

A Decade of Policy Developments in Equal  
Opportunities in Employment and Housing

Phyllis A. Wallace

M.I.T. Working Paper #767-75

January 1975

This report was prepared for the conference on "A Decade Of Federal Anti-Poverty Policy: Achievements, Failures, and Lessons," sponsored by the Institute for Research on Poverty, The University of Wisconsin and The Johnson Foundation. I am particularly grateful to Professors Ray Marshall, Karl Taeuber, and Robert Haveman for comments on a preliminary draft of this paper.

## Table of Contents

I.	Introduction	1
II.	Employment	2
	A. Legislation on Equal Employment Opportunity	4
	B. Implementation of Laws Through Litigation	7
	C. Effectiveness of Equal Employment Opportunity Programs	13
	(1) Researchers Using Data From EEOC	14
	(2) Other Strategies	23
	D. Analysis of Research on Income Differentials	26
	E. Manpower Programs	28
III.	Housing	33
	A. Federally Assisted Housing for Low-Income Families	35
	B. Fair Housing Programs	37
	C. Experimental Housing Allowance Program	39
	D. Housing and Community Development Act of 1974	40
	E. Effectiveness of Housing Policies	40
IV.	Future Agenda	44

# A DECADE OF POLICY DEVELOPMENTS IN EQUAL OPPORTUNITIES IN EMPLOYMENT AND HOUSING

Phyllis A. Wallace

"In many of our larger cities, both North and South, the number of jobless Negro youth--often 20 percent or more--creates an atmosphere of frustration, resentment and unrest which does not bode well for the future---" John F. Kennedy, Civil Rights Message of June 19, 1963.

## I. Introduction

This chapter assesses equal opportunity policies in employment and housing that were pursued by the Federal government during the past decade. These programs were mainly concerned with expanding options for minority group individuals and were not the primary mechanisms for improving the status of the low income or poverty population. Although race and poverty frequently intersect to produce a disadvantaged population, low income and minority group status are not necessarily coincidental. Equal employment opportunity programs attempt to reduce barriers to full participation in the labor market of minority group workers, without regard to their income status. Likewise, equal opportunity programs to reduce racial discrimination in housing affect residential choices for blacks at all economic levels.

Special manpower programs to augment the human capital of disadvantaged workers and housing programs to assist low income families were available to many participants who were not from racial or ethnic minority groups. My examination of fair employment and housing policies treats minority and low income as two distinctive categories. Where there is some overlap, anti-poverty issues can be isolated for detailed analysis.

Section II and III review the policy developments and assess the effectiveness of employment and housing policies, respectively in assisting low income, primarily minority groups to enhance their position in the labor and housing markets. It might seem that employment is given disproportionate attention, but the discussions merely represent a decade of my involvement in employment discrimination issues. Indeed housing problems may prove far more intractable. Researchers are just beginning to document the critical interaction between residential segregation and employment, education, and delivery of other social services. In Section IV an agenda for future policy developments for the next decade is outlined.

## II. Employment

The operational definition of employment discrimination that has been incorporated into the body of case law on equal employment opportunity focuses on the differential results from the working of the labor market. This concept of institutional or systemic discrimination is compatible with recent attempts by economists to explain more precisely the essential characteristics of employment discrimination.

Arrow and Phelps in independent efforts have introduced the concept of statistical discrimination. The potential productivity of a person on a job is based on the preconsidered ideas of employers about the average characteristics of the group or groups to which the applicant belongs rather than upon the individual's characteristics. Skin color or gender is a cheap way of screening job applicants.<sup>1/</sup>

Phelps notes in his comment on the statistical theory of racial and sexual discrimination that:

"...the employer who seeks to maximize expected profit will discriminate against blacks or women if he believes them to be less qualified, reliable, long term, etc. on the average than whites and men, respectively, and if the cost of gaining information about the individual applicant is excessive...the a priori belief in the probable preferability of a white or a male over a black or female candidate who is not known to differ in other respects might stem from the employer's previous statistical experience with the two groups or it might stem from prevailing sociological beliefs that blacks and women grow up disadvantaged."

Marshall has carefully reviewed neoclassical, dual labor market, and radical theories of discrimination, and has formulated an alternative bargaining model.<sup>3/</sup> In this industrial relations model "each group of actors in the racial employment process develops mechanisms to improve their power position relative to the others. In this formulation wages merely constitute one aspect of the job."<sup>4/</sup>

The employment options of minority group workers may be enhanced by reducing constraints on both the supply and the demand side of the labor market. The probability of higher earned incomes for these workers, may occur either through efforts to increase their earning capacity (education, training, skill acquisition, etc.) or by altering an employer's perception of reality. Since the social science research literature is rich in studies of supply characteristics, more attention is devoted here to the attempts to alter employers' beliefs, personnel practices and policies, and the organizational and structural characteristics of firms. Both strategies of intervention are designed ultimately to bring minority and majority incomes into conformity.<sup>5/</sup>

A. Legislation On Equal Employment Opportunity

The interventions on the demand side have been conducted under an array of Federal programs loosely defined as equal employment opportunity laws and regulations. Title VII of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended, and the Fourteenth amendment of the Constitution are the key legislative components of the Federal equal employment opportunity.

The present equal employment opportunity programs have a long history. More than thirty years ago the first Federal Fair Employment Practice Committee was established by an executive order of the President (Executive Order 8802 signed on June 25, 1941). The order "to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin" applied to all defense contracts, to employment by the Federal government, and to vocational and training programs administered by Federal agencies.<sup>6/</sup> The policy of nondiscrimination by government contractors was continued throughout the post-war period until the passage of Title VII of the Civil Rights Act of 1964.

Since the draft of a civil rights bill had been sent to the Congress in June 1963 following a televised broadcast from the White House on the status of blacks in American society, both the executive and congressional intent was to reduce racial tensions in the larger society. Thus, Title VII was initially perceived as a law to improve black employment gains.<sup>7/</sup>

Title VII prohibited discrimination in employment because of race, color, religion, sex, or national origin. The initial provisions pertained

to the activities of employers, employment agencies, and labor organizations engaged in industry affecting commerce.<sup>8/</sup> Unlawful employment practices include discrimination in hiring, discharge, promotion, transfer, training, compensation, and other terms and conditions or privileges of employment (sec. 703a). Employment agencies may not discriminate with regard to advertising or referral of applicants. Labor organizations may not discriminate with regard to membership, member classification, referral or apprenticeship. (sec. 703a). The 1972 amendment extended the coverage to employment in state and local governments and educational institutions and increased the scope of coverage to 15 or more employees. Additional protection was also provided to employees of the Federal government.<sup>9/</sup>

Executive Order 11246 signed in September 1965 prohibited discrimination in employment by government contractors and subcontractors and on federally assisted construction contracts. Stringent sanctions for non-compliance (cancellation, debarment from future contracts or referral to the Justice Department for injunctive relief) were specified but rarely implemented. It was not until 1971 that a contract was revoked for non-compliance. The executive order required employers to take affirmative action to insure that applicants were employed and that employees were treated during employment, without regard to their race, creed, color, national origin, sex.<sup>10/</sup>

The affirmative action concept proved to be elusive, and required more than five years to become operational. The affirmative action strategy of establishing timetables and goals in order to bring the characteristics of the internal labor market of the employer into conformity with the characteristics of the external labor force, was developed and applied first in the construction industry. That industry had been under considerable pressure

in many metropolitan areas during the 1960's (New York, St. Louis, Cleveland, San Francisco) to employ more blacks and to increase the number of minority youth in apprentice training programs. Hiring hall procedures, nepotism, and much resistance had excluded blacks from these occupations.

Regulations issued in May 1968 by the Office of Federal Contract Compliance (OFCC) required that contractors establish and update annually a written affirmative action plan. The contractor's program was to provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including when there were deficiencies, the development of specific goals and timetables for the prompt achievement of full and equal employment opportunity.

The burden was not completely shifted to the contractors to prove that they were in compliance with the OFCC guidelines until 1970 when Order No. 4 provided detailed instructions for developing written affirmative action plans for nonconstruction contractors. In his study on black employment in the South, Marshall concludes that the threat posed by the nondiscrimination provisions of government contracts has been a major factor in desegregating jobs in Southern plants.<sup>11/</sup>

Order No. 4 (as revised in December 1971 to include sex discrimination) specified in considerable detail the procedure for establishing timetables and goals for improving utilization of minority and women workers. A comprehensive inventory of all employees by race, sex and ethnicity would be developed by organizational level and pay grade. Information on the race, sex, ethnicity of job applicants, accepted or rejected, including reasons for rejections, data on promotions, training, opportunities, terminations, transfers, awards and other matters relating to employee work conditions had to be readily available for review by compliance officers.



B. Implementation of Laws Through Litigation

The agency established to administer Title VII, the Equal Employment Opportunity Commission, (EEOC), was not granted enforcement power of bringing civil action against employers and unions in Federal courts until the Act was amended in 1972. Prior to that time charges of discrimination were filed with the EEOC, investigated and if voluntary conciliation efforts failed, the aggrieved party could sue for relief in Federal courts. The Commission was restricted to participating in private civil actions as amicus curiae or recommending that the Attorney General institute civil action suits where broad patterns of discrimination could be established. Nevertheless, the EEOC was successful in having many of its interpretations that it had argued for as amicus curiae, adopted by the courts.

The power of the Federal courts to order meaningful and effective remedies for employment discrimination is spelled out in the statute (section 706(g))

"...the court may enjoin the respondent (employer, employment agency, or labor organization) from engaging in such unlawful employment practice and order such as affirmative action as may be appropriate; which may include, but is not limited to reinstatement or hiring of employees, with or without back pay...or any other equitable relief as the court deems appropriate."

The judicial system has been the major mechanism for translating the general language of the Act into effective techniques of alleviating employment discrimination. Although many of the early decisions were concerned with procedural details (class action suits, right of EEOC to intervene, time limits for filing charges), the courts eventually turned to the more complex substantive issues of the definition of discrimination, bona fide seniority and merit

systems, testing, and other personnel assessment practices, adverse impact, and appropriate reliefs. Here too the courts generally accepted the Commission's interpretation of Title VII.

The enactment of Title VII marked the beginning of a new interpretation of employment discrimination. In the landmark Griggs v. Duke Power case in March 1971 a unanimous Supreme Court spoke to the question of the discriminatory effects rather than the invidious intent of employment practices.

"The Act proscribes not only overt discrimination but also practices which are fair in form, but discriminatory in operation. ...Good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in-headwinds' for minority groups and are unrelated to measuring job capability...But Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation. More than that, Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question."12/

The Griggs decision is especially significant in terms of its impact on employment of low income and minority group workers who were perceived to have educational deficits. Justice Burger noted that history is filled with examples of men and women who rendered highly effective performance without the conventional badges of accomplishment in terms of certificates, diplomas, or degrees. The question to be resolved was whether an employer was prohibited by Title VII from requiring a high school education or passing of a standardized general intelligence test as a condition of employment in or transfer to jobs when (a) neither standard is shown to be significantly related to successful job performance (b) both requirements operate to disqualify Negroes at a substantially higher rate than white applicants, and (c) the jobs in question formerly had been filled only by white

employees as a part of a longstanding practice of giving preference to whites.

The issue of determining appropriate remedial action in those cases in which residual discrimination arose from prior employment practices is still controversial and very much a moral dilemma in 1975. In the first review by the Supreme Court of Title VII, the Griggs decision was forthright:

"The objective of Congress in the enactment of Title VII...was to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group of white employees over other employees. Under the Act, practices, procedures or tests neutral on their face and even neutral in terms of intent, cannot be maintained if they operate to "freeze" the status quo of prior discriminatory employment practices.

...What is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification."<sup>13/</sup>

Another important court decision (Contractors of Eastern Pennsylvania v. Schultz) upheld the legality of establishing goals in an affirmative action plan. In September 1969 the Attorney General of the United States had declared that nondiscrimination did not require "obliviousness or indifference to racial consequences of alternative courses of action which involve the application of outwardly neutral criteria."

The Federal District Court in Pennsylvania upheld the legality of the Philadelphia Plan.

"The heartbeat of affirmative action is the policy of developing programs which shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of minority groups, including when there are deficiencies, the development of specific goals and timetables for the prompt achieve-

ment of full and equal employment opportunity. The Philadelphia Plan is no more or less than a means for implementation of the affirmative action obligations of Executive Order 11246."<sup>14/</sup>

In October 1971, the Supreme Court refused to review the decision of the District Court, thereby allowing this decision to stand.

The lower Federal courts have ruled on seniority systems organized along racially segregated bases that have prevented blacks from advancing on merit to jobs open to white persons. In Quarles v. Philip Morris (1968),<sup>15/</sup> United States v. Local 189, United Papermakers and Paperworkers (1969),<sup>16/</sup> United States v. Bethlehem Steel Corp. (1971)<sup>17/</sup> the courts have ruled that segregated seniority and lines of progression systems established before Title VII have the discriminatory effect of perpetuating past discrimination and are unjustified by business necessity.

The decision of the Supreme Court on Alexander v. Gardner-Denver Co.<sup>18/</sup> and the ruling of lower courts on layoff procedures highlight the dilemma of how to reconcile the provisions of collective bargaining with affirmative action objectives. The Alexander v. Gardner-Denver case concerned the proper relationship between federal courts and the grievance-arbitration machinery of collective bargaining agreements in the resolution and enforcement of an individual's rights to equal employment opportunities under Title VII. Under what circumstances, if any, may an employee's statutory right to a trial de novo under Title VII, be foreclosed by prior submission of his claim to final arbitration under the non-discrimination clause of a collective-bargaining agreement? In February 1974 the Supreme Court ruled:

"...the federal policy favoring arbitration of labor disputes and the federal policy against discriminatory employment practices can best be accommodated by permitting an employee to pursue fully both his remedy

under the grievance-arbitration clause of a collective bargaining agreement and his case of action under Title VII. The federal court should consider the employee's claim de novo."19/

Blacks make relative gains when the labor market is tight and fare poorly in recessionary times. Blacks under the last in - first out (LIFO) seniority procedures may bear the brunt of layoffs. In the Jersey Central Power and Light Co. v. IBEW Local Unions<sup>20/</sup> case the conventional seniority arrangements for reduction of the work force were in conflict with a conciliation agreement with the EEOC to increase the representation of minority and women workers. These workers because of their relatively low seniority would bear the brunt of a planned layoff. A violation of the collective bargaining contract provisions on seniority would render the employer liable for back pay damages. In January 1975 the Third Circuit Court reversed a lower court decision that planned layoffs should be executed in such a way that the proportion of minority workers would be maintained at the pre-layoff peak. The appeals court ruled that workers with seniority have priority protection against layoffs over minority group and female employees.<sup>21/</sup> The economic environment for the next few years may remain one of limited growth and high levels of unemployment. The Watkins ruling that seniority does not violate Title VII even in this system results in the discharge of more blacks than whites, is disquieting.<sup>22/</sup>

A highly significant set of rulings made by Federal courts under the Fourteenth amendment to the Constitution (the equal protection rulings) have expanded and defined more precisely employment discrimination. Title VII initially excluded the ten million employees of state and local governments. Minority group members discovered that civil service tests were major barriers to entry into jobs as policemen and firemen. A number of suits were filed charging that a disproportionate number of minorities were screened out by the tests or having passed the tests were so far down on the eligibility roster that they were rarely appointed.

In 1972 a Federal court found a pattern and practice of racial discrimination in violation of the Fourteenth amendment (NAACP v. Allen)<sup>23/</sup> against the Alabama Department of Public Safety which had never appointed a black state trooper. The remedy was to hire one black for every white hired until blacks were 25 percent of the force. Blacks in Minneapolis charged discrimination in hiring by the Minneapolis Fire Department. Under a Fourteenth amendment ruling in 1972 the court required (in Carter v. Gallagher)<sup>24/</sup> the hiring of one minority applicant for each of two white applicants on an alternating basis until there was a fair approximation of minority representation consistent with the population mix in the area. In Boston, Philadelphia, Los Angeles and other cities the Federal courts established priority pools from which to draw minorities and non-minority applicants for civil service jobs as policemen and/or firemen. These measures for increasing the flow of minorities into previously closed employment systems generated much controversy and raised questions of reverse discrimination.

Legislation and implementation of Federal laws have alleviated somewhat the most pervasive forms of employment discrimination. By 1975 the standards of performance on equal employment opportunity issues had been established in both the judicial process and through administrative procedures of the compliance agencies. The impact had extended throughout American industry. The evolution of the concept of institutional discrimination produced extensive revisions in traditional practices in personnel selection, assessment and upgrading. Recently negotiated settlements in steel, trucking, and the telephone industry may have upgraded the occupational position of some minorities thereby reducing the earned income differential between blacks and whites. It is likely such gains were made by those blacks who were not the most disadvantaged in the labor market.

Since the equal employment opportunity laws cover a variety of minority groups and some thirty-three million women workers, it is difficult to isolate the impact of these laws on low-income individuals. The trend to expand the coverage of Title VII to include a number of special subgroups may mean less protection for the most disadvantaged minority workers. The number of cases that can be tried by the Federal courts is small and other administrative mechanisms must be developed. The Chairman of the Senate Labor Subcommittee on Equal Opportunities noted in September 1974 that, "In enacting the Equal Employment Opportunity Act of 1972, the Congress recognized a change in the definition of employment discrimination to include employment systems that perpetuate discrimination. ---Successful implementation of the Act depends upon the effectiveness of the non-litigation methods of enforcement since the litigation process itself cannot be expected to handle the large volume of charges referred to the Commission.<sup>25/</sup>

C. Effectiveness of Equal Employment Opportunity Programs

Attempts to measure the effectiveness of the equal employment policies in either reducing black/white income differentials or of improving the employment position of minority workers protected under the laws have been few. In their analysis of the implementation of Executive Order 11246, Ashenfelter and Heckman discuss the difficulty of assessing program effectiveness:

"The basic problem is the absence of a control group in the presence of a program with economy-wide impact. Although a program may indirectly affect one group of firms, it also indirectly affects the remaining group of firms as well.

Accordingly, comparisons of changes in the relative status of blacks in target and nontarget firms cannot be measured relative to what might have been in the absence of the program since that state is not observed."<sup>26/</sup>

The findings from studies by Ashenfelter-Heckman, Brimmer, Kidder, Marshall-Christian, McKersie, and Van Adams are important both in terms of what they contribute to our knowledge and because they reveal much about different aspects of racial discrimination in labor markets. These researchers had access to the equal employment opportunity statistics collected by the Federal compliance agencies. The availability of these data to the external research community is limited since the individual reports are designated as confidential data under the provisions of Title VII.

Private employers covered by Title VII of the Civil Rights Act of 1964 are required to submit an EEO-1 report form annually to the Federal government. Since 1966, firms with at least 100 employees during 20 or more weeks in a given year or holders of Federal contracts have reported on their employment by industry, occupation, minority group, sex, and geographic location. Since 1973 state and local governments have submitted employment information. These forms (EEO-4) show data on wages, new hires, and part-time workers, a much needed improvement over the data collected from private employers. Educational institutions including higher education will report employment data on form EEO-5 and 6. The computerized employment data file on nearly the entire economy should enable the EEOC to conduct longitudinal analysis and to study the change in the relative position of minority workers that is due to the impact of equal employment opportunity programs.

(1) Researchers Using Data From EEOC

Two important studies of the effectiveness of equal employment



opportunity were sponsored by EEOC and conducted by Ashenfelter in 1968 and Ashenfelter-Heckman in 1973. The Ashenfelter analysis of 1966 EEO-1 data provided a benchmark for the later study. An important finding from the earlier study was that educational attainment explained only about one-third of the percentage point difference between the average black and Anglo (white, excluding Hispanic) indices of occupational position. Also the study attempted to determine whether the EEO-1 data provided a relatively accurate portrayal of minority employment patterns in the U. S.<sup>27/</sup>

The study concluded that the data collected through the EEO-1 reporting system were a generally accurate and highly useful body of material for the investigation of employment patterns of minority groups in the United States. The general accuracy of the data and their inherent limitations, were substantiated by comparing them with data from other sources. The EEO-1 data collected annually by establishments provided a self validating scheme for the accuracy of the data and could be utilized in policy public discussion on the extent of change in discriminatory employment practices over time.

In their 1973 study of changes in minority employment patterns, 1966-1970, Ashenfelter and Heckman matched a set of 40,445 establishments from the EEO-1 reports in the two years. Although the relative occupational position of minority males had changed very little, the relative employment of black male workers increased by 3.3 percent more in firms with government contracts than in firms without contracts and this difference was statistically significant. The change in relative black occupational position was not statistically different as between firms with government contracts and those without them. Both comparisons controlled for the effect of employment

expansion, variation in the size of firms, and geographical variation in the supply of labor. Thus, while blacks found it easier to obtain employment with government contractors than with non-contractors, they were not able to obtain significantly higher occupational levels with government contractors than with non-contractors.<sup>28/</sup>

The most recent use of EEO-1 data in the assessment of changes in the pattern of black employment was completed by Brimmer. In his comparison of the EEO-1 data by major occupational categories for 1966 and 1973, Brimmer found that black employment in the reporting firms rose faster than employment in the economy as a whole (21 percent of the growth in jobs in the EEOC reporting firm versus 15 percent in total nonfarm employment as reported by the Bureau of Labor Statistics). The expansion was much slower in the upper reaches of the occupational scale than it was among job categories at the lower end. The extent of occupational integration varied greatly among different regions of the country. But in the last seven years the greatest gains in white collar employment for blacks have been made in the South.<sup>29/</sup>

The Kidder report on changes in minority participation in the textile industry of North and South Carolina from 1966 to 1969, investigated changes in black employment after the EEOC held a series of public hearings on job discrimination in the textile industry in January 1967. Textiles accounted for a large share of the total employment in the Carolinas but played a minimal role in black employment. Within four years after the textile hearings black participation was widespread despite overall cutbacks in the workforce. Kidder concludes that the impact of government activity was substantial and rejects the alternative explanation of a tight labor market and the expansion of regional industrialization as being primarily responsible for increased black employment.<sup>30/</sup>

715 of the 899 EEO-1 reports for Carolina textile companies reporting in both 1966 and 1969 were matched for the analysis. In addition, industry personnel including black and white employees, government agency representatives and community leaders were interviewed. The Kidder study found that by 1969 the industry had brought its percentage of black participation in line with other manufacturing industries in the Carolinas and had started the process of job upgrading.

The findings of the Kidder study are at variance with the tight labor market hypothesis. The regression analysis indicates that on a cross-section basis unemployment rates by country or country employment population rates were not significant predictors of the change in black participation by reporting units. The tight labor market during the period 1966-1969 served as a necessary condition for rapid job gains for black workers. Over 26,000 additional black workers were absorbed by the industry. Without adequate employment openings, blacks could not easily have entered an industry traditionally oriented toward solid racial job barriers. Sufficient conditions for change include pressures not evident in previous tight labor market periods, the pressures of new laws, new policies, new organizations and a new climate of opinion.<sup>31/</sup>

Since over seventy percent of all jobs in textiles are semiskilled, had relatively low entry skill requirements, it is likely that most of the black workers absorbed by the industry beginning in the mid 1960's were from the low income population of the rural non-farm areas of the Carolinas. Until that time the industry was characterized by near total exclusion of black workers. The severest discrimination had been practiced against black women prior to 1960. By 1969, however, seven percent of the Carolina textile operatives were black women. The participation of minority women in three large firms (Dan River Mills, J. P. Stevens and Burlington Industries) increased by

2,700 persons between 1968 and 1970 after these companies were forced to develop affirmative action programs. The net increase represented almost a doubling of the 1968 level of black women workers (3,000) and occurred at a time when total employment in these three companies rose by only three percent over the period.<sup>32/</sup> The widespread reduction in the work force in 1975 may fall most heavily on blacks who entered in large numbers after 1966.

The most comprehensive investigation of black employment was done by Marshall and his colleagues.<sup>33/</sup> This study of black employment in the South sought to determine the status of black employment at a time of significant advances in measures to combat employment discrimination. By identifying the places, industries, and firms where large numbers of disadvantaged blacks were found, it isolated and assigned relative weights to these factors. Detailed analysis of black jobs in seven large SMSA's in the South (Atlanta, Birmingham, Houston, Louisville, Memphis, Miami, and New Orleans), supplemented by studies of agricultural and government employment required the use of a large volume of statistical materials in addition to the EEO-1 materials. Much information was also gathered by extensive interviewing of employers, employees, employment agencies, government officials, and civil rights groups. Taking occupational position of blacks relative to whites as the dependent variable, models were constructed to examine the relationship of such factors as education, industry skill requirements, proximity of black housing to job concentrations, tightness of the labor market, growth rate of employment of the SMSA, and degree of market control by the employer.<sup>34/</sup>

The EEO-1 data accounted for 45 percent and 49 percent, respectively of 1966 and 1969 private, nonagricultural employment in the metropolitan South and 53 percent and 48 percent, respectively, of this employment in the non-

metropolitan South. The study relied on two measures of the employment status of blacks: a participation rate and the index of occupational position. Based on EEO-1 sources, the blacks share of private nonagricultural employment in the metropolitan South expanded from 1966 to 1969, but for women only (from 11 percent to 14 percent). In the nonmetropolitan South, black men and women both substantially enlarged their share of private sector employment from 12.7 percent to 15.3 percent for men and 7.5 percent to 12.6 percent for women.

The movement of black women away from employment in private household services in the metropolitan areas and the shift of blacks from farm to non-farm employment may partly explain these patterns of employment. Although blacks gained in metropolitan areas among white collar and skilled employment from 1966 to 1969, approximately three quarters of their employment in 1969 remained clustered in low-paying operative laborer and service occupations. Blacks had a higher percentage in industries where employment was declining than they did in growth sectors. The comparison of indexes of occupational position for Southern blacks with those in the non-South revealed that blacks were worse off in occupational distribution in the South--both in absolute and relative terms.<sup>35/</sup>

Another of the researchers on the Marshall study ran a regression model for 25 Southern SMSA's in an attempt to measure institutional discrimination. Several of the factors over which employers have little or no control were the independent variables (education, age, employment growth rates, geographic area of the SMSA, skill levels, and proportion of nonagricultural employment in manufacturing) and the black index of occupational position relative to white was the dependent variable. The model explained approximately 70 percent of the variance in male relative occupational positions but only about 50 percent for women. All variables except geographic market size were significant (measured by the standard t test) for men, but education,

skill requirements, and the percent of manufacturing employment were the three most powerful explanatory variables. The labor market size was not significant for men but was highly significant for women, suggesting that the cost of transportation in time and money was more significant for black women than it was for black men. The most important variables for the female model were relative age, market size, economic growth, and relative education above 12 years.<sup>36/</sup>

Marshall believes that antidiscrimination laws are particularly difficult to evaluate because the moral climate and the fear of prosecution they produce undoubtedly cause changes which are pervasive and difficult to measure. Marshall views antidiscrimination laws as necessary but not sufficient instruments to improve black employment patterns. The study concluded that racial employment patterns in SMSA's will require comprehensive and well planned programs (job development, training, antidiscrimination) to change. Without such programs, employment equality for blacks in the South will not be achieved in this century.<sup>37/</sup>

McKersie's investigation of minority employment patterns in the Chicago SMSA used EEO-1 data from 4,500 establishments, and proved to be highly useful for developing and refining a methodology for uncovering target situations--for improving utilization of minorities. One major finding of the study was that unless blacks had outside help they were not likely to gain proportionately in the better paying industries. They will continue to be used disproportionately in those industries that are growing slowly and that pay relatively low wages.

McKersie designed statistical routines to answer the question of what occupational positions did minorities occupy and which ones offered the greatest promise for expanding employment opportunity. The possibility

was also recognized that an industry might present a satisfactory profile (in terms of participation and occupational position measures) yet individual establishments within the industry might exhibit considerable variation. Therefore, it was important to analyze the spread or diffusion of minorities across establishments.

McKersie concluded that there were vast gaps in our knowledge of how the labor market functions for minority workers. It would be possible to develop from the EEO-1 reports matrices that forecast the growth of any industry-occupation combination, but there must be field studies that examine many other factors that give rise to the statistics. Some of the elements of the McKersie model were later incorporated into a management information system for OFCC. This model of strategic planning needs to be updated, tested, and refined on a larger scale.<sup>38/</sup>

Van Adams studied the EEOC compliance efforts between 1966 and 1971 and the use of conciliation as a tool in resolving charges alleging racial discrimination in employment. In addition to EEO-1 reports Van Adams selected a sizeable body of material from the conciliation case files. Interviews with employers expanded and clarified information about the firm.

From several case studies on the outcome of conciliation, Van Adams concluded that the impact of conciliation on minority employment was influenced by economic growth, the legal structure of Title VII, the administration of compliance procedures, the form of discrimination, the size of the respondent, the presence of federal contracts, the level of activity of OFCC and the attitudes, and preferences of the employers.<sup>39/</sup> A statistical analysis was undertaken to determine whether firms involved in successful conciliation of discrimination with race as an issue showed greater improvement in minority

employment than did similar firms in the same labor market which had not been involved in compliance activities.

Pre- and post-conciliation minority employment patterns derived from the 1966 and 1969 EEO-1 data were calculated for each employer and its peer groups. Van Adams found that the measures of minority employment for one out of four respondents involved in successful conciliation with race as an issue in 1967 and 1968 actually surpassed that of other firms in the same labor market and selling in the same product market. "Clearly this suggests that the generation of discrimination charges by individual complainants is not an efficient means of identifying employment discrimination."<sup>40/</sup>

This is an important conclusion and should be tested again with more recent data. Substantiation would indicate a necessity to review the significance of the enormous complaint backlog at the EEOC. The number of charges filed annually has increased from about 8,000 in 1966 to over 100,000 in 1974. Charges alleging racial discrimination have accounted for sixty percent of the total. The litigation process with its emphasis now on systemic, structural forms of employment discrimination has shifted from providing remedy to a single individual. The recent industry wide consent decree in steel and the AT&T consent decree, represent a new strategy for correcting institutionalized forms of discrimination such as testing, seniority systems and training programs. If Federal officials determine priorities by methods other than data on charges filed, will the protected groups under Title VII benefit less from affirmative action?

These studies represent the basic analytical reports on the effectiveness of equal employment opportunity.<sup>41/</sup> They have been focused primarily on the EEO-1 reports from the private sector. Reporting systems on apprenticeship (EEO-2), referral unions (EEO-3) and employment in state and local



government (EEO-4) have been established but little or no analysis has been made of these statistics. Two researchers, Anderson and Wolkinson, investigated the role of unions and racial discrimination. Anderson studied the interrelationships between the internal labor market, collective bargaining, and black employment in the aluminum and industrial chemicals industries. The EEO-1 reports were supplemented with information from the collective bargaining agreements, interviews with trade union officials and management representatives. Anderson found that the presence of blacks in significant leadership positions in the union produced no marked differences in the occupational status of black workers. "The possibilities for improving the occupational position of black workers are constrained by the nature of the black industrial work force---comprised of old timers, silent majority, and young turks."<sup>42/</sup>

Wolkinson's study was limited to a sample of 75 cases reflecting four types of union discrimination: craft union exclusion of blacks from membership, apprenticeship training program and referral; discriminatory seniority arrangements; segregated locals; and failure to represent fair individual black members of the bargaining unit. Unfortunately, these cases were selected for conciliation during 1966-68 when the success rate for all conciliations was very low.<sup>43/</sup> Whether the EEOC can effectively remedy union discrimination needs to be reexamined in 1975. The impact of collective bargaining on equal employment has emerged as an explosive issue during the current economic recession.

## (2) Other Strategies

Recent efforts by the Federal compliance agencies to negotiate voluntary settlements on many employment issues in an industry permits all

parties (employer, union government agency as the representative of the protected groups) to work collectively on the enforcement of equal employment laws. The consent decree for the American Telephone and Telegraph Company signed in January 1973 after two years of public hearings stipulates that over a six-year period the company will implement its affirmative action plans in over 600 establishments. The agreement covers the 24 operating companies of AT&T, the largest private employer in the country, and specifies timetables and goals for improving the recruitment, hiring, transfer, upgrading and promotion of women and minorities. As important as these objectives are, the major outcome will be modifications in personnel practices and procedures that will benefit all employees.<sup>44/</sup> The AT&T companies have made back pay and other financial settlements of approximately \$80 million; \$30 million of this amount was due to be paid to low-level managers, mainly females.<sup>45/</sup>

The steel consent decree signed in April 1974 provided for a \$31 million in back pay to 40,000 employees. This consent decree was negotiated by nine of the largest steel producers with 347,679 workers, the United Steelworkers of America, and the Federal government. A system of plant-wide seniority should enable black workers who have traditionally been restricted to segregated lines of progression to apply for transfer to white seniority lines. Both the telephone and steel consent decrees resolved several thousand individual discrimination complaints which had been filed against the companies.

Through the expanding legal interpretations of Title VII, administrative regulations of compliance agencies, negotiated settlements such

as in steel and the telephone industry, a new concept of institutionalized employment discrimination has evolved. These equal employment activities were shaped mainly in the private sector.

The evidence presented in this report does not indicate that low-income groups, especially minority individuals have had their employment opportunities noticeably altered through the implementation of the equal employment laws. Although Ashenfelter found evidence of occupational upgrading of black males in 1970 these gains may have been dissipated since then in the period of declining economic activity. The distribution effect of Title VII remains unmeasured. The presence of Title VII and the record of litigation and threat of compliance could have induced changes in minority employment for those outside the "immediate purview of federal authority." The net effect of systematized restructuring of the employment process extending beyond the individual firms involved in charges of discriminatory employment practices is not known.

D. Analysis Of Research On Income Differentials

Another and more widely known body of research on black/white income differentials attempts to understand better and to explain the persistence of racial inequality. A variety of data sources have been examined in the research including the decennial census, Current Population Survey, Continuous Work History Sample of the Social Security Administration, the 1967 Survey of Economic Opportunity, and the National Longitudinal Surveys from the Parnes project at Ohio State University. The Researchers (among others Welch, Freeman, Vroman, Masters, Kohen, Hall, and Gwartney) have articulated competing hypotheses on the significant economic gains made by blacks after 1965.<sup>46/</sup> These gains accrued disproportionately to the more educated, younger blacks. The major determinants of the significant income gains of blacks were: (1) the high level of economic activity in the latter part of the 1960's, (2) the improved quality of education for blacks and (3) the reduction in labor market discrimination. Since earnings were larger than what might have been expected from tight labor markets, the debate has centered around the importance of the rising relative quality of education for black labor versus the decline in labor market discrimination.

In several studies Welch has emphasized the impact of improvements in the quality of education for blacks.<sup>47/</sup> The enforcement of affirmative action program is presumed to have increased the demand for college trained blacks relative to those with less schooling. The occupational distribution of these well educated blacks by 1970 was more similar to the distribution of whites than other blacks. In Welch's view the improvement in the quality of education in an affirmative action atmosphere enabled a select group of blacks to narrow their earnings differentials with their white peers. Implicit in

these studies is the fact that older, less educated blacks did not fare as well. These low-income workers did not participate equally in the sharp increases in relative wages.<sup>48/</sup>

In a study of changes in the labor market for black Americans, 1948-72, Freeman has concluded that "While black-white differences have not disappeared, the convergence in economic position in the fifties and sixties suggests a virtual collapse in traditional discriminatory patterns in the labor market."<sup>49/</sup> In his analysis of the relative improvement in black incomes and occupational attainment, a prominent Freeman hypothesis was that the "relative demand for and income of black workers were raised in the post-war period by governmental and private antidiscrimination activity following the 1964 Civil Rights Act and possibly a general societal decline in individual and market purchases of discrimination relative to levels of productivity."<sup>50/</sup>

Gwartney et al seek to isolate the significance of changes in both the intensity of labor market discrimination and productivity according to race during the 1960's. The nonwhite/white earnings ratio for black males is estimated to have increased six percent due to improved relative payoff derived from productivity factors (gains from improved employment opportunity). "A second major source of change accounting for gains of between six and eight percent was attributable to the exiting of older nonwhite workers with low relative earnings combined with the entry of younger, better prepared nonwhites who have high relative earnings."<sup>51/</sup>

Despite past increases in black occupational status and earnings, large disparities still remain. Because black unemployment deteriorates more rapidly than that of white workers during an economic decline, it is likely

that in the 1970's blacks will experience a reversal of the relative economic gains achieved in the 1960's.

E. Manpower Programs

The equal employment interventions on the demand side of the market are impressive but, would not, even if they were fully implemented, greatly enhance the economic position of low-income minority group workers. The manpower development and training programs with their emphasis on increasing productivity and increasing the income of the poor were heavily oriented towards special programs for the disadvantaged.

During the 1960's under the leadership of the Department of Labor a national manpower policy was developed to support training, upgrade job skills, and to provide work experience for the unemployed and underemployed. The central purpose of these programs was to increase the ability of poor people to function effectively in the labor market. Approximately ten billion dollars were expended over the course of a decade and about 9 million trainees were enrolled in the programs. There is no definitive evidence about the outcomes of the programs.

The Manpower Development and Training Act of 1962 (MDTA) initially concentrated on skill training for unemployed family heads who had at least three years of gainful employment. The 1963 amendments to MDTA provided for special counseling, testing, selection and referral program and an enlarged skilled training program for youth over 16 years old. Some manpower specialists believe that the shift away from the original target group of experienced adult workers towards the servicing of a more disadvantaged clientele was detrimental.<sup>52/</sup>

In 1964 the Economic Opportunity Act (EOA)<sup>53/</sup> established the Job Corps under the Office of Economic Opportunity as a residential training program mainly for underprivileged youth and the Neighborhood Youth Corps (NYC) under the Department of Labor as a work experience program for unemployed youth both in and out of school. The NYC became the largest manpower program in terms of annual funding and number of individuals served. The Economic Opportunity Act also extended manpower activities beyond the needs of youth and the technologically unemployed to a larger group of low income individuals. Title II of the EOA authorized Community Action Agencies to conduct a wide variety of local programs including job training and counseling and adult basic education. Title V expanded a work experience program for unemployed adults receiving public assistance. This program had been previously administered by the Department of Health, Education, and Welfare (HEW) under provisions of the 1962 amendments to the Social Security Act.

The shift in emphasis of manpower programs to improve the employability of the disadvantaged was reinforced by the 1965 and 1966 amendments to EOA. Three new programs were established: Operation Mainstream which subsidized public employment for older workers in rural areas; New Careers, provided for training for sub-professional jobs and Special Impact focused on improvement of employment opportunities in inner city neighborhoods. Beginning in 1966 at least 65 percent of the training under MDTA was directed to reclaiming the hard core unemployed and 35 percent focused on training personnel in skill shortage categories.

The 1967 amendments to the Social Security Act provided training, counseling and placement for employable recipients of AFDC (Aid to Families with Dependent Children) and basic education, work orientation, skill training,

work experience, and counseling are provided to improve the employability of persons not ready for employment. This expanded Work Experience Program was renamed the Work Incentive Program (WIN).

In 1968 an on-job training manpower program JOBS (Job Opportunities in the Business Sector) encouraged private employers to employ the hard-core unemployed. Business was to be subsidized for the extra costs connected with the hiring and training of disadvantaged workers. Noncontract employers, however, agreed to hire a specified number of disadvantaged persons but were not subsidized. A new direction in the manpower effort decentralization and decategorization was adopted as a priority reform in 1969.

In the 1970's the primary concern has been job development during periods of high unemployment. The Emergency Employment Act of 1971 (EEA) and the Comprehensive Employment and Training Act of 1973 (CETA) were designed to expand employment opportunities for selected segments of the labor force. The EEA funded the hiring of the unemployed in transitional public service jobs in State and local governments. CETA is a manpower special revenue sharing program with State and local governments deciding who among the unemployed, underemployed, and disadvantaged will be assisted.<sup>54/</sup>

There is a voluminous evaluation literature on manpower programs.<sup>55/</sup> Two comprehensive reviews on the effectiveness of manpower programs on the poor are discussed here. Perry and his colleagues assess the economic impact of manpower programs in terms of benefits to the individual. These researchers found that most of the participants in the major federally funded manpower programs during the fiscal years 1965 through 1971 were poor or disadvantaged. Almost half were black, but they were concentrated in programs that did not emphasize the acquisition of skills. The value of economic benefits declined as the programs shifted from relative emphasis on skill training and job development toward an emphasis on work experience.



Perry et. al. reviewed 252 evaluative studies of manpower programs and concluded that most of the studies were little more than descriptive analyses of program operations and enrollment characteristics with little or no useful information on the post-training labor market experience of enrollees. "In almost every case in which a control group was used, there were valid reasons to question the comparability of the controls and the treatment group. The inadequacy of the selection of control groups was so serious as to cast doubt on the major conclusions of program impact reported in some studies."<sup>56/</sup>

The available data on earnings, wages, and employment of participants suggests that manpower programs have had a limited, but positive effect in breaking down the labor market barriers confronting minorities. Many of the gains in earnings were attributable to the higher frequency of employment rather than higher hourly wage rates during the post/training period. Thus, any long-run gains will be heavily dependent on the quality of jobs in which the participants are placed.<sup>57/</sup>

The second review of manpower training programs conducted by Goldstein for the Joint Economic Committee of the Congress concluded that manpower training increased the earnings of the poor and reduced the poverty gap but that continued income supplementation was likely to be necessary for the average trainee. Goldstein estimated social benefits and costs for MDTA, Job Corps, JOBS, Neighborhood Youth Corps, and WIN programs. The social cost was defined as the value of the output which could have been produced with the resources actually employed in training. The social benefit was the change in full employment net national product plus any externalities, (indirect benefits such as intergenerational effects or reduced crime). Since it is usually not possible to estimate the value of externalities, the increases in earnings from increased wages or employment was the measure of social benefit.

The results by major program were:

- (1) MDTA - "Disadvantaged and low-income persons have responded to training and have become more self-sustaining. ...Given the sensitivity of the success of manpower programs to the level of economic activity, a continuation of current macroeconomic policies will make it impossible to realize the training benefits estimated.
- (2) Job Corps - In separate analyses of the same national sample, two researchers produced two unrefined, preliminary studies of the effectiveness of the Job Corps. The control groups for these studies were so suspect and the observation periods so short that the results were unreliable. However, if the estimated benefits and costs prove accurate, the Job Corps will have to be classified as economically inefficient.
- (3) Neighborhood Youth - The objectives were to encourage youths to finish high school, to provide them with earning opportunities and to improve work orientation. The economic results from the three benefit-cost analyses were mixed, varying widely by sex, ethnicity and years of education. The conclusions about the educational impact of NYC are uniformly discouraging, suggesting that the program may be badly conceived as a solution to the dropout problem.
- (4) WIN - Participation in WIN did not increase the earnings or employment of the trainees. The percentage of enrollees awaiting job placement is very highly correlated with the national unemployment rate.
- (5) JOBS - No controlled studies of the impact of this on-the-job training program on the employment and earnings of enrollees and the program data submitted by the participating firms to the National Alliance of Businessmen (NAB) and the Department of Labor were unreliable. Two studies of the JOBS program note that many of the jobs filled under the programs were positions traditionally held by low skilled and unskilled persons.

The JOBS program provided no incentive for retention of the worker."<sup>58/</sup>

The main conclusion from the two studies is that manpower programs did not change black employment patterns. These programs may have produced a cadre of black program managers who functioned as change agents in the larger society.

### III. Housing

Housing is no longer viewed as a single good, shelter, but as a mix of neighborhood amenities---good schools, clean streets, adequate recreational facilities, access to a better life. Numerous investigations during the past thirty years have shown that residential segregation in housing has produced enormous negative side effects on employment, education, and the delivery of other social services to minorities. The pervasive housing discrimination against blacks not only has severely limited their residential choices but has impaired their welfare in every aspect of urban living. A recent major analysis of housing markets and racial discrimination states bluntly that the intensity of black residential segregation is greater than that documented for any other identifiable sub-group in American history.<sup>59/</sup> These findings are consistent with those in earlier studies of the pervasive racial segregation in the urban housing market.<sup>60/</sup> It is not surprising that neither the special programs for low-income populations nor laws and regulations on fair housing has improved the housing conditions of blacks.

During the 1960's residential segregation (racial separation) became more pronounced in the metropolitan areas of the country. With the large scale movement of whites from the cities to suburban locations, the central cities became enclaves for poor mostly minority populations. The Director of the Bureau of the Census testified in 1971 that between 1960 and 1970 the white

central city population in metropolitan areas having a population of 500,000 or more declined by 1.9 million people while the comparable black population increased by 2.8 million. The suburban rings of these metropolitan areas had a white population increase of 12.5 million and a black population increase of only 0.8 million.<sup>61/</sup>

Racial segregation in residential patterns persist both because of past and present discrimination in the sale and rental of housing and because of the income disadvantage of the minority population. Since at every income level whites are more likely than blacks to live in the suburbs, racial discrimination in housing may be more deeply entrenched than economic or income discrimination.<sup>62/</sup> However, the exclusion of low and moderate income housing from suburban communities has placed a severe burden on many blacks who are employed in suburban work sites. The extensive residential segregation and the consequences for low income, especially minority individuals, is examined solely from the perspective of Federal housing programs.

Many Federal agencies, other than HUD have had a major role in perpetuating racial segregation in housing. Four agencies (Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Federal Reserve Board and Comptroller of the Currency) supervise the lending institutions responsible for most of the conventional financing of housing. Housing programs of the Veterans Administration and the Departments of Defense and Agriculture have had a great impact on housing opportunities and residential patterns. Through control of the use of land, state and local governments have been able to exclude lower-income, especially minority families from suburban communities. Only the HUD programs are discussed in this report.

A. Federally Assisted Housing for Low-Income Families

Since the passage of the Housing Act of 1937, low-cost housing for the poor has been declared as a national objective. By the time the Department of Housing and Urban Development was created in 1965, the "goal of a decent home and a suitable living environment for every American family" (as stated in the Housing Act of 1949) had become an impossible dream for many. During the 1960's, however, a staggering number of programs were developed for low-income populations.<sup>63/</sup>

Housing Act of 1961 - section 221 (d) (3) provided for subsidized below market interest rate mortgage insurance programs to assist rental housing for moderate income families.

Housing Act of 1965 - rent supplement, Federal payments could be made to meet a portion of the rent of certain low-income families in privately owned housing built with FHA mortgage insurance assistance. Leasing-units in privately owned existing structures could be leased and made available to low-income families who met the requirements for regular public housing.

Model Cities - principal provision of the Demonstration Cities and Metropolitan Development Act of 1966 was that the Federal Government was authorized to make grants and provide technical assistance to city demonstration agencies to enable them to plan, develop and conduct programs to improve their physical environment, increase their supply of housing for low and moderate people and to provide educational and social services vital to health and welfare.

Douglas Committee, 1967 - was established to recommend how to increase the supply of low-cost decent housing.

Kaiser Commission, 1967 (A Decent Home) - recommended the establishment of a 10-year goal of 26 million new and rehabilitated housing units,

including at least six million for lower-income families.

Housing and Urban Development Act of 1968-  
Reaffirmation of the 10-year housing goals specified in the recommendations from the Kaiser Commission.

- (a) Section 235 - established a home ownership program providing special mortgage insurance and cash payments to help low- and moderate-income home purchasers meet mortgage payments by subsidizing debt service costs in excess of an amortization at one percent interest.
- (b) Section 236 - provided a subsidy to multifamily rental housing under a formula similar to that under Section 235.

Brooke Amendment to Housing and Urban Development Act of 1969 - modified low rent public housing program by limiting the rents charged by local housing authorities to 25 percent of the tenant's income.

New Communities - Title VII of the Housing and Urban Development Act of 1970 adopted the Federal guarantee provisions of the 1968 new community development act but also included a requirement to plan for a substantial number of housing for low and moderate income persons in these new communities.

By the early 1970's it was apparent that these federally assisted programs were extremely costly and benefited only a small percent of eligible low and moderate income families.<sup>64/</sup> There were widely publicized scandals, and in January 1973 HUD suspended all of the major subsidized housing programs. At that time Secretary Romney said that the programs had become a "monstrosity that could not possibly yield effective results." A major re-assessment of the existing programs was initiated, and the findings from that report, Housing in The Seventies are summarized below.

B. Fair Housing Programs

Equal opportunity programs to reduce racial discrimination in the sale or rental of housing were not introduced until late in the 1960's. In the fact the Federal government itself had pursued discriminatory practices in its housing programs. In June 1971 a White House statement on equal housing opportunity admitted that FHA mortgage insurance activities had accepted restrictive covenants in order to maintain the racial homogeneity of neighborhoods. Although these discriminatory practices were declared illegal in 1948 (Shelley v. Kramer) the urban renewal programs of the 1950's and early 1960's left minorities even more ill-housed and crowded than before.<sup>65/</sup>

Executive Order 11063 (signed in 1962) ordered that the Federal Government: "take all action necessary and appropriate to prevent discrimination because of race, color, creed or national origin in the sale, leasing, rental or other disposition" of federally subsidized or insured housing. Title VI of the Civil Rights Act of 1964 prohibited discrimination in any federally-assisted programs or activities, including housing programs.

Title VIII of the Civil Rights Act of 1968 banned discrimination (race, color, religion, national origin) in the sale, rental, and financing in most of the private housing market as well as federally assisted units. These "fair housing" provisions established a variety of administrative procedures for filing complaints with the Secretary of HUD, conciliation and for litigation. In addition, the executive agencies of the Federal government were required to administer their housing programs in an affirmative manner. Affirmative action guidelines, however, were not established until 1972.

Meanwhile the Supreme Court acting upon a long forgotten law, the Civil Rights Act of 1866, banned discrimination in the sale and rental of all property. The decision was made shortly after the passage of the fair housing provisions of 1968.<sup>66/</sup> Jones v. Mayer Co. went beyond the limitation in size of multifamily housing units and applied without regard to whether the owner-occupant conducted the sales or rental transaction.

In another decision by a Federal court in 1970, Shannon et al v. United States Department of Housing and Urban Development<sup>67/</sup> HUD was ordered to adopt mechanisms for utilizing racial and socio-economic information prior to the selection of site and type of units for low and moderate income subsidized projects. Priority was to be given to funding projects located outside of areas of minority concentration and near employment opportunities. In 1971 fair housing marketing guidelines adopted by HUD were made applicable to all FHA programs. In order to maintain their Federal support, developers were required to submit an affirmative marketing plan indicating how they would reach all racial and ethnic groups in the housing market area.<sup>68/</sup> While these recent policies may retard residential segregation in the future, they leave unaffected past housing discrimination.

The Gautreaux v. Chicago Housing Authority decision in September 1973 ordered HUD to assist the housing authority in the placement of public housing in white neighborhoods within the city limits. In May 1975 the Supreme Court agreed to review the "metropolitan" approach of distributing public housing projects in predominantly white suburbs in order to reduce racial segregation in inner city ghettos. This case, to be decided in 1976, will be of major significance, not only for housing but also for school desegregation.



C. Experimental Housing Allowance Program<sup>69/</sup>

Since 1972 HUD has sponsored a major new R&D program to seek a more effective delivery system for housing assistance to low-income families. Under the traditional subsidy programs, the high cost of providing new housing to poor families proved to be highly inefficient. The Housing and Urban Development Act of 1970 authorized that HUD undertake a national experiment with housing allowances--making periodic payments to poor families or individuals in order to permit them to buy their housing in the private market. The Experimental Housing Allowance Program is a five-year experiment during which a wide variety of housing allowance alternatives are tested in different parts of the country. Approximately 24,000 families living in twelve different urban/suburban/rural locations will participate in this effort to determine the feasibility of a national direct cash assistance program.

The three-year consumer component of the experiment focuses on the response of individuals to housing allowances in terms of rents paid, locations selected, and quality of housing chosen. A critical question is whether minority groups will remain segregated or will seek more dispersed locations. Will the exercise of market options increase residential mobility? The five-year market component of the experiment is designed to discover how housing suppliers respond to the increased purchasing power of families with housing allowances. The third element management component will probe various administrative alternatives.

Given the structural problems of the housing subsidy programs that have resulted in considerable inequities and inefficiencies, the results from the comprehensive experimental housing allowance demonstration now in progress may be crucial in shaping housing and urban development policies, perhaps for

the rest of this century. For low-income black households the question will be whether housing allowances will enable them to overcome racial discrimination in the housing market or whether an assault on residential segregation per se will improve their chances of enjoying a better quality of housing and neighborhood amenities.

D. Housing And Community Development Act of 1974<sup>70/</sup>

The Housing and Community Development Act of 1974, a special revenue sharing act, consolidated several of the major categorical grant programs (urban renewal, Model Cities, neighborhood facilities, water and sewerage) into block grants for community development. HUD was authorized to make grants to States and localities not to exceed 8.4 billion between January 1, 1975 and the close of the fiscal year 1977. State and local governments will have much more control over the "development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." Section 8 of Title II of the program designed to eliminate abuses and, inequities in existing subsidy programs, provides for the Federal government to pay the difference between local fair market rents and a figure ranging between 15 and 25 percent of the gross income of eligible lower-income families. It would apply to more than 400,000 units of existing, substantially rehabilitated or new housing. In the present depressed housing market there is a strong probability that the implementation of this section will be in the form of subsidies to suppliers of housing rather than to the individual consumers.

E. Effectiveness of Housing Policies

All of the studies that I have reviewed clearly document that housing

market discrimination against blacks is pervasive and that interventions in the housing market by the Federal government have not opened non-segregated housing to racial minorities or reduced the amount that black households pay for poorer quality housing and neighborhoods, or even benefited the majority of the low income population in need of adequate housing. Housing In The Seventies is the national housing policy review that was directed in 1973 by the Assistant Secretary for Policy Development and Research at HUD. This comprehensive assessment concluded:

"The impact of the Government subsidized housing programs is achieved at the cost of serious program inefficiency and inequity. The costs of the accomplishments are greater than the benefits, including the observable benefits to society.

The Section 236 rent supplement and Section 235 programs all evidence substantial problems of failure as reflected in mortgage assignments to HUD and foreclosures.

Subsidized housing has not provided significant indirect benefits by opening up better unsubsidized housing at the same or less cost than tenants were previously charged. In studies of the 'housing filtration' process performed for this report, families moving into dwellings vacated by those moving into subsidized units usually moved into better quality housing, but also paid higher rents than they had paid previously. Under these circumstances, it is unclear whether filtration lowered the cost of housing to the nonsubsidy recipients.

However, more than one third of all subsidized units, or almost 700,000 provide services to households earning more than \$5,000 annually. At the same time, over 16 million households with annual incomes of less than \$5,000--about 94 percent of the total households in this income category--receive no assistance whatsoever.

The significance of the contribution of subsidized housing is small in comparison to the amount of racial imbalance that exists. ..."<sup>71/</sup>

Although there is a considerable social science literature on residential segregation, until recently economists paid little attention to these problems. As early as 1964 Kain argued that housing discrimination adversely affected employment opportunities for blacks within metropolitan labor markets.<sup>72/</sup> Over the next decade a considerable debate arose over what were the consequences for central city black residents of the decentralization of jobs to suburban locations. These suburban job sites are generally inaccessible by public transit and reverse commuting from the central city is costly. The dispersal of employment patterns in metropolitan areas combined with housing segregation reduce black employment and earnings over time. Several studies documented the critical interaction between the residential choices of black households and restrictions on their labor market activity.<sup>73/</sup>

Pascal's analysis of residential segregation emerged from RAND's studies in which residential and work place patterns were seen as determinants of transportation. Pascal's investigation of the socio-economic and other causes of the constraints on the residential choices of blacks produced ambiguous results. Nevertheless, he suggested that blacks "suffered from residential segregation and inferior housing which was difficult to justify on the basis of their 'objective' characteristics. The question of whether to attack housing segregation indirectly through improvement of education, employment, health, or directly through fair housing laws was unresolved."<sup>74/</sup>

Muth, in a later study, emphasized the role of income differences and attributed racial differences in housing consumption patterns to the fact that blacks have fewer assets, lower incomes, different family structures, and different housing tastes.<sup>75/</sup> Downs, Kain, and the economists associated with the

National Bureau of Research Urban Simulation Model stress the importance of racial discrimination. According to this view, the major explanation for residential segregation is that blacks are discouraged from entering high quality housing markets because of prohibitive search costs, discriminatory treatment by sellers, agents, and market institutions and "high noneconomic costs from personal and community harassment."<sup>76/</sup>

Straszheim, one of the NBER researchers, concludes in his study of housing market discrimination and black housing consumption that:

"Increasing black incomes to a level comparable with whites would only reduce the gap between black and white housing consumption by 10 percent to 20 percent.---In contrast, a significant impact is associated with changing prices confronting blacks. According to these estimates, making housing market opportunities for blacks comparable to those of whites would produce a substantially greater effect on black housing consumption than that of equalizing incomes.... In short, increases in black family incomes in the context of a continued segregated market... will not solve the housing problems of blacks."<sup>77/</sup>

The microeconomic analyses of urban housing markets being conducted by the National Bureau of Economic Research analyzes residential segregation as a major market imperfection. The existence of entry barriers to blacks has "created separate and unequal submarkets." The height of the entry barriers appears to be the most important factor influencing blacks' choices to live in a particular suburban or ghetto location. Work-site residence-site patterns of blacks reflect the characteristics of housing market discrimination barriers. Although these NBER studies are still under way, their major theme of housing market compartmentalization along racial lines that is due primarily to entry constraints for blacks should provide guidance for the assessment of the housing allowance program.

During the 1960's there was an intense debate over dispersal of the black population to the suburbs versus enrichment of the ghetto as alternative urban strategies. The seventies have produced a retreat even from these academic disputes. In 1970 Bradburn and his colleagues at the National Opinion Research Center concluded in their survey of racial integration in American neighborhoods "that a majority of the neighborhoods in the country will continue to be white segregated for the foreseeable future."<sup>78/</sup> That future may well be extended through the end of this century.

#### Future Agenda

Even in years of high economic activity, minority group workers do not fare as well in the labor market as their nonminority counterparts. The equal employment opportunity laws and manpower programs of the 1960's implicitly assumed an expanding economy and the ability of the labor force to absorb these marginal workers. Employment gains made by minorities have been eroded by the recent economic decline. The employment emphasis has shifted to job retention and divisive arguments over seniority layoff and recall provisions. The economic climate of the next five years, will define the limits of what society considers tolerable in the remedying of employment discrimination.

As of 1975 a more conservative Supreme Court still reaffirms the broad interpretation of discrimination. In a case involving the Albemarle Paper Company the Court stated that back pay fulfills the central statutory purposes manifested by the Congress in enacting Title VII of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination.<sup>79/</sup> The Federal compliance agencies are shifting to an emphasis on the broad patterns and practices types of employment discrimination. Perhaps, more strategic selections could be made from

the backlog of outstanding charges with the EEOC. In such cases, the conflict between due process of law and administrative efficiency must be assessed.

All parties, employers, unions, and "affected individuals" under the equal employment opportunity laws might benefit from a more widespread use of non-litigative strategies of compliance. A critical review and evaluation of the current negotiated settlements might indicate whether the threat of litigation and backpay awards is an effective deterrent to violation of employment discrimination laws. Although data are available for sophisticated analysis of equal employment opportunity in both the public and the private sector, few comparisons have been made of the experience of successful and less successful implementation of affirmative action plans.

From a minority perspective, five research priorities are suggested: (1) investigation of discrimination by unions; (2) more systematic review of the employment patterns of small firms where many blacks work; (3) tracking the upward mobility of minority managers in corporate structures; (4) conducting other regional or local research projects comparable to Marshall's study of black employment in the South; and (5) a better linkage of employment discrimination and manpower programs. Both programs will shift over time in response to economic, political, and social conditions. Employment discrimination and manpower programs have similar goals---to reduce poverty and to enhance opportunities for participation in labor markets.

The failures of the Federal housing programs have been colossal. Even if HUD had enforcement powers for its fair housing programs and pursued a vigorous enforcement strategy, a large number of other agents would have to alter their discriminatory practices. A 1974 survey by the Controller of the Currency, the regulator of federally chartered banks, revealed that minority

group applicants for mortgage loans were rejected almost twice as often as white applicants in the same financial brackets.<sup>80/</sup>

Through its tax laws the Federal government, however, exercises a major influence over the housing market. In 1972 approximately \$6.2 billion of revenue was foregone by the Treasury Department due to income tax deductions by individuals for mortgage interest payments and local property taxes. Almost a third of all taxpayers, primarily middle and upper-income taxpayers took advantage of these tax benefits.<sup>81/</sup> The homeowner tax preferences confer greater benefits on those individuals able to afford homes without such assistance and perhaps at the expense of others who cannot.

Since many organizations in the society must be persuaded that residential segregation has been costly for all Americans, a necessary item for a future agenda would be investigations to make explicit the impact on the housing market of tax policies, welfare assistance for housing, regulation of mortgage financing, credit policies of the Federal Reserve Board, land use controls, and environmental activities.

There is no evidence that Americans are willing to invest large sums for the purpose of ameliorating residential segregation. A more modest proposal would be continued support for urban population models similar to the one being developed by the National Bureau of Economic Research. These tools for policy planning may be beneficial in helping to shape future housing and urban development policies. Some rehabilitation and economic development of core city areas; some voluntary dispersal of minority populations away from ghetto neighborhoods; and some reduction in racial tensions, would appear to be feasible objectives for the next decade. In any event, the future stability of American society is inextricably tied to a decrease of racial segregation in housing.



## Sources

1. Arrow, Kenneth, "The Theory of Discrimination" in Orley Ashenfelter and Albert Rees (editors) Discrimination in Labor Markets, Princeton University Press, 1973.
2. Phelps, E. A., "The Statistical Theory of Racism and Sexism," American Economic Review 62 (September 1972): 659-661.
3. Marshall, Ray, "The Economics of Racial Discrimination: A Survey," Journal of Economic Literature, (September 1974): 849-871.
4. Ibid., p. 866.
5. Thurow, Lester, Generating Inequality, (unpublished manuscript), January 1975.
6. U. S. Equal Employment Opportunity Commission, Legislative History of Titles VII and XI of Civil Rights Act of 1964, p. 2.
7. Ibid. Message From The President of the United States, Document No. 124, 88th Cong., 1st Sess.
8. 78 Stat. 253; 42 U.S.C. 2000e (1964).
9. Public Law 92-261 (March 24, 1972).
10. The prohibition against sex discrimination was added two years after the original executive order.
11. Marshall, Ray and Christian, Virgil, (editors), The Employment of Southern Blacks, Olympus Publishing Company (forthcoming).
12. Griggs v. Duke Power, 401 U. S. 424 (1971).
13. Ibid.
14. Contractors of Eastern Pennsylvania v. Schultz, 311F. Sub 1002, March 13, 1970.
15. 279 F. Supp. 505 (F.D. Va. 1968).
16. 416 F.2d 980 (5th Cir. 1969).
17. 446 F.2d 652 (2d. Cir. 1971).
18. Alexander v. Gardner-Denver Co., 415 U. S. 36 (1974).
19. Ibid.

20. Jersey Central Power and Light Co. v. International Brotherhood of Electrical Workers (IBEW), No. 74-2016, -- F.2d-- (1975).
21. Ibid.
22. Watkins v. United Steel Workers of America, Local 2369, No. 74-2604, July 16, 1975.
23. NAACP v. Allen, 4FEP Cases 318--F Supp.--, Alabama, 1972.
24. Carter v. Gallagher, 452F 2d 315 (8th Cir. 1971 modified by 4EPD No. 7616 (1972)).
25. Letter from Senator Harrison A. Williams, Jr. to Chairman John Powell, September 10, 1974, Daily Labor Report, 9-16-74.
26. Ashenfelter, Orley and Heckman, James, Measuring the Effect of an Antidiscrimination Program, Industrial Relations Section, Princeton University, Working Paper No. 52, p. 3.
27. Ashenfelter, Orley, Minority Employment Patterns, 1966, EEOC and Department of Labor, 1968.
28. Ashenfelter-Heckman, op. cit.
29. Brimmer, Andrew F., Widening Horizons: Prospects for Black Employment, May 5, 1974.
30. Kidder, Alice, Changes In Minority Participation in the Textile Industry of North and South Carolina 1966 to 1969. EEOC, 1972.
31. Ibid.
32. Ibid.
33. Marshall and Christian, op. cit.
34. Ibid.
35. Ibid.
36. Ibid.
37. Ibid.
38. McKersie, Robert, Minority Employment Patterns In An Urban Labor Market: The Chicago Experience, U. S. Equal Employment Opportunity Commission, 1971.
39. Ibid., p. 91-103.
40. Ibid., p. 50.

41. See also Northrup, Herbert R., et. al., Studies of Negro Employment, Vol. I-VII, Industrial Research Unit, The Wharton School, 1970-74.
42. Anderson, Bernard, Collective Bargaining and Black Employment, Industrial Research Unit, The Wharton School, November 1973.
43. Wolkinson, Benjamin, W., Blacks, Unions, and the EEOC, Lexington Books, 1973.
44. Wallace, Phyllis A., (editor), Equal Employment Opportunity and the AT&T Case, M.I.T. Press (forthcoming).
45. Ibid.
46. See Wallace, Phyllis A. and Anderson, Bernard, "Public Policy and Black Economic Progress: A Review of the Evidence," Proceedings of American Economic Association, May 1975.
47. Welch, Finis, "Black-White Differences in Returns to Schooling," in Orley Ashenfelter and Albert Rees (editors), Discrimination in Labor Markets, Princeton University Press, 1973.
48. Smith, James and Welch, Finis, Black-White Earnings and Employment: 1960-1970 (Unpublished manuscript), September 1974.
49. Freeman, Richard B., "Changes in the Labor Market for Black Americans, 1948-72," Brookings Papers on Economic Activity, The Brookings Institution, Vol. 1, 1973, p. 67.
50. Ibid., p. 98.
51. Haworth, Joan, Gwartney, James, and Haworth, Charles, "Earnings, Productivity and Changes In Employment Discrimination During 'The Sixties,'" American Economic Review, March 1975.
52. Mangum, Garth and Walsh, John, A Decade of Manpower Development and Training, Olympus Publishing Company, 1973.
53. Public Law 88-462, 88th Congress, August 20, 1964.
54. Public Law 93-203, December 28, 1973.
55. For discussion of the history of manpower programs see: (1) Levitan, Sar and Mangum, Garth, Making Sense of Federal Manpower Policy, Institute of Labor and Industrial Relations, The University of Michigan-Wayne State University and National Manpower Policy Task Force, 1967; (2) Levitan, Sar, The Design of Federal Anti-poverty Strategy, The Institute of Labor and Industrial Relations, The University of Michigan-Wayne State University and National Manpower Policy Task Force, 1967; (3) Levitan, Sar and Mangum, Garth L., Federal Training and Work Programs in the Sixties, Institute of Labor and Industrial Relations, The University of Michigan-Wayne State University, 1969; (4) Wolfbein, Seymour, (editor),

Manpower Policy: Perspectives and Prospects, Temple University, 1973.

56. Perry, Charles, et. al., The Impact of Government Manpower Programs, Industrial Research Unit, The Wharton School, University of Pennsylvania, 1975, p. 36-37.
57. Ibid., p. 142-143.
58. Goldstein, Jon, The Effectiveness Of Manpower Training Programs: A Review Of Research On The Impact On The Poor, Joint Economic Committee, Congress of the United States, 1972.
59. Kain, John F. and Quigley, John M., Housing Markets and Racial Discrimination: A Microeconomic Analysis (forthcoming).
60. Taeuber, Karl E. and Taeuber, Alma, Negroes in Cities, Chicago: Aldine, 1965; Marrett, Cora B., "Social Stratification in Urban Areas," Segregation In Residential Areas, edited by Amos H. Hawley and Vicent P. Rock, National Academy of Sciences, Washington, D. C. 1973, pp. 174-176; Downs, Anthony, Opening Up the Suburbs, Yale University Press, New Haven and London, 1973.
61. United States Commission on Civil Rights, Equal Opportunity In Suburbia, July 1974, p. 4.
62. Ibid.
63. U. S. Department of Housing and Urban Development, Housing In The Seventies, October 1973.
64. Aaron, Henry J., Shelter and Subsidies, The Brookings Institution, 1972; Taggart, Robert III, Low-Income Housing: A Critique of Federal Aid, John Hopkins Press, 1970; Solomon, Arthur P., Housing the Urban Poor, The M.I.T. Press, 1974; United States Commission on Civil Rights, Home Ownership For Lower Income Families: A Report on the Racial and Ethnic Impact of the Section 235 Program, Washington, D. C., June 1971.
65. Equal Opportunity In Suburbia, p. 36.
66. 392 U. S. 409 (1968).
67. 436 Fed 2d 809 (1970).
68. Equal Opportunity In Suburbia, p. 39.
69. U. S. Department of Housing and Urban Development, The Experimental Housing Allowance Program, October 1974; deLeeuw, Frank and Nkanta, Ekanem, "The Supply of Rental Housing," The American Economic Review, December 1971.

70. Public Law 93-383, 93rd Cong. S-3066, August 22, 1974.
71. Housing In The Seventies.
72. Kain, John F., "The Effect of the Ghetto on the Distribution and Level of Nonwhite Employment in Urban Areas," American Statistical Association Proceedings of the Social Statistics Section (1964), pp. 260-72.
73. von Furstenberg, et. al., Patterns of Racial Discrimination, Vol. 1: Housing, Lexington Books, 1974; Straszheim, Mahlon, The Effects Of Housing Market Discrimination On The Urban Labor Market For Blacks, Project On Economics of Discrimination, University of Maryland, pp. 2-3.
74. Pascal, A. H., The Economics Of Housing Desegregation, The RAND Corporation, Memorandum RM-5510-RC, November 1967, p. 180.
75. Muth, Richard F., Cities and Housing, The University of Chicago Press, Chicago and London, 1969.
76. Straszheim, Mahlon, "Housing Market Discrimination and Black Housing Consumption," Quarterly Journal of Economics, February 1974, pp. 19-43; Kain, John F. and Quigley, John M., "Housing Market Discrimination, Homeownership, and Savings Behavior," American Economic Review, June 1972, pp. 263-277.
77. Straszheim, Mahlon, The Effects of Housing Market Discrimination On The Urban Labor Market For Blacks, p. 2-3.
78. Bradburn, Norman M., et. al., Racial Integration in American Neighborhoods, National Opinion Research Center, The University of Chicago, 1970, p. 27.
79. Albemarle Paper Company v. Moody, No. 74-389, and 74-428, June 25, 1975.
80. Charlton, Linda, "2-to-1 Turndown of Minorities For Mortgage Loans Is Found," The New York Times, July 26, 1975.
81. Housing In The Seventies, 2-2 — 2-8.