

**Hearing  
Before the  
United States  
Commission on Civil Rights**

**HEARING HELD IN  
CHICAGO,  
ILLINOIS**

**VOLUME II: Testimony  
JULY 25, 1974; AUGUST 22, 1974;  
NOVEMBER 22-23, 1974**

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## U. S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

## MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*  
Stephen Horn, *Vice Chairman*  
Frankie M. Freeman  
Robert S. Rankin  
Manuel Ruiz, Jr.  
John A. Buggs, *Staff Director*

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# UNITED STATES COMMISSION ON CIVIL RIGHTS

Thursday Session, July 25, 1974

CHAIRMAN FLEMMING. I call the hearing to order at this time. This continuation of the public session of the Civil Rights Commission's hearing on women and poverty is now called to order.

As you may know, this hearing was originally commenced here in Chicago, on June 17. This proceeded with 3 days of public testimony through June 19, when we recessed. During those 3 days, the Commission received documents and heard testimony relating to women and their primary means of livelihood from salaries and wages to public assistance, social security, and pensions.

Starting from the indisputable fact that a disproportionate number of women are living in poverty, we have been seeking to determine what specific rights women are being denied. And because minority women are disproportionately represented among the poor, we have not limited our investigation to sex discrimination alone, but have also focused on the double jeopardy visited upon women who are also members of racial minorities or national groups.

Some of the testimony which we heard in those first public sessions emphasized the fact that women who are employed outside the home are mainly concentrated in low-paying, traditionally female occupations. With this in mind, the Commission has determined it worthwhile to study such traditionally female occupations.

The job category that we are concentrating on at this point is that of clericals. In order to facilitate this study, we decided to focus a portion of our investigation on the largest employer of clericals in the Chicago metropolitan area, Sears, Roebuck and Company.

Both clerical workers and management officials of that company have been subpoenaed to appear before this Commission. Yesterday, having determined that some testimony to be presented at this hearing might tend to defame, degrade, or incriminate persons affected by the hearing, the Commission, in accordance with its statute, rules, and regulations, held a closed executive session to hear answers to such testimony and then to decide whether such testimony should be heard in public. The issues raised at that hearing have been taken under advisement by the Commission and a decision will be announced at a later date.

The function of this Commission is to investigate deprivation of equal protection of the laws and to submit its findings to the Congress

and the President, along with recommendations for corrective action. To enable the Commission to fulfill these duties, the Congress has empowered it to hold hearings and issue subpoenas for the attendance of witnesses and for the production of documents.

This hearing is being held under the authority of the Civil Rights Act of 1957 as amended. As required by law, notice of the hearing was published in the *Federal Register* on June 24, 1974. A copy of this notice will be introduced into the record as exhibit number—and the number will be assigned to it—60, Exhibit No. 60.

The Commission on Civil Rights is an independent, bipartisan agency of the United States Government, established by Congress in 1957. At the opening of the hearing here in Chicago, I read into the record the identification of the duties of the Commission, as set forth in the law.

I think I can best explain the functions and limitations of this Commission by quoting from a decision of the United States Supreme Court. Early in the Commission's history, the Court said:

This Commission does not adjudicate, does not hold trials or determine anyone's civil or criminal liability. It does not issue orders or make determinations depriving anyone of life, liberty, or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may be subsequently used as the basis for legal or executive action.

That is the end of the quote from the decision of the Supreme Court.

Now I would like to ask Commissioner Freeman to read the rules of the hearing.

COMMISSIONER FREEMAN. Thank you, Chairman Flemming. As the Chairman has said, this section of the hearing has been divided into two parts. First, there was an executive session which was held yesterday morning. At the executive or closed session, individuals were invited to appear if they so desired and to state their objections to the public presentation of any testimony which they believed might be damaging to them.

This morning we are in public session. At the outset I should emphasize that the following is but a brief summary of the significant and relevant provisions of the Commission's rules. The rules themselves should be consulted for a fuller understanding. Staff members will be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain briefly the differences between the public session and any executive session concluded yesterday. Section 102—E of our statute provides, and I quote:



If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony, an opportunity to appear and be heard in executive session with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony.

In providing for an executive session, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress intended to minimize damage to reputations as much as possible and also wished to provide persons an opportunity to rebut unfounded charges before they are well publicized. Therefore, the Commission, when appropriate, convenes in executive session prior to the receipt of anticipated defamatory testimony. Following the presentation of testimony in executive session, and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event they find the testimony to be of insufficient credibility, and the opposition to it of sufficient merit, they may refuse to hear certain witnesses, even though those witnesses have been subpoenaed to appear in public session. An executive session of this type is the only portion of the hearing which is not open to the public.

The public hearing which begins now is different. The public and the press are invited and urged to attend the open sessions. All persons who are scheduled to appear and who live or work in Illinois or within 50 miles of the hearing site have been subpoenaed by the Commission.

All testimony at the public session will be under oath and will be transcribed verbatim by the official reporter. Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of costs. In addition, within 60 days of the close of the hearing, a person may ask to correct errors in the transcript of his or her testimony. Such requests will be granted only to make the transcript conform to the testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. Counsel may subject his or her client to reasonable examination. He or she also may make objections on the record and argue briefly the basis for such objections. If the Commission determines that any witness's testimony tends to defame, degrade, or incriminate any person, that person or his or her counsel may submit written questions which in the discretion of the Commission may be put to the witness.

Persons subpoenaed to the public session may request that witnesses be subpoenaed on their behalf. All requests for subpoenas must be in writing and must be supported by a showing of the general relevance and materiality of the evidence sought. In addition, all witnesses have the right to submit statements prepared by themselves or others for in-

clusion in the record, provided they are submitted within the time required by the rules.

Any person who has not been subpoenaed may be permitted, in the discretion of the Commission, to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provisions of Title XVIII, United States Code, section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize, we consider this a very serious matter and will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured during any recess from the members of the Commission staff. Persons who have been subpoenaed have already been given their copies.

Finally, I should point out that these rules were drafted with the intent of ensuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done this in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at this hearing.

CHAIRMAN FLEMMING. Thank you, Commissioner Freeman. I should have indicated at the beginning of the hearing that Commissioner Freeman and I are accompanied by our Acting General Counsel, Lawrence Glick, who is to the right of Commissioner Freeman, and by the Staff Director of the Commission, Mr. John A. Buggs, who is on my left.

I think it is necessary for me to swear one of the members of the staff who are assisting us in connection with this hearing. Mr. Ott, would you raise your right hand?

[Mr. Ott was sworn as sound engineer.]

CHAIRMAN FLEMMING. Thank you very much.

Mr. Glick, will you call the first witness?

MR. GLICK. The first two witnesses we have this morning, Mr. Lloyd S. McClellan, secretary and general counsel of Sears, Roebuck and Company, and Mr. Charles F. Bacon, vice president of personnel of Sears, Roebuck corporation. Gentlemen, will you step forward to the witness stand please?

MR. COHEN. Mr. Chairman. Commissioner Freeman. My name is Lawrence Cohen and on my right is Mr. Hyman Bear. We are attorneys representing Sears, Roebuck and Company. We are appearing here on behalf of Mr. McClelland, Mr. Bacon, and other persons whom the Commission has subpoenaed from Sears.

MR. GLICK. Mr. Cohen, are Mr. McClellan and Mr. Bacon here?

MR. COHEN. They are not here, Mr. Glick. We are appearing on their behalf today.

MR. GLICK. So they have not responded personally to the subpoena?

MR. COHEN. No. We are appearing on their behalf today to move that that subpoena be revoked and have a written motion to submit to the Commission.

MR. GLICK. I would ask the Chairman to take under advisement whether the failure of Mr. McClelland and Mr. Bacon to appear but to appear by counsel constitutes adequate response to the personal subpoena with which they were served.

CHAIRMAN FLEMMING. The Commission will take that under advisement.

MR. COHEN. We appeared, as you know, Mr. Chairman, Mrs. Freeman, before you yesterday. We, at that time, made an argument and submitted a written statement of position, which, among other points, made the contention that this Commission should not be at this time investigating Sears, that the matters which this Commission wishes to enquire of Sears are presently pending before other Federal enforcement agencies. They are in the full process of investigating those charges. The proper forum for investigating those charges are these other agencies who are the experts entrusted by Congress to investigate them, rather than an investigation by this Commission at this time.

The Commission had heard our contentions and has taken them under advisement. We feel that until such time as the Commission rules as to whether that evidence should be admitted in public session that it should defer on investigating and requiring a response to a subpoena. That is why we are here today. We also feel that the subpoenas that were served on various gentlemen, including Mr. McClelland, are overly broad and unreasonable and unrelated to the Commission's general nature of its inquiry. We have, therefore, prepared and want to submit to the Commission, as we attempted to do yesterday, a petition to revoke the subpoenas. My question, Mr. Glick, is whether the submission of that document is now appropriate at this time.

MR. GLICK. Yes. I believe it would be.

MR. COHEN. How many copies would you like?

MR. GLICK. I would like five.

CHAIRMAN FLEMMING. Also, I think I should make it clear that, as indicated by counsel, this matter was raised at the executive session yesterday, but the Commission decided that it would not be appropriate to consider this motion or presentation in the executive session, but that it should be presented in public session.

MR. COHEN. The document that I have makes reference to our statement of position, copies of which have already been provided to the Commission.

COMMISSIONER FREEMAN. Counsel, will you state for the record again the names of each of the persons for whom you are appearing?

MR. COHEN. I am appearing today, on behalf of the following representatives of Sears: Mr. Wood, Mr. Bacon, Mr. McClellan, Mr. Harmon, Mr. Holland, and Mr. Hagenbach, who have all been served with subpoenas. I think only the subpoena served on Mr. McClellan was a subpoena *duces tecum*. The others were *ad testifacum* subpoenas.

COMMISSIONER FREEMAN. Are they all Sears' officials?

MR. COHEN. They are all Sears' officials, that is correct.

CHAIRMAN FLEMMING. You may proceed.

MR. GLICK. Mr. Chairman, I would like permission to introduce the document presented by Mr. Cohen into the record of this hearing as Exhibit 61.

CHAIRMAN FLEMMING. It will be included in the record as Exhibit 61.

MR. COHEN. Mr. Glick, I would also like the statement of position which we submitted yesterday to be included as part of that document. There will be two documents, a petition to revoke and a statement of position. If you wish, we can submit additional copies of the statement of position.

MR. GLICK. That document was introduced into the record of the executive session. But do I understand that you wish it to be introduced into the record of the public session as well?

MR. COHEN. That is correct. Because the document I just introduced incorporates portions of that other document.

MR. GLICK. Mr. Chairman—

CHAIRMAN FLEMMING. You recommend that—

MR. GLICK. I request that the document referred to by Mr. Cohen, which is the statement of position on behalf of Sears, Roebuck and Company, be admitted into the record as Exhibit No. 61 of this public session.

CHAIRMAN FLEMMING. That will be done.

MR. COHEN. Mr. Glick, the only other point, members of the Commission, that I wish to make is that we, yesterday, for the first time found out the particular nature, summary of the particular nature of the testimony that the Commission was about to hear with respect to Sears. We are prepared and are anxious to respond to that documentation. We would, once we hear the testimony, either through witnesses or by a written statement, either of which the Commission's rules provide for, be prepared to answer that documentation, that particular evidence. Until that time, until the Commission determines whether or not to hear it, we think it would be inappropriate to proceed further and to reply to generalized inquiries without knowing the particular nature of the testimony the Commission wishes to take that would deal with Sears.

CHAIRMAN FLEMMING. As I recall it, this is one of the points you made yesterday, and it is one of the points that has been taken under advisement.

MR. COHEN. That is correct and that would be our response.

MR. GLICK. Mr. Cohen, would you at this time choose to make any oral presentation that would either supplement or point out important issues in the position paper or the petition which you presented this morning?

MR. COHEN. I think our position paper fully spells it out, Mr. Glick. I also made many of those arguments and summarized it to the Commission yesterday. I would think until the Commission rules that it ought to hear this testimony in public session that it would be premature for me to do so. If, on the other hand, for purposes of the record you would like a brief summary of our legal position, I would be glad to do so. I leave that up to the deference of the Commission.

COMMISSIONER FREEMAN. I want to hear whatever you have to say.

MR. COHEN. I will repeat whatever points I made to the Commission yesterday.

The Commission's present hearings are designed to investigate the status of Federal programs and particularly the effect on women and poverty. The testimony and inquiries that have been made of Sears' representatives go into many areas, which, if true, and which if representative of the company, would be potential violations of State and Federal laws. We think those allegations are more appropriately directed and more appropriately addressed to the Federal and State and municipal equal opportunity employment commissions, which have the enforcement power and have been entrusted by the legislature to investigate those allegations. We question the right of the Commission to investigate private employment discrimination in a manner which overlaps with and duplicates the efforts of other Federal agencies.

The Commission was set up by Title V of the Civil Rights Act, the same act that set up the Equal Opportunity Commission, and we submit that the Congress did not intend to set up two agencies with overlapping and identical functions. We think that, when the Commission engages in such a role, it is engaged in an adjudicatory rather than an investigative role and that that is beyond the powers of the Commission. That's the first point that I made yesterday, and it's the first point that I am making today.

Secondly, we would submit an investigation at this time, when Sears is the subject of national investigation by the Equal Employment Opportunity Commission, which has been engaged in an exhaustive inquiry into our personnel policies and practices affecting not only female employees, but minority employees, and investigating in detail over 130,000 employees, that at this time, that investigation will give a fair and accurate presentation of Sears' employment practices. A limited investigation by this Commission into a few Sears' facilities, necessarily limited in time and depth, will not result in a legitimate determination of Sears' practices.

We think that if the Commission is going to be properly the watchdog and monitor the activities of other Federal agencies, then in order to do so, it ought to wait until those other agencies have had

the opportunity to act. It should not be an attempt to see which Federal agency can beat which one to the punch. This Commission has been critical of that type of activity on the part of Federal agencies in the civil rights area, and we think by investigating Sears at this time it is perpetuating the very evil which it itself has criticized.

The third point I wish to make is that, which I made at the executive session yesterday, public disclosure of information at this point, until it's been determined to be representative of employers generally or Sears in particular would be premature and would be potentially disadvantageous to the Commission's purposes, as well as to the particular employers involved.

The fourth point I made yesterday was that Sears, in contrast to many other companies, has made substantial efforts in the employment of females and in the employment of minority employees. It has an affirmative action plan, a substantial affirmative action plan, since 1968. It has engaged in a massive attempt to upgrade women which has been recognized by the Equal Employment Opportunity Commission, by the public media, by commentators in general. It has had an affirmative equal pay plan. It has engaged in many steps which, we think, indicates that there is no reason at this time to particularize, and single Sears out really, because of its size or for any other reason.

The last point I wish to make, made in our petition to revoke, is that the subpoenas served on Sears, rather than being narrow and confined to the particular evidence that the Commission indicated yesterday it was going to hear on Sears, are, we think, over broad, disproportionate to the Commission's purposes. They are not limited to women or low-paying jobs but cover a broad area of inquiry, which we think is unreasonable and very burdensome on a company which is attempting to respond to many of the same inquiries that have previously been proposed to it by the Equal Employment Opportunity Commission.

For all those reasons we submit first, that an investigation of Sears is improper. Secondly, that if it is to be held it should be confined to executive session, and, third, that the subpoenas served on Sears should be revoked.

**CHAIRMAN FLEMMING.** Your third point also covers the third point in the petition that you have submitted to us today; namely, that you feel it is also improper—that is, the subpoena—if it is not within the bounds of reasonableness.

**MR. COHEN.** That's correct. That's the last point I was making.

**CHAIRMAN FLEMMING.** I would like to ask General Counsel if he can submit for the record at this time the subpoenas that were issued, copies of the subpoena to the Commission?

**MR. GLICK.** Yes, I would like to introduce into the record subpoenas served upon the officials named by Mr. Cohen, and they are, specifically, Lloyd S. McClellan, Charles F. Bacon, Gene L. Harmon, William F. Hagenbach, William A. Holland, and Arthur M. Wood. Each of the subpoenas indicates the titles of the gentlemen in their employment at Sears.

I would like to introduce these collectively as Exhibit No. 63. Before they are received, I would like to indicate for the record also the nature of the subpoena served upon Mr. McClellan. I will not take the Commission's time to read the entire subpoena into the record, but it deals basically with employment policies and statistics relating to the female employees and employees broken down by race at the corporation, at the Sears Tower facility and at the catalog and merchandise distribution center facility at the Sears corporation in Chicago. Each of the items requested by the subpoena is relevant and material to the inquiry of the Commission at this time, as stated in the notice of public hearing which was published in the *Federal Register* on June 20, 1974, which has already been introduced into the record as Exhibit No. 60.

I would also like to point out, Mr. Chairman, that in an oral discussion with Mr. Bear, representing Sears, Roebuck and Company, yesterday, with your subsequent concurrence, I indicated that it would not be necessary for the other officers of Sears, Roebuck and Company to appear at the hearing this morning at 8:30, that only Mr. McClellan and Mr. Bacon would be required to appear in response to the subpoena, provided that the other officers were available and on call and would appear at the hearing when called. I must indicate that I am disappointed that the officers of the corporation of whom Mr. Bear and I discussed have not appeared, and I am disappointed at the casual way in which they have viewed the response to this subpoena.

MR. COHEN. May I reply to that, if I may, Mr. Glick? The representatives of Sears are available should the Commission determine not to honor and not to accept the petition to revoke and should Sears determine not to contest that decision in court. We do not attempt to in any way belittle or informalize our response. We are attempting here to make a sincere, legitimate, legal reply to subpoenas which we think are improper. We attempted to raise that at the executive session yesterday and were advised that it was proper to raise that today.

The second point I want to make is that the Commission, Commissioner Freeman in effect so indicated in her opening comments today, have repeatedly indicated that, if testimony at the executive session indicates that there is substantial opposition to particularized evidence that is going to be submitted at a public session, and it is determined by the Commission that there is relative insignificance to that testimony, the Commissioners review it and, if they find the testimony to be of insufficient credibility or the opposition to it to be of sufficient merit, they may refuse to hear certain witnesses, even though they have been subpoenaed to testify at the public session. That is Commissioner Freeman's statement today, and it has certainly been her statement and the Commission's position at past hearings.

We think the Commission has not yet made the decision as to whether the Sears' opposition is of sufficient merit to outweigh any other considerations and permit the testimony not to be taken, even though people have been subpoenaed. Until the Commission rules as to

whether the testimony should come in, whether the subpoenas should continue to be in force, we think it is premature to have Sears' representatives down here when it may not be necessary to testify. They are available and, in the event the Commission rules against us and it is not a matter for court adjudication, then, of course, they will be presented to the Commission.

COMMISSIONER FREEMAN. Counsel, I again would like to explain to you the rules. The subpoena was not being spoken to. There was a duty of McClellan and Bacon to respond to the subpoena, and then at least you could argue this. When those rules were stated with respect to the executive session, as to defamatory matter, there was nothing in the statement of the rules which said that a person who had been subpoenaed had the license to disregard the subpoena of the Civil Rights Commission. There was never any such statement made.

MR. COHEN. We are not disregarding the subpoena. We are asking the Commission to review it and determine in light of what statements we made yesterday whether it still wishes to proceed with that subpoena.

COMMISSIONER FREEMAN. The persons who were subpoenaed did not appear this morning, so they have in fact disregarded it.

MS. COHEN. They are appearing through Mr. Bear and I as their counsel.

CHAIRMAN FLEMMING. Any further questions?

MR. GLICK. Not at this time, Mr. Chairman.

CHAIRMAN FLEMMING. First of all, Mr. Cohen and Mr. Bear, I would like to make it clear that the subpoenas are still in effect, which I am sure you can appreciate. The Commission will now take under advisement the issues that you have raised today, along with the issues that were raised in the executive session yesterday. You will be notified of our decisions as soon as we have reached them.

This hearing will now be recessed to a date that will be specified in the *Federal Register*.

The hearing is recessed.



## UNITED STATES COMMISSION ON CIVIL RIGHTS

Thursday Morning Session, August 22, 1974

**CHAIRMAN FLEMMING.** IN VIEW OF THE FACT THAT EVERYONE WHO IS GOING TO PARTICIAPTE IN THE HEARING THIS MORNING IS HERE, I SEE NO REASON WHY WE SHOULDN'T START 5 MINUTES EARLY.

I now call this public hearing on the subject of women in poverty to order. As some of you know, this hearing was originally commenced here in Chicago on June the 17th and proceeded with 3 days of public testimony through June 19th and then was recessed. We also held a public session on July 25, which was also recessed.

During the first 3 days of the hearing, the Commission received documents and heard testimony relating to women and their primary means of livelihood, from salaries and wages to public assistance, social security, and private pension. Some of the testimony which we heard in those 3 days of public session emphasized the fact that women who are employed outside the home are mainly concentrated in low-paying, traditionally-female occupations.

With this in mind, the Commission had determined that it would be worthwhile to study one such traditionally-female occupation, namely, the job category of clerical. In order to facilitate this study, we have focused our investigation on the largest employer of clericals in the Chicago metropolitan area, Sears, Roebuck and Company. Both clerical workers and management officials of that company have been subpoenaed for this hearing.

In the July session, the Commission, having previously determined that anticipated testimony might tend to defame, degrade, or incriminate Sears, held, in accordance with our statutory mandates, an executive session to hear evidence or testimony on whether to hear such testimony in public. The Commission took under advisement the material presented in the executive session.

We then proceeded to a public session at which various officials of Sears had been subpoenaed. These officials were represented at that hearing by their attorneys, who submitted a motion to revoke the subpoenas, which the Commission also took under advisement. The subpoenas for the Sears officials were specifically kept in effect. Yesterday, we continued the executive session, in which time we listened to testimony on the question of whether or not certain testimony should be heard in public.

We have made determinations on the issues raised by Sears in the two executive sessions, and in the brief public hearings that we held in July. As a result, we have decided to hear testimony and receive evidence concerning clerical employment at Sears. We have also decided to receive testimony on the employment practices in the clerical area of other private employers in the Chicago area. This testimony will be taken at a recessed hearing sometime during the latter part of October or early November.

I would now like to briefly review some pertinent background information relative to the Commission and relative to our hearings.

The function of this Commission is to investigate deprivations of equal protection of the law and to submit its findings to the Congress and to the President, along with specific recommendations for corrective action. To enable the Commission to fulfill these duties, the Congress, when it brought it into being in 1957, empowered it to hold public hearings and to issue subpoenas for the attendance of witnesses and for the production of documents.

I think we can best explain the functions and limitations of the Commission by quoting from a decision of the United States Supreme Court, which was rendered early in the Commission's history. This is the quotation:

This Commission does not adjudicate, it does not hold trials, or determine anyone's civil or criminal liability. It does not issue orders. It does not make determinations depriving anyone of life, liberty or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may be substantively used as the basis for legislative or executive action.

That is the end of the quote from the opinion rendered by the Supreme Court of the United States.

Federal law protects all witnesses subpoenaed to appear before the Commission.

The Commission procedures also require the presence of Federal marshals at its hearings.

At this point, I would like to ask my colleague, Commissioner Freeman, to summarize the rules that govern, that will govern these proceedings, as they have governed all the Commission's proceedings.

COMMISSIONER FREEMAN. Thank you, Chairman Flemming.

As the Chairman has said, this session of the hearing has been divided into two parts; first there was an executive session, which was held yesterday morning. At the executive or closed session, individuals were invited to appear, if they so desired, and to state their objections to the public presentation of any testimony which they believed might be damaging to them.

This morning we are in public session.

At the outset I should emphasize that the following is but a brief summary of the significant and relevant provisions of the Commission's rules. The rules themselves should be consulted for a fuller understanding. Members should also be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain briefly the differences between the public session and any executive session concluded yesterday.

Section 102E of our statute provides, and I quote:

If the Commission determines that any evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony.

In providing for an executive session, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress intended to minimize damage to reputations as much as possible and also wished to provide persons an opportunity to rebut unfounded charges before they were publicized. Therefore, the Commission, when appropriate, convenes in executive session prior to the receipt of anticipated defamatory testimony.

Following the presentation of the testimony in executive session, and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event we find the testimony to be of insufficient credibility, or the opposition to it to be of sufficient merit, we may refuse to hear certain witnesses, even though these witnesses have been subpoenaed to testify in public session.

An executive session of this type is the only portion of the hearing which is not open to the public.

The public hearing which begins now is different. The public and the press are invited and urged to attend the open sessions.

All persons who are scheduled to appear who live or work in Illinois, or within 50 miles of the hearing site, have been subpoenaed by the Commission. All testimony at the public sessions will be under oath and will be transcribed verbatim by the official reporter. Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of cost. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing of her or his testimony. Such request will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. Counsel may subject his or her client to reasonable examination. He or she also may make objections on the record and argue briefly the basis for such objections.

If the Commission determines that any witness's testimony tends to defame, degrade or incriminate any person, that person or his or her counsel may submit written questions which in the discretion of the Commission may be put to the witness.

Persons subpoenaed to the public session may request that witnesses be subpoenaed on their behalf. A request for subpoenas must be in writing and must be supported by showing of the general relevance and materiality of the evidence sought. In addition, all witnesses have the right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules.

Any person who has not been subpoenaed may be permitted, in the discretion of the Commission, to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provisions of Title 18, U.S. Code, section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidations of witnesses. Let me emphasize that we consider this a very serious matter and will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured during any recess from a member of the Commission staff. Persons who have been subpoenaed have already been given their copies. Finally, I should point out that these rules were drafted with the intent of ensuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done this in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. We hope that such an atmosphere will prevail at this hearing.

**CHAIRMAN FLEMMING.** Thank you very much, Commissioner Freeman.

At this time I would like to ask the Acting General Counsel, Mr. Lawrence Glick, to call the first witness.

**MR. GLICK.** Thank you, Mr. Chairman.

The first witness that we are calling this morning will be Mr. Lloyd S. McClelland, the secretary and general counsel of Sears, Roebuck and Company. Mr. McClelland, would you please remain standing and be sworn by the chairman?

[Mr. Lloyd S. McClelland was sworn.]

TESTIMONY OF LLOYD S. McCLELLAND, SECRETARY AND GENERAL  
COUNSEL, SEARS, ROEBUCK AND CO., CHICAGO, ILL.

MR. GLICK. Mr. McClelland, you are accompanied by counsel. Would counsel identify themselves for the record, please?

MR. PINCUS. Yes, my name is Richard Pincus; I am one of Sears' counsel and I have with me this morning Miss Patricia Banks and also Mr. Lawrence Cohen.

MR. GLICK. Representing Sears, Roebuck and Company?

MR. PINCUS. Representing Sears, Roebuck and Company.

MR. GLICK. Mr. McClelland, you have been served with a subpoena *duces tecum* by the Commission for the production of certain documents relating to Sears, Roebuck and Company. Do you have those documents with you this morning?

MR. McCLELLAND. To the extent that they exist, yes, I do.

MR. GLICK. Could you, at this time, produce those documents and can we go over the list of materials that were requested, with an indication of what is in fact being produced?

MR. PINCUS. If I may interject, counsel, I have assumed on Mr. McClelland's behalf, the responsibility for, or along with Miss Banks, for collecting the subpoenaed documentation, and I am actually in a better position to provide you with those explanations, if we could use that procedure in lieu of going through it with Mr. McClelland. If you prefer it the other way, well, that is up to you.

MR. GLICK. Well, I will ask the Chairman; if he has no objection, I would have no objection, Mr. Pincus.

CHAIRMAN FLEMMING. No objection at all.

MR. PINCUS. Thank you very much.

MR. GLICK. Then will you proceed?

MR. PINCUS. Yes, we will. With respect to the materials requested in items 1 and 2, specifically, and I am paraphrasing my understanding of the subpoena, request asked for official organizational charts or other documents showing departmental structures and any relationships. I am treating 1 and 2 together. We have no official organizational charts which would show the information that you have requested. We maintain no such official charts and, consequently, we are not in a position to supply that data to you. Would you like to go on or—

MR. GLICK. Well, is it my understanding then that there is nothing that the company has in being that would represent what is requested by items 1 and 2 on the subpoena?

MR. PINCUS. Essentially, that is correct. We understand that there may be departments where department managers maintain his or her own informal chart within that department. We have made no effort to do a survey to collect that kind of informal organizational data. However, if you would like us to do that, we will undertake that effort. But I don't think it would be possible to have it for you today.

As we construed your subpoena, with the use of the term "official," as you define it in your subpoena, we didn't interpret your understand-

ing to be that you wanted any such informal charts that might be maintained by people. So, consequently we have no such material with us today in response to items 1 and 2.

CHAIRMAN FLEMMING. Mr. Glick, it seems to me that it would be very helpful to the Commission, in our understanding of the issues that we are taking a look at if we could be provided with [what] you term "informal organizational charts"?

MR. PINCUS. I'm not even sure that they exist, Commissioner, but we will check on it. If I may make a suggestion, we certainly will have people available who can testify about the Sears organizational structure. However, there is no formal organizational chart that is in existence that we could show to you in order to demonstrate the relationships that you are seeking.

CHAIRMAN FLEMMING. Well, then, could I request that if what you referred to as the informal organizational charts do not exist in all instances, if your people in the management field could prepare for us an informal chart or charts which will reflect these relationships? This is a tool that personally I find very helpful in understanding the kind of issues that are being raised.

MR. PINCUS. Commissioner, if I can just ask, inquire—we do want to cooperate to the extent possible. Are you referring only to the Tower or would you like an organizational structure of the company? For example, to explain the relationship of the parent to the territories, or would you simply like that limited to the Tower and to the distribution facility?

CHAIRMAN FLEMMING. It can be limited to the Tower and the distribution center.

MR. PINCUS. We would be happy to prepare that, although it would be in rough form, but we certainly have people that are available who can do that for you.

CHAIRMAN FLEMMING. Thank you very much.

COMMISSIONER RUIZ. I believe you stated that you did have witnesses that could testify to that?

MR. PINCUS. That's correct.

COMMISSIONER RUIZ. So do you have any officials present in your echelon who would know and be able to testify with respect to the structure that we are looking for?

MR. PINCUS. I think we certainly would.

COMMISSIONER RUIZ. Thank you.

MR. GLICK. If I could just pursue this with you for a moment, Mr. Pincus; I am not sure I understand how an individual officer of a company could evaluate the relationship to others without some kind of chart.

MR. PINCUS. People know who they report to, and I must admit that—you mean many companies do have formal organizational charts, so with dotted lines, which show who reports to who. Sears, however, operates more informally than that, although they do know who reports to—

MR. GLICK. So it is on the basis of an oral tradition that is handed down from executive to executive?

MR. PINCUS. No, it is just that they know how they fit into the organizational scheme. We just have nothing down on paper that everyone has, or even from the chairman of the board on down, where he has a chart and he can identify the reporting structures. I think our witnesses who will be testifying this afternoon can supply you with those relationships and interrelationships. But, Sears, as you will find through the testimony this afternoon, is less formal than one might expect for a company its size.

MR. GLICK. Okay.

Well, then you will supply us with the materials covered by the Chairman's request in items 1 and 2?

MR. PINCUS. That's correct, that's correct.

MR. GLICK. Thank you.

MR. PINCUS. With respect to number 3, we have such information, and we have it available to you. Would you like us to provide it with you now? Item by item, or would you prefer that we wait until we go through all 20 items requested?

MR. GLICK. I would like to have them item by item, please.

MR. PINCUS. That will be fine.

MR. GLICK. What you are now providing now is item number 3, is—would you recite then, Mr. Pincus, what precisely you are providing as item number 3 for the record?

MR. PINCUS. Yes. Very briefly, what we are providing you with are official explanations of the timecard, checklist and nonchecklist, to the extent that we have it. That the material that we provided you with has been removed from our personnel manual and, essentially, constitutes the Fair Labor Standards Act definitions for exempt and nonexempt people. Checklists and nonchecklists are basically Sears terms, but the division essentially is based upon the Fair Labor Standards Act exemption distinctions, and these are the guidelines that are supposed to be followed.

MR. GLICK. This material that you provided covers the information requested, referring to sick leave, vacation benefits, profitsharing, etc., as it relates to each of the three categories?

MR. PINCUS. Yes, what we provided you with in that respect is the booklet "Getting Acquainted with Sears," which describes the checklist, excuse me, the non, the timecard benefits. We have also, we have no, no documentation which would describe the checklist personnel benefits. However, we do have witnesses that can explain whatever differences that do exist.

Essentially, they represent the exception rather than the rule, I think, from your—from the evidence and testimony you will find that the checklist and the timecard people essentially enjoy the same fringe benefits. There are several exceptions, which our witnesses will explain through testimony.

MR. GLICK. And does the material cover the information requested such as signing in and out? That method of bookkeeping control?

MR. PINCUS. We have no--so far as I am aware--a written rule to that effect, although I understand that policy is indeed followed. But we have nothing in our personnel manual which reflects that. That is my understanding.

MR. GLICK. So would that--would that suggest then, that--

MR. PINCUS. May I interrupt? I may have misstated. We have also provided you with the benefits section of our personnel manual, which covers both timecard and checklist personnel.

MR. GLICK. I see. And that is item number 3-3 as requested.

MR. PINCUS. That's correct.

MR. GLICK. But if there isn't any official designation of the method of controlling time, that is, signing in or out, or punching card or whatever, there is no official description of that, or definition. Am I to believe, then, that is at the option of department managers or someone other than personnel? I don't understand.

MR. PINCUS. It's an internal recordkeeping requirement in response to Federal regulation for timekeeping. We have no timecards at the Tower, and people sign in and out so that records are maintained, and this is simply something that supervision knows. It is not written in the personnel manual, although it is a general regulation that people are aware of and are expected to follow. That is my understanding.

MR. GLICK. We will be able to get testimony regarding that?

MR. PINCUS. Absolutely.

MR. GLICK. Thank you very much. Item number four.

MR. PINCUS. Item number 4 you have asked for and, again I am paraphrasing, "Job titles, codes, and job descriptions for all employees within the nine," what I call the "EEO 1" category breakdowns, "showing what categories, timecard, checklists, or nonexempt checklists." We have provided you in the materials we are supplying with that information.

I might add, however, that the only written job descriptions we have are for the checklist personnel. They are very brief. Excuse me, we have them for the timecard personnel. They might more properly be characterized as job definitions rather than the normal understanding of job descriptions. But we are providing you with all the information that we have in that category.

MR. GLICK. But only for timecard personnel?

MR. PINCUS. No, we are providing you with that information for both timecard and checklist. However, we have no written formal job descriptions for our checklist personnel.

MR. GLICK. I see, thank you. Could we have that material now?

MR. PINCUS. Yes.

With respect to 5, which really ties into 4, you have asked for documentations explaining the functions and the meaning of the job codes. We have no such documentation. The job codes are merely a number



which has been assigned. It could be one, two, three, four, as opposed to any others has no special significance, but again I think the personnel people could better explain that to you, but the long and short of it is there is, there is no documentation explaining that job code *per se*.

MR. GLICK. So that there is no document indicating what the code means other than an arbitrary number?

MR. PINCUS. Other than an arbitrary number, that's correct.

MR. GLICK. I see.

MR. PINCUS. The job itself, of course, is explained, and we have the category breakdown references that you have asked for.

MR. GLICK. Item 6?

MR. PINCUS. Item 6, again, paraphrasing, you have asked for documentations from 1964 to the present, for official charts, showing lines, showing lines for formal promotion lines. Again, as with respect to other charts, we have no such charts of that nature. As a matter of fact, and I believe the testimony will bear out if you get into it this afternoon, there are no formal lines of promotion at Sears; we don't operate that way.

Consequently, there is no necessity for keeping that sort of documentation to the extent that there are some lines of progression where people can normally expect to go from job *A* to job *B*. People will be available, to the extent that exists, to provide their testimony or provide that information through their testimony.

MR. GLICK. There is no fact, no document that will fulfill the requirements of item 6?

MR. PINCUS. That is my understanding.

MR. GLICK. Now with respect to item 7.

MR. PINCUS. With respect to item 7, essentially, as I—if I can shorthand define that, my understanding of it, you have asked for the statistical minority and sexual breakdowns, essentially equivalent to the EEO—1 form from 1964 to date. However, seeking a further breakdown by department and employee, which would go further than the EEO—1 breakdown.

With respect to that information, we do have some of it. I can provide an explanation as to what we do have. However, concerning that item and several others, we have with us a petition to modify your subpoena, to excise and/or quash your request for that information. And I can provide you with that document now or, if you like, we can wait until we conclude going through the 20 items.

MR. GLICK. Well, let's just hold that for a minute and go on to item 8.

MR. PINCUS. If I may, just to provide you with an explanation as to what we do have, because, as we indicate in our petition, we are willing to provide that documentation as well as others we have objected to so long as we can have assurance that will be maintained in confidence for the use of the Commission only. So for the record, if I may, I would like to indicate what we did have.

MR. GLICK. Well, I do not want to at this point give that kind of assurance, and I don't think the Commissioners would want to either.

MR. PINCUS. I am not seeking that assurance at this time but simply, for the record, want to indicate what we do have, since we don't have all of the data going back to 1964.

MR. GLICK. Are you referring to the data covered by item 7, at this time?

MR. PINCUS. That's correct.

MR. GLICK. Would you proceed?

MR. PINCUS. Correct me if I am wrong, Pat, I understand for the catalog merchandise operation we have this information from 1968 to present. For Tower, we have a breakdown in the detail that you have requested from February 1973 only, roughly to date. Thereafter, we have a quarterly breakdown showing this type of information. Of course, if we were talking about EEO-1, the categories only, we would have it going back a little earlier.

With respect to item number 8, to paraphrase, I understand that you would like the current wage data showing minimums, maximums, averages, and medians—median wages or salaries for checklist and nonchecklist personnel for all departments at the Tower and the catalog facility broken down by sex and race.

MR. GLICK. That's correct.

MR. PINCUS. We have that information. However, that information, like the information in paragraph 7, we are asking through our petition, that that request be deleted and modified, and excised from your request.

With respect to item number 9, you have asked for, I understand, the number of minority and female employees, as compared with males and Caucasians within each job classification, who have been promoted since 1964. We have a similar objection to providing this information, the reasons for which are stated in our petition. I would, however, like to indicate for the record, since we said we are willing to provide it for the Commission's use, if limited to the Commission's use, specifically what we have or don't have on that material.

The catalog merchandise plant, I understand that that data—

MR. GLICK. You mean the catalog merchandise distribution center?

MR. PINCUS. The catalog merchandise distribution center. I understand we do have that information from the catalog distribution center; by total, however, rather than by individual job classifications. At the Tower, we have the detail going back to 1966 for the male and female breakdown.

With respect to the COIN classification, that is, the minority breakdown classifications, we do not have that information prior to 1970 for timecard people. We do have it subsequent to 1970. However, we do have that information for all categories at the Tower, both for checklist and nonchecklist, from 1970 to date.

With respect to item 10, you requested copies of affirmative action plans for both facilities, including the equal pay affirmative action plan, from their inception. In connection with this item—by the way, if I did not indicate it, we have the same objection to providing number 9 as we do to 7 and 8. With respect to item 10, we are willing to provide you with the copies of our affirmative action plans for both facilities as well as the equal pay affirmative action plan, which are one and the same for both facilities, by the way, with the exception that we would want to eliminate the names to statistical information and pay figures, as to both. We have with us, however, the basic plans, and including those portions which would show where the statistical and similar data would be filled in, and we can provide those to you at this time.

MR. GLICK. Wait.

MR. PINCUS. I might add that the equal pay affirmative action plan, while in existence, has not yet been implemented, but I understand will be implemented shortly at both facilities.

MR. GLICK. When you say that the names have been deleted from your affirmative action plan, Mr. Pincus, I don't understand what you mean by that.

MR. PINCUS. Well, what I mean by that is this: With respect to Sears' affirmative action plans, the plan not only consists of an outline pursuant to the general OFCC requirements, but also includes certain backup data, and at Sears, not only with respect to these two facilities but elsewhere, would have the names of people who have been designated as promotable minority or females and so forth. That is what I mean by names.

I take it the same would apply to the affirmative action pay plan. There could be backup data which could be part of the plan.

MR. GLICK. If the names are eliminated—but the individuals are described by race and sex, I would assume?

MR. PINCUS. That's correct. If the names are eliminated—this is something that would be over and above any statistical collection—Sears' affirmative action plans, where they treat as part of their affirmative action plans a considerable amount of backup materials.

COMMISSIONER FREEMAN. Counsel, did I understand you to say that the equal pay plan has not been implemented?

MR. PINCUS. The equal pay plan, at the Tower, has not yet.

COMMISSIONER FREEMAN. Equal pay as of 1963?

MR. PINCUS. No, no, no, I am talking about affirmative action equal pay plan, above and beyond the statutory obligations. Sears has drawn up its own affirmative action equal pay plan, which you will be able to read and see how it operates, which goes above and beyond equal pay obligations.

That plan is to be implemented, I understand, within the next several months. By that, so that there is no misunderstanding, it is certainly not indicating that we have not followed the Equal Pay Act; but, as

a matter of fact, there has been vigorous compliance so far as Sears is concerned. This is an additional step to assure that there are no obligations, to have a form of internal compliance.

CHAIRMAN FLEMMING. To make it clear, as I understand, you are raising the same issue or issues on the material that you are not supplying at this time under the setting as you have raised in connection with the 7, 8, and 9?

MR. PINCUS. That's correct, Mr. Chairman.

CHAIRMAN FLEMMING. All right. It will be covered by your petition?

MR. PINCUS. That's correct.

MR. GLICK. Well, if that is the case, Mr. Pincus, then I would ask the Chairman to permit me to receive that part of the affirmative action plan that you are providing but to take under advisement whether it does in fact meet the requirements of the subpoena. It may be satisfactory, and we may have no further, no need for any further information. But I would like to reserve that question, Mr. Chairman.

CHAIRMAN FLEMMING. Well, I concur in that and in reality, of course, we will be taking under advisement the petition, which will cover this point as well as the other points that have already been identified.

MR. PINCUS. With respect to item number 11, you asked for the handbook for recruiting and selecting employees, which we are providing with you, to you. It is my understanding, though, that this booklet is not in use at the Tower or at the catalog facility. Nor has it ever been used at that facility.

MR. GLICK. Mr. Pincus, could I ask you to back up just a moment?

MR. PINCUS. Yes.

MR. GLICK. So that you said we can take care of our discussion of items 7 through 10. It is my understanding that you have a petition requesting the Commissioners to quash the subpoena as it relates to those particular items within the framework that you have established, something that it is actually being presented.

MR. PINCUS. That's correct.

MR. GLICK. I don't think we need oral argument at this time, but I would like you to just state for the record, very briefly, the objections that the company has to producing this material.

MR. PINCUS. Well, it is my understanding that you do not wish to hear oral argument.

MR. GLICK. No, I do not want to hear oral argument, but I would just like a generalized statement to protect Sears' confidentiality, whether it is a jurisdictional question or just for the record a brief statement.

MR. PINCUS. Yes, very essentially, or very briefly.

CHAIRMAN FLEMMING. Mr. Glick—

MR. GLICK. Yes?

CHAIRMAN FLEMMING. The Commission feel that they would like, really like to have in front of them the entire petition and take the

entire petition under advisement without any effort being made to summarize it at this point.

MR. GLICK. Mr. Chairman, I did not want Mr. Pincus to make a summary of it, merely to state the purpose of the petition—

MR. PINCUS. The purpose of the petition is simply to ask—the purpose of the petition is simply to provide the Commission with those reasons why Sears believes that the materials requested are confidential and privileged materials, which if released could create or cause substantial competitive harm to Sears' operations. It is a position that has been stated in other proceedings. It is a matter which is currently pending for a decision in one of the Federal courts, with respect to another agency and it is Sears' position that, absent protective court order with respect to these materials, that they should not be provided.

MR. GLICK. Fine, thank you, Mr. Pincus; I just wanted the record to show that.

CHAIRMAN FLEMMING. While we are on that point, let me say that the Commission will take your petition under advisement. It will be considered by the full Commission, undoubtedly at our regular meeting in September. You, of course, will be advised of any conclusions we reach on the petition; and, when this hearing resumes in Chicago, we will make a statement as to the decision or decisions we have reached.

MR. PINCUS. Thank you very much.

MR. GLICK. You were indicating, I believe, Mr. Pincus, before I interrupted you, that item number 11, the handbook for recruiting and selecting employees, has not been utilized at the Tower or by—

MR. PINCUS. Neither at the Tower nor at the catalog facility. It has never been used—as a matter of fact, the document is obsolete. I believe it was prepared in 1966. It is my understanding it is also currently being revised at those facilities where it was used. But nonetheless, even though it would seem to us to be irrelevant to your inquiry, we have nonetheless provided you with it.

MR. GLICK. Thank you. I would like to receive that now.

MR. PINCUS. You have requested in item number 12, a copy of the publication entitled "Sears and the College Graduate." We have that and we are providing you with it.

MR. GLICK. Thank you. Item number 13?

MR. PINCUS. In number 13 you have asked us to provide you with copies of all materials used for recruiting various employees from the period 1964 to date. We do have those materials, consisting of a number of publications which have been utilized for that purpose. We provided them to you at that time.

At this time, since there are a number of them, I don't know if you want us to go through and identify them for you. However, we have indicated through some marking on each of them whether they are currently in use or whether they are obsolete and have been revised.

MR. GLICK. These are publications that are distributed to the public and not internal documents?

MR. PINCUS. These are publications that are provided to respective applicants and used for recruiting purposes. These are the only materials of that nature that we have.

MR. GLICK. Very well, thank you. I don't think it will be necessary to identify each document.

MR. PINCUS. Thank you.

With respect to item 14, you have asked us for official documents explaining company policy from 1964 to date for recruiting and selecting the various personnel that you are studying, and we have that documentation, which consists of portions of the Sears' personnel manual, which we are providing to you. I might add that as you look through the documentation, you will see that—a date, at the bottom, which would indicate the date that the particular policy was in effect, and then, as you go through it, you will be able to determine which policies are eliminated.

MR. GLICK. These are the internal memoranda to personnel from higher management?

MR. PINCUS. This is the personnel, excuse me, this the personnel manual, which is the company policy in those areas—uniform at the Tower and at the catalog facility.

MR. GLICK. Item 15.

MR. PINCUS. Item 15, you have requested any official documents explaining job qualifications and prerequisites for all employee classifications. We have no documentation which would reflect that information. We have provided you in response to one of the earlier subpoenas, subpoena requests, with a job definition; but, with the exception of that, we have no such documentation for item number 15.

With respect to item number 16, you have asked for any official documents, if any, describing educational requisites for any job classifications and validation studies to the extent that they are used. Sears has no formal educational requisites for any.

MR. GLICK. For any position?

MR. PINCUS. For any job classification, with the exception of some technical or professional classifications like attorneys, but that is not written down; that would be something that would be simply understood.

As a matter of fact, I don't know if we have the portion of the personnel manual which reflects that; there is a statement in the personnel manual, indicating that there are no educational requisites. I have not brought that along, since that isn't what you asked for. You asked for the opposite, but if necessary, we can provide that for you.

MR. GLICK. All right. Item 17?

MR. PINCUS. Item 17, with respect to 17, you have asked for copies of all the application forms in use at the two respective facilities. We have collected that data for those forms, and we have them for you. It is my understanding that the same form is used, that the same form is used for both facilities.

MR. GLICK. Can we receive that now?

MR. PINCUS. You have asked for, in 18, for copies of documentation concerning Sears' maternity leave policy. We have that information, which is described in the personnel manual that I mentioned earlier. And I will provide that to you also at this time.

MR. GLICK. That covers the other items dealing with return to work and seniority?

MR. PINCUS. Yes, it does. It is a statement of Sears' policy in that area, the complete statement of that policy.

MR. GLICK. Thank you. Item 19?

MR. PINCUS. By the way, with respect to 18, the same policy would apply, that would be the catalog as at the Tower facility.

You have asked in 18 for, excuse me, 19, for copies of all tests administered to job applicants. The Commission has already been provided, I understand, with a copy of the Sears TMA.

MR. GLICK. I have not heard that designation before, Mr. Pincus, TMA?

MR. PINCUS. I believe that is called the Test for Mental Alertness, the general description of that.

I have been corrected. We did provide you with some testing materials yesterday. We did not provide you with a copy of the Sears' Test of Mental Alertness.

MR. GLICK. Mr. Pincus, I would have to advise you that the material that was presented to the Commission yesterday was received in executive session; and, without the approval of the Commission, it could not be released and it's really not provided in response to the subpoena at this time, and I wonder if we could have a complete response to item number 19?

MR. PINCUS. I am providing you now just so we haven't, hopefully, so we haven't confused the record at this time, I am providing you with a copy of the Sears' Test of Mental Alertness, which is one test, as I understand, it is administered.

I am also providing you with the Sears typing and shorthand test. I am also providing you with a copy of the computer program or aptitude battery tests, and the other test comes under 19, excuse me, 20.

MR. GLICK. So what you provided—the mental aptitude test, the computer programmer test, and the typing and shorthand test—are all the tests that are given to applicants?

MR. PINCUS. That is my understanding.

Now with respect to item 20, you have asked for copies of all tests, including executive battery tests administered as a prerequisite for advancement and appropriate validation studies. We have—we are providing you with a copy of the executive battery test, and also we are providing you with the validation studies. I might say that we do not or Sears does not consider this as a prerequisite for advancement; but, nonetheless, within the spirit of the request, we are providing you with that material and you can develop it as you wish through testimony.

COMMISSIONER FREEMAN. Validation test?

MR. GLICK. And what you are handing to the clerk is the executive battery test?

MR. PINCUS. That's correct. The validation studies were provided yesterday, and I don't believe we have additional copies of them. They were bound in new folders.

MR. GLICK. I will ask the Chairman at this time, Mr. Pincus, to release from the executive session, and I assume that it is agreeable to you, copies of the validation studies that you gave to us yesterday in executive session. Is that permissible, Mr. Chairman?

CHAIRMAN FLEMMING. That is perfectly okay.

MR. PINCUS. We certainly have no objection.

MR. GLICK. Fine, we will receive those into evidence now as the next exhibit.

MR. PINCUS. We have—I have indicated I had given or supplied a copy of the Sears typing test, but I have it in front of me. Let me provide you with that also.

MR. GLICK. All right, thank you.

CHAIRMAN FLEMMING. Does that complete the list, Mr. Glick?

MR. GLICK. Yes, Mr. Chairman, that completes the list of items listed in the subpoena *duces tecum* served on Mr. McClelland.

I would like to indicate, Mr. Chairman, that it is obviously impossible for the staff to immediately run through all of these items to make a determination that they do, in fact, comply. So I would like to reserve an opportunity to have the staff review them and advise you as to whether they do, in fact, comply.

CHAIRMAN FLEMMING. That will be done, and, of course, we have taken under advisement the petition to modify, so that in effect the subpoena calling for documents remains in effect.

MR. PINCUS. If I may, I see we have some further documentation. We had broken down the catalog facilities separately from Tower, and I would like the record to show I am now providing catalog materials called for in items 1 and 2 along with other materials.

MR. GLICK. Items 1 and 2 only?

MR. PINCUS. Excuse me, 1 through 20, excluding those items in 7 through 10 that we have discussed previously.

MR. GLICK. And other materials that would generally apply company-wide?

MR. PINCUS. That's correct.

MR. GLICK. That you are providing?

MR. PINCUS. That's correct. These are supplementary materials which would only apply to catalog facility, and I have an additional validation study we had not previously provided entitled, "A Review of Sears Psychological Testing Policy, Research and Practices." It is a document previously submitted to the EEOC, as I understand it. We would like to—

MR. GLICK. If the Chairman does not object, we will receive that.

CHAIRMAN FLEMMING. All right, received.



MR. GLICK. Mr. Chairman, I don't have any further questions for Mr. McClelland, and if there is no further—

CHAIRMAN FLEMMING. All right. With the understanding that the subpoena remains in effect until we've made a determination on these other issues. Okay.

MR. GLICK. But I would like at this time, Mr. Chairman, although the subpoena has previously been introduced into the record of this hearing, I would like to reintroduce it again into the record so that the transcript will show precisely what items we were requesting.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. GLICK. Thank you.

CHAIRMAN FLEMMING. Would you now call the next witness?

MR. GLICK. Mr. Chairman, my next witnesses are Miss Toby Atherton, Miss Judy Krusinger, and Miss Geraldine Holder.

CHAIRMAN FLEMMING. You come up to the table there and have them sworn as a group.

MR. GLICK. Yes, I would like to have them sworn as a group, Mr. Chairman.

[Ms. Toby Atherton, Ms. Geraldine Holder, and Ms. Judy Krusinger were sworn.]

**TESTIMONY OF TOBY ATHERTON, GERALDINE HOLDER, AND JUDY KRUSINGER, EMPLOYEES, SEARS, ROEBUCK AND CO., CHICAGO, ILL.**

MR. GLICK. Beginning with Miss Atherton, would you all please identify yourself for the record by name and address?

MS. ATHERTON. Toby Atherton, 824 Lake Street, Oak Park. I work in Sears' department 641, men's sportswear.

MS. KRUSINGER. Judy Krusinger, 4800 South Chicago, Chicago.

MS. HOLDER. Geraldine Holder, 20 West 103rd Place. I work in department 609, hardware.

MR. GLICK. I would like to begin the questioning with Miss Krusinger. Miss Krusinger, are you an employee of Sears, Roebuck and Company?

MS. KRUSINGER. Yes, I am.

MR. GLICK. Can you tell us where in the company you are employed?

MS. KRUSINGER. Department 601.

MR. GLICK. Can you define what that—

MS. KRUSINGER. That is furniture department.

MR. GLICK. Furniture department?

MS. KRUSINGER. Yes.

MR. GLICK. And is that the Sears Tower facility?

MS. KRUSINGER. Yes, it is.

MR. GLICK. And how long have you been employed by Sears, Roebuck and Company?

MS. KRUSINGER. Eight years.

MR. GLICK. Have you always been throughout your 8 years' period in that department?

MS. KRUSINGER. Yes, I have.

MR. GLICK. And when you came to work for the company, were you a college graduate at that time?

MS. KRUSINGER. Yes, I was.

MR. GLICK. Can you tell me what kind of work you were assigned to do when you came to the company, having graduated from college recently?

MS. KRUSINGER. I was, I began working at Sears as a secretary.

MR. GLICK. When you applied for work, did you advise the personnel people that you had graduated from college?

MS. KRUSINGER. Yes, I did.

MR. GLICK. Were there any kind of suggestions that you might be able to work other than clerical?

MS. KRUSINGER. It was indicated to me that possibly within a couple of years I would have a higher level job than secretary, but they did not indicate what that might be.

MR. GLICK. Was it suggested that you might want to get into a management training program of any kind?

MS. KRUSINGER. That was never mentioned.

MR. GLICK. In what subject or field do you have your degree?

MS. KRUSINGER. Business administration.

MR. GLICK. From what college?

MS. KRUSINGER. Elmhurst College, Elmhurst, Illinois.

MR. GLICK. Could I ask you to bring the microphone up to, just a little bit closer, Miss Krusinger? Thanks very much.

So you began your career at Sears, Roebuck and Company as a secretary?

MS. KRUSINGER. That's right.

MR. GLICK. And are you still a secretary?

MS. KRUSINGER. No, now I am a buyer's assistant.

MR. GLICK. And you were secretary for how many years?

MS. KRUSINGER. Almost 2 years.

MR. GLICK. And were you promoted from that position up in hierarchical, up a ladder or did you go up laterally to something else, or how has your position changed at the company?

MS. KRUSINGER. My first secretarial position lasted for a year, and then I had a lateral, moved to another secretarial position. After that I was promoted to a nonexempt position as retail assistant clerical, and I held that position for about a year and a half, and then I made a lateral move to buyer's assistant, which I have had for 5 years.

MR. GLICK. Is buyer's assistant a clerical position?

MS. KRUSINGER. Usually, yes.

MR. GLICK. Usually?

MS. KRUSINGER. It is classified as a clerical position; but, depending on for whom you work, it is possible to do other things and to make a little bit more at the position.

MR. GLICK. More money?

MS. KRUSINGER. No, not more money, to learn more, and to do things that maybe are not strictly clerical—a little more decisionmaking.

MR. GLICK. Now, you indicated that you worked in a furniture department?

MS. KRUSINGER. That's right.

MR. GLICK. Can you give us some idea of the functions of this department? What does it do? It buys things, sells things, orders things, distributes things? I am not sure I understand what it does. Can you tell us that, please?

MS. KRUSINGER. The department is set up with approximately 20 buyers who buy various different kinds of furniture for the entire country.

MR. GLICK. How many other people in addition to the buyers are there?

MS. KRUSINGER. There are 10 assistant buyers; 9 of them are male. There are also catalog people, retail people, comptroller, supervisor.

MR. GLICK. Yes?

MS. KRUSINGER. There are a lot of clerical people and secretaries, buyer's assistants.

MR. GLICK. And some of the people are checklist and some of the people are timecard?

MS. KRUSINGER. That's right.

MR. GLICK. Do you know what categories the buyers fall into?

MS. KRUSINGER. Checklist.

MR. GLICK. The buyers are checklisted?

MS. KRUSINGER. Yes.

MR. GLICK. How many checklist people are there altogether in the department?

MS. KRUSINGER. Fifty-four.

MR. GLICK. Fifty-four?

MS. KRUSINGER. That's right.

MR. GLICK. How many of these are male?

MS. KRUSINGER. About 45.

MR. GLICK. About 45? Approximately 45?

MS. KRUSINGER. yes.

MR. GLICK. And the balance are female?

MS. KRUSINGER. That's right.

MR. GLICK. Of the checklist people?

MS. KRUSINGER. Right.

MR. GLICK. And how many timecard people are there in the department?

MS. KRUSINGER. Eighty-five.

MR. GLICK. And how many of these are male?

MS. KRUSINGER. Five.

MR. GLICK. And of the 85, the balance, or 80, are female?

MS. KRUSINGER. That's right.

MR. GLICK. I see. Now, the way the department breaks down there are 20 buyers, and I assume these are the senior people in the department? They are the top people?

MS. KRUSINGER. Yes.

MR. GLICK. I mean there may be a hierarchy among the buyers, but the buyers are the most important element in the department?

MS. KRUSINGER. That's right.

MR. GLICK. Now, who works for the buyers, what kind of an organization do they have vertically?

MS. KRUSINGER. They have either assistant buyer or buyer's assistant and a secretary.

MR. GLICK. Each buyer has either a buyer's assistant?

MS. KRUSINGER. Or assistant.

MR. GLICK. Or an assistant buyer and secretary? Do any buyers have both buyers as assistant and assistant buyers?

MR. KRUSINGER. Yes, a couple of them do.

MR. GLICK. I see. Now, the assistant buyers, how many are male? Well, first, let's establish how many assistant buyers there are.

MS. KRUSINGER. Ten.

MR. GLICK. There are 10 assistant buyers? And how many of them are male?

MS. KRUSINGER. Nine.

MR. GLICK. Nine? And how many buyer's assistants are there in the department?

MS. KRUSINGER. Twelve.

MR. GLICK. And how many of these are male?

MS. KRUSINGER. None.

MR. GLICK. All of the buyer's assistants are female? And that is the position that you hold?

MS. KRUSINGER. That's right.

MR. GLICK. And so all of the people in the department, then, [who] have comparable positions to yours are females?

MS. KRUSINGER. That's right.

MR. GLICK. Are those buyer's assistants—yes, buyer's assistants, sometimes I get them backwards—but, of the buyer's assistants of whom there are 12, all of whom are female, do you have an idea how many of them are college graduates?

MS. KRUSINGER. As far as I know, I am the only one.

MR. GLICK. You are the only college graduate? I see. And is there, of the assistant buyers, this might be something not within your knowledge, but do you have an idea if any of those or all of those are college graduates?

MS. KRUSINGER. As far as I know, all of them are college graduates.

MR. GLICK. I see. Have you ever applied for a position as an assistant buyer?

MS. KRUSINGER. I haven't exactly had the opportunity to apply for a position. However, I have indicated to the office manager and to personnel that I am interested in this type of a position.

MR. GLICK. Would you see, after having been a buyer's assistant for 5 years, do you see much distinction between the kind of work functions that you perform and those of assistant buyer?

MS. KRUSINGER. No, I don't.

MR. GLICK. What kind of a response have you received to your indication that you would be interested in becoming an assistant buyer?

MS. KRUSINGER. They have indicated that I am on a promotable list.

MR. GLICK. The promotable list?

MS. KRUSINGER. Yes.

MR. GLICK. How long ago did you receive that indication?

MR. KRUSINGER. About 2-1/2 to 3 years ago.

MR. GLICK. Two and a half years ago? Have you heard anything subsequently?

MS. KRUSINGER. Since then, I have had other interviews and other conversations, and they still say that I am on the promotable list. At one time it was suggested that I might be interested in data processing. And I had several interviews for that.

MR. GLICK. Have you been interested in data processing?

MS. KRUSINGER. No.

MR. GLICK. Do assistant buyers and buyers travel?

MS. KRUSINGER. Yes, they do.

MR. GLICK. Do buyer's assistants travel? I mean out to--

MS. KRUSINGER. They do not.

MR. GLICK. --Facilities? If they are performing some of the same functions, can you give any indication why there is no travel on the part of the buyer's assistants?

MS. KRUSINGER. No.

MR. GLICK. You don't have any idea why?

MS. KRUSINGER. Well, there is a company bulletin that says that only checklist people are allowed to travel.

MR. GLICK. Only checklist people are allowed to travel? Why is that? Do you have any idea of the basis of that?

MS. KRUSINGER. No, I don't.

MR. GLICK. Okay, thank you. Have you ever taken the executive battery test that has been identified earlier?

MS. KRUSINGER. Yes, yes.

MR. GLICK. When did you take that?

MS. KRUSINGER. About 6 years ago.

MR. GLICK. Were you ever told the results of the test?

MS. KRUSINGER. Not for some time. It was a period of a couple of years after I took it that I got the results. They did tell me that--if I hadn't done well on the test, I would not have been promoted to a nonexempt position--but they didn't tell me the results until sometime later.

MR. GLICK. Can you describe nonexempt--we have used the term checklist and timecard, but I don't think we have defined nonexempt--that is one that I am not familiar with.

MS. KRUSINGER. There really is no difference between nonexempt and timecard. There are no different benefits between timecard and nonexempt. The only difference is that a nonexempt person probably has more responsibility, and they may have an office.

MR. GLICK. More responsibility and an office?

MS. KRUSINGER. Yes.

MR. GLICK. Okay, thanks very much.

I would like to turn to Miss Atherton now and go through somewhat similar series of questions that I have asked Miss Krusinger. Can you tell us how long you have been with the Sears, Roebuck Company, Miss Atherton, and I think perhaps you might pull the microphone—

MS. ATHERTON. One year and 10 months.

MR. GLICK. One year and 10 months?

MS. ATHERTON. Right.

MR. GLICK. What kind of a position do you hold?

MS. ATHERTON. My job is titled clerical assistant.

MR. GLICK. Is that the position that you came into as an entry position?

MS. ATHERTON. My entry, the position in which I entered was also clerical assistant.

MR. GLICK. Clerical assistant?

MS. ATHERTON. Right. So I have—I have recently, excuse me, I recently received a transfer. It really was just a transfer, a lateral move.

MR. GLICK. What level of education have you completed, Miss Atherton?

MS. ATHERTON. I have a B.A. in English, and a year's graduate work, also in English.

MR. GLICK. And you had this education when you came to the company?

MS. ATHERTON. I did.

MR. GLICK. Did you advise the personnel—did you fill out forms that indicate that you are a college graduate and had had some graduate studies?

MS. ATHERTON. I did.

MR. GLICK. And were you offered positions other than the clerical position or asked whether you were interested in positions other than clerical?

MS. ATHERTON. At the time I was asked what I wanted to do at Sears. And I indicated that I would like an entry-level position. The entry-level position was a job as a clerical assistant. This, my first job included typing, the processing of invoices, keeping records, filing; I kept contact with Sears' sources for piece goods and finished goods.

MR. GLICK. Would you have been interested in any other kind of work had it been suggested that you might be qualified?

MS. ATHERTON. Yes.

MR. GLICK. Other than clerical?

MS. ATHERTON. Yes, I definitely would have been.

MR. GLICK. But you weren't asked whether you were interested in anything else?

MS. ATHERTON. Well, I was only—the person who is out looking for a job, and I had been looking for a job for some time—it was during a period when employment was not very, the situation was not very happy—and I was just informed that this is what we have.

Now, I was making a very—my question as to what was available very tentative, too. I said that I wanted an entry-level position, and I took a typing test, and that was what I interviewed for.

MR. GLICK. So in the year and 10 months that you have been at Sears, you have not essentially changed your type of work that you do?

MS. ATHERTON. No, that is, this new job will enable me to have more exposure within the company. There are some added responsibilities. Now I am responsible for supervising several other clerical assistants, somehow, I am a clerical assistant, still, and now I am supervising other clerical assistants without a change in status.

MR. GLICK. I see. But, in any kind of promotions that you might receive in the future, you would be still a clerical supervisor or a clerical person, but supervising more and more and more clericals. In other words, then, there is no—

MS. ATHERTON. I am sorry, I don't understand.

MR. GLICK. Well, is there any line of progression from the kind of position that you are in now, into an executive or management or buyer or whatever or are you in a line of progression?

MS. ATHERTON. Well, that is never clearcut, I don't think, to anyone, exactly what—there are no clearcut lines; sometimes people are moved out of the department, sometimes, well, more often they are not moved. More often people are just moved around within the department, but they are not, not that many people, not women, in my position, of my status. I have not seen them move up. I mean I really don't know. I can't say, these are the patterns that exist for promotion. There aren't that many patterns of promotion for women.

MR. GLICK. Miss Atherton, could we have some description from you of the department you work in? For example, the number of employees?

MS. ATHERTON. Well, very much like furniture. It's a buying department; they are responsible for creating soft goods to be distributed in the various retail outlets.

The department is divided up by units; each unit headed up by a buyer, a senior buyer. He is responsible for a line—a line meaning sweaters or, a term, regular pants or full-cut pants. He has one or more assistant buyers—perhaps none, depending on the size of the line—a buyer's assistant, more than one if necessary, and a secretary, perhaps other clerical assistance.

There are approximately 40, no some 40—well, there are 48 checklist positions, and I think that is sort of a conservative figure; there have been some recent moves. That would include, that is, buyers. There are—of those 48, 40 are men, 8 are women.

MR. GLICK. Is that buyers and assistant buyers or only buyers?

MS. ATHERTON. That is buyers and assistant buyers. Eight are women. One of the women is actually the office manager, and she, the office manager, essentially a supervisor of the other clerical people, so I don't think that is quite in the same—well, that they are really comparing the same things. Of the other, that puts you down to seven, and the other three, there are three more of those seven who have just been promoted very recently.

MR. GLICK. To be assistant buyers?

MS. ATHERTON. And by recently I mean in the last 4 or 5 months.

MR. GLICK. These are women?

MS. ATHERTON. Right.

MR. GLICK. Three women who have been promoted in the last 4 or 5 months to assistant buyers?

MS. ATHERTON. Right.

There are some 57 female clericals, so the figure that you come up with is 65 women in the department, 8 of those being checklist.

MR. GLICK. And the rest timecard?

MS. ATHERTON. Right. And for men, some 40 checklist people, and 2 timecard men.

MR. GLICK. And the two timecard men are clericals or stockmen or—

MS. ATHERTON. One works in the sample room, which is, it is a position like stockboy, and the other has been, again, a very recent member, has recently entered the department, a high school grad, who has previous experience, but who has taken over the position of a woman, the job that he has taken is titled records clerk, and the woman who held that position previously is a college grad with 4 years of college.

MR. GLICK. I see, thank you, Ms. Atherton.

I would like to turn now to ask a few questions of Miss Holder. Miss Holder, how long have you been employed by Sears?

MS. HOLDER. Six years and 10 months.

MR. GLICK. And what is your current position?

MS. HOLDER. It is a clerical assistant, senior clerical assistant with the merchandise list.

MR. GLICK. Are you employed at the Tower?

MS. HOLDER. Yes, I am.

MR. GLICK. And is that the position you held when you first came to the company?

MS. HOLDER. No, it isn't. I was a pricing card girl or a pricer for about a year and a half before I obtained this position that I am in now.

MR. GLICK. So you have been in your current position for approximately 4 years?

MS. HOLDER. Yes.

MR. GLICK. Four and some months, years? Is your position a checklist or a timecard?

MS. HOLDER. It's a timecard, nonexempt.



MR. GLICK. I see. And do you perform any supervisory functions?

MS. HOLDER. Yes, I do. I have six girls under me, sometimes eight. It depends on how many I am needing at the time.

MR. GLICK. And what kind of functions does your team provide?

MS. HOLDER. We gather the data for the merchandise list, which is distributed to the stores all over, you know, well, all over Sears stores, telling the stores what merchandise that 609 has available for them.

MR. GLICK. I see.

Well, that is just laying a foundation, and I would like to advise the Chairman that I have no further questions at this time, although I might like to come back if I could.

CHAIRMAN FLEMMING. Okay, you may.

Commissioner Freeman?

COMMISSIONER FREEMAN. Miss Krusinger, I would like to pursue the application, the point at which you made the application for a position at Sears. First of all, at what date did you first make an application? What year?

MS. KRUSINGER. It was in 1966.

COMMISSIONER FREEMAN. In 1966?

MS. KRUSINGER. Yes.

COMMISSIONER FREEMAN. Did you complete an application form?

MS. KRUSINGER. Yes.

COMMISSIONER FREEMAN. On the application form, did you indicate about your college training and your degree and your major?

MS. KRUSINGER. Yes, I did.

COMMISSIONER FREEMAN. Were you asked to take a typing test?

MS. KRUSINGER. And shorthand test also.

COMMISSIONER FREEMAN. You were asked to take a typing and a shorthand test?

MS. KRUSINGER. Right.

COMMISSIONER FREEMAN. Let me again go back to the conference. You were interviewed by a person and one of the personnel managers or assistant managers or somebody in personnel?

MS. KRUSINGER. That's right, somebody in personnel.

COMMISSIONER FREEMAN. And did the person go over your application, look at, read the application?

MS. KRUSINGER. Yes.

COMMISSIONER FREEMAN. And after reading your application, asked you to take a typing test and shorthand test?

MS. KRUSINGER. I took the test before the interview. It seemed to be an automatic thing. I had an appointment for the interview and, when I came in and talked to the receptionist, I gave her my name and the name of the person with whom I was to be interviewed by and she handed me a form to fill out. And after I completed the form, she sent me to another room to take tests. And then after I completed the test, I had the interview.

COMMISSIONER FREEMAN. Did anybody who interviewed you, either the receptionist or the person, anybody in personnel, ask you anything about your background or your college experience?

Ms. KRUSINGER. I really don't remember.

COMMISSIONER FREEMAN. You indicated it had been suggested that you might be interested in data processing? Who suggested this?

Ms. KRUSINGER. The personnel representative.

COMMISSIONER FREEMAN. This was after you had been employed at Sears about how long?

Ms. KRUSINGER. Six years.

COMMISSIONER FREEMAN. And after that you indicated that you wanted, wanted a different and a higher position?

Ms. KRUSINGER. That's right.

COMMISSIONER FREEMAN. And did you state that you wanted to be promoted to buyer or assistant buyer?

Ms. KRUSINGER. Assistant buyer, yes.

COMMISSIONER FREEMAN. And what was the response?

Ms. KRUSINGER. The response was that, it was really kind of vague, that an assistant buyer's position is considered as training to be a buyer. And so that a person has to be, finally has to be screened to see if the person is buyer material.

COMMISSIONER FREEMAN. Was it stated who screens the file.

Ms. KRUSINGER. No.

COMMISSIONER FREEMAN. Did you ask who screens the file?

Ms. KRUSINGER. No, I didn't.

COMMISSIONER FREEMAN. We tried to find, this Commission is trying to get some information about the organizational structure, and longitudinal, you know, how one moves up, if even to find out where one moves.

My last question is asked of each of you. Will you describe the climate at the Tower with respect to women and how the upward mobility of women is perceived by the supervisors?

Ms. HOLDER. In 609, the climate for women is very negative. We have only 2 checklist women in our department out of 119 employees. So I mean, since I have been there, there has been only one, two women, rather, that have been promoted to checklist. All of the rest, out of all of the rest of long-term employees, they are still either clerical assistants, nonexempt, or just plain clerks. So, what I gather is that hardware, it seems that the management feels, is not a field for women, so--

COMMISSIONER FREEMAN. Have you had any statements made with respect to whether there was needed to be any educational qualifications or are there any women who are performing positions for which they appear to be better qualified than men?

Ms. HOLDER. Yes, we do have some that are, I think, you know, better qualified. I don't really know their educational facilities, but I, I was personally told that, if I wanted to advance myself, that I should be a college graduate for the position that I was asking for.

COMMISSIONER FREEMAN. What was that position?

Ms. HOLDER. That position was copyrighting.

COMMISSIONER FREEMAN. And are there any persons who are, as for as you know, do you know of any individuals who have the position of copyrighter who are not college graduates?

Ms. HOLDER. Yes, but I cannot document that, so I won't say—I can't really say, but I believe that there are copyrighters who are not college graduates.

COMMISSIONER FREEMAN. Do you know of any other positions for which there may be a, whereby women are required to have higher qualifications than men?

Ms. HOLDER. No, I don't.

COMMISSIONER FREEMAN. Miss Krusinger, do you have any comments to make?

Ms. KRUSINGER. In our department, nearly all of the women who are checklist have been in their same positions as long as I have been in that department, and I believe all of them have been for some time before that. The feeling among clerical women in our department is that we have reached the point, this is it, this is as high as we are going to go, and everyone is very frustrated by that feeling.

I know of of one person who does not have a college degree, who has been with the company for some time, who asked to be an assistant buyer, and she was told that she could not be because she does not have a degree.

COMMISSIONER FREEMAN. Do you know of assistant buyers who do not have degrees who are male?

Ms. KRUSINGER. No, as far as I know, they all have degrees.

COMMISSIONER FREEMAN. They all have degrees?

Ms. KRUSINGER. As far as I know.

COMMISSIONER FREEMAN. Do you have anything, any other experience with respect to the role of women in the Sears Tower?

Ms. KRUSINGER. No.

COMMISSIONER FREEMAN. Miss Atherton?

Ms. ATHERTON. Well, I have noticed a changing climate in our department with regard to this. Not that there have been that many promotions or that anything has become more clear cut, but at general department meetings both the national merchandising manager, who is, really heads up the entire department, and the office manager, have said things like, "Well, we know that the clerical help really works hardest," or for instance, there were a large number of promotions, and many of the checklist people were moved around, and the national merchandising manager, when announcing these promotions to a meeting of clerical help, said, "Well, we know that you people are the ones who really do the work, who know what is going on, and who are going to have to be training these men."

Now, it is said as a kind of joke. It really is not funny; I mean it does, in fact, happen that a buyer or assistant buyer will come on to

a line and really will have to, in effect, be told what is going on by the clerical help on that line—not to say that he doesn't perhaps have background and experience, but he is being immediately trained.

This happened to me very recently. I, before I was moved, before I was transferred, an assistant buyer was moved into my area, and he was not trained by the senior buyer. He was, as far as my area goes, he was told by me what procedures I follow in, say, getting an invoice processed or getting a credit processed.

Now, there seems to be more emphasis on this fact, lately, that the women are the ones that are really doing the work.

COMMISSIONER FREEMAN. Are there any male clericals in your department?

Ms. ATHERTON. There is only one male person that really, he's classified, perhaps; I mean there are two people that are classified as timecard, only one is actually clerical help.

COMMISSIONER FREEMAN. What is that position?

Ms. ATHERTON. Well, actually, the job is titled records clerk, senior records clerk.

COMMISSIONER FREEMAN. Are the clericals in your department ever asked to perform any, to make coffee or to perform so-called housekeeping chores by supervisors?

Ms. ATHERTON. Well, it is not at all unlikely that people should be asked to get the coffee, or to ask to run down and get a lunch or a cup of soup or asked to order things from catalog for their wives and children, or to buy a birthday card or to get a present for the other clerical help during—

COMMISSIONER FREEMAN. Does the male clerk go, is that male clerical also called upon to do these same things.

Ms. ATHERTON. Well, I would have to say that he hasn't been there very long. I have not—I have not seen him asked, be asked to get coffee, but I would not say that that is necessarily part of the company policy or not part of the company policy. I suppose that you might assign that to the discretion of that buyer.

COMMISSIONER FREEMAN. Miss Krusinger, do you have a response to that question? First, are there male clericals in your department?

Ms. KRUSINGER. Yes, there are a few male clericals in our department.

COMMISSIONER FREEMAN. Are there any requests of the clericals in your department to do the same things we were talking about?

Ms. KRUSINGER. Yes, frequently clericals are asked to go for coffee, go downstairs to get a sandwich, go for cigarettes.

COMMISSIONER FREEMAN. Are the male clericals asked this?

Ms. KRUSINGER. I don't know; I don't have that much contact with them.

COMMISSIONER FREEMAN. Have you ever seen a male clerk contacted and asked this?

Ms. KRUSINGER. No, I haven't.

COMMISSIONER FREEMAN. Have you ever seen a female clerk being asked this?

Ms. KRUSINGER. Many times.

COMMISSIONER FREEMAN. Miss Holder, do you have a response to that question?

Ms. HOLDER. Yes, I think—well, I am not really sure, but I think the unit assistant is required to, you know, keep the buyers' office clean and empty ashtrays or go for coffee. I have never worked as a secretary in Sears, so I don't really know.

We have three male timecard employees in our department, and two are clerical and one is a sample room guy. And I don't know if they have ever been asked to perform any duties such as this.

COMMISSIONER FREEMAN. Is there a janitor in your department?

Ms. HOLDER. I wouldn't know if there is. I am sure there is, but then I don't see him.

COMMISSIONER FREEMAN. You only know the job descriptions in the offices?

Ms. HOLDER. Yes.

Ms. ATHERTON. May I be permitted to make, say something in addition to something Miss Holder said? She said she was never a secretary and, therefore, hasn't been asked to perform these duties.

But in our department, regardless of whether or not you are someone's personal secretary and regardless of whether or not you have a job of your own to do, which must get done in a given time, female clericals are asked to perform these chores.

CHAIRMAN FLEMMING. Mr. Ruiz?

COMMISSIONER RUIZ. Miss Krusinger, would you characterize the practice of promotions for women between checklist males and timecard female personnel as more or less of a caste system?

Ms. KRUSINGER. Yes, I would.

COMMISSIONER RUIZ. Miss Atherton, would you characterize, based upon your experience, that there is a lack of concern for, or there has been in the past, by management for career ladders or upward mobility for female clericals?

Ms. ATHERTON. Yes.

COMMISSIONER RUIZ. Miss Holder, you are a timecard, and you have never been made a checklist. Has anyone told you why you haven't been advanced?

Ms. HOLDER. Well, yes, they said because I wasn't a college graduate.

COMMISSIONER RUIZ. No more questions.

CHAIRMAN FLEMMING. Mr. Buggs?

MR. BUGGS. Only one question. Miss Atherton, were you ever given a typing test?

Ms. ATHERTON. Two typing tests, one on a manual and one on an electric.

MR. BUGGS. Miss Holder, you were not?

Ms. HOLDER. Yes, I was.

MR. BUGGS. You were given a typing test? Do you know whether typing tests are still given for persons who come in for positions not necessarily as a typist? Women?

MS. ATHERTON. I really don't know.

MR. BUGGS. Miss Krusinger, do you know?

MS. KRUSINGER. I don't know.

MS. HOLDER. I think, yes, because I sent someone to Sears a few weeks ago, and she was turned down because she couldn't type and she has had 3 years of college; I mean, she is still going to school.

MR. BUGGS. Do you know, do you have the name of that person?

MS. HOLDER. Yes.

MR. BUGGS. Could you give it to us?

MS. HOLDER. Her name, her name is Miss F. Jones, and she is, well, sort of a cousin of mine, second cousin, and she is a young girl, and I thought that she would fit in there someplace, you know, she needs a job and she went down, oh, I would say 2 weeks ago, and they told her, because she couldn't type, that they had no position for her.

MR. BUGGS. Thank you, Mr. Chairman.

CHAIRMAN FLEMMING. Mr. Glick, do you have any additional questions before we take a 10-, 15-minute recess?

MR. GLICK. Yes, I have a few, Mr. Chairman, if I might. I would like to go back through a couple of items. First, I would like to ask Miss Holder some questions about the organization of her department. How many employees are there in that department, totally?

MS. HOLDER. There is 119.

MR. GLICK. 119. And of those, how many are female and how many are male?

MR. HOLDER. There is, I think there are about 80 females.

MR. GLICK. Eighty of those are female?

MS. HOLDER. Yes.

MR. GLICK. How many of those total people, total persons in the department, are minority-group members?

MS. HOLDER. Sixteen.

MR. GLICK. Sixteen?

MS. HOLDER. Yes.

MR. GLICK. How many of the 16 are checklist and how many are timecard?

MS. HOLDER. Two are checklist and 14 are timecard.

MR. GLICK. Thank you. Now, I wanted to ask Miss Atherton, in previous discussions with you by our staff, we understand that you once worked for an employment agency.

MS. ATHERTON. That is right.

MR. GLICK. Here in Chicago?

MS. ATHERTON. Right.

MR. GLICK. Did the agency perform any services or carry out any orders for Sears, Roebuck and Company?

MS. ATHERTON. They did.

MR. GLICK. Can you describe, give us some description of what kind of relationship there was and what kind of people requests were made to this agency by the company?

MS. ATHERTON. There was—employment agencies solicit for jobs or solicit people on the basis of standing job orders and also sometimes not. But there was a standing job order from Sears; by that I mean a permanent job order, it was submitted or written up by the head of the, one of the co-owners of the employment agency.

There was only the name of one of the employee personnel representatives of Sears on that job order, and the standing job order said something like “college grad, typing 40 words per minute.” There was an understanding that only a certain type of person was sent to Sears.

MR. GLICK. What type was that?

MS. ATHERTON. Someone who looked like a hard worker with a college grad type—kind of quiet type.

MR. GLICK. But was sent for a clerical position?

MS. ATHERTON. Right, right. The employment agency for which I worked advertised itself as one which catered to college grads—in fact, it was catering to fitting college grads into clerical positions and, of course, women college grads. Men were either steered towards sales or, if didn’t seem to be sales material, they would be advised politely that they would be kept in the files, and we would think of them, etc.

MR. GLICK. Do you know whether any men were ever referred to Sears, Roebuck by this employment agency that you worked for?

MS. ATHERTON. I seriously doubt it. To my knowledge, no. The employment agencies can only work with a company through, through the people, through the contacts they have, and they did happen to have a contact with one personnel representative. There was never any kind of job order that indicated that they wanted a male college grad, or that there was any job other than clerical.

MR. GLICK. Did any men ever come into the agency looking for clerical work?

MS. ATHERTON. They didn’t; neither, though, did the women who came into that agency, were they looking for clerical help, for clerical jobs.

MR. GLICK. But men who came in were not referred to Sears—came in, not looking for clerical work, but other kinds of work, presumably college grads were not referred to Sears, but women?

MS. ATHERTON. There was a long pep talk; I mean, when a female college grad came into the agency, advising her the reality of the business world and that she would have to take a job as a secretary and as a clerical and then she was told to practice typing. Now, we never did that with men.

MR. GLICK. I would like to ask each person that is now testifying whether they have had affirmative action interview. Miss Atherton?

MS. ATHERTON. Yes, I have.

MR. GLICK. Miss Krusinger?

MS. KRUSINGER. Yes, I have.

MR. GLICK. Miss Holder?

MS. HOLDER. Yes.

MR. GLICK. Could you tell us what happened, how that affirmative action interview proceeded. Miss Atherton? What was it like?

MS. ATHERTON. My, my—perhaps it was my input, I really don't know, but my general impression was that it was very vague, not helpful.

At the time that I had my affirmative action interview, I was there, to my understanding, for a dual purpose, because I was asking for a job transfer—I had been on the same job for a year and 5 months, and it was getting very tiring, routine to me. And I was there under that, as it was my understanding, that is why I was there; I found out once I was there that I was really there as a routine affirmative action interview.

No real—the end result of that interview was that I was told that I would be put on a promotable list, and that was it.

MR. GLICK. How long ago was that?

MS. ATHERTON. That was the end of May, I believe.

MR. GLICK. Have you heard anything further?

MS. ATHERTON. Well, when I hadn't heard, see, I was very interested in making a job move, not having heard anything for a month, I then appealed to my office manager again and she said that she would be talking to my personnel representative. She did; well, in fact, the very same morning she came to me later and said, "You are taking the executive battery [test] tomorrow." And that was, I took that; that didn't seem to really be influential or really seem to be that important.

I then interviewed for a position in another department; that position, I was not accepted for that position, the reason being, as I was told, was because another person had previously been offered the position agreed to, and turned it down, and had now agreed to take it and I was moved in my department.

MR. GLICK. Was the affirmative action interview with a personnel person or some specialized person who works in the affirmative action program? Do you have any idea who the person was? Was it your regular personnel officer?

MS. ATHERTON. Yes, the personnel representatives, as I understand it, are assigned, each one is assigned to several different departments, and my department's, is her responsibility, and she, of course, they interviewed me.

MR. GLICK. Miss Krusinger, you have indicated that you have been given an affirmative action interview. Could you describe that process to me?

MS. KRUSINGER. Actually, I have had two interviews. The first one was with our office manager. She indicated that this was a routine thing that she was discussing—the form we had filled out with each person who indicated that she was interested in a higher-level position. This was last winter, I think in February.



A few weeks ago, I had an interview with my personnel rep because I had again talked to our office manager and indicated that I, I am becoming less happy in the position I am in, and I am more interested in becoming an assistant buyer.

She set up the interview with the personnel rep, and I had the feeling that the only reason that I had the affirmative action interview with her was because I happened to be there, and she couldn't cover two interviews at one time. The only thing that came from it was that she indicated that I was on the promotable list, which I had been told before.

MR. GLICK. Miss Holder?

MS. HOLDER. Well, mine was also very routine, and I understand from my office manager, that she would be getting in touch with my personnel rep, and that she would be talking to me, and this was around March. I did, subsequently, talk to my personnel rep, but not because my office manager had anything to do with it; it was because I had to go outside of channels, you know, to get to the personnel rep.

She then, when I talked to her, she was very negative about the whole thing. She told me that the only people who were passing the copyrighter's test was, were journalism students; they were college graduates; and that she just didn't think that I was competent enough, or that I was able to pass the test, but she did give it to me anyway, which I decided not to take.

MR. GLICK. Well, I have just one final question that I would like to ask all the persons who are now testifying. That is, have you, any of you ever seen a job posted? A job opening posted anywhere in your department or in any place you might pass or in the personnel office?

MS. HOLDER. No.

MS. ATHERTON. We were specifically told that that would never be done.

MR. GLICK. Miss Krusinger?

MS. KRUSINGER. No, I have never seen such a list.

MR. GLICK. Thank you, I have no further questions, Mr. Chairman.

CHAIRMAN FLEMMING. Okay. We want to express our appreciation to all three of you for coming here today, and presenting this testimony.

The hearing will be in recess for about 10 minutes. I want to resume as close to 10:45 as I possibly can in fairness to the other witnesses that have been called today.

Thank you all very much.

CHAIRMAN FLEMMING. I will call the hearing to order and, Mr. Glick, I understand we have representatives of two organizations that have asked to have the opportunity of making a brief presentation and you may want to call on them at this time, if the other witnesses are not in the room right now.

MR. GLICK. Yes, Mr. Chairman, at this time I would like to call Ann Ladky, who is here on behalf of the National Organization of Women, Chicago chapter, and Miss Darlene Stille, who is here on behalf of an organization, Women Employed, who are primarily working women in the Loop area of Chicago, and I would like them to stand and be sworn.

[Ms. Ann Ladky and Ms. Darlene Stille were sworn.]

**TESTIMONY OF ANN LADKY, NATIONAL ORGANIZATION FOR WOMEN, AND DARLENE STILLE, CHAIRPERSON, WOMEN EMPLOYED, CHICAGO, ILL.**

MR. GLICK. Thank you, Mr. Chairman.

Would each of you please identify yourself by name and address and the organization you represent, for the record?

MS. STILLE. Darlene Stille, chairperson of Women Employed, 37 South Wabash.

MR. GLICK. Miss Ladky.

MS. LADKY. Ann Ladky, National Organization for Women, 53 West Jackson, Chicago.

MR. GLICK. Beginning with Miss Stille, can you tell us just a little bit about the organization of Women Employed and then, if you have a prepared statement, will you proceed with that?

MS. STILLE. Mr. Chairman, members of the Commission, Women Employed, is an organization of women working down in the Loop, dedicated to improving our job situations. We have special interests in the industry areas in addition to the overall situation for women. We have a special banking committee and an insurance committee. We have done studies in retail and public employees area. We are also concerned with the situation for secretaries.

At this time I would like to briefly highlight for you the general situation for the working women in the Loop, to place Sears within this perspective. The Commission already has in its possession studies by Women Employed which show that there are some 91,000 working women in the Loop, comprising of about 45 percent of downtown area work force. Yet in the gap between the average annual earnings of men and women is \$8,000 in the Loop. This is because more than 80 percent of the women are relegated to the lower-paying office, clerical, sales, and service positions.

This general situation is reflected in the insurance industry, where the main earnings gap is \$6,000 between men and women. Women hold 89 percent of the lower-paying, so-called deadend insurance jobs. The situation is reflected in banking where the earnings gap is more than \$4,000 a year between men and women, and in the retail industry where the earnings gap is also \$4,000. This is particularly significant in the retail field because, in general, salaries in sales jobs tend to be low.

Women Employed have found that one of the prime offenders in the retail industries is Sears, Roebuck and Company, and at this time I request the Commission to consider inserting in the record, Women Employed's study of the Sears situation.

MR. GLICK. Is this document to which you are referring, Miss Stille?

MS. STILLE. Yes, it is.

MR. GLICK. Mr. Chairman, I would like to introduce this into the record at this time or at least have it considered for inclusion in the record in the future.

CHAIRMAN FLEMMING. Without objection, that will be included.

MR. GLICK. Thank you.

MS. STILLE. As of 1973, 83.1 percent of the women employed at Sears held office and clerical or sales jobs; only 6.2 percent of the women were classified as officials and managers.

If I might briefly go over some of our statistics, a review of the situation for women at the Sears Tower makes it clear why Sears is fighting disclosure of this information. The Tower, as the Commission is well aware, is Sears' headquarters, and most of its buying departments are located here. There are 35 buying departments in Chicago, 14 others in New York City. Each is devoted to a particular line of goods, such as stoves, floor coverings, sportswear, that sort of thing.

The buying departments where job categories are standardized present clear evidence of sex discrimination. Each department contains management and many buying units. A buying unit consists of a buyer, is assisted by an assistant buyer, and/or a buyer's assistant, who are in turn assisted by clerical or unit assistants. The job assistant buyer and buyer's assistant are different titles for the same job. And often one employee with one title is replaced by someone with the other title.

Here is the significant difference. Buyer and assistant buyers are checklist or salaried positions, accompanied by many fringe benefits. Buyer's assistants and clerical or unit assistants, on the other hand, are paid weekly, and are known as timecard and earn much less and they are denied these additional fringe benefits.

Women fill only 6 percent of these higher-ranking positions in buyer and buyer assistants.

The lower-paid, timecard, buyer assistants positions, however, are almost entirely filled by women.

In addition, Women Employed made a survey of six individual departments, and I would like to give you the results of that sampling. Based on this sample, women make up only 12 percent of the total checklist or salaried employees. They make up 96 percent of the lower-paid, nonchecklist, clerical employees. Viewing this from another angle, we find that 91 percent of all women are in nonchecklist jobs, that is, timecard.

Women are not hired or promoted into the checklist positions in general. The women Women Employed interviewed at the Sears Tower primarily described sex discrimination in Sears in terms of promotion

and promotion opportunities. They have been stuck in the same deadend job for years without recourse, watching men being promoted right past them. Women who have requested promotions were told that nothing was available or were disregarded, some for as long as 4 years.

Now, faced with the problem of sex discrimination, working women naturally turn to the remedies provided by the Federal Government. These include filing charges with the Wage and Hour Division of the Department of Labor and with the Equal Employment Opportunity Commission. However, one of the most powerful tools for women faced with the situation such as prevails at Sears is the affirmative action program.

As the Commission is well aware, Executive Order 11246, as amended by Executive Order 11375, states that major Federal contractors must have specific plans for promoting and training women, along with goals and timetables for these promotions. Federal guidelines also clearly state that the public has a right to know what these affirmative action programs contain. As a Federal contractor, Sears clearly falls under the jurisdiction of these Executive orders.

Women Employed's first step in dealing with these sex discriminations at Sears was to arrange a meeting with Sears' executives. We wanted to discuss Sears' affirmative action plan. At this meeting, Sears assured us that they had a wonderful plan for women and minorities. However, they refused to give us any information whatsoever about their affirmative action plan. Even though the Federal guidelines on disclosure, as I said, are quite clear, Sears contends that the public, as well as its own employees, do not have a right to this information.

As the Commission is also aware, Sears has filed suit in Federal district court to prevent the public from gaining access to information about its affirmative action plan. Sears argues that the disclosure and the publication of sensitive minority and female statistics could in turn precipitate unwarranted civil rights litigation, prejudice Sears' position in proceedings before the multiple agencies concerned with employment, and, most significantly, subject Sears to the unjustified opprobrium of the public and its employees upon its success as a business, upon which its success as a business enterprise is fundamentally dependent.

As a point of information to the Commission illustrating how far and to what length Sears is willing to go to keep this information secret, they are suing the Illinois State Fair Employment Practices Commission to prevent disclosure of State affirmative action plans. They are using the same arguments that this information might damage their image and lead to civil rights lawsuits.

We have recently seen in the fall of the past administration what happens when damaging information is made public. It is clear that Sears feels that the consequences of information about its employment practices being made public would cost them far more than the many thousands they are willing to spend to keep it secret.

Affirmative action plans are a major tool for improving the situation for working women, but affirmative action can have no effect if the details of the plans are kept secret. The affirmative action in an individual company can only work when women and minority employees are aware of the opportunities to which they are entitled.

Sears is a pivotal case in the entire affirmative action issue. Sears intends to tie up the case in the courts for years and in the process endanger the free flow of information, not only to the public but between government agencies. The Sears case is also a serious test of the Government's commitments to the affirmative action program.

Following our study of the situation at the Sears Tower, Women Employed contacted the Chicago office of the General Services Administration, Civil Rights Division. GSA is the agency charged with overseeing Sears' affirmative action compliance in regard to its Federal contract.

GSA undertook a compliance review of Sears Tower. However, Carlos Ruiz, the head of the Chicago office, assigned one investigator to cover 50 floors of the tallest building in the world; and, after considerable pressure, Ruiz agreed to have his investigator interview Sears' women employees rather than only Sears' management.

It is impossible for Women Employed at this time to estimate how many manhours were spent on this investigation, since which we understand that that investigator would spend part of one week on the case, skip a week, and so on throughout the month of July.

At the conclusion of the investigation, Women Employed met with Mr. Ruiz to discuss the results of the compliance review. However, there was no discussion. Ruiz refused to comment on what the investigators found; he refused to tell us what his recommendations were to Washington. He even refused to write a letter recommending that officials of the General Services Administration meet with concerned community groups and Sears' women employees. However, he did admit that the results of the investigation and his recommendation were fully discussed with Sears' management.

We later learned from his superior, Mr. Mitchell in Washington, that the Office of Federal Contract Compliance ordered GSA not to discuss the Sears case at all. The OFCC has chosen to interpret the injunction against the affirmative action disclosure pending the outcome of Sears' lawsuit as applying to all information regarding Sears.

Yet the injunction is quite specific in what it covers. It does not apply to the results of or recommendations following a compliance review. If the Government wants to voluntarily agree not to release information about Sears until the court case is resolved, then the Government should also voluntarily suspend Sears' Federal contracts pending the outcome of this case.

It is not surprising that Sears discriminates against women. We are not surprised that Sears is trying to cover up this fact. But it is absolutely inconceivable that an agency of the United States Government

would so blatantly and openly act in the interest of this corporation and against the interest of Sears' women employees.

The performance of the compliance division of agencies, not only General Services Administration, but, for example, the Treasury Department and the Department of Agriculture, lead working women to believe that these agencies are not only ignoring the concerns of working women but are acting in complicity with the companies and the corporations.

Therefore, Women Employed strongly urges the United States Civil Rights Commission to communicate this situation to the appropriate officials in the executive branch of Government and also to recommend that an order be issued demanding strict enforcement of the Executive orders dealing with affirmative action, including the suspension of Federal contracts. And Women Employed further recommends that the Commission undertake a major investigation of the Office of Federal Contract Compliance because the fair employment laws and rules and regulations exist, yet, these laws are obviously being broken, and someone must be called to account for this.

MR. GLICK. Thank you, Miss Stille.

Miss Ladky, would you want to proceed with the statement you have on behalf of NOW?

MS. LADKY. Good morning to the Commission and the staff. My name is Ann Ladky and I am the president of the Chicago chapter of the National Organization for Women, and the co-coordinator of NOW's national committee on Sears, Roebuck.

NOW, the National Organization for Women, it's the largest women's rights organization in the world, with 700 chapters and 50,000 members across the country. Our commitment to equal opportunities for women and enforcement of the law led our members to adopt the following resolution at our last national conference:

Whereas the retail industry is sustained by the underpaid working of women, and whereas Sears, Roebuck, the largest retail corporation in the United States, is a major offender in failing to meet equal employment standards, and whereas Sears' disregard for equal opportunity law affects thousands of women nationwide, be it therefore resolved the National Organization for Women take action both nationally and locally to insure their compliance with equal employment opportunity laws.

Chapters of NOW from all over the country have responded to this resolution and are joining in a national action program.

To give a little background to our relationship prior to this Civil Rights Commission, I would like to say that in 1971 all members resolved to work to add sex discrimination to the mandate of this Commission, and we are pleased to have accomplished that goal and to be here this morning to testify about the antiwomen policies and practices of Sears, Roebuck.

As you know, we are an organization that is very concerned about the high percentage of women who live in poverty, in spite of the fact that they are employed. We know from our experience that sex discrimination is the major cause. The median wage of women who work is \$6,018 for those employed full time. Combined with part-time workers, the median wage for all women workers is \$4,181.

Wages are low because women are ghettoized into certain jobs in certain industries, earning 58 percent of what men earn for similar work. Jobs in these industries are deliberately constructed to offer no opportunities for advancement, as well as low pay.

Eighteen percent of women who work are employed by the retail industry, and women constitute over 60 percent of the retail work force. Let's look at the income figures for women salesworkers in 1968 and compare them to 1972 figures to determine whether there has been any progress in this industry. In 1968 the median wages of women salesworkers were \$2,073 for all female workers and \$3,461 for full-time salesworkers. In 1972, the median wages of those workers were \$2,271 for all women salesworkers and \$4,575 for full timers.

Unfortunately, these figures indicate that there has been no substantial change in the wage situation for women in retail; and, in fact, the increase in full-time wages, however small, reflects an increase in minimum wage, not a change in the corporate policy.

Sears, Roebuck and Company is the major employer in the retail industry. Sears employs 401,000 people, twice as many as its nearest competitor. And in sales and profits they are truly the leader of their industry.

Sears also refuses to tell the public about its employment practices, but it is reasonable to assume that, if the largest retailer had indeed made the significant stride in affirmative action that it claims to have made in the past 5 years, those improvements would have had some noticeable impact on median wages and promotion for women in the industry as a whole. The Department of Labor figures negates Sears' assertion of major progress and, in the absence of concrete data from them, we must draw the obvious conclusion that no progress has been made at Sears.

NOW's own investigations are beginning to yield data that tell the real story. In May of 1974, NOW filed charges with the Equal Employment Opportunity Commission on behalf of Sears' employees. Those charges included complaints of sex discrimination in hiring, promotions, job classifications, transfer, equal pay, health benefits, and leave policies.

NOW chapters in 50 cities have begun local investigations and are reporting substantially similar situations to those found in Chicago NOW's EEOC charges. They are also sending evidence of age and race discrimination as well as discriminatory practices in the award of credit to women.

Sears has argued that it's society's attitudes, not Sears' policies, that keep women's wages at the poverty level. We disagree. And we urge the Commission to particularly examine the policies of Sears with respect to part-time employment of women as well. Again, Sears is the leader. They are the first retailer to adopt an employment policy maintaining 60 percent of their employees in a part-time classification and only 40 percent of their employees in a full-time classification.

What does it mean to be classified a part-time employee at Sears? It means no commission on sales. It means no substantial benefits, no promotability, no participation in Sears' famous profit-sharing plan. It also means being paid less than a living wage. And it means you can be required to work 40 hours a week and still be classified as part time.

Sears' stated policy is that you, that you need not be reclassified as a full-time worker until you have worked 16 consecutive weeks at 40 hours a week. Clearly, this policy is not intended as a service to provide the convenience of part-time work for women. It is intended to keep Sears' labor costs down.

We urge the Commission to investigate these aspects of part-time work and ask some questions. First, because of the high unemployment rate of women and their exclusion from other jobs, will only women apply for these part-time jobs? Secondly, by increasing the number of part-time jobs to this higher proportion, is Sears assuring that their work force will always be sex segregated? Third, will this percentage of part-time workers in the total Sears work force preclude any reasonable opportunity for workers to obtain any protection through unionization?

Fourth, what is the position of the part-time worker with respect to laws governing affirmative action and equal pay? Fifth, if part-time employment involves doing work that is substantially equal to work done by full-time employees, should they be denied the added compensation of benefits?

Sixth, has Sears designed jobs specifically to avoid equal pay for equal work? Seven, what is the cost to society of Sears' policies? How many Sears workers are subsidized under public assistance and the food plan program? Is the public subsidizing Sears' low wages?

We urge this Commission's immediate actions on these policy questions within Sears.

Finally, as a civil rights organization, NOW is vitally concerned about the lack of employment of civil rights laws. We struggle to pass these laws, and we are constantly working to get them enforced. We are alarmed about the risk to enforcement of a law presented by Sears' action on disclosure of affirmative action programs. We are disturbed about the Government's half-hearted response to this attack.

Sears is leading the effort to assure that civil rights legislation is not enforced. This course of action is not totally surprising from the same company that lobbied for amendments to cripple the powers of the



EEOC in 1971. But, in any case, Sears has chosen to become a Government contractor, and they owe the public an accounting of their practices. We wholeheartedly support the demand of Women Employed that contracts at Sears be immediately suspended pending the outcome of investigations into their practices.

Sears claims that they are hiding their affirmative action program because they are afraid of their competition. We believe it's their employees, the Government, and the public that they really fear. Secrecy will prevent these groups from monetary and just judging Sears' efforts to employ equal employment.

Sears is under investigation by the EEOC. As the testimony of Women Employed indicated, Sears is engaged in Federal district court and the circuit court of Illinois to prevent disclosure of their affirmative action plan. The emptiness of Sears' arguments and the fight against disclosure indicates to us that this is really a fight against affirmative action.

Consider the credibility of some of Sears' arguments. In court, Sears contends that they must protect their competitive position by keeping wages secret, but in their employee manual, called "Getting Acquainted with Sears," they say, and I quote, "The company pays equal to or better than its competition. Paying equal to or better than its competition means we must know who our competition is, and how much they are paying. Through constant contact with other companies, we are able to 'stay on top' of salary trends in the Greater Chicago Area." End of quote from the employee manual. This is no doubt a common and reciprocal practice among the major employers in the city of Chicago.

In court, Sears says there're marketing and expansion plans which would now be revealed by disclosure of the number of employees in certain jobs and departments, and I think that was rather carefully spelled out to the Commission in the briefs presented to you by Sears on the last time they appeared here, in which there was an affidavit from a management consultant explaining just how that would work.

I have here a copy of the Sears Chicago-New York phone book listing. This is not a typical employee directory where everyone is listed alphabetically with their phone number. This one has the—it's arranged according to the department, and it contains a listing of each employee and their job title within those job departments in the parent, catalog merchandising center, the New York offices, and so on. And it is conveniently updated every 2 months. And from looking over what that management consultant told you some weeks ago, I think this could pretty much give you a picture of how employment patterns are changing at Sears, and would enable you to document that rather specifically. If NOW could get a copy of this as easily as we did, I am sure that their competition could.

In court, Sears argues that the public has no right to access to records that have previously been defined as accessible under the

Freedom of Information Act. Yet, to quote a recent article in *Business Week* entitled "More Business Data from Government Files," in the July 20 issue, "Sears, Roebuck and Company wants the National Labor Relations Board to give it internal memos outlining possible lines of prosecution that were used by the Board in deciding whether to go after the company." I think the Commission might find that whole article interesting because it indicates that corporations doing this sort of thing are notoriously more successful in utilizing the Freedom of Information Act than any civil rights group or public interest group, even though those groups have perhaps had the most publicity as to how they use that act, and I have copies of that if the Commission would like them.

Now I ask the question, given this information from *Business Week*, whether Sears is going to be allowed to have it both ways as far as the Freedom of Information Act is concerned?

NOW's investigation of Sears is just beginning. And we will be happy to continue to share our information with the Commission. The purpose of our testimony today was not to document or to go through every instance of sex discrimination that we have found, that our investigations have turned up around the country. We felt today that we wanted to outline some broad policy questions that are raised by Sears in its actions and in its fight against affirmative action.

We think these are very serious, serious questions in light of the whole area of compliance and the future of enforcement of these laws. We believe the questions raised by Sears have serious implications for any investigations of or remedy for the problems of women in poverty and any future enforcement of civil rights legislation.

We do appreciate the opportunity to have testified here today. We thank you and we would like to provide any more information that the Commission desires.

MR. GLICK. Thank you, Miss Ladky.

Mr. Chairman, I have no questions for the witnesses.

CHAIRMAN FLEMMING. Ms. Freeman?

COMMISSIONER FREEMAN. Yes, Mr. Chairman, I would like to ask Mr. Glick if the office has been provided with the documents that were referred to in the testimony, the telephone directory and the ones that Miss Ladky referred to?

MR. GLICK. Yes, we have those, Ms. Commissioner.

COMMISSIONER FREEMAN. The question that I have, the only other question I have is for, to each of you, and that is I believe that each one of the organizations has done a study of certain departments. And I have a question in terms of not only the categories with respect to sex; but, as you know, this Commission is concerned with race discrimination as well as sex discrimination; and, in your studies, do you have in any of the departments any breakdown as to the positions held by white males, as against, as compared with the minority male, and also as against male-female?

Ms. LADKY. I would like to say that we are in the process, NOW is in the process, of compiling that kind of information. We intend to keep our statistics both on sex and race. What we have been doing so far is investigating various stores, both here and in a number of other cities, as I said. At this point we do not have that, those statistics formulated, but we could provide you with the preliminary data that we have.

Of course, we have seen just the surface, some very questionable looks to departments, just to name a few, in Chicago, the Irving Park Store, the Stoney Island Avenue Store, and some discrepancy in terms of, or let's just use the Stoney Island Store as an example, which, as you might know, is more or less an all-black area in the city. And if you look there, there is some rather interesting; let us say, overabundance of white males in the departments of major appliances, heavier appliances. And in that department, I think we found of 14 employees, I think there were only 3 blacks; there were no women in the department; there were 3 black males. The rest are white males.

COMMISSIONER FREEMAN. Eleven white males, 3 black males—

Ms. LADKY. Right. And that is really quite out of line with the percentage in any other department in the store, but we would be glad to provide what preliminary data we have.

COMMISSIONER FREEMAN. Miss Stille?

Ms. STILLE. Women Employed has concentrated mainly on the Sears Tower and on the question of the situation for women over there. However, we did do a brief study of the Sears retail store downtown, and we came up with essentially the same thing that Miss Ladky told you, the white males tend to be in the high-ticket, high-commission sales areas, and women in the lower end, and no-commission sales areas.

In other studies that we have done we have noticed that sex discrimination, race discrimination should go hand in glove, and we have breakdowns in those areas, which the Commission has in its possession. It is time, with me at the table, I do not have a breakdown on by race. I don't know whether we have this in office. I will ask the researcher immediately following this session, and if we do have it, we will give it to you.

COMMISSIONER FREEMAN. Thank you.

Ms. LADKY. Could I add one piece of information to this? I think one of the things that is involved here, we have been talking a lot about, at one meeting with some Sears people and since then in our own work, about the importance of unit information, unit information, that is, affirmative action data and employment data, store by store.

I think one of the problems that we can see, even in the city of Chicago, is, if you were to mix all the data from a given area, those facts of the concentration of workers, who essentially all have the same classification, if you were to mix all that data across even a major metropolitan area, or suppose across a region of, of this Com-

mission or the EEOC, those kinds of really quite flagrant aspects of discrimination would be lost or would be missed; and Sears is particularly contentious about their unit information, and I think there is a good reason for that.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. I have no questions.

CHAIRMAN FLEMMING. No further questions?

Mr. Glick?

MR. GLICK. Thank you, Mr. Chairman.

CHAIRMAN FLEMMING. Thank you very much. Will you call your next witnesses.

MR. GLICK. Mr. Chairman, may I ask for a one moment recess, please?

CHAIRMAN FLEMMING. I don't want people to leave on the assumption that it is just one moment.

MR. GLICK. Mr. Chairman, the Commission has received a request from Mr. Lawrence Cohen, a counsel for Sears, Roebuck and Company, with respect to some of the testimony that has been heard. I believe that the Commission is obligated to give Mr. Cohen an opportunity to present whatever matter he wishes to, and I hope Mr. Cohen does understand the time constraint that we are working under. Mr. Cohen?

CHAIRMAN FLEMMING. We are glad to recognize you, Mr. Cohen.

**STATEMENT OF LAWRENCE COHEN, COUNSEL, SEARS, ROEBUCK AND CO.,  
CHICAGO, ILL.**

MR. COHEN. Mr. Chairman, I just want to make a very short statement. Much of the matter that was just testified to by the last two witnesses referred to locations and referred to practices that was not part of the Commission's executive session yesterday. They contain substantial inaccuracies, substantial misimpressions, substantial incorrect assertions.

We would submit that under the Commission's own rule, section 702.11, to the extent that they involve locations such as retail stores, to the extent that they involve allegations, incorrect allegations involving part-time employees, those should be dealt with at the Commission's executive session; and that, if the Commission then wants to receive public testimony on it, it should do so, but there first should be an opportunity, if the Commission's own rules and statute require, to have that matter taken up at the executive session.

We would, therefore, move to strike all of the testimony of the last two witnesses insofar as it related to matters that were not covered in executive session or included in this synopsis of anticipated testimony that was provided to us at the time.

One last comment. There was considerable testimony with respect to two pending lawsuits. I think it is inappropriate to discuss, in this forum, pending lawsuits. I just want to make two notes, for the record.

Sears is one of some eight or nine major employers who have filed identical lawsuits challenging disclosure under new regulations that were just promulgated. Thus far, only one of those cases has been decided and it has been decided upholding the position of the employers, the Westinghouse case, which is now on appeal. And the Illinois State case, which is also alluded to, I think the record ought to reflect that the judge has preliminarily enjoined, after full evidentiary hearing, any disclosures. So Sears' position has also been upheld in that regard.

That is all I want to say.

CHAIRMAN FLEMMING. The Commission will take your motion under advisement and make a decision after it has had opportunity of discussing it.

General Counsel will call the next witness.

MR. GLICK. Mr. Chairman, I would like to call at this time, Miss Deborah Easley and Miss Danoe Raggs and, Mr. Chairman, with your permission, I would request that the Assistant General Counsel, at my left, Ms. Lucy Edwards, proceed with the questioning.

CHAIRMAN FLEMMING. Perfect.

MR. GLICK. Thank you, Mr. Chairman.

Ms. Edwards?

[Ms. Deborah Easley and Ms. Danoe Raggs were sworn.]

**TESTIMONY OF DEBORAH EASLEY, FORMER EMPLOYEE, AND DANOE RAGGS, EMPLOYEE, SEARS, ROEBUCK AND CO., CHICAGO, ILL.**

MS. EDWARDS. Ms. Raggs, would you please state for the record your name and, since there is some difficulty with your first name, would you spell it for the court reporter?

MS. RAGGS. Sure.

MS. EDWARDS. You can move the microphone.

MS. RAGGS. Well my first name is Danoe, that is spelled D as in David, a-n-o-e; my last name is Raggs. I am employed at Sears, Roebuck, department 383. My address is 3335 West Monroe Street.

MS. EDWARDS. Are you employed at the catalog merchandise distribution center?

MS. RAGGS. Yes, I am.

MS. EDWARDS. Thank you.

Miss Easley, would you state for the record your name, where you are employed currently, and your former employment?

MS. EASLEY. Deborah Easley, 7808 South Shore Drive. I am currently employed at the Chicago Conference on Religion and Race. My former employer was Sears and Roebuck.

MS. EDWARDS. What was your last date of employment with Sears, Roebuck?

MS. EASLEY. First of July, '74.

MS. EDWARDS. And where did you work while employed at Sears, Roebuck? What department?

MS. EASLEY. I worked in department 157, customer relations.

Ms. EDWARDS. Fine.

Miss Raggs, would you please state for the record what your job title is and explain to us what your department does?

Ms. RAGGS. Well, my job title is telephone sales clerk. Primarily we take orders, customers' orders, coming in; that is primarily what we do. Basically, when we are not very busy, then we call Sears' customers only, and we sell.

Ms. EDWARDS. How long have you been so employed?

Ms. RAGGS. Oh, at Sears, I have been there a little over 5 years now.

Ms. EDWARDS. Can you tell us how your department is organized; that is, whether there are checklist employees, nonexempt or timecard employees?

Ms. RAGGS. Well, we consist of timecard employees, and I do believe we have one checklist; that is the manager.

Ms. EDWARDS. Could you also explain how many supervisors and how many nonsupervisory positions?

Ms. RAGGS. Well, currently, we have four supervisory positions, and the rest are nonsupervisory for department 383.

Ms. EDWARDS. Would you also give us a breakdown of the racial and sexual composition of your department, how many men, how many women in your department? How many black, how many white.

Ms. RAGGS. Well, presently we have no men. It is all female; and, as far as the ratio, I am not sure of the number of them, of our employees there. I could say like this, possibly I would say out of every five employees, you would have three whites, as far as the ratio.

Ms. EDWARDS. And your supervisors? What racial composition are they? They are all female?

Ms. RAGGS. Right, all female.

Ms. EDWARDS. And what racial composition are the supervisors?

Ms. RAGGS. All white.

Ms. EDWARDS. Okay.

Since you have been employed in that department, have you had any black or nonwhite supervisors and, if so, how many and when?

Ms. RAGGS. Well yes, we had one black supervisor since I have been there over the 5 years. Of course, she is no longer with us, but we have had one.

Ms. EDWARDS. Have you ever been approached about becoming a supervisor in your department?

Ms. RAGGS. No, not a supervisor, no.

Ms. EDWARDS. Have you ever filled in for the supervisor or served in any capacity that indicates you can do the supervisory work?

Ms. RAGGS. Yes, I have filled in, as, I believe we are called, backup girls.

Ms. EDWARDS. How long have you done this task, in over-how long have you performed in that function?

Ms. RAGGS. Well, I would say about 7 or 8 months.

Ms. EDWARDS. Are there other women in your department who are not supervisors who serve as backup girls?

Ms. RAGGS. Yes.

Ms. EDWARDS. Can you tell me the racial composition of the women who serve as fill-ins or for backups?

Ms. RAGGS. Well, actually, remembering now, it is about half and half. It is, I think, about six others; three are white and three are black in the backup units.

Ms. EDWARDS. Have you ever been interviewed by your personnel representative? Have you ever been called in for a personnel interview concerning either affirmative action or possible promotion?

Ms. RAGGS. No, I have not been.

Ms. EDWARDS. Have you ever had occasion to talk with your personnel representative, and, if so, what about?

Ms. RAGGS. Well, I talked to personnel representative once. It wasn't about a job or anything. I had applied for a credit. Of course, they have to let us sign the paper that they can give out information. That is all.

Ms. EDWARDS. Have you, on occasion, during your employment with Sears received ratings of excellent, very good, or good?

Ms. RAGGS. Yes, periodically, you go in, the manager calls you in, and gives you a brief review of how you are performing, and I have had excellent, good ratings.

Ms. EDWARDS. In keeping with that, have you also had merit raises or—

Ms. RAGGS. Yes, I have had several merit raises.

Ms. EDWARDS. Okay.

I would like now just to ask a few questions of Miss Easley. Miss Easley, I understand you are no longer working with Sears, Roebuck and Company. Could you briefly describe the department in which you worked and the composition of that department at the time that you were last there?

Ms. EASLEY. Well, I worked in the department 157, and I think it is divided up into three divisions, but I think there is about a total of between 150 and 175 employees there. It is made up of a manager, assistant manager, and division head and supervisors. The supervisors and division head manager, of course, are checklist, and I believe that some of the ladies are checklist simply because we have been there over 20 years or something like that.

Ms. EDWARDS. And the racial composition? What percentage is black and nonblack?

Ms. EASLEY. Oh, I think the percentage of black is about 35 percent.

Ms. EDWARDS. Could you tell us what your educational background is and what it was at the time that you first applied at Sears?

Ms. EASLEY. When I first applied at Sears I had 2-1/2 years of college.

Ms. EDWARDS. And at present? Your educational level when you left Sears?

Ms. EASLEY. I had 126 credit hours; I needed 6 more to graduate from Northwestern University.

Ms. EDWARDS. During your employment at Sears and when you first applied, was there any indication of the kind of job that you would like? What did you apply for?

Ms. EASLEY. I just went there seeking a job, and they told me the only thing they had available was typists.

Ms. EDWARDS. And you were tested for typing at that time?

Ms. EASLEY. That's correct.

Ms. EDWARDS. And during your employment at Sears, what job titles did you hold and what kind of work did you do?

Ms. EASLEY. Well, I was a typist, which was mainly typing forms and filing, for the correspondence, and I was later promoted to a correspondent, which is typing, filing, handling customer complaints, and handling complaints for stores.

Ms. EDWARDS. How long a period were you so employed as a typist and how long as a correspondent?

Ms. EASLEY. I think I was employed as a typist for about 6 months.

Ms. EDWARDS. And a correspondent?

Ms. EASLEY. About 2 years and 1 month.

Ms. EDWARDS. During your employment at Sears, would you briefly recite for us the efforts that you made to seek a promotion and the results of that effort?

Ms. EASLEY. Well, when I was first employed at Sears, I think after about 3 months I had an interview with the personnel representative. And at that time I was telling her about my educational background, and I was asking her what were the possibilities of a promotion, just what was available at Sears.

And so she says, "Well, how much education have you got?" And I told her, you know, 2-1/2 years of college.

She says, "We have got a while to go yet; maybe something will come up." But she never gave me an answer, specific answer, as to what was available for me at Sears.

Ms. EDWARDS. Okay.

Ms. EASLEY. And later I talked to the assistant personnel manager who was there, and I related my experience with her to him, and I told him that I felt that any time you go to a personnel representative and they are supposed to be helping you find higher positions or promotions or handling whatever complaint you have, and the only answer they can give you is, "I don't know; maybe something will come up; you've got a while yet," I feel that she wasn't functioning. And he agreed, and yet he still really didn't give me any information either, and I talked to him several times.

Ms. EDWARDS. What was his response to your suggestion that you should be promoted or that you would like a better-paying job at Sears?

Ms. EASLEY. Well, I talked to him several times and, finally, he gave me an executive battery exam. But this more or less was to pacify me because I was complaining a lot to him because I wanted something better, I was tired of the job I had, I felt that I was qualified for more.



And finally I asked him, "Well, what can a personnel representative do?" Because I had too many friends going to personnel representatives seeking better jobs, and they simply couldn't get anywhere. They weren't getting any response.

Everything they told me was very vague; it was nothing you could go on. They wouldn't even tell them what jobs were available in other departments. So I finally told them, "What is it? Is it simply because most of the personnel representatives are black and there is nothing you can do?" And so finally he says, "Well, the thing of it is, you know how Whitey plays this game, and I'm trying to get ahead myself and I'm not going to rock the boat." And that is what he finally told me.

Then at that point he went around and began to tell people I was a militant because I was complaining too much. I guess I had too much mouth for him. And at this point I realized that he wasn't really going to help me nor was anyone else because I figured an organization like Sears where they don't like to promote black people, or shall I say they haven't promoted black people, I felt I wasn't going to get ahead with the attitude I had.

MS. EDWARDS. Did you have occasion to indicate any of your feelings to your personnel representatives or to someone at Sears, Roebuck; that is, your feeling that you were not going to be promoted and that you were kind of stuck in that job?

MS. EASLEY. No, not really.

MS. EDWARDS. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Mrs. Freeman?

COMMISSIONER FREEMAN. Miss Easley, how long, how long did you say you were employed at Sears?

MS. EASLEY. For 2 years and 7 months.

COMMISSIONER FREEMAN. During the time that you were there, I would like an opinion from you as to the colleagues. How did the blacks and women, what was their perception of whether there was an opportunity for promotion or upward mobility at Sears?

MS. EASLEY. Well, when I was really exposed to the ones in my department, the majority of them, older women, but the younger women, the black women, they were trying to get out; but it seemed so every time they try and receive promotion or try and apply for a better job, they would be called into the office and told that their attendance was not good, or they have been late too much, or they weren't doing their work, they were talking on the phone; there was always some stall to keep them from obtaining a promotion, and they would ask, at least they have asked the personnel manager, "If my attendance was so bad and I was coming in late, why isn't it that it was brought to my attention before?" And they said, "Well, we just didn't feel that there was a reason to bring it to your attention before now."

COMMISSIONER FREEMAN. Are you saying that the insistence of the employee on something better resulted in some recrimination by the supervisor?

MS. EASLEY. Yes, I am.

COMMISSIONER FREEMAN. Mrs. Raggs, will you state what your opinion is and your experience in your position?

MS. RAGGS. Well, in our office, the only thing I can say is that we did have a promotion as far as a black lady is concerned because primarily that is all we have in our office. She was promoted through hard work, I suppose, and she went from a timeclock to checklist.

Now, there are a number of other girls in our office who, I believe, would like to go to a different department. As a matter of fact, I know they would like to go.

I have not really tried, basically, because I like my work. Although, I feel that I could be supervisor; if it was offered to me, I would take it. I feel that I can handle a job as a supervisor, but it has never been offered to me; and that is, as I say, other girls would like to know, and they have talked to the personnel representatives. I have not. I can only say what has happened to me, and what I have seen happen in our office.

COMMISSIONER FREEMAN. Miss Raggs and Mrs. Easley, is there—has there ever been any posting of any job classifications or any information given to you concerning any other job opportunities at the department where you work or at the Tower?

MS. EASLEY. No, there isn't. I even asked, you know, what was available. I asked to see the list, but I was never shown any. I was never really given any information.

COMMISSIONER FREEMAN. From whom did you seek the information?

MS. EASLEY. I seeked it from my manager; I seeked it from my division head; I seeked it from some personnel representatives, two of them.

COMMISSIONER FREEMAN. What was their reply?

MS. EASLEY. They really didn't give me any answer. There was no answer. It was very vague. I can't even remember what exactly it was that they said, but, well, maybe, "We don't have anything for you right now," or some type of thing like that. But they never really said what was available.

COMMISSIONER FREEMAN. Mrs. Raggs? What is your—

MS. RAGGS. I have never seen a list posted as to what would be available or anything like that. No one has ever come around to me. Now I can only say what is happening to me. No one has mentioned any job openings for me or I have never seen anything posted on the bulletin board.

COMMISSIONER FREEMAN. Do either of you know of any job classifications other than the positions of supervisor or buyer assistant in your department? Do you know of any other job classification in the office, if there are any other job positions, job titles?

MS. EASLEY. No, not other than typists and correspondent, no.

COMMISSIONER FREEMAN. And as far as you know, the only positions that are in the whole office are typists and correspondent?

Ms. EASLEY. That's right. And you need not even consider becoming a supervisor or division head in 157 because it is done by seniority. There are women who have been there 15 or 20 years and of course the younger women wouldn't be in line for that job.

COMMISSIONER FREEMAN. Are these women who have been there 15 and 20 years, have they all been promoted at—are they at the top position?

Ms. EASLEY. Yes.

COMMISSIONER FREEMAN. Are they at the top salary?

Ms. EASLEY. I don't know.

COMMISSIONER. Is there some secret about the salary?

Ms. EASLEY. Yes, there is. I remember when I first started there, I made the mistake, I committed the crime, of showing another girl my check because we started together. I can't even remember the reason I showed it to her. But I was severely reprimanded by the timekeeper and the manager because I did.

COMMISSIONER FREEMAN. Have you ever, during the time of your employment, either of you, become aware of the provisions of the Equal Pay Act?

Ms. EASLEY. No.

COMMISSIONER FREEMAN. Has it ever been discussed with you?

Ms. EASLEY. No.

COMMISSIONER FREEMAN. Thank you.

I have no further questions.

CHAIRMAN FLEMMING. Mr. Ruiz?

COMMISSIONER RUIZ. Mrs. Raggs, I believe you said you worked in department 383?

Ms. RAGGS. That is true.

COMMISSIONER RUIZ. And approximately how many women are there in that department? About 100?

Ms. RAGGS. Not now, now that many now. It might be maybe 60; I am not sure.

COMMISSIONER RUIZ. Thus it's, during the time that you have been there during the last 5 years, gone up to 100?

Ms. RAGGS. At one time, I believe we had about 100 girls, maybe a little more.

COMMISSIONER RUIZ. Now, how many Spanish-speaking women are there among this group of from 100 and slightly over 100 down to 60?

Ms. RAGGS. Well, in the past year, when I went there it was two. One has retired and now it's just only one that I know speaks Spanish.

COMMISSIONER RUIZ. One out of 60?

Ms. RAGGS. Right.

COMMISSIONER RUIZ. For the purposes of the record, according to the Census, the Spanish-surname-speaking population of Chicago is seven plus. No further questions.

CHAIRMAN FLEMMING. Mr. Buggs?

MR. BUGGS. No.

CHAIRMAN FLEMMING. Ms. Edwards, any further questions?

MR. GLICK. I have just one question for both of the witnesses, Mr. Chairman, that is with respect to have you had affirmative action interviews?

MS. EASLEY. No, I haven't.

MR. GLICK. Miss Raggs?

MS. RAGGS. No, I haven't.

MR. GLICK. Neither of you have been called for an interview for affirmative action issue?

MS. RAGGS. No.

MS. EASLEY. No.

MR. GLICK. Thank you, Mr. Chairman.

CHAIRMAN FLEMMING. Thank you very much.

Do you have more witnesses?

MR. GLICK. Yes.

CHAIRMAN FLEMMING. Okay.

MR. GLICK. Mr. Chairman, I would like to call the next witnesses, and they are Miss Era Mae Spell, Miss Carmen Souchet, and Miss Eva White. And Ms. Edwards will proceed with the questioning with your permission.

[Ms. Era Mae Spell, Ms. Carmen Souchet, and Ms. Eva White were sworn.]

**TESTIMONY OF ERA MAE SPELL, CARMEN SOUCHET, AND EVA WHITE,  
EMPLOYEES, SEARS, ROEBUCK AND CO., CHICAGO, ILL.**

MS. EDWARDS. These witnesses have requested that their pictures not be taken by the television crew that is here.

Would you please, starting with you, Mrs. Souchet, would you state for the record your name, address, and where you are employed, including the department that you work in?

MS. SOUCHET. My name is Carmen Souchet; I work for department 9.

MS. EDWARDS. Would you move the microphone, please?

MS. SOUCHET. My name is Carmen Souchet; I work for department 9. I have been working at Sears for 13 years.

MS. EDWARDS. And could you state for the record your address please? Your address, your home address?

MS. SOUCHET. 1715 North Richmond.

MS. EDWARDS. Thank you.

Ms. Spell, would you also state for the record your name, address, and what department you work in and how long you have been employed at Sears?

MS. SPELL. My name is Era Mae Spell. I live at 1754 South Hermitage. I have been working at Sears, Roebuck for around 7 years, in department 9.

MS. EDWARDS. Thank you.

Mrs. White, would you also state for the record the same thing?

Ms. WHITE. My name is Eva White. I live at 2149 West 72nd. I have been working at Sears for the last 8 years, and I work in department 97.

Ms. EDWARDS. Mrs. White, would you explain briefly how your department is made up—how many men, how many women, and what the racial composition is?

Ms. WHITE. Well, we have about 3 men—3 or 4 men—about 15 ladies, and it's about 10 percent black.

Ms. EDWARDS. About 10 percent black?

Ms. WHITE. Yes.

Ms. EDWARDS. Okay.

Mrs. Spell, would you also explain for your department, the composition, how many men, how many women, and the racial composition, please?

Ms. SPELL. My department, 9, it's about 10 percent black and—

Ms. EDWARDS. Are you and Mrs. Souchet in the same department? Mrs. Souchet, would you then try to give us an estimate of how many people and approximately their racial and sex composition?

Ms. SOUCHET. Well, white people is working, about 16 white people. The rest is about 40 or 50 colored people.

Ms. EDWARDS. Okay. And you're Puerto Rican, right?

Ms. SOUCHET. I am Puerto Rican—two Puerto Rican.

Ms. EDWARDS. Okay. Are there any other Spanish speaking besides the two Puerto Rican?

Ms. SOUCHET. Oh yes, one Mexican; three, one Mexican, two Puerto Rican.

Ms. EDWARDS. Okay.

Mrs. Souchet, let me continue questioning with you and pull the microphone closer so we can hear you. Okay, you have been employed at Sears and Roebuck for over 13 years, is that correct?

Ms. SOUCHET. Yes.

Ms. EDWARDS. Can you tell us briefly what position you applied for and what happened at the time of your application?

Ms. SOUCHET. Well, I'm inspector for 10, 11 years, and when I applied for a job, I needed a job right away; and they asked me, if I could wait, I would be placed in an office. But they didn't have no—I needed a job real bad and I took merchandise selector. And then 6 months later they promote me to inspector. I used to do a lot of bonus, that was the only place they promote me. I used to be able to be a good picker and used to make \$50 and \$60 bonus, and they promoted me to be inspector.

Ms. EDWARDS. Could you explain for us briefly what a picker is? I think it might be good to have that on the record.

Ms. SOUCHET. A merchandise selector is the one that pick the merchandise.

Ms. EDWARDS. Pick? You pick the merchandise from the bins and fill orders?

Ms. SOUCHET. From the bins and fill the order. They call that merchandise selector.

Ms. EDWARDS. Fine. And so for most of your employment at Sears, you have been an inspector?

Ms. SOUCHET. Correct.

Ms. EDWARDS. Could you briefly tell us what your efforts have been to get a promotion?

Ms. SOUCHET. I have been trying to get a promotion for a long time. I have been going to see the personnel man, but everytime I go I'm on a waiting line, and I am still waiting; they haven't asked me for any training school, any training.

Ms. EDWARDS. You mentioned the training school. Have you tried to get into a training school?

Ms. SOUCHER. Yes, I did, four times.

Ms. EDWARDS. Okay. My understanding is that for the last 7 years you have held a second job?

Ms. SOUCHET. Yes, as a manager for 7 years, I have been manager at Marshall Square theater, manager and cashier.

Ms. EDWARDS. So then, when you leave your regular job at Sears, you do have to go to a second job?

Ms. SOUCHET. Correct.

Ms. EDWARDS. Have you called to the attention of your supervisor or your manager the additional skills that you have acquired, that is, cashier?

Ms. SOUCHET. Yes, they know. It is not the manager, but, they know, the bosses, the supervisors, know and the manager on the floor know that I got an additional job and the other, in this field, plus the personnel man, too.

Ms. EDWARDS. What was your starting salary?

Ms. SOUCHET. \$1.25.

Ms. EDWARDS. Okay. What is your present salary?

Ms. SOUCHET. My present salary, right now, because they gave me a raise is \$3.90, starting today I am getting \$3.90, plus—

Ms. EDWARDS. Congratulations.

Ms. SOUCHET. —plus some other people they have less seniority, they are making a lot more money than I do.

Ms. EDWARDS. Okay. You earlier mentioned to me that you were interested in moving from the present job that you are in into a clerical position.

Ms. SOUCHET. Right.

Ms. EDWARDS. Could you tell us what your reasons are for that?

Ms. SOUCHET. Well, I would like to be more—I want to better myself, and I think I, you know, I don't have to be too much on my feet, and a lot of other things, you know, your clothes won't get dirty.

Ms. EDWARDS. Thank you very much.

Mrs. Spell, I would like to ask you a few questions also. You said that you have been at Sears for how many years?

Ms. SPELL. Seven.

Ms. EDWARDS. Could you tell us briefly if you had been promoted during that time.

Ms. SPELL. Well, during that time, I guess they consider that as a promotion, when they put me at the position that I am doing, but the position that I am doing, you back and forth, you don't do the same thing. I feel that if you had a position, you just only be doing the one thing that they give you this position for. But if you are going to be back and forth doing, you know, different work and stuff—

Ms. EDWARDS. What is the position that you supposedly fill now?

Ms. SPELL. As a heavy packer.

Ms. EDWARDS. You are a heavy packer?

Ms. SPELL. Yes, I am.

Ms. EDWARDS. Okay. And the other jobs that you occasionally have to do?

Ms. SPELL. Yes, they may, say, "Well, Miss Spell, I need you to pick 100 tickets." That is the merchandise selector. That is what is on the ticket; you have to go through the bin, pick the merchandise and put it on the truck, bring it back to the line.

Ms. EDWARDS. Okay. So that you do carry out several different functions, but you are paid to be—

Ms. SPELL. A heavy packer.

Ms. EDWARDS. Okay. Have you tried, you have got raises during your years of employment there?

Ms. SPELL. Yes, I have.

Ms. EDWARDS. But have you ever gotten a promotion or a change of job title?

Ms. SPELL. No, I haven't.

Ms. EDWARDS. Have you ever tried to get promotion?

Ms. SPELL. No, not really.

Ms. EDWARDS. Have you ever talked to your personnel representative about what your job is and what you would like to do?

Ms. SPELL. No.

Ms. EDWARDS. Have you ever talked to your supervisor or your manager about what your job is or what you would like to do?

Ms. SPELL. Well, I never talked to the manager. But I say I went to the supervisor once, and they always tell you, "Well, whatever we have open for you, we will give it to you." You can tell them what you want, and what you looking for, and they will tell you, "Well, whatever we have open, we will see about that," and they just go on and on and on.

Ms. EDWARDS. This is when you ask about other jobs that are available?

Ms. SPELL. Right.

Ms. EDWARDS. How do you hear about these jobs; are they posted?

Ms. SPELL. I don't hear about them; they don't post them; I don't see them.

Ms. EDWARDS. Okay. Are you doing essentially the same job that men in your current department are doing?

Ms. SPELL. Well not exactly, because the men's, most of their work, they put it in a box, a bigger box than what I put mine in.

Ms. EDWARDS. Would you explain, then, how many men there are in the heavy packing area where you work and how many women and—

Ms. SPELL. Well, the heavy packing, now in the department in the area where I am, there is no men in the area considered a heavy packer in the area what I am in; but in another area, on that same floor and in that same department, there are men on that side.

Ms. EDWARDS. And the difference between their job and yours?

Ms. SPELL. I don't know what they consider, you know, what is the difference. They may say it be the only thing—I see what they doing, theirs is a little heavier than what I am doing.

Ms. EDWARDS. Okay. And is the pay the same, do you know?

Ms. SPELL. I don't know.

Ms. EDWARDS. Okay. In your job, if you could just briefly describe what you do for us?

Ms. SPELL. Well, in my job that I do, is they bring the work to the line on a truck, I put whatever the merchandise could be, I may put it in a box or a bag, or carton, pack it, put it on the line, and it goes to another department.

Ms. EDWARDS. Okay. It is my understanding from talking to you earlier that you had wanted to be a clerical worker and you at one point had some typing skills?

Ms. SPELL. That's right.

Ms. EDWARDS. And my understanding is that you had talked with either someone in personnel or management about these skills, is that true?

Ms. SPELL. Well, not definitely, because when I first came to Sears, I was just, you know, just like a person needed a job, you would, you know, put down what you need, and they would tell you what is open, so whatever they had open, that is what I would accept.

Ms. EDWARDS. Did you put down that you could type at that time?

Ms. SPELL. For, my recall, I can't, I can't say whether I put it down or not, you know.

Ms. EDWARDS. Did you have occasion recently to talk about your typing skills or to mention it at all on the job interview that you went on there at Sears?

Ms. SPELL. Well, I went on an interview; but the interview I went on, it was very cold to me, because if you had a skill, you would have to been had some more of it—less time I say 2 weeks or 3 weeks, which the type of skill that I had, the typing that I had, I was then, you know, been off it quite a while. And they didn't tell me whether they were going to go by, you know, train you or get you up, have you prepare for this position that they wanted to give you.

Ms. EDWARDS. Could you explain how many other people went with you on the interview or who else was called for the interview?

Ms. SPELL. I think it was six.



Ms. EDWARDS. Six people? Do you remember what the job was that was available?

Ms. SPELL. It was in comptometry.

Ms. EDWARDS. It was in the field of comptometry?

Ms. SPELL. Comptometry.

Ms. EDWARDS. Comptometry? Okay. Were any of you offered that job or placed in that job?

Ms. SPELL. Well, they never came back to me and said that they would, you know, going to place you or not, so I don't know what happened because I didn't get no response.

Ms. EDWARDS. Okay, fine, thank you.

Mrs. White, could you tell us the promotions that you have had since you have been employed at Sears?

Ms. WHITE. Well, I started there working as a merchandise selector, and I worked for merchandise selector for about 7 years.

Ms. EDWARDS. Yes?

Ms. WHITE. So last year I got a promotion to a belt inspector, and I have been working as a belt inspector since last year in February.

Ms. EDWARDS. What was your starting salary and your present salary?

Ms. WHITE. My starting salary was \$1.50 an hour, and my present salary is \$3.90, now.

Ms. EDWARDS. Could you explain for the record what a belt selector or a belt inspector is?

Ms. WHITE. Well, this is where we have order fills, the girls, they are filling orders. I inspect the work to make sure that they have the right merchandise, the right color, the right quantity, and everything.

Ms. EDWARDS. Are men and women employed as belt inspectors?

Ms. WHITE. Not in the department I worked, only women. I am the only belt inspector in the department that I work.

Ms. EDWARDS. Is this your job constantly or are you required to do other kinds of jobs?

Ms. WHITE. I am required to do other things.

Ms. EDWARDS. Could you explain briefly?

Ms. WHITE. Yes. Well, sometimes I go in and they say, "Eva, we want you to pick tickets today." Well, this is merchandise selector; this is filling orders. I never know when they are going to tell me, you know, that I don't inspect, and I feel that this is what I am supposed to be doing. Why should I have to go out and pick tickets? If I have the classification of a belt inspector, why should I have to walk around and do tickets?

Ms. EDWARDS. Have you tried to get promoted out of the job of belt inspector?

Ms. WHITE. Yes, I have, because I really don't like it. I mean, because I can't say that I am going to inspect every day. Today I may be inspecting; tomorrow I may be doing tickets.

Ms. EDWARDS. Could you briefly explain what effort you made to get promoted and what the result was?

Ms. WHITE. Well, once I was on the belt inspector I had told them that I really didn't like it, for about 3 months. Then the manager came out one day and asked me would I like to be up for a promotion and I told him, yes, I would. So he told me to go to personnel and get my records and everything, and taking it back where I was supposed to be interviewed for assistant to the buyer. I went back and I, I had the interview and everything, but I never heard any more from it.

Ms. EDWARDS. Okay, that was in 1973?

Ms. WHITE. Yes.

Ms. EDWARDS. Have you made any other effort to get promoted since then?

Ms. WHITE. Yes, I was called for an interview by personnel representative. We were supposed to be interviewed for, I think it's for computer rooms, something concerning the computer room. Well, we went over, when we left our department we thought that we were going to be interviewed by someone else.

Then the person in, our representative, he talked to us; he explained to us what the job consists of and everything. He explained that there was three different shifts—we may have to start working nights, you know, because there was more people there that had more seniority than we did. So he went to see if the lady could interview us later, or man, I disremember who he was, he said the lady or man would, one was busy, that he would call us, you know, but we never heard from him.

Ms. EDWARDS. How long ago was that?

Ms. WHITE. This has been about, about 2 or 3 months ago.

Ms. EDWARDS. It is my understanding that you also expressed an interest in any job that might pay you more?

Ms. WHITE. Yes. One time I went to my personnel representative, and I told him that I would be interested in going out for security, 211. So while he gave me all the bad points, at first he started with, "Well, you have got to have a driver's license." And I said, "Well, this is no problem, you know." Then the next thing he wanted to know, to tell me about, "You have to protect Sears in case of a riot and everything." And I said, "I am still not afraid of it." I said, "Just put me down anyway." He said, "Okay, I will put you down anyway," but I never heard of that either.

Ms. EDWARDS. Do you know whether security people have been hired or employed since that day when you expressed that interest?

Ms. WHITE. No.

Ms. EDWARDS. What was that date when you expressed your interest in becoming a security officer?

Ms. WHITE. I think it was in April because, April or May, because they said they would be—I heard that they would be interviewing for this particular job in June, but I never heard any more from it.

Ms. EDWARDS. You and one of the other witnesses had mentioned that when you go in to talk about a job that is possibly available, there

is a good deal of explanation about the disadvantages or the problems of taking the job. Is that the usual thing that happens? Has it only happened to you or what?

Ms. WHITE. Well, I can't say. Well, I was—when I went in to see about security job—this is 211, like I said—I told myself that I were being discouraged not to take the job because he wanted to tell me about—well, you know—well, I wish I could understand this too—and he said, “You know, you have got to have a babysitter.” And I said, “Well, this is no problem with me.”

He said, “Well, you know you have got to be working weekends.” I said, “Still this is no problem.” He said, “Well, you sure your husband—you have to work with a lot of men, are you sure it would be okay with your husband?” I said, “Well, I don't have a husband; this is no problem.” He said, “Okay, well, I will put you down,” but I never heard from him.

Ms. EDWARDS. Okay, to each of you, could you briefly tell us if you have had an affirmative action interview or if you have been called by personnel representatives?

Ms. SOUCHET. I have never been called by personnel—well, I have been called, but mostly for whole year and a half, the personnel men, from the floor, was calling me, but everytime I went, I didn't have no result and I kept asking when I am going to get the job. Well, I don't know why he was interviewing me, all the time he was asking me, how was things on the floor, is true, you know, with the manager.

Ms. EDWARDS. I see. So it was not—was it to talk about your career development or where you wanted to go in Sears or what you thought you could do at Sears?

Ms. SOUCHET. Well, everytime he was calling me, I don't know what he really want me to talk to because I never have—I always ask him, you know, for the job, or, “I have you on a waiting list,” and the only thing he used to ask me was, “How is things on the floor?” “How is the manager treating you?” “How is the bosses treating you?” Because I have a lot of complaints, about the bosses.

Ms. EDWARDS. Okay, Mrs. Spell, could you briefly respond to that? Have you had an affirmative action interview?

Ms. SPELL. Not from personnel.

Ms. EDWARDS. Who have you had one from?

Ms. SPELL. Well, really and truly, I was interviewed at, about this different job, using the computer machine. I don't know what he was—he was just trying to place you for a job that maybe he had open at the time, you know, or for personnel representative.

Ms. EDWARDS. Okay, fine, Mrs. White?

Ms. WHITE. Well, yes, Mr. Nichols was, he called me in and—

Ms. EDWARDS. Is Mr. Nichols your personnel representative?

Ms. WHITE. He is one because he called me in at the time and told me that I were on the list for a promotion, in case, you know, something came up, and nothing came up yet.

Ms. EDWARDS. And what date was that?

Ms. WHITE. Looks like, it was in May. He called me and told me; I haven't [heard] since then.

Ms. EDWARDS. Okay. Did you fill out a survey form which said to you, "What would you like to be, a supervisor? Would you like to be checklist?"

Ms. WHITE. Yes, I did.

Ms. EDWARDS. And have you had an interview as a result of filling out that form?

Ms. WHITE. No, I haven't.

Ms. EDWARDS. Okay. Did you fill out such a form, Mrs. Spell?

Ms. SPELL. Yes, I think so.

Ms. EDWARDS. Did you say, "Yes, I would like to be promoted. I would like to be checklist"?

Ms. SPELL. Yes, I did.

Ms. EDWARDS. What about you, Mrs. Souchet?

Ms. SOUCHET. I think it is because I knew I wouldn't have no result; I won't be no promoted. That is what the reason because every year they would give us the paper to put what kind of job, what kind of school you been going to school, anything, and years ago I required that I put, IBM, typing, comptometry, and they never asked me to place me at a job where I could do comptometry or typing or anything like that. Since they didn't, all this year I been filling all these paper, and I never had no results; no, this year I didn't fill it in the paper, I didn't.

Ms. EDWARDS. Do you know whether most of the other people in your department filled it out?

Ms. SOUCHET. Some, not all.

Ms. EDWARDS. Do you have any--do you have any way of knowing how most of them felt?

Ms. SOUCHET. No, I don't.

Ms. EDWARDS. Okay. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Mr. Commissioner Ruiz?

COMMISSIONER RUIZ. Yes. Mrs. Souchet, I believe you stated the number of women in your department 29; how many were there?

Ms. SOUCHET. How many women we have are white?

COMMISSIONER RUIZ. No, all women?

Ms. SOUCHET. All women?

COMMISSIONER RUIZ. Approximately?

Ms. SOUCHET. Well, we have, I was given an amount of women and men, men and women approximately would be 25.

COMMISSIONER RUIZ. About 25? And is that department--

Ms. SOUCHET. Department 9.

COMMISSIONER RUIZ. Department 9?

Ms. SOUCHET. That is including the office and--I am putting the office too, you know, yes, the office we have on the floor.

COMMISSIONER RUIZ. And of those number of women you were the only one of Spanish-speaking background, excepting, I believe you stated, that there was a Mexican American of Spanish-speaking background?

Ms. SOUCHET. That's right, correct.

COMMISSIONER RUIZ. And do you know of anything that Sears and Roebuck has done to recruit the employment of Spanish-speaking personnel, women?

Ms. SOUCHET. They haven't done anything for Spanish speaking.

COMMISSIONER RUIZ. They haven't done anything?

Ms. SOUCHET. No, anything that I know.

COMMISSIONER RUIZ. You stated that you had not filled in an affirmative action form, but prior to that time, and that you were discouraged and did not do so. Had you talked to personnel representatives and requested some kind of training?

Ms. SOUCHET. Training, yes.

COMMISSIONER RUIZ. How long ago was that?

Ms. SOUCHET. About a year ago.

COMMISSIONER RUIZ. And have you received any response to that special training?

Ms. SOUCHET. No, I didn't; no, I didn't.

COMMISSIONER RUIZ. Have you spoken in the past to personnel representatives with respect to promotions?

Ms. SOUCHET. Well, this person, before personnel men, I never saw the other personnel man, in the office, and that main personnel man, I haven't seen him. Just the one on the floor.

COMMISSIONER RUIZ. And with respect to the men on the floor, have you told him in the past that you were interested in promotion?

Ms. SOUCHET. Yes, I did; yes, I did.

COMMISSIONER RUIZ. How long ago was that?

Ms. SOUCHET. Oh, I got tired—I've been there for over a year—no, about the last time had been about 3 months ago.

COMMISSIONER RUIZ. And there had been no results with respect to that personnel contact?

Ms. SOUCHET. No, and I used to go every month and ask for promotion.

COMMISSIONER RUIZ. Every month?

Ms. SOUCHET. Every month and I asked, and he keep telling me, I was waiting and waiting list for clerk, clerk.

COMMISSIONER RUIZ. Did you ever speak with respect to getting transferred out of that department?

Ms. SOUCHET. No, no, I didn't ask for a transfer; I just want promotion; that is all.

COMMISSIONER RUIZ. I see. And you have never been offered a promotion?

Ms. SOUCHET. They never did ask me.

COMMISSIONER RUIZ. Thank you.

COMMISSIONER FREEMAN. Mrs. Souchet, earlier you stated that there were employees who worked with you, who had less seniority, and received more money.

Ms. SOUCHET. Correct.

COMMISSIONER FREEMAN. Do these employees perform the same duties that you perform?

Ms. SOUCHET. Yes, they do the same kind of type of work I do.

COMMISSIONER FREEMAN. Well, who are these employees? Are they male and female?

Ms. SOUCHET. Female.

COMMISSIONER FREEMAN. They are female?

Ms. SOUCHET. And they make more money and plus I do, I think, I do more heavy work than they do. Their work is lighter than I do. The work that I do is heavier than what they do, the other inspector.

COMMISSIONER FREEMAN. Do you all have the same classification?

Ms. SOUCHET. We do.

COMMISSIONER FREEMAN. And you have greater seniority?

Ms. SOUCHET. Yes.

COMMISSIONER FREEMAN. And they receive more money?

Ms. SOUCHET. Correct.

COMMISSIONER FREEMAN. Have you raised any question about this to any of, to your supervisors, to the office manager or to the personnel or whoever it is?

Ms. SOUCHET. No, I didn't, because my pride was—I didn't, my pride was hurt and I didn't want nobody to know that I was making less money just because I was Spanish speaking.

COMMISSIONER FREEMAN. You believe that this discrepancy was just because you are Spanish speaking?

Ms. SOUCHET. This is the way I think.

COMMISSIONER FREEMAN. Are you aware that, if this is the case, this is illegal?

Ms. SOUCHET. This is what I think because the way I been going through.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Mr. Buggs?

MR. BUGGS. Just one or two questions. Ms. Souchet, how do you know you make less money?

Ms. SOUCHET. Because some other people show me their check.

MR. BUGGS. Thank you.

CHAIRMAN FLEMMING. Okay, Counsel or—Counsel have any further questions?

MR. GLICK. I have no further questions, Mr. Chairman.

CHAIRMAN FLEMMING. Okay.

Ms. Edwards?

Ms. EDWARDS. No, Mr. Chairman, I do not.

CHAIRMAN FLEMMING. Thank you very much.

The hearing will be in recess until 2:00 o'clock this afternoon.

**Thursday Afternoon Session, August 22, 1974**

COMMISSIONER FREEMAN. The hearing which will continue for the rest of this afternoon will be by a duly appointed subcommittee, and, as you can see, the Chairman is not here. It was necessary for the Chairman to return to Washington. The Commission has appointed a subcommittee to proceed.

Mr. Counsel, will you call the next witness?

MR. GLICK. Madam Chairman, the next witnesses were to have included in the group of Sears' representatives, Mr. Arthur Wood, chairman of the board and chief executive officer. However, Mr. Wood has been excused by the Commission, as you can recall, from appearing today. In addition, a Mr. William E. Hagenbuck was also subpoenaed to appear, but because he had prior commitments, the Commission excused Mr. Hagenbuck from appearing in response to the subpoena.

The witnesses who are appearing today on behalf of Sears, Roebuck and Company are Charles F. Bacon—and gentlemen, would you please come forward as you are called—Charles F. Bacon, vice president for personnel; Mr. Gene Harmon, the parent personnel director; Mr. William A. Holland, the parent timecard and nonexempt employee personnel manager; and Mr. George Thornton, the assistant personnel manager of the CMDC [catalog merchandise distribution center].

COMMISSIONER FREEMAN. Are all these witnesses appearing at the same time?

MR. GLICK. Yes, ma'am, these witnesses are appearing as a group.

COMMISSIONER FREEMAN. Well, could we make arrangements for them, seating for them?

MR. GLICK. I think it would be good if counsel could perhaps allow witnesses to sit at the table.

COMMISSIONER FREEMAN. Will the gentlemen who are the witnesses raise your right hands and be sworn?

[Mr. Charles F. Bacon, Mr. Gene Harmon, Mr. William A. Holland, and Mr. George Thornton were sworn.]

**TESTIMONY OF CHARLES F. BACON, VICE PRESIDENT FOR PERSONNEL; GENE HARMON, PARENT PERSONNEL DIRECTOR; WILLIAM A. HOLLAND, PARENT TIMECARD AND NONEXEMPT EMPLOYEE PERSONNEL MANAGER; AND GEORGE THORNTON, ASSISTANT PERSONNEL MANAGER, CATALOG MERCHANDISE DISTRIBUTION CENTER; SEARS, ROEBUCK AND CO., CHICAGO, ILL.**

COMMISSIONER FREEMAN. You may be seated.

MR. GLICK. Before the witnesses identify themselves for the record, Madam Chairman, I would like counsel, who are apparently accompanying them, to identify themselves for the record. Although they have, of course, appeared prior, previously; but they again should at this point be identified.

MR. COHEN. Counsel appearing for Sears on behalf of the witnesses are myself, Lawrence M. Cohen, and seated to my right, Mr. S. Richard Pincus, who are from the law firm of Fox and Grove, and on the left, Patricia Banks of Sears, Roebuck and Company.

MR. GLICK. Now, gentlemen, now would you each for the record identify yourselves by your names and business address?

MR. BACON. Charles F. Bacon, Sears Tower, Chicago.

MR. HARMON. Gene L. Harmon, Sears Tower, Chicago.

MR. THORNTON. George L. Thornton, Merchandise Distribution Center, Chicago.

MR. HOLLAND. William A. Holland, Sears Tower, Chicago.

MR. GLICK. Thank you.

I would like to begin the questioning with Mr. Bacon.

MR. COHEN. Excuse me, as we indicated to you before, Mr. Bacon has a prepared statement.

MR. GLICK. I was just about to ask him.

Mr. Bacon, I understand you have a statement that you prepared to present to the Commission at this time. I would hope that you would not occupy too much time with the prepared remarks because we do want to have an interchange of questions and answers.

MR. BACON. I understand, Mr. Glick.

COMMISSIONER FREEMAN. Does the witness have copies of the statement?

MR. COHEN. We have copies that are being prepared and we will have them for the Commission; we have made some changes during the noon hour because we had known what the testimony would be this morning and that it would be retyped. It will be available to you shortly.

MR. GLICK. Will you have it this afternoon? Will you proceed, Mr. Bacon?

MR. BACON. Yes.

We are appearing today in order to provide the Commission with Sears' response to the allegations against us this morning. By providing this information, we believe the Commission will be satisfied that the allegations are without merit. We have prepared a statement of Sears' response to these allegations, and with your permission I would like to read that response into the record. Following our response, the Sears representatives will be available to answer such further inquiries that the Commission or its staff may have.

Before I start, however, I would like to make a few general observations. After listening to the testimony this morning, which came from well-meaning and concerned employees who very frankly impressed me most favorably, there would be a great temptation for me and for my associates to be defensive or apologetic or respond to the particular allegations of these employees, who cannot be considered to be representative of over 200,000 female employees of Sears.



I need make, however, no apologies for what Sears as a company has done and is doing in the area of equal opportunity employment. As one Commissioner of the EEOC has publicly stated, Sears has "the best damn affirmative action program of any company in the country."

MR. GLICK. Could I just interrupt you to identify that member of the EEOC?

MR. BACON. Mr. Lewis, whose first name escapes me.

MR. GLICK. Colston?

MR. BACON. Colston, thank you. Our formal affirmative action plan goes back as far as 1968. At that time our chairman of the board spelled out in writing to all executives the company's positive stand with respect to the prompt reversal of any former practices which in any manner might have been prejudicial to women or minorities. From that time we have had a formalized affirmative action plan as a matter of substantial corporate policy.

Our chairman's clearly stated message was followed up on May 21, 1973, by an unprecedented meeting in Chicago called by the current chairman, Arthur M. Wood, at which the top 250 executives of Sears were in attendance. At this meeting, Chairman Wood, President Adeen Swift, my predecessor Wallace W. Tudor, personnel vice president, and many other senior officers of our company reaffirmed the company's commitment to equal opportunity.

The only matters discussed at this meeting were the employment, training, upgrading, equal pay, elimination of past bias, and total cooperation to the company's affirmative action program. As one of those executives sitting in that audience, I can assure that the statements made to us were not couched in the form of recommendations, requests for voluntary cooperation, or tongue-in-cheek oratory. They were direct orders.

The result is that there now is on the staff of each senior field executive, such as major group and zone managers, and the parent organization, a trained affirmative action director. We now have over 125 full-time executives—male, female, and minority—assigned full time to affirmative action, both in terms of equal opportunity and equal pay.

We are convinced we are the leader in affirmative action in our industry. Our current annual report contained detailed information which has been widely acclaimed as the most complete report of affirmative action of any major corporation in the United States. We take pride in this action and in the progress that is reflected therein.

I do not claim that we are satisfied that we have achieved all of our goals or that we haven't made mistakes. We are a company of over 400,000 employees, with over 50,000 officials and managers. It would be ridiculous to assume that someone hasn't goofed. Like the rest of America's society, we have our male and female chauvinists. And it necessitates a constant policing program, which we have.

Perhaps no amount of corporate action can guarantee that past prejudices can be completely removed. While we make every effort to change attitudes, our primary emphasis, therefore, is on behavior and results. We have made and will continue to make substantial progress.

Turning now to the general nature of the allegations made, I will first summarize the allegations made and then follow with our response.

(1) It is alleged that Sears maintains a segregated work force whereby its officials and managers are nearly all men, and its clerical and other lower-level workers are nearly all women, and that those few officials and managers who are female tend to be clerical supervisors.

Sears does not maintain a segregated work force at any of its facilities. To the extent that current imbalances exist within facilities or departments, either sexually or racially, affirmative measures have been made and are being taken to correct them, consistent with our ongoing affirmative action program.

At corporate headquarters, the Tower in Chicago, the percentage of women in checklist or executive positions who are officials and managers is 13.2 percent, which can be compared to the 10.8 percent as recently as 2/1/73. When professional positions are included, women fill 18 percent of executive positions at the Tower. It should be noted, in this respect, that our current efforts compare favorably with a national overall average of 10.9 percent as reflected in the seventh annual report of the EEOC. Sears is continuing its efforts to increase the presence of women in executive positions.

With respect to the allegation that female officials and managers are limited to clerical supervisors, this is similarly inaccurate. Of the 603 female executives at the Sears Tower, only 140 are supervisors of clerical employees, such as office managers and division heads. Three-fourths of them are in other executive positions.

(2) Then it is alleged that Sears refuses to promote women clericals to higher-level jobs held by men even though they are qualified for such positions. Specifically, it is alleged that Sears refuses to promote buyer's assistants to a higher-paying job of assistant buyer, despite the fact that the work performed by buyer's assistants and assistant buyers is assertedly similar.

Sears has made a sincere effort to promote qualified women clericals to higher-level jobs. For example, during the past 6-month period, 69.6 percent of all promotions of timecard employees to checklist jobs have been awarded to women. This represents 55 promotions out of a total of 79. Also, during the 14-month period, a total of 125 out of 180 executive positions were filled by women. In addition, 19 female employees formerly in clerical positions have been placed on our rotational management training program. Thirty others have been identified and scheduled to be enrolled in this program by the end of the year.

The assistant buyer and the buyer's assistant positions represent one of those areas which we are in the process of evaluating. These are two different jobs. The assistant buyer's position requires decisionmaking in the buying process, and traveling in order to maintain a relation with factories. The buyer's assistant positions, on the other hand, are basically intended to be clerical in nature, involving the collection of data used by the assistant buyer and buyer.

We have sometimes found, however, that buyer's assistants do not always perform identical tasks in the various departments. Recognizing this, we recently engaged the services of a professional job-evaluation firm for guidance.

Even before this, where we found that buyer's assistants were in fact engaged in the buying function, we have promoted them. It should also be noted that 45 current female executives have formerly held the position of buyer's assistant.

(3) It is alleged that Sears requires typing tests be taken by female job applicants, but not male applicants, even if they do not request a secretarial position.

A typing test is required only of applicants who are applying for a position requiring a typing skill. Applicants for administrative or technical positions, regardless of their sex, are not required to take a typing test. At Chicago catalog merchandise distribution center, the same is true. Typing tests are administered only in job areas utilizing typing skills.

Sears' interviewers are under instructions to refrain from requiring a typing test of those applicants who are not interested in typing positions. Their instructions are to ask both males and females if they have typing skills. If the answer is yes, the interviewer is then instructed to inquire if the applicant is interested in a typing position. If such interest is expressed, a typing test is then administered.

There have been occasions when typing tests are given to applicants who did not initially express an interest in typing, a typing position. For example, if an applicant applies for a technical or administrative position, and there is none available, he or she may express a desire for a clerical job, in which case the typing test would be administered.

At neither the Tower or Chicago catalog merchandise distribution center are applicants who possess typing skills channeled to lower-paying jobs involving such skills if the applicant indicates a preference for another job which may be available.

(4) It is alleged that Sears conceals job opportunities by not posting job openings.

It is true Sears does not post its job openings. Sears, instead, uses a more informal and, we believe, equally effective means for identifying interested and qualified employees to fill available openings. Instead of waiting until the job opens, we try to anticipate these needs through an ongoing process of searching out potential candidates for future openings.

Sears' supervisors periodically meet with each of their employees to review and evaluate employee job performance, and, in the course of these interviews, supervisors are expected to elicit the employee's intermediate and long-range career goals. The employees interested in promotion or transfers are carefully noted and, as openings develop, are used as the primary source for identifying employees interested in promotions to those positions. Promotable employees are then later called in for an indepth discussion of the available opening and are advised at that time of the duties, pay, training provided for the job.

In order to ensure that we are meeting our affirmative action commitments, we have supplemented these procedures by providing all timecard employees, including women and minority employees, with an affirmative action questionnaire. As part of this program, which was initiated in 1972 and implemented nationally in 1973, employees were individually interviewed and appraised of the future positions to which he or she might aspire.

The balance of these interviews will be completed in the next 30 days. As jobs openings develop these questionnaires are being and will be used to identify promotable candidates.

We will not and have not followed seniority. This system, as opposed to job posting, has been invaluable in allowing us to *direct* the placement of women and minorities into higher positions.

(5) It is alleged that Sears conducts affirmative action interviews in a casual and nonspecific manner, thereby indicating an insincere effort to reduce the sex segregation among its work force.

The affirmative action interviews being conducted are intended to identify promotable employees, with particular emphasis on female and minority employees. At the present time, at the Tower, approximately 92 percent of all timecard employees who have requested an interview or expressed a desire to get ahead, who have been on payroll for 32 weeks or more, have completed their initial interviews. This initial interview is conducted by the employee's supervisor, to discuss career aspirations.

Because a specific job may not be available at the time of the interview, or the interviewee may not have yet identified a specific job interest, the interview is necessarily nonspecific at that time. Indeed, the objective of these interviews is to identify employee interests, ambitions, and career directions so that guidance can be provided in achieving these goals.

Management commitment to the affirmative goals underlying this program are clearly communicated to the interviewers by top management officials; and, while we have no way of knowing whether every interviewer complied with these directives, we are nonetheless convinced that interviews have and will continue to be a useful addition to our overall affirmative action program.

(6) It is alleged that Sears does not do enough to combat sexist attitudes held by its male officials and managers.

The persons or groups making this allegation are simply not aware of Sears' ongoing program to combat existing stereotyped attitudes regarding women in employment. Examples of these efforts include:

(A) The managing change conference, a week-long, human-relations, awareness course, continuously conducted for Sears' senior management personnel from parent and across the country. Specific elements of this training program are addressed to the subject of sexist attitudes and the need to alter ingrained, stereotyped notions about the kinds of jobs women should hold.

(B) Management in action, a 4-day version of the managing change conference designed for middle-management employees, having a similar awareness-training purpose.

(C) Women's Incorporated, a Chicago-based organization, retained by Sears to conduct training programs for senior corporate management to uncover and correct negative attitudes regarding women in the workplace. The first of these sessions was recently concluded and another scheduled for October.

(D) The corporate-wide affirmative action meeting to which I have already referred, conducted on May 21, 1973, by our chairman, Mr. Arthur M. Wood. And at that same meeting, the movie "51 percent" was shown, to further sensitize the attending executives on the need to overcome any existing sexist or stereotyped attitudes. This movie has also been used in various Sears units throughout the country.

Employee publications—Sears also utilizes its employees' publications, *Parent News* and our territorial newspapers, to help reverse the sexist attitudes of all of its employees. One illustration of this is provided in the feature article, "Fracturing a Fairy Tale," which appears in the March 1974 issue of *Parent News*, a copy of which I believe the Commission has.

While we recognize the need to change attitudes and believe we are doing our share in this regard, our principal emphasis, as I stated before, has been on the more significant goal of changing behavior. The most effective way we have found to accomplish this is by taking concrete affirmative steps to upgrade and promote women into formerly traditional male positions.

This concludes our response to the summary allegations which have been made against Sears. I would like, however, to make several additional observations. The problems that this Commission is investigating are deeply rooted in the whole fabric of American society. The place of the women in society is not only a product of the American business system, but of our schools, our churches, our social clubs, the Government, labor unions as well.

All of these groups share responsibility, and Sears accepts its fair measure of that responsibility. We have already made, in our opinion, considerable progress addressing that responsibility. Our efforts are, of course, continuing. They are a part of our affirmative action pro-

gram, and we believe it, coupled with our affirmative action, equal pay program, and other programs demonstrate a sincere commitment by Sears to the goal and the spirit of equal opportunity employment.

Thank you.

MR. GLICK. We will have copies of your statement for the record?

MR. BACON. Yes.

MR. GLICK. Madam Chairman, with your permission, I would like to introduce that copy, when it is received from Mr. Cohen, for the record.

COMMISSIONER FREEMAN. Will be received.

MR. GLICK. Thank you.

Mr. Bacon, I have just a few questions I would like to ask you. You indicated that the first affirmative action plan created by Sears was in 1968, and I assume that it was submitted to EEOC in the same year?

MR. BACON. I said the first formal, first formal, yes, sir.

MR. GLICK. So that is 6 years ago Sears formed its first plan. Now, obviously, it formed this plan in response to the law, but it also clearly had some desire to bring about some change.

I would like to try to establish what steps have been taken in the company's operational policies to bring about the changes that the affirmative action plan provides with. For example, I would expect that the chairman of the board, the chief executive officer, is ultimately responsible for the affirmative action plan as it is throughout corporation operations. But who below him is the most senior officer responsible in the line way, with line authority for carrying out the affirmative action plan?

MR. BACON. Well, of course, if-it is a direct responsibility of my own, as well as each of the five territorial vice presidents, who are in charge of the five geographical areas of our company.

MR. GLICK. But obviously your responsibility extends far beyond the affirmative action program?

MR. BACON. That's correct.

MR. GLICK. So, can you tell me who is the most senior person who reports to you who is responsible solely for the affirmative action plan?

MR. BACON. Mr. Raymond Graham, who is in this room.

MR. GLICK. Mr. Graham?

MR. BACON. Yes.

MR. GLICK. And he is responsible corporate-wide or he is responsible for the Tower Chicago facility?

MR. BACON. He is responsible corporate-wide. He serves on the task force which in Sears for affirmative action is headed up by the president, Mr. Adeen Swift.

MR. GLICK. I see. But for line operations, Mr. Graham reports to you?

MR. BACON. Yes, sir.

MR. GLICK. And is the title, is affirmative action-

MR. BACON. Director.

MR. GLICK. Director? I see.

Now, kind of skipping around a little bit, in trying to pick up on some of the information in your statement, you indicated that there are 45, there are now 45 former buyer's assistants who are now holding executive positions?

MR. BACON. That's right, sir.

MR. GLICK. Can you give me some kind of idea of what kind of positions they are holding?

MR. BACON. I will ask Mr. Harmon, if I may, to answer that question.

MR. GLICK. Yes, please.

MR. BACON. Mr. Harmon?

MR. HARMON. It is quite a wide scope. I even have a printout here but, without looking at it, buyers, merchandise analysts, merchandise, excuse me, marketing research analyst, computer programmers, pretty well—

MR. GLICK. Can you give me an idea of how many of them are computer programmers?

MR. HARMON. I can tell you exactly, I think.

MR. GLICK. I appreciate it.

MR. HARMON. I have it back in my briefcase.

MR. GLICK. Well, this is a statistic that I am very much interested in.

MR. HARMON. It is back on the seat there, I guessed wrong at what you might ask. I have to count them. There are three.

MR. GLICK. Three of them are computer programmers?

MR. HARMON. Yes.

MR. GLICK. And so there are buyers, merchandise people, etc.?

MR. HARMON. Catalog order, sales managers, assistant retail sales managers, assistant comptroller, office managers, retail assistants, and then the general term called "staff assistant" that could be a great number of different jobs.

MR. GLICK. Okay, thanks very much, Mr. Harmon. Now, in carrying out the affirmative action responsibilities, I assume that Mr. Graham has a number of executives that report to him?

MR. BACON. Yes, sir, he does.

MR. GLICK. Are they regionalized or how is that?

MR. BACON. Well, the 125 people working full time that I referred you on this program have, in a sense, a dual reporting responsibility. They report in the field to the group's own manager, if they are assigned to a group of his own; they report to the territorial vice president, if they are assigned to a territorial office, but they also have a dotted line, so to speak, reporting relationship to Mr. Graham and to myself.

MR. GLICK. I see. And who would be responsible to Mr. Graham for the Sears Tower and the CMDC affirmative action plan implementation?

MR. BACON. That would be Chuck Powers, yes.

MR. GLICK. Someone who reports directly to Mr. Graham?

MR. BACON. He is in the room, if you would like to have him—he reports to Mr. Harmon, and has a dotted line responsibility to Mr. Graham. He could identify himself, if you would like. He is in the room.

MR. GLICK. Well, I think I would like him to because I would like to try establish whether, where the responsibility lies for carrying out the affirmative action plan.

MR. BACON. Are you here, Chuck?

MR. GLICK. If it would be possible, I would like to, Madam Chairman, I would like to swear the gentleman and ask him some questions.

COMMISSIONER FREEMAN. The witness, if the witness is available for testimony, would you come and identify yourself and be sworn?

MR. COHEN. Mr. Glick, I have no objection to you interrogating Mr. Powers. I might indicate that he reports to Mr. Harmon. You might prefer to direct your questions to Mr. Harmon; if he can't answer them, then in turn direct them to Mr. Powers, or direct them to whoever is in charge.

COMMISSIONER FREEMAN. In any event, counsel, we would need to have a person who is going to be giving testimony, he would have to be sworn.

MR. COHEN. It is our plan to have these gentlemen give the testimony. If the Commission wishes to inquire of other people, or there is a need to have other witnesses, well, of course, we would have them be sworn in.

MR. GLICK. I don't want to make an issue out of it, Mr. Cohen, but I would just like to ask a few questions of the gentleman who has the direct line responsibility and then I will come back to Mr. Harmon.

MR. COHEN. I think they ought to be asked of Mr. Harmon, if you don't mind. He is the one who has the direct responsibility of the Sears Tower.

MR. GLICK. Well, then, Mr. Bacon suggested that the gentleman that is standing has a line responsibility. So, I am a little bit confused.

MR. BACON. Larry, I have no objection in having Chuck answer any questions. I think Mr. Harmon certainly should speak to it because he is Chuck's boss, but I don't think—

COMMISSIONER FREEMAN. If there is no objection, and if you are going to be a witness, will you raise your hand?

[Mr. Charles Powers was sworn.]

**TESTIMONY OF CHARLES POWERS, AFFIRMATIVE ACTION COORDINATOR  
FOR SEARS TOWER, SEARS, ROEBUCK AND CO., CHICAGO, ILL.**

MR. GLICK. I am sorry, I did not get your complete name. Will you identify yourself for the record, please?

MR. POWERS. Charles Powers.

MR. GLICK. And can you give us your title as an employee of Sears, Roebuck and Company?

MR. POWERS. Affirmative action coordinator for Sears Tower.



MR. GLICK. Affirmative action coordinator for Sears Tower? Can you give me an idea of how you go about on a day-to-day basis in carrying out your affirmative action responsibilities as coordinator?

MR. POWERS. Well, as coordinator, I coordinate the affirmative action plan for the Sears Tower through my boss, Mr. Harmon, through the other personnel managers and the personnel reps of the Sears Tower.

Myself and Larry Mozer, we develop plans, we develop ideas and ways in which we can identify and promote minorities and females.

MR. GLICK. Do you have any kind of authority with respect to recruitment of new employees?

MR. POWERS. Well, I coordinate with Larry Mozer, who does the recruiting.

MR. GLICK. I see. Do you have any kind of authority, line authority or advisory authority, with respect to promotions?

MR. POWERS. Well, that is, here again, that is coordinated all in our office. I do the coordinating for all the people responsible for the promotions and the recruiting.

MR. GLICK. Do they, these persons who are responsible for promotions and recruiting, are they required to run things past you before they make final decisions? In other words, have they some kind of goals and timetables?

MR. POWERS. Yes, they do.

MR. GLICK. And do they have to check these through your office or report to you periodically?

MR. POWERS. Yes, they do.

MR. GLICK. And how often does a department or division report to you, every time a promotion—or is it a 6-month basis, yearly basis?

MR. POWERS. Well, I keep track of things at least on a monthly basis.

COMMISSIONER FREEMAN. How long have you been in your position, Mr. Powers?

MR. POWERS. Since November of '73.

COMMISSIONER FREEMAN. About 8 months?

MR. POWERS. That's correct.

MR. GLICK. And you report to Mr. Harmon, who is the personnel director for the Tower?

MR. POWERS. Yes.

MR. GLICK. Okay, thanks very much; that is all I wanted to ask you.

Mr. Bacon, you indicated that the company doesn't post position openings because it feels that persons who are eligible for promotion are—someday might be qualified for a promotion—are identified by their supervisors. Do you think there might be some possibility of abuse of this system because of favoritism, personal likes and dislikes, personal prejudices, and things of that nature?

MR. BACON. I think, if we relied directly on, exclusively on the supervisor, that would be a very specific and definite risk and for that reason we do not rely entirely on the department supervisor.

MR. GLICK. What other factors?

MR. BACON. Personnel department representative, for which each department has one assigned, is a party to these decisions, and the office managers as a party of these decisions. There are at least three people involved in each of these. Mr. Harmon might amplify further because he is the one that actually handles that.

MR. HARMON. I agree with that.

MR. GLICK. Okay. Well, I did then want to go to Mr. Harmon and ask him a few questions. Mr. Harmon, statistics indicated, that were recited by Mr. Bacon in his statement, indicated 13.2—I don't have them in front of me, since I didn't get a copy of the statement—13.2 percent of the executives at the Tower are women?

MR. HARMON. 13.2 percent of the officials and managers, which are the categories that the EEOC requires. Under our executive designation, there are 18 percent. That is the checklist population.

MR. GLICK. Checklist population?

MR. HARMON. When you add professionals to it, who are also executives, it goes up to 18 percent.

MR. GLICK. Professionals would be in the legal category or—

MR. HARMON. Yes, legal, taxes, right.

MR. GLICK. Technicians and what-have-you?

MR. HARMON. Right.

MR. GLICK. How many, how many women is that? This is 13.2. Can you give me a number figure?

MR. HARMON. There is 405 officials and managers at 13.2. The 18 percent represents 603 executives.

MR. GLICK. I see. Now, this was in, a gross [increase] in women executives—I think Mr. Bacon indicates some statistics, but again I don't have them in front of me—since 1973, I think your figure was?

MR. BACON. Yes, sir, February 1973. It grew 10.8 percent to 13.2 percent.

MR. GLICK. I see. What is the goal or is there a goal of officials and managers for Tower facilities?

MR. HARMON. Our goal isn't expressed as officials and managers; it is expressed as female executives and includes professionals, and that goes back to 18 percent that I told you about.

MR. GLICK. Yes.

MR. HARMON. We have set the long-range goal, that are numbers of women that are in the executive ranks should be 38 percent.

MR. GLICK. Thirty-eight percent?

MR. HARMON. Yes.

MR. GLICK. That is the goal?

MR. HARMON. That is a long-range goal. Then we also have intermediate goals that we set.

MR. GLICK. When do you expect to reach that?

MR. HARMON. Our intermediate goal that we set for 1978 is, I believe, 25.8 percent, it is 25 percent and a fraction.

MR. GLICK. I see. And what percentage of the employees at the Tower are women?

MR. HARMON. Altogether, just a little over 50 percent.

MR. GLICK. I see. And your short-range or your intermediate-range goal for women in the executives is 25?

MR. HARMON. Yes. We have taken into account the fact that we must have the job openings, there will be attrition. In order to reach that 25.8 percent by 1978, we will have to add an additional 500 women executives, and a lot of that will have to depend upon requirements, some of it on job expansion. We have taken a realistic view of it.

MR. GLICK. And when will you expect to have reached that 38 percent, your long-range goal?

MR. HARMON. We will assess that when we get to our 25.8 percent. It really is not set as a definite point in time.

MR. GLICK. We heard some testimony this morning from some employees of the company, some clerical employees—which, of course, you were here and heard—and I kind of got the impression that the clerical employees ran up against a stone wall when they tried to make inquiries about how to move forward in careers and these are basically young people who are talking that have a long work life ahead of them. They seem to indicate that they couldn't get information, have some difficulty in getting information, were not encouraged in attempting to get out of the clerical positions, and I am just wondering now, what kinds of measures ought a person in that situation take? What would you suggest? Training programs? Things of this nature?

MR. HARMON. If you don't mind, Mr. Holland, who has responsibility for clerical population and in charge of their training, is here. May I refer that to him?

MR. GLICK. Certainly, I would appreciate, Mr. Holland, if you could respond.

MR. HOLLAND. Well, I was pleased to know that they had made contact with their supervisors in their departments, with their office managers, and for the most part with the personnel department. And I would hope this kind of face-to-face contact continues because, obviously, we have to be aware of these interests, these career aspirations. And I would hope that those who are ready to be promoted and who merit promotion and consideration for advancement will receive it, although certainly it can't be guaranteed.

MR. GLICK. But, if there isn't anything more than a hope, how can persons who are perhaps not necessarily favored by having a friend or having information made available to them through a grapevine that certain jobs are available, how can this come to their attention? What can they do?

MR. HOLLAND. Well, we don't, we don't think that who you know or friendship in one department or another is any criteria for advancement at Sears. I think certainly these employees must be made aware

of opportunities that exist and in some cases attempt to prepare themselves for it. And I think our affirmative action program and the interviewing that takes place helps to do that.

MR. BACON. Could I also add to that, Mr. Glick?

MR. GLICK. Certainly.

MR. BACON. There is no way a company the size of Sears could exist or can hope to grow unless they are constantly seeking qualified people on its payroll, since we promote from within. We do not go outside for executive positions. Unless we constantly are striving to identify promotable people, the company would have gone down the drain years ago, so that this is not an hollow program, it is the lifeblood, the very existence, of our business. We must do it to survive, and I think we do it well.

Now, you must recognize, and I know that you do, that not everybody that wants to be promoted is qualified to be promoted.

MR. GLICK. Yes.

MR. BACON. These are evaluations that must be made. We try to make them intelligently because it is the lifeblood of our business, and we couldn't exist without it. So that it is true that many people ask for promotions that are not promoted. But, if we didn't continue to search diligently to find them, our company would have long since have gone down the drain.

COMMISSIONER FREEMAN. Mr. Harmon, this Commission has been concerned with the pattern and practice that tends to exclude women and minorities. It is quite possible and many companies have developed over the years, and they have become very large. They are white only; they are male only; but this is not, and it is the reason why we are here, what we would like to try to get to is what the company is doing in terms of getting its employees to know what opportunities are available to them, how they can be trained, what kind of inservice training is available to them as individuals.

MR. BACON. May I give, Commissioner, may I give you just a couple of figures which I think will indicate the seriousness and the purpose of our mission here.

We do a great deal, as all big companies do, of recruiting on college campuses each year to hire management trainees, people that are equipped to become executives in our company. Last year, of all the college trainees we hired, only 35 percent of them were white males. Of our total college recruitment hired, 34 percent were white males, 34 percent were white females, 15 percent were minority females, and 17 percent were minority males.

COMMISSIONER RUIZ. How many were Spanish surnamed?

MR. BACON. I am sorry, sir, I do not have that figure handy--

COMMISSIONER FREEMAN. Of the 400,000 employees that you have--

MR. BACON. --I include all minorities under the minority figure.

COMMISSIONER FREEMAN. Of the 400,000 employees that you have--

MR. BACON. Yes, ma'am?

COMMISSIONER FREEMAN. How many are white males?

MR. BACON. I can't answer that, I don't know. I guess it would be in our annual report figures, which I probably have here.

MR. COHEN. That was part of our statement of position. I think it is appendix C of the statement of position—that is the breakdown of our annual report.

COMMISSIONER FREEMAN. Do you have it?

MR. COHEN. It is a statement that we submitted to the Commission.

MR. BACON. About 40 percent of our total company are white males.

COMMISSIONER FREEMAN. And the managers and officials, what percentage?

MR. BACON. Officials and managers, 72.4 percent. I am reading from the annual report.

MR. HOLLAND. These are all males.

MR. BACON. 27.6 are females.

COMMISSIONER FREEMAN. Professionals?

MR. BACON. Professionals—do you want males first?

COMMISSIONER FREEMAN. Males.

MR. BACON. 51.3 percent; females, 48.7. So that our, our college recruits last year, 49 percent of them were females, either white or minority, and 51 percent were males, white or minority—only 34 percent white males.

MR. GLICK. Mr. Bacon, what kind of positions do the college recruits that you refer to go into?

MR. BACON. They go on a rotational program in the retail store which generally runs somewhere between 8 months and a year, and in which they rotate through all of the jobs in the store.

MR. GLICK. And these are persons who are selected because they are college graduates to go into this?

MR. BACON. We recruit on the college campuses because that is a source of numbers of people that have talents that we are looking for, yes.

MR. GLICK. It was suggested this morning, at the time that the response to the subpoena *duces tecum* was made, I believe, that there are no educational requirements for any particular job at Sears, Roebuck and Company.

MR. BACON. That is a correct statement, stated in the personnel manual. But, since we are looking for management trainees, and the largest source of persons that appear to have the kind of background educationally and professionally that we are looking for all happen to be located on the college campuses, that is where we concentrate our efforts. It is the most economic way to do it; it is the practice of American industry, government, the armed services, labor unions—they all do it.

MR. GLICK. I understand. But education attainment is not a requirement for jobs. It would appear to me that it might be possible to look within the company as you indicated, that promotion from within—

MR. BACON. We do, we do. And only some 35 percent of our promotions last year came from the former ranks of the college training program people.

MR. GLICK. I see. Now, there is just one last question that I would like to ask at this time, Mr. Bacon, and that is, how would you explain or suggest the difference in racial characteristics of the working population at the Tower and at the CMDC? There is a difference; I believe the minority figure for the Tower is 34 percent. I thought I heard—I'm not sure—I think that was given this morning when the statistics were stated.

MR. BACON. I don't recall. I recall the statement 25 percent; believe the clericals were minority, and some 50 percent of the clericals at the CMDC were minorities.

MR. GLICK. Well, then, perhaps I am asking the wrong witness; maybe I should be asking Mr. Harmon.

First, can you give us a racial breakdown for the Tower and for CMDC in terms of total employees?

MR. HARMON. Total employees?

MR. GLICK. Yes, sir.

MR. HARMON. All employees?

MR. GLICK. By percentage.

MR. HARMON. I would have to do a little research here and ask some questions. We had been prepared to talk about clericals. I have that picture. The total—59 percent of our employees at the catalog order plant are minority.

Chuck, do you have the breakdown at the Tower? Around 25 percent, or maybe 1 percent one way or the other. And I recall the list, the last report was 24.7 or something of that nature.

MR. GLICK. Well, let's call it 25 percent.

MR. HARMON. All right.

MR. GLICK. Do you have a breakdown of that 25 percent by timecard, checklist?

MR. HARMON. No, I don't. I quite frankly had come prepared to talk about females in employment.

MR. GLICK. I see. And I would assume that you don't have a breakdown similar?

MR. HARMON. I can get that for you very quickly and I would suspect that Chuck Powers might have it.

MR. COHEN. Mr. Glick, if I could interrupt now, I think the areas that you are inquiring into are the areas covered in terms 7 through 10 of the subpoena and specifically involve the petitions that we had filed with the Commission in that respect, so I would object insofar as you are going into the figures that are contained in the document in items 7 through 10.

MR. GLICK. Well, I wasn't really playing games, Mr. Cohen; I hope you appreciate that; but I thought that this information was something that was not a matter—that was covered by, or if covered by, was not

the percentage figures, or not something that you objected to, because part of the items in 7 through 10, as I understand, you were going to produce, and I thought this was going to be included within that.

MR. COHEN. We have produced all the materials that we referred to, that we agreed to produce; all of the materials we haven't produced are covered by our petition.

MR. GLICK. I understand, well, I thought—but I thought, let's not—

COMMISSIONER FREEMAN. Well, counsel, in the statement that Mr. Bacon just made, he referred to the fact that an EEO Commissioner had made a judgment that the affirmative action plan of Sears was the best plan ever of Sears; and, if that was a voluntary statement by Mr. Bacon, we would be intrigued to know how that judgment could be made without any information concerning the organizational plan, without the organizational structure, or without the categories.

MR. COHEN. Commissioner, if I could just answer your question.

We have always agreed and always indicated our willingness to provide the Commission with any figures it wants to have to evaluate anything that is within the scope of its power. We have only objected to giving the Commission figures which we think can be made a matter of public record; the public record position is what we have objected to. If the Commission wants to have the figures to look over and verify whether the Commissioner Powell's statement was correct, I'd like the record to so show.

COMMISSIONER FREEMAN. It was not Commissioner Powell; it was Commissioner Lewis.

MR. COHEN. Excuse me. We are certainly willing to provide that information to the Commission.

COMMISSIONER RUIZ. Is it your contention that ethnic differentiation is a trade secret?

MR. BACON. May I answer that? I know that Mr. Cohen can make many more persuasive legal arguments, but there is a great competitive market.

COMMISSIONER RUIZ. For ethnic minorities?

MR. BACON. For ethnic minorities today. I believe this is no secret to anyone, and we frankly have some outstanding minority employees that we would just as soon not have our competition know where they are located, and what they are doing, and have them steal from us at any price.

Now, we have been raided in the past by other organizations because they recognize we had talent, and we have some outstanding females and minority executives on our payroll today, and we're not anxious to advertise their whereabouts or their positions to our competitors, so they can steal them away from us. We would like to steal a few from them, if we could.

COMMISSIONER RUIZ. Of these top 250 executives that were in attendance, and senior officers, committed to equal opportunity, that met for purposes of stating your policy, 250 executives, can you tell

me how many Spanish-surnamed executives were in that list of 250, sir? Is that a trade secret?

MR. BACON. I can't tell you how many; I can tell you that there were some there, including one of our officers.

COMMISSIONER RUIZ. Well, would you say there were more than five?

MR. BACON. I can't answer that. I don't know all 250 people that were there. I suspect that there would have been more than five; there are a great many minority employees, a great many females there.

COMMISSIONER RUIZ. And if you told the identity of these five persons, just as an exception, to some other company, you mean they would come in and try to recruit them and pay more than you are paying them?

MR. BACON. I think that is a very real danger. Montgomery Ward and others have done that many times in the past, and I admit that we have done a certain amount of it on occasion, for certain people and professional aspects, since we do not recruit from the outside for other jobs.

COMMISSIONER RUIZ. Now, these witnesses that testified this morning, in your statement that they weren't representative of 200,000 females that are employed throughout the United States, is it your contention that there are 200,000 females employed throughout the United States that have had college training, such as these people who are on the witness stand?

MR. BACON. Of course not, Commissioner. No, sir, and I don't believe all these women indicated they had college training either.

COMMISSIONER RUIZ. I think the majority of them did, and the record will substantiate whether you are correct or not. They specified special training, if my recollection is correct. Then it is your contention that by exposing the ethnic background of your employees, that you would be giving away a trade secret; is that correct?

MR. BACON. Among other things, yes, sir.

COMMISSIONER RUIZ. What are the other things?

MR. COHEN. I think our position in that respect is spelled out in the petition that we submitted to the Commission this morning, and I think that suffices for our legal position, and I would like that to stand on the record.

COMMISSIONER RUIZ. And that is the one that we agreed to take under advisement?

MR. COHEN. That's correct, that's correct.

COMMISSIONER RUIZ. What is difficult here is that the testimony is coming out, and there is also a complement to what comes out and, of course, it is difficult to separate; and I wanted to clear up this particular item, and, if it is within the advisement matter, I will cease at this juncture.

COMMISSIONER FREEMAN. Miss Kummerfeld?



MS. KUMMERFELD. Mr. Bacon, I have just a few questions based on your opening statement. I was unclear about the figures that you were giving, I believe in response to the notion that a substantial proportion of the females who are classified as officials and managers, to the allegation that a substantial proportion of those were, in fact, supervisory clerical personnel. Now, my understanding of your figures is that 140 women who are classified as officials and managers are, in fact, clerical supervisors; is that correct?

MR. BACON. Well, you have reversed the term. They are supervisors of clerical employees, that would, office managers and people who have executive responsibility, yes.

MS. KUMMERFELD. And that 402 women are classified as officials and managers? Not lumped in a category with professionals?

MR. BACON. 405.

MS. KUMMERFELD. 405. So that would mean that approximately 35 percent of all women who are classified as officials and managers are, in fact, supervisors of clerical personnel and office managers?

MR. BACON. Perhaps your math—you are applying to the 405?

MS. KUMMERFELD. That's correct.

MR. BACON. Yes, it's about a third, yes, ma'am.

MS. KUMMERFELD. Was I correct in understanding you to say that all persons who were applicants for jobs at Sears were routinely asked whether they had typing ability?

MR. HOLLAND. May I respond to that?

MS. KUMMERFELD. Yes.

MR. HOLLAND. All applicants are treated alike, male and female, and they are asked at the reception desk at the time they apply for a job if they are interested in office work, and if the answer is yes, they are asked if they would like to take a typing test.

MS. KUMMERFELD. My understanding then was incorrect; you did not say that everyone is routinely asked as to whether they have typing skills?

MR. HOLLAND. They are asked that, yes.

MS. KUMMERFELD. Without regard to whether they initially say they are interested in office work?

MR. HOLLAND. If an applicant comes in and says they would be interested in some kind of professional job, they are not asked if they would like to take a typing test.

MS. KUMMERFELD. But are they asked as to whether they have typing skill?

MR. HOLLAND. No, they are not, no. Now, there are certainly many occasions when that professional job does not exist, and it is very likely the personnel interviewer would say, "Do you type? Would you like to take a typing test?" And then the typing test is administered; never against the applicant's will, however.

MS. KUMMERFELD. Do you find very many men that way, who can type?

MR. HOLLAND. Not as many as we would like.

MS. KUMMERFELD. Is Sears making an effort to move women into, just as you, I believe you indicated, you are trying to find male clericals. Are you making an effort to move women into stockroom and supply positions?

MR. BACON. Yes, and auto mechanics and service technicians, all of the so-called male-oriented jobs in the past.

MS. KUMMERFELD. I just have several other questions relating to the training efforts which you enumerated in your statement. The first course I believe you mentioned was titled "Managing Change," and that there were elements--

COMMISSIONER FREEMAN. The reporter needs a break, so could you hold your questions? Before announcing a break, I would like to announce at least who Miss Kummerfeld is. Miss Carol Kummerfeld is the Director of Women's Rights Project of Civil Rights Commission. We will need to give our reporter a break, so we will take a 10-minute recess.

COMMISSIONER FREEMAN. The hearing will come to order. Miss Kummerfeld?

MS. KUMMERFELD. Yes, with regard to the managing change conference, you mentioned that elements of this program are addressed to the subject of sexist attitudes. Can you tell me approximately how much time during the, that week-long course is devoted to that subject?

MR. BACON. I am guessing something approximating in 1 day of the 5-day week, but I could be wrong. I have not attended it myself. Apparently they didn't think I needed it yet.

MS. KUMMERFELD. How many members of the senior management staff has taken that course?

MR. BACON. Well, it runs about 50 weeks a year and there are 20 management people in each course, and its been running for 4 years. So that would be 4,000, something like that; I don't know.

MS. KUMMERFELD. And the management in action course, which is the 4-day course, I believe--

MR. BACON. Yes?

MS. KUMMERFELD. Approximately what amount of time is devoted to that subject in that course?

MR. BACON. Proportionately the same; it is only a 4-day course.

MS. KUMMERFELD. In discussing your affirmative action interviews, you said they were of necessity nonspecific. But the objective was to identify the employee interest, attitudes, etc., so that guidance can be provided in pursuing the goals of the employee. I am curious as to how you can provide guidance when one is not being sufficiently specific about the subject at hand, at all; I mean, what does that guidance consist of in a nonspecific situation?

MR. BACON. I will ask Mr. Holland to answer that.

MR. HOLLAND. Well, it is difficult to define, define these terms. There is a certain amount of specificity about these interviews; when they are talking, when the person interviewing the employee talks about opportunities and specific jobs and the content of jobs. In that sense, the point can be rather directly made that, "This is an activity that you may or may not be interested in," or "This is an area that you might be interested in considering," and it really depends very much on the face-to-face conversation with the employees. It can be directed in any number of ways.

MS. KUMMERFELD. Is there a specified format that is to be followed or a checklist of material that should be discussed and addressed during those interviews such as the employee's educational background, any training that he may have received, a discussion of the kinds of options open in the company, so that you achieve some uniformity in those interviews?

MR. HOLLAND. There is no specific checklist that the interviewer follows, although interviewers have been asked to consider all the elements or most of the elements that you have mentioned, with particular emphasis on experience at Sears, the things the employee has done and wants to do.

MS. KUMMERFELD. I would like to know whether there are any procedures that exist for disciplinary action where it is determined that a manager, official supervisor, has, in fact, been discriminating on the basis of race or sex?

MR. BACON. Yes, I will be happy to answer that.

We take the same action against a store manager or executive for failing to discharge his responsibilities in the affirmative action area that we do if he does not do a good proper job, if he doesn't control his inventory well, has a bad payroll ratio--there's any number of things. He is disciplined; he is told about it; and his earnings can be affected, and the amount of bonus he is paid at the end of the year, and in some instances they have been released.

MS. KUMMERFELD. To your knowledge, has that ever occurred with regard to a supervisor's performance in relation to equal employment opportunity?

MR. BACON. Yes, it has.

MS. KUMMERFELD. Are the supervisors, officials, and managers in the company routinely evaluated on their equal employment opportunity performance?

MR. BACON. They are evaluated on that, yes, ma'am.

MS. KUMMERFELD. How does that occur?

MR. BACON. It is one of the continuing evaluations that we have. We have a rather elaborate evaluation program for all of our checklist employees, and in that area we consider, and they have been told, that they are being measured in their performance in affirmative action. A letter, one from the chairman of the board, out to all of the field or-

ganizations and from our territorial vice presidents charging the executives with this responsibility, and advising them that their performance and their progress would be evaluated on the basis of their accomplishments.

MS. KUMMERFELD. I just have one final question. You described the assistant buyer's position as one that requires decisionmaking in the buying process and traveling in order to maintain relations with factories and distinguished in that way from the buyer's assistant job. Do you see traveling as presenting any problem or difficulty that prevents women from moving into those jobs?

MR. BACON. No, but I would also point out to you that we indicated that the buyer's assistant job is a clerical job and, as a clerical job, it's a timecard job; and, under the Federal Fair Labor Standards Act, it is necessary if a timecard employee travels that we pay them while they are traveling, while they are sleeping, while they are on the road. And, therefore, we seldom have timecard employees travel because it is prohibitively expensive, and because in this job it is not required.

There is, obviously, no problem as far as a person being a woman traveling. It is simply part of the job.

We don't have timecard employees travel as a general rule, although on occasion they do. It has nothing to do with sex.

MS. KUMMERFELD. Thank you, I have no further questions.

COMMISSIONER FREEMAN. Mr. Buggs, do you have any questions?

MR. BUGGS. One or two, Madam Chairman.

MR. BACON, just as a matter of simple curiosity, where did the term "checklist" come from? It is a peculiar one.

MR. BACON. Well, I will tell you, I am a little confused on that myself. It is such an old term and maybe Mr. Harmon's recollection is better than mine.

MR. HARMON. No one is really absolutely sure. I can give you two stories. First, that many years ago, those people who were timecard were paid cash and in an envelope and at the end of each week. Those people who were considered to be executives were given a check at the end of the month, and the company was so small that those persons who got checks were on one list, and those who were given weekly cash payments were on another; and to get on the checklist then became desirable, as becoming an executive.

MR. BUGGS. As a status symbol?

MR. HARMON. It is a status symbol, yes, it is; it became a status symbol to be on the checklist, to be paid once a month.

MR. BUGGS. I see.

MR. HARMON. That is probably the right way.

MR. BUGGS. The other question is a little more substantive, I suppose. Mr. Bacon, I noted that of the 11 specific allegations that were presented to you, you responded a few moments ago to only 6 of them, items 3, 4, 5, 6, 7, and 10. You did not address or rebut items 1, 2, 8, 9, and 11. Are we to assume—

MR. COHEN. Could I answer that, Mr. Buggs?

MR. BUGGS. Yes, sir.

MR. COHEN. We responded, we were—11 items at the executive session which were, of course, only a matter for the executive session. We responded to what we thought were all the allegations that were in fact made this morning. In our opinion, many of these summary allegations never were made and we did not intend to respond to those.

MR. BUGGS. Thank you, that is all, Madam Chairman.

COMMISSIONER FREEMAN. Mr. Bacon, I would like to refer to your recruiting activities with respect to the college graduates.

MR. BACON. Yes, ma'am.

COMMISSIONER FREEMAN. Two of the employees of Sears who appeared this morning are college graduates.

MR. BACON. Yes, ma'am.

COMMISSIONER FREEMAN. They were college graduates at the time of their entry.

MR. BACON. Yes, ma'am.

COMMISSIONER FREEMAN. But even they have been there, I don't remember exactly, but certainly a number of years. Now, our concern is that the extent to which the company would be, in looking, if looking only at its employees, which obviously if you are going to college, you are looking for a reasonable college graduate, and there are females employed, who have college degrees— one in business administration, which people say is something that is very attractive now—and yet those people were then and still are clericals; the concern of this Commission is that that kind of testimony would tend to indicate that there is really an imbalance in terms of how Sears is implementing whatever affirmative action plan you have.

MR. BACON. May I answer that in a couple of ways, Madam Commissioner, and let me, if I may, refer to my own experience a year ago before I came on this assignment when I was personnel director for the eastern territory.

In the course of our campus interview, we interviewed over 2,000 men and women. We invited 600 of those 2,000 men and women to come to a 2-day followup session in Philadelphia for further review and look-see. Of those 600, we finally ended up hiring 125; so that, of the 2,000 people we interviewed on the campus only 125 were finally accepted.

The fact that a person has a college degree in no way indicates that he is going to be accepted as a college trainee. Now, this is not unique to Sears, this is common practice. We are interested in finding qualified people on our payroll. As a matter of fact, I believe I indicated earlier that only 35 percent of the promotions within Sears last year came from the former college training ranks. We found them within our own organization and not necessarily college grads. They could have started as stockmen, stockwomen, typists, anything else. We are really interested in what they can do, not what kind of an education they have. It is simply a matter of convenience to go to college,

because you have large numbers of well-educated young people collected in one place. It is easy to get at them.

But in no way are we turning away people already, already on payroll that have such skills; but the point I am trying to make is that the fact that a person has a college degree doesn't mean that we pass them up for a training program because they are female or because they are a minority, because the fact of the matter is that out of 2,000 we interviewed in the East—and if you took national figures, it would probably be comparable—we only ended up with 125 as it was. So it is a very selective process.

COMMISSIONER FREEMAN. What still is not clear to me is who does the selection or the extent to which the selection processes is free of the prohibited prejudice and discrimination. I would like to refer to the affirmative action interview, and I believe that either you or Mr. Holland stated that you have an evaluation or some sort of a of an examination process or a form; is that correct?

MR. BACON. Of our executives?

COMMISSIONER FREEMAN. Yes.

MR. BACON. Yes, ma'am.

COMMISSIONER FREEMAN. Well, is there a question, or is there any indication, or any checklist on that evaluation form to appraise the extent to which that person had conformed with the EEO requirements of Sears?

MR. BACON. No, not directly, nor is there for exact profit performance or inventory turnover or any other management responsibilities. It is understood that that is as much a management responsibility as anything else because they have got a directive from the chairman of the board that it was.

COMMISSIONER FREEMAN. How do you assess profit performance?

MR. BACON. It depends on what you are talking about. If it is a retail store, the manager has a profit and loss statement. That depends entirely on what kind of function you are talking about; you can measure a buyer's gross profits, or his line of merchandise, but it gets very technical.

COMMISSIONER FREEMAN. I think what we are trying to find out is in the goals and timetables which we do not know about, but which, assuming that you do have goals and timetables—

MR. BACON. Yes, ma'am?

COMMISSIONER FREEMAN. —is the employee evaluated on the extent to which that employee is responsible for achieving a particular goal with respect to employment, and is that employee who doesn't achieve that goal docked accordingly? Let's say that you, assuming you are going to—you have made 2.4 percent increase in the last 4 years in the number of women. I believe that you are saying that by 1970—

MR. BACON. That is not a correct statement. I believe it is closer to 30 or 40 percent.

COMMISSIONER FREEMAN. I mean women executives, managers and officials, 2.4.

MR. BACON. No, ma'am.

COMMISSIONER FREEMAN. 10.8 from 13.2 leaves 2.4.

MR. BACON. No, no, I am sorry.

COMMISSIONER FREEMAN. It doesn't?

MR. BACON. Your mathematics are not correct.

COMMISSIONER FREEMAN. 10.8 from 13.2 leaves 2.4?

MR. BACON. No, no, I am sorry. Your mathematics are not right. It is roughly 28 percent I believe. No, no ma'am, I am sorry, but if you increase 10 percent to 13 percent I believe that is a 30 percent increase or something in that vicinity.

MR. HARMON. May I comment on that? For example, we mentioned 25 percent as of 1978, intermediate goal. We are now at 18 percent, which represents 603 women. To get to 25 percent we will have to double that number. And you could say that that is a 7 percent increase, because it went from 18 to 25. But when you double something, it is a lot more than a 7 percent increase. We will have to double the numbers to change the percentage point that much.

COMMISSIONER FREEMAN. Yes, well, this is one.

MR. HARMON. That is an exercise in mathematics, but is a substantial gain that I think you demean by saying it is only 7 percent.

COMMISSIONER FREEMAN. Well, actually, we received quite a number of figures, and usually, you know, somebody—we also know that a 100 percent increase could mean that one additional employee—

MR. HARMON. Yes, that is why I gave you—

COMMISSIONER FREEMAN. If you have one, you have two, you have an increase of 100 percent.

MR. HARMON. Yes, that is why I gave you the figure 603 to 1,200; I thought it would be more meaningful.

COMMISSIONER FREEMAN. Could you give any estimate of the women employed in the nonprofessional and nonexecutive jobs at Sears who have college degrees; would your personnel officer have that?

MR. BACON. I am sorry, I missed the question.

COMMISSIONER FREEMAN. The women employed in nonprofessional, nonexecutive jobs at Sears who have college degrees.

MR. HARMON. I don't know at Sears. I have an idea in the—

MR. BACON. Are you talking about the Tower, Commissioner?

MR. HARMON. I don't know.

COMMISSIONER FREEMAN. At the Tower.

MR. HARMON. Around 200 in the Tower. But I have no idea on Sears.

COMMISSIONER FREEMAN. You have 200 women? Now, could you consider that those 200 women would be a source or a potential for promotion?

MR. HARMON. Several of them are, and we have so identified them. I think Mr. Bacon pointed out that we have 19 women now that we have recruited from those ranks that are on the rotational training program. We plan to add 30 more by the end of the year, restricted only

by job openings available for them after the training program is completed.

COMMISSIONER FREEMAN. Would you have the figures of the men employed in nonprofessional, nonexecutive jobs who have college degrees?

MR. HARMON. No, I don't have that.

COMMISSIONER FREEMAN. Would the personnel office or the application have that, application form have that?

MR. HARMON. Is it on the form?

MR. BACON. It is on the application form.

COMMISSIONER FREEMAN. Would it be available to you?

MR. BACON. I would have to ask Mr. Cohen whether that is proper to submit.

MR. COHEN. As I understand it, we have not made that tabulation, if that is what you are asking. Are we prepared to make it? If that subpoena is tendered, we will certainly consider it at that time.

COMMISSIONER FREEMAN. Are you offering that this information could be available to the Commission?

MR. COHEN. I am saying—

COMMISSIONER FREEMAN. Are you suggesting that it would be available?

MR. COHEN. It is information that is not presently accumulated. That was my statement as I understand it.

COMMISSIONER FREEMAN. Well, you have that information with respect to women, but you don't have it for men, but you could get it with respect to men?

MR. BACON. Well, it was a guess, I believe, or a calculation, also on Mr. Harmon's part, with respect to women; I would not want his figure entered into the record as a positive figure because he was making an estimate. If we are going to do it at all, we probably ought to do it accurately, and that is up to the attorney to make that judgment.

COMMISSIONER FREEMAN. Mr. Glick, I believe you had another question?

MR. GLICK. I have a few questions, Madam Chairman. I would like to ask Mr. Holland, what method of recruiting is used by the company for clerical personnel?

MR. HOLLAND. We utilize a number of resources. We recruit through schools; we recruit through our own employee referral program; we recruit through State and governmental agencies; we recruit through employment agencies; walk-in applicants are among those resources we use.

MR. GLICK. We are speaking now about the Tower?

MR. HOLLAND. Yes.

MR. GLICK. Would you describe the referral system, the employee referral system for me?

MR. HOLLAND. Yes, there is an award that is paid to an employee who refers someone he or she knows who stays on roll 60 days, and, at 60 days, the employee who did the referring receives an award.



MR. GLICK. And this system was used because it is difficult to find good clerical employees, is that it?

MR. HOLLAND. Yes.

MR. BACON. Also because it is less expensive than an employment agency.

MR. GLICK. I see. And, but you do use employment agencies?

MR. HOLLAND. Yes, we do.

MR. GLICK. In the Chicago Loop area or all over Chicago or whereabouts?

MR. HOLLAND. We use employment agencies mainly in the Loop area, but there are some in the outlying areas as well.

MR. GLICK. And on a racially—well, with respect to race, how would you expect that the personnel offices in the Loop area would make referrals? Do you think they might be mostly Caucasian or black or mixed or how?

MR. HOLLAND. I can't tell you what the racial breakdown is, the applicants who come from the employment offices agencies in the Loop. But I would estimate that there is not a substantial difference between applicants referred to the Loop agency and those in the outlying agencies.

MR. GLICK. Are there any agencies used for Tower recruitment that are in identifiably minority areas?

MR. HOLLAND. Yes.

MR. GLICK. Could you tell me where?

MR. HOLLAND. Well, one that comes to mind immediately, that we have done considerable work with, is Telephone Answering Systems, Inc. This is a company, I think down in Cottage Grove, an agency that sends us people on a another basis. There are others; I would have to defer to our employment manager to get the information on that.

MR. GLICK. I see.

MR. HOLLAND. Counsel just suggested that we also have nonfee agencies, which I think I mentioned, Telephone Answering Systems, which is an interesting name for an employment agency, but that is the name. They have another kind of business that they work out of the same office, but we also have, we also have nonfee-charging agencies that we utilize.

MR. GLICK. What kind of agencies would that be?

MR. HOLLAND. These are the governmental agencies, local agencies that send people to us, mainly to help us accomplish our goals in finding minority applicants. I am thinking in terms of agencies like the Dawson Skill Center, Illinois State Employment Service, the Chicago Alliance of Businessmen; Manpower Service, we have several counselors located in that particular agency who visit us—

MR. GLICK. Yes?

MR. HOLLAND. —who determine what jobs are available, who visit the offices to find out what do the jobs really entail, and then go back to their offices and try to recruit for us. They have done a rather successful job.

MR. GLICK. And they recruit personnel for the Tower?

MR. HOLLAND. For the Tower, and certainly not only the Tower; they also recruit for other companies.

MR. GLICK. What I mean is Sears' facilities; they recruit for the Tower?

MR. HOLLAND. Yes, they recruit for it—George, they recruit for Chicago catalog order plants? I know that they recruit for the retail stores. I think they also, for Chicago catalog order.

MR. GLICK. Well, since you have turned to Mr. Thornton, and I was going to ask him a similar series of questions, Mr. Thornton, could I ask you how employees, well, since you have been identified as assistant personnel manager, at the CMDC, could you advise us how employees are recruited for the CMDC?

MR. THORNTON. The majority of our employees are walk-in employees, candidates that walk in inquiring about a job, and they apply.

MR. GLICK. Do you utilize the services of any employment agency on a fee basis?

MR. THORNTON. No, no, none at all.

MR. GLICK. Why is it not necessary for you, if the downtown Tower facility finds it necessary to use fee agencies, why don't you find it necessary?

MR. THORNTON. Well, it is not necessary for us because the merchandise distribution center is located in an inner-city neighborhood where there is a high unemployment rate, and there is more than enough employees or employable people for us than we really need.

MR. GLICK. Are you familiar with statistics on transfers of employees from CMDC to employment at the Tower? Does this happen very frequently?

MR. THORNTON. Very infrequently. I have here, I am told it is about 33 since the first of the year, and the reason being is that we are a separate unit. And as such, we hire, train, and promote within our own ranks, and of those people that show interest in wanting to, that contact the personnel department and show interest in particular jobs that are not available at the catalog order plant, they would contact the Tower and find out their needs.

MR. GLICK. So there is transfer ability?

MR. THORNTON. There is transfer ability, right.

MR. GLICK. In other words, an employee at the CMDC would not be treated exactly the same as a walk-in or brand new recruit at the Tower?

MR. THORNTON. No.

MR. GLICK. But would have some carryover seniority?

MR. THORNTON. Definitely. That would be in the nature of a promotion.

MR. GLICK. It would be in the nature of a promotion, although it might not necessarily mean more pay?

MR. THORNTON. Well, if we, the transfer—the transfers between the catalog distribution center and the Tower are mainly of those jobs that are promotable, of those people at the distribution center that are interested in jobs at Tower that are higher classified and higher-paying jobs than those that we have at the distribution center, and those that would be just jobs that were just transferred and not promotable, would be because of need of the Tower.

MR. GLICK. Would you have any breakdown of the 33, I think it was the figure you gave, of transfers in the last 12 months? I am not sure what the period was.

MR. HOLLAND. Since the first of the year.

MR. GLICK. That would be approximately 8 months? Do you have any breakdown in your figures by sex of those 33?

MR. THORNTON. I don't have the breakdown, but I would say that they are about 95 percent female.

MR. GLICK. Ninety-five percent female? And these were to higher-paying checklist jobs?

MR. THORNTON. Not necessarily checklist jobs, no, higher-paying clerical jobs.

MR. GLICK. Higher-paying timecard jobs, I am sorry; I used the wrong expression; I get it confused. They were mostly women going to higher-paying timecard jobs?

MR. THORNTON. Right.

MR. GLICK. I see, thank you.

Now, we heard testimony this morning from some clerical employees at CMDC who indicated they felt that there was no possibility whatsoever for them to move into any kind of higher-level, management kind of job. Would you agree with that?

MR. THORNTON. No, I wouldn't agree that it is impossible for a clerical to move into a management-type job.

MR. GLICK. How would that come about? What would they have to do? What kind of qualities would they have to have?

MR. THORNTON. Well, the fact is that we have so few executive positions and so many timecard positions that there are quite a few employees in our area with long service that have not been promoted to the executive-type jobs.

MR. GLICK. So that clericals at CMDC are almost, it is almost impossible for them to move out of the checklist, timecard and into checklist?

MR. THORNTON. Due to the fact that the small number of executive jobs, not entirely impossible, but more difficult.

MR. GLICK. I just have one last question that I would like to ask, and I think probably should be addressed to Mr. Bacon. Mr. Bacon, we heard some testimony this morning from one of the employees about the—she was reprimanded for discussing her salary with another employee.

MR. BACON. Yes.

MR. GLICK. I really didn't understand that. I wonder if you could explain to us why, if this is in fact true, if this is representative of an attitude, what it is. What is the nature of the, the secretiveness about paychecks?

MR. BACON. Simply that we feel that an employee's earnings are his own, his own business, and no one else. And I was so much surprised she had been disciplined, but I would have to say that as a matter of policy we advise our people, when we find it done, not to discuss their salary with other people. There is no purpose to be served. Because we have found, by past experience, that there is sometimes exaggerations and so forth, and it creates morale problems. We think it is a personal matter.

MR. GLICK. And there is no company policy?

MR. BACON. And the employees are not all paid the same. They are paid on merit; they are paid on job performance; and so I don't think we have a policy in writing anywhere, but I would say that it is an unwritten rule of long standing that we would prefer that salary information be kept confidential to the employee himself because we think it is his or her own business.

COMMISSIONER FREEMAN. Mr. Bacon, if it is his or her own business, then why, what does the company have to do with it?

MR. BACON. I am afraid I don't understand.

COMMISSIONER FREEMAN. Yes, if it is the employee's own business, then why do you impose a rule that they can't discuss it? You make it your business.

MR. BACON. No, I am not suggesting that at all. I am suggesting that we think it is something that should not be discussed.

COMMISSIONER FREEMAN. Suppose the employee told you that it is none of your business who I tell what I make? Would you fire him then?

MR. BACON. Of course not.

COMMISSIONER FREEMAN. What would you do?

MR. BACON. I would try to explain to them why I think it would be a better part of judgment and valor to keep the information to themselves. I don't go around talking about my salary to anyone, never have, never asked anyone else.

COMMISSIONER FREEMAN. That is your judgment, that is your judgment you see nobody tells you, you can't tell it. Suppose Mr. Wood says you can't tell anybody what you make?

MR. BACON. I don't understand why he might say that.

COMMISSIONER FREEMAN. Yes; but what would you tell him? You would tell him where to—you would not accept it, would you?

MR. BACON. I wouldn't tell him what you suggested. No, I think you are adding, you are placing a reading on this that is perhaps out of context with what—

COMMISSIONER FREEMAN. Well, I never heard, heard of an employer telling an employee that that employee cannot tell another employee what he or she makes.

MR. BACON. Well, perhaps it is unique to Sears, but we think it is the employee's own business, and that we don't think that everybody should be around telling everybody else.

COMMISSIONER FREEMAN. It is rather paternalistic.

MR. BACON. Perhaps so, perhaps so. And there is no written policy to my knowledge that says it. But it has been understood in Sears for many, many years.

COMMISSIONER FREEMAN. Are there any other such that we need to know about?

MR. BACON. Well, I suppose that there are. Ask me the questions, I will try to dig them out.

COMMISSIONER FREEMAN. Let me ask you about some of these household chores that some of the secretaries have to do, about making the coffee and buying the gifts and so forth. Is it a policy, written or unwritten?

MR. BACON. I think it is a fairly common practice in the American industry. I must admit that my secretary brings me coffee; I have noted that Miss Vitner's [phonetic] secretary in her office, who is a male, brings her coffee. I think it is almost an accepted practice, male or female; it has nothing to do with sex.

COMMISSIONER FREEMAN. Is that in the evaluation, the rating on whether they make good coffee or bring good coffee a part of the evaluation?

MR. BACON. My secretary makes lousy Sanka, I will tell you that. No, I look at the evaluation form, I think you asked that the evaluation form be submitted to you—I don't know whether it was yesterday.

COMMISSIONER FREEMAN. No, we didn't get it yesterday.

MR. BACON. I think Mr. Holland has a copy with him. It is not contained in there, but I must say, in all candor, that after I got back to the office yesterday, Mr. Arms showed me a copy of one that he had seen, which did have on it something about housekeeping, and I was quite disturbed because, in effect, I felt that we had misled you, and found in checking that this was a form created by one of our office managers, which is improper, unauthorized, and which I can assure you has already been stopped and corrected. The official company form is the one you have, and it is the only one authorized.

COMMISSIONER FREEMAN. This is the one being received?

MR. HARMON. That is the official form. May I say that this particular office manager has been in three departments; and, in a burst of her own creativity some time ago, came up with her own form that she uses, that she transcribes to this form. And on that, she had the housekeeping.

I was not aware of it either, and I said to you yesterday, I believe that we have no such form. We found it out yesterday afternoon, when Ernie Arms remembered that he had seen this particular form. He found it and it was used in three departments. As of yesterday afternoon, it has now been stopped.

COMMISSIONER FREEMAN. We have asked you some other questions about some other policies and practices and the extent to which there is implication of policy on the basis of the question that has been—that has come out from some of the testimony. Will you now, will Sears now, make an appraisal to determine whether your policy is being implemented by all of the supervisors?

MR. BACON. This is constantly, this is constantly being done, and that is what I said, I believe, in my initial statement, that the policing was a very important part of it, and that is why we have 125 full-time people on our payroll whose job it is to police these things. And they are constantly having to correct mistakes that are made, either through ignorance or in some cases, through past bias and prejudice where we haven't got the message through as we should, and they are authorized to take such action and they do take such action. That is why we have them.

MR. GLICK. Mr. Chairman, may I ask permission to introduce into the record this employee rating review record form as Exhibit 87 in this hearing?

COMMISSIONER FREEMAN. Be received.

MR. GLICK. But I would like to ask Mr. Harmon, is this form used only with respect to the rating of clericals or is it used for the rating of managers as well?

MR. HARMON. It is used, used in the rating of timecard.

MR. GLICK. Of timecard?

MR. HARMON. Yes, which is not all clerical but—

MR. GLICK. This is used for timecard and a different form is used for checklist?

MR. HARMON. Yes, and that, that was brought in yesterday. You have requested along with this, did you not?

MR. BACON. Yes, I have it here. This is the rating for our checklist employees called managerial development form, which we would be happy to submit to you.

MR. GLICK. Well, rather than take time to peruse that right at this moment, I would like to ask if you remember whether the rating form for checklist people includes a question relating to personal appearance and hygiene?

MR. HARMON. No, it does not.

MR. GLICK. Does it include a question relating to observance of company policies, phone calls, passes, etc.?

MR. HARMON. No, it does not. I might mention, though, that until, until late last year when this new form was developed, your first question had been asked about checklist people, personal hygiene was part of that.

MR. GLICK. Do you have any expectation that this form might some day conform to the rather, rather, will the checklist form and the timecard form ever conform with respect to that question?

MR. HARMON. With respect to that question, yes, but not—it will never conform completely.

MR. GLICK. I would not think so, but—

MR. BACON. I would just point out also, Mr. Glick, that the form you are referring to with respect to personal hygiene applies to male as well as female employees.

MR. GLICK. I understand. But I also understand that the bulk of the timecard people, I beg your pardon, at the Tower, are female?

MR. BACON. The bulk of the timecard people in retail stores, which also do rating, are not necessarily female, however.

MR. GLICK. I understand. That is all I had on that point, Ms. Freeman.

COMMISSIONER FREEMAN. They will be received. Did you ask for the introduction of the Exhibit 88?

MR. GLICK. If that is the managerial development form, that is the rating form for checklist personnel.

COMMISSIONER FREEMAN. Exhibits 87 and 88 will be received.

MR. GLICK. Thank you.

COMMISSIONER FREEMAN. Mr. Bacon, who is it who makes the evaluation on personal hygiene? Well, what is it? Well, how do you, how does one evaluate it?

MR. BACON. All right, may I refer to Mr. Holland who would be more directly concerned?

MR. HOLLAND. Well, the supervisor for whom the employee works and the office manager, together, create this rating review form, in answer to your first question. In answer to the second question, I don't know what the dictionary would define hygiene as, off the top of my head, but I would think it would include all those things that go into appearance and care of that sort.

COMMISSIONER FREEMAN. You mean like bad breath or something like that?

MR. HOLLAND. That might possibly be interpreted as hygiene by some raters.

COMMISSIONER FREEMAN. BO?

MR. HOLLAND. I would think that if an employee had a particular problem of that sort, and didn't know it, it might be that that employee would welcome hearing about it.

COMMISSIONER FREEMAN. But not for the executives?

MR. HOLLAND. I think perhaps, if any employee in the company had a problem of that sort, and it was an extreme problem, the employee would hear about it.

MR. BACON. I have discussed BO and bad breath with executives many times over the years.

COMMISSIONER FREEMAN. Do you check them off a, b, c or something like that?

MR. BACON. No, ma'am, I just tell them you better start using Right Guard.

COMMISSIONER FREEMAN. And then don't tell me that Sears, Sears doesn't manufacture Right Guard, does it?

MR. BACON. No, but I think we sell it.

COMMISSIONER FREEMAN. Commissioner Ruiz.

COMMISSIONER RUIZ. This morning one of the witnesses testified that she belonged to an ethnic minority, Spanish speaking, out of a total of numbers that varied from 160 to 150 over a period of time, and her reaction was that she would not recruit any friends because of bias in her own case. Now, assuming that the majority of the supervisors and employers and people that have authority, and even the clericals, belong to a minority, would this not be logical to assume that recruitment from the inside in reality is perpetuating a status quo?

MR. BACON. Well, it certainly was not intended to do so, Commissioner. I heard the same thing you heard this morning, and I must confess that I was disturbed, perhaps as much as you were. And I think Mr. Thornton can probably address himself more to the recruitment of Spanish-surname personnel in that area, but it is inconceivable to me, and yet I must confess that as I listened, I made a note to be sure that this is thoroughly investigated, that this employee has been discriminated against because she is a Spanish-surnamed individual; and, if this investigation indicates that we are somehow falling down in that area, or we're remiss, I can assure you we will take action. I don't know that we are, but I was disturbed as I listened to her testimony this morning, certainly disturbed she felt that way, whether or not it is true, because she is obviously a valued employee.

COMMISSIONER RUIZ. With respect to this investigation that you are just referring to, I think it was more dramatically put a little while ago, when somebody testified that we have, in Sears, a constant policing program, and that we have 150 people.

MR. BACON. 125.

COMMISSIONER RUIZ. 125 people policing, which I interpret as monitoring.

MR. BACON. Yes, sir.

COMMISSIONER RUIZ. What do you have or what does Sears have in writing as a feedback on this policing program, this constant policing program, with respect to something in writing?

MR. BACON. Mr. Graham has established a checklist, and I would ask him to correct me if I am not stating this properly, but he had not only established a checklist, which each of these 125 people utilize when they visit every unit in Sears, which they are instructed to do, I believe, at least once every year, but he has also conducted personal training sessions with each of these 125 people.

COMMISSIONER RUIZ. Then I understand there is a checklist in writing?

MR. BACON. For these people.

COMMISSIONER RUIZ. For these people?

MR. BACON. Yes, sir.

COMMISSIONER RUIZ. Where can this checklist be located with respect to your offices here? Now, the reason I ask the question is, top management sets policy.



MR. COHEN. Excuse me, Commissioner, the document you referred to is part of the affirmative action plan which is part of the document that we tendered in answer to the subpoena, specifically item no. 10.

COMMISSIONER RUIZ. All right, let me continue, taking the matter into consideration. Part, top management sets policy. It's been our experience on the United States Civil Rights Commission that middle management is on the front-line trenches, away from the generals.

MR. BACON. Correct.

COMMISSIONER RUIZ. And that middle management oftentimes has biases. Now, with respect to the policing that you were talking about, and this checklist that is available, but under, at the moment, under consideration, how are they checked upon?

MR. BACON. We get a report—I say “we”—the senior executives and my office—gets a computerized report, on each unit—I believe monthly now, Ray, or is it quarterly?—quarterly?—identifying the progress that each unit has made.

COMMISSIONER RUIZ. All right; now, following this query through, let's assume we have one person who comes back and reports on his checklist: “I don't find any biases, everything is perfect, and I haven't located any, anything out of the ordinary,” and what happens then? How do you check on that person?

MR. BACON. On the checker?

COMMISSIONER RUIZ. Yes, sir.

MR. BACON. By the statistics.

COMMISSIONER RUIZ. Supposing statistics indicate that everything is such that there are no waves, is he given a credit for it or is he reexamined to find out whether he is actually looking for something?

MR. BACON. Well, he has, each unit has goals and timetables established and they are working against these goals and timetables and, if the statistics show that they are not making the appropriate progress to attain these goals and timetables, we immediately recognize we have got a problem. If they are ahead of the goals, we have to assume that the management, local management, middle management, is doing the job that is being required to do and our inspector, who does not report to the middle management in person, and has, therefore, no obligation to him, or to cover up for him, reports accurately, I think, on what he finds there.

COMMISSIONER RUIZ. All right; now, with respect to that report, we are getting down to it now, the checker on the checker, is that in writing?

MR. BACON. Well, Mr. Harmon would be the checker on the checker, and in parent, I would be the checker on the checker of Mr. Harmon; the group manager is the checker on the checker of the stores in his group; the zone manager and then the territorial personnel checker is the checker of all of the checkers, and the territorial vice president is the checker of the checker of the checkers.

COMMISSIONER RUIZ. You are going up too fast for me now. I am talking about the first checker.

MR. BACON. Yes.

COMMISSIONER RUIZ. He reports to the one above him. Is this in writing?

MR. BACON. He reports to the—well—

MR. HARMON. Let me just tell him what happens.

COMMISSIONER RUIZ. Yes, let's have the line of decision there.

MR. HARMON. Mr. Powers gives me a report, by number and by department, of what we call "COINS," Caucasian, Oriental, Indian, Negro, Spanish surnamed, which add up to our minority report for the EEOC, and he develops that for me on a regular basis, and I review it to see what progress each of the departments in the Tower are making.

I then discuss it with the personnel manager, who reports to me, who has responsibility for those departments and keep him or her informed on a monthly basis, or Mr. Powers does, he gives me the report also, to that personnel manager; and, if it is low and if it is not making in an area, the department is not making progress, I discuss it with a personnel manager for that area, who discusses it with that department manager, who has the final responsibility.

And, if no response is forthcoming, I have gone down several times and sat down with the department manager, personally, to remind him where he is falling behind in his goals. If it becomes necessary, and it has on a couple of occasions, I get more senior management than myself involved, if we have someone who is doing nothing in this area.

COMMISSIONER RUIZ. Thank you. I think we have the command there now, thank you.

MR. HARMON. Okay.

COMMISSIONER FREEMAN. Mr. Glick, do you have any other questions?

MR. GLICK. Yes, I have a couple, but I would like you to defer them to Ms. Edwards, who has a couple that she would like to ask Mr. Thornton.

MS. EDWARDS. Mr. Thornton, I just wanted to clarify a couple of points. You were here this morning when the women who were employed at the catalog merchandise distribution center were testifying?

MR. THORNTON. I was.

MS. EDWARDS. Two of the women who testified have the same job title, that of the belt inspector, Mrs. Souchet and Mrs. White; and it was my understanding, both from their testimony and from the information gained through interview, that while Mrs. Souchet has been employed 13 years and more than 11 years as a belt inspector, her current salary is \$3.75 an hour while Mrs. White, through her initiative and drive and otherwise, makes \$3.90 per hour. And I wondered if you were familiar with their specific situations and could possibly explain?

MR. THORNTON. Well, according to my records, Mrs. Souchet's salary is \$3.95 an hour, and Mrs. White's salary is \$3.90.

MS. EDWARDS. Mrs. Souchet did indicate, I stand corrected, she did indicate, that as of this morning, she had gotten her 20 cent raise.

MR. THORNTON. I see.

MS. EDWARDS. So that does bring my records up to date, you are right.

MR. THORNTON. Right.

MS. EDWARDS. However, there is a substantial difference in the number of years worked on the job.

MR. THORNTON. All right, let me explain to you the classification of inspector. Now, the fact that she is a belt inspector is because that she, the merchandise that she inspects is on a conveyor belt. Mrs. Touchet? Souchet—she is an inspector over merchandise selectives.

MS. EDWARDS. Yes?

MR. THORNTON. Which is a job grade, an inspector over a job grade, excuse me, is compensated by 20 cents an hour more than the comparable rate on the job grade she inspects.

MS. EDWARDS. Yes.

MR. THORNTON. Mrs. White, who is an inspector over light merchandise handlers, is compensated also with 20 cents more than the job rate she inspects. Merchandise handlers, merchandise-handling job is a higher-rated, higher-paid job than merchandise selectors. But, however, Mrs. Souchet's longer service reflects the fact that, even though she is an inspector over a lower-paying job, she is being paid at the rate of 5 cents more an hour.

MS. EDWARDS. The 6 years wouldn't make a major difference?

MR. THORNTON. It is not quite 6 years; it is 3 years' difference. One employee was hired in 1966, and the other in '63.

MS. EDWARDS. Okay.

One other question, I understand from both interview and from what the women testified to this morning that there has been an effort to make employees at the distribution center aware of affirmative action, and that some surveys were actually distributed and some employees responded and some didn't.

MR. THORNTON. Right.

MS. EDWARDS. I wonder if there was any particular instruction to either your personnel representatives or to the supervisors or managers of the departments relating to those surveys?

MR. THORNTON. Each manager was called into a meeting with the general manager in the company of the personnel manager. These surveys were given to them, and they were told it was their responsibility to see that each catalog employee, regardless of part time, full time, or length of service, received an affirmative action questionnaire.

These were passed out to the employees in groups of 10, 15, maybe 20, and it was explained to them the purpose behind it, it was something that Sears was doing, in addition to our normal search for employees seeking promotion, and they were told they had three options to put, they were interested in a promotion, they did not know, or that they were not interested in a promotion.

Of the total number of employees, we received approximately 1,200 yesses and about 800 noes, and the others failed to respond.

MS. EDWARDS. How many failed to respond?

MR. THORNTON. The balance between 2,000 and, let's see, we have a total of 4,697—

MS. EDWARDS. So that about one-fourth responded?

MR. THORNTON. I would say half responded.

MS. EDWARDS. About half responded? Okay.

MR. THORNTON. About one-fourth maybe—

MS. EDWARDS. Positive yes or—

MR. THORNTON. Yes or didn't know.

MS. EDWARDS. Okay.

I had occasion also to talk with a variety of people about why they did not respond and there was some misunderstanding, they didn't feel that there was any need to respond because of prior problems with getting a promotion. And I wonder if there was any affirmative effort to get supervisors to have their employees understand the significance of filling out that form. I might elaborate by saying some employees did say that it was a very optional thing, and they were impressed that you did not need to respond, and that was not necessary and so they simply threw it away or did something.

MR. THORNTON. Well, we made it completely voluntary. We advised the managers, their supervisors, and also members of the personnel department, that if anyone—we had a few inquiries, “Will this do any good?”

We answered that we think it was a positive move on the part of the company.

There are those employees that will constantly come to the personnel department and seek promotion or transfer and/or attempt to get into whatever skills training programs we have and there are those employees that probably wouldn't. Now, this would give us an opportunity to get an additional number or group of employees brought to our attention.

MS. EDWARDS. You indicated that most of your employees live in the inner city surrounding the location of the catalog center and that, as far as your recruitment and employment is concerned, you have many blacks or many minorities because this is inner city where many of them live. I observed that a number of the people who testified here, who worked at the catalog center, live at great distances.

MR. THORNTON. Just a second, I said most of our applicants—

MS. EDWARDS. Who?

MR. THORNTON. Which need not mean that, you know, how we have a number of employees that are referred to us, you know, we have one application, “Who told you about the job,” and they will say “My friend so and so.” Now, these may be employees that are, have lived in the neighborhood and have since moved away, black or white, or they may be employees that heard that Sears was hiring and they just got on the El and came out.

MS. EDWARDS. Do you make an effort to refer them to the Tower or to other locations when you discover they are not living in your neighborhood?

MR. THORNTON. No.

MS. EDWARDS. You simply take those who—

MR. THORNTON. We take an application from each person who comes to our employment office; we take an application whether there is an availability of a job or not. We charge them with, when they come to the employment office, they must have a social security number, or, if they are students, then they must have a work permit from the board of education, which is required by law. And that is, then everyone else from that point on is interviewed whether we hire them or not.

MS. EDWARDS. Thank you. I have no further questions.

MR. GLICK. I just have a couple of questions for Mr. Thornton; I will make them very quick, Madam Chairman. Mr. Thornton, does the CMDC have both full- and part-time employees?

MR. THORNTON. We do.

MR. GLICK. Can you give me an idea of what percentage are full-time and what percentage are part-time workers?

MR. THORNTON. Let's see—I have that here somewhere.

MR. BACON. While he is looking, Mr. Glick, would it be appropriate for me to indicate that there were a number of extremely misleading and false statements made in earlier comment about the part-time employees, and I would like to correct a few of the false impressions that may have been left to the Commission.

With respect to the fact that part-timers are excluded from unions, which is simply not true—part-timers are eligible to vote in union elections, are eligible to be union members; that part-timers are excluded from all benefits, which is simply not a statement of fact; they do participate in profit-sharing, if they've been on the payroll 2 years.

That part-timers, many of them work 40 hours. It is true that we have some seasonal part-timers who can work as long as 16 weeks, 40 hours, but the average is something around 20 hours. The implication was made that part-timers were used to hold down the earnings of women and minorities: Part-timers are used because our stores are open from 72 to 75 hours a week, 7 days, nights, and the only way we can provide coverage for our customers is to resort to part-timers. We couldn't conceivably afford to have that many full-time people on payroll and remain competitive and be an organization providing good values to our customers.

So that there are a number of statements that were completely false and misleading made, and I think that those should be brought to your attention.

MR. GLICK. I appreciate your making that statement, Mr. Bacon, because we did have under consideration whether that information was received this morning should be stricken from the record. But, now

that you have given this kind of indication, I would have to recommend to the Commissioners that it not be stricken, but I do appreciate it.

MR. BACON. I suspect my lawyer will shoot me for bringing the question up.

MR. THORNTON. In answer to your question about the part-time employees, about a third of our total force is part-time employees.

MR. GLICK. About a third—

MR. THORNTON. Right.

MR. GLICK. —is part-time employees? Can you break that down by sex?

MR. THORNTON. I would say about 60 percent of those are female.

MR. GLICK. All right, thank you. Ms. Freeman, I have no further questions.

COMMISSIONER FREEMAN. I would like to ask counsel and the witnesses from Sears if any of them have any final statements that you wish to enter, if it is brief, very, very brief.

MR. BACON. Perhaps counsel can bail me out.

MR. COHEN. I have no further statement, Madam Commissioner. I think we have touched on everything you are interested in and I think we covered it and, if you are satisfied, we are too.

COMMISSIONER FREEMAN. Mr. Glick, will you have some earth shaking, something you wanted to say?

MR. GLICK. Yes.

COMMISSIONER FREEMAN. We are about to recess this third portion of the Commission hearing, which was held and started here in Chicago, Illinois, June 17 through 19, 1974, which involved an examination of women in poverty. As a part of that hearing, the Commissioners decided to direct attention to women in traditionally female, low-income occupations, such as household workers and clericals. It was also determined that an employer's policies and practices had to be studied to understand how their policies lead to institutional sexism and the downgrading of women's work.

Sears, Roebuck and Company was chosen for several reasons. Sears has had a substantial Chicago operation for some time and has an important economic effect on that community. Sears, Roebuck and Company is a nationwide company with numerous facilities, probably in every State, and extremely influential in affecting women's rights, not only as an employer of women, but also as a potentially invaluable community leader in the advancement of women's rights.

We have determined, however, since the beginning of this hearing that it is necessary for further studies of the employment policies, and practices of other private employers, that they should be undertaken and they have been undertaken, and this Commission will have another session here in Chicago, the latter part of October, at a date certain to be announced later.

The petition of Sears to modify will be taken under advisement.

I could not close without a reminder to all of the persons present that witnesses at Commission hearings are protected by the provisions of Title 18, U.S. Code, section 1505, which make it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize, as I said earlier, that we consider this a very serious matter, and will do all in our power to protect witnesses who appear at the hearing.

This is a very important subject that the Commission has undertaken, the study of women in poverty. We are not able to end it this afternoon. We will reconvene here in Chicago, as I said, at a later date; certainly, hopefully, we would find that there had been some progress between now and that date certain.

This hearing is in recess.

## UNITED STATES COMMISSION ON CIVIL RIGHTS

Friday Morning Session, November 22, 1974

CHAIRMAN FLEMMING. I will ask the hearing to come to order.

This public session of the Commission's hearing on women in poverty is now called to order. As you may know, this hearing was originally commenced here in Chicago, on June 17 and proceeded with 3 days of public testimony through June 19, when we recessed the hearing. During those 3 days, the Commission received documents and heard testimony relating to women and their primary means of livelihood, from salaries and wages to public assistance, social security, and pensions.

Starting from the indisputable fact that a disproportionate number of women are living in poverty, we have been seeking to determine what specific rights women are being denied. And because minority women are disproportionately represented among the poor, we have not limited our investigation to sex discrimination alone, but have also focused on the double jeopardy visited upon women who are also members of racial or ethnic minorities.

Some of the testimony which we heard in those first public sessions emphasized the fact that women who are employed outside of the home are mainly concentrated in low-pay, traditionally "female" occupations. With this in mind, the Commission had determined it worthwhile to study such traditionally female occupations, and in the August session of this hearing, we focused our investigation on the largest employer of clericals in the Chicago metropolitan area, Sears, Roebuck and Company.

The session that begins today continues the theme of "traditionally female" occupations. The Commission will receive testimony concerning Chicago-area insurance industry practices with respect to white-collar, predominantly clerical, female employment, and blue-collar, female employment in the electronics industry. Employment agencies which screen women for traditionally female jobs will also be the subject of testimony.

The function of this Commission is to investigate deprivations of equal protection of the laws and to submit its findings to the Congress and to the President along with recommendations for corrective action. To enable the Commission to fulfill these duties, the Congress has empowered it to hold hearings and issue subpoenas for the attendance of witnesses and for the production of documents.



This hearing is being held under the authority of the Civil Rights Act of 1957 as amended. As required by law, notice of the hearing was published in the *Federal Register* on October the 10th, 1974. A copy of this notice will be introduced into the record as Exhibit number—do you have the number on that?

MR. GLICK. Yes, 89.

CHAIRMAN FLEMMING. Eighty-nine.

The Commission on Civil Rights is an independent bipartisan agency of the United States Government established by Congress in 1957. Its duties are the following:

First, to investigate sworn allegations that citizens are being deprived of their right to vote by reasons of their race, color, religion, sex, or national origin.

Two, to study and collect information regarding legal developments which constitute denial of equal protection of the laws under the Constitution in such fields as voting, education, housing and employment, the use of public facilities, transportation, or in the administration of justice.

Third, to appraise Federal laws and policies with respect to equal protection of the laws.

Fourth, to serve as a national clearinghouse for information with respect to the denial of equal protection of the laws because of race, color, sex, religion, or national origin.

And, finally, to investigate sworn allegations of vote fraud in Federal elections.

I can best explain the functions and limitations of this Commission by quoting from the decision of the United States Supreme Court early in the Commission's history:

this Commission does not adjudicate, does not hold trials or determine anyone's civil or criminal liability, it does not issue orders. It does not make determinations depriving anyone of life, liberty, or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights. The only purpose of its existence is to find facts which may be subsequently used as the basis for legal or executive action.

That ends the quotation from the Supreme Court decision.

I would like to emphasize that a Commission hearing is not an attempt to embarrass any one State, city, group of people, or individuals, but rather an attempt to explore, seriously, problems and relationships which are representative of the broader civil rights problems and practices. Throughout the Commission's 16-year history, it has always sought to be scrupulously honest and fair in its presentations, even though the subject matter may be intrinsically emotional. The same objectivity will prevail at this hearing.

Federal law protects all witnesses subpoenaed to appear before the Commission.

At this point I would like to explain that Commission procedures require the presence of Federal marshalls at its hearing. Although the Commission and the marshalls know that the majority of citizens would not wish to impede the orderly process of this hearing, the marshalls will help to ensure an atmosphere of dignity and decorum in which our proceedings can be held.

At this point, I would like to ask my colleague, Commissioner Freeman, to read the rules of the hearing. Commissioner Freeman.

COMMISSIONER FREEMAN. Thank you, Mr. Chairman.

As the Chairman has said, this section of the hearing has been divided into two parts. First, there was an executive session which was held 10 days ago. At the executive or closed session, individuals were invited to appear if they so desired and to state their objections to the public presentation of any testimony which they believed might be damaging to them.

This morning we are in public session.

At the outset, I should emphasize that the following is but a brief summary of the significant and relevant provisions of the Commission's rules. The rules themselves should be consulted for a fuller understanding. Staff members will also be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain briefly the differences between the public session and any executive session. Section 102—E of our statute provides and I quote:

If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade or incriminate any person, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony, an opportunity to appear and be heard in executive session with a reasonable number of additional witnesses requested by him before deciding to use such evidence or testimony.

In providing for an executive session, Congress clearly intended to give the fullest protection to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress intended to minimize damage to reputations as much as possible and also wished to provide persons an opportunity to rebut unfounded charges before they were well publicized. Therefore, the Commission, when appropriate, convenes in executive session prior to the receipt of anticipated defamatory testimony.

Following the presentation of the testimony in executive session, and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event we find the testimony to be of insufficient credibility, or the op-

position to it to be of sufficient merit, we may refuse to hear certain witnesses even though these witnesses have been subpoenaed to testify in public session.

An executive session of this type is the only portion of the hearing which is not open to the public.

The public hearing which begins now is different. The public and the press are invited and urged to attend the open sessions.

All persons who are scheduled to appear who live or work in Illinois or within 50 miles of the hearing have been subpoenaed by the Commission.

All testimony at the public sessions will be under oath and will be transcribed verbatim by the official reporter. Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of cost. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing of his or her testimony. Such a request will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. Counsel may subject his or her client to reasonable examination. He or she also may make objections on the record and argue briefly the basis for such objections.

If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any person, that person or his or her counsel may submit written questions which in the discretion of the Commission may be put to the witness.

Persons subpoenaed to the public session may request that witnesses be subpoenaed on their behalf. All requests for subpoenas must be in writing and must be supported by showing of the general relevance and materiality of the evidence sought. In addition, all witnesses have the right to submit statements prepared by themselves or others for inclusion in the record, provided they are submitted within the time required by the rules.

Any person who has not been subpoenaed may be permitted in the discretion of the Commission to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provisions of Title 18, U.S. Code, section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize that we consider this a very serious matter and will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured during any recess from a member of the Commission's staff. Persons who have been subpoenaed have already been given their copies.

Finally, I should point out that these rules were drafted with the intent of ensuring that Commission hearings be conducted in a fair and impartial manner. In many cases, the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done this in the belief that useful facts can be developed best in an atmosphere of calm and objectivity. And we hope that such an atmosphere will prevail at this hearing.

**CHAIRMAN FLEMMING.** Thank you very much, Commissioner Freeman.

I think the record should show that the hearing this morning is being conducted by a duly constituted subcommittee of the Commission; and, in addition to Commissioner Freeman, Commissioner Ruiz is also participating in the hearing, and at this time I would like to identify John Buggs, who is the Staff Director of the Commission, and I would like him, in turn, to identify members of the staff who will be participating in the proceedings.

**MR. BUGGS.** Mr. Chairman, the Acting General Counsel, Mr. Lawrence Glick; his associate, Ms. Lucy Edwards; Ms. Carol Kummerfeld, Director of our Women's Program; and Ms. Ruthie Taylor, a member of the General Counsel staff.

**CHAIRMAN FLEMMING.** All right. Thank you very much.

I now recognize the Acting General Counsel, Mr. Glick, to ask him if he has any preliminary statement to make and then, after that statement has been made, I will ask him to call the first witnesses.

**MR. GLICK.** I have no preliminary statement, Mr. Chairman. First item today will be the presentation of a brief staff report, which has been prepared by the Office of General Counsel of the Commission, and I would like to ask Ms. Ruthie Edwards, an attorney on the staff, Ruthie Taylor, an attorney on the staff, to present that paper, and then after she has done that, I would like to introduce it into the record as Exhibit No. 90.

**CHAIRMAN FLEMMING.** All right.

**MS. TAYLOR.** Thank you.

**CHAIRMAN FLEMMING.** Very good.

**PRESENTATION BY RUTHIE TAYLOR, OFFICE OF GENERAL COUNSEL, U.S.  
COMMISSION ON CIVIL RIGHTS**

**MS. TAYLOR.** The insurance industry is a major force in this nation's economy. It has many women employed in the industry, and it has been said by many within and without the industry that insurance and banking, according to some, represent the last stronghold of the male chauvinist pig. Patterns and practice within the industry reflect institutional sexism and suggest that, while change is occurring, it is a slow process.

This white-collar industry has been the subject of much concern to community groups, Federal and State agencies, and many who are interested in changing existent patterns of sex and racial discrimination in employment. A good deal of public interest has been expressed very recently here in the city of Chicago, and in Illinois.

Earlier in the year, the Illinois Department of Insurance, under the direction of Fred Mauck, organized a task force consisting of five representatives of Women Employed, a community group in Chicago's Loop, insurance department people, State Farm, Allstate, Kemper, CNA, and Aetna Insurance Companies. The purpose of the task force was to develop a model affirmative action plan for insurers. The task force, while in its embryonic state, disintegrated after a week, when there was failure to agree on a meeting time. Director Mauck stated, however, that the department was working on a model affirmative action plan. The present director of insurance, Mr. Robert Wilcox, has made no statements concerning the development of the model affirmative action plan.

In July 1974 the Illinois Insurance Laws Study Commission held a public hearing on the employment status of women in the insurance industry. In preparation for those hearings, the commission sent out questionnaires to a number of insurance companies in the Chicago area. Responses by these companies indicated a definite failure on the part of insurance companies to provide equal opportunity for women employees.

Appearing at the hearing were women who have been or who are now presently employed in the industry, the director of insurance, insurance executives from numerous companies, and State officials, some of whom will be appearing here today.

The Illinois Insurance Laws Study Commission plans to send a second questionnaire to determine whether the companies who agreed with the thrust of the hearing and had affirmative action plans are, in fact, implementing those plans. Further, the Commission plans March 1975 as publication date for its report.

When one views the statistics taken from the responses to questionnaires by insurance companies to the Illinois Insurance Laws Study Commission, it is very clear that women are still in 1974 relegated to low-paying, dead-end jobs.

Insurance is a major industry in Chicago, as in the Nation. Chicago-based firms alone hold assets of more than \$12 million.

The role of women in insurance has been a major issue for women groups in Chicago. Women Employed, an organization of working women in Chicago's Loop, recently issued a compilation and analysis of statistics pertaining to the Chicago metropolitan area, which highlights this traditional clerical role of women in this major white-collar industry. A total of 62,104 persons worked in all branches of the insurance industry in metropolitan Chicago. Of these, 31,521 are women and 30,583 are men, which means that women comprise 51

percent of the area's insurance labor force. In a racial breakdown, 92 percent of the men and 89.8 percent of the women are white.

The Women Employed study shows that women in the insurance industry are overwhelmingly relegated to low-paying, dead-end jobs with few opportunities for advancement. For example, 84 percent of all women in the industry occupy office or clerical positions, compared with 11.2 percent of the men in insurance.

Other white-collar job breakdown as follows:

All women, of all women in the insurance industry, 3 point-3 percent are professionals and all men, 23.1 percent; 3.9 percent of all women in the industry are technicians, 8.3 percent are men.

In sales, 1.1 percent of all women in the industry, and 25.8 percent are men. And in the official and manager's category, 2.6 percent are women, 24 percent are men.

A breakdown of the number of men and women within job categories further demonstrates what the insurance industry defines as women's jobs as opposed to men's jobs. For example, 89.8 percent of all clerical employees are women while 10.2 percent are men.

In sales, where the opportunity exists for substantial earnings, only 4.6 percent of the total number of sales agents are women. In 1972, Prudential employed 12 women agents in their sales force of 1,754. Now, that is less than 1 percent. By 1973, the number of women agents had increased to 27, still only 1.5 percent of the Prudential sales force. That same year, Prudential hired 475 new agents, 460 of them men. Prudential has no women managers in any of its agencies.

According to Equitable's timetables for hiring women agents, women will have to wait 100 years before they will comprise 50 percent of that company's sales force. Blue Cross-Blue Shield reported that 10 percent of their sales force were women in 1973. But a year later that figure had decreased to 8.6 percent.

From 1973 to 1974, female representation among sales agents for Allstate rose from 1.3 percent to 2.8 percent. But of the 115 agents hired from 1973 to 1974, only 16 were women.

Women are also extremely underrepresented in official and manager's jobs. At Continental Casualty, Blue Cross-Blue Shield, Prudential, Blue Cross Association, Allstate, and Equitable, less than 20 percent of the officials and managers are women. Among these agents—among these companies, Prudential scores lowest with 7 percent, followed by Blue Cross Association with 8 percent, and Allstate with 9 percent. In all of these companies, women comprise more than 90 percent of the clerical employees.

A similar pattern emerges from the smaller companies, Mutual, Globe, U.S. Life, and North America; all have less than 20 percent women in the official and manager's category but more than 90 percent in the clerical category.

On the average, women are somewhat better represented among the industry's professionals than in the official and manager's category. At

Allstate and Continental Casualty, however, where large numbers of employees are listed in this category, women are underrepresented. Continental Casualty reports that only 24 percent of the 554 professionals are women, while at Allstate, only 29 percent of the 1,494 professionals are women.

Now, the earning gap between male and female insurance employees is an average of \$6,196 per year. Census figures for 1970 show that median income for females to be \$95.25 per week, compared with the median of \$214.40 for males.

A breakdown of wages by race and sex shows the following: white men, \$11,149; Spanish men, \$9,164; black men, \$7,917; white women, \$4,953; black women, \$4,616; Spanish women, \$4,397.

Over 2.3 percent of Chicago's women in insurance earn over two-over \$10,000 compared with 57.2 percent of the men. Almost 26 percent of the men earn over \$15,000, a category not even shown for women employees.

With this background, witnesses will be represented or will be presented here today to discuss the status of women in the insurance industry and the outlook for equal employment opportunity for women in this white-collar industry.

Most of the statistics and data presented in this report on the Chicago insurance industry are taken from several reports by the Women Employed organization. These reports have been entered into the record of this hearing at two of our earlier sessions.

CHAIRMAN FLEMMING. Thank you very much. Just one point: In the presentation of your material you referred to assets of \$12 million. I assume that you intended that to be \$12 billion?

MS. TAYLOR. I am sorry, yes.

CHAIRMAN FLEMMING. Then I think your closing sentences make this clear, I just want to make sure: The employment statistics that you presented as well as the statistics on earnings are, relate to the Chicago labor market area, and not to the national labor market?

MS. TAYLOR. That's correct, that's correct.

CHAIRMAN FLEMMING. Fine, thank you very much.

Okay, anybody else have any questions? We appreciate that summary that was presented to us.

MR. GLICK. And that will be introduced into the record as Exhibit 90.

CHAIRMAN FLEMMING. Without objection that will be done.

MR. GLICK. Mr. Chairman, our next witnesses will be a panel.

CHAIRMAN FLEMMING. Just a minute—all right.

MR. GLICK. Will be a panel of women who are presently or have been employed by insurance companies in Chicago, and I would like to call Sandy Harris, Rosemary Gerace, Frances Payne, and Bernadette Gabry. Will you please come forward?

[Ms. Bernadette Gabry, Ms. Rosemary Gerace, Ms. Sandy Harris, and Ms. Frances Payne were sworn.]

**TESTIMONY OF BERNADETTE GABRY, ROSEMARY GERACE, SANDY HARRIS,  
AND FRANCES PAYNE, FORMER AND CURRENT EMPLOYEES, INSURANCE  
INDUSTRY, CHICAGO, ILL.**

**CHAIRMAN FLEMMING.** Mr. Glick?

**MR. GLICK.** For the record, I would appreciate it if each of the witnesses would state their name, their address, and their present occupation and, as we have indicated to you, we would prefer for the purposes of this hearing that your employer not be named, but merely your occupation in the insurance industry.

Could we begin with Miss Harris?

**MS. HARRIS.** Yes, my name is Sandra Harris, and I am presently unemployed as of March. Before March, I was working in a large insurance company.

**MR. GLICK.** Miss Gerace?

**MS. GERACE.** Rosemary Gerace, 166 East Superior. I am office manager.

**MS. PAYNE.** Frances Payne. I am the claim examiner for a large insurance firm, group claim division, and I live at 7601 South Shore Drive, Chicago.

**MS. GABRY.** My name is Bernadette Gabry. I live at 530 West Barry. I am presently employed as an alternate delivery system consultant.

**MR. GLICK.** An alternate delivery consultant?

**MS. GABRY.** Yes, sir.

**MR. GLICK.** We will define that a little later, okay?

**MS. GABRY.** Okay.

**MR. GLICK.** Now, there is a series of questions that I want to ask each individual, and I would just like to go through them beginning with Miss Harris, although I have some specific questions for each of the witnesses. Miss Harris, could you give us an idea of what your academic background is?

**MS. HARRIS.** Yes, I have a bachelor's degree in journalism from the University of Chicago.

**MR. GLICK.** When did you obtain your degree?

**MS. HARRIS.** In 1970.

**MR. GLICK.** In 1970? And did you begin to work in the insurance industry after you had obtained your degree?

**MS. HARRIS.** Yes.

**MR. GLICK.** What kind of a position did you hold in the company that you worked for?

**MS. HARRIS.** I held the position as a correspondent in the subscriber relations department.

**MR. GLICK.** Correspondent in the subscriber relations department?

**MS. HARRIS.** Yes.

**MR. GLICK.** Is that considered as a professional position or as a clerical position?

**MS. HARRIS.** A clerical position.

**MR. GLICK.** That is a clerical position? And did you hold that same position when you left the employment of that company?



Ms. HARRIS. Yes, I did.

MR. GLICK. Thank you.

I want to go through the same questions with Miss Gerace. Miss Gerace, would you describe your academic background?

Ms. GERACE. High school graduate, about a half-year college credit.

MR. GLICK. I see. And what position did you first hold when you went to work in the insurance industry?

Ms. GERACE. Typist, file clerk.

Ms. GLICK. Typist and file clerk? How long have you been employed?

Ms. GERACE. Twenty-two years.

MR. GLICK. Twenty-two years? What position do you now hold?

Ms. GERACE. I am office manager in one of the service departments.

MR. GLICK. Office manager in the service department? Is that considered a professional or is that a clerical position?

Ms. GERACE. It's what is considered in the department as middle management, in that particular department.

MR. GLICK. Middle management?

Ms. GERACE. In that department.

MR. GLICK. Have you applied at any time, let us say the last few years, for any other kind of position in the company?

Ms. GERACE. No.

MR. GLICK. You haven't?

Now the same question—

Ms. GERACE. Oh, I am sorry, within the company, also within the department, is yes.

MR. GLICK. And what kind of position did you apply for?

Ms. GERACE. I have for an outside investigating job.

MR. GLICK. I see. And did you obtain that position?

Ms. GERACE. No.

MR. GLICK. We'll get back to that in a minute.

Miss Payne, could I begin the questions with you? What is your academic background?

Ms. PAYNE. I have a high school diploma, 2 years of college, and I am still presently going to college.

MR. GLICK. You are enrolled in college?

Ms. PAYNE. Yes.

MR. GLICK. At this time you have completed 2 years?

Ms. PAYNE. Yes.

MR. GLICK. What kind of position did you first obtain when you began working in the insurance industry?

Ms. PAYNE. Claims examining clerk, which is really paying claims.

MR. GLICK. That is a clerical position?

Ms. PAYNE. Yes, it is.

MR. GLICK. When did you begin working in the insurance industry?

Ms. PAYNE. Three years ago.

MR. GLICK. That would be 1971?

Ms. PAYNE. Yes.

MR. GLICK. Are you still holding that same type of position?

MS. PAYNE. Basically, yes, maybe little more authority has been added on to it, but not that great a difference.

MR. GLICK. Has a little more authority meant any increase in salary, for the type of position, not just annual increases?

MS. PAYNE. Yes, I have been promoted.

MR. GLICK. You have been promoted?

MS. PAYNE. Yes.

MR. GLICK. But in the same line of progression?

MS. PAYNE. Yes.

MR. GLICK. And is your position considered clerical or managerial or—

MS. PAYNE. It's as clerical.

MR. GLICK. It's clerical?

MS. PAYNE. Yes.

MR. GLICK. Have you applied for any other kinds of positions?

MS. PAYNE. Yes.

MR. GLICK. With what results?

MS. PAYNE. No openings at the time.

MR. GLICK. No openings?

Miss Gabry, could I ask you what your academic background is?

MS. GABRY. In 1969 I graduated from college, the University of Iowa.

MR. GLICK. Excuse me, could you bring the microphone up to you closer, please?

MS. GABRY. In 1969 I graduated from the University of Iowa with a B.S. in sociology. In August of that year I was hired by my present employer.

MR. GLICK. And in what kind of a position were you hired?

MS. GABRY. I was a telephone counselor for the company; it's a clerical position.

MR. GLICK. That is a clerical position?

MS. GABRY. Yes.

MR. GLICK. I see. And how long did you hold that position?

MS. GABRY. From '69 until February of '72, where I was promoted into the marketing division.

MR. GLICK. Into marketing?

MS. GABRY. Right.

MR. GLICK. Are you presently in the marketing division?

MS. GABRY. Yes.

MR. GLICK. And you mentioned the kind of position that you now hold, could you mention the name of that again and describe it for us please?

MS. GABRY. Okay. It's titled alternate delivery systems consultant and, actually what is is, we sell prepaid group practice.

MR. GLICK. I see. Okay, now, have you applied for any other position in the company?

MS. GABRY. Yes, I have, with the title marketing representative.

MR. GLICK. What were the results of your application for this position?

MS. GABRY. I am sorry I don't--

MR. GLICK. You applied for another position?

MS. GABRY. Right, as a marketing representative. They break down marketing into various field activities--they--it's specialized sales. A marketing representative is not actually specialized, but he has a number of different duties that encompass just about the whole gambit in marketing.

MR. GLICK. I notice you referred to marketing representatives as he. Is that--

MS. GABRY. They do have some women; I am just very conditioned.

MR. GLICK. How many marketing representatives are there?

MS. GABRY. Well, I have never actually counted them, but I would say approximately, counting managers and workers, about 100.

MR. GLICK. And how many of these are he's and how many are she's?

MS. GABRY. I would say there's about 10 women--maybe only 8 or 9--I lost count.

MR. GLICK. Eight to 10 women?

MS. GABRY. Right.

MR. GLICK. I see. And these are employees of the companies? These are not outside contractor brokers or something?

MS. GABRY. No.

MR. GLICK. These are employees?

MS. GABRY. Right.

MR. GLICK. I see.

Now, Mr. Chairman, with your permission I would like Ms. Edwards to assist me in the questioning of these witnesses.

MS. EDWARDS. Mrs. Harris, I would like to talk a little bit more about your former position within the insurance industry. Would you again simply state for us what the position was?

MS. HARRIS. A correspondent in the subscriber relations department. Shall I--

MS. EDWARDS. Would you tell me what that involves?

MS. HARRIS. Yes, they handle by mail inquiries from subscribers concerning their membership, their claims, their Blue Cross claims, their Blue Shield claims; in other words, like a problem-shooter type job through mail.

MS. EDWARDS. Okay, and can you tell me whether, while you were in that position, you applied for any upgrading or received any special training?

MS. HARRIS. I did both. Well, not--I received training; when I was hired for the job, there was a 6-week training period; 4 weeks of class-work and then 2 weeks of on-the-job training, and out of this training came the group that you would be assigned to.

They had, the department in itself was broken down into direct correspondents and group correspondents. A direct correspondent would handle more routine inquiries from people who have individually contracted for their insurance. A group subscriber would handle inquiries from people who contracted a group who had contracted for that insurance. So, the group correspondent would usually have much more responsibility and sometimes her salary would be raised higher more quickly.

Now, I was assigned to be a direct correspondent on the basis of, really, on the basis of nothing because there were tests given within that 4-week, in-class, training period, and I scored very high on all the tests; but, at that time, I was assigned to a direct group.

MS. EDWARDS. Were there also men in your training class and how were they assigned—first of all, how did they do in terms of grades or scores in the class?

MS. HARRIS. Yes.

MS. EDWARDS. And how were they assigned,<sup>1</sup> group or direct correspondent?

MS. HARRIS. I think there were—there was one man in the class who did very badly, and he was assigned to a group. I don't think he lasted very long. In fact, I think he was there maybe a month or two after. I think he resigned because of pressure on him to resign, but he did very badly in the class, you know. And they assigned him to a group.

MS. EDWARDS. Compared to your assignment as direct claims?

MS. HARRIS. Yes.

MS. EDWARDS. Were there any blacks in your class and can you tell us briefly how many women, how many men, and what their racial backgrounds were?

MS. HARRIS. Yes. There were—out of a class of, I think nine, there were five—six whites, one Mexican, and two blacks.

MS. EDWARDS. And can you tell us briefly what the resulting assignments were by race?

MS. HARRIS. Well, none of the black people were assigned to groups. Three of the white people were assigned to groups, and the other three went into direct the same as the black people did.

MS. EDWARDS. Did the white people score better on the testing and do better in the class?

MS. HARRIS. No, I would say on general level, no, you know. Well, the thing was the first test that we took, at that time it was after a week in class and most people were still kind of confused as to the content of the—of what was on the test. So, most people scored very badly on that first test, and what the instructor said was that the scores of the first test would be disregarded if they were low.

Now, the Mexican girl and I scored very high on that first test and on all subsequent tests. Now I don't exactly know what her rationale was because at that time, the reason I didn't really question it at that time was that I—

Ms. EDWARDS. Excuse me, her rationale for assigning you to direct claims rather than group claims?

Ms. HARRIS. Yes.

Ms. EDWARDS. Fine, go on.

Ms. HARRIS. The reason I didn't question it at the time was because I was not an employee, and I wasn't really sure of the distinction between being assigned to a direct group and, you know, a group contact. So, it didn't strike me until much later on, after I had been employed awhile, that this was unreasonable and prejudicial.

Ms. EDWARDS. Is there any difference in pay or benefits to those persons who handle group claims as compared to direct claims?

Ms. HARRIS. Well, at that time there was no difference in pay. Now, I believe there is a difference in pay.

Ms. EDWARDS. Is there a better opportunity for advancement?

Ms. HARRIS. Yes, that's one of the things. It is even a difference in pay. I will say there is some difference in pay, even when it wasn't shown on the pay scale, in that when your reviews came up it would be looked at how much responsibility you had handled, and if you were working with a group policy, naturally your responsibilities would be greater; your outside contacts would be greater. So I think the difference, although there was no stated difference in pay or benefits, there was a subtle-type thing whereas people who had the groups usually moved up, you know, they usually got better reviews, they usually got much more, much more higher raises.

Ms. EDWARDS. Okay, fine, thank you, Mrs. Harris.

Mrs. Gerace, I would like to ask you just a few questions also. You indicated the position that you were first hired into and the position that you currently, that you currently hold with your company. Could you briefly describe for us the steps that you progressed through in order to reach your current position, starting with your hiring 22 years ago, and—

Ms. GERACE. Okay. I was a file clerk-typist; I guess a steno would come after that, and then I became—

Ms. EDWARDS. Excuse me, could you also indicate approximately how long you held each of these positions?

Ms. GERACE. The file clerk-typing and steno, I would say about 3 years; no, then there was a—I was a dictaphone operator in there, and then just, you know, just general clerical work. I guess about 6 or 7 years, and then I trained to become a claim approver at the time—the training was, we, two of us, a man and myself, learned how to pay claims because our company was at that time transferring this responsibility to our department.

Group insurance was on the up and increase. In that position as it grew, the size of the department grew, I trained new people, and I also did all the tests involved in claim approving. Now it's separated into clerical and approving, and support, filing, and what-not. But at that time I did it all. I typed, I worked the claims, I typed the drafts, did

the correspondence, it was a smaller unit. I was with that for about 3 years, I guess.

At which point I briefly left the company to go work for another company, another industry, not insurance at all.

I was rehired and reinstated, and at that time my position was as secretary to one of the managers. From that I became what was called at that time, the position was called chief clerk. That, in fact, is the position that I am in, but the office has grown so in size the responsibility for that particular job increased. But, in fact, that is generally what I am still doing, only for a much larger number of people. And that has been since 1963, I think, I became chief clerk. My title now is office manager.

MS. EDWARDS. When did you acquire the title of office manager?

MS. GERACE. I acquired the title as during a reorganization earlier this year.

MS. EDWARDS. So that until earlier this year you were known as chief clerk within your department?

MS. GERACE. No, I was known then as—I was an assistant divisional benefits manager. It was just a change of title at that point.

MS. EDWARDS. When you came to your company, would you tell us what was the top grade level for women?

MS. GERACE. When I first became aware of this, or interested in it, I would say that grade 4 was the top level I could hope for.

MS. EDWARDS. To the best of your knowledge and information, what is the top position currently held by women in your company?

MS. GERACE. I can really only speak for my own department, but in that department, the top grade for female is grade 10, as of now.

MS. EDWARDS. And are you currently at grade 10?

MS. GERACE. No, I am not.

MS. EDWARDS. Okay. Are the departments and job groups and job categories in your department or in your company identifiable by sex or by race? Are the departments, such as the department you are working in for example, and I understand you were chief clerk for a time?

MS. GERACE. Yes.

MS. EDWARDS. Are they identifiable by sex or by race? Are there some companies that are basically one color, if you are looking at race or some departments, I am sorry—a certain color or a certain sex?

MS. GERACE. Yes, yes.

MS. EDWARDS. Could you briefly explain that—maybe it's better to explain it in terms of job categories or job levels such as office and clerical, supervisory, midmanagement—can you tell us briefly what the complexion of your company looks like in terms of sex and race?

MS. GERACE. Within my own department, the clerical is predominantly female. In our department, I would say there is no race discrimination in that category. There are even some men in that category, and there are blacks and Spanish speaking, American Indians in this clerical group.

In the next level, I consider, and these are the people who have the responsibility to pay the claims, are predominantly female, and they, between black and white, I would say there is a pretty good distribution, but they are mostly females. I would say that the recruiting for this position is toward women because women, as we all know, tend to be satisfied; the men become anxious to move on. The results are better with the female. We get a longer period of service.

MS. EDWARDS. You mean less turnover in that department if you have women?

MS. GERACE. Right. There are men in that group, and the supervisors in that group are all, at this point, all women; section supervisors are all women.

In the middle-management category, and in this I would include the outside investigators, it is predominantly male and predominantly white.

MS. EDWARDS. Fine. Does your job—would you briefly describe what the job of assistant benefits manager entails? Is it at all similar to the last position that you named, that is, outside or inside investigator?

MS. GERACE. No. The assistant, although the title is the same, or I had the same title, the responsibilities were quite different. Mine was strictly an inside job, and that is to assist the manager in the general administration of his department—supervision, hiring, personnel records. I have periodically have had any number of people from two to, say, seven or eight who I am directly responsible for. Other than that, it is a general supervision; that is, you know, within the office.

But, in addition to, I guess what I am saying is, in addition to the duties of an office manager, I have had some direct line-supervisor responsibilities for a given group in the office. But, basically, the job is to assist the manager in the supervision of his office.

MS. EDWARDS. From your explanation, am I to understand also that the inside investigator and the outside investigator are both called assistant benefit managers?

MS. GERACE. Yes, yes.

MS. EDWARDS. And that most men, that the position of outside investigator or assistant benefits manager for outside investigation, is chiefly held by men?

MS. GERACE. Yes.

MS. EDWARDS. Fine. In your experience, the 22 years in the business and now having arrived at midmanagement level, at least, can you tell us what you have found to be the case for men and women moving up in a company to, say, the level that you currently hold? Has it been a faster progress for men or—

MS. GERACE. Yes, it has and it still is easier for them to move up. The job is traditionally female. We have not hired too many males for that position. So it is difficult for me to explain why I think it is easier for a man to move up. Well, one of the reasons I think it is easier is because he usually starts at a higher level than I did or that some women do.

MS. EDWARDS. With the same educational background and experience?

MS. GERACE. That, that happens. I must say that if we hire someone as an approver now, whether it is male or female, it is mostly determined by the previous experience. But the men do move faster.

MS. EDWARDS. Thank you very much, Miss Gerace.

Mrs. Payne, I would like to ask you just a few questions also. I understand from listening to you talk about your background in the industry that you have had experience both in Chicago and out of State; is that in insurance?

MS. PAYNE. That is correct.

MS. EDWARDS. Were all these experiences with the same company?

MS. PAYNE. Yes and no.

MS. EDWARDS. Okay. Can you briefly just bring us up to date, not identifying your companies of course, of the types of jobs, just briefly.

MS. PAYNE. Okay. I started out as a, I guess a file clerk, you might call it, for a large newspaper firm and I was in the personnel department in the insurance, which was in the insurance department. From there I went on to the larger insurance company with a background that I achieved from the newspaper industry. And from there I came to Chicago.

MS. EDWARDS. Okay. In your experience, and in your company, are there still positions that women and minorities do not occupy and, if so, would you identify what those positions are?

MS. PAYNE. I won't say that women don't occupy them, but minorities don't.

MS. EDWARDS. Okay. Can you identify what those positions are and what their levels are?

MS. PAYNE. Well, I don't know what the exact levels are. I know they are higher-level jobs and that is in the group underwriting department.

MS. EDWARDS. Group underwriting specifically, there are no women—

MS. PAYNE. There are women, there are women, but not minorities.

MS. EDWARDS. Fine. What about in the officials and managers categories, division managers, assistant vice presidents, vice presidents?

MS. PAYNE. None that I've seen; I will put it that way.

MS. EDWARDS. None of which, can you tell me, no women or no minorities?

MS. PAYNE. There are women but no minorities.

MS. EDWARDS. Fine.

MS. PAYNE. Speaking of my division only; I don't know about the entire company.

MS. EDWARDS. Most of your references have been in terms of minorities as well as female. Can you tell me what your basic experience has been with the industry as far as being an initiator, female and black?



Ms. PAYNE. Okay. As—I don't think the holdup is primarily being a female because, like I said, this particular department does have female, but there are no blacks in this department. I requested to be transferred to this division, and I was told there was, you know, no, no openings at this particular time, and I asked about another section and they told me you had to have a degree, and this was in sales, group sales. And that was really it.

Ms. EDWARDS. What has been the noticeable experience for Spanish-surname women?

Ms. PAYNE. Would you repeat that again?

Ms. EDWARDS. What about Spanish-surnamed women? Mexican American, Puerto Rican?

Ms. PAYNE. There is not that many in our higher-level jobs at all.

Ms. EDWARDS. Okay. I understand that from time to time some of the jobs that you have held in the industry you have considered to be showcase jobs or token jobs. Could you briefly explain that for us?

Ms. PAYNE. Well, last year our department went through a complete changeover. Our job had become a little more highly technical than it used to be. They created jobs, I guess to try to create some type of, well, higher-level positions, but the job really didn't have any meaning behind it, it was just there, and I brought this to the manager's attention and something was done about it.

Ms. EDWARDS. Very fine. Thank you.

Miss Gabry, I would just like to ask you a few questions also. I understand from the description that you gave that in your current position you do marketing or you handle sales. Can you describe how many women are currently in that position in your company out of what total number, if you are aware of the full number?

Ms. GABRY. Well, I've said before, approximately there is about 100 salespeople in marketing, and I would say approximately there is from 8 to 10 women.

Ms. EDWARDS. When were you first, when did you first apply for a position in sales or in marketing?

Ms. GABRY. I initially applied in I think it was 1970, as a marketing representative.

Ms. EDWARDS. What was your experience at that time?

Ms. GABRY. I had been strictly a telephone counselor. It's like a complaint department.

Ms. EDWARDS. That was your initial employment, I believe?

Ms. GABRY. Right.

Ms. EDWARDS. Okay.

Ms. GABRY. And then in 1970 I did apply for a marketing rep's job, and they were kind of surprised that a woman had applied, and I was—the job was presented in very much of a negative way, you know, they brought out, "Well, what would you do if you had to go to a meeting at night, and how would you handle union people," you know, "union men, they can use pretty rough language"—just the whole total

job was presented in very much of a negative way. "What would you do if a man that you were selling to would make a pass at you?" That was a big problem they seemed to have.

At that time, I was turned down. They told me that, the reason I was given, they said that, first of all, they thought I was only applying for another job because I didn't like what I was presently doing, and that was the reason that they gave me that I didn't get the job.

And then in 1970, well, actually the latter part of 1971, I reapplied for the same position from encouragement from one of the men who was a manager in marketing at the time; and, when he told me to apply, he told that they were now looking for women. I thought that was kind of interesting; they were now looking for women. And in '71, they had hired one female, and she was—

Ms. EDWARDS. Can you—excuse me—can you tell us why, did he indicate to you why they were looking for women?

Ms. GABRY. It was because of affirmative action program, you know, that they had to have so many women and so many blacks in each district. And he told me, he encouraged me to reapply and he thought that I had a good chance of being hired this time.

Ms. EDWARDS. Was your experience in the interview similar to the one that you had in 1970? Was the interview conducted in a similar way?

Ms. GABRY. Very much the same way, you know, they did present the negative aspects of the job, but they also kept—well, I considered—hammering at the fact that, you know, "Are you engaged? Are you soon, you know, to be married? What happens when you become married? What is going to happen when you get pregnant?"—like if I can no longer work. They really seemed kind of worried about that. They kept mentioning, "But what would you do if a man would make a pass at you and he is a client?" You know. But I did get hired.

Ms. EDWARDS. Okay, you were hired for the job. Did you also enter a training program?

Ms. GABRY. Right, we did have a training program for about 3 months.

Ms. EDWARDS. What were the results of your entering the training program? Was your placement similar to the placement that males in such a training program are given?

Ms. GABRY. Well, initially they had overhired, and they did have like, I would say, about nine people, altogether, that they actually had no permanent position for them. They did come up eventually with one permanent position that would be like a permanent cluster, and you would be given your territory and a certain number of assigned groups that you had to handle and the jobs were open posted.

At that time we were told who was allowed to apply to the open posting position. Then I kind of mentioned I thought that was very unfair, especially since it was open posted; I, you know, was under the assumption that if it is open posted, anyone could apply. And so they did have us go through token interviews.

And I considered it a token interview because it was pretty much, from all I could tell, pretty much determined who would get the position. But at that time, a woman did get it. Initially they asked one particular gentleman, and he turned it down and then that one woman did get it.

MS. EDWARDS. When did you finally get your current assignment or what you would consider a permanent assignment in sales?

MS. GABRY. I wasn't permanently assigned until January 1, 1974. So actually for 2 years I had been kind of pushed around from temporary position to temporary position.

MS. EDWARDS. Thank you, Miss Gabry.

Mr. Glick, I have no further questions at this time.

MR. GLICK. Mr. Chairman, I have no questions at this time, although I would like to reserve an opportunity to come back, and so, I turn the questioning over to the Commissioners.

CHAIRMAN FLEMMING. Just before we continue the examination, the staff report that was presented to us early at the beginning of the hearing has been duplicated and been made available. And I would just like to underline the fact that this is a staff report. The Commission listened to it for the first time this morning, just as we are listening to other evidence for the first time this morning. The conclusion set forth in the report, that is, the staff report, will be considered by the Commissioners in the light of testimony presented at this hearing and in the light of further studies. The conclusions of the Commission will be stated for the first time when we issue our report based on all of the evidence developed at these hearings. I want to make clear what the status of the report is.

Now, Commissioner Freeman, do you have questions?

COMMISSIONER FREEMAN. I would like my question to be addressed to each of the witnesses. Is it correct that each of you, each of you who is employed, is employed by a large company with probably over several hundred employees, including, I believe, Mrs. Payne; you are employed, is that correct? Your employer is a larger employer?

MS. PAYNE. Yes, very large.

COMMISSIONER FREEMAN. Mrs. Gabry, your employer, and, Mrs. Gerace, your employer?

MS. GERACE. Yes.

COMMISSIONER FREEMAN. Mrs. Harris, your former employer was a large employer?

MS. HARRIS. Yes.

COMMISSIONER FREEMAN. I have listened to the testimony of your individual experiences. Is it correct, would it be a correct summary that the top-paid positions are held for the most part by white males? Is that an accurate statement of the employment pattern in the company for which you were employed, Mrs. Harris?

MS. HARRIS. Yes.

COMMISSIONER FREEMAN. Would that be correct?

MS. GERACE. Yes.

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. Ms. Gerace, Mrs. Payne?

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. Ms. Gabry?

MS. GABRY. Yes.

COMMISSIONER FREEMAN. Now, I would like to pursue the statement that Mrs. Payne was making in terms of the employment pattern. Was this a middle-level position in which you are the only, are you the only female and the only black?

MS. PAYNE. Right now?

COMMISSIONER FREEMAN. Right now.

MS. PAYNE. I am not the only female, but I am the only black.

COMMISSIONER FREEMAN. The only black?

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. Now, I would like further information concerning the pattern of the company as it relates to race and as it relates to sex. What is the salary range of the position, of the position that you hold?

MS. PAYNE. Well, the section that I am in now, it may range from probably, my salary, probably from \$8,500 to maybe \$10,000 because there are some women have been there for years, so I guess with their seniority, they, you know—

COMMISSIONER FREEMAN. This is predominantly female?

MS. PAYNE. Yes, this is all female.

COMMISSIONER FREEMAN. This is clerical?

MS. PAYNE. Yes, it is.

COMMISSIONER FREEMAN. Now, what is the next higher classification in terms of salary and whether it is clerical or middle management or professional?

MS. PAYNE. Well, like I said, the company has made a lot of changes in the last year, so now they have established what they call some type of technical unit, which is higher levels than where I am.

COMMISSIONER FREEMAN. Well, it is a technical unit, a unit where you get more money?

MS. PAYNE. Yes, yes, yes, it is a higher-level job, yes.

COMMISSIONER FREEMAN. Higher level? How many, about how many employees are at that level?

MS. PAYNE. Right now I think it is three or four; they are all women, all white women.

COMMISSIONER FREEMAN. Now in-going-at the company itself, are you talking about your unit?

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. Do you know anything about any other units?

MS. PAYNE. No, I have only worked in group claims, so I can only speak about group claims.

COMMISSIONER FREEMAN. In group claims?

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. What is the total number of people in group claims?

MS. PAYNE. Let me see—

COMMISSIONER FREEMAN. About?

MS. PAYNE. Maybe about 100, 120, something like that; that is with the paid staff, as well as the other little sections that are involved.

COMMISSIONER FREEMAN. And how far, what is the highest you can make if you work in group claims?

MS. PAYNE. Supervisory section in the paying sections are level 10s. The technical—

COMMISSIONER FREEMAN. What is that salary at that level 10?

MS. PAYNE. I really don't know, I don't know what the pay scales are. I mean, it is not something that is posted. I mean I really don't know, I can't answer that.

COMMISSIONER FREEMAN. The pay scales are not posted?

MS. PAYNE. No.

COMMISSIONER FREEMAN. But the levels are posted? Well, do you know that—

MS. PAYNE. Well, you know, when a person gets in this position, you know what level they are because it will be told to you that they have been promoted to such and such a level. But exactly what they are making, you know, like I guess on some jobs where everybody at a certain point would make *X* amount of dollars; I don't think you can say that there because I don't really know. I have never seen anything where you can say a level 10 makes *X* amount of dollars or level 6 makes this amount of money or like that.

COMMISSIONER FREEMAN. Would there be any, with respect to the Equal Pay Act and the requirements for equal pay, how, what steps does the company take for the employee to know whether that employee is being paid on the basis without discrimination—

MS. PAYNE. Yes.

COMMISSIONER FREEMAN. —or not? Would you know whether you are getting what you should get, and maybe as against whether a male in that position is getting the same thing?

MS. PAYNE. No, no, no, I wouldn't know that.

COMMISSIONER FREEMAN. Well, with respect to any employer, or any other employer, I would like to ask each of the witnesses: Would you have any way of knowing whether you are receiving equal pay on the basis of your sex, in the position which you hold? Mrs. Gerace?

MS. GERACE. I, because I am involved in the personnel, know the pay, the salary of everybody concerned and the grades they are in. In our company, the grades, the differences between the grades might be as little—I am talking about maximum differences—might be just \$20. As—I think that in our hiring practice, we do consider only previous—

CHAIRMAN FLEMMING. Pardon me just a minute. All right.

MS. GERACE. They consider previous experience, but I think there are subtle differences in how increases are granted and the promo-

tions. I think that it is—I cannot say a little bit higher if it is a male. There is a little bit more concern about getting him promoted so that he will stay happy. I do not feel that I am getting equal pay for the position I have.

COMMISSIONER FREEMAN. You do not feel that?

MS. GERACE. No. I feel that it is undergraded for the size of the office.

COMMISSIONER FREEMAN. Do you believe that, you have an opinion as to whether or not you are being underutilized on the basis of your experience with the company?

MS. GERACE. Yes.

COMMISSIONER FREEMAN. So you are being underutilized and underpaid?

MS. GERACE. Yes.

COMMISSIONER FREEMAN. Ms. Gabry, would you have an opinion, on the basis of your background, training, experience, whether you are being underutilized and underpaid?

MS. GABRY. Definitely, I would say both.

COMMISSIONER FREEMAN. Are you being underpaid?

MS. GABRY. Definitely.

COMMISSIONER FREEMAN. And are you being underutilized?

MS. GABRY. Definitely.

COMMISSIONER FREEMAN. What about you, Mrs. Payne?

MS. PAYNE. I don't think I am being underutilized. I think I am being underpaid.

COMMISSIONER FREEMAN. You are? I mean you are being—they are utilizing your ability but they are not paying you for it?

MS. PAYNE. That is the way I feel personally, yes. In today's inflationary world, yes. I really believe that.

COMMISSIONER FREEMAN. Mrs. Harris, even though you are among the unemployed, you were employed?

MS. HARRIS. Yes.

COMMISSIONER FREEMAN. What was your experience?

MS. HARRIS. I had no experience in the insurance field, but I, answering your formal question, I definitely feel on the basis of my educational background that I was underpaid and underutilized because I know for a fact that, at the time that I went to apply for a job, they were not hiring men for that position with the type of educational experience that I have. They were not hiring men to be correspondents in SR; they were usually hiring them to go into some type of marketing training program or sales program or analyst position.

COMMISSIONER FREEMAN. So that you were underutilized from the beginning?

MS. HARRIS. Right.

COMMISSIONER FREEMAN. Were there men who were in higher positions than you, who had no more experience than you, who had less education than you, who were in, getting more money?

Ms. HARRIS. I am not perfectly sure about less, but I know that there were some with the same background who were getting more money and who were holding down positions of much more responsibility.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. Yes, Miss Payne?

Ms. PAYNE. Yes?

COMMISSIONER RUIZ. Is your immediate superior a male?

Ms. PAYNE. Yes.

COMMISSIONER RUIZ. Does your immediate superior possess skills—

Ms. PAYNE. Yes?

COMMISSIONER RUIZ. —that you do not possess?

Ms. PAYNE. Yes, yes.

COMMISSIONER RUIZ. And what are those skills?

Ms. PAYNE. If I am not mistaken, I believe he is a lawyer.

COMMISSIONER RUIZ. I see. You have not studied law?

Ms. PAYNE. No, I haven't.

COMMISSIONER RUIZ. Miss Gerace, is your immediate superior a male?

Ms. GERACE. Yes.

COMMISSIONER RUIZ. And does he possess skills that you do not possess?

Ms. GERACE. Other than a college degree, no.

COMMISSIONER RUIZ. Other than a college degree, no. You feel that your skills are as good as his because he had a formal education, based upon your experience?

Ms. GERACE. Do I feel that my skills are as—

COMMISSIONER RUIZ. Are equal to his?

Ms. GERACE. Yes.

COMMISSIONER RUIZ. Now, I am interested because you are handling claims. Ordinarily the subject matter of claims are claims for physical disability, are they? Yes?

Ms. GERACE. Yes, our department handles strictly health claims.

COMMISSIONER RUIZ. And these claims that are filed and the extent that they are paid for depend on the nature and extent of the disability?

Ms. GERACE. Yes, that would be one of the things to consider.

COMMISSIONER RUIZ. That is one of the standards?

Ms. GERACE. Right.

COMMISSIONER RUIZ. To gauge the extent of disability?

Ms. GERACE. Yes.

COMMISSIONER RUIZ. Is it necessary for you to know something about the physiology or—

Ms. GERACE. No.

COMMISSIONER RUIZ. How do you gauge the claim then if it depends on extent of disability?

MS. GERACE. Well, if we had any particular problem, medical problem, we have a staff, a medical staff, who would advise in that situation. We are not asked to make that kind of determination, if it is strictly a medical question.

COMMISSIONER RUIZ. Now, with relation to these claims, when you identify them, so as to get an expert opinion out of the office relative to the extent of disability, are there any rules that are different from disabled men or disabled women?

MS. GERACE. No.

COMMISSIONER RUIZ. In other words, if the same injury is suffered by a male and a female, there are no differences with respect to the payment of claims?

MS. GERACE. No.

COMMISSIONER RUIZ. Then the only difference would be the extent of the salary and income that the persons would have, I assume?

MS. GERACE. Oh, that enters into the—

COMMISSIONER RUIZ. That enters into whether you are a clerical job or a managerial job. Managers get more recompense than do clerks for injury; is that not true?

MS. GERACE. Well, if I understand you correctly, if we have guidelines, and, for instance, to determine whether a fee that someone might submit is accepted, one of the things that we consider is the income of the individual being charged that fee, and so it might be up a point or two and more allowed, if that is what you mean.

COMMISSIONER RUIZ. Well, what I am trying to ascertain here is if it isn't true that the salary or the wage that the person receives is a determinative factor as to how much that person, one of the principles, that person shall receive for his disability, isn't that true? I don't know whether I am making the question clear or not.

MS. GERACE. Perhaps I'm just not understanding it. Are we talking about the claimant?

COMMISSIONER RUIZ. Well, you handle claims?

MS. GERACE. Right.

COMMISSIONER RUIZ. And what is the purpose of handling a claim? Is it to pay a disability?

MS. GERACE. No, we deal mostly with hospital and surgical claims. There are some disability claims, but most of ours are hospital and surgical claims where you are paying a percentage.

COMMISSIONER RUIZ. For professional services you mean?

MS. GERACE. Right, hospital services, professional. We do get involved in some disabilities, but not that—we don't determine how much to pay by the disability. The extent of the disability would be determined by the length of disability, would be determined by the extent.

COMMISSIONER RUIZ. I understand now what the narrow matter is that you attend to. And is that the same situation with you, Miss Payne?



MS. PAYNE. When I was on a direct paying staff, yes. A large group, some of them did have disability benefits, some of them were strictly, just, you know, health and accident, you know, hospitalization, surgical-type things. But, like you said, if you ran across a claim that was where the person was a manager or something of this particular firm that we insured, his disability benefits would, you know, range higher, than ours.

COMMISSIONER RUIZ. It depends on the economic scale of the person?

MS. PAYNE. Right.

COMMISSIONER RUIZ. It determines what amount he is going to receive for the same disability that a person—

MS. PAYNE. That is true.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Any further questions?

COMMISSIONER RUIZ. No further questions.

CHAIRMAN FLEMMING. Okay, Ms. Kummerfeld, do you have any further questions at this point?

MS. KUMMERFELD. Yes. Miss Harris, you testified that when you were hired you had a college degree.

MS. HARRIS. Yes.

MS. KUMMERFELD. Although my understanding would be that that would not be a requirement for the position of correspondent?

MS. HARRIS. Yes.

MS. KUMMERFELD. Is that true?

MS. HARRIS. Yes.

MS. KUMMERFELD. Has that changed since that time?

MS. HARRIS. Yes, it has. As of 1973, the requirements for that position are now college degree.

MS. KUMMERFELD. I see. Have there been any exceptions to that rule with regard to persons who have been hired for that position?

MS. HARRIS. Yes, there have. In 1973 there were two men, neither of whom had degrees, who were hired for that position.

MS. KUMMERFELD. Are you aware of any similar exceptions for women?

MS. HARRIS. No, not at all. All across the board, most all the women that were hired after '73 did have degrees. So they were, the only two exceptions were those two men.

MS. KUMMERFELD. Thank you.

MS. GERACE, I wonder if you could speak to, in the difference between the inside and outside investigator job, what the differences are, if any, in terms of the benefits of that position?

MS. GERACE. Well, an outside investigator has a company car assigned to him and an expense account, a revolving expense account available.

MS. KUMMERFELD. And, of course, there are no similar benefits to the inside investigator?

MS. GERACE. No.

Ms. KUMMERFELD. What is the approximate difference in pay for those two positions?

Ms. GERACE. As it breaks down now, they are grade 9 or above.

Ms. KUMMERFELD. Which are grade 9 or above?

Ms. GERACE. The outside investigators.

Ms. KUMMERFELD. The outside?

Ms. GERACE. The inside investigators or approvers would be, the approvers themselves would range from 3 to 7, or well-speaking of the approvers, that is true, from 1 to 6. There is one, one female who does—about half her work is outside during the week—she does not have a company car assigned to her, nor does she have a revolving expense account. But she makes, I think it is three trips a week, or it might be three trips one week and two trips another week, to one of our clients and works there for a morning.

Ms. KUMMERFELD. Is it your feeling that substantially different skills are involved in those two jobs?

Ms. GERACE. Not at all.

Ms. KUMMERFELD. Miss Gabry, when you initially were employed, what was the title of the position—I'm having a hard time keeping all these titles clear—telephone?

Ms. GABRY. Oh, it was central telephone communications counselor; that was the full title.

Ms. KUMMERFELD. At that time, of course, you had a college degree?

Ms. GABRY. Yes.

Ms. KUMMERFELD. Was it your experience that most of the women hired in that position did or did not have college degrees?

Ms. GABRY. At that time, in 1969, many, a good many of the women did have college degrees. Men that would apply to the company that had college degrees, were fresh out of college, with little work experience, if any, they were put in some type of training position such as management training or marketing training, things on that order.

Ms. KUMMERFELD. So that at that time were there any men who, in fact, held the position of central telephone communicator?

Ms. GABRY. No, no, at that time there were none. Presently there are some.

Ms. KUMMERFELD. Thank you.

I have no further questions.

CHAIRMAN FLEMMING. May I express on behalf of the Commission our appreciation for your willingness to come here today to share with us your experiences. I can assure you that it will be very helpful to us as we evaluate the record when we come to the conclusion of these hearings. Thank you very much.

At this time, counsel informs me that one of the witnesses scheduled for this afternoon is here this morning and would find it very inconvenient to be here this afternoon by virtue by a commitment connected with his official duties and responsibilities. So I will ask Counsel to call him as the next witness at this time.

MR. GLICK. Thank you, Mr. Chairman. I would like to call at this time, Mr. Robert Wilcox, who is the State of Illinois Director of Department of Insurance.

CHAIRMAN FLEMMING. Mr. Wilcox, if you would raise your right hand.

[Mr. Robert Wilcox was sworn.]

**TESTIMONY OF ROBERT WILCOX, STATE OF ILLINOIS DEPARTMENT OF INSURANCE**

CHAIRMAN FLEMMING. I appreciate your being here.

MR. WILCOX. It is a pleasure.

MR. GLICK. Mr. Wilcox, this will be fairly brief because I know you have other engagements. I would like to ask you how long you have been director of the State department of insurance?

MR. WILCOX. Just over 2 months, since the middle of September.

MR. GLICK. Since the middle of September? Have you previously been associated with the insurance industry?

MR. WILCOX. Only to a limited degree, sir. For the 3-1/2 years prior to my service with the State, I was general counsel of a holding company, one of whose operating groups of companies was one of the country's largest insurance agents and brokers.

MR. GLICK. So you have some familiarity with the industry, although not in an official governmental capacity?

MR. WILCOX. That is correct.

MR. GLICK. Mr. Wilcox, when you did become the State commissioner of insurance, were you associated, your department and yourself, personally associated in any way with the State legislature hearings on insurance of this past summer?

MR. WILCOX. I understand that my predecessor, Mr. Fred A. Mauck, participated in those hearings and, I believe, offered testimony.

MR. GLICK. Are you familiar with the content of those hearings?

MR. WILCOX. In a general way I am, yes.

MR. GLICK. Did those hearings suggest to you that there is discrimination on the basis of sex in employment in the insurance industry? Have you had an opportunity to observe it from that angle?

MR. WILCOX. Yes, those hearings did suggest that conclusion to me.

MR. GLICK. What was the kind of evidence that brings you to that conclusion?

MR. WILCOX. Well, my recollection from reviewing summaries of the material which Mr. Mauck presented was that, although the department does not have any statutory authority for attempting to regulate or deal with problems of discrimination of any kind in employment, that it was the department's information that many companies in the industry, including and in particular the larger companies, who have staff in the larger cities, did show patterns of employment which saw a disproportionate number of white males, for example, in managerial,

higher and middle managerial positions than the population figures for that locale would suggest might be the case if no discrimination existed.

MR. GLICK. You indicate that you don't believe that your department has any statutory authority to approach this issue. Have you given any consideration to requesting some changes in the legislation to provide your department with this kind of authority?

MR. WILCOX. I have not.

MR. GLICK. Or would you request an interpretation from the attorney general with respect to this authority?

MR. WILCOX. I have not given consideration to that in my brief tenure in office, but I would be very interested in giving such consideration.

MR. GLICK. Do you think your department, the department of insurance, which has many other functions regulating the business aspects of the industry, would be an appropriate place for that authority to lie?

MR. WILCOX. My present view of that is that it probably would not. Certainly, if the department were to assume a statutory duty in this area, it would require significantly increased staff and appropriations, and it is clear to me that the department as presently constituted, it is not professionally equipped or knowledgeable about dealing with problems of this sort in contrast, I think, to commissions and other governmental agencies that have been organized, that is, specifically, to deal with this problem.

I might add, too, that it seems to me that the problems of discrimination in the insurance industry, which, as I say, I believe to be present, do not take on a kind of specialized nature by dint of the insurance industry. It does seem to me that, for purposes of eliminating discrimination in the employment in the insurance industry, principles which have been established in other areas of American business would undoubtedly be applicable here in an enforcement or an ameliorative effort.

MR. GLICK. Thank you, Mr. Wilcox.

MR. Chairman, I have no further questions.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Wilcox, will you tell this Commission what statutory authority your commission does have?

MR. WILCOX. Yes, we have under the Illinois Insurance Code a general mandate to regulate the conduct of the insurance business in this State with respect to terms and conditions of insurance policies, with respect to complaint and claims handling by insurance companies, and it is a major responsibility of our department of insurance to constantly see to the financial solvency of insurance companies doing business in this State.

We also have the responsibility for passing upon applications for admission of insurance companies doing business in other States to do

business in our State. We have also, of course, the duty to pass upon applications to establish insurance companies under the laws of this State. In addition, we are responsible for the examination and licensing of applicants for insurance agent's and broker's licenses.

COMMISSIONER FREEMAN. Your commission has broad powers?

MR. WILCOX. Yes, indeed.

COMMISSIONER FREEMAN. How many employees does your commission have?

MR. WILCOX. Our department of insurance has approximately 240 employees.

COMMISSIONER FREEMAN. What classifications does your department have?

MR. WILCOX. Well, we have, perhaps I will not be interpreting your question correctly, I am sure you will set me straight.

COMMISSIONER FREEMAN. Well, you are the head of it.

MR. WILCOX. I am the director of the department.

COMMISSIONER FREEMAN. You are director? That is appointed or elected direction position?

MR. WILCOX. That is appointed, subject to the confirmation of the State senate.

COMMISSIONER FREEMAN. And under you, do you have some divisions?

MR. WILCOX. Correct, the department is organized into two principal branches. These branches each supervise or include the work of various divisions into which the department is further organized for the carrying out of its duties.

COMMISSIONER FREEMAN. About how many is supervisory employees are—who is the head of the division? Are they called division heads or what?

MR. WILCOX. Yes, we speak of them as division heads. They carry the title of assistant deputy director.

COMMISSIONER FREEMAN. Assistant deputy.

MR. WILCOX. The branch chiefs carry the title of director. The department's number two man is entitled assistant director. We have, as I say, about 11—we have 11 divisions now in the department, and each of those divisions is headed by an assistant deputy director.

COMMISSIONER FREEMAN. Of the 11 division heads, how many are female?

MR. WILCOX. None.

COMMISSIONER FREEMAN. How many are black?

MR. WILCOX. One.

COMMISSIONER FREEMAN. How many are Spanish surname?

MR. WILCOX. None.

COMMISSIONER FREEMAN. How many are Oriental?

MR. WILCOX. None.

COMMISSIONER FREEMAN. You have only one minority and no female?

MR. WILCOX. Correct. And I would add, in my judgment, an unsatisfactory circumstance.

COMMISSIONER FREEMAN. Do you have a legal staff?

MR. WILCOX. We have a group of technicians in the department with legal training, correct.

COMMISSIONER FREEMAN. How many do you have? How many of them?

MR. WILCOX. We have six attorneys.

COMMISSIONER FREEMAN. How many are female?

MR. WILCOX. One.

COMMISSIONER FREEMAN. How many are black?

MR. WILCOX. There are no blacks at this time on the legal staff.

COMMISSIONER FREEMAN. What do you mean at this time? Were there any yesterday or something like that?

MR. WILCOX. I am not certain. As I say, I do not remember, but it is my—I am not certain what the past history is.

COMMISSIONER FREEMAN. Have you ever read the—have you ever received an opinion from your counsel or an attorney from the department who was employed by the department that indicates that you do not have the powers that you say that you do not have with respect to employment or is this your personal opinion?

MR. WILCOX. No, this is an opinion which I have received both from the senior attorney in the department and also from my predecessor in my position who was an attorney.

COMMISSIONER FREEMAN. All right, is that a written opinion?

MR. WILCOX. I believe that we have several memoranda in the files which go into this matter in some detail.

COMMISSIONER FREEMAN. All right. Mr.—would you provide for the Commission a copy of the opinion of your counsel which indicates that the department of insurance, the insurance, Department of Insurance of the State of Illinois does not have powers with respect to employment?

MR. WILCOX. I would be happy to do that.

COMMISSIONER FREEMAN. Would you also submit to this Commission the rules and regulations of the department with respect to the dealing with the conduct of the insurance business?

MR. WILCOX. Yes, of course. Would you like to particularize that request a little bit further?

COMMISSIONER FREEMAN. Do you have a manual?

MR. WILCOX. We have, we have a number of rules and regulations. If you would like an entire set of our rules, that is a volume or two.

COMMISSIONER FREEMAN. That would be helpful.

MR. WILCOX. We would furnish that for you, yes, in detail.

COMMISSIONER FREEMAN. Do you know whether your statute, the statute in Illinois, as it, that empowers you to conduct the insurance business, includes a statement to the extent and to do such other things consistent with the laws of the State of Illinois?

MR. WILCOX. Yes, the statute carries a broad, general authority.

COMMISSIONER FREEMAN. And employment discrimination is illegal in accordance with Federal law, but is also illegal under Illinois law, is it not correct?

MR. WILCOX. I believe that is correct.

Commissioner Freeman. Then you are saying that your, this provision of Illinois law prohibiting employment discrimination does not relate to the powers of the department of insurance?

MR. WILCOX. Yes.

COMMISSIONER FREEMAN. Thank you, I have no questions.

CHAIRMAN FLEMMING. Just to clarify one point, Commissioner Freeman, as I understand it, you have requested a copy of the opinion rendered by counsel with respect to the powers of the department in relation to employment in the insurance industry?

COMMISSIONER FREEMAN. Yes, as it relates to their regulation of the insurance company's license to do business in Illinois, either created in Illinois or other companies licensed to do business.

Thank you.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. You are a regulatory agency?

MR. WILCOX. Yes, sir.

COMMISSIONER RUIZ. And with respect to regulating the agency regulates for the public good?

MR. WILCOX. Indeed.

COMMISSIONER RUIZ. Do I understand correctly that your understanding of the memorandum that you made reference to, given to you by your counsel, expresses the thought that State, this State regulatory agency needs express statutory State authority to inquire into whether the Federal law as set forth in the 14th amendment to the United States Constitution is being complied with or not in the industries that you regulate?

MR. WILCOX. Mr. Commissioner, I would think that that would be the import of the opinion. As I say, it is my understanding that it is reasonably clear as a matter of Illinois law that our department does not have the authority to regulate in terms of conditions of employment in the insurance industry.

COMMISSIONER RUIZ. Now, in requesting this opinion, for purposes of getting this particular item straightened out, as I understand, you are going to make a request not from your general counsel—is he the State attorney general?

MR. WILCOX. No, sir, the opinions which I have reference to are opinions furnished by legal officers within the department of insurance.

COMMISSIONER RUIZ. Would you suggest to the legal officers within your department of insurance that they contact the State attorney general for purposes of an opinion to ascertain whether your action, as State action, has or does not have a mandate in connection with the 14th amendment of the United States Constitution which guarantees the equal protection to all persons including employees?

MR. WILCOX. I would be happy to do that.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Mr. Wilcox, how soon do you think you could furnish the Commission with the copy of the opinion of counsel on this matter?

MR. WILCOX. I believe that that ought to be possible to do during the coming week, Mr. Chairman.

CHAIRMAN FLEMMING. Thank you very much. And then as I understand it, you will, in all probability, request an opinion from the State attorney general on this basic issue?

MR. WILCOX. Yes, sir.

CHAIRMAN FLEMMING. Thank you very much.

Other questions? Any other questions?

COMMISSIONER FREEMAN. I have no questions.

CHAIRMAN FLEMMING. We again appreciate very much your appearing before the Commission and discussing these matters with us.

MR. WILCOX. I am very glad to be here, Mr. Chairman, and I would like to close by affirming what I assume is assumed, my own personal commitment to the objectives of your Commission.

CHAIRMAN FLEMMING. Thank you, we appreciate that.

I am going to recess the hearing until 11:15, but we will start promptly at 11:15.

CHAIRMAN FLEMMING. May I ask the hearing come to order please. Ms. Edwards, are you prepared to call the next witnesses?

MS. EDWARDS. I understand that some of the persons indicated here are not presently in the room, and Mr. Glick may have a statement to make about that, Mr. Chairman, so if I can get Mr. Glick in immediately—I can call those who are here if you want.

CHAIRMAN FLEMMING. Why don't you call those who are here and we can swear them because I know they expected to start at 11:00 and because of the additional witness, we are starting at 11:15; I don't want to delay it.

MS. EDWARDS. Mr. Frank Metzger, Mr. William Murray, Mr. Clyde Brooks. I understand that Mr. Brooks is on his way back to the room. He stepped out during the break.

CHAIRMAN FLEMMING. Are there three?

MS. EDWARDS. There are four persons scheduled, but I understand there will be three persons of the group.

CHAIRMAN FLEMMING. Mr. Metzger and I do not see Mr. Murray. Mr. Brooks here?

A VOICE. He will be in the room shortly; he stepped out.

CHAIRMAN FLEMMING. Mr. Glick, do you care to make a preliminary statement before we swear the witnesses?



MR. GLICK. Yes, Mr. Chairman, after he testified, Mr. Wilcox, the last witness, the director of the State department of insurance, requested that a statement that he had prepared be admitted into the record, and with you permission I would introduce it as Exhibit 91.

CHAIRMAN FLEMMING. Without objection that would be done.

All right, do you have anything further?

MR. GLICK. Mr. Chairman, a witness has been called and subpoenaed, Mr. John Hay, who is director of the Mid-America regional home office of Prudential of America, and he is apparently not here, although the subpoena was duly and properly served. But I am told that he is represented by counsel who wishes to make a statement. Now it is entirely at the discretion of the Commission whether they wish to hear such statement or not, and I would leave that to their judgment.

CHAIRMAN FLEMMING. Okay. We would be very glad to have a statement from counsel representing Mr. Hay.

MR. GLICK. Will counsel please step forward.

MR. GORDON. My name is Paul Gordon, I am counsel for the Mid-America regional home office of Prudential. The subpoena to which Mr. Glick refers was served on us late Tuesday, called for a number of, production of a number of documents and statistics which we did not feel we could reasonably comply with, and we did not feel that Mr. Hay could reasonably prepare himself to be here this morning. I have filed with the Commission a written objection in which we state our position as to the validity of the subpoena, insofar as it comes under the Commission's own rules that require that a subpoena be issued in sufficient time for the witness to prepare himself.

CHAIRMAN FLEMMING. All right, the Commission will take your representations under consideration.

MR. GORDON. Mr. Commissioner, I might add that I have also given Mr. Glick a statement which we think reflects Prudential's general position; it has the statistics that we were able to get together. So if the Commission would accept that we would be more than happy to have that taken into consideration and at some future time with sufficient notice we would be happy to appear.

MR. GLICK. Mr. Chairman, could I state for the record that, in my view, the subpoena served on Mr. Hay was timely and was within a reasonable time, as the Commission regulations require. The issues that would have been discussed with Mr. Hay were thoroughly discussed with him in an interview by Assistant General Counsel Lucy Edwards. He was thoroughly familiar with what we would cover. He was advised that he could bring any staff persons with him that he would so desire to give him technical advice if he needed it. There was no request made to me by counsel for Prudential or Mr. Hay himself, as a number of other subpoenaed witnesses have done, to provide material that could not be prepared in advance at some date subsequent to today's hearing.

MR. GORDON. I want to do that, Mr. Glick.

MR. GLICK. I would have been perfectly happy to negotiate some items for delivery at a subsequent time and not hold the organization to delivery of the subpoenaed material for this very moment, but no approach was made to me.

MR. GORDON. Well, I didn't realize who would be the proper person to contact. I thought the proper thing for me to do is come here, state our objections to the subpoena; I think they are perfectly valid.

We have submitted a statement; I have told you personally that we will submit whatever documentary evidence you would like if it is delineated. As I pointed out to you, the company has over 750 affirmative action plans across the country and eight regional home offices and to provide an adequate response, that would be helpful to this Commission, would be impossible to do on a 2-day notice.

CHAIRMAN FLEMMING. Well, the Commission will take under advisement the motions that you have in effect made and we will advise you before the end of the day as to our decisions.

MR. GORDON. Thank you, Mr. Commissioner.

CHAIRMAN FLEMMING. All right, the other witnesses, I gather, may I ask—if you will stand and raise your right hand, please.

[Mr. Clyde Brooks and Mr. Frank Metzger were sworn.]

**TESTIMONY OF CLYDE BROOKS, MANAGER OF EQUAL EMPLOYMENT OPPORTUNITY AND EMPLOYEE RELATIONS, BLUE CROSS ASSOCIATION, CHICAGO, ILL., AND FRANK METZGER, SENIOR VICE PRESIDENT, CNA FINANCIAL CORPORATION, CHICAGO, ILL.**

MR. GLICK. Mr. Chairman, I am also given to understand that another witness who was subpoenaed to appear this morning, Mr. Murray, is not here either, Mr. William Murray; but it is suggested also that he is represented by counsel. Perhaps he wishes to make a presentation also.

MR. PEBWORTH. My name is Donald A. Pebworth, assistant legal counsel, Hospital Service Corporation. I have provided the Commission staff with a short written statement. We are a member of the Blue Cross Association. Mr. Brooks is here and will speak for the local Blue Cross plan. It provides the same information; identical subpoenas were served, and we feel that Mr. Brooks would respond to the questions.

MR. GLICK. Mr. Chairman, could I read a statement that has been provided to staff in the last few minutes by the Blue Cross Association, or the Hospital Service Corporation? It reads, "Since having been served—

CHAIRMAN FLEMMING. All right, just a minute. I would like to declare the subpoena was addressed to Mr. Murray of the Illinois Blue Cross-Blue Shield Association. What is the legal title? That's all I want—

MR. PEBWORTH. The legal name was not on the document; it is Hospital Service Corporation.

CHAIRMAN FLEMMING. The Illinois Hospital Service Corporation?

MR. PEBWORTH. Yes, sir.

CHAIRMAN FLEMMING. Which is the Blue Cross-Blue Shield Corporation for the State of Illinois?

MR. PEBWORTH. That's correct.

CHAIRMAN FLEMMING. Okay.

MR. GLICK. The subpoena, although it does not have the legal title, was served on Mr. Murray personally and I don't think that is really significant, the name of this organization; but, if I could, the statement reads, "Since having been served last Tuesday with a subpoena *duces tecum*, and with a request for the appearance of Hospital Service Corporation, we have learned that our national association, the Blue Cross Association, has been asked to appear and should provide you with the information you seek. The information sought from the Blue Cross Association appears identical to that requested from Hospital Service Corporation."

Now, in comment on that, I would like to say, Mr. Chairman, that the subpoena was served upon Mr. William Murray to appear personally and not upon the corporation to appear by an unnamed representative. In addition, I would like to point out that the information which we are seeking from the Hospital Service Corporation, that is, Blue Cross-Blue Shield of Illinois, is not in any way identical to the information which we are seeking from the Blue Cross Association.

MR. PEBWORTH. Our response would be that since the subpoenas were identical, I made that assumption. If at the close of Mr. Brooks' testimony you would feel that it would be necessary, I suppose that we would have to go into that at that time.

CHAIRMAN FLEMMING. Well, may I again say that the Commission will take under advisement the position that you have stated, and we will announce our ruling both on your position and on the position set forth by the counsel earlier at the beginning of the afternoon session.

MR. PEBWORTH. Thank you.

COMMISSIONER FREEMAN. Counsel, I would just like to ask a question. Is it your statement that you did not know that the subpoena was served personally on Mr. Murray and addressed to Mr. Murray as an individual?

MR. PEBWORTH. It was unclear at the time.

COMMISSIONER FREEMAN. Did you see the subpoena?

MR. PEBWORTH. Yes, I did. In fact, it was served upon me.

COMMISSIONER FREEMAN. You looked at it and after you looked at it it wasn't clear?

MR. PEBWORTH. No, ma'am.

COMMISSIONER FREEMAN. Thank you.

MR. GLICK. Were the witnesses sworn?

CHAIRMAN FLEMMING. Yes.

MR. GLICK. Mr. Chairman, the witnesses were sworn, but I note that both witnesses were, Mr. Metzger and Mr. Brooks are accompanied by counsel, and I would like counsel to identify themselves for the record please.

MR. GIMPEL. I am Joel Gimpel, associate counsel for Blue Cross Association.

MR. IGLESKI. My name is Thomas Igleski, I am assistant general counsel for CNA Financial Corporation, I-g-l-e-s-k-i.

CHAIRMAN FLEMMING. Counsel, you may proceed with the questioning.

MR. GLICK. First, Mr. Chairman, I would like the witnesses to state their names, their address, their employers, and their titles in their companies for the record. Mr. Metzger?

MR. METZGER. My name is Frank Metzger. I live at 166 Lapia [phonetic] Street in Glencoe, Illinois, and my employer is CNA Financial Corporation. I am senior vice president.

MR. GLICK. Mr. Brooks?

MR. BROOKS. My name is Clyde Brooks. I live at 65 Brentwood, Elk Grove Village, Illinois. I work for the Blue Cross Association. My title is manager of equal employment opportunity and employee relations.

MR. GLICK. Thank you.

MR. GIMPEL. Excuse me, Mr. Glick, Mr. Brooks has prepared a statement, a written statement for submission to the Commission, and he can summarize it and possibly would answer many of your questions before you start.

MR. GLICK. Well, I think that would be perfectly satisfactory. And I will follow that procedure. I would not want to have a lengthy statement put into the record verbally. I will ask the Chairman to receive it for the record; and, if Mr. Brooks can summarize it, somewhat briefly, so that we can get to questioning, I would appreciate that. But I was intending to start with Mr. Metzger of CNA. There are a few things I want to establish there before I return to Mr. Brooks.

Excuse me, Mr. Metzger, CNA Financial is a holding company which has among others of its corporate entities two insurance companies, one the CNA Casualty, and one the CNA Assurance, which is essentially a life insurance company, is that correct?

MR. METZGER. That's correct. The titles of the two companies are Continental Casualty Company and Continental Assurance Company.

MR. GLICK. Continental Casualty and Continental Assurance?

MR. METZGER. That's correct.

MR. GLICK. Are both or either of these companies Federal contractors?

MR. METZGER. The Continental Casualty Company is a Federal contractor.

MR. GLICK. And that is a wholly owned subsidiary of CNA, is that correct?

MR. METZGER. Yes, it is.

MR. GLICK. I see. Now, in view of the fact that the company is a Federal contractor—that is, the Continental Casualty—has it been required to supply an employment affirmative action plan to the Federal Government?

MR. METZGER. Yes, it has.

MR. GLICK. And has it provided such a plan?

MR. METZGER. It has provided such a plan.

MR. GLICK. Has it been reviewed and considered satisfactory?

MR. METZGER. It has been reviewed; it has not been accepted.

MR. GLICK. Can you give us some idea as to why it has not been accepted?

MR. METZGER. The plan has been reviewed at various times. In most recent history, the plan was submitted in May of 1974, and to the Insurance Compliance Staff of the Social Security Administration; and in the course of the review, during the period between submission and onsite review, the orders which govern that plan, orders 4, 14, were revised.

The review was conducted under the revised orders. The plan, of course, was constructed under the old orders. For that reason, as well as others, certain revisions were requested at an onsite review in August of 1974, and these revisions were submitted on schedule, on September 30, 1974.

There was a subsequent review by the ICS, which culminated in an onsite review on October 17, 1974, at which time a number of additional revisions and changes were requested to be submitted by November 29, 1974.

MR. GLICK. And do you expect to meet that deadline?

MR. METZGER. Yes.

MR. GLICK. Thank you, Mr. Metzger, I am going to be coming back to you, but I would like now to turn to Mr. Brooks and if you want to summarize your statement, would you please proceed?

MR. BROOKS. Thank you.

First of all, I am honored and pleased to appear before this very distinguished body, one that I have followed for a few years, and grown to respect very much. The Blue Cross Association certainly supports the intent of this body to deal with the issues relating to sex discrimination.

The Blue Cross Association is, first of all, not an insurance company. We are a tax-exempt, nonprofit corporation. We serve, and serve as a spokesman for 75 not-for-profit member plans across the Nation. The Blue Cross Association is also, in addition to being an association representing member plans, it is also the prime contractor for medicare.

My role with the Blue Cross Association is to work with the Blue Cross Association and the member plans in monitoring their affirmative action programs and helping them to correct any deficiencies that may exist. And over the last several years, progress certainly has been made. I have been with the Blue Cross Association for about 15 months, and I think, as you review the materials which we have been asked to supply you with, which include our affirmative action program statistics and other data as well as the entire prepared statement, you will find that the statistics and data in it certainly reflects progress.

The Blue Cross Association has its own EEO staff, that is, staff who work within the association monitoring and working with the supervisor, the managers within, to ensure that there is, that we are in compliance with the law, both the letter and the spirit. I do not monitor the Blue Cross Association's EEO programs. I treat them as I would treat a plan anyplace else across the Nation. I thought that point should be made.

There are many things that we have done within Blue Cross Association to minimize sex discrimination. Reviewing our benefit programs, our application forms, tuition reimbursement, training, holding managers and supervisors accountable for their progress in their units, departments, and divisions.

I thought you might be interested in knowing, and I will conclude in the next few seconds, that 1966 is recognized as the formal beginning of equal opportunities throughout NBCA and its member plans. At that time, 1966, the minority representation was 6.2 percent. Eight years later, or today, that is as of 9/30/70—I should say 6/30/74—we are now 23.4 percent minority population. That 17, 18 percent increase over the last 8 years we feel is significant.

In terms of females, our system, our family, that is, by that I mean Blue Cross Association and its 75 member plans, represent 60,075 employees. Now when I say Blue Cross Association and member plans, I am talking about Blue Cross only plans, and Blue Cross and Blue Shield joint plans. That is where the personnel functions are joint or combined.

Of those 60,075 employees across the Nation, females represented as of June 30, '74, 73 percent. To give you a measurement of progress, we are not suggesting at all that we are totally satisfied with that, but in the officials and managers category, the female representation, nationwide, is 24 percent. In the supervisory category, it is 62 percent; professionals, 31 percent; sales, 15.4 percent. We feel that these figures represent progress over last several years, and we are determined to continue to show additional progress.

The prepared statement has in it some expectations that we established for ourselves a few months ago, and it will give you a status report on our internal monitoring in terms of how we view our progress both with NBCA as well as with our member plans. Thank you.

MR. GLICK. Thank you, Mr. Brooks. May we have a copy of this statement, please, and with the Chairman's permission, I would ask that it be introduced into the record as Exhibit 91—I beg your pardon, Exhibit 92.

CHAIRMAN FLEMMING. Without objection that will be done.

MR. GLICK. Mr. Brooks, in the subpoena that you received there was a request for material to be supplied to the Commission. Now, it is my understanding that some of the material has been previously supplied, previous to this morning, supplied to the staff. We have not had an

opportunity to fully examine it, and I am not certain really whether all of the items we requested are there or not. I see counsel has—you have some other material that you wanted to present?

**MR. GIMPEL.** Affirmative action plan that is requested by the subpena.

**MR. GLICK.** Having presented the additional material, I will have staff review it, and I would like to be able to get back in touch with you subsequent to today to, after we've determined if there has been delivery of all the material requested.

Now, I would just like to ask Mr. Brooks, you have indicated that there is considerable progress been made on the part of the association in terms of the employment status of women on a nationwide basis, but I wonder if that progress is going to continue? Are the companies in the process of expanding or retracting in terms of employment numbers?

**MR. BROOKS.** In some cases, certainly, there is expansion. In others, as we learned as late as 2 weeks ago, there is a slowdown in employment, even contemplation of a reduction of work force because of the economy. But we are going on the assumption that there will be opportunities for females and minorities to move up in the ranks of our member plans as well as Blue Cross Association.

**MR. GLICK.** How do you expect that will occur in those companies that are retrenching in terms of numbers of employees?

**MR. BROOKS.** First of all, we, in cooperation with the Insurance Compliance Staff, the Social Security Administration, we have negotiated a national format and a national affirmative action manual which incorporates the revision to Revised Orders 4 and 14. The significance of that is that that provision, those new provisions which deal with lines of progression, wages, and other kind of information, will for the first time be a part of the affirmative action program; and, through monitoring and analysis and working with member plans, we hope to be able to show even greater progress than we have shown today. But it will occur through onsite visits, which are conducted by myself, and members of my staff, as well as desk audits, quarterly reports, affirmative action progress, and so forth.

**MR. GLICK.** Are there training programs that companies have that will be of assistance to minority people and women in going up in the ranks of the company?

**MR. BROOKS.** Yes. We, in preparing for this, we estimate that approximately 75 to 80 percent of all of our plans have formalized training programs, many at the managerial level, supervisory levels; that reflects a modest growth in terms of preparing, when I say modest, I mean over the last 6 months the figures I looked at, growth and promotional activities for females as well as minorities. These programs include tuition reimbursement; for example, the Blue Cross Association, along with the American Hospital Association, has a fellowship program, and for the first time there is a female and a minority

who are in that program and certainly are now in a position to be qualified for top management positions.

MR. GLICK. Thank you, Mr. Brooks.

Now I would like to turn to Mr. Metzger for a moment if I could. Mr. Metzger—

CHAIRMAN FLEMMING. Mr. Glick, Mr. Glick, if I could interrupt for just a moment, I would like to ask one or two questions which it seems to me relate to the testimony that has just been presented.

MR. GLICK. Certainly.

CHAIRMAN FLEMMING. I would like to know what the official relationship is between the Blue Cross Association and the Illinois association on equal employment opportunity matters.

MR. BROOKS. The relationship is that the—first of all, there are two. One is a voluntary relationship by virtue of being a member of the Blue Cross Association. The second is the fact that, as being a contractor for medicare, that we must work with them to ensure that their EEO progress is satisfactory. We are not a compliance agency, obviously, but we do take that task and assignment very seriously. But those are the two relationships.

CHAIRMAN FLEMMING. Can you issue orders to the Illinois association in relation to their affirmative action plan if you feel that it is inadequate or if you feel that it is not being implemented in an effective way?

MR. BROOKS. Personally, no.

CHAIRMAN FLEMMING. I mean not personally, but can the Blue Cross Association issue such orders?

MR. GIMPEL. I'd better answer that.

The Chicago Blue Cross Plan, Hospital Service Association, is a subcontractor under medicare, and they contract with the Blue Cross Association, and that subcontract that is entered into is subject to the approval of the Social Security Administration. And the prime contract and the subcontract all have certain requirements, contractual requirements for compliance with the Federal EEO laws and regulations.

CHAIRMAN FLEMMING. If the subcontractor is not complying with the standards that the contractor feels should be adhered to, can the contractor issue orders to the subcontractor to get into compliance?

MR. BROOKS. What we do, certainly, is to exhaust every effort to work with them in correcting the deficiencies. And we, in most cases, have been modestly successful in doing that.

CHAIRMAN FLEMMING. That is with the Illinois Association?

MR. BROOKS. No, we have not, at this particular time, mainly because of the lack of staff, conducted a review of the affirmative action program of the Chicago plan. If I had known that there was going to be information directed at me, I would have been more prepared for that regarding that particular plan.

But to answer your question directly, the Blue Cross Association is the prime contractor for medicare, and, since the Chicago plan is a



subcontractor, and suppose that the Blue Cross Association chose to do so, they could withhold the right to issue a new contract.

CHAIRMAN FLEMMING. But, as of the present time, you have no knowledge as to the status of the affirmative action plan of the Chicago association and as to what is being done to implement that plan and as to what results have been achieved under the plan?

MR. BROOKS. In a general way I do. They participated fully and actively in our recent affirmative action workshops that we held across the Nation to prepare our plans for 1975 and regarding new regulations and so forth. We do know that approximately a little less or about half of the work force of the Blue Cross plan is minority. We do know that about nearly 40 percent of the positions above the technician level are female.

Certainly, that we have plans that have various shades of problems, but what we are trying to do is to address the problems and correct them, noting the historical development of sexism, racism, throughout the Nation, and by working aggressively and with our member plans and holding them accountable, we hope to continue to show good performance.

CHAIRMAN FLEMMING. Well, as you probably know, the purpose of this hearing is to become acquainted with practices in the Chicago area, that is our primary objective.

Now, may I just ask a couple of specific questions. Do you have on file and have you reviewed the affirmative action plan of the Chicago association or Illinois association?

MR. BROOKS. We do have on file the 1974 affirmative action program of the Illinois association, and it is in the process of being reviewed. However, we do review each quarterly, the quarterly reports which are shown by, which reflect data by job categories, by sex, by race, by terminations, by promotions and so forth, for each and every plan, including the Illinois plan.

CHAIRMAN FLEMMING. So that you do have statistics on employee work force, including a breakdown by sex and race and that you do have information which would give us the same breakdown for the categories of officials and managers, professionals, technicians, sales, office and clerical?

MR. BROOKS. Yes, we do.

CHAIRMAN FLEMMING. Do you have available the responses on the part of the Illinois or Chicago association to the questionnaire from the Illinois Insurance Laws Study Commission for its July 1974 hearing?

MR. BROOKS. Not the Illinois plan.

CHAIRMAN FLEMMING. Okay. Do you have a breakdown as far as the Illinois plan is concerned of trainees by race and sex, types of training programs, including a breakdown of participants by race and sex?

MR. BROOKS. We were not asked to—I was not asked in my subpoena to provide that information.

CHAIRMAN FLEMMING. I understand that. I am just asking whether or not in your office you have that information available.

MR. BROOKS. We would have to check into that to determine.

CHAIRMAN FLEMMING. Then, finally, have you made an evaluation of the Illinois plan as to its effectiveness in terms of achieving the goals that may have been set by the affirmative action plan?

MR. BROOKS. As I mentioned, we are in the process of doing that. The problem has been, up until recently, there was a one-man EEO staff, and now that our staff has been enlarged within recent months, we are going to be able to catch up with a whole analytic responsibility.

CHAIRMAN FLEMMING. But whatever your reason you, in fact, had the opportunity of making such a determination and making such a report to the Illinois association?

MR. BROOKS. That is correct.

CHAIRMAN FLEMMING. Thank you very much.

MR. GLICK. Mr. Chairman, I think the earlier testimony of Mr. Brooks and his responses to your questions clearly indicate that the kind of information that we were seeking from the Hospital Association from Mr. Murray would be appropriate for the Commission to hear, since, with due respect to Mr. Brooks, he is just simply not in possession of the kind of information that Mr. Murray has.

CHAIRMAN FLEMMING. That was the purpose of my questioning and we will take this under advisement at our noon recess.

MR. GLICK. Thank you.

Now if I could turn to Mr. Metzger. Mr. Metzger, the subpoena that was served upon you requested that, as a subpoena *duces tecum*, that certain material be supplied to the Commission. Do you or counsel have the material with you, or did you indicate to me that you will be supplying it in the future if it is not already available?

MR. METZGER. Some of that material was previously submitted to the Commission, and I have a letter which discusses that material as well as the other material which I would like to ask permission to enter into the record.

MR. GLICK. And will this letter indicate, Mr. Metzger, what material you cannot supply, what material you will supply in the future?

MR. METZGER. Yes, it does.

MR. GLICK. I see. Well, may I take a look at the letter first before I ask that it be introduced into the record?

MR. METZGER. Thank you.

MR. GLICK. May I have just one 30-second—

CHAIRMAN FLEMMING. Yes, do you want us to use up that 30 seconds with other questions or—

MR. GLICK. No.

CHAIRMAN FLEMMING. Okay.

MR. GLICK. Mr. Chairman, the letter that Mr. Metzger has provided for me, which is addressed to Ms. Lucy Edwards, Assistant General Counsel, indicates in its four paragraphs that either the information that the staff has requested in its subpoena has been supplied to the Commission or, if there is any need for it in the future, that it will be supplied. So it appears to me that Mr. Metzger is clearly intending to supply all the information that the Commission needs, some of it will be supplied to other agencies in the near future and it could at the same time be supplied to the Commission, if that is acceptable to you.

CHAIRMAN FLEMMING. Without objection we will proceed on that basis.

MR. GLICK. Then, with your permission, Mr. Chairman, I will introduce Mr. Metzger's letter into the record as Exhibit Number 93.

CHAIRMAN FLEMMING. Without objection that will be done.

MR. GLICK. \$T1THANK YOU.

Mr. Metzger, you indicated that you had been preparing the affirmative action plan for Continental Assurance, working with the Social Security Administration branch that's responsible for those kind of things, but that the plan was still in process and had not been finally submitted nor finally accepted, although you were looking forward to that in the near future. But I would like to ask you, even despite that kind of technical problem that you have had, what kind of efforts has the company been making, if any, in, let us say, the last year to improve the employment status of its female work force?

MR. METZGER. If I may just make one correction, it is Continental Casualty.

MR. GLICK. Did I say Continental—I'm sorry, Continental Casualty.

MR. METZGER. We have had a plan which has had to be revised for, as I said before, quite a period of time in recent history, since it was submitted last—in May of 1974, and then several, two other times past that.

In the course of that review, which is extremely technical in nature, we have basically tried to implement that plan. That plan covers all aspects of employment, starting at the hiring door and going through promotion, training, compensation, and so on. So that we have tried as well as we can to comply with the law of the land.

MR. GLICK. Well, it is clear that the present economic situation in the country, insurance industry, like a number of others, is contracting in terms of its growth employment. Can you give us some indication as to how the Continental Casualty could possibly improve the status of women in its employment while at the same time reducing the total work force? What kind of techniques do you intend to use to overcome that hurdle?

MR. METZGER. The subject of reduction is a painful one to us, since the casualty business, at least, is in considerable difficulties in the industry, and our casualty business, in particular, due to the change in surplus and the need to increase casualty reserves, has had to basically

reduce its anticipation of new business and its premium writings for 1975. We are presently developing and we will review in the next 2 months the business plans for both Continental Assurance and Continental Casualty. With regard to Continental Casualty, we are, unfortunately, quite sure that we will have to reduce the work force.

Our intent, during that process, is to take every step that we can to, at the very least, maintain the level of female and minority employment that we presently have and, because attrition will take place, both voluntarily and involuntarily, if we can, to increase the percentage of representation in those categories. The difficulty of doing this is contained in the fact that both minority and female personnel in higher-level positions have relatively little tenure, and that we will be forced to make Solomon-like decisions between individuals who have performed well and who have long seniority, and individuals who have performed well and who have short seniority.

And all I can tell you at the moment is that we will do everything we can in an affirmative way to at least maintain the level of employment of cost job groups and within job categories that we presently have and, where attrition allows it, to increase those percentages.

MR. GLICK. We heard some testimony earlier from the State director of insurance, Mr. Wilcox. In his opinion, there has been discrimination against women in the insurance industry, in terms of their employment. Would you care to comment on that, Dr. Metzger?

MR. METZGER. I think that, if you speak of the insurance industry as a whole, that you would have to say that there appear to be very few minority or female personnel in the very highest job categories. And that that might be taken as evidence of this disparate treatment.

I think that it is much harder for me to answer the question which deals with direct discrimination because I find, at least in my company and as the only one that I can speak of, no evidence in the investigations that I have conducted so far of direct discrimination. I do find that we, as is the case in the industry as a whole or in the industry as a whole, do not have women and minority personnel, female and minority personnel, at the very highest levels of the company. And to my mind, that is evidence of disparate treatment on an overall basis.

MR. GLICK. Thank you, Dr. Metzger.

Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. All right. Commissioner Ruiz?

COMMISSIONER RUIZ. The Continental Assurance Company is a profit corporation, isn't it?

MR. METZGER. Continental Assurance, yes.

COMMISSIONER RUIZ. And Casualty Company, Continental Casualty Company is a profit corporation?

MR. METZGER. Yes.

COMMISSIONER RUIZ. And the CNA Financial Corporation of Chicago likewise is a profit corporation.

MR. METZGER. Yes.

COMMISSIONER RUIZ. Now that is a holding company?

MR. METZGER. CNA Financial Corporation is a management company.

COMMISSIONER RUIZ. And it is a management holding company?

MR. METZGER. Yes, it is.

COMMISSIONER RUIZ. By management holding company, what do you mean by that, for purposes of the record?

MR. IGLESKI. Well I think the witness means that, in addition to being simply a holding company, holding the stock of the subsidiary corporation, to a greater or lesser degree, they participate in the management of the companies as well.

COMMISSIONER RUIZ. Now, by holding company that means that the holding company controls the stock of the subsidiaries?

MR. IGLESKI. That's correct, sir.

COMMISSIONER RUIZ. And as a holding company and controlling stock, all of the powers, corporate powers, emanate from the source of power which is the shares of stock itself?

MR. IGLESKI. Also correct.

COMMISSIONER RUIZ. Correct? Now, on this board of directors, how many minority persons do you have?

MR. METZGER. None.

COMMISSIONER RUIZ. None? No women?

MR. METZGER. No, sir.

COMMISSIONER RUIZ. Are there any statistics with respect to your insurance policies relative to beneficiaries available in your offices?

MR. METZGER. I am sorry, sir, I don't understand the question.

COMMISSIONER RUIZ. What I am trying to bring out is this: How many of the beneficiaries would you say of your life insurance policies are females?

MR. METZGER. I am not qualified to answer that question. I will attempt to get you an answer, sir.

COMMISSIONER RUIZ. By attempting to get an answer, the statistics are available, are they not?

MR. METZGER. I am sorry, but I can't even tell you that.

COMMISSIONER RUIZ. As an experienced man, would you say that most of life beneficiaries are in favor of women?

MR. METZGER. If you ask my personal opinion?

COMMISSIONER RUIZ. Personal opinion.

MR. METZGER. In a general way I would say, but that would be a guess.

COMMISSIONER RUIZ. Do you have any minorities on management with respect to your subsidiaries?

MR. METZGER. We have minority personnel in management in the subsidiaries, yes.

COMMISSIONER RUIZ. Do these subsidiaries have boards separate and apart from the holding company?

MR. METZGER. Yes.

COMMISSIONER RUIZ. Are any of those members of those boards minorities?

MR. IGLESKI. No, sir.

COMMISSIONER RUIZ. No women?

MR. IGLESKI. No women. We have no—there is no woman who is a director of any of the subsidiary corporations of CNA Financial.

COMMISSIONER RUIZ. No minority male?

MR. IGLESKI. No, sir.

COMMISSIONER RUIZ. Will you seek to make available to this Commission the statistical item with reference to beneficiaries, as to what proportion of your beneficiaries are male and what proportion of your beneficiaries are female?

MR. METZGER. If such an item can be developed, sir, we will develop it. I might say that I have no present knowledge that records such as that are kept, and we have thousands of policies. If it will require a search of individual policies, we will communicate that to you.

COMMISSIONER RUIZ. In any event, your educated conclusion is, as you have heretofore stated, that—

MR. METZGER. For the industry as a whole?

COMMISSIONER RUIZ. For the industry as a whole.

MR. METZGER. Right.

COMMISSIONER RUIZ. And how about Chicago, would Chicago be different?

MR. METZGER. I would not think so.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Ms. Freeman?

COMMISSIONER FREEMAN. Dr. Metzger, with respect to—I would like to pursue Commissioner Ruiz' question on the breakdown as to sex. Your answer that you do not have this information, your company produces actuarial studies, does it not?

MR. METZGER. Both Continental Casualty and Continental Assurance do.

COMMISSIONER FREEMAN. And your actuarial studies include breakdowns on the basis of sex, is that correct?

MR. METZGER. I can't answer that question.

COMMISSIONER FREEMAN. Are you saying you cannot answer it because you do not know the answer?

MR. METZGER. I do not know the answer. I might say here that I am senior vice president of CNA Financial, and I am a personnel and organization specialist. I am not an actuarial specialist, or an insurance specialist, as such. And so I, this information that you are requesting was not contained in the subpoena, and I have no personal knowledge of most of the questions that you are asking in that line.

COMMISSIONER FREEMAN. Do you have information that there are, in fact, actuarial studies by your company?

MR. METZGER. Yes, of course.

COMMISSIONER FREEMAN. And that such studies are separated on the basis of sex?

MR. METZGER. I do not have that personal knowledge. I do not know.

COMMISSIONER RUIZ. Ask counsel.

COMMISSIONER FREEMAN. Counsel, do you, counsel, do you have any information or is there any information available that there are actuarial studies by these companies and that they are separated as to sex?

MR. IGLESKI. Again, I have no direct information. I would find it hard to believe, Commissioner, that they would not have actuarial studies that would not, among other pertinent data, contain information as to sex of the beneficiaries. For clarification, I might ask, when you are talking about beneficiaries, sir, you were talking about beneficiaries of the life insurance policies written by Continental Assurance?

COMMISSIONER RUIZ. Yes, because if you insure organizations against accidents, it is a neutral, it is an organization in and of itself that you are insuring, so the sex element wouldn't enter into another company that you are insuring.

MR. IGLESKI. Yes sir.

COMMISSIONER RUIZ. But you have a breakdown with respect to what we are trying to develop here relative to beneficiaries that are male and female.

MR. IGLESKI. As I say—

COMMISSIONER RUIZ. And this is what we are trying to figure out.

MR. IGLESKI. As I say, I have no direct knowledge that that information is readily available. I would believe that it should be if it isn't, and to the extent possible we shall get it to you.

COMMISSIONER FREEMAN. It is the insurance industry that has so widely publicized the data that, because women live longer than men, that that is the justification why their benefits and retirement plans and pension plans are less, and this has been in response to the allegation that the insurance industry discriminates against the female beneficiary in pension and retirement plans. And the justification allegedly is made on the basis of something called an actuarial table. Now, if nobody knows what one is or where one can get one, then of course we are not asking the right people. But I think it would be helpful for the Commission to receive information concerning the basis on which such actuarial tables are developed if in fact there is any sound judgment for them.

MR. METZGER. We will ask that a report on that particular subject be prepared—

COMMISSIONER FREEMAN. Thank you very much.

MR. METZGER. —in response to your question.

COMMISSIONER FREEMAN. Mr. Brooks, I would like to refer to the report which has been submitted to the Commission concerning the Blue Cross Association employment pattern. And in, according to this report which you have submitted to us, as of December 31, 1973, of the officials in Blue Cross-Blue Shield, 1.0 percent were minority, and as of June 30, 1974, 1.4 percent—I mean, an increase of 0.4 percent are minority. And of the four-tenths of 1 percent increase, that in the officials for female, as of 12/31/73, 3.7 percent were female, 4.2 percent are, as of June 30, 1974, five-tenths of 1 percent increase.

Now, there is a similar pattern, however, on your figures for the 1973 and 1974, you have reflected a figure or a percentage that is significantly higher for female than for minorities. Well, first of all, it is apparent from this that the impact of the discrimination by the insurance industry is against the minority. This is almost devastating in terms of the higher positions. But what my question is, do you know whether the minority female has been counted twice in the counts in your percentages?

MR. BROOKS. Yes. "Female" indicates both minority, total female column indicates both minority and white female together.

COMMISSIONER FREEMAN. So do you have a cross-classification by race and sex?

MR. BROOKS. Yes, we do.

COMMISSIONER FREEMAN. Could you submit to us a third item cross-classifying by race and sex your employment and occupational category on the dates indicated?

MR. BROOKS. Can I ask a point of clarification? Are you asking about the Blue Cross Association or are you asking about the Blue Cross Association and member plans? That was—

COMMISSIONER FREEMAN. Well, I am reading from minority and female comparison statistics, December 31, 1973, to June 30, 1974, Blue Cross Association division of human resources; whatever this is that you have submitted to us.

MR. BROOKS. Okay.

COMMISSIONER FREEMAN. Would you submit to the Commission cross-classification by race and sex?

MR. BROOKS. Yes, I will.

COMMISSIONER FREEMAN. For all of the figures. I did not go down the line but as to all of the—but the same report that you have submitted, if you will cross-classify as to race and sex.

MR. BROOKS. Will do.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Ruiz has one additional question.

COMMISSIONER RUIZ. Mr. Metzger, with the economic attrition your company intends to maintain the present level of minority employment, as I understood your testimony to be?

MR. METZGER. Yes.

COMMISSIONER RUIZ. And assuming your affirmative action plan has been acceptable up to now, there are guidelines available for affirmative action based upon attrition, and you can procure those guidelines from the EEOC. Will you request those guidelines?—because of the fact that you mentioned that you weren't quite sure how you could do this, and I think it would be helpful.

MR. METZGER. I will. I am sure that we have them. I was, my statement was that I was not able to foretell the circumstances precisely, and that I, therefore, could only commit the company to do its best under the circumstances.



The guidelines are there, but they are guidelines. We have had discussions with ICS, which is our compliance agency, with regard to this problem. And we will comply with the law of the land, and we will comply with the spirit of those orders in order to make sure that in the process of attrition we do not do damage to the affirmative action program.

CHAIRMAN FLEMMING. For the benefit of everyone concerned with the hearing, our objective is to recess at 12:15 and resume at 1:30. We can be—we picked up a little time as far as the afternoon schedule is concerned this morning, but we have got a very tight schedule for the rest of the day and in the interest of that schedule I would like to hold that to that schedule.

John, do you have a question?

MR. BUGGS. Just one question.

Mr. Brooks, in connection with the questions raised by Commissioner Freeman, do you keep statistics by race involving Spanish surnamed, Native Americans, Asian Americans?

MR. BROOKS. Yes, we do.

MR. BUGGS. Well, I am sure that Commissioner Freeman meant to ask for cross-classification with respect to all those racial groups and females and males within those racial groups.

MR. BROOKS. Correct, we do have those.

CHAIRMAN FLEMMING. Are there any further questions to be addressed to the witnesses?

MS. KUMMERFELD. Mr. Metzger, you indicated that on the basis of your investigations at Continental Casualty you could find no evidence of direct discrimination, if I recall your statement correctly. But yet you also note that there are very few, if any, minorities and women in the upper level positions. Based on your experience, and your specialty as personnel and organizational specialist, what do you then perceive or how do you rationalize how this comes to be?

MR. METZGER. I think I would not want to characterize it as a rationalization. I think that the fact of the matter is that, while there is not overt discrimination in most industries and most situations, there is indirect discrimination and disparate treatment taking place. The control processes of large industries are such that not every action is watched every time.

All of the personnel processes, compensation, for example, involve a certain degree of judgment on the part of supervisors, managers, and executives. It is quite possible that within the range of acceptable policy, decisionmaking on the part of an individual, or on the part of the group, that policy may be applied differentially, and I think in that kind of indirect way discrimination can take place without there ever being a corporate policy or a corporate procedure or a corporate methodology for specifically excluding people from certain jobs, for specifically paying certain categories of people less.

No major company that I know of personally and certainly not my own company has policies which specifically and directly and grossly discriminate. We don't--

MS. KUMMERFELD. Would it be fair then to say that what, in essence, happens is that the policies that do exist permit latitude for differential decisions on the basis of sufficient numbers of individuals so that one then ends up with differential results on the basis of race and sex?

MR. METZGER. Yes.

MS. KUMMERFELD. Mr. Brooks, I just have one question and that is based on your understanding of the requirements of the Executive order contract compliance program: How would you define the responsibilities of prime contractor--in this instance, Blue Cross Association--with regard to the subcontractors and their meeting of their responsibilities under the equal employment opportunity program?

MR. BROOKS. Responsibility to provide all assistance to help them and to ensure and to be accountable for their performance.

MS. KUMMERFELD. And in the face of information that they were not performing well, what would you see as the responsibility?

MR. BROOKS. After all attempts have been made to assist them, and there is an unwillingness, which we have not experienced at this point, to not conform, then this would have to be a decision for top management of Blue Cross Association to consider what action should be taken.

MS. KUMMERFELD. Thank you.

CHAIRMAN FLEMMING. Thank you all very much; we appreciate your being with us. We appreciate the testimony that you have presented to us.

MR. BROOKS. Thank you very much.

CHAIRMAN FLEMMING. We are in recess until 1:30, we will start promptly at 1:30.

### **Friday Afternoon Session, November 22, 1974**

CHAIRMAN FLEMMING. I will ask the hearing to come to order.

First of all, I would like to report on the Commission's decisions relative to two outstanding subpoenas. First of all, is the attorney for Mr. Hay of the Prudential Company in the room now?

MR. GORDON. Yes.

CHAIRMAN FLEMMING. Okay.

The Commission, first of all, wants the record to show that when Mr. Hay's name was called he was not present at the hearing this morning as called for by the subpoena. As counsel knows, the subpoena called for his appearance and for the submission of documents.

The Commission is willing to grant an additional 2 weeks for submission of documents. The Commission has ruled, however, that Mr. Hay should appear in person at some time during these hearings; that is, before we adjourn them tomorrow, late tomorrow afternoon, the exact time to be arranged by you and our General Counsel.

And the Commission does want to make clear that the subpoena is in force and in this, as in all other situations, it is prepared to use the remedies set forth in the act in order to enforce the subpoena. As you know, I am a fairly new member of the Commission, but I am told that, since the Commission has been in operation from 1957 down to the present time, there have been only one or two instances when the person subpoenaed has not appeared in response to a subpoena, and in those cases the Commission did take the necessary action in order to enforce the subpoena.

MR. GORDON. May I just make just a statement?

CHAIRMAN FLEMMING. Yes.

MR. GORDON. I still feel that, under the Commission's own rules, Mr. Hay was not afforded and will not be afforded ample time to reasonably appear and prepare for the testimony before this Commission on the notice that he was given. Based upon the questions that were asked this morning and the testimony that was given by representatives of the two companies that did appear, the information that is sought is entirely outside of his knowledge. Our corporate policy is set in Newark. This is a regional, one of eight regional offices; Mr. Hay's function is a personnel director as to carry out policies that are established and directed from Newark.

I think that it would serve no useful purpose for this Commission to, at this late date, impose upon him to come in now. As I have indicated to your General Counsel, we are more than willing to supply all the documents that you have requested within the proceeding, provided I know where the line of delineation is. We have submitted a statement which I think covers everything that Mr. Hay would or could have said if he had been here in person, and I specifically would request that the Commission at least permit Mr. Hay to appear at some later date when he, or someone who has greater knowledge in the matters that I think the Commission is interested in, is able to prepare and give you some answers that I think you are looking for.

CHAIRMAN FLEMMING. The Commission will be very glad to have Mr. Hay, in his appearance before we adjourn this particular hearing, set forth the considerations that you have just set forth. And, of course, in granting a 2-weeks' delay in the submission of documents, we do want to make it clear that the submission of the documents may result in further public hearings based on the submission.

MR. GORDON. I would also like to add for the benefit of the Chairman that I am not sure that 2 weeks is anywhere near adequate, and I say I am not sure because, as I mentioned this morning, my company has over 750 affirmative action plans in effect in regional home offices in our district.

CHAIRMAN FLEMMING. If I may interrupt, counsel, we are asking only for information relative to the situation in Chicago. We are not asking for evidence on the other 700 plans.

MR. GORDON. That was not referred to in the subpoena, the way I interpreted it, was to cover all of our affirmative action plans throughout; but even in this area we have over 30, and we will do everything within our power to get this to you within the 2-week period. I still submit that it is unreasonable to expect Mr. Hay at this late point in time to appear and add anything of significance that this, would be of interest to this Commission.

CHAIRMAN FLEMMING. Well, it is the decision of the Commission that Mr. Hay should respond personally to the subpoena before the hearing adjourns tomorrow. Did you have a question?

Is the attorney for Mr. Murray present?

MR. PEBWORTH. Yes, sir.

CHAIRMAN FLEMMING. We have considered the representations that you made to us, and here again we want the record to show that, when Mr. Murray's name was called, he was not present as called for by the subpoena. The Commission considered your point as to whether or not this was a personal subpoena and has ruled that it is, that it was addressed to Mr. Murray; it did designate his official position with the organization.

The Commission has ruled that, particularly in the light of the testimony presented by the Blue Cross Association, that Mr. Murray should appear in person at some time during these hearings; that is, before we recess tomorrow evening, the exact time to be arranged between you and the General Counsel; and, again, we do want to make it clear that the subpoena is in force and in this as in all other situations the Commission is prepared to use the remedies granted us by the Congress in order to enforce the subpoena.

MR. PEBWORTH. I have had a short discussion with the staff counsel, and we are hopeful that we could work out some accommodation.

CHAIRMAN FLEMMING. Good, fine, thank you very much.

MR. PEBWORTH. Thank you.

CHAIRMAN FLEMMING. Okay. Counsel will call the next witness.

MR. GLICK. Mr. Chairman, the first witnesses for this afternoon are Mr. Bernard E. Epton and Miss Linda Mayer. We were originally going to have Mr. Robert Wilcox, the State director of the department of insurance, here this afternoon along with the two witnesses; but, as you know, he testified this morning. Mr. Epton and Miss Mayer are already seated at the witness table, but they should stand and be sworn, please.

[Mr. Bernard E. Epton and Ms. Linda Mayer were sworn].

**REPRESENTATIVES; AND LINDA MAYER, DIRECTOR, PUBLIC CONTRACTS  
DIVISION, ILLINOIS FAIR EMPLOYMENT PRACTICES COMMISSION**

**MR. GLICK.** For the record, will you please both state your name, your address, and your occupation?

**MS. MAYER.** My name is Linda Mayer; the address is 531 Deming in Chicago. I am director of the public contracts division of the Illinois Fair Employment Practices Commission.

**MR. EPTON.** My name is Bernard E. Epton, 5555 South Everett, Chicago, Illinois. I am an attorney and presently I am a State representative and chairman of the Illinois Insurance Study Commission and the Committee on Insurance of the Illinois House.

**MR. GLICK.** Thank you.

**Mr. Epton,** the commission on insurance industry of the State legislature held some hearings during the summer, with respect to, among other things, the employment practices in the industry. Can you give the Commission an idea of the findings or the nature of the testimony and the findings of that, resulting from that hearing?

**MR. EPTON.** Mr. Chairman, members of the Commission, and Counsel, in response to that I can say that the hearings as well as our private discussions with the officers of several of the companies, responses to the questionnaires, and individual discussions with officials inclusively indicated that there is very definite discrimination insofar as women are concerned in the field of insurance.

**MR. GLICK.** How would you describe that discrimination, in initial hiring, in underutilizing in terms of skills, in failure to promote, in failure to pay equally for equal work, by using different titles or however it may be—can you characterize it?

**MR. EPTON.** Yes, first response would be sheer stupidity, the second would be sheer stupidity, and I would probably go on to 10 and by that time I would have to indicate, however, in defense of the industry, in almost every instance it was probably unintentional; it was just sheer stupidity.

Now that we have clarified that point, I think that, without exception, everyone we spoke to indicated that they had every intention of complying with what had obviously been oversights. They either had in effect affirmative action programs that had not gotten past the blueprint stage; they even had some that were actually being implemented, and in the course of the various conversations we indicated that we would suggest they find a new word if that was a definition of implementation.

What I am trying to convey is that we found no resistance, practically none, as far as the fact that women should deserve, should get equal pay for equal work, that women should be offered equal opportunities, that women should be promoted.

What we did find is that even when that policy was enunciated by the brass of a particular company, at the implementation level it just failed to exist. Whether or not your voice of authority, whether or not

Congress, whether or not the Illinois Legislature can add to that, give us some potency, I don't know.

Frankly, I think there is one thing working which is probably the greatest saving factor and that is pure economics. I think the companies, in addition to their willingness to cooperate, have found that financially women do a very fine job.

MR. GLICK. You mean from a standpoint of women as employees performing effectively rather than the sanctions that government can bring to bear on the companies?

MR. EPTON. I have absolutely no faith in the sanctions that government may bring to bear. I have very little faith in government. I think that the hearing like this is probably great for the Commissioners, great for me, but so far every law that we have passed requires two more laws to unscrew. So that, really, unless you are given the funds, and you are given the—I don't for a moment question your desire to implement it; but, unless you simply go ahead and you throw some insurance company in jail, we are going to be back here 2 years from now faced with the same problem.

MR. GLICK. I assume that, while you may not be wearing your Illinois Legislature hat at the moment, that this is the attitude you would have when you are, that is, when you are serving in the legislature, and then am I to assume you would not propose any kind of legislation that would deal with the issues that you saw this summer?

MR. EPTON. We have discussed that at great length prior to the hearings; long before the hearings, we had discussions with some of the companies.

We were, we thought we were pioneers in the field. We found that we are 50 or 60 years behind, but, especially my wife has indicated even longer, but the fact remains that—I personally think we have adequate legislation. I think that we make some good laws, and we get some stupes to administer it, and we even have some bad laws and we have some fine people to implement them and that works out well.

What I am trying to say is that I think that the women who are being discriminated against have ample tools. If I were a woman and felt I were being discriminated against, I wouldn't hold a hearing, I would file a lawsuit.

And I think that economically the insurance companies will react a lot faster to [than] any bill that the Illinois Legislature will pass. So that, in response to your question without making a speech—I would say that by the time we agree on a bill, by the time we pass it, by the time we get our Governor to sign it, and we get the staff to administer it, Linda [Mayer], we probably won't give you enough money to do a good job.

So that the only thing I can think of is to hit my good friend Tom Reynolds where it hurts, in the pocketbook, and Tom will get back to his companies and say, "This is the first of many lawsuits." So that I suppose if you asked what is the commission going to do, we are going

to take Mr. Reynolds to lunch and tell him if he doesn't do something we may finance some lawsuits.

MR. GLICK. Mr. Epton, then would you suggest that rather than enlarging the enforcement or beefing up through greater resources the enforcement agencies of government such as FEPC [Fair Employment Practices Commission], Illinois FEPC, that private lawsuits would be more effective?

MR. EPTON. I, unfortunately, wasn't privy to your earlier discussion. I wished I had, but the Illinois House is in session, and sometimes without my help I can't quite do the harm they generally do, so I had to stay there until the last minute.

I did hear, however, what the Chairman suggested to perhaps some of the recalcitrant witnesses. If I were chairing this meeting, I wouldn't ask—hardly anyone ever asks for my advice, Mr. Flemming, the President doesn't, I am sure you can do without it—but I wouldn't ask to have the personnel officers, I would ask to have the board of directors of CNA appear and tell me why they do such a sloppy job. The personnel officer can be replaced frequently.

We get the greatest response, not from the power we have or the bills we pass, but Mr. Reynolds and I are never quite sure how far I would go, and that scared him more than how far we did go.

Very simply what I am saying is that the boards of directors of your leading insurance companies either have to believe in this and indicate it by effectively, by extending, and I think you should bear in mind that this is not an indictment of the insurance industry. I am a product of it; I defend it; and I, if I have to choose between the collapse of government or the insurance industry, my vote is clear, you can collapse. But we can't do without the insurance industry.

But what I am saying is that, unless the boards indicate a desire to do exactly what you are trying to do, instead of being good will, decent, what-have-you, have the board appear in front of you and have them appear on their holidays and have them appear on Thanksgiving and have them get so tired of seeing you, that they chewed somebody out and say, "Please promote some lady; please do it."

And I don't know how else to do it. I don't think, with all due—no, I won't even make any kind of condescension to Congress; it is pretty sloppy; they couldn't get the weight of a fishbowl if it broke. The Illinois Legislature is a little better, not much, and we are already a good legislature.

So, if you are asking me do you need more authority, sir, I don't think you need more authority; I think you ought to utilize what you have.

MR. GLICK. We heard Mr. Wilcox, the State director of the State department of insurance, testify this morning. I don't believe you were in the audience, Mr. Epton, but he testified that it was his view that his department had no authority, no statutory authority or jurisdiction, over the employment policies of insurance companies in the State. Would you comment on that?

MR. EPTON. Yes, I—and I recognize as a lawyer, as a man who believes in government, believes in good government, a man who believes in laws, I recognize that—suggest that the director should exceed his authority.

It's a dangerous tool. I am reluctant to utilize it. But the fact is that the director has so many vehicles or avenues that he can pursue; in the hands of the right man, I think it is an extremely effective weapon.

I obviously hesitate to suggest it because, in the hands of a wrong man, for example, we have a situation where a company, and this would apply to the director, fails to respond as quickly as we would like, to give us some information. So we asked him to fill out 14 questionnaires that we overlooked to send. And we asked that their president appear, and the general counsel indicated maybe our original request had some merit, and we said, "You know we really didn't need those questionnaires after all."

I'm not proud of it, but either, these are difficult times. I believe in the law, and I think that if the insurance carrier had said to me, "Mr. Epton, you got yourself a lawsuit," he would have won.

So a director—and Director Wilcox in my opinion is a very fine, decent man. He is a product of the insurance industry. I think that he would buy the fact that much of their wrongdoing, if you will, has been unintentional. I think that he feels that his department has other pressing problems such as insolvency and what-have-you, so that I suspect that in his scheme of things, with all deference to his willingness to implement you, he probably just would not be prepared to go over a cliff fighting for women's rights, and I can't condemn him for that.

MR. GLICK. Thank you, Mr. Epton.

I would like to ask Miss Mayer a few questions respecting the role FEPC plays in the area that we have been discussing; that is, the employment practices of insurance companies. FEPC, and particularly the aspect of it that you work with, have responsibility for State contractors?

MS. MAYER. That's correct.

MR. GLICK. And there are some insurance companies that are contractors with the State; is that correct?

MS. MAYER. Yes, there are.

MR. GLICK. How many of them are there?

MS. MAYER. I have a prepared statement; in that we include data from 10 insurance companies at this point. We may have more; we have a computer problem. I think we have got the major companies in the data I have had prepared for you today.

MR. GLICK. What role does FEPC play in the contracting process?

MS. MAYER. Our regulations require that companies who bid competitively with the State must be prequalified by the FEPC at least 3 days prior to the bid opening. Prequalification consists of submitting a form to us, which is basically like an EEO—1 form, which indicates



the employment posture of the company, broken down by categories by race and by sex.

We then issue an identification number and the company can proceed to bid. Then we analyze the work force to determine whether there is underutilization of minorities and/or women and proceed to initiate compliance activities for the ultimate purpose of securing affirmative action goals.

MR. GLICK. Have you taken such measures with respect to any State contracting insurance companies?

MS. MAYER. All right. Of the 10 that I have here, we have taken that measure with 2. The 7 of the 10 came in on a bid that was let as recently as 10 days ago, and so, therefore, our jurisdiction began 10 days ago with these companies.

We have limitations. If these companies, for instance, one company, we did set up a compliance review, held that review, were in the process of securing affirmative action goals when apparently the corporate headquarters somewhere decided it wasn't worth all this, and so, therefore, they withdrew their desire to be a State bidder.

So we issued an order of noncompliance, and they are no longer eligible to bid with the State of Illinois. But once they get out from under us, I am not like EEOC, I can't go after them.

MR. GLICK. In other words you can't initiate an investigation.

MS. MAYER. An investigation—the Illinois FEPC does not have initiatory powers.

MR. GLICK. Have you received any complaints from any or has FEPC received any complaints from any women employed in the insurance industry, do you know?

MS. MAYER. Yes, but I can't, you know, tell you what companies or—yes, we have, yes.

MR. GLICK. Do you have any idea what the nature of the complaints were without specifying names?

MS. MAYER. Normally, they would be failure to promote, I believe.

MR. GLICK. Not so much failure to hire?

MS. MAYER. I am guessing at it, don't want to do that.

MR. GLICK. But do you know if any of the companies that are prospective State contractors have had any complaints issued against them?

MS. MAYER. When we—I don't know at this moment. When we go to do a compliance review, we will check that and carry that forward and try to settle the charge in the course of the compliance review, if it is possible.

MR. EPTON. Pardon me, may I help to respond to just that one question?

MR. GLICK. Certainly, please do.

MR. EPTON. It seems to fit into some of the information we have gathered on the questions of hiring some personnel, which did find out that it was easier to hire some female employees than suggest their advancement.

What we did find, however, was a very specific charge in the case of claims adjusters. We had several complaints from Women Employed in that area, many of which were not justified. As a matter of fact, we were a little bit surprised at the failure to completely document. You would be disappointed because we thought the charge was true; we were disappointed with the evidence utilized to produce it.

What we did find was, with some frequency, was that you would have a situation where a supervisor just wouldn't hesitate to send out a 7'9 male adjuster and he just couldn't conceive, because of chivalry or what-have-you, he had no desire to send out a 5'2 lady adjuster in that area. So that the reason was, I say, was perhaps an unintentional thing, but we ran into that frequently where it wasn't even a question that the physical requirements prevented it—I am talking about the fear of some adjusters to go into some areas.

MR. GLICK. The physical safety of the adjusters?

MR. EPTON. The physical safety. So they are willing to sacrifice some of the male colleagues; they didn't want to do it to some of those ladies. I should add that the ladies who testified, when that was called to their attention were very indignant. They, of course, were treated unequally, but wanted to be treated equally and being treated equally is why you are here.

MR. GLICK. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Epton, do you know, in the hearings which your Commission held, was there any testimony concerning any company, any insurance company, that is engaged in fair employment practices? Is there any such company in the State?

MR. EPTON. That were implementing equal promotions?

COMMISSIONER FREEMAN. Yes.

MR. EPTON. Yes, there were in hiring, and we did have testimony, and we did have responses to questionnaires. And, although not the majority, a substantial number of the companies did actively—they had training seminars for women. They had training facilities available for women who wanted to be promoted. There was no question of the level of those who testified.

COMMISSIONER FREEMAN. When those companies had, after they had training programs, did they follow through on the training programs in terms of the promotion?

MR. EPTON. I would say that their success was not up to the goals they had established for themselves.

In that sense, for example, an individual supervisor, when questioned, well—who would determine whether or not this lady could go to school or what courses would she select? The supervisors, almost without exception, responded that they could select. There was only one, maybe two instances where the company retained the right to decide what areas they would be allowed to go into and get credit.

When the time came for the vacancy or the promotion, it was not inevitable that the lady would get the position, but we were not able to specifically suggest that the man who received it was not as equally qualified. We might have in a couple, when I say, tested, it, but certainly their record of success did not correspond with the input or their expressed desire.

COMMISSIONER FREEMAN. The information which we received with respect to one of the companies indicated that, in addition to a wide discrepancy on the basis of sex, there was an even greater discrepancy with respect to race. Was that information—is that consistent with the testimony received by your commission?

MR. EPTON. Yes, we found that ethnic groups were conspicuously absent; but, again, we hesitated. We still do. We would not put any opinion as to whether it was intentional, as the old story you've encountered: They just didn't apply, or they were discouraged from it. But we did find, even though one of my colleagues on the commission was upset because there weren't more Czechs in the category of promotions, we did find that several minorities were conspicuously absent.

COMMISSIONER FREEMAN. Of course, you know that if a person starves to death, it doesn't make too much difference whether the person held the food away from you, whether you just couldn't get it; you still are dead.

MR. EPTON. Well, we found that some of the people who testified hadn't quite reached that state of mind yet.

COMMISSIONER FREEMAN. But they were almost?

MR. EPTON. I think that they had difficulty concealing their—

COMMISSIONER FREEMAN. Would it be a fair conclusion, then, that generally the insurance industry, as one of the major economic enterprises in this system, is responsible then for the imbalance as to race and sex in this country?

MR. EPTON. I could subscribe to that fully if you would allow me the privilege of saying in the present time, unintentionally. I would agree that they die in either case, but—

COMMISSIONER FREEMAN. But the result is exploitation?

MR. EPTON. The result is exploitation except that I have to say in the same breath that they have shown a willingness and a desire and an ability to change. Now, how many will die before they get food in them, I can't tell you. But your indictment, your statement, would have been more valid 10 years ago than it is today.

COMMISSIONER FREEMAN. Well, again, when you say showing, are you making a distinction between what is stated and what is actually done?

MR. EPTON. No, no—

COMMISSIONER FREEMAN. What is actually said—

MR. EPTON. No, no, what we saw, what is stated is something that we accept with a grain of salt. As a matter of fact, many of the facts that we gave or we utilized were corny facts to begin with.

COMMISSIONER FREEMAN. Yes, because we saw figures even which want of moving from 1.0 to 1.4; you know, 1.4 percent is really pretty much no progress.

MR. EPTON. It isn't only that, Madam Commissioner. I am afraid government has taught industry how to lie, and the figures that the government uses are almost as phoney as the figures that industry uses, so that, forgive me, we didn't really believe anybody who testified. We went out and looked.

COMMISSIONER FREEMAN. I just do not accept the fact that industry had to be taught by government how to lie.

MR. EPTON. Well, you and I have a great philosophical discussion. The end result is the same starving individual.

COMMISSIONER FREEMAN. Thank you.

COMMISSIONER RUIZ. Assuming a holding company in Chicago controls, as a holding company, the shares of stock of two subsidiary insurance companies in Illinois, and assume that the insurance companies interlock with respect to management and that all shares are voted upon by the holding company. Assume further that the actuarial tables indicate that most of the beneficiaries of insurance casualty and life policies are women. Do you have an opinion given, civil rights laws and the 14th amendment of the Federal Constitution, as to whether there should be female members or as directors and in the interlocking management as well?

MR. EPTON. Well, if I may respond, Mr. Commissioner, I certainly feel that there is nothing mandatory in any quota either way. The fact that representation failed to exist would make me quite nervous, would make me suspicious.

COMMISSIONER RUIZ. Assume in this hypothetical question that there isn't one single female, and a large board of directors, and interlocking management, not one single female, add that to the factual setup. Then what would be your opinion?

MR. EPTON. Here is my problem and I recognize my own bias, since I insist that that board consist of more arms to begin with, that the selection came about through sheer chance, I can't find any motivation which arbitrarily kept off any minorities.

I think that the board members themselves would forget about idealistic pursuit just to get you off their backs. That old token business, I don't care for it, but the point that I am saying is that, no, I would not read into that any constitutional infringement.

The fact that they may place women under 16 or over 22 or pregnant women or single women in different categories or—what I said about lying before, actuaries, have a list. They could take any figure, you tell me the conclusion you want, I will give you figures to prove it. And if you want to wait long enough, I'll give you figures to disprove it.

But the only point is that I can't immediately read into that any vicious intent. It may exist, but if I start off with the fact that they don't

know what they are doing to begin with, I can't give them credit for specifically excluding women or other minorities.

Now, perhaps I failed to respond to your question. I have a bad—this is what the legislature does to you, Mr. Commissioner.

COMMISSIONER RUIZ. You could not attribute to them a vicious intent?

MR. EPTON. No, sir.

COMMISSIONER RUIZ. You would attribute that to accident?

MR. EPTON. No, stupidity is not an accident.

COMMISSIONER RUIZ. You would then in your answer say that this was indeed very stupid?

MR. EPTON. Oh, yes, sir, I think I made that clear. We represent insurance companies probably less tomorrow than today.

COMMISSIONER RUIZ. What is your definition of stupidity, sir?

MR. EPTON. I would suppose that, in the category that we are talking about, those who, who would do harm, perhaps even great harm, either physically or mentally, without any knowledge that they are committing a wrong—in that context that is what I am using here.

COMMISSIONER RUIZ. You don't mean in that context of simply being innocent like a child?

MR. EPTON. Well, I have four children so that simile doesn't thrill me—

COMMISSIONER RUIZ. So it isn't innocence?

MR. EPTON. No, I don't—you know, sir, you are an attorney, because you are working me over pretty well.

COMMISSIONER RUIZ. I understood you were an attorney also; that is the reason I asked the question.

MR. EPTON. Couldn't we have dinner?

COMMISSIONER RUIZ. I knew that the question would intrigue you, that is the reason—

MR. EPTON. It does—I think I have a headache. As I say, I, I could come closer to accepting the fact that there is a possibility that they knowingly know what they do. I prefer to think that—

COMMISSIONER RUIZ. Don't make a preference; I think you have answered the question.

MR. EPTON. Okay. Then I will take a drink of water, thank you, sir.

COMMISSIONER RUIZ. Thank you, sir.

CHAIRMAN FLEMMING. Representative Epton, as I understand it, the commission that you chaired held hearings during the summer. Have you, has the commission prepared a report as yet with its findings?

MR. EPTON. No, sir. We have, Mr. Chairman, we have had three drafts of the report; one of the reasons that we have not completed it is because we still are faced with the problem, the question that was earlier asked, what if any legislation do we intend to prepare. I, obviously, and some members of my commission feel that not only do we have enough laws but the process will be faster under existing laws.

An executive member of our staff, Roger Bixby, who is a capable fine young man, he thinks that we should have legislation yesterday, and he is trying to persuade, as a matter of fact, it is practically outright defiance; because he is so capable, I have to tolerate it. But in any event he might even be right.

In any event, that is the reason. We will, however, have to have a report just to meet a mandate by the legislature no later than January of this coming year. So that, hopefully, we can have not only an oral conversation, but things in black and white in front of you; and I would guess at this time, if I can talk to Roger and convince him that there is some merit, we will probably not recommend legislation and feel that if we do anything we will do in favor of Ms. Mayer, and suggest that we give her the funds to implement the job because certainly they have the knowhow and they have the desire.

CHAIRMAN FLEMMING. On the basis of your earlier testimony, I gather that you do feel that we could make some progress in this area through the courts, and certainly all of us have observed progress in both the Federal level and State and local levels. Then I gather also from your last comment that you believe that there is some hope in providing the agencies of government—whether it is State, Federal, or local—that are charged with responsibilities in this area with the authority and the funds that they need to implement some of the laws that are already on the statute books.

Do you feel, on the basis of the hearings or your own experience, that it is possible that we can make progress in this area by making it clear, for example, to a regulatory body, such as the insurance office in the State, that they are charged with a responsibility of seeing to it that the industry which they regulate conforms to the Constitution, the Federal civil rights laws, and to the State laws? I think that that is a course of action that might produce some constructive results.

MR. EPON. Mr. Chairman, if you and the members of your committee were to invite the leaders of the industry not to a hearing, but to a private luncheon or dinner, whatever—I am talking about whether it be one dinner or five, I don't know—but you sit down with about 10 of them and say, "Fellows (or ladies as the case may be), why don't we quit horsing around; if you want us to be in the backyard, we can do it."

I don't know how much trouble we can make and you got a lot of lawyers, and you can make a lot of lawyers wealthy, but instead of the lobbyists, instead of, with all due respect to your excellent representatives here, I think that if these men and women were impressed with the fact that the time has come when the responsibility is theirs, and you are going to do everything you can legally, publicly, privately, to enunciate that time and time again. I think the insurance industry today is taking so much heat, I think that the caliber of the man, the mental midgets that I dealt with 10 years ago, has gotten a little bit smarter, he is near retirement, he may even be gone, and I think they would be responsive.

So if I gather from your comments, I think that the ideal course is the type of pressure you are talking about, and I believe the expression is jawboning; but, be that what it may, you in your capacity, your Commission, may not be able to win all your objectives, but you can sure make a lot of difficulty for the insurance industry.

CHAIRMAN FLEMMING. I might just say, along that line, that the U.S. Civil Rights Commission does have oversight responsibilities as far as the activities of the Federal agencies are concerned in the civil rights area. And from time to time, we make investigations and issue reports as to the way in which Federal agencies are enforcing or not enforcing, as the case may be, the civil rights laws. Just within the past 2 weeks, we issued a public report dealing with the regulatory agencies of the Federal Government.

And in that report, we stated as forcibly as we could our conviction that the regulatory agencies have a responsibility to, legal responsibility, legal and moral responsibility to police the industry that they regulate in order to determine whether or not they are complying with the civil rights act.

I was—we did have an interesting discussion with Mr. Wilcox, and personally, I have the feeling that this is a course of action that is worth pursuing, not only at the Federal level but also at the State level.

MR. EPTON. Well, Mr. Chairman, you know the insurance industry is a splendid industry. No segment can speak for all the others, and there are various associations, some more powerful, some less than others. But there are 20 or 30 or 40 individuals who have great weight and great power, gentlemen like Milton Mayes [phonetic], for example, people like that aren't going to [be] particularly upset [by] a report that shows that the agency did or didn't do this or that this bureaucracy did or didn't do that. But they will be upset if Mr. Flemming said, "Mr. Mayes, could you come and join us for an afternoon or evening," and tell Mr. Mayes, "This is what is going to happen if you fail to do this and fail to do that."

Now, I assume I am talking about men who I respect who have the vision to realize, especially with the possibility of the government edging closer and closer to insurance, that they better make their peace with the public and especially with people like yourself. So that I can't emphasize too much my own personal feeling that you have a tremendous force, but it is through a personal, heavy arm on the leaders rather than with, in so many cases, the legal counsel who appears in front of you and does a fine job explaining that they are doing the best they can.

CHAIRMAN FLEMMING. Ms. Mayer, growing out of your experience with State government in Illinois, what is your reaction to the approach of making it clear to regulatory agencies that they do have a responsibility to police the industries that they regulate in order to bring about adherence to civil rights acts?

Ms. MAYER. Okay. I am not an attorney.

CHAIRMAN FLEMMING. All right.

MR. EPTON. That is that.

MS. MAYER. That is good. So I don't want to comment as to whether the director of the department of insurance may or may not have that power.

CHAIRMAN FLEMMING. No, I am not asking for that.

MS. MAYER. If the licensing or the regulation of industries were or rather the EEO obligations were included as a condition of that regulatory or licensing privileges, it would be tremendous. There is no question about it, and it would be particularly important in Illinois because, as I say, the one EEO agency, which is mine, does not have the kind of initiatory powers. If we had it, we wouldn't need the alternative. That is the problem, you know.

CHAIRMAN FLEMMING. Thank you. Mr. Buggs, do you have any questions?

MR. BUGGS. No.

CHAIRMAN FLEMMING. Any further questions on the part of Counsel or any members of the staff?

MR. GLICK. I have no further questions. But I understand that Ms. Mayer has prepared a statement which she would like to introduce into the record.

MS. MAYER. Yes.

MR. GLICK. Do you want to, Ms. Mayer?

MS. MAYER. Do I need to read it? I'd like to introduce it and make it available to the Commission.

MR. GLICK. Fine, with the Chairman's permission I will introduce it into the record as Exhibit 93.

COMMISSIONER FREEMAN. 94.

CHAIRMAN FLEMMING. Without objection, it will be received.

MS. KUMMERFELD, do you have any questions?

MS. KUMMERFELD. No.

CHAIRMAN FLEMMING. Thank you very much, we appreciate your coming and sharing your experiences with us.

MR. EPTON. I was under wraps today; you should see me when I am upset.

MR. GLICK. Mr. Chairman, if I may call the next witness?

CHAIRMAN FLEMMING. Yes.

MR. GLICK. I would like to call Florence L. Criley and Ms. Jacqueline Schaffer. Will you both please remain standing so that the Chairman will swear you?

[Ms. Florence L. Criley and Ms. Jacqueline Schaffer were sworn.]



**COMPLIANCE, DEFENSE CONTRACT ADMINISTRATION SERVICE REGION-  
CHICAGO, ILL.**

MR. GLICK. Ms. Criley and Ms. Schaffer, would you please identify yourself both for the record with your name, your address, and your occupation?

MS. CRILEY. Florence Criley, C-r-i-l-e-y. I live at 1845 South Keeler Avenue in Chicago. I am an international representative for the United Electrical, Radio and Machine Workers of America.

MS. SCHAFFER. Jacqueline Schaffer, S-c-h-a-f-f-e-r, 328 Armitage, Northlake, Illinois. I am an employee of the Defense Department. I am an equal opportunity specialist for employment in the office of contract compliance of DCASR, Defense Contract Administration Services Region, Chicago.

MR. GLICK. Thank you, that is really a mouthful.

MS. SCHAFFER. Yes, it is.

MR. GLICK. I would like to indicate, Miss Schaffer, that you are appearing this afternoon not only as a representative of your Federal agency but also as a person who has long been associated with the electronic industry in Chicago, and I would like to ask you how long you have been involved in the electronics industry as an employee and as a government agent?

MS. SCHAFFER. Oh, approximately 30 years.

MR. GLICK. Approximately 30 years.

Miss Criley, I would like to ask you the same question; how long have you been involved with the electronics industry in Chicago?

MS. CRILEY. Working within a shop and also on staff, for about 30 years, mabe a little longer.

MR. GLICK. All right. Now I would like to begin questioning with Miss Schaffer, if I may, and I would first like to ask you from your own observation over this long period of time, 30 years, could you advise us as to what you see in terms of where women are concentrated in employment in the industry? What kinds, what level of jobs are they working at?

MS. SCHAFFER. You are speaking basically in the blue-collar areas?

MR. GLICK. Yes, ma'am, I am.

MS. SCHAFFER. All right. I find the women in the entry levels, the semiskilled levels, basically, the assembly.

MR. GLICK. The assembly work?

MS. SCHAFFER. Yes.

MR. GLICK. You don't find them in the crafts work?

MS. SCHAFFER. Not too much; occasionally.

MR. GLICK. So that the female craftworker is the exception rather than commonplace?

MS. SCHAFFER. Yes, I would say so.

MR. GLICK. Have you found that there are many women involved in white-collar work in the electronic industry?

MS. SCHAFFER. In white-collar work?

MR. GLICK. Yes, in management, supervisory management, foremen, general foremen?

MS. SCHAFFER. Normally, no; group leader type, yes.

MR. GLICK. What is a group leader?

MS. SCHAFFER. Oh, sort of a midway step to the first rung of management; sort of layout operator, that type, running a bunch of girls on assembly operations. It may or may not be a management position. It could be in the bargaining unit or it could not; it depends on the structure in the union organization within the shops.

MR. GLICK. I see. Thank you. Do you have any idea as to why women are concentrated in the assembly work and have not risen as the same rate as men into foremen and management positions?

MS. SCHAFFER. Yes, I think I find this, that I find a lack of technical education on the part of the female. I do not find them in the trade school courses, even at junior high school age or of the college age. I don't find them out repairing their bikes with the knowledge of tools. I don't find them in the armed services and in the service schools where much of the electronics skill is coming from. I don't also find them in the trade schools afterwards on the GI bills.

They are beginning to come little by little, but there is a difference, I find, in the level of technical education and, therefore, you don't find them in the technical areas. The final test, the trouble-shooting type, you find them in the assembly areas.

MR. GLICK. Well, in your opinion—

CHAIRMAN FLEMMING. Could I just interrupt and ask that the door be closed so that we don't have to compete with the dialogue that is going on out in the corridors.

Okay.

MR. GLICK. Well, do you think, Ms. Schaffer, that this lack of technical knowledge on the part of young women is because of their own self-selection out of trade education or are they discouraged from that kind of education by the institutions?

MS. SCHAFFER. No, it goes back even earlier than that. I think it goes back to, you give your daughter a babydoll and the imitation cook-stove, but you give the boy the erector set and he comes with the knowledge of tooling that is just second nature to him that the female does not have. A good portion of it is social conditioning.

MR. GLICK. Well, in the absence of the kinds of training that are necessary to social conditioning that would help young women get into the higher-paid, this is strictly a matter of economics, higher-paid kinds of work in blue-collar employment, have you seen that industry has created inplant training that would help women and such males as may not have received that kind of training or socialization?

MS. SCHAFFER. Yes, there are inplant training programs within most of your larger industries. They do exist, but they are not of that magnitude because an industry is making a product. The training that they supply their employees is to supply them with trainable employees at

a future date as replacements for a need. They are not training institutions *per se*.

There is an economic consideration here as to when you train or when you don't. In a drawdown situation you will find your training programs being scrapped out, just like your travel gets restricted for your salespeople and, you know, all the overhead gets cut.

MR. GLICK. When you say drawdown, you mean a reduction in—

MS. SCHAFFER. Sales, which in turn results in a reduction in force ultimately.

MR. GLICK. I see. So that inhouse industry training is not really a major factor here, or you haven't seen it to be a factor in helping women acquire the skills necessary for higher-paid trade jobs?

MS. SCHAFFER. I wouldn't say, no, it does not help. It does, but it is a very small portion is the point that I am trying to make of the total program.

MR. GLICK. I see, thank you.

Now I would like to turn to Miss Criley. There are a number of different kinds of practices within plants which are apparently on the surface sex neutral, but which may, in fact, have some differential force and effect. Have you seen that in your experience in observing what goes on in electronic plants?

MS. CRILEY. Well, the main thing that I can think of is the seniority system. A seniority list which shows what date you were hired is like gold in the bank to you, especially if you have a union to police this.

But there are hidden ways that the company can bypass you. For instance, there is a layoff. A man was hired 3 years after you were hired. In the bumping procedure, you cannot bump him because you don't have the skills or you don't have, let's say, the physical qualifications for handling the job. But you may be able to handle the job if you were allowed to try it.

[Bumping is a process through which the labor force adjusts itself according to seniority during a layoff. More senior hourly employees, instead of accepting a layoff, may "bump" less senior hourly employees in different (but usually related) jobs, and thereby take over those jobs. The procedure causes a chain reaction that ultimately results in layoff of least senior and lowest-paid employees.]

But in this way, they make so-called men's jobs and women's jobs and, traditionally, under a plantwide seniority system, where you have a decent union, a woman can bump a man and try on the job with so many days or weeks of training. However, if there is not plantwide seniority, there is departmental seniority, historically speaking, the women land up in the little, you know, the assembly departments, and can never get out of them. So when there is a layoff, a woman with 20 years' seniority can go whereas, over in another department where there are men, she never has a chance to get out of the department because they might not even have posting plantwide, posting for new jobs or open jobs, where your seniority on a plantwide basis would give you the right with your seniority to have that job.

MR. GLICK. Of course, this would appear to operate equally to the detriment of males who may be in the same kind of work. But are you suggesting that some jobs which are traditionally male jobs, and require some kind of heavier physical labor, really don't require so much more than some women at least could do?

MS. CRILEY. That is true. And although, and I want to answer something that you did not question, you said--

MR. GLICK. Well, please do.

MS. CRILEY. --that men would be hurt by this too. In the departmental seniority, yes, you are perfectly right, but not as much as women because in the first place they get more money than women anyway, and most--I am talking about where they had this kind of system. You see, I am not of the same mind as Mr. Epton.

I don't think that these companies are stupid, especially manufacturing companies; they are very bright and very smart because it is a profit motive that makes them do this, to exploit women in this way. They have women who can outwork men in assembling and doing it very rapidly, getting less money than the men who bring in the materials.

MR. GLICK. Well, what is the role of the union in this, surely--

MS. CRILEY. I'm talking about where the union is not only inadequate, it shouldn't even be called a union or in unorganized plants; I am not talking about an adequate union or unions who fight for their membership.

MR. GLICK. I see. Are there many unorganized plants in the Chicago area?

MS. CRILEY. Well, there are enough unorganized that there is always a danger to those plants that are organized.

MR. GLICK. I see. Do you think or have you seen in your experience that jobs are created which may require some heavy physical effort from time to time but very rarely and become male jobs because that element of once-in-a-while heavy effort may exist?

MS. CRILEY. Well, I have seen instances where a job will not have a lot of heavy lifting in it until the day a woman asks for that job. Then all at once it becomes a job with a lot of heavy lifting in it, and then you will ask the man who is doing the job, "How often do you have to do that?"

"Oh, maybe once a day and I have so and so help me."

Whereas when the women ask for it, she would have to lift it by herself.

MR. GLICK. Thank you, Ms. Criley.

Would you care to comment on what Miss Criley has just related to us, Ms. Schaffer? Have you had a similar observation over your time in the electronics industry?

MS. SCHAFFER. Well, in the electronics industry, normally there isn't too much of the heavy lifting really. Sure, the final packing stage you will find it; at the larger unit assembly stage, yes.

There is a problem with seniority from the standpoint of job classifications in a layoff. You see, normally layoffs, even if you have wall-to-wall seniority, are done by job classification. The manufacturer decides, "I have to cut back so much; my sales are down; I have to lay off.

"Now, who do I lay off? Do I lay off my highly-skilled people that are always hard to get when the situation reverses, and anyway I have only got maybe 10 or 20 of them, or do I lay off these masses of semiskilled operators that I can teach the operation to in maybe 2 weeks and have them up to productive speed."

Naturally, being a profit organization, they save their skilled people; they are in higher classifications. In a layoff, you never bump up, you always bump down.

[The term "bumping down" denotes the process whereby a higher-paid hourly employee takes the place of (bumps) a lower-paid, less senior hourly employee in a layoff situation.]

There is a problem, I would say, that may need examination in the justification for the so-called standards of job grading; are the lower-graded assembly jobs really being evaluated properly on a scale of values that was developed 50, 60 years ago by craftsmen?

And I don't know whether it is right or wrong, I don't know; but, if there is a problem that I think does need looking into in this area, I think there is also additional problems with females. I find problems with maternity policies. When—not so much on the granting of leave, I think we are over that hump. I find problems on, you do not lose seniority when you are off on leave, but then do you accrue seniority while you are on leave? Is the nonaccrual of seniority while on leave discriminatory or not? Is leave really leave when you have no solid return rights to the job because the job has now been filled in your absence?

This type of problem—I also find problems that are still hanging over from the State laws that were in existence in Illinois, particularly, and in many other States, where women could not work overtime except by special dispensation by the secretary of labor and you got that every 30 days, you know, or you got a general dispensation during World War II, sure you could work overtime. Also on the weight laws, which all of our Illinois manufacturers, if they were operating legally, according to State law, up until 1972 had to observe.

So the women wound up with a job that they couldn't work overtime; the foreman jobs, you know, hot jobs, we have to pack it, get it out. They were barred from those jobs. And suddenly, those laws were declared null and void. But, in the meanwhile, you have all these women in these positions for some 20, 25 years' seniority.

I also find women who do not wish to bid out when there is open bidding. They like what they are doing; they like the airconditioned room; they don't want to bid into the higher-paying jobs. There is some of this.

MR. GLICK. Thank you, Miss Schaffer.

Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. Miss Schaffer, I think that we have always said that there should be the choice and, if a woman wants to stay underpaid and in an airconditioned place, we would say that she has the choice to be underpaid except when she wants to buy a steak at these prices.

I would like to ask both you and Mrs. Criley to state what you would see as needing to be done, and especially as we listened to Mr. Epton say that there were no laws. What do you see that needs to be done here in this State to change the conditions with respect to sex discrimination and the result of the kind of imbalance that is prevailing?

Ms. CRILEY. Well, Ms. Freeman, I can't say what you could do, your Commission could do, but I can tell you what a help the EEOC has been to us and maybe you can find from that kind of example.

As you know, there is a tremendous discriminatory thing in insurance, in shops, between men and women. When you negotiate, as I do, contract, you get a package that can be a dollar for 3 years, or 2 dollars for 3 years, but in that package is the cost of everything—insurance, pensions, wage increases, cost of living, another paid holiday, more vacations—but everything has a price tag on it.

Now the insurance, let's say it costs a nickel an hour more to get certain things on the insurance. When men leave and they are disabled, they get what we call the S & A, that is sickness and accident, weekly sickness and accident while they are off the job; that is, if it is a nonindustrial type accident. A woman, when she is off on pregnancy leave, she doesn't receive this, whereas a nickel an hour every hour on the hour is coming out of her paycheck to pay for that package on insurance.

COMMISSIONER FREEMAN. Well, let's stop right here. Here is an area in which the company and the employer, does the employer have a contract with the insurance industry?

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. All right. The employer in the insurance company discriminates against the female employee.

Ms. CRILEY. Well, sometimes, you will pardon me, sometimes it is the fault of the union because we don't really pinpoint that the women have to have S & A.

Now, where we have been denied this in our negotiations, we have taken this to EEOC, and in some instances the employer has backed off and has immediately given sickness and accident in the contract to women who are pregnant for a certain number of weeks, the same as the men get it—not for pregnancy, of course, but for sickness and accident.

COMMISSIONER FREEMAN. So that with respect to the contract or the fringe benefit there is an element of sex discrimination?

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. That goes with every job—

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. —where there is a female participating in the retirement or pension or fringe benefit program?

Ms. CRILEY. Yes, ma'am. See, she is paying for the man to get S & A, but she is not getting it herself.

COMMISSIONER FREEMAN. I agree, I agree with you. I am just trying to pursue this to see the areas in which there is governmental action here. Now, is this company within the jurisdiction of the Illinois Department of Insurance?

Ms. CRILEY. Well, there are many companies, you know, we have many, we have Metropolitan, Aetna—all these insurance agencies; they are all so-called very large companies and ones that can be counted on to pay off their bills and their benefits, but they are fighting this very hard.

COMMISSIONER FREEMAN. How many—what would be the total number of employees affected by this, nationally, or in Illinois?

Ms. CRILEY. I am sorry—I would be guessing because there are hundreds and hundreds in our union alone. You know, wherever you find a young married woman, she would be affected by this.

COMMISSIONER FREEMAN. Well, when we talk about the exploitation, we are talking about the company becoming rich off exploiting women?

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. And this is a matter of record?

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. And a matter of record with the union?

Ms. CRILEY. I must say, I cannot talk for any union that is not my own.

COMMISSIONER FREEMAN. But, I mean, where there is a union contract?

Ms. CRILEY. They should be very cognizant of this, but I am sorry to say that they are not all.

COMMISSIONER FREEMAN. It would be a matter of record with that employer?

Ms. CRILEY. I am sorry, I do not understand.

COMMISSIONER FREEMAN. But it would be the company?

Ms. CRILEY. Yes.

COMMISSIONER FREEMAN. Which would certainly have a—

Ms. CRILEY. Oh, yes.

COMMISSIONER FREEMAN. The accountants, the people who keep the money would surely know how much?

Ms. CRILEY. Absolutely, absolutely.

COMMISSIONER FREEMAN. And of course, obviously, it is a matter of record with the insurance company?

Ms. CRILEY. I imagine, Ms. Freeman, that because of the cost of this, to insure the women on the job who can become pregnant, that

it would, to the employer, it would be a shocking amount of money to cover them.

It's the same as when the union finally got equal pay for equal work in those industries where we did. All at once they didn't need women as badly as they did before.

You know, it used to be and it still is right now that when a man comes to an unorganized plant or an organized plant with very low wages, they tell the man sometimes, "You can't afford it. Are you married? You can't afford to come work here."

Or they ask him, "How much will you take? How much do you need to survive?" Not to live but to survive.

On the other hand, when the woman comes in, they don't bother to ask her how much; they just hire her or they don't hire her. To them she is not responsible for children. She is not responsible for household; she is responsible for, you know, nothing. She is a no person, really. And she is treated like a no person in a plant that has no union.

COMMISSIONER FREEMAN. What you are describing is systemic discrimination as to sex, which means that these companies are existing and being subsidized by the money they save by this discrimination.

MS. CRILEY. Oh, definitely.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Mr. Ruiz?

COMMISSIONER RUIZ. Now, both of you have set forth matters which this Commission is desirous of having on the record as the basis for its recommendations to the President and the Congress. I think these matters that you have exposed here are very interesting and very important. I have no further questions to ask.

CHAIRMAN FLEMMING. Mr. Buggs?

MR. BUGGS. No.

CHAIRMAN FLEMMING. Carol?

MS. KUMMERFELD. Ms. Criley, for traditionally female and traditionally male jobs, from what you said it is fair to assume that the pay rates for those jobs are different?

MS. CRILEY. You presume correctly.

MS. KUMMERFELD. Could you describe the process by which this comes about, namely, how those jobs might be evaluated in order to be able to assign different pay rates to them?

MS. CRILEY. Well, I think my colleague brought up a very significant point as to job evaluations, which we don't allow very much, and our shops, except in the very large—well, big companies that are all over the United States. They have had theirs for over 50 years and they are still living up to them.

They add, but they don't subtract. You see, at the bottom of the evaluation sheet, all those that I have ever seen, you may have seen other ones, but there are—there is a line that says, "This does not constitute all the duties of this job." So that anytime that they want to keep anybody out of it, they just make it impossible. Is that true?



Ms. SCHAFFER. Yes.

Ms. CRILEY. Or, since they add work that a woman, let's say, a woman my size compared to a man 190 pounds, he could do it and I couldn't do it. It is not in the evaluation, but they add it.

Ms. SCHAFFER. I don't find that so much. I find there is a point-score system but, who decided the point-score system?

It was basically a bunch of skilled machinists that decided a point-score system and, at a later date, you have an assembly operation and these machinists said, "Well, obviously, assembly, anybody can learn assembly. We are at the top; they have got to be below us on the scale."

It is sort of like if you have a doctor and a pilot of a 747. Who should be paid more because who has the greater responsibility? If a doctor is doing the evaluation, he will say the doctor. If it is the pilot, the pilot will say, "Well, I should get more. I should have the higher grade."

CHAIRMAN FLEMMING. Anything further, Carol?

May we express to you our gratitude for coming and sharing what obviously has been an experience in depth for both of you in dealing with the issues that we are looking at as a Commission. Thank you very, very much.

Ms. EDWARDS. Mr. Chairman, I would like to call our next witnesses, Thelma Milton, Edna Roberts, and James Payne.

[Ms. Thelma Milton, Mr. James Payne, and Ms. Edna Roberts were sworn.]

**TESTIMONY OF THELMA MILTON, EMPLOYEE, HOTPOINT DIVISION,  
GENERAL ELECTRIC CO., CHICAGO, ILL.; AND JAMES PAYNE, EMPLOYEE,  
AND EDNA ROBERTS, FORMER EMPLOYEE, ZENITH RADIO CORP., CHICAGO,  
ILL.**

Ms. EDWARDS. Starting with you, Ms. Roberts, would you state for the record, please, your name, your plant, your job title, the department, and labor grade of the position that you last held with your company?

Ms. ROBERTS. I am Edna Roberts, seniority league 466, plant 6, department 235. I am formerly a Zenith worker, and I terminated from 11/7/74.

Ms. EDWARDS. Would you also, Ms. Milton, for the record, state your name, the plant where you work, your job title, what department you are in, and last position or the position that you are currently holding?

Ms. MILTON. My name is Thelma Milton. I work in department 72—H, plant 8, and I am an electric truck operator.

Ms. EDWARDS. Could you, Ms. Milton, could you briefly describe for us your educational and technical training background for the job that you have just named?

Ms. MILTON. I am a high school graduate, and there is really no technical training.

Ms. EDWARDS. What training then have you received since you have been in the position that you are currently in or in order to obtain that position?

Ms. MILTON. There was—well, I was shown where the controls, and how to operate the controls, and that was my training. The rest I learned as I went along.

Ms. EDWARDS. Fine. I don't believe you stated for us the name of the company where you are employed; would you do so for the record?

Ms. MILTON. I am with Hotpoint Division of General Electric.

Ms. EDWARDS. Now, would you also please tell us the date that you were hired at your company and the job title that you held when you were first employed and the labor grade?

Ms. MILTON. I was hired as a C—10 on, in July of '69, and I worked on an assembly line.

[C—10 is a labor grade classification corresponding to an hourly wage level. As indicated by testimony, the C—10 wage level in 1969 was \$2.625 per hour.]

Ms. EDWARDS. And what wage level were you hired in?

Ms. MILTON. 2.625.

Ms. EDWARDS. And your current wage level?

Ms. MILTON. That is—it is about the same thing, [\$]2.63 or .64, something like that, I am not absolutely sure, it is the C—12 labor grade.

[Including cost of living increases, the 1973 union contract indicates that the wage rate for C—12 employees was \$3.78 per hour.]

Ms. EDWARDS. Thank you.

Mr. Payne, if you would also state for the record your name, your address, and the plant where you are working, your job title, and the department that you are employed in?

MR. PAYNE. My name is James Payne. I reside at 4734 Champlain Avenue. I work for Zenith Radio Corporation, quality control inspection, and that is department 262; my classification is 12.

Ms. EDWARDS. Fine. Would you describe your educational background or technical training that you have had for this job?

MR. PAYNE. Yes. I have gone through high school and college. I had a correspondence course in electronics prior to going to the Army.

I went to Army radio service school. I worked on aircraft radio, transceivers, and service, and I have had approximately 8 years of experience in magnetic recording. I consider myself a magnetic recorder specialist, and I have done electronic repair at Zenith for approximately 7 years.

Ms. EDWARDS. Go on, I want you to describe what jobs you have held at Zenith.

MR. PAYNE. I began as—it was called a repair release. At that time there was not an opening for technical repair at the company, and I was in the repair release approximately 7 months before there was an opening in electrical repair.

MS. EDWARDS. At what labor grade was that?

MR. PAYNE. That was a 6 labor grade.

MS. EDWARDS. And you have progressed to what current labor grade?

MR. PAYNE. Twelve.

MS. EDWARDS. In the same plant that you are currently employed in?

MR. PAYNE. Yes.

MS. EDWARDS. Fine.

We would like to resume questioning with Mrs. Roberts, and, Mrs. Roberts, I believe there were several items that I didn't ask you and I asked some of the other panelists. Could you briefly describe for us what educational and technical training you have had for your position?

MS. ROBERTS. I am a high school graduate, no technical training. I started at Zenith in plant 1 as a lacer for 1 year. After a year I was promoted to a utility operator which is a labor grade 7.

As a utility operator, I was required to do assembly, wiring, soldering, or any other job as for that matter, plantwide, that was connected with the line. After that, I was promoted to 919 in plant 6. As a matter of fact, may I—

MS. EDWARDS. Yes, yes.

MS. ROBERTS. I went on maternity leave from plant 1. I came back to Zenith in plant 6 as a labor grade 7, which is also utility, the same thing, utility operator. We did training as utility operators. Utility operator is a floater; that is, a replacement.

After that I was promoted to a 919 position, which at that time was predominantly men. On a 919 position in pretest, I was required to test sets. We had to lift them over our heads, approximately 30 pounds; we were doing—we were testing chassis.

After that I was promoted to 1120, which is a final test operator. I was required in that position to learn all final testing, 919 positions and final testing, which consists of purity, first, and, second, conversion, chromatics, and what-have-you. As a final tester, I tested complete sets.

MS. EDWARDS. Fine.

Mr. Chairman, at this time I would like to turn the questioning back over to Mr. Glick. I think he has a few more questions for this panel of witnesses.

MR. GLICK. Thank you, Ms. Edwards. Continuing with Ms. Roberts, have you ever requested to be promoted into a supervisory position?

MS. ROBERTS. Yes, while I was on medical, my name was turned in as—oh, gosh—as a possible applicant for technical supervisor.

I reported back to work in September; September 24 I was called to the office for an interview as technical supervisor. Approximately a week later I was called into the production office. The list had been—well, there were three applicants left. They called me and asked me if I had any repair training. I told them that I had no repair training, but I felt that I was qualified to take technical supervisor position because if I could do all the rest of the jobs. I felt that I could do repair also.

MR. GLICK. And it was because of your lack of technical training that you were not able to assume that position?

MS. ROBERTS. That is true.

MR. GLICK. Do you know if there were other persons working in the plant in that position who have technical training or lack technical training?

MS. ROBERTS. As a matter of fact, yes, I do. I had the privilege of working with some supervisors there that are technical supervisors, and not only do they not have repair training, some of the technical supervisors don't even know the final test positions on the line.

MR. GLICK. Are any of the supervisors women?

MS. ROBERTS. No, there are no women supervisors in pretest or final testing lines. There are only men supervisors.

MR. GLICK. How many men are in the supervisory position?

MS. ROBERTS. There are 10 lines in the back, which would cover department 221, and 235. There are approximately two to three supervisors to each line. In pretest, we have approximately seven lines. I don't know how it is set up now, but at the time they had approximately seven men supervisors in that department also.

MR. GLICK. So we are talking of over 30 supervisors, approximately 35, none of whom are women?

MS. ROBERTS. That is true.

MR. GLICK. I see. Now, you mentioned, Mrs. Roberts, that you went on maternity leave while you were employed at Zenith. How long had you been employed at the time you went on maternity leave?

MS. ROBERTS. I went—I had been employed from April '66 until October '69—until October '69, I think.

MR. GLICK. So, approximately 3 years?

MS. ROBERTS. Approximately.

MR. GLICK. And while you were on—how long were you on maternity leave, can you recall?

MS. ROBERTS. I was on, I took a year maternity.

MR. GLICK. And you were actually on leave, you were not, had not resigned and you had not been discharged?

MS. ROBERTS. No, I had not.

MR. GLICK. So you were in a recognized status called leave?

MS. ROBERTS. Yes.

MR. GLICK. Did you accumulate seniority during the period of leave?

MS. ROBERTS. No. As a matter of fact, I lost my seniority.

MR. GLICK. You lost plant seniority?

MS. ROBERTS. I lost a year of seniority as a result of my maternity leave, and to correct that I took that maternity leave in October of '70.

MR. GLICK. October of '70?

MS. ROBERTS. Because my baby was born in January of '71.

MR. GLICK. So that is 4 years after you were working at the plant?

MS. ROBERTS. Yes.

MR. GLICK. And upon your return from maternity leave, did you go back into the same kind of work you had been doing?

MS. ROBERTS. Yes, in a different plant. I was given the labor grade 735, but it was a different plant. I went from plant 1 to plant 6.

MR. GLICK. Now just one final question, Miss Roberts. In the years that you have worked at Zenith since 1966, approximately 8 years—

MS. ROBERTS. Eight years, 7 months.

MR. GLICK. Have you had an opportunity to observe generally throughout the plant the working conditions and the operations of the plant?

MS. ROBERTS. Definitely.

MR. GLICK. Have you been able to observe whether there are certain departments in the plant that have predominantly one sex employed in male or female as opposed to other departments?

MS. ROBERTS. Yes, being a floater I can tell you we have absolutely no men lacers or solderers on any assembly lines in Zenith. This is plant 1 or in plant 6.

MR. GLICK. So there are some jobs that are exclusively for women?

MS. ROBERTS. Definitely.

MR. GLICK. And are there some jobs other than supervisory jobs that are exclusively held by males?

MS. ROBERTS. Well, stock, mostly stock, like—and I would also say like the lift truck operators, clamp trucks or what-have-you, whatever you want to call it—they are predominantly men.

MR. GLICK. Do you think those are held by men because women are physically incapable of doing the jobs?

MS. ROBERTS. I wouldn't feel that a woman was physically incapable. The job that I was on, 919, was predominantly men. I know the women haven't been given the opportunity to work those jobs.

MR. GLICK. Does that job pay more than the jobs that women are largely employed in?

MS. ROBERTS. I really don't know the labor grade for a clamp truck operator. I think it is a labor grade 5. That would be a higher position than a line operator.

MR. GLICK. I see. Thank you.

Now, if I could turn to Mr. Payne, Mr. Payne, you have been active in some committees at Zenith that have been concerned with employment policies, both on the basis of race and sex. Could you tell us about some of those activities?

MR. PAYNE. Yes. Over the past few years, we have attempted to get a broader participation at all levels of black, particularly say up to the level of vice president, person on the board of directors. We have been successful in that effort, and I think we have a person who is in management now who should be in the near future moving up to a vice presidency.

We have been able to get programs which were beneficial to all employees such as educational reimbursement program, which is a tuition program—when a person goes to any accredited school, he can get reimbursed as long as he gets passing grades.

And there are other working kind of problems, working conditions that we are working with, inhouse training programs, attitudes and personal relations as regards to supervisions, attitudes to the workers, you know, not looking down your nose at them, thinking of them as people and not as numbers.

MR. GLICK. Have any of these efforts been directed specifically at the problems of women workers?

MR. PAYNE. Yes, we have addressed ourselves to women.

MR. GLICK. What kind of problems has your committee seen as they affect women?

MR. PAYNE. Well, the same thing that she mentioned there, that there are certain—

MR. GLICK. When you say she, you mean Miss Roberts?

MR. PAYNE. Yes, Miss Roberts.

There are certain areas, say the patching department, the cabinet shop there, the supervision in the QC, and the other departments that have light work that women could do, but there are no women in the department.

MR. GLICK. So you would tend to confirm what Ms. Roberts stated that there are departments that are exclusively male in some jobs and there are some departments that are almost exclusively female in work force?

MR. PAYNE. Right.

MR. GLICK. That has been your observation as well?

MR. PAYNE. Yes.

MR. GLICK. Why do you think that is?

MR. PAYNE. In some cases, say, for instance, line operators, the persons who do the wiring and soldering, I guess men don't think that they apply for that job, perhaps they would be given this job. I think it might be a situation that would prevail because you make a lot of bonuses in these lines, where it is a fast rapid work. I imagine a lot of men wouldn't want to do it, but I imagine that there might be some who would, if they felt they could get into it.

MR. GLICK. You mean men think that they wouldn't get the job as a matter of company or as a matter of lower-level supervisory policy?

MR. PAYNE. Probably for traditionally policy.

MR. GLICK. Traditional policy, but not really related to worker qualification?

MR. PAYNE. No.

MR. GLICK. But rather tradition of plant?

MR. PAYNE. Right.

MR. GLICK. I see. And do you think that that is also true in jobs that are held largely by men?

MR. PAYNE. True.

MR. GLICK. Jobs that may require some heavy effort every now and then, as one of our earlier witnesses testified to that, when a woman applied for a job, the job that didn't have any heavy work involved, suddenly acquires that—have you seen that kind of thing?

MR. PAYNE. Yes, I have seen women do, that are, in fact, doing jobs that, you know, require a fair amount of strenuous work; and you know, it is kind of ironic that other women frown upon these women who are doing these jobs because they think that at some point they may have to do this work.

This, for instance, packing, there is one packer that was on the line, and just about everybody that passed her, you know, had something to say, you know, some kind of comment, or really looked with disdain upon her doing the work; but she said she needed the job and she didn't mind doing it; she could do it, and, you know, she was quite willing to do it.

MR. GLICK. You are alluding to an instance of a woman worker working in a nontraditional job being harassed by other women workers? Have you seen any or are you aware of any instances where women workers are being harassed by male workers when they are working in nontraditional jobs?

MR. PAYNE. No, I have not.

MR. GLICK. Now, if I could turn to Miss Milton; it is our understanding that you are, your occupation now is that of driver of a fork lift truck. Is that correct?

MS. MILTON. Yes.

MR. GLICK. How long have you been doing that kind of work?

MS. MILTON. Since July of '74.

MR. GLICK. Excuse me, Miss Milton, could you move up to the microphone just a little bit?

MS. MILTON. July of '74.

MR. GLICK. Were there any special qualifications that you had to have in order to get to that job?

MS. MILTON. No, there weren't any special qualifications.

MR. GLICK. Were you given any kind of tests before you took the job?

MS. MILTON. No, I was not given any kind of a test.

MR. GLICK. Were you given any kind of a probationary period while on the job?

MS. MILTON. Well, yes. You are required to, you are supposed to make 100 percent for 4 consecutive weeks. When you go from—when I went from a 10 to a 12, and you are supposed to make over 100

percent for 4 consecutive weeks before they will allow you to move to a 12 labor grade.

MR. GLICK. And were you able to make that quota, that kind of 100 percent?

MS. MILTON. Not in 4 consecutive weeks, no, because you have to have the orders to do it with. I load railroad cars, and there are—the orders are picked, and so you might get maybe one lousy order and you have to travel a long ways for your stock and, therefore, you can't do it; it is just a situation where you just can't. Even guys that do the same thing can't do it.

MR. GLICK. What do you mean by 100 percent? I am not sure I understand what that means; 100 percent productivity on a measured basis of something?

MS. MILTON. Right.

[One hundred percent refers to a piece rate. That is, in an 8-hour day one would be expected to complete a certain number of parts or operations. Those workers who are on an incentive system are paid a bonus for production in excess of the 100 percent rate.]

MR. GLICK. I see. Did you notice any kind of or have you noticed any kind of treatment that has been given to you that is any different than male forklift truck drivers?

MS. MILTON. Well, no more than just the fact that, you know, when you are trying to make your labor grade, you don't get the orders that should be given you. You are supposed to make 100 percent per 40 hours, but you are snatched off an incentive job and put on a day-rate job, and you can't make 100 percent for 40 hours.

MR. GLICK. Did you ever complain to your supervisor or management about this?

MS. MILTON. Oh, yes I did. I went to my foreman and I complained to him, and I was snatched off of an incentive job once, and the week before I made 102 percent, and I went to the time-study man in the plant, and I told him that, you know, I wanted to know how they paid your bonus or how it was calculated or whatever. And he gave me, he explained it, but then after the third week and my bonus went down, and I would have to start all over again, I told him that if he didn't get it straightened out that I was going to go to the labor board.

MR. GLICK. I see.

MS. MILTON. Because before you get your 12, you have to make it for 4 consecutive weeks, and he has to get an okay from the supervisor to give you your labor grade.

MR. GLICK. Do you think that you were being encouraged to succeed in your period of trial as a forklift operator, or do you think that there was a desire that you should not succeed on the part of the supervisor?

MS. MILTON. It was a situation where they don't really care.

MR. GLICK. They just don't care?



Ms. MILTON. Right, I mean you are not shown how to do anything. You are not, I mean, you know, they show you how to pick up a refrigerator or whatever with the trucks; but I mean, so far as when you get ready to load a car, nobody comes around to say, "Well, you do it this way or you do it that way." You either get one of your buddy-buddy guys or whatever to help you along.

Mr. GLICK. Do you know how many persons are doing work similar to what you are doing, driving a forklift at GE?

Ms. MILTON. Well over 100. Well over.

Mr. GLICK. How many of them are women?

Ms. MILTON. Three.

Mr. GLICK. Three?

Ms. MILTON. Well, there was three. One is—she was—she got bumped. So she is not a driver any more.

Mr. GLICK. So there are only 2 women out of 100 drivers?

Ms. MILTON. Right.

Mr. GLICK. Is that a physically demanding job that would be difficult for most women?

Ms. MILTON. It's not very—no, it is not difficult because it is not that hard, because there is a trick to it, it is just, you swing a combination refrigerator around, or a side-by-side refrigerator freezer, but it's a trick to doing it. The trick is somebody has got to show you that little trick, and it is just as easy as taking a candy from a baby.

Mr. GLICK. So it isn't a job that requires a big husky man to do it?

Ms. MILTON. No, it is not.

Mr. GLICK. Thank you. Mr. Chairman, I have no further questions.

CHAIRMAN FLEMMING. Mr. Ruiz?

COMMISSIONER RUIZ. Miss Milton, how does the elimination of job descriptions or categories affect the seniority system?

Ms. MILTON. Would you repeat that, please?

COMMISSIONER RUIZ. Does Zenith eliminate job categories at will?

Ms. MILTON. Oh, I am with GE.

COMMISSIONER RUIZ. Pardon?

Ms. MILTON. I am with General Electric.

COMMISSIONER RUIZ. Zenith? I will pass over to the next commissioner while I get the question right here.

CHAIRMAN FLEMMING. Wait a minute, Miss Roberts works for Zenith.

COMMISSIONER RUIZ. Miss Roberts works for Zenith, I thought there was a Zenith witness. And Mr. Payne works for Zenith. With relation to the same question, I understand that they do eliminate job descriptions at will over at Zenith, is that correct?

Ms. ROBERTS. I am not familiar with their procedures for eliminating jobs; I could not testify to that fact.

COMMISSIONER RUIZ. That women who acquire requisite experience and seniority for a specific grade don't get up to the grade because the job category is suddenly eliminated. Have you heard of any such experiences over there?

Ms. ROBERTS. Have I heard of any jobs being eliminated?

COMMISSIONER RUIZ. Yes.

Ms. ROBERTS. Well, we have had promotional jobs that have been, I don't know if you would say eliminated, been taken off the board because they thought that maybe they didn't need anybody at the time; and, as a matter of fact, I can think of one that I applied for, I think it was grade 15, and it was eliminated. They said that they no longer needed anyone on that job, but I later, it was posted in but at that time—

COMMISSIONER RUIZ. Well, that is specifically what I had reference to.

Ms. ROBERTS. Yes.

COMMISSIONER RUIZ. You had been working up to a labor grade 15?

Ms. ROBERTS. Yes.

COMMISSIONER RUIZ. And you had been there for what period of time?

Ms. ROBERTS. How long had I been at Zenith?

COMMISSIONER RUIZ. Yes, for purposes of getting up to labor grade 15?

Ms. ROBERTS. I had been at Zenith 7 years. But on this labor grade 15 job, I think it requires specific qualifications. I don't know what they were because as I said, job was—

COMMISSIONER RUIZ. It was eliminated?

Ms. ROBERTS. It was eliminated.

COMMISSIONER RUIZ. And while you were working with and aspiring to become a grade 15, it was suddenly eliminated?

Ms. ROBERTS. Yes, it was.

COMMISSIONER RUIZ. What did that do to you?

Ms. ROBERTS. Well, I stayed in the labor grade I was in and I put in for another promotion which was a final tester, as I aforesaid.

COMMISSIONER RUIZ. Do you know of anybody that was affected other than yourself with respect to that particular matter, working up to a labor grade 15?

Ms. ROBERTS. Not offhand, I couldn't say.

COMMISSIONER RUIZ. Is this the only elimination of a labor grade involving female workers that you know about over at Zenith that has occurred?

Ms. ROBERTS. Well, I know of no female workers in labor grades from 14 though 17 anyway.

COMMISSIONER RUIZ. Anyplace?

Ms. ROBERTS. No, not in that labor grade, not to my knowledge; I am only speaking from what I know.

COMMISSIONER RUIZ. And what was your labor grade?

Ms. ROBERTS. My labor grade is 1120.

COMMISSIONER RUIZ. 1120? And what is the highest labor grade of female employees?

MS. ROBERTS. The highest labor grade I know of right now is labor grade 12. I am not sure, but that is the labor grade I know about, other than supervision.

COMMISSIONER RUIZ. Thank you.

CHAIRMAN FLEMMING. Mr. Buggs?

MR. BUGGS. No.

CHAIRMAN FLEMMING. Ms. Kummerfeld?

MS. KUMMERFELD. Miss Roberts, earlier Mr. Payne was asked what some of the reasons might be as to why women seem to hold certain jobs and men other jobs, and it looked to me as though you wanted to say something at that point.

MS. ROBERTS. Well—

MS. KUMMERFELD. I think that men might have some concern about the notion that they may not be accepted. Do you want to add anything to that?

MS. ROBERTS. Yes. When he was speaking of the line assembly, say wiring and soldering, those jobs are hired directly from the personnel office, that is a labor grade 2 job. That job can be given to either a man or a woman. Those jobs are given predominantly to women, wiring and soldering.

The only jobs on the line that are given to men are like on the soldering machine, which we do help out on the soldering machine as floaters or utility operators, what-have-you. But those jobs are not jobs that you would put in for promotion, those jobs are coming straight from personnel. It is a labor grade 2 job.

MS. KUMMERFELD. When people come into the plant for jobs at that grade level, do they have the option of indicating what type of job they want to work in?

MS. ROBERTS. Definitely not.

MS. KUMMERFELD. I want to ask you also, with regard to your maternity leave and maternity benefits, did you receive under your health benefits policy, which I assume you had through the company, coverage for that period of disability?

MS. ROBERTS. Hospital coverage, no. The insurance that the company gave us is only for ourselves. In order to get maternity benefits, you would have to take out a special policy, which is a group policy, I think that is what they call it. The only benefits you get after your baby, you get a 6-weeks insurance allowance, the same as if you were on a sick leave.

MS. KUMMERFELD. So that your hospitalization is not covered?

MS. ROBERTS. Definitely.

MS. KUMMERFELD. But other hospitalizations for other reasons would have been covered under that policy?

MS. ROBERTS. Yes, anything that did not deal with maternity, not even miscarriages, what-have-you, the policy did not cover that.

MS. KUMMERFELD. Thank you.

CHAIRMAN FLEMMING. Okay.

Thank you very much. We appreciate your being with us and appreciate your response to the questions that have been addressed to you.

We will now take recess until 3:35, a 15-minute recess unless the Counsel has something else? Okay, we will be in recess then until 3:35.

CHAIRMAN FLEMMING. All right, I will ask the hearing to come to order and ask that Counsel call the next witness. I think the record should show that since the recess we have been joined by Commissioner Horn, who is the Vice Chairman of the Commission.

All right, Mr. Glick?

MR. GLICK. Mr. Chairman, the next witnesses are representatives of the General Electric Corporation. They are Charles Fiden, F-i-d-e-n, manager, Chicago Relations Operations, and Leo Mercier, M-e-r-c-i-e-r, manager of personnel for the Chicago Plant Operations. Mr. Mercier, Mr. Fiden, will you come forward, please?

Mr. Mercier, Mr. Fiden, one moment please, Mr. Mercier and Mr. Fiden?

Mr. Chairman, it does not appear that these gentlemen are now in the room. It does appear that there are counsel whom we recognize, who have appeared before the body before, who apparently wish to make a statement on behalf of either the corporation or the gentlemen who were subpoenaed; I am not sure. Do you wish to hear these gentlemen?

CHAIRMAN FLEMMING. Yes, we will be glad to hear them, but we want the record to show that when the names of these two persons were called they were not present as called for by the subpoenas.

MR. GLICK. Will counsel please introduce themselves for the record?

MR. GLEESON. Mr. Chairman, members of the Commission, Mr. Glick, members of the staff, my name is Paul Gleeson, of the law firm of Vedder, Price, Kaufman and Kammholz, and on my left is Mr. Arthur Joyce, counsel for group labor relations for the Hotpoint Division of General Electric.

MR. GLICK. Do you have a statement, Mr. Gleeson?

**STATEMENT OF PAUL GLEESON, VEDDER, PRICE, KAUFMAN AND  
KAMMHOLZ.**

MR. GLEESON. Yes, I do, Mr. Glick, and with the permission of the Commission, I would like to read our statement into the record at this time. Thank you.

Two representatives of General Electric Company, Chicago Plant Operations, Major Appliance Business Groups, referred to by the Commission and hereinafter as Hotpoint, have been subpoenaed by the

Commission to appear at this public session to give testimony regarding certain alleged practices of sex discrimination against female hourly employees of Hotpoint. In addition, the Commission served Hotpoint less than 72 hours prior to the commencement of this public session, with a subpoena *duces tecum*, which requests a voluminous amount of documents, compilations, lists, and other evidence. Hotpoint has this date submitted to the Commission a petition to revoke those subpoenas and has summarized in that petition its reasons for the request.

Hotpoint has also submitted sworn statements with exhibits and other documentary information to the Commission dealing with Hotpoint's general approach to the goal of equal employment opportunity, but specifically refuting individual charges of sex discrimination which the Commission indicated on November 20, 1974, it was going to make public at this session.

These statements and documents were submitted voluntarily by Hotpoint, and in so doing Hotpoint wishes to make it clear that it does not hereby waive its positions on the validity or propriety of the Commission's actions with respect to Hotpoint.

We recognize, however, that the Commission is sincere in its efforts and in the position it has taken; and, to the extent that Hotpoint has been able to do so without surrendering its legal position and/or releasing confidential information, the publication of which could seriously threaten Hotpoint's competitive position, we have attempted to supply the Commission with relevant data.

Hotpoint is also concerned, of course, that the record concerning specific allegations of sex discrimination be as balanced and fair as possible. It is respectfully submitted that, within the above constrictions, the physical appearance and testimony of Hotpoint's subpoenaed representatives could add little to the materials already submitted voluntarily. Hotpoint also feels that the data heretofore voluntarily submitted to the Commission goes far toward answering many of the specific areas of inquiry touched upon in the subpoena *duces tecum* served on Tuesday and yet without compromising Hotpoint's legal and/or competitive position.

In this statement of position, Hotpoint would like briefly to touch upon the major issues it has previously raised with respect to the public proceedings. We feel that these issues are substantial and pose grave problems of law, policy, and constitutional protection.

First, Hotpoint respectfully challenges the jurisdiction of this Commission to investigate, particularly through the procedure of public sessions, allegations of private employment discrimination. As a legal issue, we submit that Congress intended that such investigative functions be entrusted to the Equal Employment Opportunity Commission rather than this Commission.

This is not purely an academic issue with which only lawyers need be concerned, for the EEOC is charged by Congress with keeping con-

fidential the information it discovers in its investigations pending disposition of the charges. This is not only to protect the respondent and charging parties but to facilitate candor, openness, and frankness on the part of all concerned.

By definition, information of identical character presented in public session could not be protected by this federally-mandated, nondisclosure requirement.

Moreover, the EEOC, if it finds actual discrimination and cannot remedy it by conciliation, has the power to take direct action against the alleged offender, action which is itself subject to constitutional due process protection for all concerned, including notice, reasonable opportunity to prepare, discovery procedures, the right to cross-examination, and appellate review. This Commission, on the other hand, has a legislative function. It can take no direct legal action against an alleged discriminator although it could refer such allegations to the EEOC or the State FEPC. Moreover, individuals or companies charged with violation of the law before this Commission do not have minimal guarantees of constitutional due process in the way the facts or allegations bearing on the charges are elicited in public.

Why, we ask, did the Congress vest the EEOC with broad investigative and remedial power to expressly grant the protection of nondisclosure and to ensure the presence of due process with respect to the EEOC if it intended that this Commission with none of those attributes would be allowed to duplicate or overlap the EEOC in its function?

Hotpoint, like any other employer today, may be brought to task in a number of forums where sex or other prohibited discrimination is alleged: the Chicago Commission on Human Relations, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance and even binding arbitration under its collective bargaining contract, a copy of which was earlier submitted to the Commission. We feel it is not only unfair and burdensome to require Hotpoint to defend its record in still another forum, but that it implied an undeserved criticism of other aforementioned bodies is necessarily made thereby.

Hotpoint realizes in taking the position that it has that it may be subjected to criticism both from the Commission and from other quarters. We wish to make it clear that our disagreement with the Commission's proposed procedures is an honest one. We in no way seek to impugn the Commission's motives or its sincerity. Indeed, we do not in any way disagree with the goal of equal employment opportunity. We, in fact, are completely dedicated to that goal.

It is possible, of course, that Hotpoint's objections or at least many of them would be moot if the materials and testimony requested were sought in executive session with adequate assurances of nondisclosure to protect our legitimate business and competitive concerns. Unfortunately, no mention of this possibility has been made by that Commission and that alternative is not presently open for our consideration.

In closing we wish to note that Hotpoint has had only one individual charge of sex discrimination against a woman filed with a State and Federal agency and that charge, filed with the State FEPC almost 3 years ago, was ultimately dismissed.

Moreover, as indicated in the affidavit of Mr. Fiden, submitted yesterday, out of almost 700 grievances filed between January 1, 1973, and January 30, 1974, only 1 alleged sex discrimination against a female. Moreover, Hotpoint has successfully undergone compliance reviews of its antidiscrimination policy by the OFCC for the past 7 years.

We submit that these facts confirm a complete absence of sex discrimination against our female employees. Mr. Chairman, members of the Commission, I thank you for your indulgence in allowing us to read this into the record. That concludes our statement.

CHAIRMAN FLEMMING. I will ask Counsel if he desires to comment briefly on this presentation at this time, recognizing that we may at some point want to reduce our observations to writing, but do you care to make a brief comment on the argument of counsel?

MR. GLICK. Yes, I would, Mr. Chairman. Before I do I would like with your permission to introduce a written copy of the statement recited by Mr. Gleeson into the record and I believe that will be Exhibit No. 95.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. GLICK. Thank you.

Mr. Chairman, Mr. Gleeson advances some arguments which I believe have some merit but upon which the Commission has ruled on previous occasions.

First, I would like to point out that the General Electric Company advances an argument that, by reviewing information in public before this Commission, it will, in fact, be revealing business secrets. Well, that may very well be true, and, as I have asserted time and time again to the Commission, that the staff and the Commission, I know, has no desire to interfere with the legitimate business practices of any corporation. We do not desire to reveal business secrets.

However, included among the vast array of material which we have requested, may be, in fact, some matters which are business secrets. We have no way of knowing. We are perfectly willing to negotiate with representatives of the company as to what material they would regard as revealing of business secrets; and, if it appears at all reasonable, we would agree that that material need not be submitted.

This is a right which the corporation has to assert with respect to specific information. It is not a right, I believe, that they can assert with respect to all of the information which has been requested by the subpena.

We are not in any way intending to ride roughshod over legitimate business interest. However, I think that counsel and the corporation have an obligation to present material which they know does not con-

tain business secrets and then we can arrive, I think, at a mutual agreeable position.

Secondly, where the argument is advanced that the Commission is a legislative body and not an enforcement agency, that is quite correct, but that in no way denigrates the agency's right and statutory responsibility to obtain information. While it is true that some of the information may be received by the agency could be used by other agencies for law enforcement activities—law enforcement in the civil sense, not in the criminal sense—that information is not information that the other Federal agencies are not already in possession of or do not have a right to obtain.

So that it would seem very unlikely that, if we hear testimony that would suggest that there may be, in fact, some discriminatory policies or activities on the part of the company or its agents, that that information would not already be in the possession of the EEOC, for example, or the Illinois FEPC through their activities or through OFCC through its compliance activities; and, while we need it for an entirely separate purpose, the information that we would obtain would not be what would trigger any kind of activity on the part of the enforcement agency. So I think that argument, while it is cogent, it really lacks merit in view of the Commission's statutory authority.

I think that I would like an opportunity, although I do believe that we have previously answered most of the issues raised, I would like an opportunity to have staff review the statement within the next few hours and to present to the Commission its further views. But, in closing, I would like to comment that, regardless of the legal arguments which are advanced by the corporation for its not being required to produce the materials which have been requested by subpoena *duces tecum*—which I would like to introduce into the record as well as the other subpoenas in just a moment—this in no way it seems to me would provide for any legal validity for the failure of the company representatives who were served personally, as individuals, to respond and appear in their individual capacity.

I think that arguments that they have nothing to add, that their testimony would not be necessarily material, are arguments that should be and could be advanced in their presence, and then it would be the Commission's obligation to make a judgment as to whether they in fact need appear. But without their physical presence, the Commission cannot make a judgment.

So that I think there have been no arguments advanced at all respecting the responsibility of Mr. Fiden and Mr. Mercier to appear before the Commission in accordance with the terms of the subpoena.

The subpoena *duces tecum* for materials is an entirely separate matter and, therefore, I would request, Mr. Chairman, that the Commission consider whether or not it ought to take further action with respect to the subpoenas that have been served on Mr. Fiden and Mr. Mercier. Thank you.



But, before I close, Mr. Chairman, may I introduce into the record of the hearing the subpoena served on Charles Fiden, as Exhibit No. 96, and the subpoena served on Mr. Leo Mercier, as Exhibit No. 97, and the subpoena served on a registered agent of the General Electric Company, at 208 South LaSalle Street, Chicago, Illinois, which is a subpoena *duces tecum*. That would be Number 98, I believe.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. GLICK. Thank you.

CHAIRMAN FLEMMING. As the attorneys for the Chicago plant operations for the General Electric Company know, the arguments that they have advanced today in this public hearing were advanced in the executive session that the Civil Rights Commission had a few weeks ago. The Commission considered these arguments after they were advanced and decided that the public hearing should proceed in the matter called for by the subpoenas. It is my understanding that our Acting General Counsel conveyed that decision to the attorneys for the Chicago plant operations.

MR. GLEESON. That's correct, Mr. Chairman. November 20 we were so informed by Mr. Glick, yes.

CHAIRMAN FLEMMING. So that you were aware of our decisions. We are of the same opinion, I believe, that the hearings should proceed in the manner called for by the subpoena. We believe that Mr. Fiden and Mr. Mercier, who have been served, should respond to those subpoenas in person. As Mr. Glick has pointed out in his presentation to the Commission, some of the issues that are identified in the presentation of counsel certainly can be raised at that particular time, and they can be considered by the Commission.

But the Commission wants to make it very clear that the subpoenas in question are in force, and in this, as in all other situations, it is prepared to use the remedies set forth in the Civil Rights Act in order to enforce subpoenas. I would like to emphasize the fact that it is the Commission's ruling that both persons, both Mr. Fiden and Mr. Mercier, should respond to the subpoenas in person before this hearing adjourns late tomorrow afternoon. When they do, and questions are addressed to them which raise the kind of questions that you have identified, then we can consider the issues as specific issues and consider the circumstances surrounding those specific issues, rather than passing on some of the issues, some of the general issues that you have raised. But that is the ruling of the Commission.

MR. GLEESON. Mr. Chairman, as a point of clarification, do I take it from your comments that the Commission has, in effect, denied the petition to revoke the subpoena at least as far as pertains to the, to the individual testifying?

CHAIRMAN FLEMMING. That's correct.

MR. GLEESON. Does that also pertain to the subpoena *duces tecum* or is it still pending, Mr. Chairman?

CHAIRMAN FLEMMING. No, if you would like to consider them as two motions, then the Commission has denied both motions. Any further questions from the members of the Commission? Larry, do you have anything?

MR. GLICK. No, I would only want to add, Mr. Chairman, that if the counsel conveys, as I hope they will, the message that the Chairman has stated that the petition, that the subpoena motions have been denied, particularly with respect to Mr. Fiden and Mr. Mercier, to them, I will be available for them to get in touch with me to arrange a time for the gentlemen to appear before the Commission, either later up until 6:00 o'clock this afternoon or tomorrow morning; and, if you will check with one of the staff, we will give you the numbers at which I can be reached, either at my hotel or in my office here.

CHAIRMAN FLEMMING. Thank you very much.

MR. GLEESON. Thank you.

MR. GLICK. May I proceed, Mr. Chairman?

CHAIRMAN FLEMMING. You certainly may; I would appreciate it.

MR. GLICK. Mr. Chairman, the next witnesses are representatives of the Zenith Radio corporation, and the named individuals are David W. Denton, vice president, employee relations, Michael Kaplan, director of industrial relations, and as named in our schedule, James Kinal, general industrial relations manager; but, through negotiation and representation of Mr. Sletteland, the counsel for Zenith Radio Corporation, I have agreed that since Mr. Kinal is engaged in some very important labor negotiations he could be excused, and in his place will appear Mr. James Vito, who has a comparable position with the corporation. Will these gentlemen please step forward?

[Mr. David W. Denton, Mr. Michael J. Kaplan, and Mr. James Vito were sworn.]

**TESTIMONY OF DAVID W. DENTON, VICE PRESIDENT, EMPLOYEE RELATIONS; MICHAEL J. KAPLAN, DIRECTOR, INDUSTRIAL RELATIONS; AND JAMES VITO, INDUSTRIAL RELATIONS MANAGER, CHICAGO PLANT OPERATIONS; ZENITH RADIO CORP., CHICAGO, ILL.**

MR. GLICK. Will the witnesses please identify themselves for the record, with their name, their address, and their occupation?

MR. DENTON. My name is David W. Denton. I am vice president, employee relations, at Zenith Radio Corporation, and I live in Lake Bluff, Illinois.

MR. KAPLAN. My name is Michael J. Kaplan. I am director of industrial relations of Zenith Radio Corporation. My address is 2145 Sheridan Road, Highland Park, Illinois.

MR. VITO. My name is James Vito. I am industrial relations manager at Zenith Chicago Plant Operations; my address is 5852 North Talman, Chicago, Illinois.

MR. GLICK. I want to ask a general question with respect to the work force of the Zenith Corporation, and I think whichever one of you gentlemen wish to respond—that is, whoever has the information available—I will ask you to proceed. My basic first question is, what percentage of the work force of Zenith Corporation are women?

MR. KAPLAN. In Chicago?

MR. GLICK. In Chicago area, yes, all my questions will be referring to the Chicago area.

MR. KAPLAN. In our last EEO—1 report, which was as of early 1974, there were 6,377 women, 5,245 men. So, it is, whatever that is, 55 percent women.

MR. GLICK. Fifty-five percent women?

MR. KAPLAN. Something like that, the numbers are there.

MR. GLICK. Also, Mr. Kaplan—

MR. KAPLAN. Might I add—

MR. GLICK. Excuse me.

MR. KAPLAN. That those numbers appear in a sworn statement that was previously submitted to the staff of the Commission, and so that those numbers are available in there also.

MR. GLICK. Well, since Mr. Kaplan has pointed that out, Mr. Chairman, I have received a great body of material from the corporation. I was going to ask to introduce it into the record when we're finished with the testimony, but this might be an opportune time.

Zenith Corporation did respond to the subpoena *duces tecum*. Staff, of course, has not had an opportunity to review the material, but in my discussion with Mr. Sletteland, counsel for the corporation, we have agreed that staff will review the material, and, if we find there is some matter of importance which is lacking, we will request it, and the company has agreed that they will try to produce it in the future if it is not overburdensome. We have also agreed that should there be any material which we have requested and not received which the company can assert, legitimately, has a business-secret basis that we would not pursue that matter further.

Now with your permission I would like to introduce the documents returned to the Commission in response to the subpoena *duces tecum* as Exhibit No. 99.

CHAIRMAN FLEMMING. Without objection that will be done.

MR. GLICK. Now, returning again Mr. Kaplan—

MR. KAPLAN. Did that include the sworn statement that was submitted previously, prior to the submission of the other material that was submitted in response to subpoena *duces tecum*, this sworn statement submitted prior to us even receiving that subpoena?

MR. GLICK. Yes, that will be included with this as Exhibit 99.

MR. KAPLAN. Yes.

MR. GLICK. Now then, proceeding, Mr. Kaplan, with respect to the composition of the work force: You have given us the numbers and the percentage that are female; can you tell us the breakdown, just

here in testimony in rough terms, as to the number of the employees that are minorities, and by that I am referring not only to black persons but Spanish surnamed and Native Americans or whatever?

MR. KAPLAN. I didn't really make those calculations; but, as we can do them roughly here, there were, of a total of approximately 8,000 employees, there were—

COMMISSIONER HORN. Wait a minute, excuse me, 8,000 employees?

MR. KAPLAN. Wait a minute, 11,622 employees; I was on the wrong line. Of the total of 11,622 employees, approximately 2,100 were minority males, and approximately 4,100 were minority females. So that is something in excess of nearly 7,000 of the 11,600 were minority.

MR. GLICK. Minority groups?

MR. KAPLAN. Yes.

MR. GLICK. Now, returning again to the female component work force, can you indicate—either Mr. Kaplan or Mr. Denton or Mr. Vito—whether in your opinion, just from your understanding of the statistics of the corporation and from your observation, are women employed in the corporation evenly dispersed in all job categories from the very top? And here I would include the management side as well as the plant force.

MR. KAPLAN. Who would like to do that?

The statement, my own statement, that I was looking at here, will show that—I don't think it is—it is true that women are evenly employed throughout all of the classifications.

There are some, but the EEO categories is what I am looking at here. There are substantial numbers of women in most of the categories. However, there are some categories that have far more men and some that have far more women. And the exhibits are—on page 2 of my statement, the EEO—1 form appears, and we could read those numbers in if you want, or whatever you would like to do.

MR. GLICK. Well, at this time I would not request you to read them in, but I would like to ask you: In what category are women underrepresented?

MR. KAPLAN. Well, I think that you have to tell me what you mean by underrepresented, sir, because underrepresented could mean, as a percentage, you know, if women are 50 percent of the general population, then women are underrepresented where they don't represent 50 percent of a particular EEO—1 category.

MR. GLICK. I was thinking more in terms of the percentage of the work force, that women are—I can't remember the exact numbers, but what, considerably more than half of Zenith's work force in the Chicago area? And I would ask you to respond in terms of that work force percentage.

MR. KAPLAN. Well, in my opinion, sir, I can respond to that, but in my opinion that is not necessarily the question of underrepresentation. Now, if that is what you are defining as underrepresentation, I guess

you have to say that, in any category where there are less than 55 percent females, then you would say they are underrepresented. And that would include, by my rough estimate of looking at this document, the officials and managers category, professionals category, technicians category, sales category, which is a very small category, and craftsman category.

On the other hand, in the semiskilled operatives category, women are, you might say under your definition, are overrepresented, and in the, the laborers—that is, the second to lowest category—women would be underrepresented also. In the lowest category of all, service workers, women would be underrepresented by your definition.

I think that if you referred to the statement, and I believe exhibits 5 and 6 show a comparison of Zenith's female composition of their work force with the member firms of the Chicago Merit Employment Committee. This is prepared from data issued by the manpower division of the Chicago Association of Commerce and Industry, and it is commented on my statement. I think it would show that Zenith in the categories in the hourly area, in particular, which is the one that we were—we thought that you would be concentrating on because of the notice that we received—Zenith is better represented than the Chicago Merit Employment Committee in the areas of craftsmen; that is, skilled workers, operatives, semiskilled workers.

MR. GLICK. Mr. Kaplan, you indicated that there were some categories that were, I guess, at the upper end of the pay scale or income level in the corporation—such as officials and managers, professionals, technicians, workmen—in which women are underrepresented and there are two categories at the very bottom, that is, laborers and one other which I don't recall which one you mentioned, service workers?

MR. KAPLAN. Service workers.

MR. GLICK. Service workers, they don't comprise a great part of the labor force, do they, or the work force?

MR. KAPLAN. Not a great part but some 570 employees.

MR. GLICK. So there is a disparity in that women are underutilized at the very top, or the upper levels out of the plant, and they are underutilized at the very bottom which employ, only 500 odd, 11,700 employees.

MR. KAPLAN. Mr. Glick, to use the term of art, when you use the term underutilized—and I think we can argue at length about utilization—I do not have figures with me at present, but the area of underutilization, as it is when we deal with the Department of Defense's Contract Compliance Agency, relates to the availability of minorities and women in specific categories in the Chicago work force. So to say that Zenith is underutilized in some of these areas, I don't think is true at all.

MR. GLICK. Well, I would take exception to the definition that the Department of Defense uses. That's their definition. That is not what I am thinking of.

What I am thinking of is that in terms of the plant work force—they have a different kind of view that they take and I am taking a different view. I am thinking in terms of 100 percent work force; women are 55 percent of it, but yet women do not appear in the higher grades. I am not thinking of it in the terms of the law that DOD has to enforce.

MR. KAPLAN. Mr. Glick, when you define in terms that way, and the figures speak for themselves.

MR. GLICK. Mr. Denton, can I switch to you and find out how long you have been employed by Zenith? I just want to be able to establish how long a view you have with the corporation.

MR. DENTON. About 5-1/2 years.

MR. GLICK. About 5-1/2 years? Have you seen any change during that 5-1/2-year period in the employment status of women in the corporation?

MR. DENTON. Yes, I have, sir, and I think that the submission that Mr. Kaplan has referred to demonstrates that, and I think it demonstrates a very significant improvement within Zenith in the movement of women within the work force. And there are several exhibits here which I believe show that; but we have, like many other companies, concentrated very much in our programs on equal employment opportunity.

The company feels very strongly about it. We have right at the top of the company from our president on down a determination to achieve the goals that we set, and I think this is the entire basis for our program, and the results that we have achieved, that we set goals, each division will set goals in your so-called underutilized areas, and our definition is as we explained it, and we hold managers accountable for achieving the goals in exactly the same way as we hold them accountable for achieving operating results or sales results or quality results.

MR. GLICK. Mr. Denton, I don't really know, there may have been some articles in the newspapers and other things about employment by Zenith, but generally the economy at the moment is down, and there have been layoffs throughout the automobile industry and other industries, and I would expect that is probably true in the electronics as well. If that is in fact the case, how do you expect to maintain your affirmative action goals in a time of contracting employment rather than expanding?

MR. DENTON. Well, unfortunately it is so in our industry. We are having a staff—we are having reductions and rather substantial ones.

We are, nevertheless, insofar as the females are concerned—I think it will show in these exhibits and Mr. Kaplan could comment on—where the females are in a work force and they are spread throughout seniority levels within the work force and within the terms of our contracts with the union, we use seniority as one of the factors in determining who is to be laid off.

Mr. Kaplan may comment on that further. He is closer to the labor situation than I am.

MR. GLICK. Mr. Kaplan?

MR. KAPLAN. Yes, well, in exhibit 9, I believe it is, of our sworn statement, there is a breakdown by length of service of employees, and it will show that in most of the categories, particularly in the highest end of the seniority roster, there are more females with high seniority than males. And seniority is one of the important factors in the hourly layoff situations. So that we would hope that the operation of our labor agreement would not greatly harm our affirmative action programs in the female area.

MR. GLICK. So that, while the present ratios and job structure can be maintained in a period of contracting employment, it does not appear then that there can be any gains or achievement of goals in timetables that must be stated in the affirmative action plan?

MR. KAPLAN. That is far more difficult, there is no question.

MR. GLICK. Do you have any ideas in mind as to how it would be achieved?

MR. KAPLAN. We have not really assessed the full impact of the economic situation on the corporation as yet. I think this is proper statement, Dave, and in our assessment we will be assessing that too, and we have not reached any real answers as yet.

MR. GLICK. It looks like it is going to be a pressing matter pretty soon, unfortunately.

MR. KAPLAN. Yes.

MR. GLICK. If I could switch to Mr. Vito for a moment, and I think you might want to pull the microphone up. Mr. Vito, you are the plant employee relations manager for one of the company plants here in Chicago?

MR. VITO. Industrial relations manager for all Chicago.

MR. GLICK. Industrial relations manager for all Chicago plants.

MR. VITO. Yes.

MR. GLICK. So you have intimate knowledge of the labor force and its grade levels?

MR. VITO. The hourly.

MR. GLICK. The hourly—

MR. VITO. The hourly.

MR. GLICK. —employees and its grade levels on the employment scale?

MR. VITO. Yes.

MR. GLICK. Which as I understand goes from 1 to 17?

MR. VITO. Seventeen.

MR. GLICK. Seventeen? Yes.

MR. VITO. That's right.

MR. GLICK. Now can you give me an idea whether women are concentrated on any particular block of grades like 1 to 5, 5 to 8, 8 to 11, or something like that?

MR. VITO. They are not.

MR. GLICK. They are not? So that the percentage of women in, let's say, the medium grade 8 is identical to the percentage of women in grade 15 to 17?

MR. VITO. No, no, I didn't understand you, you know, to say that, you say is there a block where women are concentrated like 1 to 5 or 5 to 8, no there is not, but I cannot say the percentage of women in grade 8 is exactly the same as the percentage of women in grade 15 or whatever you said.

MR. GLICK. Is it close?

MR. VITO. No.

MR. GLICK. Is it higher?

MR. VITO. In grade 8 and 15?

MR. GLICK. Is the percentage of those in grade 8 who are female higher than those in grade 15 who are female?

MR. VITO. Yes, it is much higher in grade 8. In grade 15, I don't know how many females we have, but it is not many.

MR. GLICK. What kind of jobs are done? What are grade 15 jobs? I am sure it is a variety of jobs.

MR. VITO. No, it is very small. As you go higher up the scale in terms of numbers like we are saying, I think, about 6,000 employees in Chicago plants, you would have maybe 4,000 of them—and you know my numbers could be wrong and perhaps in the submission you have is more correct—say 4,000 would be in the first five grades for, no, excuse me, no, first six and seven grades.

As you get up to around grade 12, I then could, you know, make a line of, at grade 12 and above, I would say probably 95 to 99 percent of our employees are below grade 12, or 12 or below, excuse me. Ninety-five to 99 percent. Now, these, you know, I am guessing off the top of my head, but I am pretty close because there are very few people at these higher grades. These are highly skilled jobs.

MR. GLICK. Can you give me an example of what jobs would be?

MR. VITO. Sure; in the higher grades we have signal deck technician, grade 17; that is the highest grade. I think we have three employees or four employees. We have one in the plant. And he sees that the signals that we use for TV in all the plants are working. Very few people in that job.

MR. GLICK. Are any of those, any of those female?

MR. VITO. None.

MR. GLICK. What kind of jobs are grade 16?

MR. VITO. I think grade 16 by and large, to my knowledge, are relief jobs of grade 14, a relief operator or a group leader type of job is two grades above, generally, the job that it is relieving.

MR. GLICK. Do you have any idea how many are in grade 16? How many employees?

MR. VITO. How many employees in grade 16, total?

MR. GLICK. I mean would this run to tens or hundreds or—

MR. VITO. No, never hundreds. If it is 25 or 35, I think it is a lot. I mean, do we have these numbers here? I am sorry.



MR. GLICK. You have a pretty good idea, Mr. Vito, I am sure.

MR. VITO. Yes, I might have, but you know.

MR. GLICK. We expect a lot of the figures, but I did want to get them into the record from you so we can discuss them.

Do you know if any of those persons are female?

MR. VITO. I don't, I don't know.

MR. GLICK. And grade 15?

MR. VITO. The numbers? Or the jobs?

MR. GLICK. The job.

MR. VITO. I can't think of any offhand, a particular job in grade 15.

MR. KAPLAN. The labor agreement is in that batch.

MR. GLICK. I have a copy.

MR. VITO. Off the top of my head, I can't think of any. Fourteen, when you say 12, when you say 13, you're talking, you know, where we have more people in the repair-type jobs, or, you know, repair person job is a grade 13. We have a quality control job, a very high quality control job is a grade 13, and jobs like that.

MR. GLICK. Well, what I want to know—

COMMISSIONER HORN. Could I suggest, to be helpful Counsel, in building the record, is that you insert at this point as an exhibit exhibit A of the agreement of the Zenith Radio Corporation and the Independent Radionic Workers of America, which will lay out for you all of the grades and all of the jobs that are under discussion in sequence, which would help clarify this discussion.

MR. GLICK. I have a copy of the labor agreement, Mr. Vice Chairman; I was intending to put it into the record, but I just wanted to understand Mr. Vito's view and his familiarity with the numbers of women in these jobs. What I really want to try to—

CHAIRMAN FLEMMING. It will be introduced into the record at this point.

MR. GLICK. All right, we will enter it into the record and I believe that will be—

CHAIRMAN FLEMMING. One hundred.

MR. GLICK. What I am really driving at, Mr. Vito, is, are there jobs in the higher-level positions, let's say from 13 on up?

MR. VITO. Yes, sir.

MR. GLICK. Where clearly the numbers narrow down in a pyramid shape. Are they jobs that require a great deal of physical effort which the, which usually women are not capable of doing although there is no job which women can't do?

MR. VITO. No, sir, no, sir. It is not physical effort; but, when you get to grade 13 and above, you are talking about generally technical expertise, normally acquired through outside education at a technical school, or, as Mr. Payne was talking about, he acquired some in the Army, which is also schooling—for example, like a repair man; we require that they have at least 2 years of electronic schooling before they can become a repair man. This is the requirement of Zenith. So—

MR. GLICK. You have heard testimony earlier and I think you're tending to say similar comments that women are not trained early in life and their schooling and in their socialization process to be prepared to deal with these type of technical-mechanical jobs--

MR. VITO. Thirteen and above, yes, correct.

MR. GLICK. Does the company have any kind of training programs which will help women worker employees on the force overcome this lack of technical training?

MR. VITO. Yes, we do. We have a basic, we have had an on and off basic electronic training, which of course is open to everyone. We particularly appeal to women in this to get involved in this.

As an earlier witness testified, we have gone now into an educational reimbursement, and we, again, particularly are soliciting people to get into technical schools and the company will pay the tuition, they are talking to get women into that.

We have various training programs, you know, in the jobs going on, but I would say the basic electronics, the electronics training that we have at work plus solicitation to get people in a technical school, particularly women, is going, and this is how we are trying to encourage them right now.

MR. GLICK. Has the program been successful?

MR. VITO. Well, the program, the educational reimbursement, now, this last semester we started in September is our first try at it, the first time we have had it.

I have to say very few women have gone into the technical school. Some have applied and have gone into the secretarial school, and, you know, we are covering that too, of course, college, this sort of thing, but to get them in a technical school has been very difficult. We have a couple who have applied at DeVry Tech, which is a good technical school here in Chicago.

MR. GLICK. Could you describe the kind of efforts that were made to encourage women to go into any of these--

MR. VITO. Yes.

MR. GLICK. --Educational fields?

MR. VITO. One was through postings, which we have been putting up, and this applies, by the way, to some other jobs, too; like, for example, we were talking about the fork truck driver. Right now I have postings up; particularly we are interested in women, but we are not getting them to apply.

We have the assembly job postings up; the same thing happened in the school, in education. Aside from that, I have got a staff of technical-training people that work for me who are out on the line asking people if they are interested, women if they are interested, and particularly in the higher classifications, would they please sign up at school and telling them what the benefits are, particularly like the classifications you heard Miss Roberts talking about--1120s and 12s, these are high classifications for women. These people we are trying to encourage to get into the school by personal, personally talking to them.

MR. DENTON. May I comment on that?

MR. GLICK. Yes, please do.

MR. DENTON. About 6 months ago we retained as a consultant, Dr. Charles Hurst who was president of Malcolm X College in Chicago and a well-known educator. And he is spending a considerable amount of time now at Zenith, and his specific task is to encourage particularly hourly employees, and help us encourage hourly employees to guide them into outside education or internal technical education that we will develop ourselves, and I think that the program Mr. Vito talked about, which is the tuition reimbursement, this we expect to be particularly productive in that respect. And we expect he will continue to spend a considerable amount of time with us just on this point.

MR. GLICK. I see.

Now, can I just switch to a slightly different issue, Mr. Vito and Mr. Kaplan, and that is: Are there a comparable percentage to the women in the work force who are foremen or plant supervisors, that is, persons who have gone beyond line assembly work and the other hourly rate work in the plant?

MR. VITO. If Mr. Kaplan has the figures, I don't know if that breaks it up.

MR. KAPLAN. Well, are you speaking of the officials and managers category, EEO category, and for example?

MR. GLICK. Well, I am thinking in terms of the line foremen, the assembly line foremen, and the material-handling foremen, technical foremen, people of that nature. I don't want to go off into the executive management level.

MR. KAPLAN. Well, of course, those people are also included in the EEO category.

MR. GLICK. I understand that.

MR. KAPLAN. Okay. I don't have particular numbers setting forth those numbers. Jim might be close or closer to this as I do. We do have substantial numbers of women, foremen, forelady—that gets to be quite an issue in deciding what you call them—we do have substantial numbers of those, but I would guess offhand that they were not in the technical areas nor in the material-control areas, but in the assembly areas we do have substantial numbers of women supervisors in the plants.

MR. GLICK. You use the term “forelady”?

MR. KAPLAN. Forelady, foreman, supervisor—they have been called a lot of things over the years.

MR. GLICK. Is there a company designation for a position called forelady?

MR. VITO. No, supervisor.

MR. GLICK. No, so forelady is kind of like a slang term?

MR. VITO. That is a slang term, in fact, in one plant they call them floorlady. In others they call them forelady. It is a term they themselves, the people on the line, develop.

MR. KAPLAN. It's a term like Chairman of the U.S. Civil Rights Commission.

MR. GLICK. I am kind of curious: Where there is a male person occupying one of those positions, what he might be called?

I have no further questions at this time, Mr. Chairman.

CHAIRMAN FLEMMING. Okay. Commissioner Freeman?

COMMISSIONER FREEMAN. Mr. Kaplan, perhaps Mr. Denton, the Commission has found in several of our hearings that part of the problem has been with a failure to recognize the attitude of the persons who are responsible for administering a program. With respect to the imbalance as to women, we have found that, where there are no women in supervisory positions, that that itself produces this result, and I am concerned by, Mr. Denton, I believe it was your statement, that you had employed a male as a consultant to bring in women; and we have found, and I certainly know that the discrimination of the hostility to the movement of women into certain jobs is that a black man may be as hostile to the upward mobility of a female as a white man. But I wonder if perhaps we may consider in employing some equally qualified females as consultant to assist the company in moving and recruiting women for these positions?

MR. DENTON. Well, first point, I didn't intend to say that his task was to, you know, directly to women. It was a whole work force which is, you know, substantial, over, you know, 55 percent women.

COMMISSIONER FREEMAN. But they are in lower jobs.

MR. DENTON. And in concentrating, too, on the minority throughout the work force.

COMMISSIONER FREEMAN. This is a point that I wanted to make.

MR. DENTON. And that really is his task, and so he isn't looking at the male-female; he is looking particularly at minorities in an effort to help us develop programs which will improve and enable us to upgrade more.

COMMISSIONER FREEMAN. So you really aren't doing anything to recruit or encourage women to get into higher positions?

MR. DENTON. Oh, yes, it is—I commented on the way in which we handle this is through establishing goals, and the goals go all the way down from our president down to the supervisor, line supervisor. And the goals are minority goals and female goals and we hold them accountable for achieving the goals.

Now, in our training, we have a number of people involved in training, and I can't tell you how many we have are female, but certainly there are a number of female trainers that I am aware of and I can't tell you how many, but, and also, in certainly all of our employment activities, I am sure we probably have equal number of females as males.

COMMISSIONER FREEMAN. I am referring to your exhibit 10A in which in the job category, office and management of the total employees, 45, 3 minorities, 3 females, and in the minorities is a breakdown as 2 black, 1 Spanish.

On professionals, of a total of 38—this is your '74 figures—1 minority, 5 female.

Your exhibit, what is this, 60, 10-B, information systems compared to analysis: "Technicians: out of 85 employees, 16 minorities, 24 females; office and clerical, 80 employees, 22 minorities, 74 females."

You see, the picture or the pattern is the same, that the females are in what is traditionally the female job. I have been reviewing this exhibit to try to find some area in which Zenith is different from what we have found from the other companies.

MR. KAPLAN. Let me point out that you are looking at an exhibit and the reason that this particular exhibit is in there is that the, in the notice that we received from the Commission, there were certain specific questions raised with respect to the information systems group, which, as you can see, contains about 250 people or a reasonably small part of the work force. And we put this information in with respect to that group.

Now, these people are, these are the computer people—the systems analyst and the clerical and there are various others in there. Ordinarily, these people would not be drawn other than by special effort and special education from our plant group, from our, you know, hourly employee group that we have been talking about here most of the day. I will, you know, again, if you say that we are, we are no better than the other.

COMMISSIONER FREEMAN. I am asking.

MR. KAPLAN. You are suggesting that we are no better than the other companies. If we compare ourselves to the other companies in this area, I don't know whether we are better or not.

I am sure that it is true that all of the companies with their information systems people probably have fewer females in officials and managers, fewer in the professionals, more as you go down the line. We are better than they are, and we have more than they do. I can't tell you right now, and our figures I don't think show that in any of our exhibits, but I think that we probably are as good or better.

MR. DENTON. I think it is fair to point out in exhibit 10—B and the next page, which is a most recent analysis which compares January 1, '74, with September 30, '74, that in female professionals, during that period of time, we increased the number from 8 percent to 13 percent. In other words, added 2 additional females, and in the technicians, we increased from 14 to 24 during that same period. So we are aware, and we are working on in this area as aggressively as we can.

COMMISSIONER FREEMAN. Now, you gave a figure of 4,100 minority females. Are they hourly? What percentage of them are hourly employees?

MR. KAPLAN. Well, the vast majority—

COMMISSIONER FREEMAN. Labor grade employees?

MR. KAPLAN. I don't have the percentages. This exhibit is in the file. The vast majority of all our employees are hourly employees.

COMMISSIONER FREEMAN. Would you have a figure as to how many? What percentage of them are labor grade 5 and under?

MR. KAPLAN. What percentage of whom?

COMMISSIONER FREEMAN. Of the 4,100 minority females?

MR. KAPLAN. I wouldn't—

COMMISSIONER FREEMAN. Would you give that information to the Commission, provide it?

MR. KAPLAN. It may be in there. I am not sure.

COMMISSIONER FREEMAN. Thank you.

MR. KAPLAN. It may be in the pile of paper.

COMMISSIONER FREEMAN. Thank you.

CHAIRMAN FLEMMING. Commissioner Horn?

COMMISSIONER HORN. Thank you, Mr. Chairman.

I find it a little difficult to conduct a discussion on this, since I was not furnished a copy of your exhibit, and I sort of, I don't know what information is in there, and I guess I would ask the first question, compared to what? I think this Commission could examine any organization in a society, including the Civil Rights Commission, my university, and every other university, and everybody by some arbitrary quota or percentage standard would come up short.

So, I for one don't find that completely relevant except to see if there is any growth over a period of time and to try to determine what are the factors that could encourage further growth. Therefore, I'd just as soon concentrate on that area, and what I would like to ask you is: Given all this tremendous number of jobs that runs, based presumably on, well, certainly on the level of pay, and presumably there is some relation to the level of skill from labor grades 1 through 17, and I ask it to anyone who is knowledgeable, does your experience show that to get promoted from, say, labor grade 1 to 2 or 15 to 16, that experience at the previous level is relevant to that job or, you mentioned earlier, some of your employees at high jobs have training in the armed services, some of them go to electronic institutes, and so forth. I am trying to find out to what degree is experience actually relevant in a preceding level to successful performance at the next higher level?

MR. VITO. Experience is almost totally relevant, I would say, as a category in maybe jobs 1 through 12; these are all, you know, it is a progressive job that, you know, you take one job, you have had it, you can move to the next one. For example, I can show you a progression in there to give you an example of what I am talking about. If you were promoted to a 637, you see it in there, you learn that job say for about a year and it would qualify you for a 919.

COMMISSIONER HORN. That is physical checker, final assembly lines, and then would move to picture setup man?

MR. VITO. Right.

COMMISSIONER HORN. Even if you were a woman?

MR. VITO. Right. And then from there to an 1120. This was the progression followed by one of the earlier witnesses, that is why I mentioned it. This is a very normal progression.

Now the problem becomes, in answer to your first question, when you get up to the level 12, beyond that, it's really a technical skill, as I said earlier, attained in an outside educational institution beyond high school. Generally speaking, you know, this is, you will see, you know, repair jobs, almost anything I would say 13 through 17 require technical, high technical skills normally acquired at an outside technical school.

So the answer to your question is, I guess, is qualified. One through 12 is straight progression. Beyond that you have got to get some additional education really to make it.

COMMISSIONER HORN. Are there any personnel analyses of the people who occupy 11 and 12 which fits in your first category and then 13 through 17 as to what their job histories were, how long they secured experience at a particular level before rising up this hierarchy?

MR. VITO. I am not sure I follow you. You mean how long it would take to get to that job?

COMMISSIONER HORN. Yes, are there any patterns that you see—overtime besides seniority and happenstance of who died and retired, which left an opening for seniority? I am trying to get at the degree to which women filtering up a hierarchy starting at a simpler level, assuming no outside training in the armed services or no outside technical skill in electronics institute, which you say is sort of essential for grades 13 through 17.

MR. VITO. Yes, sir.

COMMISSIONER HORN. I am just curious how long it would take, what typical entry would be for a woman and then how many years she would have to serve in grade to rise to the next higher level.

MR. VITO. I can't tell you. In fact, I can tell you there is no pattern in time. Because the problem is, you know, we are an industry that moves up and down very rapidly with sales. So we could be in a time of expansion and a person could move from a 637 that I was talking about, for example, to that 1120 in a matter of 2 or 3 months because they will put them in 919 and then they will have to have more 1102s, you know, as we had more lines and we will take a person with less experience.

COMMISSIONER HORN. Okay. So you're not like the civil service where you have to serve a year in grade before you could go to the next grade?

MR. VITO. Absolutely not.

COMMISSIONER HORN. And it sort of resembles the way women did get employed in the Second World War, the so-called Rosie the Riveter, they just went out, they needed personpower, manpower, whatever you want to call it, and they went out and trained a person to fill the spot because the demand was there. So there is upward mobility just based on economic conditions, from economic expansion?

MR. VITO. Clearly.

COMMISSIONER HORN. And some experience, and I assume is there some on-the-job training and below grade 12?

MR. VITO. Yes, and seniority, I would like to add.

COMMISSIONER HORN. And seniority, yes, of course.

MR. VITO. That does become critical when you are talking about women because they do have greater seniority as a whole in our company, as was testified to earlier.

COMMISSIONER HORN. Right.

MR. VITO. So that is critical, of course; promotion is based on seniority and ability to do the job.

COMMISSIONER HORN. Now, in terms of the company's efforts, such as tuition reimbursement above the level 13, to what degree is the company working with say the Chicago community colleges, Chicago public school systems, in terms of adult education to provide these technical courses in a location convenient to where perhaps the female work force is concentrated? Has anybody examined the zip codes of female workers, let's say, know where they live, or are they scattered all over?

MR. KAPLAN. There are a number of fine technical schools in the Chicago area and, in addition, in various neighborhoods, including the south side and the near west side. There are in addition, we have from time to time and are hoping to do so soon again run the same type of basic electronics program inhouse where anybody can get there after work. So these are the things that, you know, we are working with some local junior colleges to set up a similar program near the plant, basically.

COMMISSIONER HORN. Because often one of the factors is the fear of going out at night to go to either a private or public institution, a family responsibility, problems of transportation, etc., once home from the plant and perhaps a car pool. Do you find any of these are relevant considerations as to why women are not actively pursuing the tuition reimbursement plan or some of the others?

MR. VITO. I would say not, because they are actively pursuing the tuition reimbursement plan but not actively pursuing it for the technical schools. I would say, you know, women are equally represented in attempting to get tuition reimbursement, but it is not for technical school, it is for college or secretarial.

COMMISSIONER HORN. Okay. This raises another interesting question which I found in other contexts where individuals who perhaps have a certain blue-collar technical level, for class psychological reasons, want to get out of the blue-collar line, sometimes even taking a lower-paying job because they feel it has white-collar status, all of which I find somewhat reprehensible, but understandable, since we need expert technicians in society more than inexpert secretaries. Now, do you find there is any psychological problem like that at work here?



MR. VITO. This I would say is correct, except the problem is the men who have applied are almost all applying to go to technical school. So what you say doesn't cut across the men and women. They are going to the technical school.

COMMISSIONER HORN. Well, have we surveyed the women to find out why they are going to secretarial schools and not wanting to advance? Is there more money at stake in secretarial jobs in your company?

MR. VITO. Excuse me, I don't mean or secretarial or college courses, sociology, things that come into my head that I have seen applied for, they applied by course.

COMMISSIONER HORN. But do we have any surveys that show us there is either an economic reason or psychological reason for this type of choice, since you are apparently making the opportunity available?

MR. VITO. No, sir, we don't because it is too soon. As I indicated earlier, September is our first effort. In fact, this will be our first semester; we don't even know how many will pass the courses. We don't have much information.

COMMISSIONER HORN. Do you have any plans for such a survey?

MR. VITO. Absolutely.

COMMISSIONER HORN. Because I think it would be rather fascinating and it would help us to get at some of these problems.

MR. VITO. Part of the research that Dr. Hirsch is doing is right in this area, because he is critically--

COMMISSIONER HORN. He is a very distinguished educator and, I think, known nationally to all of us who are in higher education.

That is all I have, Mr. Chairman.

CHAIRMAN FLEMMING. Thank you.

We have exhausted the time set aside for presentation of this testimony, and we appreciate very much your being with us and responding to the questions in the way in which you have.

CHAIRMAN FLEMMING. All right, if you will call the next witnesses, Mr. Glick.

MR. GLICK. The next witnesses are Mr. Marty Vaagen, president of the Independent Radionic Workers of America, and Mr. Rodger Earskines, president of Local 571, Sheet Metal Workers International Union. Will you please stand so that the Chairman will swear you in?

[Mr. Rodger Earskines and Mr. Martin Vaagen were sworn.]

**TESTIMONY OF RODGER EARSKINES, PRESIDENT-BUSINESS MANAGER,  
LOCAL 571, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AND  
MARTIN VAAGEN, PRESIDENT, INDEPENDENT RADIONIC WORKERS,  
CHICAGO, ILL.**

MR. GLICK. I see that the gentlemen are accompanied by counsel. Will counsel identify themselves for the record, please?

MR. FRANKS. Mr. Glick and members of the Committee, my name is Hirsch Franks. I am an attorney and I am a counsel for the Independent Radionic Workers of America. I live in Skokie, Illinois.

MR. GLICK. Thank you.

CHAIRMAN FLEMMING. As I understand, we set this time up to 5:10 for this testimony.

MR. GLICK. 5:10?

Mr. Earskines and Mr. Vaagen, will you please identify yourselves for the record?

MR. EARSKINES. Rodger Earskines, president-business manager, Local 571, Sheet Metal Workers International Association.

MR. GLICK. What company are you?

MR. EARSKINES. I represent the General Electric Company, Chicago-Cicero Operation.

MR. GLICK. Chicago-Cicero operation of GE, thank you.

MR. VAAGEN. Martin Vaagen, the president of the Independent Radionic Workers that serves the hourly workers in Chicago, for Zenith Radio, and some other suburbs.

MR. GLICK. I will begin questioning Mr. Earskines. Mr. Earskines, am I correct that the information that I have received that you have some commitment for an airplane that you're leaving the city or something like that?

MR. EARSKINES. Yes, I was, I have to go to Washington, but I can catch a later flight.

MR. GLICK. Okay, then we will proceed then.

Mr. Earskines, what is the size of the bargaining unit that you represent; that is, how many individuals or members?

MR. EARSKINES. Approximately 3,100 now.

MR. GLICK. 3,100?

MR. EARSKINES. Yes, it is.

MR. GLICK. And what percentage of those are women?

MR. EARSKINES. I would have to take an educated guess because we only get the seniority lists from the company. It is hard to determine whether they are men or women unless we actually look at their names. I would take a guess of saying approximately 20 percent or 25 percent.

MR. GLICK. Twenty-five percent of the women employed in the plant of GE?

MR. EARSKINES. Yes, just an educated guess.

MR. GLICK. In Chicago?

MR. EARSKINES. Cicero operation.

MR. GLICK. Cicero operation, is that right?

MR. EARSKINES. Yes, sir.

MR. GLICK. Is that the same percentage of women employed in these plants?

MR. EARSKINES. It could be. Like I say, it is just so rough a figure. I wouldn't go as far as to say maybe 40, maybe 45 percent, but mostly, the way I can see it, it is men, it is male employees.

MR. GLICK. Is membership in the union a requirement for employment in the plant after a certain period of time?

MR. EARSKINES. No, it is not.

MR. GLICK. So that is an open shop?

MR. EARSKINES. An open shop is correct.

MR. GLICK. So it is entirely a matter of individual choice as to whether a worker is a member of the union or not?

MR. EARSKINES. That is correct.

MR. GLICK. How many union officers are there?

MR. EARSKINES. Fifteen.

MR. GLICK. Fifteen?

MR. EARSKINES. Yes, sir.

MR. GLICK. And how many of these are women?

MR. EARSKINES. One.

MR. GLICK. One. I see.

Mr. Vaagen, can I ask you the same question? How many members are there in the bargaining unit that you represent?

MR. VAAGEN. Approximately 6,000 right now.

MR. GLICK. 6,000? And how many of those are women, what percentage of those are women?

MR. VAAGEN. That is someplace between 50 and 60, the company figures show 55 percent, although there was overall, but ours being the 6,000 in Chicago, it would still be about the same. It would be a guess.

MR. GLICK. And what companies are represented in this bargaining unit?

MR. VAAGEN. Ours is strictly Zenith Radio, Chicago.

MR. GLICK. Strictly Zenith? So 55 percent of the members are female?

MR. VAAGEN. I would guess.

MR. GLICK. Which is approximately, according to the testimony we had just heard, the same percentage of the total employment?

MR. VAAGEN. It appears to be very much that way.

MR. GLICK. I see. Is membership in your union a prerequisite to working at the closed shop?

MR. VAAGEN. After 30 days.

MR. GLICK. After 30 days membership is required by contract? How many officers are there in the union?

COMMISSIONER HORN. Excuse me, that is not a closed shop, Counsel, that is a union shop. Just for the record.

MR. GLICK. I beg your pardon, I am sorry, I used the term incorrectly. How many officers are there?

MR. VAAGEN. The executive board, which is four officers and five directors, there are nine.

MR. GLICK. How many of these are female?

MR. VAAGEN. One.

MR. GLICK. Let me ask, Mr. Earskines, is there any special committee devoted to the interest of women in your union?

MR. EARSKINES. Not at the present time. You could say that, yes yes, we do. The executive board and all 9 of the 15 officers are very dedicated and all the employees, every local union member, whether they be female or male, we are interested in them. But, if you ask me if there is a special group that is set aside just for women at this particular time, I would have to say no.

MR. GLICK. Mr. Vaagen?

MR. VAAGEN. The programs the company has pretty well described; we have made an all-out effort to sell this program, in particular in electronics, which is what we use in the factory; and I have, if you are interested, I have a group of envelopes here, about nine of them that will show first the program itself, which we have all of our about 90 stewards pushing. It will show the letters to the steward to get out and push it. It will show the letter to the member that they are supposed to give to try to get them in this electrical school, and it will show other correspondence, over the past, since the past year, trying to encourage them to use every means of education and schooling that can come up.

MR. GLICK. Have you had much success in those efforts to encourage participation by women?

MR. VAAGEN. Not as much as we had hoped to. I had talked today to the fellow from DeVry, who we have been working very close with, and some 100 registered in the school right now. However, it is a very low percentage of women that have applied.

MR. GLICK. Mr. Earskines, do you see any particular problems that women have with respect to their employment at GE Chicago-Cicero operation? Are there any particular problems imposed on them because of their sex?

MR. EARSKINES. As far as my knowledge as president-business manager, I have had no grievances as far as that.

You must realize that I am limited out of the shop. I go in very seldom. If the problem is not brought to me, you know, I have no knowledge of it. As far as my knowledge of picking on them because of sex, I have no knowledge of this.

MR. GLICK. And you don't think that there is any problem because women are employed in very few numbers in higher labor grades?

MR. EARSKINES. I would be rather naive to say that. Like I say, according to my knowledge. Now, what goes on in my shop, unless one of my stewards or a particular member informed me or a member of the shop committee, then I would have no knowledge of it.

MR. GLICK. Do you know whether there are women in the higher-level grades, grades 15 to 30?

MR. EARSKINES. Yes, sir. As a matter of fact, one was speaking here. She was a C-12, that is, electric driver in operation and shipping. There are others. As a matter of fact, I received a letter, you have several women, I think about three or four, that have applied and have entered the apprentice program for the maintenance program that

General Electric has. I think you have approximately two maybe and in the electrician field, but beyond that, I can't really think of anyone.

You know, when you say the basic grade out there, the majority of people are located are C—10, those are line assemblers. Those are mixed between men and women. If you say C—12, then you go to punchpress operators. You have a few women working in punchpress. That is pretty hard to say, you know.

MR. GLICK. No further questions, Mr. Chairman.

CHAIRMAN FLEMMING. Thank you very much.

Commissioner Horn?

COMMISSIONER HORN. Mr. Vaagen, I would just like to ask you why do you think, based on your experience, that women do not seem to be taking advantage of the Zenith plan for reimbursement of tuition, that they would go to a technical school to advance themselves in a technical line? Do you have any feelings on that?

MR. VAAGEN. I think what the lady described here, real early, it hit it right on the head. Now I went to school, myself—I am a repairman by trade, myself—and I have been around people and I have been at Zenith there since 1939, so I had a lot of acquaintance with this. It does appear maybe a couple of things exist.

One is that the lower labor grades does have incentive pay; and, in higher labor grades, you don't get much; very few are on incentive; and, for instance, a chassis line that is running 125 percent is going to earn an extra 2 hours a day. If they find a group that is 150 percent, they are earning 12 hours, so some of the lower grades can really earn as much as a higher labor grade and without the problems that go with going to school.

But, in addition to that, it appears that it comes right down to what the lady said from a little on the man, not all the men, this is only what a small percentage are, become a nut on being a repairmen like myself. If anything is wrong, I want to fix it. Well, there is a lot of us that will do that, and I will do any extremes to afford the schooling just to stay in that field. For some reason, you don't find it in the women as of that type.

COMMISSIONER HORN. Where are the incentive pay provisions in the agreement signed between your union and Zenith Radio Corporation?

MR. VAAGEN. We have a book, of this type, which covers the—it is referred to in article, I think it is 35, or something like that, no, 31. It has a cross-reference to this blue book that goes with it.

COMMISSIONER HORN. This is under production standards?

MR. VAAGEN. Yes.

COMMISSIONER HORN. Do you know what is the upper limit in terms of the so-called labor grades to which that so-called incentive pay applies?

MR. VAAGEN. It really cuts off, as you start to get—when you get into the 13, and that is my own classification if I lose election, and this is the only group, the repairmen, the electrical repairmen, out of the 13,

if you will look at 13, 12-13, 13, 14; outside of that, I really don't think you will find a single one above that that is on the incentive, and as you get into the 12, there will be very few in that. It really, the next bracket where it really picks up in force is 1120, 1113; that is where it starts to pick up. And, of course, it gets down to where the chassis lines, final lines, these are virtually all on incentive.

COMMISSIONER HORN. In other words, in a time of good economic conditions or at least good company demand, it might pay an individual, be that individual male or female, to stay at grades 10 which pays \$3.13 an hour, in the hiring rate, and 11, \$3.29 an hour, rather to seek a promotion to 13 or 14, if they are assured of that 2 hours pay? Is that what you are saying?

MR. VAAGEN. Well, I will go as far as my personal experience, although I indicated I been there for 35 years and as a repairman I never left the labor grade 13. It used to be 12, but it was 13 just a few years ago because of the incentive involved.

As a 15 rate I could readily apply for, but I stayed down because there is incentive involved. It may even go further, where you take an assembly line operator in labor grade 2 may not want to go into the stockroom area because the stockroom has very little bonus attached to that. It is only a very small area. If you're part of the line, that is a labor grade 5, but their wages, takehome would be considerably above a 5.

COMMISSIONER HORN. Well, I think this is an interesting point, for the Commission, in analyzing any of the data that has been furnished, has to be very careful in looking at these incentive rates and the effect on human behavior as to whether they make a decision to choose a particular career route or not.

Let me ask you, Mr. Earskines, just one question. I gather the Cicero plant of GE, from your testimony, has what is called an open shop where you don't have to join the union.

MR. EARSKINES. That is both in Chicago and Cicero.

COMMISSIONER HORN. Both in Chicago and Cicero. Would you know or do you have a feeling of all the women employees, female employees in that plant, that would be eligible to join the union, what is your experience, do most of them join? Do a lot of them not join?

MR. EARSKINES. I would go to say 60 percent of the females, working at General Electric, Chicago-Cicero operation, are union members.

COMMISSIONER HORN. How many of the males that work in that similar operation are union members?

MR. EARSKINES. Oh, approximately the same percentage.

COMMISSIONER HORN. Do you have an agency shop provision for those that aren't? I take it you—

MR. EARSKINES. None, no.

COMMISSIONER HORN. So you represent all employees, regardless of whether they are paying dues to you or not?

MR. EARSKINES. That is correct.

COMMISSIONER HORN. And there is no difference between the number of males or females that join the union?

MR. EARSKINES. Not really.

COMMISSIONER HORN. Do you see, based on your experience, that seniority and the fact of getting there first and sort of gathering time in grade, shall we say, works to the advantage of male employees over females or is it vice versa?

MR. EARSKINES. Well, it is kind of hard to determine because seniority really comes in effect when there is a reduction in force and, as you know, when there is a reduction in force you come downward. Now, I will have to say that perhaps the greatest percentage of females could be below a C—10. And most of the females below a C—10 has maybe 10 years and up in seniority.

COMMISSIONER HORN. So in a reduction in force, then, you are saying this would adversely affect females?

MR. EARSKINES. Not really. It could affect the males coming down.

COMMISSIONER HORN. That is all I have, Mr. Chairman.

CHAIRMAN FLEMMING. Mr. Ruiz?

COMMISSIONER RUIZ. Has there been a women's committee designed to deal with women's issues organized within and recognized by the union leadership?

MR. EARSKINES. It's the women's committee, let's say they have formed, but they actually have the endorsement by the leadership, as you could say; they approached the executive board, but they weren't in order with the constitution, our constitution. See we have a constitution that we had to go by, that the committees have to meet and at that particular time; they really didn't have the stuff together.

They said they were going back; we told them at that particular time that we wouldn't table it or we wouldn't put it under the table at a later date if they wished to come back and present it to us again; we would be glad to listen to it and consider it.

COMMISSIONER RUIZ. Well, if 50 percent of the women joined the union and 50 percent of the men joined the union, what has been in the way of making a motion again for that constitutional amendment?

MR. EARSKINES. Well, there is nothing to prohibit us from having it, it is just they have to meet certain specifications and they don't. In other words, the way they have it written up, it wasn't really in line with our bylaws.

COMMISSIONER RUIZ. It wasn't what?

MR. EARSKINES. In line with the bylaws.

COMMISSIONER RUIZ. Yes?

MR. EARSKINES. And the only thing that I have asked, because, subsequently when I ran for the office of president-business manager, this is one of my campaign promises, and I am still looking up to it, as when we can find the women really they will do it.

COMMISSIONER RUIZ. You mean you haven't really been able to find a woman that is able to do it?

MR. EARSKINES. We have perhaps one, two, three—three women and out of 60 percent that is not a great percentage, and then let me put it like this: The other women in the shop are now contradicting this; they say they don't want it. So until women get together, I don't know what they want.

COMMISSIONER RUIZ. Well, maybe I misunderstood you. I understood you did say that about 60 percent of the men work force join the union?

MR. EARSKINES. That is correct.

COMMISSIONER RUIZ. And I understood you to say that 60 percent of the women's work force join the union?

MR. EARSKINES. That is also correct.

COMMISSIONER RUIZ. Then I understand that there are more women employed generally than there are men?

MR. EARSKINES. I don't quite understand that question.

COMMISSIONER RUIZ. But I mean with respect to your total work force, are there more men than women?

MR. EARSKINES. I would say there are more men than women.

COMMISSIONER RUIZ. What proportion?

MR. EARSKINES. I would say 60—40.

COMMISSIONER RUIZ. Sixty—40?

MR. EARSKINES. Right.

COMMISSIONER RUIZ. Have you had a meeting since the last time this arrangement was made with respect to women?

MR. EARSKINES. Yes, we did.

◦ COMMISSIONER RUIZ. Was it brought up at the meeting?

MR. EARSKINES. Yes, it was.

COMMISSIONER RUIZ. And the union, were the women recognized by the chair?

MR. EARSKINES. Oh, I recognize them all the time.

COMMISSIONER RUIZ. Now, what is the specific problem with respect to the changing of the bylaws in this respect?

MR. EARSKINES. Well, see, the problem is not really what the bylaws says, it is the women themselves. See, I have maybe 30 percent saying we want a committee, and I have another percentage of them saying, the other 70 percent out of a total of 100 percent women saying, "Hey, we don't want a committee; we want to be left alone. We don't want this female lib." You know, I get hit across the head both ways.

COMMISSIONER RUIZ. You mean the women can't get organized between themselves?

MR. EARSKINES. Precisely, precisely. Now, you know, in other words, they asked me to organize them, I say, well, if I organize you, then it won't be a female committee. It will be a male organizing a female committee.

COMMISSIONER RUIZ. Did they object to that? Is that where the trouble is?

MR. EARSKINES. No, not at all because I wouldn't organize females in that particular capacity.



COMMISSIONER RUIZ. Was there a woman proposed to head the women's group as suggested by my colleague, Ms. Freeman?

MR. EARSKINES. You got into another problem. Half want one particular lady and the other half want another particular lady. So you got two possibilities. And, see, neither can get control. This is quite confusing; I realize that.

COMMISSIONER RUIZ. Thank you, no more questions.

CHAIRMAN FLEMMING. Ms. Freeman?

COMMISSIONER FREEMAN. Well, Mr. Earskines, I think you have demonstrated one of my problems. What I want to know is, I believe that some statement was made that you recently were elected to your position?

MR. EARSKINES. That is correct.

COMMISSIONER FREEMAN. And that as president you made certain campaign promises?

MR. EARSKINES. That is correct.

COMMISSIONER FREEMAN. Would you want to make a guess as to whether the women will believe that you had performed on your promises?

MR. EARSKINES. I kept every word of it. I would say that they would believe.

COMMISSIONER FREEMAN. Would you make—do you have an opinion that they are better off because you are the president than they were before you were elected?

MR. EARSKINES. Well, that would be a rather selfish opinion.

COMMISSIONER FREEMAN. In other words, that would be determined the next time the election comes up, I guess.

MR. EARSKINES. Well, you never can tell; it could be.

COMMISSIONER FREEMAN. And maybe between now and the next election you will sort of recognize that women's committee?

MR. EARSKINES. I would recognize it as soon as they recognize themselves and get themselves together and tell me what they want.

COMMISSIONER FREEMAN. Well, you know, we have been hearing that sort of thing, that is what they said about the black folks, they don't know what they want, they have to get together and now they say they women can't get together. You sound just like those other folks.

MR. EARSKINES. Unfortunately—maybe I could straighten my position.

COMMISSIONER FREEMAN. Yes, sir.

MR. EARSKINES. When I was running for election, we tried to get women to run. But everytime we went up to a particular female, she stated that, "Hey, I got my husband, he'd get jealous, my kids." You know, I could only go so far; I could only ask. I can't really beg. I tried. We went all out. We have a total of one, one lady; she is a trustee. We have tried to get others to participate; we have tried to get them to meetings, we have tried with every sincerity; we have tried to raffle off everything. We can't get them to meetings.

COMMISSIONER FREEMAN. In other words, that is what they said and none of them applied?

MR. EARSKINES. We tried.

COMMISSIONER FREEMAN. Thank you, Mr. Earskines.

Yes, that is all.

CHAIRMAN FLEMMING. Any other questions? If not, thank you, very much, for being here with us.

We will call the next witnesses.

MR. GLICK. Mr. Chairman, you will recall this morning that there were two witnesses who did not appear at the appointed time on the schedule, but those witnesses are here today. I would like to call William Murray and Mr. John Hay. Gentlemen, will you remain standing please so that you can be sworn for the record? Only the witnesses will be sworn, not counsel.

[Mr. John S. Hay and Mr. William Murray were sworn.]

**TESTIMONY OF JOHN S. HAY, PERSONNEL DIRECTOR AND ASSOCIATE GENERAL MANAGER, MID-AMERICA HOME OFFICE, PRUDENTIAL INSURANCE CO. OF AMERICA, CHICAGO, ILL.; AND WILLIAM MURRAY, VICE PRESIDENT OF PERSONNEL, HOSPITAL SERVICE CORP.**

MR. GLICK. Mr. Chairman, with your permission I would request Assistant General Counsel Edwards to proceed with the questioning.

MS. EDWARDS. Mr. Hay and Mr. Murray, would you please both identify yourselves for the record, your name, your position, and your company and the name of your company?

MR. MURRAY. My name is William Murray, I am the vice president of personnel, Hospital Services Corporation.

MS. EDWARDS. Are you also an officer in Blue Shield end of the business?

MR. MURRAY. Yes, ma'am.

MS. EDWARDS. Thank you.

Mr. Hay?

MR. HAY. My name is John S. Hay. I am personnel director and associate general manager of the Mid-America home office in Chicago at the Prudential.

MS. EDWARDS. We have very little time to examine some of the issues that we were interested in here, but I understand that I have just gotten a special request from Mr. Pebworth, that he wanted to make a brief presentation. Could you make that extremely brief, Mr. Pebworth? A statement not a presentation.

MR. PEBWORTH. I will indeed—to apologize that perhaps my misunderstanding caused the delay and to indicate that I have talked to staff counsel and that with, in the time frame that we have agreed upon, we will be able to completely comply with the subpoenas that were served upon us. Thank you for your indulgence.

CHAIRMAN FLEMMING. Thank you very much.

MS. EDWARDS. Could we also have counsel for Mr. Hay identify himself for the record?

MR. GORDON. Yes, my name is Paul Gordon, Jr.; I am counsel in the Mid-America regional home office of the Prudential and, Ms. Edwards, if I might?

MS. EDWARDS. Yes.

MR. GORDON. Earlier in the day I did present a statement that we had prepared and I would hope that in the course of Mr. Hay's testimony that that could be marked as an exhibit and entered in the record. And one other thing that I would like to clarify on the record, the Chairman has, as I understand it, the Commission has given us 2 weeks to produce the documentary material that was covered by the subpoena *duces tecum*.

I talked to the staff and, if it is agreeable, we would like that 2-week limitation to be interpreted as 10 working days. We have the Thanksgiving holiday intervening, and our people are off on Thursday and Friday and I understand with the staff that is acceptable.

The other thing that I did want to clarify—

CHAIRMAN FLEMMING. That is acceptable.

MR. GORDON. —that the material that is—you are seeking is in connection with our Chicago office, or our Mid-America regional home office. So that we are not concerned with other areas of the company, but what is the situation locally. Am I correct in that?

MS. EDWARDS. That is correct, as stated to you previously by the Chairman.

MR. GORDON. Fine, thank you very much.

MS. EDWARDS. I would like to begin my questioning with Mr. Murray. Mr. Murray, is your company a Federal contractor?

MR. MURRAY. Yes, they are.

MS. EDWARDS. I understand this is primarily through the medicare program?

MR. MURRAY. Yes, it is.

MS. EDWARDS. Could you explain briefly as to what your relationship is with the Government?

MR. MURRAY. The technicalities or the scope of the responsibility may escape me, but the contractual arrangement as I understand it is with the medicare operation in the State of Illinois, BCA, the Blue Cross Association, from whom I think you heard this morning.

MS. EDWARDS. Yes.

MR. MURRAY. As a primary contractor, the obligations under the law are, I think, as clear with us as it is with them, for the State of Illinois.

MS. EDWARDS. Could you tell us when you began your affirmative action program and if you currently have an affirmative action program that is approved by the insurance compliance staff of Social Security?

MR. MURRAY. We do have an affirmative action program and report on that quarterly to the Social Security Administration under the auspices of the Blue Cross Association.

MS. EDWARDS. I would like to ask, earlier with the witnesses who appeared from other companies, who are able to ask about a number of categories, however, I am particularly interested in women in the sales or marketing end of the business. Would you have information as to how many women in your company presently are employees in this area, and what efforts you are making to increase the number of women in this area?

MR. MURRAY. The information, the statistical information I do not have in my head, but that is available through the Blue Cross Association, which in turn, of course, is approved or disapproved by them and forwarded to the SSA people.

There have been efforts to recruit both from inhouse and out-of-house in a career path type of way. And by that I mean we have attempted to capitalize on the experience and the knowledge of the people inhouse, particularly where we call our benefit counselors who deal with the public, and move them into the marketing operation as marketing representatives.

MS. EDWARDS. One last question, I believe. Do you feel that there is any basic difference between the way your company, which I understand is a not-for-profit insurance company, deals with or handles the hiring and the promotion of women and minorities as opposed to how the commercial companies handle it?

MR. MURRAY. I can't speak for the commercial. But I would say the philosophy of the organization, in regards to people in general, is that it is very profitable to utilize them to the maximum of their potential.

MS. EDWARDS. Fine.

Let me turn to Mr. Hay. Mr. Hay, I understand that your position is with Mid-America of Prudential, right?

MR. HAY. Right.

MS. EDWARDS. You have a home office here in Chicago?

MR. HAY. This is a Mid-America office in Chicago, is one of the nine regional offices of the Prudential Insurance Company, and there is also a corporate home office located in Newark, New Jersey.

MS. EDWARDS. Are you at Mid-America Federal contractors?

MR. HAY. We are in the branch and in total. I don't believe we are in Mid-America, but I am not certain, for sure.

MS. EDWARDS. You would be included because of the relationship that your home office has with the Federal Government?

MR. HAY. That's correct.

MS. EDWARDS. When was your affirmative action program started and do you presently have an approved affirmative action plan?

MR. HAY. Yes, we presently have an approved affirmative action plan. As to the day that it started, I am not certain. I don't have those, those facts with me.

MS. EDWARDS. Is Mid-America responsible for developing its own affirmative action program?

MR. HAY. Yes, we are for our office here in Chicago.

Ms. EDWARDS. And then you submit to your national or does it go directly to the insurance compliance staff of Social Security?

Mr. HAY. It goes to the insurance compliance staff at Social Security and a copy goes to our corporate office in Newark, New Jersey.

Ms. EDWARDS. When I interviewed you, you indicated that 81 percent of the promotions last year were of women. I wonder if you could briefly describe for us if any of these promotions, in fact, fulfilled any of your affirmative action goals, or whether they were pursuant to either complaints or equal pay, equal pay for equal work complaint.

Mr. HAY. No, they, they were to fulfill our affirmative action goals. This was 81 percent of women promoted last year in our Chicago office—81 percent of the people promoted in the Chicago office last year were women.

Ms. EDWARDS. Mr. Chairman, I have no—

Mr. HAY. This is not as a result of complaints, to specifically answer your question.

Ms. EDWARDS. Thank you. I have no further questions of these two witnesses at this time.

CHAIRMAN FLEMMING. Commissioner Ruiz, Freeman?

COMMISSIONER FREEMAN. No.

CHAIRMAN FLEMMING. Commissioner Ruiz?

COMMISSIONER RUIZ. No, sir.

CHAIRMAN FLEMMING. Thank you very much. We appreciate your coming.

Ms. EDWARDS. Before you leave, I would like to enter into the record, or ask, Mr. Chairman, if we could enter into the record, the statement submitted earlier on behalf of Prudential Insurance Company. It was conveyed to us by counsel for Mr. Hay and it does contain statistical information which we would have to bring to the attention of the Commission.

CHAIRMAN FLEMMING. Without objection, that will be done.

All right. If you will call the next witnesses?

Ms. EDWARDS. The next witnesses are Mr. James Wardlaw, Mr. Everett Friedman, and Mr. Frank Fager.

[Mr. Frank W. Fager, Mr. Everett Friedman, and Mr. James T. Wardlaw were sworn.]

**TESTIMONY OF FRANK W. FAGER, CHIEF, OFFICE OF CONTRACT COMPLIANCE, DEFENSE CONTRACT ADMINISTRATION SERVICES REGION-CHICAGO; EVERETT FRIEDMAN, CHIEF, INSURANCE COMPLIANCE STAFF, SOCIAL SECURITY ADMINISTRATION, BALTIMORE MD.; AND JAMES T. WARDLAW, ASSOCIATE ASSISTANT REGIONAL DIRECTOR, EMPLOYMENT STANDARDS ADMINISTRATION, OFFICE OF FEDERAL CONTRACT COMPLIANCE, U.S. DEPARTMENT OF LABOR CHICAGO, ILL.**

Ms. EDWARDS. Starting with you, Mr. Wardlaw, would you identify yourself, your name, address, and your position or title for the record?

Mr. WARDLAW. My—

**CHAIRMAN FLEMMING.** Pardon me, could I ask that the door be closed?

**MR. WARDLAW.** My name is James T. Wardlaw. My title is Associate Assistant Regional Director for Employment Standards Administration for the Office of Federal Contract Compliance. I am located at 230 South Dearborn in the Federal Building.

**MS. EDWARDS.** Will you briefly describe the responsibilities of your office, please, sir?

**MR. WARDLAW.** This is an attachment of the Department of Labor, an appendage of the Secretary of Labor, who has the responsibility of developing and monitoring the affirmative action programs which some 17 agencies are mandated to maintain and conduct. Up to very, very recently the field office which I represent has been concentrated on the construction industry, but a recent mandate from the Secretary was issued directing that we begin to develop a method following an order, which is called Order 14, to extend our surveillance to the services and supply contractors. We are in the process of securing staff, so that we can actually call in files, look through them, determine the accuracy of, second guess the compliance agencies; that is what it amounts to.

**MS. EDWARDS.** Thank you, I will come back to that in a minute. Let me have the other witnesses identify themselves in a similar way for the record.

**Mr. Friedman,** would you please state your name, your address, your position, and briefly describe the responsibilities of your office?

**MR. FRIEDMAN.** My name is Everett Friedman, I am the chief of the Insurance Compliance Staff, a component of the Social Security Administration. Our headquarters are, from which I work, are in Baltimore, Maryland.

The unit which I head operates centrally throughout the United States, reviewing insurance companies which hold Government contracts. Until recently, we had a jurisdiction that was limited to Government contractors under the medicare program, the Federal employees health benefits program, and the Federal employees government life insurance program. Recently it has been broadened.

**MS. EDWARDS.** Mr. Fager, would you also identify yourself, your address, and briefly describe your responsibility?

**MR. FAGER.** I am Frank W. Fager, chief of the Office of Contract Compliance, for the Defense Contract Administration Services Region, located at O'Hare Field in Chicago. Our function is to administer the Executive Order 11246 and the pursuant rules and regulations in this three-State area.

**MS. EDWARDS.** Thank you.

Let me go back to Mr. Wardlaw. Mr. Wardlaw, you indicated that your staff at present is rather small. How many Federal contract compliance officers currently are in the Chicago Standard Metropolitan Statistical Area?

**MR. WARDLAW.** Sixteen.

MS. EDWARDS. That is for your office only?

MR. WARDLAW. Yes, there is another one in Cleveland, so that is 17.

MS. EDWARDS. Okay. I would like to know, though, all Federal compliance officers, that is counting all the staff say, of, Mr. Fager, as well as other Federal agencies throughout the city who do contract compliance work out of the Chicago area?

MR. WARDLAW. Atomic Energy Commission, Department of Defense, Economic Development Administration, Environmental Protection Agency, Federal Aviation Agency, Federal Highway Administration, General Services Administration, Health, Education and Welfare, Department of—

MS. EDWARDS. And without naming the others, about how many contract officers does that total for Chicago?

MR. WARDLAW. That would have to be a guess, I haven't counted them. I know Mr. Fager has the largest staff. The staff range from—I think it is 41, isn't it?

CHAIRMAN FLEMMING. Pardon me, please.

MS. EDWARDS. Yes, I am sorry, Mr. Chairman.

CHAIRMAN FLEMMING. Wouldn't we have to get that information from the agencies in question rather than having one agency give us a total for all agencies?

MS. EDWARDS. I asked Mr. Wardlaw because he is one of the coordinating officers, and I had understood that your office does at least know how many officers are in the area?

MR. WARDLAW. We do maintain a roster indicating the compliance officers for the various agencies. It is a dynamic thing because it changes as soon as we compile it because of the mobility of people, but in order to answer that question I would have to refer to that roster. I do not know it off the top of my head.

MS. EDWARDS. Does your office assist in the actual contract monitoring, do you assist these contract officers?

MR. WARDLAW. Only on special occasions and under special circumstances, up to the present time—

MS. EDWARDS. And what, I am sorry, go ahead.

MR. WARDLAW. —where joint compliance reviews have been directed for the Director of OFCC have we been involved.

MS. EDWARDS. Since sex discrimination was added to your jurisdiction, have you conducted any special training courses or provided any special technical assistance to Federal contract officers within the Chicago area?

MR. WARDLAW. Yes, we have.

MS. EDWARDS. Could you tell us approximately how many and—

MR. WARDLAW. Well, we have conducted unit meetings in five segments of our region, addressing ourselves to that particular problem, to which these officers were invited. We have met with specific contract compliance staffs, at their request, for seminars on this particular issue.

Ms. EDWARDS. Mr. Wardlaw, I understand that in the whole process of monitoring a contract the compliance officers, particularly those looking at civil rights, not only review the agencies quite frequently, but they look at their employment work forces, they look at how they utilize and how they in fact promote women and minorities, and further they are authorized, if, when they examine this plus their affirmative action programs, they find these agencies wanting, they can issue show cause; is that correct?

Mr. WARDLAW. That is correct.

Ms. EDWARDS. Can you tell us how many show-cause orders have been issued in the Chicago area and if there have ever been any hearings on those show causes?

Mr. WARDLAW. I can't tell you how many have been issued in the Chicago area because some of the agencies do not share these notices with me while others send me copies of every one of their issues.

Ms. EDWARDS. And did you say there were some hearings?

Mr. WARDLAW. There have not been any hearings beyond the show-cause notices that I know of in the Chicago region resulting from the present hearing procedures. Back in 1969, there were hearings in reference to the construction industry here in Chicago.

Ms. EDWARDS. Thank you.

Mr. Friedman, let me turn to Mr. Friedman. Mr. Friedman, I think you have been present throughout much of the testimony relating to the insurance industry?

Mr. FRIEDMAN. Yes.

Ms. EDWARDS. Are there any special techniques which your staff uses in carrying out your compliance reviews, particularly relating to sex discrimination?

Mr. FRIEDMAN. I will try to answer that first. Will you want to get into the size of my staff and its composition? I will be willing to do so at any point that you do want.

With regard to the discrimination against women and the Executive orders, I think it is a very important thing to bring to the attention of the Civil Rights Commission and the audience the fact that the focus on affirmative action for women was not placed in any strong position in the compliance area under the Executive orders until 1972.

It is a fact that the Executive order itself was modified to include the term "sex" late in 1967, but it had no more significance in terms of protected groups, by that I mean minorities, the full minorities as being protected groups, until late in 1971 when Revised Order 4 became Revised Order 4—previously it was Order 4 and it only covered the four minority groups.

Revised Order 4 was the first time that we had any strong way the requirement on 2 compliance agencies for the setting of numerical goals to overcome deficiencies. Prior to that there was sort of the beginnings of that requirement.



The first time that we did have a requirement placed on the compliance agencies was with Revised Order No. 4, and it was that point, early in 1972, that we were called upon and in turn called on the contractors to set numerical goals for the increased utilization of women.

Appropos of that I might say that we recently conducted a workshop to which we invited not only the old contractors that are described, but ones that we identified through the OFCC as also being insurance companies holding Government contracts and which admitted to that fact after we contacted them. During that workshop we set aside special workshops with regard to women and we had special presentations, more so than with regard to the minority or subject area.

The first one was a presentation on sex discrimination guidelines by Miss Doris Wooten [phonetic], special assistant to the Director of the OFCC and one of the persons who is actually drafting the guidelines. The second presentation was one by a woman.

MS. EDWARDS. Excuse me, Mr. Friedman, would you like to submit a copy of that agenda for our review?

MR. FRIEDMAN. I would be free to do so. May I point out—

MS. EDWARDS. Yes?

MR. FRIEDMAN. The second person was Miss Marie Arkini [phonetic], affirmative action officer of the Insurance Department of the Commonwealth of Pennsylvania, who has actually prepared statements and guidelines on the increased utilization of women.

The third portion of the workshop was once a discussion on the utilization of women headed by one of our team leaders, Mrs. Wilhelmina Kelly.

The other people that I have mentioned before came into the workshop so that the contractors had an open discussion in terms of what are requirements under the orders. This is one of the most recent things that we have done in that regard. I would be pleased to submit this to cover the entire Executive order, and the regulations, not just women, but also minorities, but we did feature them more so, to take, to make up the slack.

MS. EDWARDS. I understand in earlier conversation with you that you also brought with you a prepared statement, prepared not for the Commissioners necessarily, but presented at the seminar which you just mentioned and you wanted also to submit that for the record.

MR. FRIEDMAN. I would appreciate it if I did have the opportunity to do so. I don't know whether I have actually transmitted it, but one way or the other we will get to you.

CHAIRMAN FLEMMING. Without objection, that will be accepted into the record at this point.

MS. EDWARDS. Mr. Friedman, could you briefly just give us the size of your staff and also the number of reviews that you have conducted in the Chicago Standard Metropolitan Statistical Area of insurance companies in this area?

MR. FRIEDMAN. The staff is about, between 30 and 35 due to the fact that there was a turnover in growth, factors like that. We have 14 persons that we call equal opportunity specialists; you use the term compliance officers. Those people review throughout the United States; they are assigned by company and are expected to be expert on the given company or companies assigned to them. For example, there is the liaison for Prudential, liaison for the Blue Cross system. We also have people above them who do reviewing, and they were what we call team leaders. They were all under, it could be called compliance officers.

MS. EDWARDS. Twenty-one compliance officers, then, is that about—

MR. FRIEDMAN. That would be 12, that would be 17 to 21, right.

MS. EDWARDS. Because time is short, could you briefly describe for us the status of the insurance industry within the Chicago area as far as its use of women and minorities and its ability to develop affirmative action programs for them?

MR. FRIEDMAN. With regard to the insurance industry, what we have sought to do is to follow the organizational structures of the companies. It's been our experience that in order to really get at the companies and to ensure that they are effectuating their commitments, that we have to deal with them not simply by metropolitan area but through their entire enterprise. While many of these companies have most of their operations in the central cities, there are many companies such as Prudential which have a great number of employees in outlying areas, and they will affect the utilization of women as well.

Our method of reviewing them is through Revised Order 4 by selecting certain units through objective standards, mathematical standards, and reviewing them individually on site. In addition, we also have a device which we call a span of control. For instance, the Mid-America home office has jurisdictional offices in a number of Midwestern States. They have, and certainly their marketing operation, what they call directors of agencies or vice presidents, because we cannot go to every office, they have over 750, we will see the people control the power lines, discuss not only the offices that we reviewed individually, but have the person sit down and talk with that director of agencies about everything under that person's jurisdiction.

In addition, we try at least, I would say, every year or every 2 years to get to the corporate home office and take up not only the home office itself, as you have Continental Casualty here, but the entire enterprise. We take up whatever we found in the field that we were unable to resolve, plus any issue that is generated through the home office review.

MS. EDWARDS. I know that you do not ask your insurance companies to report on using the *A* job classification categories that are listed on the EEO form. I understand that you have some additional breakdowns that you require them to use in order to get a more accurate picture of what happens within the industry. Could you briefly tell us

whether there is statistical disparity within the breakdowns that you had using your categories?

MR. FRIEDMAN. Simply stated, there are severe and drastic underutilizations of women under the standards established by the regulations. In terms of the way we have companies report other than EEO—1 type of reporting, that is the subject of negotiation. For instance, the Blue Cross presentation this morning, you are able because of the data that is presented to isolate officials, whereas in the EEO—1, officials and managers are lumped together and the fact that you are able to see about the low utilization of officials was able, was presented, was presented there.

We are, seek through negotiations with the various contractors to get at what we say are the peculiarities of their organizational structures and their job classifications, so it isn't with Blues we may have negotiated a certain format that will be most meaningful for them, with Prudential, I am only talking about the job classifications—that each one's purpose is to get at them in a more penetrating way.

As a generalization, the underutilization of women still prevails, but I believe that there have been substantial increases in the employment of women, particularly since 1972. Up until then there really wasn't any force behind our activity in that area.

MS. EDWARDS. Thank you very much.

MR. FAGER, I would like to address a few questions to you also. I believe you might have been present during part of the testimony relating to the electronics industry or at least those employees whom we heard?

MR. FAGER. From 4:00 o'clock on I was here.

MS. EDWARDS. Thank you.

It is my understanding that among other areas, you do, in fact, review those companies that fall under Code No. 36 of the electronics manufacturing area?

MR. FAGER. That is correct.

MS. EDWARDS. Could you tell us what is the most difficult area with respect to affirmative action for you to police or monitor within that industry?

MR. FAGER. A most difficult problem area, I interpret your question to mean?

MS. EDWARDS. With regard to sex discrimination, specifically.

MR. FAGER. Where there are a number of maternity leaves is a problem. It is rather distinctive.

There is also a distinct problem with respect to the affected class of females; that is, we have had, for example, in the last 2 years, seven affected class settlements, which involved a large number of women. These affected classes were created by the improper placement of females into stereotyped positions and, as a result, we had to, in accordance with the basic criteria set down in the courts, find solutions to those problems, find remedies for those women who were in those affected classes.

I would say those in summary are two of the very critical areas.

MS. EDWARDS. You mentioned some of the sanctions. Did you issue any show-cause orders during the last fiscal year?

MR. FAGER. Yes, we have. May I also say that, obviously, promotions is a very difficult problem in this field. I did not mean to overlook that.

MS. EDWARDS. Could you tell us briefly how many and which ones were based on sex discrimination or race discrimination?

MR. FAGER. Well, there have been show causes from the period of 1 October '73 to 30 September '74. There were a total of 26 show causes.

Now, I need to tell you, they are not all in the city limits of Chicago or this area. Some of them were within the region here, and, if you will pardon that lack of specificity in my statistics, they were created quickly for you.

There were 26 issued in that period of time. Four of them or 15 percent involved companies in this particular industry.

Between the period 1 October and November 22, '74, there were nine more show causes issued. Two of them involved industries or 22 percent companies in this particular industry you are taking testimony about.

Now I can, if you wish, run through some of the elements in this show-cause notices if you would like for me to do this.

MS. EDWARDS. That would not be necessary at this time, but the Commissioners may be interested in examining any summary of this that you might have available for them.

How many of these show causes might have been because of defective affirmative action programs?

MR. FAGER. Well, I would say that they all were either in terms of not having an affirmative action program that met all requirements or in terms of their failure to show good faith for the implementation of the program, and all of these, as far as I can recall, involved some element with respect to women.

MS. EDWARDS. What is the policy of your agency or that of OFCC if, in fact, a disparity occurs or if there is somehow some disproportionate, if there is some disparity as a result of layoffs or reduction in force, which might in fact affect the affirmative action goals and timetables of a particular company, especially within this industry?

MR. FAGER. Well, the policy would be the same for all industries in that respect. When there are layoffs, if they involve collective bargaining agreements, there is relatively little leeway for us to make a required impact on a contractor. This is a very frustrating area because the contractor presents to us his collective bargaining agreement and says, in effect, that the layoff procedure was executed in accordance with the collective bargaining agreement. Under those circumstances, generally we have not been able to achieve the particular protection for the protected classes.

We have been able, in some of those instances, to require the contractor to be more management conscious in terms of the departments or areas or jobs in which the minorities or females are placed, so that there is a maximum of protection from what is known to be the normal layoff cycle.

Now, if you move to those jobs that are not covered by collective bargaining agreement, we have considerably more leeway. For example, in the white-collar area, which is usually not covered by collective bargaining agreements, there we can and we have required substantial variations, changes in policy in terms of the recall of persons that are laid off. I can recall instances there in which we have been able to get the company to change that recall policy completely, particularly for the underutilized areas with respect to minorities of females.

Is that the question that you had in mind?

CHAIRMAN FLEMMING. If you will wait just a minute we need to make a change.

MS. EDWARDS. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Okay. Commissioner Freeman? Commissioner Ruiz?

COMMISSIONER RUIZ. Yes. Mr. Fager, would you say that the Office of Contract Compliance is no stronger than the 35 investigators that you have at your disposal?

CHAIRMAN FLEMMING. That is Mr. Friedman.

COMMISSIONER RUIZ. Mr. Fager.

MR. FAGER. You said 35?

COMMISSIONER RUIZ. Frank Fager, F-a-g-e-r, it says.

MR. FAGER. I didn't give my particular number of investigators.

COMMISSIONER RUIZ. Oh, I see. How many investigators do you have? I understood that you have about 35 investigators that are in overall.

MR. FAGER. Mr. Commissioner, sir, we have, I would say 45 now that would be called equal opportunity specialists. We have a total of 70 persons in our regional staff. Now that covers three States.

COMMISSIONER RUIZ. That covers three States?

MR. FAGER. The number assigned to the Chicago area, there are 27 equal opportunity specialists here, and I think the 35 figure you are referring to would include clerical and administrative and supervisory people who are in the Chicago operations division.

COMMISSIONER RUIZ. Now, did these equal opportunity specialists go out in the field?

MR. FAGER. Yes, sir, constantly.

COMMISSIONER RUIZ. Now, how many of these investigators investigate the electrical equipment and supply manufacturing industry?

MR. FAGER. I think our work force is organized by teams, and one team is devoted—there are six teams—one team is devoted to the electrical industry, and I believe there are four people on that team, to the best of my recollection.

COMMISSIONER RUIZ. Four persons? Now, how many devote their time to the insurance and insurance agents, brokers and insurance services field?

MR. FAGER. Well, sir, the Department of Defense is assigned certain industries and that happens not to be one of the industries assigned to the Department of Defense. I can read off for you, if you would like, the industries assigned to us.

COMMISSIONER RUIZ. I was interested in these two industries because these are the ones that we have been dealing with.

MR. FAGER. We are not assigned the insurance industry, sir.

COMMISSIONER RUIZ. You are with respect to the manufacturing of electric, of equipment, of electrical supplies?

MR. FAGER. Yes, we are.

COMMISSIONER RUIZ. All right. You have four persons? Now do you have those four persons covering the States of Illinois, Wisconsin, and Indiana?

MR. FAGER. No, those four persons are assigned right to the Chicago—I should say northern Illinois area. We have additional personnel assigned out of Indianapolis for the State of Indiana, and additional people out of Milwaukee for the State of Wisconsin. We have smaller staffs for those locations.

COMMISSIONER RUIZ. Now, can you give me an educated guess as to how many persons investigate the electrical equipment and supply manufacturing industry? You stated four, and that is the Chicago area?

MR. FAGER. Yes, sir.

COMMISSIONER RUIZ. Outside of Chicago, and these other three States, in this particular industry, can you guess how many you have? As equal employment opportunity specialists?

MR. FAGER. They are grouped a little differently there; but, just a guess, I would say the equivalent of two persons for each of those other two locations.

COMMISSIONER RUIZ. That would be a total of eight persons for three States?

MR. FAGER. Yes, sir.

COMMISSIONER RUIZ. Approximately, including the Chicago area?

MR. FAGER. Yes, sir.

COMMISSIONER RUIZ. Now, do these equal employment opportunity specialists, to whom do they report with respect to their observations and their conclusions with relation to affirmative action plans?

MR. FAGER. They report, sir, directly to what is called an operations division chief. In the case of Chicago, it is a Mr. George Fisher. In the case of Indiana, it is a Mr. Ted Hood, and in the case of Milwaukee, it is a Miss Charlotte Higby.

COMMISSIONER RUIZ. Do these equal employment opportunity specialists report their conclusions and recommendations, or do they simply report what they have observed?

MR. FAGER. They include in their case file a great volume of specifics and documentation, and they also write a report, which is in a standard format, and they make their personal observations and documentation in that report as well. The files are rather voluminous in each and every case.

COMMISSIONER RUIZ. Do they have any authority to do preliminary negotiating?

MR. FAGER. What do you mean by preliminary, sir?

COMMISSIONER RUIZ. Well, most of the activities because of the record in order to show causes, which are few, apparently haven't reached that stage because there has been negotiations between the Office of Contract Compliance and with respect to the—

MR. FAGER. Oh, I understand your question.

COMMISSIONER RUIZ. Very well.

MR. FAGER. Yes, largely an equal opportunity specialist is an investigator, an educator, and a negotiator and a settler. He does all of these things in the course of his business. Now, if he is able to conclude that work in a satisfactory way, which will pass the inspection of his supervisor, of our audit section, of the General Accounting Office, the Defense Supply Agency audit subsequently, and other such persons that scrutinize his work, he has concluded that particular piece of work. Now, perhaps what you are getting to here, sir, is the—

COMMISSIONER RUIZ. I want to know the powers and the authorities that this man goes out in the field and talks to the industry has, with respect—that is the reason I originated the question.

MR. FAGER. Yes, sir.

COMMISSIONER RUIZ. Your office is no stronger than the man that goes out there. Now, you have given me his duties and obligations and what he does.

MR. FAGER. He has the strength behind him, sir, of the law and of those people that are his supervisors, that are willing and able to enforce the law through the issuance of show-cause notices and through hearings.

COMMISSIONER RUIZ. Now, with respect to this authority, with respect to recommendations, are his recommendations overruled or just do you go along with it as he makes his reports? This particular man that is out on the field.

MR. FAGER. Yes, there are some instances in which his documentation or his findings are not considered to be sufficient. And unless they can be improved, his recommendations are not adopted. There is an active and real review of what it is he presents.

COMMISSIONER RUIZ. Supposing he says, "I have been working on this now for 6 months and I have everything under control," and another 5 months go by and he says, "Don't touch this because I am still working on it and I have talked to management and I have talked to the people that are representing labor, etc., and just don't make any waves." Is there anybody above him that says, "Listen, you have had enough time"?

MR. FAGER. Yes.

COMMISSIONER RUIZ. Can you—

MR. FAGER. Yes, yes, sir. As a matter of fact, when cases are assigned, there is a weekly review by the supervisors, the status of each of those cases. And we also have specific time frames that are levied on us by the Office of Federal Contract Compliance, as well as by the Department of Defense. We have an outside limit of 30 days to get an affirmative action plan from the contractor. After the receipt of that, we have 60 calendar days beyond that in which we must complete all of our work either by issuing a letter of compliance to the contractor or issuing a show-cause notice, one or the other.

COMMISSIONER RUIZ. Now, if you issue a letter of compliance to the contractor over the protest of employees, I don't know what the remedy is, and what is the next step after that?

MR. FAGER. I have never had that situation where we issued a letter to show cause over the protest of one of my staff people. Is that what you said?

COMMISSIONER RUIZ. No, no, no. Your staff person said to you and reported X company is in compliance. There is nothing to do there. The employees on the other hand, the interested employees who had been, let us say complaining about the affirmative action or upward mobility program say, "Wait a minute, we don't care what your employee has said; this is not so."

Now, over that protest, have you, nevertheless, issued an order to show cause when you have been recommended by that employee not to do so? Have you made independent monitoring or check or do you do that?

MR. FAGER. Well, I don't recall a situation in which we had issued a show-cause notice where the initial investigation did not indicate that it should be issued. I do not recall that situation as having arisen ever.

COMMISSIONER RUIZ. And I don't think I have made myself clear in view of the answer that you have given me.

MR. FAGER. As I understood your question, Mr. Commissioner.

COMMISSIONER RUIZ. Yes, sir.

MR. FAGER. Is have we ever issued a show-cause notice where the initial investigator said that there was no cause for show cause?

COMMISSIONER RUIZ. Yes, that is what I mean.

MR. FAGER. And where employees in the plant were dissatisfied with the findings that he was making, had we overruled that employee in that sense?

COMMISSIONER RUIZ. In other words, his word has been final?

MR. FAGER. Well, it is not final. It is not final; there is a heavy component of review and change by supervision over what the field does. But the specific situation that you asked me about, I do not recall that that has ever arisen where our person, field person, has said, "No, there is nothing wrong with this company," and we have had objecting employees, and then we have overridden the investigating official.



COMMISSIONER RUIZ. Just one more question. Who is the immediate superior to the contract compliance officer that we mentioned here?

MR. FAGER. The equal employment opportunity.

COMMISSIONER RUIZ. The equal employment opportunity specialist?

MR. FAGER. Yes, he would be—the operations division chief would be the title of such a person.

COMMISSIONER RUIZ. Operations division chief?

MR. FAGER. Yes, sir.

COMMISSIONER RUIZ. And how many of those do you have in the Chicago area?

MR. FAGER. Well, there is just one in Chicago, sir, and that is Mr. Fisher, and Mr. Hood in Indianapolis and Mrs. Higby in Milwaukee.

COMMISSIONER RUIZ. And who was immediately above Mr. Fisher with respect to what conclusions he reaches; is he reviewed in any fashion whatsoever?

MR. FAGER. The office of the chief, of which I am the chief, and I have a deputy, a Mr. Geeyon [phonetic], and the two of us are above the operations chief. My boss is Carl Stinger [phonetic], who is the commander of the Defense Contract Administration Service Region in three States.

COMMISSIONER RUIZ. Thank you.

MR. FAGER. You are welcome, sir.

COMMISSIONER HORN. Let me ask each of you gentlemen, starting perhaps with Mr. Fager: You are all career men, very knowledgeable in the workings of organization in the Government; what is your reflection, I would like from each of you, on the way the Federal Government has organized itself, as you see it in the field living with these problems daily, in terms of carrying out the law as far as contract compliance? Are there ways we could do this better, and if so I would like your judgment and opinion on it.

MR. FAGER. Yes, sir. I think that our organization, as we have it now, is really a very sound organization from my standpoint. We have gone through several reorganizations, and I think we probably have the view of many people about reorganization—if there is a problem, reorganize and so on. But I think our organization is a standard one, and I think it is a sound one.

I think that one of the problems that we perhaps face is the need to coordinate the different arms of Government and that deal with these problems because there are many agencies and organizations that deal with these problems. We do have a certain degree of overlapping, and, although there are procedures for reducing that, you know and I know that that is not entirely eliminated.

I think too there is an area of policy guidance that needs to be clear, firmer, or precise. So that the man in the field, the one Commissioner Ruiz was talking about, will know more exactly, exactly what his responsibilities are in policy guidance area.

I'd say those are two of the most important areas.

COMMISSIONER HORN. Well, that is helpful. Do you feel that there should perhaps be one overall Federal compliance agency and not have them attached to each department to review the contracts related to that department?

MR. FAGER. Not necessarily. I don't have that feeling, although that is a possible way of organizing.

COMMISSIONER HORN. Presumably it would solve the policy guidance and overlap problems?

MR. FAGER. Well, you know you trade off problems at different times, and, of course, maybe do it one way, you have coordination problems; if you do it the other way, you have centralization problems. Both are difficult.

For myself, I think within an agency, if there is the commitment within the chain of command to see that the law is enforced, it will be enforced. And I have seen in the Department of Defense over a considerable period of time an education of all the people in the chain of command, so that we have today a far greater sense of understanding and commitment by all the line officers in the organization, the staff officers at the top, in terms of the way the program is to be carried out. I think there has been a definite evolution in that point, and I think that it has given a great deal more strength to the person who does the actual investigating in the plants.

COMMISSIONER HORN. Do you feel you have sufficient resources in your area, Chicago area plus the region, to carry out the mandate in terms of contract compliance in both racial and other, sexual discrimination?

MR. FAGER. Well, not really for a couple of points. Obviously, one can always talk about numbers of personnel. I don't want to get on that old saw because we have far more contractor facilities than we can ever get to, but there are priorities and I think we are handling priorities with the resources given to us.

But I think there are other kinds of systems that can be developed. For example, we can do a better job on getting good availability data out of the Census and subsequent auxiliary studies so that we have a firm base for making decisions about whether or not we have the appropriate number of persons in various job groups and job titles. That is one important thing.

Another very important thing is to make certain that we have a better way of identifying Federal contractors. There apparently is not a unified and all-encompassing system for this, as I notice the Commission is aware, and this is particularly troublesome where there are sub-contractors involved.

I think those are two important things, and I say a third is the ability to codify not only court decisions, but administrative decisions and the decisions that are made by a variety of agencies, all of which in a sense are guidance in a vastly developing and emerging field.

COMMISSIONER HORN. Those are very constructive suggestions.

I wonder, Mr. Friedman, did you want to respond to that series of questions I've asked?

MR. FRIEDMAN. Yes, I may—I wrote down five points that I would like to touch on. Some of them are quite technical, but I do think it is important that we communicate this to the Commission. We are working under prescribed regulations, and I don't know whether inherently or just the way they operate they are extremely technical.

One is with reference to affirmative action programs, one point that I would like to make a suggestion. The regulations now require that, Revised Order No. 4, that there be an affirmative action program at each establishment. The term establishment is a word of art that is described by the OMB, and it turns out, as was mentioned earlier, companies like Prudential have upward of 750 affirmative action programs. In the insurance industry it generally means a multiplicity of affirmative action programs.

In order for us to bring about results, and I think that is what we are primarily concerned with, I think it may be useful if we also have alternative ways of developing affirmative action programs. Perhaps by way of illustration, the Mid-America, a home office of Prudential—I will just give random numbers, I don't think I will get into anything more precise than that—they have, at this office in this city about 1,700 employees. However, they have jurisdiction over another almost 4,000 throughout the several States, in offices that vary in size from, say, 2 to 60 or 70 per office.

A total of about 6,000 employees, if we, through a development of expertise and a knowledge of the company, could fashion an affirmative action program to come to grips with the way they progress people through promotions, lateral movement and have affirmative action programs according to the structures of the company rather than this term, each establishment. I think that might be helpful.

Another point, the second one I would like to talk on, is what I call industry-wide negotiation. It is something that has just been brought to my attention as a result of our being given jurisdiction over a number of other insurance companies. I think one of the real concerns of insurance companies relates to their competitive position.

I think another point I might make, by digression, a great many of these, with regard to a great many of insurance companies holding Government contracts, it represents a very small component of their entire business. Some of them take the position—you can believe it if you will—that they are doing this out of a sense of corporate responsibility, *noblesse oblige*, rather than to get the money. But in any manner, the dollar amount of the contract in most of the commercials, while large, oftentimes does not represent a great part of the business. Whereas when we review the companies, then we review the entire enterprise.

I think that a lot of them are concerned particularly about affected class situations where they get into suits where they are going to have

to pay out millions, possibly billions of dollars. What their situation is, now a unique feature about those who are under Government contract, as contrasted to those who are not, is that when a company signs a contract, it is committed to take affirmative action, whereas a company that does not have a Government contract can only be compelled to take affirmative action after the EEOC has found it to be in violation through a court decision.

So you have a part of the insurance industry that is put right to the affirmative action and has to go through the possibility of affected class situations.

I think if this, and maybe I am sticking my neck out on it, I think if we could get some way that this would not be such a competitive factor because the fact is that just the affected class situation is a part of America, it is not just a part of insurance or the electrical industry. If we can get some way of getting these industries to recognize it, and that it would be kind of balanced out, I think we could bring up a more positive result.

With regard to coordination of agencies: You are going to find through the recent memorandum of understanding that requires our compliance agencies to plan with EEOC certain very startling and positive happening because we can call a company to take affirmative action, and then we have to communicate a plan with the EEOC in that regard.

Another point that I would like for you to possibly concern yourself with is disclosure. Most Government employees, I believe, want to comply with the law, but we have got the question of what is the law on disclosure. And that really comes up right in this hearing.

I think it would be very helpful if we knew which way we have to go. The fact is that there are some decisions with regard to the Executive order saying that information that comes into our hands is disclosable, whereas the same information, the same sheet of paper, in the hands of the EEOC is prohibited from disclosure. I submit that is a paradox that shouldn't be permitted.

Another point was dealt with just before and that relates to what I call coverage or, who are the contractors? I think it is a matter, it is easier to condemn the Government agencies by not knowing who the contractors are than to look at the problem. I have just been forced to look at it recently because we got the new contractors, and one of the things is you have an in-and-out situation. A company that may be a contractor today may not be one next year, nothing to do with EEO, it is just the contract.

You have other situations of subcontractual relationships where a company, let's say a defense contractor, has some kind of an insurance policy covering its enterprise. There is a ramification that I don't think is a very simple one, to say how many subcontractors are there that are insurance companies? I think would be well worthwhile if we could have some research done in that area and some kind of centralized device within the Government.

I understand that procurement agencies having called to get in this in a general way not only with reference to EEO, but would be the fine point. I do agree with Mr. Fager that it is a big problem on how to identify the contractors.

COMMISSIONER HORN. Well, it is very helpful.

Mr. Wardlaw, what are your suggestions on this question?

MR. WARDLAW. Well, Mr. Commissioner, I would like to say that I regard the potential of this program as being beyond the imagination, that the achievements to date are minimum.

I regard the proliferation of responsibility in 17 agencies as being ridiculous. And the confusion with reference to what can be revealed to whom as extremely confusing because right now, if I wanted to know what Mr. Fager out at the Prudential Life Insurance Company, I would have to process a request for it through my Washington office through his Washington office back to him, irrespective of the memorandum of understanding about sharing information to which we had a meeting on December 4.

COMMISSIONER HORN. That is very interesting. In other words—well, let me ask you this, there are 17 Federal agencies involved in contract compliance?

MR. WARDLAW. Yes, sir.

COMMISSIONER HORN. Now, have all 17, do all 17 have a presence in the Chicago area?

MR. WARDLAW. Twelve of them.

COMMISSIONER HORN. Twelve have presence in the Chicago area? Do the heads of those 12 compliance agencies ever meet together and compare?

MR. WARDLAW. Yes, we have initiated meetings on our—that has been one of our basic responsibilities, especially when something special occurs like the memorandum of understanding concerning the sharing of information.

COMMISSIONER HORN. Well, do you have regular meetings?

MR. WARDLAW. We do not have regular meetings.

COMMISSIONER HORN. Have you thought about having regular meetings?

MR. WARDLAW. We have thought about it and the staff then has been one of the reasons—

COMMISSIONER HORN. Because it would seem to me if you just got in a room once or twice a month together and got to know each other and you would work out sharing—

MR. WARDLAW. Well, that has been established on a very personal basis. We do know each other very well, but it's something that Mr. Fager can't control, it is policy that he ain't heard, it is imposed upon him, which we will be challenging every opportunity we get.

COMMISSIONER HORN. Well, you are saying there needs to be a decision made at the national level as to encouraging the sharing of information at the regional level without going back up through the hierarchy of Washington.

MR. WARDLAW. We have a new policy about the sharing of information which we are going to be having a meeting on December 4 and the matter is going to be addressed, whether we can send some requests up the channel to deal with it. Certainly we will be making recommendations; this is what we have to meet and do and, so help me, we will be making a recommendation on this issue.

COMMISSIONER HORN. Do you have any other suggestions in terms of what might be done to improve—

MR. WARDLAW. Well, I was going to suggest—how do you pronounce your name, sir?

COMMISSIONER RUIZ. Ruiz, sir.

MR. WARDLAW. To Mr. Ruiz, that one of the reasons that Mr. Fager, for instance, would not have an employee complaining about his finding, they wouldn't know what he found.

COMMISSIONER RUIZ. Now, these recommendations that you are going to try to get together on, is there any possible way of giving those or getting those recommendations?

MR. WARDLAW. They will be sent to Mr. Phil Davis.

COMMISSIONER RUIZ. To our committee, so that we may back you up in some fashion?

MR. WARDLAW. Well, the recommendations will be submitted to the Director of the Office of Federal Contract Compliance, and it would be my suggestion that at that level you will find out what has been recommended.

COMMISSIONER HORN. Our Staff Director can seek that information.

Do you have some other thoughts now as to, in general, based on your experience in dealing with this problem daily, what we can do to have better enforcement?

MR. WARDLAW. I would like to call your attention to the fact that we do have the Order 14 underway and we are staffing up to implement that particular order, which will unify the compliance processes, which will give us an opportunity to do some evaluation of the programs that are being done by the various agencies, which evaluations will have to become a matter of record, and that is what I was describing as the second guessing.

Now, this machinery for this is being established, the policy has already been enunciated, and I think that, as I said, we have just begun to scratch the surface in terms of the potential for change. Listening to the people in their testimony this morning, there was all kinds of things are happening, but not much change is taking place. And the result is the proof of the pudding to which I am looking forward.

COMMISSIONER HORN. Well, that interests me because you have been on the job now about 10 years as I understand it.

MR. WARDLAW. Yes.

COMMISSIONER HORN. And you made a statement that the achievements to date have been minimal. Mr. Friedman pointed out that since '72 he felt some progress certainly had been made. Do you have the

data over this period that would lead you to be encouraged by the result of your efforts?

MR. WARDLAW. I am tremendously encouraged because, you see, we have been, we have been suppressed to the construction industry up to almost very recently, and here we had, in that particular area, we had a business agency, Presidential Business Trade Council, who wouldn't even talk to us when we came on the job, who are now most cooperative.

So I have seen a turnabout within that industry as a direct result of this particular approach, and this particular concern, and in other words, I have seen change take place. But I have not seen enough.

COMMISSIONER HORN. Let me ask you, each of you gentlemen, Mr. Wardlaw, and this is a brief statistic I have done at several hearings with various Federal agencies, since I believe what is sauce for the goose is sauce for the gander, how many of your equal employment opportunity specialists are women? What percentage?

MR. WARDLAW. Well, I don't have that, you would have to ask that to the people. I would have to go through the roster and check them off and I haven't done that.

COMMISSIONER HORN. Mr. Friedman, do you have these data?

MR. FRIEDMAN. Yes, I could—we have five team leaders; one of the five is a woman. Until recently, she was liaison for the Metropolitan Life Insurance Company, the second largest insurance company in the country.

Among the 12 equal opportunity specialists who spend most of their time in field reviewing, there are 2 women out of the 12, one of whom we just brought on board, and another one that I expect to bring on board to make 13 by the end of the year.

COMMISSIONER HORN. Mr. Fager?

MR. FAGER. Twenty-five percent of our equal opportunity specialists are women. One of our three operations chiefs is a woman. One of our about 10, 9, 10 team leaders is a woman.

COMMISSIONER HORN. And I take it there are affirmative action plans for each of your agencies?

MR. FAGER. Yes, sir, we have an affirmative action plan. May I comment?

COMMISSIONER HORN. Please comment.

MR. FAGER. Because I am not sure that I was understood by the Commissioner or by Mr. Wardlaw on this matter of—if one of our staff people does not see well when he is investigating something, I take it that is what we are talking about.

I would just like to make this clear; there is so much in the way of certified data, standard requirements, that must be seen and reviewed by supervision, and that data is carefully reviewed. We are as reasonably confident that we can be that we're seeing those problems. Now, we have a standard procedure that 25 percent of our cases are sampled randomly by another division in our overall organization and

are extremely critical, extremely independent, and look at all that data to see if we found what we should have found in those cases.

COMMISSIONER RUIZ. Well, the question I asked wasn't just a matter of curiosity, but a question predicated upon three experiences that I have had as a lawyer, wherein the contract compliance officers in those particular cases, involving large organizations, have been negotiating and negotiating and negotiating and wearing out the interested employees to where they completely exhausted them and then simply wrote a little letter saying, "We find that your employer is in compliance." And the question I asked was, where do they go from there?

MR. FAGER. Yes, sir, we understand that point and we protect our people on that. We do not permit those time frames to go on like that. We require timeliness in the actions and particularly we know if something is taking too long, if there is something bugging that person in terms of ability to complete that case, and so that case is flagged and that team leader and that division chief must take action and report on the monthly staff meeting to our deputy or to me with respect to those untimely cases.

CHAIRMAN FLEMMING. If I could interrupt here though I think Commissioner Ruiz is interested in the question of—that arises out of a situation where perfectly in good faith an equal employment opportunities specialist has ruled that the company is in compliance, and that goes up and it is affirmed. Now he is visualizing a situation where you have got a group of employees within that company who are sure in their own mind that the company is not in compliance and he is asking, what is their appeal channel; to whom can they appeal?

MR. FAGER. Well, they can come to any member of supervision; they can go to the team leader or they can go to the division chief, and then they can go to other agencies if they wish to have their complaint reinvestigated. Those things have been happening, yes.

CHAIRMAN FLEMMING. Could I ask this, can they appeal to the United States Civil Service Commission?

MR. FAGER. Well, I don't know that they could.

CHAIRMAN FLEMMING. No?

MR. FAGER. You are talking in—I was thinking of contractor, I was thinking of contractor employees.

CHAIRMAN FLEMMING. Well, we are, we are talking about a contractor. But the question is as to the, to the efficacy of the work done by the Government in relation to that particular contract.

MR. FAGER. I understand you.

CHAIRMAN FLEMMING I am sure the answer is no, there is no appeal channel to the Civil Service Commission, but is there an appeal to EEOC? Is there—that they could take—whom can they appeal to to get a review?

COMMISSIONER RUIZ. You said we protect our people; now what people are you talking about? One of your persons has made a deci-



sion, and you say to the interested employees, the affected employees, "You come to see, over his head, and come to see us."

MR. FAGER. Yes.

COMMISSIONER RUIZ. Now, do you protect your people, do you back up your people, do you say we think this is okay; where do you go from there?

MR. FAGER. Sure. I said that with respect to the pressures by contractors to where our people doubt and prolong negotiations. We do protect our people on that. As a matter of fact, one of the things that we do is we teach a course which we had developed ourselves on negotiation. We have sent our people to school on negotiation techniques, so that they do not get involved in situations like that which they cannot win, and—

COMMISSIONER HORN. If I might interject for a minute, I think as I listen to this discussion going on on the appeal process, I think you are right in trying to force timely decisions. You mentioned 30 days and then 60 days, so the establishment does know where they stand.

I think Commissioner Ruiz' question goes to once that decision is made, where the establishment is judged to be in compliance, at that point, if a substantial number or even one employee believes that there is gross discrimination, or whatever the feelings or want to make an allegation, there apparently is no appeal route then built in after your decision, based on an onsite investigation, to challenge that and get that resolved at a higher level?

MR. FAGER. I have to step back because I think there is an assumption coming into our discussions here which is not entirely the assumption that I had made. We do not necessarily, or usually, investigate individual complaint actions *per se*. We did do it, but generally those are assigned to Equal Employment Opportunity Commission.

So that the type of situation you seem to be projecting in your question would be the kind that would develop either when we occasionally do make a complaint and the person does not agree with a solution or the findings that were made, he can appeal either through our chains, to a supervisor or in the documentation of the case, which must be sent to Washington, that failure to reach a settlement and protect his rights is a part of what has to be sent forward. If we didn't resolve the case, we didn't resolve the case, or he goes to EEOC.

COMMISSIONER HORN. Okay, let's ask, based on your experience, now, and I agree there is a difference here between the individual allegation and a sort of group feeling allegation. My experience with HEW, let's say, on civil rights compliance in higher education is that when they come to a campus they talk to a lot of people, they don't just look at data, they wander around, they ask questions, and so forth.

MR. FAGER. We do too.

COMMISSIONER HORN. Presumably they would pick up some of these feelings, so we do. I think that the query then is based on should there be, in your judgment, based on how the program is running now, a

route of appeal if there is still substantial concern after you have investigated, after you have said the compliance plan is being carried out in accordance with law and Executive orders. Do you think that is necessary?

MR. FAGER. Yes, in a way they do have an appeal through the Freedom of Information Act.

COMMISSIONER RUIZ. Mr. Wardlaw, do you have an idea on that?

CHAIRMAN FLEMMING. Pardon me, just a minute, Mr. Buggs, our Staff Director, has been trying to get in on this particular discussion.

MR. BUGGS. It seems to me, Mr. Fager, that both Mr. Ruiz and Mr. Vice Chairman are moving toward the fact that the OFCC can relieve you of that compliance operation and take it over itself.

MR. FAGER. Yes, sir, it can.

MR. BUGGS. In other words, if people are not satisfied with what your office does, if it gets to OFCC, OFCC and the Department of Labor has the option of making the determination that you have been wrong, and they can take it away from you and do it themselves.

MR. FAGER. Quite so.

MR. WARDLAW. That is the point that I was trying to make, Mr. Buggs, thank you very much.

COMMISSIONER HORN. Have they ever done it?

MR. BUGGS. Yes, they have.

COMMISSIONER RUIZ. One says yes, the other one says no.

COMMISSIONER HORN. But they haven't done it with your agency, but you said they have done it?

MR. WARDLAW. It has been done.

COMMISSIONER HORN. In this region?

MR. WARDLAW. Yes, sir.

COMMISSIONER HORN. Can you cite an example?

MR. WARDLAW. The Allen-Bradley case.

MR. FAGER. That involves us; Mr. Wardlaw is right. I had forgotten that. But may I just state what that situation was so that there is no misunderstanding or incompleteness with that?

CHAIRMAN FLEMMING. Well, would you just mind developing a memorandum for us on that and we could make it a part of the record at this particular point?

MR. FAGER. Yes, I will.

CHAIRMAN FLEMMING. Fine.

MR. BUGGS. Mr. Chairman, I have one question I think is important.

CHAIRMAN FLEMMING. I would just like to make a statement that this discussion relative to appeal channels has been very interesting, and I think very important, and although it is possible, as you indicate, to withdraw authority from a particular governmental agency, I don't think we have succeeded in the Federal Government in developing clearly identifiable, appealable channels, where a group of employees in a company believe that, in spite of the finding on the part of any governmental agency, that there is not compliance with the law. It seems to me this is one of the issues we all ought to address ourselves.

Mr. Buggs?

MR. BUGGS. Yes. Mr. Wardlaw, I have had a concern for quite some time with reference to the organization of OFCC. To whom do your people report? I suppose it is a regional director report?

MR. WARDLAW. The regional director, Department of Labor.

MR. BUGGS. And to whom does that assistant director report?

MR. WARDLAW. To the regional director, Department of Labor.

MR. BUGGS. And to whom does he report?

MR. WARDLAW. Is it—

MR. BUGGS. Assistant Director for Employment Standards?

MR. WARDLAW. That's right, that's right.

MR. BUGGS. When does Mr. Phil Davis get in?

MR. WARDLAW. Every week, I just talked to him yesterday.

MR. BUGGS. I know; in an official capacity?

MR. WARDLAW. Yes, sir.

MR. BUGGS. You are responsible to Mr. Davis?

MR. WARDLAW. Yes, sir.

MR. BUGGS. Why do you report to him?

MR. WARDLAW. Because that is a peculiar arrangement.

MR. BUGGS. It sure is.

MR. WARDLAW. And he is responsible to the policy in reference to the Office of Federal Compliance which I administer.

MR. BUGGS. But he has no direct, you have no direct line responsibility to him?

MR. WARDLAW. Not since the change was made, no.

MR. BUGGS. Not since Mr. Fletcher left?

MR. WARDLAW. That's correct.

CHAIRMAN FLEMMING. He has a dotted line relationship.

MR. BUGGS. And it is a weak dotted line.

CHAIRMAN FLEMMING. Okay.

COMMISSIONER HORN. Could we get the organization chart of the OFCC in the record at this point that points out these relationships going from Washington to the field so it is clear in the mind?

CHAIRMAN FLEMMING. May I thank the very civil servants who are members of this panel for the insights they have given us in connection with their respective responsibilities, and we know that we are very dependent in this area on the kind of leadership and persons like yourself that provide them. Thank you for being with us until this late hour.

MR. GLICK. Mr. Chairman, we have the organizational chart of OFCC, and I would like to enter that into the record as Exhibit 104.

CHAIRMAN FLEMMING. Without objection that will be done.

MR. GLICK. Mr. Chairman, the final witnesses for today that we will call will be Mr. Charles Fiden and Mr. Leo Mercier, who are executives of the General Electric Corporation. Mr. Fiden, Mr. Mercier, will you come forward please?

CHAIRMAN FLEMMING. I ask the hearing to come to order please.

MR. GLICK. Mr. Chairman, I see that Mr. Fiden and Mr. Mercier are accompanied by counsel. They have been before us before, but for the record would they please identify themselves?

MR. GLEESON. My name is Paul Gleeson, attorney with the law firm of Vedder, Price, Kaufman, and Kammholz.

MR. JOYCE. My name is Arthur Joyce and I am counsel, group labor relations, for General Electric Company, Major Appliance Group.

MR. GLICK. Now could I ask Mr. Fiden and Mr. Mercier to stand so that they can be sworn for the record please?

[Mr. Charles Fiden and Mr. Leo Mercier were sworn.]

**TESTIMONY OF CHARLES FIDEN, MANAGER, CHICAGO, AND LEO MERCIER, MANAGER, PERSONNEL PRACTICES, BENEFITS AND SERVICES, HOTPOINT DIVISION, GENERAL ELECTRIC CORPORATION, CHICAGO, ILL.**

MR. GLICK. Before we proceed further, Mr. Chairman, I would like to indicate that Mr. Fiden and Mr. Mercier are here in response to the subpoenas which have been served on them personally, but I don't know, and it does not appear to me, that they are prepared to respond to the subpoena *duces tecum*; perhaps counsel can respond to that?

MR. GLEESON. That is correct, Mr. Glick. We appeared before this Commission earlier this afternoon and there were given the decision of the Commission that our petition to revoke subpoena *duces tecum* and *ad testificandum* had been denied.

At that point, having been given the decision of the Commission and also its direction that the two personal witnesses appear before the Commission before the conclusion of the session, the company or Hotpoint Division decided to make Mr. Fiden and Mr. Mercier available this evening. In so doing, however, we wish to make clear for the record that we did not intend to waive, surrender, or give up the previous arguments that we have presented to the Commission on the matter of the subpoena *duces tecum*.

MR. GLICK. Mr. Chairman, may I recommend that the period of time for the response to the subpoena *duces tecum* be extended to General Electric Corporation for 10 working days, beginning, let us say, this coming Monday, including this coming Monday. And then, if the position of the corporation remains as Mr. Gleeson has just stated it, I would ask the Commission at that point to determine what further action they wish to take.

CHAIRMAN FLEMMING. Without objection.

MR. GLEESON. I don't know how we can object, Mr. Chairman, because we have taken the position—

CHAIRMAN FLEMMING. No, I am talking about the—when I say without objection I mean, on the part of the members of the Commission. We will follow the recommendation made by the counsel and provide that that subpoena remains in effect, as you of course understand, and provide that the documents subpoenaed should be

presented to the Commission in 10 working days, beginning Monday of next week. Of course, Mr. Glick, I think we should point out that if you desire to raise specific issues relative to specific requests, those issues will be considered by the Commission.

MR. GLICK. Thank you, Mr. Chairman.

Now could I ask Mr. Fiden and Mr. Mercier to identify themselves, for the record please, with their names, their address, and their employment position at General Electric Company.

MR. FIDEN. My name is Charles Fiden and I am manager of the Chicago Relations Operation for the components of the company that the Commission has identified as Hotpoint. The mailing address is 5600 West Taylor in the city of Chicago.

MR. MERCIER. My name is Leo Mercier. I am manager, personnel practices, benefits and services for the Hotpoint operation which has a mailing address of 5600 West Taylor Street, Chicago.

MR. GLICK. Mr. Fiden, your responsibility for the General Electric Corporation installations includes all installations of a manufacturing nature in Chicago, but does not include such things as repair and distribution points; am I correct in that?

MR. FIDEN. Yes, it includes those responsibilities that are associated with the three manufacturing plants that manufacture major appliances, as well as the regional warehouse.

MR. GLICK. And the line of authority from you to the corporation is to a regional office in Louisville?

MR. FIDEN. To a vice president-general manager of one of the products divisions of the Major Appliance Group, who is headquartered in Louisville, yes.

MR. GLICK. Okay. Now, I have some general questions which either Mr. Fiden or Mr. Mercier can answer, whichever you may desire. To begin with, I would like to find out what percentage of your work force in your three plants to which you refer in the Chicago area are women?

MR. FIDEN. My best knowledge would say that somewhere between 20 and 25 percent of the total work force would be female or women.

MR. GLICK. Would you concur in that, Mr. Mercier?

MR. MERCIER. I would be inclined to agree with that statement, sir.

MR. GLICK. And what percentage of the total number of employees are minorities?

MR. FIDEN. The total number of minorities for the total work force is in the range of 55 to 60 percent.

MR. GLICK. And of that minority percentage of 55 or 60 percent, what percentage of that are women?

MR. FIDEN. I am sorry, I honestly do not know that.

MR. GLICK. Mr. Mercier?

MR. MERCIER. I don't know that, I can't answer that question either. I would guess about 20 to 25 percent, same relative percentage, but that is strictly a guess; I am not familiar with that figure.

CHAIRMAN FLEMMING. Could you supply that for the record at a later date?

MR. MERCIER. As I understand the question, it is the female, the percentage of female within the minority population? Certainly we can supply that.

MR. GLICK. According to the figures that we have with respect to Chicago SMSA, 38-1/2 percent of the available labor force are women, but you indicate that only 25 percent of the General Electric employees are women? Do you have any explanation for the disparity in that, particularly in the light of the fact that the other corporation appeared today, Zenith Corporation, appeared to have a much higher percentage in its work force doing somewhat similar but of course not identical types of work?

MR. FIDEN. My understanding is that our relationship is to the electronics industry. We are obviously not part of the electronics industry *per se*, and we are really part of the major appliance industry as such. The reason for the disparity that you mentioned I am sure perhaps is a historical one, as much as anything else. That would be the only rationale I could—

MR. GLICK. When you say historical, Mr. Fiden, are you suggesting that at some point in time or any point in time, women were not as freely employed as they are now, or not as freely employed as men were?

MR. FIDEN. Not as desirous of the kind of work that we have to offer.

MR. GLICK. What is the nature of the work?

MR. FIDEN. The kind of work we have is the manufacture of major appliances, refrigerators, freezers, washers, dryers, and electric ranges, with a large percentage of the employees in the work group being on incentive jobs or line pace jobs on group incentive.

MR. GLICK. And you believe that these jobs are unattractive to women?

MR. FIDEN. No, no, I didn't say that. I said that there are perhaps historical reasons for them being unattractive at one time. I am not a sociologist, so don't press me on that point, but that obviously I think is a factor, yes.

MR. GLICK. And can you indicate, to your knowledge, either yourself or Mr. Mercier, whether women are found at all the labor grades in the plant, and am I correct in my understanding that the grades go from 1 to 30?

MR. FIDEN. I am not sure that 30 is the highest number, but it is certainly in the high 20s.

MR. GLICK. I see.

MR. FIDEN. The bulk of the employees, regardless of occupation, are found in a band of labor grades from roughly C—9 through C—11 or C—12. These make up probably close to 60 to 70 percent of all of the jobs or occupations that would comprise the hourly work force.

The jobs that would range above the C—12 range would be few, much fewer in number, obviously, with the kind of compression I am describing, and about half of that top grouping of jobs would be related to skilled craft jobs.

MR. GLICK. Are women represented in those higher-level jobs, over 11 and above I think is the figure you used, to the same extent in a percentage way as they are in the middle range where most of the employees are?

MR. FIDEN. No, they are not.

MR. GLICK. Can you give any explanation for the disparity between the percentage of women in the middle range and the percentage of women in the top range of jobs?

MR. FIDEN. The disparity, I am not sure I can explain it other than to again point out that we do have a completely open advancement process which provides for any employee at any time to submit a request or a bid for any particular job that he or she may desire. The upgrading data that we submitted to the Commission in the affidavit would indicate that in the time period that we looked at, which was an 18-month period from January 1 of '73 to mid-year of '74, that women were upgraded on an almost a one-to-one ratio for each bid that women had into the system, as compared to about a 50 to 60 percent ratio for the men who had bids into the system.

MR. GLICK. So you are suggesting that women are being promoted at a more rapid rate than men at this time?

MR. FIDEN. In relation to the requests that they have made, yes, I think that is true. I think the data will support that.

MR. GLICK. Did the company take any initiative to seek out women, to encourage them to bid for a higher-level job?

MR. FIDEN. Yes. I believe also that if you would look through some of the communications of documents that we provided—namely, our weekly *GE News*, or *Hotpoint News*, and our biweekly *Headliner* publication—you will see references to women urging them to take advantage of the plant advancement system and to avail themselves of the opportunities for better jobs. Yes, in specific terms.

MR. GLICK. Mr. Mercier, the corporation is a Government contractor and obviously, therefore, it is required to create an affirmative action plan. Are you personally responsible for that?

MR. MERCIER. That is one of my responsibilities.

MR. GLICK. For the Chicago plants, the three plants in the Chicago area?

MR. MERCIER. Yes.

MR. GLICK. Are you also responsible for the implementation of the plan?

MR. MERCIER. I helped to implement the plan along with all of our managers and the first-line supervision as a matter of fact.

MR. GLICK. Do you have an oversight responsibility over responsible supervisors with respect to—

MR. MERCIER. In that area of responsibility I would say yes.

MR. GLICK. Do you have any kind of incentive system of sanctions or incentives with respect to first- and second-line supervisory personnel and encourage them to meet the requirements of the affirmative action program?

MR. MERCIER. They have goals and timetables that they are responsible for and, as a matter of fact, they are measured on their progress with respect to affirmative action.

MR. FIDEN. May I interject, Mr. Glick, that would be a rather standard type of responsibility in terms of the performance system that we have for professional managerial people. That would certainly be one of the key factors in the appraisal of individuals with that kind of responsibility.

MR. GLICK. So then perhaps managers are rated on an annual basis, evaluated on an annual basis for benefits of whatever kind there may be and sanctions and among the factors that are checked off by the next higher level rating official is in success in meeting goals and timetables provided in the affirmative action plan?

MR. FIDEN. Yes, the appraisal itself of performance is by the immediate manager of the individual being appraised and requires a one-over-one review of that decision.

MR. GLICK. Can you recall any instance in which sanctions have been taken against a supervisor because of failure, repeated failure, to meet affirmative action plans?

MR. FIDEN. Actions in the sense of discipline?

MR. GLICK. Discipline or failure to promote or whatever.

MR. FIDEN. I am not aware of any sanctions that would fall into the area of discipline. The appraisal process is tied directly to the compensation of the person being appraised, in that our professional salary structure has a range of salary for each position, and that would be a factor that the manager would use in terms of judging how much merit adjustment that individual is to receive.

MR. GLICK. Mr. Mercier, can you tell me how many foremen there are in the three plants, total number?

MR. MERCIER. This would be a guess, Mr. Glick. I would, I would say somewhere in the neighborhood of 100 or more.

MR. GLICK. Can you tell me how many of these are women?

MR. MERCIER. I would also guess that approximately 10 percent.

MR. GLICK. Ten percent in comparison to a 25 percent work force?

MR. MERCIER. That would be correct.

MR. GLICK. Would you offer any kind of an explanation of the disparity in these two numbers?

MR. MERCIER. I think again that that would be historical, that many years ago we just didn't have women that were foremen. I don't think, not only at General Electric but at many other firms.

MR. GLICK. Are any other efforts being made to encourage women to apply for foreman positions or seeking out women who are or appear to have a potential, of giving them whatever training might be available for this foreman position?



MR. MERCIER. We have a number of training programs in effect to help all individuals prepare themselves for better jobs and for supervisory positions, as a matter of fact.

MR. FIDEN. Mr. Glick, I would like to interject again, if I may, in the affidavit I have referred to a management assessment center process that we have been using to, if you will, test in human relations organization ability, planning ability, since the potential of people have been identified for first-line supervisory positions. We have run, in recent years, several of those assessment centers, and the participation of women in those centers has been on the order of 20 or 25 percent.

MR. GLICK. Thank you.

Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. Commissioner Freeman?

COMMISSIONER FREEMAN. No.

COMMISSIONER RUIZ. No questions.

COMMISSIONER HORN. No questions.

CHAIRMAN FLEMMING. We appreciate very much.

MR. GLICK. Mr. Commissioner, I think counsel wants to make a statement. I think we ought to give him an opportunity.

CHAIRMAN FLEMMING. Just before that, Carol, do you have a question?

MS. KUMMERFELD. No.

CHAIRMAN FLEMMING. Okay.

MR. GLEESON. Just a minor point, Mr. Chairman, on the question of incentives or rewards or punishments. I would call the Commission's attention to exhibit 10 to Mr. Fiden's affidavit that was submitted yesterday, which is a reprint of an article by I believe it is a Reverend Theodore Purcell in the November-December 1974 issue of the *Harvard Business Review* entitled "How GE Measures Managers and Fair Employment." I think the Commissioner will find that article of interest.

MR. GLICK. Thank you.

CHAIRMAN FLEMMING. Without objection that will come.

MR. GLICK. It is already accompanying the affidavit.

MR. FIDEN. Yes.

CHAIRMAN FLEMMING. Thank you very much.

MR. GLEESON. Thank you, Mr. Chairman, members of the Commission, Mr. Glick, members of the staff.

CHAIRMAN FLEMMING. We will recess the hearing until 9:00 o'clock tomorrow morning. I should call attention to the fact that the hearing from 9:00 to 11:00 will be in executive session, and then the public session will resume, what was it, 1:00? When do we have that? The public session will resume at 1:00 o'clock.

**Saturday Session, November 23, 1974**

CHAIRMAN FLEMMING. I would like to call the Commission's public hearing to order at this time. I ask counsel to call the next witness.

MR. GLICK. Mr. Chairman, the next witnesses are Ms. Casey Kelly, Ms. Anne Ladky, and Ms. Susan Schwerin. Will you please remain standing to be sworn?

[Ms. Casey Kelly, Ms. Anne Ladky, and Ms. Susan Schwerin were sworn].

**TESTIMONY OF ANNE LADKY, PRESIDENT, CHICAGO CHAPTER, NATIONAL ORGANIZATION OF WOMEN; CASEY KELLY, PUBLIC RELATIONS SPECIALIST; AND SUSAN SCHWERIN, COORDINATOR, FLEXIBLE CAREERS**

MR. GLICK. Will each of you please state your name, your address, and occupation for the record.

MS. LADKY. I am Anne Ladky, president of the Chicago chapter of the National Organization for Women.

MS. KELLY. Casey Kelly. I am a freelance public relations specialist.

MS. SCHWERIN. Susan Schwerin, coordinator of Flexible Careers.

MR. GLICK. And if I could begin the questioning with Miss Kelly. Miss Kelly--well, before I do that I want to make it clear that we do not anticipate that the witnesses will name any private employment agency during the course of their testimony and, should an individual inadvertently name an agency, I will have to ask that it be stricken from the record and I hope that that will not happen.

Now, to begin with, Miss Kelly, it's my understanding that you--in some recent months--have published an article on employment agency practices which negatively affect women. Do you have a copy of that article with you?

MS. KELLY. Yes, I do, Mr. Glick. It's right here.

MR. GLICK. Can I have that? I would like to examine that for possible submission into the record. Could you tell us what prompted you to write an article of this nature and give us a brief summary of it?

MS. KELLY. Yes. I began the investigation in June of 1973. I was actually prompted to do it by the fact that my little sister was undergoing

some of the same abuses I had encountered some 10 years earlier, and my anger over the whole system prompted me to write the article.

I began the investigation, you know, without having a clear market for it and in that amount of time I interviewed dozens of people, primarily women and quite a few men, on the practices that they encountered when applying for jobs through agencies. I also worked at an agency for 2 days as a counselor in order to see what would be recommended to me, the behavior that would be recommended to me at the agency and how it would affect women. What was the rest of your question?

MR. GLICK. I would like you to summarize the substance of your article.

MS. KELLY. All right. I primarily ascertained about 10 points, agency dead giveaways, how to tell if you are dealing with an unscrupulous counselor, and some of these points, those dealing with discrimination, I had listed here to read into the record and I can get the others out of my briefcase if you would like me to.

MR. GLICK. Are the articles that you want to read into the record contained in your magazine article?

MS. KELLY. They are contained in the article, but these are also contained in the article. If you would like me to specifically—I mention some of the practices that were in there. I also at the time that the Department of Labor was under some fire and part of the article had to do with the hearings and the fact that you couldn't get a fair hearing at the Department of Labor at that time.

MR. GLICK. Yes, I would like you to read those, but can you tell me first how many different agencies did you consider in the course of your investigation?

MS. KELLY. About 30. My records were not perfect on this, as this was my first attempt at investigative reporting, but about 30 agencies I called on in person or by phone.

MR. GLICK. All of them in the Chicago area?

MS. KELLY. All of them in the Chicago area and no suburban ones.

MR. GLICK. Thank you. Will you proceed with your findings?

MS. KELLY. All right. The findings as specified to discrimination—a lot of other things happened; a lot of shoddy practices go on—but I limited my comments here to the discriminatory practices.

I feel that counselors do practice a wide range of tactics to keep women in their place, and I feel like their motives may not always be discrimination, but I feel like that is not too relevant. I mean, if it's only greed, that is not good enough either. The outcome is that women are kept in the lower-paying jobs by agencies when an agency is their introduction to the work force. I mean, people get older and wiser, but when you are being introduced into the work force an agency can really keep you down.

The way I went about choosing the agencies might be relevant. I selected agencies only on the basis of their advertising. I wanted the

due process to happen to me as it would happen to any other person entering the work force, and so I chose agencies on the basis of glamorous job descriptions in the newspaper and high salaries.

The particular discriminatory practices that were most apparent to me were that counselors often assist the employer in discrimination whenever it's necessary to secure a job order, that if the employer says they don't want a man, they don't want a woman, they don't write it on the job order, but they do pass the word around quietly.

Counselors allow their personal biases about the inferiority of women to affect the level of the placement. They begin with a woman by deploring the job market in general and specifically discouraging them from attempting advancement into male-dominated areas. They disregard the skills and background of other than clerical for women while they seek out positions for males which emphasize their past experience.

They insist that women take typing tests as a prerequisite for placement consideration. They suggest that women falsify their background, in the secretarial-clerical area only, to improve their chances of a better clerical job. They often misrepresent the job, claiming falsely that promotion into a particular business' mainstream is a real possibility, which it isn't.

They demean women, generally keeping them waiting longer than men at the agency. They won't let them leave, administering superfluous tests to counteract boredom so that they won't go to another agency. They also use their first names.

In one particular agency it even has a dozen which I call Fredericks of Hollywood naked ladies painted on one wall. You know, supposedly nudes, but I mean there is a way of demeaning women and, of course, the bait and switch advertising which has been addressed to you already. They also sometimes infer that sexual relationships with themselves may mean a better job.

Those were the primary practices that I thought—did you want examples on these?

MR. GLICK. I'm not sure I understand what you mean.

MS. KELLY. Did you want me to give examples of how I ascertain that these things occurred?

MR. GLICK. Not at this moment.

MS. KELLY. Okay.

MR. GLICK. You may come back to that, Ms. Kelly.

I would like to ask, Ms. Ladky, how you became involved in an investigation of the employment agency practices. You, by that I mean, NOW.

MS. LADKY. Well, NOW began its interest in the whole area of employment agencies in 1969 when we first began the campaign against sex-segregated want ads in the Chicago papers. We attempted at that time to pressure the newspapers to end the sex segregation, thinking that that would have a significant impact on whether women were discriminated against when they walked into an agency.

We were relatively unsuccessful for quite a few years and pressured the EEOC to amend its guidelines so that sex-segregated want ads would be illegal. That did occur, and in 1971 the Chicago chapter of NOW filed numerous sex discrimination charges against agencies for continuing to try to place these ads.

So our interest began really quite some years ago. We thought that an end to sex-segregated advertising would, in fact, have a significant impact and would mean that women wouldn't suffer the same kinds of discrimination when they went into an employment agency or were trying to get into the job market. In fact, the complaints that we got from women did not decrease significantly. This did not seem to have an effect on whether women were discriminated against or not when they went into an agency, and so, in about exactly a year and a half ago, we began to look into this again to find out why, now that there are not sex-segregated want ads classifications in the paper, women were still suffering from the same kind of channeling into low-pay, low-opportunity kinds of jobs and why they were still suffering from sex discrimination when they went into agencies.

So at that time, we began to pressure the Illinois Department of Labor to begin to enforce the powers that they do have to clean up practices that we had found through an investigation of the kind that Casey Kelly described, which we would send people in to find out what kind of treatment they would get from agencies. We then went to the Department of Labor and began to pressure them and—

**MR. GLICK.** What did you find? What did you find in your testing of the agency?

**MS. LADKY.** Well, I think basically there was a—there is a broad picture of that. Of course, the rampant sex discrimination practiced by corporations in Chicago certainly is no less practiced by employment agencies.

Basically, we found a whole range of what we would consider to be shoddy practices, just plain bad practices that are illegal and should not be allowed under the acts and rules of private employment agencies in the State of Illinois. We also found very basic kinds of sex discriminatory treatment where women and men similarly qualified would go into a single agency and would be treated differently in the areas of, for instance, in the case Kelly mentioned, the kind of situation where the job market is degraded to women and not to men, areas in which the qualifications of a woman are downgraded and she is told there is no market for those qualifications. A man is encouraged and told to develop, try to develop job possibilities out of their past experience. Women are told to take typing tests. Their qualifications are falsified. Men are not required to take typing tests.

Women are asked a whole variety of questions regarding their personal life beyond the fact of "are you married," which seems to be asked of both male and female applicants. But, if you are married, "When do you plan to have children? What kind of birth control are

you practicing? Would you leave a job if you had a child? What are your child-care arrangements?" and a whole range of personal questions of that nature. So basically they would probably be divided into two areas.

We also investigated the placement of discriminatory job orders and whether or not agencies in Chicago still accept discriminatory job orders from corporations. We found by calling and posing as corporate personnel people that, in fact, they do that about the same rate that was found in a study done in February of 1973 by the New York chapter of NOW and the American Jewish Congress, national women's division, which showed that 82 percent of all agencies that they interviewed in Philadelphia, Chicago, Los Angeles, and New York accepted a job order specifying a male applicant, and I do have a copy of the study.

MR. GLICK. Which study are you referring to, the one done in New York?

MS. LADKY. That's right. Which I can give you if you would like it, but basically we did not do as exhaustive a number of calls as they did in that study, but we found that almost without exception the job order would be accepted.

What would be the difference would be that, contrary to what was found in 1973, by the time we were doing some of our work—which is 1974, August or July and August—we found that frequently the person taking the job order would say, "Well, you do understand that the law prohibits that sort of thing, and now tell me again about the qualifications." So that they were essentially telling them that they understood the law and that they both knew they understood the law, but they would still accept the job order.

MR. GLICK. Is that study done in New York a published document, Ms. Ladky?

MS. LADKY. Yes, it is.

MR. GLICK. I would like to have a copy of it.

MS. LADKY. Okay. I have it here.

MR. GLICK. Now if I—

MS. LADKY. It contains a statistical breakdown of all the calls, the raw numbers as well as the conclusions, the studies as well as the conclusions, the statistical conclusions.

MR. GLICK. Well, is there anything you want to add with respect to the specific study that NOW did here in Chicago?

COMMISSIONER HORN. Do you want that in the record, Counsel?

MR. GLICK. We don't need—it's a published document. We don't need to introduce it as an exhibit. We can publish it in our transcript if you want.

COMMISSIONER HORN. Fine.

MR. GLICK. But we can let the record indicate that we have received for our examination a document entitled, "Report on Sex Discrimination Practiced by Employment Agencies" and it's based on a survey

conducted by the National Organization for Women and the American Jewish Congress national women's division dated February 1973.

MS. LADKY. The only thing I would like to—as I say, the study concentrated on actual sex discriminatory practices as well as shoddy practices of the sort that have been mentioned previously here regarding the fact that counselors are generally underqualified. They are under tremendous pressure to place women. There is an incentive to place women into low pay, high turnover, high volume so that an agency does volume.

There is extensive bait and switch advertising going on, and there are illegal sorts of solicitation of the kind of unsigned postcards that go out to young women when they graduate from high school, for instance. They get these lists and so on.

Those kinds of practices we feel are basically wrong, regardless of who they affect, but they have a particularly pernicious effect on women entering the job market who are much more susceptible to the bad effects of those practices. And I think also our conclusion was that although frequently the bad practices and the sex discrimination practiced by employment agencies, although often blamed totally on corporations who want to perpetuate sex discrimination, that employment agencies, in fact, play a unique role of their own in perpetuating sex discrimination in Chicago.

MR. GLICK. Thank you.

I would like to turn to Ms. Schwerin. You indicated that you are a director of an organization called Flexible Careers.

MS. SCHWERIN. That's correct.

MR. GLICK. Could you describe that for us, that organization and tell us how it began, what its functions and purposes are?

MS. SCHWERIN. My title is coordinator.

MR. GLICK. Coordinator.

MS. SCHWERIN. Of Flexible Careers. The organization was founded in the fall of 1971, and the organization is a volunteer, nonprofit, service organization working on various employment, women's employment issues.

It features low-cost, career information center for women who are seeking employment information, counseling, and support, and the organization also features a job development project to try to research and increase the number of flexibly-scheduled jobs because we have a special interest in the options for women to work part time or reduced hours with equal benefits.

The career information center was founded because we feel that women need freedom of occupational choice and full access to unbiased job information, and in Chicago there was not at the time we were founded, and still is not, any other agency, either public or private, which provides such basic job information and low-cost employment counseling for all kinds of women of all ages, all backgrounds, all educational backgrounds, and all career interests.

Flexible Careers is dedicated to providing Chicago area women with nonsexist vocational information.

MR. GLICK. How do you obtain information respecting job opportunities?

MS. SCHWERIN. It's not easy. Local employment information is not easy to get, especially the employment information that women are seeking about new opportunities, nontraditional opportunities. We maintain files, and we try to collect as much printed information as we can to help clients sort through opportunities, career fields. We have a whole range of services for women. We have information in the resource center on career fields and Chicago-area employers through their own publications, as well as publications of associations of employers.

I don't know if employers know that kind of information is being used by groups like ours, but we use whatever we can get because there isn't localized employment area information. There is material, for instance, the occupational outlook handbook of the Department of Labor, which gives generalized employment information. It's not broken down by geographic location, and it does not contain reference to special areas of interest or discrimination—

MR. GLICK. How—

MS. SCHWERIN. —of women.

MR. GLICK. I'm sorry. How successful have you been in placing women in nontraditional occupations?

MS. SCHWERIN. We are not a placement agency. We don't want to become an employment agency because of the reputation that private employment agencies have. We feel that women need more than just an employment agency placement. They need to start thinking of their careers, and they need to start thinking of themselves as workers who are going to be in the work force for most of their lives.

I have a reprint of an article from the September 17, *Chicago Daily News*. They did a survey of issues of interest to women in Chicago, and the employment issues were the, you know, overwhelming concerns of most Chicago area women. Women are concerned about job opportunities and they are concerned about equal pay, and the employment issues came out first. Even with the kind of concern, there are no special services for women, even within such a situation as the State employment service, which is the largest employment agency in the State, and there are no resource materials for women. There are no special counselors for women. There is no support system, no information for women about filing possible discrimination complaints, no information on nontraditional jobs, and no information on new career fields for women.

Even though an agency such as the Women's Bureau of the Department of Labor puts out piles of career information for women, there is no public agency that women visit that they know about that distributes this kind of very good career information. There were 110,000



women registered with the State employment service last year in the Chicago metropolitan area, and there were no special services for women within that agency.

MR. GLICK. In your view some special services are necessary in order to place women in employment possibilities?

MS. SCHWERIN. Absolutely. I don't have to testify to discrimination. I don't have to do that here. That kind of testimony has been presented. There have got to be some support systems for women.

MR. GLICK. Well, I wasn't thinking in terms of discrimination in the sense that there are Federal and State agencies which theoretically deal with overt acts of discrimination on the basis of sex. What I am talking about is in terms of career services, job location, job counseling, job advice; you feel that it is necessary that women have some specialized kinds of programs available to them?

MS. SCHWERIN. Absolutely.

MR. GLICK. Rather than those available just to the public generally?

MS. SCHWERIN. Absolutely. There are services for the handicapped. There are services for veterans, and there are services for the aged. Women face the same type of obstacles in the work world that other groups do. There are services for minority employment placement. There is money for those services. There is no money being spent to improve the work situation for women. There are no direct services.

We assist clients and we are a very small, volunteer, shoestring operation, but we know what has to be done in a small way because there is nobody else doing it. We are getting in there and doing it ourselves. At our center we assist our clients in the areas of vocational information and career planning, job hunting advice, interview preparation, resume writing, job leads, career path information, and very supportive services.

MR. GLICK. Thank you. Mr. Chairman, I have no further questions at this time.

CHAIRMAN FLEMMING. I think I ought to explain to those in attendance at the public hearing that it is going to be necessary for us to adjourn this hearing at 5:30 because of commitments that members of the Commission have in other parts of the country, so the questioning will be governed by the fact that we have just 1 hour, but, Commissioner Horn, do you have a question?

COMMISSIONER HORN. Yes.

Ms. Ladky, you mentioned that you had called and posed as various corporate personnel people to just determine what the practices are from these private employment agencies. One thing that interests me, and we have tried to elicit it in executive and public session from various individuals who represent private personnel agencies, is the degree to which corporations and companies that place the job order put on discriminatory labels, and the thrust of your testimony is that in the last 2 years people have become a little more subtle about how they go about this. While they might say, "We want female only, male

only," whatever, depending upon the job, they probably don't mark it down on the job orders anymore. But they perhaps do this—be they male or female counselors—in terms of the private employment offices, which we face the situation where companies are really passing on discriminatory requests and practices to the private employment agencies, and you are saying that, really, they are in cahoots with them as part of a system of discrimination against female applicants.

Now, I have heard earlier today that under Illinois law one must preserve the actual job order and cannot destroy it, and I wonder, has NOW ever pursued a program just as you said you did do on a limited basis where you did phone up the private employment agency, place a request which was clearly discriminatory, and then try to get the job order to see what was written down on the other end?

Ms. LADKY. Well, frankly, that is practically impossible, to get a look at any kinds of job files or job order files in an agency. Now, I think that unquestionably some extensive, additional investigation could be done. Frankly, extensive statistical studies and investigative reporting is not within the realm of possibility for an organization like NOW.

I think one correction that needs to be made though, Mr. Horn, about what you said, is that employment agencies are simply part of a chain of sex discrimination that is handed down through corporations. In fact, that's true and on that basis alone, they are guilty of breaking the law. Additionally, there are clearcut economic reasons why this is also in the employment agencies' interest to increase the effects of sex discrimination, not just be a link in a chain.

They are not helpless groups being used by corporations who don't want to mess with women in higher-paying jobs. They also have a reason for channeling women into jobs that create a high volume situation within the agency.

COMMISSIONER HORN. Because that's how they make their money.

Ms. LADKY. That's right.

COMMISSIONER HORN. Sure. So there is a basic economic reason.

Counsel, I wonder, do we have somewhere or can we get—and I'm asking you now to get it if you don't have it—a description of the division of private employment agencies' requirements when they license these employment counselors and these agencies and to what type of onsite investigation they do, what type of affirmative action, investigatory procedures they follow, so you could do tests like this and find out just what those job orders are and how does one in Illinois, without having to go into a Federal court and get a show-cause order or something, get at the job orders? Are these public information? It's an agency licensed by the State of Illinois. Who has access to those job orders and under what conditions? In other words, I would like that laid out in a memorandum unless you know now.

MR. GLICK. Well, I don't have the answer to all of those questions, but we do have the rules and regulations and the statute relating to

the private employment agencies in Illinois and to the extent that we can extrapolate that information from these documents, we will.

COMMISSIONER HORN. Yes. I want you to through, follow up beyond the statute. I want you to question in writing, when you get back to Washington, the head of the division of private employment agencies to find out how their process works and are they taking any positive, aggressive steps to get at patterns and practices of discrimination by some type of compliance order.

MR. GLICK. We are taking a deposition from Mr. Riordan, the director of the State division of private employment agencies. We had scheduled him to testify, but in the absence, lack of time, we will not.

COMMISSIONER HORN. Well, please answer those questions.

CHAIRMAN FLEMMING. Commissioner Freeman.

COMMISSIONER FREEMAN. Mr. Chairman, I have examined the report that was submitted for examination based upon, of the study of the pattern and practices of employment agencies in New York, and I believe that such a report would be helpful to the record with respect to pattern and practice, and I believe on the Commission's own motion it should be received as an exhibit.

CHAIRMAN FLEMMING. Without objection, that will be done. You can give him the number. Exhibit 105.

I would like to ask a question of all three witnesses. You have been following this issue now for X period of time. It varies from witness to witness. Have you identified any methods for correcting the situation that you feel are reasonably effective or have proven to be reasonably effective? In other words, do you sense any change in the picture, let's say, over a year or two? I am not specifying the time.

MS. LADKY. Well, from NOW's point of view, I think there are a number of specific things that we have pressured for and will continue to pressure for in the area of cleaning up practices of private employment agencies. I know Casey Kelly's investigation indicated some specific things about specific abuses within the agencies.

CHAIRMAN FLEMMING. Right.

MS. LADKY. And I'm sure Susan Schwerin's counseling is another aspect, so I will just stick with what NOW uncovered and feels very strongly about. The first is that there are significant enforcement powers within the statute, the acts, and rules for the State of Illinois for private employment agencies in the area of revoking licenses of private employment agencies.

At the time that NOW began its investigation of a year ago August, that sanction had never been imposed, never, and yet there have been investigations done not only by NOW but by the Better Government Association and all kinds of people in the city of Chicago indicating that there are constant and grave abuses going on. The sanctions have never been imposed by the Illinois Department of Private Employment Agencies nor have there been significant numbers of suspensions.

We know from speaking to people who have worked as counselors in agencies that those investigations that are done, those onsite reviews, are a farce. Nothing is happening, so we firmly believe that enforcement of that act is essential.

As you probably know, Mr. Riordan, who is currently the superintendent of private employment agencies, has just recently taken that post over from a man who was removed by the Governor for various alleged offenses, and he is currently fighting his removal. But during his tenure there never was any enforcement along the lines of suspensions or revocations, so we are saying—we are hoping, we are hopeful, we have had very fine cooperation from Mr. Riordan, and we are very hopeful that this will change, but the paramount thing is enforcement of that act at this time we think.

CHAIRMAN FLEMMING. But do you feel now that there may be at least a glimmer of light at the end of the tunnel in terms of the enforcement of the existing law?

MS. LADKY. It's possible. Mr. Riordan has only been in the office a very short time.

CHAIRMAN FLEMMING. Sure. I agree.

MS. LADKY. The specific guidelines for licensing counselors must be improved though, besides that act, and also we feel that legislation ought to be passed in the State of Illinois to end confession of judgment notes being attached to contracts by private employment agencies because this is an area of significant abuse.

CHAIRMAN FLEMMING. Commissioner Freeman, did you want to make a comment?

COMMISSIONER FREEMAN. Mr. Chairman, I have examined the article, "Games Agencies Play" by Casey Kelly in the magazine *Chicago Guide* which was submitted to the Commission, and I believe it is of significant value and should be received as an exhibit.

CHAIRMAN FLEMMING. I think it already was.

COMMISSIONER FREEMAN. No.

MR. BUGGS. It was received for examination.

CHAIRMAN FLEMMING. Okay. Without objection, it will be received as an exhibit and now you may want to—

MS. KELLY. To respond to your question, one of the responses that the *Guide* published was from a person from Northwestern who had gained his master's degree using a study of employment agencies 20 years ago, and he wrote a letter in response to say he was amazed to see that in 20 years no real change had occurred. And I think that one of the problems I have in coming up with a creative solution is that agencies really are male or female agencies.

No matter what you say, it works out that way, that an agency will have the higher-paying jobs and it will end up being a male agency, and women are not treated the same when they go there. They are shunted off, or a man that walks into a female agency will get significantly different treatment. I mean they won't go through the job orders

and look for a clerical job for him, but I mean as long as that persists that agencies are allowed to be male or female agencies, and frankly I don't have a creative solution. It's a crying shame.

CHAIRMAN FLEMMING. Well, would you agree with the earlier suggestion that we could make some progress through vigorous enforcement of the laws that are now on the books?

MS. KELLY. Yes, I think so, but also the problem will persist, too, as long as—

CHAIRMAN FLEMMING. I recognize it.

MS. KELLY. —the limited job categories are seated in certain agencies which have an economic interest in keeping women in those jobs that will happen.

CHAIRMAN FLEMMING. Thank you.

MS. KELLY. Thank you.

CHAIRMAN FLEMMING. Ms. Schwerin.

MS. SCHWERIN. Yes. I would like to say that most of our clients are actively seeking jobs, and we would like very much to be able to refer those clients to employment agencies. We can't. There isn't one agency in the city of Chicago, other than temporary agencies and agencies that want to recruit clerical women for low-paying, deadend clerical jobs, that are even interested in seeing women as applicants. There isn't one agency that we feel that is sincere about interviewing and placing women who have career ambitions whether it be in clerical, nontraditional, business, whatever.

CHAIRMAN FLEMMING. Thank you very much, and may I express on behalf of the Commission our appreciation to the three witnesses for sharing with us what is obviously a real indepth understanding of the kind of situation that confronts you in the Chicago area at the present time. Thank you very, very much.

MS. KELLY. Mr. Chairman, could I mention one thing?

CHAIRMAN FLEMMING. Yes, surely.

MS. KELLY. I wanted to mention that I received a threatening phone call shortly after the first notices of this hearing went out, and I just don't think that could have come out of another kind of industry. Someone who said they were going to get me and my children and I wouldn't know when on the basis of what's happened—on the basis of the investigation that has been done and in a sense it's kind of sad that there isn't one person I could pin it on. I mean I ran into enough shady characters that it could have been any of several, but I did want to mention that a threat was gotten, possibly on account of the notices being delivered. I'm not certain.

CHAIRMAN FLEMMING. Well, I just would like to say that the Commission has a legal obligation and it has methods that it can follow to protect witnesses at any of its hearings. I haven't gotten the—have you got the exact language there? I think we might, we have read it in a number of times, but I think we better read it in again. And I would certainly urge you to share with our General Counsel any information

that you can that would enable him to pursue it. Commissioner Freeman has that language.

COMMISSIONER FREEMAN. Witnesses at Commission hearings are protected by the provisions of Title 18, U.S. Code, section 1505, which make it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize that we consider this a very serious matter and will do all in our power to protect witnesses who appear at the hearing.

I would suggest to Ms. Kelly that she make a statement outside of this meeting to the General Counsel and the General Counsel will take appropriate action.

MR. GLICK. Mr. Chairman—

CHAIRMAN FLEMMING. We will not only pursue it, but I can assure you that, if the information is of such a character that we can enlist the assistance of other branches or other agencies in the Federal Government, we will certainly enlist their efforts. We have the authority to do that and we will pursue it.

MR. GLICK. Could I just state for the record, Mr. Chairman and Mrs. Freeman, that when Ms. Kelly advised our staff that this event had occurred—I think it was about 2 or 3 weeks ago—we immediately notified the Federal Bureau of Investigation office in Chicago and communicated the report to the Bureau headquarters in Washington, and subsequently we also notified the police department of the city of Chicago.

MS. LADKY. Mr. Chairman, I think on this issue NOW would really like to make a statement. I am sure you are aware that we have spent hours and hours, our members and our staff and our organization have spent hours and hours assisting the Commission, and we are happy to do this. But I think it's important to state, and NOW firmly believes that a major role can be played by the Commission in preventing this sort of thing, if more time is given to public sessions regarding these kinds of problems and that the only way our witnesses can truly be protected is not by police action after a threat occurs but by publicizing these abuses and making sure that the public understands and having this kind of testimony heard in public, and we are very disappointed that so little time was given to public session. I know that there are many, many reasons for it, but I would like to express our disappointment as an organization and say that we don't feel that our witnesses can be protected adequately without adequate publicity given to these problems. So I hope in the future when these problems are investigated more time will be given to public session. Thank you.

CHAIRMAN FLEMMING. Thank you.

MS. SCHWERIN. Mr. Chairman.

CHAIRMAN FLEMMING. Yes.

Ms. SCHWERIN. I would like to ask if materials from the Women's Bureau on employment for women and career counseling have ever been submitted for review?

CHAIRMAN FLEMMING. Yes.

Ms. SCHWERIN. Fine. Then I will take my file back to the office.

CHAIRMAN FLEMMING. Thank you very much.

All right, Counsel, will you call the next witnesses?

MR. GLICK. Mr. Chairman, the next witnesses are Ms. Irene Hallett-Weller, Ms. Sallie Noble, Ms. Libby Tessner, and Mr. Robert Heineman.

Mr. Chairman, I am told that Mr. Heineman is not presently in the building, but he is on his way and will be here in a few minutes and we will question him when he does get here. Will you please remain standing to be sworn into the record.

[Ms. Irene Hallett-Weller, Ms. Sallie Noble, and Ms. Elizabeth Tessner were sworn.]

**TESTIMONY OF IRENE HALLETT-WELLER, STUDENT; SALLIE NOBLE, ASSISTANT PERSONNEL MANAGER; AND ELIZABETH TESSNER, BOOKKEEPER, CHICAGO, ILL.**

MR. GLICK. For the record of the public hearing, will you please each state your name, your address, and your occupation?

Ms. TESSNER. Elizabeth J. Tessner, 535 West Aldine, Chicago, and I am a self-employed bookkeeper.

Ms. HALLETT-WELLER. Irene Hallett-Weller, 3157 North Hudson, and I am a student.

Ms. NOBLE. Sallie Noble, 925 West Cornelia. I am assistant personnel manager in a manufacturing firm.

MR. GLICK. Ms. Tessner, have you participated in the survey conducted by NOW that was referred to in earlier testimony by Ms. Lady?

Ms. TESSNER. No, I did not participate in earlier surveys. I filed a complaint, one of the complaints mentioned that were filed earlier this year through the National Organization for Women; and, subsequent to my participating in the hearing that Ms. Lady referred to, I became involved with gathering data and talking to a number of people through the National Organization for Women.

MR. GLICK. There is one point that I made with the last witnesses that I think I ought to make at this point also and that is we would expect that none of the present witnesses will mention any employment agencies by name. That is the ground rule under which we are now working, and I think that the testimony you will give will be equally useful even if no agencies are named. So please try to avoid that and if you should I should have to ask that it be stricken from the record, and I would not want to do that.

Would you continue, Ms. Tessner. I'm sorry. Fine.

Then let me ask Ms. Weller, you were, as part of your efforts as a student I understand it, involved in a survey of employment agencies in the Chicago area with respect to sex discriminatory practices. Can you describe that for us?

MS. HALLETT-WELLER. Well, it was a test done by 15 students at Northeastern Illinois University, and what we did is we found the common ground, that of being majors in sociology, that we would soon graduate from the university, and we went into the agencies to find out to three agencies to find out how they would accept this information and what kind of job opportunities were offered.

Basically what we found out is that all the women that participated in this test no matter—it mattered little if they were graduating from a university, that they were all asked to type. Some of them were asked about their marital status. Some were asked about what they would do with their children. Occasionally, they were either asked or told that it was a presumption made that they would not travel if any—if that were entailed in the job, and it just seems as though there was very much—few chances given to women by these agencies.

MR. GLICK. How many people were involved in this survey?

MS. HALLETT-WELLER. Fifteen.

MR. GLICK. Fifteen.

MS. HALLETT-WELLER. Yes.

MR. GLICK. And these were all women or were some men?

MS. HALLETT-WELLER. No, there were 12 women and 3 men.

MR. GLICK. Did the men receive treatment different from that afforded the women?

MS. HALLETT-WELLER. Well, the one man—one of the men got in to see a counselor in one of the agencies. The other two men were stopped at the window of the agencies.

We—it was done in a very short time period and we were afraid that by the time the men got to the agencies they recognized Northeastern Illinois University and the agencies just clammed up, but the man that did get in to see a counselor was given a job. He was not—he was offered a job. He was not asked to type. They didn't ask about his marital status beyond that he was married.

MR. GLICK. Did he allege that he had the same qualifications?

MS. HALLETT-WELLER. Yes. Everyone had the same qualifications, but he was given, he was offered a position that none of the women were offered.

MR. GLICK. Had some women been to the same agency?

MS. HALLETT-WELLER. Yes, we all went to three agencies.

MR. GLICK. And were there any other results of the survey that you want to tell us about?

MS. HALLETT-WELLER. Well, I personally, I feel that from the information that was gathered the practices were very sad no matter if you were a man or a woman, but there seemed to be more emphasis or particulars that were asked women that were not asked men.

MR. GLICK. Particulars of a personal nature you mean?



MS. HALLETT-WELLER. Yes, yes. You know, how many children do you have. They would ask you if you were married, and someone asked if, why this information was relevant to finding a job. It was informed that, well, they had to know if you were a newlywed.

Well, what did that matter? Well, if you were a newlywed that would mean that you are going to get pregnant soon and that you would, therefore, be leaving the job. Or they had to know what your husband did if you were married because if your husband was a data processor that would give the industry information on how much he was making and they would know when you are going to leave, then, because his promotion possibilities would be thus and such, and you would, therefore, be leaving the work world in X, Y, or Z years.

MR. GLICK. I would like to return for just a minute to Ms. Tessner to a question I should have asked that slipped, and that was, what was the nature of some of the complaints that you received from other women when you were working with NOW?

MS. TESSNER. Well, I got several complaints that were referred to me by the Women's Bureau of the Labor Department and was also receiving calls from people due to publication in the NOW bulletin. I probably should have mentioned that, that that was the main source of these calls as well as NOW members and people who attended NOW meetings.

We ran into a lot of the same kinds of things. I talked to a woman who had 4 years' experience as a secretary, felt she was ready to move up, but she had just had a baby and the baby was 4 months old. She wanted to go back to work. An agency told her that she would be lucky to get anything and quoted her a salary range of \$500 a month, which is very, very low for 4 years' experience.

I talked to a married couple. The wife had been to Vassar, the husband to Yale. Both had graduated in journalism, with a degree in journalism. Both had the same number of years of experience on the same newspaper, and the agency forced the wife to take a test before they would even speak to her and did not even mention taking a typing test to the man.

I spoke to a woman who had been to one employment agency where she was interviewed practically all day by five different men, and one of the men said to her, "I can't understand about these married men who live in the suburbs. As soon as a pretty girl comes into the office they all want to talk to her," and she looked at him and she said, "Well, of course, you are different," and she went to another.

She went on an interview from an agency to an insurance agency, whereupon the interviewer advised her that she should get married so she could afford to work for less because she didn't want to work for less than she was working for already. She wanted to work for more.

She went to another employment agency, the same woman, and she was told that before they would really talk to her about the job possibilities that she would have to sign a contract, and, when she asked

why she would have to sign a contract before they would talk to her, she was told that it was a State law that she would have to sign a contract, that the State required this of her, which was out-and-out falsehood, and two other male counselors sat by and said absolutely nothing.

I spoke to another woman and her husband, recently married. The woman has a master's degree in economics as does the husband. They both graduated from the same college this August. The husband applied through several employment agencies, was never asked if he knew how to type. The woman applied to two employment agencies in Chicago. One did not even mention the fact that she had her degree listed on her application, did not do anything but to ask her what her clerical skills were. If they were too, you know, if they were too low, they had to know so she could come into the office and practice, and then, after she had taken a typing test and all of these other tests, then possibly they could talk to her about what sort of jobs were available.

The second employment agency she went to she went to for a period of 3 weeks. She was told there was nothing available in her field of economics. And they suggested that she come in and practice typing again, and they said that they were offering a typing course on tapedeck that was worth \$300 to her and they would give it to her for nothing if she would come in and practice.

They told her this over a period of 3 weeks. Meanwhile she kept asking, "Has anything come available in my field?" They told her no. There was nothing in her field, and they knew the job market as well as anybody else, that they had as many jobs listings available as anybody else in Chicago.

She decided not to use the agency anymore and in 2 days got a job on her own through the newspaper in her field with no typing.

And we had another young woman that we talked to who went on a job interview through an employment agency. The agency counselor had worked at the company where she was presently working and proceeded to badmouth the company she was working for, sent her on an interview where the man asked her what her sexual preferences were. He asked her for a ride home. He told her about his open marriage. He discussed his affair with her.

MR. GLICK. Well, this was the prospective employer, not the employment agency?

MS. TESSNER. This was the employer, yes. It went on like that. It was an afterhours interview for her convenience, since she was holding down a job.

When the agency called the next day, she reported to them what had happened and said that she didn't want to take the job on that basis. The man had frightened her, that she wouldn't work for such a man. They called her back continually over the period of at least a week, possibly more, saying that the man really wanted to hire her and that was just his way of interviewing people and that if she really

got to know him on the job that he would be much—you know, that wasn't the way he acted on the job.

COMMISSIONER HORN. Sort of a moral litmus test there.

MS. TESSNER. Yes, I guess so. Apparently he just wanted to see if she was bad and so he would know whether or not to hire her. But the agency finally ended up by telling her that she was apparently naive and very smallminded to judge the man solely on this basis.

MR. GLICK. Thank you.

MS. TESSNER. Do you need more?

MR. GLICK. We may get back to some more, but I would like the record to show that Mr. Robert Heineman has joined us to give some testimony, so Mr. Heineman, will you stand please to be sworn.

[Mr. Robert Heineman was sworn.]

#### TESTIMONY OF ROBERT HEINEMAN, SALESPERSON, CHICAGO, ILL.

MR. GLICK. For the record, will you identify yourself by your name, your address, and your occupation, Mr. Heineman?

MR. HEINEMAN. Robert J. Heineman, 548 West Fullerton. I am salesperson for a printing firm.

MR. GLICK. Were you involved in the survey that was conducted by NOW of employment agencies and, if you were, will you tell us about your experiences?

MR. HEINEMAN. I was involved in the survey that was taken over a year ago. We did go to several agencies at that time, and I assume that you have gotten some testimony of that similar to the test that Ms. Weller conducted. We did have similar qualifications going in and did receive different information once we got there.

One of the things I have found in going in as a man testing out the agency is that I am told, in confidence of course, a great more than many of the women have been told.

At that time a year ago I asked if the job that I was applying for was really at the salary that was noted in the paper and the counselor said, "Oh, yes, it definitely is."

I said, "Well, I had heard that they didn't always do that."

He said, "No, we don't do that for the secretary and clerical jobs."

My most recent experience was several days ago when I went in and told them and went in with qualifications of a master's degree making \$11,000 a year, wanting to make more money. They asked me if I were married. I asked them the reasons why that it was necessary to tell them. They said that they just had to know. I told them. They asked me if I had children. And I asked them again the reasons for that. They said they just had to know, so I told them, yes, that I had three children.

Later in the interview—that was all the further they asked—later in the interview I asked, I said that I had heard that I would have some problems getting placed because my wife was making a great deal

more money than I was, that she was making \$18,000 a year, and that another agency had told me that, if there were child-care problems with our young children, that they were afraid I might quit and take care of the children because it would be economically silly for my wife to quit.

He agreed, yes, that would be economically silly and he said, "But would you quit? And I said, "Of course not," And he said, "Oh, I didn't think so," and he said, "What would you do?" and I said, "Well, we would get another child-care facility."

That's exactly what I would expect a woman to say in that same situation.

So I asked him, "Well, you know, in order to understand this other agency, what would you do if the situation were reversed and it were my wife coming in making \$11,000 or \$12,000 with her husband making \$18,000 and three children under school age. He said, "Now that would be a different problem." He said, "That would be very difficult to place her," and I said, "But would you try to place her?" and he said, "Oh, of course, I would. All she has to do is stay 6 weeks for me to get my cut." But he said, "Frankly, I used to work in personnel for a company and I would never hire her."

So I questioned how hard he would sell that particular person.

MR. GLICK. Thank you, Mr. Heineman.

I would like now to turn and talk to Ms. Noble for a few minutes. Ms. Noble, I understand that you have been employed as a counselor in several employment agencies in the city of Chicago. Can you describe your experiences—of course, without naming the agencies—and some of the practices that you are familiar with that are followed by the agencies where you worked?

MS. NOBLE. Yes. I was an employee of two different Chicago private employment agencies. One thing I would like to mention is, when I first became a counselor, I had absolutely no experience. I had never worked in an office. In fact, my job previous to being a counselor was being—pardon me—a chauffeur for the same agency and before that I was a cab driver.

However, I was trained as a counselor by reading a training manual, which referred to such things as are commonly known as bait and switch, as the euphemism in this agency was "redirecting" or "deglamorizing" or when, in fact, that jobs that were described in the advertising that the agency was putting into the paper were very glamorous. When an applicant came in, primarily women came in, jobs described in the paper were suggestive of clerical-type jobs although they were very much prettied up.

It would be something like a receptionist to a lawyer, travel through the courtroom, work for a psychiatrist, receptionist to a baby doctor. All you need to do is love children at \$675 a month, things like that, so people would come in and primarily they would be women.

Well, the first job of a counselor is to switch them off, get them off the idea that they are going to be a psychologist's receptionist and turn them on to the idea of being a regular clerical worker at a regular clerical salary. It can be done in any kind of different, many different ways.

I would say a general description is to find out what the applicant doesn't have and to tell her that that is the very thing that she must have in order to get the glamorous job and in the meantime I have so many other fine jobs for you.

The college graduate, in particular, was a little bit difficult because they had—they are a little bit less naive, I think, about the working world; but, in that case, the general idea was to tell her that the jobs didn't exist. You know, decry what a terrible market it was this June for college graduates and that a typing course would really help her immensely in her search for a career.

You might sell her on the job on the basis that, once she was there, because she was so intelligent, of course, she could make her own way, and this was a company that was well known for promoting people. Whether or not that was true, it didn't make any difference. The point was for the counselors to sell the applicants on the jobs to get them into the jobs so the counselors could receive the remuneration.

If a—and I can testify to the fact, I know Lady mentioned and also Casey Kelly—that if a company gives out a discriminatory job order that it may not be written down on the job order itself, but it is—I can testify to the fact that information, discriminatory information is passed by word of mouth or by little codes.

In one employment agency I worked at, there was a system of letters, four letters written, to be written down on the job order if the person had specified they did want a member of a minority group and—excuse me—the way that it was settled on the, it was put down on the job order that a person didn't want a member of a minority group, it was just put "no" in front of the first four letters, you know. It would mean nothing if an applicant happened to see it to the applicant, but it was perfectly significant to the counselors.

MR. GLICK. Miss Noble, I think we ought to establish during what period of time you worked as an employment counselor.

MS. NOBLE. I worked as an employment counselor from July of '73 to December of '73 at one agency and January of '74 till the middle of June '74 at another.

MR. GLICK. So in a period of almost a year between the two agencies?

MS. NOBLE. Yes, yes.

COMMISSIONER HORN. Excuse me, but I didn't understand the coding system. Something lost me there when you asked the question and then put the no in front. Could you go over that again please?

MS. NOBLE. Oh yes. If a company wanted, specifically mentioned they did want a member of a minority group, they were—

COMMISSIONER HORN. Presumably trying to meet an affirmative action requirement.

Ms. NOBLE. Right, right.

COMMISSIONER HORN. Okay.

Ms. NOBLE. Right. In fact those were the letters AAP, affirmative action program, and you put AAP if the person did want a member of a minority group. Well, if they didn't you could put "no AAP."

COMMISSIONER HORN. Well now, Counsel, I assume the Illinois law would say you couldn't put either, that you cannot use a racial or sexual designation and discriminate either way under the 14th amendment?

MR. GLICK. Well, I think that is correct, Mr. Vice Chairman, but I'm not really sure whether AAP, whether affirmative action program which is probably required by law at least in a Government contract, would in itself be an illegal designation, but I will certainly take a look at the Illinois code to see whether—

COMMISSIONER HORN. I think you ought to. I think it is illegal to specify either that you want minorities or you don't want minorities as far as 1964 Civil Rights Act is concerned, just like I think it's illegal to specify whether you want women or don't want women. In other words, what the Constitution is saying is take these extraneous factors like sex and race out of consideration.

Ms. NOBLE. Well, in my experience as a counselor, you know, the companies would specify things. They could specify they didn't want to have people over certain poundage, you know, for insurance purposes or over a certain age or of a certain race, whatever. But, in my experience as a counselor, the counselors themselves would take over the job of guarding these accounts, you know. Each counselor is responsible for a certain number of accounts which bring into that particular counselor his or her own money, and, therefore, they become the guardians over who gets sent on interviews, and so, whether or not this particular company on a specific job order has mentioned what kind of person they want or hasn't, the counselor himself or herself will take it upon themselves.

COMMISSIONER HORN. Just on the economics of this, since you have had experience with two agencies of a year or more, what is the economics? Is there a base pay you are given plus so much a head placed or how does it work generally?

Ms. NOBLE. At both agencies where I worked I was on straight commission. When an applicant is placed, the employer pays a certain amount of money depending, the fee charge is dependent upon the amount of salary that the person is going to make. Ten percent of the yearly if it's over \$600 usually. If it's under that, it's 84 percent of the first month's salary.

It's broken down three ways as they get—once it's in the agency the agency owner gets 70 percent approximately. The counselor whose applicant it was, the counselor who interviewed the applicant gets 20

percent. The counselor who wrote the job order gets 10 percent. If the counselor has both interviewed and written the job order, that counselor gets 30, but there's—more agencies—well, I don't know about most, but neither the agencies that I worked at gave draws [drawing account—advance on future commissions].

MS. HALLETT-WELLER. Could I possibly add to that that two of the people that were sent out in this study were also offered—well, three of the people were offered jobs as counselors and it worked the same way. It was just a base percent, so they weren't the same agencies she worked at.

MR. GLICK. Mr. Chairman, I have no further questions.

CHAIRMAN FLEMMING. Commissioner Freeman.

COMMISSIONER FREEMAN. I am—I would like to pursue the point with respect to the role of the counselor. The employer makes, pays the fee.

MS. NOBLE. Yes.

COMMISSIONER FREEMAN. The counselor gets, the commission is based upon the money received from the employer and this, well, this income is income to the agency and to the counselor, so, therefore, the two persons, if there is an illegal or a sex discriminatory order, they are—it is an economic benefit to both the counselor and to the employment agency. Therefore, if any question directed to a counselor who is involved in this kind of transaction would probably not get affirmative answer, is that correct?

MS. NOBLE. I'm sorry. I didn't understand your question.

COMMISSIONER FREEMAN. In other words, a counselor would probably not admit that this, that the practice of referring or accepting orders that were in violation of the law and, if that counselor in fact did them, did it and if that counselor in fact steered and this practice is in violation of Title VII, then because the counselor is involved, that counselor would not probably admit to it. This is what I—

MS. NOBLE. Right. It is kept at the level of word of mouth, ordinarily, general understanding. Well, you know that XYZ company won't take black people. Well, you know that blah, blah, blah company doesn't want to see any fat people. You know, something like that.

COMMISSIONER FREEMAN. So that the discrimination—there are people who profit by the discrimination?

MS. NOBLE. Oh, yes, yes.

COMMISSIONER FREEMAN. And because they profit by the discrimination, they will probably tend not to do anything about correcting it?

MS. NOBLE. Right. In effect, the employer who is giving you the job orders is your boss. He is paying you and what he wants, he won't pay you for what he doesn't want. You may send him a black applicant, a woman applicant, something, somebody that he doesn't want, but he is not going to pay the fee for it, so it's a waste of his time and yours. In order to keep the account, you have to please the account.

COMMISSIONER FREEMAN. Well, I would like to ask a question, direct a question to either of the four of you. This is a situation which is apparently very pernicious. What do you see that needs to happen? Should there be new laws or new rules? What is it that we need to remedy the present practices? Briefly, please.

MS. NOBLE. Okay. One thing that I wanted to point out when Casey mentioned there are male agencies and female agencies, one of the—well, the main difference is that in a male agency, the applicant pays his own fee. Therefore, it is to the counselor's benefit to get that person, to find that person the highest-paying and best job because out of that will come the highest fee.

COMMISSIONER HORN. What do you mean in a male agency?

MS. NOBLE. In a male agency that is placing applicants at management level.

COMMISSIONER HORN. Okay. You said earlier or witnesses did that, generally, the higher-paying positions such as professional manager or supervisor would attract the males and you would pretty much become a "male" agency?

MS. NOBLE. Yes.

COMMISSIONER HORN. Now you are just saying the pattern in industry is that those types of jobs, the individual pays the placement fee?

MS. NOBLE. Right.

COMMISSIONER HORN. But, for the lesser jobs, in terms of economic regards, it's the company that pays the fee?

MS. NOBLE. Yes.

COMMISSIONER HORN. And presumably this is partly based on demand in the sense that the companies are desperately looking for lower-paid labor in the very hard-working clerical areas, whereas they probably have 300 applicants for every managerial position?

MS. NOBLE. Right.

COMMISSIONER HORN. So that is the basis of that distinction?

MS. NOBLE. Yes. Supply and demand.

CHAIRMAN FLEMMING. I will ask everybody to be governed by the fact that we have about 5 minutes because I do need to make a statement for the record just before we close the hearing and I need about 5 minutes for that purpose, but you just be governed accordingly. We want just as much from you as we can.

MS. HALLETT-WELLER. Well, if we have 5 minutes then we need it.

CHAIRMAN FLEMMING. Go right ahead.

MS. HALLETT-WELLER. Well, about that male agency there—in our test in the telephone book, in the white pages, one of the companies that we tested is listed man, agency. The other ones are not listed. They are listed as agencies in this particular company.

When two or three of our people, two men, three women, went to the agency, to the men agency, everybody was given an application. The men's applications were accepted. The women's applications were—the women who were applying were told to go to the other part



of the business. When asked why, what did the—"What kind of jobs did you have here?" They said, "Well, we place mainly management."

"Fine, that's just what I'm looking for."

"Well, I'm sorry, we can't help you. You have to go the other one."  
So there is some kind of difference.

COMMISSIONER HORN. Wouldn't this be illegal for the telephone company to place ads on that basis? They are a national corporation operating in interstate commerce.

MS. HALLETT-WELLER. Well, this was—the particular agency I'm talking about is a large national corporation. It would seem to me that they should be under more than State regulations, but it seems to me the telephone book shouldn't be putting them in that way. I can't explain that to you. It's beyond me. I think maybe you can look at it.

CHAIRMAN FLEMMING. Mr. Heineman.

MR. HEINEMAN. Excuse me. Yes, if we could answer Commissioner Freeman's question, I think two things that spring readily to mind are that the regulations that we have in Illinois are State regulations. They—Illinois is far ahead of other States which don't have any regulations. Perhaps we need Federal regulations on employment agencies; and, secondly, I think we found over the year and a half that we have been working on employment agencies that the enforcement of the State regulatory body is really no better than a slap on the hand and that I think we need new teeth. We need more suspension and more closing down of agencies which have been documented time and again and they suspend them for a month perhaps, one counselor. It's an industry-wide problem though.

CHAIRMAN FLEMMING. Miss Tessner, do you have any further comment?

MS. TESSNER. Well, I would just like to briefly comment that I think one of the biggest problems is is that the employment agencies have no responsibility in any way to the applicant. There is nothing that an applicant is given that guarantees them anything from the agency, and I think that is an important point to be addressed.

CHAIRMAN FLEMMING. Thank you. Do you have anything?

COMMISSIONER HORN. Yes. I have one point just based on a testimony I have listened to. I'm interested in the point that's—two points have been made that I think might be in conflict. One is that there is an economic interest of the agencies to place individuals, primarily the clerical, in turnover positions because then they can refer other people to them. They get their commissions that way. It's in the self-interest of employment counselors. The other aspect is just a sub-point that's been made is that frequently when a woman is interviewed by an agency as well as a firm the questions come up as to does she have children, will she become pregnant, etc., etc.

Now, in a way these seem in conflict to me. In a way it's in the self-interest of the private employment agency counselor to place pregnant women who might leave the job. Presumably they will get a higher turnover, and I wonder how do you explain that conflict?

**MS. HALLETT-WELLER.** I was asked a lot of those questions and it was explained that when they call the agency if I was—I would not give information on it if I were married. I said I was not a newlywed, but they had to know more. They had to know how many years. I didn't see why. I said I wasn't going to have children. They explained that it was necessary to know this information because when they called the company, if they didn't have this information, the company would say, "Well, when you fulfilled your part of the bargain, call me back, when you know."

**COMMISSIONER HORN.** Okay. So what we are saying is that much of the root of this discrimination starts in the company requirements in which the collusion of the private employment agency is obvious because it's in their economic self-interest; as you said, I think quite well, to keep the account you need to please the account.

**CHAIRMAN FLEMMING.** I will take one more comment. Go ahead.

**MS. NOBLE.** If I could address myself very briefly. It's in the agency's benefit to—it's in the agency's interest to place a woman in a high turnover job, but it's not in the agency's interest to make it appear it's its own fault that the woman is leaving, you know, so—

**CHAIRMAN FLEMMING.** Thank you very much.

I want to express to the members of this panel, as well as to all other witnesses who have appeared here and to organizations that have been a tremendous help to the staff, the deep appreciation of the Commission for the cooperation that we have received.

As you know our ultimate objective is to try to develop an understanding of these issues and to come up with findings and recommendations that we can make to the President and to the Congress which, if implemented, would help to resolve some of the issues.

In our opening—in my opening statement as Chairman, I said that the decision of the United States Supreme Court very early in the Commission's history identified, we think, very well our role. The court said:

This Commission does not adjudicate. It does not hold trials or determine anyone's civil or criminal liability. It does not issue orders. It does not make determinations depriving anyone of life, liberty or property. In short, the Commission does not and cannot take any affirmative action which will affect an individual's legal rights.

The emphasis is on the individual there.

"The only purpose of its existence is to find facts which may be substantively used as the basis for legal or executive action."

As some of you in the room know, we have taken testimony today in executive session from persons who were able to provide us with specific information relative to specific employment agencies. We have given those agencies the opportunity of presenting their side of the picture.

We—under our law, if we determine that evidence or testimony at any hearing—that is, a public hearing—may tend to defame, degrade or incriminate any person, we shall according to the law—it's not permissive—shall receive such evidence or testimony or summary of such evidence or testimony in executive session. Now this testimony that is presented to us in executive session is, of course, available to us as we try to identify the issues in any given area and as we try to come up with findings and recommendations which we hope the President and the Congress of the United States will accept. However, if in the development of our report and, if in the development of our findings and recommendations, we feel that it would serve the purposes of the Commission as identified by the Congress to make some of it public, the law tells us this, that in the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony prior to such public release or use shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others.

In other words, the Congress in assigning us the responsibilities it has in the civil rights area has also included provisions designed to protect civil liberties where they might be endangered.

I just wanted those of you who have been following these hearings, and I know some of you have been following them right from the beginning, to understand the action that we have been taking and the reasons for it and also to hope that you will have an understanding of the role of the Commission so that you can, in turn, interpret our role because we are very well acquainted with the fact that every now and then people say, why under the sun should the United States Civil Rights Commission be getting into these areas when we have got an equal employment opportunities commission or when we have got some other agency.

Well, as some of you know, one of our basic responsibilities is to monitor the work of civil rights agencies in the Federal Government. We have a responsibility for making reports as to the effectiveness of their work. This is one of the reasons why Commissioner Horn, Commissioner Freeman, and others have been probing relative to the effectiveness of one of the State agencies in this particular area.

We will be putting out an oversight report some months down the road which will evaluate the effectiveness of the Equal Employment Opportunity Commission as well as other agencies in the Federal Government.

This is why I have said a number of times today that our role is roughly comparable to that of a committee of the House of Representatives or a committee of the Senate. We are charged with the responsibility of making studies. We are charged with the—we are given the

right to hold hearings in order to develop evidence, and then we are charged with the responsibility of weighing the evidence that comes to us in the interest of agreeing on or deciding on findings and recommendations to make to the Congress. And then we also have the oversight responsibility that I have indicated, so we are really not getting in the way of any other civil rights agencies. It's up to us to keep in close touch with what they are doing or what they are not doing and, as I sometimes put it, to call the shots as we see them on the basis of the evidence that is developed by our staff and the evidence that is developed at public hearing.

Any further—Mr. Glick.

MR. GLICK. Yes. I just have one thing. I would like the record to show, Mr. Chairman, that two individuals were subpoenaed to appear, Mr. Riordan of the State division of private employment agencies and Miss Harri Burt, who represents a private association of Illinois employment agencies. Both were subpoenaed to appear, but, because of the time factor, they will not be able to make an appearance, but Commission staff will receive statements and depositions from them. I would like the record to show that subpoenas have been waived by the Commission.

CHAIRMAN FLEMMING. The depositions will then be made a part of the public record of this hearing.

MR. GLICK. Yes.

CHAIRMAN FLEMMING. And will be available to any interested or concerned parties.

Anything further?

COMMISSIONER HORN. Well, there, the subpoena is waived after they make the deposition.

CHAIRMAN FLEMMING. Yes, that is correct. They were—I mean they were here, weren't they?

MR. GLICK. Yes.

MS. BURT. We are still here.

CHAIRMAN FLEMMING. They are here now. Okay. So there is no question about their not being here, and we want to make the record clear on that and we appreciate their being here, appreciate your staying even though we had to indicate that time was going to run out on us as it did, but, personally, and I think my colleagues share this, we really look forward to studying the depositions which will be worked out with you by members of the—by the General Counsel or members of his staff, and as I say those depositions will be a matter of public record.

Yes?

MS. BURT. Mr. Flemming, may the record show also that a representative of the Illinois Employment Association, that we were disappointed that she did not have a chance to express.

CHAIRMAN FLEMMING. I think Mr. Glick included her in his—

MS. BURT. Yes, yes, he did.

CHAIRMAN FLEMMING. Okay. Thank you.

**Ms. BURT.** But I just wanted to show the disappointment and the importance we felt that our testimony had to the overall importance of your factfinding decision.

**CHAIRMAN FLEMMING.** Yes. Could we have your name?

**Ms. BURT.** Yes. My name is Harri, H-a-r-r-i, Burt, B-u-r-t, and I'm on the special ethics committee and a member of the board of the Illinois Employment Association.

**CHAIRMAN FLEMMING.** Thank You very much for your statement and again I want to assure you and your colleagues that we definitely want this—

**Ms. BURT.** Also our organization represents over half of the private employment agencies in the State of Illinois, which is quite a sizable amount, and I felt that our testimony was very pertinent.

**CHAIRMAN FLEMMING.** It certainly is and will be, and I can assure you that, as we make up our minds as to the kind of findings and recommendations we will make growing out of this hearing, we will weigh the kind of evidence that you will present very carefully. And again I just regret that we have run out of time, but we tried to keep it moving along, but we had some developments that we didn't expect as is often the case in a hearing of this kind. Okay?

The hearing then is adjourned. Thank you very much.

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