about a 50 percent increase in cost. So this element, it seems to me, is not necessarily present here, and I'm addressing myself-- The reason is that there are not as many local unions as there are employers with 50 to 99 employees.

Now as to your question, as to the burden, it would seem to me that in a union with 50 members, if it's a question of conducting a head count, that this group is so small that no additional record keeping or any elaborate procedures for filling out the form would be necessary, so the smaller the union, the lesser the burden in that sense.

MR. NEWMAN: In the first place, the thing I think you leave out is that in a union such as the Steel Workers where the typical local union covers the same area as an employer, -- that is, there would be one local union for each employer -- that employers-- You are really talking about the same group with the exception that there would be fewer people in the local union than would be covered by the employer himself, as the employer may have 75 people or so, only

50 of whom are in the bargaining unit.

So that really when you exempt employers of less than 100, I think you put an inordinate burden upon the union which is dealing with an even smaller group that it represents. As I said, the employer with 75 may have a union complement of 60. The employer with 100 may have a union complement of 50 people. I'm not so much concerned about the referral situation because there is some meaning there because a union with 50 people hardly controls hiring except when it has something to do with referrals, and I'm speaking now of the first six questions in the EEO-3, where referrals are not involved, and a union has nothing to do with the hiring process except where referrals are involved.

MR. MARKHAM: Are you speaking then primarily for those locals that would not have to fill out Part C anyway?

MR. NEWMAN: I'm speaking for these Steel Workers Unions, none of whom probably would have to fill out Part C.

MR. MARKHAM: Well, on that question the burden is reduced to answering six questions Yes or No, isn't it? Now is this in your judgment an overwhelming burden for a union of 50 as against one of 500?

It would seem to me frankly that in those cases where there are only parts A and B to be filled out that the form could be completed in a very, very short time.

MR. NEWMAN: If you are saying that it is less of a burden for industrial unions which doesn't have an apprenticeship program, which doesn't have a joint apprenticeship program, which doesn't have a referral program, the answer clearly is Yes.

If, however, the basic question is whether that form serves any purpose at all-- Which brings me to another question.

The original Commission decision as outlined, I think, by Mr. Hammerman today was that forms would cover only those unions which had something to do with the hiring of people, which in the Commission's words were referred to as a gateway of employment.

MR. MARKHAM: One of the Commissioners wasn't there that day and asked that the matter be reconsidered.

MR. HOLCOMB: Mr. Markham, your time has expired.

MR. NEWMAN: Is this a reversal of the Commission's position to cover --

MR. MARKHAM: It is a different position from that adopted in September of 1965, yes.

MR. NEWMAN: Is it the judgment of the Commission that these areas will affect hiring, that is, the areas in EEO-3, the first six questions?

MR. MARKHAM: It was the judgment of the Commission, I would think, that Part C is to be directed to those unions which have some effect over hiring and that Parts A and B would be directed to all covered unions.

MR. NEWMAN: I have one more question. May I ask --

MR. HOLCOMB: Excuse me, Dr. Murray has a question she wants to ask.

DR. MURRAY: This is not exactly a question, Mr. Markham, but I think the record ought to reflect this, just in case the participants want to make any comment.

The staff has been considering on page 4 -- you might look at pages 4 and 16 simultaneously -- including Questions 1 and 2 of Part C in EEO-2, also in Form EEO-3, somewhere in Part C on page 16.

In other words, an information question as to the methods used in identifying and also an information question as to the dates of the reporting period ought to be in both forms.

MR. MARKHAM: I think the record should show that we are going to propose incorporating Question 1-A in EEO,-- Part C, 1-A in EEO-2 in Part C of EEO-3.

MR. HOLCOMB: Now, Mr. Newman, do you have a further question?

MR. NEWMAN: Yes. I wondered, in connection again with those questions which deal with industrial unions outside of a referral hall and outside of the information area, if you were to get answers to each of those questions to the effect that there is no discrimination now in existence, presumably that information will not change in the following year.

Is it your intent to require that the form be refiled in each year? Do you follow what I'm talking about?

The first six questions talk about current practices: what's in your agreement, what's in your constitution? Presumably if the constitution does not now discriminate, no union is going to be adding such a provision and presumably if its contract does not now discriminate, it's not going to add a discriminatory condition.

MR. MARKHAM: You are asking if we would consider dropping some of those questions in a subsequent year; correct?

MR. NEWMAN: I am asking whether you intend or have you made any decision?

MR. MARKHAM: Well, this one hasn't been adopted yet so I don't think we can think about next year's form.

I would certainly say that this is certainly worth considering and I might volunteer for the record that some of the questions on EEO-2 might also be dropped in the event there was a second form. Some of the questions on EEO-1 that appeared the first year are not there now, so we are always open-minded on this, and if we felt that we had accumulated statistical information of the kind that we are looking for in Parts A and B of EEO-3, we might well consider changing the system the following year.

For your information, there was a question about segregated facilities on Form 40 when it was first propounded in 1962 and the question is still there although I think it is fair to say that the rate of segregation in workers' facilities is very low but the question is still there. I don't know whether that is helpful to you, but certainly we will consider the problem next year.

MR. HOLCOMB: Keep in mind what Mr. Markham has said, that no form has been adopted. This is a hearing.

Now the time has expired. We do not want to be arbitrary about it. I am going to recognize Mr. Slaiman, though, for a question.

MR. SLAIMAN: I apologize for being late and missing the presentation, but I was making one this morning at the Civil Rights Conference.

I would just like to ask the question-- I'm going to testify later, but just--

MR. HOLCOMB: You are not yielding the time later?

MR. SLAIMAN: No.

(Laughter.)

MR. SLAIMAN: On the EEO-2 form, will this be sent to every local union?

MR. MARKHAM: EEO-2?

MR. SLAIMAN: Yes.

MR. MARKHAM: It will not be sent to every local union, no. EEO-3 will be sent.

MR. SLAIMAN: Who will it be sent to?

MR. MARKHAM: EEO-2 will be sent to a list of joint apprenticeship programs which we have obtained from the various State agencies, apprentice agencies, and from BAT.

It will be sent, in addition, to any joint program not on that list that has been identified by an employer in Item 8 of the 1966 EEO-1. It will be sent to employers in the construction industry, I believe, who have indicated that they have an apprentice program or have listed apprentices on the EEO-1 form.

MR. SLAIMAN: The reason I asked the question, the way the form is worded, it looks like it would be sent to local unions who were asked if they are participating in the joint apprentice program and if they are in a joint labor-management program, to give the name of that so it could be resent out to the joint labor-management program.

Our affiliates are all convinced that all their local unions, even though they won't be obliged to fill out the whole EEO-2, will get the form and have to fill out a couple of sections of it.

MR. MARKHAM: Local unions will not get Form EEO-2 by direct mail.

MR. SLAIMAN: Then the wording, the phraseology ought to be reworded.

MR. MARKHAM: Is that on page 1?

MR. SLAIMAN: On page 1 and in the rules which indicate that local unions who participate in joint committees should only fill out Parts 1-A and B.

MR. HAMMERMAN: May I say something to that? That is only meant in a case where a local union should receive the form by mistake, so fill it out, send it in, and we will take them off the mailing list.

MR. SLAIMAN: I see. Well, I'm very glad I asked the question, I assure you. Then this is clear. It will allay a lot of worry and burden from international unions who thought 50,000 local unions who were giving you no information at all would have to take the time to fill this out.

MR. HOLCOMB: Thank you, Don.

Any other questions?

As you realize, there are a number who have asked for the privilege of testifying and --

MR. SLAIMAN: Can I ask one more, Mr. Chairman? It's a follow-up on Mr. Harris' question.

What is the rationale if you are asking for referrals, that is, you want to get an actual breakdown of referrals which you assume can be given by a simple visual head count -- that is, some one referred and the person referring them -- what is the rationale on asking the number of members in the local and the racial breakdown thereof?

MR. MARKHAM: Dr. Murray?

DR. MURRAY: I think originally -- and I happen to feel that Mr. Harris has made a very telling point. I think originally what we were trying to do was to see what proportion of the membership subject to such referrals actually gets referred and then what proportion of the membership or persons. But originally we had "membership". We were really trying to get comparative figures to see the extent to which minority groups participate in these referral programs.

Now it may be that something was lost in the translation. It may be that if what we are after is merely the proportion of persons referred who belong to the various minority groups and to the two sexes, if it is accurately reflected, then we don't need to carry the further comparison in relation to membership.

You recognize I am now speaking for myself and not for the policy of the Commission but I think the point is well taken.

MR. HOLCOMB: Thank you, Dr. Murray.

MR. HAMMERMAN: May I have a word on that, Dr. Holcomb?

MR. HOLCOMB: Yes.

MR. HAMMERMAN: There was a reason for it in addition to that.

We had originally thought of getting membership figures for all local unions, not only those in the referral system, but it became clear after a while, after we talked it over not only with you but thought about it ourselves and thought about it with others, that the kind of information we would get, even if it were feasible to get it from unions who did not have any control over the jobs that their members got, would certainly be obtained through the employers' report form, since it is the employer really who does the employing.

So we dropped that aspect of our question, but it still is a relevant question for unions where the employer does not maintain the right, the sole right to do the hiring.

MR. HOLCOMB: Thank you, Mr. Hammerman.

Not seeing any urgent questions, I think perhaps, Mr. Markham, we had better conclude this period in light of the testimonies that have been scheduled.

Before we move into this area of the discussion, let me say that you are mindful, of course, that this is a public hearing. It would certainly be my personal position that the information from it should be available to anyone who desires it, so if you wish a copy of the transcript, give your name to Mr. Markham and we will see if that can be --

what terms can be arrived at to make that available to you. But either before you leave today or by phone or letter, advise the Commission that you want a copy of the transcript of today.

Now let's cooperate with our Reporter.

Do you have the names of everyone who has spoken thus far?

(Discussion off the record.)

MR. HOLCOMB: We have not sought to introduce everyone present. I do want to acknowledge the presence of Miss Karen Nelson of the Bureau of the Budget. I am mindful likewise of other Government agencies who have had representation and we do appreciate the interest and the presence of each.

For those who have come in this afternoon I will mention that Chairman Shulman is out of the city. I did convey his most cordial greetings and appreciation for the interest of everyone.

Commissioner Jackson was with us this morning but he is making a speech this afternoon elsewhere in Washington and will perhaps return before we have concluded.

We are mindful that those from our staff have had a very difficult assignment and we are especially grateful to Mr. Markham, Mr. Hammerman, and Dr. Murray for their diligent work in preparing for this hearing.

We now come to the area where we have to recognize some by alphabetical order. If you want to relinquish any of your time, we will be glad to receive it back. Otherwise we will play according to rules.

We first recognize Mr. Nathan Duff.

Is Mr. Duff present?

(No response)

We will call, then, on Mr. Barry Greenstein.

Others, where you have indicated you are going to testify, it would perhaps be helpful to all of us, if you are going to use this stand, to perhaps be where you can conveniently get here with the greatest speed.

Mr. Barry Greenstein, from the Maryland Commission on Inter-racial Problems and relations.

STATEMENT BY BARRY GREENSTEIN, MARYLAND COMMISSION ON INTER-RACIAL PROBLEMS AND RELATIONS

MR. GREENSTEIN: The Maryland Commission on Inter-racial Problems and Relations wishes to go on record in support of the proposed EEO-2 and EEO-3 forms. To a large extent we recognize the necessity of gaining access to such information. We believe that a reporting system, if made available to FEP state commissions, shall be a welcome addition. I am speaking in the interests of the Maryland Commission.

The two forms, along with the EEO-1 form, greatly enhance the scope of our affirmative action programs.

We further anticipate with possible passage of pending legislation in the Maryland General Assembly today, such legislation involving contract compliance and also legislation that will allow us to be rid of the confidentiality clause as it regards and applies to those agencies such as Federal, state and local agencies dealing with FEP implementation.

So with the pending legislation, and possible successful passage, we hope that also we can gain the access of the information that you receive by these forms in order to carry on with our programs.

In a recent discussion with the Assistant Attorney General of Maryland I was told that he has advised us that it was his general impression that the requirements of the two forms were not repugnant to the Maryland law, and subsequently we will receive from him a formal opinion, from the Attorney General's office; and such opinion we hope to share with you once we receive it.

MR. HOLCOMB: As soon as that is available get it in to Mr. Markham directly here.

Thank you a lot, Mr. Greenstein.

Any question of this speaker?

(No response)

If not, we will call upon Mr. Richard Levin.

MR. LEVIN: I would like to relinquish my time. I don't think I could contribute anything that has not been said. And I will submit a written statement.

MR. HOLCOMB: Thank you very, very much.

Mr. Carl ~~Maekle~~ Megel or Mr. William Simons, of the American Federation of Teachers?

(No response)

All right. Mr. Charles Vihon.

MR. VIHON: Do I take precedence over my friend from the AFL? Not that I mind.

MR. HOLCOMB: All right, Don. You come on up now.

STATEMENT BY DONALD SLAIMAN, DIRECTOR, CIVIL RIGHTS DEPARTMENT, AFL-CIO.

MR. SLAIMAN: I am Don Slaiman, Director of the Civil Rights Department of the AFL-CIO.

Let me say preliminarily, we realize the necessity of the Commission getting information beyond the individual complaints that you get. We knew it was in the law, and we have supported passing the law; and we recognize its importance.

I'm sorry I wasn't here this morning. I know certain references were made to consultation with us. And there was some. When the Commission first started to take this up, first one and then another came to our office to discuss what advice or experience or discussion we could provide for these forms.

We said from the very beginning, while we know these forms are coming and we will be cooperating and advising our affiliates, when an intelligent and useful form is gotten together, that we would advise our affiliates to advise their local unions on how best to get compliance with this. Because the objective of the form is to get information to enable the Commission to do a more effective job of eliminating discrimination. We are in agreement with that.

We also said that since local unions vary in size from small ones to large ones, the overwhelming majority of them may not have much fulltime staff. Very few of them have personnel offices and records comparable to corporations. That the information requested from local unions should be necessary, and not too burdensome for parttime officers, and should not be requested if it could be gotten more easily from other sources.

As Mr. Newman indicated, if you have an industrial plant and the EEO-1 form gives a profile of the work force and the union has a union shop agreement, one does not need to ask anybody who is in the union. As a matter of fact, it is not merely that the union doesn't control the hiring, but in a good number of cases there is no need to get repetitious information from local unions.

Now some of the questions would be no great burden on anybody, especially if they were aware, or got informed on how to answer and fill them out. But any form to local union officers that is not necessary is a burden. You have to fill out Landrum-Griffin forms and fill out other forms: they have to do a large amount of work. And these are part-time volunteer people in many cases, sometimes helped by a fulltime individual. But it isn't really a corporation with trained clerical and administrative help and regular records. And so this should be kept in mind when getting up the questions.

Now sometime after we discussed this with the young people who came out to contact us, we were aware that the Commission was meeting with some people on the EEO-2 form, and then was discussing gettting up the EEO-3 form. We never had any discussion on the EEO-2 form with the Commission staff. We had two discussions of the EEO-3 form. And I must say that after the first discussion there was a big improvement in the clarity and simplicity of the form.

However I must say, after looking at the forms and discussing these with our affiliates, that there are still questions which are unnecessary, questions which are not clear, and questions which are a definite burden. And I think it is very important if forms going to be sent out to 50,000 local unions, or even a smaller number of them, if the EEO-2 form is not sent out to all local unions that there not be -- or that it be improved in a way that it will be neither burdensome, frightening, that it will get important and necessary information that will be useful, and that will not cause unnecessary friction, fears and misunderstandings.

Now I just want to give a couple of examples of what we consider some problem questions.

Let me start with the EEO-2 form. I really didn't it asks this question clearly.

One of our affiliates has informed us that they have amalgamated local unions, and they named them I think in a statement to the Commission; that in two cases which they cite, the local unions in different cities have contracts with 90 and over 100 employees, and that a majority of these shops that they have agreements with have joint apprenticeship committees.

Now I assume these are relatively small shops, if it is one large amalgamated union. But they are really worried that one local union, or some officers thereof, will be having to submit 216 forms, and EEO-2 form and an EEO-3 form. And they do not have many fulltime officials in this local union, and they think that the effect may be not to get intelligent information, but to discourage people who are running good apprenticeship programs from expanding them or pushing them.

And I raise the question, What happens when you have the sort of situation where a local union is engaged in a multiple number of joint apprenticeship committees? How many forms and how much information will have to be realized in proportion to how valuable it would be?

Now in the EEO-3 form, it's divided in two parts: one is relatively simple, asking yes or no questions: that is relatively simple, but it is not really very simple, since a number of us, including people who have answered questions and people who have asked them are not clear as to exactly what the questions mean. Mr. Harris asked a couple of questions. I might add that I am not so sure, on page 15, whether Questions 2, 5, and 6 are each necessary, how much they overlap, and exactly what they mean.

Now if it is true that the questions are not necessary, that they do overlap, in any event if they are not clear, what happens when 50,000 local unions get them if they are not sure what exactly it means?

Now, if it is cleared up and we are convinced -- or the Commission is convinced that each question is clear and necessary, then if we are informed we can tell our affiliates. But I think there are enough questions involved in there to take a serious look at this.

Question 3 on page 15 asks the question -- I mean Question 4: "Does your organization have a special procedure for handling claims of discrimination because of race, color, religion, sex or national origin, other than grievance provisions under a collective bargaining agreement (for example, civil rights committee or department,) etc.?"

Now I want to raise two questions, two points with this:

One: I have been in conferences where local unions officers have raised the question of why can't their civil rights committee take up complaints rather than the grievance committee?-- that is, go around the grievance committee. It's a very difficult problem.

Many of our local unions have civil rights committees for a number of different purposes -- civil rights education, civil rights activities. Very few that I know of -- I don't personally know of any -- have a special committee to handle discrimination grievances, by-passing the normal grievance machinery. As a matter of fact, I wouldn't recommend it at all. I try to get local unions to handle discrimination problems as they would any problems; that is, their basic union representation problems. As a matter of fact, under the National Labor Relations Act it can be an unfair labor practice for a normal union representation committee to refuse to handle a legitimate grievance of discrimination.

So I do think this question can cause more trouble than it is worth.

And, secondly, I want to say: What is the purpose of the question. Since the Civil Rights Act doesn't demand or require that unions have civil rights committees, there is no violation of the Act if they don't; nor does anybody who has them get any special points in relation to other problems.

This is an informational question, but I don't think it is really of great value for the Commission. And you are going to ask 50,000 local unions the question, so that those who don't have them say "No," those who do have them say "Yes," and you really can't say "All those who don't have them are bad boys."

I really don't see adding it onto a questionnaire.

Now on the referral situation we raised some question and have had some discussion already. And I really appreciate that the staff of the Commission is looking at this not from a possessive point of view, "We did it," but looking for what would be best in the form.

I want to reiterate that, while I understand Mr. Hammerman's explanation, that the asking for a membership breakdown from a small number of unions, not only singles them out but, since they do not keep personnel records -- and the purpose of the form is not to ask people to keep personnel records, whether it's legal or not in the particular state, but to get actual information on jobs and job placements and job referrals -- I really would say that requiring the racial breakdown on job referrals and applicants is the important thing for the Commission, to find out whether minority group people are being referred or discriminated against, and whether, you know, not only if there are very few of them but whether they are applicants.

I might say at this point it's a little strange for us to understand that corporations who have generally more to do with hiring, more resources in keeping records, more trained personnel, are not asked anywhere on the EEO-1 form for applicants as well as a profile of employment.

I would think from the point of view of management they would want to have this as well. It might be a little burdensome; but, after all, when you look at a profile, whether it is a referral hall or an employer, and you see no minority groups, there is something to look at. You want to say "Well, how come?" But there is no automatic violation of the law, or even indication of wrong-doing if you don't have specific numbers of people.

Just to summarize, while we have a positive attitude toward information, while we are interested in the objectives of the Commission, and while we appreciate that the Commission staff has worked long hours and put in a lot of time and, I am sure, in most cases gotten quite knowledgeable, we think there are enough weaknesses in the form -- both forms, that they bear further scrutiny and discussion with people that have information and knowledge about them. And this is what I would recommend to the Commission.

MR. HOLCOMB: This will be done, Mr. Slaiman. And we appreciate your presentation.

I believe we have a representative of the International Association of Machinists.

MR. MARKHAM: He has submitted a written statement.

MR. HOLCOMB: Mr. Vihon.

Mr. Vihon is with the D. C. Commissioners' Council on Human Relations.

STATEMENT OF CHARLES VIHON, DISTRICT OF COLUMBIA COMMISSIONERS' COUNCIL ON HUMAN RELATIONS

MR. VIHON: I shan't take but a few moments. I would like to repeat the comment that a number of other peoplehave already made about the necessity for such information-gathering in enforcement programs, compliance programs, and just general statistical compilations, which are helpful in the comparison of many cities and states.

I would like to direct three specific comments to the EEO-3 form. There are not included in that form three questions which I think would be of very great significance, especially if the information that is to be obtained by the Commission is going to be referred out to state or local commissions for use in their compliance and enforcement programs.

The first question that I think would be important would be the type of bargaining unit that exists with respect to the contracts that are executed by the unions that are furnishing information under EEO-3, whether it is a plant, company or locational type bargaining unit. I do know that this information was provided by the employers on the EEO-1 form last year. But historically some contracts have distinguished between employees on bases that were, prior to the effective date of Title VII, tantamount to discrimination. For example, craft differentiations, where the only functional difference was one of race; the phraseology for the craft being an allusion, and their allowing for the perpetuation of discrimination. Today, of course, these are illegal, and more communities don't have them. But it would be interesting to know whether the same bargaining units do exist today.

The second question that I think would be important is with respect to the type of seniority provision that exists under the contract in the bargaining agreement. This is especially significant with respect to those craft unions that heretofore did not include minority group members. And if the same type of seniority arrangement is used today, after the effective date of Title VII, whether or not the carryover of the same type of seniority provisions more or less freezes into it a history of discrimination that did not exist prior to the effective date of the Act. And this is very similar to the last point that I would like to make.

And that is: a question I think should exist as to whether or not there has been any substantive change in the nature of the contract during the time gap between -- the time before which Title VII became effective and the time after which Title VII became effective. This point goes also to the point that I made earlier about the freezing into a contract structure of discriminatory practices which existed at one time which may not now exist, but which have the effect of existing by virtue of the fact that the union under the collective bargaining agreement has not altered that pattern which has allowed for the inclusion into the bargaining unit of minority group members now.

And if I may have one more moment I would like to give an example of this.

If for a period of twenty or thirty years a collective bargaining agreement existed which excluded minority group members and then all of a sudden it is thrown open and now the collective bargaining agreement allows for the inclusion in the unit of minority group members, and a seniority system exists, and a Negro applies for a job, or applies for a job and is hired, and then is placed at the bottom of the seniority roster, he has to work himself up over a period time; granted, the same period of time that whites would work themselves up, and, granted, with respect to the same procedures. But does this constitute in effect what we mean by equal employment opportunity, or does this contractual relationship build into it an inhibition to equality of opportunity which is going to take a long period of time to overcome?

MR. LA ROCCA: Are we talking about these proposed EEO-2 and EEO-3 forms, or are we talking about the alleged practices of some unions? I think we need a point of order here.

MR. VIHON: I was pointing out that I thought certain questions would be helpful on the form, and I was trying to give my reasons for my asking for the Commission to consider the inclusion in the form of those questions.

MR. BERG: I think the issue of what ought to be in the form is in order. Now the gentlemen's objection raised at the proper time to that suggestion would also be in order.

MR. VIHON: I'm through, Mr. Chairman.

MR. HOLCOMB: Thank you.

Mr. Harris, do you have any further comment? I believe you said earlier that you wanted to comment.

MR. HARRIS: No. I think it has all been pretty well covered. Thank you for the opportunity.

MR. HOLCOMB: Now, according to the rules that were handed you, I wouldlike to ask if any member of the press has a question they would like to ask.

You may need some assistance, and I am going to ask Mrs. Gladys ~~Ewell~~ Uhl to please stand.

Any member of the press, when we have adjourned, Miss ~~Ewell~~ Uhl will remain and will be glad to assist you in getting any information that you desire on the hearing.

Now, Mr. Markham, do you have anything further?

MR. MARKHAM: There have been one or two additional statements offered for the record. One by the Michigan Civil Rights Division. And a question has been presented by the Joint Apprenticeship Committee of the Los Angeles Sheet Metal Workers. We will attempt to give a written answer to this to the party who requested it.

MR. HOLCOMB: I want to underscore that the record of this hearing will be open until March 31st. And so any statement can be included if you will bring it to the attention of Mr. Markham.

Mr. Hammerman, do you have anything?

MR. HAMMERMAN: I don't think so.

MR. HOLCOMB: Dr. Murray?

DR. MURRAY: No, thank you.

MR. HOLCOMB: My very special thanks to Dick Berg for being with us, and for his assistance in the hearing.

Dick, do you have anything further?

MR. BERG: Nothing.

MR. HOLCOMB: If there is no further word, we will regard the hearing as adjourned; reminding you that somebody has lost a set of car keys, and they're right up here.

(Whereupon, at 3:10 p.m., the hearing in the above-entitled matter was concluded.)

THE ROLE OF THE EEO-1 REPORTING SYSTEM IN COMMISSION OPERATIONS

ADMINISTRATIVELY
RESTRICTED

Office of Research
Equal Employment Opportunity
Commission
May 27, 1967

Research Report 1967-17

CONTENTS

A. INTRODUCTION

1. Value of a Reporting System. The institution of an employer reporting system by EEOC has at least five principal advantages which justify its existence:

(a) By serving as an annual EEOC "calling card" at most covered establishments, the report form serves in an auxiliary capacity to give credibility to a weak statute.

(b) Remedial action by an employer can be stimulated through the employer's examination of his employment pattern as he reports it.

(c) In-depth analyses of these data based on location, industry and occupation lead to areas where concentration of discriminatory employment patterns occur.

(d) A reporting system enables the Commission to set a relative "level of equal employment accomplishment" below which individual Commissioner Charges can be initiated.

(e) It can be used to measure and evaluate over time the effectiveness of Commission programs on the employment patterns of plants, companies or geographic units.

2. Implications. The most concrete evidence the Commission has on patterns of discrimination in recruitment or employment is contained in the EEO-1 reports. These number more than 118 thousand individual units reporting in 1966, of which many thousands are deficient in minority employees. The massiveness of the Commission's task tailors its use of EEO-1 data to what has been characterized as a "wholesale" approach, where the reports are used in grouped efforts in geographic areas, and the levels of interests can fall on broad variables like industry, county or, in the case of Government contractors, prime interest agency. In such efforts, the cooperation of the community leaders both in management and labor, other Federal and local FEP commissions, can be sought.

The other alternative is the individual plant approach which lends itself to use of EEO-1's in the complaint process as supplementary information, and to a Commissioner Charge which can be brought either after the affirmative action approach fails in spite of the implications in the data, or where the EEO-1 data clearly implies discriminatory practice.

B. STATUS OF THE DATA

The data collected through the use of the EEO-1 forms are available in 3 basic formats, aside from the original reports themselves:

1. Complete raw data on reels of magnetic tape for each reporting unit sorted by state, county, and employer identification.

2. The Raff format of data printed by the computer on microfilm showing, for each reporting unit:

(a) minority participation

(b) occupational aggregates

(c) white collar, craftsmen and total employment by ethnic group and sex

(d) utilization rates for Negroes

The various "sorts" in which the Raff tables are available are listed in Appendix A.

3. Tabular output from Data Management, Inc., a private company which has contracted to process six cross-tabulations from the raw data tapes mentioned above.

Output from DMI consists of six tables, as follows (All except except Table II will contain composite EEO-1 reports for the area or industry indicated, and percentages indicating minority distribution among the standard occupational categories):

Table No.	Description	Output
A.	Total Employment by Sex, Ethnic group, State and Occupation	1. Composite EEO-1 Reports by State 2. National summary
B.	Employment by Agency, Sex and Ethnic Group	1. Composite State reports for EEOC-only employers, OFCC (except Plans for Progress) and PFP 2. National totals for same
C.	Summary of Industry Employment by State, Ethnic group and Occupation	1. State summaries within each of 38 industries
I.	Occupational Employment by Geographic Area and Industry	Composite reports by industry within: 1. 120 major population centers (SMSA) 2. 20 Mexican American centers (county). 3. Counties with 10% or more Negro population
II.	Company Employment by Occupation, county location and Ethnic Group	Lists of 50 largest establishments with -3% Negro or Mexican-American employment in selected counties
III.	Occupational Employment by Geographic Area and Industry	Composite reports for selected growth industries in key SMSA counties regardless of the percentage of minority population

Tables I, II, and III are designed for the establishment of a "retrieval system," which will facilitate almost immediate response to future requests and demands of the Commission for information not available or readily obtainable from the Raff or DMI tables. The procedures will be that requests for such information will be referred to the Office of Research, which will in turn place an order for the desired output with DMI.

C. PRESENT PLANS FOR DISTRIBUTION OF EEO-1 FORMS, "RAFF" TABLES, AND DMI TABLES

1. Regional Offices will receive 1966 EEO-1 forms, sorted by state but not alphabetically, to the extent these forms are not needed for distribution to state and local agencies under Data Sharing Agreements. They will also receive a set of the DMI tables applicable to states and SMSA's within the region. Except for special projects such as the Summer Tension Program, under which Raff figures are to be provided by industry within 10 SMSA's, there is no present plan to supply Raff tables systematically to the Regional Offices, although requests for particular company, area and industry printouts can be filled in response to telephoned or written request.

Considerable clerical time will be required in the Regional offices to alphabetize the EEO-1 forms themselves.

There are two sets of 1967 EEO-1 reports. The original is being used for processing by the Census, and the duplicates are being returned to the Office of Research, sorted by State. Ultimately the originals must be sorted alphabetically. The second set will be available for Regional offices or state agencies. If there are sufficient funds, the entire file can be placed on microfilm.

2. State or Local FEP Agencies. State or local agencies may receive copies of individual reports or groups of EEO-1 reports -- but nothing else -- if they execute an agreement waiving their rights to require duplicate surveys and accepting the confidentiality provisions authorized by the Bureau of the Budget.

These agencies may receive, in addition, Raff tables, DMI tables, and any EEOC analyses of data*pertinent to their area, if they execute a similar agreement and, in addition, enact a regulation having the effect of adopting EEO-1 as their own report. The latter regulation removes all section 709(d) problems for EEOC in the state or local jurisdiction. The City of Phoenix and the State of Iowa have executed the former type of agreement, and the State of Kentucky and the City of Philadelphia have qualified for the full sharing of EEO-1 information.

3. Other Federal Agencies will have access to all EEO-1 reports, tabulations, printouts and to our instant data retrieval system, but except for routine requests, should be expected to supply the necessary staff and equipment to make copies for their own use; or in the event they wish printouts, to make their own arrangements with Data Management, Inc. for obtaining same.**

4. Research Grantees of EEOC will be provided whatever materials are necessary for the study in question, but, unless they are employees of EEOC or are engaged by a state agency participating in a Data Sharing Agreement, will receive no materials bearing the name or Employer Identification number of a particular employer.

5. Private Scholars. It has been EEOC's policy to make the output of the EEO-1 reporting system widely available to the public. This is not only consistent with the mandate of Section 705(g)(5), but enables the Commission to contribute to public understanding of the scope of job discrimination, and to justify its own expense and that of the employer community in gathering the information. Accordingly, scholars with a legitimate interest in obtaining access to the EEO-1 file will be permitted to make arrangements with Data Management for printouts of EEO-1 information -- or even a copy of the master tape -- so long as employer names and EI numbers are not provided.

*I.e. those prepared by the EEOC research staff.

**No Federal agency should have access to the information except on a routine basis, prior to EEOC publication as described in F(1) below.

6. Plans for Progress. Although Plans for Progress makes no contribution to the cost of the system and has an uncertain legal status, it is clear that PFP and other OFCC employers would not be submitting reports to EEOC in the absence of the Joint Reporting Committee arrangement. As members of JRC, the top Plans for Progress headquarters staff has a moral right -- and probably a legal right -- to complete access to the file of all PFP employers. By authorizing the establishment of a Washington staff, and acquiescing in that staff's participation in the JRC, the PFP members have impliedly waived confidentiality restrictions as to the PFP staff. The value to EEOC of having PFP participate (for example, in our being able to defend the reporting program as one having the endorsement of 350 major American corporations) is adequate compensation to EEOC for the fact that PFP contributes no funds to the program.

D. SECURITY RESTRICTIONS ON EEO-1 REPORTS AND ON THE RAFF UTILIZATION RATES

Contract provisions respecting use by state and local FEP agencies, recipients of EEOC research grants, and private scholars have been developed in cooperation with, and have the approval of, the Bureau of the Budget. The Raff utilization rates will not be made available to any of these groups.

The following measures are in effect or are proposed for protection of the confidentiality of EEO-1 reports and of the Raff utilization rates:

1. The room or rooms where the reports are filed will be clearly posted as "off limits" to the public.

2. Headquarters and regional offices will be notified that it is a criminal offense to make public the EEO-1 report of an individual employer, which includes (unless General Counsel rules otherwise) providing such reports to a State or local FEP commission which has not executed a Data Sharing Agreement.

3. The top column of the "template", or guide to be used in reading the Raff tables, will state:

> "It is unlawful to reveal EEO-1 information in any way that permits the public to identify an individual employer. Revealing aggregate figures for less than three employers is also prohibited. Aggregate figures covering at least three employers may be published where no company names are used. This guide itself is not to be displayed to or discussed with unauthorized persons."

4. Each <u>template</u> will be stamped in red ink: "Administratively restricted."

5. Each <u>printout</u> of the Raff format will be stamped with the following and columns 12-14 will be headed by the first sentence of the following:

> "The three right-hand columns of this table are valid for comparing employment patterns among companies, industries, and areas, and invalid for every other purpose. It is unlawful to make public this or other EEO-1 information in any way that identifies an individual employer, or to reveal summary figures for less than three employers."

E. <u>CURRENT USES OF EEO-1 REPORTS, TABULATIONS, ETC.</u>

1. <u>Routine requests</u>. Copies of individual company reports have been supplied to various offices of the Commission since the spring of 1966, and have been used in support of such Commission activities as investigations, conciliations, Commissioner charges, technical assistance programs, etc. Industry and area tabulations can now be provided.

2. <u>Speech material</u> for Commissioners and staff on an area and industry basis.

3. <u>Supportive material for Commission public hearings and other special projects</u>, e.g. Textile forum and follow-up in 1966-67; the proposed Southwest Connecticut project in the summer of 1966; planning for New York white collar hearings.

4. Research Office studies. e.g., textiles.

5. Grants to outside scholars for operational analysis and recommendations for Commission action programs: the Upjohn Institute, grants to state and local agencies.

6. Support for programs of other Federal agencies: Civil Rights Commission's Bay Area hearings in San Francisco, Federal summer tension program, Federal Executive Board request for names of employers with good EEO records in certain areas, etc.

7. Referrals to Justice for Section 707 suits: 100 Chicago "zero list" employers, selected textile employers.

F. PROPOSED ADDITIONAL USES FOR EEO-1 REPORTS AND TABULATIONS

The following is a summary of various proposals -- arranged in no particular order -- that have been submitted for use of EEO-1 data, many dating back to 1965. Where available, the source is indicated. (Some recommendations of the Office of Research are included in this listing. However, our principal conclusions and recommendations are found in the closing section of this report.) These proposals are grouped according to Commission function.

1. Public Affairs and Educational. The EEO-1 information has been gathered at considerable expense to the Commission and, as time passes, will likely attract great attention among other Federal agencies, state and local FEP commissions, and private scholars. EEOC must not fritter away the opportunity to take credit for its achievement in compiling the most complete and up-to-date information on minority employment in existence.

Accordingly it is recommended:

(a) That the Commission publish this summer or in the early fall, a compilation of composite national and regional industry statistics, with a brief analysis of the 1966 data. This should be printed; it should be published in a form that is easily handled (i.e., not in 8½-by-11-inch format); and it should be disseminated by the thousands. The data, after all, reflect, as does no other body of data, the dimensions of the problem of employment discrimination.

(b) that the Commission issue on a regular, systematic basis news releases tailored for various cities and areas, reporting on employment patterns in each. Each release could contain notes as to major trends indicated from the local data.

(c) that EEO-1 area data be used in all speeches, conferences, seminars, and other educational programs where appropriate.

(d) that the Annual Report to Congress contain selected EEO-1 statistics every year.

2. Basis for Commissioner Charges.

(a) Analyze EEO-1 reports to determine those employers whose employment patterns indicate significantly fewer minority employees in skilled and managerial jobs than is the pattern for similar employers in the same community. Write to the employers so identified to point out the differences and ask their opinion of the reason. File Commissioner charges against those refusing to reply after at least two appeals. (COMMISSIONER GRAHAM, March 23, 1966).

(b) Analysis by Office of Research to select appropriate recipients of Commissioner Charges. Charges are prepared and State agencies requested to waive jurisdiction. Charges are served with a letter requesting the source of employer's recent hires and other information on a special form. This information is then transferred to a simple punch card system to determine if there are patterns of recruitment, assignment or promotion inconsistent with Title VII. The investigator then calls an investigative conference at which additional information is sought. If the Commission on the basis of the investigative report determines that there is reasonable cause, conciliation follows; and if not, the Office of Technical Assistance will take jurisdiction of the case to gain acceptance of an affirmative action program. Any weakness discovered in operation of the labor market in the community, regardless of the reasonable cause finding, will be referred to appropriate community and Federal agencies. (OFFICE OF COMPLIANCE: Memorandum of Mr. Holbert, October 14, 1966); see also Mr. Blumrosen, Memorandum to Mr. Chase, March 29, 1967.

(c) Commissioner charges based on EEO-1 reports should be used (1) where the affirmative action (i.e., technical assistance) approach fails; (2) where the data are so flagrant as to be consistent only with the existence of gross discrimination. (MR. EDELSBERG, March 22, 1967).

3. Technical Assistance.

It is essential to development of Commissioner charges as well as to Technical Assistance programs to identify systematically the subject companies under either approach. A basic library will be established under Table II of the Data Management tables, which will list for every county in the U. S. with 10% or more Negro population, the 50 largest employers by industry classification which have less than 3% Negro employment (obviously in many counties there will not be 50 employers of any description). These lists will be permanently on file in the Commission Library and in the Regional Offices. In addition, either manually from the Raff microfilm, or by computer programs combining Raff utilization rates and rankings with the raw data contained on the master tape, other lists can be developed using different criteria. Some suggested criteria are included in the memorandum of Messrs. Kendrick and Markham to Mr. Chase, May 4, 1967, attached hereto as Appendix B. Other possible listings might be: (a) in a given city, X number of employers with the highest figures in Raff column 13 (the number of new hires needed to bring Negro employment into proportion with Negro population in the area); (b) in a given city X number of employers with apprentice or training programs in which no minority groups participate. The variety of criteria for assembling useful lists from the EEO-1 data is limited only by the staff's imagination.

Technical Assistance efforts may be directed at those employers with low utilization records, but the additional dimension of identification of employers with high utilization appears here. Employers with good records can be identified and their assistance sought in enlightening EEOC as well as their errant brethren as to the techniques they have used. Establishments within a company can be compared and top management asked to explain why all units do not reflect progress at the same rate as the top two or three.

Assuming that target companies are identified, the question remains: what programs using (at least initially) a voluntary approach can be employed? The following approaches have been suggested.

(a) X number of employers in a given area or industry will receive a letter pointing out that the EEO-1 figures indicate disparity between their hiring patterns and the average for their industry and area, and offering Commission assistance in improving the situation. This was initiated on a limited basis by Commissioner Graham within the first few months of EEOC's life, using Form 40 statistics. The results are unknown. OFFICE OF TECHNICAL ASSISTANCE memorandum of October 20, 1966 calls for a similar approach at the Regional Office level, or at headquarters level, if the companies operate nation-wide. The initial contact would be by letter or telephone with a follow-up review on EEOC premises covering the entire scope of the employer's employment practices. An affirmative action agreement would be negotiated, if possible, and aid of minority group organizations in referring applicants would be sought. If the employer in question refused to participate in a voluntary review, the case would then be referred for consideration of a Commissioner's charge.

(b) A selected number of "low utilizers" in a given city will be visited by Commission representatives and a Federal manpower and training representative. Each employer would be asked to hire X number of minority group persons who would be trained at Federal expense. This was proposed by the OFFICE OF COMPLIANCE in the spring of 1966, apparently under the illusion that manpower training programs of the Federal government are so free from red tape as to permit award of a training grant on the spot.

(c) "Underutilizers" would be handled through a general or wholesale approach on a community level. Within a large city, they could be divided by industry and neighborhood, by dependence on government contracts or on state or municipal franchise. Through sharing of EEO-1 data with appropriate agencies of Federal or local government, a concerted approach would be developed. Delinquent employers would be called to a meeting under such auspices as would be most likely to encourage the necessary "want-to" on the part of employers who presumably have the "know-how" -- e.g., the Mayor, the Predominant Interest Agency of a Federal contractor. The Government would have specific programs and targets for employers, and specific commitments to make specific progress would be solicited. Follow-up by interested agencies would be on a regular and frequent basis. (MR. EDELSBERG, Memorandum, March 22, 1967).

4. Investigations and Conciliations. The record discloses no proposals from the Office of Compliance for routine use of EEO-1 data. The Office of Research proposes, as a short-term measure pending development of a total information system as discussed below, that a means be developed immediately whereby -- in certain types of cases -- the respondent's EEO-1 report, Raff printouts and Data Mangement tables for respondent's area and industry, etc. are placed in the investigative file at an early stage of the case. This information adds a new dimension to the investigator's view of the case and a powerful weapon in the conciliator's armory. The EEO-1 material would not be useful in every type of case, e.g. charges of religious discrimination, certain national origin cases, but would be extremely valuable in cases involving refusal to hire or promote on grounds of race, sex, and in cases involving Spanish-Americans.

5. General Counsel. No proposals have been received from the Office of General Counsel as to use of EEO-1 data in litigation or referral of section 707 cases to the Attorney General. Such background material should be made a part of the file in any referral to the Attorney General and Counsel should explore the possibilities for using it at trial or in pre-trial negotiations for settlement.

6. Program Review (MR. ROBERTSON, Memorandum, May 3, 1967) indicates that EEO-1 information would be very helpful in evaluating the effectiveness of various Commission programs, recommending in the long run feeding it into a master tape establishment by establishment. The "file" on a given establishment would include indications whether complaints had been filed, and what the outcome of the case was; whether the establishment was the subject of a pattern investigation, OFCC compliance review, Technical Assistance effort, State agency program, or had participated in Plans for Progress or a job fair. Mr. Robertson suggests adding extra coding

spaces on the EEO-1 form for such "external data", and establishing EEOC's own code numbers for a particular company so that any contact by EEOC with that company can be recorded. By studying these data in light of shifts in the employment patterns of the establishment in question, we could learn which programs of EEOC or other interested agencies have the most impact.

7. Liaison. THE OFFICE OF LIAISON, in Memorandum, January 24, 1966, Appendix A, advanced a "clearing house concept" even more extensive than that suggested by Mr. Robertson.

> The clearing house concept and related proposals are set forth more fully in Appendix C, a memorandum on "Internal Use of EEO-1", by Maria P. Beckles, who assisted in the preparation of this report. Mrs. Beckles' memorandum reflects the point of view expressed in Secs. 6 and 7 above; conversations with interested staff members; and summarizes a Research staff paper prepared in March, 1966, by Frederic S. LeClercq, who recommended that EEO-1 statistics be evaluated in light of a number of other relevant indices in establishing Commission priorities.

G. NON-RESPONDENTS TO EEO-1 REPORTING REQUIREMENTS

The Director of Research and the Acting General Counsel have agreed upon a proposed strategy for the handling of cases of failure to file the 1966 report. Complete identification of non-respondents is rendered impossible by the refusal of the Social Security Administration to divulge the 1966 mailing list, or the names of non-respondents as determined this year by its computers. It has been suggested by one state FEPC agency that lists of covered employers can be obtained from the State Employment Service. If SES lists can uniformly provide a breakdown of employers of 100+ persons, we might be able to remedy this situation by seeking the cooperation of the Bureau of Employment Security in the Department of Labor. This would be a cumbersome procedure, but better than none at all. Nevertheless, the Office of Research is able to identify several hundred non-respondents by checking of industrial directories and other sources, and it is this group which will serve as the target of the procedures proposed below.

Beginning June 1, 1966 non-respondents as they are identified will receive a letter from the Director of Research reminding them of their obligation to file the report in both years. An indication in reply that the employer has filed for 1967 will close the case. A failure to reply within two weeks of the date of the initial letter will result in a second letter from the Director of Research. Where the employer fails to respond to the second mailing within 10 days, the case will be referred to the General Counsel.

The Office of General Counsel, in consultation with the Office of Research, will select a group of employers for initiation of proceedings under Section 710(b). A cross-section of large and small employers in FEP and non-FEP states will be compiled, and actions initiated in the appropriate U. S. District Courts. First consideration will be given to these jurisdictions where a favorable result is deemed likely. A secondary consideration will be the fact that a suit in a state where minority population is sparse, if unsuccessful because of an adverse decision on the applicability of Section 709(d), will not necessarily ruin our statistics. For example, we might select a non-respondent in Minnesota, which state has a liberal tradition possibly reflected in the members of the Federal judiciary. If we lose on the Section 709(d) point, the precedent will not be harmful in terms of loss of necessary data. On the other hand, New York might be a more appropriate forum for testing Section 709(d) than Illinois, where we are choosing an industrial state with large minority population.

The Acting General Counsel has proposed that this litigation be handled by his staff. The Director of Research strongly endorses his position. There is no reason why matters of this nature should be handled through the Justice Department, and referring them there will only create delay.

H. VERIFICATION OF EEO-1 DATA

A system must be established for "spot checking" of the accuracy of minority information on EEO-1 reports in the course of Commission investigations. It is recognized that the data are more than a year old, but a Commission representative should nevertheless be able to determine whether there have been deliberate and gross exaggerations of minority utilization. In addition, the Office of Research will seek to analyze or have analyzed, the number and nature of non-respondents by geographic area to substantiate the validity of the data as a representative sample of U. S. employers.

I. RECOMMENDATIONS OF PRIORITIES FOR COMMISSION DECISION

The Office of Research would assign the following priorities for decision as to proper use of EEO-1 information, in the order named:

1. Establishment of methods of getting EEO-1 reports, and area and industry summaries of EEO-1 information, into the files of cases currently under investigation.

2. Development of a coordinated plan by which the Commission can use EEO-1 data to initiate action. The debate at staff level about whether to use the "carrot" or the "stick", as this report indicates, has been continuing for more than a year. This is long enough. Now that EEO-1 information is in usable form, a decision must be made as between the "Commissioner Charge"-followed-by-"Technical Assistance"- route or vice versa. The Office of Research suggests that a number of alternative plans be drawn up for use in different areas in different industries -- or even in the same industry. Each would be treated as a separate (and modest) experiment. By July 2, 1968, we could assess which techniques have been useful and which have not. Thereafter, the Commission could concentrate on the one or two most likely to produce results. The textile follow-up program has proceeded along these lines, by alloting one segment of the industry to the Justice Department, another to joint efforts with OFCC, another to our Technical Assistance representatives, and a fourth to voluntary exhortations by the North Carolina Good Neighbor Council.

3. Exploration of the "clearing house" or "data bank" concept. These proposals must have lengthy, serious, and early consideration. However, using the EEO-1 file as the repository of all data about a given establishment -- or setting up a permanent automatic data file on all reporting establishments in the U. S. -- may be neither technically feasible, financially sound, or operationally productive. In the phrase of a familiar joke, we may wind up "knowing more about penguins" than we care to know. There are scores of thousands of EEO-1 reporting units which will never have any Commission or OFCC contact whatever. It would seem more sensible to merge selected relevant EEO-1 data into a data bank covering those establishments where contact of some kind has been made than to pour into the EEO-1 tape the entire fruit of those contacts. As an example, we can now

turn over a sanitized or purged tape of EEO-1 data to any interested scholar under certain restrictions as to publication. Could we have the same arrangement with equivalent simplicity -- and equivalent cost to the user -- if the data bank included investigative reports, compliance reviews, etc., and bales of similar information that is either confidential or of no interest to the scholar? Moreover, amassing a complete economic profile, of even those employers with whom we have had contact, would be a formidable task far beyond the existing or contemplated personnel resources of EEOC that would be available for such activities. Such questions must be carefully considered before we rush headlong into an all-inclusive information system.

In any event, I do not believe any staff member has the combination of time and technical background that is necessary for adequate design of such a comprehensive system. Experts must be retained who will consult fully with all interested divisions before decisions are made, and representatives of the divisions must participate fully in the decision-making process. It is imperative that there be consultations with the Office of Research respecting <u>even the limited system</u> for automating compliance records now under development, because of the research implications of this data.

The foregoing decisions relate to <u>internal</u> use of EEO-1 data.

The Commission must also formulate a policy on the following points dealing with <u>external</u> uses:

1. To what extent should interested Federal agencies be advised of the existence of the EEO-1 system? Should there be a systematic effort to publicize it throughout the Federal establishment or not?

2. To what extent should civil rights organizations and other private agencies (other than scholars)

(a) be advised of the various forms in which EEO-1 information is now available?

(b) have access to same?

It must be remembered by all users of or potential users of EEO-1 data that the more frequent and more comprehensive the demands are for the information, the greater is the burden placed on our very limited research staff.

APPENDIX B

Gordon Chase

May 4, 1967

Bill Kendrick
Charles Markham

This is in reply to your April 24 memo re a plan to identify employer "good guys" so that their EEO policies and procedures can be brought to bear on other companies.

It is our opinion that there is no valid way to identify employers in this regard other than through use of EEO-1s. Plans for Progress files and other possible sources would identify examples of positive activities (and, indeed, a comprehensive collection should be established), but they would not provide any yardstick by which success or progress can be determined.

For openers the following programs based on EEO-1 evaluations are proposed: time phasing is not practical at this point because it first has to be determined whether these programs will be conducted through mailings, by meetings of industry representatives, by visits to individual employers, etc.

1. Select 20 companies in each of 10 industries in 10 SMSA's, determining industry by industry which firm has the highest minority employment in (a) white collar jobs, (b) skilled blue collar, (c) overall.

   This could further be broken down by considering employers in three groups (a) 100 to 250 employees, (b) 250 to 500, (c) over 500.

2. Select the 500 largest employers and determine in each case which facility(s) is leading the way in EEO.

3. Spanish speaking in the Southwest - Select 200 employers in the five-state area and determine those with best records re utilization of Spanish speaking employees.

4. Office and clerical category - From the 500 largest employers, determine the 250 with lowest utilization in the office and

clerical area. Determine the 10 firms with the best record in this classification and educate the 250 firms with the practices indicated by the top 10.

5. Trucking Industry - Select 400 largest trucking employers nationwide and determine minority utilization in the middle five categories.

6. Growth Industries - Determine leaders nationwide in total employment and specifically in each job category.

   Do the same for 20 selected areas.

7. Apprentices and Training Programs - Select 25 industries reporting on training programs. Determine leaders nationwide and in all SMSAs. Apply information to all firms industry by industry.

Items 1 through 6 can be determined by examination of the Raff microfilm, which is now available in two of the various "sorts" contracted for: a nationwide alphabetical listing; and all establishments listed alphabetically by industry within geographic area. Establishing the entire file on these items could be a tedious and time consuming clerical operation, however. Assuming the availability of funds, all of these items can be retrieved from the Data Management Company computer. We might make a "trial run" on a couple of items to determine the clerical time involved in a manual sort.

Item 7 is available only through the computer, since the Raff tables do not include apprenticeship and training data.

cc: Markham

INTERNAL USE OF EEO-1

Maria P. Beckles

A. The Storage Program

The general trend of thought gathered from staff personnel indicates strongly the desire for a "clearing house concept" of data storage. This implies a continuous long-run approach and would involve the coordination of establishment data compiled on the following bases:

1. EEO-1 reports
2. Compliance reviews
    a. Analysis
    b. Investigation
    c. Commissioner decision
    d. Conciliation
    e. General Counsel
3. OFCC pre- and post-contract award reviews
4. "External" information from:
    a. Unions
    b. Departments of Labor, Commerce, Community Relations, HEW, etc.
    c. Prime interest agencies
    d. Socio-economic data relative to geographic or industry units.

The EEO-1 reports must be the foundation for constructing a complete file on each employer in the nation. The problem of nonrespondents enters the picture here. It is absolutely necessary to procure an official arrangement of sharing the names and addresses of all employers listed with the Social Security Administration. Having to face the provision of confidentiality, EEOC should set up its own employer identification code to be used for each establishment at every occasion of data collection. This standard identification number, naturally facilitates the integration of the various sources of data which pertain to a single employer. Data can be coded, punched, and edited at different computer locations, but it is advisable to centralize the storage of all data by merging the tapes and thereby creating a master tape of information, establishment by establishment. Whenever future data is compiled on respective companies, and this is particularly so from the Compliance Division, such data should be processed on a regular basis and later merged into the master file.

For the sake of finance it is not wise to constantly merge into the master file, as this is an operation of destroying the old file and creating a new one. I see another method of accomplishing this by programming the system so that information can be added, corrected, or deleted on the master file without destruction of the tape. (This method has been well implemented at the National Planning Association by Marshall K. Wood, a former employer of mine). The mechanicsare very interesting and seem quite applicable to the EEOC needs. It is worth exploring by a systemsanalyst, whom I expect would be used to formulate the entire system.

B. Assembling the Data

A rigid structure for data collection has to be developed for each office or division of EEOC. This can be preceded by or incorporated into an established coding system. It is very important that the basic identification codes are identical among the divisions and also, that the regional offices comply with the specifications of the system.

The steps which pertain to this operation involve:

1. Preparation of a case report form upon which Technical Assistance or Compliance transpose its findings.

2. Preparations of codes for the respective forms.

3. Coding and editing staff should be monitored through the old Division of Analysis and Advice, currently known as Control Division.

4. Cataloging system for ready reference of tapes, in various sorts.

At this stage, existing card files or tape files should reflect data gathered from the sources listed in A above. A much more detailed description of the specific types of data would necessitate another working paper from each office of the Commission, but suffice it to say that staff personnel (analysts) would be required to reduce their narratives into a "coded" document for computer operations.

C. <u>Pertinent Types of Relationships</u>

The EEO-1 data basically gives a profile of the companies' work force by occupations, minority groups, (Negro, Oriental, Spanish American and American Indian), previous year's employment, and sex. Any gross-tabulation of these data are imaginable. In addition to statistical relations, information on the following is facilitated:

1. the investigative status of a case can be determined

2. PIA relevance and agency designation

3. type of compliance review made and a comparison on establishment performance based on agency participation.

4. Technical Assistance interaction and a measurement of its effectivement over-time.

5. Determination of state administered programs vs. compliance action, etc.

6. Comparison of all types of programs on an establishment basis or geographic unit or company

7. Comparison of establishment which have a regular compliance operation with those having Commissioner charge.

All of the above constitute measurements of effectiveness which would give leverage for the Commission and evaluate its activities in different parts of the Agency, and to improve on its methods of attack on the racial employment problem.

D. Development of Indices

A recommendation from the Office of Research delineates the development of indices to measure geographic units based on the distribution of Commissioner complaints and affirmative action efforts. The EEO-1 data provides us with the tools for scaling SMSAS and continues within a matrix of variables which express EEOC priorities. Among these are the following:

1. The demographic index which measures:
   a. The size of the affirmatively protected population
   b. The geographic distributing of affirmative action beneficiaries
2. The economic index which measures:
   a. The median family income of the affirmatively protected group in a SMSA or county or a percentage of median in use for the area.
   b. The median family income of the same group as a percentage of national median family income.

3. The social index which relates the affectively protected group to the extent of under-utilization. The variables are:

   a. White collar workers

   b. Skilled and semi-skilled workers

   c. Service workers

4. Political Index I--danger of violence scale

5. Political Index II--need for federal action

Much of the input for these indices lie outside of the EEO-1 data (external sources cited before), but this further emphasizes the need for an integrated data system with the EEO-1 as its base. For every community minority employment analysis evolving from the EEO-1, the question of which industry rears its head. Here again, many relevant variables must be considered in determining the need for EEOC concentration.

OFFICE OF RESEARCH AND REPORTS
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RECOMMENDATIONS ON RESEARCH IN JOB OPPORTUNITIES MADE BY THE AD HOC RESEARCH ADVISORY GROUP FEBRUARY 2, 1966

Research Report 1966-5
February 18, 1966

RECOMMENDATIONS ON RESEARCH IN JOB OPPORTUNITIES MADE BY THE AD HOC RESEARCH ADVISORY GROUP FEBRUARY 2, 1966

Introduction

This report summarizes the major recommendations for research in job opportunities that were advocated by a panel of social science researchers that convened at the Commission headquarters on February 2, 1966. The transcript of the proceedings is available in the Research Division of the Commission. A list of conference participants is appended to this report. Recommendations submitted by Dr. Vivian Henderson, economist, Chairman of the Jobs Panel for the Planning Session of the White House Conference (November 1965), and eminent researcher in the area of racial inequality in employment, have been included.

General Recommendations

1. The Equal Employment Opportunity Commission, to the extent that it can, should encourage, direct, and shape research in equal employment opportunity in the United States. The focus of such research should be on those things which are well beyond the narrow legal powers and stated functions of the Commission.

2. Highest priority was placed by the conference on the kinds of research which "pushes and pulls" the Negro through the doors which have been opened by law in some cases and in other instances opened by a new moral climate in the U. S. This research should be geared to the strategy of intervention, that is the technique of change toward certain goals. Although occasional reference was made to the status of other

minority groups, the consensus was that the plight of the Negro demanded a major commitment of resources for research.

3. Because the state of research in equal employment opportunities is very good, with considerable research now in progress, there is need for a clearinghouse. Such an operation would undertake an inventory of research completed and relate this to future research needs. This cumulative approach to research would permit us to assess the alternatives and perhaps choose more wisely the priorities for both short and long run analyses. Dr. John Coleman, Associate Director of the Ford Foundation and a participant at the conference, has urged that the Equal Employment Opportunity Commission undertake this responsibility and that I explore the possibility of their funding the clearinghouse operation for the Commission.

4. Data already available on job opportunities have not been used very effectively. For example, data from Plans for Progress and other reports filed with government agencies have not been accessible to scholars. With allowance for the confidentiality of specific reports, a strong plea was made for making available some of the data from EEO-1. These data will provide the richest information for a whole range of studies related to equal employment opportunity.

5. Research which focuses on total opportunities in employment at the same time expands our knowledge of the specific problems of minority group employment opportunities. A study of the effectiveness of the private and public employment agencies could provide insights and information relative to problems of disadvantaged groups.

6. Establishment of national and regional research advisory councils to develop and recommend guidelines for research in equal employment opportunity and to offer advice and assistance.

Specific Recommendations

1. Negro's perception of himself as it relates to economic mobility.

(a) How does the disadvantaged individual envision himself?

(b) What kind of image does he have of the world of work?

(c) What effect has self-image on employability? On job preparation?

(d) What is the source of the Negro's aspirations for certain occupational fields?

(e) What happens to discourage or blunt the achievement syndrome? What psychological factors prevent minority group members from taking advantage of opportunities?

(f) How can we best achieve speedy and effective modification of patterns of behavior?

(g) How to extrapolate from perceptions and attitudes toward desired behavior? How do we create an affective environment characterized by psychological incentives?

(h) We need to know much more about the job-seeking behavior of minority group memebers and this means talking to Negroes themselves.

(i) While self-image is of particular importance for minority and disadvantaged groups, it is also a problem for members of the white affluent majority.

2. Functioning of the labor market

(a) What are the entry points into job markets? More needs to be known about the routes of entry into jobs through both the formal and the "outlaw" mechanism.

(b) How can more effective bridges be built between vocational education on one hand and changing job markets on the other?

(c) Opportunities to mobility are associated very much with the informal network. There is need to know more about the anatomy of informal channels of job-seeking and job-finding. How does the Negro fit into the informal network?

(d) What are the structural and community processes which help the individual to enter the labor market and get his first picture of it?

(e) What does the community offer minority groups in terms of education, training, and more adequate social life that will enable him to compete in the job market?

(f) It may be a propitious time to do research on the functioning of the employment service. The response of the Secretary of Labor to proposals in the task force report on the Public Employment Service indicates that research on how best to shape that institution is needed.

3. Employer's role (Research on unions not seen as promising at this time).

A. Employment procedures

1. There is need to explore the relationship between

hiring criteria being applied, especially tests, and job requirements.

2. Are the initial check points established by the employer relevant to what he requires later?

3. Should standards be adjusted to the kind of work force available?

4. What functions do tests serve? We ought to know more about the criterion side when we start examining the validity of our selection procedures.

5. What is to be done about tests that eliminate minority groups? Would a more persuasive device for private employers be a documented study on the validation of federal government civil service tests?

B. Employer's Attitudes

1. What shapes the attitudes of employers?

2. Why are some industries moving ahead of others in complying with the law?

3. Is a company's pattern of nondiscriminatory employment related to whether it operates in a consumer-oriented industry, or whether it is concerned with projecting its image? What are the other factors?

4. How can the jobs be made easier for employers who want to comply and are frightened? What supportive assistance is available?

5. Specifically, what is the potential for wielding influence in the South? We may need to examine expanding employment patterns in state and local government, the

effect of pressures generated by voter registration, as well as the impact of accelerated industrialization in the South.

4. Evaluation of present programs

(a) What has been the impact of programs carried on thus far in training and job development?

(b) What are the costs of special educational programs for disadvantaged children and what are the social economic returns?

(c) What are the implications of achieving full employment in various ways? What about the price increase threat to further reductions in unemployment rates?

Respectfully submitted,
Phyllis A. Wallace, Moderator

APPENDIX

CONFERENCE ON PRIORITIES IN JOB OPPORTUNITIES RESEARCH
February 2, 1966 at 9:30 A.M.
1800 G Street, N. W., Washington, D. C., Room 1230

PARTICIPANTS

Dr. Alan Batchelder
Kenyon College

*Dr. Kenneth Clark
Social Dynamics Institute of
The City University of New York

Dr. John Coleman
Associate Director, Ford Foundation

Dr. Frances Cousens
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Dr. Louis Ferman
Institute of Labor and Industrial
Relations
University of Michigan

Dr. John Hemphill
Educational Testing Service

Dr. Dale Hiestand
Columbia University

Dr. Hylan Lewis
Department of Sociology
Howard University

Dr. Felix Lopez
Manager of Manpower Planning
Research Division
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Dr. Herman Miller
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Dr. Herbert Northrup
Wharton School of Finance
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Dr. Harold Sheppard
The W. E. Upjohn Institue
for Employment Research

*Dr. Arnold Weber
Graduate School of Business
University of Chicago

Dr. Max Wortman, Jr.
College of Business
Administration
University of Iowa

Dr. Preston Valien
U. S. Office of Education

*Unable to attend conference but have corresponded with this office concerning priorities in research.

OFFICE OF RESEARCH AND REPORTS

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TESTING OF MINORITY GROUP APPLICANTS FOR EMPLOYMENT

Phyllis Wallace
Beverly Kissinger
Betty Reynolds

Research Report 1966-7
March, 1966

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ACKNOWLEDGMENTS

This report is the result of intensive research on a highly controversial and complex subject. A number of psychologists have provided us with data from their current studies. We are especially grateful to Commissioner Hernandez who permitted us to examine the testing materials from her files. Dr. Robert Krug, Director of Research for the Peace Corps, made available several of his studies on testing of minority persons. Dr. Philip Ash, Research Assistant to the Vice President of Industrial and Public Relations for Inland Steel; Dr. Joel Campbell of Educational Testing Service; Mr. Howard C. Lockwood of the Lockheed Aircraft Corporation; Dr. Richard Shore, Policy Planning Staff of the Department of Labor; and Dr. Arthur Brayfield, Executive Secretary of the American Psychological Association, have sent us a number of articles. While acknowledging our debt to various scholars, we of course assume full responsibility for any errors of fact or interpretation.

Phyllis Wallace
Beverly Kissinger
Betty Reynolds

TESTING OF MINORITY GROUP APPLICANTS FOR EMPLOYMENT

I. Introduction

The Motorola case* and the Tower amendment to Title VII of the Civil Rights Act of 1964 Section 703(h)** have dramatized the issue of whether the use of general intelligence tests by employers as selection devices for hiring and promotion deprives Negroes and members of other minority groups of equal employment opportunity. Individuals from culturally disadvantaged*** backgrounds perform less well on these tests on the average than do applicants from middle class environments and consequently may be screened out of training programs and/or excluded from jobs. Differences in culture, in opportunity, and in experience can have a devastating effect on test performance. Since many Negroes, Mexican-Americans, Indians, and lower-class whites have not shared the middle class culture, they may per-

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* See Appendix A for the chronology of the Motorola case.

** ". . . nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex or national origin." Sec. 703(h)

*** See Appendix B.

form in an inferior manner on tests of general intelligence, particularly paper and pencil, but not necessarily on performance for which the tests are supposed to be predictive.

Consistent and significant differences on mean scores are also found between age, sex, educational, and urban-rural groups, but the focus of this report is the effect of testing on the culturally disadvantaged, many of whom are Negroes. This report is not concerned with the willful misuse of tests to discriminate such as giving tests to Negroes but not to whites, or requiring Negroes to achieve higher scores than whites, or failing Negroes regardless of their actual performance. These practices are clearly unlawful. The question to be considered here is whether many "professionally developed ability tests" used by employers to select qualified applicants do in fact discriminate <u>inadvertently</u>.

Authorities in the field of psychological testing have suggested several proposals for mitigating the effects of <u>unintentional</u> types of discrimination against minority groups. We have examined the various proposals and have concluded that careful selection and administering of tests and validation of the testing instrument within an industrial setting, may be the most desirable means to achieve the goal of full utilization of the nation's human resources. The implications of this affirmative conclusion are discussed from the viewpoint of the Equal Employment Opportunity Commission, private employers, and the research psychologists who would have to assume the major responsibility for formulating suitable standards for selection of testing programs.

II. Types of Tests

The major types of tests most commonly used in employee selection are: (1) general intelligence tests, (2) tests of specific intellectual abilities, (3) knowledge and skill tests, (4) measures of dexterity and coordination, and (5) inventories of personality traits.

Intelligence tests such as the Wonderlic, Stanford-Binet, and Otis Quick-Scoring are designed primarily to measure the ability of the individual to understand and to reason with words and numbers. Such tests are most useful in selection for jobs where learning from and understanding verbal academic material is important.

Specific intellectual abilities tests determine potential for learning certain kinds of work and for solving certain kinds of problems. The tests are not designed to test for a specific job, but to measure the skills for understanding and reasoning with words, numbers and symbols, visualizing of spatial relationships, word fluency, visual speed and accuracy, and creative abilities.

Knowledge and skill tests are usually specific to a job or job family. Knowledge tests are designed to measure the understanding of blueprint reading, electronics, accounting, etc., while skill tests measure one's ability to type, to take dictation, to drive, etc. These tests measure the degree or level of knowledge or skill already attained by candidates at the time of the test.

Dexterity and coordination tests measure speed and accuracy of physical movements. These tests must be very specific to the movements required in the job and are usually constructed by the employer. Examples of such tests are spatial and mechanical abilities, perceptual accuracy, motor abilities.

Personality and interest tests are intended to indicate how a person typically acts and feels, and to determine the type of activities he likes. Tests of this nature have been developed primarily for use in either vocational guidance or clinical use. <u>It is extremely important for a highly trained professional psychologist to evaluate and interpret the results of these tests.</u>

Tests may be further categorized as aptitude versus proficiency. Aptitude tests are designed to measure potential while achievement tests measure skill level at the time of testing.

III. How Tests Discriminate Against Minority Groups

An aptitude test that fails to predict job performance in the same way for both Negroes and whites, or fails to predict job performance at all is not a valid test. If such a test is weighted to differentiate between Negroes and whites, it is similarly invalid and similarly discriminatory. Tests may be held to discriminate in the social sense if they deny equal opportunity for consideration. A test may operate in this manner (a) when scores on it tend to differentiate between identifiable sub-groups, where the sub-grouping itself is not a relevant selection factor, and either (b) scores for the lower group underpredict performance on the job when the standards of the upper-group are applied, or (c) scores on the test do not predict job performance for either group. 1/

It is known that Negroes on the average do less well on paper and pencil tests than whites. The mean scores for Negroes are lower than the mean scores* for whites on most paper and

* Raw scores are converted to norms in order to compare an individual performance with a specific group. See glossary in Appendix B.

pencil tests of general ability, intelligence, aptitude, learning ability, or overall ability. The distribution of scores overlap, often considerably, but the average scores differ significantly in most studies.

More research has been done on the testing of minority group children than workers, but the information which has resulted from this research offers insight into why Negro adults achieve a lower mean score than job applicants from a more middle class background. Newton S. Metfessel, Psychologist at the University of Southern California, in his research on children and youth who live in the culture of poverty, found that cultural factors such as home and family structure, personality and social characteristics, learning characteristics, and general school relationships handicap performance on tests.

These children usually come from a home environment where there is such a paucity of objects that the child's conceptual formation development is adversely affected. They also lack curiosity, and this affects both motivational patterns and the development of creative behavior. The culturally disadvantaged child is characterized by weak ego-development, a lack of self-confidence, and a negative self-concept. These conflicting feelings about himself frequently result in exaggerated positive and negative attitudes towards others. 2/

Many aspects of learning characteristics are affected by the culturally poor background. The culturally disadvantaged typically have a cognitive style which responds more to visual and kinesthetic signals than to oral or written stimuli. Also, these children learn more readily by inductive than deductive approaches. Learning experiences which move from the part to the whole rather than from the whole to the part are invariably more successful. Significant gaps in knowledge and uneven patterns of learning are typical of this type of background.

Children from the culture of poverty have had little experience in receiving approval for success in learning a task, an assumption on which the school culture is organized. "The cycle of skill mastery which demands that successful experiences generate more motivation to perform which in turn guarantees levels of skill sufficient to prevent discouragement, and so on, may be easily reversed in direction and end the achievement habit prior to its beginning." 3/

In general school relationships and school characteristics, these children from the background of cultural deprivation are placed at a marked disadvantage on standardized tests, which for the most part have been designed to test the white, middle class child. The shortcomings of the standardized tests when they are used with disadvantaged minority groups are discussed below.

A. Reliability of Differentation

Standardized tests may not provide reliable differentiation in the range of the minority group's scores. The reliability coefficient for a particular test is strongly affected by the spread of test scores in the group for which the reliability is established. In general, the greater the spread of scores in the reliability samples, the higher the reliability coefficient. For many tests, there is evidence "that children from the lower socio-economic levels tend to have a smaller spread of scores than do children from middle-income families, and such restriction in the distribution of scores tends to lower reliability so far as differentiation of measurement with such groups is concerned." 4/

B. Predictive Validity

Second, the predictive validity of tests for minority groups may be quite different from that for the standardization and validation groups. Factors which may impair a test's predictive validity are:

1. <u>Test-related factors</u> i.e. test taking skills, anxiety, motivation, speed, understanding of test instructions, degree of item or format novelty, examiner-examinee rapport which may affect test scores but have little relation to the criterion.

2. <u>Complexity of criteria</u> - It is important to recognize the influence of other factors, not measured by tests, which may contribute to criterion success. Since disadvantaged groups tend to do poorly on general intelligence and achievement tests of the paper and pencil type, one should explore background, personality, and motivation of members of such groups for compensatory factors, untapped by the test, which may be related to criterion performance. 5/

While certain aptitude and proficiency tests may have excellent criterion validity for some purposes, even the best of them are unlikely to reflect the true capacity of underprivileged children. They tap abilities that have been molded by the cultural setting. The test content, mode of communication involved in responding to test items, and the motivation needed for making responses are intrinsically dependent upon the cultural context. 6/

C. Validity of Test Interpretation

Third, the validity of the interpretation of tests is strongly dependent upon an adequate understanding of the social and cultural background of the group in question. Sources of error in test interpretation stemming from lack of recognition of the special features of culturally disadvantaged groups are: (1) deviation error - tendency to infer maladjustment from responses which are deviant from the viewpoint of a majority culture, but which may be typical of a minority group; (2) simple determinant error - thinking of the test content as reflecting some absolute or pure trait, process, factor, or construct, irrespective of conditions of measurement or the population being studied; (3) failure barriers - requiring minority group individuals to solve problems with unfamiliar tools. 7/

Job applicants from lower socio-economic levels may be characterized in contrast to their middle class counterparts as being less verbal, more fearful of strangers, less confident, less motivated toward scholastic and academic achievement, less conforming to middle class norms of behavior and conduct, less knowledgeable about the world outside their immediate neighborhood. To the extent that these sub-cultural differences affect test performance adversely, these persons may be denied the opportunity to employment and a more productive contribution to society. Selection instruments often call for responses that are influenced by the culture of the applicant's community or quality of his educational opportunity. Since such tests are "culturally loaded" against persons from a lower socio-economic status, they may operate as instruments of racial discrimination. The crucial question is whether employers use techniques that unwittingly eliminate persons who might perform satisfactorily on the job. The relationship between test performance and cultural deprivation on the one hand, and job performance on the other, must be investigated for both white and nonwhite job applicants.

IV. Proposed Solutions to the Problem of Cultural Bias in Testing

Most employers defend tests as an efficient device for choosing the most qualified applicants. Where Negro job applicants consistently score significantly below white job applicants a question should be raised about test scores as predictors of job performance. In an employment situation we would like to know whether differences between group means are also associated with performance on the criterion. Do the factors that depress test performance also depress trainability or whatever criterion is to be predicted? Psychologists have suggested ways in which the effect of cultural bias inherent in many aptitude tests can be alleviated for minority group applicants. Few of these proposals have been universally accepted, but most have been discussed in the professional literature on testing of minority groups and the culturally disadvantaged.

A. Variants of "Culture-Free" and "Culture-Fair" Tests

1. Culture-Free Tests

One such proposal is the development of tests which are free of cultural bias in their content and instructions. Dr. Robert Krug, who has written extensively on testing of minority persons, indicates that one of two conditions must be met before a test can be classified as "culture-free:" either the test items are those which all people of all cultures have had equal opportunity and equal motive to learn, or the test items must possess complete novelty for all people of all cultures. 8/ For all practical purposes these two conditions are almost impossible to meet and the idea is often rejected as unfeasible. Howard Lockwood of Lockheed Corporation states that many industrial psychologists agree that even if such a test could be developed, it would be useless in personnel selection. It is impossible, he maintains, to avoid measuring cultural influences, and if they were completely eliminated from all tests, the tests would measure, in essence, nothing. 9/

2. Culture-Fair Tests

Dr. Krug, on the other hand, does not reject the idea entirely. He describes a "culture-fair" test, as a modification of the "culture-free" idea. The assumption underlying the "culture-fair" tests is that there exists a set of test stimuli which are equally appropriate, that is, equal opportunity and motive to learn, for at least two cultural groups. 10/ Dr. Paul Schwartz, who headed an AID-sponsored aptitude test development project in West Africa, has done most of the research in this area. A "culture-fair" test or "culture-common test" developed by Schwartz for Nigerian and American children utilized a set of fruits and vegetables which were approximately equal in familiarity to both cultures.

3. Culture-Equivalent Tests

Dr. Schwartz also developed another variant of this concept called "cultural-equivalent" tests, denoting that two tests which are not identical may, in fact, be equivalent. In this case investigations were undertaken to discover cultural counterparts of tools and machines, cultural manifestations of mechanical principles, and cultural opportunities to acquire information of potential relevance to mechanical training. 11/ The argument of cultural equivalence rests on the demonstration that tests constructed in this way have been valid predictors of performance in Westernized training programs in shop mechanics, electrical repair, and the like. Development of similar tests in this country is impeded by lack of knowledge concerning the culture of southern Negroes, northern slum-dwellers of all races, or any other identifiable sub-groups. Dr. Ash asserts that so-called culture-fair tests do not measure aptitudes or characteristics significantly related to most ordinary measures of job success such as turnover, production or foreman ratings. 12/

B. Creativity Tests

Another approach, adopted by Dr. Newton Metfessel and Professor J. J. Risser, of the University of Southern California involves the use of tests to measure creativity rather than traditional intelligence tests. The latter sample only a relatively small portion of the factors which are involved in intellectual potential and have placed a premium on verbal comprehension and speed of response and emphasize convergent thinking, or the ability to select the one correct answer. 13/

Creativity tests, on the other hand, stress divergent thinking or the ability to create new or original answers. They are, according to Metfessel, more suitable for the testing of the culturally disadvantaged and certain ethnic groups whose command of language is not highly developed.

These tests utilize the most common and familiar of objects in order to sample the testee's ability to recognize problems, and his originality, flexibility, and fluency of thinking. Tasks include suggesting improvements in a familiar device such as a telephone, or thinking of problems that might occur in the use of an object such as a candle. One test requires the subject to list as many uses as he can for a broom handle. 14/

The tests are scored simply on the number of acceptable answers given by the subject. They seem to be as effective in predicting academic success as traditional intelligence tests and, probably, would be as effective as the latter in predicting job performance.

C. Differential Selection Among Applicants From Different Socio-Economic Ethnic Backgrounds

It has been proposed that, since prediction equations for job performance for most tests currently in use have been based on the performance of whites, different standards (separate test norms, conversion tables, prediction weights, etc.) be employed for Negroes and other culturally disadvantaged groups. This approach involves a technique known as the moderator variable. Applicants for a given job are divided into sub-groups, and selection procedures are applied differentially to members of the two groups. Applicants could be classified, for example, on the basis of a measure of socio-economic status, demographic data (such as percentage of Negroes living in the census tract from which the applicant is applying), and race.

Studies could then be undertaken to determine whether there is, in fact, a difference in the predictive efficiency of job tests as between high and low status groups. Differences in selection procedures for different ethnic groups do not mean a lowering of standards because the standards which count are standards of performance on the job, not the selection standards. Equally qualified persons may be selected from various ethnic groups by applying the standards which are appropriate to each group. 15/

Lockwood has proposed the use of "cultural exposure" as a moderator variable. Examinees should be grouped homogeneously as to cultural exposure and these groups treated separately in validity studies. Cultural exposure is defined as the material things to which a person has been exposed and the attitudes to which he has been exposed and which he has acquired. Research would lead to a better identification of the culturally disadvantaged and to the utilization of their abilities through a refinement in prediction of training and occupational success. 16/

A major investigation is under way by Dr. Richard Barrett to determine if the division of applicants into sub-groups improves the accuracy of prediction for members of both groups. If selection is improved by applying different procedures to the high and low socio-economic groups, then, the more talented would benefit, regardless of race. "It may also happen that dividing the group of applicants on the basis of race may lead to improved accuracy of predictions for members of both races. Such a result has far reaching implications for fair employment practices because failure to treat the two races separately would, if current policies were followed, lead to discrimination against the more talented Negroes." 17/

The overwhelming evidence is that the cultural background of the Negro in America today is so different from that of the white that his performance during the selection process can reasonably be expected to be different. It may be difficult to find an adequate sample of Negroes in most occupations in order to develop separate and suitable prediction equations for them. Lockwood also cautions against the use of a lower minimum score or separate standards of test performance for Negroes since it might tend to perpetuate the idea of race differences or race inferiority.

D. Dual Test Standards and Compensatory Training

The concept of a "dual standard" has some support among psychologists. Ash cites the work of Dr. Kenneth B. Clark of the City University of New York. Clark's work suggests that culturally deprived people who score low on tests may tend to overachieve on the job. In studying the college performance of students who scored low on college entrance tests, Clark found that for students from nondeprived environments, the tests were good predictors, and low college entrance test scores were accurate indicators of poor grades. On the other hand, students coming from deprived environments did significantly better in college than would have been predicted from the tests. 18/

An experimental training program run by the Federal Department Stores in Detroit, Michigan, indicates that a lowering of required test scores will not necessarily result in a lower quality of job performance. The Federal Department Stores took 16 young people from culturally and economically deprived areas, all of whom had failed standard employment tests and were classified as "unemployable", and put them through a 10-week special training program. All 16 subsequently were employed, 14 at Federal and two elsewhere. The record of performance of all 14 employees at Federal exceeded what was predicted by standard sales aptitude tests. Some exceeded the company's minimum performance standards for new employees by "unbelievable margins." 19/*

Although the Federal Department Stores experiment is considered one of the first of its kind in offering compensatory training for individuals with low test scores, the concept of "double-standard" has had wide acceptance for years in the fairly common practice of maintaining different norms for the sexes. Several popular tests which offer different sex norms are the Bennet, the Wonderlic, the Minnesota Paper Form Board, and the Thurstone Temperament Schedule.

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* Re-test results one year later for the ten trainees still empl[illegible] by Federal showed no significant changes in the scores as a gr[illegible]

It is generally agreed that some of these sex differences on tests are undoubtedly of environmental origin. Girls are expected to score lower than boys on tests of mechanical information. It is also expected that girls will perform less effectively on tasks for which the Mechanical Information test is a predictor. This, however, does not prevent many companies from employing women in manufacturing tasks which require mechanical ability where they perform satisfactorily. 20/

On the basis of these examples, it appears that a "double-standard" can be justified in some circumstances, though a double standard in job performance and hiring of less qualified applicants is usually rejected as not being effective. If it can be demonstrated that score X for Group A and Score K-k for Group B are associated with identical levels of performance on the job, then an employer might reasonably consider adopting a more flexible attitude toward test scores. 21/

E. Intensification of Recruitment - While there are significant differences in average performance, there is a considerable overlap in the distribution of test scores of whites and Negroes. It has been proposed, on the basis of this observation, that employers who wish to maintain their present standard of performance on their pre-employment tests, can increase their number of Negro employees by intensifying recruitment among Negroes in order to identify those whose test performance is equal to that of acceptable white applicants. Although this approach has merit in that it could provide employment for Negroes who are qualified but who do not apply for jobs in companies where they assume discrimination is practiced, it is not a solution to the testing problem. It ducks the question of the fairness of tests to those who fail because of cultural disadvantage, and it will not provide enough additional workers to satisfy present and future labor needs. 22/

F. Use of Test Scores as Only One Indicator - One other practical solution similar in many respects to the "double-standard" is to use test scores as only one indicator among others in the hiring decision, with a clear awareness that, where the applicant has not shared in the predominant middle-class verbal culture, the test score significantly underestimates his potential. A difference of one point more or less cannot be expected to determine if an applicant will fail or succeed on the job. Other personal characteristics such as achievement, motivation, and dependability may be just as significant indicators of successful job performance, and they usually can be identified in each cultural group.

G. Proper Testing Practices - Along with adoption of a more flexible attitude toward test scores, the most immediate improvement can be accomplished by an emphasis by the employer on proper testing practices.

(1) The employer could reconsider the relevance of the qualifications for employment to the specific job tasks required by his company. Many of these requirements are stated in terms of some generalized stereotypes, such as high school graduate, high IQ, or potential to advance to higher level jobs, and are quite extraneous to the requirements of that job. Tests should be professionally chosen to fit the distinctive features of both the industry and the background, education and other characteristics of the successful work force. It is unreasonable to insist that all lower level workers have potential for supervisory positions. An employer may eventually find that by adopting a more reasonable set of qualifications for each job, he will have access to a considerably larger source of workers who can perform capably and who will present him with fewer problems of employee frustration or labor turnover.

(2) Selection tests should be developed by reputable professional psychologists who are competent in conducting testing programs in an industrial setting.

(3) Pre-employment tests should be administered by personnel who are properly trained not only in the technical details of giving tests, but also in the orientation and handling of people in the testing situation. Members of disadvantaged groups tend to be particularly sensitive to any mannerisms that might be considered antagonistic, sarcastic, or condescending, and test administrators should be aware of this and be able by their behavior to alleviate a certain amount of test anxiety. A personnel manager at a recent testing conference complained that the number of Negro applicants for jobs in his company had fallen off by 80 percent after the company recently instituted a pre-employment testing program.*

(4) A policy of re-testing "failure" candidates may gain for an employer many good employees who otherwise would have been eliminated by the first test. Many candidates, particularly members of minority groups, regard testing as a threatening

* University of Michigan Testing of Minority Group Applicants, January 26, 1966.

situation and do not perform as well as they could. A second test would provide a more accurate indication of the true capability of a person who is less experienced with testing situations and who may have been intimidated by his first experience.

(5) Finally, the most important principle is validation of tests in order to confirm the relationship between test scores and on-the-job performance. There is general agreement that tests should not be used for a group which differs from the validation group. Validity is relative both to the criterion to be predicted and to the group for which the prediction is to be made. Very few employers have validated their testing instruments. In a recent survey by the University of Wisconsin Industrial Relations Research Center, 152 companies which apply testing techniques were canvassed and only 7 percent reported that all their tests had been validated locally against on-the-job performance measures. Nearly 60 percent had validated none of their tests. The remainder reported that some but not all of their tests were validated. 23/

Dr. Warren Ketcham, University of Michigan psychologist and Vice President of Psychodynamics Research and Associates, has suggested that within company norms should be used exclusively. This only requires that an applicant perform on tests as well as or better than persons who have done or are presently doing the job satisfactorily. The norm tables should then be used to rank applicants as sub-standard, low-average, average, high-average, or superior. 24/

From recent discussions with research psychologists attached to large industrial concerns, it appears that many companies are developing ability tests which will measure the essentials required for training or employment, while keeping at a minimum the relevant aspects of culture. For a number of reasons, these findings may never be released for general consumption. One of the responsibilities of the Commission will be to encourage this type of research by the psychological profession. If the purpose of tests is to uncover talent and potential, irrespective of label, surely the Commission could not advocate a more commendable policy.

V. United States As A Model Employer

If the Equal Employment Opportunity Commission establishes basic guidelines on testing of minority group applicants, including a provision on validation of tests, it will require private employers to satisfy certain standards which the United States government, as a civilian employer, for the most part does not meet.*

The U. S. government has set a fine example in its standardized testing program for the military where these tests have been completely validated. Testing in the Armed Forces serves a number of major programs, two of which are (1) to identify the number of personnel required in each skill and professional category, and (2) to identify each individual for training, upgrading, and utilization to his highest potential.

In order to maintain validity, test development activities are mainly serviced by professional job analysts, subject matter specialists, and test psychologists and validated in the working area. This systematic approach is essential to assure that the tests sample specific job functions in direct proportion to the importance of those functions to the job. As a result, job analysis provides not only a basis for test construction, selection and training, but also a means for increasing productivity and facilitating work.

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* Of some interest is the fact that the United States Employment Service has recently undertaken a program to develop aptitude measures that can be used to evaluate potential for literacy training, vocational training and occupational potential of the educationally deficient. Much of the research is designed to improve the General Aptitude Test Battery (GATB). 25/

VI. Recommendations for Testing Guidelines

The following recommendations are designed as a guide to help employers establish objective standards for selection, screening, and promotion of workers. These procedures should ensure that all qualified applicants are given equal opportunity for employment.

1. Job descriptions should be examined and their critical requirements established before tests are selected for screening applicants.

2. Tests used should be those developed by reputable psychologists. Such tests should be administered by professionally qualified personnel who have had training in occupational testing in an industrial setting.

3. Rigidly inflexible minimum scores should be re-examined in light of the considerable research under way on differential selection.

4. Test scores must be considered as only one source of information, and must be combined with other available data on performance such as motivation, leadership and organizational experience, self-sufficiency, and dependability.

5. Tests should be validated within the setting where they will be used. Validation should be for as many separate groups as possible in preference to one large heterogeneous group.

6. It may be advisable for employers who deal with applicants from culturally disadvantaged backgrounds to offer re-tests to candidates who are unsuccessful on their first try, since these people are less familiar with testing situations and may not perform as well as they are able.

APPENDIX A

CHRONOLOGY OF THE MOTOROLA CASE

I. July 15, 1963 - Leon Myart, a Negro, applied for a job as a television phaser and analyzer at the Franklin Park plant of Motorola, Inc. Myart took a five minute intelligence test (General Ability Test No. 10), was interviewed, and was sent home without being told whether he qualified for employment.

II. July 29, 1963 - Failing to receive a job offer, Myart filed a complaint with the Illinois Fair Employment Practices Commission and the President's Committee on Equal Employment Opportunity alleging that his not being hired was due to racial discrimination.

III. January 27-28, 1964 - Hearing of the Motorola case before hearing examiner Robert Bryant of the Illinois Fair Employment Practices Commission.

IV. February 26, 1964 - The hearing examiner directed that Myart be offered a job, that test No. 10 should no longer be used, and that any new test developed in its place should "reflect and equate inequalities and environmental factors among the disadvantaged and culturally deprived groups." He argued that the test had been normed on "advantaged groups" and did not "lend itself to equal employment opportunity to qualify for the hitherto culturally deprived and disadvantaged groups."

V. April 18, May 25, July 14-15, 1964 - Review of the Motorola case before the full Commission.

VI. November 18, 1964 - The Commission issued its unanimous decision, finding that Myart had been denied employment because of his race and while not supporting the order to hire Myart directed that he be compensated one thousand dollars.

VII. April 27, 1965 - Illinois Circuit Court decision on appeal of Motorola. The ruling requiring Motorola to pay Myart one thousand dollars was reversed, but the Commission's findings on discrimination were upheld.

VIII. November 11, 1965 - Case argued before the Illinois Supreme Court.

IX. March 24, 1966 - Illinois Supreme Court reversed the judgment of the circuit court on grounds that the alleged unfair employment practice was not established by a preponderance of the evidence.

APPENDIX B

GLOSSARY OF SPECIAL TERMS

Criterion - A standard that provides a basis for evaluating the validity of a test.

Cultural bias - Propensity of a test to reflect favorable or unfavorable effects of certain types of cultural backgrounds.

Culture-fair test - A test yielding results that are not culturally biased.

Culture-free test - A test yielding results that are not influenced in any way by cultural background factors.

Norms - Statistics that depict the test performance of specific groups. Grade, age, and percentile are the most common types of norms.

Reliability - The degree of consistency, stability, or dependability of measurement afforded by a test.

Validity - The extent to which a test measures the trait for which it is designed, or for which it is being used, rather than some other trait.

Psychological test - An observation of a sample of human behavior made under standard, controlled conditions which results in a linear evaluation called a score.

Culturally disadvantaged - Groups which do not have full participation in American society because of low incomes, substandard housing, poor education, and other "atypical" environmental experiences.

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* Numbers in parenthesis refer to Appendix C.

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