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**CONTRACT COMPLIANCE AND EQUAL EMPLOYMENT  
OPPORTUNITY IN THE CONSTRUCTION INDUSTRY**

TRANSCRIPT OF OPEN MEETING

Before The  
MASSACHUSETTS STATE ADVISORY COMMITTEE  
to the  
UNITED STATES COMMISSION ON CIVIL RIGHTS

OPEN MEETING HELD  
in  
BOSTON, MASSACHUSETTS  
June 25-26, 1969

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THE UNITED STATES COMMISSION ON CIVIL RIGHTS  
AND THE MASSACHUSETTS STATE ADVISORY COMMITTEE

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This transcript was submitted to the United States Commission on Civil Rights by the Massachusetts State Advisory Committee. This transcript has been received by the Commission and will be considered by it in making its reports and recommendations to the President and the Congress.

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REV. DRINAN. Good morning, ladies and gentlemen. I am pleased to welcome you to this open meeting of the Massachusetts Advisory Committee to the United States Commission on Civil Rights. The Advisory Committee is meeting pursuant to Sections 703.2 and 703.7 of the Rules and Regulations of the Commission on Civil Rights. This Advisory Committee, like its counterparts in other States, has the authority to conduct such open meetings. Technically it is not a hearing, but we are seeking to acquire information on the basis of which we will make recommendations to Federal officials and to Federal agencies. The Advisory Committee has an additional function--given to the U.S. Commission by Congress--namely, to be a clearinghouse for information relating to the implementation of Federal laws regarding discrimination.

There is a threefold purpose for the open meeting which we shall conduct here today and tomorrow. The first purpose is this. We desire to acquire information as to the extent to which minority persons in the Greater Boston Area and in the Massachusetts community participate in the construction industry, particularly in federally assisted construction.

Second, we desire to acquire information on the basis of which we can make recommendations as to any changes which might be necessary to bring more minority workers, employees, into the construction industry in Massachusetts.

Third, we expect to show how Federal, State and local agencies and private individuals and groups, elsewhere and in this community, are working in an affirmative way to bring more minority persons into employment--both skilled and unskilled--in the construction industry.

May I present to you first the members of the Advisory Committee who are here this morning and then the staff of the U.S. Commission on Civil Rights. To my left is the Vice Chairman of the Advisory Committee for Massachusetts, Mr. Robert E. Segal, Executive Director of the Jewish Community Council of Boston. To his left is Mr. Julius Bernstein, Secretary of the Advisory Committee, a member of the Boston Housing Authority. To his left is Mr. Duncan Dottin of New Bedford, a social worker and one of the newer members of the Advisory Committee. May I present the Director of the Northeastern Field Office of the U.S. Commission on Civil Rights, Mr. Jacques Wilmore, sitting at this end; and at this end we have the man who will be questioning the witnesses along with the Advisory Committee, Mr. Peter Gross, an attorney and Assistant General Counsel of the U.S. Commission on Civil Rights. To my immediate right here is Mr. Kim Pittman who is

President of Sav-More Association in Roxbury and I think the latest and the most recent member of the Advisory Committee present here.

If anybody, when he is being heard here, doesn't care to be filmed by CBS or its affiliates or any of the mass media, all of this is optional. Mention it to me, or to someone here, and the kleig lights will not make you famous throughout the country. We have permission from the Federal officials, incidentally, for any lawyers who are worrying about it, for the TV and press to be here. This is an open meeting in the full sense of that term.

May I present to you also other individuals who are here from the U.S. Commission on Civil Rights. Mr. Robert DeLeon over here who is also associated with the Northeastern Field Office of the U.S. Commission in New York City. We have also Mr. Anthony Creswell who is the Director of all of the State Advisory Committees, and he is here from the Washington office of the U.S. Commission. We also have Miss Janice Goodman of the staff of the U.S. Commission from Washington, and taking the testimony here in front of us is Miss Wilson from the Northeastern Field Office of the U.S. Commission.

With that I will introduce to you Mr. Peter Gross who will, in turn, present first some staff reports, and after that at 9:30 the first witness, Prof. Vernon M. Briggs.

MR. GROSS. Thank you, Mr. Chairman. At the last moment there was a change in schedule which I hope will meet with your approval.

A staff report will be submitted for the record which is entitled, "Federally Assisted Construction Programs and Construction Contract Compliance in the Boston Area." Rather than read this report at this time, I would prefer, with your permission, to mark this as Exhibit 1 for inclusion in the record, and then proceed either to introductory remarks by yourself or to the first witness.

REV. DRINAN. I will take that for the record, Mr. Gross, if I may. Are there any comments by the members of the Committee before we begin with Prof. Briggs?

[NO RESPONSE]

PROFESSOR VERNON M. BRIGGS.

REV. DRINAN. This is Prof. Vernon M. Briggs of the School of Labor and Industrial Relations, Michigan State University in Lansing.

MR. GROSS. Prof. Briggs, how long have you been in your present position, and could you tell us generally what your academic interests have been?

PROFESSOR BRIGGS. Currently I am a visiting professor for the summer term at the Michigan State University School of Labor and Industrial Relations. My normal post is associate professor of economics at the University of Texas at Austin. I might add that during the year 1965-66 Prof. Ray Marshall and myself conducted a detailed study of Negro participation in apprenticeship programs in 10 cities in the United States. We tried to review the issue in general, with a specific study in urban centers. We subsequently published a number of articles and several monographs on the topic of lack of Negro participation in the apprenticeship programs.

MR. GROSS. In the course of your studies, you have had the opportunity to become familiar with the problems of the construction industry, particularly as it relates to nonwhite participation?

PROFESSOR BRIGGS. Yes.

MR. GROSS. I understand that you have a presentation that you will give and that in the course of it you will cover several points. I wonder if before you begin you could briefly summarize what those topics will be.

PROFESSOR BRIGGS. Very briefly, I would like these to be very general comments. I would like to discuss the issue as it pertains in general to minority participation in various apprenticeship programs in the labor movement. I would then like to turn to specific issues of discrimination, lack of aspiration

to the trades, some of the issues of lack of knowledge of apprenticeship positions, and some discussion of possible remedies that we might suggest to increase the minority participation in the apprenticeship programs.

MR. GROSS. Please proceed.

PROFESSOR BRIGGS. In general the history of the American labor movement, without reviewing that in detail, has been a non-ideological movement, not politically oriented, in the sense that it accepted a rather short-run economic view of its role. It has tended to accept the values of our society, both the good and the bad in toto. Consequently, it is not surprising that the labor movement in general has had a history of discrimination in its institutions as have many other institutions of our society. Consequently, it is also quite logical that we would be concerned with changing some of these institutional practices in the labor movement as we are today with most of our other institutions.

In discussing the issue of apprenticeship or entering the building trades, it is important to realize that the question of minority participation is not an issue with all unions. It generally tends to be much more concentrated in the craft unions rather than in the industrial unions. This is largely due to the fact that the craft unions have a tie between the union and the worker whereby the union members are much closer in the craft unions than they are in the industrial trades.

MR. GROSS. Excuse me, Prof. Briggs. When you say "craft unions," this is the construction field?

PROFESSOR BRIGGS. It could be construction. It could be printing, machinists. There are a number of others. These are the major ones, and in the industrial unions you are speaking of steel workers, automobile workers, and things of that line.

It is also important, and this is one of the great difficulties of working in this area, that there is great variation with local unions in various crafts throughout the country, so it is difficult to generalize about specific unions. This is largely due to the fact of the local autonomy of unions. This topic is not an issue in some unions, yet in the very same craft in an adjoining city, it may be a very controversial issue indeed. There is great variation between local practices.

The issue has generally centered in recent years around the area of apprenticeship. This has been mainly involved in the trades--in the printing trades, in the building trades, and the

machinist trades. These are the trades which make up the basic portion of the apprenticeship programs in the United States. Although there are other ports of entry into trade unions or craft unions, it seems that for nonwhite applicants seeking entry into these trades, apprenticeship seems to be the only way in, the major port of entry.

In our study of this issue, it is clear that there are two controversial issues involved: one is apprenticeship itself, and the other is minority participation in apprenticeship. The issue which is the focus today is with the building trades, and my comments will largely or almost exclusively pertain to the building trades. This issue has become especially controversial--the lack of minority participation in the building trades--for several reasons. First of all, because of the high visibility of construction projects in the ghetto areas, as opposed to other areas of activity which are not quite so visible in the ghetto areas.

In the Model Cities program or an urban renewal program or building of schools or post offices or municipal buildings or freeways, there is more of a problem in the ghetto areas, when these jobs are done exclusively or almost exclusively by white unions. Moreover, the issue comes up again in that many of these Federal, State, and municipal assisted projects do involve tax dollars, and discrimination in the use of tax dollars, of course, cannot be tolerated.

There is another factor as well as to why this issue has come to the fore, and that is that in the construction industry there has always been a large number of blacks in various ways associated with the construction industry. That is, they have been concentrated in certain occupations; namely, in the trowel trades, in the laborer category and what have you; so there have been blacks on construction jobs and also in the nonunion sector, which by and large in many communities is residential construction. There has been black participation in the construction industry, and it is logical that they would be concerned about entering into the regular unions which do most of the commercial and government contracts.

Now, with this general background, it might be useful to explore for a moment the general issues explaining the lack of minority participation in the craft unions and in the building trades specifically. First of all of course has been the issue of discrimination itself. There can be no denial that there has been discrimination in the past through overt discriminatory practices. These have been done sometimes by employers, sometimes

who have felt that certain jobs are traditionally so-called "Negro jobs". There has also been toleration by employers who had fear that if they were to push too hard on entry of blacks into working on their jobs, if they were to take the leadership, this might lead to reaction by workers on the jobs protesting the push toward social change.

There has, of course, on the unions' side been racial discrimination in the past. Most unions will admit this has been a past practice.

But that is not the only issue itself. There are certain discriminatory practices in the simple operation of an apprenticeship system that are not necessarily based on race alone. By that I mean that historically in most of the building trades there has been a strong reliance upon nepotism so far as entry into the trades; that is, a tendency to pass jobs on to relatives, nephews, sons, and what have you. So nepotism has been a practice. This has sometimes been reflected in the craft unions as being strong in fraternal or social characteristics, in some cases even strong in ethnic basis. Terrazzo and tile are sometimes considered to be for Italians, in some cities bricklayers seem to be Irish only, and what have you. There is also the philosophy expressed quite often that we discriminate against everybody other than relatives. So nepotism itself has been an issue.

Also there is the concern, as far as the practice of apprenticeship, over the control of supply--entry into the trades. There is concern in this sense that the quality of entrants must be kept very high to justify demands for higher and higher wage rates. Also it is felt that relatives will tend to stay in the trades, especially when times get tough and industries have unemployment. There is probably no industry in which the members have greater insecurity concerning unemployment than in construction. There is a tendency to believe that relatives will stay with the trade, and that when times are hard, they will not seek jobs elsewhere.

Moreover, the higher the wage rates have become, the greater the tendency in most unions' apprenticeship programs for there to be more applicants than positions. There has been a long tradition in the craft unions of not asking anyone to become a member or join a union. The initiative must come from the applicant himself, and this is where more difficulty comes which we'll explore in a moment.

Aside from the issue of discrimination itself, then, we have racial discrimination simply in the practices built into the institution of apprenticeship. There is also a second consideration which might be the lack of power in the past in the black community to bring about change, to force change. It is well known in studying black participation in the labor market that black employment patterns tended to become institutionalized following emancipation. Blacks were concentrated in certain skilled trades in the South. We recall of course that 91 percent of the blacks in the Nation lived in the South until as late as 1910. There was a tendency in the slave economy to make plantations self-sufficient, so consequently there was training in the trades of the 19th century, that is, the trowel trades such as bricklaying, plasterers and cement masons, in carpentry and in jobs in which the skill level was relatively easy to pick up compared to others.

So, there has been this tendency in the past. In this sense when you study black participation in these trades, you will find black participation more prevalent in the trowel trades and in carpentry than in the more expanding occupations of today--electricians, sheet metal workers and plumbers, pipefitters, and what have you. There also has been a tendency for black persons, where they have entered into the craft unions, to be concentrated on some of the more dirty jobs such as roofing and some of the low-skilled jobs such as laborer. The question of course has been that these occupations have not been the ones in which the greatest expansion of opportunities in the construction trades are coming today. The greatest expansion is not coming in bricklaying, plastering, cement masons, and in carpentry. The great expansion and the greatest shortages are in the areas of electricians, sheet metal workers, plumbers, pipefitters, and what have you.

A third factor in considering the paucity of Negro participation in the apprenticeship program has been the lack of knowledge by blacks about apprenticeship. School counselors have tended in the past to be aware of the fact that there has been discrimination practiced, overt discrimination in the past, and so they are hesitant to recommend people for careers in the trades. This is especially true of those black youngsters who have high school diplomas, which is usually the requisite for entering into the apprenticeship trades. Hence they encourage these young people to go on either into college or other occupations, white-collar occupations if possible. The tendency is to downgrade the blue-collar occupations. There is this tendency unfortunately on the part of all school counselors, the tendency, since they themselves have college diplomas, to try to encourage youngsters to go into white-collar occupations.

The point is of course that blue-collar occupations seem to be dead ends, which is not true of course in the construction industry. They are not dead ends in the sense that the wage rates are extremely high, and also the fact that apprenticeship oftentimes affords opportunities for advancement into supervisory positions and sometimes into draftsman positions and sometimes even the ownership of companies--as small contractors.

Another factor that is tied up with the lack of knowledge about apprenticeship is the lack of role models in the community. If there are no black plumbers or black sheet metal workers in a community, it is difficult for youngsters to aspire and learn of these trades. This has been especially demonstrated when crafts are not commonly known, such as sheet metal workers or operating engineers.

The Workers Defense League in New York tells a story of one instance where it pre-tested young people about their knowledge of different trades. They asked a group what they thought operating engineers were, and over half concluded that operating engineers were involved in running subway trains.

I remember in one interview in Pittsburgh talking to a black youngster who had applied to the painters union because he wanted to become an artist. He became quite disillusioned when he found out that painters simply painted walls and were not artists. So the lack of knowledge of just what is apprenticeship is a very serious one. This is logical, given the past denial of opportunities.

Another more subtle issue is the fact that whites quite often, especially those who have relatives in the trades, are able to have summer placements, oftentimes as helpers, on these jobs. In this sense they pick up early in their career, even before thinking about leaving high school, the opportunity to be exposed to certain tools, certain techniques, and certain jobs. Who gets these summer jobs is quite often tied up with political policies within the unions.

Then, of course, another issue has been the lack of aspiration to the trades, especially by high school graduates. This goes back to a basic institutional problem throughout the Nation; namely that there is a much higher black dropout rate in schools, and that blacks tend to go to poorer schools in the ghetto communities and therefore have difficulty passing examinations which are oftentimes required for entry into the apprenticeship programs. Sometimes they are not able to pick up the math and

physics required in some cases to enter into the electricians union or into the sheet metal workers union, which require the teaching of a certain amount of theory as well as practical application in the apprenticeship program. The schools have not prepared for this through the teaching of a physics program and mathematics and geometry. This can create an entry difficulty.

Another factor of course has been the secretness of the apprenticeship establishment itself. By apprenticeship establishment I simply mean the unions, the employers, the Government institutions--the Bureau of Apprenticeship and Training--and the State institutions concerned with apprenticeship as to what are the standards for admission. What are the dates when applications can be accepted? Where can they be accepted? When do you actually get into a trade? This has been somewhat taken care of by the development of apprenticeship information centers and apprenticeship outreach centers, which we'll discuss a little bit later, but by and large this is still a difficult problem for blacks.

There is also the problem, especially for youngsters from low-income families, that, when they graduate from high school, there is a tendency for apprenticeship programs not to begin for many months, and the difficulty is one of being able to subsist, to find a temporary job. Oftentimes the tendency is when they find a job and the apprenticeship class does open, to stay with the job they have rather than face the uncertainty of seeking an apprenticeship position.

The last factor I might explore or mention is the issue of tests themselves. This varies again very widely between unions and between locals within the same union. Sometimes there is a requirement for aptitude tests, sometimes written examinations, sometimes oral examinations, or sometimes combinations of all three. This has partly been the result of a growing tendency of some State laws, to set up objective standards that limit latitude for deviation. The tendency is to set up objective standards which frequently allow very little latitude for variation.

The real issue of course is to assign the weights to these factors which I have ticked off--which are the most important ones. All of these are considerations; some are more important than others.

In our study we concluded that there are, of course, a number of things required to increase minority participation in the apprenticeship program. Some of these are quite general, one being the maintenance of full employment. A tight economy does tend to mollify some union apprehension about expanding

apprenticeship classes, offering continuing classes, and what have you.

There is a need for the pressure of law and judicial decisions, but Prof. Marshall and I are both somewhat suspicious of the power of the law to bring about more than token changes, the power to really bring about major flows and continuing flows of minority participants into the apprenticeship programs.

Our conclusion was one which would place great stress on the use of various community-oriented groups; our special interest was with the Workers Defense League project in New York. Community-oriented groups, we felt very strongly, should be dominated by blacks themselves and people from the minority groups in the community whose concern is with getting results, as has been the practice of the Workers Defense League, rather than direct confrontation per se with trade unions, although this may be sometimes necessary. The Workers Defense League has had as its major objective the goal of getting results, which means taking the time to study the mystiques of apprenticeship, try to gain the confidence of various apprenticeship sponsors and joint apprenticeship committees in the community, and then do the actual recruiting, counseling, and assisting people through the labyrinth of apprenticeship mystiques. We felt this was the most successful type of venture.

There is the need for cooperation from the unions themselves. There is a great need possibly in some cases for more pressure from the international unions on the various recalcitrant locals, where they do exist. Trusteeship power should be used, and we have recommended at times its use to bring about pressure on recalcitrant locals that tend to darken the name of the entire labor movement by some of their overt discriminatory practices where they do occur. And, of course, we recommend a continuing reliance upon contract compliance and these types of devices to bring about continuing pressure.

These are the general comments, and I have tried to be somewhat brief.

REV. DRINAN. Thank you very much, Prof. Briggs. Mr. Gross, do you have some questions for the professor?

MR. GROSS. Yes, two if I may. In your emphasis on special community groups and on supplementing the apprenticeship program with these, would you say that given the history of the

apprenticeship program and the exclusion of nonwhites, that the great bulk of the nonwhites who might be reached by this program would in many cases be unable to qualify under prevailing apprenticeship standards of high school graduation and age limitations? And if so, do you feel that it is absolutely necessary to supplement the apprenticeship route with special programs such as the journeymen trainee programs about which we will be hearing later?

PROFESSOR BRIGGS. Just to speak in terms of the Workers Defense League, it has not taken on the issue of standards themselves as a barrier to black participation in this program. It has recognized that there are a vast number of qualified blacks in these communities. Whites tend sometimes to question the availability of qualified applicants. There are far more qualified blacks in these communities than people on the outside tend to realize. A lot of times the experience of the Workers Defense League has been with high school graduates who have all the paper requirements and are being underemployed in the community--messenger jobs and jobs of this nature in the ghetto community--who often-times can be reached through an outreach and recruitment program that is community oriented and can find these people who do have the paper requirements.

The standards themselves are a separate issue. The Workers Defense League has tried not to take on that issue directly but has rather tried to find the qualified applicants who can meet the standards by working through its own recruitment and outreach efforts and there are quite a few in these communities who are available, if there is a serious effort made to find them.

MR. GROSS. Just one other point. In your book that you wrote with Prof. Marshall, I think you indicated that the historical norm has been that approximately 10 percent of the trade union labor force acquires its skills through formal apprenticeship training programs. Could you describe what the avenues have been for the other 90 percent, looking now at the labor force as it is presently constituted?

PROFESSOR BRIGGS. Yes. It is very difficult to know exactly how people get into the crafts themselves. This varies from trade to trade of course. In the trades where the greatest concern has been manifested--electricians and sheet metal workers for example--in these trades the tendency is for a higher proportion to go the apprenticeship route. On the other hand, as to exactly how people bypass the apprenticeship programs, in many cases the statistics reflect the fact that following World War II, when there was a desperate labor shortage, many people were taken into trade unions in which the standards were set aside, and actually became journeymen directly. Some of them had acquired this experience in the war themselves, in the military. Some

of them had acquired it in various special Government programs to meet housing shortages during the war. This was one route in. By and large for black youngsters and minority groups in general, apprenticeship has tended to be the only way. And especially in the trades in which the greatest interest has been manifested, in the electricians and in the skilled trades, a greater proportion, maybe up to 30 or 40 percent, may go through the apprenticeship route, and it is a growing proportion today.

The tendency is to emphasize apprenticeship entrance because this is typically the only way you can become a foreman. One of the best ways actually to move into one of the white collar or supervisory positions in these crafts is to go through the apprenticeship route, which combines both working on the job and training theory.

MR. GROSS. Thank you. I have no further questions at this time.

REV. DRINAN. Prof. Briggs, I listened very carefully to your exposition which was very learned and you said in the past employers and unions had in fact discriminated. Are we to infer that in your judgment now there is no overt or subtle or unconscious discrimination on either the part of the employers or the unions?

PROFESSOR BRIGGS. I would not want to say that as a blanket statement. Certainly there are instances in which local unions today--there is no doubt about it--practice overt discrimination; and as I say I think it behooves the entire labor movement itself to move against these recalcitrant locals where they occur. In the building trades the tendency is much more for the unions to dominate the joint apprenticeship committees than the employers. I wouldn't want to take the onus off the back of the employers themselves, but we probably are not by putting more pressure for change on the unions. All of our institutions are going to have to bring about significant change. The labor movement in the construction industry cannot be exempted from this if we are to proceed lawfully to build up pressure within our system. All of them must bear some responsibility. But I think the issue should be put in perspective as to the fact that there are a number of reasons, and there is great variation. There are some unions and employers who are quite sincere in their efforts to alter past practices. There are some of those who are simply practicing overt discrimination, and there is no way to deny it.

REV. DRINAN. Prof. Briggs, I realize you are from the nice quiet town of Lansing and not from Boston, but as we begin to develop the testimony that we are seeking here, could you give us any help as to those national trade unions which are involved heavily in federally assisted construction and which have poorer records than others, particularly with regard to the millions of dollars that are being spent here and the hundreds of millions that will be spent in the next 5 years on Federal and federally assisted projects in this area?

PROFESSOR BRIGGS. There has not been a great deal of concern regarding entry into certain trades such as the trowel trades, carpenters and these types of building trades. The greatest concern in recent years has been in the areas dealing with the electricians, sheet metal workers, ironworkers, pipe-fitters, plumbers unions and, in some cases, the operating engineers. In other words, the occupations that tend to be the most highly skilled and those that are in the greatest demand today as far as the changing technology of the industry. These jobs are more difficult to pick up than the carpenter-type jobs or the trowel trades themselves. These occupations are very highly used in construction work and in all types of federally supported programs.

REV. DRINAN. Professor, one question before the others have questions. You indicate that you believe that the law can bring about only token change. I am wondering what you would evaluate the present situation to be in view of the fact that there are 1,700 construction projects assisted by Health, Education, and Welfare throughout the country--1,700 federally assisted projects; and yet we have in the entire country only three people who are assigned to monitor these 1,700 construction projects. You can't indict the law if the law is not being enforced.

PROFESSOR BRIGGS. That is quite correct. I don't mean to say I have no hope for the law. My concern is that reliance upon the law itself oftentimes--this is sort of a phobia I suppose that Prof. Marshall and I both share concerning the ability of the law itself to bring about social change. It's got to be there. I am not saying it shouldn't be there or efforts shouldn't be stressed to pass or enforce these laws. There is no question about the fact that they are not being enforced. The question again is largely the will of men. We like to talk about being a society of law. Unfortunately, most of us know it takes men to interpret laws and men to enforce laws, and not to enforce laws, and men to do the things that we have mentioned here about not providing sufficient compliance reviews. Our concern was largely that if we tried to rely solely on the law to bring about change, we would get nothing more than

token change. We must begin to open up channels, to establish flows. This comes through the use of pressure and largely through the use of setting up channels of supply. I certainly agree that that's a disgraceful figure, and that the laws ought to be enforced and enforced vigorously.

REV. DRINAN. Thank you, Professor. And to make it more graphic, right here on the NASA project in Cambridge as of June 9, 1969, a total of 167 whites are employed and seven blacks are employed, three of whom are laborers.

Are there questions from other members of the Committee? Mr. Segal?

MR. SEGAL. I would like to ask if you could give us any insight as to what education at a secondary level might be doing, especially in the case of schools. Is there any indication that some of the educators are beginning to realize that extra effort has to be expended to help gear young people into the kinds of segments of industry that you have been talking about?

PROFESSOR BRIGGS. It varies again from community to community. There has not been a great stress by our school systems on vocational education. Vocational education in most areas is quite deficient. In fact our study tended to show, especially in New York City, that the greatest number of applicants were coming to apprenticeship programs from academic schools as opposed to vocational education schools, which was a sad commentary on the status of vocational education in that particular city, and it is followed up throughout most of the rest of the Nation. There has been a tendency to neglect vocational education and a tendency not to place much stress on preparation and school counseling as to the opportunities that do exist in the construction trades, which as I say is one industry that is expanding as far as employment occupations are concerned and will likely expand for a good number of years.

REV. DRINAN. Thank you. May I introduce a member of the Advisory Committee who was not here when I introduced the others. Mr. Eric Butler, Vice President of the First National Bank. He and Mr. Wilmore have had a lot to do with structuring the two open meetings that we shall conduct here today and tomorrow.

Are there any other members of the Committee who would like to ask questions of the professor?

[NO RESPONSE]

Thank you very much, Professor. We will get this into the record.

REV. DRINAN. I will now introduce to you Prof. Alfred W. Blumrosen of Rutgers University School of Law in Newark.

MR. GROSS. Prof. Blumrosen, could you first tell us what your academic interests and pursuits have been, and your professional pursuits, as they relate to problems of nondiscrimination in employment, including nondiscrimination in the construction industry.

PROFESSOR BLUMROSEN. Yes. My field of specialization is labor law and in the last few years race relations law. I am a labor arbitrator, a member of the American Arbitration Association and have served in a number of capacities with various government agencies dealing with employment discrimination. I have written fairly extensively on the law in this field. In 1963 and 1964 I was a consultant to the New Jersey Civil Rights Commission during which time I conducted a critical study of the New Jersey Division on Civil Rights, which is the State fair employment practices agency. The study was published in the Rutgers Law Review in 1965. At the same time I advised Rutgers University as it faced problems of discrimination in the construction of the University's new campus in Newark. That episode in Newark led to the filing of a rather massive complaint before the State antidiscrimination agency against several of the construction unions and the contractors with whom they dealt.

From 1965 to 1967 I was on leave from Rutgers to serve with the Equal Employment Opportunity Commission which had just been established. I served as a consultant, as the first chief of liaison with Federal and State agencies for the Commission, and, for most of the time, as its first Chief of Conciliations. In that capacity I was responsible for the development of remedies in cases where the EEOC had found reasonable cause to believe that discrimination existed under Title VII of the Civil Rights Act of 1964.

The major single case which marked that period was the agreement which we negotiated with the Newport News Shipbuilding Company, under which some 3,000 black employees received promotions in a single year and 100 were promoted to or were in line for promotion to become foremen. Unfortunately we were not able to repeat that kind of experience and, actually, one of the men who was responsible for getting us into the position to do that was reorganized out of business shortly thereafter, reinforcing the point that Father Drinan made earlier about the problems of manpower and people in law enforcement in this field.

I remained a consultant to the EEOC after returning to Rutgers in 1967 and developed there at Rutgers a program to deal with employers who had few minority employees in areas of high minority population. In the summer of 1968 I served as Special Attorney to the Civil Rights Division of the Department of Justice, advising them on their litigation pattern in employment discrimination cases and assisting in the trial of U.S. vs. H. K. Porter Company in Birmingham, Alabama. I am currently a consultant to the Office of Equal Opportunity, Department of Housing and Urban Development. Articles which I have written dealing with the Newport News agreement and dealing with problems of seniority discrimination will be published in the next few days.

MR. GROSS. Before you begin your presentation, could you briefly outline the points which you intend to cover, so that we can get an overview?

PROFESSOR BLUMROSEN. I think the first problem if you are going to attack discrimination is to identify discrimination and establish it in a way which is legally sufficient. That is the first thing I want to talk about--how you establish discrimination in the context of the construction trades, the context which Prof. Briggs has described to you.

After I have suggested the way of establishing discrimination, then I want to turn to talk about legal remedies for the discrimination which has been found. Those are really the two main points.

MR. GROSS. Thank you. Please proceed.

PROFESSOR BLUMROSEN. I consider the problem of remedying discrimination in the construction industry to be one of the most difficult in the field of civil rights. Yet it is one of the most important for the reasons that Prof. Briggs gave. The construction process is a visible one; and it has become symbolic in our time of the question of whether equality will prevail in employment and the more fundamental question of whether our laws will be faithfully executed.

As I said, I believe the first step in any attempt to deal with patterns of discrimination is to identify them. Once discrimination has been established, then a wide range of remedies will be available. But until discrimination is established, it is very difficult to discuss the extent of remedies. The concept

of discrimination, I think, is substantially the same whether one talks about Executive Order 11246 dealing with discrimination by government contractors, Title VII of the Civil Rights Act of 1964, or, in a State such as Massachusetts, the State statutory prohibition against discrimination. I believe that the courts will define discrimination broadly so as to carry out the aims of the Congress and the President to eradicate racial bias from our employment system. Therefore, I will first discuss the concept of discrimination as it applies to the construction industry, and then turn to the question of remedies.

The patterns of exclusion of minorities in some of the construction trades has been detailed to you and you'll undoubtedly hear more during the course of your hearing. Similarly you will hear about the various relationships between the unions and the general contractors and the subcontractors, along with the various hiring hall arrangements which permeate the construction industry. An understanding of the hiring hall arrangements, the subcontracting system, and the concept of territorial and work jurisdiction of craft unions, is essential to the identification of discriminatory patterns of employment on the part of unions and employers. Briefly I will describe these for you, if I may.

The hiring hall is the key to union security and job opportunities in the construction industry. For most employees in construction there is no seniority in the sense of permanent employment with a single employer, such as exists in manufacturing. Men are hired by a contractor for a job and when the job is over they're released, they're no longer needed. They go back to the hiring hall and wait for an assignment, in some order of priority, for the next job. Therefore, it's the hiring hall which provides whatever job security exists in the construction industry. For that system to provide job security, the union must embrace as much of the construction work as possible in the area within its jurisdiction and then assign men to those jobs in a manner which will in their view assure job security for the workers--just as the seniority system assures job security for workers in manufacturing industries.

Now, each craft union has its exclusive territorial jurisdiction as well as its exclusive work jurisdiction. Controlling this jurisdiction and limiting the number of men in the trade who can perform work within the craft gives the union its basic bargaining power with employers. If employers were free to hire from outside the union hall, and there was a big

labor supply out there that the union couldn't control, then they would not be under pressures to meet the wage demands of the craft unions. Those problems are complicated enough but of course that's all in the setting of the construction industry.

Construction contracts are usually let to one or more general contractors, who then subcontract most of the work to specialty subcontractors. These subcontractors in turn hire labor to perform that work, usually utilizing the hiring hall, either on an exclusive referral basis or preferential basis or something like that. The local contractors and their counterpart unions arrange in many cases for apprenticeship programs, which are often administered on an area basis by a joint apprenticeship council or committee.

Now, all of these parties--unions, contractors, and joint apprenticeship committees--are subject to Title VII of the Civil Rights Act of 1964 which prohibits unlawful employment practices which adversely affect employees or potential employees in their employment opportunities because of race, color, religion, sex, or national origin. Employers, including the general contractors and the subcontractors, in federally supported construction are subject to Executive Order 11246 which imposes both a nondiscrimination and an affirmative action requirement. Indirectly, unions are affected by this order of course but are not directly subject to it since in theory it is part of the contractual relationship between the Government which is buying building and the contractor who is, of course, supplying.

Apprenticeship programs are subject to regulation of sorts by the Bureau of Apprenticeship and Training under regulations promulgated by that agency, and within a State like Massachusetts all parties are subject to State laws against discrimination in employment.

Now, with that background we can turn to what constitutes discrimination. In most cities, many of the construction unions, as Prof. Briggs said, will be fairly integrated; and in some, often the trowel trades, minorities may predominate. But in most areas there are some local unions which have either no minority group people to refer, or at most very few such members. Frequently this situation will exist in the more highly paid and sometimes the more sophisticated trades such as electricians, sheet metal workers, and elevator constructors. Frequently the plumbers and ironworkers will be found to have virtually an all-white union membership. Since the construction unions have been a fraternal, and often a family type institution, the privileges of membership often include the privilege of bringing in new members, including family members. Thus a segregated construction local tends to

restrict information concerning its activities to members and friends, and to give "breaks" to members and to friends of members in its admissions and other policies, thereby perpetuating its segregated character.

Whether consciously or subconsciously, these various unions developed segregated characteristics and retained them as the Nation entered the era of equal employment opportunity. This era dawned in the mid-1940's with the Supreme Court decision in *Steele vs. Louisville and Nashville Railroad*, 323 US 192 (1944) and the passage of fair employment practice laws in some of the States, as well as the first of the Executive orders prohibiting discrimination by Government contractors. These Executive orders were progressively broadened until the Kennedy Executive Order 10925 and its successor, the Johnson Executive Order 11246, reached their present form in 1965. In the Civil Rights Act of 1964 Congress added its declaration that employment discrimination was unlawful. This law went into effect on July 2, 1965 and has now been in effect for 4 years, minus a week. The passage of all this time and the present discriminatory practices of some construction unions have, I believe, eroded public confidence in the efficacy of law to solve or assist in solving racial discrimination problems of our time and thus have contributed to the civil unrest which now confronts the country.

One of the evidences of this tragedy is that we have few judicial decisions as to what constitutes discrimination by construction unions. The following analysis is based on my study of court decisions and of decisions of the EEOC finding reasonable cause to believe that discrimination exists which is illegal under Title VII.

My conclusion is this. Discrimination in those construction unions whose practices we're talking about, which are substantially segregated at this point, consists largely of devices which are designed to or have the effect of maintaining the substantially segregated character of these unions. When dealing with a substantially segregated union, any device or procedure which has that effect is discriminatory unless it can be justified. For example, when dealing with a substantially all-white union:

1. A decision not to admit new members at all has the effect of perpetuating segregation;
2. A decision to admit new members as apprentices or journeymen without notifying the minority community has such an effect because only part of the white community will be aware of the opportunities;

3. A decision to commence an apprenticeship program without recruiting in the minority community has the effect of perpetuating discrimination;

4. A decision to enroll new members or open an apprenticeship class at a certain time, without notifying the minority community, perpetuates segregation;

5. Decisions not to refer applicants from minority groups for work, of course, has a similar effect;

6. The establishment of the barriers of delay, of subjectively evaluated tests, or unreasonable test standards not uniformly applied to whites, has a similar effect;

7. A decision to refer to work in the order of seniority in the local, or length of service in the area in the trade, may have this effect if there has been a pattern of exclusion of minorities over periods of time since the more senior men in service will automatically be white;

8. Any decision to blanket in a group of white applicants for apprenticeship or journeyman status will have a similar segregation effect because it will delay the time when minorities will be available to be admitted.

REV. DRINAN. These practices which have the effect of eliminating minority groups, in all these instances, this is your own? This is not a court decision or Federal ruling? This is your own inference as to what does in fact have this effect?

PROFESSOR BLUMROSEN. It is my conclusion based on a scattering of decisions. But there are not decisions on every one of these points.

This is just a partial catalogue of tactics which have been used which I've seen in decisions or in my various governmental activities. All these tactics, when engaged in by locals with substantially all-white membership, or in substantially all-white

referral work, have the effect of perpetuating segregation, and therefore violate the Executive order, Title VII, and State law. For purposes of contract compliance, the presence of such tactics and hence the determination of discrimination, can be made informally in the administrative process. Unions which wish it may be entitled to a more formal hearing under the Executive order but I believe these determinations can be made initially, informally in the administrative process without an elaborate hearing. Under Title VII the employer is in violation, when he participates in these practices through the use of an exclusive hiring hall, not because the union has discriminated, but because the employer knows that if he uses the union as the exclusive or primary referral source of workers, he will in fact secure only white workers, and, therefore, he is using a tainted source from which to secure his labor. For the purpose of enforcing Title VII, reasonable cause decisions are made administratively by EEOC, and the courts will ultimately pass on the legality of these and other tactics.

Now, with that as a general picture of what constitutes discrimination, we can turn to the question of how do you remedy it once you find it. The shaping of effective remedies for discrimination should do several things. First they should make complainants whole for losses resulting from discrimination; secondly, they should establish procedures for the future which will assure that minorities do in fact have employment opportunities; and third they should prevent the development of other modes of discrimination or delay. These objectives are mandated by Title VII and the Executive order which, after a finding of discrimination, direct the Federal courts and agencies to, in effect, cause the respondent to cease and desist from its unlawful employment practice and to take such affirmative action--the language which appears in the statute as well as the Executive order--as may be appropriate to remedy the situation.

The breadth of this remedial requirement of affirmative action, required after there is a finding of discrimination, is illustrated by a very recent New Jersey Supreme Court decision in a housing case under a State statute which has substantially the same language. Because the words of the New Jersey Supreme Court are appropriate to our problem, I would like to take a moment to quote part of that to you. The case is Jackson vs. Concord Company, September Term, 1968, decided June 2, 1969, dealing with the scope of remedies in a housing discrimination case. The court said, after reviewing the statutory and legal history of the matter: "From all of this it is patently clear that the Legislature intended to create an effective enforcement agency in order to eradicate the cancer of discrimination. Even in the

case of an individual complaint, it is plain that the public interest is also involved. Discrimination, by its very nature, is directed against an entire class in the particular circumstances and wrongful conduct against a complaining individual is indicative of such a state of mind in the wrongdoer against the class. Common knowledge and experience dictate the conclusion, for example, that an apartment owner found to have discriminated because of race in one instance may well have discriminated, and proposes to discriminate, against all others of the class seeking to rent his accommodations. ...So the law seeks not only to give redress to the individual who complains, but moreover to eliminate and prevent all such future conduct on the part of the landlord by enjoining further discriminatory practices as to all persons, as well as to deter others similarly situated from engaging in or continuing to engage in such courses of conduct."

A more specific discussion of remedies for discrimination must be based on an understanding of decisions in three cases: Vogler vs. Local 53 Asbestos Workers; The Seattle Ironworkers case, Lewis vs. Ironworkers Local 86; and a school teacher case decided a week ago Monday by the United States Supreme Court, U.S. vs. Montgomery County Board of Education. I need to talk a little bit about each of those cases.

In the Asbestos Workers case, the Federal District Court was sustained by the Court of Appeals for the Fifth Circuit, which is the court that has jurisdiction over a good part of the South, in an order which required that the Asbestos Workers union abandon its preference for family relations, its requirement that there be a recommendation by existing members before a new member could come in, and its membership voting requirements with respect to admission. The order also required the union to operate its hiring hall so as to refer one white and one black person alternately for employment, as employment opportunities developed. That order was upheld by the Fifth Circuit. The order also requires the union to submit a plan to increase the size of its membership so that it would be possible to bring in minority groups.

REV. DRINAN. There are three things there that I think are very crucial. Would you enumerate again what the Fifth Circuit required the Asbestos Workers to do so that this will enter the conversation here?

PROFESSOR BLUMROSEN. They had to drop nepotism, and voting on admission to membership.

REV. DRINAN. The second one?

PROFESSOR BLUMROSEN. They had to operate their hiring hall, on an interim basis, so they would refer alternately one black and one white person so long as there were blacks available who qualified; and thirdly, that they develop a plan to increase the size of their membership.

REV. DRINAN. Thank you.

PROFESSOR BLUMROSEN. In the Seattle Ironworkers case, the union was ordered by the State fair employment practices commission to cease discriminating and to make whole black applicants who had been delayed or rejected for membership, to the extent of thousands of dollars. The exact figure, which I don't have, ran \$8,000 to \$10,000 and involved two men.

In the Montgomery Board of Education case, the Supreme Court upheld a district court decision requiring specific ratios of black to white teachers in the Montgomery County school system, which is in the center of Alabama, as a remedy for past discrimination. Note that this use of targets, goals, or specific numbers of persons of various races is not the mechanical quota which is proscribed in employment cases by the so-called "no-quota provision" of Section 703(j) of the Civil Rights Act of 1964. There had to be one teacher of one race for every 12 of the other race.

REV. DRINAN. In the Montgomery case, were these Negro teachers who otherwise would have lost their jobs because of the integration of the schools?

PROFESSOR BLUMROSEN. Well, the problem was that they were integrating the schools and they had begun to integrate the students, but hadn't begun to integrate the teachers. What the court was doing was requiring the integration of the employees of the school board.

REV. DRINAN. Was a union involved, too?

PROFESSOR BLUMROSEN. No, there was no union involved.

Note that this use of targets or goals or ratios--specific numbers or proportions in various cases--is not the mechanical quota which is prohibited in employment discrimination cases by the so-called no quota provision of 703(j) of Title VII of the Civil Rights Act of 1964. This method of increasing minority

participation is not prohibited, because the no-quota section only prohibits mechanical quotas, requirements of proportions of minority employees based on population or on labor force participation rates. That section, the no-quota provision of the Civil Rights Act of 1964, says nothing about the use of goals or standards as remedies once discrimination has been found. And the way the Supreme Court approaches the matter in the Montgomery case is to first make it clear that what they were doing was remedying discrimination and that was a predicate for moving to this kind of specific proportion requirement. When segregation and discrimination are found, the statute speaks only of the affirmative action required to remedy it. Obviously, if the discrimination consists of excluding or substantially excluding minorities, then the remedy, if it is to be meaningful, must be aimed at increasing the numbers of minorities who are actually involved in the trade. The only remaining question then is whether the particular method chosen to do that is reasonably related and necessary to achieve that result.

In the Montgomery case, the Supreme Court recited 5 years of efforts by the district court to move the school board toward increasing black teachers in the previously white school, short of trying to apply these numerical standards. None of those efforts succeeded. Under those circumstances, said the court, the application of that numerical standard was sound because it had been established that it was necessary to remedy the past discrimination. The court assumed that the standards applied would be fairly and reasonably administered.

The history of some unions in the construction trades is exactly parallel to the history of the school board's activities in the Montgomery County case. Efforts, going way back, have been made to persuade, cajole, and encourage some of these unions to abandon their segregation practices. These efforts have failed. If a construction trades union today in 1969 remains substantially segregated, it is not because there have been no efforts at persuasion, rather it is that the various efforts, law enforcement efforts and what have you, have not succeeded. Against this background, stronger medicine is obviously called for and numerical targets may be appropriate because they are clear and definite, and they give all parties guidance as to what is likely to be required of them.

I can give personal testimony to the importance of numerical standards, in addition to describing the experiences of the National Alliance for Businessmen and other institutions

of society. Since 1960 my law school has been making efforts to increase minority participation in the school. We thought we were doing well, but between 1960 and 1967 we graduated 12 black students while graduating 800 white students. This was obviously inadequate in the face of our modern needs. In 1968 we adopted numerical targets; we said we were going to take 20 minority students in the fall of 1968 and 40 in succeeding years. Our internal organization of the school was revised to centralize control over this program in a committee of which I am chairman. We met our target last fall, and we will meet it again this fall, and most of the students are going to do well. We will in this way substantially increase the participation of minority persons before the bar. The numerical targets that we used cleared the air, and they permitted us to effectively implement a policy in which we had long believed but in which we simply had not acted out our belief. The need for such targets will lessen as more minority group persons become aware of their opportunities. Incidentally, at the law school, we increased the size of our entering classes so that no nonminority person who otherwise would have been admitted was excluded.

So I can testify as to the administrative effectiveness of such targets or goals where there has been a history of ineffective efforts, or no efforts, to eliminate segregation in an institution.

With that introduction, let us turn to the three areas of remedy which are required here: of unions, of contractors, and of their joint agents, the joint apprenticeship committees.

The first is recruitment. It is generally believed in the minority community that construction unions discriminate. Therefore, employers and their unions must make efforts to convince minority persons, both youths in school and men working in the trade, that they are welcome and are encouraged to participate, to join the union and to secure employment. The unions and employers in the area may wish to organize and coordinate this program with local institutions such as vocational high schools, the Workers Defense League, the Urban League or otherwise. Failure to engage in these activities constitutes, in my view, the perpetuation of segregation. I have described this problem with respect to employers in an article, "The Duty of Fair Recruitment Under the Civil Rights Act of 1964," 21 Rutgers L. Rev. 465, a copy of which the counsel has.

Recruitment in this area must include assistance in equipping young men with such qualifications as are reasonably

necessary to enter the trade by advising them of reasonable standards and assisting them in meeting these standards.

Secondly, the procedures for admission as either apprentice or journeyman must be examined. These procedures provide ample room for discrimination, as the Asbestos Workers and Seattle Ironworkers cases testify. Procedures must be carefully evaluated so as to wring out the opportunities for discrimination. This can be done only by judging the procedures in terms of their results. The various admissions standards, from the necessity for filling out an application form through the need for references or other subjective evaluations based on interviewing and the like, all can be used to perpetuate discrimination. Where the subjective factors in admissions procedures operate in that way, they must be overridden.

Admissions standards also involve, frequently, written and manual tests. I have expressed my views on testing in that same article and I don't want to pursue that aspect of it here.

Thirdly, it is going to be necessary to increase the size of the labor pool in this area. The result of increased minority recruitment and eased admission standards will be that more minority persons will seek admission as apprentices or journeymen. Unions normally seek to keep down the numbers in the trade, and often there is an apprentice-journeyman ratio on a given job, intended to prevent employers from over-using apprentices, with their lower wage rates. The size of the union and this ratio may have to be altered to permit the entry of more minority group persons. More nonminority group persons, incidentally, as well may also be admitted under the required relaxation of numerical limitations. I realize that this increase in numbers may weaken the bargaining position of the unions, but these unions which have been perpetuating segregation cannot expect the minority community to subsidize their high wage structure by staying out of their part of the labor market. It can't be done any more.

Next, it is going to be necessary, where possible, to have the immediate admission of experienced workers as journeymen who are not presently in the unionized sector of the labor market. In some trades and areas minority personnel have become experienced in the trade by working in the nonunion sector, particularly the home-building sector which is frequently not unionized at all.

MR. SEGAL. Could you relate this to the migration from the South?

PROFESSOR BLUMROSEN. It is really not that. It is a Northern pattern that has evolved in metropolitan areas that I am familiar with, at any rate in the last few years, where the construction unions have not really sought to take in all construction. What they have done is left individual home-building frequently to contractors who have been allowed to operate at less than union standards while the unions have focused on the bigger buildings, with higher wage rates and greater opportunity. Putting aside the migration from the South, there are a goodly number of minority people who have worked in construction, but often they work for black contractors in the home-building sector; and to the extent that these people may be interested in moving over into the other part of the trade--and if they have the standards and ability to do it--they ought to be able to do it right away, and become journeymen, without going through an elaborate apprenticeship system.

Next, the development of alternatives to apprenticeship, which is the unique contribution of the Boston Model Cities program. In this area, there is a limited route to journeyman status, called trainee, which has been instituted in a limited way in the Model Cities program here. I will not defend or criticize that particular arrangement but will support the principle that it may now be appropriate to develop a more coherent and, in effect, a shorter alternative route to journeyman status than the ordinary apprenticeship route with its 4 or 5 years beginning at the low wage rates and gradually working up, and to insure that substantial numbers of minorities are included in that route. In addition, to the extent that apprenticeship requirements are not reasonably related to the needs of the trade, those requirements themselves should be revised. The duration and conditions of some apprenticeship programs suggest that they are more important as a low-wage restriction on access device than as an educational institution training people for the skills of the trade.

All of the foregoing--and I should add to that list, a general category called training programs for everybody who is possibly interested in getting ready to go into the trade--are intended as remedies to increase minority participation in the construction trades labor supply. Because, unless you can find the bodies, as they say in the trade, all of the formal remedies that the law may impose, changing this system and that system, will not in fact change results. You have to get that labor supply flow into the trade. If minority participation is assured, we can turn to the problem of assuring that the minority labor supply is in fact put to work by referral and by membership

in the various unions that we're talking about. This aspect of the remedial problem involves contractors and the operation of the hiring hall. We will assume for the purposes of the rest of this discussion that there is or is developing a variety of programs which will increase the supply of minority group people who want to get into the construction trades.

Now, assuming that, we can turn to regulation of the contractors and of the unions. The first point I make here is the question of qualification of contractors and bidders on Government contracts. If a contractor is aware that the source of his labor is such that he will operate with a substantially segregated labor force and is prepared to continue to use that source, then he intends to have a substantially segregated labor force. Such a contractor should not be permitted to bid on Government contracts. Virtually all competing contractors in a given trade deal with the same local with respect to referral of people to work. No matter who gets the iron work subcontract on a given building, it has to deal with the iron workers union that has jurisdiction over that particular place. So that if the union has all-white membership and referrals and an exclusive hiring hall arrangement, it will mean that none of the contractors who have such arrangements should be permitted to bid on Government contracts. I realize this is strong medicine, but I see no alternative but to insist that there can no longer be Federal construction under such conditions. The unions and the employers under such a rule would have a mutual interest in increasing minority participation, and increasing it quickly, because without that participation there may be no federally supported construction in a given area. One union which discriminates, under these circumstances, could stop the whole of the construction process. Now, I don't think they can permit that to happen. Their response, if they once recognized that they had to comply with the law, might be to weaken the exclusionary feature of the hiring hall, alter referral processes from the hall, increase minority participation in the union, or some other method that they would invent to end their perpetuation of segregation. But the rule should be clear that a segregated union plus an exclusive hiring hall arrangement means that the contractor is not qualified to bid on Government contracts.

Next, I turn to the specification of numbers or ratio of minority participation in trades which have been found to discriminate. This is the so-called manning table approach of the Philadelphia Plan. It requires that the Government indicate minimum acceptable numbers or ratios of minority workers on projects in an area with respect to those trades and crafts where there is discrimination. Only in this way can it be assured that the

operation of the hiring hall will not be skewed to perpetuate discrimination. If the unions know that they must refer certain numbers of minorities, they will undertake to do so under appropriate circumstances. If they are left to their own devices, the hiring hall arrangements are apt to work in a discriminatory manner.

REV. DRINAN. May I ask you at this point, because this is a crucial point, what do you think of the Federal objections to the manning table arrangement in Philadelphia and elsewhere? Would you explain that for the audience? What precisely did a certain Federal agency have against this arrangement?

PROFESSOR BLUMROSEN. I haven't seen the document. As I understand it, the Comptroller was concerned because this happens in the contracting process. The Comptroller has general control over how the contracting process works, and he said that the Philadelphia Plan was too vague because it didn't specify before the bidding exactly what would be required of the contractor. I guess the basic rule, although I am certainly not an expert on Government contracts in general, normally would be that the contractor is entitled to know what the cost is before he submits his bid; so the Comptroller is unhappy because specifics weren't in the plan.

MR. GROSS. May I add, I think that the key point here is that the objections of the Comptroller General were procedural. I think there has been a general mistaken belief that there was some substantive objection that was being interposed, where in fact it is simply a question of making clear to the contractor what the requirements will be, and hopefully this is a procedural problem that the Department of Labor will be able to solve.

REV. DRINAN. We are running a bit behind time. Would you want to finish the essential points you want to make?

PROFESSOR BLUMROSEN. I will try to be more brief. I think this manning table approach is appropriate where there has been a finding of discrimination and where other less drastic efforts have not succeeded in breaking the pattern of segregation.

The next point in terms of remedy is the direct control of operation of the hiring hall. For example, in the Asbestos Workers case, as I already mentioned the court ordered alternate referrals, one black and one white. In the Seattle Ironworkers case, the union was enjoined from refusing to refer Negroes on the basis of length of service in the trade because people with

greater length of service were white. Another example has just come to my attention. This is a consent order in the case of U.S. vs. Operating Engineers Local 520 in East St. Louis, Illinois. This decree seems to require the establishment on a temporary basis of a minority group referral list, with priority given to referrals of minorities from that list in a certain defined geographical area.

Then there is the use of the affirmative action file, which is a device which the EEOC has developed to identify minority applicants, potential people to be referred, so that employers and unions can go to that file when vacancies develop and know they'll be sending substantial numbers of minorities without getting into ratio or minimum quota systems.

The next question really is a question of fundamental public policy, whether, in this area, to use the hiring hall or to by-pass it.

Without going into the details of that, one argument would be to by-pass the hiring hall altogether because it is the key discriminatory device. My view is that hiring halls are an integral part of the collective bargaining process in construction and they serve valid purposes for both labor and management. If they can be reformed, I would prefer to see them operate in a fair way. Therefore, I would not propose at this time the by-passing or abolition of hiring halls. I remain hopeful that the trade union movement, for all of its failures in this area, can reform. I am not optimistic about the alternatives of greater Government involvement in the labor market institutions or the ability of employers to operate fairly without the pressures of unionism. It would be tragic indeed if the trade union movement were to flounder over this issue of racial equality. But the issue is present and must be resolved now. I believe that public policy should support instant reforms, if you will, of hiring hall arrangements; it should tolerate no longer the delays we have seen over the years.

Finally, I think a reporting system to these few Government people in the field is an integral part of any remedial program. At present, contractors, apprenticeship committees, and unions, must report to the EEOC annually on their racial composition. No contractor should be eligible to bid on a Government contract if his offer does not include a copy of the latest report of himself and those with whom he expects to be dealing.

In addition to that, there should be a reporting by project, periodic and frequent reports on the racial composition of the construction crew as it erects the project, to determine if the manning table is being complied with or if there is a form of discrimination not previously noted. I would recommend monthly reports indicating the number of journeymen in each craft on the job by race, the number of apprentices by race, the amount earned and hours worked by race during the month, to avoid the problems of tokenism. I've submitted a sample of such a form to the counsel. [Marked as Exhibit 1a] The above program is only an outline of possibilities. One more point about the reporting system, by the way. Once you start that, then before a contractor bids on a subsequent project his record of performance on the most recently completed project should be examined to determine if he is a responsible bidder for the future.

The above program, as I say, is only an outline of possibilities. Man can turn his creative imagination to the ending of discrimination as well as to its perpetuation. When he does so, he may produce many new ideas and ways of solving the social problem before us which we have not even thought of. It is the function of law at this time to create the conditions under which men will now solve this problem. If the law fails in this--and thus far it has not succeeded--then indeed, the very fabric of our traditions, institutions, dreams, and ideals has rotted apart.

I cannot accept this conclusion and have devoted the last 6 years of my life in the law to the quest of equality in employment. During this period, we have learned how to solve the problems of discrimination, and we must now immediately put that experience to work to break the back of the patterns of discrimination in the land. I fear very much the polarization of American society which I see on every hand. Employment opportunity is the crucial key to a revived, dynamic, and idealistic America, and it must be brought to reality by law forthwith. Our laws have been on the books and ineffective for 25 years. That is long enough. We must now make real in the fabric of life what has been long stated as our policy. I hope and believe that there is time to do this if we act at once. For this reason I appreciate the opportunity to testify before your committee. Thank you.

REV. DRINAN. Thank you. We certainly appreciate your coming here. Mr. Gross?

MR. GROSS. I will restrict myself to one question, Mr. Chairman. Prof. Blumrosen, you listed certain kinds of discrimination, and you indicated the use of remedies that would be predicated upon a finding of discrimination. I want to clarify one aspect of that if I may. Is it your statement that in cases where the cumulative effect of these practices over years past has been to produce a building trade union work force which is exclusively, or nearly, all-white, that this then is the basis for the imposition of these remedies?

PROFESSOR BLUMROSEN. Well, that is the first step in identifying discrimination. I think as a legal matter that is where you start. You say, "We have a problem here. We have a substantially all-white union or employer." The same principle would apply in both situations. Then you examine his practices to see what it is that he is doing that brought this into being and keeps it alive, and those practices are prima facie discriminatory unless they can be justified. It's a two-step process, not just numbers.

MR. GROSS. I understand that, but going to the first point, is it the exercise to look at past practices to see just how they went to shape the present union membership?

PROFESSOR BLUMROSEN. I think that is useful although not necessarily indispensable evidence. You can imagine a new union beginning, starting off with an all-white labor force. I think the analysis would be the same.

MR. GROSS. If the union has been around for a while, this analysis might be a lot easier, perhaps, in terms of an historical perspective rather than documentation of what is happening today?

PROFESSOR BLUMROSEN. Yes. Most of the construction unions are not about to fight about what they were doing 15 years ago.

REV. DRINAN. Perhaps one or two more questions at most from the audience. I will introduce to you Mr. Paul Parks, who is now entering, a member of the Advisory Committee for Massachusetts.

MR. DOTTIN. Realizing there are penalties in the Executive order, have you come across in your research whether there have been any suspensions, cancellations, or terminations of contracts?

PROFESSOR BLUMROSEN. We have all been looking at that one closely. There have been very few. There are one or two cases of temporary cancellations that I am aware of some years ago, and in the Newport News case, which I mentioned at the beginning of my testimony, the Secretary of Labor did suspend future contracts with the shipyard, which depends 75 or 80 percent on Government contracts, for a week during which time we negotiated the agreement which led to the promotion of all of these people I mentioned earlier. Since then there may have been one other suspension out in the Midwest of future contracts. My own view is, from an administrative point of view, a legal point of view, it is simpler to suspend future contracts than it is to cancel existing contracts, which requires a more elaborate hearing and gets more complicated, but the power has not been used extensively.

REV. DRINAN. Thank you very much, Prof. Blumrosen. I wish we had a little more time. One more.

MR. PITTMAN. On the Asbestos Workers case, in the referral of black and white applicants for jobs, as long as black applicants are qualified--who determines the qualifications of the black applicants?

PROFESSOR BLUMROSEN. As I recall it, asbestos work is very simple work, wrapping pipe, and I think the problem was not a problem of qualifications. It was a problem of finding numbers of people who were interested in doing it. There were nine or 10 men who wanted to get into that work and had been excluded. I don't recall in that case that they had any qualifications or tests or anything like that, so they didn't have to face that problem in that case.

REV. DRINAN. Mr. Butler?

MR. BUTLER. If I understand you, I thought I heard you say it was your impression that the regulations that you were espousing would tend to dilute the bargaining power of the union. Would you briefly take me through your reasoning for this statement?

PROFESSOR BLUMROSEN. Essentially it is that the bargaining power of the construction union in part depends upon restriction of supply. It is the very old fashioned supply and demand. If you have few workers and a lot of work, the wages are going to go up as contractors bid for that work. That is part of the analysis. You expand the supply and because more people are going to want to work, there is pressure on their part to accept a lower bid or a lower wage rate.

REV. DRINAN. Thank you very much, Prof. Blumrosen.

REV. DRINAN. We now have Mr. Herbert Hill. He is the National Labor Director for the NAACP in New York, and one of his many achievements is that he wrote a fine article for the Boston College Law Review on EEOC about a year or two ago.

MR. GROSS. Mr. Hill, would you please briefly summarize the professional bases for your familiarity with the problems of the construction industry and minority participation?

MR. HILL. For more than 20 years I have been directly involved with efforts to eliminate the discriminatory racial practices of the construction industry. I have made numerous surveys and on-the-spot investigations of the racial practices of building trades unions and contractors and I have assisted Negro workers in their efforts to obtain jobs on both public and private construction projects. As National Labor Director of the NAACP I have led mass protest demonstrations against racist practices in the construction industry in cities across the country. I have frequently conferred with representatives of Government agencies awarding construction contracts, with contract compliance personnel and with Governors, mayors, and other public officials on this matter. I have worked closely with Federal, State, and municipal civil rights commissions and have assisted such agencies in efforts to crack the color line in the building trades. I have also presented testimony before congressional committees and State legislative bodies. My statements have been reprinted and cited in various Government reports over a period of many years. I have negotiated with officials of labor unions, construction companies, and with Government agencies on behalf of aggrieved black workers. On behalf of these workers I have filed hundreds of formal complaints against racist practices in the building trades with antidiscrimination agencies. I am the author of articles that have appeared in both scholarly and popular publications concerned with the building trades and I have periodically prepared reports based upon my surveys of the status of black workers in the construction industry for the NAACP and other organizations. I am co-editor with Arthur M. Ross, the former Commissioner of Labor Statistics, of a book entitled Employment, Race and Poverty, which deals in part with the racial practices of construction unions and employers. My writings on this subject appear in several other books and I have also done extensive historical research on the occupational eviction of black workers from the construction trades for a book I am now writing. During 1968, while on leave of absence from the NAACP, I held the post of Distinguished Professor of American History at San Fernando Valley State

College in California where I lectured on the role of black workers in the American labor force. I also gave a lecture series at the University of California at Los Angeles, entitled "Black Labor in White America" and have taught similar courses at the New School for Social Research in New York City. I have also lectured on this subject at Cornell University and at other colleges and universities.

MR. GROSS. Would you proceed with your presentation?

MR. HILL. I am Labor Director of the National Association for the Advancement of Colored People whose national office is located in New York City at 1970 Broadway. I wish to thank the Committee for this opportunity to present testimony on the patterns of racial discrimination in the construction industry and also to make recommendations for the elimination of such practices, especially in federally assisted construction.

The construction industry is a most important part of the Nation's economic activity. New construction, maintenance, and repairs account for 14 percent of gross national product and all the available data indicate a vast expansion of construction activity in the next decades. As has been documented by numerous government reports, the solutions to growing urban problems will require the extensive rebuilding of central cities as well as a great expansion in transportation facilities across the country.

The value of all types of new construction in 1967 was \$76 billion and the value of maintenance and repair activity was an additional \$25 billion. In 1968 in excess of \$78 billion was spent for new construction and public works accounted for almost one-third, or \$26 billion, on new construction.

Throughout the postwar period total construction activity has remained 14 percent of gross national product, but the share of new construction has increased from two-thirds of all building activity in 1947 to about three-fourths in the 1960's. A recent study made by the staff of the Cabinet Committee on Price Stability reports that the public share of the current dollar value of construction has risen from 17 percent in 1947 to 34 percent in 1967. The report also notes that acute labor shortages continue to hamper the industry's ability to respond to market demands.

Despite the vast amount of public funds spent for construction, and despite the growth of the building industry with its ability to provide hundreds of thousands of man-years

of employment--together with the fact that acute labor shortages now exist in several skilled occupations--black workers are permitted to receive what Roy Wilkins, executive director of the NAACP, calls "only the crumbs of expenditures for public construction."

The Nation's construction industry is of unique importance to Negro wage earners for many reasons. Among these are the following:

1. It is a huge industry with vast growth potential. State and Federal social policies will in the future emphasize massive new urban development programs involving slum clearance, housing, schools and medical and other public facilities.

The Department of Housing and Urban Development during the fiscal period 1966-67 was alone responsible, according to its own estimates, for some 465,000 man-years of employment. During this period, \$5.5 billion in HUD construction projects was involved. Because of the Model Cities Program construction scheduled for next year, this sum will be considerably expanded. On Oct. 18, 1968, the New York Times in a news report headlined "Record Construction Contracts Seen For '69", revealed the results of a study made by the F. W. Dodge Corporation which forecast significant increases in the Nation's construction industry.

The Report of the National Advisory Commission on Civil Disorders (March 1968) proposed new social programs which, if even partially realized, would create thousands of new job opportunities in the construction industry. The estimate of the U.S. Department of Labor that the construction industry will require one million more workers by 1975 may be most conservative. According to recent surveys made by the Engineering News-Record, acute labor shortages already exist in many cities.

2. The construction industry, in comparison with other large industries, is highly dependent on public funds. During 1968 public works represented approximately a third of all new construction. In the 25 major areas of Negro urban population concentration, however, approximately 50 to 60 percent of new construction projects were financed by Federal, State, and local agencies. Given the anticipated new programs, these proportions will be substantially increased.

3. Wages in the construction industry are among the highest in the Nation. Wages for the craft occupations in the unionized building trades average about three times the general

industrial wage. In 1968 in New York City, construction electrical workers earned \$7.70 per hour, plus fringe benefits, plumbers in several Ohio cities received in excess of \$8 an hour. There is every indication that these wage levels will be increased during the next round of collective bargaining negotiations, as in Philadelphia where the plumbers union recently negotiated an agreement that provides for an annual minimum wage of \$19,400. In contrast it should be noted that a disproportionately high percentage of employed Negroes work at jobs paying close to the Federal minimum wage. These are the working poor, who are limited to the lowest paid menial work, and although counted as employed, they live in a permanent condition of poverty. The building and construction industry represents a major area of the economy which could provide mobility into higher paying, more desirable occupations.

4. Jobs in the building trades are for men. In the highly important symbolic sense, as well as because of practical considerations, construction jobs are male jobs. These "manly" jobs with their high status implications are especially important for Negro men, who are so frequently either denied employment or permitted to work only in low paying, menial "dead end" jobs.

5. Jobs in the construction industry are highly visible and are of special significance to low-income black communities. Much of new construction, including urban renewal, Model Cities, highway and road building and public housing, is in, or very near, large Negro communities. Slum clearance programs are expected to provide employment to slum dwellers, especially as the Model Cities and other programs specifically require new job opportunities for members of minority groups living in the areas affected by new public construction.

6. Finally, it should be noted that, throughout the Nation, much of the test of what happens to the major recommendations made in the Report of the National Advisory Commission on Civil Disorders will be decided in the construction industry and in the Nation's housing and urban development programs. The employment practices of the building and construction trades have unique social implications, especially for black workers, and if the recommendations of the Report have any meaning at all, it will be to a large extent revealed by the future status of black workers in the construction industry.

During 1963, 1964, and 1965 the Nation witnessed demonstrations by black workers at public construction sites in many cities across the country. These demonstrations had only one purpose: to get the laws against racial discrimination in employment on public works contracts enforced. Although these

demonstrations did not succeed in their purpose, the demonstrations did provoke many official investigations of the pattern of racial exclusion in the building industry and in the construction trades unions.

Among the many groups that conducted such studies were a Special Committee of the 1965-67 California General Assembly, the Michigan Civil Rights Commission, the New York and New Jersey State Advisory Committees to the U.S. Commission on Civil Rights, the New York State Commission for Human Rights, the Ohio Civil Rights Commission, and the Philadelphia, Newark, New York City and New Rochelle Commissions on Human Rights. The U.S. Commission on Civil Rights held hearings in San Francisco, Cleveland and other cities which further documented the pattern of Negro discrimination in the building trades. All these studies reached three general conclusions:

1. Negroes are virtually excluded from construction as apprentices and journeymen, except in the lower paid unskilled and semi-skilled jobs, because of union restrictions and widespread racial discrimination by the AFL-CIO building trades craft unions.

2. Contractors have allowed the unions to control access to jobs through union hiring halls and other forms of union controlled referral systems that limit job openings to union members.

3. Government officials at all levels have failed or refused to enforce the laws against employment discrimination in public construction.

In the construction industry trade union racial practices are the decisive factor in determining the status of Negro workers. The basic operations characteristic of craft unions in the building and construction trades is that they control access to employment by virtue of their rigid control of the hiring process. In this industry, labor unions control the assignment of union members to jobs. The refusal to admit Negroes into membership denies Negro workers the opportunity to secure employment. Quite frequently Negro craftsmen denied union membership are totally excluded from work in white residential neighborhoods, in new commercial construction, and in public works projects. This means that skilled black workers are restricted to marginal maintenance and repair work within the Negro community and that they are seldom permitted to work on the larger and more desirable public and private construction projects.

The building trades unions permit only three thousand apprenticeship openings in the nationwide construction industry each year and maintain a ratio of one apprentice to eight journeymen. This is an arbitrary number based upon the restrictive, antisocial practices of the craft unions. Recent findings by the Federal courts in several States and by the Equal Employment Opportunity Commission indicate that no significant alteration in the pattern of racial exclusion in the union controlled construction industry has taken place.

The response of the AFL-CIO building trades unions in Seattle, Washington, in the case of Lewis and Murray v. Ironworkers Local 86, is typical of the current national pattern. On March 12, 1969, the Washington State Board Against Discrimination, after almost 3 years of investigation, hearings, and futile attempts at conciliation found a "...history and record of deliberate, extensive and illegal discrimination practiced by Respondent Union..." and ordered the admission of the Negro plaintiffs. The defendant union has refused to comply with the order of the State commission and has laid the foundation for a series of appeals to State and Federal courts that will take a minimum of 3 years.

The Attorney General of New York State recently filed charges of racial discrimination against Local 501 of the International Brotherhood of Electrical Workers in Westchester County and complaints against this and other building trades unions in several cities are currently pending with the New York State Commission for Human Rights. Vigorous black protest in Buffalo against the racist practices of the building trades unions has forced a moratorium on construction of the new \$650 million campus of the State university.

A 1968 survey of 21 crafts in Detroit reveals that black workers constitute only 4 percent of those admitted to union membership in the construction trades, and most of these are concentrated in the "trowel trades" and carpenters union. Furthermore, Negroes constitute only 3 percent of those enrolled in union apprenticeship programs. This data clearly indicates that no significant change has occurred in the racial composition of the building trades in Detroit during the last decade. Other information reveals that the same situation prevails in many other areas of Negro population concentration.

Significantly, an ethnic survey study made by the California Department of Industrial Relations released during February of 1969 reveals that the proportion of Negroes among

apprentices throughout the State of California dropped 14 percent between 1965 and 1968 while the proportion of Mexican Americans decreased 17 percent during the same period.

In Chicago, where there are a million Negroes, the taxpayers pay for the Washburne Trade School, but the unions decide what students can enter this public school as part of their apprenticeship training. For years, Negroes made up less than 1 percent of the student body because the unions denied them entry. Today, after court contests, civil rights protests, newspaper exposes, and efforts by the school board, there are 167 black students among the 2,958 pupils. However, most of the black students were brought in under so-called "open enrollment"--they are not part of the union apprenticeship program and they get a diploma instead of a union job.

A nationwide survey of union racial practices published by Look Magazine in November 1968, noted that there were but 58 black apprentices in 26 trades throughout the entire State of Massachusetts. The report noted that "union control of apprenticeship programs remains a major bar to Black progress..The situation in Massachusetts is typical of what such exclusionary practices achieve: of 137 structural iron worker apprentices in the Bay State, none is Black; of 661 electrician apprentices, eight are Black; of 300 plumber apprentices, eleven are Black; of 353 sheet metal worker apprentices, none is Black; of 256 pipe fitters, one is Black; of 167 newspaper-compositor apprentices, one is Black."

Prior to the passage of Title VII, the equal employment opportunity section of the Civil Rights Act of 1964, labor unions used their extensive powers to eliminate or limit black workers as a group from competition in the labor market by a variety of methods. Among these were: exclusion from membership by racial provisions in union constitutions or ritual by-laws; or exclusion of Negroes by tacit agreement in the absence of written declarations; segregated locals; separate racial seniority and promotional provisions in union contracts limiting Negro workers to menial or unskilled jobs; refusal to admit Negroes into union controlled apprenticeship training programs; and denial of access to union hiring halls and other job referral operations, especially where such systems of job control are the exclusive source of employment.

These and other discriminatory practices by major trade unions, in conjunction with the racial practices by employers, have had a cumulative effect in forming the occupational characteristics of the Negro labor force in the United States.

Although some isolated progress has occurred, the broad patterns of racial discrimination remain intact. But two new phenomena have emerged: where once they were openly racist and acknowledged to be such, these practices have now become covert and subtle. New testing devices and non-job-related qualifications, which appear to be nondiscriminatory, exclude black workers just as effectively as did the "white only" clauses in the past. Separate racial seniority provisions in union contracts which once were clearly designated as "white" and "colored" lines of promotion now continue to operate through a series of euphemisms which mean exactly the same thing. The nomenclature has changed but the consequences for black workers remain the same.

The second new development is to be found in the way many labor unions have responded to the requirements of the new body of law prohibiting discriminatory racial practices, in the use of what has become known as "tokenism," that is, a device to preserve old patterns and a tactic to evade genuine compliance with the law.

Since July 2, 1965, the Equal Employment Opportunity Commission has processed approximately 300 complaints against building trades unions. And in a majority of these, the Commission has found "reasonable cause" to credit the allegations of the complaint. The Justice Department has filed lawsuits charging a pattern of discrimination against 16 building trades unions and one Building Trades Council of the AFL-CIO, and an additional number of private suits are pending in U.S. District Courts in cities across the country.

In some important cases the courts have already issued decisions in which the unions were found guilty of discriminatory racial practices. But although now for the first time the Federal courts are providing clear legal definitions of what constitutes racial discrimination in employment, administrative remedies still are blocked as many labor unions continue their defiance of the law and attempt to defend their traditional racist practices in complex court challenges. The legal departments of many labor unions are now busily engaged in introducing a tangle of procedural legal questions in an attempt to prevent change by a rear guard holding action in the courts. This must be regarded as a basic measure of the Federation's policy, and more significant than the oft-repeated but empty pledges of "nondiscrimination" by the leadership of the American Federation of Labor and its affiliated unions.

Investigations and hearings held by the first Federal Fair Employment Practices Committee in the 1940's involved major building trades unions. One cannot but be fascinated by the current findings of the Equal Employment Opportunity Commission and the decisions of the Federal courts in cases involving construction unions across the country, in the light of the historical record. If one reads the complaints of the 1940's and the complaints of the 1960's one is forced to conclude, in the perspective of time, that the only thing that has changed is the names of the plaintiffs. Time does not permit a comprehensive examination of the many cases involving the building trades unions. However, one case must be mentioned as it is typical of many.

On Sept. 13, 1968 in the U.S. District Court in Cincinnati, Ohio, Judge Timothy S. Hogan ruled that Anderson L. Dobbins, a Negro electrician, must be admitted to Local 212, a "lily white" local of the International Brotherhood of Electrical Workers, AFL-CIO. Local 212 has jurisdiction in Cincinnati and in 13 surrounding counties in Ohio, Kentucky, and Indiana. Mr. Dobbins, a veteran of the United States Army, who holds a bachelor of science degree from Hampton Institute and who is a fully certified journeyman electrician, has been attempting to gain admission into Local 212 of the Electrician's Union since 1949. Because he had been repeatedly denied membership in the union, which maintains an exclusive hiring hall system in the Greater Cincinnati Area, Mr. Dobbins has not been permitted to work in the vast new public and private construction projects in and around Cincinnati.

Spokesmen for organized labor have repeatedly stated, both publicly and privately, that Negroes are not refused admission into the craft unions because of their race and color but because they are "not qualified." But Federal Judge Hogan found that in spite of the fact that Anderson L. Dobbins was a college graduate, had successfully passed a journeyman's certifying test, and had a wide range of experience as an electrician, he was still refused union membership and thereby the right to work in his craft.

In a 90-page opinion rendered by Judge Hogan in *Dobbins v. Local 212, International Brotherhood of Electrical Workers, AFL-CIO*, the Federal court ordered, that because of Mr. Dobbins' extensive training and experience in the electrical field, he must be admitted into union membership immediately; that he must not be required to pass a union qualifying journeyman's admission examination and that he must be placed on the union's referral list as of the time he last applied for union membership which was in September 1965.

It should also be noted that in this landmark ruling the court found that the union had committed 11 separate acts of racial discrimination, that there was a clear pattern of racial discrimination under the terms of the Civil Rights Act of 1964 and a violation of an 1866 civil rights statute which prohibits private as well as public discrimination. The Federal court noted that Local 212 has limited its membership to white persons only and that it "effectively controls who will work on union construction within its jurisdiction" through the referral system and hiring hall arrangements it had established. Of great significance is the fact that the court challenged the union's control of employment through its hiring hall and suspended the union referral system. Significantly, this case like so many others represents a continuity of complaints by black workers that began in the 1940's when President Franklin D. Roosevelt issued Executive Order 8802 establishing the first Federal FEPC.

At present there are lawsuits pending in U.S. District Courts against building trades unions charging discrimination in refusing to admit black journeymen and in the exclusion of black workers from union controlled apprenticeship programs, in clear violation of the Civil Rights Act of 1964. Among these are: the Asbestos Workers in New Orleans, the Electrical Workers Union in Cleveland, the Ironworkers in Cincinnati, the Steamfitters Union in Los Angeles, the Plumbers and Pipefitters in Indianapolis, the Electrical Workers in Las Vegas, the Ironworkers in Chicago, the Lathers Union in New York City, the Plumbers Union in Cleveland and in Columbus, Ohio. The Equal Employment Opportunity Commission recently filed the first contempt action under Title VII against Plumbers Union local 189 in Columbus, Ohio which violated an agreement to cease discriminatory racial practices in its job referral system. Some of these suits were brought by the U.S. Attorney General, others were brought by black workers in private actions.

Although there have been a plethora of press conferences and press releases pledging new affirmative action programs to end the shameful pattern of Negro exclusion from union membership and from union controlled apprenticeship training programs the pattern has not altered. At best there has been a shift from total exclusion in certain crafts to mere tokenism. Craft union officials now permit one or two conspicuous Negroes into membership as journeymen or into union controlled apprenticeship programs as a strategic minimal adjustment to the requirements of Federal civil rights laws and Executive orders. Now there must be a new standard

of compliance with the comprehensive body of civil rights laws and Executive orders. It must be recognized that the basis of determining progress must be the number of American citizens who are still discriminated against, rather than the number of persons in jobs that were not there last year, or 5 years ago, or 10 years ago.

After more than a quarter of a century of court suits, of complaints filed with Federal and State civil rights agencies, after interminable conferences, after mass protests and picket lines at public construction sites, after the arrests and jail sentences of those who seek the enforcement of the legal prohibitions against racial discrimination in employment, and after the repeated failure of Government agencies to secure compliance with Federal Executive orders that explicitly prohibit racial discrimination in public construction, the time has come for public agencies to operate with basic new approaches in order to fulfill the black workers' quest for job equality in the construction industry.

The building trades craft unions affiliated with the AFL-CIO are in reality narrow, restrictive protective associations, obsessed with job control and arbitrarily restricting the supply of skilled labor. Thus, the construction craft unions have more in common with medieval guilds than with labor unions operating within the context of a 20th century industrial society, whose future stability is threatened by great racial crisis. No longer can public agencies permit what is essentially a private sovereignty to exercise vast powers that have harmful consequences for the entire society. I, therefore, make the following recommendations:

1. Wherever public funds are used for construction, the Government agency awarding contracts will establish the principle that before a contractor is eligible to bid on a construction or other contract, it be demonstrated that the contractor has an integrated labor force. Furthermore, that any prospective contractor having a collective bargaining agreement requiring that union hiring halls be the exclusive source of labor supply be ruled ineligible to bid on public works contracts. Such exclusive hiring hall provisions virtually guarantee that few, if any, black workers will be employed in the skilled-craft occupations. The notion of passive nondiscrimination is obsolete. Now there must be deliberate, systematic, positive action to make certain that black workers are employed in all job classifications on public construction in advance of contract bidding. The alternative is the hoax of "paper compliance" that has characterized

this industry's immunity from law enforcement. Wherever there is a conflict between the Federal Executive order prohibiting racial discrimination in public construction and a union contract that causes the contractor to discriminate, then the Executive order and the Civil Rights Act of 1964 must take precedence.

2. All public agencies awarding contracts be required to establish that labor agreements stipulate a specific number of black workers to be employed in each craft at every stage of construction. The proportion specified in the labor agreement to reflect the racial composition of the community. This social specification to be enforced at least as conscientiously as the structural and architectural criteria. Unfortunately there has been much public distortion of the finding by the Comptroller General of the United States in the matter of so-called manning tables. A careful examination of all the relevant documents reveals that at no time did the finding of the Comptroller General require the scrapping of a prequalification procedure. At issue was the legal necessity to inform the contractor before bids were made of the requirement for manning tables.

3. Special consideration to be given to black owned construction companies in bidding procedures. Throughout the Nation consortiums of black owned construction companies have been formed which are now effectively in operation. The NAACP has directly sponsored a nationwide consortium of Negro owned companies entitled the National Afro-American Builders, Inc. These Negro owned and controlled enterprises employ over 95 percent of the skilled black craftsmen in the building trades. Giving a preferential status to black contractors is the only realistic way of guaranteeing that a substantial number of black craftsmen will be employed on Model Cities and other publicly funded construction .

4. Government agencies must remove private, that is, union, control of the operation of apprenticeship training programs in the skilled craft occupations. The social consequences of the operation of these programs are much too broad and pervasive to permit private interest groups to impose their restrictive controls in the operation of such programs. A system of objective standards must be established as the basis for admission into such programs and it is necessary that impartial public agencies determine eligibility for admission into apprenticeship training programs. Testing procedures are now effectively used to exclude large numbers of Negroes from union apprenticeship programs.

therefore, an impartial public agency must administer uniform standardized tests. Such tests should be job-related and not based upon irrelevant subjective considerations that have their basis in middle class, white social experience, thus blocking off the black applicant whose social and cultural development takes place within the Negro ghetto. Municipalities, States, and the Federal Government, in conjunction with private agencies such as the NAACP, the Urban League, and Negro churches, must conduct intensive affirmative campaigns to recruit Negro youth for involvement in apprenticeship and other job training programs.

Periodically the public relations spokesmen for the building trades unions have issued dubious statistical information in an attempt to refute charges of discrimination. This is frequently done by lumping together the membership figures of both the skilled crafts unions which are completely white and the membership figures of the unions of unskilled workers which are predominantly Negro. Thus they equate the membership of the virtually all-black house-wreckers union with that of the highly skilled all-white ironworkers or steamfitters locals. Using this device the building trades unions frequently publicize undifferentiated membership information that is deliberately calculated to mislead the public.

This is especially true of recent reports of so-called "progress" regarding the admission of members of minority groups into apprenticeship training programs. But we are not told which so-called "minorities" have gone into what apprenticeship programs. My own investigations suggest that the majority of these have gone into apprenticeship training in the carpenters and trowel trades jurisdictions where historically there has been a large concentration of Negroes, but very few in the highly skilled craft union jurisdictions which remain "lily white."

The NAACP's demand is for job equality for Negro citizens in the highly skilled, well paid craft jurisdictions which have been traditionally "lily white." We are not arguing about unskilled low-paying menial "dead end" jobs which have, in fact, always been open to Negroes and in which Negroes continue to be concentrated. Negroes have always been common laborers. But Negroes have not been accepted as union plumbers, steamfitters, electricians, sheet metal workers, operating engineers, millwrights, lathers, elevator constructors, or mechanics in other skilled craft occupations.

Representatives of organized labor have frequently stated that unemployment among unionized white workers prevents the immediate integration of the labor force and that Negro workers must wait for some far distant future when there is full employment in order to be admitted into union controlled apprenticeship training programs or as journeymen into union membership. The assumption that all the white union members must first be fully employed before Negroes can be permitted to work, the notion that white workers have a prior right to a job, is clearly an expression of the racist mentality within the craft unions. Unfortunately, it is also shared by too many public officials. These assumptions have no basis in law and certainly not in any concept of morality. For many long hard years black workers have disproportionately shared only unemployment. The time has now come for Negro workers to share fully in whatever employment opportunities there are at present and will be in the future.

The Model Cities program provides municipalities with an excellent opportunity to put into effect these and other proposals which could have much meaning for the ghetto unemployed and underemployed. It is therefore very sad to note that the great possibilities contained in the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754) known as the Model Cities program are now being scuttled.

Section 101 of Title I of the Act states that "The purposes of this title are...to expand housing, job and income opportunities."

Section 103(a) states that "a comprehensive city demonstration program is eligible for assistance...only if the program is of sufficient magnitude...to make marked progress in reducing social and educational disadvantages, ill health, underemployment, and enforced idleness...to serve the poor and disadvantaged in the area." Section 103 also requires "maximum opportunities for employing residents of the area in all phases of the program and enlarged opportunities for working and training."

It is clear that the purpose of the Model Cities Act is not simply to construct buildings, but also to provide gainful employment for unemployed or underemployed ghetto residents. We believe that the unemployed residents of the areas affected by the Model Cities Act have immediate rights to the jobs created by the expenditure of public funds in the Model Cities program. This includes new construction as well as rehabilitation work. The

wording of the act is very specific on this point as it requires "maximum opportunities for employing residents of the area in all phases of the program and enlarged opportunities for work and training." The Act states that local residents must be given "priority for jobs created by the expenditure of program funds."

The Model Cities Labor Agreement for the Boston area makes it very clear that Negro workers will again be denied their rights in this federally sponsored and financed program. For all practical purposes the Boston Labor Agreement, which will probably be a prototype for many other cities, turns over control of hiring to those contractors who have exclusive hiring and referral arrangements with discriminatory building trades unions.

No provision is made for giving contracts to the black owned construction companies that employ the majority of black building craftsmen who are denied membership in the AFL-CIO construction unions. Local labor organizations are permitted to determine who will be employed and who will be admitted into union membership. There is no guarantee that those entering the new classification of "trainee" will be ever permitted to become journey-men union members or work at full wages.

Contrary to the intent of the Model Cities Act, the Boston Labor Agreement specifically limits so called "trainees" to residential rehabilitation work and new residential work up to but not exceeding four stories. That part of the Act which requires "maximum opportunities for employing residents of the area in all phases of the program and enlarged opportunities for work and training" is negated by the agreement which could only have been negotiated with the complicity of Government agencies.

Furthermore, there is no indication that the provisions of Title I of the Demonstration Cities and Metropolitan Development Act of 1966 will be enforced. Under this provision all construction and rehabilitation programs and all other services carried out by cities, States, counties, or other jurisdictions under the provisions of the Act, must be operated in compliance with the requirements of Titles VI and VII of the Civil Rights Act of 1964 and Federal Executive Order 11246.

It is evident that the agreement constitutes a direct negation of the concept of equal employment opportunity under the law and the specific requirements of the Model Cities Act.

We believe that the labor agreement entered into between the Associated General Contractors of Massachusetts and the AFL-CIO Building and Construction Trades Council in regard to the Boston-Cambridge Model Cities program violates the declared purpose of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754.) If the Boston Labor Agreement is approved by Government agencies and becomes the prototype for labor agreements in other cities funded by the U.S. Department of Housing and Urban Development, the NAACP will have no choice but to initiate litigation in U.S. District Courts for the purpose of preventing the expenditure of all Federal funds in Model Cities programs. The decision of the U.S. District Court in Columbus, Ohio, on May 17, 1967, in the case of Ethridge vs. Rhodes as well as other decisions, provide a clear legal basis to enjoin Government agencies from spending Federal funds to subsidize racial discrimination in employment.

In my letter of May 2, 1969, to Floyd Hyde, Assistant Secretary for Model Cities of the U.S. Department of Housing and Urban Development, I stated:

"The Model Cities program with its vast potential for social change in the urban ghettos of our country is perhaps the last chance this nation will have to prove that there is still some relevance to social legislation and that the Federal government has the will and the ability through orderly legal procedures to alter the lives of those who are forced to live in a permanent condition of poverty and despair.

"Administrative nullification of the possibilities inherent in the Model Cities program, together with the failure to enforce civil rights laws and executive orders may have dire consequences for urban communities. Given the growing racial crisis of America's urban centers, the continued failure of government agencies to take decisive action in these matters constitutes nothing less than complicity with racist institutions and jeopardizes the future stability of the entire nation."

I hope that the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights will concur with this observation and will use all its influence to seek the implementation of the recommendations I have made here today.

MR. SEGAL. Thank you, Mr. Hill.

MR. GROSS. Mr. Hill, there will be further testimony on this Model Cities plan, but there is one aspect of the program relating to what is termed journeyman trainee. Could you address yourself to that, and indicate what significance you think potentially this component might have.

MR. HILL. I do not know what that term means because that term is not defined in the agreement. The essential point here is that the same labor union officials who for many years have been discriminating against black people will be given the power to determine what it does in fact mean. Under the proposed Boston-Cambridge Model Cities Labor Agreement they will be in complete control of the hiring process. It is they who will unilaterally decide who is an advanced trainee, who is a plain trainee, and who is a journeyman trainee. In reality these terms have no meaning. They are examples of doubletalk and doublethink. Furthermore, it must be noted that there is no history within the building trades for these terms. We know what the apprentice category means, we know what the term journeyman means. They have been traditionally used and are quite explicit in their meaning.

If the building trades unions were honest about this and were prepared to cease their racist practices, there would be no need for these dubious new classifications. If the craft unions were to end their well known racial exclusion practices and to start complying with the comprehensive body of civil rights laws as well as with the intent of the Model Cities Act, then local unions would simply open union membership to thousands of skilled black mechanics and they would also open their apprenticeship programs to the youth of the ghetto. But instead they are perpetrating a systematic hoax that creates the illusion of compliance so that they may continue their illegal and immoral control of job opportunities in public construction.

May I point out that attorneys for the building trades unions frequently invoke the legal doctrine of voluntary association during various court proceedings, in an effort to continue the immunities which the building trades unions enjoy from a series of regulatory controls. The building trades unions are in fact a private sovereignty but the social consequences of this private power are indeed vast and have broad ramifications for the entire black community in the United States. The effects of this private union power in relation to the Model Cities Act means that the statutory mandate requiring "maximum opportunities for employing residents of the area in all phases of the program and enlarged opportunities for work and training" will be directly violated. The provision of the Act that requires that local residents must be given "priority for jobs created by the expenditure of program funds" will become meaningless as a result of job control by the building trades unions.

Mr. Chairman, may I be permitted to point out that for many generations there has been a significant involvement of Negro workers within the construction industry. Even before the emancipation, black people were the basic construction industry labor force. Black workers built the great plantation houses throughout the South. Black artisans did the much admired iron work in New Orleans, in Natchez, in Savannah, and elsewhere. Free black men helped build the architectural masterpieces that still stand in Salem, Boston, and throughout New England. It was not until the rise of the building trades unions during the last decades of the 19th century and the emergence of their power, which was used to redesignate these jobs from "nigger work" to "white man's work", that black people were forced out of the skilled trades in the construction industry. It is important to note that we have not regained the status that black people had in this industry 70 years ago.

Interestingly enough, if one examines the figures of Negro employment in the building trades in Philadelphia during 1902 it becomes clear that there was a greater proportion of black craftsmen in that year in Philadelphia than there is today in relation to the current size of the black population of that city. And I repeat, the AFL building trades unions in Philadelphia and elsewhere were the decisive instrument used in forcing black people out of this industry. These same unions are still at work today and they have become narrow protective associations that operate like medieval guilds in maintaining an artificial scarcity in the supply of skilled labor.

MR. GROSS. There are two aspects of this Model Cities Agreement that I think are potentially troublesome. I would like to mention them briefly and get your reaction to them. One is that, under the Agreement, the trainee experience, as well as the special provisions for maximum use of residents of the area, are restricted to construction in the Model Cities area and contiguous areas; these are predominantly Negro areas. Point two is that the experience is restricted to rehabilitation work and to residential construction of four stories or less. Prof. Blumrosen pointed out that this kind of rehabilitation work and residential work has been traditional for nonwhites. If you put the two elements together, do you see any danger of a form of occupational apartheid, separate and unequal, which could develop if this program is not expanded?

MR. HILL. Yes. These restrictive provisions in the Boston Labor Agreement will serve to maintain the traditional racial pattern in the work force. By this I mean the exclusion of black workers from the skilled crafts and their concentration in the unskilled laborers jobs or in the trowel trades and

carpenters classifications. But, the purpose of the Model Cities Act, as I indicated in my testimony, is to change the old social conditions and racial patterns. The projected labor agreement will give the building trades unions control of illegal hiring hall arrangements and other job referral systems in the Model Cities program. This plan will again extend union control of construction jobs. The consequences of this control will be that residents of the ghetto will be permitted to work only in limited job categories, that is, in rehabilitation work and in new construction of less than four stories, as stated in the proposed labor agreement. They will not receive full union wages and they will not get the same benefits and protections that are standard for white union members.

I am certain that black people in Boston are not going to be passive about this travesty of the law. I do not think they will permit this plan to become operational. Furthermore, the National Association for the Advancement of Colored People will challenge it in the Federal courts. Stated in its simplest terms, this is a plan to cheat black people, and the NAACP is not going to sit idly by and permit the unions and contractors, with the connivance of public officials, to rob Negro workers of jobs that rightfully belong to them.

MR. SEGAL. We have one problem. We are running too much behind. We appreciate greatly Mr. Hill's contribution, but we are taking the time of the next gentleman. One more question.

MR. GROSS. Prof. Blumrosen, in presenting the remedy analysis that he did, indicated that upon a finding that over the course of past years the present makeup of a building trades union had been substantially influenced by a series of discriminatory practices, that this would be the basis for invoking the remedies that he described. From your knowledge of the construction trades throughout the United States, can you indicate how pervasive you think such a present pattern of discriminatorily created building trades work force in fact is?

MR. HILL. I indicated in my testimony that all the evidence clearly indicates that racist practices are very broad and pervasive throughout the building trades. They are systematic and deeply institutionalized. Once we get beyond the carpenters and mud trades jurisdictions, there exists--with some rare local variations--a broad nationwide pattern of Negro exclusion. Investigations and studies made by both public and private agencies currently and during the past half century confirm this.

At best there has been a minimal strategic accommodation to the requirements of law and to black protest. But the traditional exclusion of black workers from the craft unions--that is, the plumbers, steamfitters, elevator constructors, structural ironworkers, electricians, sheetmetal workers, lathers, pipefitters, asbestos workers, and in the other craft occupations--continues, here there is a clear nationwide pattern. I do not think it is at all necessary to wait in each and every instance in order to elaborately prove the existence of racial discrimination. Where there exists a pattern of Negro exclusion then we have the basis, indeed the obligation to proceed with civil rights law enforcement. To be meaningful such enforcement must be pattern-centered, not based upon individual complaint procedures with interminable investigations and conciliation attempts. Unfortunately, most fair employment practice commissions have rejected the concept of pattern oriented compliance and have, therefore, become little more than passive complaint taking bureaus. Thus, they have had very little impact upon racial practices in the building trades.

I think that Prof. Blumrosen and I have a significant nuance of difference on this. Given the long years of struggle, given the bitter resistance of the building trades unions, given the many decades of studies and investigations and the record of legal cases, and the lack of any real change in the status of black workers throughout the industry, it is absolutely necessary to go beyond the case approach. The case by case approach simply frustrates all the laws and Executive orders that are supposed to be operative in this field. Furthermore, I believe that the time has come to think of the establishment of alternative structures, both in relation to hiring hall procedures and in the operation of job training programs.

MR. PARKS. This is an interesting position. With the Model Cities Board not being a party to the union agreement, the Model Cities program having made a decision that the majority of people working on Model Cities construction would come from that area--then this question comes. I notice in some cities across the country that some of the Model Cities programs are talking about developing other unions, other than the standard unions that we know about. Would you comment on this and what that looks like as a way out, of being sure that we get a majority of the workers coming from the Model Cities area?

MR. HILL. I am pleased to comment on this question. In many cities, black-controlled hiring halls, especially in ghetto areas are now in process of development. Here in Boston there is the United Community Construction Workers whose members

work in many different construction crafts. In several cities in Ohio there is the Independent Alliance of Skilled Crafts. In Detroit, Gary, Seattle, and other cities such independent unions are in operation and others are emerging elsewhere. In the current "Issues in Industrial Society", a publication of the School of Industrial and Labor Relations at Cornell University, I describe the operation as well as the problems and potential of these black-controlled hiring halls and independent unions. I believe that the emergence of the new consortiums among black-owned building contractors in conjunction with the independent hiring halls has a great potential, especially for the Model Cities program. Given the long history of racial bias in the building trades I think that now, wherever possible, we should simply bypass the established "lily white" union hiring halls. If black people in the ghetto create a community-based union hiring hall, that hiring hall is as valid in the law as the all-white AFL union hall, and I suggest that as part of the entire Model Cities development, the black building consortiums and the independent community hiring halls establish a joint operation where they become the basic job referral agency.

I would propose that in Boston and elsewhere those in control of the Model Cities program use the community hiring halls operating within the ghetto as the basic source of labor supply. In practical terms, this will be the only way they will be able to comply with sections 101, 102, and 103 of the Model Cities Act. There is a great potential here. For instance, such cooperation could result in the establishment of effective apprenticeship training programs independent of the union-controlled apprenticeship programs. In some cities this has already begun and young Negro workers repeatedly rejected from admission into the traditional union training programs are now getting training in the independent apprenticeship programs. This, by the way, is not black separatism. It is just good common sense and it is an effective response to the intransigent racism of the AFL building trades unions.

It must be noted that the traditional apprenticeship training system, especially in the building trades, is obsolete. The consequence of union control has been the creation of an apprenticeship system designed to create an artificial scarcity in the available supply of skilled labor. The present system of apprenticeship training simply makes no sense and should be dissolved as rapidly as possible. I believe in the establishment of a completely new nationwide apprenticeship system for training vast numbers of both white and black workers in a variety of skills. This development is long past due.

MR. PARKS. This goes to the structure of the way the labor unions function. One of the things that has troubled me for a long time is that we have been going after the general contractor; by and large compliance is directed toward the general contractors. But the general contractors are becoming brokers, and most of the labor force is under the control of the subcontractors. Then there is the group of union fellows called business agents, who seem to have all kinds of power. I have had the experience of them pulling a job for sort of arbitrary reasons; they seem to have that power. As you look at the top of the labor union and watch it feed down, there doesn't seem to be anybody at the lower levels of the labor union who can communicate with the top--or the message from the top never gets down through, and there doesn't seem to be any way to control the group of people who can move out on construction.

For instance, where the labor union pulled a job supposedly because of the fact that the contractor was paying people by check and not by cash, you bring the argument around to the fact that what they were in fact upset about was the fact that there were black workers forced on the job. They then went back to the question that it was inappropriate to pay people by check and that they would not come back onto the job until the contractor paid by cash. This kind of simple harassment begins to suggest--at least I don't know how one deals with this fantastically decentralized organism, that you really can't get at because of its diverse way of control.

MR. HILL. You can get at it. Racism in America is not some vague element floating in the air. It operates through specific institutions. And I believe that the building trades unions are one of the institutions in which racism operates. I would suggest that we now try to develop alternative structures based upon the strategic population concentrations of black people in urban communities, especially in relation to Model Cities. Such an approach is entirely in consonance with the law. I propose that Model City agencies establish, as a matter of basic policy, that before contractors are eligible to bid for work on public construction projects, they must first demonstrate that they employ an integrated labor force, and that at every stage of construction, in each craft jurisdiction, there will be a stated number of black workers, such numbers to reflect the proportion of black citizens in the areas affected by construction. If a contractor has a collective bargaining agreement that requires him to use a "lily white" union hiring hall as the exclusive source of labor supply, then obviously such a contractor is automatically disqualified from bidding in the first instance for a public construction contract. In order to qualify, the contractor would then find it necessary to use the independent hiring hall as the

only source of skilled black labor. In this regard, I would strongly urge the use of manning tables which would establish numerical requirements for every craft at each stage of construction.

If Model Cities and other public agencies awarding construction contracts were to use this viable procedure, then for the first time it would be possible to crack the color line in the building trades.

You who are officials of Model Cities agencies have an historic opportunity to eliminate the ethnic lock that has operated in the construction industry for so many generations. The decisions of the Federal courts in *Ethridge vs. Rhodes*, in the *Dobbins* case against the International Brotherhood of Electrical Workers in Cincinnati and in *Vogler vs. The Asbestos Workers Union* in New Orleans, provide the legal basis for further efforts to end the rigid control of jobs through exclusive "lily white" union referral systems. The approach I am suggesting would have tremendous impact in eliminating the traditional control of the hiring process. And this of course is the fundamental question. Parenthetically, permit me to note that the building trades unions are being very shortsighted because as they persist in maintaining their traditional racial practices they are setting the stage for the elimination of their control of jobs within the industry.

The test of any Model Cities agency in every city with a large black population will be the relationship it establishes with the black contractors and with the new independent community union hiring halls. Will the black contractors, who employ the great majority of skilled black mechanics, be assisted in securing both prime and subcontracts on Model Cities construction? Will the new black hiring halls be used as a basic source of labor recruitment? Will there be new training programs involving tens of thousands of black youth that have been kept out of the opportunity structure of American society? Will black community institutions be involved in the planning and operations of Model City programs so that the social goals that have been enacted into law are fully realized? This is the opportunity provided by the Model Cities Act, an opportunity that may not come again for a very long time.

MR. SEGAL. Thank you, Mr. Hill. We would love to extend this. We need to extend it. As a matter of courtesy to those people who follow, I am afraid we will have to terminate here.

I might say that Mrs. Lucy Benson, who is a member of our Advisory Committee, wanted very much to be here, but she has to be at the NAACP meeting in Jackson, Mississippi.

May I point out, while the next two gentlemen are coming forward, that we will recess as soon as it is feasible until 1:30, when we will reconvene here. We will have sessions both this afternoon, this evening, all day tomorrow, and tomorrow evening. May I emphasize that the community participants will have their times tomorrow afternoon and in the evening.

MR. GROSS. Would you kindly state what your agency is?

MR. JIGGETTS. Thank you, Mr. Chairman. My name is Charles W. Jiggetts, and I am the Regional Industrial Training Advisor for the Bureau of Apprenticeship and Training.

MR. GROSS. Could you explain what the Bureau of Apprenticeship and Training is?

MR. JIGGETTS. The Bureau of Apprenticeship and Training is the Federal arm promoting apprenticeship throughout the country, as distinguished from the State arm, that we have in a good number of States, which is called the State Apprenticeship Division or Division of Apprenticeship and Training. We have two parallel agencies in most of our States. I would say in about 50 percent of our States. We primarily do the same type of functions.

MR. GROSS. What are those functions?

MR. JIGGETTS. I'm glad you raised the question. There has been confusion as to our distinctive role. The Bureau of Apprenticeship and Training has a staff of five people in Massachusetts. The Division of Apprenticeship and Training has a staff I believe of approximately 16 staff people who work in the field promoting apprenticeship.

MR. GROSS. That is in the Massachusetts Department of Labor?

MR. JIGGETTS. That's correct. Our duties are similar. However, I must explain the difference to you so that everyone clearly understands what our respective roles are.

We have an agreement within the State of Massachusetts that between the State and the Federal people we will handle certain types of crafts. The Federal people handle approximately three to four crafts, and the State people handle approximately 12 crafts. We do not go into their crafts, and they do not come into our crafts.

MR. GROSS. When you say "handle," what does that mean?

MR. JIGGETTS. We handle crafts.

MR. SEGAL. Can you identify the crafts?

MR. JIGGETTS. Yes. For instance, of approximately 15 skilled crafts in this State, the Bureau of Apprenticeship and Training handles three or four. They are the carpenters, the electricians, and--my mind slips me for the moment. All the other skilled crafts are handled by the State. That means, for instance, that if there is a promotion program relative to pipe-fitters or some of the ironworkers or a craft of that nature, these particular crafts are handled by the State field men, and the field men in the Bureau do not promote the job opportunities in those particular crafts.

MR. GROSS. They advise? Both you and the Division of Apprenticeship and Training advise these programs and give them assistance? Is that your main function?

MR. JIGGETTS. Yes. What we do in essence, if we run across a program that needs promotion, we will take the information and forward it to them; and conversely, they will do the same for us. We each have separate and distinct accounts and crafts to handle.

MR. GROSS. How long have you had responsibility for the Boston area or been connected with the program here?

MR. JIGGETTS. Since May of 1965.

MR. GROSS. Mr. Jiggetts, could you please explain what Title 29, Part 30--as it is normally referred to--is, when it came out, and what its purpose is?

MR. JIGGETTS. Primarily because of the wide hue and cry about discrimination within the apprenticeship structure, the Federal people came out with what is commonly called Title 29, which lists a suggested method of objective standards for entering apprenticeship programs. These are suggested, and they go to the respective States. Where you have a State apprenticeship council, such as we have in Massachusetts, it is up to the director of that council and his staff to work out a plan acceptable to the Department of Labor--what is commonly called a State plan. Practically all States have a State plan which encompasses Title 29.

MR. GROSS. Title 29 was issued in 1963?

MR. JIGGETTS. 1963 to be implemented by 1965.

MR. GROSS. And its purpose was to require that for entry into apprenticeship programs there be set out objective and reviewable criteria as a means of trying to forceclose discriminatory practices?

MR. JIGGETTS. Precisely.

MR. GROSS. Prior to the issuance of Title 29, were the entry practices largely informal? Could you describe how Title 29 changed things, if at all?

MR. JIGGETTS. Let's say prior to the enactment of Title 29 the entry into apprenticeship, as I understand it, and I stand to be corrected, was informal. By informal I mean that it was left up to the individual apprenticeship councils to enact their own type of program, whatever they wanted.

MR. GROSS. What kind of access did the nonwhite community have to these programs in many cases prior to Title 29?

MR. JIGGETTS. I would say it's a fair statement to say that prior to the enactment of Title 29 there was no access as far as Negroes and nonwhites are concerned.

MR. GROSS. What kind of obstacles were there to this access?

MR. JIGGETTS. The fact that little was known in the nonwhite community about apprenticeship is in my opinion one of the greatest obstacles. In other words, if you have no idea as to what apprenticeship or skilled training was all about, this was an obstacle because you would have no motivation to go into the skilled trades.

MR. GROSS. Was there a problem about informing the nonwhite community regarding the procedures and the times for openings, and was access inhibited in this manner?

MR. JIGGETTS. If you had no knowledge of it, then you wouldn't have any ideas as to what the procedures were or what the requirements were. This was the common practice as I understand it prior to Title 29.

MR. GROSS. I would like to mark as Exhibit 2 a copy of this Title 29 for inclusion in the record.

Mr. Jiggetts, you supplied us with some figures regarding apprenticeship in the Greater Boston Area. These indicated that out of a thousand apprentices in the Boston Area, 58 are nonwhite, and this is against an area population of 15 to 20 percent nonwhite.

MR. JIGGETTS. Just a slight correction. That figure of 58 represents the total number of nonwhite apprentices in the Greater Boston Area. Now, for the State, to the best of our knowledge, in the building construction areas, we have 74. However, I must state for the record that this figure was taken on April 30--or compiled by April 30--and due to our new program here in Metropolitan Boston, we may have some additional figures to be added to that.

MR. GROSS. May I mark as Exhibit 3 for inclusion in the record a handwritten list which is signed by Mr. Jiggetts which indicates these figures. Locals are separately listed. For example: an IBEW local, 305 apprentices, seven are nonwhite; Ironworkers, 91 apprentices, one is nonwhite; Boston Joint Apprenticeship Committee of the Carpenters, 100 apprentices, six are nonwhite; the pipefitters, 138 apprentices, one nonwhite.

It's pretty clear, isn't it, Mr. Jiggetts, that this is not a very effective mode of entry for nonwhites at present into the building trades?

MR. JIGGETTS. I would say that there are a lot of obstacles still to be overcome, and this is one of the reasons I have a job to attempt to overcome those obstacles.

MR. GROSS. Has there been talk of a "credibility gap"? Is that one of the obstacles?

MR. JIGGETTS. Definitely.

MR. GROSS. Would you explain what you mean by that?

MR. JIGGETTS. I would say that to speak about apprenticeship generally, to the nonwhite community it is a nonentity. It is an unknown quantity. Therefore, one has to overcome the lack of knowledge of apprenticeship and for those who might have some knowledge, the hostility he may have in getting into the skilled

crafts. Overcoming this hostility is part of what I call the credibility gap, because even if he is told that there are opportunities open today, one of the biggest problems as I see it is to overcome his lack of faith in the fact that there are opportunities today.

MR. GROSS. Is there also a problem regarding the qualifications that are set out for entry into the programs? I refer to age and high school graduation when I say "qualifications."

MR. JIGGETTS. Some people think this is a problem area. I personally think that the high school requirement is a problem area. It is a definite handicap, and it is one of the reasons why we have the outreach program in the Boston area.

MR. GROSS. The Division of Apprenticeship and Training, the Massachusetts agency which, as you said, has within its jurisdiction the great majority of building trades unions in this area, has issued a guide for the setting up of apprenticeship programs. Are you generally familiar with that guide issued in November of 1965?

MR. JIGGETTS. I believe so.

MR. GROSS. I would like to mark this as Exhibit 4, Mr. Chairman.

This is a guide headed, "Commonwealth of Massachusetts, Department of Labor and Industries, Division of Apprenticeship and Training, revised November 29, 1965." It states, "To be used by all supervisory field personnel in discussing with program sponsors the State Plan for the implementation of Title 29." I note that one of the qualifications for apprenticeship which this guide expressly sets forth, is that the apprenticeship program shall have as a qualification high school graduate or its equivalent. Mr. Jiggetts, do you feel there should be at least some cases where the high school graduation or equivalency requirement is not imposed?

MR. JIGGETTS. There are some crafts that do not call for high school diplomas. As I understand it, prior to Title 29 there was no requirement for high school diplomas. It was up to the individual apprenticeship councils as to whether they required it or not.

MR. GROSS. Have you discussed with the Division of Apprenticeship and Training the fact that it lists under the first heading, "Qualifications for Apprenticeship," item C, "Shall be high school graduate or its equivalent"?

MR. JIGGETTS. That is a suggested plan to the respective apprenticeship councils. The whole plan is a suggested plan. They can either accept that or adopt their own type of plan. So you have to go to the respective councils. As long as they come up with some type of objective standards, that, as I understand it, is acceptable to the State.

MR. GROSS. But this is what the State has recommended?

MR. JIGGETTS. As I understand it.

MR. GROSS. Has it been your experience, Mr. Jiggetts, that in many cases nonwhites who are seeking to enter apprenticeship programs will be able to pass an aptitude test but then lose out at the stage of the interview which follows? Does this happen in many cases?

MR. JIGGETTS. I would say my experience has been that they have not been able to in general overcome the first obstacle, which is the passing of the aptitude test.

MR. GROSS. Can you describe a little bit what these aptitude tests are in terms of who sets them up, how uniform they are as between the trades, and what their content is?

MR. JIGGETTS. Each individual council or apprenticeship body can establish its own mode of test. They can say that you will have to undergo the general aptitude test battery which is given by the State, or they can set up any tests that they so desire. Commonly tests call for three parts--a mechanical part, an arithmetic part and a spatial relations part; but there is no end of the variety.

MR. GROSS. Have there been any modifications of these tests as the years go by--any realization perhaps that if they are not modified we are not going to crack this log jam?

MR. JIGGETTS. I would say not on any large scale. I would say that there have been small modifications but not too generally.

MR. GROSS. Has there been any effort to validate these tests, in terms of doing statistical or other studies to try to relate performance on the test to performance as an apprentice on the job? Has this been done to your knowledge?

MR. JIGGETTS. I don't believe so. I may be incorrect. I am not aware of any. Let's put it that way.

MR. GROSS. I would like to move to the interview phase. I think there will be testimony that I assume you wouldn't dispute, certainly categorically, that there are a substantial number of nonwhites that do pass the aptitude tests but who lose out at the interview phase. I would like to examine that in terms of the Division of Apprenticeship Training Guide.

The guide provides that an applicant has to have 70 points on a 100-point scale in order to qualify; this is a minimum. The completion of the aptitude test on this suggested point scale counts 15 points out of 100. I note that other items on the scale include the following: previous work experience, 10 points, motivation and aptitude, 15 points; satisfactory verification of character and work history, 10 points; appearance and character, 15 points. The purpose of Title 29 was to set up standards which were objective and reviewable? Do you think these standards are objective and reviewable?

MR. JIGGETTS. They are objective in this manner. That is, they are partially objective. The tests that the individual takes can be classified as objective, but some of the other parts there that you read off I believe you would call subjective. Some people have said this is good or bad depending on who the parties are.

MR. GROSS. Depending on who is in the driver's seat?

MR. JIGGETTS. You could put it that way.

MR. GROSS. In terms of past problems that nonwhites have had in access to the apprenticeship programs, has the practice of having the period for applications a very short time each year been a problem in some cases?

MR. JIGGETTS. That varies as well as the type of test you might have. It may be a short period of 30 days, or 60 days, or 6 months from the time you take a test, or are called for an oral interview, and are hired or inducted as an apprentice.

MR. GROSS. Do you think this factor, having an ample opening period, is an important factor to having the program open to the community on an effective basis?

MR. JIGGETTS. You have reference to the variety of span between the time that you take the exam and the time you are hired?

MR. GROSS. No, I am referring to the time during the year when the applicant for the apprenticeship program can actually go and sign up.

MR. JIGGETTS. That varies according to the program. Some of them have a very restricted period, like 2 weeks. Generally, 30 days is the period given; and all those who do not apply in the 30-day period, then they can't apply until the next year.

MR. GROSS. I will note for the record, without more on this point, that the Division of Apprenticeship and Training guide provides on this, "The application period may be for any period of time required by program sponsors."

MR. JIGGETTS. That's correct.

MR. GROSS. Is Mr. William White, of the Department of Labor, here?

MR. JIGGETTS. I don't believe I see him. If you are through with the questions, I think I have a few comments I would like to make.

MR. SEGAL. It appears Mr. White isn't here.

MR. JIGGETTS. I prefer not to speak for Mr. White.

MR. SEGAL. Mr. Jiggetts, please proceed.

MR. JIGGETTS. There has been a wide discussion pro and con throughout the country now about the present outreach program that we have in the Boston area. As some of you probably know, there are three experimental programs such as this throughout the country. One is in St. Louis, one in Oakland, California and the other is in Boston. This program in my opinion is not the mecca. It is not the utopia of any training program, but it was a beginning, a beginning for one reason--to get immediately, and I underline "immediately," minority people into the spectrum of training; and this medium has been used.

Now, some of the general public have cast stones at the way it has been set up. The previous speaker had a lot of comment about it. I am sure that you will hear a lot of comment about it afterwards. I would state for the record that I was actively involved in this particular program. My concern was to get Negroes and other nonwhites immediately into the spectrum of being trained for the period of time when full-fledged building construction would be in boom in the Greater Boston Area.

MR. DOTTIN. Is Mr. Jiggetts referring to the Model Cities program?

MR. JIGGETTS. I am speaking of the Workers Defense League joint apprenticeship program. It is covered in a working agreement between the Association of General Contractors and the construction trades unions, commonly referred to as the Model Cities Agreement, although I am sure that Mr. Parks will agree that it has no relationship at all to the Model Cities program. Am I correct, Mr. Parks?

MR. PARKS. Yes. There is one thing I think we ought to make clear. We are saying that if the Workers Defense League and the Model Cities Agreement, if they produce people for the construction trade, fine. But in terms of Model Cities, we have a mandate from the Federal Government that says the majority of the people working on the construction must come from the area. We are taking that position. We will continue to take that position, which doesn't seem to me should get me involved in any discussion about an agreement between the trade unions. If they want to train black folks--it's a long time coming, it's about time they started. At the same time, we have, as I say, a mandate to perform in a certain way, and we must keep that mandate.

MR. JIGGETTS. Mr. Parks has made his position clear in previous discussions, and I see it hasn't changed any.

MR. SEGAL. Could we help people to understand what the percentage of nonwhites is in the Model Cities area?

MR. PARKS. We have about 57 percent blacks and 43 percent whites.

MR. GROSS. May I very quickly make a statement about the Model Cities Agreement? I think if I can just outline the three elements of it it will help clarify discussion. There are three components, and we have been talking about the three--jumping back and forth. I wish you Mr. Jiggetts, or others who are more familiar with this, will correct me if this is not right. One

component is that residents, qualified as mechanics and laborers, as the Agreement reads, within the construction area will be used on the job on a preference basis, and that maximum use will be made of them.

Part two is that persons who are not qualified, but are qualifiable, will come in as trainees or advanced journeyman trainees, and that they will receive training within this area. That's component two of the program.

And there is a third element which is mentioned in the Agreement, but which in fact operates independently of the Agreement, which is the Workers Defense League apprenticeship program, which is an outreach function which attempts to get nonwhites from the community, prepare them for the apprenticeship program and get them into the apprenticeship program. That operated and continues to operate independently of the Model Cities Agreement.

MR. JIGGETTS. I believe that is substantially correct.

MR. SEGAL. Pick up where you left off.

MR. JIGGETTS. I was going to relate what the position was of the Bureau of Apprenticeship and Training. It was their position that they would like to try out experimentally three training components, as I mentioned before, to see whether such an agreement would work out, and how we would function over a period of time. And so they have let these contracts out, and they have only been in operation I would say about 8 months at the most, since October of last year. Consequently, the full extent of how they will or will not work out I do not believe has had an opportunity to come to fruition. When the project director comes to testify here, I am sure and confident that he will throw more light on the matter as to how he sees the program operating and whether there are good, bad, or indifferent sections of it that could be improved.

MR. PARKS. There is another thing to be brought out. There is also an agreement under the Model Cities program that programs that are put into action must be worked out between the folks in the community, the Model Neighborhood Board, and the City administration. There is a set pattern for working out agreements. That's why I said it is very difficult for us to be constantly linked to a Model Cities Agreement that some other party made, and that neither the Model Neighborhood Board, nor the citizens of the community, nor the City administration were part of. This

makes it a program we could not in any manner support unless we have inputs in setting up what the program will be. Any program must come through our mechanism. Let's separate out this Workers Defense League agreement. As far as we are concerned, it's fine. We have some questions about whether or not the 200 trainees is a floor or ceiling, and I don't know who is going to make that judgment. But it only takes a limited part of the Model Cities construction work.

The question at this point seems to me is how this program works in terms of doing what it says it is going to do. Whether the 200 figure is a floor or ceiling, who is going to monitor it, who is going to set the standards for who qualifies for it, and what kind of inputs are the people who are going to be employed going to have in terms of how the program will operate? I think that's important.

MR. JIGGETTS. I think that the standards are established in the agreement, but how the agreement is working is another matter, and I would not like to speak for the people who are administering the program because I think they are in a better position because they are handling the program to say just how it is operating.

MR. GROSS. Who is responsible for the administration of that program in the Department of Labor region here?

MR. JIGGETTS. The Bureau of Apprenticeship and Training.

MR. GROSS. This is all aspects of Model Cities training and apprenticeship?

MR. JIGGETTS. Wait a minute. We are combining things together again. We are talking about this one particular agreement that the Bureau of Apprenticeship and Training is responsible for. You are talking about who is responsible for the Model Cities program per se?

MR. GROSS. No. I am referring to the Agreement.

MR. JIGGETTS. The Bureau of Apprenticeship and Training.

MR. GROSS. You mentioned three programs as pilot programs throughout the country involving the same kind of journeyman upgrading and training?

MR. JIGGETTS. That's correct.

MR. GROSS. That's Cincinnati and Buffalo, in addition to Boston?

MR. JIGGETTS. No.

MR. GROSS. Where are those located?

MR. JIGGETTS. St. Louis and Oakland. There was a similar-type program, but not exactly the same, in Buffalo, New York.

MR. GROSS. What do all these programs have in common? Could you describe that?

MR. JIGGETTS. I would say their commonness is the method of bringing in nonwhites into the skilled trade structure without the use of the structure of apprenticeship. In other words, men who are over-age, undereducated and who do not primarily have the type of subject matters that a high school graduate would have. Primarily, these potential trainees also are community residents.

MR. GROSS. And do you regard programs such as these as an important addition to the regular apprenticeship route for nonwhites?

MR. JIGGETTS. There doesn't seem to be any question about it.

MR. GROSS. To your knowledge has the Office of Federal Contract Compliance, which is another subdivision within the Department of Labor, been cooperating with the Bureau of Apprenticeship and Training in conjunction with programs like this in seeking to get contractors and unions to enter into it?

MR. JIGGETTS. Of recent date they have.

MR. GROSS. What does "of recent date" mean?

MR. JIGGETTS. I say that only in fairness because prior to the present OFCC man, Mr. Geller, there was a gentleman here by the name of John Brosnihan. He was stationed in Boston. After he left, about a year and a half ago I believe, our nearest man was in New York City, and he was spread from New York, New Jersey, Pennsylvania all the way up to New England, so the possibility of seeing him often was I believe very, very infrequent.

MR. PARKS. There is another question I want to ask you just generally about the apprenticeship training program. I think what I am troubled by is that normally the salaries paid on the apprenticeship training program are not really set up for the man who is the head of a household or who has a family. It seems to be geared more to younger people who probably don't have families and responsibilities of this sort, just in terms of salary level.

What we are beginning to see in Boston is that anybody who is the head of a family which has two or three children is underemployed when he is making up to \$8,500 a year. Now, the question I have is what do you see as a way we can get at the kind of income levels that are going to be conducive to the man who has a family coming into the training program. Some of these fellows have told me that they can make more money as laborers than they can on the training programs. Several of the fellows I have talked to in the community have told me that rather than going into an apprenticeship training program, they can make more as laborers and just can't afford to go into the training program.

MR. JIGGETTS. On the first part of the question, if you asked me that 4 years ago, I would say there wouldn't be any question about it, that it was not geared to the older fellow. But inasmuch as the rates for skilled training have risen tremendously due to the new negotiations that have gone on, and inasmuch as the starting rate of the average apprentice program is generally about 40 to 50 percent of the journeyman rate, I would say that the average wage earner could make a living at it because his pay goes up every 6 months. For instance, prior to the new wage levels the average wage was about \$5.25, so that the average apprentice would start at about \$2.50, plus his other fringe benefits. In 6 months' time he goes up another 5 percent, and every 6 months it goes up 5 percent. In a year or 2 years' time he is up there to the \$3 or \$4 figure.

MR. PARKS. I am suggesting that \$2.50 is too low for the man who is the head of a family in this area, in the City of Boston.

MR. JIGGETTS. I would agree. However, look at it in another way. I would agree with your statement that if a fellow wanted to become a laborer, sure, he could probably get \$4.50. He would probably come in at close to the \$4.50 rate, but let's look at him 3 or 4 years from now. Where is he? He is still at

the laborer's rate, whereas if you look at the other fellow, he has received more skill training and now is up to the rate and above the rate that the laborer is receiving. Now he has the skill behind him.

MR. DOTTIN. Do I understand from you, Mr. Jiggetts, that Title 29 is only suggestive?

MR. JIGGETTS. No. Title 29 is not suggestive. Title 29 is the recommended guidelines to be put into effect.

MR. DOTTIN. Recommended?

MR. JIGGETTS. That's right, to be put into effect. One or another of the recommendations have to be put into operation.

MR. SEGAL. It is only partially mandatory?

MR. JIGGETTS. No. Title 29 is mandatory, but in the guidelines there are a number of recommendations that you can use to set up your program. Which one you use is up to the individual apprenticeship entity.

MR. DOTTIN. Can you tell me how the delineation of supervision over the individual crafts by the Federal Government and the State came about? Why do you have three and they have eight?

MR. JIGGETTS. By a working agreement between the two directors of the apprenticeship program.

MR. WILMORE. Is it not true though that the Department of Labor must approve the total State plan?

MR. JIGGETTS. That's right.

MR. WILMORE. In effect the Department of Labor has control over those crafts that the State is handling, as well as those that it handles directly, in the sense that it must approve the standards?

MR. JIGGETTS. It must approve the total State plan. The State takes Title 29 and must work up a State plan. Whatever it might be has to be approved by the Department of Labor.

MR. WILMORE. In your judgment does the Bureau of Apprenticeship and Training, with its present authority to approve standards, could it eliminate--if it so desired--in your opinion, all subjective factors in admitting apprentices? Could it say that any union that used subjective factors like honesty, appearance, work experience, that these do not meet the standards of the Bureau of Apprenticeship and Training?

MR. JIGGETTS. To answer your question, I doubt it.

MR. WILMORE. I mean legally--under the existing law could it be done? I'm not asking you whether it might be done.

MR. JIGGETTS. I don't truthfully know, to be honest. I haven't researched it that thoroughly to see whether they have the authority to void a State plan, to eliminate some of these subjective areas.

MR. WILMORE. My assumption is, in so doing, that the Department of Labor would have previously decided that subjective factors were not a fair standard.

MR. DOTTIN. Does your agency have supervision over the State program?

MR. JIGGETTS. The State program?

MR. DOTTIN. I understand that the State submits a program, and you accept or reject this program.

MR. JIGGETTS. You mean the State plan?

MR. DOTTIN. Yes.

MR. JIGGETTS. The State plan was put into operation only once, that was in 1965, and it is still in effect, as far as I know.

MR. DOTTIN. You don't know whether it is working, or whether it is discarded or not?

MR. JIGGETTS. I do not wish to speak for the State director.

MR. DOTTIN. I am asking what your agency's responsibility is regarding the State plan. Does it supervise it or check with the program that the State has to see whether it is working. If not, why not?

MR. SEGAL. Is there a close working relationship?

MR. JIGGETTS. Yes. However, the State is the State registering agency, and they have control over apprenticeship in this State--not the Bureau of Apprenticeship and Training. In other words, any plan or any program developed or promoted in this State has to be approved by the Division of Apprenticeship and Training.

MR. SEGAL. Please go back to your other points. We would like to adjourn in 5 minutes.

MR. JIGGETTS. I don't have any others.

MR. SEGAL. We have then time for some questions. Mr. Pittman?

MR. PITTMAN. You were asked a question earlier about the tests. Do I understand some unions have modified their tests in the past few years?

MR. JIGGETTS. Yes.

MR. PITTMAN. It has been my experience in the last 10 years that more tests have been put in to exclude black people.

MR. JIGGETTS. I said some, not all of them. I could cite a couple of instances where people had to take an extensive private test that was invoked by the particular apprenticeship council. They changed from that extensive test, which costs about \$15, to the GATB test, or general aptitude battery test, which is administered by the State, which is much fairer than some of the tests. I think if you must have one, that is the fairest one.

MR. PITTMAN. Is your office aware that the Federal Government is not at this time training black men in the construction industry?

At this time now there is a construction battalion in Vietnam with two skills--one to destroy and one to use in building. When they come back to their communities, if they are not allowed to use one skill then they will use the other. This is a grave matter and a grave situation; and contract compliance should be enforced. In a country that can impose an income tax on people, and make them take it whether they like it or not, I am quite sure they could break down the discriminatory barriers in employment if they so choose. Do you think the Federal Government is unwilling to have full employment for black people in this country, or unable?

MR. JIGGETTS. I think they are beset by a lot of political entities which can be on one or the other side of the table, depending on what persuasion you might be. I would like to go back to your comment. In World War II there was a white Army and a black Army, and I was in the black Army--in case people don't know in 1969. Most of the troops were comprised of service battalions, and that meant labor battalions. We undertook all the labor and constructed just about everything from here to Africa and India and back again. So you see, we have a history of construction. The Federal Government knows about it, because they had us.

MR. SEGAL. You should understand the point that Mr. Pittman is making, and also bear in mind that our responsibility here as private citizens is to make recommendations to the Federal Government. If you can give us any further help on this from the standpoint of what you have experienced in your position, we would be very thankful to you.

MR. JIGGETTS. I think one thing has been dwelled on; that is the entrance requirements. I think that, like anything else, if this is the obstacle that everybody says it is, and I believe that it is, then the entrance requirements perhaps should be reviewed. And who can do that is the people who are involved, and more especially the Federal Government.

MR. BUTLER. I want to make perfectly sure I understand one thing. I am a little confused in my own mind. You have referred to apprenticeship councils. In your use of that term, does one craft

have an apprentice council for the State? To wit, do you have one in New Bedford for carpentry? Do you have an apprenticeship council there, one up in Pittsfield, and one in Boston, and one in Worcester? Or does one serve for that craft throughout the State?

MR. JIGGETTS. You may have apprentice councils everywhere.

MR. BUTLER. Does each apprenticeship council set its own standards of admission?

MR. JIGGETTS. It does.

MR. BUTLER. In other words, I can be an embryonic carpenter applying for an apprenticeship program in Boston, take one set of tests, go to New Bedford within a 30-day period and take another set of tests for the same skills, and--in theory--go up to Pittsfield and take a third test, and back to Worcester and take a fourth test?

MR. JIGGETTS. In theory. But it wouldn't work that way. One of the questions on all of the applications is "Have you applied to any other councils?"

MR. BUTLER. Supposing I have?

MR. JIGGETTS. If you have, I think you would be eliminated.

MR. BUTLER. As a citizen of the State of Massachusetts I don't have the privilege, because of the arbitrary structure of the apprenticeship councils--there are arbitrary stipulations set up in that precluding a citizen from applying wherever he wants to?

MR. JIGGETTS. I think that's a fair statement.

MR. SEGAL. Mr. Wilmore will have the final question.

MR. WILMORE. In terms of recommendation to this Committee, if you had limited time--as we all have limited time--and limited resources, and wanted to do something as quickly as possible about getting the maximum number of blacks into the construction industry, to right the wrongs and set straight the imbalances, would you spend your time trying to change the requirements of the apprenticeship program, or would you spend your time

trying to open up other avenues such as trainee programs or direct entry? On which would you put the greatest priority?

MR. JIGGETTS. I would find other methods of getting them into the programs--other than the present structure--such as the outreach programs or modifications of that. I think that the greatest amount can come in in a shorter period of time.

MR. SEGAL. You wouldn't want to go as far as Mr. Hill suggested either, to do away entirely with the apprenticeship program? Or there was another suggestion that he made, that there be a different public agency, what he called an impartial public agency. But you still feel that there is hope for the apprenticeship program?

MR. JIGGETTS. There is hope for it, but like everything else, nothing changes without the necessary application of pressure to make it change.

MR. SEGAL. That's a good line for me to turn to Mr. Gross on.

MR. GROSS. Journeyman trainee programs such as that here in Boston are financed under the Manpower Development Training Act?

MR. JIGGETTS. That's correct.

MR. GROSS. Do you know for how many years funds have been available under that Act for such journeyman trainee programs, if there had been application for those funds?

MR. JIGGETTS. I believe that these programs only started about a year ago.

MR. GROSS. Yes, but do you know when funds were first available for such programs? Hasn't that been 3 or 4 years?

MR. JIGGETTS. There has always been monies available from the Manpower Training Act, which started in 1962. This is a question of the Department of Labor making a decision that they were going to take "X" hundreds of thousands of dollars, or millions, to divert to this program.

MR. GROSS. When was that done, do you know?

MR. JIGGETTS. I said about a year ago.

MR. GROSS. And prior to that time the Department of Labor did not make funds available for these?

MR. JIGGETTS. We are talking about outreach programs?

MR. GROSS. I am talking about journeyman trainee programs.

MR. JIGGETTS. I believe they started about a year ago.

MR. PARKS. Could I ask you about a recommendation you might be willing to talk about? What I hear is that the Federal programs get designed somewhere else--let's say at the Washington level or the regional level--and that becomes the program that gets fed to the cities. Cities are immediately locked in to try to use the programs that are canned and sent to them. It seems to me that one of the suggestions we ought to start making is to start talking about the ability of the cities to design programs that go the other way; to talk about a program that has been designed in conjunction with the citizens of the city and meeting its particular needs; to talk about that kind of funding arrangement being a part of the Federal agenda. I feel very strongly about that. Because when the programs that are fed to us by the Federal Government begin to fail, and people see they don't have the access to them, the city has a responsibility to deal with the confrontations. We have to take all of the responsibility for the lack of something working and try to police it; that becomes the city's responsibility. If the city is going to have to take the responsibility for all the flak that comes as a result of something not working well, then we have to talk about the cities being able to establish some of the guidelines and processes for dealing with their own problems. That would be a good suggestion coming from somebody from the Federal side.

MR. SEGAL. Thank you, Mr. Jiggetts. We will resume at a quarter of two.

(Whereupon, at 1 p.m., the meeting was recessed, to reconvene at 1:45 p.m.)

FEDERAL CONTRACT COMPLIANCE OFFICIALS

PANEL I

DEPARTMENT OF DEFENSE.

JAMES A. JACOBS, Contract Compliance Specialist,  
Office of Contract Compliance, Defense Contract  
Administration Services.

STANLEY W. KULIK, Labor Relations Examiner, Corps  
of Engineers, New England Region.

WALTER WALLEY, Deputy Chief, Office of Contract  
Compliance, Defense Contract Administration  
Services, Boston Region.

FEDERAL WATER POLLUTION CONTROL ADMINISTRATION,

DEPARTMENT OF THE INTERIOR.

JOHN HAUGHTON, Contract Compliance Officer,  
Construction Grants Program, New England  
Region.

POST OFFICE DEPARTMENT.

HENRY C. HARRIS, Contract Compliance Examiner,  
Boston Region.

MR. SEGAL. Ladies and gentlemen, we will call this session of today's meeting to order with the understanding that we ran rather late this morning. We apologize to those of you who were scheduled to start at 1:30. We would appreciate it very much if the Federal contract compliance officials who were to constitute our panel at the 1:30 session--Mr. Kulik, Mr. Jacobs, Mr. Walley, Mr. Harris, Mr. Purcell and Mr. Houghton--if you will please take places here at the front table, we would appreciate it tremendously.

May I explain as you are coming forward that the Massachusetts State Advisory Committee to the United States Commission on Civil Rights is one of fifty such organizations of private citizens who have been named by the Federal Government to advise the United States Commission on Civil Rights. We are asked to conduct studies from time to time and meetings such as this. In the past we have produced studies on housing discrimination, on imbalance in Boston schools, on police practices, as well as a study called the Voice of the Ghetto in the course of which we conducted two long day sessions in Roxbury.

I regret very much that we have had some conflicts today with regard to some of our personnel. I would like to point out to you that Mr. Duncan Dottin who is on my left, and Mr. Kim Pittman on my right are here and ready.

Mr. Eric Butler, who served as Chairman in preparation for this meeting had to go back to his office, but he will be here in just a few minutes.

Father Drinan, who is the Chairman of this Committee, had to go to New York for a few hours. He will be back at 6:00 o'clock. He is a little bit peripatetic. He was on the Today program yesterday. As you probably know, he just got back from Saigon and he is a little bit on the merry-go-round at the moment.

Mr. Peter Gross, counsel, is on my right here. Let me point out again that the overall objective of this series of meetings, which will continue throughout the day with a break for dinner and into this evening and will be followed by similar sessions tomorrow, is to enable the panel--the State Advisory Committee--to formulate recommendations having to do with alleged discrimination in the field of employment. More particularly, this session has to do with contract compliance with reference to the construction industry. Anything that anybody here can do to help us formulate a recommendation will be tremendously appreciated.

Having had our two professorial experts this morning, together with Mr. Herbert Hill and Mr. Jiggetts, we turn now to the gentlemen of the Federal contract compliance officials' fraternity who have been kind enough to come here today, and I would like to ask Mr. Gross to start off the proceedings this afternoon.

MR. GROSS. If I could, Mr. Chairman, I would like to begin by making sure that I have correctly the names of the representatives of each of the agencies. The Corps of Engineers?

MR. KULIK. Mr. Stanley Kulik.

MR. GROSS. The Department of Defense?

MR. JACOBS. Jacobs, James A.

MR. WALLEY. Walter Walley.

MR. GROSS. The Post Office?

MR. HARRIS. Henry C. Harris, Jr.

MR. GROSS. The Federal Water Pollution Control Administration?

MR. HAUGHTON. Haughton, John Haughton.

MR. GROSS. Mr. Kulik, could you, sir, please tell us something about the Corps of Engineers in terms of its operations as they relate to contracting, and the contracting for which you have compliance responsibility?

MR. KULIK. Well, basically the Corps of Engineers is responsible for military and civil construction in the New England states. This ranges from flood control projects and dredging, harbor navigation improvement, river improvement, to various military phases of the various agencies of the military, such as air bases and Fort Devens--which is an army base. We supervise construction at these bases.

MR. GROSS. And could you state your own responsibilities with regard to these contracts in terms of the area that you cover and how you relate to the other staff of the agency?

MR. KULIK. Well, I am employed in the Office of Counsel and in the labor relations section of the Corps of Engineers. My basic purpose is to enforce the Davis-Bacon Contract Work Hours

Act and the Copeland Act, in the contracts that are in effect in our area.

MR. GROSS. Those requirements have to do with wage levels?

MR. KULIK. These have to do with wage levels. Also we inform the contractors of the requirements of the contract. At this point the basic initial thing is that we inform them of it; secondly, that we do make enforcement checks, compliance checks with regards to labor enforcement procedures. In addition to that, we also have our EEO commitments, which are basically covered by ASPR.

MR. GROSS. You will have to spell that out.

MR. KULIK. That is the Armed Services Procurement Regulations.

MR. GROSS. In terms of your own activity, you say your primary responsibility is Davis-Bacon. Who has primary responsibility for contract compliance in the region?

MR. KULIK. Mr. Edward Blane who is the labor relations officer. I am his alternate.

MR. GROSS. And does Mr. Blane have his primary responsibility for contract compliance or for something else?

MR. KULIK. No. He is contract compliance. His primary responsibility is labor enforcement.

MR. GROSS. Are there any other staff in the region? First, what is the region?

MR. KULIK. This is the New England region. This is all of the New England states. Six states.

MR. GROSS. Are there other individuals apart from Mr. Blane and yourself who spend substantial time on contract compliance in the region?

MR. KULIK. No. We are the two who spend the initial time and we obtain counsel from our Chief Counsel who is Frank Bonsanki.

MR. GROSS. Could you estimate what portion of your time you and Mr. Blane spend on contract compliance matters?

MR. KULIK. What do you mean by contract compliance?

MR. GROSS. I mean compliance with Executive Order 11246, nondiscrimination requirements.

MR. KULIK. Well, the nondiscrimination requirements--I would not hazard a guess as to the percentage of time. It would perhaps be best explained by just what we do regarding that. Initially we inform the contractor of his responsibilities regarding the equal opportunity clause that is a part of his contract. We inform him of his responsibilities with regard to reporting procedures; if he falls within a category that requires this reporting. Basically this is the essence of our requirements.

MR. GROSS. Well, this is not really an enforcement operation. Is it the case that the enforcement is handled by some other agency?

MR. KULIK. Yes. The enforcement is handled by the Department of Defense which we are part of. The chief compliance officer is the Assistant Secretary of Defense for Manpower. And under the Assistant Secretary of Defense for Manpower, the Defense Contract Services Agency is responsible to implement the enforcement procedures.

MR. GROSS. How long has this been the situation? Has the Corps of Engineers had contract compliance responsibility before?

MR. KULIK. No. We have never had that kind of responsibility.

MR. GROSS. And the Department of Defense is responsible for compliance on civil projects as well as military?

MR. KULIK. That has not been clarified as to whether the civil projects come within their responsibility, although the clauses are inserted in all the civil projects. But nevertheless, we follow the same procedures on civil and military projects. There is no difference between them.

MR. GROSS. That is unclear, Mr. Kulik. I am not sure I followed you.

MR. KULIK. Well, with regard to the Department of Defense as regards their authority on the civil projects, I am not quite clear as to what that is.

MR. GROSS. Whether they have authority or not?

MR. KULIK. Right.

MR. GROSS. If they do not have authority, who does?

MR. KULIK. I do not know.

MR. GROSS. Do you know whether Mr. Blane would be able to answer that?

MR. KULIK. Possibly. I cannot answer for him.

MR. GROSS. Do you have any material with you? I believe we requested that you have material relating to project activity--construction activity--within your region.

MR. KULIK. I do not have anything prepared that I brought with me. All the information that we have, we presented to Mr. Wilmore on a previous visit, which amounted to the projects that were under our jurisdiction in this area.

MR. GROSS. That is in the State of Massachusetts?

MR. KULIK. Right.

MR. GROSS. Just for the record, I might summarize some of this as an indication of construction activity. There are three projects, each over five million dollars of construction cost, at Fort Devens, totalling about twenty million dollars. In addition, a project of one point six million at Hanscom Air Force Base; a project of three hundred fifty thousand at Bonds Municipal Airport. In addition, there is the NASA project here in Boston --

MR. KULIK. In Cambridge. This is also under our supervision.

MR. GROSS. Do you have any familiarity with that project?

MR. KULIK. I do have with that project, yes.

MR. GROSS. Can you describe the construction there in terms of the value, the cost and the nature of the construction?

MR. KULIK. I do have a paper with regard to that. The Massachusetts Electronic Research Center at Cambridge, Massachusetts --we have two basic contracts there; Aberthaw Construction Company at 60 State Street, Boston, is the prime contractor.

The first contract is in the amount of \$10,037,000, and the second one is in the amount of \$5,022,843, for a total of \$15,059,843. The initial or first contract consisted of basically a high rise laboratory building, and the second contract was the construction of the support facilities for this. There are various laboratories, optical laboratory and a guidance laboratory, and other utility support buildings. The project is on Cambridge Redevelopment Authority land in Cambridge. I have a breakdown of what the work force was as of Monday of this week, and I can present this to you if you would like.

MR. GROSS. Could you read the total work force and the number of nonwhite?

MR. KULIK. Well, I will break it down as to the prime contractor and subcontractor, and give you the totals. On the prime contractor, there was a count of 96 whites and 14 blacks. And for the subcontractor, a total of 224 whites and 6 nonwhite.

MR. GROSS. Just for the record, I am not sure what the relation is between these figures--I know there is a great deal of fluctuation--but we received information which I think applies only to the general contractor that as of June 9, 1969, there were 174 total, seven of those nonwhite; three of those seven were laborers.

Mr. Kulik, are you familiar with what has been done in connection with this project to try to increase the utilization of nonwhite workers?

MR. KULIK. Yes, somewhat. First, the project as it stands right now has been fluctuating back and forth. It has been held up considerably during the month of May and June due to the carpenters strike in the area; the work force there has been kept to a minimum. Actually, a maximum as far as the contractor was able to employ on the job. The Aberthaw Construction Company is a union contractor and they submitted to us an affirmative action program on these contracts when they were awarded. It has been our observation that they have done all that is within the terms of their agreement to employ people regardless of race, creed, color, national origin and sex.

MR. GROSS. What is the responsibility of your agency with regard to the affirmative action plan and its implementation? I am trying to understand the relationship between you and DOD as far as contract compliance.

MR. KULIK. We have no responsibility with regard to compliance.

MR. GROSS. And your familiarity with this grows out of what?

MR. KULIK. It grows out of basic compliance with regard to the labor provisions of the Davis-Bacon Act and the Contract Work Hour Standards Act and the Copeland Act. This is where we expend most time and effort with regard to enforcement of these provisions.

MR. GROSS. Are you familiar with the provisions of this written affirmative action agreement?

MR. KULIK. No, I am not. I do not have it with me.

MR. GROSS. Have you worked with affirmative action agreements with other contractors in connection with your responsibilities?

MR. KULIK. Well, Mr. Blane has basically worked with it; he is contract compliance officer. I have been utilized as a fill-in and to a very minor degree; so that I am not that familiar with the provisions.

MR. GROSS. There is no monitoring function in your agency --can we sum it up that way?

MR. KULIK. In what way do you mean?

MR. GROSS. With regard to nondiscrimination, do you have a duty to look at the contractor and see whether he is living up to his agreement or does that duty lie somewhere else?

MR. KULIK. That duty lies somewhere else, yes.

MR. GROSS. Does the Corps of Engineers have any authority for invoking sanctions for a contractor's failure to live up to non-discrimination requirements?

MR. KULIK. Not on their own, not unless they receive word from the agency that is responsible for compliance.

MR. GROSS. That is the DOD agency--"DCAS" as it is known?

MR. KULIK. DCAS, or their regional representatives which would be DCASR.

MR. GROSS. Mr. Chairman, on the matter of procedure, I propose to have an initial series of questions with each of the four witnesses, if that is amenable to you, prior to throwing the questions open to the panel.

MR. SEGAL. Yes. May I just ask one question? Mr. Blane is not coming at all today?

MR. KULIK. No. Mr. Blane is attending a training session in Virginia this week on the investigatory procedures with regard to EEOC.

MR. GROSS. Messrs. Jacobs and Walley, could you please explain what your relative positions are with regard to Department of Defense contract compliance?

MR. JACOBS. I am in the Defense Supply Agency.

MR. GROSS. What are your responsibilities as regards contract compliance?

MR. JACOBS. We had best get the locale established first. In the Defense Contract Administration Services Administration, in the Office of Contract Compliance, which has the entire responsibility for the Department of Defense, including not only those contracts administered by the Defense Supply Agency, but also those contracts administered by the other military establishments--Army, Air Force, Navy. With the totality of our responsibility, we have the total ball of wax, if you will, for the supply--the logistics support--for negotiated contracts, and for nonnegotiated contracts, and by the definition of the Executive Order, also for construction contracts.

MR. GROSS. You also have responsibility for the Corps of Engineers?

MR. JACOBS. That is right, and I sit here in bewilderment hearing about contract compliance officers, because that is our delegated function within the Department of Defense. We are the single compliance officers for the entire Department of Defense.

MR. GROSS. And is NASA within your bailiwick?

MR. JACOBS. We have a working agreement or contract, if you will, between the Defense Supply Agency and NASA. They do not have a compliance staff. They have a gentleman who I would assume is in a somewhat analogous position to Mr. Blane, in that he has the designation for interior coordination, if you will, for NASA. But the actual conduct of compliance program is done by our personnel.

MR. GROSS. And you are in Washington and your responsibility is national?

MR. JACOBS. Correct.

MR. GROSS. Mr. Walley, could you relate your functions to those of Mr. Jacobs?

MR. WALLEY. I am the Deputy Chief of the Office of Contract Compliance here in Boston, and my responsibility is for the New England Region; and this is in the office commonly known as DCASR. Our region includes all of the New England states, plus New York with the exception of four counties nearest New York City--Westchester, Concord, Orange and Putnam Counties--all of New England and all of New York State with those exceptions.

MR. GROSS. What staff is there in the New England region with contract compliance responsibility?

MR. WALLEY. We have a field staff of five men in the Boston office, plus three men in a satellite office in Rochester, New York, for a total of eight field representatives.

MR. GROSS. And these eight spend full time on contract compliance?

MR. WALLEY. Full time professionals, yes, sir.

MR. GROSS. Do you have any data that you can present orally relating to the level and extent of construction for which you are responsible in the New England region?

MR. WALLEY. We have a responsibility under the Executive Order for a compliance program for supply and construction contracts. But I think at the outset here we ought to make one thing very very clear. We have no compliance program for construction.

MR. SEGAL. Would you repeat that, please? I am sorry.

MR. WALLEY. We have no compliance program for construction. Our primary purpose or our primary function has been in supply contracts, and as I said, we do have a responsibility under the Executive Order, but we have as yet to have provided for us from the national level a compliance program with regard to construction. There are reasons for it, and I think at this time perhaps Mr. Jacobs would like to---

MR. GROSS. Well, I do want to move into that, but before we do, I want to revert back to this question of construction activity. Do you have any data on that activity?

MR. WALLEY. Having no construction program, we have no data. We do not conduct reviews in the construction field.

MR. GROSS. Mr. Jacobs, was there a time when the Department of Defense did have a construction compliance program?

MR. JACOBS. There has in the past been some limited experimental effort.

MR. GROSS. Could you date that?

MR. WALLEY. Let me see. We have now been with the Defense Supply Agency--this July will be two years. We were consolidated in a central office in downtown Washington in which all of the compliance personnel that heretofore had been in separate agency programs were consolidated. That consolidation was in effect from about the 15th of February of 1966 until our absorption into DSA. That was a very limited time during which there was a man designated as the specialist in construction to coordinate effort and develop a program in cooperation with the Office of Federal Contract Compliance. There were at various times two or three persons in the entire country that were within his supervisory cognizance. A number of trial efforts were directed in certain cities within the United States.

MR. GROSS. This is now a year ago or thereabouts?

MR. JACOBS. Two years ago. But none of this actually bore fruit. Now, we have in the eleven DCASR's or Defense Contract Administration Services Regions, a compliance office, and we have--considering the expected turnover rate and so forth--consistently just over one hundred compliance specialists, professional staff. We have concentrated our efforts, if you will, where it was believed the greatest possible program impact could be achieved, and that has been in the private sector from which we obtain military logistical supplies. We have a universe of some fifty thousand contractors. With the capability of each specialist doing from

four to five reviews per month--something on the order of five thousand reviews per year--you can begin to see that it is somewhat difficult to attack the universe on that side. So as a consequence, there has not been a construction compliance program.

A very important and significant salient reason as to why not, is the fact that although the Executive Order imposes upon the various agencies, and certainly upon the Department of Defense, the responsibility for federally assisted construction contracts, it also provides that the definition of construction compliance--the procedures, guidelines and so forth, under which we operate--come from the Office of Federal Contract Compliance. These have not been forthcoming. We appreciate that the rules and regulations also provide that in a sense, on the basis of unilateral action, the separate agencies may devise and attempt to implement, with the coordination of the Office of Federal Contract Compliance, their own construction compliance programs. This has been done with varying degrees of success by the many agencies. I want to say, however, that I do not believe that these unilaterally developed efforts have necessarily been as productive. We have gone on record, in fact, to the Secretary of Labor from the Pentagon level--

MR. GROSS. "We", sir?

MR. JACOBS. The Department of Defense has gone on record that by virtue of the base of the pyramid that the Department of Labor, Office of Federal Contract Compliance, has established through its area coordinators, rather than having numerous agencies who are contractually engaged with various and sundry construction contractors, reviewing one week the Interior, next week NASA through us, the following week the Post Office, that in order to have a meaningful construction compliance program, the entire responsibility for construction compliance should be transferred to or vested in the Department of Labor, if you will.

And there are other more or less obvious reasons for this beyond sheer efficiency, if you will, or program effectiveness, and we all are vitally concerned with results. We know we are not getting results in construction. That goes without saying. And we have been--

MR. GROSS. When you say "we", you mean the Federal Government?

MR. JACOBS. That is right. When I say "we", I think I mean all of us, not just the Federal Government.

MR. GROSS. You say that the Department of Defense is on record to this effect. Can you indicate at all when it went on record and in what form?

MR. JACOBS. There was a letter. Regretfully I do not have a copy of same; I think it bears the date of--we will say on or about 26 April.

MR. GROSS. Of what year?

MR. JACOBS. This year. With the signature of Roger Kelley, to the Secretary of Labor, making such a recommendation in very positive terms.

MR. GROSS. But it has been two years since the Department of Defense had a construction compliance program?

MR. JACOBS. That is right.

MR. GROSS. Do you know by whom and when that decision was made and in what form it was recorded?

MR. JACOBS. No. I regret that I am not at that policy level.

MR. GROSS. Mr. Walley, in what form do you have instructions in regard to your activity in construction contract compliance?

MR. WALLEY. I am not sure I understand.

MR. GROSS. Do you have instructions as to what you are or are not to do with regard to nondiscrimination in construction contracts of the Department of Defense?

MR. WALLEY. Well, all I know is we have no construction program.

MR. GROSS. Are you acquainted with any written document that sets this out?

MR. WALLEY. There is no written document that sets that out.

MR. GROSS. Do you know whether you would be free to undertake activity in regard to nondiscrimination in construction contracts?

MR. WALLEY. Well, presently we are not to conduct compliance reviews.

MR. SEGAL. Did you say you would not? Is there a volition here? Do you want to do it, or do you feel technically you cannot do it?

MR. WALLLEY. It was my understanding that this was an open meeting for trying to establish some kind of working rules for the Federal establishment with regards to nondiscrimination in construction and also affirmative action in construction programs and in all of our areas of employment. When you say is there a volition on my part to conduct such reviews, I can only answer that the very fact that I am associated with this program should be an indication of that. Certainly there is a volition on my part. I brought myself to this program because I think--at least I have always felt I had a contribution to make in this field. So there is a volition. We have no directive which states that you are not to conduct compliance reviews in construction. As Mr. Jacobs indicated, it is a matter of allocation of manpower resources, and I am at a level where my function is to implement the intent and the operating procedures which come down to us from our Washington headquarters. This is one reason that Mr. Jacobs is here, I am sure, because our Washington headquarters felt that they should accept your invitation, and we have admitted our responsibility in the area of the conduct of reviews. We have also admitted that we have no construction program. We have not tried to evade this. We have full responsibility for the programs that are being administered by the Corps of Engineers, by the Navy, but we do not have a program at this time. One of the reasons, as Mr. Jacobs also indicated, was that our Washington headquarters has been trying to work with the Office of Federal Contract Compliance, and there is no intent on my part here to point a finger at anybody else. If there is any culpability here, it belongs in both the Office of Federal Contract Compliance and the Department of Defense. We are both assuming our responsibility, and, if you want to call it that, neglect of responsibility. But up to this point in time, we have no compliance program. I think that perhaps---

MR. GROSS. I am sorry to interrupt, but you say that up to this time there has been no program. However, I take it that the record does show that a start was made, and for reasons, Mr. Jacobs, we are not able to ascertain, the program was abandoned? Is that fair?

MR. JACOBS. Yes. And a significant reason for not having an on-going program obviously is manpower limitations. As I say, we have just over one hundred people working in the entire United States, and these are people that in no sense of the word are dedicated to the clock. They are dedicated to the concepts, and forty hours is not the measure of the effectiveness. Do we have

the motivation? Indeed we do. Do we have the definitive guidelines? No, we do not. And this is of course relevant for the pure and simple reason that without the road map, if you will, without a definition of the parameters, it is inconceivable that we could even make a fair estimate of the manpower requirements. In other words, define for us the job that is to be done and then we can come up with a reasonable estimate of the manpower requirements and proceed from that point; but we are not beyond that.

MR. GROSS. Mr. Jacobs, at the risk of belaboring the point, I just want to be clear I understand. It is the case now that if a regional contract compliance man in DOD went sailing off and started becoming active in the construction contract compliance area, he would be acting inconsistently with what I understand would be his instructions?

MR. JACOBS. The answer to that is yes, with two provisos. If we became aware of it, we would say no for the pure and simple reason that the field operating manual has a chapter heading in it devoted to construction compliance reviews; then, summarized as succinctly as possible in twenty-five words or less, it states that in the absence of definitive guidance, there is no procedure and there is no chapter.

MR. GROSS. Do you know when that manual, that portion of the manual, dates from or when it was first issued?

MR. JACOBS. Roughly. The first version was generated along with our consolidation into DSA. In April of last year we revised certain concepts and ultimately as a consequence came out with a new manual that was distributed to the field this past August.

MR. GROSS. But in any event, this language expresses a policy that has been in effect for two years or so?

MR. JACOBS. Two years.

MR. GROSS. Mr. Jacobs, I guess it is fair to say that the Department of Defense and the Office of Federal Contract Compliance are at something of a stand-off on this issue, is that fair?

MR. JACOBS. It is a question of choice of words, but yes.

MR. SEGAL. Well, in your own words.

MR. JACOBS. Well, we have just been unsuccessful in achieving a definition of requirements. Give us a statement of work, if you will, so that we can proceed in fulfilling our obligation.

MR. DOTTIN. I got the impression that Mr. Walley said previously that if there is any share in the responsibility, it was equally between the Office of Federal Contract Compliance and the Defense Department.

MR. JACOBS. To the extent that we are both covered in the Executive order. It is a mutual obligation, certainly.

MR. WALLEY. You will remember also that this is my opinion, my considered judgment, too.

MR. DOTTIN. I think the proof speaks for itself.

MR. SEGAL. We have some people coming along in another panel that we can ask some of these questions.

MR. GROSS. Do you know when the Department of Defense took on contract compliance responsibility for NASA?

MR. JACOBS. No. The exact date, I do not.

MR. GROSS. Do you know when the Department of Defense took over--or perhaps it has always had--responsibility for contract compliance for Corps of Engineers construction?

MR. JACOBS. So far as I am concerned, it came with the consolidated program in February of 1966.

MR. GROSS. If DOD had a construction compliance program, you would be responsible for it here in Boston?

MR. JACOBS. Indeed.

MR. GROSS. Mr. Chairman, I would like to mark as Exhibit 5 for insertion in the record a letter from Mr. Nathaniel H. Pierson, who is Deputy Assistant Director for Construction, Office of Federal Contract Compliance, to Mr. Martin Gopen, Director of Labor of the Urban League of Greater Boston. This letter was written in response to a complaint by Mr. Gopen to Mr. Pierson that not very much was happening in regard to enforcement of the Executive order on the NASA project, on which there has been some testimony.

Mr. Pierson responded by letter dated December 17, 1968.

I quote in pertinent part: "This is in response to your letter of December 6 concerning the equal opportunity problems you are encountering at the NASA Space Center. Since the Department of Defense is the Federal agency responsible for compliance in this case, I am forwarding your letter to the responsible compliance officer of that agency. I am also requesting that a full investigation be made of your complaint." Did you get a letter on this subject, Mr. Walley?

MR. WALLEY. No, I did not.

MR. GROSS. Do you have any explanation, Mr. Jacobs, for Mr. Pierson's assumption about the Department of Defense's responsibility in this regard?

MR. JACOBS. I do not.

MR. WALLEY. May I point out one thing, please?

MR. GROSS. Yes, sir.

MR. SEGAL. This will be entered as an exhibit.

MR. WALLEY. With regard to what we call the PIA or Predominant Interest Agency, under the Rules and Regulations of the Executive order with regard to construction, the agency that is performing the construction is the agency that is going to be the compliance officer practically. That is under the new Rules and Regulations issued 1 July of 1969. There is going to be a cross relationship here. We can be PIA for one contractor on one job, and another agency can be PIA for the same contractor on another job; this is spelled out clearly under the Rules and Regulations. So in regard to NASA and the Cambridge project, if they were to implement the Rules and Regulations, they would be the PIA there.

As a matter of fact, I was present at a meeting at the Corps of Engineers and Mr. Gopen and Mr. King were there. Of course, it was their purpose to find out what the Federal Government was going to do with the NASA site. And at that point, we attended the meeting. I and another representative of my office. We attended simply because we had indicated to the Corps of Engineers in May of last year that we were assuming responsibility for compliance, and so when they had this request for a meeting from the Urban League, we attended.

At that time, if Mr. Gopen will recall, we admitted we had no compliance program. I think that is the most direct and honest statement we could make at that time because it happened to be the truth. I also called our Washington office at that time and asked them whether they wanted us to continue to be involved in this program. Now, the Washington office contacted---

MR. GROSS. Excuse me. When you say "this program"----

MR. WALLEY. That particular construction program. I am talking about the NASA building.

MR. GROSS. The NASA Cambridge project?

MR. WALLEY. Yes. And at that time when we contacted Washington, Washington contacted NASA officials, and NASA officials said that we should remove ourselves from any further activity and permit the Corps of Engineers to administer the contract.

MR. GROSS. To administer the contract with respect to----

MR. WALLEY. Well, as Mr. Kulik has indicated here, and I think we ought to get this established once and for all, we are responsible and we are doing nothing. Let us get that established and we will not have to go over it.

MR. GROSS. I am interested now in the response of NASA. Can you shed any more light on the basis for their reaction?

MR. WALLEY. No. I would have to speculate. I have no knowledge of why, but we were instructed to remove ourselves from any further meetings.

MR. GROSS. Mr. Jacobs are you aware of any other Federal agency which has taken the position that until the Office of Federal Contract Compliance issues definitive instructions on nondiscrimination in the construction industry, that they will not have a program?

MR. JACOBS. Officially, no.

MR. GROSS. How about unofficially?

MR. JACOBS. I am confident that there are some people that feel as we do in this regard. As you are aware, there has been some severe Congressional criticism with regard to harassment of contractors. Regardless of the effectiveness with which individual agencies might deal with a construction contractor, nonetheless, if he does have to deal with a half a dozen different

agencies, he does tend to get a little tense. So we feel quite strongly that obviously we ought to have a construction compliance program; but, as for our supply contractors, we feel that there should be a single agency. We feel that OFCC has been effective in establishing this excellent core group of area coordinators. We now feel that it is time they pick up the entire responsibility and have a construction compliance program.

MR. PITTMAN. In other words, the forwarding of that letter to you with no official guidelines--you just put it back?

MR. GROSS. I think the testimony was the letter was not forwarded.

MR. PITTMAN. If it had been forwarded, you had no official guideline, so officially you had nothing to do with it? Is this a fact or not?

MR. JACOBS. Well, of course, with the excuse of twenty-twenty hindsight--I do know from first-hand contact of some years with the program that no complaint goes unheard; and surely there would have been some contacts. But I have very serious reservations if there would have been serious pursuit of any construction review activity.

MR. SEGAL. Could I just make an observation about your statement that there has been some Congressional comment about harassment of contractors. We have heard this afternoon, if I heard correctly, that subcontractors on the NASA project had 224 white and six nonwhite workers. My arithmetic shows that is about two and a half percent nonwhite--in such a sensitive area as Cambridge. In the Greater Boston area the 1970 census will show that we have somewhere between 17 percent and 18 percent nonwhite.

Now, if we are going to be worried about harassment, it seems to me that the government should be worried about some other kind of possible harassment here. This is gratuitous, I know, but our responsibility here is to make some recommendations to the government, and I for one am extremely grateful to you for telling us what you have, for being candid. I think when we shape our recommendations, we might have some interesting things to say:

MR. KULIK. With regard to the figures you quoted, there is one point I would like to bring out here. I gave you two figures, one being the employment of workmen by the prime contractor; his figures are quite different. They are 96 and 14. The 224 and 6 figure is representative of subcontractors involving nearly eighteen various trades. The prime contractor does not have control with

regard to employment by subcontractors, other than informing them of their responsibilities with regard to the EEO clause which is in the prime contract and which is also required to be placed in each subcontract. And as I mentioned, this is representative of many trades, whereas a prime contractor, his figures only represent three trades.

MR. SEGAL. The prime contractor is 96 white and 14 non-white.

MR. KULIK. Right.

MR. SEGAL. So it is different for the subcontractor, but we still have a great disparity.

MR. KULIK. The great disparity there is due to the trades that are involved and the number of workmen who are qualified in the various trades in these various unions. These are all union subcontractors to the greatest extent, and the contractor employs those who are referred to him by the union.

MR. SEGAL. We appreciate that. We got some insight on that this morning, and I am sure we will get more before we are finished.

I would like to suggest that we should conclude this section as near to 3:00 as we can, and we still have two gentlemen to hear from.

MR. PITTMAN. Where do you get these figures?

MR. KULIK. This was a head count provided by the inspector at the job site.

MR. PITTMAN. From your department?

MR. KULIK. Right.

MR. BERNSTEIN. I would like to know the fourteen black workmen employed by the prime contractor--if you could give us that by craft.

MR. KULIK. I will give you both figures; white carpenters, 50, and black, four.

MR. SEGAL. That is 50 and four?

MR. KULIK. Right. Cement mixers, white, nine and nonwhite, zero. Laborers----

MR. DOTTIN. Excuse me. What date is that?

MR. KULIK. This was Monday, June 23. Laborers, white, 37 and nonwhite, 10.

MR. BERNSTEIN. So the 14 are made up of four carpenters and ten laborers?

MR. KULIK. Right. I can give you a copy of this list.

MR. GROSS. I will mark this Exhibit 6.

MR. CRESWELL. You made a statement that one of the significant factors in the inability of your division to come up with a firm program is lack of direction, and that the other was lack of resources in terms of personnel. I would like to know if you could tell the Committee whether you would see fit to ask the Secretary, and whether you requested from Congress, the needed appropriations, and why you may not have in fact received that increase?

MR. JACOBS. There was a rather extensive study conducted about three months prior to our consolidation into the Defense Agency. This was done in cooperation with certain of our headquarters people and the manpower people in the Pentagon. It was given as a reasonable estimate at that time that we could quite readily use some 300 additional professional spaces. But that was--the action on that was deferred again for reasons known----

MR. CRESWELL. At what levels?

MR. JACOBS. We were under the Deputy Assistant Secretary of Defense for Labor Relations and Civil Rights, and then, you see, we were transferred from DOD level, that is, from the Pentagon level, if you will, to the Defense Supply Agency because it was a functional inconsistency in having an operating element up at the staff level. It was deemed proper that we be considered part of contract administration services.

If I may, Mr. Segal, I would like to add a comment. I certainly would like to make it clear that at the time of the hearings in the Senate--where a particular letter generated out of one of our field offices with a request to a contractor for certain preview-review data was directed to a contractor, and he raised hell and havoc, and accused the Federal Government of harassment. And I think that Senator Edward Kennedy responded to that beautifully in that there was obviously sufficient concern over harassment of the contractor, but how about an equal concern for harassment of the minority group workers. And if again, as Mr. Walley has said, if this were not my conviction, if I did not feel I had something to give to the program and some way I could help, I would not be here.

MR. DOTTIN. I want to make one observation. It seems to me, speaking of inconsistency, you send five hundred thousand people thousands of miles overseas, and we have some hundred people working on contract compliance here. Certainly we could bring home some of those five hundred thousand and get some freedom here in this country.

MR. GROSS. Mr. Chairman, we are running short of time. I would like to turn next to the Post Office Department.

Mr. Harris, as an expedient, because we are so short of time, I am going to go right into a project, which is the South Boston Postal Annex, and--again, to expedite--I will just give some bare statistics, if I may, as a predicate for some questions to you, sir. The South Boston Postal Annex is a 23 million dollar construction, according to figures we received, and is scheduled for completion in April, 1971. The principal contractor is McCloskey-Leavell. The work force figures for January 15, 1969, for the general contractor only--the figures for the subcontractors were not available--show 148 total work force; eight black, five of these eight are laborers and three carpenters.

Mr. Chairman, at this time, I would like to mark as Exhibit No. 7 for inclusion in the record a three-page letter addressed to the Commission by Edward S. Poole, Contract Compliance Examiner, Post Office Department, who I understand is no longer in that position, but who responded to our request for information on this project because of his familiarity with it up until quite a short time ago.

The letter is dated May 14, 1969, and is addressed to the U.S. Commission on Civil Rights. I will quote one paragraph from that letter, which appears on page 3. "The general contractor is in technical compliance with Executive Order 11246. He is advancing in the area of minority group representation performing on the job, but still has a vast amount of improvement to be accomplished."

Mr. Harris, my question to you, sir, is--with figures like those I just read to you--do you agree with Mr. Poole?

MR. HARRIS. Do I agree with the figures, sir?

MR. GROSS. No, sir. Do you agree with Mr. Poole's statement that "the contractor still has a vast amount of improvement to be accomplished"?

MR. HARRIS. You are asking me a personal opinion now?

MR. GROSS. I am asking you for a professional opinion.

MR. HARRIS. We set no quotas. However, the figures that you have are not the latest. I might say that I feel that there is room for improvement, no doubt.

MR. SEGAL. Do you have any figures later than January 15, 1969?

MR. HARRIS. Yes, I have some figures which are current since the resumption of work. When you ask me did I agree with Mr. Poole's statement that the contractor has made some improvement, these latest figures show that the contractor has increased the size of his minority work force.

MR. GROSS. Well, now, these figures are subject to fluctuation in both directions, I take it, all the time?

MR. HARRIS. That is correct. As various contractors take over, why, the size of their minority work force increases or decreases, as the total work force does.

MR. GROSS. May I ask in terms of affirmative action, in terms of written plans of affirmative action, if Mr. Poole is correct that the contractor has a way to go, could you indicate in terms of affirmative action what you would expect a contractor to do in order, as Mr. Poole says, to make some progress?

MR. HARRIS. The contractor has outlined a program of affirmative action, and I might sum up the answer to your question in three words--carry it out.

MR. GROSS. If I may, Mr. Chairman, I would like to mark as Exhibit No. 7a for inclusion in the record a four-page document which is the affirmative action plan applicable to the South Boston Post Office Annex addition. I would like to show this to Mr. Harris.

MR. HARRIS. I believe I have it here.

MR. GROSS. I just want to make sure that I am characterizing it correctly.

MR. HARRIS. Is it the McCloskey-Leavell statement?

MR. GROSS. The document I have consists of two portions. One is a----

MR. HARRIS. Nondiscrimination policy statement of general contractor relating to the construction of South Boston Post Office Annex addition, signed by McCloskey-Leavell general contractors? Then an additional document, a nondiscrimination policy statement of Paul Knudsen, relating to construction of the South Boston postal annex addition?

MR. GROSS. Right. Then there is a two-page attachment, a "joint declaration of fair employment policy" signed by Knudsen and McCloskey?

MR. HARRIS. My documentation agrees with yours.

MR. GROSS. I can describe the joint declaration of fair employment policy as a little more than one-page document consisting of four numbered paragraphs. I think it is fair to characterize it as a rather general statement of affirmative action, and I would like to read one portion of it, which appears in paragraph 4 and which is representative of the document.

"The undersigned recognize that achievement of these goals"--that is, the goals of Executive Order 11246--"necessarily requires the direct cooperation and vigorous support of organized labor and all special minority groups. The cooperation and support of organized labor is earnestly solicited to assure full compliance with all applicable labor contracts, to obtain licensing of qualified workmen where required, to assure the full and fair application of the respective apprenticeship programs, and to provide the kind of working atmosphere which application of the principles of equal employment opportunity entails."

Is that really worth very much?

MR. HARRIS. As a statement of the beliefs of the contractor, I would say that that sounds laudable.

MR. GROSS. Mr. Harris, in your work with the Post Office contract compliance operation--and I apologize for not having gone into more detail as to your responsibilities, sir, but we are under time pressure--in your work with the Post Office contract compliance operation, could you indicate to us what you regard as being the most effective kind of written affirmative action agreement that you have gotten from contractors?

MR. HARRIS. I feel that the affirmative action program should be a plan which outlines the means by which the contractor will achieve the desired status of minority representation in his work force. I find also that as I read through the program that you have read, this indicates that there has to be a degree of cooperation and active assistance of the governmental agency, the community, and the contractor. The extent to which the contractor outlines this in writing in my opinion is not necessarily a reflection of the effectiveness of the affirmative action program. He might have a one-page document which might have short paragraphs which might outline his intentions. However, if he carries this out--this intention--then in my opinion, I would consider this an effective affirmative action program.

MR. GROSS. May I ask you this, sir? Suppose with regard to a construction project for which you have responsibility, you received data indicating--and I am giving a hypothetical--showing that there are 35 iron workers on the job. None of these are nonwhite and the job area is 25 percent black. Could you say what action you would take, if any?

MR. HARRIS. Well, the initial action that I would take would be to contact the nonwhite community and find what was the reason that they felt that there was such a poor representation on the job.

MR. GROSS. And would you go on as to how you would proceed from there?

MR. HARRIS. Well, this depends, of course, upon the exact situation, but it certainly seems that the first step would be to have a meeting between the contractor or the contractor's representatives and representatives of the community.

MR. GROSS. And what would you say at that meeting, or what would happen at that meeting?

MR. HARRIS. At which time representatives of the community would be able to state why they felt that there was not a greater representation on the job and the contractor in turn, or his representatives--and by that, I mean as we have pointed out, subcontractors might be the people involved, although the contractor has prime responsibility. We would try to arrive at some conclusion as to what was to be done in the immediate future--as to what hiring practices would take place which would increase the minority representation on the work force.

MR. GROSS. I put this initially as a hypothetical, but is it in fact the case that this has occurred in real life in your experience?

MR. HARRIS. When you speak of my experience, as you pointed out earlier, the contract compliance examiner who has been dealing most intimately with construction in the Greater Boston area is not present here; but in answer to your question, my understanding is, and my observation is, that that is what has been done.

MR. GROSS. Right, but have you been involved in contract compliance enforcement yourself, sir, over a period of time?

MR. HARRIS. To some extent. You are speaking of construction now?

MR. GROSS. That is right. I am speaking of construction.

MR. HARRIS. To a minor extent, yes.

MR. GROSS. Only to a minor extent?

MR. HARRIS. That is correct.

MR. GROSS. So that you would not be able to draw on your own personal experience?

MR. HARRIS. We are speaking primarily about the South Postal Annex extension?

MR. GROSS. I was going back to my hypothetical in order to ask, whether you had, in fact, ever gone through this exercise of sitting down with a contractor and the community where there were 35 iron workers, all white.

MR. HARRIS. Well, not in my experience and, yes, to some extent in my experience I can relate that I have been at meetings at which the contractor's representatives and the minority community have been together.

MR. GROSS. Has this ever produced any results?

MR. HARRIS. That depends upon the way in which you look at it. The fact that there are more minority workers represented on the contractor's work force, I would have to say are not exactly negative results.

MR. GROSS. I am going to the situation that I thought you had been involved in yourself, sir. You have not gone through this exercise----

MR. HARRIS. I say----

MR. GROSS. In your own experience?

MR. HARRIS. That is correct.

MR. GROSS. All right. I would like to turn next, Mr. Chairman, to Mr. Haughton of the Federal Water Pollution Control Administration. Could you, sir, please describe the nature of the activity of your agency as regards construction?

MR. HAUGHTON. Yes, sir. I think I should preface it, however, by pointing out that the Federal Water Pollution Control Administration is a bureau of Interior which is only about three years old, having been formerly a small water resources unit of Health, Education, and Welfare. And, secondly, that the contract compliance program in terms of preaward and postaward review was inaugurated only last January, so that the program is relatively new.

MR. GROSS. When you say it was inaugurated, what was the situation prior to that time?

MR. HAUGHTON. Prior to that, I think in a regulation dated about 1966 or 1967, there were instructions on contract compliance, but I gather in reading that regulation, that the compliance consisted of reports gained by the Department from contractors or grantees as to the extent of contract compliance. To my knowledge there were no contract compliance officers or no enforcement officers in the administration and in this region until last January.

MR. GROSS. Was this, then, a responsibility of the Federal Water Pollution Control Administration or was this some other division?

MR. HAUGHTON. At that time?

MR. GROSS. Yes.

MR. HAUGHTON. You mean in 1966?

MR. GROSS. Yes.

MR. HAUGHTON. Well, it was the responsibility of the Federal Water Pollution Control because Federal Water Pollution Control had been established as an arm of Interior, yes.

MR. GROSS. Was it an Interior Department policy which was uniform that you were following as regards construction contract compliance?

MR. HAUGHTON. Yes. Let me explain. There are new regulations in process. Our present instructions are that we will follow the regulations issued in 1966, at which time they had no officers, but did have a process and a procedure and an explanation of what constituted contract compliance follow-up, reviews, pre-award conferences, et cetera. So what we are doing--and I have here in a presentation which I will leave with you--the interim instructions telling us to do this.

MR. GROSS. Excuse me, sir. I just wanted to follow up on the history of this. Do I understand that in 1966 a program was set up, and that until January of this year, there were no people involved in the program?

MR. HAUGHTON. There were no contract compliance officers in the program, no, sir.

MR. GROSS. Do you know what the problem was as to why this was the case?

MR. HAUGHTON. I cannot tell you, sir, because I was not at that time in the Department of the Interior, nor was I in HEW.

MR. GROSS. What is the region for which you are responsible, sir?

MR. HAUGHTON. Well, the New England region. I am responsible for the six New England States. The Northeast Region of Water Pollution Control covers the New England States, New York and New Jersey, and I am responsible for the six New England States. I am the entire staff.

MR. GROSS. Do you have any data with you, sir, which relates to the amount and nature of construction activity in this area?

MR. HAUGHTON. Well, the construction activity in the Boston area unfortunately for purposes of this meeting is very very little.

MR. GROSS. I really meant within the six States.

MR. HAUGHTON. In the New England States?

MR. GROSS. Yes.

MR. HAUGHTON. I do have some expense figures and the nature of our operation.

MR. GROSS. Could you summarize that in terms of so many projects of such and such an amount?

MR. HAUGHTON. No, sir, I cannot. I have given you a breakdown of expense by State and the kind of construction activity, the degree of assistance, and how we operate through the State Resources Commissions.

MR. GROSS. Your staff, as you say, consists of yourself for the region?

MR. HAUGHTON. Yes, sir.

MR. GROSS. Could you estimate how many construction projects there are?

MR. HAUGHTON. Well, I will tell you those that I am involved with right now number about sixteen spread throughout the territory. As a matter of fact, I have a couple of site reviews in Connecticut tomorrow.

MR. GROSS. Are those the sixteen highest value projects in the area? Is that the way you operate?

MR. HAUGHTON. Yes, because what we have started out with are projects in excess of one million dollars. I understand it is going to be reduced now to five hundred thousand dollars which will require preaward. How we will go back on the projects that were in operation before this program started, I have no idea, but I understand that we will backtrack so that we can do some site reviews of projects which are currently in operation.

MR. GROSS. I have no further questions, Mr. Chairman.

MR. HAUGHTON. I have here, as I said, our regulations. I have some exhibits in terms of the process we go through on preaward, on site review. I have some sample affirmative action plans, and I have a sample of affirmative action guidance that we furnish contractors.

MR. SEGAL. Could we have that?

MR. HAUGHTON. Yes.

MR. GROSS. That will be Exhibit 8.

MR. PITTMAN. In other words, your Department will allow discrimination on any contract under five hundred thousand dollars?

MR. HAUGHTON. No, no. That is not the question. I think the idea is that because the program is new, we want to start

with the most expensive projects which hopefully employ the most people and hopefully will give us a better idea of how many minorities are being afforded opportunity for employment.

MR. PITTMAN. What penalties can you impose for non-compliance under this program?

MR. HAUGHTON. In terms of sanctions and penalties, we must go to our headquarters, FWPCA, in Washington, and they in turn must go to the Assistant Secretary of the Interior and his Director of Equal Employment Opportunity--the Director of Compliance, in other words.

MR. WALLEY. I wonder if I could make a statement?

MR. SEGAL. Yes.

MR. WALLEY. Mr. Gross, you are the counsel for the Commission--the Committee or the United States Commission?

MR. GROSS. I am in the Office of General Counsel of the United States Commission on Civil Rights; I am a lawyer on the legal staff of the Commission. Now, I am not sure whether we have adequately explained the relationship between the United States Commission on Civil Rights and the Massachusetts State Advisory Committee to the Commission on Civil Rights.

MR. WALLEY. Well, I just wanted to ask because you developed a hypothetical situation, and I think one of the problems--and you and the Advisory Committee here are interested in recommendations, I am sure--and really we have been simply divulging facts here, and what we have been responding to is questions. I think a part of the problem in the whole area of civil rights is the fact that we do develop hypothetical situations, and we might consider this meeting here one of them. In other words, we are going to gather the same facts and we are going to draw the same conclusions and we are going to make the same recommendations, that are going to go to some central source and they are going to be ignored again.

I think that one of the things we must do, all of us who are sincerely interested in this field--if we have any sense of dedication or commitment--I would urge you in one of your recommendations to recommend that some credibility be established for the Executive order and for the Civil Rights Act of 1964.

In 1961 President Kennedy issued the first Executive order and then in turn President Johnson in 1965. I am sure we are going to have another Executive order under the new administration and as yet we have not established credibility for the first Executive order. And I think until we do that--one way we can do that is to enforce these things.

MR. GROSS. I take it your remarks are directed to nonconstruction as well as construction?

MR. WALLEY. They are directed over all, yes.

MR. SEGAL. Well, we appreciate that and Mr. Wilmore would like to comment on it.

MR. WILMORE. I would like to comment on another point. It is to the gentlemen from the Defense Department and from the Post Office. I have just been comparing what figures I have on black employment in two projects, the NASA Electronics Research Center and the Post Office. I find an interesting thing, that the percentage of blacks employed on both projects is about the same. On the NASA Electronics Research Center, there is no contract compliance program at all, and on the Post Office project, there are daily reports, site visits, conferences; and yet the results are the same. I wonder what that says, in your mind, about the effectiveness of the Federal contract compliance program, particularly since you are beginning to develop one, and maybe you do not want to develop the same thing that has been going on if the results are the same in one project where there is nothing, and in another project where the program is being fully implemented in terms of visits and so on.

[NO RESPONSE]

MR. GROSS. I would like to pick up on your point, Mr. Walley. I think it was made at the right time and in the right way. Is there a consensus here that the contract compliance program, particularly in construction, needs more attention to results and a more results-oriented enforcement procedure? Is that fair? Would anyone like to speak to that?

MR. HARRIS. I would like to make an observation for what it is worth. We speak of contract compliance. I assume we mean hiring more minorities on whatever the construction project is. Now, as a result of some of the action which, as has been

indicated, the contract compliance office of the Post Office has taken in the South Postal Annex job, a list of possible job openings was circularized. I believe you have that in your records.

MR. GROSS. Yes, sir.

MR. HARRIS. In other words, the response of minority applicants for the jobs was not gratifying. I do not know. I would like somebody to answer the question. If you have a job and you say, here is a job, and somebody says they want a job, when is the project in compliance? The program, any law or anything else can only work up situations to the point where jobs are being offered. To my knowledge, jobs were offered on this program. Why there are not more people working there is something that I would like to know.

MR. SEGAL. I would like to have Mr. Pittman comment on that.

MR. PITTMAN. What type of jobs were offered and did they have to go through the union hiring hall or did they have to be union members?

MR. HARRIS. I suppose we could read what types we have. Mr. Gross can probably find the answer quicker than I can in my notes. I really do not understand the relevancy of the question.

MR. DOTTIN. These are from your notes, not your personal experience?

MR. HARRIS. Did I observe the job to see if vacancies existed?

MR. DOTTIN. In relation to the question, you said you had to go through your notes.

MR. HARRIS. To answer truthfully, there are ten carpentry jobs, there are six plumbing jobs, there are three steam-fitting jobs. I could not give you the figures off the top of my head.

MR. PITTMAN. Did they have to be union members?

MR. HARRIS. So far as I know, the people employed on the job would have to be union members. Whether they had to be union members before they got the job or not is a relevant question,

but I cannot answer that truthfully. I do not think in my opinion the fact that they were not members of the union at the time they applied for the job would prevent their being employed and later becoming members of the union.

MR. GROSS. I think on this point that perhaps one question that Mr. Poole would have been in a position to answer for us involves the nature of the requests for nonwhite employees. I think that there is another problem in addition to the problem of the amounts; this is the form which the requests take. For example, how many communications were there with the United Community Construction Workers group, for example, which said, we want two steelworkers to report at this address, at this time, on this date? How many such communications were there? Now, I think Mr. Gopen and the McCloskey people will be testifying about that. I think this is a little more the issue than a general expression across the table which I think took place in numerous meetings with regard to this project. I think that is not really the point. But perhaps we will have to leave this for other witnesses.

MR. SEGAL. I would like to thank all of you again, and you, Mr. Walley, in particular I appreciate the fact that you asked for postscript time there. It was well taken. We are grateful to you.

May we ask the second panel that was due up at 3:00 p.m.-- we are running a little behind--to come forward.

FEDERAL CONTRACT COMPLIANCE OFFICIALS

PANEL II

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE.

DONALD BERSTEIN, Regional Equal Employment  
Opportunity Specialist, Region II.

ROBERT MILLER, Director, Division of Construction  
Support, Office of Construction Service, Office  
of Education, and Deputy Contract Compliance  
Officer (Construction).

JAMES J. SULLIVAN, Regional Engineer, Office of  
Construction Service, Office of Education,  
Region II.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

PASQUALE V. BARILLA, Equal Opportunity Representative,  
Region I.

JOSEPH P. MORTATI, Equal Opportunity Representative,  
Region I.

FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

LEONARD LAROSA, Equal Opportunity Officer,  
Eastern Region.

MR. SEGAL. With regard to the purpose of this session of the meeting, may I point out that we are continuing with a different panel drawn from some of the other Federal agencies and this has to do again with Federal contract compliance. I'd like to ask Mr. Gross, our counsel, to begin.

MR. GROSS. First, Mr. Chairman, I was handed at the end by Mr. Jacobs of the Department of Defense, a Department of Defense statement which I'd like to mark as Exhibit 9 at this time.

Mr. Berstein, could you please describe your agency's functions as regards the nature of construction work, and relate your responsibility to that.

MR. BERSTEIN. I am the Equal Employment Specialist for DHEW Region II, which is the states of New York, New Jersey, Pennsylvania and Delaware.

With respect to Region I, which is the New England states, I'm serving mainly in an advisory capacity to Mr. Sullivan, if, as and when he needs any advice on handling particular situations.

MR. GROSS. Mr. Sullivan, perhaps I can begin with you, sir. Could you describe the contracting function at DHEW for which you are responsible, in terms of the nature of the contracts and the sub-agencies involved, and then relate your responsibility to that.

MR. SULLIVAN. We are responsible for the construction of federally assisted projects for educational facilities. That includes not only higher education facilities, but Federal contracts for the construction of schools in federally impacted areas. It includes not only so-called elementary and secondary schools, but also vocational education and higher education facilities.

MR. GROSS. Your responsibility is in Region I?

MR. SULLIVAN. Region I, the six New England states.

MR. GROSS. And what other staff is there in Region I, for contract compliance?

MR. SULLIVAN. There are eight professionals.

MR. GROSS. The contract compliance staff?

MR. SULLIVAN. There is no contract compliance staff as such.

MR. GROSS. How much of your own time, roughly, do you spend on matters relating to contract compliance?

MR. SULLIVAN. Approximately ten to fifteen percent.

MR. GROSS. Are there others who spend a comparable amount of time?

MR. SULLIVAN. Field Engineers and Review Engineers, a number of eight.

MR. GROSS. What's the nature of their involvement in the program?

MR. SULLIVAN. They review projects and administer projects in the field. The Review Engineers, as indicated, review projects, plans and specifications. They instruct the applicants in the necessary procedures for contract compliance. Field Engineers are charged with the responsibility of instructing the contractors and field personnel in complying with contract compliance.

MR. GROSS. I'd like to mark as Exhibit 10, at this time, Mr. Chairman, a letter from the Department of Health, Education, and Welfare, Mr. Frank W. Baldau, EEO Branch, Division of Construction Support, to the United States Civil Rights Commission, dated May 20, 1969, and I quote one paragraph which states: "Due to budgetary limitations and therefore unavailability of assignable staff resources, the Department of Health, Education, and Welfare has not had an equal employment compliance function in DHEW Region I, which includes Massachusetts."

Could you expand on that as to what that means?

MR. SULLIVAN. I probably could elaborate on Mr. Bernstein's statement. He is assigned to Region II in New York. In Region I, we assign responsibilities to the reviewing Field Engineers, as indicated previously. When we do have requirement for the advice necessary from Mr. Bernstein, he is available to us on request.

In addition to this statement of mine, I would like to ask Mr. Miller, our Director of Construction Service from our Washington office, to expand on that statement.

MR. MILLER. My name is Bob Miller. In addition to being Director of Construction for the U.S. Office of Education, I am also Deputy Compliance Officer for HEW in construction on equal employment.

In terms of our responsibilities nationwide, we have a total of three professionals, two in Washington and one in New York, to handle construction compliance. With respect to the Boston area, our responsibilities, through our Regional Engineer-- Jim Sullivan, on my left--have solely related to the seven requirements contained in the contract document for construction under Executive Order 11246, and then periodic compliance investigations by our Field Engineers in the Boston region. I think Jim has some statistics specifically relating to the Boston area. But aside from our basic engineering staff here in Boston, we have no other staff whatsoever for equal employment.

MR. GROSS. I think you supplied us with the figure that there are within HEW's responsibility some seventeen hundred construction projects nationwide.

MR. MILLER. Seventeen hundred or twenty-two hundred. It's a great volume. In fact, based on our letter of May 20, in the Boston metropolitan area we had for the Public Health Service program construction totaling one hundred fifteen million dollars, representing a Federal share of thirty-two million dollars. Within the U.S. Office of Education we had a total construction potential of two hundred fifty-eight million dollars, with approximately sixty-million dollars Federal share.

MR. GROSS. I have before me a list of projects in the Boston-Cambridge area. Do you have that in front of you?

MR. MILLER. I have that. That's what I was reciting from.

MR. GROSS. Including the project at Harvard of nineteen million and MIT of sixteen million--just to add a little local color to these statistics?

MR. MILLER. Right, that's when I said Boston metropolitan area.

MR. GROSS. If we could, then, generalize about the course of construction contract compliance in Region I, what number of projects are there in this Region? Do you have a figure for that?

MR. MILLER. The total number of projects?

MR. GROSS. You don't have that? Could you estimate that?

MR. MILLER. The total number of projects. I would say within the U.S. Office about 168 in the New England states--under active construction.

MR. GROSS. For how many of those hundred sixty-eight projects was there a pre-award conference conducted?

MR. MILLER. None.

MR. GROSS. Has this been the uniform practice as far as the HEW program--as to not having any pre-award?

MR. MILLER. Throughout the country?

MR. GROSS. In this Region, sir.

MR. MILLER. Yes.

MR. GROSS. You do have pre-award procedures in some places in the country, is that it?

MR. MILLER. Yes.

MR. GROSS. Could you expand on that?

MR. MILLER. Yes, sir. In Philadelphia, which is a pre-award area as determined by the Department of Labor, Office of Federal Contract Compliance, as is Cleveland, St. Louis and San Francisco, and in addition, because of particular problems, we at DHEW have also brought in Columbus, Ohio, and then more recently, Newark, New Jersey.

MR. GROSS. Of those hundred sixty-eight, for how many do you have a written affirmative action plan of some sort?

MR. MILLER. None. That is, in the New England area.

MR. GROSS. Are there any plans on the part of HEW to expand its contract compliance program?

MR. MILLER. Yes.

MR. GROSS. Could you explain?

MR. MILLER. First, I'd like to say HEW of course under its civil rights programs, and I use the plural, has been for several years concentrating on Title VI of the Civil Rights Act, which affects the schools and health service facilities. In recent months we have begun to realize that our activity has been imbalanced, in that the whole area of Federal contract compliance requires greater involvement by our agency. That in the process of putting emphasis on the Title VI end, to use the slang of our business, we have over-concentrated in a particular area and believe we have got to begin putting more resources within the whole area of 11246.

With regard to that, the Director of the Office of Civil Rights, who is the Contract Compliance Officer for HEW, has requested the operating agencies within the Department to discuss with him the requirements that we feel are necessary to bring about a fully effective program for equal employment under 11246, and in this regard the Office of the Commissioner of Education has responded favorably, and has indicated that the Office will take prompt steps to strengthen its approach to assuring equal employment wherever the programs of the U.S. Office involve the construction trades.

I have not seen any correspondence from the Surgeon General or the Assistant Secretary for Health, but I would assume that a comparable discussion would be imminent.

With respect to the Office of Civil Rights, which is under the direct responsibility of the Secretary, we feel that in the Boston area the Department is quite vulnerable, as elsewhere, because we have few resources to support this total construction compliance program. We have no one assigned in Boston. We are hoping that, in line with the statements made by our agency heads, within the short run we can begin to develop a strong compliance program for our construction activity within the Boston region.

Now, we do have some statistics here from our Regional Engineer in the U.S. Office of Education which would indicate the extent of compliance within the metropolitan area of Boston. If you will permit me, I will have Mr. Sullivan read those figures. I'd prefer not to have the wet trades, but what we call the newer type trades, like the electricians, plumbers.

MR. PITTMAN. You said that Newark along with some other cities were added as compliance cities?

MR. MILLER. Just Columbus.

MR. PITTMAN. Why was it added?

MR. MILLER. We had a Federal court decision; as I recall now it was called the Ethridge case in Columbus. It involved Ohio State University under a Public Health Service grant for their medical school or I think their health research program; I don't remember which program. In any event, the court found that there was discrimination and that Ohio State per se must take more effective means to bring about nondiscrimination in construction employment.

MR. PITTMAN. This involved a couple of years?

MR. MILLER. Yes. We have had one man specifically assigned to Columbus since the Ethridge decision and subsequently.

MR. PITTMAN. This is a type of process that cities will continually have to go through to get contract compliance from HEW?

MR. MILLER. I would hope not, no. Columbus was a special situation. We have actively involved ourselves in San Francisco, St. Louis, Cleveland and Philadelphia.

With respect to Philadelphia, by the way, we were severely criticized in February of this past year by the General Accounting Office for our activities in Philadelphia. These gentlemen to the right of me were specifically mentioned. It concerned our activities involving pre-award. We continued to enforce what we felt was the affirmative action program for the City of Philadelphia, even though unbeknownst to us at the time, a General Accounting Office decision in November of last year had directed the Secretary of Labor, who of course is responsible for equal employment, to discontinue the affirmative action program under the Philadelphia Plan. We had continued it until February, and because of the action of the General Accounting Office, we were no longer permitted to conduct pre-awards nor require from contractors manning tables.

MR. PITTMAN. The Comptroller General's decision?

MR. GROSS. May I, for the record? I think this is in reference to the same Comptroller General point which has been raised before. I think your description as far as time is right. Of course the effect of the Comptroller General's opinion was to say that under present procedures for informing contractors of their obligations, it is not appropriate to impose a manning table requirement. However, two points. One is that this is only a

procedural problem which the Comptroller General has; and two, this opinion didn't go to the question of pre-award, because you can still have a pre-award procedure, which means sitting down with the contractor. This is done in cities which have no manning table requirement. But I take it from what you said that the pre-award procedure was abandoned at the same time.

MR. MILLER. May I say that the key to the General Accounting Office's letter was questioning the validity of the pre-award because essentially what you were doing was negotiating with the contractor after the bid had been opened. His complaint, or instructions to the departments, was, because of the lack of specificity in the notice to all bidders, that any action on the part of the agency or agencies was prejudicial to all other contractors beyond the low bidder when you sat down and negotiated numbers, which in effect are manning tables.

Now, since then, because of our concern with what has happened in Philadelphia--and, by the way, the Philadelphia Plan is much akin to what we have in Cleveland--have more or less had to stop in Cleveland, also. Yet we haven't had any of the complaints in Cleveland that we have had in Philadelphia. We have at the Washington level been working on a revised Philadelphia Plan that brings into effect specificity, which we would hope perhaps might be applicable to more than just Philadelphia.

MR. GROSS. It's pretty clear that this specificity to which you refer is really necessary for an effective construction program, isn't it?

MR. MILLER. Having been in construction, I would say this, that in dealing with the types of people we deal with in construction, specifics are much easier, or I should say, it's very easy to deal with them--I would assume, we have not attempted this. I would say that in Cleveland, where we had a comparable plan and we did have pre-award--we did have specificity--we have achieved very substantial results in the field of equal employment for minorities. Yet in Philadelphia, where we had the same plan more or less as Cleveland, we had nothing but obstacles from the beginning. However, based on recent statistics, even though we have had obstacles, we have had results.

An inventory of the critical trades that we are concerned with in Philadelphia indicates that though we agree to twenty percent of the work force, the skilled work force, being minority, in actuality twenty-three percent is on the job.

MR. GROSS. Was the program of HEW in Cleveland and in Philadelphia basically determined by the so-called Cleveland Plan and the Philadelphia Plan which were promulgated by the Office of Federal Contract Compliance?

MR. MILLER. The Cleveland Plan was promulgated by the Office of Federal Contract Compliance, but the Philadelphia Plan was promulgated by the Federal Executive Board in Philadelphia.

MR. GROSS. Yes. In addition to your programs in those two cities, you had programs in other cities as well, St. Louis--

MR. MILLER. And San Francisco.

MR. GROSS. Can you contrast and compare the course as far as the success of the programs in San Francisco and St. Louis with those in Cleveland and Philadelphia?

MR. MILLER. Personally, I don't think there's any comparison because I think we have made great progress in Cleveland and Philadelphia. Our progress in St. Louis, which is a totally different program, and in San Francisco, which is different, our progress is questionable.

MR. GROSS. Could you explain a little more? Is this because you don't have an effective pre-award procedure in San Francisco and St. Louis?

MR. MILLER. We have a pre-award procedure, but I think the symptoms were different in St. Louis and San Francisco over and above Cleveland and Philadelphia. The Office of Federal Contract Compliance came up with different plans. For example, in San Francisco, as I understand it, 20 percent of the skilled workers are on the bench--unemployed--whereas in Philadelphia and Cleveland, I don't think there's a problem of unemployment; there's a problem of getting people to do the job.

MR. GROSS. How about St. Louis, what was the situation there in these terms?

MR. MILLER. In those terms? I would say St. Louis was more or less in between; the program was generated by the Arch Project for the Department of Interior.

MR. GROSS. So in effect these factors of labor supply give rise to what you might call political factors which determine the nature of enforcement?

MR. MILLER. That I cannot respond to, being a bureaucrat.

MR. GROSS. But from your experience, then, to summarize, where you have a coordinated program which includes a results element, this is effective?

MR. MILLER. I think, personally, the manning table-- whether you call it a manning table or something else is immaterial-- you can get all the letters you want on a program--"letters against sin"--and they mean absolutely nothing unless these people tell us in fact, in terms of minority, what they are going to have on the job, all the other beautiful statements, we find from a practical standpoint, have no meaning.

MR. PARKS. May I ask one question. You talked about twenty-three percent somewhere on the job.

MR. MILLER. That was in Philadelphia.

MR. PARKS. Do you have any figures or any statistics on what the skill distributions were?

MR. MILLER. On the job itself--as applied to journeymen and apprentices?

MR. PARKS. Right, and in terms of type of journeymen.

MR. MILLER. I'm only talking about the critical trades now. We exclude the wet trades and carpenters. We are only talking about plumbers, electricians, etc.

MR. PARKS. I'm wondering what the skill distribution was?

MR. MILLER. By trade?

MR. BERSTEIN. By trade, the contractors seem to have been exceeding their manning table commitments on electricians and plumbers. I don't have the figures with me, but as I recall, they were exceeding their commitments on electricians and plumbers. They were very weak on sheet metal workers and steam fitters. On the other critical trades they were approximately meeting their manning table commitments.

MR. PARKS. I'd like to know, in terms of the number of journeymen as opposed to the number of apprentices--what does that look like?

MR. BERSTEIN. I wouldn't be able to give you that because I simply don't recall what the relationship was. We could get that for you.

MR. SEGAL. I'd like to get back to the Boston area.

MR. PARKS. I want to find out, if we can get that information, because I think it's very important to look at what kind of distribution contractors are coming up with. We are not only dealing with a local situation here. What happens in one city seems to have impact on us nationally. We'd like that information.

MR. BERSTEIN. I think we can get that information.

MR. WILMORE. We are also going to have two people from Philadelphia tomorrow, to report directly on the Philadelphia Plan. One is Mrs. Joyce Rush, from the Coalition to Save the Philadelphia Plan, and a gentleman whose name I don't remember from the Commission on Human Relations--Affirmative Action Specialist, I believe his title is.

MR. SULLIVAN. Could I give you figures on minority employment here in the Boston Area?

Gentlemen, maybe before I give the figures I might give a little description of our procedures in accomplishing what might be a substitute for the pre-award conference.

MR. SEGAL. Would you be in a position to let Mr. Gross have this as an exhibit?

MR. SULLIVAN. As presented now they are improper as an exhibit, but I will prepare them in a manner so they can be.

We hold what we call a pre-construction conference, it is after the award is made and before the job has started. At that time the Field Engineer, myself--or whoever represents the Department--instructs the contractor and the subcontractors in our requirements under the equal employment opportunity procedures.

We feel that probably we have had some success in this area. At present in the greater Boston area we have some ten active projects employing approximately 300 to 350 people. We have some fifty to sixty-five minority groups employed, and I will give you the ratios in that area. In the labor group we have some two to five ratio; carpenters, approximately three to ten.

MR. SEGAL. When you use the term minority, is that nonwhite?

MR. SULLIVAN. Nonwhite. I will go into the wet trades. Brick layers, two and ten; plumbers, we are doing a little better, probably two in seven. Electricians are averaging about one in eight, and cement finishers are averaging three in five. The other trades, the hoisting engineers and other trades, are probably averaging about one in five.

MR. PARKS. My question is on those statistics. They have been bothering me. Can I get absolute numbers? You said you had 300 people working?

MR. SULLIVAN. Three hundred people working. Of that three hundred in the Boston area we have some fifty-five to sixty minority workers.

MR. PARKS. That's by and large black folk and Puerto Ricans?

MR. SULLIVAN. Yes.

MR. PITTMAN. Is that all journeymen?

MR. SULLIVAN. No. I included laborers in the first grouping.

MR. PARKS. Can we get absolute numbers?

MR. SULLIVAN. I'd like to explain it in this way. I think everybody here who is familiar with the construction trade is aware that on a construction project there is no firm number of employees at any one time.

MR. PARKS. I realize that.

MR. SULLIVAN. That's why I gave these figures in a ratio.

MR. PARKS. But you know over the course of a job that there were fourteen electricians and out of the fourteen, five were black? You know that?

MR. SULLIVAN. We can give you that, but what we try to do is arrive at a period of time when there would be an average employment, and that's why I didn't want to submit this as an exhibit at this time, because we just took a ratio at this time.

MR. WILMORE. Is there any regular reporting on HEW? Where did these figures come from?

MR. SULLIVAN. Yes, we have a monthly reporting from our architects on the job.

MR. WILMORE. By race?

MR. MILLER. Not by race, by equal employment categories. The only monthly report we get is on construction activity.

MR. WILMORE. Where did those figures come from?

MR. MILLER. We had a special site investigation to see what our minority employment was.

MR. WILMORE. How could it be a ratio then?

MR. MILLER. He was using ratio rather than firm numbers.

MR. WILMORE. He said there's fluctuation from time to time, so we're giving it to you in terms of ratio, as if you had some regular reporting system and you're averaging it out.

MR. MILLER. No. As of the day the several projects-- I forget the number here--were investigated, there were these numbers of minority in relationship to the total employment by category of employment on the job, which we'll have typed up for you and submitted as an exhibit.

MR. WILMORE. In terms of numbers?

MR. MILLER. Numbers, as of one day.

MR. PARKS. You don't have that information now with you?

MR. MILLER. I have it here and we'll have it typed up and submitted to you.

MR. PARKS. Is it possible to read it?

MR. MILLER. Let me give you an example. Where you had five laborers, you had one minority. Where you had seven carpenters, you had one minority. Where you had fourteen brick layers, you had three minority. Where you had ten electricians, you had one minority. Where you had four cement finishers, you had zero minority.

MR. PARKS. Now, my next question is do you consider that compliance?

MR. MILLER. All I can say is that with what I have got in front of me, we have to evaluate it. There's one project here, and I'll be quite frank with you about it, which has zero minority

on it for several categories of skills. This would indicate that there is no compliance, or a lack of affirmative action rather than no compliance. We have to look into it.

MR. PITTMAN. When you have a site survey by one of your engineers, do you have to get permission from the company or contractor?

MR. MILLER. No, in our contract documents, under federally assisted construction, there's a provision in there which gives access to the site to Federal inspectors, whether it's for equal employment or Davis-Bacon.

MR. PITTMAN. Are they notified beforehand that you're coming?

MR. MILLER. Generally, no. We don't have what we call routine inspections per se. We have a sampling or a spot type of inspection. We, as in HEW generally, put the burden of compliance, whether it's on labor or equal employment, on our grantees. Aside from the New England area, we have been working, in places like Columbus or Cleveland, to show our grantees how to bring about equal employment, because they not only have equal employment problems on construction, they also have it on their own hiring practices. We tend to show them how it should be done, and then report accordingly.

Now, at Ohio State where we are under a court order, after the first one or two projects, whether it be under OE or under the Public Health Service, the University acquired sufficient experience--and also through the hiring of an equal employment type--they were able to conduct their own equal employment discussions with contractors on several projects. These have resulted in what we feel is measurable improvement in the hiring of minority people. We feel that as a Department, with the volume of activity we have, we could never hire the numbers of employees needed to investigate all of our jobs. Rather than do that, we hire a basic minimum and that minimum would then go out to show our grantees what is required, what needs to be done.

We have a lot more experience in the field of Davis-Bacon, in this area, and it's been proving very successful in matters of compliance. In equal employment, again, we hang our heads. We have not been doing it.

MR. WILMORE. Mr. Miller, this Committee is primarily interested in the Boston area, and it seems to me that your Department would not know these figures had it not been for this meeting here today and the request that you bring it in. Is that correct?

MR. MILLER. Correct.

MR. WILMORE. So this one contract, you said, based on the figures, obviously is not in compliance. You would not have known that. Now, is that a big problem, merely to get a monthly report on the number of black and white workers, or minority workers, on the job?

MR. MILLER. No, it is not, and I would say this, that we are considering at the Washington level--not only with HEW but with all Federal agencies--a uniform reporting form on compliance activities on a monthly basis.

MR. SEGAL. Would you think anybody might say that that was harassment?

MR. MILLER. Again, it depends on the area---

MR. SEGAL. I'm not talking about Illinois.

MR. MILLER. Let me say this as an analogy. In Cleveland we effectively carried out an equal employment or pre-award program with very little complaint. Yet we went to Philadelphia with a comparable plan, and we had nothing but resistance from the day it started.

MR. BUTLER. Mr. Sullivan, you spoke specifically of your pre-construction discussions with your contractors and subs regarding compliance. Would you give me, in summation, a statement of what the discussion is regarding equal compliance, please, for the Massachusetts area?

MR. SULLIVAN. Yes, I will. The contractor is handed a copy of the Executive Order. It is then explained what we mean by compliance. We explain to him methods of securing minority group representation on his job in various trades. We explain the apprenticeship program and indicate that it should be employed by him in securing proper representation of minority groups in the apprenticeship program, and we request from him a statement as to what his affirmative action procedures will be.

MR. BUTLER. Do you at any time validate, during the construction period, other than this one summation that you prepared for the Commission today, what they are actually doing at the subcontractor level?

MR. SULLIVAN. We make approximately two or three inspections of a project during construction. At that time... We are supposed to make two--

MR. BUTLER. Was I supposed to hear that?

MR. SULLIVAN. No, you weren't. [Laughter]

MR. MILLER. Our budget doesn't permit more.

MR. SULLIVAN. We have a motto, never let Washington know what Boston is doing.

MR. BUTLER. If I can get into this without beating it to death---

MR. MILLER. May I make a statement. Well, to add to Mr. Sullivan's statement. We have issued from Washington what we call an equal employment guide for our applicants, for our contractors, which sets forth specifically what the attitude of HEW is on matters of equal employment.

MR. GROSS. Do you have a copy of that document?

MR. SULLIVAN. That guide is distributed to each of the contractors and subcontractors at this pre-construction conference. We will bring you a packet including that.

MR. BUTLER. Is this what I heard described as a "love letter"?

MR. SULLIVAN. This is strictly a statement of facts.

MR. SEGAL. Could you bring it over tomorrow?

MR. SULLIVAN. We'll do that.

MR. BUTLER. Mr. Sullivan, in your role as an engineer, which is the primary function you serve, do you feel that your projects are meeting the intent of the Executive Order, much less, in your professional capacity as an engineer responsible for these jobs, do you, as a professional, feel you're meeting your obligations in this particular area, in all candor?

MR. SULLIVAN. In all candor, I would like to state this. We have been in existence in this area for two years. I think we are approaching a better meeting of this requirement of the Executive Order. I think in a period of probably two more years we'll be quite close to meeting these requirements.

I would like to make an observation, maybe a recommendation. Many of our problems appear to stem from the fact that the contractors' usual complaint is that they do not have some sort of central clearinghouse where they can obtain numbers and description of people who are skilled in trades. I would suggest to this Commission that some sort of a centralized clearing area in each district or each region be established--in each city--where a contractor, instead of going to several different agencies, might contact one area and secure there the names of competent people who might be employed on his project. I think that would go a long way towards increasing compliance with this Executive Order.

MR. SEGAL. Would you bear in mind that we are trying to get back on schedule, it's very hard, and we have got four more people in this panel.

MR. PARKS. I only have two questions. One is on the argument--and I have heard it a number of times--that the contractors want to have some place where they can go and find black workers. I have yet to see a contractor actively go out and seek workers, you know, in his whole advertising method, of telling the union, telling those various local offices that he's looking for black workers, and that's what his intent is, and he needs them--that kind of positive action I have yet to see. I have yet to see any of us following up to see that they take that kind of positive action. The whole question of "I can't find any" isn't, as far as I am concerned, a valid explanation of lack of compliance.

Now, you gave me the figures on one job, what job was that?

MR. MILLER. I let the young lady xerox it for you--it appears at the top...

MR. SULLIVAN. Could I address myself, Paul, to one of your statements here? On the first question I happen to have a specific instance here. The Daniel O'Connell firm on a job in Amherst, they were desperately in need of thirty-two carpenters. They are in fact among the better respondents in this area of contract compliance. On three different occasions Mr. O'Connell called me personally and asked me if I could help him in securing thirty-two carpenters. He didn't care whether they were minority group members or what, but he was desperately trying to find them,

and that was one of the reasons I made that recommendation. I think many of the contractors honestly and earnestly are trying to comply with this requirement. I think it would be of assistance to them if they had some such assistance.

I know that you have the joint apprenticeship program here in Boston, and I'm certain it is becoming better known. We are telling the contractors they can go to that agency and get some assistance.

MR. PARKS. Have you ever held up anybody's contract because they weren't complying?

MR. SULLIVAN. No.

MR. MILLER. We have been talking about pre-award. This department, because of the General Accounting ruling, in effect has been stopped from conducting any more pre-awards. Now, we have been working with the Department of Labor in terms of trying to bring about elements that would permit specifying, in the notification to all bidders, what we want in terms of the hiring of minority persons in the skilled trades--and essentially we have been limiting it to the critical trades. We have more or less come upon two rationales, I guess, that are essential if we are not to have pre-awards--and pre-awards indicate negotiation with a low bidder which it has been said we cannot do any more because it's not legal. Not being a lawyer, I do not know. We have come up with two concepts, one of which is that in the particular area of Federal interest--that is, the totality of Federal interest, not just HEW--it's essential that we as a Federal department, with the other departments and agencies, inventory the current extent of minority group participation in each of the construction trades. That, in addition, we inventory the availability of minority group persons for employment in each of such trades, and that we also determine the need for training programs in that area, and/or the need to assure demand for those in or from existing training programs.

Heretofore, in Philadelphia, San Francisco or St. Louis, we have never truly had a pragmatic inventory of what the total craft employment was and the total of minority as it relates to that craft employment. We need this, particularly in the critical trades such as plumbers, electricians, pipe fitters, etc., so that we can then sit down and determine what would be a reasonable goal, say for a particular period of time, establish the goal, and then on individual projects begin to apply goals--based on a rational investigation of what the minority employment is in a particular area, and then in the notice or invitation to bidders on these

projects say to these people that your goal is going to be that within the plumbers' union you will have ten percent--or whatever percentage it might be--of plumbers from a minority, whether it be journeymen or apprenticeship is immaterial, but you have ten percent. Now, that's the goal as of today. Six months from now the goal might be on a particular project fifteen percent; but that's what would be affirmative action. You have got to start from some place and then begin working. We have yet to have that. In any area where we as a Federal Government have gone in and said, this in effect is a pre-award area, about the only inventory we have had is in Columbus and that was done through the Federal courts. But in terms of the Executive Order, we have not had it. We feel it's essential. We also feel to comply with the General Accounting ruling, whether it be Federal construction or federally assisted construction, we get the specificity in there, in the pre-bid information, so that, when the bidder throws his bid in, you evaluate it not only based on specification for material, etc. but you also evaluate his bid on the basis of how he will deliver minority employment. The percentage is not a minimum, we will set up a range. Of course, in being pragmatic, the base of the range will probably be the minimum, but at least it will be a start and it will be a start I think in the right direction. Right now we just can't do anything.

MR. PITTMAN. You said one project shows definite non-compliance. What action will your office take?

MR. MILLER. Let's put it this way, noncompliance is a harsh term; let's say it's lack of affirmative action--where we have a situation of twenty-three craft people and no minorities. Now, we have to look into it and see what's wrong.

MR. PITTMAN. You will take that action.

MR. MILLER. Yes.

MR. GROSS. Mr. Mortati, would you please, turning now to HUD, explain the nature of your responsibilities in the program?

MR. MORTATI. I am an equal employment representative. My job is to monitor the federally assisted projects which are within our jurisdiction, those which are involved in the Housing Assistance Program, the Renewal Assistance Program, the Metropolitan Development Program, and the Federal Housing Administration Program. Each of the agencies in effect has a representative who attends a pre-construction conference, which is called for any project.

MR. GROSS. May I interrupt you here because I want to establish the responsibilities of each of you, and then proceed from there. Mr. Mortati, your geographical responsibility is what?

MR. MORTATI. Region One, which involves New York State and the five New England states. We have four men on our staff in the compliance field.

MR. BUTLER. You said five New England states, which one is omitted? There are six New England states.

MR. MORTATI. I'm sorry, there should be seven, a total of six New England.

MR. GROSS. And the total number of people full time on contract compliance in this Region is what?

MR. MORTATI. Full time is hard to distinguish. Let me say we have four people assigned to contract compliance. Part of the responsibilities of one of these particular men is that he reviews the Model Cities programs when they are submitted to the HUD office. Another man has as part of his responsibility to review programs from city agencies that are working in correspondence with Federal money.

Our job is to attend pre-construction conferences.

MR. GROSS. I'm sorry to cut you off again. I wanted to ask Mr. Barilla what his responsibilities are.

MR. BARILLA. I, too, am an equal employment representative for HUD, Region One, and we cover the New England states along with New York and New York City.

MR. GROSS. All right. I'm going to now address questions which I will let either of you answer, as you wish between you. I might just say for the record--again, in the interest of time--that data which HUD supplied indicate that in the Boston area there is projected for fiscal 1970 47 construction projects with an aggregate construction cost of 385 million dollars.

Now, speaking in terms of the region for which you gentlemen have responsibility, could you give any figure on either project or construction activity in that region?

MR. MORTATI. I don't fully understand your question.

MR. GROSS. How many construction projects are there for which you're responsible?

MR. MORTATI. None specifically. We cover the projects as they come into our office, as they are reported to us on a monthly report from each of the agencies.

MR. GROSS. What is that figure currently?

MR. MORTATI. Currently for the whole region or just Boston?

MR. GROSS. For the whole region.

MR. MORTATI. Approximately 350 projects.

MR. GROSS. How many of those projects have had a pre-award conference?

MR. MORTATI. None.

MR. GROSS. And why is that?

MR. MORTATI. It's under the Federal Assistance Act. We do not have a pre-award conference for any of the agencies under our jurisdiction--Housing Assistance, Renewal Assistance, Federal Housing Administration. They all have pre-construction conferences. There are no pre-award conferences held.

MR. GROSS. And how many have had a pre-construction conference?

MR. MORTATI. Based on the Secretary's letter, contracts of a million dollars or more would require attendance by a HUD representative at a pre-construction conference. The other projects, under a million dollar total, would have the representative from the particular agencies to represent it at that pre-construction conference, as it is called by the agency.

MR. GROSS. At the pre-construction conference, what materials do you give to the contractor to advise him of his responsibility under the Executive Order?

MR. MORTATI. The same that everyone else does, which you have heard over and over again, the Executive Order...

MR. GROSS. I mean written materials.

MR. MORTATI. In effect we also supply to them a copy of the HUD 907 form, which is called "Instructions for Contractors Regarding Affirmative Action Under Executive Order 11246."

MR. GROSS. I'd like to mark as Exhibit 11 for identification the HUD form 907.

Is there anything else that you give to the contractor to advise him of his responsibilities?

MR. MORTATI. Yes, we do. As required by the Executive Order, there are posters that have to be given to him, a suggested format for notification to the unions which the contractors will be dealing with for men--they send a notice of nondiscrimination. They have posters that have to be placed on the project site.

MR. GROSS. For the record, I might note that Form 907 in fact doesn't have any requirements in it, in my reading of it. The substantive portion of it states that it sets forth "suggested steps" for a program, which include the following: "assure nondiscriminatory recruiting for your company", taking "appropriate steps", such as "placing employment advertisements in newspapers which serve the largest number of minority group people in the recruiting area", "recruiting through schools and colleges having substantial proportions of minority students", and "encouraging present employees to refer minority applicants". In the interest of time, I won't go on.

Wouldn't it be more effective, to the extent that this kind of written affirmative plan means anything, if this were in terms of requirements, and if the contractor were required not simply to come out with some general language, but to say all right, this is a requirement stated here, now my plan spells out what specific steps I'll take. Do you have any reaction to that?

MR. MORTATI. I would say relisten to or reread the minutes of the meeting you have taken, and every contract compliance officer has stated emphatically, and I will concur with them, that we are given no specifics, exact specifics, related to the requirement, about affirmative action--what constitutes it. It sounds rhetoric, we keep saying the same thing, but this is the law. It sounds rhetoric that there's no number placed on a job site. It sounds feasible for this gentleman sitting here from HEW to say what he did, and I agree with him a hundred percent, as everyone else does--we work with the tools we have.

MR. GROSS. You don't think a contractor could be required to do each one of those steps I just mentioned.

MR. MORTATI. A contractor is required to do----

MR. GROSS. That's not what the form says.

MR. MORTATI. The seven items that are noted in there, that constitute the basic requirement of the Executive Order.

MR. GROSS. I'm talking about the specifics that Form 907 puts as "suggested steps". My question is, why aren't they requirements rather than suggested steps?

MR. MORTATI. I think in your position I can ask you the same question. I think this question has come up constantly and yet there are no specifics, again, no requirements so to speak. I think this is why we are here, to find out what is the problem and what we can do to correct it. I think you gentlemen are in a position to possibly help us more than anyone around. Not to put the load on your shoulders, but we have to work and live with people. This is what makes it hard for us.

MR. GROSS. In terms of the written affirmative plans--

MR. BARILLA. Excuse me, sir. I just wanted to add concerning the Instructions for Contractors, and the reasons why we have it--it spells out very clearly ten points on what the contractor is expected to do in order to have an affirmative action program. However, when it's submitted by the contractor, we review it thoroughly and make notes of different points in this 907 and spell out what we want in addition to what they already have in the 907. So, this is a suggested format for the contract, and I think it's a pretty good thing to have because we don't have any from any other agency, and it was made by the HUD people in Washington.

MR. MORTATI. You know, sometimes we overlook a very important feature. We have nothing concrete to go on, and yet we do have quite a few things that are concrete. I think the interpretation of each individual that handles this or tries to get across something to a contractor when he talks to him--there's an explanation here of the contractual obligation. It refers to the affirmative action program, and the first paragraph states that the contractor must have a program of affirmative action. Now, this has a wide latitude of problems. The program must be tailored to the particular set of circumstances which apply to the contractor and to the locality, the labor market, and the project or projects in which the contractor is involved.

To try to explain what I want to get across, when we do sit down with these contractors, we try to make ourselves aware of what some of these circumstances are--some of these problems. We utilize facilities of any of the neighborhood or community resources which we are made aware of through the contractors, through the local agencies--their field representatives which are assigned to EEOC on detail--that they acquire a list from the OIC center or they get it from a multi-service center or from UCCW or from the church groups, and we have this available to notify them. Again we take an attitude--here's more paper work, but we have nothing more concrete to go on. We try to assist in any way we can, to lead them into the direction where things can be made available to them, to comply with the requirements in the Executive Order and in 907.

MR. GROSS. At the pre-construction stage, without going into detail, what is done? What sort of involvement is there of subcontractors at that point?

MR. MORTATI. If the general contractor has let out contracts at the time of the pre-construction, the subcontractor will attend. If he's not present at the meeting, and he had signed the contract, he will be notified, at the responsibility of the prime contractor who is present, what he must do--if he has a contract over a hundred thousand dollars, submit a written program, or he'll be notified of his obligation with a copy of the Executive Order and HUD form 907--the full responsibility on the part of the general contractor who was present.

MR. GROSS. In what proportion of cases do you end up sitting down with the subcontractor?

MR. MORTATI. Many of them because the contractors, well up here in Boston, too, I don't think I have sat--maybe two or three out of possibly ten pre-constructions where they didn't have at least one subcontractor.

MR. GROSS. Are the same kind of commitments and plans received from the subcontractors as from the general contractor?

MR. MORTATI. The same obligation applies to anyone who has a contract over a hundred thousand dollars.

MR. GROSS. And the same plans are submitted?

MR. MORTATI. The same plan? It would never be accepted by our office. They are submitted to us through the local agency for final approval in our regional office in New York. This is made specific at the pre-construction conference. There will be no duplication of affirmative action programs. There can be a joint effort, there can be a cooperative effort, but there will be individual compliance reviews on the individual sub or the general contractor.

MR. GROSS. What I am trying to get at is this. Does the sub sign a document which is a written plan of affirmative action which is the same agreement that the general contractor signs?

MR. MORTATI. You have seen a copy of the general contractor's program that he signs. Everything is the same except the signature.

MR. GROSS. The answer is yes?

MR. MORTATI. The answer is not yes. He might, but it will not get past the local agency. He has to submit his own for his own company, period. His company, particular company, be it a plumbing outfit, a mechanical outfit, steam fitter, heating, electrical, whatever may be the case, his circumstances aren't similar to a bricklayer.

MR. PARKS. Let me ask you a couple of questions. Because what I've been hearing--beginning to weed through all this--is that you just don't have the mechanism to really enforce contract compliance, to bring people to task who don't comply. What it sounds like is that you have been given a set of tools which say that through power of persuasion and the ability to negotiate, you may in fact get people to comply. But in terms of giving you the real tools and the leverage to enforce compliance and hold up a contract--to stop someone from doing something...

MR. MORTATI. You can read it in the Executive Order.

MR. PARKS. Right now, at the Federal level, no one has really gotten serious about contract compliance--at the Washington level, whoever makes these decisions. What appears to folk who are listening is that the shoe is only pinching one foot, the shoe is pinching the guy who seems to be inclined to bend over backward to help the contractor to meet his obligations, that are sort of loosely couched. On the other hand, the people who need the jobs, there doesn't seem to be a real advocate for

their role, and that's what's troubling me here. Perhaps one of the suggestions we ought to be coming out of here with, is if we are going to be serious at all about contract compliance, the tools that we presently have just aren't going to work.

MR. BARILLA. We in HUD have been doing a lot more than just paper work and have been doing a lot more than just talking to contractors. We work directly with community leaders and community groups. I don't think there are any agencies as close to people as HUD. In the past--and in the future we hope to continue to do this--we meet with people in the communities. For example, last week we had a conference with a contractor, with a subcontractor, and with leaders in the community, where we all sat down at a conference table like your panel up here and we spelled out what our problems were and put all the problems on the table. We had all the subcontractors present. We discussed what we wanted, what HUD's requirements were, as a result of which everyone left that conference pleased. And I mean we had groups there that were ready to demonstrate at a particular site--if I may refer to it, in Connecticut--a site that was going to be demonstrated and shut down. As a result of a conference called by us in Stamford we were able to get the contractor to come across with more members of the minority groups, and different crafts and trades, and get a guarantee from him. Now, this would not have happened had we not met together with the different groups in the community first and then worked it out with the contractors. I don't say we'll be able to do this in every area, but we have made great strides in this one particular area.

MR. CRESWELL. This wouldn't have happened if there wasn't going to be a demonstration, so it wasn't anything that was initiated by your agency?

MR. MORTATI. We use any tool that is made available to us.

MR. BARILLA. That's what I meant by working with community groups. We know what's going to happen, we know what's happening, and we try to correct it before it gets out of hand.

MR. PARKS. Let me follow this up. What we are trying to do is to come out of here with a list of suggestions, and try to use whatever mechanism we can to get those suggestions carried through. What it seems to me that you really need is the ability not to have to go through this negotiating process with the community and all this. What you need to do is be able to

walk out on a job and close it down because the contractor is in noncompliance. That's the kind of simple thing that somebody has got to have the ability to do. If he's not in compliance, you walk out there, you make a judgment. You don't have to negotiate that. Until you get these tools, we are going to be sitting here in this room for the next couple of days just passing comments back and forth between each other and wondering how far we can go within the present framework.

MR. MORTATI. If we have to interpret the law as it's written, there can be only one interpretation, that is what the law is.

MR. PARKS. Right.

MR. MORTATI. It says the policy is that we will afford opportunity. We are not going to give jobs to them--the way it should read. It says we will give every available, feasible, reasonable opportunity to the community people in the Model Cities area to participate. That's a mandated law; this is the way it's got to be. Now, how do you do it. The government programs involved in this particular area, they are going to be federally financed. They have requirements and restrictions related to minimum wage--a state project with Federal money that comes under one of our agencies, say BRA and so on--you take a problem like this, a state requirement. The equal opportunity clause in the specification of the contract is quite different from what you would find in another agency's contract. You sit with a contractor and he looks at you and says, "You're out of your cotton picking mind, you're from HUD; I'm dealing with the state. They pay me every month." But we have to work with them. You can't just tell them, "Well you're right, chum", and turn around and walk out. There are many problems; there are many things which are inconsistent.

Mr. Geller, who is the OFCC officer, has instituted in the last three months something that has been very successful in New York; we have started demonstration projects. Some agencies have gone along willingly, with no problem; some don't. So we are trying to find the right screwdriver to turn the screw. There are problems; they do exist, legally. This is the cross that has to be borne; it's getting very heavy.

MR. PARKS. What I'm saying is you need support.

MR. MORTATI. You said the right word; we need and expect as much support as we are allowed.

MR. PARKS. I'm saying you need legislative and legal support. If we come out with one thing, it ought to be the message that there has to be support so that you can take punitive action against contractors to force them to comply.

MR. BUTLER. Mr. Mortati, I think counsel would like to ask one or two questions. We're trying to go along.

MR. GROSS. Would it be fair to summarize what your present position is, as far as the state of the law and the conditions under which you operate, that you're principally engaged in a selling job?

MR. BARILLA. No question about it. Don't forget HUD is composed of many constituent agencies. In the two years I have been there we have been orienting different groups as to what equal employment opportunity is all about. Many of our own agencies didn't understand the program, and we had to spend many many weeks and months educating our own people on what it's all about.

MR. GROSS. But you think the time has come now for moving from selling to enforcement?

MR. BARILLA. No question about it.

MR. GROSS. One last question. I think we requested from you material showing racial data on projects in the Boston and the Massachusetts area. Do you have that with you here today?

MR. MORTATI. No, I don't. Again, I go by my experience, and my experience is that if I had to give you some gingerbread, I'd bring you in some figures from a job, say for the FHA project St. Joseph Homes and I'd give you a nice figure. You want the truth and we try to give you the truth. We have problems. You're trying to help us solve the problems.

MR. WILMORE. Can you give us the figures?

MR. MORTATI. Specific jobs in the Boston area? I can name over a million dollar projects. I'd have to make a request to each of them individually to submit a breakdown.

MR. PITTMAN. You'd have to accept the contractor's figures?

MR. MORTATI. If I gave you the report that was submitted to me by the contractor, you would accept it, wouldn't you? I wouldn't give it to you to accept. If you want me to give the figures that you requested, I'd start climbing ten or twenty stories and give you the exact count, but when I finished, the next day's work would start and we'd have to work on an average.

MR. WILMORE. Does HUD get regular reports on racial composition of the work force in publicly assisted HUD projects in the Boston area?

MR. MORTATI. The HUD regional office does receive ethnic breakdown reports but only from the projects designated as demonstration projects.

MR. WILMORE. Out of the 350 in the region, how many are demonstration?

MR. MORTATI. We have only done this in the New York region, under the auspices of the OFCC, Mr. Geller. There were fifteen in New York.

MR. WILMORE. And the rest?

MR. MORTATI. In Boston we now have approximately 21 that we are trying to bring into demonstration procedure. This involves a constant monthly report.

MR. BUTLER. You don't have it?

MR. MORTATI. We only started one month ago.

MR. BUTLER. I don't think there was any intent to impugn your position--merely to obtain the facts. Do you or do you not have the figures on the Boston projects?

MR. MORTATI. I do not.

MR. BUTLER. Thank you, sir.

MR. GROSS. That's all I have.

MR. BUTLER. Thank you, gentlemen.

MR. GROSS. There is one more agency. Mr. LaRosa, would you please identify your agency and briefly outline your responsibilities?

MR. LaROSA. I'm with the Federal Aviation Administration in the Department of Transportation. I'm the Equal Employment Opportunity Specialist for the Eastern Region of the FAA and my jurisdiction covers the fifteen northeast states, which extend from Maine to Virginia, West Virginia, Kentucky and Ohio.

MR. GROSS. Do you have any general figures for construction activity within that fifteen state area?

MR. LaROSA. Well, the only count we have maintained are the contracts in excess of a million dollars--of which we have about a hundred.

MR. GROSS. What is the---

MR. LaROSA. I'd like to say one other thing with regard to my job. I am assisted by one other man who has been with me a little less than a year, but as the Equal Opportunity Specialist I am also involved in the internal program of the FAA which covers some 300 to 400 facilities and eight thousand employees--and I'm involved in the investigation of discrimination complaints in our own employment--and also contractors under the federally assisted program, which is a part of our contract compliance. We have federally assisted and direct construction, which might be rather unique here. We have both sides of the fence in FAA. We are also involved in sponsors' compliance in their own facilities and operations, to see that the facilities are not segregated.

MR. GROSS. How much of your time is devoted to construction contract compliance?

MR. LaROSA. I would say sixty percent as an estimate.

MR. GROSS. What is the practice of FAA as far as the collection of racial data on these hundred projects?

MR. LaROSA. We have a mandatory requirement which is spelled out in the order that I have issued. Contracts cannot be awarded without a pre-award review on my part--an acceptable written affirmative action plan. Contractors must assign an EEO coordinator for their company and they must submit semi-monthly or monthly reports, depending on the situation.

MR. GROSS. Every one of these hundred has a written affirmative plan and a pre-award...

MR. LaROSA. Every contract of one million dollars or more has a pre-award review, and I conduct it, and we have written affirmative action plans.

MR. GROSS. Getting down to the question of affirmative action, could you give any indication from your own experience as to what steps of affirmative action you feel are the most effective that you have seen operating as far as actually producing results?

MR. LaROSA. You mean on the contractor's part?

MR. GROSS. On the contractor's part, yes.

MR. LaROSA. Of course he's got to be sincere in his efforts, number one. He's got to undertake a program of recruiting. He's got to take a program of upgrading the skills of minorities. Usually they do have laborers, and possibly truck drivers, that are normally part of their regular forces. Most of their work involves the operating engineers. We look for the contractor to upgrade the skills of the truck drivers or laborers; and to maintain community contact. We try to assist them in that area by giving them resources that they might use. In effect it's a program in which we expect the contractor to take all the action necessary to achieve results, whatever that may be.

MR. GROSS. When you say "upgrade the skills," could you explain a little further what kind of action you have gotten in that regard?

MR. LaROSA. Right here at Logan Airport, for instance, we had an operating engineer working and he knew of someone that had never really operated equipment, but was a heavy equipment driver--it was a friend of the operating engineer; he was Negro. The contractor said, "Bring him in and we'll try him out". This is one of the ways. They took a man off the street. The other way is to bring in a truck driver, he's willing to put him on a piece of equipment, smaller equipment, not the real expensive operation, smaller type of scraping, something like that, which he could try him out on and possibly train him in it. This might not be right on the job, he may use him in his yard temporarily to make sure--he runs it back and forth.

MR. GROSS. Did this happen more than once on this project?

MR. LaROSA. At Logan Airport? This is the one time I am familiar with.

MR. GROSS. And the job into which the man was placed on that project was what?

MR. LaROSA. Logan Airport, McCord Construction.

MR. GROSS. No, what trade?

MR. LaROSA. Operating engineer.

MR. GROSS. And he was a truck driver?

MR. LaROSA. Right.

MR. GROSS. Do you know what kind of agreement there is--collective bargaining agreement--between the contractor on that job and the operating engineer union?

MR. LaROSA. Well, he's a hundred percent union.

MR. GROSS. Well, if he's a hundred percent union---

MR. LaROSA. But there's no exclusive referral involved there. He can hire.

MR. GROSS. He's free to hire off the street?

MR. LaROSA. Within seven days, I believe it is, he must sign up with the union.

MR. GROSS. And would not a contractor in this position have been able to take on more than one from the community and train him up to operating engineer?

MR. LaROSA. In this particular case this was only the contractor's regular crew for the main part. He came in with his main crew on this particular project and he only needed three equipment operators. One of them was this Negro, and he tried to get another one through him. But he actually only used three additional people, other than his normal crew.

MR. GROSS. In your experience, does it often happen that a contractor may be free, under the terms of his collective bargaining agreement, to do just this, but is afraid to because of what the union might say about it?

MR. LaROSA. You get that from the contractor--that the union agreement is binding, and they can't do anything without retaliation, you know--this kind of thing you get from a contractor. But I tend to disregard the union agreement personally, and I don't accept that as an excuse. First, exclusive agreements are not usual. The contractor always has this avenue of approach if he has the guts to do it. But let's assume he did have this exclusive referral arrangement. This does not in any way affect my action on the job. As far as I'm concerned, this agreement with the union doesn't hold against the Federal requirement. Before he signed that contract, and before we agree to award that contract, he's already agreed to put minorities on the job, and this is what we expect him to do.

MR. GROSS. How common among these hundred projects in your region is it that a contractor will take someone who is non-union, who is qualifiable as an operating engineer or in some other trade, and put him on the project? How common is that?

MR. LaROSA. I would say, outside New York City, which might be a little tough--but we have still gotten results I might add--anywhere else that has not been a stumbling block in my particular case.

MR. GROSS. You mean you have been able to place substantial numbers on your jobs?

MR. LaROSA. I wouldn't use the word substantial. I have been able to make a break through, I would say.

MR. GROSS. Do you have any figures on this that you could give us?

MR. LaROSA. For the fifteen states?

MR. GROSS. I don't mean total or comprehensive figures, I mean some indication.

MR. LaROSA. I can give you an indication. For instance, in Rochester we have a contract on an airport, and the electrical union there has never had a minority, in all the years--at least this is the information I have. I met with the prime contractor and with the electrical sub and the electrical union business agent, and told them we just couldn't tolerate this condition. I should have a letter in my office by now indicating they have been able---

MR. GROSS. Is that the IBEW?

MR. LaROSA. In Rochester, IBEW.

MR. GROSS. Do they have an exclusive hiring hall agreement there?

MR. LaROSA. I'm not certain. I wouldn't want to say whether they do or don't right now.

MR. GROSS. That's pretty typical for the...

MR. LaROSA. It probably is an exclusive for the electrical, but I wouldn't say.

MR. GROSS. But you were able to sit down with the business agent of the union regardless of that?

MR. LaROSA. And the subcontractor and discuss the situation. I told them that this was an intolerable situation and that the prime was responsible, and if we had to we'd stop the job. This is a threat, which I've used before.

MR. GROSS. Have you sat down with this combination of people, the union business agent and subcontractor, before? Have you done this on another job?

MR. LaROSA. Where needed, absolutely. I feel that where we have these critical trades--and we know we are bucking up against a hard wall of tradition and past discrimination--I feel it's my responsibility to get right in with them.

MR. GROSS. I have no further questions, Mr. Chairman.

MR. BUTLER. When you talked about the possibility of retaliation, would you go over that again. Could there be perhaps a possibility of cooperation with another governmental agency? Perhaps some law enforcement agency?

MR. LaROSA. You know you're dealing with a contractor who's in business for the money. Though I feel this way about a contractor, normally speaking. A contractor is not interested in discrimination as such. He wants to get so much work for so many dollars where he can make a profit. I think maybe personally he may have some conviction, but jobwise I think he would hire anybody who could do the job. But he's got to live with these union business agents who are responsible for their membership. They are trying to keep it so their people are fully employed and working some overtime. If the contractor in all sincerity wants to do something, and if he goes ahead and does something beyond the union's control--even though he may have that option in the agreement, that he may go out and hire locally--

if he does this contrary to the union's wishes, he may end up with a lot of problems, if not on this job then on other jobs, and he may take some losses he might not have expected. So you have to understand, he does have a relationship with his union, and he's got to keep peace on that end of the trade. For his own protection he would want to do it the best way he can. That would probably take some cooperation from the business agent. That's why I put the business agent in there.

MR. WILMORE. As we all are saying these days, result oriented is the way we want to be. I think the elemental thing in the contract compliance program, is to find how many black people we have on the job. Several departments can't tell us. Now can you tell us for the Boston area for FAA contracts?

MR. LaROSA. I have reports from the contractor here.

MR. WILMORE. Can you submit them to the Committee?

MR. LaROSA. It's a matter of record; it's right here, all the records for this contract. If you want, we'll take them out; if you want we'll reproduce them.

MR. BUTLER. Are these audited reports or the contractor's submission to you?

MR. LaROSA. These are submitted by the contractor and I make periodic inspections myself, unannounced.

MR. BUTLER. Did you audit these particular figures?

MR. LaROSA. I have made compliance reviews myself which would indicate what the employment was.

MR. BUTLER. You would stand behind these figures, then?

MR. LaROSA. I think my reviews indicate he's not lying.

MR. BUTLER. I'm asking if you audited those reports?

MR. LaROSA. No. He submits them for a period. They come to my office a week after he submitted them. I don't have any way of going to the job for that day to see whether these people were actually there, except for the possibility of a payroll check--and not knowing, then, who these people are by race, religion or color. I have no way of going back and saying, "Now on that date---"

MR. BUTLER. OK, I accept that.

MR. PITTMAN. Do they have a specific time to submit these?

MR. LaROSA. Yes, these are for a period. For instance, here's one for 6/1 to 6/15/69...

MR. PITTMAN. Does he have to have those in on a specific date? Do they have to be turned in to your office on a specific date by the contractor?

MR. LaROSA. Within a reasonable period. Here's an example. He submitted this on the 19th for the period 6/1 to 6/15. I keep in my office all the semi-monthly reports that are due; when they are overdue in my eye, I request them.

MR. BUTLER. Mr. LaRosa if you would submit those we'd be most appreciative and thank you again.

MR. BUTLER. If you will be seated, we would like to start, please.

Mr. Geller, for the record, would you state your name, your affiliation and your position, please.

MR. GELLER. I am Murray Geller, Northeast Area Coordinator of the Office of Federal Contract Compliance, United States Department of Labor.

MR. BUTLER. I think counsel for the Commission would like to address you with a few questions, please, sir.

MR. GROSS. Could you say what the geographic area is for which you have responsibility, and what your responsibilities are with regard to that area?

MR. GELLER. I take in the six New England states, plus New York State, and the metropolitan Newark, New Jersey, area. My responsibilities as Area Coordinator are to coordinate the Federal contract administering agencies in their prime obligation to obtain compliance under the Executive Order.

MR. GROSS. What staff have you to help you discharge these responsibilities?

MR. GELLER. My own staff consists of just myself and my secretary. But of course we work with the compliance specialists in each of the Federal departments and agencies.

MR. GROSS. Do you have any estimate of the number of projects that the agencies are responsible for within your region?

MR. GELLER. I could not give you an estimate on that because, by way of proceeding with priorities, we have been concentrating in key cities only, and until about three months ago my responsibility was limited to just New York City. The expansion, extending my jurisdiction to the seven states plus Newark, occurred very recently, and there we have been operating in key cities only.

MR. GROSS. I realize it would be a very general answer, but could you give any estimate as to the proportion of projects in your region for which you regularly see racial data?

MR. GELLER. For New York City, where our program has been under way for about four years, I would say I regularly see the ethnic breakdowns on about thirty to forty projects. We are hoping to get that same kind of a program here in Boston.

MR. GROSS. Now, could you tell us about the area exclusive of New York City?

MR. GELLER. Exclusive of New York City, we have been concentrating on Newark. We had been working in the Buffalo area, which was transferred to another area coordinator when Newark was assigned to me. We have had some activity in Connecticut, some activity in Rochester, and of course in Boston.

MR. GROSS. But there is no general or systematic collection of racial data on the projects for which you are responsible?

MR. GELLER. There is with respect to what we call demonstration projects. If you would like, I would like to give the Commission the benefit of a bit of background on that, because I think it may offer one possible approach to a theme that ran through the testimony of quite a few people here today, and that is the limited staff available to all the Federal agencies. This is a problem that I think besets all of us. I think the question is whether we simply react with futility and enfeeblement to it, or whether we attempt first of all to get increased staff, and then--recognizing the realities of budget--try to devise ways and means of working more effectively within whatever limitations exist.

When we first started working this program in New York about four years ago, I met with each of the agency EEO specialists, and there was a universal theme of, "Gee, we don't have enough men." The kind of statistics we heard today--for example, about 1,700 projects and just three men to take care of them--was typical of what we heard at that time. But we decided then, jointly, that rather than just complaining about it, we would try to devise a system for at least, to some extent, beginning to cope with it. Out of that came several approaches. One was for monthly meetings of the contract compliance representatives. Through that we began establishing a clearinghouse of information so that agencies did not have to duplicate the work of each other and were able to conserve their limited manpower. Then, even more significantly, came the demonstration projects program, in which each agency was asked to participate on a voluntary basis--because as Area Coordinator I did not have the authority to mandate this since New York was not and is not one of the special area cities. On a voluntary basis, I suggested, and most of the agencies acceded, to have each agency pick a single project for full compliance monitoring. This we felt was feasible, regardless of limitations of staff. At least there was an inducement for an agency to get going and get its feet wet with the active cooperation of an area coordinator, with whatever expertise he picked up

simply by having been in on two or three other preawards, that perhaps the agency representatives themselves had not yet been in on. Out of that came a multiagency effort, a multiagency impact, upon the community. So that when a contractor would be approached by the Post Office Department, he would say: "Look, we know the spiel and we have the form. We heard it yesterday from Housing and Urban Development," or, "We heard it from Atomic Energy or from the Coast Guard". The same thing began happening with unions. Union business agents would say, "Okay, we know what you are up to and we know all about it, and we will do it. Why? Because we got the pitch yesterday from FAA or from Federal Highway."

So we began achieving an areawide kind of impact as a result of this admittedly very limited approach, just one project per agency. But then interestingly enough, with the agencies acquiring the experience, and beginning to dovetail their compliance activities in with their existing structure and program, they began finding shortcuts. We devised other shortcuts, such as contractor self-reporting, for example--although I appreciate the questions of Mr. Butler with regard to whether or not Mr. LaRosa could actually vouch for the authenticity of the contract reports. Given the limitation of manpower, if you don't have Mr. Mortati go up and down the twelve stories, and have to chase up to see whether they were on the twelfth and shifted down to the eleventh, I would sooner, in terms of limited manpower priority, get a contractor's self-report--get it periodically--and rely on the fact that when a contractor puts information in writing to the Federal Government, he knows the penalties of misrepresentation, subject of course to periodic unannounced spot checks. But recognizing the limitations, I think we are far better off getting the monthly or semi-monthly head count reports completed by the contractor, so the agency does not have to tax its limited or nonexistent staff. That way the agency contract compliance representative and myself can flip through ten or fifteen projects inside of ten or fifteen minutes, and we can say, "This project is one we cannot get too concerned with because there are only one or two men in each craft." "This one is good with regard to all crafts except for pipefitters." Or, "This one is good with respect to two trades." Or, "This one looks lousy with respect to everything."

So we devised this self-reporting by contractors. This, incidentally, also keeps the contractor from using the out, when he is confronted by an agency compliance report showing deficiencies, of saying, "Mr. Compliance Officer, I am so glad you told me about it. My super told me we are in terrific shape. This is the first I know of any deficiencies."

If the contractor representative twice a month is signing a report showing zero minority utilization in a number of key trades, he certainly cannot at that stage claim ignorance when he is confronted with that kind of deficiency.

MR. GROSS. This self-reporting, is that a feature of the demonstration?

MR. GELLER. This is one of the features, to economize on manpower of the particular agencies.

MR. GROSS. What is the demonstration? What is involved in those projects in terms of the course of compliance enforcement?

MR. GELLER. Well, we start out preferably at the preaward stage. Here let me say we asked agencies to get aboard the demonstration project program immediately, so we said, "If you do not have any preaward that is due to come up within the next two weeks or so, start with a project already under way, preferably one, of course, at as early a stage as possible". In addition, we asked the agencies to include the Area Coordinator-- at least invite the Area Coordinator--to any preawards coming up. Interestingly enough, the agencies have done that. They have moved from their initial stage of balkiness, and some agencies in the New York area now are applying this kind of approach to every one of their projects. Others, as they finish one demonstration project, have taken on another, or two or three. Others have exported this, I understand, to other regions of the country. So that we start with the preawards. What we have looked for substantively at that preaward stage is a commitment by the apparent low bidder that he will have reasonable minority representation in every craft at every stage; and that before he lets any subcontracts, he will obtain a similar commitment from each subcontractor over twenty-five thousand dollars.

MR. GROSS. What is the next step in the demonstration?

MR. GELLER. The next step is getting the periodic, semi-monthly, and in some cases monthly, at the option of the agency, reports. If those reports reveal deficiencies, we then expect the agency compliance representative with or without the participation of the area coordinator, depending upon a number of factors, to contact the prime contractor, advise him of the deficiency, and obtain a commitment for immediate corrective action.

MR. GROSS. You call this a demonstration project, and I appreciate to some extent the circumstances which make it a demonstration project, but is not what you just described really a minimum of the contract compliance program which should be in effect for every project?

MR. GELLER. You are absolutely correct. It should be run of the mill. This is what I believe is intended by the Executive Order, what I believe is expected by the Rules and Regulations. Unfortunately, the reality of limited staffs among

the agencies is with us, so when you have an agency with three hundred projects within this kind of a region and perhaps only one or two men to monitor it, I think it is unrealistic to say to them, "You have to do it on every one of the projects". I think you either face the futility of it, or you begin setting priorities, you begin using devices for getting the biggest bang for the buck.

MR. GROSS. What about an alternative approach, or a complementary approach, which would involve getting racial reports on all your projects and then picking from these those that apparently need the most attention?

MR. GELLER. Well, I think this involves a number of factors. I think that unless and until a contractor is first instructed--preferably in advance of getting a contract--as to what is expected of him, you begin to have less leverage with him. So that if you simply get reports from a contractor without having a preaward or at least a preconstruction session with him, and then one day in the middle of this project--when it is 52 percent completed--suddenly he gets a telephone call or is called in, I think your chances of getting successful corrective action will be much more difficult, much more time consuming, as against the situation where you can call a contractor and say, "Look, Mr. Contractor, we sat together three months ago when you were here for the preaward when you gave us this commitment over your signature. Here it is. You said you would have reasonable minority representation. Here is your report for the current period that shows you have got ten steamfitters and zero minority. Do you, Mr. Contractor, consider that--in this particular community--reasonable minority representation?"

MR. GROSS. Mr. Geller, again you are getting back to the selling job. You say that it is very useful in order to get corrective action if you have been through all this before. But is it not perfectly feasible to make it sufficiently clear in writing, in the terms of the Cleveland Plan, the terms of the Philadelphia Plan, the terms which you have just used--which is reasonable representation in all trades on the job--so that when you come to the contractor who has clearly not done that, it is not a question of are you in a position to sell to him certain ideas, but you are in a position of enforcing? Now, is that not a viable approach?

MR. GELLER. Yes. I want to make it clear, I am not talking now of selling something to a contractor. Rather, I think that having been through the preaward phase with a contractor, compliance will be forthcoming a lot more readily, with less consumption of a limited agency manpower staff, if you then confront that contractor with his deficiencies.

MR. GROSS. Yes, but the alternative between the preaward and what I am talking about, the third alternative, is doing nothing on those other projects. What I am saying is that as opposed to doing nothing on those other projects, why can you not get the racial data and monitor where necessary?

MR. GELLER. I think this would be feasible. I want to point out though, that the Cleveland and Philadelphia approaches have had one advantage over the Area Coordinator in New York, and Area Coordinators in certain other parts of the country, in that in Cleveland and Philadelphia preawards were mandatory. No, ifs, ands or buts. In the New York area, in the Boston area at the present time, preawards are not mandatory, so that when you talk of a selling job, I first have to start out selling the agencies, let alone the contractor and the unions. I first have to start out selling the Federal departments and agencies. I think you have had some indication today of the limited cooperation on the part of some and less than that on the part of others. Fortunately, in the Boston region, we have gotten cooperation from most of the agencies.

MR. GROSS. Do you know any reason why preawards are not mandatory in Boston?

MR. GELLER. I would welcome it. I think it would simplify the task of compliance for everybody--the agencies, the Area Coordinator. It would mean that rather than spending my time having to try persuading agencies as to what their obligation is and why they should do it, and how they would get greater leverage, rather than my having to sell agencies on that, that would be a pro forma obligation on their part and we could then devote our talents, such as they might be, in the areas where they belong--with the contractors, with the unions, with the training programs, with the minority community, with the city and state agencies. Very definitely, I would certainly welcome it.

MR. GROSS. There is no reason why OFCC should not have done that in the past?

MR. GELLER. Well, there may be many reasons why it has not been done. I do not know if OFCC considered doing it on a national scale. I know that they ran into quite a bit of opposition from a number of different sources. Not being on the Washington staff, I am not competent to go into that. But certainly in terms of its desirability, I know of no one connected with the compliance program who questions the desirability of mandatory preawards in every one of our areas.

MR. GROSS. Is there also another aspect of the Cleveland and Philadelphia Plans--really two more--one that you do have a comprehensive city plan that gives you uniformity and coordination, and the other that the Area Coordinator has the right to invoke sanctions?

MR. GELLER. Those are also what I would call adverse distinctions for the New York Area Coordinator. As a matter of fact, we feel it very severely, in that agencies like HEW, for example, had been receptive to our New York demonstration project program; nevertheless, in spite of that fact, in Philadelphia and Cleveland they were obligated to undertake mandatory pre-awards on every one of their contracts, and they did have a very limited staff. Therefore Philadelphia and Cleveland had to take priority and New York, of course, had to take a back seat. Nonetheless, and I want to say this is a credit to an agency like HEW, they did find the manpower to at least get aboard to help us broaden the base of the number of the agencies in the New York program.

MR. GROSS. Again, your answer would be the same? You know of no good reason why this same structure should not be now in use in the Boston area?

MR. GELLER. I would certainly hope that they could be extended, and as a matter of fact, the Assistant Secretary of Labor responsible for our program, Arthur Fletcher, indicated just very recently that he expects to institute a revised Philadelphia Plan which will conform to the objections of the Comptroller General that have been discussed here today. And--this is the more hopeful point--he expects that that program will be extended to other cities in the immediate future. I would certainly hope that Boston would be among those other cities.

MR. GROSS. And finally, there is no reason why if it is extended to Boston, that that program should not include a manning table requirement?

MR. GELLER. Well, on manning tables, I would not feel myself competent to address myself to that, not having worked with manning tables. As I say, we in the cities in my area have worked with the concept of reasonable minority representation in all crafts and at all stages. And we do of course have Area Coordinators experienced with the manning tables in Philadelphia and Cleveland, and I think they would probably be in a better position to comment on manning tables.

MR. GROSS. How do you relate to Mr. LaRosa? His region seems to be a fifteen state region. Is he within your purview?

MR. GELLER. He is within my purview, but also within the purview of at least two other area coordinators.

MR. GROSS. I was a little puzzled as to how he fit in, in the sense that he seems to have a program by which he is getting around to all of his hundred projects, if I recall, with the preaward. Now, how is that possible?

MR. GELLER. I guess I cannot explain how some agencies manage to do it and others do not. I think we have seen demonstrations here today of some agencies saying, "Let OFCC do it", and others, given admittedly the same limitations--and no one would pretend that our program of OFCC guidance is everything it should be--but given the existing limitations, I think we find a wide range. We find a whole spectrum of response on the part of agencies, some doing a very zealous job in managing to get around, in managing to get effective corrective action from contractors, in managing to monitor their sites, and others----

MR. GROSS. But my point was this Mr. Geller. When you were describing the demonstration project, you premised its need on the shortage of staff of the various agencies, whereas the experience of the Federal Aviation Administration would seem to suggest that the problem is not shortness of staff, but will. Is that fair?

MR. GELLER. I think it is a combination of the two. I think it is far from just will, because I have seen many a field man very genuinely interested in pursuing the program, but telling me very frankly, "My national headquarters said I am not permitted to do that". It is plain and simple and you heard that here today. I think it goes beyond will. I think some agencies have not unleashed their field people. Some agencies have not issued guidelines...

MR. GROSS. That is what I mean by will, Mr. Geller, when you say the agencies have not "unleashed" their field people.

MR. GELLER. I guess it is a matter then of at what level we are talking about will--whether we are talking about will at the local, regional field level, or at the national level.

But in addition to that, even given the will and given the cooperation of the national headquarters of an agency as well as the local staff, I think when you find yourself inundated with more projects than any single man can possibly give adequate attention to--so confronted with problems--that is where you have to set your priorities and revise your expectations.

MR. GROSS. I have no further questions.

MR. BUTLER. Do any of the Committee members have questions for the witness?

MR. DOTTIN. Did you ever ask for any help?

MR. GELLER. I most certainly have.

MR. DOTTIN. What has been the response?

MR. GELLER. As a matter of fact, I was promised help--this was way back in June, a year ago--at which time a reorganization was to take place. It was at that time that my territory was first being expanded, it was being considered for expansion to cover the seven states and Newark. Then came the Appropriations Act of 1968 freezing job vacancies. At the present time there are some indications that I may possibly be in a position to get one assistant. But that, too, has not yet happened.

MR. BUTLER. To date you have not received any help, then?

MR. GELLER. No, I have not.

MR. DOTTIN. How many similar meetings of this nature have you attended?

MR. GELLER. Meetings of this nature?

MR. DOTTIN. Yes.

MR. GELLER. Not very many of this nature, sir. I have attended, of course, a whole variety of meetings, all destined to elicit problems in the compliance area and suggest improvements, so that it has been on various levels. There has been everything from community meetings, to meetings with unions and building trades councils and contractor associations, Federal agencies, local agency representatives. It has run the whole gamut. But if you refer to this type of public meeting itself, we did have one in New York State conducted by the State Division of Human Rights. I think that is pretty much it.

MR. DOTTIN. During Mr. Mortati's testimony, he was looking back at you for some type of support, giving me the impression that he transferred--or had the feeling that your agency assumed responsibility. He did not have any figures and was hoping you would give him some figures. Is this a usual situation?

MR. GELLER. I would like to clarify that. It was not a transfer of the responsibility for obtaining compliance on site. That is clearly, in terms of the Executive Order the primary obligation of the contracting agency. I think for purposes of the record we might refer to the Executive Order itself in Section 205. I'd like to take just a minute--it might clarify some earlier testimony. It says, "Each contracting agency shall be primarily responsible for obtaining compliance with the rules, regulations and orders of the Secretary of Labor with respect to contracts entered into by such agency or its contractors". It goes on to say that, "All contracting agencies shall comply with the rules of the Secretary of Labor in discharging their primary responsibility for securing compliance with the provisions of contracts and otherwise with the terms of this order."

MR. DOTTIN. So they could not transfer their responsibility to you?

MR. GELLER. It is not transferring responsibility. I do not believe Mr. Mortati was looking for that. Rather, I think he was looking for information as to the number of demonstration projects that HUD was participating in, both in the New York City area, and had committed itself to participate in here in Boston. I think he was looking for those figures. In the Boston area, within the last three months, HUD has committed itself--initially committed itself to undertake ten projects as demonstration projects, with full compliance attention, getting the semi-monthly or monthly head count reports for follow-up action if that becomes necessary. In New York, they have had a running total of at least about ten demonstration projects--by running total, I mean a revolving number of projects. As one finished, they replaced it with one other.

MR. DOTTIN. One more question. In view of the fact that you find yourself with a limited staff and going through these particular projects, do you not think that it would be more helpful if you used some affirmative action and demonstrated some penalties?

MR. GELLER. Very definitely, and as a matter of fact in New York under our demonstration project, we have taken steps to invoke sanctions, and this has covered a number of different approaches. The agencies have held up awards of contracts where a contractor has submitted a deficient affirmative action program, and the contract was not awarded until satisfactory provisions were submitted. One agency did by-pass an apparent low bidder because of its deficient EEO program. We have also had agencies put contractors on notice in writing of deficiencies in compliance and have given contractors a very limited period, one week to ten days, for corrective action, which has been forthcoming. We had one situation where a contractor was notified that one or two of his subs were deficient, and that contractor took immediate steps to get compliance from the subs, and what's more agreed to eliminate those subs from his future bidders list for any contracts with him. We have taken steps in those directions.

I agree that affirmative action should start at home with the government. I think we should find ways and means of multiplying our impact. We have addressed ourselves to substantive problems of apprenticeship, for example, with so-called objective requirements. Although you find that some requirements are objective on their face, when you take a look at their impact you see that they are far more severe on minorities. Residence requirements, for example. Five year residency requirements will apply to white as well as black. But of course if you know who the migrants are, they are the blacks and the Puerto Ricans for example, so that that can impinge far more heavily, albeit objective, in quotes, on the minorities. You find apprenticeship provisions with automatic disqualification for any criminal record. Now, although this cuts across the board--white, black, green and yellow--the impact of this is heavier on the minority groups. We address ourselves to factors of that sort. In some instances we have gotten revisions from the joint apprenticeship committees of these requirements.

MR. BUTLER. Mr. Wilmore.

MR. WILMORE. I just want to say, if you find out how to get more help, let me know.

MR. GELLER. You will be the second one to know.

MR. WILMORE. Can you tell us what other demonstration projects there are in the Boston area? You say HUD has ten projects? How about the others?

MR. GELLER. Yes. We have gotten commitments, but I want to stress the fact that I came into the Boston area just within the past three months, and this is still without the additional assistance that I have been promised. But my feeling was that we at least wanted to get the barrel hoop rolling here. You run from one barrel hoop to the other and you hope that by the time you get back to it, it is still going. So that, as of this date, we have gotten commitments from several of the agencies to undertake demonstration project programs. These include, in addition to the ten for HUD, FAA and the Coast Guard. As a matter of fact, the Coast Guard within these past two weeks conducted a preaward compliance review with myself in attendance and got a written affirmative action program from the contractor covering the elements that we have talked about. We have gotten commitments from FWPCA to undertake a demonstration project, the Post Office, the Federal Highway has committed itself, the Small Business Administration is committed to a demonstration project program, also GSA and EDA. We have as yet had no response from HEW. And we have had an indication from DOD, similar to what was said in earlier testimony here today, that they are not authorized to undertake any construction contract compliance.

MR. WILMORE. You heard Mr. Robert Miller say that, according to HEW's interpretation of the Comptroller General's opinion, preawards are out. At least that was my understanding of what he said. But you are conducting preawards?

MR. GELLER. Well, I think there are many different opinions of the Comptroller General's opinion. I think the Comptroller General has made it clear that it might very well be a violation of the competitive bidding procedure to refuse to award a contract to a contractor who fails to submit a program satisfactory to the compliance officer, where that contractor was not put on notice in the invitation for bids of what the specific requirements and the criteria for judging them would be on an affirmative action program. So that we are not necessarily saying that we are in a position to refuse to award a contract. On the other hand, our feeling is that we are not necessarily precluded from at least sitting with the apparent low bidder in a preaward and at least saying to him, "Mr. Contractor, you did have an invitation to bid, setting forth the requirements of the Executive Order, one of which says that, I the contractor will take affirmative action to insure--that is the operative language-- I will take affirmative action to insure, that applicants are employed without discrimination, et cetera". Now, we say to the contractor, "Mr. Contractor, what are you prepared to do by way of implementing the commitment which was required of you in the

invitation for bid specifications?" In addition, we are hopeful that, in line with Assistant Secretary Fletcher's very recent statement, that before long we will be over the hurdle of the Comptroller General's opinion, and that we will be back in business without any equivocation.

MR. BUTLER. Mr. Geller, the Committee would like to thank you for your cooperation and your candor. We stand adjourned until 7:30.

(Whereupon, at 5:30 p.m., the meeting was recessed, to reconvene at 7:30 p.m.)

REPRESENTATIVES OF THE ASSOCIATED GENERAL CONTRACTORS OF MASSACHUSETTS, AND THE BUILDING TRADES EMPLOYERS' ASSOCIATION OF EASTERN MASSACHUSETTS.

REV. DRINAN. Ladies and gentlemen, may we call the meeting to order. I welcome those of you who were not with us here during the day, and we will proceed as soon as the individuals are ready. Mr. Leighton, would you come up here and also Mr. William Kane, if he is here. Mr. Gunning and Mr. Smith, you may come up and be on the panel at the same time. Who prefers to be first?

MR. LEIGHTON. I will begin.

REV. DRINAN. This is Mr. Leighton. Managing Director of the Associated General Contractors of Massachusetts.

Could you summarize your prepared statement.

MR. LEIGHTON. This will not be quite as good as the Today Show.

REV. DRINAN. Thank you, sir.

MR. LEIGHTON. This little statement we prepared is sort of a document which tries to set out a little bit of philosophy--for better or worse. I know that the hearing today is going into a lot of specifics, as it properly should. But sometimes it is good to try, I think, to stand back and present things in the perspective of theory and philosophy, and to some degree we try to do that very briefly in this statement.

There is no question in our minds that minority groups have been very poorly represented in construction.

First, as many of the panel members know and many of those in the room know, I am the Managing Director of the Associated General Contractors of Massachusetts and have been since 1953. Prior to that time, I was an organizer for 13 years in the textile workers' union in the South.

There is no question that minority groups are very poorly represented in the construction industry. We have certain problems in this industry which I feel have resulted in a slowness in bringing minority people into the industry. These are certain structural problems in the industry which are somewhat unique in this industry.

We have the casual and temporal nature of the industry. Construction projects are all short-termed. A worker is employed for a short time, generally speaking by only one employer. This is why we have multi-employer bargaining in the construction industry, as distinguished from individual plant bargaining. This is why we have multi-employer health and welfare programs. This is why there are multi-employer apprentice programs. Otherwise the individual worker does not have continuity of employment.

Secondly, we have no such thing as seniority in the construction industry as you do in the packinghouse workers and other trades. The worker's security in this industry, rightly or wrongly, traditionally rests largely upon the individual worker. The man who is properly qualified and trained has a better chance of continuity of employment.

Ability is further important in the industry because construction is a highly competitive industry. It has one of the highest bankruptcy rates -- that is available from statistics -- of any industry.

You have many factors of safety in this industry.

In 1963, before the first long hot summer, the members of this Association that I am privileged to represent -- and I do mean privileged to represent -- before that first long hot summer, we had a meeting. We said, "Look, there is a problem

coming down the pike. It has been here, and it is coming to a head. From a purely economic point of view, we need the manpower. There are manpower shortages in the industry."

We, as a matter of fact, in our first meeting that fall, had one of the prominent black leaders in Boston, who was a member of the Urban League, Mel King, come and speak to the contractors and members of this Association about the way he saw things.

Based upon the structure of this industry and getting to these two philosophical approaches -- one is the work-subsidy approach, such as your MA-4's that have been used in manufacturing. But here we run into the problem that the minimum preparation possible is programs for orientation to work, such as teaching promptness and manner of dress -- work habits and that sort of thing -- and secondly, training a man to do a few repetitive tasks.

Rightly or wrongly, the construction industry is not set up on the basis of a few repetitive tasks.

Now, this work-subsidy approach -- which we have taken some good hard looks at, because they're sound Federal approaches and have been used extensively in other industries -- we feel is open to the objection that, since there is no long-term training, fully qualified workers are not produced.

We then have another class of training programs where the unskilled worker is genuinely trained in successive stages to become a fully qualified worker and so enter the mainstream of the industry. This is what we have been trying to do with varying degrees of success. In this case the worker is paid according to his ability and on a work incentive basis, according to certain steps on a pay scale.

Now, I know and I am aware that this approach is open to the charge of gradualism, tokenism, and all the rest. We still think on balance it is the right way of bringing people into the mainstream.

Now, in the area of government action, a strategy based on the first fact -- the poor representation of minority persons in the construction industry -- obviously tends to lead to the strengthening of compliance procedures. That is one of the things you are addressing yourself to here in these sessions. This, to be sure, could have an immediate impact. We feel, and I feel personally, that it is short termed. It serves some valuable purposes, but it is not the long-range solution, because in these cases, after the worker is discharged from this casual job, the training has to be done again. A strategy based on the second factor -- the casual, multi-employer nature of the construction industry -- leads to the Federal funding of training programs, the MA-4 type of thing.

We believe that meaningful solutions are not to be found in a short-range job-by-job thrust, which unfortunately tends to be the thrust of many compliance procedures. Instead, because of the employment relationships and the contractor-subcontractor structure of the construction industry, we favor the training approach. Such approach must be developed on a basis which is industry-wide for the reasons, I guess, you are familiar with by now -- the nature of this industry as distinguished from job-by-job or company-wide. Such an approach requires a concerted, coordinated and centralized attack and requires strong efforts by all concerned to increase the availability of funds, trainees, and trainee-openings.

As I said at the outset, since 1963, the AGC of Massachusetts, probably one of the first in the country, has been attempting to seek some solutions. We have tried many different strategies and techniques. We have gone through the bit of direct recruitment unsuccessfully.

We supported the apprenticeship information center approach, and we have been disappointed in that. Finally, since last spring of 1968, we sought to encourage the development of the Workers Defense League program, which in Boston we conceive as a dual program. One is apprentice outreach, which has been successful to varying degrees in other parts of the country. I assume all of you are sophisticated enough to know what I mean when I talk about apprenticeship outreach -- recruitment and counseling and training. Secondly, we tried to develop a program

which was an attempt to meet certain of the failures which had existed prior to that time by setting up what has been referred to somewhat incorrectly as the Model Cities program. I assume that you may have some more on this. I won't go into the details of the program. I suspect that comes up under some other questions and answers.

I would just like to mention that we tried to make this program a success. We believe it is sound philosophically. Others disagree.

In furtherance of that objective and the broader objectives of getting minority manpower into construction, the Associated General Contractors of Massachusetts this spring created a new fulltime staff position, a manpower specialist. Mr. William Kane, who is sitting on my left, has been engaged to do that as his sole job.

REV. DRINAN. Thank you. Mr. Gross, would you like to question him or wait until Mr. Kane talks?

MR. GROSS. Does Mr. Kane have a separate presentation?

MR. KANE. No.

MR. GROSS. I will address my questions to both you and Mr. Kane, sir, in terms of general background, first, on the AGC. Could you state what your position is with the AGC?

MR. LEIGHTON. As I stated earlier, I am the Managing Director of the Associated General Contractors of Massachusetts and have been since 1953.

MR. GROSS. Can you state in general what the Associated General Contractors is, who its members are?

MR. LEIGHTON. The Associated General Contractors is principally composed of approximately 125 of the general building contractors in Massachusetts. This is a State-wide chapter of the Associated General Contractors of America. The best way that I have always found to describe it, in our case, is that

you take out the home builders, the highway contractors, and we are what is left. What is left, obviously, are the people who build the Federal buildings, the State buildings, the municipal buildings, the private industrial plants, the large housing developments; this sort of thing.

MR. GROSS. What are the principal functions and activities of the organization?

MR. LEIGHTON. Well, we negotiate the labor agreements with the basic trades, i.e., the carpenters, bricklayers, laborers, cement masons, jointly in Boston with the Building Trades Employers' Association. We administer the contracts. Probably 50 per cent -- 40 or 50 per cent -- of our total staff time is spent on this effort.

We are active in the area of related and manpower situations, such as joint apprenticeship committees; the manpower field including the minority manpower field. We are active in lobbying for legislative matters that concern general contractors -- manpower training, safety, contract forms and specifications with the various State and Federal agencies.

We have a liaison committee with the Massachusetts State Association of Architects, which goes into bidding and contracting procedures. We act as an information exchange among contractors.

This will give you some idea of the scope.

MR. GROSS. Mr. Thomas Gunning, you are Executive Director of the Building Trades Employers' Association?

MR. GUNNING. Yes.

MR. GROSS. On your right is Mr. Smith, who is the Executive Secretary?

MR. GUNNING. Yes, that is right.

MR. GROSS. Could you please similarly explain the composition and functions of the Building Trades Employers' Association?

MR. GUNNING. We are a trade association of both general and subcontractors in the building and construction industry. However, we are primarily subcontractors. We have a few general contractors who may be members of the AGC as well.

Our primary function is practically the same as Mr. Leighton has said. We are involved in labor relations primarily. We are mixed up with various apprentice programs and unions that we bargain with. We try to carry on legislative programs. We are mixed up in manpower, Workers Defense League. We are involved in industry related matters with architects, engineers, etc.

MR. GROSS. I am going to ask a number of questions. The first series relate to the way construction projects are manned. These are in a sense mechanical questions which I will put. Whoever wants to respond to it -- either Mr. Leighton or Mr. Gunning or one of the others -- could do so.

Now, you indicated that you are parties to collective bargaining agreements. Would it be fair to say that most major contract construction is manned pursuant to collective bargaining agreements with the building trade unions?

MR. GUNNING. Yes.

MR. GROSS. Now, I take it that there is almost an infinite variety of forms of collective bargaining agreements, ranging from an exclusive union agreement to various forms of nonexclusive and so on. Can you perhaps give some general explanation of what these collective bargaining agreements generally do provide?

MR. GUNNING. These labor agreements we have with the building trades unions provide the wages and conditions under which these men will work on the construction site.

MR. GROSS. Do they also restrict the contractor as to the extent and manner in which he can employ nonunion persons?

MR. GUNNING. There is a restriction in what we call the union agreement, whereby we agree that we will employ members

of the carpenters' union and members of the bricklayers' union. There is no restriction on employing nonunion workers, but we agree with the union that they must make application to the union on the 8th day of employment.

MR. LEIGHTON. May I further elaborate on that one question? In some of the agreements -- the carpenters and laborers, for example -- we have what is called in collective bargaining parlance a "first preference" clause. This applies wherever you are hiring outside of your crew. Generally speaking, and I think perhaps without exception, a contractor or subcontractor is permitted -- if that is the verb -- to bring with him his nucleus crew on any job. If he then hires off the street, as it were, there is an agreement which is fairly typical -- and as I said two specific examples are the carpenters and laborers agreement -- where you agree to give first preference to the union in the furnishing of men.

This is because the union traditionally, in this area and throughout the country in general, in organized areas, has served a function of acting as a pool of available construction workers. As a practical matter, in this area, there is some degree of latitude in the application of these provisions. Again, it depends to a large degree upon the supply of manpower.

The unions certainly feel, and I don't disagree with them on this aspect, that they have a certain obligation to their membership, and if there is a period of unemployment, they feel the people who have made their way in the industry should be given some degree of seniority; that's what it amounts to.

MR. GROSS. Can I work my way through the mechanics of this? When you say there is a first preference, does this generally mean that the contractor is required to send the job order first to the union?

MR. LEIGHTON. This is what I was trying to explain, apparently unsuccessfully. When I mentioned the key crew, that job order does not go through the union.

MR. GROSS. I understand that.

MR. LEIGHTON. From there on, if you have a first preference clause, and it is not in all agreements -- I mention this just as one -- if you have a first preference clause, I am saying that human beings apply this thing depending upon many factors. One of the major ones, and the only one I will mention as an example, is the factor of the supply of labor.

If you have very little work in an area and a lot of carpenters who have been carpenters, and who have gone through apprenticeship or received their training in some other way -- non-union homebuilding for example -- who are active in the industry and have been employed in the industry, the union feels -- and I must say, though one can argue this thing sociologically, I think on balance it is probably good -- these people who have made their stake in this industry should be given first preference before bringing in new people.

If you have a period of full employment -- which I might add is what we have in this area now -- then the contractors are generally free to go out and recruit from whatever sources may be available.

MR. GROSS. Is it the case that most manning of projects is done by the subcontractors -- numerically?

MR. LEIGHTON. Well, let's give some figures. I would say probably -- and I stand to be corrected by others here -- I would say probably the manning varies on the big projects by subcontractors from probably a high of 70 percent down to around 50 percent. That is the range.

MR. GROSS. In that case, Mr. Gunning ---

MR. GUNNING. It depends a lot on the type of project.

MR. GROSS. Mr. Gunning, could I then address these procedural questions to you?

If I understand, the first preference clause is the most common form of agreement. Let's suppose you have a project and the job superintendent decides he needs five iron workers to report on the job next Wednesday morning. What procedures does he go through under that agreement?

MR. GUNNING. As a practical matter, if he has a union agreement with the iron workers union, he would call the union to find out if they have five men available to send down to the job. That is, after his key crew. He may have a key crew. If he cannot man it with his crew, he would probably call the union.

MR. GROSS. When he calls, is that the equivalent of placing the job order? Under the agreement, is he giving the union the option?

MR. GUNNING. If you want to describe it as a job order. Then if the union cannot supply him with any men, then he will go elsewhere and try to get a qualified iron worker.

MR. GROSS. Does the union have a certain period of time in which it has to supply a man, 48 hours or whatever the time may be?

MR. GUNNING. I don't think there is any time limit.

MR. GROSS. If the union says, "We don't have anyone now, but we will have someone two weeks from now", is that...

MR. LEIGHTON. That type of clause is not typical in this area. It is in some areas, but not here.

MR. GROSS. What is the obligation of the contractor as far as hiring union? Is it that if the union does not have anyone immediately, that day, then he can go and hire nonunion?

MR. GUNNING. You are getting into the type of operation he has. If it is a matter of urgency, where he has to have men that day, he will try to get men any place he can get them.

MR. GROSS. So, I take it, this would frequently happen -- that the union would not have someone available for next Wednesday, or whenever the call might be for. Is this a common occurrence?

MR. GUNNING. It may be a common occurrence in full employment.

MR. GROSS. Is that a common occurrence here in this area now?

MR. GUNNING. I would say no.

MR. GROSS. When the request comes in, what is the mechanics that the union goes through in terms of selecting who to refer out, assuming it has a person to refer out?

MR. LEIGHTON. There are no formal hiring halls set up here in Massachusetts to my knowledge.

MR. GROSS. Do you know what the internal arrangements are, or should we ask the unions that?

MR. LEIGHTON. I think that question should probably be better addressed to the unions. One of the things that I think happens -- and this may sound loose but it is the way it is -- is that the foreman of the particular craft will call, first, his friends, who are obviously union members -- because they have been on the job before; people he has worked with; people he knows what their skills are, whether they are a bum or a good worker, because a foreman's record stands on how good his following is.

One thing I do want to bring out here is that in the trades with which I am familiar, and I don't pretend to be expert about all these subtrades, but in the trades with which I am familiar, a contractor has an obligation only to put that man to work for the first day. If he is not satisfactory, on the second day out he goes.

I think this is an important factor to consider in this industry, this is what I mean when I refer back to the necessity for training.

MR. GROSS. In terms of the role of the foreman in fulfilling specific job needs, I take it then that he is, at least in practice, at liberty to say, "Well, among the union men I know that might be available, these are the ones I want because of their specific skills" or whatever it might be?

MR. LEIGHTON. As a practical matter, yes.

MR. GROSS. One of the questions that I am trying to get at in going through these mechanics is what the practical barriers are to a foreman picking up the phone and calling the Workers Defense League or the United Community Construction Workers and placing an order with them? What will he have to do first under the union agreement before he could do that?

MR. LEIGHTON. Under most of the union agreements, at least those with a first preference agreement, technically, contractually, he is obligated to call the business agent first. Again, practically, in this area there has been considerable amount of leeway in the enforcement of this provision; and contractors have, without being brought into a suit for breach of contract -- which as an attorney you know is potentially possible -- have recruited from such sources as you mentioned, directly without going through the union. This is partly because, again, we have a full employment situation.

MR. GROSS. You say that there are no hiring hall arrangements in this area?

MR. LEIGHTON. What I said, if I may correct you, I said no formal hiring hall arrangements, such as you have where it is spelled out in the agreement, and you have lists maintained.

MR. GROSS. Does this mean as a matter of practice that if the foreman does call the Workers Defense League and someone is referred, that this man just reports to the job site, or does he have to go through the union mechanics in some way?

MR. GUNNING. He reports directly to the job site.

MR. GROSS. There is no union referral required?

MR. GUNNING. No.

MR. LEIGHTON. Again, in practice, it is done both ways.

MR. GROSS. Do you know what the agreements typically provide to this point?

MR. LEIGHTON. I have explained this. This is a technical violation of the agreements, but it has been done and it has been done because of certain other problems that we have.

MR. GROSS. I am trying to raise this point. Suppose that the contractor calls the business agent and the business agent says, "Well, we don't have anybody." So on that basis, the foreman goes ahead and calls the Workers Defense League.

MR. LEIGHTON. Then the man would report directly to the job and not to the union. Then the requirement is the 8-day bit. After 8 days, he is obligated to join the union, to tender dues and initiation fees.

MR. GROSS. Has there been any working agreement at all with the unions in terms of contractors or subcontractors -- in an effort to discharge affirmative action obligations -- any understanding reached as to the extent or the nature of utilization of nonunion sources such as the Workers Defense League and the UCCW?

MR. LEIGHTON. Not to my knowledge.

MR. GUNNING. I am not sure I understand the question.

MR. GROSS. I am just wondering whether there has been any working arrangement or understanding with the unions as regards the use of such nonunion sources as the Workers Defense League and the UCCW?

MR. GUNNING. No.

MR. GROSS. Do you think such agreements, under the auspices of the contract compliance program or otherwise, would strengthen the equal employment opportunity performance of the contractors?

MR. GUNNING. It could.

MR. GROSS. The answer is yes, Mr. Gunning?

MR. GUNNING. I said it could. There are a lot of factors here.

MR. LEIGHTON. There are a lot of problems.

MR. GROSS. I understand there are a lot of factors as to who is willing to do what. But I am asking you this in terms of your obligations, and whether this would be of help to you?

MR. GUNNING. Yes.

MR. LEIGHTON. I am not so sure, but go ahead.

MR. DOTTIN. Could we pursue this. He is not sure.

MR. LEIGHTON. Well, I am trying to think through the implications...

MR. DOTTIN. Let's hear some of the implications.

MR. LEIGHTON. I am trying to think through them here. If I understood the question, it was do you---

KEV. DRINAN. For the sake of the audience, would you repeat the question that Mr. Leighton is going to answer?

MR. GROSS. My question is whether you feel it would help the contractors fulfill their nondiscrimination obligations if, instead of having referral from the UCCW and the Workers Defense League done apparently without consultation with the union, if there was an agreement of some sort that this is the way we will do it -- above board pursuant to this agreement?

MR. LEIGHTON. If there was an agreement, I would agree with you. I was thinking -- what is your contractual obligation as it exists and things of that sort.

MR. GROSS. One question---

MR. LEIGHTON. But if agreement can be reached on that, there would be no problem.

MR. GROSS. In a sense, the ultimate question I was trying to get at in pursuing these mechanics is, what are the obstacles to a contractor in hiring from available nonunion, nonwhite sources. I take it that what we are really talking about is the flexibility that, as a practical matter, the union business agents are willing to give you, flexibility in terms of their preference rights. Is that a fair statement?

MR. LEIGHTON. Well, it is the key factor, as we have already covered, the contractual obligation. The second key factor, as a practical situation, is always the factor of what is the employment status in the industry today.

Now, one thing that is bothering me a little bit is that there may be some misunderstanding here. You are talking about various groups such as the Workers Defense League as being a referral agency for qualified journeymen. This is not one of the functions of the Workers Defense League.

MR. GROSS. I am lumping together the Workers Defense League and the UCCW, but whatever the entity is, I am meaning to refer to a referral service within the community.

MR. PITTMAN. Getting back to the workers' preference, could you get us a list of unions that have this clause?

MR. LEIGHTON. I mentioned the two that I am familiar with. The bricklayers have no such clause. The cement masons have no such clause.

MR. PITTMAN. Could you get us a list?

MR. GUNNING. We could obtain labor agreements for you.

REV. DRINAN. May I ask this Mr. Leighton. With those unions that do not have this first preference clause and, therefore, have no contractual obligation whatsoever to go to union people, has your Association ever urged them orally and in writing to go to nonwhite sources of labor?

MR. LEIGHTON. Yes. We have sent out the requisite notices, the compliance requirements notice.

REV. DRINAN. That is required by law. You are not doing anything that is not required by law. I meant some moral, affirmative action based on the fact that we don't have nonwhites in this job.

MR. LEIGHTON. Since 1963, we have been attempting to develop joint programs with the building trades unions to bring more nonwhites into the industry.

REV. DRINAN. Going back to your testimony, you---

MR. LEIGHTON. You say have we written a formal letter? No, we haven't written formal letters. We have done what I think is more important, which is sitting down man-to-man and face-to-face and talking these things out.

REV. DRINAN. You suggest that over a period of five years you people tried very hard, and you say categorically here that "We tried..."

MR. LEIGHTON. Father, I didn't say "very hard," I don't believe. I said we have...

REV. DRINAN. Many different strategies have been used in actively seeking solutions over the years. I just want to know what these solutions were aside from the one you mentioned -- direct recruitment -- which apparently failed. And why is it, in your judgment, that these intensive activities actively seeking solutions over five years produced no nonwhite employees in the construction industry?

MR. LEIGHTON. I do not accept your premise that there are no nonwhites in the construction industry.

REV. DRINAN. It is no higher now than it was five years ago.

MR. LEIGHTON. I have not seen these figures and I do not believe that they are correct. I stand to be corrected.

REV. DRINAN. At the NASA project, if we have to get down to that, there are some nine nonwhites with 170 whites. I have that right here. If it was lower before---

MR. LEIGHTON. I think it probably was lower before.

REV. DRINAN. There was no substantial increase, my point is, here it is here. In the construction of NASA -- internationally known -- project totals are 320 white people, 20 blacks. If it was lower, I don't want to hear the figures.

Why is it that over five years nothing worked? We want information. We want your evaluation and judgment why these things did not work over the five years. We want to know why these things you people tried in good faith did not in fact work.

MR. LEIGHTON. Well, it is my personal feeling that the previous efforts did not work, prior to the Workers Defense League approach, because the previous efforts did not furnish the individual counseling and recruitment effort that was necessary.

Secondly, the efforts were not based in the black and Spanish-speaking communities. The apprenticeship information center, to take a specific example, was originally based near Symphony Hall on Huntington Avenue in one of the Employment Security offices, and it was staffed by white people. Subsequently it was moved out to South Huntington Avenue near the hospitals out there. Initially it was staffed by white people, and then a breakthrough was made, and it was staffed by a black man. It is now staffed by a black woman.

I happened to be on a committee of the apprenticeship information center which urged the Department of Labor and the Division of Employment Security to move this center over nearer to the heart of what we considered to be the area of recruitment that we were seeking to recruit from. This request was never carried out.

This is one of the reasons why at present, only since last December, you now have an office for recruitment through the Workers Defense League which is located in Grove Hall, which is reasonably close to what might be called the heart of the recruitment effort, and it is fully staffed by residents of the area.

MR. PARKS. Bill, how many black contractors are there in the AGC?

MR. LEIGHTON. We have the only black union contractor in Boston in AGC. I draw that distinction because one of our functions as an Association is that members of the Association are bound to the labor agreements; and the black contractors, to the best of my knowledge -- speaking of general contractors only for the moment -- there is only one black union contractor in Boston. If there are others, I would like to know. I have talked extensively to them. As a matter of fact, I have had conversations within the last three months with a couple of the larger nonunion black contractors, and they have asked me such questions as, "What are the advantages of becoming a union contractor?"

MR. PARKS. Then you have one out of 125 members of the AGC? One company is black?

MR. LEIGHTON. Because that is the only black union contractor that is in Massachusetts that I know of.

MR. PARKS. You are saying nobody can become a member of AGC unless he is a bona fide union contractor?

MR. LEIGHTON. Don't put it that way, please. If I may, Paul---

MR. PARKS. I don't understand you.

MR. CROSS. What is a union contractor?

MR. LEIGHTON. Alright, take Archibald. He is nonunion, right? Ok, he could join AGC tomorrow, but in so doing, he takes on a business obligation to operate union. This is a business decision he has to make for himself. We will take in Archibald tomorrow, if he wants to become a union contractor.

REV. DRINAN. When did this link come into existence that you don't deal with nonunion at all? Who made this decision? And when and why? That obviously is the reason why there are no blacks working with these union contractors. That is one of the major reasons.

MR. GUNNING. That is not true, Father.

REV. DRINAN. I want a reason.

MR. GUNNING. I could name you a few simple reasons. I think, in going out myself, representing the Building Trades Employers' Association and representing other subcontractor associations, going into the black community and trying to recruit personally myself young black people to come into the apprenticeship programs and having very little success, having no success. I think there was a suspicion on the part of some black people, maybe rightfully so, that they would not get a fair shake coming in on the apprentice program; that they would be coming before an all-white joint apprenticeship committee.

I think over the years we have tried to show them that we have --

MR. PARKS. What is the value of being a part of ACC?

MR. LEIGHTON.<sup>1</sup> You mean if you were a contractor?

MR. PARKS. If I were a general contractor, what is the value? What do I get from being a part of that organization?

MR. LEIGHTON. What you get from being a part of the organization is, one, the various information services that we have. You get assistance in the handling of job disputes with the unions. We answer personal inquiries on various other matters such as bidding procedures, statutes in this State, specification matters. You get assistance by being able to participate in management training programs. You get safety materials, and the whole bit that any manufacturing industry does. This sort of thing.

But basically, one of the things you have to sell an association on -- and I think this would be true of the AIA for example -- you also have to sell people upon the fact that there are problems in the industry which exist, which can only be solved by collective action. This doesn't return itself in dollars and cents tomorrow. It is what we would say, to use a cliché, we want to preserve a climate in which you can do business.

MR. PARKS. Since you mention AIA let me just pursue that for a moment. In the AIA, which is the American Institute of Architecture, there is a kind of closed house agreement by which jobs are gotten. Having that "AIA" up there means you get a better shot at available contracts. Is that true in AGC?

MR. LEIGHTON. As you know, we have open competitive bidding in AGC.

MR. PARKS. I am just saying is there any value in ---

MR. LEIGHTON. I would say in that case not.

MR. PARKS. Let me ask you something else. In terms of AGC, how much control do you really have in terms of selecting the people who are going to be working on your job? In other words, the labor unions are sitting up there. They are the people who have the employees. They are sitting in the union offices. You have a job over here and you are attempting to get people on this job. Do you have the ability to say to them and have it mean something, "I am not going to take guys out of there unless you get black guys. I am not going to use your local until you do"?

MR. LEIGHTON. We don't have this.

MR. PARKS. You don't have that ability?

MR. LEIGHTON. No.

MR. PARKS. Then in other words, you have to pretty well take what you get, if he is skilled?

MR. LEIGHTON. Neither do I accept that statement. Am I contradicting myself?

MR. PARKS. I think so. I don't understand it.

MR. LEIGHTON. You say you have to take what you are sent?

MR. PARKS. So long as he is skilled and performs well on your job.

MR. LEIGHTON. All right. I missed that -- as long as he is skilled.

MR. PARKS. Okay. Then that says you don't really have the power to tell the union to do much of anything other than through the power of persuasion.

MR. LEIGHTON. Other than through the power of persuasion -- which has gone a long way in this world at various times, and I hope it continues.

MR. PARKS. Let me pursue this further. You see, what I hear is that most of the general contractors now are by and large brokers. The State a couple of years ago even took the bricklayers out and that's a separate bid now.

MR. LEIGHTON. Seventy-five percent of the bricklaying is done by general contractors.

MR. PARKS. They bid on their own jobs. Okay. I appreciate that. What I'm saying is it's a subcontract item.

MR. LEIGHTON. On public works.

MR. PARKS. So more of these things are now becoming filled by subbids under the State laws.

MR. LEIGHTON. In the larger metropolitan areas you are definitely going more and more to construction managers.

MR. PARKS. Okay. And at that point it means that you, as a general contractor, you really don't have the kind of control over your labor force where you can designate or demand, really, this kind of racial distribution that we are asking for.

MR. LEIGHTON. As a practical matter, it would be a very difficult thing to demand, other than the powers of persuasion.

MR. PARKS. Let me ask you another thing because I heard you say something about first preference clauses. It seems interesting that I know of jobs, and I guess you do too, where we have gone out on this extraterritorial thing, gone out to other areas, other than the Commonwealth of Massachusetts, to find part of our labor force. When there seems to be an under-supply in this area, there seems to be some sort of buddy agreement in the unions, and I don't know what that is -- perhaps you could explain it to me -- that allows one to go outside the area before you go to the various areas here to use the nonunion labor force; to go out to Canada or...

MR. LEIGHTON. Are we talking about dry wall?

MR. PARKS. Not only drywall. I was talking about where a few years ago there were men pulled in from Connecticut to work on jobs in Massachusetts.

MR. LEIGHTON. What crafts?

MR. PARKS. I don't remember now. I remember there was a case of people going outside of Massachusetts to get a labor force when there was an under-supply in the Commonwealth.

MR. GUNNING. It is possible, Paul, when you are looking for qualified people. This gentleman here was talking about an iron worker and, for example take structural steel. Certainly you have to have qualified iron workers. First of all, not many will get up there. You have to have a qualified bricklayer to do the brick work. This is what they are looking for. If they cannot get them around here, they will try to get them any place they can.

MR. PARKS. Let me get at it a little further since you started. You have got an under-supply. There are places in the community that you could reach into and find men who are qualified and nonunion. Let's assume that they are qualified, for the sake of this argument, that there are qualified men, who are nonunion, sitting there who could be used. Would you go there prior to going outside the Massachusetts area? Or the Boston area?

MR. LEIGHTON. Why not? Of course. I see no reason why not to.

MR. PARKS. And you wouldn't have any problems with the union if you did?

MR. LEIGHTON. If you bring somebody in, you have to pay transportation and room and board.

MR. PARKS. You wouldn't have any problems with the union if you do that?

MR. LEIGHTON. I don't know of any.

MR. PARKS. They wouldn't strike your job?

MR. LEIGHTON. No, sir.

MR. GUNNING. No.

MR. PARKS. Is your key crew usually members of the union?

MR. LEIGHTON. Yes.

MR. PARKS. I am talking about the general contractor's staff, that he carries with him.

MR. LEIGHTON. If you are talking about a specific craft -- the foreman and a group of carpenters, the foreman and a group of bricklayers, the foreman and a group of cement masons -- yes.

MR. PARKS. They are usually union people?

MR. LEIGHTON. Yes, they are required to be after seven days under the contract.

MR. PARKS. Is it possible that you could hire non-union people on your own staff and not get into trouble with the union?

MR. LEIGHTON. If you are talking about a carpenter or a bricklayer...I don't know whether you are talking about engineers, for instance.

MR. PARKS. No, I am talking about a journeyman.

MR. LEIGHTON. If you are talking about journeymen, depending upon the craft, provided you met the first preference bit in those trades, and they weren't able to supply, then you are absolutely free to go out in the carpenters and laborers of which I spoke and employ anybody.

MR. PARKS. I am talking about your permanent staff.

MR. LEIGHTON. Permanent staff or anyone.

MR. PARKS. Let me ask one other question. This 8-day clause that you have that says, for a person on the job, that after eight days it is mandatory that he become part of the union. What is that process?

MR. GUNNING. It is not mandatory.

MR. PARKS. In other words a man could stay on your job more than eight days...?

MR. LEIGHTON. He has to tender uniform dues and initiation fees. I don't know of any union that has not accepted someone who has tendered dues and initiation fees here, except in a case that doesn't involve race.

MR. PARKS. What is the mechanical process by which a man is approached who has been on the job for eight days? Who approaches him to become a part of the union?

MR. LEIGHTON. Customarily he is approached by the steward on the job, the union steward. The union steward will go to him and say, "Buddy Roe, eight days, you know. This is a union job. How about it? Would you go down and see the business agent, down at the hall and pay your dues?" Usually in this case, to my knowledge, and I don't know of any exceptions, there may be -- I don't pretend to have complete knowledge of every trade on this -- but I do know that more often than not, arrangements are made to spread the initiation fee out over a period of four to six weeks or something of that nature.

MR. PARKS. Is it customary that every individual who has been on the job for eight days is approached by the steward?

MR. LEIGHTON. As far as I know.

MR. PARKS. Approached by the steward and given an opportunity to join the union?

MR. LEIGHTON. As far as I know.

MR. PARKS. Ok, then we have to discuss this afterwards because we have a couple of cases in which...

REV. DRINAN. In view of the time element, gentlemen, Mr. Gross, do you have some questions for the four? I think we should be moving on to the next panel.

MR. GROSS. Yes, I do. Pursuing the same theme, can you give any indication as to what proportion of the work force on your major contract construction -- union construction -- the work force would be nonunion? Is there any substantial proportion?

MR. LEIGHTON. No substantial proportion.

MR. GROSS. Could there be, if you wanted to take on the nonunion elements from the community?

MR. LEIGHTON. No. I thought this is what we were talking about.

MR. GROSS. This is because under the current labor supply situation in this area, the unions will be able to supply you with all the men you need?

MR. LEIGHTON. No, that's not what I am trying to say. Maybe I missed the question.

MR. GROSS. If the union can't supply you with the men you need, why can't you hire nonunion workers?

MR. LEIGHTON. You can. I thought you posed the question -- maybe I heard wrong. I thought you asked whether there is any substantial number of nonunion employment on the jobs in the area. My answer was no, because of the 8-day clause. If I missed the question, would you repeat it.

MR. GROSS. I will rephrase it in these terms. Is there a substantial number of cases in which you hire men who are nonunion and who then join the union, after eight days?

MR. LEIGHTON. No.

MR. GROSS. This does not happen in many cases either?

MR. LEIGHTON. No.

MR. GROSS. And this is because the union is able to supply you with current union members to fill all your needs?

MR. LEIGHTON. Not to fill all the needs. To fill all those except that are recruited elsewhere.

MR. GROSS. When you say recruited "elsewhere", you mean from outside the area?

MR. LEIGHTON. Either from outside the area or from the black community, advertisements in the Bay State Banner -- you name it. All the various sources that are tried.

If I may say this, and I have got to get this off my chest a little bit, with your permission, Father. On this compliance thing, we want to make something work. Let's not kid ourselves. For three or four years, we have been advertising in the Bay State Banner and all over the place, and sending 25 and 30 notices to community agencies saying "Please send us men." It hasn't solved the problem.

MR. GUNNING. I second that.

MR. LEIGHTON. It has not solved the problem. That is why we are trying to use other approaches such as direct recruitment in the black community through programs such as the Workers Defense League.

MR. PARKS. Have you fellows contacted UCCW? Have you had active contact with UCCW for trained, skilled men?

MR. LEIGHTON. The Association does not in any case contact anybody -- Workers Defense League or the UCCW. The Association is not a hiring hall or a hiring service. This is done by the individual contractor.

MR. PARKS. Do you know of any individual contractors who have sent down their work requirements to the UCCW as a source of recruitment?

MR. LEIGHTON. Yes.

MR. PARKS. All right.

MR. WILMORE. I will try to be brief. Just a couple of points, Mr. Leighton, in your statement that I would like to comment on. On page 3, you refer to government actions to strengthen contract compliance programs, which is what we are all about here. You say this could have immediate impact, but is short-term, lasting for the duration of that project.

My question is, why is this short-term, if strengthening government contract compliance gets more black people on the job where they have to join the union and get their union card? Why is it short-term?

MR. LEIGHTON. I was thinking here primarily of this matter of training. Maybe I am focusing a little wrong myself. I see the problem as one of training. That is why I phrased the question this way, as a problem of nonavailability of journeymen.

MR. WILMORE.<sup>4</sup> That is my second point. On page 4 you say--- I want to get straight on page 3. You say here that strengthening government contract compliance is of limited value because it is short-term. I don't understand that. I think we need to strengthen the government contract compliance and get more black people on the job. They get their union card, and then they are qualified journeymen set for life, I should think.

MR. LEIGHTON. Let me approach it this way. Over and above the training component, shall we call it--I guess you understand what my concern has been there. If through compliance you are able to locate qualified journeymen, they are employed on that job. The ...

MR. WILMORE. Can I interrupt here? What we mean by strengthening contract compliance is to make a more concerted effort to find qualified journeymen and have those black and Puerto Rican qualified journeymen use the same kinds of routes that white people use to become journeymen. We want to see contractors do more of that sort of thing.

MR. LEIGHTON. No objection.

MR. WILMORE. Ok. Let me go to the training and then I'll be finished. Your statement says the Associated General Contractors of Massachusetts favor the training approach, that it must be industry-wide as distinguished from job-by-job and company-wide. Do you mean by that, Mr. Leighton, and would you commit Associated General Contractors right now to say that you favor an approach similar--and I don't mean identical to, because I have some problems with the Workers Defense League training program--but as a general approach, would you favor extending that to all federally assisted construction in Massachusetts, and not limit it to the Model Cities area and contiguous areas?

MR. LEIGHTON. Personally, the answer to that would be yes. Realistically, we are dealing in a society where we have to try to bring all elements together. I think one of the factors of this is the question of getting voluntary participation on the part of all concerned, so that they really work on a program and support it and make it go, and not just give it lip service.

What I am saying is that the unions and the subcontractors and the general contractors and the black community agencies--everybody--has to believe in the value of the program, or even if they don't believe in it, at least be willing to give it a try.

MR. WILMORE. If we have an approved trainee program on every federally assisted construction project in the State of Massachusetts, I think in a relatively short period of time we could have a tremendous increase in the number of black people working on construction jobs. Would you agree with that?

MR. LEIGHTON. I agree with that. Having an approved training program, I think you run into a problem, again, of whether you are trying to set up a dual situation, you set up a dual program, and I am not sure whether this is desirable or necessary. I would rather see, if they can be made workable, the existing training facilities -- such as the apprenticeship training programs -- made to operate and utilize one channel instead of a multiplicity of channels. I am open on this.

MR. PITTMAN. I have a couple of questions. I want to get back to Paul. If a black general contractor joins your organization, how much would it cost him and what would happen to his black work force?

MR. LEIGHTON. How much would it cost him?

MR. PITTMAN. Yes, in cash.

MR. LEIGHTON. There is no initiation fee. The minimum dues per year are \$300. There is a volume scale that goes up to \$1,500 a year. If you do over \$1,250,000 worth of work you pay \$1,500 a year dues. Out of this we pay the national service fee because we are members of the national association. That is paid out of the dues, out of the \$300 for example. There are no additional assessments. That is it.

MR. PITTMAN. What happens to his work force?

MR. LEIGHTON. On the work force, the arrangement is -- and in the few cases where this has come up, arrangements have always been made, in terms of the two or three cases that have happened to us -- the men have been taken into the union.

MR. PITTMAN. You said you only had one black contractor.

MR. LEIGHTON. I said one. A couple of whites and one black.

MR. PITTMAN. I am talking about black contractors.

MR. LEIGHTON. As a matter of fact, his work force -- I have knowledge of his firm. I think about three-quarters of his work force at the time he came in was already union, and others were taken in later.

MR. PITTMAN. One more question. You said that after one day on the job, someone would determine whether I was qualified,

and they would fire me if I was not? Who makes this determination of qualification?

MR. LEIGHTON. The superintendent or the foreman. In other words, the management and not the union steward makes the decision, not the union business agent.

MR. PITTMAN. Is the foreman part of the union?

MR. LEIGHTON. He can be.

MR. PITTMAN. Is it mandatory or not?

MR. LEIGHTON. The foreman is a part of the union.  
Mandatory.

MR. PITTMAN. He can make the decision or the supervisor?

MR. LEIGHTON. At least in the trades with which I am familiar. Right.

MR. PITTMAN. The only thing that bothers me about this classification is, I just cannot bring myself to believe that whites are born qualified.

MR. GUNNING. They are not.

MR. PITTMAN. How do they become qualified? Many of the people in the building trades are without high school diplomas, without even passing the tests. Were they born qualified with some mystique about them?

MR. LEIGHTON. I am sure that those who are familiar with the construction industry will know this is one of the peculiarities of this industry. Let's get it on the table. Probably the national figures, which are available to all of you, show that about 20 percent of the people in the industry come in through apprenticeship; 80 percent come in through the back door. This varies, by the way, from trade to trade. In the electrical trade, for instance, a very high percentage of the men come in through the route of apprenticeship, and then it goes on down and varies in different trades.

MR. GROSS. Can we pursue this?

REV. DRINAN. Yes.

MR. GROSS. Mr. Leighton was describing the 80 percent that come in the back door. I think you are right, this should be laid on the table in terms of just what the mechanics and the nature of this avenue is. Could you continue?

MR. LEIGHTON. Yes. I was about to say that the one single area which brings in people into the industry in this part of the country, is the nonunion home building field. The home building field in Massachusetts is to all intents and purposes 100 percent nonunion. These guys get their training on this, and then they go on to the higher paid and higher skilled commercial and industrial jobs.

MR. GROSS. How do they get from home building into the higher paid commercial contract construction unions?

MR. GUNNING. They make application to the union. They go through a test, you may not realize, to see whether or not they are a qualified carpenter or electrician or qualified bricklayer or anything else.

REV. DRINAN. Do all whites take the test? Everybody says they don't.

MR. GUNNING. It is my understanding that anybody who makes application to join a union in the building trades today must make application and...

REV. DRINAN. In the past. The 80 percent that got in by the back door. Did they take the test? Up until this year?

MR. GUNNING. I don't know.

REV. DRINAN. It is a crucial question for your organization, and it is a crucial question to the whole problem.

MR. GUNNING. The crucial question here, Father, is a better understanding of everybody concerned on how the building and construction industry operates.

MR. SEGAL. We want to get that, but Mr. Leighton said earlier in his presentation that he understands how the union people feel. He said they have made it. Yet we were told this morning that you make it through nepotism sometimes. So when you use the words "you make it," it seems to some of us that there is a grave injustice somewhere along the line here.

MR. LEIGHTON. This used to be true. Any student of labor economics today, or anybody that knows anything about the construction industry, will tell you that whereas nepotism was common up until 20 years ago, up until World War II, today I don't believe that in any craft you will find over eight or ten percent of the young men coming into the industry who are related to somebody else in the industry. It used to be historically true. It is not true today.

REV. DRINAN. It sounds like a high ratio to me, ten percent.

MR. DOT'TIN. I would like to hear your comments, Mr. Leighton and Mr. Gunning, on the position that the NAACP has taken, namely, that if black people can't work, nobody can work.

MR. GUNNING. I wasn't familiar with that statement.

MR. DOT'TIN. Think about it. If black people can't work, nobody will work.

MR. KANE. Could you give some background to that statement?

MR. DOT'TIN. It doesn't need background.

MR. KANE. The question, I believe, was in reference to the Model Cities agreement.

MR. DOT'TIN. No.

MR. KANE. I don't understand your question either. I thought you were referring to---

MR. DOT'TIN. There aren't any black people working in the building industry.

MR. LEIGHTON. Thirty percent of the cement masons in Boston are black. You have the figures there before you. I agree it is small, but don't say that there are none, please.

MR. DOT'TIN. I am asking you for your opinion of that statement -- if black people can't work, nobody can work.

MR. LEIGHTON. I don't see how this solves any problems.

MR. WILMORE. The question would probably be better phrased -- Mr. Hill was implying in that statement -- if black workers don't get a fair share. I am sure he didn't mean one black worker on the job. What he was implying...

MR. GUNNING. We must find out the reason why they cannot. This is what we are trying to do. If it is because they haven't been able to compete -- we want them to be able to compete. We want them in our apprenticeship programs. We have tried to get them in the programs. We want them in the pre-apprenticeship training programs so they can come in and compete with the white people. We want them to come in as much as anybody else in the room does.

MR. PARKS. Let's clear up one thing. The reason why black folk aren't in the unions wasn't because they couldn't compete. There are other reasons and we all know what they were. There were discriminatory practices in the labor unions and they have been going on for a long time. We all know that, just don't say they can't compete.

MR. LEIGHTON. Paul, would you agree it is some crafts and not all crafts?

MR. PARKS. Wait a minute. In the South we know that construction for years was black folks work. Black folk moved to the North and found out they couldn't do that work any more. I can show you a lot of folks who are working now as laborers on construction jobs in our area who have other kinds of skills, but because of some reason nobody knows, they don't understand what the access is or don't feel they have access. These things are going on, and we know we have that problem and let's see if we can't solve that problem. Let's don't say that they don't qualify.

MR. GUNNING. I agree.

REV. DRINAN. Because of the time element and in fairness to the others, I think we should--- let me violate my own rule by saying that I find a basic contradiction in the statement from the general contractors that, whereas, as Mr. Wilmore pointed out, it suggests that compliance procedures have an immediate impact and that they do bring people into the process, it then goes on to shoot this thing down and says that the Federal compliance project is short-range and a job-by-job attack and it is not the solution. These are solutions that the feds have turned up and that they are trying, perhaps not as vigorously as they should. But, as I say, I see a basic contradiction in the statement as given here.

Thank you very much, I thank all four of you. I am sorry if we got a little too direct, shall we say. We thank you for working tonight.

MR. GUNNING. Thank you, Father. I am sorry I didn't have any prepared statement. We have been in negotiations for the past three months.

REV. DRINAN. The next people, if you will come up here and make yourselves comfortable, we will introduce you momentarily.

PANEL OF MAJOR CONTRACTORS

ABERTHAW CONSTRUCTION COMPANY.

LOUIS B. TURA, Vice President and Construction  
Manager.

ROBERT WALTHALL, Equal Employment Coordinator.

PERINI CORPORATION.

DAVID B. PERINI, Vice President and General  
Counsel.

TURNER CONSTRUCTION COMPANY.

THOMAS GERLACH, Contracts Manager.

VAPPI CONSTRUCTION COMPANY.

C. VINCENT VAPPI, President.

JAMES E. FLYNN, JR., Director of Personnel.

VOLPE CONSTRUCTION COMPANY.

DAVID E. MIRABASSI, Vice President.

RALPH W. NILES, Safety Engineer.

REV. DRINAN. Ladies and gentlemen, please come to order. We thank you gentlemen for coming in the evening at this inconvenient time. Mr. Richard Donnelly of McCloskey-Leavell Construction Company sent us a message that he may not be able to be here this evening.

Mr. Gross, this is a very impressive looking group of contractors. You have the backbone of the world. How do you want to handle this group?

MR. GROSS. I will begin with the Turner Construction Company, Mr. Gerlach.

Mr. Gerlach, could you please outline briefly what kind of work your company does and what area your construction work extends over?

MR. GERLACH. We are a national organization. Our home office is in New York City. We have branch offices in Boston, Philadelphia, Cincinnati, Columbus, Cleveland, Chicago, Los Angeles and San Francisco. We do primarily large industrial and commercial and institutional construction, and we put into place in any one year about \$250 million of work.

MR. GROSS. This is a nationwide organization?

MR. GERLACH. Nationwide.

MR. GROSS. What are your own responsibilities?

MR. GERLACH. I am assigned to the Boston office. I have perhaps a two-fold obligation at this point. I head up the EEO activity for the Boston office, under the direction of the Vice President from New York, and have other duties as well.

MR. GROSS. You are concerned with construction in what area, the Boston area or a wider area?

MR. GERLACH. New England. Anything north of New Haven.

MR. GROSS. In the New England area, does the Turner Construction Company have what you would call a permanent work force, or identifiable work force of more or less permanent workers?

MR. GERLACH. Not in the sense that you mean it.

MR. GROSS. Perhaps you can explain the way in which a contractor will maintain a certain standing work force, which he may move from one project to another. Is this the situation typically?

MR. GERLACH. Yes. I think we are in a transitional stage, though, in the industry. We do have key foremen who have been with us for a number of years. They have what we call a following of men.

At this point in our Boston based jobs, we are employing some 206 tradesmen. These are laborers, carpenters, iron workers. Subcontractors have 734 men on these jobs. So we are roughly about 20 percent of the total. I would guess that the trend is toward a decreasing percentage, as business becomes more specialized.

MR. GROSS. What do you call this? Do you call this a permanent work force?

MR. GERLACH. No, they are not permanent in the sense that you mean it. They are people who are hired for the phase of the job that they are skilled in.

MR. GROSS. Mr. Gerlach, you have provided us with some general figures on your construction activity in the Boston area. In the interest of time, I will summarize what you gave us. You indicated there are eight projects in the area and that your company employed 214 white and 34 nonwhite. Of those 34 nonwhite, 22 are laborers, 11 are carpenters, and one staff. Of your subcontractors, you indicated 750 white and 22 nonwhite. This works out to about a thousand workers of whom only 50 are nonwhite.

In terms of the problems that we have been discussing, as far as access of nonwhites to construction opportunities, could you comment as to whether you think this is really an adequate performance in terms of what you could be doing?

MR. GERLACH. I guess like anybody else one has to preface one's remarks. If you ask me whether we are doing a better job this year than we were doing a year ago, I would say that we are doing a much better job this year. If you ask me whether we have all the skilled tradesmen that we need for every one of our jobs, I would have to say that we are having a difficult time from a manpower point of view. It is increasingly more difficult.

MR. GROSS. When you say difficult time, would you explain what you mean by that?

MR. GERLACH. Increasingly more difficult as the construction industry increases its activity in the Boston area. We can foresee shortages of various trades.

If you ask me whether I feel the representation of minority groups on our jobs is as high as we would like it, my answer would be that it is not. It is improving, but it is not that which we might hope it would be a couple of years from now, if we can follow some of the ideas that fellow members and our Association are pursuing.

MR. GROSS. You say this is an improvement over the past year. Would the figure of nonwhites have been much lower than this a year ago?

MR. GERLACH. About a year ago this time, although we had fewer total numbers on our jobs, we had about 20 black people on our payroll or on our subcontractors' payroll.

MR. GROSS. When you indicate there are certain things that you hope or expect to be doing to increase this utilization of minority workers, could you outline what some of those are?

MR. GERLACH.<sup>1</sup> Well, I think at this point I would like to speak as an individual and as a representative of a company, rather than as a policy-making member of an association, although I do sit on the EEO Committee.

MR. GROSS.<sup>1</sup> This is the EEO Committee of...

MR. GERLACH. AGC. One of the reasons for this hearing is that there are a number of things that have been tried both in Boston and elsewhere in the country, with mixed results. I would say that although I have been involved with EEO activity directly for about a year, I am convinced that there are a great many things that you try to do with, I think, a sense of purpose, and yet there are a great many things that you learn daily about what you are doing that you perhaps should not be doing and that you ought to be trying new things.

Let me try to be a little more specific. In the Boston area, I would rate our paperwork compliance rather high. You would think with the amount of paperwork that we generate with our jobs, with the number of telephone calls that we make, with the number of different people that we talk to, that you would be able to move the various groups that are involved with this whole industry toward a self-perpetuating solution that does not require a lot of individual effort on the part of people like myself and others at the table.

Just to illustrate this a little bit. I talked with a man this afternoon -- frankly, he is a subcontractor on one of our jobs which happens to be the only federally assisted job we have -- and I have talked with him in the past. We are not satisfied with the head count on the job.

MR. GROSS. Is that the Children's Hospital?

MR. GERLACH. Yes, it is.

MR. GROSS. What is the head count on that job, can you tell us?

MR. GERLACH. Yes. We have at this point, as of the week ending 6/20, four Turner Construction Company direct employees and 100 subcontractor employees. There are just two black subcontractor employees. However, on 12/19 there were 71 employees, both TC Company and subcontract, and we had eight black employees.

On 1/22, we had 102 total and six black employees. On March 5th we had 127 and four black employees.

Now, what happened to the men? How did we go from eight to two? That is the question that has to be answered. By my check, in talking with the superintendent and the subcontractors involved, I found that in no instance was a man laid off because he wasn't qualified. I found that in one instance, as I recall, a man's work was finished and the rest of the men, not very many -- a total of five, if my arithmetic is correct -- from December quit.

Now, this is not an unusual situation in the construction industry, as you all know. For one reason or another a man will move on to a different type of job. In the case of the Children's Hospital -- and this is what complicates Federal compliance situations -- we as a company, and I think certainly in the Boston office, have one single policy whether it be a publicly financed job or a privately financed job.

This is the only way we know to provide ourselves with the kind of flexibility and broad-based opportunity to do the job for the owner, for ourselves, for subcontractors, or the minority groups, as well as the unions. On this particular job, however, because of its type of construction, as we have come out of the ground, gotten above into the more sophisticated form work, placement of concrete, an architectural concrete job, the type of man you need, regardless of color, has got to be somebody that is not going to make a mistake. On a job in an area where we do not seem to be able to get that many skilled people, whether it is white or black, you would prefer to be extremely cautious where you put your skilled people.

MR. GROSS. Can we pull back from this specific project and talk in more general terms about the problems you would have in utilizing more nonwhites. Are you generally of the view that there are within the community here men who are qualified, who you know could perform on your jobs in skilled crafts, who are nonwhite and nonunion?

MR. GERLACH. No.

MR. GROSS. You feel there is no such substantial supply in this area?

MR. GERLACH. Well, let me answer you a little bit indirectly. We have -- once again because I am a little sensitive about the federally assisted job, because we look very bad there in my opinion -- we have had one report, one alleged report of a black man applying for a job there the first week in February. He did not, I know, apply for a job with our superintendent or with any of our job office people, because our job office people and our superintendents have got standing instructions that if they cannot place a black man on a job, they are to get his name, address, his telephone number and ask him to call me; of if he cannot do that, the job office is to call me, and I will then try to find a place for him on another job.

MR. GROSS. I am sorry to cut you off, but because of the time pressure we are under, can I ask you to direct yourself to the question of what your view is of the nonunion nonwhite labor supply as far as the skilled building trades in this area?

MR. GERLACH. I get the feeling that quite frankly a great number of us sitting at the table today are competing for the same available people.

MR. GROSS. In what form have you sought to draw upon this labor force, to the extent it is there?

MR. GERLACH. We have instructed our superintendents and our foremen to talk to every minority employee that we have, to ask him for referrals. This has produced very little in the way of direct results. We have gone through agencies for referrals, in terms of UCCW and others. We have shared our experiences at meetings about where we can get men. We have not been dilatory in trying to get collective experience.

MR. GROSS. In terms of the way that you would draw upon the UCCW, in how many cases have you sent a job order to them that said, "We want two carpenters to report on the job site at such-and-such a time"? Have you done that?

MR. GERLACH. Yes, we have.

MR. GROSS. Can you give any indication of numbers?

MR. GERLACH. How many times have we done this?

MR. GROSS. In terms of numbers within the past year.

MR. GERLACH. You have to put this in two categories. We have made calls and have not been able to reach the parties that are involved. We have in some instances spoken to the people who are involved. In one particular case, we did get three men for one job.

After they had been on the job for a period of about nine weeks, the union -- and this is the story that I get, which I take as being the truth -- the men were given the opportunity to join the union, and for some reason they saw fit on that particular job not to join the union. Needless to say, this placed us in a rather sensitive position with the business agent in that particular community.

I checked on what happened to the men as well as I could, and as near as I can tell, they went to work for another company, on another union job representing a different local, and I assume they joined the union. I don't know what happened to them.

MR. GROSS. Has there been any other situation, apart from these three, where you sent a specific job order to UCCW for a specific time, place, and number of men?

MR. GERLACH. Have there been other times when we got men through UCCW?

MR. GROSS. Have there been other times when you placed what I call a job order with the UCCW, which specified time and place?

MR. GERLACH. Yes. There have been times when I have talked directly to one of the principals of that organization, and I thought I had the start of a working relationship whereby when he had men, he would call me. If I needed men, I would call him. I thought at that time we recognized there would be times when I would be after men and there were a couple of times when he would not be able to furnish them, and this is natural too, because he doesn't have men sitting up in the bleachers.

MR. GROSS. My question is, how many times and with respect to how many slots have you made such a specific time-place request?

MR. GERLACH. With this one particular organization?

MR. GROSS. That is correct.

MR. GERLACH. I want to be very careful that I don't do myself an injustice and I don't do them an injustice. The attempt to reach them is something else, but---

MR. GROSS. The successful tries.

MR. GERLACH. I would say two or three times.

MR. GROSS. What restricts you? Is it what is called the first preference clause? Is it the union's right to have union men on the job that restricts the extent to which you do this, or is it something else that restricts you? Or does anything restrict you in the extent to which you do this?

MR. GERLACH. I think that we do have a tight rope to walk here. We are concerned primarily about getting enough men to work on our jobs. We want to make sure of course that we are not going to in any way limit our opportunities for getting men from any source. We do have to recognize that at certain times of the year, when there are union people who have been members of the union and paying their dues for a long period of time and are not fully employed, it is more difficult to get nonunion people placed in the job.

MR. GROSS. The tight rope you say you are walking is the tight rope as to what the union will allow you to do?

MR. GERLACH. Yes. I think you can say we are in between two groups. The encouraging thing here has been, I think, for the past six or seven months, notwithstanding some of the publicity, I have seen less polarization between unions and the black community, of those who are working and those who are working effectively with the unions -- more recognition of the fact that everybody has got the same basic goals if we give ourselves a chance to close the gap between the militant factions within both groups.

MR. GROSS. Thank you, sir.

Messrs. Tura and Walthall. Mr. Tura, you are Vice President of Aberthaw Construction Company?

MR. TURA. That is right.

MR. GROSS. Could you describe briefly the extent of the operations of the company?

MR. TURA. Again, we are a national firm in the building construction business, primarily. We are in private institutional type construction.

MR. GROSS. We heard testimony earlier about the NASA project here in Boston. Is that your project?

MR. TURA. That is right.

MR. GROSS. One of the figures we got in terms of the utilization pattern there, I think it was the most current, was 167 white and 7 nonwhite, three of whom were laborers. Again, I ask you, sir, do you regard this as adequate performance in terms of the contract compliance obligation?

MR. TURA. As of today there are 115 whites on our payroll versus 11 blacks.

MR. GROSS. Do you have the trade breakdown?

MR. TURA. Sixty-two total laborers, five are blacks; 53 carepenters, two are blacks.

MR. GROSS. Have you drawn upon the United Community Construction Workers in seeking to obtain nonwhite workers?

MR. TURA. No, we have not. You are referring to the NASA project?

MR. GROSS. Yes, I am.

MR. TURA. No, we have not. We did meet with members of the UCCW and the Urban League on two instances on the NASA project. We arranged a meeting with union officials and members of the Building Trades Council, also members of the compliance office for the Corps of Engineers. We are currently trying to discuss the possibility of engaging more blacks on the project and trying to work a solution to getting more men on the job.

At the second meeting we had, the UCCW and the Urban League members chose to walk out of the meeting. We asked for referrals of people.

Now, since that time, however, we have been working with them, and Mr. Walthall has been in contact with them and has placed work orders. We are in hopes that we will be able to render more cooperation with them in this respect.

MR. GROSS. How many job orders have you placed with them, if you have the figure?

MR. WALTHALL. Actually, we have only been involved with one job order and that has been in the last week. Due to the work in the area, the Roxbury area, there is a temporary displacement of men right now as far as our putting men to work for the UCCW with Aberthaw, but we are in constant contact with them.

MR. GROSS. Mr. Tura, how would you state the position in which you find yourself as far as using nonunion labor? Is this something where, as the other gentleman said, it was walking a tight rope? Do you have any kind of understanding or have you sought to reach an understanding with the unions, in terms of any specific projects?

MR. TURA. Yes, we have.

MR. GROSS. Could you describe that.

MR. TURA. We have had a considerable amount of cooperation from the union people. We had a meeting last Thursday at which members of the Building Trades Council and the carpenters' and laborers' delegates were there. We informed them about our affirmative action program and asked their cooperation in this respect. To date they have shown excellent cooperation.

It is recognized that there is a shortage of people needed on the job. To say that we need 15 carpenters or 8 electricians on a particular job tomorrow morning would be an error. We might need two or four on a day-to-day basis. We increase the work force as the job requires it.

What we are doing now, and -- again -- with their approval, Mr. Walthall is soliciting among the various groups in Roxbury individuals that he feels could be qualified, and he is going to screen them and he is going to refer them to the various foremen who require men. They, in turn, will be referred to the business agents who have assured us they will cooperate in every respect. If the man qualifies for the job, he will be engaged in that position.

One of the problems that everyone must recognize is that so far as the mechanical trades, and I include the electrical trade in that, a State license is required before a man can become a fully qualified journeyman, and this is a definite stumbling block.

MR. GROSS. A State license?

MR. TURA. A State license.

MR. GROSS. This is for journeymen of what craft?

MR. TURA. Plumbers and electricians.

MR. GROSS. These are the only two?

MR. TURA. And certain pipefitters. We made a count today, and out of 639 employees on our payroll -- that is not including key personnel, which includes superintendents and office personnel -- we have 77 blacks working on our jobs today.

MR. GROSS. Do you have a craft breakdown on that?

MR. TURA. I will take the Christian Science project on Huntington Avenue which is fairly representative. A total of 152 people on the project and 23 minority workers today. There are 11 minority carpenters out of a total of 79; 12 laborers out of 68; out of five cement masons, we had two blacks who left us yesterday. They didn't want to stay because they weren't getting overtime.

On the Martin Luther King School in Cambridge---

MR. WILMORE. Did you say 11 carpenters, 12 laborers, and five cement finishers?

MR. TURA. It should be 28 instead of 23.

REV. DRINAN. If you could leave that for the record, it would be helpful to us.

MR. TURA. I will leave both sheets. It also includes some of our subcontractor trades. Referring to the NASA project, it is predominantly at this stage subcontractor trades, we have engaged on our payroll 115, and there are approximately 265 people on the job. Half of the people actually involved are subcontractors. Out of that group of subcontractors, they only engage four blacks on the project.

MR. GROSS. When you say that the unions have shown excellent cooperation, could you indicate what they have agreed to or what form this cooperation has taken?

MR. TURA. It is recognized there is a shortage of workmen. In the carpenter trades, we have placed blacks that were obviously not full-fledged journeymen. We placed them on the job as journeymen carpenters and placed them on jobs they could do. You don't need a fully qualified carpenter sometimes to do a stripping job or to do a certain type of shoring job. We have used them in that, and in doing so, we have trained them to be more qualified carpenters.

MR. GROSS. These were nonunion men?

MR. TURA. Nonunion men who were put on the job and accepted into the union as journeymen carpenters.

MR. GROSS. After how long on the job were these men accepted into the union?

MR. TURA. Accepted immediately.

MR. GROSS. Does that indicate they were qualified at the time they came on the job?

MR. TURA. The way it was put to us was if we wanted to pay them to be qualified journeymen, it was our lookout. It turned out they were doing a day's work, so we kept them on.

MR. GROSS. Is it the union position, in general, that they will take anyone that the contractor finds qualified?

MR. TURA. I am sure they will.

MR. GROSS. Is that true of all the trades?

MR. TURA. I am quite sure it is.

MR. PITTMAN. How many black people do you have working in your office?

MR. TURA. We have four right now, three are secretaries and we have Bob--Mr. Walthall.

MR. PITTMAN. How large a work force in the office?

MR. TURA. I am guessing, probably around 30 people.

MR. PITTMAN. What about your office?

MR. GERLACH. During the past year, we have had a total, I think, of three people who have been working for us in our office as Northeastern students on a 3-months-on and 3-months-off basis. We have run employment ads in the Boston newspapers on three separate occasions within the past six months and have not had a single application from minority groups for a job.

MR. PITTMAN. I will send you some. How many do you have right now?

MR. GERLACH. We have one out on the job. We have two out on job staffs.

MR. PITTMAN. How large a staff?

MR. GERLACH. We have an office staff of about 35.

REV. DRINAN. Mr. Gross, do you want to continue.

MR. GROSS. Mr. Tura, I am going back to the entry of these nonunion carpenters. At the time you sat down with the carpenters union, was the situation that the carpenters union was unable to supply you with your needs from within the union?

MR. TURA. Yes, I would have to say yes to that question.

MR. GROSS. At that point you had a right under the collective bargaining agreement, without consultation, to take on these people?

MR. TURA. That is correct.

MR. GROSS. So the negotiation was based on the union's informal bargaining power, one might say, which exists outside their legal rights under the agreement?

MR. TURA. Would you repeat that? You lost me somewhere in the middle.

MR. GROSS. The fact that you needed to negotiate about this, which you had a right to do, indicates that perhaps the contractor does not feel free to exercise his rights under the bargaining agreement to hire nonunion when he has a right to under the agreement.

MR. TURA. There was no negotiation involved in this at all. It was a matter of hiring some people and putting them on and the union accepting them.

MR. GROSS. I thought this was in the context of the union coming along with you. Isn't that the way you put it, that they were being very cooperative?

MR. TURA. Yes, they are cooperative.

MR. GROSS. This is something you felt you needed to get their consent to do?

MR. TURA. I think it is well to have the cooperation of anyone when you are working with them, don't you?

MR. GROSS. Mr. Donnelly of McCloskey is not here?

REV. DRINAN. No, we got a message from him.

MR. GROSS. Mr. Perini, could you describe generally the Perini Construction Company in terms of the work that it does?

MR. PERINI. The Perini Corporation is a nationwide contractor engaged in heavy highway and building and tunnel construction.

MR. GROSS. Do you do your contracting primarily with the Department of Transportation as regards Federal construction?

MR. PERINI. No. Partially with the Department of Transportation when we are doing highway work. We contract frequently with the Corps of Engineers, the Bureau of Reclamation, and other Federal agencies.

MR. GROSS. I have here a document which is entitled "Perini Corporation Prequalification Statement and Affirmative Action Program" that I believe you provided to the staff of the Commission. Is that correct?

MR. PERINI. Yes, I think I sent that to someone at the Commission about two weeks ago.

MR. GROSS. Is this for us to keep or do you want this back?

MR. PERINI. You can have it.

MR. GROSS. I would like to mark this as exhibit 12.

To what Federal agency was this plan submitted?

MR. PERINI. I don't recall, sir. I have the idea that it was submitted to the Department of Public Works in Massachusetts for prequalification under that interim order 7-2, I believe.

MR. GROSS. This the Department of Transportation?

MR. PERINI. Yes, that might be.

MR. GROSS. The document has some rather detailed affirmative action steps spelled out in it, and I would like to just read one or two of them briefly.

REV. DRINAN. Maybe Mr. Perini could tell us in his own words -- the Committee and the group here -- of those plans. Would that be all right?

MR. GROSS. Yes. My purpose was to ask under specific portions of it what the company had done.

REV. DRINAN. Go ahead.

MR. GROSS. I quote one portion. "When recruiting employees not covered by a valid collective bargaining agreement, the company shall conduct direct and systematic recruitment in the project area through public and private employee referral sources likely to yield qualified minority group applicants, including but not limited to schools, colleges, and minority group organizations."

Could you outline what the company has done, either in general terms or in specific instances, under this branch of its affirmative action program?

MR. PERINI. Well, that particular provision was -- because it is directed to those not covered by collective bargaining agreements, would refer to our permanent personnel; and to be frank, up to this point we have not done anything because we have cut back our volume recently, and we have not hired any permanent personnel. However, I have instructed our Chief Estimator and Chief Engineer that the next time we need engineers -- and incidentally four of our engineering group are from minority groups -- but the next time we hire engineers, I have instructed him to go to the universities, to go to other sources likely to yield qualified engineers from the minority community.

But to answer your question, frankly, we have not hired anyone within the last year who would fit into that category.

MR. GROSS. The one other provision I'll ask you about, sir, says "The Company will actively assist minority group employees to increase skills to be eligible for upgrading." Could you indicate what you have done under that portion of your program?

MR. PERINI. Yes, we have done that to this extent. We do a lot of hiring on our projects through people who work for us on the projects. In other words, we use individuals who work for us on our jobs, and I am talking about temporary personnel, as a source of referral. I have instructed these people in instances where they know -- and many of them do -- of individuals from the minority community who are interested in employment to seek them out and to bring them to us.

MR. GROSS. This refers to actively assisting minority group employees. Perhaps I don't understand this. I took this to mean persons employed by the Perini Company who have qualified skills in some craft, and may be working as a laborer but if given time in an operating engineer's slot, for example, would be able to pull up their qualifications and ultimately qualify as a journeyman. Wouldn't that be included within this concept?

MR. PERINI. Yes. The one specific instance I can think of is over in the Walnut Park project. We had a black laborer who had been with us for quite a number of years, and we felt that he had the qualifications and we encouraged him to become a carpenter in that particular instance.

MR. GROSS. You have done this once. Has this happened more than just once? And if not, why not?

MR. PERINI. Well, I can think of another instance. We had a timekeeper on our Vermont highway work whom we encouraged, and I believe he took some correspondence courses and through our encouragement has now become an office manager covering two or three jobs of ours in Vermont. That is another specific instance.

MR. PITTMAN. He is black?

MR. PERINI. Yes, he is black.

MR. GROSS. Does this extend to men on the project, on a union project? Will there be nonwhite laborers, say, who are on this project who you will give this upgrading experience to? Does that ever happen?

MR. PERINI. Very definitely. We have had and we do have nonwhite laborers who become laborer foremen; in the laborer's craft that would be a form of upgrading.

MR. PITTMAN. Do you have a specific upgrading program?

MR. PERINI. No sir.

MR. PITTMAN. Like it sounds in this document, this is quite specific.

MR. PERINI. I didn't believe it denoted a program any more than an active effort on our part to take craftsmen or unskilled employees on our job and, if they demonstrated qualifications, to upgrade them.

MR. GROSS. Are there ways in which you feel that the trade unions should be cooperating with affirmative action efforts in ways they are not now -- either in the form of specific agreements or in the form of programs -- you feel you have a right to ask of them, that is cooperation that you are not presently getting?

MR. PERINI. I think the unions are as much a part of this equal employment effort as we are. I can't speak for what the unions are doing. All I know is that the results aren't satisfactory.

MR. GROSS. Can you be any more specific about working out agreements with the unions by which you would have a systematic program for taking laborers, who have skills and are qualifiable in some other higher craft, to upgrade them? Is that a possibility that you could work out with the unions?

MR. PERINI. I think it is possible within the craft itself. Each craft is autonomous. You can take a laborer and possibly, with skills, he can become a laborer foreman. You can take an unskilled laborer, a member of the bull gang let's say, and with certain training he can become a good man on a concrete crew. But when you talk about jumping from craft to craft within the present system, that is not possible.

MR. GROSS. You don't feel there are nonwhites who, for one reason or another, are qualifiable in higher trades but are presently working as laborers?

MR. PERINI. I do think that is true.

MR. GROSS. This is the group I am speaking of. My question is whether you feel that it would be possible for you and the unions to come to an agreement regarding systematic upgrading of these men into the higher trades?

MR. PERINI. Well, it is possible, but it would require united union effort and my experience with unions is that they are a very autonomous bunch. They think in terms of their own particular union. I think you could work this type of thing out realistically within a particular craft. You could take a carpenter's helper and he could become a carpenter. You could take an oiler on a rig, and with effort he could become an operator. But unless you got united union effort, you could not take a man who is an unskilled laborer and jump him to a carpenter, working within the union framework.

We have done this, and I gave you an example over in the Walnut Park project.

REV. DRINAN. Can you think of any way by which the Federal law, Title VII, or any other law could be so changed that the unions would be compelled to cooperate and not be autonomous as you suggest? We are looking for remedies. How can the law be affirmatively improved so that this balkanization, if you will, of the unions can be remedied?

MR. TURA. May I address myself to the question? It doesn't necessarily follow that a man who is a laborer wants to be a crane operator, or that a carpenter wants to be a bricklayer. If he follows a trade, he follows that trade. You followed a trade. You don't necessarily want to be the judge of the circuit court. I followed a trade.

The training, insofar as the trades are concerned--you select the trade you want to get into. It quite often follows that a laborer will become a cement finisher or a bricklayer, or a laborer will quite often become a carpenter, because carpenters' helpers become carpenters. They might even become a carpenter foreman or a cement finisher foreman. Usually trainees come from the laborers end of it and they'll pick a trade and stick to that trade. You very rarely ever find a bricklayer who will suddenly become a hoisting engineer.

MR. PITTMAN. I personally feel we are speaking of a man who was an operating engineer in the South, who came here and the only job open to him was a laborer. Is there any possible way you could work with the unions to move this man up from a laborer over to an operating engineer, which he is qualified as, but has been excluded from? There are quite a few instances of this.

MR. TURA. If the man indicated he wanted to become a hoisting engineer, an operating engineer, and showed qualifications for that, we would try to set something up acceptable to the union somehow or other.

REV. DRINAN. I changed the course of this. Let's get back and finish with Mr. Perini. Then we have Mr. Vappi, Mr. Mirabassi and Mr. Niles. Time is getting close.

MR. GROSS. If we might move on to Mr. Vappi.

REV. DRINAN. Thank you, Mr. Perini.

MR. GROSS. Mr. Vappi, could you briefly describe the operations of the Vappi Construction Company?

MR. VAPPI. Yes, we operate primarily in the New England area, somewhat in the nearer part of upstate New York. We do mostly institutional, commercial, industrial buildings, some of which have some Federal financing in them.

MR. GROSS. Could you indicate what, from your point of view, are the principal obstacles that you face in terms of increasing your use of nonwhite construction workers?

MR. VAPPI. Yes. I think my feeling on that is the difficulty is in finding the men, recruiting of such men. We have an ongoing program of recruitment. I think that the results of this program are not as good as I would like to see.

You asked some of the previous speakers whether we dealt with the UCCW. We have, and we have dealt with other organizations.

MR. GROSS. In what form have you dealt with the UCCW?

MR. VAPPI. Well, Mr. Flynn here, who is our personnel director, on my right, and also has charge of the equal employment compliance for our company, has pretty much of an ongoing dialogue with representatives of the organization, the UCCW and others, including Mr. Walthall over here who consults with us and advises us in our efforts.

MR. GROSS. One very basic thing that is still unclear to me, and perhaps the answer is that for some reason it varies with the various contractors, is the extent to which an obstacle in the use of nonwhite, nonunion men is that they are not there or, on the other hand, that you have to walk a tight rope with the unions.

Now, you didn't mention that as an element. Does that mean that the unions have absolutely no role in inhibiting your efforts in this regard?

MR. VAPPI. I believe the climate with respect to this point has changed quite noticeably in recent months. I would say that it certainly was the case a year or two ago. My feeling is that at the present time -- what Mr. Tura said -- if we find a guy we think can do a day's work, we can put him on, and we won't get any kind of problems with the unions. I think he is right. This is in the trades that we hire particularly.

MR. GROSS. What do you mean by that?

MR. VAPPI. Carpenters, masons, cement finishers, and laborers. I don't know what kind of conversation is going on between electrical contractors and the electricians' business agent and so forth. I don't know what that situation is.

MR. GROSS. This means that at least in these trades, if you sat down with a man from a Federal agency who had contract compliance responsibility, and he said, "Your utilization of nonwhites seems to be inadequate," you would be able to say to him, "Bring me the men. They are nonunion. I can put them on" with absolutely no problem with the unions?

MR. VAPPI. I think we could say that today. Right Jim?

MR. FLYNN. Generally, yes.

MR. VAPPI. Let me make one further qualification of that that just occurred to me in speaking. By and large, we deal with different locals of the different unions. The jobs are located in different areas--Cambridge, Boston, different parts of Boston, Newton, whatever--and you have the personality of the business agent and officials of the local, who kind of operate pretty autonomously. There may be instances where there is still a bit of a problem. But generally speaking, certainly at the higher levels, the unions are really coming around quite a bit, I would say.

MR. GROSS. Thank you. If we may move on to the Volpe Construction Company. Mr. Mirabassi, could you describe generally the operations of the company?

MR. MIRABASSI. We do building work, with offices in Malden, Washington and Miami.

MR. GROSS. Have you done a substantial amount of Federal construction covered by Executive Order 11246?

MR. MIRABASSI. Well, to give you an example, we have five jobs running and one is a HUD job. It is at Tufts University. We have 32 workers on that job--superintendent, civil engineer, 18 carpenters and 14 laborers.

MR. GROSS. Are you generally familiar with what has happened on that job as far as the role of HUD and how the affirmative action--

MR. MIRABASSI. Yes.

MR. GROSS. Can you describe what happened on that project in terms of taking us from the preaward stage through what the course of the program has been?

MR. MIRABASSI. There was a preaward conference wherein HUD, through documents and verbally, outlined the basic program that we were to follow. From our interpretation of what should be followed, we came up with a specific program, and we submitted this to the owners--Tufts--and to HUD, and it was approved. We have been following it--following it religiously. We have been trying our very best to follow all phases of it and not just lip service.

MR. GROSS. Is this a program which you feel has increased the use of nonwhites on this project over what it would have been without the program?

MR. MIRABASSI. Yes, honestly, I think it has because it has made us more aware of the needs of the community and the fact that there is such a program.

MR. GROSS. Could you indicate how you think it has had this effect, in terms either of what you have done or how this came about?

MR. MIRABASSI. All right. Since the program--I tried to set it up myself--I am not an expert in this line. This is really not my line of business. It took me very close to a month--you know, nights and so forth--trying to set this program up, and I did it. It was just done recently. I guess we submitted it the first part of April, and it was approved. April 15 we submitted the program, and April 30 it was approved. Since it was approved, we acted upon it. It has been a fairly recent thing with us, this particular program.

MR. GROSS. My question was trying to go from a program to actual results, in terms of trying to relate what the affirmative action was and how it produced results that wouldn't have been there in the absence of the affirmative action.

MR. MIRABASSI. We started on April 11 contacting-- became aware of the various referral agencies that had access to minority workers. We have been working with them, basically through the Urban League of Greater Boston, and it hasn't produced as much, probably as the Urban League would like and as much as we would like. And then came the strike, which kind of messed things up, and we have now reinstated the program.

But, for example, like during the strike period, we wrote to the Urban League telling them that there was a strike on, and we felt that this was a good time--we felt the strike would last a couple more weeks--and this was a good time for them to try to locate and get some carpenters so when the strike broke, we could put these carpenters and laborers to work.

We also advised them that beyond the HUD program, we had other projects, and that we would like to employ some bricklayers. We told them we would be needing bricklayers in two to three weeks--it's kind of hard to figure exactly when you will need them--so we alerted them. So that when we need to call them, they would have them. Because what happens, if we need two or three bricklayers, you can only wait so long before you can put these bricklayers on. Now, say you need 12 bricklayers, and if you don't get a couple or three out of the minority group, you can't put any more on that job--you can't logically put on 15 bricklayers when you need 12. You have to agree with that.

MR. GROSS. You alerted the UCCW. Did you give them any job orders?

MR. MIRABASSI. Yes. We spoke to them on April 22, 23, 24, 25, May 1, 2, May 22, and a couple of times previously to this but formally and in writing. We have a civil engineer on this particular project that is colored. We figured he had more access to minority groups than I would have. He might know people--carpenters, laborers. He knows what we need. He knows the qualifications of the various men, of the trades, and if he feels he has somebody that could do the work, we would be happy to put him on. So far, that has not produced much results.

MR. GROSS. When you say you had contact with UCCW on those days, what was the nature...

MR. MIRABASSI. The Urban League.

MR. GROSS. What was the nature of those contacts?

MR. MIRABASSI. We asked them for men. We wanted men.

MR. GROSS. What was the form? Is there a written communication there?

MR. MIRABASSI. A written communication?

MR. GROSS. You were turning pages. I was wondering what you said to them. Did you say, "We want two carpenters on the job"?

MR. MIRABASSI. I wrote them on April 17 and said: "On April 11, I requested two carpenters, qualified to install formal and architectural-type concrete. As of yet these men have not reported to the job. We still need these men. So please send them as soon as possible. Instruct whomever you send to report to Gordon Little, project superintendent." I had already told Gordon, "Don't hire as many men as you need because I am getting some men for you." What happens, he needs the men, he doesn't hire them, he keeps calling, "Come on, Dave, where are the men?" So I in turn keep calling the agency I am dealing with trying to get the men.

MR. GROSS. Did you discuss this use of UCCW with the business agent of the union, in this case the carpenters?

MR. MIRABASSI. Yes. As Lou says it's better not to create a fuss if the fuss doesn't have to be created.

In every case where we have put men on the job, we have not had any problem at all. When the men would come to the job, I would assume they are going to be nonunion. I have no way of knowing this. I told the business agent, "We are bringing non-union men on the job, whatever we need to supplement our forces," and he said, "Fine." He said, "If you consider them to be qualified," he said--well, in this particular case, he said, "Seven days might be too short a period. I will wait a couple of weeks before I see them and give them more of a chance."

MR. GROSS. It is understood when you talk with the union that you wouldn't have license to do this with more than several, or would you---

MR. MIRABASSI. I didn't discuss this in the particular terms that you are asking me. Could I bring 50 men into the job?

MR. GROSS. No, I am talking about ten instead of two.

MR. MIRABASSI. I don't know. I discussed only particulars. I didn't go into the suppositions. Maybe it would have been all right, maybe it wouldn't. I can't answer that. I know we have put men on all our jobs, not many, we put what we have gotten. Frankly, how qualified they are or aren't, I can't answer that.

MR. BERNSTEIN. Do these men eventually get into the union?

MR. MIRABASSI. As far as I know. We had no problems. The men are working and the job is working. Whether they joined the union or have not joined the union is something I can't control. I don't want to get into that or make a fuss about it. All I know is the men are working. If they are working and there is no problem, why should I start instigating a problem. Maybe they are in the union now, maybe not, I don't know. I can't go up to a man and ask him if he is in the union. If he is doing a day's work, that's it.

MR. GROSS. I have no further questions.

MR. WILMORE. Gentlemen, this is addressed to all five contractors. You are all members of AGC I assume, and therefore, you are covered by the so-called Model Cities agreement for producing trainees. Is that not correct, Mr. Leighton?

MR. LEIGHTON. If I may, each contractor has to sign it specifically. It is not a blanket thing.

MR. WILMORE. May I rephrase it. Have each of you gentlemen, the companies represented here, have you all signed the so-called Model Cities agreement?

MR. VAPPI. We only sign it when we get a specific project.

MR. WILMORE. Let me try another approach. You all are familiar with it. Is there anyone here who would disagree with the general principle embodied in that agreement, as a means of getting more black workers into the construction industry? Do any of you have any problems with it?

MR. MIRABASSI. I have never worked with it.

MR. WILMORE. What I mean specifically is, if you are building in the Model Cities area and it came up, would you sign it?

MR. VAPPI. Yes.

MR. TURA. Yes, I think it should be expanded.

MR. WILMORE. That is the next point I would like to know from each of you. As I said to Mr. Leighton earlier, not talking about specific language of the present agreement, but some plan similar to that, would you be in favor of expanding that to all construction projects in the Boston area--a trainee program of some kind? I believe you have all said you have been trying to get qualified black workers and they haven't been coming. I think that was the import of your testimony.

Would you be in favor, therefore, as a part of your affirmative action program or as a part of your moral duty or citizenship, or a part of the whole history of discrimination in the construction industry over the last century or more, would you be in favor of some trainee program? I would like to hear from each company individually. How about Aberthaw?

MR. TURA. Yes, I think I said it should be expanded. I think it would be a mistake to expand it immediately to cover all the jobs in the area, but I think it should be expanded to at least include some of the major projects in the vicinity of Roxbury where the community exists.

MR. VAPPI. I would like to see it eventually, but I would like to see it come gradually in steps. The reason for that is it will cost money. The training costs money, and we don't have experience right now to know how much. But if it were expanded gradually--you see, we could take a chance on one job out of ten. If we had a \$4 million project going, we could guess what it would cost. We may be high or we may be low--we probably wouldn't be hurt too bad in the year's overall operations. But if, starting January 1, we had the whole \$40 million under this program, it would be sort of chaotic. We would have no basis for knowing what the job would cost when we bid the job. You might have certain categories of federally assisted programs come under this.

MR. GROSS. Couldn't we expand it on the basis of being specific about numbers?

MR. VAPPI. What do you mean by that, Mr. Gross?

MR. GROSS. Specifying the number of these journeymen trainee slots that you would in fact be undertaking.

MR. VAPPI. What happens if you can't find the men?

MR. WILMORE. It wouldn't cost you any money. If you base your budget on X number of dollars for ten trainees and the community only comes up with five, you are in good shape.

MR. VAPPI. That's probably all right.

MR. PERINI. I would endorse the Model Cities program for all projects. But, first of all, you have to start on the basis that all of your competition--if we are talking about competitive bid projects--all of your competition also has to endorse the Model Cities program.

MR. WILMORE. That's a good point. And if it were part of the specifications of an affirmative action program, that would cover it, wouldn't it? That means that for all contractors who bid for that federally assisted job, that it would be part of the specifications for that job that there be X number of journeymen trainees in certain crafts--that would put everybody on the same basis for that job.

MR. PERINI. I think that is an essential. But like Mr. Vappi, I would like to see some pilot programs run first so that contractors get some experience as to how to cost this.

Let's say the first job that comes up, you have an awful lot of intangibles. Start from this premise. We bid a job. We bid on the basis of experience. You get so many square foot of form per man hour. This is the way on a competitively bid

job or any project. You bid on your experience. So you would need to gather some experience first because even if you had everyone on the same basis, for the first few jobs, you could take a tremendous licking.

If there were some sort of Federal subsidy, something to compensate you for any loss that might result to you because of the fact that you haven't guessed right, then I think it would be acceptable at the outset. But other than that, I think you ought to do it on a pilot project basis.

MR. VAPPI. Father, you asked earlier if anyone had any specific recommendations as to what may be done on legislation. I think a good thing to do would be to authorize the government, in one of its programs, say in each major employment area, to negotiate a cost-plus job with a contractor, using this Model Cities program, see what happens. Keep very careful records and make them public to everyone. Then we would all have at least an inkling as to what experience we might expect prior to making the law apply across the board all at once.

REV. DRINAN. Fine. I have that. That is similar to Mr. Wilmore's but a little less. Time is running. Why don't we have Mr. Mirabassi and Mr. Gerlach speak.

MR. GERLACH. I think that our goal ought to be to expand the essence of the Model Cities agreement to all construction in the Boston area. I think other parts of the country are working on programs which are leading in this direction.

REV. DRINAN. We are having the Philadelphia program tomorrow.

MR. GERLACH. And I think in New York they are getting closer to having a program which will provide the construction industry with uniformity of policy and a focal point for employment of minority groups. We start there, even at the Federal level. Then you see, we do not have to go through the endless paper work compliance that we go through now. We have one set of regulations, one group of forms, one focal point within a community for a training center with professionally trained people, and as a referral center. So that when we need men, we can call the referral center. The compliance officer will have their tabs on the referral center. They will know what we are trying to do, and we will not be placed in a position of

always being asked whether or not we are doing our job through an affirmative action program. Because if we are in touch with this particular referral center and they cannot furnish the men-- we have a joint problem and we have to find a way of expanding on that which we have already built on.

REV. DRINAN. Mr. Mirabassi?

MR. MIRABASSI. I guess it has all been said. I think we would be better off if we had a training program on all federally assisted work. This would allow us to have a smaller percentage of men on a larger number of jobs, rather than have a larger percentage of men on a smaller percentage of jobs, which could make it chaotic.

I think if you had them on all the jobs, you would be able to control it and teach them a lot better rather than just dumping them on a few jobs. It just wouldn't work.

REV. DRINAN. Thank you, sir.

I don't mean to cut this off. We have been here a long time, and I want to thank you particularly for coming at night. Thank you very much.

We will be here at 9 o'clock in the morning.

(Whereupon, at 10:15 p.m. the meeting was recessed until 9:00 a.m., Thursday, June 26, 1969.)

REPRESENTATIVES OF THE BOSTON-CAMBRIDGE TRAINING PROGRAM.

REV. DRINAN. We have here Mr. Bremer, the Assistant National Director of the Workers Defense League, and Mr. Frederick Earle, Assistant Program Director, and Mr. Larry Briston, Project Director, of the Boston-Cambridge Training Program of the Workers Defense League and the A. Philip Randolph Educational Fund.

All right, gentlemen, develop the testimony as you see fit.

MR. BRISTOL. First of all, I'd like to skip the presentation and get to the meat of the matter. Mr. Bremer, who is scheduled to be here from New York to speak about the project on a national level has not arrived yet, so I guess we'll have to by-pass that.

REV. DRINAN. We can wait on that. You go ahead, sir.

MR. BRISTOL. Now, in Boston, we have sort of a dual project here. We address ourselves to a normal apprenticeship outreach program, and the trainee component, which as has been mentioned, is in the Model Cities labor agreement.

I will give you some figures as to what we have been doing. On the apprenticeship side to date we have recruited some 216 people.

REV. DRINAN. Do you have a statement that we can have afterwards, with the numbers on it?

MR. BRISTOL. Yes, I can.

To date we have recruited some 216 people for apprenticeship, and some 300 people for trainees. When I say recruit, I mean these are people who just come to our office. I heard in the hearing yesterday something on the procedure that we use. Let me give you a little background. When a man comes to us, he makes out an application, we give him what we call a quick Otis Test. The sole purpose of that is to determine whether the man can read and write; it has no bearing as to whether he can be indentured or not.

In the second phase of it, we find out what he's looking for, what can he do, what has he done. We divide as to whether he should be an apprentice or a trainee. Once this is done, then he turns over to either the apprenticeship coordinator or trainee coordinator.

I will talk a little on the apprenticeship side first. Now, the standard apprenticeship guidelines that are set up by the Labor Department and unions and so forth, a man must be a certain given age for a particular craft, 18 to 26 for some crafts -- in that area. Secondly, he must be a high school graduate or have the equivalent of a high school diploma. Once we know he meets those qualifications, we want to find out what he's interested in doing. Many young guys are not sure what they want to be, so this is why we try to counsel them.

Once we have done this, then we find out what is a program he's interested in and available. As you know, through past testimony, the various local unions open their apprenticeships at certain times of the year for a certain length of time, then close. Now, if this is available, then we register him at the union hall with the respective unions. Once we do that, then we start tutoring him.

We test him first to see where he is and what he needs, and then try to fill that gap in the time we have before he goes to take the exam.

Once he takes the exam, then we wait for the results. Once we get the results, then we start working on the JATC interview. We hold mock interviews, to prepare him for a particular interview. When the interview comes about, we take him there and he's interviewed.

If he passes, then we try to stay on top of the local unions to find out when this fellow will be indentured. That's roughly the procedure for apprenticeship outreach.

Now we go to the trainee side. Now, the trainee program is somewhat different. The trainee program we look upon -- or I do in my personal opinion -- as a parallel apprenticeship program where the guidelines have been removed. Now, a fellow comes to us and we take him through the same interim procedure until he gets to a point where he's dealing with the trainee coordinator.

At that point what we want to know is what kind of experience he has as far as construction is concerned. Once we have determined this, we set the thing in operation -- find out what jobs are available, things of this nature.

Once we have placed the man on a job, he's on that job for two weeks, two to four weeks. Then we have what we call an evaluation period. We get a recommendation from the supervisor, a recommendation from our field rep, who is in constant contact with the applicant and the supervisor. In some cases we get a recommendation from the business agent of the union. Once we have this recommendation, we take it to our Operations Committee, which is made up of two labor people, two management people and two community people. One of these people, of the community people, is the Chairman of the Model Cities Board. This is where the sole determination is made as to where this man shall be slotted, in comparison to an apprentice.

We'll assume that apprenticeship has four stages -- first stage, second stage, etc. We slot the trainee parallel to this, depending on his experience. Once he's slotted, he sort of follows the apprenticeship route from then on, unless we see a need to re-evaluate. That's basically the way the trainee program operates.

REV. DRINAN. Mr. Gross would you like to develop the national side first?

MR. GROSS. Yes.

REV. DRINAN. Sir, you've come a long way. We appreciate it. This is Mr. Bremer, the Assistant National Director of the Workers Defense League. Just develop any points that you want to. Briefly tell us what you think is relevant to this particular meeting.

MR. BREMER. I'm sorry I missed the first part, but basically, the apprenticeship program in its present form has traditionally dealt with the apprenticeship structure of the building construction trades. We have been operating out of New York for some five or six years, starting with the building trades in that city, making some progress -- seemingly progress --

we went to several other cities with funds supporting the project from the Department of Labor. We now operate in some five or six eastern cities and some three or four midwestern cities. We have Cleveland, Nashville, Rochester, Buffalo, Lexington, now in Long Island and Suffolk County; we are in Harlem, Newark and Westchester, in upper New York.

Presently we are operating the Boston apprenticeship program as well as the journeyman training program. The other thing that we did in terms of journeyman training occurred in Buffalo. Many people know the Buffalo project as Project Justice -- Journeymen Under Specific Training Instruction in Construction Employment. There a chap is recruited -- not necessarily a young chap -- having some extensive experience, then going through some twenty-nine weeks of training after receiving journeyman membership. We had some success with that, had some 50 men recruited, some 41 completed the program, some 28 or 29 are presently holding journeyman cards. Some additional men have dropped out, some are still working, attempting to get cards in some of the various crafts.

Many of the crafts, we still have problems with. We still beat the whip where we can.

In terms of additional national outlook, we are concerned with getting journeymen into construction. The basic premise, as we see it, for journeyman training revolves around a number of things. Age and education requirements certainly won't allow a guy 30, 35 years old without a high school education, with some five or six years of experience, to enter the mainstream of the construction industry; obviously in cities like New York, Boston, Chicago, Cleveland, certainly it's going to be through organized labor. So we assume that major construction in most major cities, certainly is going to be with organized construction companies, it's going to be with companies who have done some extensive work in commercial construction, and not necessarily rehabilitation and the urban renewal kind of thing. Certainly this is the starting point for a guy with experience and some background.

There are a number of things I could continue to say, but I probably would, like Larry, prefer to answer questions.

REV. DRINAN. Mr. Bremer, would you tell us a bit more of the origin of the age requirement and also the high school degree. That presumably originated with the union some time ago. Do you think that that in part was racially motivated?

MR. BREMER. In part. I would say the age and education requirements were forced upon organized labor, and forced upon management, as a result of Title 29 Part 30 of the Federal Government regulations. It wasn't until about 1935 when the Fitzgerald Act put apprenticeship programs on a legal basis. Then organized labor finally got involved in the construction industry and began to put certain kinds of requirements, certain kinds of qualifications that people could adhere to in apprenticeship. I think, though, in fact that the apprenticeship and the outreach programs have given the present apprenticeship system the respectability it has because we have recruited many blacks, Puerto Ricans and other minorities in major cities. As a result we are getting competent and qualified people to compete and come out on top in many cases. I think the continued upgrading of the apprenticeship system is made respectable as a result.

I would also say that in certain cases, age and education had some racial motivation behind it, in certain locales and certain parts of the country. Pointing to specifics at this point, I don't think I'm capable of doing that.

REV. DRINAN. Mr. Frederick Earle, would you like to correct your boss on anything? Mr. Earle is the Assistant Project Director for Boston.

Mr. Bristol, you want to add anything before our counsel takes over?

MR. BRISTOL. Let me add one thing. I'm not quite as optimistic as Mr. Bremer. I feel that the setup in the various apprenticeship programs is definitely racially oriented. Even today, as they exist, some of them are really ridiculous.

MR. EARLE. I have a statement to make on that, also. As far as this testing procedure is concerned. This testing procedure is middle class white oriented basically. Through our

program where we do test these fellows from the inner city, they do stand a better chance. But without this test preparation, it has been proved time and time again that these fellows are just not prepared for them. The fellows in the suburban communities get a better education, and as a result they are better equipped for these examinations, which are strictly based on academic knowledge. In the inner cities the fellows don't get the same education, and as a result they don't fare as well on the test. So definitely I think, if these tests are going to be used as a device to limit the individuals that enter, I think the test should be devised with the people in the inner city as well as the outer city.

Mr. Bristol was going to go into this point breakdown. This is where the union has some 75 points to play with, where the test only represents 25 percent of whether an individual is going to be able to enter the union or not. So I mean realistically they can systematically eliminate whoever they decide that they don't want.

MR. PITTMAN. Some of those tests are only 15 percent.

MR. EARLE. I said up to 75 percent.

REV. DRINAN. Mr. Gross?

MR. GROSS. Mr. Bristol, the trainee component of your program -- that grows out of the so-called Model Cities agreement?

MR. BRISTOL. I would have to say yes.

MR. GROSS. Well, I didn't mean to put words in your mouth, but could you describe the agreement in your own terms as to what the main provisions are, under which your program does operate.

MR. BRISTOL. Again I'd have to say this. Our program doesn't necessarily adhere that closely to the agreement. The agreement sets up a format which we can use. The agreement in essence is that a contractor working in the Model Cities area will sign on to our agreement. In signing on to the agreement he's agreed that for every four journeymen that live in the area, he will hire one trainee; in the respective trades, or if there are

three journeymen from outside the area, that means it will be a one to three ratio. This is basically what the agreement is all about.

MR. GROSS. So he's committing himself that on projects in the Model Cities area, and contiguous areas, he will have on the job one journeyman trainee for so many journeymen?

MR. BRISTOL. One journeyman trainee for each three journeymen or four journeymen, depending on where they are from.

MR. GROSS. Could you describe a little bit more about these trainees and advanced trainees? Who are these men? Where have they been working? Can you put it in human terms with some examples? Can you give us an idea what they have been doing?

MR. BRISTOL. The trainee himself is a guy that's raw. He's never worked in construction. Then we have advanced trainees. This is a fellow who has worked in construction, maybe non-union or from the South, or things of this nature, who has worked in construction for a limited period of time. We call him an advanced trainee.

MR. GROSS. Can you put in terms of the history of your project thus far the numbers in each category -- the number that you've serviced, the number of trainees that you presently have on jobs, and the number of advanced trainees?

MR. BRISTOL. On the trainee side presently we have in the trainee component, eighteen trainees. I might add that none of our trainees or advanced trainees are working in the Model Cities area. We have eighteen trainees and we have 52 advanced trainees.

MR. GROSS. And could you describe how they fit into the program and what their status now is?

MR. BRISTOL. Well, 50 or 75 percent or better, are journeymen.

MR. GROSS. Could you say when they came into the program, what happened to them, what they did under the program, and what is their present status?

MR. BRISTOL. When they came into the program, they went through the normal procedure. We placed them on job sites. We had the same two week evaluation period. After two weeks they were determined to be as close to a journeyman as need be to become a journeyman and they are now, 40 of them, carrying journeyman cards, and the remainder of them are in the process of paying their union dues and will obtain their card upon completion.

MR. GROSS. What kind of commitment do the unions have with respect to these trainees on the job, as to taking them into the union?

MR. BRISTOL. Well, that varies from one union to another. Some unions want to take them in immediately, some unions don't want to take them in at all. Some unions will take them in with certain restrictions.

MR. GROSS. Could you spell out a little more by category or specific unions, if possible, what the main arrangements are.

MR. BRISTOL. Could you give me that question again.

MR. GROSS. Well, could you just expand on your answer. What are the different arrangements that the unions have?

MR. BRISTOL. In other words, some unions, say for instance like the bricklayers, will take a man in instantly. If the Operations Committee determines him a journeyman, and the contractor, supervisor goes along with this, they'll take him in immediately. In some unions he has to work 60 days before he'll be accepted, like the plumbers union. And there are those unions, like the electricians, that are not taking them in at all.

MR. GROSS. We'll come back to that. These 52 men, how long were they, in terms of average, on the job prior to establishing that they were qualified?

MR. BRISTOL. Two to four weeks.

MR. GROSS. That suggests that they were actually fully qualified before they ever entered the program, is that fair?

MR. BRISTOL. Very possible.

MR. GROSS. There's not much doubt about it is there?

MR. BRISTOL. Well, in some cases you have to be a little persuasive. We have a pretty strong component in our community, UCCW, if they make enough noise then suddenly the contractors are persuaded.

MR. GROSS. Who makes this determination of qualification?

MR. BRISTOL. The Operations Committee.

MR. GROSS. As a practical matter, what does that mean?

MR. BRISTOL. It means that the Operations Committee is the judge at this point as to who is a trainee, advance trainee or a journeyman. Of course the Operations Committee does not go on construction sites, so they have to rely on the decision of the field rep and the supervisor, on their recommendation. I'm saying at this point our field rep sort of carries the weight.

MR. GROSS. Do you think it would strengthen the program or improve it if it were provided explicitly that this judgment of qualification be made by some objective third party?

MR. BRISTOL. I think, let me answer this way, that the agreement that we work under is an opening, it's a start. I think it needs to be modified. There are certain things that must be inserted in order to strengthen it. Like for instance I think if you're talking about black people, I think there should be a board of some kind of community groups that have some say. The Operations Committee is one-third community, one-third management, one-third labor. Again, it's two-thirds against one-third in a sense.

MR. PITTMAN. Does a man have any recourse if he disagrees with the Operations Committee?

MR. BRISTOL. None whatsoever.

MR. GROSS. Mr. Bristol, could you describe the extent of the program in terms of numbers that will be involved, Specifically, Mr. Parks yesterday was mentioning the number 200, and asking whether this is a floor, or a ceiling. I didn't understand. What is the significance of this number?

MR. BRISTOL. This number 200 has been kicked around quite a bit. As far as we're concerned, it's a floor. It's a figure that was used for funding. It doesn't mean anything to us. There's no way that we can determine how many people we will actually be putting into the union. Guys on the job site, they don't know whether they came from us, UCCW, or anybody else. There's no way in the world they can determine this unless we make these figures available. The figure 200 is, as far as I'm concerned, a floor.

MR. GROSS. You say this figure was used for funding. Could you explain a little more what you mean by that. What does that funding cover?

MR. BRISTOL. Again I'm talking off the top of my head, but I think that when this figure 200 was determined, I think from the project's standpoint, in order to obtain the funds on which we operate, we had to justify X amount of dollars. Now, that figure is broken up into 50 apprentices and 150 trainees.

Now, even on the apprenticeship side, if the fellows that we now have pass the JATC, or they pass the bulk of them, and get indentured on jobs, then the number may go well over the figure 50. So the figure means nothing to me. It's merely a source of obtaining money.

MR. GROSS. What is this money used for?

MR. BRISTOL. For the operation of the project.

MR. GROSS. Could you be more explicit?

MR. BRISTOL. Mainly salaries, staff, office supplies, traveling, instructors, tutors, things of this nature.

REV. DRINAN.' Mr. Bristol, we are going to have an array of people from the unions later on this morning. There are ten scheduled here, from all types of unions. What would you suggest that we find out from them, or what recommendations would you make how they could improve your program or similar programs?

MR. BRISTOL. I think, first of all, there should be no limitation on the scope of the program.

REV. DRINAN. What do you mean, the scope of your program?

MR. BRISTOL. These programs should not be limited to the Model Cities areas, four stories or otherwise. The program scope must be expanded.

REV. DRINAN. Would the unions be opposed to that?

MR. BRISTOL. Definitely.

REV. DRINAN. Expressly or subtly?

MR. BRISTOL. Expressly.

REV. DRINAN. Thank you.

MR. BRISTOL. Secondly, I think that there should be some kind of a community board that plays a part in the operation of the program, and should have some kind of power.

REV. DRINAN. Keep going. I mean, nationally we'd like to know. The ten commandments for unions.

MR. BRISTOL. Thirdly, I have to agree with Mr. Hill, and other people that I have heard testify, that when the Federal government releases any kind of a contract, the contractor or the developer or whoever has to make this determination, should say then what they intend to do per trade per head, instead of applying this thing of affirmative action.

REV. DRINAN. That would be, in other words, the manning program. Mr. Earle.

MR. EARLE. Basically, I was sitting in here yesterday and I have heard the particular projects attacked more or less. I feel as though it was being attacked and I'm sensitive toward it. I not only work on it, I believe in the project. I think the name of the game we're playing here is let's see if we can get black people jobs in construction. I'd say with a minimum of cooperation from people that were supposed to help us, we did the job. We're responsible for putting something like 90 people into union positions. We have something like 70 trainees and 30 apprentices in positions, these are indentured apprentices. So we in the last eight months, like I say, accounted for 90 people being put in the union. We have used a lot of devious devices to get them in there, but we didn't care. The only thing we're interested in is getting people out there. There are a lot of people who migrated up here from the South, and who have done various duties in construction -- from carpentry to brick-laying to painting and so on and so forth. We have actively sought out these individuals, and these are the individuals we have been primarily concerned with thus far. This is the man who's just about ready to go, and just needs the directions. We act as a catalyst to get these people in there.

Like I say, this program, by no stretch of the imagination, is a cure for all the ills in the construction field. But I say it is a start, and we do have to start somewhere. If something better can come along or if something better can come out of this meeting, fine. But if we can get the cooperation of the people in this room, and from the Commission, I think the program can be successful, and I think thus far it has been.

REV. DRINAN. Small point. Why do you call them "indentured apprentices"?

MR. EARLE. An indentured apprentice is an individual who has gone through all the specifications of the union that the union standards set up, and goes in the same as anyone else. To date we have something like 30 indentured, and we have 39 waiting to go in -- who have passed all the requirements and are just waiting for jobs.

MR. PITTMAN. You have described the guys who have already passed the test and are waiting to be accepted by the union. You say they have filed. What does that mean?

MR. EARLE. That means that 70 individuals took out applications at the union hall.

MR. BRISTOL. What you have in your hand is outmoded. We changed the wording of it also, that paper is for the use of the staff workers of the Workers Defense League.

MR. PITTMAN. Do you have an updated one?

MR. BRISTOL. Yes, but I will have to explain it to you.

MR. PITTMAN. Exactly what type of agreement do you have with the building trades?

MR. BRISTOL. What are they committed to under this agreement?

MR. PITTMAN. Right.

MR. BRISTOL. Under this agreement, the Building Trades Council is committed to ride herd on the program to some extent -- determine what jobs we can put trainees on. They are supposed to get certain information out to contractors, things of this nature.

REV. DRINAN. Mr. Earle.

MR. EARLE. I don't know how familiar you gentlemen are with this Model Cities agreement, but with this Model Cities agreement the unions are committed to utilizing our trainees on job sites within the Model Cities area. Thus far we are working with five jobs and none of them are in the Model Cities area. We are working in contiguous areas or adjacent areas to the Model Cities area. This means they will take the individual on the job at a reduced rate. The individual can come on the job at a reduced rate comparable to his skills. So this is what the union is committed to do.

MR. PITTMAN. Have you signed agreements with different locals?

MR. EARLE. With different locals? Yes, we have.

MR. PITTMAN. Can you give us a list of the locals you have signed agreements with and list of the ones that wouldn't sign?

MR. BRISTOL. We only have six. When you say a signed agreement, could you clarify that.

MR. PITTMAN. Those who signed an agreement that they will accept your trainees.

MR. BRISTOL. We have that type of agreement with four unions. You're talking about the local unions themselves? Four of them.

MR. PITTMAN. Could you get a list of those?

MR. BRISTOL. I can give you those right now. Painters, bricklayers, plumbers, and carpenters.

MR. PITTMAN. The other locals refused to sign, or what's their status?

MR. BRISTOL. Let me put it in the unions' words. "It's not necessary". I'm giving you the unions' words.

MR. PARKS. You say that at the present time you have supplied trainees to certain jobs that are adjacent to Model Cities?

MR. BRISTOL. Yes.

MR. PARKS. Could you give me some idea what locations you're talking about?

MR. BRISTOL. Camfield Garden, the Civic Center, Grove Hall Library, Roxbury project.

MR. PARKS. In other words most of it is in the Roxbury area, South End area?

MR. BRISTOL. Yes.

MR. PARKS. Have you tried to get them to accept folk in downtown?

MR. BRISTOL. Many times.

MR. PARKS. What's their reaction?

MR. BRISTOL. First of all, back in January, when Mr. Robert Walthall was heading up the project, we went down and tried to get the Aberthaw site. At that time it was said there were too many union guys on the bench to attempt something like this.

Now that Mr. Walthall is with Aberthaw, we have had a little dialogue on the Christian Science project. Now, how that's going to come out, at this point I really couldn't say. Again, it's up to the building trades.

MR. PARKS. Well, maybe I haven't gotten it clear yet. You have an agreement with the unions for the Model Cities, Cambridge-Boston area.

MR. BRISTOL. Right.

MR. PARKS. So when you come outside that area you have a little different problem in terms of negotiating with them.

The other part of it is that employment under the Model Cities agreement is up to four story housing and rehabilitation. Have you made any attempt to break that pattern?

MR. BRISTOL. Yes, we have an agreement, again this isn't in writing --

MR. PARKS. A gentleman's agreement?

MR. BRISTOL. A verbal agreement that anything that comes to the Model Cities area, we will hook on to. Again that's not documented or anything else. But Model Cities area isn't our problem; our problem is outside of the Model Cities area.

MR. GROSS. I wanted to come back, Mr. Bristol, to the nature of the union commitment, as you interpret it. Now, the Building Trades Council has signed the so-called Model Cities agreement?

MR. BRISTOL. Yes.

MR. GROSS. Now, does that commit the locals who are members of the Building Trades Council to anything?

MR. BRISTOL. No, it doesn't.

MR. GROSS. You mean it's subsequently up to each local whether it's going to go along with this agreement?

MR. BRISTOL. Definitely.

MR. GROSS. And they sign on to this agreement project by project?

MR. BRISTOL. Yes. The contractor signs on project by project, also.

MR. GROSS. I thought that they were committing their member locals to utilize this four to one ratio on projects.

MR. BRISTOL. I don't think they can commit any local union to anything.

MR. GROSS. We can ask them that, I guess.

MR. BRISTOL. Fine.

MR. GROSS. One other problem on the unions. You said you had problems with the electricians. Could you expand on that?

MR. BRISTOL. Let me say this, and this is again my opinion. I don't think the electricians intend to put any blacks, if they can help it, into the electricians' union, period.

REV. DRINAN. Mr. Pittman.

MR. PITTMAN. What's the reaction of the contractors when you talk to them about expanding the Model Cities agreement?

MR. BRISTOL. When you talk to the contractors, they are always gung-ho. They always want to sign on to the agreement, until it comes time to deal with the union. Then they change.

MR. PITTMAN. If you have a man who's qualified as a journeyman but who doesn't have the money to pay the initiation fee, do you ever use part of your funds for this?

MR. BRISTOL. Yes, we'll loan him the money for the initiation fee, or his tools, or anything that he might need. We'll loan him this money which we have, and he'll pay it back, five, ten dollars a week.

MR. PITTMAN. Do you think our recommendations to the government should include modification of Title 29?

MR. BRISTOL. Definitely.

REV. DRINAN. In what respect?

MR. BRISTOL. I think we have already hashed over it.

REV. DRINAN. I know, just spell it out. How would you recommend that pre-requirements on the contract be modified?

MR. BRISTOL. I would say that where there's Federal Government or municipal funds involved, the Federal Government, or whoever has control of this money, should make it clear without a doubt, that before you can start this project, even bid on this project, you must have shown in the past some kind of affirmative action where minority groups are concerned, and your work force must show not merely that you hired some black guys when you had a project in Roxbury.

REV. DRINAN. Mr. Bremer wants to reply to that.

MR. BREMER. First, Larry is talking about compliance procedures in terms of government controls. He's talking about a plan that's been utilized before, utilized in Philadelphia. It's called the Philadelphia Plan, where there was a pre-award procedure. Before a contractor bid on a particular job, he had to demonstrate to the contracting party that he was capable of hiring a substantial number of, a representative number of black and white workers. If not already having that work force, he had to demonstrate an affirmative action plan.

Now, one of the basic clauses in Title 29 says something to the effect that apprentices are to be selected in any manner which demonstrates objective selection criteria. In this respect

I think objective selection criteria can be broadened. If the chap scores 80 or 70 on the test and has made the cut off point, then all people on that test should be given X number of points. Thereafter selection for apprentices should be done on some kind of objective procedure, in terms of demonstrating equality of opportunity. Then I think that selection can be based upon some kind of proportional basis. I don't want to get hung up with the quota bit, but I do say that Title 29 can be broadened.

MR. BUTLER. I think I'm quoting your words properly, that contractors are gung-ho, until it comes time to deal with the union. Would you expand on that?

MR. BRISTOL. Well, I'll give you an example. I attended a meeting last Thursday with the mechanical contractors. Now, the purpose of this meeting was to discuss what could they do as a body -- this was some 40-odd contractors -- where apprenticeship standards are relaxed.

At that point we discussed the various requirements for apprenticeship. For instance, a guy takes a test, and he comes up with twenty-five points. The rest of the seventy-five points are spread out over motivation, the way he combs his hair, things of this nature. When we suggested that the test carry more weight -- like 51 percent, for instance -- they all agreed. Various suggestions like this were made, they all agreed.

Now, it came to the point where the mechanical contractor would have to approach the union to discuss this. If I can quote one of the contractors, he said "Look, we admit we're afraid."

MR. BUTLER. "We admit we're afraid"?

MR. BRISTOL. Right. This is one of the contractors. Now, this is historical. The contractor has got to do work. He's got to get his men from the union hall. He doesn't want to upset the union, in any fashion. I think you had some contractors here last night that spoke. If they could do it without a lot of problems, they would. If they are going to have problems, they're not going to do it, period.

MR. BUTLER. My second question, Mr. Bristol, is in respect to something you just touched on. Do you, as a party to having blacks involved in the construction industry, have an opportunity to review the test results -- physically see the test results -- after the man has been tested?

MR. BRISTOL. In some cases. In very few do we ever see the test results. We get the score, but we don't see the actual test.

MR. PITTMAN. What's the reason behind this?

MR. BRISTOL. The reason behind it is that they are not going to make this available to us.

MR. BUTLER. Have you asked to see them?

MR. BRISTOL. Let me give you Mr. Earle because he works with that segment of it.

MR. BUTLER. Excuse me, Mr. Bristol, I would just like a simple response to that. Have you asked to see the test results?

MR. BRISTOL. Yes.

MR. EARLE. The majority of the testing that is done is done by AIC, which is a neutral party -- the Apprentice Information Center. We take for granted, that they are not pushing for the union. All we are looking for is the scores in a particular test. I'm quite sure they are not doctoring the results for the union.

MR. BUTLER. You're perfectly satisfied that the reported results represent what the man did?

MR. EARLE. From AIC, like I say, yes. There are unions that have done their own testing, but we have no beef with them because in those particular tests our applicants did extremely well.

MR. BUTLER. Then you limit your response to that service that is performed by AIC?

MR. EARLE. Yes.

MR. DOTTIN. Gentlemen, we have heard some of the contractors, and some of the other persons who testified yesterday, that they have advertised in the Bay State Banner. They give us the impression that they are looking for black workers. It seems to me it is just intended to give the impression that they are looking for black workers.

MR. EARLE. My argument to that is any contractor that is a member of the AIC is knowledgeable of our program. If they really are putting forth an honest effort, they should be contacted. But, as I said, going into the Banner and other sources is fine, but we too have access to people that are just about qualified to be journeymen.

MR. DOTTIN. That is to say, if there is good faith on the part of some of these people, they can have black workers?

MR. EARLE. Right.

MR. DOTTIN. Also, I understand that you're limited to 200?

MR. EARLE. That number of 200 is a funding source. The government has to be given some figure.

MR. DOTTIN. There's a possibility that there are four, five hundred, maybe even a thousand potential people?

MR. EARLE. If we can find job slots for them, we'll put them in there.

MR. DOTTIN. So anything we hear about trying to get black people, where the end result is that there are no black people, is because someone is not operating in good faith, is that right?

MR. EARLE. In some circumstances you can say that is so.

MR. BUTLER. In your opinion, how many black people would like to be involved in the construction trades, that you are aware of from your background, your statistical information, that live in the greater Boston area?

MR. EARLE. I would say through our particular records we are talking about 600 people right now. This is apprentices and trainees, both, we're talking about.

REV. DRINAN. Coming back to a question on the test. I have here before me the qualifications of many of the trade unions -- the iron workers, the glaziers, the roofers, sheetmetal people and all. I find it rather incomprehensible that anybody would think he could evaluate motivation and attitude and yet that counts for 15 percent.

MR. EARLE. I find it difficult myself.

REV. DRINAN. I never would assess anybody myself, even with a committee of three individuals. Also, one union here, the painters, gives you ten points for your leisure activities. Who makes up this? What leisure activities do they like?

MR. EARLE. You don't like baseball, you don't get in.

REV. DRINAN. What if you have no leisure?

Have you made a firm recommendation that the test count for 51 percent? I think you made that point earlier?

MR. EARLE. Yes.

REV. DRINAN. The contractors would agree, you say?

MR. BRISTOL. They would agree, on paper, yes.

REV. DRINAN. Alright, have you ever confronted the unions and pressed hard for this?

MR. BRISTOL. Definitely.

REV. DRINAN. And they have categorically refused.

Would you feel any recommendations to the Federal Government would be viable? That the Federal Government would say this, this objective test, rather than these subjective elements, that this should be the criteria?

MR. EARLE. My recommendation would be that the entire apprenticeship program be revised.

REV. DRINAN. In what way?

MR. EARLE. For instance, we have one union -- I assume my notes are the same -- ten points for education. Now, talking about apprentices, a kid comes out of high school -- a young guy who's never been in construction. A particular union will say the guy has got to be qualified academically. But all they are allowing is ten points for his education. So we're not talking about anything.

They've got physical fitness. All right, this is important, the guy has to be able to do the job -- ten points for this. Twenty points for oral interview; ten points for military service; fifteen points for motivation and attitude; general work experience, twenty points; past work experience in the trade -- but we know this guy doesn't have any past work experience and no general work experience because he's coming out of high school nine out of ten times. So the whole system needs to be revised.

REV. DRINAN. All right. Thank you. Are there other questions?

Thank you very much, gentlemen, it was very helpful.

FRED M. RAMSEY, SECRETARY-TREASURER, BUILDING AND CONSTRUCTION  
TRADES COUNCIL OF BOSTON AND VICINITY.

REV. DRINAN. Would the meeting please come to order.

Ladies and gentlemen, we are pleased to have here Mr. Fred M. Ramsey, the Secretary-Treasurer of the Building and Construction Trades Council of the AFL-CIO.

All right, Mr. Ramsey, if you could very briefly make a statement, and then we'll talk to you.

MR. RAMSEY. I think you should understand what the Building Trades is. It is a group of unions that are working together for the benefit of the different unions. It is a voluntary organization. No union needs to belong nor does the Building Trades have the power to censure any union nor demand that they do this or do that.

I feel that we have to clarify the record after hearing some of the things that have been said and statements in the newspapers by Mr. Gopen, recently, of the New Boston Urban League and Herbert Hill of the NAACP. We have been silent on these matters and it seems to me that this has been construed as an admission of guilt of some type. In truth it was at the request of some black leaders and public officials, who felt that excess newspaper confrontation would cause the Boston Model Cities program to suffer further delays. However, Mr. Gopen and Mr. Hill believe this gives them license to make untrue and imaginary statements.

I took over the reins of the Building Trades Council in September of 1967. It immediately was brought to my attention by Mr. Ray Edwards of the Apprentice Information Center at the time, Charles Jiggetts of the U.S. Bureau of Apprenticeship and Training, and Robert McGlotten who is on the civil rights staff of the AFL-CIO, that the number of black apprentices in the Building Trades was extremely low.

A committee of building trades representatives was formed to try to remedy this situation. After several meetings with the contractors and the above-named individuals, we initiated what we called a first step -- "Construction Career Day." Its purpose was to encourage the community leaders, high school guidance counselors and high school students to look to

construction apprenticeship as a career. We were unsuccessful in convincing black leaders of the merit of this program. However, the AIC at the present time is recruiting in high schools, through guidance counselors, for the building trades apprenticeship program.

Our second step was to contact ABCD, OIC, the New Urban League, and the NAACP to attempt to start an apprentice outreach program. There are 49 such programs in major cities in the United States. These programs have actively recruited young men for the building trades apprenticeship program and have placed 2245 as of December, 1968. We entered into an agreement with OIC on March 21, 1968, for such a program. It was funded by the Department of Labor. However, at a meeting of the Board of Directors of the OIC, Mr. Gopen was successful in scuttling this program. Also, he persuaded other community organizations to blackball any further attempts at recruiting black men for apprenticeship programs. He branded the program as tokenism, and stated it would be acceptable only if the following revisions were made.

(1.) That it be open ended. That the apprenticeship be open to anyone eighteen years or older with no upper age cut-off.

(2.) That there be no educational requirements. Since the preparation course will bring all applicants up to the level where they can pass existing examinations, it would be illogical to recruit people who are already at or near that level.

(3.) For anyone successfully completing the prescribed courses, there should be a guarantee of admission into apprenticeship, providing they pass the test. If the coordinating agency cannot provide these guarantees, OIC should contact the groups that can.

(4.) Work permits. To counter traditional delays, testing should occur immediately upon completion of the preparation, and scoring of that test should be instantaneous. Should the applicant pass, the Trades Council would secure from the business a waiver or working permit for the applicant. He would start work immediately, instead of being put on a list to

be called at a later time. This precedent already exists and is used widely in the trades.

(5.) Publicity. All public statements, public relations and information statements concerning involvement with the program, made by the Building Trades Council, should be cleared through OIC before issuance.

Our next step to try to alleviate this condition was to enter into an agreement with the Associated General Contractors and the Building Trades Employers Association for training blacks who reside in the Model Cities area. It should be noted that the Boston-Cambridge Model Cities Agreement provides for training outside of apprenticeship. It is open ended. There is no educational requirement. It provides union membership for those completing. It gives work permits. If it sounds familiar, it should. This answers the exact objections Mr. Gopen had against the outreach program.

Being unable to contract with a local community group for recruitment, counseling, and supportive service, due to Mr. Gopen's boycott, the Workers Defense League of the A. Philip Randolph Fund, was asked to assist us in drafting this agreement and supplying the supportive services. Their remarkable record in outreach programs lead us to believe that they could make significant contribution in bringing blacks into the mainstream of construction. In spite of threats of being run out of town, lack of cooperation from some black leaders, several prolonged strikes on wage negotiations, and Secretary of HUD Romney's hold-ups on Model Cities funds and housing construction for a thirty day look-see that has lasted five months, the Workers Defense League has 65 trainees, placed 48 into union journeyman status, and indentured 24 into union apprenticeship programs. These figures may not be exactly what was quoted today because there is a more up-to-date list. I believe they are now greater than what I have given you.

In Mr. Gopen's letter of March 7, 1969, to Senator Kennedy, he cites an article from the Boston Globe of June 16, 1968, listing 58 apprentices out of a total of 3,134 throughout the State. He states that the head of the Boston Building Trades Council is the president of the Iron Workers Union. The head of the Boston Building Trades Council was the president of the Iron Workers Union from August 1, 1960, to September 30, 1961. There is one black apprentice in the Iron Workers Union indentured in September, 1968, and there are five awaiting indenture this year.

There are four working as trainees under the Model Cities training agreement, and four working as journeymen. Mr. Gopen is aware of these facts but likes to quote yesteryear figures for greater impact.

I would like to point out some errors in Mr. Herb Hill's letter to Mr. Floyd Hyde of HUD on May 2nd, 1969.

The Model Cities Administrator, Paul Parks, does approve of the Boston-Cambridge Model Cities agreement. We have met with the Model Neighborhood Boards, and Mr. Gupton who is the Employment and Manpower Coordinator for the Model Cities Board and is also a member of the Operations Committee of the WDL, where he was placed by Mr. Parks.

The Workers Defense League program is not cited by labor or contractors as evidence of contract compliance on Federal jobs outside of the Model Cities area, but is cited as an affirmative action program in apprentice recruitment.

The Workers Defense League program is not a four week program, as Mr. Hill's letter said, of on-the-job training for laborers. That is a separate program initiated by the laborers union and is in addition to the Workers Defense League program. The laborers program is funded by the contractors' contribution of five cents per hour, and not the government.

And the laborers, as of January 1st, 1968, were supposed to get \$4.05 as a pay scale. Instead, they got four dollars, and put the five cents--which is out of their pockets--into this training fund. One third of all those trained in the laborers come from the black community.

Black contractors do not insure the employment of black workers in the skilled crafts. Keel Electric is a black non-union contractor. He employs 45 to 50 electricians, five of whom are black.

It should be further pointed out that the ratio of blacks and whites in the Boston Model Cities area is 52 percent black and 48 percent white. I understand Mr. Parks quoted the figures as 57-43, so I stand corrected. Nowhere does Mr. Hill or Mr. Gopen suggest equality in employment of that 43 percent of the white workers.

Mr. Robert McGlotten, AFL-CIO staff, replied to Herb Hill's article in the New York Times, and I would like to read that reply.

It is addressed to Don Slaiman from Robert McGlotten. Don Slaiman is the Director of the AFL-CIO civil rights staff. He says, "Subject: New York Times Article on Model Cities.

"Since the early part of 1968, attempts to start an outreach program in the Boston area, first with the Urban League and then the OIC, have run into constant criticism of being tokenism from one Mr. Martin Gopen, the Director of Labor of the Urban League.

"Constant attempts have been made to resolve the issues with the Urban League in Boston to no avail. As recently stated by Mr. Napoleon Johnson, Director of the LEAP Program, of the Urban League, he was extremely unhappy about the chain of events in the Boston area.

"In November 1968, the local building trades council, with the assistance of John Dunlop of Harvard University, and under the guidelines of the building trades agreement for employing residents of the Model Cities area, an agreement was reached with the Workers Defense League/A. Philip Randolph Institute to sponsor a Model Cities training program in an effort to train some 150 ghetto residents from the area in various building crafts. Also coupled with that, they would attempt to recruit some 50 minority apprentices.

"Since the inception of this agreement, Mr. Gopen has tried to enlist the support of the community to sabotage that agreement and program with a series of articles written by Mr. Gopen which are attached. The diligent efforts of the local building trades council, of the Workers Defense League has succeeded in getting the program into operation despite Mr. Gopen's charges and counter-charges of tokenism.

"His main thrust in the various articles has been to state emphatically that 200 job slots are not enough and it should be 2000. At the time of the agreement between the Building Trades Council and the Workers Defense League, the formula for the 200 job slots was reached on a very realistic and sound basis. Projections were taken for work to be started on construction sites and those in progress in the Boston Redevelopment Authority, and it was on this basis that 200 minority group persons could be trained and employed.

"The Workers Defense League/A. Philip Randolph Institute has been successful to date in placing some 50 trainees on various projects. It has said to the community that this program will insure not only training, but continued employment in the construction field.

"Mr. Gopen's 2000 figure was based on a five year projection of construction in the area and not on the immediate needs. At this time, in order to meet the 200 commitment, we will have to continue to seek additional work because at this time all of the projections have been funded.

"The article itself makes some false and erroneous statements. The facts are as follows:

"The article states that black carpenters have been denied membership and the fact of the matter is that the United Community Construction Workers, an all black community type union with 50 percent of its membership being carpenters, was afforded an opportunity to become members of the Carpenters Union early in 1968. The Workers Defense League has informed me that they have passed 14 journeymen carpenters into the Carpenters Union and at the present time have about 10 trainees on their projects.

"The article states that area residents should be given priority for jobs. The agreement between the Building Trades and the Workers Defense League insures that this happens. The ratio itself, which is 3 to 1, insures that at least one trainee and possibly 1 or 2 journeymen who live in the area, or journeymen trainees, be assigned to one union journeyman.

"The article states that the agreement has been reached in St. Louis where the building trades have signed an agreement with a black contractor who is union and employing 65 percent residents of that area, with a ratio of again 3 to 1. Also, part of the funds being used in the project are from the AFL-CIO Mortgage Investment Fund.

"The article, as mentioned before, refers to Mr. Gopen and his activities in Boston. The local building trades council has attempted to work with Mr. Gopen who claims he has a list of 300 black craftsmen of various occupations. At a public meeting, which I attended, 6 of the local building crafts stated to Mr. Gopen, and I quote, 'Let us sit down together and contact the persons whom you say are qualified and we will afford them the opportunity to become members of our various unions if they are qualified. In addition...'

REV. DRINAN. Excuse me. Mr. Ramsey, is it really essential to finish this long article in the New York Times which is not particularly relevant to the three questions that you were asked to address yourself to? I do not see that any good would be achieved by going into the charges and counter-charges.

MR. RAMSEY. Well, I think the good of it is that it is not exactly the easiest thing in the world to try to put something together here in Boston that will work.

REV. DRINAN. We are looking for remedies as you know. We look to you for this type of suggestion, affirmative constructive ways by which you people are trying to assist the minority participation in the construction trades.

Now, the key questions given to you in writing several days ago were this, whether you see an increase occurring in minority participation in construction trades, to what factors do you attribute this, and what do you see as the responsibility of your organization, the building trades unions, in this regard?

Mr. Ramsey, would you like to give us your thoughts? Is there an increase in minority participation?

MR. RAMSEY. Yes, I believe there is.

REV. DRINAN. What do you see as the role or responsibility of the building trades unions?

MR. RAMSEY. As I said before, the Building Trades Council is an organization, and I can advise, but I cannot demand that anyone does anything. We have had several meetings. Our committee on equal employment has met several times with all the members. We have advised them of these different programs, and have asked for all their cooperation in assisting to get minorities into the apprenticeship programs. Of course I think you have already heard enough about the Boston Model Cities program.

REV. DRINAN. Well, there are other specifics here, sir, that we want to get at. Would you explain the mechanics of how people enter the construction industry, which building trades unions in the Boston area operate hiring halls--specified by each craft--and to what extent the workers enter the building trades by first being hired by a contractor?

MR. RAMSEY. I know of only one union in Boston that has what you would call an exclusive hiring hall. That would be the Boilermakers Union No. 29.

REV. DRINAN. Go on, please.

MR. RAMSEY. When the other business agents come in, they can answer this question better than I because there are some 28 contracts, and I am not familiar with every one of them-- certainly ask them that question. But I do not know of any other that has a provision that each man must go to the hiring hall, put his name on a list and be called according to that list. It is the only union.

REV. DRINAN. To what extent do the workers now--not in the past--now enter the building trades unions by first being hired by a contractor?

MR. RAMSEY. It depends upon the trade. In most all the skilled trades--that is to say, the sheetmetal workers, the electricians, the iron workers--their entry is let us say 85 percent through apprenticeship programs, and perhaps maybe--it depends on which union--maybe five, ten, 15 percent by being hired directly on the job. Now, with the carpenters union, that is not true. Probably more carpenters have been hired on the job and gone into the union after seven days, than through the apprenticeship program. This would also be true of the laborers.

REV. DRINAN. Mr. Gross.

MR. GROSS. Thank you. Could I just back up? In terms of the membership of the Building Trades Council, does your membership include all the building trades unions in Massachusetts?

MR. RAMSEY. Mine is the building trades of greater Boston and it is only in Boston. As a matter of fact, we don't go into Quincy, and we don't go into Watertown. We have Boston. We don't go into Lynn. We go north up into Wakefield. Altogether, I think it covers about six small towns and Boston.

MR. GROSS. And within this area your organization would comprise all of the building trades unions?

MR. RAMSEY. Not all.

MR. GROSS. What is left out?

MR. RAMSEY. At the present time the pipefitters are not members of the Building Trades, nor are the laborers.

MR. GROSS. Is there any reason why the laborers are not? What is the basis for that?

MR. RAMSEY. I do not know what their reasoning is for not being members, but they have not paid their per capita to the Building Trades, and when you do not pay, you are no longer a member. We have a committee that is going to sit down with both them and the pipefitters to know why they are not in the Building Trades and whether they are going to come back in.

MR. GROSS. Do you have figures, in terms of estimates if that is all you have, in terms of the membership of these unions collectively?

MR. RAMSEY. That is rather a secret document as far as the building trades go, because the unions pay by the number of members they have, and I do not think they always tell me the truth as to how many members they really have. I would like to get those figures also. But they are available and I do not know why this Commission does not have those figures, because the unions have signed EEO reports for the past couple of years. They have a computer there in Washington. They are available. I have heard some figures quoted from them at the apprenticeship conference. I know they are available. Why this Commission does not have them, I do not know, but I cannot get them.

MR. GROSS. May I respond to that, Mr. Chairman?

There is a multitude of difficulties in getting those figures. One of the difficulties is that unions are required to give those figures only if they are classified as referral unions. A number of the unions in this area and elsewhere have classified themselves as nonreferral unions. Now, this is a question of semantics and of definition, but the consequence of this is that for a large number of unions, these figures are not available.

MR. RAMSEY. In the Boston area?

MR. GROSS. In the Boston area, that's right.

MR. RAMSEY. Do you know of one union in the Boston building trades area that refused to put these figures out?

MR. GROSS. When you say they refused---

MR. RAMSEY. That they did not file?

MR. GROSS. They classified themselves as a nonreferral union, which meant that under the EEO-3 reporting requirements, they did not have to give racial data or membership data.

MR. RAMSEY. Yes. They had to give the data regardless. As a matter of fact, it is rather broad as to what a referral union is. It says a referral union is where any men are sent from the union hall or anyone goes there to seek employment. It is not necessarily a list system or seniority system of any type.

MR. GROSS. I have the definition in front of me as to what the Equal Employment Opportunity Commission calls a referral union. We could go into this. But all I am trying to get at is under the EEOC regulations, if you are a nonreferral union, you do not give membership figures. This is the reason we do not have it. There are other reasons, too.

MR. RAMSEY. I do not want the inference to be that any of the Boston unions have refused to give these figures and that is why you do not have them.

MR. GROSS. No, sir. I am saying that the reason that they don't give them is how they classify their operation.

MR. RAMSEY. The EEO-2 report also has apprenticeship figures, what that ratio is.

MR. GROSS. To go back to the question of overall figures for the building trades in the Boston area, can you give an estimate based on your own information?

MR. RAMSEY. I would say around twenty thousand.

MR. GROSS. That would be exclusive of laborers or that would include laborers?

MR. RAMSEY. Including laborers.

MR. GROSS. How many of those would be laborers?

MR. RAMSEY. Probably about six.

MR. GROSS. Six?

MR. RAMSEY. About five thousand.

MR. GROSS. Of the fifteen thousand in the skilled trades, what proportion of those would be nonwhite?

MR. RAMSEY. I would not have the slightest idea.

MR. GROSS. This is not information that you have ever inquired about?

MR. RAMSEY. No. As I said, I have trouble finding out how many members they have, let alone how many white or black members. They do not tell me exactly how many members.

MR. GROSS. Have you discussed this with them?

MR. RAMSEY. You mean as to black and white?

MR. GROSS. Yes.

MR. RAMSEY. No, I have not.

MR. GROSS. You would have no idea what that figure would be?

MR. RAMSEY. No, I could not.

MR. GROSS. In terms of the Model Cities agreement, we were talking with Mr. Bristol about what the position was of the unions and the Building Trades Council. Could you summarize what the signature of the Building Trades Council to that agreement commits the unions to, if anything?

MR. RAMSEY. It commits them to the whole program, as the first sentence says. The only one that would not be committed to the Model Cities program would be somebody who is not a member of the Building Trades, which the laborers are not now nor are the pipefitters. It says, I believe, in the first paragraph: "It shall be binding upon all unions of the Building Construction Trades Council of Boston and all contracting members of the AGC and the Building Trades Employers Association and participating specialty contractor employers, and any other employer or union that may sign this agreement." So I would say that any union belonging to the Boston Building Trades is committed to the program.

MR. GROSS. The effect of this would be that any construction covered by the agreement--meaning rehabilitation and four story residential--in Model Cities and contiguous areas that the union has, they would be committed to accept the 3 to 1 or 4 to 1 ratio?

MR. RAMSEY. They would be committed to that, yes.

MR. GROSS. Therefore, the 200 figure that you were talking about is not a ceiling of any kind?

MR. RAMSEY. It is not a ceiling of any kind, and the agreement has been extended beyond housing. That is, the civic center, which is a police station, and the courthouse and also the Grove Hall Library, that has been extended to be covered under the agreement, and the reason is we have not had the work in the area, as I am sure Mr. Parks can testify better than anyone. We just have not had it there, so in order to try to keep up some kind of figures here to ever reach our quota, we had to extend the agreement beyond housing and four story residential.

MR. GROSS. Just one more. Could you say what you see as the future of this trainee program in the Boston area, in terms of its expansion outside the geographic and other limitations that are applicable under the present plan? Could you give an idea of when and how you see this program expanding?

MR. RAMSEY. I cannot see the program expanding beyond what the scope is now. That is to say, Model Cities area and contiguous areas to Model Cities. I do not anticipate it being expanded to downtown high rise building and things of that sort, no.

MR. PARKS. Mr. Ramsey, would you read into the record the letter which you said I sent you approving of the Model Cities agreement?

MR. RAMSEY. It is addressed to me on September 26, 1968. It says: "We have reviewed the contractual agreement between the Associated General Contractors of Massachusetts, the Building Trades Employers' Association, the Building Trades Council of Boston, pertaining to Urban Housing and Model Cities Agreement for Boston and Cambridge.

"We view this agreement as a positive move toward providing a way for black workers to achieve their journeyman certifications. We further consider this agreement a floor and not a ceiling as far as the employment of black workers is concerned.

"In accordance with our discussion of yesterday, this letter will record our agreements. It is my understanding that upon receipt of this letter you will contact the parties to the Urban Housing and Model Cities Agreement for Boston and Cambridge. It is also my understanding that you will secure the signatures on a letter of approval from all the said parties. The agreements are as follows:

"The Model City Administration and the Model Neighborhood Board, in our arrangements with particular contractors, shall see to it that the residency and nondiscriminatory clauses are complied with.

"Further, we will continue to insist that, whoever the contractor, the construction jobs in the Model Cities program will contain a majority of employees from the Model Cities area, as required by legislation. We do not consider the Agreement as affecting our rights or those of the Board or the residents of the area in any way.

"We shall also agree to act as negotiators between the community and the contractors in cases of dispute.

"It is understood that the agreements indicated above apply only to that construction which may take place within the Model Cities area."

My reply is, "Dear Mr. Parks: I have received your letter of September 26 and have discussed it over the telephone with the members of the Administrative Committee.

"Although they have not been able to meet because Mr. Leighton was tied down hosting the Midyear Board meeting of the Associated General Contractors of America, it is my observation, in which I feel certain they will concur, that the Administrative Committee of the Urban Housing and Model Cities Agreement for Boston recognizes the statutory powers and rights of the Administrative and the Neighborhood Boards. However, it is also my observation that there are some questions raised by the last paragraph of page 1 of your letter on which there may be some misunderstanding.

"It is not within our power to interpret the statutes insofar as they refer to 'maximum employment opportunities for residents of the area.' To date we have been unable to obtain any interpretation of the meaning of these words from Washington. For that matter, until the Workers Defense League program is in operation we will not know how many qualified journeymen or trainees, as defined in the agreement, are available.

"I hope that this exchange of correspondence will clarify any questions you may have had."

MR. PARKS. Now, we never received from you any kind of letter from the signators of that agreement, as we requested in the letter.

MR. RAMSEY. You requested that we agree to these two paragraphs, and as I told you, I am not sure yet to this date, what the Act means by "maximum employment opportunities."

MR. PARKS. It has nothing to do with the Act.

MR. RAMSEY. If some people view this as meaning maximum employment period, then that is the view they have taken. We have not been able to get this clarified as yet.

MR. PARKS. I did not ask for a legal interpretation of the Act. I was asking for an agreement between the Building Trades and Model Cities as to what they were willing to do and what they had to do. Now, I still have not received this, so let us lay that on the table. Perhaps we can get to that in some other conference.

What I would like to ask you is, how did the Model Cities agreement come about in the first place?

MR. RAMSEY. It was drafted by John Dunlop. It came down from the general presidents of the different building trades. They sent it out to all the different building trades and recommended that they follow these guidelines in adopting the Model Cities program. We changed somewhat from their guidelines, and I say we changed it to be more liberal than it was.

MR. PARKS. Who are these presidents and where do they sit?

MR. RAMSEY. Well, the Building Trades Department is located in Washington, but the different general presidents have offices in St. Louis, Chicago, Indiana.

MR. PARKS. I am suggesting, then, that this might have started in Washington?

MR. RAMSEY. Yes, it came about in Washington.

MR. PARKS. And was it handed down to any other city besides Boston?

MR. RAMSEY. It was sent out to every city and every building trades council.

MR. PARKS. That is what I want to know. And at that point, as far as the Boston Model Cities program was concerned, were not a party to the negotiations?

MR. RAMSEY. Right.

MR. PARKS. Now, do you have any feeling why it was limited to apartment houses up to four stories?

MR. RAMSEY. Evidently this was the most type of work that was going to be done in that area, the Model Cities area. I

think that residential housing is the big key. What all the emphasis is being placed on today is housing.

MR. PARKS. Was there something that prohibited you from setting up a kind of a coalition between the organizations that were helping you during the time that you were making the revisions? As I remember, there were several meetings being held in the community between your folk and people and organizations of the community. Were there some reasons why those organizations could not have formed a coalition with you to make the judgments about the qualifications of the individuals who would be brought forth to take part in the building trades program?

MR. RAMSEY. I don't quite understand that.

MR. PARKS. In other words, right now the agreement leaves up to the trade unions and their representatives the decision about who qualifies to enter the program, right?

MR. RAMSEY. No, it does not.

MR. PARKS. Well, let us say you have a final judgment. Let us put it that way.

MR. RAMSEY. No. The one who makes the judgment is the Operation Committee, which consists of two union people, two members from the Contractors Association and two members from the community.

MR. PARKS. How were these community folk selected?

MR. RAMSEY. You appointed one of them.

MR. PARKS. I didn't appoint anybody. The Model Neighborhood Board---

MR. RAMSEY. I am sorry. I requested to you that you have someone from the Model Neighborhood on the committee, and you submitted the name of Mr. Gupton.

MR. PARKS. Now, what are the powers of this group?

MR. RAMSEY. This group has the power to take trainees and put them into training, and to judge as to what classification of training they should be in.

MR. PARKS. Now, once they make a judgment, does that person automatically go into the program with the contractor? Go on the job with no further decisions about him at all by anybody else, other than this group?

MR. RAMSEY. He automatically gets step raises every six months in his pay. The only other decision which would be made is if the contractor feels that he is progressing faster, or that he should have been slotted higher in the first place.

MR. PARKS. What I am getting at is once this group says he can do it, and sends him off to go to work, he goes to work?

MR. RAMSEY. Absolutely.

MR. PARKS. Now, as I remember some of the negotiations, there was some discussion around the fact that this was too heavily balanced in terms of general contractors and labor unions, and that the community had a minority role. One of the problems I think you are running into in the program is that the community, whatever that is, does not have the real ability to make the judgments. In other words, it is not a fifty-fifty arrangement. The community role is almost one of tokenism in terms of its ability to push through-- if there were a controversy over an individual the decision would rest in the hands of the contractor and the building trades. The final decision in that kind of setup would automatically do that.

I want to know, is this something the unions could not afford to do, or something they are unwilling to do?

MR. RAMSEY. No. We felt there was a tri-party agreement and that each one would be equally represented.

MR. PARKS. Actually it is a two-party agreement literally.

MR. RAMSEY. Well, the agreement was drawn up in conjunction with the Workers Defense League.

MR. PARKS. How did you arrive at the figure of 200 workers?

MR. RAMSEY. Actually, the Labor Department is the one that arrived at the 200 workers. We had suggested more. As a matter of fact, our original draft was for 300 workers. The Labor Department, in looking at the figures, made the judgment of 200, not us.

MR. PARKS. Okay. Why did you have problems with the fact that we suggested training two thousand people?

MR. RAMSEY. I didn't have any problems with that. I don't see why you have a problem.

MR. PARKS. Well----

MR. RAMSEY. It is slightly unrealistic, but it causes me no problems.

REV. DRINAN. What would be realistic? Why did you choose 300?

MR. RAMSEY. We are talking about the Model Cities area and we are talking about the Model Cities agreement that was before the City Council. At the present time we don't have enough work for the ones we have now, let alone two thousand. The two thousand was a five year figure, wasn't it?

MR. PARKS. It was a five year figure. It was based on the fact----

MR. RAMSEY. Right, and five years under our program, that is one thousand, so it was at least half.

MR. PARKS. Well, we arrived at that two thousand, as I remember, based upon the fact that the number of people presently in the area is 63,000 people, and the number of people out of that 63,000 who are presently in the building trades unions is somewhere around 200. If we took it on a proportional share basis throughout the City of Boston, our logical share of construction workers would be somewhere in the neighborhood of 3500 people. If we took it on a logical basis based upon the area of Boston and 63,000 people. We were saying it was logical to talk in terms of some two thousand people. At that point I believe that you and Mr. Leighton came in and one of the real controversies was the question of this two thousand number, which we were basing on the fact that if we had our fair share. I do not think we have yet talked about fair share of construction workers on a population basis.

MR. RAMSEY. Well, let me say first of all that I am not Mr. Leighton. We don't represent contractors. As a matter of fact, we fight with them. But if Mr. Leighton made this statement, you should have asked him that last evening. But of the number of people, if half of them or approximately half of them are white, and assuming they might have families of--I do not know what an average family is--four, we have one male, one female and two children or something, then we only come down to so many people.

The Model Cities program is not setup only to train building trades men. I think there is a little more to it than that. Now, our program is a black program. We do not train whites. We do not go out and recruit whites. We train blacks. You said under your program, you would have had to take care of the white people. So you can take care of the other thousand. We will train a thousand. And you take care of the other thousand.

REV. DRINAN. Mr. Wilmore, do you have one question?

MR. WILMORE. Mr. Ramsey, just two brief points. As I understand the testimony from Mr. Bristol, only the painters, bricklayers, carpenters and plumbers have agreed to accept these trainees and give union cards. I think you would agree that the guts of any training program is that at the end of the whole process, a man gets a card and it puts him into the mainstream. Now, can you comment on why the other unions have not gone the route of the four that have been named?

MR. RAMSEY. I cannot understand where Mr. Bristol gets his ideas. So far as I know, the only one who is not committed to the program is the pipefitters, because they are not a party to the Building Trades. The laborers were a party when we made the agreement and as far as I am concerned, they are still bound by it, and with a reservation on the electricians. This isn't the local electricians' fault. They were told by their general president that they would have to take it back to their body and have a vote on it. I understand that this vote is coming up shortly. I believe it is either this month or the first of next month.

MR. WILMORE. Except for the electricians and pipefitters, all other men who come through this program will get a union card when they complete their training?

MR. RAMSEY. That is right.

MR. WILMORE. Secondly, last night we had five of the largest contractors from the City of Boston. To a man, with some qualifications by each, they said that they were in favor of some kind of training program across the board outside of the Model Cities area. I think you said earlier you were not in favor of that. If contractors are in favor of it, I would like to know why you feel----

MR. RAMSEY. It is a simple reason why the contractors are in favor of it. The contractors for a number of years have wanted a helper system. They want helpers. Everytime we come up for wage negotiations for the last thirty years, they want a journeyman and a helper. Of course, helpers only get half as much as

journeymen. Apprentices become journeymen. Helpers do not. Helpers stay as helpers. And this is what the contractors want. They want a helper system.

MR. WILMORE. Why don't you want it?

MR. RAMSEY. Why don't I want a helper system? Because I don't think we need helpers.

MR. WILMORE. I am talking about the kind of program that you are committed to, that you tell me is the most significant thing as far as getting blacks into the construction industry, your program. Now, why can this program not be expanded and get more blacks in?

MR. RAMSEY. Let us say this program is on a trial basis. It has run about seven months or eight months. It is only in effect in this City, and St. Louis has somewhat of a similar program. And I do not know. Maybe it would be---

MR. WILMORE. Do you think after a year maybe--it has gone eight months--maybe after a year of experimentation it would be time then to expand it?

MR. RAMSEY. I would like to make comment on that at that time.

REV. DRINAN. I do not understand all your hesitation and I don't understand why you have impugned the intentions and motivations of the contractors. You are saying in effect that they are hypocrites. All they want is helpers and therefore they are for the extension of the WDL to the whole thing. I don't understand that. This is not a question.

MR. PITTMAN. You state there is a shortage of jobs in the Model Cities area. I can't understand the objections to opening up this program throughout the city because there are jobs in the outlying areas.

MR. RAMSEY. I think that if there is going to be any program expanded beyond this, I think we should expand the apprenticeship program.

MR. PITTMAN. With all its limitations?

MR. RAMSEY. We do not feel that it has that many limitations. There has been a lot made out of the testing procedure. The test is for one thing--to find out the trainability of someone. That is what it is for. Now, you can't get too excited about the

tests. At least, I do not. The Workers Defense League, in the case of the iron workers, has the exact copy of the test that the iron workers give. It is laying around the office for anyone to pick up off the desk there, and they tutor them in the exact test that they are going to take when they go there--question for question--not mixed up, not a similar test, the exact test.

MR. PITTMAN. How many points do you get for this test?

MR. RAMSEY. I believe in the iron workers, I think it is 15.

MR. PITTMAN. You can fail the test conceivably and still get 85 points on your character, which may mean you are white.

MR. RAMSEY. All the test shows is the trainability of the person.

MR. PITTMAN. How many black apprentices were in the building trades when you took over in 1967?

MR. RAMSEY. I couldn't give you any answer at all. You would have to ask the individual trades when they come up here.

MR. PITTMAN. Do you know how many there are at this date?

MR. RAMSEY. I would not have any idea. I believe Charles Jiggetts gave a figure yesterday.

MR. PITTMAN. On this program you proposed to OIC, how many people did that involve? How many is that supposed to train?

MR. RAMSEY. The outreach program?

MR. PITTMAN. Right.

MR. RAMSEY. I believe thirty.

MR. PITTMAN. Does that not sound like tokenism to you?

MR. RAMSEY. We had asked for fifty. The Department of Labor, although they don't do any figure count, figured that there are 300 apprentices taken in per year in the Boston area, and they ended up with ten percent of it. They made it thirty. But these are minimum figures.

MR. PITTMAN. What is your objection to the points that were raised by Mr. Gopen's letter?

MR. RAMSEY. My points of objection to it? As I told you, each one of the unions are autonomous. I cannot run their apprenticeship programs for them. I cannot tell any union, "You have got to change your upper age limit from 26 to 35." On the apprenticeship they are completely autonomous within themselves.

MR. BUTLER. Mr. Ramsey, am I to understand from your statement that you are really powerless to execute any control over these unions affiliated with the Trade and Construction Council of Boston, AFL-CIO? You have absolutely no power over them?

MR. RAMSEY. I have no power. I have advisory power, probably the same as what this Board has. I hope that I am listened to, and I try to persuade them; but nevertheless, it is not mandatory. It is only advisory.

MR. BUTLER. This raises the question in my mind in that you entered into a negotiation, and you signed for those members who are within your body. Therefore, I am a little bit confused, Mr. Ramsey, when you say you have no power, yet you did sign for them. Were you serving as an agent at that particular time? Did you have the power of attorney at that particular time?

MR. RAMSEY. That is right. By a vote, by the different unions, by the Council. They voted to enter into this agreement. I signed it for them, but I could have had all 28 sign it.

REV. DRINAN. All right. This is the last question now.

MR. PARKS. I am troubled because you made some statements which I think may cause some controversy. One was about Mr. Gopen's boycott. I think we ought to clear it up so that we will know what we are talking about here, and we will not get into some further difficulties before long.

MR. RAMSEY. In this meeting that we had with Mr. Gopen on project Able, and with the Labor Department officials and the OIC. When the OIC turned it down in front of the Department of Labor, I said, "I will try to seek another group in the community to do it." Mr. Gopen said, "Nobody else is going to do it. If we do not do it, nobody's going to do it. It's finished. The program's dead."

MR. PARKS. You're saying he called a boycott?

MR. RAMSEY. I am telling you the statement he made to me in front of the people from the Department of Labor. This is the statement he made, that if the OIC does not accept the program, than no other community organization is going to accept the program. It is dead.

REV. DRINAN. I think we ought to move on. We have five people and we are almost a half hour behind time. I want to thank Mr. Ramsey for coming.

BUILDING TRADES UNIONS REPRESENTATIVES

PANEL I

BRICKLAYERS AND STONE MASONS UNION, LOCAL NO. 3.

ALFRED DIRIENZO, Business Agent.

CARPENTERS UNION, DISTRICT COUNCIL.

JOSEPH HARDY, Secretary-Treasurer.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,  
LOCAL NO. 103.

DONN BERRY, Business Agent.

IRON WORKERS UNION, LOCAL NO. 7.

GEORGE P. MCDONALD, Business Agent.

PLUMBERS AND GAS FITTERS UNION, LOCAL NO. 12.

JOHN J. TOBIN, Business Manager.  
PAUL MADDEN, Business Agent.

REV. DRINAN. A letter was sent to each of the representatives of the labor unions. Let me read the three points on which you were asked to reply. It was suggested but not required that you bring a statement with you. If any of you do have statements, we would welcome it to be put into the record.

We would like information on the number of members your local has engaged in construction work, the number of journeymen and apprentices, and also the proportion of minority group membership, and how do these figures roughly compare to ten or fifteen years ago. Second, what steps are your unions taking to upgrade the membership. Third, what are the steps which people take to get into the unions.

So, if I may, let's quickly go from left to right here.

Would you identify yourself, sir. I and the Committee are particularly interested in the specifics. How many minority people do you have and how does this compare roughly with ten to fifteen years ago?

MR. TOBIN. John Tobin, business manager, Plumbers Union No. 12.

Presently we have eleven apprentices in the union out of a total of approximately 135. We have two journeymen in the union. Total membership in the union, working membership, is approximately 1200 working on building construction.

REV. DRINAN. And the minority membership is what?

MR. TOBIN. Eleven apprentices and two journeymen.

REV. DRINAN. How does that compare with ten or fifteen years ago?

MR. TOBIN. Excellent. In other words, it is a hundred percent improvement.

REV. DRINAN. But you still have only thirteen out of 1200?

MR. TOBIN. Yes, we only have thirteen. Well, you see, the 1200 is not an actual count. The question posed to me is working in building construction. We have approximately 80 retired and we have others working as inspectors, engineers, and other.

REV. DRINAN. Would you reply briefly to the second question? What steps are you taking to increase this figure or to upgrade those who are there?

MR. TOBIN. The only upgrading program we have is the apprentice program. There is no upgrading. In other words, everybody has to serve a five year apprenticeship. I think there is probably two in the minority group in the fifth year apprentice, so they will become journeymen within the year. Our books are open to any journeyman who applies. We have an open door policy. And I will further state that any Negro that has applied in our union who has a license has been taken in. So there is only two applied and two have been taken in. And prior to this civil rights movement, we never had any apply.

REV. DRINAN. Is there anything else, Mr. Tobin, you would like to say?

MR. TOBIN. No. Only the fact is that a good percentage of our members came into the union as journeymen plumbers, and the reason for it is that these people, who have learned the trade outside the union, have an opportunity to come in the union. I would like to say for the record, I do not believe that there are journey-men plumbers in our area who are interested or have a license. We will take them in if they are licensed.

REV. DRINAN. Any questions?

MR. PITTMAN. How do you get a license?

MR. TOBIN. The State says you must have three years experience working for a master plumber. Then you must go up and take a written, an oral and a practical test.

MR. PITTMAN. Who gives the test? The State?

MR. TOBIN. The State, the Board of Plumbing Examiners appointed by the Governor of Massachusetts.

MR. PITTMAN. Who makes up this Board at this time?

MR. TOBIN. A licensed master plumber...

MR. PITTMAN. A union member?

MR. TOBIN. No.

MR. PITTMAN. Not a member of the union?

MR. TOBIN. That has no bearing on it.

MR. PITTMAN. I just asked if he is a union member.

MR. TOBIN. No. He is supposedly an employer. Also, a sanitary engineer, and a journeyman plumber.

REV. DRINAN. If it is agreeable to the group, we will just briefly talk to each of you and then come back to the crucial or central question.

Sir, identify yourself, if you will, and reply to the first question, how do your figures compare to ten or fifteen years ago?

MR. MADDEN. Paul Madden, business agent, Plumbers and Gas Fitters, No. 12; same union as the previous speaker.

REV. DRINAN. Do you have anything to add to what Mr. Tobin said?

MR. MADDEN. No. At this time I do not believe I have.

REV. DRINAN. Very well. Thank you. Yes sir.

MR. DIRIENZO. Alfred DiRienzo, business representative, Bricklayers and Stone Masons Union, Boston.

REV. DRINAN. Would you reply to the first question? How many do you have and roughly how does the minority figure compare with ten years ago?

MR. DIRIENZO. At the present time we have roughly 925 to 950 active members in the local. We have in the area of 35 minority group members at the present time. This compares to possibly about four to five, say, ten to fifteen years ago. We have no restrictions on union membership. Our books are open for any applicant for membership. The only qualification is that he be a skilled mechanic in the trade.

REV. DRINAN. Do you have affirmative programs to upgrade or recruit, to increase minority membership?

MR. DIRIENZO. Yes. We have cooperated with the contractor from the minority group area, J and W Construction, Superior Masonry. He has referred to us several minority group people for membership in our union. We have accepted all that he has sent down to us as members of our union.

MR. WILMORE. Could we get the number of apprentices for bricklayers?

REV. DRINAN. In the document you sent in, you say roughly a hundred apprentices and a total membership of 1500, of which 950 are active. A hundred apprentices, is that right?

MR. DIRIENZO. We have about 80 apprentices. About 60 of those are active. Some that have cards are attending colleges and what have you and probably just work summers. We have recently opened our books for apprenticeship application. I think the school begins within a week. We have a prejob training school. I believe two of the new apprentice boys are minority group people.

REV. DRINAN. Mr. DiRienzo, as you know, there have been allegations that the system of choosing people is not entirely satisfactory. I have here the points that you people give for various things in selecting persons. The motivation and attitude, 15 percent, and character is 10 percent, and so on. How do you people judge these things? Is this a valid way of some individual or committee judging the motivation and attitude and character of somebody else--25 points for these very elusive things?

MR. DIRIENZO. We have an apprenticeship committee that screens the applicants for apprenticeship. It is a joint committee of three contractors and three labor representatives.

REV. DRINAN. Any blacks on that?

MR. DIRIENZO. No, there are none.

REV. DRINAN. Would it be a good idea to put a black on that?

MR. DIRIENZO. If he is qualified, yes.

REV. DRINAN. How are you qualified to judge the character of another person?

MR. DIRIENZO. The people that we send as representatives of the union are elected by the union membership.

MRS. BATSON. What makes them qualified for election?

MR. DIRIENZO. So long as they are a paid up member in good standing with the local union.

REV. DRINAN. Is that decision totally nonappealable?

MR. DIRIENZO. What do you mean?

REV. DRINAN. If they judge him in bad character and that he has poor motivation and a bad attitude?

MR. DIRIENZO. There is an appeal through the international union.

REV. DRINAN. Where are they?

MR. DIRIENZO. In Washington.

REV. DRINAN. How many people appeal?

MR. DIRIENZO. None to my knowledge.

REV. DRINAN. Do you see any difficulties in this? Twenty-five percent of a man's eligibility depends on this judgment as to motivation, attitude and character. It is clear to everybody that this is the most difficult thing to judge. Now, minority people rightly or wrongly feel that this is a way of excluding blacks. There is a profound feeling and conviction that this is so. Do you think it is an important element that a bricklayer have good character and high motivation?

MR. DIRIENZO. Of course it is, and furthermore, it is not our intent to use this----

REV. DRINAN. I know that, sir. I know that, yes. But it is construed as such.

MR. DIRIENZO. Well, this is completely inaccurate.

MR. BUTLER. What are the qualifications of those people judging motivation? What specific professional training have they had? How do they calibrate degrees of motivation? Do you do it on a point scale? Do you have a specific program to judge this? Just how do you go about it? Would you explain that to me, please?

MR. DIRIENZO. My immediate answer is that I am not a member of that committee, or was not a member of that committee at the time the interviews were held. Frankly, it is one of the provisions that are set up in the trust document, and the people that are there, I believe they are qualified on the basis that the membership have selected them by election for that purpose.

MR. BUTLER. In other words, since the membership ordains a certain person to judge another's motivation, therefore, they are automatically qualified? Is that what you are telling me?

MR. DIRIENZO. The same manner they elect public officials.

MR. BUTLER. You still have not answered that question. In other words, you do not have a point scoring on motivation? You have no point motivational score to evaluate this, nor do you know of specific professional training given to the committee who evaluates the individual?

MR. DIRIENZO. That is true.

MR. BUTLER. Character. How do you judge character within the committee? What are the points that are covered?

MR. DIRIENZO. I could not answer.

MR. BUTLER. Is this done in a morality sense? How is this judged? Do you go to a private source, like a commercial credit, Dun and Bradstreet, to run a survey on these men? How do you do this? Is it done by a third party, or is it evaluated by people sitting in a room? In other words, you sit in judgment of me in an interview and you judge my character? Is this the way this is done? I just want to know this for my own benefit.

MR. DIRIENZO. Well, they have at times checked through police records to see if they have any convictions or whatever-- felonies and things of that type. But I would say it is probably for the most part based on the interview at that time.

MR. BUTLER. Well, the interview is worth a certain evaluation above this, is it not?

MR. DIRIENZO. Well, like I have told you, I am not a member of that committee. I didn't sit there when they recently interviewed people. I do not know exactly what the scoring procedure is.

MR. DOTTIN. You are the business agent, aren't you?

MR. DIRIENZO. That is right.

MR. DOTTIN. Aren't you supposed to have a working knowledge of your union?

MR. DIRIENZO. That's absolutely correct.

MR. DOTTIN. And you say you don't have this and you are not knowledgeable about this?

MR. DIRIENZO. As to the motivation or character, I do not know.

MR. DOTTIN. Well, you know that your union has been charged with having been discriminatory. You don't have any blacks. It certainly is a matter of goodwill, don't you think, that you ought to know why?

MR. DIRIENZO. I can only say in reply to you that we have never closed our doors to any applicant for membership. I within the past week have initiated three black bricklayers as members of our local union.

MR. PARKS. What is the role of the business agent? What are his powers and duties? What are his limitations?

MRS. BATSON. What are his qualifications?

MR. DIRIENZO. What are his qualifications?

MR. PARKS. Let us start with the first things first. What are your powers?

MR. DIRIENZO. Powers? I would rather use the word "authority".

MR. PARKS. All right. Authority. What is your authority?

MR. DIRIENZO. We have the authority to negotiate contracts. We have the authority to accept into membership people that apply for membership in the local. We have the authority to judge grievances when they occur on the job site. We have the authority to refer people for work assignments when they occur. We do not have a hiring hall system.

MR. PARKS. Do you have the ability to call a strike?

MR. DIRIENZO. I would say under certain circumstances, yes.

MR. PARKS. What are some of the kinds of circumstances under which you could call a strike without going to anybody else?

MR. DIRIENZO. I cannot do it without going to anyone else.

MR. PARKS. You cannot go out on a job and actually pull a job because of something you see as an infraction of the rules?

MR. DIRIENZO. No, I can't do it.

MR. PARKS. That is very interesting. I have seen this happen. Let me give you an example of that. I remember being on a certain job where the business agent came out--they were paying the employees by check--and he told the contractor that he should pay the workers in cash. The contractor had some conversation with the business agent there, and the business agent called all the workers off the job.

MR. DIRIENZO. This could have been possible previous to the enactment of recent legislation, which does not give the business agent that authority any more.

REV. DRINAN. You say he can assign persons to work sites, if I understood correctly?

MR. DIRIENZO. If the contractor requests some help for the job.

REV. DRINAN. Has your union sought to take some affirmative action to send minority group workers to sites even if the contractor has not specifically asked for them?

MR. DIRIENZO. Of course we do. We intend to cooperate to the fullest.

REV. DRINAN. You say that you have 35 active minority members, although the information I have here only says ten...

MR. DIRIENZO. We have taken in ten within the past year; we have had minority group people as members of our union since I have been a member of it.

REV. DRINAN. We heard last night from the contractors that when they discover a qualified black man, they made it very clear that they talk to the local union, and they do not want to press the point, but they are afraid. They admitted that openly, they are afraid of the reaction of the union. Some of them said that they felt the climate was getting better, but all of them expressed great fear that there is a resentment, a hostility, on the part--not of your union in particular--but of unions in general. Would you comment on that?

MR. DIRIENZO. Well, I can only speak for my union, sir. No hostility whatsoever. We will cooperate with any contractor who sends down applicants.

MR. PARKS. You did not answer the question, what kind of qualifications do you have to have in order to be a business agent?

MR. DIRIENZO. I would say you have to be a heck of a nice guy to get elected to the job, and then you are sorry you got it.

MR. PARKS. You get elected there by whom?

MR. DIRIENZO. By the membership of the local union, by secret ballot. The election of officers, just coincidentally, takes place Saturday.

MR. PARKS. And you have no other qualifications, other than the election by the membership?

MR. DIRIENZO. I say it is a natural ability.

MRS. BATSON. And good character?

MR. DIRIENZO. You have to be of sound character.

REV. DRINAN. You have to have motivation and attitude?

MR. DIRIENZO. You have to be a real humanitarian. We have to be able to listen to people's problems better than you have to listen to them, Reverend.

REV. DRINAN. Thank you very much, sir. Now, this is George P. McDonald?

MR. MCDONALD. Yes, sir.

REV. DRINAN. Business agent of the Iron Workers. Yes, sir. Go ahead, please.

MR. MCDONALD. Do you want me to answer the first question?

REV. DRINAN. Just answer the question that I have been asking.

MR. MCDONALD. We have a total membership of 1258 people. That includes 140 pensioners who are inactive. We have a black person who came into the program two years ago--the apprenticeship program.

REV. DRINAN. Excuse me. 1258 total?

MR. MCDONALD. Total, including pensioners.

REV. DRINAN. And how many minority group members?

MR. MCDONALD. There are six. One apprentice. I would like to add, though, Father, that we have just completed our apprenticeship exam, and 25 were interviewed and five took the exam. They may shortly be initiated into our organization.

We mentioned affirmative action. If I may, I would like to show you this, Mr. Chairman.

REV. DRINAN. Go ahead. This is an ad in the Bay State Banner.

Just reply in general, if you will, but if you have only six blacks out of 1258, it is really irrelevant if this is better or worse than ten years ago. Do you have a program to increase minority membership? I have the ad here, but what other steps are you taking?

MR. MCDONALD. I would like to ask the chair a question. Do you include Indians in that minority? Somebody mentioned minority, and I am quite sure they are minority.

We spoke of affirmative action, Mr. Chairman, and I think that the Local No. 7 has done that. We have never discriminated. The door is open. Just Monday morning alone, I opened the office at 6:45, and there were perhaps 45 people out there, mostly college students. They come every year to the union, and we try to help them out, put them to work.

REV. DRINAN. We all recognize that nobody discriminates openly, but what would you suggest as an affirmative policy by which the Federal Government and the State government can make it more easy for you people to get the minority group people that you want?

MR. MCDONALD. Have them apply, Mr. Chairman. As I said, that door is open.

MR. PITTMAN. If I were to answer this ad, what procedure would I have to go through, if I had just come out of high school?

MR. MCDONALD. You go to 17 Charles Street and talk to the apprentice coordinator. He would interview you. Twenty-five people did answer that ad, and five showed up to take the test, I believe.

MR. PITTMAN. The other 20 people did not show up?

MR. MCDONALD. They just did not show up.

MR. PITTMAN.. And did the five all pass the test?

MR. MCDONALD. I feel quite confident they did. I did not get the complete results yet. We certainly hope they did.

MR. PITTMAN. Does your international constitution have an antidiscrimination clause?

MR. MCDONALD. Yes, we certainly do.

MR. PITTMAN. Do all the internationals have an anti-discrimination clause?

MR. TOBIN. Not only the international. The local union has also.

MR. PITTMAN. Is that true for all the unions sitting here? Have any of your unions ever been expelled for discrimination?

MR. FEENEY. Are you talking about local unions in the Iron Workers?

MR. PITTMAN. The international. Have they ever expelled a local for discrimination?

MR. MCDONALD. Speaking for the Iron Workers, I would have to say no.

REV. DRINAN. Mr. McDonald, do you have anything further to add here on your organization?

MR. PARKS. You started to mention something about American Indians. Let me ask you this. How many American Indians do you have and what is this all about?

MR. MCDONALD. We have thousands of Indians, hundreds and hundreds, throughout the international.

MR. PARKS. I am saying your local.

MR. MCDONALD. Local? There are probably 150 right here in this local working now. I just came down from the forty story building. There are a dozen there. There are another three dozen down on Huntington Avenue on the Stanton job.

MR. PARKS. Tell us something historically about the American Indians. I have been involved in this, and I have seen them going up. What is the reason for this?

MR. MCDONALD. The reason they are in the Iron Workers?

MR. PARKS. Yes.

MR. MCDONALD. American Bridge was putting a bridge up in Canada, and they hired them as laborers. This was many years ago. And just by accident they were carrying planks and so forth, and they discovered they could go on the iron pretty good. So they came south to the United States, and through their natural ability, they became iron workers.

MR. PARKS. You said "their natural ability"?

MR. MCDONALD. Yes. They are natural iron workers. They can climb around steel pretty well.

MR. PARKS. They have ability to climb around steel?

MR. MCDONALD. Yes. Just the same as a lawyer is a lawyer, a doctor is a doctor, and an architect is an architect. We feel that it certainly takes a certain amount of ability to climb and walk on iron.

MR. PARKS. And you say Indians have this ability as a natural kind of thing?

MR. MCDONALD. Yes, the Indian has a certain amount of ability.

MR. PARKS. How many black workers do you have in your local?

MR. MCDONALD. I believe there are six working in Roxbury as of now, and there are five in the program.

MR. PARKS. Do they show any natural ability?

MR. MCDONALD. Gee, I hope so.

MR. PARKS. I mean, based upon the same premise as the American Indians' ability--I guess you hired them because they climb and they seem to be fearless. You said that is a natural ability of the Indians. I am asking do your black workers show that kind of natural ability?

MR. MCDONALD. I think we have to go back to individuals.

Like everything else, there is probably one good and three not so good. Every Indian cannot climb either.

MR. PARKS. The only reason I am hitting this one is because what I hear is that it is somehow assumed that if you are going to put in high rise buildings, that you ought to get Indians. Then I hear that if you talk about black guys, you are not sure about their natural ability, so you look at them as individuals. What I feel is that this in itself is kind of a bigoted kind of approach, and really a stereotyping of groups of people. Now, we got caught in the same kind of stereotyping because somehow or other, they said we did not have that kind of courage. Then for years, you and I both know, for years black guys did not go into the union because people felt they did not have the kind of natural skill. So what we have is a history of elimination based upon what you call good rational reasons.

MR. MCDONALD. I think that ad in the paper speaks for itself. As I have said before and will say again, Local 7 is taking affirmative action.

MR. BUTLER. Of the three gentlemen who have testified to date, if we may start with you, sir, how many of your membership is working downtown as opposed to in the Model Cities area?

MR. TOBIN. None of them have been working in the Model Cities area.

MR. BUTLER. Mr. DiRienzo, how many working downtown, minority members?

MR. DIRIENZO. I would say off the top of my head probably a half a dozen in the downtown area.

MR. MCDONALD. When you say downtown, I do not know what you mean. Boston proper or the Roxbury area?

MR. BUTLER. I think if I were to ask the general public what they meant by downtown, they would give you an area circumscribed by south of the Prudential building, west and north of ---

MR. MCDONALD. I believe there are four in the Roxbury area.

MR. BUTLER. Downtown, excluding Roxbury?

MR. MCDONALD. We have two right down here in the forty story building, minority people, working with the Madison Company.

REV. DRINAN. Thank you very much Mr. McDonald. Let us move on to some other unions, and then we have another group of five after this. Which is the next gentleman?

MR. BERRY. Donn Berry, business agent, Local 103, International Brotherhood of Electrical Workers, AFL-CIO.

Mr. Chairman you want me to respond to those questions?

REV. DRINAN. Yes.

MR. BERRY. We have a total number working in construction of approximately 1750. We have a total membership of 2100. We have in that number 259 apprentices. In the journeyman category, we have five in the minority group. We have in the apprentice area a total of seven in the minority group -- breaking down to five black and two Chinese.

REV. DRINAN. Totally now you have 1750 working. How many minority workers across the board, in all categories?

MR. BERRY. Well, we have twelve in total.

REV. DRINAN. Twelve total out of 1750. And if it was worse ten years ago, let us not talk about it. What affirmative steps have you taken to improve it?

MR. BERRY. Mr. Chairman, I don't understand your remark. What was it?

REV. DRINAN. Well, if you had fewer than twelve a few years back, let us not talk about it.

What affirmative steps has your group taken to increase the number of minority workers?

MR. BERRY. We have a program listed in terms of affirmative action wherein the local union continues to closely work with the apprenticeship information center, conducted by the United States Department of Labor and the Massachusetts Division of Employment Security, as prime source of recruitment from the minority communities. We also work with the representatives and advisory committee. In addition, the industry provides information specialists to speak to every responsible source that may have access to applicants who will be interested in applying for apprenticeship training. The organizations include community organizations, churches, poverty organizations, civil rights groups, YMCA, Neighborhood Youth Corps, employment services, and individuals who may be working with you. We have program information provided by the Commonwealth of Massachusetts, in total compliance with Title 29. We cooperate with the joint apprenticeship information center, and the national selection procedure is used by our apprenticeship program as approved by the United States Department of Labor.

REV. DRINAN. Mr. Berry, did I understand correctly from another witness this morning that the Electricians Union actually is not expanding, is not taking members in at this time?

MR. BERRY. This is not correct, and I would address myself specifically to that in just a moment or two.

We do have an approved testing procedure -- approved by the United States Department of Labor -- for the aptitude tests which are given to apprentices. Prior to this, every effort is made on the part of the union to bring in, from the minority community, people that might be interested in the electrical industry. With that, we have specialty groups, as I have indicated, and schedules set up. We had broadcasts on radio station WILD. We advertised in the Bay State Banner.

REV. DRINAN. Mr. Berry, is it fair to conclude that these are fine steps, but apparently ineffective ones, through no fault of yours?

MR. BERRY. I do not think this is a fair statement at all. I think that if we look at this thing realistically, Rome was not built in a day. I know the response to this is, yes, the minority groups, particularly the blacks, have been suppressed for some three hundred years. The point here is that this country and this community is beginning to react. The electrical industry is part of that community, and we are taking meaningful action. If the question is, are you taking meaningful action, the answer is unequivocally yes, we are taking such action.

I think that the results are not in at the present minute. The results are not in. We have taken these actions. If they are not enough, we are prepared to move forward and take other action. But at the present time, we want to see what the results are of the actions that we have already taken.

MRS. BATSON. Is your local the one that was involved in a case two years ago on discrimination held before the Massachusetts Commission Against Discrimination?

MR. BERRY. My local union was the local union that was acquitted from all charges of discrimination.

MRS. BATSON. You were acquitted but probable cause was found in that case. I was the Commissioner that found probable cause, and at the public hearing it was dropped.

Now, the man who had brought the charge of discrimination against you at that time the union refused as a part of the conciliation agreement to take this man on as a union member. I understand that as of about three or four months ago, he was taken on as a union member. Would you mind telling me what changed from two years ago?

MR. BERRY. Fair question. The reason the particular man was taken into the local union was that a policy had been established by the executive board of the local union that all applicants that had been working for a period of six years continuously for any given contractor in the industry would be taken in. There were several white electrical journeymen electricians that were taken in at the same time under the same policy. It was not a question of the fact that his skin was black or that he had filed charges.

MRS. BATSON. Now, in this man's case I think it took six to eight years finally to get into the union -- and if in fact you have only ten or twelve black people in the union now, is it going to take them eight years to become union members?

MR. BERRY. We organized during that period of time a Pyro-Electric, that has since gone out of business. In that organization was a black journeyman wirer. He was admitted with all of the other wiremen in that particular shop. We have at present been certified by the National Labor Relations Board as the exclusive collective bargaining agent for a Mark Electric, who has a number of projects now going on in the Roxbury area. He has two black employees. One is about to become a journeyman. One is an apprentice. Both of these people will be taken in as we take in the other employees of the shop.

MRS. BATSON. I am trying to see what makes the difference and what the future holds.

MR. BERRY. When the individual you referred to originally applied for membership in my union, we were not as active in organization as we are now. For example, we did not use the National Labor Relations Board as a vehicle for organizing. Prior to that, we used persuasive powers. At this point in time, we use an agency of the United States Government to conduct an election where an employer is compelled to sit down and bargain.

The position of the executive board is as I stated. If there is continuous employment for a period of six years, they will recommend to the body that the man be accepted into membership. Now, let me make it abundantly clear that we are a democratic organization. We will recommend to the body and the body will vote. I want to make that point clear.

MRS. BATSON. I think that we can say that there isn't much hope for black people in this union if they have to wait six years, because there are so few of them. The union is filled with white people. But any black person trying to break into your union is going to have a heck of a time.

MR. BERRY. Madam, are you suggesting that the white people in my union are automatically going to vote no because a man's skin is black?

MRS. BATSON. Yes, because they have done it.

MR. BERRY. I take exception.

MRS. BATSON. Go ahead, I am saying it does.

MR. BERRY. Mr. Chairman, you have no evidence nor does your committee member have any evidence to that effect.

REV. DRINAN. Can we come back to this because we have one gentleman here who has not been heard, Mr. Hardy also.

Mr. Gross has two questions for all of you. I will ask Mr. Gross to read these two questions and, if you will, we want a succinct answer to these two questions.

MR. GROSS. The two questions that we will take in order are:

(1.) What is the right or authority of the contractor under your collective bargaining agreement to hire nonunion persons in your craft whom the contractor deems qualified?

(2.) When a job order comes into the union, how does the union decide who is referred out on that order?

REV. DRINAN. All right, gentlemen, if you and Mr. Feeney would think as hard as you can and even write out an answer. In the interim, we will hear Mr. Hardy.

This is Mr. Joseph Hardy, the Secretary-Treasurer of the Carpenters Union. Mr. Hardy, if you will just respond to the questions we have been asking as to the total number of minority, and total membership, and what steps you have taken to increase it?

MR. HARDY. We have a total membership here in Boston of approximately 5500.

REV. DRINAN. How many minority in that?

MR. HARDY. Minority groups, we have no count of. We do not make any record of a man's color, creed, or anything else. I know we have had black people in our organization for years because I have worked with them. We have them today. They are coming in of their own free will. All that we ask is that they are qualified. If they insist they are qualified, that is up to them. They have to prove it on the job.

REV. DRINAN. Sir, we do have a count here that I think is your union, Boston Carpenters Apprenticeship and Training Fund.

MR. HARDY. That's right.

REV. DRINAN. Well, somebody in your organization said that the total minority is ten. This is in a document supplied to the United States Commission on Civil Rights. But go ahead and describe whatever affirmative steps you are taking.

MR. HARDY. So far as we are concerned, our apprenticeship is open to anybody. They make application at the time the applications are open, and as openings for the apprentices appear -- when they come into the office -- they are called in and sent to the job. And so far as we are concerned, it is up to the man himself when he is sent to the job to make good. We cannot lead him by the hand. We can probably argue with him if we find that he is acting in a manner that would jeopardize his job. For instance, the other day, I had a call from a contractor that an

apprentice was on the job with no tools. He was instructed before he went on the job to take what tools were necessary for that particular phase of work, and he showed up without them. I suggested to the contractor that he use him carrying lumber or something else, and that we would get in touch with him and instruct him what tools to use. So the contractor was agreeable. The fact that the man was black had nothing whatsoever to do with it.

We also are teaching some of our people; we have taken them in as trainees. Along with agent Burke of the Roxbury district, I was instrumental in setting up a shop at the corner of Cedar and Quincy Streets. We set up a shop where they are making mill work for housing construction in different areas. The total number of people on the job, according to the last count I had was twelve, and all twelve are black. We do everything we can to help these people out. We took six of them in on a job for a dry wall plastering company as trainees. After a sufficient length of time that they were on the employer's payroll, we figured it was time for them to come into the union. They refused to come in. We also have a health and welfare and pension fund in our organization. They refused to allow the employer to pay anything into the fund. They wanted that money put in their own pay envelope. In order to keep peace in the family, we went along with it. We had to. We had no choice in the matter. But it is going to make us hesitate a long time before we go through that again.

REV. DRINAN. All right. Thank you for the statement.

MR. PARKS. Let me ask one question. You handle dry wall, right?

MR. HARDY. Yes.

MR. PARKS. Dry wall comes under the carpentry?

MR. HARDY. That is right.

MR. PARKS. Can you explain to me why you have been getting French Canadians to come in to do dry wall?

MR. HARDY. Because our own local people don't want to do it. Now, in this particular instance, the six people I am speaking of are putting up dry wall. This is a start in that direction.

MR. PARKS. That is not the question. I noticed that there are quite a few French Canadians coming into the country to do dry wall work. I worry about it. I wonder about the fellows presently here who may even be nonunion, because yesterday it was established that prior to going outside of the territory to get people to come in to work, the contractors could in fact employ nonunion people to do this work when the supply of union people in this area is not enough to cover their demands. Is that a fair statement?

MR. HARDY. That is a pretty fair statement, but let me elaborate on it, if you will. These people came down from Canada. They stopped at Lowell and they were taken into the union in Lowell. That is one of the largest dry wall contractors in the country. He puts them on, puts them to work. They come down here and we cannot very well slam the door in their face and tell them they cannot work here, because we would be depriving them of an opportunity to earn a livelihood.

MR. PARKS. That is not what I am saying. I am saying that---

MR. HARDY. We do not select them. The employers select them.

MR. PARKS. Do you concur with the fact that a contractor in this area, when there is not a supply of dry wall workers, that he could in fact employ nonunion people who have that skill inside the area prior to going outside the area?

MR. HARDY. We have no objection to employing a nonunion man because our contract provides that after seven days, they will come into the union anyway.

REV. DRINAN. This ties in directly with the specific question that Mr. Gross has asked. Do you have something in writing that you would like to read to us on the two key questions?

MR. GROSS. Can we go union by union? Mr. Tobin, of the plumbers?

MR. TOBIN. The employer comes to the union, for people. It is the policy to give us 48 hours to fulfill his needs. In all cases, we have been able to fulfill his needs. He has not had to go out elsewhere to get help.

MR. GROSS. It has never happened that you were unable to fill his needs within 48 hours?

MR. TOBIN. He has never had to go elsewhere for the help. He may extend the 48 hours -- not at our request -- but he figures, well, I will wait until maybe Friday or maybe Monday.

MR. GROSS. You have never requested him to extend the hours?

MR. TOBIN. No.

MR. GROSS. Does he know that you want him to extend the hours?

MR. TOBIN. We never discussed it. It has been their policy to go to the union for help.

MR. GROSS. On the first question, you say he comes to you. The question is what right would he have not to come to you? Does he have to come to you?

MR. TOBIN. He has to first.

MR. GROSS. This is a first preference? Is that what you call it? What term do you use?

MR. TOBIN. Exactly. In other words, that we will fulfill his needs within 48 hours.

MR. GROSS. This is in the collective bargaining agreement?

MR. TOBIN. Right. He also has a right to hire anybody, and any of our people have a right to solicit their own job. In other words, we have not got a hiring hall. They don't have to come to us. They can hire any of the 1200 active members that they desire.

MR. GROSS. As long as it is a union man?

MR. TOBIN. Right.

MR. GROSS. And your response to the second question, on the filling of job orders?

MR. TOBIN. Oh, yes. The contractor, if he needs somebody and he hasn't got them calling at his door, as a last resort he will call us. But normally he likes to select his own. As this last resort, we have a membership who call us when they are unemployed. We put them on a list. So they will go out to the employer according to their position on the list.

MR. GROSS. Is there any written procedure you follow in terms of pulling people off that out-of-work list?

MR. TOBIN. I do not know.

MR. GROSS. How do you pull people off? Do you take them off the top in the order they got on the list?

MR. TOBIN. Yes. In other words, this is first-in first-out, unless the job is too heavy for age reasons, or certain qualifications. But generally speaking, they come off the top.

MR. GROSS. You would choose among the people on that list, in part, on the basis of their qualifications?

MR. TOBIN. Not necessarily qualifications, In other words, ability. We do not want to send a man 65 years old on a---

MR. GROSS. Not just age, but what kind of jobs he's able to handle?

MR. TOBIN. Generally speaking, we take them off the top of the list. The exception is a man himself who resents going down to a deep ditch or a high building because of age.

MR. GROSS. But there is some selection made among the men in terms of what their skills might be, or their experience?

MR. TOBIN. Generally speaking, no. Because they are all licensed journeyman plumbers. Sometimes there may be a special thing they want that all journeymen cannot do such as welding.

MR. GROSS. All right. Thank you.

I'll restate the first question that we're asking now. What is the right or authority of a contractor under your collective bargaining agreement to hire nonunion persons in your craft whom the contractor feels are qualified?

MR. DIRIENZO. Under the terms of our agreement, he can hire someone who is not a member of the union. Under the terms of the agreement, the man, the individual who was employed, would have to become a member of the union after seven days.

MR. GROSS. He would have to become a member of the union if you wanted him to become a member of the union?

MR. DIRIENZO. Yes.

MR. GROSS. On the other hand, if you did not want him to become a member of the union, he could not come in?

MR. DIRIENZO. Not me, the membership. But I can add this -- it has never happened. It has never happened that way, I assure you. There is no living human being that can ever say he was denied the right to membership in our local union, if he was hired on the job.

MR. GROSS. In other words, you have no first preference clause in your collective bargaining agreement?

MR. DIRIENZO. No.

MR. GROSS. That means that the contractor is free to hire nonunion if he deems the man qualified?

MR. DIRIENZO. So long as they become members of the union after seven days.

MR. GROSS. To what extent in your experience have the contractors done this?

MR. DIRIENZO. Oh, it has happened periodically; quite often, as a matter of fact.

MR. GROSS. Have you ever discussed with them their policy in this regard?

MR. DIRIENZO. No.

MR. GROSS. Have they ever discussed with you what they might do in terms of hiring qualified nonwhites? Has this ever happened?

MR. DIRIENZO. Have I ever discussed it?

MR. GROSS. Has any contractor ever discussed with you his hiring -- and the extent to which he might do it -- of nonunion, nonwhite bricklayers?

MR. DIRIENZO. Positively, yes.

MR. GROSS. Can you say what those conversations were?

MR. DIRIENZO. Well, essentially I was asked, if the contractor came up with qualified mechanics of our craft, would we accept them into membership if they were nonunion people. We agreed that we would cooperate.

MR. GROSS. To your knowledge, how many nonwhite, nonunion men have been taken on by a contractor and come into the union on that basis?

MR. DIRIENZO. Last year at least ten. The Vappi Company took one on last year at the WNAC job. I think he was referred to them coincidentally by OIC.

MR. GROSS. Does it ever happen that a contractor might take on a man who was qualified to do the job that the contractor had for him, but who you would feel does not have a full journeyman status or full journeyman qualification?

MR. DIRIENZO. No. The contractor is the man that is paying him. So he is going to have to decide if he is qualified to earn his way or not.

MR. GROSS. On the second question, could you respond to that, how are job orders filled?

MR. DIRIENZO. For the most part, the practice, the policy, of our union is that the membership goes around from job to job trying to get hired, wherever they can get employment. We don't have a hiring hall. Neither do we have what you would call a true referral system. When the situation becomes such that the contractors have all the bricklayers that they have been able to hire on their own -- if they have need for more -- then they may at times refer to us to see if we have any of the membership available.

MR. GROSS. As with the plumbers, the contractor will generally just hire, and the foreman will pick his own men?

MR. DIRIENZO. That is right.

MR. GROSS. Does the foreman ever give you job orders?

MR. DIRIENZO. Seldom.

MR. GROSS. Very seldom? When he does, how do you fill these job orders?

MR. DIRIENZO. From the available people.

MR. GROSS. Is there any system of selection?

MR. DIRIENZO. No. Just whoever shows up and reports in that he is still unemployed.

MR. GROSS. Is there some kind of a formal list, or do you just know who is available?

MR. DIRIENZO. I just know. I keep it on the top of my head.

REV. DRINAN. Mr. DiRienzo, if a contractor hires these people on his own, and he determines that they are qualified, do you still give them a test about their character and motivation?

MR. DIRIENZO. No.

REV. DRINAN. You really do not care as long as they pay their dues about their character?

MR. DIRIENZO. That is the apprenticeship.

REV. DRINAN.<sup>4</sup> Suppose they have not gone through all this at all? You just waive it and you say, "If he wants to pay them, we let him into the union"? I am just raising the relevance of the screening in the original instance if you don't do it at this level.

MR. DIRIENZO. Like I said, Mr. Chairman, so long as the contractor is willing to hire the individual and pay him the rate, and he lives up to the provisions within the law, after seven days he becomes a member of the local.

MR. PARKS. If a man does not join the union in seven days, what happens then?

MR. DIRIENZO. If he doesn't join the union?

MR. PARKS. Yes. If the man is working, the contractor says he is qualified, and he is doing a good job. Then you come to him with your union, and he says, "I do not want to join the union"-- he has been there seven days. What is the process then?

MR. DIRIENZO. I have never been faced with that problem.

MR. PARKS. What would happen?

MR. DIRIENZO. I think I would have to ask the contractor to discharge him.

MR. PARKS. You have that right?

MR. DIRIENZO. Under the law, yes.

REV. DRINAN. Thank you sir. The next is Mr. McDonald.

MR. MCDONALD. If a contractor calls our union office and says there is somebody he would like to put to work---

MR. GROSS. Sir, could I interrupt--just in the interest of time. The first question was, what is the right or authority of the contractor under your collective bargaining agreement to hire nonunion persons in your craft whom the contractor feels are qualified? Could you respond to that, sir, first?

MR. MCDONALD. He can become a member after' he has worked at the trade for a while, certainly.

MR. GROSS. That is not quite clear to me. What is the right of the contractor to hire someone who is nonunion? Can he hire anyone he wants or does he have to hire union men if they are available?

MR. MCDONALD. No. He does not necessarily have to hire a union man. It comes down to a matter of ties and courtesy, that the contractor will call the office and say, "Hey, McDonald, I put a couple of guys on, are they qualified? Can they do the work"? He is the guy signing the checks, not the union.

REV. DRINAN. This is the union contract that I have seen. They do have this right as a matter of courtesy. So why don't you go to the second question?

MR. MCDONALD. It is a matter of courtesy, more than anything.

MR. GROSS. If I could come back to this one on this point. Have contractors ever discussed with you the question about their policy on hiring nonwhite, nonunion men whom they feel are qualified? Have you discussed this with contractors?

MR. MCDONALD. Yes, I have.

MR. GROSS. Can you summarize what these conversations were?

MR. MCDONALD. One company -- his exact words?

MR. GROSS. No.

MR. MCDONALD. One company, for example called me and said "I've got a couple of black people I want to put on". And he put them on. As far as I know, they are still with them. Is that what you mean? Does that answer your question?

MR. GROSS. Yes.

MR. MCDONALD. And so like I say it was a courtesy. It is just more or less of a courtesy, that is all.

REV. DRINAN. Mr. Berry?

MR. BERRY. We have no referral system in our collective bargaining agreement. Our shops are free to employ whomsoever they want, provided they are licensed by the Commonwealth of Massachusetts -- that is, holding an A license or a B license, licenses issued by the State of Massachusetts. We are dealing with journeymen electricians at this point. As a matter of fact, several weeks ago we were unable to furnish some numbers of electricians, and the Electrical Contractors Association put an ad in the paper for such journeymen, and they were referred out. When I say referred out, I use it advisedly. They went to work for the employers.

MR. GROSS. May I ask one general question, and then I am through with the panel. Would you say, then, in summary that if a contractor says that he does not feel he can hire nonunion nonwhite people because of the reaction of you gentlemen, that he is wrong? Does anyone disagree with that? [No response] There is no dissent.

MR. MADDEN. He is wrong.

MRS. BATSON. If a person is hired, a nonunion member, by a contractor, does he automatically have to become a union member?

MR. BERRY. There is no mandatory clause that a person has to become a union member.

MRS. BATSON. If a person works on a nonunion job, does he pay his dues; does he have the regular union benefits taken out of his pay?

MR. BERRY. I think we have to indicate that on a nonunion job, the local union has no control.

MRS. BATSON. Not a nonunion job. On a union job, where everybody is a union member. The contractor exercises his right to hire a nonunion member. Does he take out the regular benefits if he does not belong to the union?

MR. BERRY. People that are not members of the union would be required to be licensed journeymen electricians by Chapter 141 of the General Laws of the Commonwealth. The employer, as I stated, would be free -- if he needs more employees and there aren't any available -- to advertise, as they have done.

MRS. BATSON. What does the union require of a man working on a union job, who does not happen to be a member of the union?

MR. BERRY. We do not require that man to become a member of the union.

MRS. BATSON. If he is not required to become a member of the union, why are benefits taken out of his pay?

MR. BERRY. Are you talking in terms of health and welfare?

MRS. BATSON. Yes.

MR. BERRY. Because he receives health and welfare.

MRS. BATSON. From the union?

MR. BERRY. The health and welfare is a deed of trust that has been entered into as a result of collective bargaining. It has been certified, if you will, by the United States Treasury Department. The employee, be he a union member or nonunion, receives all of the benefits as prescribed. I am saying that if any monies are taken out -- and monies are taken out -- from an employee's wages, or contributed by the employer in an employee's behalf, then, whether he is union or nonunion, he receives exactly what the benefit prescribes.

REV. DRINAN. All right. One last question from Mr. Pittman.

MR. PITTMAN. Do you have a signed agreement with the Workers Defense League?

MR. BERRY. Do we have a signed agreement?

MR. PITTMAN. Have you entered into the Model Cities agreement with the Workers Defense League?

MR. BERRY. We are a part of the Building Trades. We are actively paying our dues in the Building Trades, and we are a party to it. We have every intention of living up to it.

MR. PITTMAN. Has your local signed an agreement with the Workers Defense League?

MR. BERRY. Our local union?

MR. PITTMAN. Your local union.

MR. BERRY. By virtue of the fact that it is party to the Building Trades, it is bound by that agreement and will live up to that agreement. Our local union does not have to in and of itself sign an agreement.

MR. PITTMAN. Did you hear the statement Mr. Ramsey made this morning about your local union? He said it had to be approved by your membership.

MR. BERRY. Let me respond to your question. The original Model Cities program that was signed and is active now -- Local 103 is party because of the fact that we are in the Building Trades. We have been approached by several groups -- and I am not familiar with them -- asking that membership be given to certain trainees as prescribed in the Model Cities contract, that they be given instant membership in the local union.

Now, this is not talked about in terms of Model Cities. What I am saying to you, sir, is this. We are working on a program wherein we can be able to be more liberal in terms of giving trainees union cards. But at the present minute, we are prepared totally and without reservation to live up to the Model Cities contract as signed by the Boston Building Trades.

REV. DRINAN. Mr. Wilmore has one question which he will ask you to reply to by mail.

MR. WILMORE. In the interest of time, could you gentlemen reply to Rev. Drinan? It is really a three part question. I could submit it to you in the mail if it would help also. I would like to know the rough percentage of your present membership which are products of a regular four year apprenticeship program and what rough percentage came through some other routes; also, if you would just tell us what the other routes are. You told us, Mr. Berry, they work six years on a job. That is one route. And if you could also state whether any of your black members have used any of these other routes -- other than the apprenticeship program? Do you understand the question?

MR. FEENEY. You are going to send it to us in writing Mr. Wilmore?

MR. WILMORE. Would you like that, Judge Feeney?  
Alright.

REV. DRINAN. Thank you very much gentlemen. We would like to spend more time, but we have five more here before lunch from the building trades unions. So thank you very much.

BUILDING TRADES UNIONS REPRESENTATIVES

PANEL II

PIPEFITTERS UNION, LOCAL NO. 537.

JOHN LYDON, Business Manager.

INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL NO. 4.

WALTER RYAN, Business Manager.

BOILERMAKERS UNION, LOCAL NO. 29.

EDWARD HANCOCK, Business Manager.

CEMENT MASONS AND ASPHALT LAYERS UNION,  
LOCAL NO. 534.

CHARLES F. SPILLANE, Business Manager.

PAINTERS, DECORATORS AND PAPERHANGERS UNION,  
DISTRICT COUNCIL NO. 35.

DOMINIC SERETTO, Special Organizer.

REV. DRINAN. Gentlemen, we appreciate your coming and are sorry we have held you beyond the designated time. Starting now on my right, this is Mr. John Lydon of the Pipefitters Union. Would you want to respond briefly to the three questions we have been propounding here?

MR. LYDON. With reference to the extent of minority participation, in our most recent apprentice program, there were eight candidates of the minority group referred to the Pipefitters Local Union 537 by the Workers Defense League. There was one that I made contact with on the job. This makes a total of nine in the minority group that made application into our apprenticeship program.

REV. DRINAN. I didn't get the total of all employees, then the number of blacks.

MR. LYDON. The total of all employees employed is somewhere in the vicinity of 1500. Of this 1500, approximately 25 are black. Of this 25, seven are apprentices, some of whom have gone to work. Others we are waiting now for an appearance in our local union hall for assignment to various shops. As they appear, they will be placed into employment in our industry. These are the nine applicants.

REV. DRINAN. Now, as to point two, you were going to tell us the affirmative action you're taking.

MR. LYDON. We also have put an ad in the Banner for apprentice applicants as of the first of the year. Approximately two years ago we participated in a program that was established to hand out leaflets advertising our apprenticeship training program at the Dudley Street subway station and in the Roxbury area. There is a newspaper clipping of it. I'm sorry I don't have a copy of the leaflet that was passed out.

We have been participating in the Model Cities with some of our contractors -- getting our contractors to employ people of the minority group on their jobs in this area.

REV. DRINAN. Now, Mr. Lydon, the third question that Mr. Gross asked the entire body. I take it that the contractor can hire some person he deems qualified and that person can join your union thereafter, is that right?

MR. LYDON. Yes.

REV. DRINAN. Is there any hiring hall arrangement or any priority set up by the union? Do you have any arrangement for that?

MR. LYDON. No, there isn't.

REV. DRINAN. Well, how do unemployed people get employed?

MR. LYDON. Generally by referral from the contractor. The contractor will refer them to us. The Workers Defense League has referred several people to us, all of whom have been employed as journeymen pipefitters in our organization.

Now, on the apprentices -- of the nineteen apprentices in the most recent group, seven are black.

REV. DRINAN. You said that you didn't have a hiring hall of any nature, or what?

MR. LYDON. No hiring hall.

MR. GROSS. Well, isn't this a matter of terminology? You said that the contractors referred people to you?

MR. LYDON. At times, if he needs them, yes, sir.

MR. GROSS. What does this "referral" mean?

MR. LYDON. He just asks. If he has someone that he's primarily interested in, he will mention his name.

MR. GROSS. Can the contractor hire this man himself without going to you?

MR. LYDON. Yes.

MR. GROSS. What's the referral? I don't understand why---

MR. LYDON. As a matter of courtesy to me.

MR. GROSS. What happens in this referral, what does that mean? What procedure is followed?

MR. LYDON. There are no standard procedures.

MR. GROSS. Does the man physically come to you, or what happens?

MR. LYDON. At times, yes, sir.

MR. GROSS. When the man physically comes to you, what happens then?

MR. LYDON. We record his name and have him appear before our Executive Board, make out an application for membership. Then it is acted on from there.

MR. GROSS. Do you appraise his qualifications at that point, or what does the Executive Board do?

MR. LYDON. The employer does.

MR. GROSS. Does he have to go through this procedure before the contractor will hire him?

MR. LYDON. No. Generally this is where he's appraised from, on the job site.

MR. GROSS. So that the contractor doesn't have to wait for any decision or go ahead from you, he can put the man on the job?

MR. LYDON. Yes.

REV. DRINAN. Let's go through the other three or four here and then come back insofar as time permits. Who is the next person, now?

MR. RYAN. Walter Ryan.

REV. DRINAN. This is Mr. Walter Ryan, Business Manager of International Union of Operating Engineers, Local No. 4.

MR. RYAN. We have an active membership of about 3900. We have a territory consisting of the State of Maine, five easterly counties in New Hampshire and eastern Massachusetts. We have members working in equipment houses, members working in quarries -- crushed stone quarries -- members working in sand and gravel plants. We have members working on dredges, lighters. We have a few segments of our local union and international which deals with field engineers, or survey engineers. I would guess that we have about 125 or 150 colored men who are members of the local union.

We have a collective bargaining agreement with our employer groups that requires them to notify the local union of their need for employees covered within the classifications set forth in the agreement.

We work closely with the Workers Defense League --

MR. GROSS. Sir, could we come back to that point. When you say they are required to notify you, what then happens when they notify you?

MR. RYAN. As a matter of fact, sir, they seldom notify us. We have a cardinal rule at Local 4 that a man may solicit his own employment. As a result of this, the employer seldom notifies us, actually, except when the labor market is tight and he needs men in operation of a vital piece of equipment. In these cases, he then will call us pleading for our intercession in getting him some men to man this equipment.

MR. GROSS. When you say he doesn't notify you, would he be able to hire nonunion people and not notify you?

MR. RYAN. He could.

MR. GROSS. Do you think this is likely to happen?  
Is that something which you know whether it happens?

MR. RYAN. It has.

MR. GROSS. Thank you.

MR. RYAN. And working with the Workers Defense League, we have been able to place several men who are working out pretty well as operating engineers. As a matter of fact, we just organized I guess what you would call the first black excavating contractor in this area -- the Bayport Construction Company. There were four employees involved in that organizing effort, which incidentally is how we get most of our members -- through organizing effort. Two of these men who appeared before the Executive Board last night in conjunction with the organizing of the Bayport Construction Company were colored boys. Obviously, the other two I wasn't too certain of.

REV. DRINAN. How old were these colored boys?

MR. RYAN. I'd say they were 25, 30.

REV. DRINAN. How many white boys aged 25 were there?

MR. RYAN. You mean of these four?

REV. DRINAN. There's a question of terminology, sir.  
Why don't you proceed.

MR. RYAN. They were, I'd say, in the same age bracket --  
25 to 35.

MR. PITTMAN. At what point of time do they become men?

MR. RYAN. What's that, sir?

MR. PITTMAN. These 25 or 30 year old boys---

REV. DRINAN. I think the point has been made.

MR. RYAN. I just wanted to respond to that. The term "boy" wasn't used in any way to embarrass or disparage anybody. It's a term we usually use in the construction business.

MR. GROSS. Sir, in terms of a contractor hiring someone who is nonunion, after seven days he would have to come into the union? That's the situation with your union?

MR. RYAN. We have the conventional union security clause with the seven day stipulation.

MR. GROSS. Now, has it ever happened that the contractor has taken on a man in the operating engineer category, and had him working, but you did not feel he was qualified to enter the union?

MR. RYAN. If the contractor has hired him and the contractor is paying him, then that's qualification enough for us.

MR. GROSS. Do you have concern that a given contractor might hire someone for a job, and the man would be able to do that job, but would not have complete journeyman skills, so if you took him into the union you'd be afraid that when you then referred him out on other jobs, you'd give the union a bad name because he couldn't handle them? This is something one hears often. Isn't this a problem with your union, too?

MR. RYAN. We have various classifications within our local union. There are many pieces of equipment and there are very, very few, if any, men who could operate all of them.

MR. GROSS. So a man could come in the union on the basis of a specific skill or background?

MR. RYAN. There are men who make a living and who operate just dozers or scrapers or front end loaders -- that type of equipment. There are other men who operate nothing but trucks throughout their lives.

MR. GROSS. Is this true, sir -- I will ask you of the construction industry in general -- that in many of the skilled crafts a man would come in on the basis of perhaps an ability to do a part of the trade, but not necessarily the whole? Would that also be true of other trades as well?

MR. RYAN. I could not speak with too much authority on other trades, but it's possible.

MR. GROSS. Thank you.

REV. DRINAN. Is there anything further you want to say, Mr. Ryan?

MR. RYAN. No, I don't think so.

REV. DRINAN. This is Mr. Edward Hancock of the Boilermakers Union. Yes sir.

MR. HANCOCK. First of all, Father, I'm unique in my conversation when I meet before groups. I want to make one remark, and if anybody is going to take offense, I still would be remiss in my duties as the business manager if I didn't bring this out. I am a Catholic myself. I have been invited here today to speak before this group, and I have found myself feeling that you have been yourself a little bit obnoxious to the union representatives here today in your attitude. If it is your personality, I apologize, but if it's not your personality, I take offense to it as a union representative.

I will answer any questions you want to know. I'm also of a minority group in that I have a small membership. I cover five states, Maine, New Hampshire, Vermont, Massachusetts and Rhode Island. I have a total membership of 409 people. My election day was two weeks ago, on June 8, at which time I protested 100 votes because in my opinion those hundred were not qualified to vote in an election because they had cards just for the purpose of getting life insurance. They were members of management, they were on the sick list, they were unemployed, not

seeking work in the trade, etc. This brings me down to 309 members as of June 8 -- that were members of my organization that would be allowed to go out to work if they sought work. Of these 309 people we have approximately 50 that work in two shops -- Acme Industrial in Hingham and Hodge Boiler Works, in Boston. That brings my total membership for field construction down to roughly 259. Out of these 259, we have people who only want to work around the local area.

At the present time, sir, I have an exclusive hiring provision in my local. I'm unique in that this is my loafing list, which comprises 87 members out of 259. This means I have approximately 40 percent unemployment.

I want to get back to the question that somebody asked before -- what percentage do you have in your local lodge who have passed apprenticeship and became members. We have point two-five. I didn't say twenty-five, I said point two-five, which means a quarter of one percent.

I will explain it. Approximately nine years ago, before my time as business manager, we indentured two apprentices. I found them working along as water boys, time keepers, collecting field dues, etc., when I took over. I decided to make management put them to work and learn the trade. These were white boys, gentlemen, not black boys. I thought we could improve the apprenticeship in my local. I increased it to approximately fifteen, with another stand-by crew of about twenty to take over. This apprenticeship didn't work out because when we cover five states we cannot have a school in the City of Boston whereby the people go to school to learn the school part of their education.

Since that time we have one man who graduated on June 24, 1967. A week before he was to become an apprentice, he informed me he joined the Boston Police Force. Since that time we have now succeeded in getting another white boy who is going to be given a diploma on July 2 this year, next Wednesday night. We have two more that are still in their second or third year who are refusing to do school work. They can't keep up with the school work. Some member of the black community called me two

or three months ago and requested information on how could the black people get into the program. I explained the situation to him. I said I was having trouble enough with the white boys, let alone the black boys, trying to get them to do the school work, and I was sick and tired of policing the apprenticeship program.

On the Boilermakers Union, I'm very dissatisfied with the progress we've been making nationwide. But I will say this to you gentlemen. In approximately a month a big meeting is to be held in the area whereby a coordinator is supposed to be appointed in order to get this program on the road -- not only for the Northeast, but the eastern seaboard.

But again, sir, in my local union we have approximately eight or ten or twelve black people that are working for us. I don't know the exact amount. When you're talking about the minority group, what about the Jews? The Jews are a minority group. They may be white, but they are a minority. We also have Indians who are employed out of this 259 or so that are in our local working at gainful employment.

So, I'll answer any questions you want, sir, again I repeat. I felt that you people are sitting up there asking us union people questions on how to cooperate with you, and I felt as an individual American citizen, you have been insulting this morning. I wasn't here yesterday but if your attitude was the same yesterday, as it is this morning, I wouldn't be sitting here today answering your Goddamn questions.

Now, Father, I apologize if I offended you, but I mean it sincerely. I take offense.

REV. DRINAN. Thank you Mr. Hancock.

MR. HANCOCK. Excuse me. If I may, I want to elaborate further, on what you may do to try to get work for the minority group. May I at this time?

REV. DRINAN. You want to make a comment?

MR. HANCOCK. Yes, sir.

In the audience here today I find representatives of the United States Government. I told them that if I spoke --

I'm very famous for making some very dramatic speeches -- I might be insulting to them. It's about time the minority group, and yourself Father, got on the backs of the Department of Navy, Defense, Army, Air Force, etc., and insist that they not only get the organized labor people to put on minority groups, but that the people they give contracts out to which are nonunion do so. I have yet to do a job for the U.S. Department of Army in my five states. If I have done it, they better tell me where the heck it's been. I have done a few jobs for the U. S. Navy But I find myself in competition with the nonunion people who come in from out of State -- come in from Texas, Oklahoma, Philadelphia. Yet the minority group don't challenge the nonunion contractor. All you people are doing is challenging the union contractors. Let's get you off your fanny and go out to the nonunion contractors, and try to help us organize the unorganized and put your people to work.

REV. DRINAN. Mr. Spillane.

MR. SPILLANE. Charles F. Spillane, business agent for the Boston Cement Masons and Asphalt Layers Union, Local 534.

I believe the first question is, Father, how much is our membership.

REV. DRINAN. Yes, the total, then the minority.

MR. SPILLANE. We have approximately 230 members -- a very small local. I might say we are the only cement masons local in all New England, but another international has probably fifteen or twenty locals surrounding me that take in cement masons. I have approximately 25 to 35 colored journeymen right now. They're probably not all registered with me; they come in from out of town and bing, they go to work. I have nine colored apprentices. They are not all registered yet because we just took two in a week or so ago. I might add that I have had colored apprentices for ten, fifteen years.

We have had colored membership ten, fifteen, or twenty years ago.

MR. WILMORE. What's the total number of apprentices, Mr. Spillane?

MR. SPILLANE. Right now I'd have to say probably thirty-five to forty.

MRS. BATSON. Is that what you were including in that first figure you gave on the number of minority members?

MR. SPILLANE. Yes, Ma'am. Twenty-five to thirty-five.

MRS. BATSON. Those are all apprentices?

MR. SPILLANE. No. Some have been out there, have their time for five, six, seven, eight, ten years.

REV. DRINAN. Is there anything further you want to add as to the other questions?

MR. SPILLANE. No, nothing else.

REV. DRINAN. We are looking for remedies here as you know. It's the whole thrust of the program. This afternoon we are going to have people from New York and Philadelphia. They are going to tell us how they did it there. So we are looking for affirmative ideas how minority people can find access to ---

MR. SPILLANE. I had instances last summer when I put the members with sons -- I got a hold of the colored guy and I say, "For God's sake get your son down here". And I put them to work, allegedly as apprentices. In one instance, the kid stuck around and in the other instance the father said, "Charlie, I can't do anything with him."

REV. DRINAN. Thank you very much, sir. Mr. Dominic Seretto is here for the Painters, Decorators and Paperhangers.

MR. SERETTO. Dominic Seretto, Special Organizer for District 35.

For the record, I'd like to have the name changed, when any communications are sent to Painters District 35, to Mr. Kenneth Pike, General Secretary-Treasurer and General Agent.

Now, we have thirty-three apprentices as of June 24. Eleven of the thirty-three are of the minority group; approximately one-third black. We have between 64 to 75 of the minority group in our organization. I believe we have more now.

I knew nothing about this meeting until about two hours ago. I am representing the Council because I was business agent and I have been Secretary-Treasurer during negotiations with the employers.

We are in contact with many agencies. Whoever calls us we try to cooperate. The Workers Defense League, the BBA Committee -- we work with anybody. We had several discrimination cases. They were thrown out because they found that we were in the right.

We have a membership of about 1,400 and thirteen house painter locals within greater Boston. We have a District Council, with locals. My local is 577 in Cambridge. We have Local 11 in Boston, a Dorchester local, Everett, Revere, East Boston, Malden and so forth.

I can give you a breakdown of what I estimate there are in the minority group in each local, if you like. In the Cambridge local it's between 15 and 20. In 939 it's about the same, and there's about seven or eight more that are going to be initiated -- these are all journeymen -- on the 14th of July.

Now, as you know, I'm an organizer. I have spent most of my time since I became an organizer, within the last year and a half, in the North Dorchester and Roxbury area and Grove Hall. I'm well-known there. I believe there's nobody that's been in that area any more than me -- morning, noon and night. In fact, I've been asked if I live there.

Now, we're trying to help but we're running against a lot of obstacles. Every time I approach a black contractor, his answer is, "Where were you ten years ago?" My answer is, "We were at the same place we are now, where were you?" We never refused anybody, we never discriminated against anybody. I can cite cases where a black man was working for a contractor for the last twenty-five years. In fact he's due for his life membership card. He's been a foreman for the last fifteen years. In my own local, about fifteen years ago, we had a black member that was a trustee. Then he transferred out of our local and went to another local.

Now, I'm only speaking for the painters. We have never discriminated. We don't believe in discrimination. There was a movement afoot to have an all black local. Of course, you know that nobody wants an all black local. We gave in and we had a meeting. At the meeting twenty-two showed up and cards were passed out. They were asked did they want an all black local or a local of their own choice. The answer out of the twenty-two was that eighteen wanted a local of their own choice.

Now, my local happens to be in Cambridge. You'd be surprised, but the majority of the blacks that come over there want my local. I don't know why. But they come to my local all the way from Roxbury and Dorchester.

When we sign up a shop, all the men in that shop who sign up go into that local in which the shop is. We just signed up a shop -- with both black and white -- M and W. I signed up 20 men. Our initiation fee is a hundred sixty dollars. We took these men in for fifty-four dollars. We gave them thirty days to pay it up, and still some of them haven't paid up.

Now there are fourteen left out of the twenty. Some quit, some got fired, and some have made payment.

Now, the biggest problem in this area, is that the prevailing rate is not being paid to many black men. I was told that some men bought their boss a Cadillac. When you're buying your boss a Cadillac, there's something wrong. I asked, "How much are you getting paid?" He said they were getting paid three dollars five cents an hour. That's not the prevailing rate. The prevailing rate is three dollars forty-seven cents an hour if you're nonunion, and if you're union three fifteen, with the balance in fringe benefits.

Is there anything else you'd like to know?

REV. DRINAN. No, Mr. Seretto. We thank you for coming here.

We have to break because we're due back here at two o'clock. To all of you gentlemen, if there's something that occurs to you afterward, feel free to submit it to me or to the U. S. Commission on Civil Rights.

We want to thank all of you for coming.

REPRESENTATIVES OF THE NEW URBAN LEAGUE OF GREATER BOSTON, AND  
THE UNITED COMMUNITY CONSTRUCTION WORKERS.

REV. DRINAN. Ladies and gentlemen, will the meeting please come to order.

Now, we start on a new part of this program--the community's response to what we have heard from the contractors, from the unions, and from other persons. This afternoon, we will have Mr. Leo Fletcher, the President of the United Community Construction Workers, and Martin M. Gopen, Industrial Relations Secretary of the New Urban League of Boston. We will begin with Mr. Gopen.

MR. GOPEN. My name is Martin Gopen. I am Director of Labor and Employment Services for the New Urban League. I am also technical advisor to the United Community Construction Workers, a State chartered labor organization with a membership of over 385 black workers. I am also custodian of the Urban League's construction workers Skills Bank, an effort started approximately a year ago, that has on deposit resumes of over 600 black construction workers encompassing 26 different building trades.

First of all, I would like to endorse everything said yesterday by Mr. Herbert Hill, the Labor Secretary of the NAACP. And I would like to point out that in the written presentation before you, there is a letter from Mr. Hill to Mr. Floyd Hyde, Undersecretary of HUD, which outlines various disagreements and certain illegalities in the Boston agreement for Model Cities.

MR. GROSS. Excuse me. Mr. Gopen, is this in the material that you handed up to us?

MR. GOPEN. Yes, sir.

MR. GROSS. I would like to mark this as Exhibit 13. This is a packet of materials which Mr. Gopen has given to us.

MR. GOPEN. I would like to point out that that particular position paper given by Mr. Hill has been endorsed by the Urban League, by the United Community Construction Workers, by the Association of Community Workers for Economic and Political Development, by the Malcolm X Foundation, by the Association of Boston Urban Priests, and other enlightened groups.

I came with a prepared statement, prepared prior to the hearing yesterday. I have torn up the statement in the light of the fourteen hours of absurdities, half-truths, outright lies and other fraudulent testimony given before this group. I would rather take the time reacting to your questions. I could take up all of my time reacting point by point to the compliance officers, the union people and the contractors who very arrogantly have insulted this body and its witnesses today.

As to the materials that I am presenting as evidence, the first document is an account of the United Community Construction Workers' effort in February to test five federally sponsored job sites. For the five job sites in question, you heard from the contractors last night. In each case the applicant was told to go to the union. This blows the myth of hiring off the street, which the contractors and the unions say is in fact reality.

Also, there is a letter to Mr. Bayard Rustin in New York, outlining our objections to the Workers Defense League program, and specifically how it is used by contractors to subvert contract compliance--how it is used as their so-called affirmative action program without bringing any minority group members into the mainstream of unionism.

When I speak about minority we should define terms here. My conception of minority group members are persons of the black race and of Spanish-speaking origin. I am not talking about Jews or Indians or dark-skinned Sicilians or Eskimos or anybody else.

Next there is included the letter to Senator Kennedy, with certain documentation that was alluded to by Mr. Ramsey, including: the color count of various federally assisted projects as of March 1969, the Engineering News Record issue of December 12, 1968, outlining that there are labor shortages existing in the Boston area, other materials, and last but not least, another Engineering News Record outlining widespread labor shortages in the greater Boston area, dated April 17, 1969.

Note the fact that this shows the labor shortage in the Boston area is now approximately 52 percent. This means that in fact the building trades can double their numbers and still not meet existing demands.

Next, in these materials, are my recommendations to this Committee as to how we can get contract compliance to bring minority group people into the mainstream of the building trades and keep some of that Federal money in the community, in the form of wages.

And lastly, for your convenience, I include a color count of all major federally assisted jobs in the area. I was surprised yesterday that the contract compliance officers could not come up with color counts. We have been able to come up with color counts. They are consistent with the ones you have been given already, except for the fact that we don't count Eskimos, we don't count Sicilians, we don't count clericals in the office--who have been counted as construction workers.

I am ready for your questions.

MR. PITTMAN. Something bothers me here. An article in the Banner states that the United Community Construction Workers has 300 members, but you stated you have 600 resumes covering 26 different skills and crafts.

MR. GOPEN. The article you referred to is of last January and we have increased our membership.

MR. PITTMAN. Last night the contractors--Perini was one--said that they have called you constantly for referrals for jobs, and that you were not able to fulfill their demands.

MR. GOPEN. You will remember that one contractor said they called us, but upon repeated questioning, it was found out he did not get a hold of us. He did not get through for some strange reason, although we do have three telephone lines.

One contractor, the Volpe Company, did state that they placed job orders with the United Community Construction Workers, and we were not able to provide black workers for those jobs. He was right in one respect. All the jobs in the downtown Boston area by that company, we have been able to fill. The jobs out in West Medford, the jobs out in Waltham, we have not been able to fill too many of them because not too many of our members have cars. He was taking that out of context. In fact I am happy to say that on one particular job out at Brandeis University, by the John Volpe Company, we did place a carpenter named George Morales, who was the first identifiable Puerto Rican person on a union job in the greater Boston area--even though there is a population of 12,000 Puerto Ricans in our area, with a sixty percent unemployment rate.

MR. PITTMAN. Last night we also heard from the Aberthaw people that during a meeting when they were sitting down talking to you, and they were prepared to give construction workers jobs, that the Urban League and the United Community Workers walked out on them.

MR. GOPEN. Well, again that was out of context. You are right. I have the dates in front of me. On November 8, a meeting took place at MIT to write an affirmative action program for MIT's contract with Aberthaw for two buildings. At that time we were invited. We brought up the issue of the job across the street, the NASA Space Center, and said, "Before we talk about the MIT job, lets talk about NASA." At that time they said, "Yes, we could use ten carpenters and five laborers." This is on a Friday. And he said, "Come over to the Aberthaw construction site on November 12, Tuesday, and we will talk about it."

At that time Mr. Fletcher and myself went over there. We were received by Mr. Tura, Mr. Ramsey and nine other unions. We came with the names of ten carpenters and five laborers, as requested. They said, "Okay, give us your ten carpenters and five laborers. We will interview them for jobs." We said, "Well, we are talking about putting ten carpenters on the NASA job. You're talking about the NASA job aren't you." He said, "No, we will put them on other jobs." We said, "Well, we came over to, if you will, integrate the NASA job. You're talking about other jobs of Aberthaw that have a duration of three or four weeks, while we are talking about a major, governmentally assisted job that has a duration of about five to eight years."

So that we have a situation now in the building trades where actually the demand is so great for workers, and the supply is so low, that in many cases carpenters are acting somewhat as prima donnas. They are going on to white union jobs and demanding a guaranteed statement of work for at least one year. There are no white carpenters that will do these so-called clean-up jobs of two to three weeks. Aberthaw Construction Company at the time was willing to take our ten men on and put them on little jobs two or three weeks at a time, and that would be the end of it.

This goes back again to what happens to a person after he gets into the union. Does he get referred to the lucrative jobs that have three or four years duration, or does he get the little jobs out in the boondocks where he needs his own car, where he works three or four weeks at a time--and then lays off for six months and then maybe gets tapped for another small clean-up job?

MR. PITTMAN. Now, the point you raised about getting into the union --do all of the people you referred to the job site in fact, after the seventh day, get into the union?

MR. GOPEN. Absolutely not. That is not the case. I am thinking of a case right now of a Mr. Kellman, who is a graduate of Cross Academy in Worcester--for heavy equipment operation. He has been working for one company for three months. Mr. Kellman has \$250 tucked away in his shoe at this moment, right now, operating a bulldozer, and is looking for Mr. Ryan of Local No. 4. He was on the job for over three months, and the business agent had not approached him and did not want him in. Recently our intervention in this succeeded in doing nothing but getting Mr. Kellman laid off. He is now working for another contractor in the Roxbury area. He has already put in his seven days on that job, and again the business agent won't even come up to him.

REV. DRINAN. Mr. Gopen, in your very interesting ten recommendations, you suggest that the manning table concept be utilized, and that compliance enforced by the Federal Government should be that. Would you give us your thoughts on two questions? I don't understand what the Comptroller of the United States has said about the Philadelphia manning table. Second, if a group of contractors did in fact say that they would do this voluntarily--aside from any Federal requirement-- would there be sufficient talent that is skilled to bring about 20 percent integration--17 percent black and 3 percent Spanish-- in the construction industry in Boston?

MR. GOPEN. The problem with the manning table in Philadelphia is that they were deemed illegal because they were asked to be put on after the fact.

We are asking that the manning table concept be used as a prequalification for bidding. You will hear tonight from Philadelphia that this is in effect the way the Philadelphia Plan basically works. A desired manning table for, say, the downtown Boston area would be 17 percent black, 3 percent Spanish. You want to reflect the minority population. Your biggest problem, I think you found out yesterday, is that there is no definition of compliance--what constitutes compliance. Does the fact that you write a form letter to a social service agency in the black community, is that compliance? You take out a three dollar ad in the Bay State Banner, is that compliance?

We have companies actually working in the Boston area, with no minority workers on the job, who maintain they are in fact in compliance because they have gone through some sort of ritual,

by writing a letter or placing an ad in the paper. So, unless we can make a numerical definition as to exactly what compliance is, then there is no such animal as compliance.

One of Senator Robert Kennedy's last acts was to tack on an amendment to the housing bill asking for at least 25 percent representation of the communities where the jobs were being done.

Now, as to your question whether we can come up with qualified black workers, I point to Exhibit A coming through the door right now--part of the membership of the United Community Construction Workers--walking through the door. These are men who are qualified.

If you are going to define compliance, I think now you have to define what qualified is. For the last two days, the only definition of qualified that I have heard is that qualified means white. The problem that has kept us down all these years is that the person who defines qualified has been either a white union leader or a white contractor. He is the sole definer of qualified. Until we can get out of that bag, then qualified will continue to be synonymous with white.

REV. DRINAN. Mr. Gopen, would you tell us about these men that just came in. Perhaps these men would like to stand up for a moment. All of the men who just came in if you would stand up for a moment and Mr. Gopen will you tell us about your qualifications and . . .

MR. GOPEN. No, I am not going to tell you about their qualifications. These are men who are family men, who are heads of families, who want to make a living, who want to be men, who want to get some of that lucrative Federal plunder that is coming down the line. These are men that want to control their own community and be involved in the physical act of rebuilding their community. These are men who want to have the same scrutiny as any other workmen. They want to go on the job at 8:00 o'clock in the morning. If they do not perform by 9:00, they want to be fired or laid off. But they don't want to have to come to a job, come to a white man, and come with a resume and work history and get on his knees and say, "Give me a little piece of the action in my own community."

Mr. Fletcher will elaborate on the association.

MRS. BATSON. Would you describe the shutdown at the Egleston site? What happened as a result? Did any benefits occur as a result of this?

MR. GOPEN. Okay. I charged that we have been listening to two days of buckpassing and half truths. This is a perfect example of what happens. Last October, the end of October, we took a look at the Perini site at Egleston Square--one of the most visible sites in the community, right next to Egleston station, a housing for the elderly project. Keep in mind the nicely bound blue folder of affirmative action that Perini Corporation presented to you last night.

We went to the foreman of that job and said, "Hey, look, you have 27 white workers and no black workers on this job in the heart of the ghetto utilizing Federal funds. How come you aren't hiring any black workers?" They said, "See the compliance officer." So we went to the Boston Housing Authority and we said, "Look, over there on that housing for the elderly job, ..." The Boston Housing Authority said, "Yes, 27 and zero. That's our project. That's a bad situation. But, see, it's not our responsibility to correct that because this is HUD money."

So we went downtown to find the HUD compliance officer. It took two weeks to find him. And we said, "Hey, that HUD job there at Egleston Square, 27 and zero, that's illegal." He said, "Yeah, you're right. It's illegal and it's HUD money, but you see it's not our responsibility to correct that situation because that's a grant administered through the Department of Commerce. You go to the Department of Commerce."

We went to the Department of Commerce, "Illegal, yeah, that's right it's illegal, but Commerce only administers the grant. We don't have anything to do with compliance because that falls in an urban renewal area. You go to the Urban Renewal people."

We went to the Urban Renewal people, and they said, "Right, that falls in Washington Park and the job is definitely illegal, but it's not our responsibility to correct the situation. Go to the Boston Housing Authority." Which is right back where we came from.

Now, this is the kind of elaborate system that creates a lot of frustration and has lit a very short fuse on the powder keg in Roxbury.

I think the Chairman of this group now can relate to this kind of frustration. Last week I read the Chairman's article, "The Government Lies--The Ultimate Form of Corruption." where the Chairman was lied to in a State Department briefing prior to his trip to Vietnam. Your article stated your government lied to you and you felt very frustrated and hurt.

All right. On one occasion you felt this. Now, multiply this on a day to day basis in every single dealing of human endeavor, and you can relate to the problems of the men who just walked into this room.

REV. DRINAN. I would like to have the names of each of the men that took the time out this afternoon to come here. Their names and addresses. We are going to get this to the right people. This is a dramatic presentation of exactly why we are having these hearings. We want to find out specific ways by which all of these half truths and lies, as you have been saying, can be dispelled and do something.

MR. GOPEN. All right. While you are on my recommendations, then, I gave you a list of ten recommendations.

REV. DRINAN. You have answered my question that, if the contractors voluntarily said that they will go into this free bidding thing on their own--independently of a requirement--you have said that the talent is there, and that the workers can be furnished.

MR. GOPEN. Yes, sir, absolutely.

REV. DRINAN. Mr. Leo Fletcher, the President of the United Community Construction Workers, we would like to hear from you.

MR. FLETCHER. I think Mr. Gopen has a few more words to say.

MR. GOPEN. I would like to add to my recommendations a No. 11, that this Advisory Board petition Congress to award it powers of subpoena, and the power to administer oaths to witnesses appearing before them, so that we will not have the kind of farce that we have had up until now as far as these half truths, absurdities and outright lies.

REV. DRINAN. Well, Mr. Gopen as you know, the United States Commission on Civil Rights does have that power of subpoena. Would you suggest perhaps the United States Commission itself should be invited to come to Boston where we have a boom in federally assisted construction, and that the six Commissioners themselves should view this directly?

MR. GOPEN. Yes.

REV. DRINAN. Mr. Fletcher?

MR. FLETCHER. Good afternoon, brothers and others.

I would like to make a presentation here. When the AFL-CIO merged in 1953, they banged out some agreements. One of them was that they make a maximum effort to bring the black man into the construction trades. Sixteen years later, let's take a look at the figures.

Let us assume that sixteen more years will reap no change. In fact, we can look forward to it getting worse. Now we go into the paper and program games--exclusively for blacks. No program before Model Cities. Why now? I say it is not because they want to help black men break into the industry, but they see year round employment for their predominantly white unions.

What I am really saying is that the unions and the white contractors see that there is over 300 million dollars in Model Cities and urban renewal. They come in with their phoney programs, controlled by them. So they slide in, rape the black community and then slide back out, with the least number of black people possible trained and going into their union. If union contractors were sincere, they would initiate programs now, today, outside the existing jobs which are in walking distance of this hearing. We suggest that for those who realistically want to take a look at the problem that we are talking about, to walk right outside this building and do their own color count.

We of the UCCW, seeing this, have formed a trade association consisting of ten crafts represented. We are claiming that the Model Cities and urban renewal is our turf. We will set up and enforce all policies. Any guidelines set down by unions will not be accepted by the United Community Construction Workers.

To clarify this point for people like Mr. Ramsey and Mr. Leighton--so they can understand what we are saying--your program is not accepted.

We will set the policies and enforce the same. Some of you will say, "Man, don't limit yourselves to work being done just in the Model Cities, and separate yourselves from the unions." I say, "Go to hell." The need for black men to determine their own destiny, and be allowed the right for self-development and determination, must be maintained. We only have a model, but we as black men will determine how this model gets built.

The money for Model Cities is for local contractors, and local labor, and the development of the community and its people.

So take your union program and go to your job downtown and implement it there. Because when the union says, "We have a program," they get funded immediately. But no money is ever allocated for community construction groups trying to develop themselves.

We in the United Community Construction Workers believe in self-development and self-determination. Therefore we must determine the planning and building of our community, and this will be done.

So don't do us any favors. We'll build it or nobody will. If we could build the road to Jordan when in incarceration, I am pretty sure that we can build our own community.

REV. DRINAN. Thank you, Mr. Fletcher.

MR. FLETCHER. I have a document concerning the policies of the United Community Construction Workers which I would like to submit.

REV. DRINAN. I would like to see those. Would you want to comment on them?

MR. FLETCHER. All right. These policies are outlined and discussed by the body of the United Community Construction Workers.

1. In all work done in the Model Cities and urban renewal within the black community, the labor force will be assigned on request from local contractors to the United Community Construction Workers.

2. All labor in the area will come under the jurisdiction of the United Community Construction Workers, and a fourteen day period will be allowed for any man who is working on the job site to join the trade association.

3. All men will receive prevailing wages, and health and welfare benefits will be set up in the form of a trust fund.

4. All contractors will sign into bargaining agreements at preaward contract hearings or other times designated, at least three weeks prior to projects starting.

5. Training of men will be done on a two to one ratio, with trainees receiving sixty percent of journeymen's wages.

(a.) It will be mandatory for all men in the licensing trades to attend classes two nights a week, three hours a night, for tutoring towards getting their license.

(b.) It will be mandatory for all on-the-job trainees to attend one night a week, four hours a night, for basic education, studying construction vocabulary, motivation training, safety procedures, and good job habits.

(c.) Graduation of trainees will be determined by the United Community Construction Workers, consisting of two representatives from the UCCW and contractors designated in each trade.

6. All nonskilled labor will be from the local community, and ten hours of orientation will be mandatory.

7. A job trainee evaluation will be kept by use of records on all trainees, and monthly reports submitted to the trainee council.

Other policies will be determined at a later date by the United Community Construction Workers.

REV. DRINAN. Mr. Fletcher, will you explain No. 4 a bit, that all contractors will sign into bargaining agreements at preaward contract hearings. I mean, what percentage do they guarantee of minority? Is this the 17 percent?

MR. FLETCHER. This is one hundred percent as far as I am concerned.

REV. DRINAN. Alright, Mr. Gopen?

MR. GOPEN: This goes back to the manning table concept. I pointed out that the acceptable definition of compliance would be minority group members on the job that reflect the total minority population. That is downtown.

Now, when you start talking about our own area, we have, unilaterally, negotiated contracts with contracting firms coming into the black community with the following provisos.

1. One hundred percent of all the laborers be black and local. We have to put "black and local" because they switch people around for the benefit of the numbers game.

2. That every other category be integrated on a fifty percent ratio at least.

Those are ceilings. Now, we don't feel that it is necessary to have a four week training program at half pay-- which smatters of all kinds of exploitation--to qualify laborers. We put people on and we want the same kind of training that white people get. White people get on-the-job training. Black people have to go through specialized head-tapping and hand-carrying training programs that pay less money, but expect at least as much if not more work.

Again, we want the same kind of scrutiny, the same kind of entree as white people get into the lucrative trades. What you're seeing here is a departure from a philosophy. Union integration is not necessarily a goal. Now, why would any black man today want to join up in such a discriminatory structure, when he knows he is not wanted, where every little door that is forced open is forced open with pressure from groups like yourselves and ourselves? Who would want, in their right mind, to get involved in that kind of a structure? This is 1969. We are not talking about letting three or four people in by the back door and calling that progress. We are talking about the establishment of what Mr. Hill referred to yesterday as parallel institutions. He outlined the National Afro-American Contractors Association. We're talking about that now here. Also, you see here in front of you the nucleus of a black union. We are going in the same direction, and using the same methods, as the labor movement did thirty years ago, but unfortunately, because of their self-centered interests, have lost sight of the plight of the working man today.

We are reacting, too, against some other things, such as the artificially high wages paid to construction workers, to the detriment of the black community. I will spell out how that works in a second.

We are talking about the black community being able to set up a structure where we can bring in innovative new building techniques that meet the sense of emergency in the housing crisis in the ghetto today.

George Romney, Secretary of HUD, was recently booted off the stage of an AFL-CIO convention in Washington when he asked that the building trades unions come into the 20th century by bringing in prefabricated units, by bringing techniques up to date. He was booted off the stage.

Carpenters in this area just came back off strike. They got a package deal of seven and a quarter. Before the strike, 45 days earlier, they were getting \$5.55 an hour. The laborers went out over the weekend, and went from \$4.10 to \$4.85. The highest cost in building today is in wages. This is a two-pronged attack for us. We want those wages to stay in the community, to generate an economic base for the total community. But at the same time those wages have kept down, and made prohibitive, low cost housing. I have seen some reports that say they are actually making middle income housing prohibitive today. This is how the labor unions today are working against poor people.

MR. GROSS. Mr. Gopen and Mr. Fletcher, the subject of this meeting is Federal contract compliance, with principal emphasis on remedies. Am I right that when you come right down to it, what we are talking about is how we get these men who are in the room here today onto the Federal jobs, to that work downtown--the major construction work?

MR. GOPEN. What we are talking about is how we get the men who are in this room a piece of the Federal plunder. Not just jobs. The way the system is set up today, we have very effectively arrested the development of the local black contractors, as well as skilled craftsmen.

MR. GROSS. Let us take it one part at a time, then. Could you explain a little more about what your Skills Bank is and how that works?

MR. GOPEN. A year ago we attempted to go out and identify people in the community that had various skills in the building trades, and also to register those people with potential skills and who had a high degree of motivation--who wanted to get into a training situation. We have documented these by trades. These are available and have been available to contractors and to anybody else who wants to hire workers. Now, I am not saying black workers--to hire workers.

MR. GROSS. Are these man in the room here in your Skills Bank?

MR. GOPEN. Yes, they are. Some of them are working and some of them are not working.

MR. GROSS. You have them listed by craft?

MR. GOPEN. Yes, we do.

MR. GROSS. And what you need from the contractors, if you are going to place these men, is job orders?

MR. GOPEN. We need job orders from the contractors. Also we need some of the obstructionist tactics which have been put up by the unions to be stopped.

MR. GROSS. Now, the contractors have, I think in every case, told us that they have been in constant repeated referral with you. Can you indicate what kind of communication they have had with you typically?

MR. GOPEN. I wish you had taken the opportunity to define terms yesterday and asked those contractors what communication or referral actually consisted of. I have in front of me some letters--and this constitutes, if you will, the affirmative action program of most of these contractors. They send out a form letter addressed, "To Whom It May Concern" or "Dear Sirs".

I am going to offer these letters into the record as exercises in futility--how to have an affirmative action program that does not produce any minority workers.

MR. GROSS. Mr. Chairman, I see these letters are brief. I think they are very important. Could you read several of them into the record, Mr. Gopen? First, could you read several samples of the ones that are characteristic of those you normally receive?

MR. GOPEN. These are, quote, job orders. The so and so company "is an exceptionally old concern, over 100 years in continuous business in the City of Boston.

"We have always employed help of all nationalities and creeds, without exception.

"Our only qualifying requisite is that a man be physically able to do a hard day's work, as building, moving and heavy shoring is certainly one of the hardest types of work. Very truly yours," such and such a company, "An Equal Opportunity Employer."

I am asking where the heck is the job? Where do they report? When? How many?

MR. GROSS. Could you read another one?

MR. GOPEN. "Dear Sir: As an Equal Opportunity Employer, we are contacting you relative to obtaining personnel for construction work in and around the Boston area.

"Our requirements are that a man be a qualified carpenter or laborer possessing the usual skills and quality of workmanship required in the practice of our business.

"Candidates for employment should contact the undersigned."

Another letter. "We are the so and so contractors doing work throughout the New England area and are interested in interviewing any qualified workers interested in this type of work."

That is not exactly a bona fide job order, as any employment counsellor will tell you.

MR. GROSS. You have one more there?

MR. GOPEN. Yes, they're all variations on the theme. This is their compliance program

"Please be advised that so and so company is the prime contractor for such and such. There will be employment opportunities available for qualified personnel in the building trades. Due to the nature of this type of work, definite hiring dates for any specific trade cannot be given. This project is now scheduled for completion at the end of 1969. The project consists of a variety of sub trades as well as concrete, masonry and steel.

"Qualified individuals are welcome to apply in person to our Field Office," and so forth and so forth.

MR. GROSS. Now, these are characteristic of approximately what proportion of the so-called job orders or job requests that you get? Could you give any estimate as to how many or what proportion take this form?

MR. GOPEN. This is an end in itself. You know, this is the beginning and the end of so-called communication referral or placing the job order. When we follow these things up, as was our naive principle in the beginning, we found that what was in the letter was true. Yes, they are hiring maybe, but not right now. Reference was made yesterday to a letter sent by McCloskey on the South Boston Postal Annex. They sent us a letter in March in which they said they were anticipating labor needs in May. Yet they said, "Please send people down now." You can't send a person down on what is called in the community a "hammer."

You just don't send anybody out unless there is something there to be sent to. And when we have gone to companies where we know there are jobs available, they say, "Go to the unions first."

REV. DRINAN. Mr. Gopen, would you say that same thing about the ads in the Banner?

MR. GOPEN. I say that's just window dressing, and I am using the term advisedly because of the ladies present.

I started to send back a reply instead of following these things up. Now I send back a reply when I get these letters, and I get three or four of them in the mail every day.

MR. GROSS. This is a form reply you send out?

MR. GOPEN. This is my form reply on Urban League stationery. It says, "Dear Sir: You sent me a form letter, and I am sending you one back. Both are equally meaningless unless they're backed up by real action.

"Don't tell me you are an 'Equal Opportunity Employer' but rather send me a job order stating your needs plus where and when the applicant reports to work. All other efforts are fraudulent and are not considered 'affirmative action.'

"You may be an 'Equal Opportunity Employer,' but we are not a paper compliance organization.

"The acid test of compliance is the amount of black workers on the job and not the amount of letters sent out."

MR. GROSS. Mr. Gopen, have you received such written job orders?

MR. GOPEN. Very few and far between. Those that we have received, and which are within the area, we do fill with so-called qualified persons who do stay on the job.

MR. GROSS. Do you have a sample of one such letter that you can give us for the record?

MR. GOPEN. Oh, yes, here. And surprisingly enough, it is addressed to me--not, "To Whom It May Concern," or "Dear Sirs," or "You Folks Down There."

"Attention, Martin Gopen: Regarding request for two carpenters. If you have any carpenters available, please have two of them report at the following time and place. Time: Wednesday, June 26, 1969, at 8:00 o'clock. Place et cetera. Report to job superintendent, Mr. So and so. Yours very truly, the so and so construction company." Now, that is a job order.

MR. GROSS. That is what you mean by a job order?

MR. GOPEN. That is what I mean by a realistic, nonfraudulent job order, yes.

MR. GROSS. Can we mark these into the record, Mr. Chairman?

REV. DRINAN. Surely.

MR. GROSS. That will be Exhibit No. 14.

REV. DRINAN. Mr. Gopen, can you suggest anything affirmative we can do for the hundred men who are here whose records or resumes are in your Skills Bank? When last did they have some type of employment or an offer of employment?

MR. GOPEN. Well, quite frankly, Father, your commitment is there and your intentions are honorable, but you are not an employer. You cannot hire these men unless you have a little building program of your own that we have not heard about. You had the contractors in front of you. They are the employers, even though they are inhibited in many cases by the unions.

REV. DRINAN. Well, last night, sir, you recall that after some prodding, the contractors did say that it would be a good idea to extend the arrangement in the Model Cities to the entire city, and that they ....

MR. GOPEN. Excuse me, but each contractor punctuated that with the term "gradual" and you know what that means as far as we are concerned.

REV. DRINAN. Yes I know, but nonetheless they did make the concession that, with that qualification, they were not opposed to it. That is more than the unions did this morning. How can we capitalize on that, shall we say, quasi offer?

MR. GOPEN. Recommendation No. 2, that the seven million dollar appropriation from the Labor Department to set up the Workers Defense League program across the country revert to Model Cities for the training of local residents under the sponsorship of Model Cities and subcontractor community groups. In other words, take the training out of the hands of the racist unions and the uncooperative contractors, and give it to the people who know the constituency best, where they have no hang-ups, where they are not required to take people who fit certain age categories or educational requirements, or have good moral character or are subjected to other kinds of tests and other idiotic procedures.

It is consistent with the Model Cities law, the maximum feasible participation of Model Cities residents. It is consistent with the growing feeling of community self-determination and community control and we don't have to have any rake off of Federal appropriations going into the hands of union leaders who act as liaisons to the program.

REV. DRINAN. That is one suggestion. Are there any other suggestions not contained in the ten recommendations here? How can something immediate be done? After all, there is a boom in Federal construction, or federally assisted construction, in Boston. We are probably third, fourth or fifth in the country.

MR. GOPEN. I would suggest, sir, either first or second in the country. Each quarter for the last three years we have been averaging about 118 million dollars worth of contracts signed in construction, 96 percent of which has had some Federal assistance.

Maybe this body here, in the light of the testimony given and in the sense of urgency out in the community, can utilize its legal departments and ask for cease and desist orders in all construction in the total Greater Boston area as of right now, and then start rehiring with integrated workers.

Now, you know, you have the legal bodies right now to do this. You can ask for a Federal injunction right now that all construction cease.

Well, nobody got too uptight when the carpenters went on strike for 45 days, and basically shut down all construction. You can take less than 45 days and equalize the construction right now in and around the area. It will save a lot of money in the long run because, again, I cannot minimize the powder keg we are sitting on. It is a pretty insane situation where we have Vietnam veterans who were doing construction in Vietnam, under enemy fire, and are now standing on the corners of Blue Hill

Avenue with their hands in their pockets, while noncitizens--French Canadians--and whites are coming into the area and, as Mr. Fletcher stated, raping the community of wages.

Now, the white community in the Boston area has a 3.8 unemployment ratio right now. The unemployment rate in the black community--and this is a conservative estimate--18 percent, as well as an underemployment rate of over 40 percent. It seems to me that you put the bandage where the bleeding is occurring. You don't look at an industry that is experiencing full employment and scream that maybe some white character will lose his job, ergo, we have to look at each black man who comes down the pike and see if he is "qualified", and put arbitrary requirements--such as high school diploma--to get into programs. The very same union people who sat in this room this morning would be hard-pressed to come up with their own high school diploma, many of them.

REV. DRINAN. Mr. Gopen, after the pathetic performance of the Federal officials yesterday afternoon, I think everyone would come to the conclusion, as the Globe and the Herald said this morning, the Feds came here and said, "We have no programs".

MR. GOPEN. They have no programs. They call themselves compliance officers and they collect approximately fifteen thousand dollars a piece. I question what their job is.

REV. DRINAN. Well, there are not enough of them, first of all. But in any event, my point is that it would seem that voluntary action, maybe legal action, would help. But it has to be voluntary action absent any strength or willingness on the part of the Federal Government to enforce its own laws. Obviously these laws are not self-enforcing. Maybe even if these laws were enforced they wouldn't do the job.

MR. GOPEN. I have to stop you there, sir, because I think it is naive in this day and age, in back of some of the kinds of things we have been talking about, in back of some of the efforts we have outlined, to appeal to law. We cannot appeal through the courts. We have not been heard. Mrs. Batson outlined a situation of eight years trying to get into the union...

REV. DRINAN. We are saying the same thing. I am saying that even if the law were fully enforced it might not be adequate. Law is a feeble instrument in this area, which has not succeeded for the last twenty years.

MR. GOPEN. The laws are made by people who are in fact the enemy. The same pressure is brought to bear in keeping individual black people out of unions and off construction jobs. They are the same people and the same monies that are going to lobby for these laws, make sure the loop holes are there. They have the consultant fees to hire the professor to write up these contracts, to write up these laws. No illusions here about the kind of pressures. You will hear tonight about some of the efforts that the City Administration is going to make and other agencies are going to make. But please have no illusions that these are not all controlled by politicians who are political animals and who refuse to alienate labor because they do not want to commit political suicide.

REV. DRINAN. Mr. Gross.

MR. GROSS. Mr. Gopen and Mr. Fletcher, are the men in your Skills Bank nonunion men?

MR. GOPEN. Both. I might state, too, that the United Community Construction Workers is a black group because the heads, the policy-making people, are black. But there are white members in that group.

MR. GROSS. What is the relationship....

MR. GOPEN. Excuse me. In answer to your question, we do have union and nonunion members.

MR. GROSS. In the Skills Bank?

MR. GOPEN. In the Skills Bank and the UCCW.

MR. GROSS. Could you explain the relationship between the Skills Bank and the UCCW?

MR. GOPEN. Mr. Hill referred to the UCCW yesterday as a black hiring hall. I think that was an apt term. We stand ready. We have gone to compliance officers. We have put the name of our agency and our number at the disposal of contractors. They can call us for workers. They can call us for trainees. They can call us for referrals. We will cooperate with them if they give us the same kind of treatment they would give a white hiring hall. I have never seen a union carpenter, white union carpenter, come to a job with a resume in his hand and a tool box in the other hand. We don't want to have to put up with the same kind of scrutiny, insulting and demeaning scrutiny.

MR. GROSS. I'm still unclear. Are there two different bodies of people, one the UCCW and the other the Skills Bank, or are they both the same?

MR. GOPEN. I am sorry. The UCCW is a chartered group. It has a charter with the State as a labor organization. It files reports with the Labor Department. One of its activities is the maintenance of the Skills Bank which started before UCCW was chartered. It was called the Urban League Construction Workers Skills Bank.

MR. GROSS. The membership of both is the same?

MR. GOPEN. Not necessarily.

MR. GROSS. Could you explain that?

MR. GOPEN. I said we have over 600 entries in the Skills Bank. Most of those, or about 385 of them, are paid up members of the UCCW. We are not going to refer out just members. We are going to refer out black workers. Do you follow me? You do not have to be a member to take advantage of the placement service.

The same with other things. We get charged with being negative. Last year Wentworth Institute came up with 75 scholarships for their night program in the trades. We thought this was great, but at the end of the year we had to increase it to 211 scholarships, because members of the Skills Bank and members of the group wanted to go to school. In September we have 350 scholarships that will be filled by September 1st for members of the organization.

You do not have to be a member of the organization or a member of the Skills Bank or anything else. All you have to be is black and local to get either the scholarship, a referral, or a placement.

MR. GROSS. What are the benefits of joining UCCW instead of just being listed in the Skills Bank?

MR. GOPEN. Why don't you ask that of the President of the UCCW?

MR. GROSS. Yes, Mr. Fletcher?

MR. FLETCHER. One of the advantages of belonging to UCCW is that for the first time black people can get together as a group, and discuss and plan what they want to do and how they can get things concerning their future implemented. That is, I think, the first and most important thing that UCCW can do. Of course, we are getting jobs and training as well. That's another part of it. But it offers the opportunity for men to come together and talk about these problems--the things that confront them in our every day society.

MR. GROSS. Are there any men in the UCCW who are also members of other unions?

MR. FLETCHER. Yes, there are.

MR. GROSS. Of those who are not--the nonunion men--can you give any idea what kind of work they are now doing, the kind of construction or nonconstruction work that they find?

MR. FLETCHER. Repeat that, please?

MR. GROSS. The men in the UCCW, what kind of work are they now doing? What kind of jobs are they on?

MR. FLETCHER. They are on local projects right now that are right now getting ready to close down.

MR. GROSS. Could you expand on that?

MR. GOPEN. Could I?

MR. GROSS. Yes, please. Mr. Gopen.

MR. GOPEN. One thing that is very interesting when you look at the black workmen in this area gets back to the question you presented to the business agents this morning which went unanswered, I think, to anybody's satisfaction. That is, yes, on many occasions they have used the rule of seven days on the job to put the people in. They collect the \$200-\$250 membership and that is the end of it. They get put on the list. But you know traditionally blacks are the last to be hired and the first to be fired. This is also applicable to the union situation. Having that union book and paying your dues is no guarantee, if you are black, that you are going to get referred out on a job--even if there is a terrible demand for workers. So we do have some disgruntled union members who paid their dues, have their book, and never have been referred out.

REV. DRINAN. Mr. Gopen, I would like to hear from any one of the people who have come here this afternoon as to their experiences or any comments that they would have. I appreciate the fact that they have come here, some hundred men--and I notice two or three girls--who are unemployed or underemployed. If any one of them would like to speak, I would welcome their comments.

MR. FLETCHER. Excuse me, Reverend, hold on for just a minute. Shy, come here for a little, please. This is what we call a warm body case, very fresh--okay?

REV. DRINAN. Give your name and address, if you would, for the record, please.

MR. SHEPARD. Calvin Shepard, 14 Wilcox Street, Dorchester.

I have been a laborer for about four years. I have been to several union jobs--iron workers. I have been trying to get hired. I am an experienced iron worker, and I have been trying to get on. They refused me work. I have four kids and a wife. We just bought a house of our own.

REV. DRINAN. When last did you apply for work as an iron worker?

MR. SHEPARD. It has been quite some time, maybe over a year. I have been trying to get in the iron workers union, but they refuse to let me in.

REV. DRINAN. Were you a member of the union?

MR. SHEPARD. I am not a member of the iron workers union, no. They wouldn't let me in.

REV. DRINAN. How much background in the iron working industry did you have?

MR. SHEPARD. I have quite a bit of experience over four or five years.

REV. DRINAN. Apprentice? Journeyman?

MR. SHEPARD. Journeyman.

MR. GROSS. Where did you get that experience?

MR. SHEPARD. Different jobs I have been on over a period of years in construction.

MR. GROSS. Nonunion jobs?

MR. SHEPARD. Union jobs. All union jobs.

MR. GROSS. How did you get on the union jobs?

MR. SHEPARD. Like I said, I am a laborer. I had to accept a laborer's job in order to get the experience.

MR. GROSS. How did you get iron worker experience if you were on the job as a laborer?

MR. SHEPARD. For one thing, I have a friend who is white. He happened to go up one day and ask the boss, "Are you hiring iron workers?" He said, "Yes." I had my application in probably over a year before he got on.

MR. GROSS. But my question was this. You said that you would get experience as an iron worker when you were on the job as a laborer. My question is, how would you get this experience on a union job doing laborer's work?

MR. SHEPARD. Different guys I have worked with over a period of years, taught me quite a bit--mostly rod work, rod men.

MR. GROSS. These were union men who were doing rod work on the job?

MR. SHEPARD. Right.

MR. GROSS. Were these black guys or white guys?

MR. SHEPARD. White. Very few black guys in the iron workers.

MR. GROSS. So you were picking up the trade on the job?

MR. SHEPARD. Right.

MR. GROSS. Is this a fairly common thing?

MR. SHEPARD. Yes, anyone can do it.

MR. GROSS. This is in trades other than the iron work trade?

MR. SHEPARD. Well, I applied for a carpenter's job, also.

MR. GROSS. Are there a lot of other people you know who have done the same thing, in this or other trades?

MR. SHEPARD. I couldn't say a lot of people that I know--one or two.

REV. DRINAN. Mr. Shepard, at this present time, is there a great need for iron workers?

MR. SHEPARD. Right.

REV. DRINAN. This is going on continuously?

MR. SHEPARD. Right.

REV. DRINAN. We had five presidents or vice presidents of the major construction companies here last night, and I am going to write a letter to each of them, with your name and address, and I am going to ask them if they are sincere--as I think they are--to contact you directly. I want an answer from them within 48 hours. I want your name and phone number and all that. Make certain I get that and that letter will go out tonight or tomorrow.

MR. PITTMAN. What process did you have to use to go out and try to apply for work as iron worker?

MR. SHEPARD. Normally, a white guy just has to say, "I'm looking for work, would you put me on?" Like that. They get on.

MR. GROSS. Did you see the business agent?

MR. SHEPARD. Yes.

MR. PITTMAN. And he wouldn't even give you a chance to try out for the job?

MR. SHEPARD. No.

REV. DRINAN. Mr. Gopen, I would like to find other people similarly situated.

MR. GOPEN. We could spend the whole day and run down....

Mr. Fletcher's father. Thirty-five years a carpenter--boat builder in Nova Scotia--was taken off the job in November because he was, quote, not qualified. An eighteen year-old French Canadian was put in his place. Mr. Fletcher, Sr., went to the MCAD, filed a complaint, and four months later, the complaint was ruled in his favor. But so what? What did he do for four months? And what did the complaint do? Did it stop that contractor laying off others, because he is the sole definer of "qualified"? No.

REV. DRINAN. Mr. Gopen, the time is approaching an end, and I want to offer you the opportunity, to make answer to any of the remarks that were made this morning, if you so desire.

MR. GOPEN. You mean from the business agents, or the unions--all the allegations?

REV. DRINAN. If you want to. I am just giving you the opportunity.

MR. GOPEN. The allegations made by Mr. Ramsey. Well, just one thing. I would reiterate what Mr. Hill said yesterday. Those people in responsible positions such as compliance officers, such as city officials, such as people who have power in urban renewal agencies who go ahead--because it is expedient--with union sponsored token programs that do not speak to the whole issue, are just as guilty of disruptive action as those throwing Molotov cocktails around the community.

I am very confused, because last night I heard Mr. Leighton say that everybody was independent and this morning I heard Mr. Bristol say that each union has to sign into the program. Then somebody else said that because Ramsey is the agent, he signed for them. So I am very confused on that whole contract business. Maybe we need some clarification and legal opinion on that particular contract, which was drawn up by some very bright legal brains.

REV. DRINAN. I am not certain of that. It is a pretty bad contract.

MR. GOPEN. It seems to be working for them. I know what I wanted to respond to--where we got the figure 2,400. Now, this is important.

Presently, and again speaking of the urgency in the community, there is a Federal program just phasing out called the Boston Rehabilitation Plan. In the Boston Rehabilitation Plan, after certain problems were worked out--not through the courts or anybody else, but through acts of civil disobedience or pressure, if you will--we had a work force totalling 316 black and local workers, which represented 60 percent of the total work force on a crash program by the government to rehabilitate 2,700 units. Now, keep that in mind--316 local workers, 60 percent of the work force, for 2,700 units.

Now, the Model Cities plan calls for the rehabilitation of ten thousand units, and the new construction of fifteen thousand more. Now, simple arithmetic will tell you that if we need to effect a sixty percent ratio by utilizing 316 black workers, we are going to need at least 2,400 black workers just for the Model Cities program alone to get a fifty-fifty ratio. This is not counting any of the Mayor's in-fill program, the urban renewal programs or the Federal jobs that are here, downtown.

That is how we got that figure of 2,400 and that is why we charged that the Workers Defense League Program which is appropriated for 200, to be spread out over 26 trades--which I doubt will happen--is in fact gross tokenism. We do not want to see tokenism as the new race relationship in this country, see it become frozen into the fabric of race relations in this country now.

REV. DRINAN. Thank you. Are there other questions?

MR. WILMORE. I have a question. Mr. Gopen, you mentioned a little earlier in your statement that as far as you know, you recently assisted in the placement of the first Puerto Rican in the construction industry in Greater Boston. Could you make some comments about Puerto Ricans in the construction industry?

MR. GOPEN. Well, there is nothing to comment about. You are going to hear from Mr. Rodriguez tonight. I do not think he has anything to talk about because that particular carpenter who was placed in this job--and, as I said, was the first identifiable Puerto Rican or Spanish speaking person to work in a federally assisted construction union job--is in this room now, and maybe you want to talk to him. He is working

now to set up a contracting firm. There is nothing to say. You know, we've got a lot of onesies all over the place--first this and first that.

MR. WILMORE. Does the Urban League and UCCW include Puerto Ricans among the people you have available for work?

MR. GOPEN. Yes. Mr. Rodriguez will undoubtedly talk about the fact that in the Spanish community, in the barrio of today, extensive plans for urban renewal and new housing are being negotiated, and he wants to see that population, which suffers a 60 percent unemployment rate, working in their own community and off welfare.

Like I said, we have had one identifiable Spanish speaking person hired for a job since we've been monitoring this.

MR. WILMORE. Could we hear from the one Puerto Rican carpenter who is here?

MR. GOPEN. George, do you want to say a few words?

REV. DRINAN. Come forward, and in the interim Mr. Bernstein has a question for Mr. Gopen.

MR. BERNSTEIN. As I recall, it was in Cincinnati that the NAACP went to court and closed down some government aided construction because it was in violation of compliance. Has there been any consideration of doing that sort of thing in this City, where certainly there is construction in noncompliance?

MR. GOPEN. Yes. Yesterday a statement was made that in the last 25 years, not one building in the Greater Boston area has been built legally. This went unchallenged. Nobody can challenge it.

I just suggest that this body do something besides make recommendations. You put your legal staff on this sort of thing, and you get Federal injunctions and shut everything down.

We have our methods of shutting a job down. We shut down the Perini job for three days until they hired local and black workers. Twenty-four of us did this. We faced 115 Boston policemen in doing it. Mr. Fletcher got arrested. The warrant was issued, and served by Mr. Ramsey through Councillor Timulty. So we have our methods of shutting down and equalizing a job.

Now, if you want to go your way with your method feel free to participate. Our methods are tried, proven, and we are a bunch of pragmatists, so we will use these methods again.

MR. WILMORE. Sir, would you give your name and address for the record, please?

MR. MORALES. Yes. George Morales, 66 Day Street, Jamaica Plain.

MR. WILMORE. You are now employed, are you Mr. Morales, as a carpenter in a construction project?

MR. MORALES. I am trying to be employed.

MR. WILMORE. You are not now?

MR. MORALES. I am working with my father as a general contractor--remodeling--taking jobs here and there just to make a living, you know, for now. I used my ability, my skills, in so many places, so I decided to move on and do something for myself.

MR. WILMORE. Have you tried to get a carpenter's job at any of the construction projects in Boston?

MR. MORALES. Yes. First, let me start with my father. My father has 35 years experience in carpentry work, in construction work. He came up to this country some years ago. He could not get a job no place because he had a lack of communication in language. He could not get a job as a carpenter. So he went to various contractors and they tried to fool him because he did not know how to talk the language. So I started looking at this, and I said this thing has got to stop. So my father and I, we are going together to bring in this construction company.

I should say this is the first construction company Spanish speaking. There is a lack of skilled opportunity. If you ask how many carpenters or electricians or construction workers are here in the United States, or here in Boston, Spanish speaking people, you will find none. You find no Puerto Rican electricians, no Spanish speaking carpenters.

MR. WILMORE. Bricklayers and other skills?

MR. MORALES. They have the skill, but they have this lack of communication in the language, and they are being denied most of their rights.

MR. WILMORE. Are there many Puerto Ricans to your knowledge who have had experience or training, or both, in one or more construction trades, which they learned in Puerto Rico or worked in Puerto Rico or here?

MR. MORALES. Yes. Myself and Mr. Alex Rodriguez are working closely now to try to get these people licensed. We are trying to get these people an opportunity so we can build up this construction company. I am working now with no licensed carpenters, no licensed electricians. We are trying to get the license so we can start a Spanish speaking construction company.

MR. WILMORE. Have you applied for a license? That's a whole area we did not go into, which needs reviewing.

MR. MORALES. I am trying to get a license myself but you have to go through all these channels. They cut you off and it is very hard if you don't have a very light skin, around here.

MR. GOPEN. Respectfully reminding the Commission--you lost an opportunity last night in this area. It is a fact that when Mr. Volpe started his construction company, he couldn't speak a word of English. When Mr. Vappi, Sr. started his construction company, he spoke broken English, and certainly had nothing more than a fourth grade education. When Mr. Perini, Sr. started his construction company, he spoke no English whatsoever. When New York was built it was a Tower of Babel as far as construction people there were concerned. It was every language, every form of dress; but they built it.

Now, all of a sudden we have these kind of artificial and restrictive barriers about communication and high school diplomas.

MR. PITTMAN. I have found that employers use Spanish speaking people in sweat shops and hire an interpreter. But when it comes to hiring for higher paying jobs, then we have the excuse of the language barrier. They can't use the same method in a higher paying job. I think that is one recommendation that should be made to the contractor; that he hire interpreters to work with Spanish speaking people when they come on the job.

REV. DRINAN. Mr. Gopen, we have people here from Philadelphia and New York, now, and I hope all of you can stay.

I want to thank profusely the people who have come here and assure them that this Advisory Committee and the U.S. Commission on Civil Rights have learned a lot by their presence. We are grateful. And we want to thank you, Mr. Gopen and Mr. Fletcher, for coming.

RICHARD LEVIN, DEPUTY DIRECTOR, PHILADELPHIA COMMISSION ON HUMAN RELATIONS; JOYCE RUSH, THE COALITION TO SAVE THE PHILADELPHIA PLAN.

REV. DRINAN. Ladies and Gentlemen, would the meeting come to order, please. We are very happy to have with us here today Mrs. Joyce Rush, a representative of The Coalition to Save the Philadelphia Plan, and Mr. Richard Levin, who is the Deputy Director of the Philadelphia Commission on Human Relations.

We are very grateful to you for coming and we are intently interested in the Philadelphia Plan. We've read a lot about it and heard about it, but you have as long as you want to develop what you want to tell us.

MR. LEVIN. What I'd like to do is explain the procedures and techniques of the Philadelphia Plan. Mrs. Rush will concentrate on community involvement.

The Philadelphia Plan is a product of the Federal Executive Board in Philadelphia. This is a voluntary group of all the leaders of the Federal agencies--who got together, and through the Area Coordinator for the Office of Federal Contract Compliance of the Labor Department, developed this Philadelphia Plan. This happened late in 1967. It wasn't in full effect until late 1968.

The basic principle of the Plan was that all the contracts let by Federal agencies would follow certain standards. The agencies would work together. You have to understand that the Labor Department Area Coordinator has no jurisdiction or legal power over these various departments. This is a voluntary, cooperative movement, which is rather unusual at that government level.

Now, what happens is this. Normal bidding procedures would go forward and the lowest bidder identified. Understand, we are dealing solely with the construction industry, not with service and supply contracts. After the lowest bidder was identified, he would be brought into a pre-award meeting. At this pre-award meeting, he would be requested to fill out what was called a manning table, in which each trade was listed in one column and the next two columns would be black and white. He would have to say how many black and white workers he was going to use in each of the construction trades. No quota was set. What was submitted by the contractor was either satisfactory or not. If it was not satisfactory and something more satisfactory could not be forwarded, then it would go to the next lower bidder. That was the idea.

Now, during the initial period of this program, somewhere between 40 and 45 contracts were let. This involved approximately 3,400 workers, of whom about 1,400 were to be black.

Now, you have to understand that in the typical building site in Philadelphia, over half the workers traditionally have been black. But they have been basically laborers, except that a few unions, such as carpenters and bricklayers, are fairly well integrated in Philadelphia. There were eight critical trades which had no or virtually no black members. These were, sheetmetal workers, roofers, operating engineers, electricians, plumbers, elevator installers, and structural iron workers. Of the 1,400 jobs I talked about, 280 were in these eight trades. That is, 280 minority workers. Previous to this program that figure would have been less than five. So this is quite an improvement. This in the period of about six months.

Now, during the period the program was in full effect, reviews were made. The figures I have indicate that all the pledges were met. There were some difficulties on one site where the white workers walked off a site in the electrical trade. They filed complaints against the contractor for discriminating against white people. That case is supposed to be coming up in court. But they did finish the job. As I understand, for each black person hired, two white people walked off.

REV. DRINAN. How long was this operation planned?

MR. LEVIN: The whole plan started in late 1967 and was in full effect in 1968. It is still in operation to some extent. Some of the Federal agencies are still requiring this manning table.

Now, the problem that arose was that the General Accounting Office, the Comptroller General, issued an opinion. I don't know if you're familiar with his opinion.

REV. DRINAN. I am. I find it incomprehensible but you tell me about it.

MR. LEVIN. He raised the objection that the invitation to bid did not state specifically enough what would be required of the employer. The employer merely was notified of Executive Order 11246, but not of this specific requirement for a manning table. In order for the plan to be legal under the Federal Procurement Regulations, the potential bidders would have to be notified of what the requirement of the plan was.

REV. DRINAN. And some Government agencies in fact have done that in Philadelphia?

MR. LEVIN. Well, the situation now is somewhat in limbo. There are a few agencies still insisting upon this and getting voluntary cooperation. But if a contractor doesn't want to do it, there isn't much the agency can do.

Now, tomorrow there's supposed to be an announcement by Undersecretary Fletcher of the Department of Labor, of a new Philadelphia Plan. This resulted from the excellent efforts of Joyce's committee in putting pressure on the Philadelphia Congressional delegation, and every place else possible, to have this Plan reinstated. You will hear probably in the press tomorrow, and this will be a program in Philadelphia. If it works, it hopefully will be adopted throughout the country.

The question that is raised is that if they are too specific in their pre-awards, that might be a quota system. Now, people I talk to are not afraid of a quota system. Title VII of the 1964 Civil Rights Act does not apply to Executive Order 11246, and there's no other restriction against a quota system. Naturally every time you hire a person of one race, you're taking a job away from a person of another race. Therefore, every time you require implementation of the Executive Order, obviously, there has to be some sort of change. Some of them will define that as a quota system. This is a rather grey area, I think.

MR. GROSS. Mr. Chairman, first if I may, I'd like to mark for inclusion in the record eight letters which collectively make up the pertinent history of the Comptroller General's decision. This will be Exhibit 15.

I think just to clarify, I'd like to quote from one of these letters to Representative Green from the Philadelphia area, signed by the Comptroller General. I am quoting this because I think it summarizes exactly what the Comptroller's opinion does. "We believe a careful study of the decision will show that we did not address the merits or legality of individual standards or requirements which were being imposed upon the low bidders after bidding, the decision going only to the extent of requiring that any administratively prescribed standards or requirements to be imposed upon bidders as condition of the contract or award, must be set out in the invitation for bids."

REV. DRINAN. I'm glad you brought that out because last night two or three contractors here said that the Philadelphia Plan was declared illegal or unconstitutional. I said it was not declared illegal or unconstitutional, and I want that on the record very clear.

MR. GROSS. In addition, Mr. Chairman, I'd like to mark as Exhibit 16 for the record a copy of the so-called Philadelphia Plan.

MR. LEVIN. One thing I'd like to mention is that, as a by-product of the Federal Philadelphia Plan, the City Administration in Philadelphia started its own plan. This unfortunately is also called the Philadelphia Plan, which caused some confusion.

The City and State laws concerned with human relations do have very strict restrictions regarding quota systems. The local plan takes this into consideration and tries to avoid this problem. It is in one way a broader plan and does not only apply to the construction industry, but service and supply contractors as well. It requires service and supply contractors, among the other affirmative steps that you would normally expect, to hire one hard core employee for each of their other 100 employees.

REV. DRINAN. Do you have a copy of the City of Philadelphia Plan?

MR. LEVIN. No, I don't.

REV. DRINAN. We'll be hearing from the City of Boston tonight and they have released a plan in the last day or so.

MR. LEVIN. However, for the construction industry, they don't have this requirement regarding the hard core employees, because that would seem to infringe on the jurisdiction of laborers and so forth. So what they require there is that either the employer has to have a well integrated work force in each trade, or submit to the Commission an acceptable affirmative action program for this. Of the eight critical trades I spoke of before, two have submitted acceptable plans--the sheetmetal workers and operating engineers. The other six we are in hard negotiations with right now. This plan must be signed by both the contractors and unions. I can send you copies of the two plans we have approved and also some of the other ideas we have.

The reason we could get the Philadelphia local plan moving was certainly that the Federal plan got everyone's attention. They were very happy to talk about an affirmative program rather than absolute numbers required by the Federal plan.

In the local plan we have the cooperation of the Building Trades Council, and most members of the contractors' association. It's a more palatable plan. This is not to say that sooner or later the local plan will not get down to numbers, too. When you talk about a "well-integrated work force," what is it? Sooner or later you have to have some discussion of numbers.

REV. DRINAN. There's a lot of interest in the Philadelphia Plan in the Boston community. The contractors last night said if they could as a group endorse this, that they would have no objection to it if everybody knew what would be required of a person after he was determined to be the lowest bidder.

MR. WILMORE. You mentioned, as far as the City of Philadelphia Plan, that both the union and the contractor must sign that there will be a well integrated work force. How does the union do this?

MR. LEVIN. My words were that each contractor, individually, will have a well integrated work force or will have adopted an affirmative action program satisfactory to the Commission. We approach this on an industry wide basis and get the contractors' association in a given industry, and the union in that industry, to develop a program, which the contractors' association and union sign. This doesn't mean they have these men in the union. This means they will do whatever steps are necessary to bring them in. In some trades there are journeymen who could be brought in. They have to set up some way to test these men and bring them into the union. In other trades, they don't exist, to our knowledge. The only way to get black people and Puerto Ricans into this trade would be through the apprenticeship program. Then they have to cooperate with Operation Outreach and various things to help these men get the pre-apprenticeship training, supply teachers for these courses, and things like that.

MR. WILMORE. In either the Federal or City plan, with respect to the construction industry, are there any provisions for minority group people entering the union through a route other than the apprenticeship program?

MR. LEVIN. Yes. The program we have with the City has two halves. One is what they are going to do about journeymen. The other is what they are going to do about apprentices. These are two separate problems.

MR. WILMORE. For those persons who are not fully qualified as journeymen, is the only route then through the four-year program?

MR. LEVIN. A man takes a test. If he fails the written part of a test but seems to demonstrate an adequate knowledge of the trade, he's admitted to the union as a journeyman. He has one year to get the necessary academic training to help him in the paper and pencil part of it--mathematics and things like that.

REV. DRINAN. I wonder if Mrs. Rush would like to talk to us about the Coalition to Save the Philadelphia Plan. Apparently you have been successful if they are announcing a new Philadelphia Plan tomorrow. The Coalition can fade away tomorrow noon?

MRS. RUSH. That is not possible. We would have to remain as a watchdog. I want to start off by saying that the initial thrust of the Philadelphia Plan was the most effective thing. It goes back to an old saying that many Negroes used to have. In order to change things with businessmen, as far as integration is concerned, you have to hit them in their pocket book. The Philadelphia Plan did just that.

The pre-award manning table stipulation was effective in that it required the contractors to put a squeeze on the unions to provide the minority representation that was necessary. Now, many of these skilled unions in Philadelphia have what they call a hiring list, which is another closed door to nonwhites. If the contractor was unable to comply with the stipulation after the award was given to him, they would give him an opportunity to apply more pressure. This put the squeeze on the union. The black men were in demand. Some of the unions and the contractors were screaming for black men.

Now, Mr. Levin gave you the numbers that were hired as a result of this. For example, my husband who is in the operating engineers' local in Philadelphia, had been out of work for about six months. I had heard about the Philadelphia Plan and the Office of Federal Contract Compliance, and he got a job, a higher paying job, with one of the better contractors as a result. Now, when the Philadelphia Plan was suspended, he was laid off. He is back to work, I dare say, at this point. It reached the people that it was supposed to help.

I'd like to point out that as a result of the Philadelphia Plan, the contractors' association and the operating engineers formulated an apprenticeship program. This program was set up in such a way as to provide, shall we say, instant journeymen. It was a six month program. Its effectiveness was slight. But it was an effort on the part of the operating engineers.

Now, out of six thousand members in the five-county area of Philadelphia, 177 are black. This is the largest number in any skilled craft in the City of Philadelphia. No other union has that many blacks out of the total number of membership. But the ratio is still very very small.

Now, some of the contractors said, "Well, you'll put some of the members out of a job." But the reality in Philadelphia was that the contractors were hiring individuals, who were white, from places like Mississippi and Tennessee and giving them a temporary union card. They would work and make the same wages as the members up here. But they would not put a black man on the job. Or they would send him up to Reading, or someplace, where the rates are lower than they are in Philadelphia. The Philadelphia Plan stopped that, because, as I said, the contractors were screaming for black men. Now, they didn't call down to the union hall and say, "We need a black man on this job." But the union hall got the message. As I say, it was effective and this is why we are fighting now to get it back.

REV. DRINAN. This is very interesting, because out of this hearing we want some remedies, some imaginative ways by which the contractors and the unions and the Federal Government can cooperate. This seems to be one of the most viable.

This may be an unrealistic question, but insofar as you know, considering the Boston atmosphere or Boston situation, is there any reason to think Boston could not also make progress with the Philadelphia Plan?

MRS. RUSH. I feel that it would. But one of the important things to remember is that in order for a plan of this type to be successful, you must have a dedicated compliance officer. This is one of the better points of the Philadelphia Plan--our compliance officer. He didn't play around, I mean it was cut and dried and the contractors knew what they had to do.

Now, what actually happened was that a hundred million dollars of construction was held up in Philadelphia as a result of the contractors not being able to get the minority representation. As I said before, this put the squeeze on the union, also. Quite a few complaints went to the Secretary of Highways in the State Capitol in Harrisburg. The Philadelphia Plan would not have been suspended--this is my opinion only--would not have been suspended had it not been effective.

REV. DRINAN. Would you tell us a bit more of those who carried out the Philadelphia Plan. How many contractors are doing this voluntarily?

MRS. RUSH. I don't remember the exact numbers. I can name a couple that are making a minimal effort to comply. In some cases some of the contractors have been reading the paper and they know the Philadelphia Plan may be on its way back. They don't want to be put in a bind where they don't have the minority representation, so they want to get it beforehand. Of course, as Mr. Levin said, there are Federal agencies that have continued with the program. For example, HEW, I think, continued with their requirements.

Now, I do know of two, Mr. Morrissey, who is a well-known contractor, and Mr. Durkin, who deals primarily with heavy construction equipment, that have done pretty well in trying to keep the minority representation up as much as possible.

REV. DRINAN. I was pleasantly surprised to learn that the Federal Executive Board had been the initiator of this whole thing. If you were here yesterday, you may have noticed that the Federal people sort of struck out. They didn't know whether they had a compliance plan and they certainly are not enforcing it. Could you tell us a bit more who inspired the Federal Executive Board to do this thing and to initiate it.

MRS. RUSH. Well, as far as I know, it started as a result of Executive Order 11246 under President Johnson in September 1965. The Philadelphia Plan itself grew out of that Executive Order. It was an enforcement tool to comply with the Civil Rights Act of 1964. As Mr. Levin stated, the Federal Executive Board got up their own ideas about how to enforce it.

But, as I say, it was a plain, simple thing. If you were going to use Federal money to build, you must not only promise, but you must show beforehand that you're going to have a representative number of minority.

MRS. BATSON. You said that one of the keys to success was this dedicated compliance officer. Which came first, the pressure or the dedication?

MRS. RUSH. He is a dedicated individual anyway. But I also feel that, shall we say, his dedication kind of spread to others. It is unfortunate that he was unable to be with us today. I feel that is important, because you can have all the laws you want to, but the compliance officer must enforce them, because the contractors deal with him.

Now, the Executive Board itself is firm when it comes to the Philadelphia Plan. This is the reason we fought so hard to get it back, because it was effective, we had them on our side, and we felt that we would be able to go places if....

MRS. BATSON. But what I am trying to get to, I don't think that we have some compliance officers on our side, and I'm wondering if you have any suggestions for working around that kind of road block.

MR. LEVIN. I have been in this particular battle. Our Commission held public hearings, in which we had all the industry, the union leaders and contractors, subpoenaed for testimony. As I read back now, things haven't changed very much since then. You could say, simply, that not only are some of the compliance officers not enthusiastically working, there are obstacles against this thing everywhere you turn.

Now, in this particular situation in Philadelphia, the Area Coordinator of the Office of Federal Contract Compliance is Bennett O. Stalvey. He just happened to be a very dedicated individual. The head of the Executive Board in Philadelphia, his name is Warren Phelan, just happened to be very responsive to this idea and got behind it.

Now, each one of the Federal agencies has a compliance officer by law. The gentleman here before testified that these people are making about \$15,000 a year. I once counted in Philadelphia, and there were about twenty people, making approximately that much money, enforcing this law and there was absolutely nothing going on.

Now, this is not a simple problem. We have 70,000 Federal employees in Philadelphia. I'm sure that of those 70,000 Federal employees there are very few who you could call super-dedicated individuals, which is what you require here. I don't know what you do about that, except put pressure where you can in every way you can.

Now, there were various stages in this battle. When we held our hearings we thought all you had to do is take away the overt discriminatory barriers, and thousands of qualified black people anxious to get these jobs would pour through the doors. They didn't. There wasn't even a trickle. We find that you have to change the image of this industry in the minds of people who

want this kind of work. They think they are not wanted there. They don't think that the jobs pay very well. They think you work a couple of days and you get laid off, that it's dangerous, it's dirty, and so on.

REV. DRINAN. Coming back to the reaction of the labor unions, could you expand on that a bit more. Aside from the one incident where some white people walked off the job and sued the contractor, what in general was the reaction of the labor unions? I assume they were reluctant, but did they in fact cooperate?

MR. LEVIN. What happened was that they had no choice. In other words, the Federal Government from Washington was asking the local unions to do something. So what they did was ask for a meeting with the Mayor and to try and get together and fight this Federal plan. As these things happen, the Mayor invited us to the meeting and then the Mayor didn't show up. So we met with the heads of the Building Trades Council, and that's how the City plan got started. We found out what they were willing to do and pushed them three feet more than that. We negotiated a very good plan. But they had no choice with the Federal plan.

REV. DRINAN. You said all the pledges were met. But did you find some unions that said these Negroes are not qualified, or gave them tests, or made it very difficult to get Negroes certified?

MR. LEVIN. I assure you that in every way they could, they made it as difficult all the way. There are a hundred little ways and big ways-- and so forth....

REV. DRINAN. The unions did?

MR. LEVIN. Yes.

REV. DRINAN. Then we have no monopoly on unions of this nature in Boston.

MR. LEVIN. The contractors were not as bad as the unions. The unions have consistently been more negative. In fact, the contractors came up with a broad program, as Joyce mentioned, a six-month crash program to get qualified people. Yet, the operating engineers went ahead and did it and it seems to be working to some extent.

MR. GROSS. In terms of the origin of the plan, did I gather that it actually originated with Mr. Stalvey, or who was it?

MR. LEVIN. There was precedent for this in Cleveland, and there was something that went on in St. Louis with the Arch there. Some of these things got put together and Mr. Stalvey took this position. He had worked prior to that with school desegregation and didn't know too much about the construction industry. He interviewed everyone in the City, including myself, who had any experience in this field. We all sat down and worked up what we thought was the best program. One thing that seemed to be clear was that while we had gotten all kinds of promises before, what was needed was actual numbers.

MR. GROSS. I realize the precedents in Cleveland. I was wondering about this in terms of the catalytic agent that got things started. Was that Mr. Stalvey, or movement in the community, or what? If you know historically, what really moved it the first couple of inches?

MR. LEVIN. The first thing was back in 1962 and 1963. We were building a new City Hall in Philadelphia. There were some sites shut down by picketing by community people, as we had all over the country at that time. This resulted in our hearings. Then we found that six of these trades were discriminatory and we issued orders cancelling contracts. It wasn't until Mr. Stalvey and the Federal Executive Board that the effort got off the ground. There had been a previous Area Coordinator there who held meetings, and if he had his way, he'd still be holding meetings.

MR. GROSS. In other words, this was based on the experience of the Philadelphia community, which was apparent to Mr. Stalvey and the Federal Executive Board, that no results had been achieved? Is that a fair statement?

MR. LEVIN. Absolutely. In his original program, he came out with statistics as to how many black people in each trade.

MR. GROSS. These were statistics applicable before the plan came into effect?

MR. LEVIN. Yes.

MR. GROSS. Do you know what the effect of the plan has been? Have you seen statistics on that, or can you give any general idea of what the impact has been?

MR. LEVIN. In these eight trades, there were probably less than five black people altogether, and maybe five in the apprenticeship program altogether. The pledges that were gotten in the six month period would have brought 240 people in.

MR. GROSS. You say, "Would have brought." This plan was cut off in mid-stride, as far as the operation of it?

MR. LEVIN. Yes.

MR. GROSS. Where does this figure 240 come from?

MR. LEVIN. There were 40 to 45 contracts drawn under this program. In these, pledges were made on the manning tables of some 280, the actual number.

MR. GROSS. Did any of these projects become operational as far as manning?

MR. LEVIN. About five of them. They brought in, I don't know, there was some figure over 50 actually brought in.

MR. GROSS. Do you know where this number was going to come from, what kind of work element within the community would be drawn upon?

MR. LEVIN. The burden was on the contractor.

MR. GROSS. I beg your pardon.

MR. LEVIN. The sole burden was placed on the contractor, that's his problem.

MR. GROSS. No, I say what was to be the source of the minority workers that would be used on these projects? For example, were many of them nonunion men working in shops?

MRS. RUSH. The contractors were told, "It's your responsibility, you take care of it." Basically, the Office of Federal Contract Compliance didn't care where they got them. "That's your problem." This, as I said, had the most effect. That put the burden on the contractor. He had the responsibility to find the minority representation.

REV. DRINAN. Last night the contractors agreed somewhat reluctantly to a plan along these lines. If there were some Federal funds available in the event the contractors trained people or had extra administrative costs involved--did that question ever come up?

MRS. RUSH. Yes. The contractors' association and the operating engineers set up a joint apprenticeship program and it was federally funded. They took 75 young black men out of the North Philadelphia area--which is considered to be the ghetto of Philadelphia--and put them on a training site. As I said, the effectiveness of the program is yet to be seen because this was done after the Philadelphia Plan had been suspended. But out of the 75, from what I understand, only 7 passed the examination.

Now, many of the unions are requiring a high school education or a high school diploma. They have sent out field representatives canvassing the high schools to get future members. This is very unrealistic. Many of the business agents of the unions themselves have no high school diploma or did not have when they got into it.

Now, another help has come from an organization called GASCAP, if I'm not mistaken. Now, they do not work primarily with the union, but they are a group of small contractors that are trying to use young men that may lack the high school education, but have a desire to go into the construction field and also have aptitude in that direction. They are putting them on the job and training them to be operating engineers using certain types of machinery.

Now, they run into difficulty with the unions. But because the contractors don't use union help, it has not been a confrontation type thing.

So, we hope that when the Philadelphia Plan does come back, there will be resources in that direction and the contractor will have other sources from which he can get minority representation. But, as I said before, the burden is on the contractor. In some cases contractors were calling me and asking me to give them names and addresses of black men who could fill the bill. At that time I could not do it because I was not into the program as I am now.

Now, one of the important things that I feel should be brought out is this. When you put the pressure on the contractor and his project is shut down or held up, that means the white members of the union don't work either. If they don't work, they put the pressure on the leaders of the union, saying, "I don't care who I work next to, just so long as I work." It's a shame it has to be done that way, but the Philadelphia Plan was on the road to doing that.

REV. DRINAN. What happened to this suit filed by the white workers who walked off the job? Is that still pending somewhere?

MRS. RUSH. I think it is. The situation from what I understand, and Mr. Levin can correct me, is this.

The situation I'm familiar with occurred last summer. It involved one of the biggest contractors in the city. He was building the U. S. Mint in center city, Philadelphia. His project was shut down because he had failed to live up to the pre-award manning table commitment he had made. So he got together with the electrical union and formulated an examination for 28 men. Out of the 28, I think 11 showed up for the test, and out of the 11, I think two passed. Some white members of the work force, the electricians, walked off the job and threatened to sue. That was the last I heard about it. Eventually the project was resumed. He did bring in the number of minorities he was supposed to.

REV. DRINAN. Mr. Levin.

MR. LEVIN. There are a couple of other resources in the community we are using in Philadelphia which you might consider in Boston.

When the City developed its plan, very surprisingly and voluntarily we got the cooperation of the Archdiocese of Philadelphia who agreed not to purchase from any supplier or construction contractor who the City found to be in noncompliance with our local plan. This opened our eyes to another possibility and we looked around for some more major purchasers to also cooperate. We have gotten the local gas company, Temple University, all the Jewish agencies, YMCA--about a hundred different agencies which will not purchase from those contractors we find to be in noncompliance. This has a very beneficial effect when you're trying to influence somebody to do something. In addition to that, we got our school board involved in this, also. Our school board alone has about three thousand contractors in a vast building program. In addition, it houses 28 apprenticeship programs in its facilities. The school board took a very aggressive viewpoint on this. When the steamfitters gave the last examination, 25 percent of the applicants were black, primarily through the Operation Outreach program. It's an AFL-CIO national program. Of the 80 or so candidates, only one black out of 19 got into the class, at which time the school board told them they could no longer use the school premises because they were hoping to get a 50 percent figure in the class. It has its own charter and is fairly independent from the City government.

REV. DRINAN. Tell me more about your own program because as I say, we are going to hear the City of Boston's program. You suggested that the City of Philadelphia copied some parts of the Federal program.

MR. LEVIN. What I'm saying is that the important thing is the contracting. No one has an inalienable right to do business with a government. The government can fairly well establish what is for the welfare of the people. If it decides that this, the issuing of a contract, should be for the benefit of a majority of the people, it can set up standards, such as the use of hard core employees.

Now, in service supply contracts, we have already barred some 600 contractors who can no longer do business with the City, the Archdiocese or anyone else. If the confrontation we are in now continues, we are going to stop doing business with six of these eight contractors in the skilled trades who have not come up with these programs.

REV. DRINAN. How many people on the black list again?

MR. LEVIN. Over 600 firms, and some are pretty large.

REV. DRINAN. Do some firms in an industry get together silently or otherwise and all hold out. I mean are there whole industries that refuse to comply?

MR. LEVIN. Well, the City told us there were some things they would have to continue purchasing regardless. For example, if you buy one brand truck and you need a part for it you'll have to get it through the sole supplier. We agreed to. It turned out that out of the 600 there were only eight of these, so it was not a significant thing.

REV. DRINAN. This program is so important I'd like to ask anybody here if they have questions for these two people who have come here from Philadelphia.

MRS. RUSH. Excuse me a minute, please. I'd like to bring out one thing first. I have some additional information here.

To date, contractors have met or exceeded their commitment for each trade. In other words, the Office of Federal Contract Compliance is still functioning though the Philadelphia Plan is not. I wanted to bring that out.

REV. DRINAN. Yes sir.

MR. JIGGETTS. Charles Jiggetts from the Bureau of Apprenticeship and Training. Under the Federal plan, did that lose impetus? Is this the reason the City plan, as I understand it, came into being?

MR. LEVIN. Yes and no. There was a Federal plan which ran into trouble because of the Comptroller General's opinion. They are issuing a new plan tomorrow.

MR. JIGGETTS. Because of the Comptroller General's opinion?

MR. LEVIN. That's right, yes. The City plan developed out of the need to broaden the effect of this program. The Federal program only covers building construction and it didn't touch all the City work. All City work is not federally financed. So it was just a broadening of the idea which got its initial impetus from the Federal program.

MR. PITTMAN. Mrs. Rush, the 70 people who passed the test of the operating engineers program, are any of them working in the trade now?

MRS. RUSH. I think you misunderstood me, I said seven out of 75. Now, let me explain something to you here. This is one of the stumbling blocks which the Philadelphia Plan will help us overcome. It was found that the program that was set up with Federal funds, the joint program, was using obsolete machinery. For example, on the apprenticeship site, they had the machinery that was needed for the upgrading site. The upgrading program and teachers were not really sufficient.

They were promised that by June the seven that passed out of the 75 would be working and that they would not be laid off. This is what they were promised by the union. We don't know what will happen, because as I said, this program was born after the Comptroller General's decision.

MR. PITTMAN. Who makes up the Coalition?

MRS. RUSH. The Philadelphia Plan Coalition?

MR. PITTMAN. Yes.

MRS. RUSH. The Human Relations Commission, the Urban League, Fellowship Commission, Peoples for Human Rights, which is a local group, the American Civil Liberties Union. It's about ten groups.

REV. DRINAN. And it was the Commission of the City of Philadelphia that formed this Coalition?

MRS. RUSH. No. This is a private segment, and after the Philadelphia Plan was suspended, they were called back into action to start working to have it restored.

REV. DRINAN. You're going to succeed tomorrow morning from what I hear?

MRS. RUSH. Well, as I said before, we want to make sure that the second plan is not a change, that it has been altered only to satisfy the Comptroller General.

REV. DRINAN. Is there a question? Yes. sir.

MR. HYMAN. Sam Hyman, Connecticut Commission on Human Rights and Opportunities. Mrs. Rush, you made reference to the operating engineers and an examination. What type of examination are you speaking of that only seven passed?

MRS. RUSH. The examination was written. They asked for specifics regarding how much leverage does one need to grade and to lift up dirt--technical aspects of it. Also, they had examination with the machinery, where the young men were required to get up on the machines and operate them to the satisfaction of the contractors and business agents.

MR. HYMAN. Who administered the exam?

MRS. RUSH. The union membership, the hiring hall agent.

REV. DRINAN. Yes.

MR. GELLER. I'm Murray Geller, Area Coordinator, OFCC. Mr. Levin, you indicated that the City plan in Philadelphia does not require numbers, as I understand you, and that this made the program more acceptable to certain segments of the community. Could you give us your thinking on what impact that greater acceptability might have on ultimate results. And could you compare the effectiveness of the City plan with the Federal plan in Philadelphia.

MR. LEVIN. I would say realistically that the Federal approach used in the City of Philadelphia was bound to be more effective because it gets right to the heart of the situation.

You must have an intergrated work force. It has to be an acceptable number before you get the contract. I think this is a far clearer, simpler, more direct and foolproof approach. Since the City law would restrict us from doing this, we could not adopt this. It was not out of choice. So we had to take something which was not as clearly interpreted as a quota. So I would say that as a second desirable choice, what we did was about as strong a thing as we could come up with. But as I said, sooner or later we'll come down to a question of numbers that a given employer has to have. A well intergrated work force--we are going to have to decide what that is.

Now if a contractor feels our actions are inequitable, he can go through a hearing procedure with us and our Commission will have a regular public hearing on it and make a decision. But basically speaking, you can't make up a percentage to start with. Though, it may be of interest to those who don't know it, there's a law in Washington State on the books setting a quota in apprenticeship programs.

REV. DRINAN. We thank both of you for coming from Philadelphia for this. I know that this has been very helpful to us.

JAMES D. NORTON, DIRECTOR OF CONTRACT COMPLIANCE FOR THE CITY OF NEW YORK, NEW YORK.

REV. DRINAN. Mr. Norton, thank you for coming. This is Mr. James D. Norton, who is Director of the contract compliance program in New York City. Mr. Norton, why don't you just tell us what you do and the nature of the program and all.

MR. NORTON. The Office of Contract Compliance was set up by Mayoral Executive Order No. 71, signed April 2, 1968, becoming effective thirty days thereafter.

A little background, to be very brief about it. The Potomac Institute in Washington did a study on the advisability of setting up a contract compliance program, and if so, where it should be housed. The City Commission on Human Rights was the agency that was handling all contract compliance, as well as the other areas within the equal opportunities program.

It was decided that for contract compliance on City projects, the program would be much more effective in the Office of the Mayor than in the City Commission. Therefore that is where the program is housed. I am officially in the Office of the Mayor, Office of Administration.

It is necessary to have the Mayor's complete support and backing if the program is going to work at all. I feel that we in New York are doing a pretty fair job--not as good as I might like, but certainly better than it operates anywhere else.

We do require manning charts in New York City. Let me parenthetically state right now, that we are not operating in the purchase area, because of staff deficiencies--we are very selective in the purchase area. But in all building contracts, before the low bidder is awarded the contract he must complete an interim report form that is given him by the Inspector of the department letting the contract, and submit it to my office for review. He must state what his current work force is, the number in his work force, and the area in which his men are employed. Then, on the next line, how many of these are minority--in New York City we basically mean black and Puerto Rican--how many men will be on the job that he has bid on, and how many of those will be black and Puerto Rican.

When he does not submit a figure that is acceptable to my office, he cannot be awarded the contract. A Commissioner of the Department of Public Works cannot award that contract on his own. His signature and my okay must be on it. Otherwise they cannot award that contract.

This is the way we are operating in New York City.

REV. DRINAN. Tell me, you have these manning charts, but what do you specify as to the number of minority persons that he must have?

MR. NORTON. I do this by knowledge of the number of black and Puerto Ricans who are in the building trades in New York, and also by my feeling that affirmative action is to do more than you have done. To illustrate, if we are talking about laborers in New York City, I might have in my mind a figure of one third to one half, depending on the kind of contract. Now, certainly, if we achieve that there is no problem. But I could settle for one quarter. This is an arbitrary figure that is set up in my mind, and we find that it generally works.

Invariably the contractor does not have a sufficient number of blacks and Puerto Ricans when he originally submits his interim report form. There is no quota and there is no ratio, officially, but I certainly have some figures in mind which I want him to achieve. The idea behind it is that I want to push the contractor, and it is an indirect push on the union also, to use up quickly the available numbers of blacks and Puerto Ricans that are already in the union work force, and then to have to reach out and get additional workers.

REV. DRINAN. Have you had complaints from contractors that they did not know about this when they were asked to bid? How, in other words, do you get around the Comptroller's difficulty?

MR. NORTON. We do not have that difficulty.

REV. DRINAN. But have you had complaints?

MR. NORTON. We have had numerous complaints, and I am glad I'm in Boston today. But we do not have complaints that the contractors are not aware of the program. It was widely promulgated when the Office was set up--in the papers. There was a press conference. From May 2nd when they started bidding, the contractors on the first go-round were given copies of the Executive Order, and it is a part of the bid document.

Now, it is not our fault should the contractor bid and he or his attorney not have read what he signs. When he signs that bid document, he is signing that he will live up to the rules and regulations as promulgated by my office.

REV. DRINAN. If you have copies of those documents, they will be very valuable to us.

MR. NORTON. I think members of your staff already have some.

REV. DRINAN. All right.

MR. GROSS. Mr. Chairman, first, I would like to mark as Exhibit 17 for inclusion in the record a copy of Executive Order No. 71, to which Mr. Norton referred.

Mr. Norton, when you sit down with the contractor and you look at his work force estimate, and you feel it is inadequate, on what knowledge are you drawing at that point to make your judgment about what is adequate?

MR. NORTON. That would depend on the particular trade that the contractor is in. As you well know, the figures that the unions will give you are at best substandard. If we are talking about a trade where I have some knowledge, that is, that I have gained from my other work experiences or in cooperation with other equal opportunity officers, for example, Mr. Geller, of OFCC, that we work together with, I will have an idea of what is available as far as the union is concerned. But that is not a primary concern of mine. What I am concerned about is the number that he is going to have on that job, and I don't really care where he gets the men from.

MR. GROSS. But the range of figure that you have in mind is based on the knowledge that you've got of the area labor market, and the reservoir of nonwhites upon which he can draw. This is knowledge which you have?

MR. NORTON. That is the knowledge that I have. The guiding principle in that light is that the black work force unemployment in New York City is six, seven, eight times the white work force unemployment. I am trying to dry that up.

MR. GROSS. Has the effect of sitting down with these contractors and having them come in with increased estimates been to bring more nonwhites on to City construction?

MR. NORTON. It has. To date we can document that there have been 479 people that have gotten employment as a result of this program. Not all of those, though, are new union people, and this is a problem.

MR. GROSS. But in each case, the contractor at least initially took the position, "Well, this is all I can do," but in fact it was found that he could do more?

MR. NORTON. They can all do more when they are pressured enough.

MR. GROSS. Can you give some indication as to from what sources these approximately 500 would have come? For example, were they doing nonunion pick-up work around town? Were they doing shop work around town? What kind of work experience had they had?

MR. NORTON. Some of them were union men that were not hired for one reason or another. They were not sent out on a job. The majority fell in that category. They held a card, but they still were not working. Others came from the shops, and many came from community groups. We have some rather vigilant and militant groups in New York City that try, in their way, to keep the Administration honest. So, they have come from all quarters in the city.

MR. GROSS. Now, one of the elements in your program which you mentioned was that your approval is required for the letting of a contract. Do you regard that as an important part of the program?

MR. NORTON. I think that is most important. But certainly it is as important that we have the backing of the Administration--of the Mayor's office.

MR. GROSS. In other words, the really necessary element is the commitment from the top?

MR. NORTON. That is right. It can't be done without the commitment from the top.

MR. GROSS. Have the Massachusetts Commission Against Discrimination and the Boston City people conferred with you about your experience in New York City?

MR. NORTON. Yes. I met with members of, I believe, the Mayor's staff and other officials in the Boston community or Boston Administration, that have been interested in New York's program. And I had a conference with the National League of Cities that were also interested in what New York City was doing. Hopefully, there may be subsequent meetings on that.

We have gotten a good deal of play, periodically, in the press about how New York is attempting to move blacks and Puerto Ricans into the building trades areas.

MR. GROSS. You mentioned that the program was preceded by a study of the Potomac Institute, which made recommendations?

MR. NORTON. That is right.

MR. GROSS. Mr. Chairman, I would like to quote one paragraph from this report and then ask a question about it. Appearing on page 33 is the following: "When the contractor or subcontractor expresses a willingness to meet this requirement", meaning the requirement of results, "but professes an inability to secure the necessary minority group manpower, this requirement should be deemed fulfilled if the contractor or subcontractor enters into a written agreement with the Human Resources Administration to obtain or train such manpower."

Now, with regard to training, could you explain how you have, or propose, to incorporate a training element into your program?

MR. NORTON. My feeling is that as long as there is not going to be a dramatic change in the building trades industry--and I rather doubt that it is going to be dramatic--the City, whether it is Federal money, City money, State money, ought to move towards on-the-job training. I will accept the concept as professed by the contractor that this is going to be a costly item. Therefore, I am suggesting that municipal funds be made available to help defray the cost of on-the-job training, and also to keep the cost of whatever work is to be done down. If a contractor bids and knows that he has an OJT component, it is quite likely that he is going to build in what he feels will be lost man hours or productivity in the cost of that building.

So therefore if the City comes up with funds that will actually subsidize that worker until he learns his trade, or until he does become more productive, this is gaining employment for the worker, and it is also keeping the cost of the project down.

MR. GROSS. This could take the form of requiring on each City project a training component?

MR. NORTON. It is being considered, at least by myself and the staff--selective site on-the-job training. By that I mean a site that would be large enough, and have enough men working, that--if we are talking about fifty trainees in the respective trades--they will be under supervision and be able to learn their trade but also not be in such awesome numbers that they would be lost there.

MR. GROSS. To make a training program like this work, what sort of commitment do you need from contractors and from unions?

MR. NORTON. The way it works now, you need union endorsement. The union does not care what the contractor bids on, nor does the union really care what the contractor signs. But since the union has to provide the manpower, if they were not partners to an on-the-job training program, they would have the power not to refer workers to the contractors to do the job. Therefore, they would have to be party to such an agreement.

MR. GROSS. Would you also need a commitment from the contractor with regard to continued work experience for these trainees?

MR. NORTON. Yes, you would. It's simple enough to say that we need an on-the-job training program, but you also need a built-in mechanism for continuity. You need to assure that when the contractor moves from one site to another that he still has trainees, that he does not drop them.

MR. GROSS. What form would such a commitment take? How would a contractor undertake to do this? Would it be to keep a specific trainee on his projects?

MR. NORTON. That is one answer. It also could be that the unions, let us say, agree that we are going to have 500 trainee carpenters, 200 trainee sheet metal men--an agreed upon figure. Then the contractors, through their contractors' association, assure that everyone who enters that program will be provided work. So it doesn't mean that Johnny X has to be with a particular metal works company, but that he is a metal worker and he will work within that industry.

MR. GROSS. Now, in terms of the kind of training that you are speaking of now, I would like to refer to a man that we had here today who is a laborer and in the laborers union, I believe. He had acquired, informally on-the-job, skills as an iron worker. This kind of on-the-job informal acquisition of skills--is there any way to build that into a program such as yours?

MR. NORTON. Yes, there certainly is. We have been successful on several sites in New York. This is fairly common--where a person is a laborer, but he picks up other skills. Now, he may not be, as far as the union is concerned, a skilled craftsman, in that he may not be able to do everything that supposedly the journeyman craftsman can do. But there are journeymen and there are journeymen and there are journeymen, meaning that all of them aren't as competent as the other.

What we have done on some sites is had the contractor take his laborer and--well, one that I have in mind is a contractor who had many laborers, and there was always a need for operating engineers. Now, the union could not supply him anyone--black or white--so the contractor had the option to put any man on after 72 hours. So he would use those three laborers in that capacity until the union could send him a qualified operating engineer. On this particular site, I knew that this man had five men such as I am describing--three of whom were black and two were white--and the site was rather out of the way in New York, so it would not present a major problem, which we took into consideration. The union agreed, rather than give these men work permits, which is what they normally do, they gave them books. The site is large enough that the skills they might not have had in all the areas they were able to pick up, and they were given books as operating engineers.

REV. DRINAN. On a broader level, Mr. Norton, I am impressed by your program. I am chagrined that this Committee has found so little activity on the part of the Federal officials. They spoke here yesterday and they confirmed what we had learned beforehand, namely, that there had been a Federal contract compliance committee of the Federal Executive Board, and apparently it was largely inactive. Yesterday, according to the consensus, it appeared that they just had no program, and where they do have a program, it is not effective at all. Can you give us some help? You have this huge city and the city is attempting this thing and moving forward. Yet we find, at least in the Northeast, that the Federal officials have been ineffective. Why is this so?

MR. NORTON. Commitment--the lack of it.

REV. DRINAN. Of the entire Federal government, you mean, not merely of the compliance officials themselves?

MR. NORTON. No. I am talking about the Federal family --as an ex-member of the Federal family. Look, let's face it. You are not going to get anything done unless you are prepared to pay the price. Not to attack the Feds, at this point I'll illustrate what we did in New York. We shut down all sheet-metal contracts, and so in effect we shut down all City construction, for four months. I did not let any contract be signed in the heating-ventilating area for four months. This was because the particular union, Local 28 in New York, out of some 3300 sheetmetal workers, did not have a black journeyman, in New York City. There were some fifty or seventy in the apprenticeship program, but there was not a journeyman in New York City.

As a result of this, the union went to the contractor, went to arbitration, and the arbitrator found out that the industry could use some 300 or 500 mechanics immediately. They were instructed to take in one hundred within two weeks. That did not occur, but they finally gave an exam. As a result of that exam, still no minorities passed. There were 300 who took the exam. Some 100 passed the written part of the exam, and only 25 passed the practical. Still none were minorities. There were only 17 blacks and Puerto Ricans that actually took the exam.

Now, we never saw that exam. The union drew this exam. So we subpoenaed the union. It is still in court now, because they have not delivered the exams. But we have since started letting those contracts again because they did graduate eight apprentices January 2nd into the journeyman category. Now, eight is not a lot. They would have gotten there eventually anyway. But we did shut it down and they moved.

They have another class now; and almost fifty percent of the entering class are black and Puerto Rican. But the Federal government, getting back to them, I don't believe is prepared to do that. I do not know how it operates in Massachusetts, but the State Bureau of Apprentice Training, is the group that approves apprenticeship standards. Well, I don't think you need to have a driver's license to be a laborer, and in some places--not in New York City, but in the State of New York--this was a requirement. I don't feel that, for example, if you are over 21, you should be on the junk heap as far as electrical workers are concerned. Nor do I feel that if you are over 24, you cannot be an engineer.

So I would suggest that there needs to be change all up and down the line, including the apprenticeship program. We would have been in bad shape in this country if everyone had to go through an apprenticeship program at the beginning of World War II, when all of a sudden we developed so many riveters and everything else. They did not have an apprenticeship program. They put them on the job and they learned the job. Well, it was national peril--if you are talking about a black peril, nobody is going to do that much about it.

REV. DRINAN. All right. Fine. Thank you. Mr. Gross, do you have some more questions?

MR. GROSS. Yes. Mr. Norton, could you please explain briefly what the Urban Affairs Committee is?

MR. NORTON. The Urban Affairs Committee of the Building Contractors Council is a newly formed group of twelve--six representing contractors and six representing the unions in New York. This group is set up primarily to handle race relations in the building trades. That is, it handles any new programs--for example, the on-the-job training program that we are talking about, as the result of Model Cities--and any other manpower programs that would come up, as well as education, technical training, technical awareness of new building materials and methods. This group is set up to handle all of that. They will be getting effective July 1st, I believe. A penny a man per month is the way their funding will come through. Anything that will affect the minority worker, the black and Puerto Rican worker, is this group's baby.

If, for example, they want to commit an industry or segment of their industry to on-the-job training, theoretically at least, they can commit the unions and the contractors to go along with them.

MR. GROSS. How are the labor unions represented on that committee? Is that through their Building Trades Council?

MR. NORTON. No. There are six contractors and six union officials.

MR. GROSS. And in what manner are those six union officials authorized to bind all of the building trades unions in the area?

MR. NORTON. Well, I have not seen a copy of this document, so I can only report what has been reported to me. That is that whatever plan this Urban Affairs Fund--that is the official title--agrees to, it can commit the unions. With the understanding that there are always going to be some--using the term the fellow used when he was telling me--obnoxious fellows. So I interpret that to mean that anyone who wants to cooperate with what the Fund wants to do, they will cooperate, and that anyone who does not want to, won't. The proviso being, though, that they can be, in quotes, written out of the union. But I do not know what that means, and I could not get an explanation.

MR. GROSS. Do you know whether this authority includes authority to alter provisions, or to make ad hoc arrangements, changing collective bargaining agreement relationships?

MR. NORTON. I have no knowledge of that.

MR. GROSS. This Committee, then, would be a mechanism by which unions are brought into the program on a continuing, programmatic basis?

MR. NORTON. That is my understanding.

MR. GROSS. And this is an important feature in the program, I take it?

MR. NORTON. It is certainly important in that if the twelve men are fair-minded, they can come up with some colossal programs.

MR. GROSS. Just a few more questions. This is of interest in terms of our examination of the apprenticeship program here. Do you know whether there are any building trades unions whose apprenticeship programs in the New York City area do not have high school graduation as an entry requirement?

MR. NORTON. Yes. You don't have to be a high school graduate, I am almost positive, for the carpenters. You don't have to be a high school graduate, certainly, for the laborers. You do not have to be a high school graduate for the masons.

MR. GROSS. Are there nonwhite building contractors in the New York City area?

MR. NORTON. There are several nonwhite building contractors. Certainly the two major ones, which are fairly well known throughout the country, are Winston Burnett and Fred Edwards of Trans-American. There are smaller contractors also in New York, but the smaller ones are not getting very much of the action. What we have been successful in doing is that we have within the Board of Education an invitation bid list. The invitation bid list is designed specifically for the black contractor. Those are the only ones that are invited to bid. We are taking a large job and breaking it up to smaller jobs, and then inviting the black and Puerto Rican contractor to bid to do the work. It is not always as economical to do it this way, but it is a way to build up black contractors, and to give their workers the kind of job experience that they might not normally get.

If, for example, most black contractors are working on one story housing, there is a different technique, a different degree of skill, I understand, to put up a high rise complex or even a high school. So we have done this.

Another reason that we did it, was that the contractor then can be examined on job performance. He raises his bondability since he can demonstrate, through himself and his work force, that he has done a job, and that therefore he ought to be able to bid on larger and larger jobs.

MR. GROSS. Can you explain how and to what extent employment of a nonwhite subcontractor will bring nonwhite workers on to a job?

MR. NORTON. This is one of the devices that we are using. A contractor will say, "I cannot get the figure that we are talking about, of black workers from the union. I've gone to many of the resources that were provided." We give them a resource list. It will have places in the community that people can go, ostensibly to find black workers. So he has done this but he still has been unsuccessful. He has demonstrated affirmative action in that he has looked.

Then we will come up with a minority contractor and suggest rather strongly that, well, here is a work force. I do not get into the legal bit about whether he is splitting up his bids or what-have-you. All I know is that he shows up now with a minority sub on his site that probably would not have been there before. As a matter of fact, I would bet that he would not have been there before.

MR. GROSS. Does that minority sub bring his permanent work force with him?

MR. NORTON. He certainly does.

MR. GROSS. And this is one way in which nonwhites are brought on to the job?

MR. NORTON. That is right.

MR. GROSS. In addition, will the minority subcontractor have some kind of contacts in the minority community where he may bring along minority workers for this project?

MR. NORTON. Certainly. He probably lives in the community and his workers come from the community. He finds that he is going to get a job, and he will go to the community for his work force.

REV. DRINAN. I have before me here the Third Annual Report of the EEOC. I read some of this last night and today, and I find it somewhat discouraging. Do you think that they have an old-fashioned theory that we are going to sit here and wait for a complaint and if a complaint comes, we have conciliation? They put down the number of conciliations. Maybe you do not want to answer this--but it is my feeling that this is not working, as we saw yesterday. They have nobody in New England here. They have no office in New England. I am just wondering if you have any collaboration with these people, or would you say that your office operates on a different theory than EEOC?

MR. NORTON. Yes. We operate on a different theory and we haven't entered into any official agreement with EEOC or OFCC. The main reason is that, if we did, the thing that would hinder our operation most is that where the contractor submitted information we would have to get it from Washington or the regional office, and we could not bring him in and get him to do more. That was my feeling why we did not enter into an official agreement with them to provide the information. Besides which, it would certainly be too slow.

REV. DRINAN. Well, would you give your judgment on this question? Do you think that one of the major reasons why the EEOC apparently is not working--the Federal program--is that it is predicated upon a different theory of conciliation and compliance, which is different from your affirmative setting of positive standards?

MR. NORTON. Very different. One, they operate on the basis of what I would call "action after." I want action first. If a contractor signs to having X number of blacks and Puerto Ricans in his employ, and can demonstrate that he was unsuccessful but that he did make a concerted effort and we were not able to help him, then he would get the contract. But he has signed prior to the award of that contract rather than after. It is a lot easier to police it before. Besides, he is aware that we can pull the contract, should for any reason we find that he has not complied.

REV. DRINAN. This is very interesting. Any members of the Committee have questions? We want you to stay in Boston, too, along with those Philadelphia people. We need you.

MR. NORTON. It may sound good, and I think we are doing a great job in New York, but there is still so much more to do, I would prefer to stay there.

FATHER DRINAN. How old is it, again?

MR. NORTON. May 2, 1969 was one year.

REV. DRINAN. I would like to keep you longer, but we have kept Dr. Nixon here all day, and we do want to hear from him. Mr. Norton, do you have anything additional that you want to add? Your testimony was very helpful.

MR. NORTON. Well, I understand that Boston is seriously considering, and might have even acted on setting up, an office of compliance, which is very good. I must assume that the Administration is committed to compliance. If it isn't, then this is going to be just another sham perpetrated on the community and they will have some problems. They ought to be able to produce some meaningful results, but they can do this only through commitment.

FATHER DRINAN. Unless there are further questions, we will call Dr. Nixon. Thank you very much, Mr. Norton.

REV. DRINAN. Dr. Russell A. Nixon is associated with the Graduate School of Social Work, New York University, more specifically with the Center for the Study of the Unemployed. We are sorry it's so late in the day. Why don't you just tell us some of your own conclusions.

DR. NIXON. Rev. Drinan, members of the Committee, I am particularly happy to be here because I think that what you have under way is not just of interest to Massachusetts. I think this is a precedent-setting and a nationally significant inquiry that you have under way and I'm glad to be a part of it. Because I have some very sharp evaluations of the situation, I would like to say just a few preliminary things for background.

I do appreciate the effort that has been made and the changes that have been achieved, in connection with this entire problem. I know that a great many people in a great many different walks of life--government people, union people, and particularly people representing the minority groups--have made a lot of progress and are working very hard on it. I think that has to be recognized.

I would also want to say that, in spite of the display that I thought was put on here this morning by the trade union official representatives, I for one would want to say there are some very real and serious problems amongst all of the construction workers--problems of unemployment, problems of maintaining safety in that industry, problems of achieving and maintaining high working standards, and high wage standards. I would personally be unsympathetic to any efforts to turn this awful situation which you have been talking about, into an excuse to begin undermining the very genuine and legitimate interests of the working people in the industry.

I want to say also that, as I see it, the problem is not just one of the direction in which we are going, or whether an effort is being made. I have a very strong feeling that now we have to ask, where are we now in relationship to where we have to be. I say this because I think time is running out on this situation. We don't have endless time ahead of us. I'm concerned because I think the welfare of the unions, the welfare of the workers, the welfare of minorities, and the welfare of public peace is involved in this issue.

I wish to make two basic points before I begin to make some suggestions regarding solutions.

In the first place, I would say that creation of a racially balanced labor force at all skill levels of the construction industry is critically urgent if we are to avoid drastic and probably violent racial confrontation wherever public construction is undertaken in our cities. White work crews are not going to be allowed peacefully to rebuild our slums, rehabilitate and build new low income housing, and construct schools and hospitals in minority neighborhoods. All government public works programs, and the Model Cities program, are put in jeopardy by the failure really to integrate the construction labor force. We are on a tragic collision course in all public construction.

The second background point is this. There is no program under way, and no changes in the works, that will result in a construction labor force with appropriate proportions of minority workers in the years immediately ahead. Current nondiscrimination efforts are not enough. Immediate labor market reparations are required on a major scale, to change significantly the overwhelmingly white makeup of construction labor.

Now, these are the propositions upon which I make the following suggestions about some solutions to this problem.

First, a new entry route to jobs, to work careers and full status in construction work and unions, must be opened up for black, Puerto Rican and Mexican Americans outside--and that is the point--outside the existing apprenticeship system.

I think we are being coned with all the time and attention we are giving to the apprenticeship system. I think we are taking a decoy target in dealing with this in this fashion. I think that the apprenticeship system has been made into a sacred cow, and we'll talk about it for a long long time without getting results. I think it's time to recognize, and face the issue, whether or not the approach on this should be to try to fix up the apprenticeship program or whether the approach should be to find an effective alternative route for entry into this industry.

Apprenticeship is a phoney in many ways. We know that probably 75 percent of all journeyman training goes on outside the apprenticeship system. The apprenticeship system has been working not as a means to bring in and recruit a labor force in the construction industry, but as a means to screen out unwanted entrance into the construction industry. And if that is true, then we better begin to talk on a little different level than I think we have been talking in the past.

Now, the second approach relates to what I just said. Occupations in the construction industry must be analyzed, redesigned, and restructured to permit easier entry of untrained workers and occupational advancement up the skill ladder through on-the-job training. It is absolutely essential, and long overdue, to apply the well-tested and proven procedures of functional job analysis to the construction industry. It's done everywhere else in modern industry. It's only uniquely in this industry that you have had a privileged sanctuary of no rationality, analysis, or job engineering to handle the problems.

Only on this basis can reasonable manpower recruitment, selection, training and mobility methods and programs be implemented. Certainly it's only on this basis that the manning tables can become realistic. There is a little danger of setting up a false trap here for the black and brown workers in this country. We say we are going to let you in, we snap our fingers, and then when they all are not ready to come right in at a full scale level, we say there's something wrong with you. Now, that doesn't happen to any other groups of workers.

I think we need to set up a whole system of analysis of job levels, of job ladders, so that workers can enter and advance in the course of their work on the job. Such job engineering is standard practice in industry generally, and has proven both necessary and feasible as the major means for government and business to create job opportunities for disadvantaged and hitherto excluded workers. That is what the Urban Coalition is doing, that is what the National Alliance of Businessmen is doing, that's what the big companies, that made a commitment to new entry for disadvantaged and hitherto excluded workers, are doing. It's high time that this began to be a part of the approach in the construction industry.

The third point, government manpower programs have generally chickened out. Now, I thought about whether to use that nonacademic phrase or not, and decided that's the only word I know to describe it. They have chickened out on the training and job development needs of minorities in the construction industry.

They have bowed completely to the established apprenticeship system and have failed to apply in this industry, employing over 4 million workers, the manpower methods they have developed and applied in other sections of the labor market. The Manpower Development and Training Act, the Concentrated Employment Program, the manpower aspects of the anti-poverty program, vocational education, the Neighborhood Youth Corps and the Job Corps, the National Alliance of Businessmen programs, the JOBS Program, the various MA-1, 2, 3, 4 and 5 programs for government-funded private training programs, should all be geared to the construction industry as a top priority.

It's an almost unbelievable fact that in this past seven, eight years in which we have funded and developed a whole panoply of labor market and manpower programs, the one place we have not been willing to apply them is in the construction industry. There are reasons which you can find as to why that has happened, but it is certainly inexcusable. We are paying now in many industries, under the MA-1, 2, 3 and other programs, the private job training programs, up to five thousand dollars a year to an employer for the expenses of training a youngster to be a machine operator or a worker of one degree or another of skill. This is in the factories and establishments of our country.

Why are we not applying any of this to the training of skills in the construction industry? If you will examine the record, you will find that, for the most part, there has been no assignment of these programs or these resources to the construction industry. That has to be changed. There's a contradiction between the U.S. Civil Rights Commission's emphasis on these problems, when down the street a ways in Washington another major element of government does not apply its resources to the solution.

The efforts of the Workers Defense League, the Urban League, and of many government, employer and union elements, to eliminate overt discrimination and make a break in the barrier wall of the apprenticeship system are very laudable. But there must be no illusions that these efforts can or will be

adequate to achieve the necessary ethnic balance very soon in the construction industry. Considerably less than 1,000 Negro and other minority apprentices can be expected to complete apprenticeship training in each of the years immediately ahead--while an estimated 50,000 additional construction workers are required every year merely to replace those who left by death or retirement amongst the four million construction workers.

The U.S. Labor Department announced on October 7, 1968 that, "More than 1,650 Negroes have been placed in apprenticeship programs through the outreach efforts of the Workers Defense League, the Urban League's LEAP program and other minority organizations, all working in close cooperation with the AFL-CIO councils." Now, with a general drop-out rate, first year, of over 50 percent in construction apprenticeship participation, the Labor Department release itself suggests that less than 800 continuing construction apprenticeships have been realized in several years of effort by all these programs. Whatever celebration these figures may justify, they make clear the utter inadequacy of these programs to meet current needs.

Now, I want to emphasize that I have a high regard for Mr. Green, for the Workers Defense League and the people who have engaged in these programs. But I don't like to be kidded about what they mean in the general picture. It's coming, sooner or later, to the point where some of those who are engaged in this imaginative and I think serious effort, must make a decision whether they are engaged in something that is really a breakthrough of significance, or whether they are engaged in something that is a cover up for general lack of accomplishment of any meaningful proportion.

A final point is simply this. A complete shifting of gears is required in the manpower recruitment, training and advancement system of the construction industry if the consequences of past and present racial discrimination in the construction industry are not to cause an endless tragedy of violent racial conflict in the center cities of our country.

Now, I'd be happy to seek to answer any questions that you have.

REV. DRINAN. Dr. Nixon, that's a very powerful statement and we are very grateful.

On one point of statistics, fifty thousand new workers are needed merely for replacement, and how many workers--how many Negro workers--can be trained each year? You gave the figure, 1,000?

DR. NIXON. Well, I didn't say Negro. The maximum number of apprentices, generally defined as minority, would not equal a thousand in the next period of time.

REV. DRINAN. All right. As I said, that's a very powerful statement. Mr. Wilmore?

MR. WILMORE. I'd like to refer back to your comment about manpower programs. We had invited a representative of the Regional Manpower Administration to meet with this Committee to examine some of these areas. I don't know what happened, but he was not present. To my knowledge, Dr. Nixon, and I would like you to comment on this, the only time manpower programs have been used in the construction industry is when they have been part of apprenticeship programs. Now I assume that there may be some other examples around the country that I'm not aware of, but I am not aware of the usual manpower program--except, as I said, institutional training as part of an apprenticeship program. Can you cite some examples, limited though they may be?

DR. NIXON. There are some fringe areas. At Mobilization for Youth, we had some work crews on building rehabilitation, of a very limited nature. There has been something that might be defined as construction-related training in the Job Corps. But we have the figures on this and they indicate that, let's say, out of 500 thousand people in Department of Labor training programs, in a four year period, that something less than three thousand minority people received any kind of construction training.

The simple fact is that they have barred the use of MDTA on-the-job and institutional training from being applied in the construction industry.

MR. WILMORE. Who has barred?

DR. NIXON. It has been barred by a process which utilizes the requirement to have agreement by labor-management advisory committees before programs are initiated.

MR. WILMORE. You mean the requirement that there be a manpower shortage?

DR. NIXON. Yes. It's not only relevant here, but it also applies to the needle trades. Clothing workers unions have had a blockade on needle trade training, and you find no training going on under the government training programs. I just mentioned that, because that's the same thing which has occurred here, in the construction industry, which involves an industry of 90 billion dollars and over four million employees.

MR. WILMORE. Do you know of any manpower training programs that brought the person up to the point where he got his union card. In other words, one which takes the place of an apprenticeship program?

DR. NIXON. There are no programs to train people to be plumbers, to be carpenters, to be painters, to be electricians. None of this is going on in the entire training apparatus. As far as I know, no allotments and subsidies to private industry are being given in that direction. We are giving money to National City Bank, to General Motors, to Ford, to all the big outfits, but not the construction industry.

REV. DRINAN. Do you have an explanation of that? Why isn't the construction industry lobbying to get these programs like the others have? Why haven't they asked for these things? Are they afraid of the unions?

DR. NIXON. I don't know whether the unions are afraid of the companies or the companies are afraid of the unions. They're all pretty much together on this. I think it's probably artificial to separate them--the good guys and the bad guys--I don't think it comes out that way. They are all pretty much together.

The unfortunate thing is that they also have a lot of politicians, also in pretty full agreement, who really are scared. You have Secretaries of Labor that are scared of the construction industry. You have got governors and mayors that are afraid of the political influence of the construction industry. So you find the ways and means to go the way you have been going.

REV. DRINAN. Is there any other major industry which has not received any training grants?

DR. NIXON. I don't think there's any other industry in the same situation. The needle trades is the one example that I would think of in this regard.

MR. WILMORE. Dr. Nixon, would you just put into the record for our benefit how the CAMPS system operates. How it determines skill shortages, and then decides what kind of training program should be run. I think this would be relevant, since we were told there's a 52 percent shortage of skilled people in the construction industry. This CAMPS system is supposed to look at shortages and design training programs.

DR. NIXON. The CAMPS system is supposed to bring together all of the various manpower programs in a given area. Everything is coordinated. This is pretty much the same way the Concentrated Employment Program is supposed to work. And it is supposed to point at shortage areas.

The simple fact is that they do not do this with regard to construction work. It is almost not an issue, because it is so generally accepted in Washington and in the Department of Labor that this is outside the range of the general operation of the manpower programs. You can fund some pre-apprenticeship programs. You can fund the very tiny Workers Defense League kind of operation to get them into the apprenticeship system. But to train the skills that are involved, that is just completely blocked out of the entire manpower system in the country.

REV. DRINAN. Mr. Gross.

MR. GROSS. Dr. Nixon, could you just put in the record your present position and the work that you have done with manpower problems?

DR. NIXON. I am an economist specializing in the manpower field. I am Associate Professor in the Graduate School of Social Work at New York University. I am Associate Director of the Center for the Study of the Unemployed at New York University. The Center for a number of years has worked on Department of Labor grants and contracts, Office of Juvenile Delinquency grants and contracts, has done work for the City of New York. All of these things are in the area of manpower, manpower training, and manpower programs.

I also for two years have been chairman of a voluntary committee on employment in the construction industry, in connection with the Mobilization for Youth. We have been working on this problem, seeing if we can channel any of the youngsters-- Puerto Ricans and black youngsters in Mobilization for Youth-- into construction work, and particularly in the construction unions. We have a very consistent record in this two-year period. We have learned a great deal and haven't gotten one job. But that's part of experience.

MR. GROSS. What's your analysis of the reason for that?

DR. NIXON. Well, we have not been able to work our way into the apprenticeship system of the New York City building trades. It's simple. We have had a lot of talk. We have met with everybody in the business, at the governmental level, the contractor's level and the union level. But when you get right down to it and you take a Puerto Rican youngster or black youngster and say, "Here, you got a notice, you're opening up the painter's union for apprentices," and you're trying to go through the process, you just don't come out with anything. Even though these youngsters in many cases have gone through work crews and have had the basic training for work in each of these crafts.

I want to be sure that you understand what I'm saying about job restructuring. If you look in the Dictionary of Occupational Titles, you find for the 900,000 carpenters in this country one definition, "carpenter". The journeyman definition is the only thing you find there. Now, obviously, there are a number of grades of carpenters--8, 9, 10, 20, I don't know what it would be. People could start to work at the beginning level and advance, as they train and get experience, up that ladder of being a carpenter. They don't have to all wind up being able to do the fine journeyman carpentry skilled work that is required by that definition.

Now, this elementary division of labor is standard practice in any rational use of human resources--except in the construction industry.

MR. GROSS. And the apprenticeship program overtrains, in the sense that it trains people for the top of this ladder?

DR. NIXON. It sets that standard. I would hate to generalize that it actually achieves that level of training. I think some of the training isn't at that level. I think some of it is not really craft achievement.

MR. GROSS. We had testimony which indicated that sometimes, at least in some crafts, the business agent in filling a job order would choose among his available union members on the basis of their skills and qualifications. Could you comment on that in relation to this job structuring concept?

DR. NIXON. One of the problems in dealing with the construction industry is that we have enormous areas of lack of information and lack of light. This thing has developed in the dark. We don't know the exact process. It's called, in the manpower trade, an "invisible area."

But we do know that most people by some nonstructured, nondefined, invisible means become a journeyman and a journeyman member of a regular construction trade. Now, what you have just mentioned, Mr. Gross, is one of the ways in which that is done. I would only want to emphasize that this is not exceptional. This is the standard procedure. That's the way it goes for about 75 percent of all journeymen. The guy who goes through four of five years of apprenticeship, and then achieves journeyman status, is the exception and not the rule in this industry.

REV. DRINAN. I appreciate that point because we have been almost badgering people here for two days to say how do people come up. I'm glad to know you as a national expert don't know. I was drawing a conclusion that people were evading us. The labor unions said "We don't know," and the contractors don't know.

DR. NIXON. There's some reference to this in the manpower section of the report of the President's Commission on Urban Housing. It makes particular reference to this dark area, in which we just don't know how advancement is achieved to the status of journeyman. Here's a commission that worked on this subject, and they had to come out--and you can read in this report--with the conclusion we just don't know how people get to be journeymen. The point here is that if you don't know then you shouldn't set up this apprenticeship thing as a sort of sacred route to being a journeyman.

MR. DOTTIN. Do you have any information in regard to testing, at the State level, for the issuance of a journeyman's license? Is there any attempt to screen the people who do this? I understand that we have labor people on these State boards.

DR. NIXON. Well, one thing we've learned in the past ten years from our manpower experience in this country, is that the old tests for vocational entry were frightfully culturally biased, and were dysfunctional in the sense that they not only failed to point in the right, they even pointed in the wrong, direction. Now, there are many different kinds of tests in different places, but in tests with regard to the construction industry, I think you have enormous cultural barriers built

into almost every aspect of those tests.

They are not scientific and objective. They have large percentages of measurement which are completely subjective, subject to whatever a particular two or three men might want to decide. If they want to decide to give a person 25 points because he's the nephew of an old member of the iron workers union, and they don't want to give 25 points to another youngster who is black or Puerto Rican--whom they never saw before--they are perfectly free to do this without any possibility of checking. These margins make the difference.

MR. DOTTIN. That applies to the test to get into the apprenticeship system. I'm also speaking about the test given after the person is taken on as an apprentice. Then he has to take a test by some State licensing agency. I am led to believe there are union journeymen on this State board which has to pass on applications.

DR. NIXON. Well, of course that's not true in all of the crafts, Mr. Dottin.

MR. DOTTIN. I'm speaking about those that have this.

DR. NIXON. It does apply to electricians. It doesn't to a painter or carpenter. You will find that the old style interests of the old style building craft unions are deeply entrenched at every one of these levels, and that in the electrical crafts, for example, they have influenced that test in a way to make it extremely hard.

MR. DOTTIN. So there are two hurdles--the test the person has to pass to become an apprentice, and the licensing test.

DR. NIXON. There are at least those two hurdles.

Now, I want to be perfectly clear on this. I think there are crafts in the building trade. I think there are crafts of electricians, that there is an aspect of some plumbing work, and there is an aspect of some carpentry work, that may require five years to achieve the level of skill. But to set that level of skill up for all of the workers is totally artificial, totally wrong. It's really like saying every stewardess in an airplane has to be a pilot. It's exactly that kind of thing. We are in the stupid position of not knowing what percentage of carpentry work requires a month of preparation, and how much of it requires six months of

preparation, and how much of it requires six years of preparation.

This is foolish, to be trying to deal with this problem in a rational fashion with as big a section of our American economic life as this, and not know the elementary things about how you train and advance people, and how you would utilize people in this area.

REV. DRINAN. Well, Dr. Nixon, you have made the writing of our report and recommendations much more difficult, at least for me. Until you gave testimony, I was prepared to say that all these efforts with the Workers Defense League and so on should be encouraged by the Federal Government, we should have more of them. But now you have altered my mind completely, because you say that the whole bowing to the established apprentice system may have been a mistake on the part of the Federal Government. I'm inclined to agree with that statement, from everything we have heard. It seems to me almost an anachronism, and that this is not going to live much longer despite what everybody does to nurse it along.

This is perhaps a hard question, but would you feel that the Federal Government would be spending its money in much better ways, and do you think the construction industry would be much better off, not to go to the Workers Defense League and get locked into the apprentice system, but to have something completely new?

DR. NIXON. Well, I'm not eager to do battle with Ernie Green and the people who have worked hard in that area. I have respect for their effort. I don't have respect for the kind of blowing up of what they have been doing, that's been going on by the construction industry representatives and by the United States Labor Department. I think it's grossly exaggerated.

I'm not objecting to trying this on several different fronts. I'm not objecting to making this effort to see if you can break your way through. But I would object to it as the exclusive, and as the major, route to go. I think the record tells you that you're not going to get the adequate accomplishment there. I don't think you can do it that way. I think you have to have a more frontal alternative to the question of entry.

I would reserve apprenticeship for the genuine preparation of the top craft skills. Anybody who wants to go that route, God bless them, let them go that route. But don't say that every man who wants to be a carpenter or a plumber or an iron worker has to go the route of five or six years of preparation, and has to meet those tests even to get started.

MR. PITTMAN. Do you think that one of our recommendations should be that the Federal Government try to establish some type of on-the-job training program with the building industry?

DR. NIXON. Absolutely. And not pre-apprenticeship training, but training of people to do the work in the construction industry. I don't see how you're going to meet the problem of the Model Cities, for example, or the manning tables. You can't meet manning tables just by saying, "I want to have that." You have to have a structure of training. Otherwise you get the kind of thing that happened in Watts, where they're building a hospital. Now what happened? They said they were going to get one hundred percent black workers on that hospital. So they screened every black worker in Southern California and pulled him into that one hospital. They haven't increased the number of black construction workers. They have consolidated them in one enterprise in Watts. That's not the way to go. What should be done is that there should be training on that job.

We have had some things going on in New York. We are building a new State building in the center of Harlem, at 125th Street and Lenox Avenue. The usual question came up of how are you going to do this. Are you going to have black sidewalk superintendents and white workers doing the job? That's where we were headed. So there was a lot of negotiation. There was a tendency there to say "Well now, let's bring in all black workers for that job." The agreement reached by the people at the Harlem Unemployment Committee, Jim Hobbs and Tim Cooley, and those people, was that one-third of all workers at every level would be black and Puerto Rican, and that one-half of the third would be absolutely new, untrained people getting on-the-job training in the course of that construction enterprise. I think that's the route that you have to go.

MR. GROSS. Dr. Nixon, one of the problems the black community has with the Model Cities program in Boston as presently constituted, centers around the issue of judging qualifications of the trainees, or of those who seek to come in under the utilization-of-residents provision.

One certainly has to recognize the conflict of interest that unions have when they set themselves up as judges of this. Could you comment on the desirability of having programs like this use an objective third party for the judgment of qualifications?

DR. NIXON. Well, in the first place, you have to judge the demands of the job before you can judge qualifications. Often, you can't speak of qualifications except in relationship to the demands of the job. That means you have got to have some description of what the job requirements are. We do not have this now, really.

Do you know what a carpenter does? Do you know what a painter does? Can you say how long it takes to train a painter? Then how can you talk about qualifications until you're ready to say, alright, one part of this carpenter job is, you've got to pound in nails, be strong enough to do that, to haul the lumber and so on. Any normal guy can be doing that within, let's say, four weeks. I can't talk about qualifications until I've made some kind of determination of what the task requires.

I think this is going to have to be part of the manning table. There has to be some estimate of what those tasks require. I think we are a long way from that because I don't think we've done it. I think it's not so hard to do. But I think it can be done and should be done, as you say, by an objective person. Once that's done, then it's perfectly possible to begin to judge the requirements for the would-be worker.

MR. GROSS. Mr. Chairman, just two questions, then I'm done. One, this is partly an observation, but I wonder if you agree with it. Like the Chairman, I'm struck with how little seems to be known about the building trade unions. I wonder if you agree that this in a sense is the ultimate manifestation of the power of these unions--the power to resist any kind of outside efforts even to learn about their operations.

DR. NIXON. Yes, I do. I think that it makes it possible to have this kind of operation. You turn the lights on on this thing, and you're going to have a whole different ball game.

MR. GROSS. One last question. You mentioned at the outset of your remarks the word "reparations." Could you explain what you meant by that, and how that would relate perhaps to the financing of some of these training programs?

DR. NIXON. The concept of reparations is a very important proposition. It means that you have some background that

you have to make up for. The fact that you decide tomorrow that we are going to have equal opportunity isn't the total story. You have to make up for the unequal opportunity of a long period behind you. That means, in my opinion, that some very special money has to be spent in training, preparation, and in some cases supplementary services of various sorts that tend to repair the vocational damage that has been visited on the minority people in this country over the past long, long period of time. Now, that's what manpower reparations would mean.

It's not just like it's an equal race, an equal contest. You have to take some concrete steps and spend some money to create some kind of equality in the occupational and vocational race.

Now, don't make too much of it, because this is what's been done in every rational effort to deal with the problem of creating factory jobs, and some other employment, for the disadvantaged in this country for the last five or six years. That's what the name of that game has been. It's a kind of manpower reparations--special attention, special care, supply of services, work preparation, special subsidies, and special stipends. When you pay an aerospace company in Philadelphia five thousand dollars a person to train people to work in that manufacturing concern, this is a type of reparations.

The point that's of interest here is that none of that has been done in the construction industry.

MR. GROSS. Is this a reparations to which the contractors and the unions should be contributing financially?

DR. NIXON. Oh, I don't think so. The unions aren't going to be paying money, if that's what you're speaking of. They might have to pay reparations in terms of some change in their procedures, and a willingness to allow people to come in through procedure they haven't followed before.

As regards the companies, the reparations there is just the other way around. The companies are collecting the reparations. Now, some people think they are collecting too much of the reparations for the minority people, that the reparations should go to the minority people and are proving to be a windfall for some of the companies, and the Government is now paying for what the companies ought to pay for anyway in the way of training. I think you have to test that out and try to keep control of it. But certainly public policy calls for the assignment of resources to make up for the deficiencies in this area.

REV. DRINAN. Dr. Nixon, you have been a very good witness, expert witness. You made our task much more complicated, because we saw things in your testimony that we hadn't seen in two days here.

Thank you very much.

ERNA BALLANTINE, CHAIRMAN, MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION.

MR. BERNSTEIN. Ladies and gentlemen, I'd like to call the evening session to order. The Chairman of the Advisory Committee, Father Drinan, is delayed somewhat. He will be back with us about 8:30. However, in the meantime, we'd like to get started with the evening session.

The first witness at this session is Mrs. Erna Ballantine, the Chairman of the Massachusetts Commission against Discrimination. Mrs. Ballantine.

MRS. BALLANTINE. I am Mrs. Erna Ballantine, Chairman of the Massachusetts Commission against Discrimination. This is the State agency that is charged with the responsibility of enforcing the anti-discrimination laws of this Commonwealth.

I am particularly pleased to have this opportunity to discuss the problems of discrimination as they affect the construction industry, since they have been of deep concern to my agency.

During the past day and a half you have heard testimony from a number of impressive speakers from management, labor and the community, noted for their involvement in this area. While I claim no expertise that is equal to that of many of the speakers in the field of labor, law and economics, as an Investigating Commissioner on more than fifty cases of individually-filed complaints during the past two years involving the construction industry, I have gained much insight and awareness of the prevalence of discrimination found in this industry in the Boston area.

Boston's experience in this field is unique, evidenced by the large proportion of Federal funds allocated to this area for pilot programs concerning the rehabilitation of substandard housing, and the resulting experiences of the minority group workers whose communities were affected by construction and reconstruction work.

An examination of the Boston construction labor market by the publication Engineering News-Record this Spring cited the critical labor shortages which exist in the Boston area. Manpower shortages running as high as 50 per cent were noted by the journal in the carpentry, masonry and bricklaying trades. Similar deficiencies were pointed to in the steamfitting, iron-working, plastering, sheet metal and welding occupations. Among electrical workers, the figure exceeded 50 per cent. In its

report, the Engineering News-Record concluded "the lack of integration of minority group workers, largely due to union resistance, is another contributing factor to this labor shortage."

It is apparent that a significant number of job opportunities do exist, that the failure of organized labor to provide contractors with qualified nonwhite tradesmen is indeed causing the tax-burdened citizens of the Commonwealth to shoulder increased costs.

We hear repeatedly from the uninformed and misinformed concerning the black or Spanish-surnamed man who is available for work in this field. Such statements as, "Send me a black man who is qualified," or, "I just can't find any," or, "I don't discriminate. I hire any qualified man who comes in," or, "Any qualified colored man who wants to become a member of the union--all he has to do is apply."

Well, on the face of it, it would appear that no black or Spanish-surnamed men with skills are available since so few blacks or Puerto Ricans have union membership. But is this the case? No. One employer alone in the Boston Urban Rehabilitation Program, often referred to as the BURP program, was able to hire 316 black men from the community area being rehabilitated. These black men filled positions ranging from laborer to electrician and included such skills as dry wall men, carpenters and roofers. There were difficulties encountered on that job. Some forty complaints were received by the Commission from both black and white workers alike charging the employer with discrimination in layoffs and conditions of employment. It took more than fifty--did you hear me?--fifty meetings involving management, workers, community action groups and Federal officials before these problems could be resolved. In spite of these difficulties, work resulted in true compliance with an effective affirmative action program by the Massachusetts Commission against Discrimination, one of two in the Boston area in the past few years.

But what about the unions? This prime contractor was nonunion and, as such, was able to comply with the proposal that, whenever possible, community labor be hired to work in the area of the project. There were union subcontractors on that job. Did the union business agents come to the work site to allow these black skilled men to join their locals after they had been on the job for seven days? This is a common procedure when a contractor who has a union agreement employs nonunion labor.

The fact is that the contractor was told informally that the unions would permit the men to work on the job but that they were not asked, and they were not to be asked, to join the local. However, the contractor was required to pay health and welfare costs to the union even though the men could never qualify for those benefits. You can draw your own conclusions from these peculiar circumstances.

Now, this panel is interested in the effectiveness of the contract compliance efforts on the part of the Federal agencies. With few exceptions, and I go on record with this, the Massachusetts Commission against Discrimination has received no assistance or cooperation from the Federal authorities. Indeed, my staff finds it difficult to determine who these people are and what type of work they perform.

In December of 1968 the Commission called together representatives of the community and the Federal agencies to meet for the purpose of determining how a more effective program of contract compliance would be developed. The meeting was called at the request of the Commission's Compliance Division since it was obvious that major problems existed which it had no legal authority to act upon. This meeting was not productive. There was no meaningful compliance being attained since there was the ever present recitation of the problems the community groups faced when trying to deal with contract compliance officers.

In fact, the representative from the Department of Labor who was responsible for having achieved the most effective compliance job having yet to be accomplished in the Boston area, found himself reorganized from his job. And I would suggest that his efforts to become more effective resulted in his removal from the position he held with the Labor Department in the Boston area.

It should be recognized that until the names, organizational responsibilities and lines of authority of the Federal contract compliance personnel for the various agencies are defined, equal employment opportunity in the construction industry in the Boston area cannot be achieved. In addition, once these men and their duties are identified, then they must formally adopt a meaningful interpretation of what constitutes a valid affirmative action program under Executive Order No. 11246. These men must also be given the power to impose the necessary sanctions to enforce the contractors' commitment to an effective affirmative action program subject to an appeals procedure. When, and only when, the Federal Government provides sufficient staff and authority for that compliance staff, can there be a meaningful beginning toward the effective enforcement of the current Federal laws.

Now, due to an increase in my Commission's budget this year, a Compliance Division was formed to handle contract compliance with those who do business with the Commonwealth, as well as to insure compliance with final orders in terms of conciliation as directed by individual Investigating Commissioners.

Presently we are guided by Chapter 151B of the General Laws of this Commonwealth and the Governor's Code of Fair Practices, which is an executive order which was issued in 1966. Shortly after Governor Sargeant took office, his Secretary of Urban Affairs, Al Kramer, in conjunction with members of my staff, began a re-examination of this executive order. It was concluded that a complete revision of the Governor's Code should be undertaken in order to give it more teeth and to make it more relevant to existing problems. The present Code merely calls for nondiscrimination in employment. In our re-examination we are exploring changes such as a mandatory effective action commitment on the part of all contractors. The Governor's office has demonstrated thus far its firm commitment toward the expansion of the Code which will lead towards insuring equal employment for all the Commonwealth citizenry.

While the Massachusetts Commission against Discrimination is certain to make present laws more relevant to today's problem, it hasn't been idle or passive in enforcing the current laws. It has become apparent that the number of complaints filed on an individual basis against contractors or unions representing the building trades do not truly reflect the scope of the problem--that is, the discrimination against blacks and Puerto Ricans in this industry.

In cases dealing with a single man, a single contractor or a single local union, effectiveness is minimal. To correct this problem, we have to make a concerted effort to break the pattern of discrimination which exists in Boston today. Given the information on alleged discriminatory practices in the building trades industry, gathered by this agency, the Massachusetts Commission against Discrimination has reason to believe--and, as a black citizen of this Commonwealth, I know--that there exists a pattern of both overt and covert discrimination in this industry. As a result of this information, several months ago the Commission voted to initiate approximately 250 complaints against five of the largest building construction firms in the Boston area, and twenty-five union locals.

These complaints involve the following trades: asbestos workers; bricklayers and stone masons; carpenters; cement masons and asphalt layers; International Brotherhood of Electrical Workers; Elevator Construction Union; the International Union of Operating Engineers; International Union of Structural and Ornamental Iron Workers; bridge and structural iron workers; Marble Setter and Title Layer Helpers Union; Wood, Wire and Leather Workers Union; Printers Union; plasterers; Plumbers and Gas Fitters Union; Roofers Union; Sheet Metal Workers Union; Pipe-fitters Union; Sprinkler Fitter and Apprentices Union; Tile Layers Union; and the Teamsters, Chauffeurs, Warehousemen and Helpers.

The respondent construction firms involved include: Aberthaw Construction Company; Gilbane Construction Corporation; Turner Construction Company; Perini Construction Company; and Volpe Construction Company. Others are currently being processed.

I would like to point out that, while the Commission has indeed initiated charges against these firms and local unions, based upon information which has been brought to its attention, and has concluded that there is reason to believe that discrimination may be present, this doesn't constitute at this time a finding of guilty against them. Findings of probable cause are based on data gathered during investigation and after conferences are held by the Commission.

I should note further, because of the strict requirements concerning adjudicatory procedures, the Commission is not at liberty at this time to comment on any substantive issues or information until the complaint is brought to the hearing stage. In addition, an Investigating Commissioner already has certified one case for public hearing on an individually-filed complaint against one union local in the building trades, inasmuch as efforts at conciliation have failed.

The investigation of these allegations against the unions and firms will be focused on the patterns of discrimination which are alleged to exist. The investigators will continue to examine journeyman and apprenticeship requirements to ascertain if they are job-related and do not have a disparate effect which is discriminatory. All aspects of the building trades' employment practices will be so examined to determine whether there has or does exist disparate treatment or result in a discriminatory effect upon minority group construction workers.

Let me assure this panel that the Massachusetts Commission against Discrimination, Commissioners and staff alike, will continue to endeavor to cooperate fully with Federal and local anti-discrimination officials, so that government--together with those interested representatives of business and labor--can work with the minority group community in resolving the most burning problem facing Boston, the Commonwealth, and the Nation, which is that of insuring truly equal employment opportunities for all people.

It should be obvious to every serious-thinking American who is familiar with the Kerner Commission Report or who works alongside black or Spanish-surnamed men from the local communities that if the current racist policies present in certain segments of our society are not eliminated, and these people are not able to participate in the building of their communities, then pent-up frustrations will most certainly result in a black-lash which can only tear away the foundations of our society.

Thank you.

MR. BERNSTEIN. Thank you, Mrs. Ballantine.

In connection with the revision of the Governor's Code, do you know whether any legal steps would have to be taken to effect a State contract compliance program that would require affirmative action?

MRS. BALLANTINE. As far as we can determine at this point, it takes a revision of the Governor's executive order. The executive order is what we are working with at this time. A revision of that order can make it mandatory to make possible true employment opportunity on State contracts.

MR. BERNSTEIN. Any questions from the panel?

MR. PITTMAN. Have you taken into consideration the pre-award conferences?

MRS. BALLANTINE. Yes, we are, definitely.

MR. PITTMAN. What type of penalties are you envisioning?

MRS. BALLANTINE. We have been asking for sanctions to be imposed by the MCAD against contractors. This would also involve State agencies because we feel that the State itself--the agencies themselves who let the contracts--have responsibility here. We are pushing so that the MCAD will have the power to revoke contracts.

MR. WILMORE. Mrs. Ballantine, we are interested primarily in Federal contract compliance in this inquiry. Of course, we are also aware of the fact that if you are going to have effective compliance, there must be effective state, local as well as Federal programs. But I'd like to refer back to your statement where you talked about one employer who was involved in the Boston Urban Rehabilitation Program, which I assume involved some money from the Department of Housing and Urban Development.

Was the Department of Housing and Urban Development notified and requested to come in on this situation?

MRS. BALLANTINE. They certainly were. As a matter of fact, they did come in. I am not so sure now by whose invitation, but they were there. They were really very upset about the whole matter. Federal officials were here supporting and protecting the contractor. I am not so sure which side they were on many times at some of these meetings.

They felt that they had a deadline to meet and that this was the goal. We felt, of course, that our goal was to see that black men were hired. We finally got them to see the light.

MR. WILMORE. Do you know whether they were from the regional office in New York, or whether they were national officials or----

MRS. BALLANTINE. They were from everywhere. They were from New York and from Washington.

MR. WILMORE. What was the approximate date or month?

MRS. BALLANTINE. November of 1967.

MR. WILMORE. You say that this situation was resolved. Could you tell us how it was resolved, and why it took more than fifty meetings before this problem could be resolved?

MRS. BALLANTINE. Well, we started off, of course, with the filing of the initial complaints. Let me say that I think some mention should be made here of the involvement of the black men of the Roxbury community who at that point in time said, "We are going to participate in the rebuilding of our community. And if we don't it won't be rebuilt." They made it quite clear.

They requested our participation. After the complaints were filed, we held the meetings. We attempted to conciliate. I should say that when they came into our office, they made it quite clear to the Federal officials and to the contractor, that this was going to be. The contractor had no choice but to deal with the situation the easiest way, I think. He knew that either he dealt with the MCAD or that he may not ever build buildings.

MR. WILMORE. This Boston Urban Rehabilitation Program, was that under the Housing Authority or the Boston Redevelopment Agency?

MRS. BALLANTINE. No, that was definitely under FHA.

MR. WILMORE. No local city contract compliance agency was involved?

MRS. BALLANTINE. No.

MR. WILMORE. Just the HUD people.

Could you tell us how effective the present contract compliance program is in your judgment--State contract compliance program?

MRS. BALLANTINE. As I stated earlier, we are now working on revising the executive order under the Governor's Code of Fair Practices. This is the order we will attempt to work more closely with and to enforce. But we are not happy with it now. As far as we are concerned, it really isn't that well defined. All it talks about is nondiscrimination. We are talking about putting some people to work. Without that kind of power, I am not going to say that we are working very productively with it, because we are not. It's not that effective presently.

MR. WILMORE. As you know, the Federal program requires--I am talking about the paper requirements now--affirmative action on the part of the contractors. I think it's been revealed in the two days that we've been meeting here that program has not been particularly effective. It merely requires affirmative action in general terms. I wonder if you have considered techniques beyond the Federal program that you think might be effective, such things as manning tables, prequalifications, mandatory training programs. Could you comment on any of these things in terms of your personal viewpoint as to their effectiveness?

MRS. BALLANTINE. Well, once again, I think I said earlier we, too, concur with you that the Federal contract compliance officials and agencies leave much to be desired. Indeed, I think that's a very complimentary statement. However, yes, we are trying to implement many of the suggestions that you have just made, as well as others.

Under the affirmative action program we certainly intend to push for those training programs that will insure the opportunity for men to be hired as a result of being well qualified. Right now, as you know, people simply can't get their foot in the door in the first place. So, we are pushing for that, as well as then upgrading after they get in.

MR. WILMORE. One reason why this Committee decided to look at contract compliance in the construction industry, separating the construction industry from the manufacturing industry in goods and services where contract compliance provisions also apply, or are supposed to apply, is because of the peculiar nature of the construction industry. I wondered if you were thinking of any special provisions to apply to construction which would be different from those which would apply to suppliers of goods and services.

MRS. BALLANTINE. Well, we can't talk about construction without talking about being able to participate at the entry level, where the apprenticeship openings occur, and then later on as a journeyman. Yes, we are pushing for that. I am not so sure what needs to be done. I really don't.

MR. WILMORE. Mr. Chairman, I pass.

MR. BERNSTEIN. Well, somewhat along those lines, Mrs. Ballantine, you said in your testimony that you feel that the Federal contract compliance personnel should be given the power to impose the necessary sanctions to enforce the contractors' commitment for an effective affirmative action program. Perhaps you might want to spell that out a little further in terms of what you see as being necessary there.

MRS. BALLANTINE. Well, at the present time we are unable to make any sense of what these Federal contract compliance officers are doing, and what their role is, and what their powers are. Apparently very little is being accomplished, as we all know. So, what we are saying here is that they need to have more power to enforce, and then they need to be there to enforce.

The one person who did work very hard at this, who was in the Labor Department here in Massachusetts, was reorganized out.

So, it seems to me we have got to bring pressure to bear on the Federal Government to see that the Federal contract compliance officers, after they have been appointed to work, are allowed to work. Those who try don't stay there very long.

MR. BERNSTEIN. Do you have any specific thoughts in terms of specific powers that you'd like to see them given? Do you have any recommendations along those lines?

MRS. BALLANTINE. They ought to have the power to revoke contracts.

MR. PITTMAN. The contract compliance people made plenty of sense to me. They said they weren't doing anything.

MR. DOTIN. Mrs. Ballantine, has your agency been doing anything regarding discrimination in apprenticeship programs?

MRS. BALLANTINE. We have had individual cases filed, yes. Now, I can't, as you know, discuss the individual cases. Yes, we have been involved in apprenticeship situations on discrimination. In terms of pattern, this will be covered by the investigations and by the complaints that I have just listed for you -- as part of the whole investigation process.

MR. DOTIN. Do you know at this time whether or not the new Governor's Code regarding contract compliance within the State will have anything to do with change in the apprenticeship -----

MRS. BALLANTINE. It will certainly affect it, yes. It has to because it's involving State contracts which are let by the State. We are involved in the whole process of pre-award qualification, and hiring procedures, and union membership. Yes, it will affect the total picture.

MR. WILMORE. I don't think this Committee was aware of the fact that your Commission had initiated some 250 complaints against some of the largest construction firms and against some of the unions. Were these Commissioner complaints or were these complaints from individuals, or both?

MRS. BALLANTINE. These were initiated by the Commission against Discrimination.

MR. WILMORE. I think that's exceedingly interesting. I don't know of any state commission that's taken this step, Mr. Chairman. I realize that this is just a finding of probable cause. You haven't found discrimination yet. But I think this is very interesting, and I wonder, as you continue to investigate these complaints, whether you will be involved with the Federal contract compliance agencies, and with the information collected by this Committee at this hearing?

MRS. BALLANTINE. Well, I am free to say that I am the Commissioner assigned to all of the cases. You can be assured that the Federal Government will be involved.

MR. BERNSTEIN. Thank you very much, Mrs. Ballantine.

REV. DRINAN. Mrs. Ballantine, I am sorry that I was unavoidably delayed, but thank you very much for coming.

REPRESENTATIVES OF THE CITY OF BOSTON, MASSACHUSETTS.

REV. DRINAN. Gentlemen, thank you for coming; and we are sorry that we had to work you at night.

We have here Mr. Hemingway, Deputy Administrator of the Mayor's Office of Human Rights; Mr. Herbert Gleason, Corporation Counsel of the City of Boston; Mr. Reginald Brown, Contract Compliance Officer of the Boston Redevelopment Authority; and Mr. Kevin Maloney of the Corporation Counsel's Office.

REV. DRINAN. Gentlemen, just proceed to tell us what you would like to tell us.

MR. HEMINGWAY. Thank you very much, Mr. Chairman.

Mr. Chairman, members of the Committee, on behalf of the City of Boston and His Honor Mayor Kevin H. White, I would like to thank the Massachusetts State Advisory Committee of the U. S. Commission on Civil Rights for inviting us to testify before you this evening.

The complexity of the problems facing us make effective cooperation among Federal, state and municipal governments and private industry absolutely imperative. While the City of Boston, since 1963, has banned discriminatory employment practices by contractors, an effective affirmative action contract compliance program for the City of Boston is new.

The Mayor's Office of Human Rights in the City of Boston was established by Mayor White officially on December 10, 1968, United Nations Day. In six months, we believe that we have accomplished a great deal but have much, much further to go. In many areas we are feeling our way, trying both to identify critical problems which have never been dealt with before and to develop practicable mechanisms for their solution.

The equal employment opportunity specifications for the City's construction and service contracts, which I have presented to you this evening, were drawn after considerable study of present governmental programs. Our program is based on the contractual power of the City and will be administered as a contractual matter. I think it will be clear that we have gone beyond the limitations of Executive Order 11246, while at the same time simplifying the thrust of the program and its administration. Contractors will be bidding on the equal employment opportunity section much the same as they bid on the rest of the work. The program will cover all construction, public works and service contracts over two thousand dollars.

Past and present affirmative action programs have been weakened, I believe, by the lack of specificity and definition. We believe that the contract specifications that the City of Boston will now have for its affirmative action program are clear and specific.

We believe that treating the program as a strictly contractual matter frees the administrators from limits imposed by statute or regulations adopted under statute. Our intent is to give the administrator, the official, the broadest possible power.

The major and qualitative difference in our program, from that of 11246, is the plain requirement that the contractor and all subcontractors shall have "significant minority group representation at all skill levels in all categories of their work forces throughout their work."

We have, I believe, defined what result affirmative action is to have, what affirmative action is. We go on to state clearly how that result is to be reached. We have also reserved our right to cancel, terminate or suspend the contract for violation of the specifications. And we have tied subcontractors into the program. The specifications require that advertising and recruitment must be done where the contractor can find minority group individuals, whether in unions or otherwise. The contract specifications will not allow, now will we be satisfied, with a mere call to the union hiring hall and a pledge not to discriminate.

You will note that in addition to the conferences with the contractor and subcontractors, the contractor and subcontractors will be required to file compliance reports as a condition precedent to the receipt of a monthly periodic payment. We should also like to point out that we are putting all bidders on specific notice. The following sentence is to be inserted with each advertisement for bids in the Boston City Record:

"The attention of all bidders is specifically directed to the equal employment opportunity section of the specifications, and the obligation of the contractor and all subcontractors to take affirmative action in connection with employment practices throughout the work."

We believe that the equal employment opportunity section of the contract specifications provides a strong legal basis for an effective program.

We have purposely excluded purchase and supply contracts from our present program. Of course, suppliers of goods should also be engaged in affirmative action programs. However, it is impracticable for the City of Boston alone to effectively monitor out-of-state suppliers. Thus, our efforts are primarily directed to developing a coordinative attack, with the Federal Government and other agencies and institutions, to insure that the joint economic power of those participants can force suppliers on a national basis to undertake affirmative action in their employment practices.

Cooperation among other public agencies thus far has been limited. Our office has sought, to some extent, to find out what efforts are being made by others and what cooperative agreements are in existence. And with respect to the Federal Government, the Equal Employment Opportunity Commission in Washington has reported that there is a data-sharing agreement. We have officially asked to become partners with the Federal Government in this data sharing, but have received the answer that it is not yet operational insofar as the construction industry and unions are concerned. All too often, it is difficult to learn who in the Federal Government is responsible for the various aspects of enforcement of 11246 affirmative action programs, as Mrs. Ballantine has also testified to. Certainly all of us, and particularly the government, share the responsibility for that unhappy fact.

You will note undoubtedly that the figures that have been presented to you by others indicate that the Boston Globe indicated in a report last summer that the figures of minority group participation in the construction industry are extremely low. Our office's efforts to date to secure information that would follow through with this, has failed to produce any substantial information that showed that there had been any change in those figures. The lack of cooperation and in some instances the unwillingness of the unions to participate in any meaningful programs has been the major stumbling block. I must state, however, that the building trade unions' representative in Greater Boston, the Greater Boston Trades Council, along with the Associated General Contractors, have entered into some agreements with respect to training in connection with the Model Cities area program, of which you have already heard. This is a beginning but not much more.

Our plain aim is to help enable the members of minority groups in the Greater Boston area to participate in the benefits of employment in the construction trades to the same extent that other groups have been allowed to participate. Until that goal has been reached, the City of Boston is fully prepared and plans to back the obligations set forth in the contracts to see to it that employment practices are fairly and equitably established and carried out.

Mr. Reginald Brown, presently administering the Boston Redevelopment Authority Federal contract compliance program, will be responsible for the City construction compliance, and will be dovetailing his City experience with his BRA experience.

We call upon the Federal Government to put a greater financial and supportive input into local affirmative action programs. It is extremely difficult to monitor, investigate and carry out the work necessary for such a program without money, cooperation and other supportive services.

I hope that the City's position has been made clear, gentlemen. Mr. Brown, Mr. Gleason and I would be happy to answer your questions.

REV. DRINAN. You want to leave a copy of that document with us if you will?

MR. HEMINGWAY. Certainly.

REV. DRINAN. Thank you for that statement.

Gentlemen, do you have any questions?

MR. PARKS. I'd like to get something cleared up, because it's been coming up over the last two days. That is whether or not the City of Boston has entered into or is using as its criterion this union-contractor agreement that was made concerning the Model Cities program.

MR. BROWN. I state unequivocally no. As Compliance Officer, I feel that it's imperative, in order to get minorities into the mainstream of construction or otherwise, that I cannot

place myself in the position of supporting the legality or illegality of any agreements, whether they be union, nonunion or otherwise.

We are concerned with the acid test of are there black workers on jobs. How we do that is determined by their availability, as we know it to be within the community. The City of Boston will not support any such agreements that will have any exclusive control over such a supply. It will be treated as a floor and not as a ceiling. If a contractor is a member of this agreement and is thereby receiving workers from this agreement, it is accepted as partial -- only as partial -- performance of an affirmative action plan. Unless he deals with the total minority community and all of its resources in engendering his work force, it will not prove effective.

Let me also state this. I have been very much confused with the testimony that I have heard today. As Compliance Officer, I am a little perplexed as to just what I am doing, why I am doing it, and for what purpose I am doing it.

What are the pragmatic results of all the efforts of all the people involved, as well as my own? I come up with only soul-searching half-truths of tokenism. I wonder sincerely whether -- within the Federal regulations, local, state, and municipal -- I can effectively operate.

The unions to me sat here today and gave a demonstration of the power of their position with overt denunciations. The contractors have displayed acts of cowardice and recalcitrance. The community has stated unequivocally that they are prepared to go beyond legalities in satisfying their just needs and demands.

Somewhere along this avenue sits a compliance officer -- bedeviled, betwixt and between. To use an old English expression, "Damned if you do; damned if you don't" -- satisfying no one, and least of all yourself.

What I am trying to say is that the City of Boston hopes to effectively have a program that will place minority workers in every trade and in every job category, regardless of the size of

the contract, the availability of workers in terms of what trade is involved -- whether it be done through on-the-job training, whether it be done through advance training, or any other term that you may apply to it. But from this day forward, from the enactment of this document, we intend to see that all contractors meet their obligations in terms of equal employment opportunities.

MR. PARKS. In terms of the Model Cities program, it's my understanding that there is going to be a special provision written into our contract compliance program that deals with the majority of the citizens coming from the Model Cities area, in conformance with the spirit of the law and the Model Cities Act.

MR. BROWN. Right.

MR. PARKS. Could you make some statement on the record as to what the position of the City is in terms of that relationship.

MR. BROWN. We intend to live up to the Model Cities Act, which states that maximum feasible participation of local community residents must be demonstrated by the contractor in terms of Model Cities work.

MR. DOTTIN. Mr. Hemingway, you spoke of "significant minority group representation." Would you give us some idea what you mean by this term?

MR. HEMINGWAY. The reason that we use that term is to apply it to the situation, with respect to the class, the type of trade skill that would be under scrutiny at the time.

REV. DRINAN. Why didn't you use "substantial?"

MR. GLEASON. I don't think, Father, that we drew a distinction between the two.

REV. DRINAN. What does it mean -- 40 percent? 10 percent? 80 percent? You have to have some target to shoot at.

MR. HEMINGWAY. Specifically, we wanted to be able to examine the supply and the particular type of trade.

REV. DRINAN. What construction is the City involved in now?

MR. HEMINGWAY. Construction of schools, construction of streets -- Public Works Department -- public facilities ----

REV. DRINAN. Are you building a school in Roxbury or Dorchester?

MR. HEMINGWAY. Correct.

REV. DRINAN. Alright. If you could renegotiate the contract, and if this office could effectively take action tomorrow morning, what is significant minority representation in the school being built in Roxbury?

MR. HEMINGWAY. I don't know. We can't give specifics.

REV. DRINAN. I want numbers. I don't know what "significant" means. Significant is undefinable. I want to know numbers. I think that the City has to have numbers -- you know, within the realm.

You heard the person from New York this afternoon. You heard the Philadelphia Plan. They have numbers. They go in and they say, "Well, you have 2 percent now, maybe 5 percent or 8 percent would be reasonable depending upon all of the circumstances."

I don't see what this means -- "significant minority group representation."

MR. HEMINGWAY. We had a great deal of discussion on this point. We felt that the numbers would not be the solution ---

REV. DRINAN. Well, I know. This is the key vagueness of the entire plan.

MR. GLEASON. Father, with all due respect, I don't think so. I don't think you have quoted the whole thing. It says, "at all skill levels in all categories." I don't think we can recite numbers because, first of all, we are talking about job to job. Secondly, we are talking about all skill levels in all categories.

I don't think you can say there must be one electrician and three carpenters and five hod men and so on. It just isn't feasible at this point to say.

I think what is important, and having spent as much time and as much thought and as much anguish on this as we have, I think to make this declaration, which, as far as I know, is unprecedented, by government and then to be -- to have that---

REV. DRINAN. This is no different from the Philadelphia or New York plan. This is weaker than their plans. We heard all about their plans this afternoon. This is weaker. They were here and they testified. This is not unprecedented. I am sorry. The Philadelphia Plan, which was in operation until the Comptroller of the United States raised a question about the fact that they didn't give notice to the contractors ahead of time -- presumably tomorrow they are going to announce a new Philadelphia plan which is a modification. And the man from New York, who I hope is still here, has had his in operation since May of this year. So, I am certain that it is not unprecedented.

But I know that you have agonized over this whole thing. I just want to know what happens next month when you let out a contract and you have to get down to numbers.

And then the first monthly report -- incidentally, that is a good idea. I don't think the other plans have that. Do you hold up the payment if he doesn't have a "significant" number? I think everybody wants to know what is "significant."

MR. BROWN. In terms of "significant," we are specifically referring to what we know to be the availability of minority workers within the communities. For example, if we are talking about a contractor who is building a school and he needs a large masonry work force, a large carpentry work force and a very small structural steel force. Now, we are saying that based upon his total peak force, he is to engender into that work force from the community. This will be determined by the availability that we know to be there from the organizations in the community who are involved -- specifically, the UCCW which today testified here to the total of over three hundred some minority workers available at this moment. We will certainly see to it that these men are contacted and put to work.

But the difference in our---

REV. DRINAN. How much staff are you going to have for all this work?

MR. BROWN. I will have a full-time staff of five people, not including office staff.

REV. DRINAN. Five professionals?

MR. BROWN. That is correct.

REV. DRINAN. When will they go on the job?

MR. BROWN. The first of July.

REV. DRINAN. We didn't have that information. We have only the text.

MR. GLEASON. Just let me say, I don't want any credit for any amount of anguish. Our anguish is nothing compared to the problem that we are discussing and what people have had to go through. I just want to make it clear that we in the City truly believe that this is a concrete step, that this does provide a means for enforcement, and not just for good will or a nice try.

REV. DRINAN.' No, Mr. Gleason, I am not saying that. But we have heard very tough testimony in the last few days to the effect that a lot of these things just don't work. And we have heard terrible testimony, as Mr. Brown has suggested, from the unions. I am very troubled about Section 5 here, particularly Part B, because the contractors go out and they get all these lovely statements from the unions that, "We wouldn't think of discriminating and that we will affirmatively cooperate." But the fact of the matter is that this contractor just doesn't have any blacks. Yet he is authorized under this to give you people a letter from the unions saying that, "Of course, we will cooperate"; but there are no blacks on the job.

Suppose he files all these nice letters under Section 5, and he still has no significant number of minority. He says that the unions tell him that they are not around and the union

says that they looked everywhere. What are you going to do then? You are going to pay them.

MR. BROWN. No, we are not. To be specific, Father, he's to have minorities represented in all trade categories. He is to go outside the boundaries of the union in getting workers. That is specifically what is going to be required to do.

REV. DRINAN. Well, do you see the possibility of bringing all construction done by the City of Boston to a screeching halt in August? I mean, assuming that you can renegotiate these contracts, I don't know whether you can now. But let's assume that. That is going to happen, if you really carry out the thrust and guts of this thing, unless there is a massive change upon the part of everybody who's been talking here for two days.

MR. BROWN. A good captain rides a troubled sea.

MR. DOTTIN. Can I ask, first of all, is this going to be an executive order of the Mayor?

MR. BROWN. Yes, it is.

MR. DOTTIN. Will the City Council be involved in this? Seeing what's happening on the Federal level, with Dirksen and other politicians getting involved in Federal contracts and harassment that we hear about, can you tell me how your program will be different?

MR. GLEASON. I just wanted to correct one thing. It will not be done by executive order. It will be incorporated in the contracts which the City enters and which the City Council, under the City Charter, is forbidden to concern itself with.

This is an executive prerogative, and it will be inserted. To be sure, it actually comes as an order from the Mayor. But we don't have the institution in the City of Boston of the Federal executive order. It will be done because it has been ordered.

MR. DOTIN. We heard Mrs. Ballantine earlier talk about the intent of the State government to develop contract compliance. Could you give me some examples how a situation of this nature would work out? If you are building a school, there is Federal money involved, there is some State money, and now we have heard that there may be City monies involved. There are three levels of government here, and all three levels are saying, "We have some responsibility about causing affirmative action." Now, how would this operate?

MR. BROWN. Well, if we were the agency that is issuing the contract and is charged with the responsibility of paying the contractor -- there is our leverage point.

MR. WILMORE. Excuse me, but in schools, you are not.

MR. GLEASON. Yes, sir, we are.

MR. WILMORE. The schools are covered by this order?

MR. BROWN. Yes. Now, there is our leverage point. If we are not involved, we would then attempt to get either the Federal agency or the State agency to give us that responsibility to carry out, relieving them of the nondiscrimination obligations within the contract. We would undertake that obligation.

In my experience with the BRA, I have often been locked in a position where I don't have the leverage. A classic example is this. The BRA sells land to another public agency who builds upon the land. Now, included in this land disposition agreement is an equal employment provision which is the responsibility of the contract issuing agency to administer. But, in fact, I, as the Compliance Officer for the Redevelopment Authority, have no leverage with the contractor; and I am almost powerless to deal with it. In fact, the Federal agencies often do not invite me to the pre-construction conferences. This is one of the serious weaknesses within the whole Federal program which operates consistently this way throughout the fifty states.

MR. DOTIN. Does your plan involve a pre-award or pre-construction?

MR. BROWN. It involves a pre-bid qualification. The contractor is aware of this upon bidding. When he bids upon a contract, he may be the low bidder, but he is not awarded the contract until he shows the City of Boston that he is going to have minority representation in every job skill.

MR. PARKS. How do you overcome the contractor's coming in with one minority person in each category? How do we handle the case of him saying, "All right. You say in every category we must have minority people." So he comes in with one guy in each one. How do we have the legal leverage at that point to say, "You are not complying"?

MR. BROWN. We have the legal leverage to say that he is not complying because we are aware of the availability of minority work forces within the community.

MR. PARKS. Well, how does this work? You say that we are aware of the number of people in each one of these categories. The question that comes up is, what is the mechanism at this point as to going to negotiations with the contractor? What are the nuts and bolts of it?

MR. BROWN. Let's use a specific difficult trade. Let's say pipefitters. I think it's common knowledge that, using the union determination of qualification, I doubt if there is a qualified black pipefitter within all of Boston. The contractor says to the City, "Well, I'll go out and get one black pipefitter," or "I will train one black pipefitter." Well, if he is going to use thirty pipefitters on that job, we are certainly not going to be satisfied with one pipefitter.

We will at that point make a determination of what we consider significant -- which is the phrase we are talking about -- significant representation based on the volume of his peak work force. We will go to a community organization and say, "Do you have young men interested in becoming pipefitters?" And if it turns out to be eight, twelve, fifteen or whatever the number may be, then this is the figure that we are going to use with that contractor. We will not accept any token number from him based upon his offer to go out and get one or train one.

MR. PARKS. Are we going to run into the same trouble? The Comptroller's problem, because negotiations had occurred after the signing of the contract? Once you get into this mechanism, and then you begin to call numbers at that point, are we going to get ourselves into this same kind of thing that Philadelphia has gotten into?

MR. GLEASON. We haven't been in this actual situation, but my response to that would be that public contract language is full of concepts. The advertisement doesn't say that "financial responsibility" means that he must have \$125,000 in cash available; but that is worked out.

We have a concept of what financial responsibility is. That can be applied, and is a ground either for not awarding the contract to him or for terminating his services if he is determined not to be financially responsible. I think that the phrase "significant representation" is perfectly capable of reasonable understanding and communication. As Reg says, if it's a fact that there are ten people who would like these jobs, and you have thirty in this trade and you have no minorities or one, that is not significant. I think that any reasonable adjudicatory body would understand that that is what the contract is saying.

Now, if a Federal official comes along and says, "I think that that's too vague and the contract is illegal," and "We are going to withdraw the Federal help," I think that we will fight on that, because it is not his business to determine whether state or city contracts are legal. That is our business.

REV. DRINAN. Well, Mr. Norton this afternoon said that he had been in touch with you. I'd like to know your reaction to his office's position that with laborers, one half must be minority, especially if it's in a ghetto area. It seems to me that Mr. Parks makes a very good point that the contractor could turn around and say, "You didn't tell me that it has to be half for the laborers. You said, 'significant,' and I said I will do my best." It seems to me if you don't have something nailed down, then he will say that. Now, how would you react to the 50 per cent? This is what the minority community wants to know -- what is meant by "significant."

MR. BROWN. Mr. Norton, the contract compliance officer for the City of New York, is talking essentially about a minority population that is much larger than Boston. Something like 40 per cent of the total population of New York is either Spanish-speaking or black, which is not the case in Boston.

Here we have significant areas which have few minorities, regions of Boston such as Charlestown, Fenway, the North end of Boston in which there are no minorities. But we intend to see that the contractor working over there has a significant number of minorities on his work force -- in those sections of Boston, as well as having them when he is working in Roxbury.

REV. DRINAN. I mean to commend this plan. I just wonder whether you people are not doing the work of the Federal Government. This is a Federal body, as you know, this Advisory Committee. My whole reaction is that you are doing the work that the Federal government should be doing. I am ashamed that the Federal Government has not moved in and done this work.

MR. GLEASON. Father, this isn't the only area in which the City is doing the Federal Government's work.

MR. BERNSTEIN. I'd like to ask a question. I think either Mr. Hemingway or Mr. Gleason could answer it. What I am wondering about are the independent agencies, like the Boston Housing Authority, which do building. Have you been able to consider how agencies of this sort can get their arms twisted to move on contract compliance, and just how they would enforce the clause -- assuming it gets written into contracts that the BHA lets?

MR. BROWN. We would welcome the participation of BHA.

MR. BERNSTEIN. You will never get it that way.

MR. BROWN. We would negotiate from a position of strength, we hope, to secure BHA's participation in this program. It is my understanding, Mr. Bernstein, that you have shown keen interest in what we are trying to do and are anticipating such cooperation.

MR. BERNSTEIN. We lose, three to two.

MR. BROWN. We'd like to say that we are also seeking the support and the assistance of the School Department to tie into this program.

REV. DRINAN. Mr. Hemingway, you said that any supplier with a contract of over two thousand dollars is covered by this?

MR. HEMINGWAY. Not supplier at this time.

REV. DRINAN. What was the two-thousand-dollar concept?

MR. GLEASON. The two-thousand-dollar amount is the amount beyond which you are required to have competitive bidding. That's why we were developing a program that we felt would be workable with competitive bidding requirements. Now, whether the next step is to go below that -- I don't know.

MR. HEMINGWAY. The reference is made, Father, to construction, public works, and service contracts over two thousand dollars.

MR. WILMORE. Gentlemen, I hope you are aware that we are very pleased to see the City move ahead. But what we are really concerned about is how this thing's going to be enforced. If you read the language of Executive Order 11246, it sounds pretty good today -- affirmative action and so on. I'd like to ask Mr. Brown a few questions.

At one point you said that this business of defining "significant minority group representation" would be based on available minority work force. Another time you said it would be based on the volume of peak work force of the contractor. Now, would it be based on both, or one, or which?

MR. BROWN. Both. When a contractor is bidding on a job, he has anticipated what his peak force will be. He bids the job on material and men. That is how he arrives at the amount of his bid. He knows at that point, he has a good estimate of how many men he is going to use on the job at a given stage. It varies, but I want to know the peak because you make the thrust at that point -- the peak of his work force.

MR. WILMORE. Then you take his peak work force, and you project available minority work force, and you arrive at significant minority group representation, is that correct?

MR. BROWN. That is correct.

MR. WILMORE. Does this allow for any real expansion in the minority group people in the construction industry? I don't know whether you would agree that while there are qualified minority group craftsmen who are not working, if you take the industry as a whole, there is a shortage of minority group craftsmen. If you based "significant representation" upon merely what's available rather than what ought to be available, it seems to me you aren't allowing for any real expansion, or bringing the minority group percentage up to what it ought to be. You should be allowing for the three hundred years of exclusion.

MR. BROWN. If you remember, this afternoon a young fellow spoke from the UCCW. He mentioned that he was working as a laborer, and that while working on the construction site he had received some training as an iron worker. I don't believe there are any black iron workers in Boston by union standards at this point.

MR. WILMORE. We received testimony that there are some but not nearly enough.

MR. BROWN. Regardless of that, what I am saying is this. We have this contractor, and he is going to use ten iron workers. Now, we would expect him, and insist that he would use this fellow who is interested in becoming an iron worker who has previous constructional skills as a laborer. He starts at the bottom--tying rods I think is the proper term. He then comes in as an iron worker.

MR. WILMORE. Suppose you can't find anybody. This is two years later now. You have used up those people, so you can't find anybody who has experience as an iron worker. Would a significant minority group representation therefore be zero because it's based on available minority work force?

MR. BROWN. No, it would not. Then we go to the next step. We go to the step of the worker who wishes to become an iron worker, who wishes to go on the job and get some training as an iron worker.

MR. WILMORE. So, then you get to the question of who's a qualified applicant. Does that mean that the City of Boston will decide who is a qualified iron worker and who is not? Not the employer, or the contractor?

MR. BROWN. I feel quite confident that the community groups, knowing that we are living up to our commitment of equal representation in every trade category, would do their darndest to prepare the men coming into their organizations for these opportunities. These fellows would have some related training, or related constructional skills. We are not going to be in the position of determining whether a man is qualified or unqualified.

MR. WILMORE. Well, who is going to be in that position, because that is going to become a crucial point, isn't it?

MR. BROWN. Why should it become a crucial point? The contractor is charged with the responsibility of employing this man.

MR. WILMORE. Whether he is qualified or not?

MR. BROWN. Qualified in what sense -- whether he is a full journeyman or apprentice?

MR. WILMORE. That is what I am asking you. I am trying to get at real problems you are going to have. Who is going to decide who is the qualified hoisting engineer, or elevator constructor or boilermaker? Who is going to make that decision?

MR. BROWN. I would assume from what you are saying that after some period of work on the job that this man's qualifications need to be determined to some degree. At this point I must admit that I am not prepared to give you an answer to that. I am saying that we would have to work out something like that.

MR. WILMORE. Some of us have become convinced that, while an effective contract compliance program in the construction industry has got to provide some kind of entry level for qualified people or nearly qualified, it also has got to have some kind of training component if it's going to get enough black people in

enough jobs--where these fields have been closed for a hundred years. Some of them haven't even gotten an opportunity to get close to it.

MR. BROWN. We are well aware of that. This is one of the reasons why we insisted on every trade category. I am quite sure that when you talk about terrazzo workers or marble setters, apart from people of Italian descent from Sicily you are not even going to find white workers who have this skill. But we fully intend to see that some avenues be made into these trades.

MR. WILMORE. But if you base it upon available minority group work force, if you are saying work force in terms of "qualified applicant"--if you fellows are going to say this black man is qualified and make that contractor take him whether he likes it or not, okay. But that is the kind of problem you are going to have to deal with.

MR. PITTMAN. I don't want to belabor the point, but I want to follow it up one step. Under the Philadelphia Plan, they left the problem of finding the black worker up to the contractor. Where they got him wasn't the compliance officer's problem. Here is the number. You get them. Now, if you've got to train him, that is your problem. You get him. This way you don't get in the bag of where you get him or how many qualified people are in the community. And I think that this would be a much easier position on your part.

MR. BROWN. Well, we have no intention of doing that. We are simply saying that we know the resources in the community and the organizations involved, and charge the contractor with the responsibility of contacting these organizations and giving them a job work order. Note that I say "job work order," not a casual reference to "equal opportunity employer" and the like, but giving a request for men in specific trades. And we also will insist that he does not come back with the response, "We asked for ten boilermakers, and they don't have any" or "They are unqualified." Then he is going to be charged with the responsibility of training someone to be a boilermaker from that community.

REV. DRINAN. Mr. Brown, when will the first contract be negotiated after July 1?

MR. GLEASON. I can't give you a date, Father. I think it might even be July 1 itself. We don't negotiate contracts. We advertise, and then we award them to the lowest qualified bidder.

REV. DRINAN. Let's say in mid-July the bids are opened, and Mr. X Construction Company is the low bidder. This may be a small job. It may be ten thousand, fifty thousand dollars. I am very anxious to know what's going to take place at the first conference.

You call him and say, "You are the lowest bidder and, now, how significant a minority group do you have?" And then presumably he has to file the first monthly report. Are these public reports?

MR. GLEASON. Yes. They have to be.

REV. DRINAN. And I would think that if you people have the idea of "substantial" or "significant" -- and my mind boggles at the idea that these two things are synonymous -- in any event, it seems to me that you could stop all construction because he would say, "I am not going to have that number of 'substantial.'" Or you could have him file the first monthly report, and you'd withhold payment. Do you expect drastic results? Do you expect a confrontation on this thing?

MR. GLEASON. I think we may have one quite soon, yes.

REV. DRINAN. Well, if "significant" means what I hope it means, it's inevitable.

One other point on this. This has a date on it. When was it released to the press?

MR. GLEASON. It was, I think, given yesterday or the day before to the press. I haven't had an opportunity to look at the papers today.

REV. DRINAN. Are you going to have a press conference on it and advertise it?

MR. GLEASON. Yes.

MR. GROSS. Mr. Chairman, can we have a copy of the plan for the record to be marked, to identify one particular document so that we can be sure we are all talking about the same thing?

MR. HEMINGWAY. I will make sure that you get a copy.

MR. PITTMAN. Something I worry about is the determination on the peak work force. What happens after you are over the peak and they start laying off all the brothers? Then what do you do in that situation?

MR. BROWN. Well, at this point, when the job is half completed and it's time for the contractor to start cutting back -- we would insist that he contact the organizations that had supplied the men and that he would notify them that he is releasing X number of their workers, and he would not arbitrarily or unilaterally dismiss a man on the basis of criteria irrelevant to the job, such as "Well, I've got a dozen guys and the union is making me keep the ones I have from them, so I am going to have to let five go from the community organization."

If need be, we would ask the community to set up a monitoring committee to see that this doesn't happen. We have had programs here in the Roxbury area where we had to do just that in order to eliminate the arbitrary dismissal of personnel by the contractor.

MR. GROSS. For the record, I have marked as Exhibit 18 a document which is the one that we have been referring to as the plan.

Gentlemen, may I ask this. In ascertaining what has been done in other cities around the country -- we are familiar with the New York City arrangement -- could you state what you found is being done, if anything significant, in other cities?

MR. BROWN. There are several areas in the country which are attempting to operate some sort of training program. One is the Butchertown Project in Oakland, California. This is to be done by the San Francisco Urban Renewal Authority, which has made a commitment to Secretary Romney in terms of building a meatpacking industry, which predominated in that area at one time and they wish to revive it. They made a commitment for maximum training of community residents from the Hunter's Point area.

Again, they are trying for equal opportunity without having first made the opportunities equal. I have often been quite amazed at what I call putting two men on a starting line to run, and putting track uniforms on them and track shoes, and one guy's been running for ten years and the other guy has never run in his life. You say, "Okay, buddy, you have an equal chance when the gun goes off. If you win, you win; if you lose, you lose." Now, this is one of the things that the black community has come up with -- reparations.

There's got to be some way to make up for these past many years of denying equal opportunity, by making that opportunity equal. The only way this is going to be done is through some significant training programs that allow the minority community to fully catch up and make up for lost time.

MR. GROSS. Did you find that no city in the country, other than New York, has a meaningful contract compliance program in the terms we have been discussing it?

MR. BROWN. No. No city agency, except in New York, has made a formal commitment as far as putting together some sort of compliance form for city contracts.

MR. GROSS. This document says nothing about procedures for invoking sanctions. Has it been determined who within the City government will have authority in this regard?

MR. BROWN. Yes. We have a Contract Compliance Board, which are my bosses so to speak. They have the power of stopping the contract.

REV. DRINAN. I learn new things every day about the City of Boston. Who is on the Contract Compliance Board?

MR BROWN. The Contract Compliance Board is made up of Mr. Paul Parks of the Model Cities----

REV. DRINAN. Okay.

MR. GLEASON. Technically, Father, the activating person in the contract situation is the awarding authority, which, in most instances in construction contracts in the City of Boston would be the Director of Public Facilities. The Contract Compliance Board will advise him that he ought to terminate the contract.

REV. DRINAN. Well, I want to say this to you. If we have been critical, it's just because we want things to move like you do. And may I say this. Since you are doing the work of the Federal Government, I offer the services of this Advisory Committee to you if we can help you in any way possible. I would love very much to have an open hearing in September or October to see how this thing is working.

MR. BROWN. We'd be glad to.

MR. PARKS. Father Drinan, one other thing. One of the problems we are having in the City, I understand, is that costs are going up, there are limitations on the number of people who want to bid on City jobs. Now we come up with a contract compliance regulation which may mean we are going to be in a much tougher position getting the kinds of bidders that we should. It seems to me that unless the Federal Government comes up with a very good compliance program to undergird a City like Boston, and all the cities across the country who are facing this kind of issue, it seems to me that we are going to be in serious trouble.

Because the Federal Government has a much greater supply, they control many more dollars of construction in our City and in other cities. Unless they are working in tandem with us, then we are going to be in trouble. We are going to find ourselves out of the ball park in maintaining any kind of tax structure and all the other things we have got to maintain. We find the bidders coming in and putting in fantastic bids, or not bidding at all, as we have run into occasionally.

MR. GLEASON. The Director of Public Facilities really should answer the questions about the difficulties of getting contractors to bid, Paul. He was aware of our work on the program and attended several meetings. He knew what we were going to recommend and did not object to it.

I think that one can easily get in the frame of mind in the City of Boston, and maybe the City is typical of others in the country, that we are so poor and desperate that there isn't anything we can do. We have just got to fold up and give in in order to build anything. I don't think that this is Bob Kenney's view.

I think his feeling is that we better try and do it right even though it may hurt in some respects.

I think the Federal Government could help enormously, not simply by requiring all governmental bodies to do this or all municipalities to do this, but by requiring everybody who uses Federal funds -- everybody who receives Federal funds to assist him in his building program or in his service program -- to have an adequate compliance program. That's the way the Federal leverage could be applied because an enormous percent of all construction projects other than those that are strictly private have Federal assistance, even if it's only a small amount. Then the City would not be out there alone. Then it would not be more difficult to do the City work than it would be to work for Harvard, which has lots of Federal money. It would be the same ball game, and it wouldn't be easy just to quit the City work, because all other major construction projects would have the same requirements.

REV. DRINAN. Thank you very much. Would you like to make some comment?

MR. HEMINGWAY. I am glad that Paul asked that question this afternoon -- which was a very dramatic and expressive testimony in and of itself. The fact is that there are many underemployed and unemployed black persons in the community and in the City and in the Nation, unemployed people that could be employed in construction work. We should consider the type of income that these people would be bringing in, income that would increase the taxes not only of the State, but of the Federal Government. Property taxes, also, because these are the men who will also be buying the houses and the property in the City. So, we are really talking about a cycle, a cycle that can be broken by providing these men that are underemployed and unemployed with the types of jobs that will in fact increase the Federal coffers and in fact increase the City's coffers as well.

MR. WILMORE. This is a slight digression, but we are primarily a Federal agency, we are interested in Federal contract compliance and I didn't want to lose this opportunity.

MR. Brown, as the Contract Compliance Officer for BRA, you work under 11246, is that right?

MR. BROWN. Yes.

MR. WILMORE. HUD people tell us that they rely primarily upon local agencies like yours to carry out 11246, and you have to report to them. Can you tell us the last time you made a compliance review, and essentially what you found, and what you did about it, and what HUD did about it?

MR. BROWN. Yes. First and foremost, I'd like to discuss 11246. I file a compliance report on a once-a-month basis.

REV. DRINAN. What happened to the last one in which you made a complaint?

MR. BROWN. Nothing.

MR. WILMORE. When you made the last compliance review, what did you find, and what did you report to HUD?

MR. BROWN. When I say, "Nothing," I mean this. I felt that the contractor did not supply me with an affirmative action plan after pre-construction conference, which is in the regulations. The regulations for urban renewal local public agencies come from Executive Order 361, which gives the guidelines by which local public agencies administer Executive Order 11246. One of the regulations is an affirmative action plan to be submitted fifteen days after the pre-construction conference. Now, at this point, I did not receive this plan.

MR. WILMORE. Excuse me, Mr. Brown, but when did you make your last compliance review? I mean, what month and year?

MR. BROWN. This was about three months ago exactly. I am referring to one in which I corresponded with HUD in New York and attempted to get some action out of them in order to put pressure on the contractor.

Now, it really get's comical. After having not received an affirmative action plan, writing to HUD, calling the local HUD representative and informing him of such, he comes to Boston and requests me to call the contractor into another meeting. I am recalcitrant.

I tell the HUD man, "Look. I want to take some positive action. We have already had a meeting, and it brought us no results. What are you, in fact, going to do to put some sort of pressure on the contractor in order for us to get some action?" He tells me that the course of action taken is to call the contractor into a second meeting and attempt to get him to live up to his obligations.

I find the incident rather amusing because at his insistence I called the contractor. The contractor agreed to meet us in his shanty, at nine o'clock in the morning in February. I do remember the temperature because that was very significant to me. It was about five degrees. I was at this contractor's shanty at nine o'clock in the morning. The contractor sent his timekeeper.

The HUD official, who has flown in from New York, promised me that upon returning to his office he would take positive action in regard to this direct repudiation to his authority, and he did absolutely nothing.

REV. DRINAN. Would you like to name that man at HUD? We'll drop him a letter.

MR. WILMORE. In your judgment, does BRA have the right under 11246 to terminate a contract?

MR. BROWN. No.

MR. WILMORE. They have to get permission from HUD?

MR. BROWN. That's right.

MR. WILMORE. Has BRA ever requested permission from HUD to terminate a contract?

MR. BROWN. No. Because under the Federal Executive Order we could never get the evidence we needed. The contractor always has a loophole.

REV. DRINAN. Mr. Brown, if you want to give that name to me personally, I'd like to write a letter. Gentlemen, thank you very much again.

REV. DRINAN. Is there a Richard Donnelly here?

MR. DONNELLY. Yes. I am Project Manager of McCloskey-Leavell Construction Company.

REV. DRINAN. I am sorry that we have kept you. Mr. Donnelly could not come last night. As you can understand, we have these other people scheduled to speak. If you want to come and talk with us for a moment -- do you have a statement?

MR. DONNELLY. Not really.

REV. DRINAN. We got your telegram last night

MR. DONNELLY. The only thing, Father, that I want to say is that I talked with Mr. Wilmore who stopped by the job site. We discussed the program that is going on, Federal compliance. I can offer absolutely nothing further on this program.

MR. BERNSTEIN. What are you doing about compliance?

MR. DONNELLY. Affirmative action?

MR. BERNSTEIN. Yes.

MR. DONNELLY. Mr. Wilmore has seen a copy of a manning program that I have sent out from my company as far as what we anticipated on employment.

MR. PITTMAN. How many black people do you have on that job?

MR. DONNELLY. We have, right now, I would say twenty-five.

MR. PITTMAN. How large a work force?

MR. DONNELLY. We have right now approximately sixty-eight carpenters, probably fifty-five laborers on the project.

MR. PARKS. What trade categories are the twenty-five men in?

MR. DONNELLY. These people are working as carpenters, laborers, electricians---

MR. PARKS. Iron workers?

MR. DONNELLY. Iron workers I am not sure of. Electricians, yes. Plumbers I am not sure of that either.

MR. PARKS. I think one of the things the contractors are going to have to do, if they intend to get compliance, is to tell the union halls, "We are looking for certain men, and are looking for black people in these positions; we are not picking anybody out of your hall unless you provide us with so many black workers". I don't think you are going to get to it unless you take that kind of step.

If you need "x" number of people on your job on only one day, ordinarily you go to the union hall and ask for those people. And ordinarily -- this is the process, isn't it -- the union sends out guys to work on the job who supposedly are qualified. You have to be able to tell those union halls that this is where you want to go and actually ask for black workers. In every area of compliance this is true. Someone says, "We are looking for teachers across the country." If you go to a university and you don't say you want some black teachers, you end up not getting any, and the people come back and say, "We couldn't find any."

So, it seems perfectly legitimate, if you don't have them on the job, to go and tell the iron workers union, "I am looking for some guys, and what I need from you is five, six, seven black iron workers."

MR. DONNELLY. We do have one subcontractor on our project who has taken direct action on this line. He's advertised in the "Bay State Banner," I believe.

MR. PARKS. What I am saying to you is you have got to take the initiative. It seems to me that you are the guy who is going to be hit with noncompliance. When somebody stops that job, you are the guy they're stopping. So, I am saying that it seems to behoove you to begin to lean on those locals to produce a supply of individuals. Just like you'd say, "I can't use anything but qualified plumbers," you could say, "I can't use anything on my job at this moment but black workers, because I am out of skew in terms of the numbers."

REV. DRINAN. We have these others, Mr. Donnelly. You can submit any statement for the record if you would like.

MR. DONNELLY. I have really nothing further to add, Father.

REV. DRINAN. We have these other people booked, and we have a full schedule here tonight. Thank you very much for coming.

JOHN C. CORT, DIRECTOR, SERVICE CORPS, DEPARTMENT OF COMMUNITY AFFAIRS, COMMONWEALTH OF MASSACHUSETTS.

REV. DRINAN. Mr. Cort?

MR. CORT. My name is John C. Cort. I am Director of the Service Corps, which is a State anti-poverty agency, now a part of the Bureau of the Department of Community Affairs of the Commonwealth.

I would like to give you a little history of my own personal and professional involvement in the problem before you, and also a little further background in that I was a trade union business agent myself for twelve years from 1950 to 1962 with the Newspaper Guild of Greater Boston. Also for about ten years, in the forties and fifties, I wrote a regular column for a national magazine on the labor movement, so I had to be familiar with developments outside the newspaper industry.

In 1965, shortly after the Service Corps was in business and became the State agency for purposes of technical assistance under the Economic Opportunity Act, I conceived the idea of trying to get Neighborhood Youth Corps funds for the purpose of developing an apprentice program with the building trades union and the employment of young high school dropouts -- particularly young black workers -- in rehabilitation work. We had the full cooperation of the Boston Redevelopment Authority in this effort, and also a number of non-profit housing rehabilitation corporations, many of them church-sponsored, as well.

I approached the Bureau of Apprentice Training, the State agency, and learned from them that at that time, in their judgment, the building construction industry of Massachusetts needed eight thousand apprentices in order to do a proper job. They had at that time twenty-seven hundred, of whom twenty-one hundred were on union jobs and six hundred on nonunion jobs. I then approached the Building Trades Council, and the then Secretary-Treasurer, John Deedy, who was a personal friend I knew from my own involvement in the Massachusetts Labor Council.

Deedy was at first sympathetic to the idea, which was that we would get journeymen trainers and form teams of one journeyman trainer to four or five apprentices -- for the carpenters, electricians, plumbers, bricklayers, and so on -- four

or five of the basic crafts. Then, picking up these dilapidated buildings in the South End -- some of which you could pick up for a dollar and payment of back taxes, and through the cooperation of BRA -- and with non-profit corporation sponsorship, rehabilitate these and create decent homes for the people of the community.

As I say, Deedy was at first sympathetic to the idea. He invited me to speak before a meeting of the Building Trades Council of the metropolitan area, and I did so. The Building Trades Council represents every major international union in the building trades with the exception of the carpenters. My appearance before the Building Trades Council was not successful, to put it mildly. The reaction of the delegates from the local unions was uniformly negative.

Subsequently we had an additional meeting of about ten business agents at Service Corps headquarters, at which the carpenters were present, as they had not been before. One carpenter local was sympathetic to the idea on the ground that in this area of construction -- rehabilitation -- the unions had no work at the present time, and they might as well get some jobs out of it, particularly since these journeyman trainers would be paid money over the union scale according to the plan.

But the rest of the unions were uniformly negative. They raised various objections, particularly the problem of high school diplomas, since this was specifically a program for high school dropouts. Furthermore, they pointed to constitutional provisions in the local and international by-laws to the effect that the ratio of journeymen to apprentices had to be three to one or four to one -- that is, three journeymen to every one apprentice, whereas we wanted a more than reverse ratio of four or five apprentices to one journeyman. Actually, the practice in the industry is more often eight journeymen or ten journeymen to one apprentice.

At this time I was also informed that because of the lack of apprentices and journeymen, the big jobs like the Prudential job, for example, had to recruit several hundred

carpenters from Newfoundland, Canada. This was the way they took care of some of the bigger jobs despite the shortage of labor. There are at present about three thousand apprentices. Of course, the construction industry has expanded, and I would expect that the figure of needed apprentices according to the Bureau of Apprentice Training would be in the neighborhood of ten thousand plus.

In recent weeks I have had conversations with several key people on the subject of discrimination in the building trades. I talked less than two weeks ago to a leading trade union official in the Boston area, who is himself Irish. He told me that he was unable to get membership in Local 4 of the Operating Engineers, for a friend of his who is also Irish. This is an Irish-led union.

I also talked to a foreman who was himself Irish in a fairly large union construction company, who reported that before he became a foreman and went into the office, he worked nine years operating machines for this company and was unable to gain union membership. He said further that he had three brothers, two of whom had become members of the union and one of whom he said was a better operator and a nicer guy but had not been able to become a member of the union.

This is typical, I think, of a pattern which indicates that this is not simply a white-versus-black thing. There is racial discrimination, but there is also another kind of discrimination which you might say operates regardless of race, creed or color. There is a discrimination operating regardless of any factor other than whether or not you are sponsored by an influential member of the union. I emphasize "influential member of the union" because some members of the union cannot get people in. Obviously, the unions permit a number of nonunion members to work on union jobs. That is clearly evident. But they retain the whip hand because they can always approach the contractor and say, "That guy's nonunion. Get him off the job."

Now, the motivation for this, it seems to me, is somewhat mixed. It is my observation over the years that building trades union officials, even the younger ones, suffer from a kind of nightmarish memory of the depression of the 1930's when the building industry ground almost to a complete halt and

virtually everyone in the industry was unemployed. This same nightmarish memory is handed down in tales from father to son and is extremely strong in the industry.

It also seems to me that the motivation of overtime is important. That is, they operate on the theory that as long as there is any union member who is or might be unemployed, they are not going to admit additional union members. And also there is the added motivation of overtime. If there is a shortage of skilled labor, then the chances of getting overtime, which is extremely lucrative, are greater.

Now, one of the things that strikes me as a student of the labor movement for a good many years is that the Taft-Hartley Act makes that kind of activity theoretically illegal, and has for the last twenty-two years. The Taft-Hartley Act dates from 1947. Any kind of action whereby a contractor tells an applicant for a job, "You go to the union. I hire through the union." This is illegal. Any action by which an employer discharges or terminates a building worker because he does not belong to the union, when the union will not admit him, this is strictly illegal.

Now, in the labor movement and in liberal circles, including government circles generally, there has been a certain amount of sympathy for this illegal arrangement, a closed shop condition -- that is, hiring through the unions. This is because in certain industries, particularly longshore work and maritime work, we have casual employment which depends on the coming and going of ships. You have this image which was dramatized in "On The Waterfront," that movie with Marlon Brando where the hiring boss says, "Joe, you work," and "Tony, you work," and he passes over Marlon Brando and others who are critical of the union leadership. So, on the West Coast particularly, they devised union hiring halls where you can get rotary hiring, so that everybody who had a card could get a chance to earn a decent living. And so, the government, employers, and other forces, have looked the other way and allowed these illegal arrangements to exist.

Now, of course, where management and the union are in collusion to violate the laws, it's particularly difficult to get the law enforced. It seems to me it might well be the function and responsibility of this Commission to represent a few ordinary workers who just haven't got the dough, haven't got the lawyers, to enforce the Taft-Hartley Act. Because any advantage that might have existed by reason of not enforcing the Taft-Hartley Act in the interest of fair employment, of getting everybody in the union a fair shake at the jobs, has long since disappeared and has long since been overcompensated by the evils of discrimination, not only against blacks, but against whites in the building trades, by reason of the fact that they can't get in that union and be sure of getting work at all.

So, it seems to me that you have at hand a ready instrument in the Taft-Hartley Act to blow this thing wide open, and get some kind of compliance with the law -- with the Civil Rights Act and with the Taft-Hartley Act. But it's going to take a very big effort, and, of course, the political implications, the political power of the building trades unions, particularly in the Democratic Party, are extremely relevant.

I would close on one personal note. I happen to live in Roxbury. At the end of my street in 1967 and 1968 there was being built for about a year a very large building -- the Boys' Club of Roxbury. This was put up, you know, by a philanthropic organization of very well-meaning people. I passed the building every day, and I kept looking for black faces working on that building. There must have been over a hundred craftsmen of different crafts working there. I saw a couple of black faces in approximately the year that I walked past that building nearly every day. They were, I believe, uniformly laborers.

Now, I continually make an effort, living and walking around in Roxbury, to imagine what it is like to be a black, young, unemployed worker. I have begun -- I say only begun -- to realize what it must be like, and to feel what it must be like, watching these white guys from outside the community coming in and making five and six dollars an hour and taking that dough out of the community, while strong, young black guys are eating their hearts out standing on the street, watching. I think I can begin to

imagine some of the frustration and some of the bitterness that must build up in those young black guys. I think it's an extremely dangerous situation. It's a very deep-rooted evil in our society.

I am extremely pleased to see some of the testimony. I thought Dr. Nixon's testimony this afternoon was very valuable, and I hope the Commission will be guided by it. He is far more knowledgeable and expert than I. My knowledge is somewhat limited and special. But what he said today fits a good deal with what I have seen as a student of the labor movement and as a participant in the war on poverty over the past few years.

It still seems to me that the single most effective anti-poverty program that the government could introduce is precisely this kind of project, where black people, particularly young black workers, are permitted to build and rebuild their own communities. The dividends from that kind of a project in terms of a better-looking community, in terms of better homes for kids to grow up in, in terms of community pride, in terms of rehabilitation of individuals, in terms of the development of skills, in terms of income from good-paying jobs. So many different angles are so tremendous, that every effort should be made to clear away these roadblocks that now exist in terms of trade union discrimination.

I think it's important that the Commission emphasize the fact that this is not simply a question of white versus black, of discrimination against black. Because that limits the number of people who are concerned about the problem. The number of people who should be concerned about this problem is vast, because the discrimination is against white applicants for the building trades -- for these five-six-dollar-an-hour jobs--as well as black applicants.

I think that the more people realize this, the more concerned we can get and the more action we might be able to get at every level of our society.

REV. DRINAN. Very good statement, Mr. Cort. We appreciate it.

MR. PARKS. I want to ask you just one question.

We have heard that a very small percentage of the building trades work force comes from apprentice training. Somebody mentioned 10 percent, somebody mentioned a little bit more. Somehow people have come through the back door. I was wondering about these jobs of carpenters' helpers, plumbers' helpers -- are these apprentice slots? I was wondering about these kinds of lesser levels of work.

MR. CORT. Well, there are a lot of invisible areas, to use Dr. Nixon's phrase. There are a lot of invisible areas in the way people get to be journeymen, and the way people get to be union members.

I think probably the largest explanation is one of nonunion work in the suburbs. Most of the residential work in the suburbs is nonunion. Also this practice that the unions have of permitting union contractors to hire nonunion help, so they can, when they want to, help knock them off.

MR. PARKS. Can I ask you that question too, Mr. Donnelly?

MR. DONNELLY. When you are talking about a carpenter's helper, you are talking about a laborer.

MR. PARKS. What about a plumber's helper?

MR. DONNELLY. A plumber's helper, you are talking about a plumber or an apprentice.

MR. PARKS. Is there any occasion when this occurs where they are not either laborers or apprentices?

MR. DONNELLY. No. I don't see how that could be. You either hire a man as an apprentice, or when you are talking about helping a carpenter, you are talking about a laborer. When you are talking about an electrician or plumbers, you are talking about apprentice.

MR. PARKS. On the State wage scale, there are rates for carpenters' helpers and plumbers' helpers, and then there is a rate for apprentice. I don't understand this.

MR. DONNELLY. In the construction business, you are speaking strictly of an apprentice in any of the trades other than carpenter.

MR. CORT. I think I have seen enough of the industry to agree with Dr. Nixon. I think this is one of his major contributions. The apprenticeship program is a great big colossal failure. It exists mainly as a roadblock in the path of progress. Until it moves out of the way, or is completely overhauled, you will never get anywhere.

REV. DRINAN. Thank you very much, Mr. Cort. We appreciate your coming.

ALEX RODRIGUEZ, ASSOCIATION PROMOTING THE CONSTITUTIONAL RIGHTS  
OF THE SPANISH SPEAKING.

REV. DRINAN. Mr. Rodriguez, why don't you identify yourself and your organization, and then talk to us.

MR. RODRIGUEZ. My name is Alex Rodriguez. I am Vice-President of the Association Promoting the Constitutional Rights of the Spanish Speaking (APCROSS). I am a resident of the South End of Boston.

About the delay, I think this is a very ordinary occurrence. Puerto Ricans are very used to being the afterthought of the afterthought, as to their place on the agenda and as to the time in the evening. It's something that we have gotten used to.

I think the field of contract compliance defines us in this particular category. It's a field in which we have gotten used to being the afterthought of the afterthought. We haven't even reached the point to complain about tokenism in the contractor labor field here in Massachusetts.

In New York, the State has the courtesy, because the City of New York is so populated with Puerto Ricans, of including black, white and Spanish-speaking as categories for contract compliance. In Massachusetts that hasn't occurred yet. There are perhaps one hundred thousand Spanish speaking people in the State of Massachusetts. There are definitely close to fifteen thousand Puerto Ricans in the City of Boston.

When the 1970 Census rolls around, I think we are going to be quite surprised at what we find in this fair City. We have been very fortunate and we still depend very much on someone from the black community to remind the many, many white commissions that there are, in fact, Puerto Ricans under the same types of conditions in the communities and within the category that that commission happens to be dealing with.

Coming to a hearing like this is sort of like being at a briefing at Cape Kennedy preparing for a moon flight. You really don't know what's going on, and you know you are really not going to participate; but it's nice to listen. Just like I know I am not going to the moon, I know that tomorrow, next week, a month

from now, a year from now, three years from now, there are going to be very few Puerto Ricans working in the construction industry in this State. It was nice to sit and listen to the City's representatives talk about the wonderful things they are going to do. It's nice to have this Commission here talking about how they will transfer all this to some larger Commission in Washington, that some day is going to create a miracle among people in this country.

I have learned from a short experience on this earth that this is not going to happen. As I say, three years from now I can expect quite clearly not to have even tokenism in the construction unions. The contractors aren't anxious to go after it. The unions are sure not anxious to go after it. And as anxious as commissions like this are, and people representing the human rights commissions of cities, their effectiveness historically has been proven. So, it leaves us very little hope and only frustration.

We have had within the construction industry--we have one Puerto Rican who has at one time in the long history of this State, or in the City of Boston, been on one union job for a short period of three months. That's our tokenistic history. That, I would say, came about by the effort of the staff of Martin Gopen of the UCCW. It didn't come about by the City, a union or the contractors.

As I pointed out, we have fifteen thousand Puerto Ricans in the City of Boston. They came here through a very exciting process. If you look back at history, they came here because of labor--not because of the attractiveness of labor, as some people believe. That's a myth. They come here because of the lack of labor. In 1954 this fair State signed an agreement with the Commonwealth of Puerto Rico, and it begged Puerto Rico to send up some cheap labor at cheap labor prices to pick some fruit out in western Massachusetts, so that the white Americans living in this fair State of Massachusetts could have cheap food on their table.

We don't even deal with agricultural problems. They don't have all the pretty laws that the union people in construction have to protect themselves.

But after the frustration in the fields, and working out in the tobacco in the Connecticut valley, working around the Cape in the cranberry bogs, and supplementing the very talented Canadian apple pickers, the many, many Spanish speaking Puerto Ricans migrated to the urban areas. Many came without families.

Like everything else, you have a geometric progression. That progress is much speedier than among whites and even among blacks. And if the 1970 statistics are going to surprise us, the 1980 statistics I think will bowl us over.

It's unfortunate that there are no real forces that are making any changes for the Puerto Rican population in Boston. It's unfortunate because eventually the negative things that go along with poverty, that go along with the blindness of contractors, and the blindness of unions, and the blindness of government, are going to lead to very ugly scenes within the City.

As we all know, things are not getting better in this country. They are getting worse, although liberals would have us believe that through their mighty efforts things will get better. It's very hard to talk about contracting, but I can talk about a particular experience.

I am working closely with one person, one Puerto Rican who was fortunate enough to be on a union job for three months out at Brandeis. After a long talk we decided that if we are going to do anything, we better start getting smart, because we have a double problem. We are confronted with the problem of racism that the blacks in America are confronted with, that we can really empathize with. Then it's compounded by the existence of a language barrier, a language barrier that perhaps we should excuse ourselves for if we weren't American citizens. But since we are, we don't.

In Puerto Rico, the unions are predominantly Puerto Rican, and most of the doctors are Puerto Ricans, and most of the lawyers are Puerto Ricans, and the teachers are Puerto Ricans, and in Puerto Rico we have an education system that takes pride in the language and set up bilingual education, giving as much credit to the Spanish language as they do to the English language. We are not getting very far, but we have more doors open to us here.

We plan to soon have a court case against the City of Boston which we hope will have a national effect, and try to bring suit under an unequal education law that exists on the books now, on the grounds that requiring English as a prerequisite for education is illegal; that is what is being done in the school system at the present time.

The unemployment question is going to be your problem and the problem of this whole society. When the numbers get too bad and the 60 percent unemployment that we have now among Puerto Ricans climbs to something like 70 percent, it's going to be this whole Nation's problem.

I know that when I drive down the South End streets where I live that I am going to get back and forth to work with no problems because there isn't anything going on in the streets. There is an inability on the part of the institutions we are trying to deal with to figure out exactly how to cope with the problems.

I heard one gentleman here this evening say, "I don't know how we can do any more," and sitting here attentively still, listening. Then we hear people on the panel suggest ways they can do more. One way we are trying with one particular group is to start a segregated construction union, a construction organization manned by Puerto Ricans with talent. Whether we have to import or not, we are going to get it, and to get into competition against those organizations which refuse to assist in the great dilemma we are facing. I think if it's successful, it's going to be a real problem, because one benefit of being isolated with a language problem is what when you try to organize, you can somewhat lie to people. It might not be nice, but you can lie to them; and you can tell them that people are really meaner than they are and those people, because they don't understand the language, you see, they have no power of rebuttal.

And, you see, we can get Puerto Rican labor forces who have not been educated by the American struggle in the unions to become scabs, if we have to, because I think society is saying to us, and unions are saying to us, quite clearly that they don't care, so why the hell should we care. This is the attitude that is prevalent. If we have to do something that is not nice, it's easier to do because we are somewhat isolated.

A lot of other ugly things, I suggest, are going to happen. You can be sure they are going to happen unless someone does something. As I said, I think of myself as one who is doing something in this attempt to start this particular construction company. Perhaps we can get the first MA4 or MA5 training contract in the whole construction field. I am not an expert in the field, but I don't think there is one MA4 or MA5 being used in the construction field to train people. This is to say, there is money available that folks don't want to use to do these things.

I think I will stop here and allow you some questions if you'd like. I can go on forever, but the time is late.

MR. PARKS. What's the unemployment rate among Puerto Ricans in Boston?

MR. RODRIGUEZ. About 60 percent. I do that by taking Labor Department statistics and then trying to figure out on the growth, etc. -- about 60 percent. You know, the other frightening thing is that we have three thousand Puerto Rican kids in the Boston school system. We have 59 in the high schools. We have a population on the street that we can certify. At one school, there were 70 in September; there are none today. They are not old enough to drop out. The only place Puerto Rican kids stay in school in Boston is the Hawthorne School, and that, by next year, is going to be the first Puerto Rican racially imbalanced school.

You know, it's frightening to think about the sort of double blow we are getting. The educational one, where parents know that there is no hope in that school system, a school system where even if you have all the credentials of success, you have trouble succeeding. And then there is no hope in the labor field. There is absolutely none except seasonal work on the farm, which can help people survive.

A visit to Puerto Rico will prove that the ability to learn is there.

We know we need at least one of two steps to succeed in the construction industry. You have to either have work or you need training. Neither right here in Boston is available.

Workmen all over these United States have the free ability to migrate from state to state with the assurance that they are going to get employed.

The Puerto Rican talent is in Puerto Rico, but before a Puerto Rican laborer with skills gets up and leaves, he is going to have to be pretty sure that he is not going to be rejected because he is Puerto Rican. You can't give that assurance today in these United States. So, he is going to stay home and compete for a job. That is unfortunate because it's going to be this Puerto Rican talent that we are going to need to train other Puerto Ricans. There are not that many Spanish speaking bilingual construction workers.

I should also point out that language isn't that great a barrier. The Italians didn't have any trouble with it.

REV. DRINAN. Mr. Rodriguez would you tell us, please, about your organization -- APCROSS.

MR. RODRIGUEZ. APCROSS is a non-profit private corporation in the South End of Boston, that was set up to protect and promote the constitutional rights of the Spanish speaking within the State of Massachusetts. Presently we are waiting for funds that we will receive from the United Community Services on January 1 to move into a City-wide program setting up satellite offices to back up existing resources of the Boston community. The existing offices do not have bilingual people on their staffs.

Spanish speaking people, we found, predominate in areas of the South End, Roxbury, South Boston, Jamaica Plain. They live in the City of Boston and in almost every city of the Commonwealth of Massachusetts. All you have to do is take a bus to Northampton. At the bus stop there are Puerto Rican children playing right where you get off the bus. You go to Lowell, Massachusetts; Lawrence, Massachusetts; Woburn. You go to Pittsfield. You can go anywhere in the State where there is some type of agricultural attraction, and you are going to find a large Puerto Rican population that is really in very bad shape.

REV. DRINAN. This is a very eloquent statement, sir. I'd be anxious to have this Committee assist you people in any way possible. I want to offer our services, in this construction area or in any other area.

MR. RODRIGUEZ. Well, unfortunately, the folks that can assist are the people that we are trying to find the reasons why they don't assist. And that is the unions and the contractors. You know, these are the guys that have the jobs at hand.

The liberals are very concerned, but the liberals haven't made a dent on these people. To make it in the thirties, as has been pointed out, took a lot of broken heads, a lot of hussle-bussle, a lot of arrests. That is the language that the processes understood. And to believe that we can evade that process again is a bit naive. That is the only way it's been done, and that is the only way we are going to do it again.

REV. DRINAN. If I may ask, how much time do you spend with this organization? Are you full time?

MR. RODRIGUEZ. No. I am a volunteer, like all the other Board members. I try to put in about one day a week. My particular field in the organization is chairman of the education committee. Bob Cerento, who is manpower specialist, couldn't be here this evening.

REV. DRINAN. Where are you employed?

MR. RODRIGUEZ. I am employed at Cooper Community Center in Roxbury. I am the Executive Director of Cooper Community Center.

REV. DRINAN. Thank you for your good statement. We appreciate your coming and are sorry for the delay.

PAGET L. ALVES, JR.

REV. DRINAN. Paget L. Alves, Jr., is consultant to the Northeastern Field Office of the U. S. Commission on Civil Rights, and has a staff report on compliance efforts in other communities. Mr. Alves.

MR. ALVES. Mr. Chairman, in view of the lateness of the hour, I wonder whether--rather than reading the full text of the report--I shouldn't pick some parts of it, and then spend some time on what I consider to be bottlenecks in the contract compliance program and recommendations that would flow from that.

Let me start by saying I was asked to look at the Philadelphia Plan, the Cleveland Plan and other municipal, or state contract compliance programs in relation to the construction industry.

There were four special area programs activated by the Office of Contract Compliance in the Department of Labor. They were in St. Louis, San Francisco, Cleveland and Philadelphia.

Cleveland was the first plan in which there was a requirement for a manning table. Now, there was a significant difference in organization between the Cleveland Plan and the Philadelphia Plan. There were two main differences. One was that the initiation and impetus for the Philadelphia Plan rested with the Federal Executive Board, to which reference has been made.

Secondly, for the first time in any of the plans, the Philadelphia Plan introduced the concept of a representative number of minorities in each trade, which they backed up by calling, in the pre-award conference, for specific commitments of numbers in each trade.

Fundamentally, the Cleveland and Philadelphia Plan goals were the following. (1) The development of effective affirmative action programs by use of pre-award procedures and manning table concepts to assure increased employment of minority craftsmen on federally-aided construction projects. (2) The development of a systematic program of compliance reviews to assure that affirmative action commitments would be fulfilled.

REV. DRINAN. Mr. Alves, would you want to comment on the Boston plan which you heard about here tonight, and its deficiencies or merits in view of the Cleveland and the Philadelphia Plans?

MR. ALVES. If I may, let me do that at the end.

Next is the development of community resources to facilitate recruitment, referral and training programs. (3) The development of cooperative programs with contractor groups and unions to expand, and make more effective, recruitment of minority journeymen and apprentices, and upgrading of journeymen. (4) The development of training and assistance programs with community groups, contractors and unions to expand the supply of minority craftsmen. (5) The development of training and assistance programs to increase the utilization of minority subcontractors on federally aided construction projects.

In both Cleveland and Philadelphia, prior to the initiation of the pre-award affirmative action program using the manning table, there were extensive efforts to develop an equal employment opportunity program on a volunteer basis. In both cities results were negative.

In Cleveland, as of December, 1966, shortly after the beginning of the Cleveland plan, the Area Coordinator was able to document the existence of a total of eighteen minority members in the critical trades in Cleveland.

In the fall of 1968, two years after the Cleveland Plan was in operation -- which was roughly two construction seasons -- the Area Coordinator was able to document that there had been an increase to approximately one hundred-fifty minority workers, of which some 65 were journeymen and about 80 were apprentices.

In contrast, in Philadelphia, there were eight critical trades and the Area Coordinator was able to positively document for seven of the trades some 48 minority members. There was some dispute about the eighth trade because they alleged to have something between eight and nine hundred members, although other sources -- namely, contractors -- indicated that they didn't know that there were very many journeymen in that particular trade.

At the end of a year in Philadelphia, affirmative action programs had been developed on 40 projects, employing a total of thirty-one hundred men, of whom twelve hundred were minorities. The eight critical trades, which was the particular focus of the Philadelphia Plan, employed nine hundred of this total, with two hundred twenty-five minorities in the eight critical trades.

Various sources in both communities report that the programs were significant for another reason. They tended to stimulate the expansion of recruitment and training programs. They tended to stimulate the creation of minority contractors, such as steel fabricators, tile setters and plumbing contractors in Cleveland, as well in Philadelphia as electrical, plumbing and plasterer contractors. They stimulated the development of corollary plans by the municipal and private agencies, which were referred to earlier by the people from Philadelphia.

In relation to municipal contract programs, I did look at the Boston, Philadelphia and New York Plans. About all of these have been explained, so I will just pick out a couple of comments in relation to each.

In relation to the Philadelphia Plan, one unique feature, which has not as yet been used, is incorporated in the suggestions for affirmative action. Simply, they would propose that a test be administered to all journeymen, and that the cutoff point would be the mark below which 20 percent of the journeymen taking the test score. That score would become the passing mark for admission to journeyman status subsequently.

In New York, the program incorporates a provision which as yet has not been used, too, which would empower the director to require a written statement from the labor unions that they do not discriminate, that they will affirmatively cooperate, and that they consent and agree that recruitment and employment will be in accordance with the purposes and provisions of the order.

In regard to the New York program, its particular significance lies in three things. (1) The commitment and support of the Mayor, who backed up the program in the initial invoking of

sanctions several months after the program got started. (2) The mandatory manning tables. (3) The authority and willingness to apply sanctions.

In relation to the commitment of the Mayor, the placing of administration of the New York City contract compliance in the office of the Mayor -- specifically, the City Administrator, who is also the Deputy Mayor -- has particular significance and is unique among all of the programs.

Now, to get to the bottlenecks. The first of the bottlenecks appears to be the lack of commitment and support for the goals and objectives of Executive Order 11246 by top-level officials. This is apparent from a reading of the history of governmental compliance programs.

Congressional opposition began with the promulgation of the first Executive Order and continues to the present. Senator Richard B. Russell attacked the first and second orders. He tried to kill them by attacking the funding process.

Senator Willis Robertson continued the attack along the same lines on Executive Order 11246.

Congressman William C. Cramer mounted a more successful attack on Executive Order 11246 in response to pressure from labor unions and contractors. As a result of Congressman Cramer's requests, the Comptroller General declared the Philadelphia Plan pre-award procedures as incompatible with applicable competitive bidding requirements.

More recently, the printed record of the January, 1969, hearings before the Subcommittee on Roads of the Senate Committee on Public Works records the opposition of the Committee to the pre-award and manning table procedures. The record also indicates that, in response to pressure from contractors and unions, the Subcommittee staff joined with staff members from union and contractor organizations to write Section 22, which is the equal employment provision of the Federal Highway Act of 1968.

Some six months after the passage of the law, at the urging of union and contractor groups, the Subcommittee scheduled a hearing to examine the pre-qualification procedures established by the Department of Transportation to implement Section 22 of the law.

In November, 1967 -- the month the Philadelphia Plan got started -- Secretary of Labor Willard Wirtz, in a speech before the Building and Construction Trades Convention in Florida, criticized the manning table concept approved by his Department on October 27, in the following terms, "I count any general rule wrong if it specifies a number -- one or more -- of Negroes to be at work in every craft on every job. In at least two cities -- Cleveland and Philadelphia -- the governmental contract situation had gotten so bad that there was probably no effective alternative to this kind of ruling. But it isn't right as a general policy, and it won't work."

These are some of the indications of a lack of commitment that marks the implementation of Executive Order 11246.

The next significant thing, I think, is that the administrative structure established by the Order led to confusion, lack of coordination, uneven enforcement, buck passing, and lack of aggressive implementation of affirmative action goals and objectives. You saw some aspects of that in the testimony of some of the Federal officials yesterday. When one adds the lack of staff that marks the program, achievement of results becomes almost impossible.

The structure sets up many conflicts between government personnel. Those whose job it is to deliver the goods, and those whose responsibility it is to assure that Federal funds are not utilized to systematically discriminate against one or more minority groups.

The next most significant one, which has already been referred to, is the reluctance to impose sanctions. No contract has ever been cancelled, terminated or suspended; and there have been Executive Orders covering contract compliance for many years. Contract awards have been delayed in Philadelphia and Cleveland. And the Post Office has passed over two low bidders

and blacklisted several contractors. That is the extent of the sanctions applied during the course of these years. The combination of reluctance to impose sanctions and the responsiveness of Congress and administrators to pressure from union and contractor groups, destroys the effectiveness of the contract compliance program and the morale of the staff.

The compliance procedures were developed on the assumption that the contractor had the clout to assure compliance by subcontractors and unions. Experience to date indicates the contractors both do not have the anticipated clout, and are resisting affirmative action in concert, if not collusion, with unions.

The contract compliance procedures have proven to be inadequate to deal with uncooperative unions. Informed observers and numerous studies have documented flagrant and massive racial bias in the mechanical construction unions. Few officials are willing to demand affirmative action programs that challenge the many outmoded and timeworn union practices which serve only to arbitrarily restrict the supply of labor and to perpetuate systematic racial bias.

World War II demonstrated that mechanics could adequately be trained in six months. Many training specialists today hold that apprentice training programs can be substantially shortened. Several studies document the fact that only 10 to 40 percent -- this varies by trade and by the reporting source -- of the current journeymen in the various trades are the product of formal apprenticeship training programs. The vast majority of journeymen learned the trade in a variety of informal on-the-job training programs.

And, Mr. Chairman, the Report of the President's Committee on Urban Housing identifies some of the ways that whites gain entrance into unions which are not available to blacks.

Recently locals of the operating engineers and carpenters in Ohio, and in one or two other states, proposed on-the-job training programs to produce journeymen in two years. Their plan called for both on-the-job training programs and some formal class experience.

In addition, one agency with considerable experience maintains that journeyman training can be completed for electricians in one year; plumbers, in eight months; and sheet metal workers, in seven months. The agency in question is the New York City Housing Authority, which has had some considerable experience in training people.

Students of the labor movement recognize that there are many routes to a union card available to all but racial minority groups. One of these routes is that a person learns the basic skills in a shop, moves from the shop to a construction job -- getting a provisional work permit -- and then from there gets a union card.

The recommendations that flow from these observations are as follows. A contract compliance program with integrity would have to have at least the following components. (1) Reaffirm the President's commitment to an aggressive contract compliance program designed to achieve the results of dramatically increasing the employment, upgrading and training of minority groups by government-aided contractors. (2) Transfer the administration of contract compliance programs to the Office of the President, with an unequivocal statement that the current administration assigns the highest priority to achieving an effective contract compliance program and is prepared to rebuff pressures from all biased elements in the community, (3) Demonstrate at the earliest opportunity the administration's willingness to impose sanctions. (4) Redefine contract compliance procedures to incorporate pre-qualification with the manning table concept, as in the original Department of Transportation program. (5) Expand the compliance staff to make possible expansion of the area coordinator system to every metropolitan area, and provide for more systematic compliance reviews. (6) Revise procedures to provide for controls and affirmative action for contractors, subcontractors and unions. In other words, revise the procedures so that control runs to all three of these groups. (7) Incorporate requirements calling on unions and contractors to abandon outdated biased practices that arbitrarily restrict union membership and training programs. (8) Expand government-funded apprenticeship, pre-apprenticeship, out-reach, and on-the-job training programs.

(9) Encourage affirmative action programs to provide assistance and training to expand the supply and utilization of minority contractors.

One last thing I'd like to say, Mr. Chairman, is that if you really look at this, you have to conclude that the basic problem rests with unions and contractors and that there's been a kind of massive resistance and sabotage of contract compliance programs by both.

If you go back a step further, you see that there is an affinity because a number of contractors, and most subcontractors, were formerly craftsmen who were trained by the apprenticeship system. In effect, then, you have a fraternal club between union and contractors which has served to perpetuate institutional racism, restricting opportunities for minorities to gain entrance to unions and to gain training in construction.

The remedy would seem to be affirmative action programs that have strong sanctions applicable to unions, and which are administered by a department other than the Department of Labor. Many people assert that the Department of Labor fundamentally is biased in favor of labor. Many of the officials in the Department of Labor were previously labor officials, and have that kind of a previous association.

In relation to the Boston program, I haven't seen this plan which was submitted, and so my comments are fundamentally on the basis of what I have heard.

Number one, I join with those who say the program, unless it has some very specific requirements in regard to numbers, is not going to have a very good chance of being effective.

In the course of the work that I did to get a picture of what was developing, the comment that came to me from many sources was that any contract compliance program in the City of Boston would have a hard time getting off the ground because Boston is a strong labor town.

The next thing that strikes me is that the New York City program began by covering contracts of ten thousand dollars or more. Shortly after they began, they realized that there was

such a volume of contracts of this amount, they didn't have the staff. They began to raise their level, so that now generally, as a matter of fact, they use a five-hundred-thousand-dollar figure. They next concentrate on those contractors who are new to the City, and those contractors whose practices they know to have been suspect in the past.

As a result, it would seem to me that if Boston tries to apply a program with a cutoff of two thousand dollars, that pretty soon they would get bogged down.

Those, Mr. Chairman, are my comments.

REV. DRINAN. Well, thank you very much, Mr. Alves. That was very helpful to us. I am sorry, once again, that it was so late. And thank you, ladies and gentlemen.

(Whereupon at 10:35 p.m. the meeting was closed.)

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