AN EVALUATION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S RECORD ON JOB-BIAS COMPLAINTS

by

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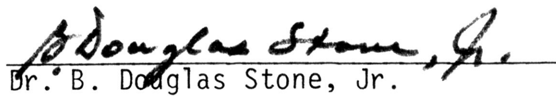

Dr. B. Douglas Stone, Jr.

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2307 Woodville Road
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9 December 1979

Mr. B. Douglas Stone
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Dear Dr. Stone:

I submit the accompanying report entitled "An Evaluation of the Equal Employment Opportunity Commission's Record on Job-Bias Complaints" as part of the requirements of Management 485H, The University Undergraduate Fellows Program.

The report discusses the inconsistency and vagueness of the commission's guidelines as the primary cause of its inefficient operation to date. The meaning of "discrimination", as it will be used in this paper, is presented. Some background information on the EEOC is provided, for use by future business persons, as a base for interaction with the commission. The EEOC is discussed from the view point of the complainants in the suits, business, and the commission itself. An analysis of the key issues affecting the commission's performance is also included. These issues include quotas, labor markets, seniority systems, and the availability consideration. Finally, I have included some economic factors which warrant consideration when discussing employment discrimination.

Sincerely yours,

J. Andrew Sawyer
Management 485H

ABSTRACT

The Equal Employment Opportunity Commission was created by Title VII of the Civil Rights Act of 1964. Its purposes were to end discrimination in employment practices and to promote affirmative action programs. The EEOC has been hampered in its accomplishment of these objectives by vague and inconsistently applied operational guidelines.

The vagueness of the guidelines has caused a massive case backlog in the commission's files. Today the EEOC is behind by approximately 130,000 cases. Persons are filing complaints because they are not sure if they have been discriminated against or not. All of these charges must be investigated by the EEOC, and the backlog grows even larger.

Businesses are facing so many discrimination charges that they are now having their legal departments draw up their selection and interview procedures. As a result, the employment process has changed significantly in the U.S. over the past fifteen years. Employers are also having to cope with the conflicting demands of various agencies upon them. The avoidance of lawsuits, through adherence to all agency guidelines, is an important concern of today's business persons.

The EEOC has had internal problems, which have hindered its operations. Several directors, each with a personal interpretation of the commission's guidelines, have held the commission's top post

in recent years. The lack of continuity caused by this succession has compounded the inefficiency of the commission. The EEOC has also faced criminal charges, and civil charges concerning employment practices which have distracted its attention from its objectives.

The objectives of the EEOC are worthwhile but unattainable. Discrimination is a human characteristic which exists simply because we live in a world of choice. Everyone discriminates because everyone has preferences. There is no personal characteristic which cannot be used by an employer to turn down a qualified applicant. The most effective employment practice will be the internalization of the concept of equality for all persons by all employers. And no government can mandate that.

ACKNOWLEDGEMENTS

I am indebted to Dr. B. Douglas Stone, Jr. for his participation in this research effort. His knowledge, guidance, and motivation have proven invaluable.

DEDICATION

For my mother and father. Without their inspiration my accomplishments would be meaningless.

INTRODUCTION

This paper will discuss the ineffectiveness of the Equal Employment Opportunity Commission (EEOC) in fighting discrimination in employment practices. This discussion has two purposes. First, the inconsistency and vagueness of the commission's guidelines will be discussed as the primary cause of its enefficiency. Second, this paper is intended to provide future business persons with some background information on the EEOC so that they can knowledgeably interact with it. This discussion will begin with a brief review of the stated objectives of the EEOC. Next, the effectiveness of the commission will be discussed from the viewpoint of those who file discrimination charges. The reaction of the business community to the commission's actions will then be discussed. The interal problems of the commission will then be presented. Finally, problem issues hindering the commission's effectiveness will be discussed.

FACTUAL DISCUSSION

What is Discrimination?

Discrimination. The word has a negative connotation about it. Yet, as a word its meaning is neutral. Discrimination exists because we live in a world of choice. Discrimination may be accurately defined as an act of choice based upon utility maximization, and racial discrimination as an act of choice wherein racial attributes provide the criteria for choice. This means that racial discrimination does not differ in any fundamental sense from other kinds of discrimination. All selection necessarily requires nonselection - that is, choice requires discrimination.[1]

What does this mean? Simply, all people discriminate because we live in a world of choices. Everyone must choose from a world of variety those persons, places, and things which the individual believes will maximize his or her satisfaction. Or appease his or her taste. Everyone has preferences. We discriminate against people with criminal records, long hair, vulgar speech, foreign accents, etc. Very few short men have ever been elected President of the U.S.

Employment discrimination exists because, like all other individuals, employers have their own tastes or preferences which they exercise in selecting candidates for employment. Sometimes these preferences are based on factors of the individual which are unrelated

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The format and style of this paper are based on Reporting Technical Information, 3rd Ed., by Kenneth W. Houp and Thomas E. Pearsall.

to his or her potential performance on the job. Those factors of greatest concern to the EEOC are race, color, religion, sex and national origin.

Prejudice is another word which warrants analysis. The term prejudice has the Latin root meaning "to judge before", and a prejudiced act may thus be defined as a decision made on the basis of incomplete information. Prejudice then, is not the act but the cause of the act. Making decisions without complete information is necessary in a world of scarcity and uncertainty. Also, different individuals may arrive at different conclusions even if confronted with the same evidence.

Decisions to prejudge are inextricably tied to individual judgements on what constitutes optimal information search. Information is not a free good; it is acquired by the expenditure of time, effort, money, and income foregone. As a result, all individuals can be expected to economize on information costs to some degree. A person is not prejudiced or unprejudiced. Instead, a person always exhibits prejudiced behavior to the extent that he substitutes general information (prejudgment or stereotypes) - which is less costly - for more costly information. People differ only in their comparative degrees of prejudiced behavior when facing similar situations.

Physical attributes are easily observed and hence constitute a cheap form of information. If a particular physical attribute is highly correlated with some less easily observed attribute, then the physical attribute may be used as an estimation or proxy for the

other.[2]

Thus, it is important to understand that all individuals discriminate. All individuals also exhibit prejudices. The issue in the case of employment discrimination should not be one of the elimination of these characteristics. This would be impossible. The issue to be confronted should be how to channel the discrimination of employers so as to maximize the welfare of the employee and the employer. This should be the real objective of the Equal Employment Opportunity Commission.

Review of the Stated Objectives of the EEOC

The Equal Employment Opportunity Commission was created by Title VII of the Civil Rights Act of 1964 and became operational on July 2, 1965.[3] The purposes of the EEOC, as set forth in Title VII, are twofold. First, the EEOC is responsible for ending discrimination based on race, color, religion, sex, or national origin in all conditions of employment. Second, the commission is charged with promoting voluntary action programs by employers, unions, and community organizations so that equal employment opportunity becomes a reality.[4] (Please see Appendix A for Excerpts from Title VII of the Civil Rights Act of 1964. Title VII was amended by the Equal Employment Opportunity Act of 1972, excerpts of which are presented in Appendix B.)

Although these were the official objectives of the commission, it was not told how to achieve them. Goals are necessary for political or managerial success. However, they are not sufficient for success. All the ingredients that make up the means for achieving goals are also crucial.[5] The EEOC published The Guidelines on Employ-

ment Selection Procedures in order to help it achieve its stated goals. These guidelines dictate two basic standards by which an organization can discriminate in its employment practices. These are:

1. The job specifications which are viewed as discriminatory must be significantly related to job performance.
2. There must be an overriding business necessity which requires the applicant to meet the stated specifications.

In addition, the burden of proof that these job specifications are necessarily discriminatory lies with the employers. The complainant is not required to prove that he has been discriminated against. Rather, the organization is required to prove that it is innocent of job-bias in its employment practices.[6]

The Complainants' Viewpoint of the Commission's Effectiveness

Taken at face value, these guidelines for determination of job-bias seem concrete. However, the resulting influx of discrimination charges to the commission has proven to be much more than the agency had anticipated. Between 1967 and 1970, more than 40,000 complaints of job discrimination were filed with the EEOC.[7] By April of 1976, the commission had a backlog of approximately 100,000 cases.[8] As of the following September, the backlog had increased to approximately 120,000 cases.[9] As of August 1977, the EEOC was behind by 130,000 cases. The estimated average time of settlement for a case on file was two years.[10] The EEOC, which had been conceived to be a deterrent to job-bias practices, had become one of the most ineffective agencies

of the government bureaucracy. The Wall Street Journal reported that civil rights groups and labor unions have lost faith in the EEOC because of the long delays which have become common in its handling of cases. These groups have criticized the commission for overinvestigating employers charged with bias. In addition, they feel that the EEOC has attempted to develop too many broad, class action suits. In many cases where a personal settlement has appeared to be the most practical solution, this possibility has been overlooked by the commission.[11]

Other complainants insist that the EEOC would be a more effective agency if its guidelines were not so restrictive. At present, the commission can only seek to remove discriminatory practices through conference and conciliation with the employer. It cannot issue cease-and-desist orders on its own initiative, a power which both the commission and civil rights groups are presently requesting from Congress. The advocates of this measure claim that employers do not take the EEOC seriously. They contend that if the commission had the power to issue cease-and-desist orders, and to file suits on its own, it would be a more efficient agency.[12]

In short, the complainants in the discrimination suits have differing expectations of the EEOC. One contingency holds that the commission is trying to do too much in its investigation of employers and is wasting time and money. The other camp contends that the commission is not doing enough and should have more investigatory and enforcement powers. Both groups feel that they are supported by the

EEOC's guidelines and both exert some influence on the commission.

The Employer's Viewpoint of the Commission's Effectiveness

The general consensus in the business sector is that the EEOC has had a substantial influence on the employment practices in this country, and not for the better. In the past fifteen years, a majority of the five hundred largest corporations in America have been assaulted with discrimination suits. As a result, these corporations have turned their selection mechanisms over to their legal departments for analysis and guideline development. However, since most legal consultants are not versed in interview procedures, the end result has been a rigidly controlled, patterned interview.[13] One interviewer summarized his feelings as follows: "If they're warm, hire them, because if we don't and they are a minority, we've just bought another discrimination suit."[14] The pendulum of interview procedure has swung full course in the past fifteen years. The old style of interviewing was completely unbridled, and the applicant was fair game for the interviewer. Today the interview is completely structured, and the employer may not know what kind of employee has has hired until he sees him at work. A happy medium is suggested.

Several major organizations have had head-to-head confrontations with the EEOC. For example, Datapoint Corporation thought that the discrimination charges brought against it were so frivolous that it took the EEOC to court. A federal appeals court agreed. On July 2, 1978, the commission was ordered to pay Datapoint $66,540 plus nine

percent interest for the legal fees which Datapoint had expended in defending against the discrimination suit.[15]

Perhaps the most famous confrontation to date involved Sears and the U.S. government. On January 25, 1979, Sears, the nation's largest retailer and second largest employer of women, filed suit against the EEOC and fourteen other government agencies. In its thirty-three page suit, Sears charged that the government is trying to hold private employers responsible for a work force that was created largely by the government itself. The suit claimed that the G.I. Bill, veteran's preference laws, and the Age Discrimination Act of 1978 have restricted the job opportunities for women and minorities. It was Sears' contention that the government had created a work force dominated by white males and thus should not hold the business community responsible for its own actions.[16] On March 27, 1979, the Justice Department urged a federal district court to dismiss the Sears case as "a political essay". The Sears case was dismissed in April as frivolous, at the same time that a junior high school boy was suing, in federal court, for discrimination because he was not allowed to play on the girls' volleyball team.

The Sears case points out a growing problem in the business sector. Today, organizations must contend not only with the EEOC, but with over fifty other government agencies as well. Each agency has its own operations guidelines and often these guidelines conflict with those of other agencies. Employers must attempt to adhere to all the agency restrictions. As a result, the possibility of being sued

for an agency violation is ever present in business operations.

Internal Problems Affecting the Performance of the EEOC

The EEOC has been assailed by problems of its own. It has had trouble consistently applying its guidelines because of its inability to keep a director. Between June 1975 and May 1977 the commission had three separate directors. Mr. Lowell Perry, director from June 1975 to April 1976, resigned after the EEOC was charged with fraud, illegal use of federal property, and failure to submit contracts to competitive bidding by the General Accounting Office.[18]

The interim director, Ms. Ethel Walsh, attempted to restore some organization to the commission by clarifying its operations procedures. She proposed cutting the massive case backlog by "easing red tape and accepting the employer's minimum reasonable offer" to settle the 12,000 oldest cases on file. The commission was finally becoming aware that its objectives were too broad-based. Ms. Walsh believed that the most effective enforcement method was expediency, rather than concentration. "What we're telling the staff to do is two things," said Ms. Walsh. "Either settle it now if the employer's old offer was in any way reasonable, or, if it wasn't, offer one last chance at conciliation before we take stronger steps."[19]

In November of 1976, the president suggested new rules for determining employment test legality. The Civil Service Commission, Labor Department, and the Justice Department agreed to the new rules. The EEOC did not. Ms. Walsh felt that the new guidelines were "too

lenient." Mr. Lawrence Lober, Chief of the Labor Department's Contract Compliance Section, contended that "the old guidelines were so stringent that they were unusable and ineffective." The <u>Wall Street Journal</u> cited business interest groups as complaining that the old guidelines were too vague and costly to follow. Ms. Walsh disagreed, and the EEOC kept its guidelines.[20]

In May, 1977, President Carter chose Ms. Eleanor Norton to head the EEOC.[21] Under Ms. Norton, the EEOC has maintained its original guidelines and its increasing backlog. However, in answer to a growing number of reverse discrimination complaints, the commission has adopted one additional guideline. It provides that those organizations with affirmative action programs will not be investigated in regard to reverse discrimination charges which might be brought against them.[22]

In response to the backlog problem, the EEOC instituted the Backlog Charge Processing System in December, 1977. The commission credits the new system with the first permanent reduction in backlog cases in its history. Since its introduction, the system has reduced the backlog by 41%. The agency predicts that it will be backlog-free by the fall of 1981. This should certainly improve its effectiveness.

The new process stresses efforts to reach "no-fault" settlements in most cases, a concept which has been suggested for several years. The procedure calls for the EEOC to offer the respondent in each case an opportunity to resolve the complaint in a no-fault settlement.

The complainant is asked to set a minimum acceptable level of relief. If an agreement can be reached after "appropriate but brief negotiation", the EEOC executes a no-fault settlement.[23]

A final example of the vagueness of the EEOC guidelines was provided by the commission itself. On August 8, 1978, the Wall Street Journal reported that a federal district court had ruled that the EEOC was in violation of employment practices. Ms. Norton was forced to withdraw a list of questions which EEOC officials were asking of applicants for investigation positions. The questions were political in nature and were intended to test the applicant's social awareness, according to the commission. One EEOC lawyer was quoted as follows: "If a private company had used questions like that, we'd have jumped all over them."[24] The implication here is clear. If the EEOC cannot be sure of its own actions in employment practices, how credible can its operations guidelines be?

Problem Issues Hindering the Commission's Effectiveness

The Quota Issue. Affirmative Action originally meant that one should not only not discriminate, but inform people that one did not discriminate; not only treat those who applied for jobs without discrimination, but seek out those who did not apply for jobs and encourage them to do so. Now it assumes that all are guilty of discrimination and imposes on all employers the remedies which in the Civil Rights Act of 1964 could only be imposed on those found guilty of job-

bias.[25]

The primary tool used by the EEOC in determining discrimination is parity. Parity means the same proportion of various minority groups should be present in the work force as are present in the labor market. In essence, the EEOC used parity measurements to establish quotas for employers and entire industries. However, the EEOC never uses the word "quota" in talking about parity. It simply requires employers to establish "goals" or "timetables" for achievement of statistical parity. Employers fully understand that the implementation of these goals is not discretionary.[26]

There are several examples of affirmative action plans which have been unsuccessfully or unjustifiably imposed on industries. The Philadelphia Plan was the first affirmative action plan. It required the establishment of goals and timetables in the construction industry. The Supreme Court upheld the plan as valid under Title VII as a means of implementing the affirmative action obligation of Executive Order 11246. In 1974, after dissatisfaction with the results of the so-called "hometown" plans such as Philadelphia's, the Department of Labor imposed mandatory hiring goals on 101 building trade unions.[27] The AT&T case was the first great success for the EEOC as far as imposing quotas on corporations. In January of 1973, the Supreme Court found that AT&T was guilty of discrimination because "blacks weren't randomly distributed in all jobs and a substantial underrepresentation of women and minorities was evident in certain job categories. "Absent discrimination," they concluded, "one would expect a nearly

random distribution of women and minorities in all jobs."

They ignored relevant factors such as level of education, type of education, quality of education, location of offices by region, city, and part of metropolitan area, and character of the labor markets at the time of entry of the firm in making their decision. All of these were relevant factors and all were easily quantifiable.[28]

The Defunis case was the first example of a reverse discrimination charge being brought in regard to a quota system. Defunis was refused admission to the University of Washington Law School even though his qualifications were better than those of minority candidates who were admitted. He sued the university and upon subsequent application was admitted. By the time his case came before the Supreme Court, he was in his third year of law school. It was determined that he no longer had standing to sue and his case was declared moot. Thus, the Supreme Court had successfully avoided the issue for the time being.[29]

The Bakke case is probably the most notable case of a reverse discrimination charge to date. The facts of the case are well known. The decision of the Supreme Court was that employers and institutions that had a past history of discrimination in employment practices could implement affirmative action programs which might in effect discriminate against some more qualified candidates. It is of some interest to note the effect that the Bakke decision has had on the establishment of such programs. Since Bakke, no professional or graduate school in the country has established such a program of its own

volition so as to avoid any notoriety. In addition, enrollment of minority candidates in graduate and professional schools has decreased 60% since Bakke.[30]

More recently, the establishment of a voluntary affirmative action program was questioned in Weber v. Kaiser Aluminum. Kaiser established a program for advancement which required participation of a 50-50 mix of whites and minorities. Weber contended that the program discriminated against him and sued because Kaiser had no past record of discrimination against minorities. At issue was the question of whether a firm could voluntarily institute a program if it had not committed actions in the past which warranted such action.[31] The Supreme Court decided that firms could impose affirmative action programs at their own discretion. No past history of discrimination was required in advance of implementation. This is the last landmark to date and serves as the precedent for the moment. Subsequent challenges may produce different results.

The Labor Market Issue. Affirmative Action plans, in order to be acceptable to federal agencies, must be based on utilization analyses. These analyses compare the participation of women and minorities in the firm with the proportion of women and minorities available in the external labor market. The EEOC and other government agencies use these statistics to establish the goals and timetables for compliance in company-wide and industry-wide situations.[32] The problem that firms face in attempting to comply with these federal regulations is defining the labor market to use as a basis for comparison.

The Department of Labor defines a labor market as "a central city or cities and surrounding territory within a commuting distance .. an economically integrated geographical unit within which workers may readily change jobs without changing their place of residence." This can more easily be defined as a Standard Metropolitan Statistical Area.[33] In the case of The Legal Aid Society of Alameda County v. Brennan in 1974, the definition of a labor market was more narrowly defined. This case established the precedence that future affirmative action plans adopt as their labor market the SMSA, county, or city of the SMSA with the highest proportional minority population, unless there is an appropriate justification for another selection.[34]

On the surface, these legal definitions of labor markets appear to be understandable and easily reconciliable. However, they fail to consider the perceptions of the individual participants in the market and their personal definitions of the applicable market area. For example, Dallas/Fort Worth is the second largest metropolitan area in the country. Dallas has the highest proportion of minority residents in the SMSA. Therefore, Dallas is defined as the labor market in the utilization statistics imposed upon area businesses. However, it is very unlikely that very many residents of east Dallas regard themselves as being in the labor market for Bell Helicopter in Fort Worth. Bell Helicopter is required to include these residents in its parity statistics, and seek employees as such.

The courts are beginning to become aware of the importance of individual perceptions of relevant labor markets. In Timken v. EEOC,

the affirmative action plan of Timken was challenged as being discriminatory. The plan employed a 15 mile radius around the plant as its labor market. This definition resulted in the exclusion of the town of Mansfield from the market consideration because it was 25 miles from Timken. The EEOC brought suit. The court decided that "clearly distance and travel times are relevant considerations. The relative minority populations of Bacyrus and Mansfield are totally irrelevent to either what is a reasonable commuting distance or what Timken can expect." There was not substantial evidence that the people outside Timken's plan radius in fact regarded themselves as part of the potential labor market.[35]

Over the past twenty years, middle class citizens have been moving out of the central cities in America into the suburbs. In reaction to this trend, business firms have also been moving away from the cities in pursuit of lower taxes, operating costs, or some other differential or competitive advantage. It has been proposed by the EEOC that this movement away from the central cities by businesses may be a prima facie violation of Title VII. The commission is currently studying the problem and is evaluating possible action against firms it believes to be discriminating. The standards they would use for determining discrimination are:

(1) The community from which the employer moves has a higher percentage of minority workers available than the community to which the employer moves.

(2) The move affects the employment situation of the employer's

present minority workers more adversely than that of his other workers.

(3) The employer fails to take measures to correct such disparate effects.[36]

In other words, the employer would be required to prove that he has a valid business purpose "vital to the operation of business" for moving, or he will be asked not to move by a federal court. If the employer persisted in moving, the court would require him to compensate the injured parties by one of the following methods:

(1) Institution of a special recruiting program for minorities.

(2) Providing assurance of equal access to the new place of business to minority workers. If commuting is possible but the costs are high, the employer would have to either pay the expenses or provide transportation for minority workers. If the costs of commuting are prohibitive, the employer would be required to either build or make housing arrangements for minority workers.

(3) The employer would be required to establish and maintain the same goal for minority participation in the work force as was set at the previous location.[37]

In effect, the employer would be required to forfeit the opportunity to attain any competitive advantage that might be realized by incurring increased operating costs so as to maintain a work force which is equittably balanced in the opinion of the government bureaucracy. As a result, consumers as a whole would have to bear higher costs in

the market. The rights of the majority would again be subjected to the will of the vocal minority by unelected bureaucrats.

The two most recent decisions by the courts on the labor market issue, have recognized the feasibility of the employer's ability to comply with the EEOC. In Furnco Construction Corporation v. Waters, the Supreme Court considered the capability of the employer. The court ruled that an employer seeking to rebut a prima facie case of racial discrimination must, as before, prove that its employment procedures are based on legitimate considerations. However, the court said that the employer is not required to prove that these procedures allow him or her to consider the qualifications of the largest possible number of minority group applicants.[38]

The U.S. Court of Appeals at Richmond continued this precedent in the case of the EEOC v. Radiator Specialty Co. The court ruled that general population statistics may not be used to establish a prima facie case of discrimination in specialized positions. However, the employer must establish that the positions require specialized qualifications. In question was the use of SMSA statistics comparing the percentage of minorities employed by a firm in certain jobs with the comparable SMSA percentage. The court held that this measure was an inaccurate indicator of the actual number of minority applicants capable of filling the employer's positions. However, the court felt that employment statistics showing the percentage of minorities employed in various job classifications in the same county should be used as one indicator of the qualified minority labor pool.[39]

The labor market issue is the most pressing for solution and is expected to receive the majority of the attention of the EEOC and other government agencies over the next fifteen years.

The Seniority Issue. The issue of the effect of longstanding seniority customs in this country affecting the employment opportunities of minorities first emerged in the early 1970's. Due to the economic slowdown of 1973, employers started to lay off employees until the economy recovered. As was tradition in America, those hired last were the first to be laid-off or let go. The EEOC contended that this practice is discriminatory because it injures minorities to a greater extent than other employees. From the viewpoint of the commission, the minorities were the last to be hired because the employers had only recently been forced to hire them under Title VII enforcement. It was feared that any gains made by minorities since 1965 would be erased by the recession. Business firms, particularly those which were heavily unionized, contended that business practices offered no other solution for determining layoff order.[40]

The issue came to a head in the case of Jersey Cnetral Power & Light Co. v. EEOC in August of 1974. A U.S. District Court ordered JCP&L to retain newly hired minorities in preference to senior workers because its contract with the International Brotherhood of Electrical Workers was in conflict with an EEOC directive.

Upon subsequent appeal to the Supreme Court, bona fide or company-wide seniority systems were found to be legal. The court decided that such systems which disproportionately affect minorities

during layoffs are not unlawful unless designed to disguise discrimination.[41] This was the first positive decision for the business community by the court since 1965. The EEOC adopted a rather limited interpretation of this ruling. Ms. Norton decided that the ruling was potentially harmful to the fight against discriminatory employment practices. Thus, the commission decided to apply the ruling only to seniority systems in effect prior to 2 July 1965, the date the EEOC became operational. All seniority systems enacted after that date which may in effect disproportionately affect minorities will be viewed as discriminatory by the EEOC.[42]

As of the present, the status of the seniority issue is unchanged. Most large corporations are currently adhering to the precedent established by the JCP&L case. Future litigation in this area can be expected as the trend of the business cycle changes.

The Question of Availability. A major assumption of the EEOC in its pursuit of equal employment opportunity is that there are qualified minority candidates available in the work force that are presently being discriminated against. If there are women and minority candidates available for professions who are being overlooked in favor of candidates who are less qualified, then they are being damaged, as is the society which is being denied their services. Discrimination is a preference and, like very other economic preference, it has its costs. Those who choose to discriminate against qualified workers choose to do so at an increased cost of operation because they have a smaller supply of labor to draw upon.

However, if in fact there are not qualified women and minority candidates available in the labor market to take jobs, are those who are unqualified being discriminated against by being refused employment? No, they are not!

During the remainder of my project I intend to look more closely at this question of availability. From the data which I have gathered up to this point, it appears that the problem is not discrimination against qualified candidates. The problem appears to be a surplus of unqualified candidates attempting to take the positions of qualified workers under the guise of equal employment opportunity. The data I currently possess follows. The problem of discovery continues.

Please see Appendix C for availability data and data on the performance of the EEOC.

Economic Considerations in Employment Discrimination

Employers discriminate against women and minorities for several economically justifiable reasons. These occurrences will be discussed with regard to women and blacks, in particular. Some suggestions for solutions to these situations will also be proposed in this section.

Women. The greatest problem confronting women is their record of participation in the labor force. Only about 40% of all women worked full-time, full-year in 1965. In comparison, 66% of all men worked full-time, full-year in 1965. Child-rearing responsibilities cause many women to take on part-time jobs or leave the labor force altogether. Employers also recognize that women are more likely to

leave their jobs because of a husband's transfer to another city. The average duration of female job tenure is only 2.4 years, exactly half that of males.[43] A survey of married women working over the time period 1967-1971 showed that 63% worked less than three years.[44]

The belief among employers that married women will work for shorter periods of time is reflected in the income differential between married and unmarried women. The median income for women (full-time, full-year) in 1971 was 59.5% of the male median. Unmarried women displayed an income median which was 88% of that received by their male counterparts.[45] Simply, employers regard unmarried women as less risky employees and are thus willing to pay them more.

Why is this so? Because employers regard an investment in education or training as an investment in human capital. This investment is just as important to the employer as his investment in property, plant, and equipment -- or "nonhuman capital."[46] The characteristic which distinguishes a business investment from a current expense is futurity. An investment is an outlay which provides potential economic benefits in the future. An expense is an outlay whose benefits are received in the current period.[47] When employers expect to receive less return in the long run for their investment in human capital, they will invest in less risky capital. As of the present, this less risky capital consists of males and unmarried females.

Finally, it is often the case that employers are reflecting the discriminations of their customers, not their own. For example, the wages of self-employed women are equal to only 41% of those of men in

comparable situations. The wages of women who are not self-employed equal 60% of their male counterparts.[48] Thus, consumer discrimination seems to affect women more adversely than employer discrimination.

Blacks. The black-white income differential can be accounted for mainly by differences in education, residence, occupation, and by pure economic discrimination. One reason for the relatively low number of blacks is that a disproportionate number of blacks live in the south. Average incomes in the south tend to be lower than those in any other region. This effect is compounded by the fact that the relative income status of blacks in the south is the lowest of any region.[49]

Difference in education also accounts for part of the black-white income differential. The average number of school years completed by blacks in 1960 was 2.7 years less than the average for whites. By 1966 this gap was reduced to 1.35 years, yet the differences in the quality of the educational resources still remain.

Thus, blacks tend to have less education than whites, or at least less quality education. As a result, they are qualified for a smaller range of jobs and have human capital which is regarded as less desirable by prospective employers. Evidence of this fact can be seen from the late 1960's. The employment gains made by blacks in the 60's were not the result of EEOC enforcement. Rather, the booming economy and the Vietnam War produced a tight labor market. With the smaller labor pool which resulted, employers increased their selections of black applicants for available positions. During this period, black income increased from 52% of that of white counterparts to 63%.[50]

Suggested Solutions

(1) Equal pay legislation generally requires employers to pay an equal wage to all workers of comparable abilities engaged in similar work. No regard is paid to race, creed, sex, color, or national origin. Employers who prefer to hire white males will employ females or blacks only if they can pay them a lower wage. Legally prevented from doing this, they will simply opt to employ more white males. This effect of the equal pay laws has isolated women and minorities from many employment opportunities that offer chances for skill development and advancement.[51]
Those qualified candidates who are being discriminated against can increase the costs of discriminating employers by decreasing the prices they demand for their services. Let women and minorities charge lower prices for their services initially so that they can enter the market. Price competition is the easiest form of competition. Women and minorities should be able to charge different prices because employers and consumers view them as different. Once they prove themselves to be competent, they will be established in the market. They can then raise the prices they demanded for their services to a competitive level without losing position or clientele. This is true because patrons usually do not leave because of price but due to quality of service. Also, employers do not lose good em-

ployees because of salary but due to quality of work.

(2) Discrimination is a preference and, like all other preferences, it has its costs. Those who choose to discriminate against qualified workers choose to do so at an increased cost of operations. This increase is caused by the reduced supply of labor they choose to select from. According to the simple laws of supply and demand, it follows that employers who choose not to discriminate against qualified workers can achieve a competitive advantage over those who do. The utilization of this incentive is born out by the fact that firms in more highly concentrated industries hire fewer nonwhites and women than firms in less concentrated industries. With greater degrees of monopoly powers competition decreases, as does the competitive incentive to vie for qualified workers.[52]

In competitive industries, however, the practive of discrimination is a significant cost. Those who discriminate will bear this cost. The cost can be increased by offering tax incentives to those employers who do not discriminate against qualified women and minority applicants. Those who continue to discriminate will do so only as long as the cost they pay is less than their opportunity cost of not discriminating. They will be driven out of business or they will begin to compete for qualified women and minority applicants. Let employers discriminate until they can no longer afford to do so.

CONCLUSION

There can be no doubt that the EEOC has had an effect on the employment practices in the U.S. over the past fifteen years. Whether this effect has been beneficial or detrimental is a question which will be resolved only with the passage of time. The major deterrent to the EEOC in its operations has been its fixation with applying quantitative measures to a qualitative problem. The problem of employment discrimination.

I have attempted to show that, by viewing its objectives, completely from the perspective of a regulatory agency's enforcement potential, the EEOC has proven to be an inefficient organization. The objective of the commission has been to eliminate discrimination in employment practices. In a world of variety where people make decisions, this is clearly an unachievable goal. Employers do not discriminate, not because they are immoral, but so as to maximize the welfare of their organizations. However, there are substantial market forces which, if allowed to function, would help to channel the discriminatory practices of employers so as to maximize the welfare of all parties involved. The EEOC could serve to enhance this process by serving as a monitoring body, not as a regulatory agency.

As H. Clifton Morse said in 1962: "There is no personal characteristic that will not be seized upon by some employer somewhere as an excuse for turning down an able and experienced person. Yet the hard fact remains that our economy can no longer afford this waste of talent and skill."[53] Discrimination is an individual characteristic

and only individuals can regulate it. It took time for us to learn to discriminate, and it will take time for us to learn not to. The most effective employment practice will be the internalization of the concept of equality for all persons by all employers. And no government can mandate that.

ENDNOTES

[1] Walter E. Williams, "Preference, Prejudice, and Difference - Racial Reasoning in Unfree Markets," Regulation, Mar/Apr 1979, p. 39.

[2] Williams, p. 41

[3] Office of the Federal Register, The United States Government Manual (National Archives and Records Service, 1979), p. 510.

[4] Office of the Federal Register, p. 510.

[5] Robert Albanese, Managing: Toward Accountability for Performance, 1978 ed. (Homewood, Ill.: Richard D. Irwin, 1978), p. 42.

[6] AMACON, Successful Personnel Recruiting and Selection (New York: 1977), p. 27.

[7] William C. Byham, The Law and Personnel Testing (New York: The American Management Association, 1971), p. 15.

[8] "Reports on EEOC Charge Incompetence, Corruption, Prompt Criminal Study," Wall Street Journal, 22 April 1976, p. 5, col. 2.

[9] "EEOC Plans to Use Expedited Processes to Settle its 12,000 Oldest Job-Bias Cases," Wall Street Journal, 2 Sept. 1976, p. 5, col. 5.

[10] "Besieged by Criticism, Job-Bias Agencies Seek to Bolster Programs," Wall Street Journal, 26 August 1977, p. 1, col. 5.

[11] "EEOC Plans to Use Expedited Processes...," Wall Street Journal, 2 Sept. 1976, p. 5, col. 5.

[12] Byham, p. 138.

[13] Thomas L. Moffatt, Selection Interviewing for Managers (New York: Harper & Row, Publishers, 1979), p. 137.

[14] Moffatt, p. 138.

[15] "Court Orders U.S. Units to Pay Datapoint $66,540," Wall Street Journal, 3 July 1978, p. 4, col. 3.

[16] "Sears Suit Challenging U.S. Enforcement of Antibias Laws Raises Some Key Issues," Wall Street Journal, 7 March 1979, p. 42, col. 1-5.

[17] "Justice Agency Urges Court to Dismiss Suit Sears Filed on Hiring," Wall Street Journal, 28 March 1979, p. 32, col. 1-2.

[18] "Reports on EEOC Charge...," Wall Street Journal, 22 April 1976, p. 5, col. 2.

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[20] "Rules to Determine Bias in Employment Tests to be 'Updated' by Three Agencies," Wall Street Journal, 19 Nov. 1976, p. 22, col. 3-6.

[21] "Carter, as Expected, Taps Eleanor Holmes to Head EEOC," Wall Street Journal, 17 May 1977, p. 2, col. 5.

[22] "EEOC Adopts Final Guidelines Covering Hiring," Wall Street Journal, 12 Dec. 1978, p. 2, col. 2-3.

[23] "Norton an EEOC Backlog Reduction," Labor Relations Reporter, 22 Nov. 1979, p. 151.

[24] "Labor Letter," Wall Street Journal, 8 August 1978, p. 1, col. 5.

[25] Milton Mandell, The Selection Process (New York: The American Management Association, 1964), p. 65.

[26] Nathan Glazer, Affirmative Discrimination: Ethnic Inequality and Public Policy (New York: Basic Books, Inc., Publishers, 1975), p. 58.

[27] AMACON, How to Eliminate Discriminatory Practices (New York: The American Management Association, 1975), p. 49.

[28] Ray Marshall and Charles B. Knapp, Employment Discrimination: The Impact of Legal and Administrative Remedies (New York: Praeger Publishers, 1978), p. 10.

[29] Glazer, p. 62.

[30] American Society for Personnel Administration. Fair Employment Digest (Berea, OH: Government Affairs Committee, June, 1974), p.1.

[31] Nyol V. Benokraitis and Joe R. Feagin, Affirmative Action and Equal Opportunity: Action, Inaction, Reaction (Boulder, CL: Westview Press, 1978), p. 215.

[32] American Society for Personnel Administration. _Fair Employment Digest_ (Berea, OH: Government Affairs Committee, September, 1976), p. 2.

[33] AMACON, p. 48.

[34] AMACON, p. 47.

[35] AMACON, p. 48.

[36] American Society for Personnel Administration. _Fair Employment Digest_ (Berea, OH: Government Affairs Committee, March, 1977), p. 2.

[37] American Society for Personnel Administration. _Fair Employment Digest_ (Berea, OH: Government Affairs Committee, September, 1971), p. 2.

[38] "Rebuttal of Prima Facie Case of Racial Discrimination in Hiring," _Labor Relations Reporter_, 10 Sept. 1978, p. 138.

[39] "Use of General Population Statistics to Establish Discrimination in Specialized Positions," _Labor Relations Reporter_, 3 Dec. 1979, p. 93.

[40] American Society for Personnel Administration, p. 3.

[41] American Society for Personnel Administration. _Fair Employment Digest_ (Berea, OH: Government Affairs Committee, September, 1974), p. 1.

[42] American Society for Personnel Administration. _Fair Employment Digest_ (Berea, OH: Government Affairs Committee, September, 1977), p. 3.

[43] Dwight R. Lee and Robert F. McNown, _Economics In our Time: Concepts and Issues_ (Chicago: Science Research Associates, Inc., 1975), p. 167.

[44] Jacob Mince and Haum Ofek, "The Distribution of Lifetime Labor Force Participation of Married Women," _Journal of Political Economy_, 87, No. 1 (1979), p. 198.

[45] Lee and McNown, p. 163.

[46] First National City Bank, "Education: Investment in Human Capital," _Monthly Economic Letter_, Aug. 1965, p. 92.

[47] Graduate School of Business Administration, Univ. of Michigan, "Cost/Benefit Analysis of Human Resources Accounting Alternatives," Human Resources Management, 15, No. 1 (1976), p. 7.

[48] Lee and McNown, p. 169.

[49] Lee and McNown, p. 165.

[50] Lee and McNown, p. 166.

[51] Lee and McNown, p. 168.

[52] Walter Haessel and John Palmer, "Market Power and Employment Discrimination," The Journal of Human Resources, p. 558.

[53] Mandell, p. 65.

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APPENDIX A

EXCERPTS FROM PUBLIC LAW 88-352-JULY 2, 1964, TITLE VII-EQUAL EMPLOYMENT OPPORTUNITY

Discrimination Because of Race, Color, Religion, Sex, or National Origin

Sec. 703. (a) It shall be an unlawful employment practice for an employer -

(1) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) To limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(b) It shall be an unlawful employment practive for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against any individual because of his race, color, religion, sex, or national origin, or to classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

(c) It shall be an unlawful employment practice for a labor organization -

(1) To include or expel from its membership, or otherwise to discriminate against, any individual because of his race, color, religion, sex, or national origin;

(2) To limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin; or

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

Sec. 705. (a) There is hereby created a Commission to be known as the Equal Employment Opportunity Commission, which shall be composed of five members, not more than three of whom shall be members of the same political party, who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term ofone year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, beginning from the date of enactment of this title, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission, and shall appoint, in accordance with the civil service laws, such officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions and to fix their compensation in accordance with the Classificiation Act of 1949, as amended. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

Sec. 706. (a) Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by a member of the Commission where he has a reasonable cause to believe a violation of this title has occurred (and such charge sets forth the facts upon which it is based) that an employer, employment agency, or labor organiation (hereinafter referred to as the "respondent") with a copy of such charge and shall make an investigation of such charge, provided that such charge shall not be made public by the Commission. If the Commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the Commission, who shall make public in any manner whatever information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

Sec. 707. (a) Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the

rights secured by this title, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General may bring a civil action in the appropriate district court of the United States by filing with it a complaint (1) signed by him (or in his absence the Acting Attorney General), (2) setting forth facts pertaining to such pattern or practice, and (3) requesting such relief, including application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full employment of the rights herein described.

Office of the Federal Register. United States Statutes At Large, Vol. 78. Washington, D.C.: GPO. 1965.

APPENDIX B

EXCERPTS FROM PUBLIC LAW 92-261-MAR. 24, 1972

"(b) Whenever a charge is filed by one or on the behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, condiliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than $1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as is practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) and (d), from the date upon which the Commission is authorized to take action with respect to the charge.

"Sec. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in Section 102 of Title 5, United States Code, in executive

agencies (other than the General Accounting Office) as defined in Section 105 of Title 5, United States Code (including employees and applicants for employment who are paid from nonappropriationed funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.

Office of the Federal Register. United States Statutes at Large, Vol. 86. Washington, D.C.: GPO, 1973.

APPENDIX C

AVAILABILITY DATA ON WOMEN AND MINORITY CANDIDATES FOR VARIOUS PROFESSIONS

DATA ON THE PERFORMANCE OF THE EEOC

EARNED DOCTORATE DEGREES CONFERRED ON WOMEN
BY SELECTED FIELDS OF STUDY: 1959-1976

FIELD OF STUDY	1959-60	1964-65	1970-71	1974-75	1976
ALL FIELDS (number)	1,028	1,775	4,579	7,267	7,803
Agriculture (percent)	10.4%	2.7%	2.8%	3.3%	6.5%
Architecture	---	10.0	8.3	1.5	15.8
Biological Sciences	9.8	11.9	16.3	21.9	21.5
Business Management	1.4	1.8	2.8	4.0	5.4
Computer and Information Sciences	---	16.6	2.3	6.5	9.4
Education	19.4	19.5	21.1	30.8	33.3
Engineering	.3	.4	.6	2.1	2.3
Fine and Applied Arts	18.4	15.8	22.2	31.2	27.9
Foreign Languages	27.5	27.7	38.0	46.9	47.9
Health Professions	7.4	9.2	16.5	28.6	28.7
Home Economics	85.0	79.3	60.9	67.3	71.3
Library Sciences	10.5	8.3	28.2	41.0	45.0
Mathematics and Statistics	5.9	8.6	7.7	11.2	10.9
Physical Sciences	3.3	4.4	5.6	8.3	8.7
Psychology	15.1	18.7	23.9	30.8	31.7
Social Sciences	9.7	9.2	13.8	20.8	21.6

CONCILIATORY ACTIVITY UNDER THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Completed Conciliation	1966	1967	1968	1969	1970	1971	1972	1973	1974
Fully Successful	156	306	424	486	342	1,373	314	1,188	4,500
Unsuccessful	76	507	731	729	732	1,026	626	2,691	4,100
Pending	658	933	1,262	2,024	1,097	1,441	2,525	6,498	NA

INCOMING CHARGES BROUGHT TO THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, BY RACE AND SEX: 1967-1974

Year	Total: All Charges	Employment Practices			Union Practices			Labor-management, Joint Apprenticeship and Employer-union practices		
		Total	Race	Sex	Total	Race	Sex	Total	Race	Sex
1967	8,512	6,834	3,732	1,674	1,292	884	208	207	91	99
1969	14,471	12,456	8,107	2,275	1,495	1,022	368	380	343	15
1971	28,609	24,754	12,660	5,211	1,242	896	157	2,247	1,576	396
1973	70,937	34,588	23,754	1,626	860	411	10,119	10,119	5,334	3,303
1974	122,351	84,783	43,741	27,459	2,518	1,245	835	13,978	7,486	3,843

GENERAL OVERVIEW OF EQUAL EMPLOYMENT BUREAUCRACY

Congress

Equal Employment Opportunity Coordinating Council

EEOC | Labor Dept. | Civil Service Commission | HEW | Civil Rights Commission | Justice Dept.

OFCC | Wage & Hour Adm. | BIPP | Office for Civil Rights | Federal District Courts

<u>Federal</u>

(Title VII)

(Executive orders 11246 11375 11478)

(Equal Pay Act)

(Responsible for federal, state, and local employees)

(Title IX of 1972 Education Amendments)

(Equal Pay Act, Executive Order Title IX of 1972 Education Amendments, Revenue Sharing Act of 1972)

Employers | Unions | Employment Agencies

Minority and women complainants

<u>State</u>

State Courts
(State and local EEO acts)

Institutional grievance procedures

State administrative agencies
(Fair employment practices acts and other legislation)

UTILIZATION ANALYSIS OF ENGINEERS

	CHEMICAL			ELECTRICAL			INDUSTRIAL			MECHANICAL		
	M.S.	Working in Field	Diff.	M.S.	Working in Field	Diff.	M.S.	Working in Field	Diff.	M.S.	Working in Field	Diff.
White Male	90.0%	91.2%	1.2%	89.6%	91.3%	1.7%	88.3%	88.8%	.5%	92.9%	93.5%	.6%
White Female	3.4%	1.2%	-2.2%	2.6%	2.8%	.2%	5.6%	7.0%	1.4%	1.3%	.9%	-.4%
Black & Other	6.4%	7.6%	1.2%	7.6%	5.9%	-1.7%	6.1%	4.2%	-1.9%	5.8%	5.6%	-.2%

UTILIZATION ANALYSIS OF BUSINESS PERSONS

	ADMINISTRATION			ACCOUNTING			BANKING & FINANCE			MANAGEMENT		
	M.B.A.	Working in Field	Diff.	M.B.A.	Working in Field	Diff.	M.B.A.	Working in Field	Diff.	M.B.A.	Working in Field	Diff.
White Male	80.0%	64.6%	-15.4%	76.1%	65.7%	-10.4%	87.5%	68.3%	-19.2%	77.6%	66.7%	-10.9%
White Female	13.8%	26.9%	13.1%	15.3%	27.5%	12.2%	8.0%	27.3%	19.3%	19.6%	28.9%	9.3%
Black & Other	6.2%	8.5%	2.3%	8.6%	6.8%	-1.8%	4.5%	4.4%	-.1%	2.8%	4.4%	1.6%