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PUBLIC POLICY: AFFIRMATIVE ACTION, SOCIAL EQUITY, AND EMPLOYMENT PATTERNS IN MICHIGAN'S CONSTRUCTION INDUSTRY 1966-1997

by

Henry Joseph Bowers

A Dissertation
Submitted to the
Faculty of The Graduate College
in partial fulfillment of the
requirements for the
Degree of Doctor of Public Administration
School of Public Affairs and Administration

Western Michigan University
Kalamazoo, Michigan
June 2000
Affirmative action public policy did not experience much debate when it was put in place during the late 1960’s. However, the debate is occurring in the 1990s. Its merits are being weighed and there are movements locally to eliminate affirmative action policy.

The Michigan construction industry is the focus of this study. This study examined not only these employment outcome benefits, but also outlines the outcome benefit trends over thirty-one years for national employment and employment in the state of Michigan with an emphasis on the construction industry. Details regarding white-collar and blue-collar occupational grouping trends as well as unemployment level trends are reviewed at the state of Michigan level. Eight interruption dates were initially identified for this study (1971, 1975, 1977, 1980, 1989, 1991, 1992, and 1995), and a ninth interruption was added after initial analysis of data for the year 1981.

Employment data for the years 1968, 1972, 1974, 1976, and 1977 were not analyzed. A regression and time series were used to analyze the data for trends regarding employment at the national and state of Michigan percentage levels and the
unemployment percentage level in Michigan for each protected group. A P-value of .05 or less was interpreted as being a significant interruption in the series. Analysis of the data indicated that each protected group equally shared the P-value of .05 percent or less and there was not significance as a result of affirmative action public policy in the employment of black protected groups compared with other protected groups over the time of this study.

Qualitative data were collected through the secondary source of archival documents. Qualitative results support the findings of the quantitative results.
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ACKNOWLEDGMENTS

I thank my dissertation committee members for their support and patience to complete my dissertation. I am most thankful for the commitment of Kathleen M. Reding, Ph.D., Chairperson of my dissertation committee for her continuing support as a professor in the D.P.A. program at Western Michigan University and especially for her guidance as well as direction and encouragement throughout my dissertation. Barbara Liggett, Ed.D., I thank for her continued support and more specifically, her emphasis of comprehensiveness for all protected groups regardless of participation level and right-to-work status of states for clarity of the construction industry of Michigan. Daniel Mihalko, Ph.D. I thank for his tireless direction, guidance, and assistance regarding data used within this dissertation. Attorney Janet C. Cooper, I thank for more than twenty-eight years of assistance to me regarding legal issues concerning employment activities including guidance related to the legal issues pertinent to my dissertation. Professors Reding, Liggett, Mihalko, and Attorney Cooper, I thank you.

Employees of the Michigan Department of Civil Rights (current and former) have been most helpful with my dissertation. These individuals include: Ellen McCarthy, Jeff Jenks, Winifred Avery, Charles Rouls and Fred Gruber. Collectively, these individuals continuously provided valuable archival information, direction, and assistance to me for employment issues in my dissertation.
Numerous friends and employees at Henry Ford Community College (HFCC) assisted and encouraged me with the completion of my dissertation. The list of these individuals include: Professor John W. Smith (Political Science), Professor Pamela Cervic (English), William Williamson (Librarian), Vivian Beaty (Director Instructional Technology) and staff, Walter Mackey, II, Director of Mathematics, Henry Morgan (Director of Graphics) and staff. Special thanks to Daniel Buchanan (Mathematician) for his tireless review of the data and computation.

I thank Stacy Glinski for her creativity, commitment, management, and production of this transcript to meet graduate school requirements. Last, but not least, the many individuals who provided encouragement over the years to pursue my dream.

My thanks to my family is unqualified as their faith, support, and encouragement for the pursuit of my education has been immeasurable. This dissertation is dedicated to my friend and wife, Cassandra Joan Willis Bowers; my daughter Krista Jenyne Bowers; the twins, Marion and Marcus Willis; Louise Burton Willis; my brother Calvin Bowers, Jr., and in memory of my parents Calvin and Rosa Lee Bowers.

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CHAPTER I

INTRODUCTION

Organization of Chapters

This research is presented in five chapters. Chapter I begins with an examination of the definitions related to the multiple issues of affirmative action and social equity policy. An examination of a thirty-one year period from 1966 to 1997 has provided an array of legal and lay connotations regarding these issues. The statement of the problem, purpose, research questions, hypotheses, significance, and assumptions underlying the research follow.

Chapter II contains the literature review, which begins with a brief history of America's efforts to achieve equality for all Americans and the current controversy regarding affirmative action. Next, actions affecting the affirmative action policy process by the President, the U.S. Supreme Court, the U.S. Congress, the State of Michigan government, and community organizations at the national and state levels as well as occupational groupings are delineated. The conceptual framework concludes Chapter II.

Chapter III describes the methods and procedures. Included in this chapter are explanations for the research design, sample population, data selection and collection procedures, and statistical analysis used in this study. The fourth chapter
includes the research findings and an analysis of the data. Chapter V is an explanation of conclusions and recommendations for future research.

Definition of Terms: Social Equity Public Policy in America

The issue of social equity is manifested in the contemporary dichotomy surrounding affirmative action public policy. A full investigation of affirmative action social equity public policy is enhanced with a discussion of relevant terms germane to the issue of affirmative action. This research begins with a discussion of affirmative action related terms established by regulatory agencies and practices established by usage in society. Very important throughout this study is the way in which descendants of slaves have been categorized by the government. The list of titles applied to slave descendants include: Negro, colored, black, and African-American. These terms are used interchangeably in this research to reflect language changes over time, and archival information is presented with each as it is used.

Social equity efforts over the years as applied to affirmative action have used a variety of definitions. Social equity public policy has a history as old as the original thirteen colonies of the United States. However, the intense application of the policy for full participation of all Americans through laws and regulation is relatively recent. Proactive full participation activities can be traced to the Civil Rights Act of 1964, which followed what was known as the era of equal opportunity (Sylvia, 1989, pp. 54-56).

At the national level, the issue of public policy in the area of equal
employment rose during the Franklin D. Roosevelt administration in the 1940s (Public Papers, 1941). This historic period was concerned with nondiscrimination and with providing Negroes access to employment in private companies, which had contracts with the federal government. Enforcement of nondiscrimination for contractors was voluntary since mandatory laws or regulations did not exist. At the state of Michigan level, efforts in the area of public policy regarding equal opportunity began in 1955 (Public Act 251) with subsequent amendments in 1965, 1966, 1975, 1976, 1978, and 1980. The efforts of the F. D. Roosevelt administration resulted in the following definition of equal employment opportunity at the national and state of Michigan levels:

EQUAL EMPLOYMENT OPPORTUNITY— the right of all persons to work and to advance on the basis of merit, and ability and potential without regard to religion, race, color, national origin, age, sex, height, weight, marital status, arrest record, or handicap (Michigan Civil Rights Commission).

This definition addresses situations in which characteristics of persons such as religion and ethnicity, although not relevant to the job are considered in personnel decisions. Instead, personnel decisions are to be made on the basis of traits relevant to the position being filled, specifically education, training, experience, and character (Taylor, 1991, pp. 10-14). In 1955, the State of Michigan joined other states by passing its Fair Employment Practices Act before the national government established regulations (Burman, 1973). Equal opportunity efforts continued until the early 1960s.

Voluntary compliance with equal opportunity requirements was ineffective, and as a result, Congress passed the Civil Rights Act of 1964. The initial 1964 law
and amendments provides protection for all American citizens against unlawful discrimination because of race, religion, color, sex, national origin, disability, or veteran status. This law describes minorities and how they were to be protected from unlawful discrimination. Minority as defined in 1966 by the Michigan Civil Rights Commission and the Equal Employment Opportunity Commission (EEOC) as well as the Office of Federal Contract Compliance Programs (OFCCP) includes the following four groups:

Native American, i.e., American Indian or Alaskan Native: A person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition. Documentation as to the employee’s Native American community recognition or tribal affiliation may be required.

Asian or Pacific Islander: A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippine Islands, and Samoa. The term for this category was originally Oriental and was subsequently supplanted by Asian American prior to the current term.

Black: A person having origins in any of the Black racial groups of Africa.

Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race. The term Spanish Surnamed was supplanted with the term Hispanic (OFCCP).

However, as indicated previously, the Civil Rights Act of 1964 continues to provide protection for all American citizens including those groups which may not be classified as a minority.

As additional groups such as women and handicappers that were not statistical minorities were granted protection against unlawful discrimination. The term minority was replaced with the phrase “protected group.” Michigan and other states...
set the trend regarding social equity in the area of discrimination against differently abled persons (handicapped). The term “protected group” is also known as “protected class”. The Michigan Civil Rights Commission describes the definition of a protected group:

**PROTECTED GROUP** --individuals who share similar characteristics -- religion, race, color, national origin, age, sex, height, weight, marital status, arrest record, or limiting condition (handicap).

Werther and Davis (1996, p. 604) define protected groups as classes of people who are pro-tected from discrimination under one or more laws.

The 1964 Civil Rights Act provides protection against unlawful discrimination. Employment discrimination is defined as:

**DISCRIMINATION** -- refusing to hire, promote, or terminate individuals or otherwise discriminate based on race, religion, sex, national origin, disability, or veteran status (OFCCP).

The Michigan Civil Rights Commission, EEOC, and OFCCP recognize two types of discrimination:

1. Intentional Discrimination:
   A. **Statements and / or actions exhibiting open bigotry, hostility, or prejudice.** Such discrimination may be directed at an individual, for example, when a supervisor makes racial threats. It may also be directed at protected classes as a group, for example, when an employer’s policy excludes all women from a “man’s job”.
   
   B. **Difference of Treatment / Disparate Treatment** -When an employer treats similarly-situated individuals differently and the disadvantaged employee is a
racial or ethnic minority, a woman, or a handicapper, intentional discrimination may be inferred unless the employer establishes a valid, nondiscriminatory reason for the different treatment, such conduct is unlawful.

2. Disparate Impact/Adverse Effect:

The consequences of employment actions, regardless of intent, can determine discrimination, which requires remedy. Any employment practice or policy, however neutral in appearance and however fairly and impartially administered, which has a disproportionately negative effect on members of a protected class (racial or ethnic minorities, women, handicappers, etc.) constitutes unlawful discrimination unless business necessity exists to excuse it (the legal use of the term).

The term affirmative action was used in Executive Order 10925 issued by President Kennedy in 1961. This order instructed agencies to take affirmative action by reviewing their practices, to engage in recruitment on black college campuses, and to develop plans and recommendations for needed changes (Burman, 1973, p. 2; Coleman, 1993, pp. 41-42; Sylvia, 1989, p. 56). Affirmative action is defined as:

AFFIRMATIVE ACTION — in the employment context, affirmative action is the set of positive steps that employers use to promote equal employment opportunity. Under Executive Order 11246, it refers to a process that requires a government contractor to examine and evaluate the total scope of its personnel practices for the purpose of identifying and correcting any barriers to equal employment opportunity (OFCCP).

The Civil Rights Act of 1964 along with Executive Orders 11246 brought about the requirement for employers to develop affirmative action plans. Executive Order 11246 reads as follows:

(1) The contractor will not discriminate against any employee or applicant for
employment because of race, color, religion, sex, or national origin. The con-
tactor will take affirmative action to ensure that applicants are employed, and
that employees are treated during employment without regard to their race,
color, religion, sex, or national origin. Such action shall include, but not be
limited to the following: employment, upgrading, demotion or transfer,
recruitment or recruitment advertising, layoff or termination, rates of pay or
other forms of compensation; and selection for training (including appren-
ticeship). The contractor agrees to post in conspicuous places, available to
employees and applicants for employment, notices to be provided by the con-
tracting office setting forth the provisions of this nondiscrimination clause
(Greenman & Schmertz, 1979, pp. 69-70).

The Office of Federal Contract Compliance Programs issued affirmative action
guidelines, which explain the requirements:

A necessary prerequisite to the development of a satisfactory affirmative
action program is the identification and analysis of problem areas inherent in
minority employment and an evaluation of opportunities for minority group
personnel. The contractor’s program shall provide in detail for specific steps
to guarantee equal employment opportunity keyed to the problems and needs
of members of minority groups, including, when there are deficiencies, the
development of specific goals and time tables for the prompt achievement of
full and equal employment opportunity. Each contractor shall include in his
affirmative action compliance program a table of job classifications. This
table should include but need not be limited to job titles, principal duties (and
auxiliary duties, if any), rates of pay, and where more than one rate of pay
applies (because of length of time in the job or other factors), the applicable
rates (C.F.R., @60-1.40).

An affirmative action plan is a process that has eight basic steps, which ensure a
nondiscriminatory employment environment. The steps are rational and progressive.

Significant steps are discussed in the research as salient use of these terms arise. The
eight steps are:

1. Issue Written Equal Employment Policy and Affirmative Action
Commitment.

2. Appoint a Top Official With Responsibility and Authority to Implement
3. Publicize Affirmative Action program.

4. Survey and Analyze minority and Female Employment by Department and Job Classification.

5. Goals and Timetables.

6. Develop and Implement Specific Programs to Achieve Goals.

7. Establish Internal Audit and Reporting System to Monitor and Evaluate Progress in Each Aspect of the Program.

8. Develop Supportive In-house and Community Programs.

These guidelines were developed and published by the U.S. Equal Employment Opportunity Commission (EEOC) and made available for employers during January 1974; they remain available today. Affirmative action plan guidelines were developed to identify and eliminate employment discrimination for all U.S. citizens. All of the steps are important for an affirmative action plan; however, the most controversial steps are goals and timetables.

The objective regarding employment is for employers to demonstrate a "good faith effort." Critical components of an affirmative action plan are the goals and timetables, which are defined by OFCCP as:

**GOALS AND TIMETABLES** — a numerical objective realistically established based on the availability of qualified applicants in the job market or qualified candidates in the employer’s work force.

To fulfill this step in the plan, an employer would develop anticipated openings over time and develop an employment target for an area, which is
underrepresented by a protected group. An employer that develops and implements an affirmative action plan and makes appropriate revisions according to the guidelines in a “good faith effort” which is result oriented would be able to ignore the numbers outcome if the plan or a component of the plan is not a subterfuge. “Good faith effort” is defined by OFCCP as:

GOOD FAITH EFFORTS — these efforts are measured by the extent to which the contractor has taken steps to overcome real and artificial barriers to non-discriminatory employment.

Affirmative action requirements impact every aspect of the employment process as illustrated in Figure 1.

The definition of affirmative action remains the same today as it was in 1961. However, over the last thirty-one years, this definition appears to have been lost, abused, or redefined to meet the needs of the individual or group defining it and not by decisions of the Supreme Court, as discussed later in this research.

Affirmative action plan development did not occur in isolation. Concurrent with the development of this plan were decisions by the Supreme Court regarding unlawful discrimination. Such contemporary interpretations by the Court, as finding an employer guilty of discriminatory practices which significantly excluded blacks and/or other protected group members has resulted in the imposition of quotas. Court decisions requiring quotas are limited by time or parity with the available and qualified labor force. As defined by OFCCP, a quota is:

QUOTA — any system which requires that considerations of relative abilities and qualifications be subordinated to consideration of race, religion, sex, or national origin in determining who is to be hired, promoted, or otherwise favored in order to achieve a certain numerical position.
The term "quota" was used by labor organizations decades ago to limit employment of Negroes. The issue of the term "quota" is a "Double-Edged Sword of Racial Quotas" according to Graham (1990, pp. 102-104). "Early in the century, for example, the job of shoveling coal into engines was hot, dirty, 'Negro work,' and as a result, by 1910, 6.8% of all rail firemen and 41.6% of southern firemen were black" (Graham, 1990, p. 102). According to Graham (1990), as diesel engines made the
firemen’s job more attractive, whites began to displace black firemen. By 1950, only 4% of firemen positions were held by black firemen.

The reduction in the number of black firemen was achieved through the exclusion of new union members who were labeled “unpromotable” --Negroes. The union made quota agreements with rail carriers to limit “nonpromotable” firemen (Graham, 1990, p.102). Negro employees were limited, restrained, or replaced through efforts of unions in positions based on market demands for additional employees. There were pre-determined maximum numbers of Negroes who could be employed in union controlled occupations. Quotas which limited employment for black employees continued in the International Longshoremen’s Association on the coast of Texas until 1964 when the National Labor Relations Board found that the practice violated the fair representation doctrine (Graham, 1964, p. 103).

Eventually, OFCCP began the enforcement of affirmative action plan requirements for contractors in the construction industry. Quota is the term used in place of goals in affirmative action plan development in the construction industry and other contractor: and suppliers doing business with the government. Quota was then equated with preference. Preference is defined by OFCCP as:

PREference --giving employment opportunities to those who are not qualified over the qualified based on race, religion, sex, or national origin.

The issue of qualifications was dealt with in the 1971 Supreme Court decision of Griggs v. Duke Power Co. as cited in the policy actions section of this study. The Court said in essence, “Qualifications must be related to the job being filled.”

The issue of qualifications was clarified further in the Griggs case. This case
emphasizes “hiring those who are qualified” based on job related qualifications. Employers may be able to circumvent this requirement if they are able to prove “business necessity.” “Business necessity” is an outcome of the Griggs v. Duke Power Co. decision (EEOC guidelines, 1974). Bona Fide Occupational Qualification (BFOQ) is defined by Werther and Davis (1996, p. 588) as: “a situation where an employer has a justified business reason for discrimination against a member of a protected class (group). The burden of proving a BFOQ generally falls on the employer.”

The Griggs v. Duke Power decision in 1971 was the catalyst for the federal government issuing the “Uniform Guidelines on Employee Selection.” These guidelines establish standards that employers must meet to prevent a discriminatory situation, which would result in a disparate or unequal employment impact (Shuler & Huber, 1990, pp. 94-95; Werther & Davis, 1996, pp. 87, 592). Equal employment and affirmative action requirements have never required an employer to hire an applicant or promote an employee who is not qualified. Even though the issue of qualifications was legally resolved near the beginning of the affirmative action era, there is still an issue regarding affirmative action and qualifications. Qualifications under affirmative action dilute the range of personnel hiring or promotion choices and, by extension, the quality of the work force in an organization according to Hayes and Kearney, 1990. Today, qualified persons hired under an affirmative action program are denoted by society as unqualified (Benokraitis & Feagin, 1978, pp. 7, 9-10; Bergman, 1996, pp. 4, 41, 69; Darden, 1995, p. 83; Kekes, 1997, pp. 35-37; Wolf-
The Federal government also issued guidelines related to the proportion of hires an employer has and its relation to the number of protected members hired (statistical measurement — Supreme Court). The government established the "Four-Fifths" rule. This rule is a review of hiring and promotion practices to determine if the procedures are discriminatory. The "Four-Fifths" rule is defined as:

FOUR-FIFTHS — a procedure which determines if the hiring or promotional level for a given protected group is at least 80% of those hires or promotions for majority group members (Werther & Davis, 1996, pp. 217-218).

In the 1976 case of McDonald v. Santa Fe Trails, the United States Supreme Court dealt with the issue of "reverse discrimination." The term reverse discrimination was used during congressional deliberations of the 1964 Civil Rights Act (Coleman, 1993, p. 59; Graham, 1990, pp. 106-107). This term was used to denote discrimination against a white citizen. The Supreme Court made it clear in this case that "discrimination is discrimination." Furthermore, discrimination may occur in any job classification within the two most common occupational groupings — white collar and blue collar.

These two occupational groupings are defined by the Michigan Civil Rights Commission and the federal EEOC office as well as by the OFCCP. The white collar occupational grouping includes the following classifications: officials, administrators and managers, professionals, technicians, sales, and office and clerical workers. The blue collar occupational grouping includes: skilled craft workers, operators (semi-skilled), laborers (unskilled), and service workers. These two occupational groupings
apply to all employers and include categories and classifications not previously listed in this research.

The aforementioned discussion of terms related to affirmative action form the basis for understanding the division of affirmative action social equity public policy in the United States.

Statement of the Problem

Current efforts of affirmative action social equity public policy began with the U. S. Supreme Court decision of Brown v. Topeka Board of Education (1954) and the subsequent Civil Rights Act of 1964 and amendments, as well as laws to provide multiple protections for all Americans. Today there is a divide regarding the need for the continuance of affirmative action public policy.

Public policy regarding affirmative action was not debated when it was put in place during the mid 1960s. However, the debate is now occurring and it evolved over the past thirty-one years. There is a divide regarding current efforts to achieve social equity through affirmative action policies (Fryshman in Squires, 1977, pp. 152-173; Leone, 1986, pp. 160-168; Steele, 1991, p. 16). Affirmative action is an extension of equal opportunity in the workplace, which ensures a level playing field for all Americans. Efforts to obtain social equity dates back to the Declaration of Independence which states in part, "...All men are created equal...." At the time, women were not included and Negro men had only partial participation. The ratification process of the U.S. Constitution resulted in the "Three-Fifths Compromise"
(Patterson, 1997, p. 35). This compromise, in essence, explains how each slave (Negro) was equivalent to three-fifths of the vote of a white male citizen. As defined at the time, a white male with requisite qualifications had one vote and women were not even considered. Since that time, presidential administrations have attempted to provide social equity for various segments of the American population, actions that have ignited concern and opposition from various sections of the country.

Preference regarding social equity provides the impetus for the division, which is commonplace in society today. The divide regarding the continuance or elimination of affirmative action public policy comes not only from the general public, but also is influenced by statements of the president, public officials, and community leaders, as well as by laws and decisions of the courts. On the most basic level, the divide regarding affirmative action public policy is whether or not black Americans are being given an undue advantage for opportunities at the expense of other protected groups (Fryshman in Squires, 1977, pp. 152-173; Leone, 1986, pp. 160-168).

Public policy is developed, implemented, and revised in the United States according to public policy theories by Jones (1984, pp. 24-30) and Shull (1993, pp. 6-27). These theories detail specific actions and/or steps taken by the actors in public policy formulation.

Presidential administrations of the past fifty-six years have attempted to provide social equity policies for all Americans regardless of race, color, religion, national origin, ancestry, sex, disability, or veteran status. Presidential
administrations in the 20th century, from Roosevelt through Clinton, have all listened
to concerns from American citizens regarding the social equity public policies of
affirmative action for American citizens. These concerns, however, have escalated
during the recent administrations of Reagan, Bush, and Clinton. These administra­tions have witnessed rhetoric forging a divide in America regarding the need for con­
tinuing affirmative action as a social equity public policy.

Era of Enforcing Affirmative Action Policies

From the mid to late 1960s, affirmative action policy began a different era by
enforcing Executive Orders 11246 and 11375 (Revised Order 4), which detailed spe­
cific requirements for federal contractors. These requirements resulted in the devel­
eventually become known as the “Hometown Plan” for the construction industry.
The plans were developed to increase minority employment in the construction
industry, and specifically in the skilled craft occupations. The nationwide drive to
increase mi..rity employment in the construction industry also was a concern in
Michigan (The Detroit Commission on Community Relations and Human Rights
Collection, Box 74).

The State of Michigan has more than a thirty-one year history (1966-1997) of
efforts to provide social equity for all citizens in the construction industry. State and
local efforts reflect the same sentiment heard and seen at the national level through
the rhetoric of scholars, national and state public officials, and community leaders, as
well as responses from the general public.

In 1965, the Michigan Civil Rights Commission initiated a study of employment patterns and practices in the construction industry of Michigan. The study recommended proactive action by the key participants of the construction industry to develop strategies, which would increase employment for blacks and other protected groups in the construction industry of Michigan.

The study recommended the use of voluntary affirmative action practices by the participants to increase employment opportunities for minorities in the construction industry to resolve the concerns raised by the study. The recommendations were reviewed by many community organizations along with the critical entities in the construction industry. The recommendations of the Michigan Civil Rights Commission study and enforcement efforts by MCRC and other agencies have resulted in the tensions currently experienced in the construction industry environment in Michigan. In 1966, as a result of this study, the State of Michigan Civil Rights Commission (MCRC) recognized the limited access black people had to employment in the construction industry (MCRC study, 1955).

Purpose of the Study

The purpose of this study is not to determine whether affirmative action public policy is positive or negative for Americans. Nor is it the purpose of this study to determine whether affirmative action as a social equity policy in America should be changed. Rather, the purpose is to examine how America arrived at its pre-
sent state regarding affirmative action through an analysis of the policy. Also, the purpose is to examine those groups which have benefited from affirmative action public policy over the last thirty-one years in the construction industry.

The purpose of this study is to determine how employment patterns received by black employees, compared with other protected group members, changed as a result of affirmative action policies. Data on the construction industry of Michigan from 1966 to 1997 will be examined.

Today there is a debate regarding benefits received by certain citizens through properly framed affirmative action programs and the need to continue such programs. In this study, obtaining employment in the construction industry is the outcome benefit. This issue is highlighted in statements of elected officials and community leaders (direct actions), laws (congressional actions), and Supreme Court decisions. Scholars are divided regarding the outcome of affirmative action, namely how it impacted employment. This study provides direction and clarity regarding the current and original definition of affirmative action as designed by the Civil Rights Act of 1964 and Executive Orders 11246 and 11375.

Analysis of this definition, as well as other related definitions, is clarified in order to explain how and why the current concern about affirmative action is an issue in the United States. Efforts to achieve social equity are not only embedded in actions of the President, Congress, and the Supreme Court system but include actions of community leaders and organizations, as well as individuals. The process by which public policy is developed and formulated through the American political
process is complex. The political policy process is examined and evaluated by many interest groups. These groups may shape and reshape the direction any public policy takes regarding affirmative action.

Census data regarding employment by occupational category and white collar and blue collar occupational groupings is analyzed to determine employment levels for each protected group. Employment data for blue collar workers in the construction industry provides information to compare protected groups. Employment data for protected group members along with unemployment data are analyzed through statistical procedures to determine outcome benefits. Data analysis addresses several important questions regarding the construction industry of Michigan:

1. Is there a difference in the employment received by black people as a result of public policy efforts of affirmative action compared with other protected groups?

2. Is there a difference in the employment received by black people when compared with other protected groups in blue collar occupational categories?

3. Is there a difference in the employment received by protected groups when compared in skilled construction trade occupations?

4. Is there a difference in the employment received by black people in skilled construction trade occupations when compared with the employment of black people in white collar occupational categories?

5. Is there a difference in the overall unemployment rate when protected groups are compared at the state of Michigan level?
These analyses provide information regarding which groups have received employment from affirmative action within a particular occupational grouping.

Any individual regardless of rank in an organization frames critical definitions related to affirmative action public policy for evaluation and assessment. This study provides a basis by which each individual will be able to determine which groups have benefited in the varied occupational categories over the thirty-one year time period of this study. Each individual will then be able to make an informed decision regarding whether or not there is a need to continue affirmative action public policy efforts in the United States.

Statement of Research Questions

The dialectical concern being experienced in the United States today is the perceived employment benefit received by certain groups as a result of affirmative action public policy. Social equity has been an issue in the United States since the signing of the Declaration of Independence. From the early 1940s to the early 1960s, this country went through what is known as the equal opportunity era. In the early 1960s, affirmative action became a public policy issue with which the nation would forge equity regulations for all Americans. Beginning in the 1980s, significant numbers of questions began to arise regarding the need for affirmative action and whether some citizens were being excluded as beneficiaries of these policies (Leone, 1986, p. 161).

Supreme court decisions making separated facilities unequal and
unconstitutional moved previously excluded groups of individuals into positions of opportunity (Brown v. Topeka Board of Education, 1954). Through this process previously excluded groups became more visible and more a part of mainstream America. Employment was the main vehicle through which previously excluded individuals have moved into the mainstream. White collar occupations are represented by virtually all groups and in some cases these groups are representative of the available relevant labor market.

One employment segment, the construction industry, is an employment area where employment opportunity for all Americans may have been slower than in other industries. Employment efforts in the construction industry of Michigan, to provide equal opportunity and affirmative action to all citizens, have also been slow. Historically, the construction industry has been an employment area where positions were traditionally handed down to children in the same families (MCRC Study, 1965; Report 102 U.S. Conference of Mayors, 1965). These practices, for years, excluded other groups from employment opportunities. As affirmative action continued to become more and more an ingrained public policy, the divide in the construction industry increased. At the same time, other groups not fully represented in occupational categories of the construction industry continued to raise the issue of affirmative action and experienced high unemployment rates.

In 1997, the perception continues to be one where there is a divide regarding employment received by some protected groups. One well articulated statement is that blacks are receiving jobs at the expense of other groups (Kyle, 1995). These
dialectical concerns regarding affirmative action in the construction industry of Michigan are a logical base to formulate the following five research hypotheses and provide the structure for this study.

Hypotheses

Research Hypothesis I. There is a difference in employment received by black people as a result of public policy social equity efforts of affirmative action as compared with other protected groups.

Research Hypothesis II. There is a difference in employment received by black people when compared with other protected groups in blue collar occupational categories.

Research Hypothesis III. There is a difference in employment received by black people and other protected groups when compared in skilled construction trade occupations.

Research Hypothesis IV. There is a difference in employment received by black people in skilled construction trade occupations when compared with employment of black people in white collar occupational categories.

Research Hypothesis V. There is a difference in the overall unemployment rate between protected groups at the State of Michigan level.

The goal of this study is to determine which protected group(s) (black people, white people, women, or other protected group) has benefited from the efforts of affirmative action social equity public policy in the construction industry of Michigan.
over a thirty-one year time period. This study will compare the employment per-
centage rate of each protected group to determine the employment received for blue
collar and white collar occupational groupings. This research will look at employ-
ment trends over the time period of this study. This study will review and analyze
the rates of employment in the construction industry of Michigan for working black
people, white people, women, and other protected groups, as well as unemployment
in the state of Michigan.

During the time period of this study, numerous individuals have benefited
from affirmative action social equity concerns according to Burman (1973) and
Coleman (1993). The studies by Burman (1973) and Coleman (1993) did address
employment received by black people in white collar occupational categories. How­
ever, these studies did not analyze employment in the construction industry or blue
collar occupations.

Black people and white people are dependent variables in terms of employ­
ment benefit received. Benefits received by other protected groups are intervening
variables. These categories of dependent and intervening variables represent changes
in the definition of protected group and enforcement efforts of affirmative action
social equity in the construction industry of Michigan over the time of this study.

Comparisons of protected groups (black people, white people, women, and
other protected groups) are important as they will define the result of compliance pro-
grams enforced by the City of Detroit, Wayne County, and the Michigan Civil Rights
Commission. The compliance programs of these jurisdictions were developed to
ensure monies contracted for construction projects met affirmative action social equity policy in employment for all citizens in the respective political jurisdiction.

The emphasis in these jurisdictions since the 1960s has been a concern for all occupational categories not just the skilled trade occupational categories of construction contract employers. The anticipated employment levels for black people were agreed upon by signatories to the "Detroit Plan" and were not accepted by enforcement agencies because the anticipated annual goal levels were not sufficient to meet jurisdictional standards for all occupational categories. Performance by members of the "Detroit Plan" to fulfill objectives as well as efforts of the compliance agencies are reflected in the EEOC, Department of Labor, and Census data for each appropriate year of this study.

Tables are used to illustrate national and state government employment data including occupational grouping and unemployment at the State of Michigan level over the time of this study. Each grouping is representative of race, ethnicity, and gender identity for the time period of this study. The database for this study predates affirmative action social equity public policy of the 1960s and continues through 1997.

Significance of the Study

This study is important because it will analyze and interpret the original meaning of social equity as outlined in equal employment and affirmative action public policy. The intent of this study is to bridge the gap regarding the divide
concerning affirmative action definitions expressed in America today. Managers and human resource professionals as well as front line employees and scholars will be able to review and determine why and how affirmative action policies were interpreted. Individuals will be able to assess affirmative action policy formulation and implementation and appreciate the dilemmas faced in America today.

Statistical analysis will provide a clear picture of what has occurred over the period of this study; detailing which occupational grouping and protected group benefited from affirmative action public policy. Analysis will also provide information related to trends which may have occurred as a result of public policy formulation as outlined by Jones (1984, pp. 24-30) and Shull (1993, pp. 6-27). These statistical analyses will address the foci of this study -- the construction industry of Michigan. These analyses will form a core for future evaluations of social equity public policy related to equal opportunity and affirmative action.

Individuals will be able to determine the value of practices by employers, managers, and other employees who implement or address the issue of social equity. Employees will be able to recognize subterfuge activities related to social equity efforts through affirmative action. Individual responsibilities regarding affirmative action activities in an employment setting will be readily observable.

Scholarly writings by authors have noted an absence of clear definitions of affirmative action and related terms (Frank & Lisser, 1995, pp. 2, 8). This study provides a comprehensive base of equal employment and affirmative action related definitions. Comprehensive definitions will impact major segments of our society.

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and include all aspects of the employment setting, as well as Congressional and governmental officials who implement public policy.

Supreme Court decisions regarding goals and timetables as well as quotas, job related qualifications, and seniority are clarified to understand the context in which these policy decisions were made. Ancillary activities related to affirmative action such as “preference” and “set-asides” are isolated with appropriate definitions and policy applications.

Employment selection components such as the “Uniform Guidelines on Selection”, developed by the federal government, as well as diversity, along with other critical qualifications, are reviewed. Readers will be able to determine if these activities are assets or discriminate against the ruling majority group or a non-ruling majority group member. An analysis of the employment of competing diverse groups will determine whether or not public policy efforts of affirmative action are fulfilling the statement made by the founders of this country in the Declaration of Independence, “All men are created equal”, and viewed today as “All American citizens (men and women) regardless of color, national origin, or ethnic origin are equal.”

Assumptions of the Study

The investigator of this study made the following assumptions:

1. The definition of affirmative action has not changed since it was first formulated through government regulation.
2. Over time, citizens have developed a variety of affirmative action definitions to fit imaginary or real time situations.

3. Concerns expressed today are the direct result of statements made by public officials and prominent community leaders.

4. Many Americans do not understand the difference or inter-relatedness of equal opportunity and affirmative action.

5. Today, black people and other protected group members are more visible in prominent employment positions and it is assumed these groups are receiving a larger share of positions.

6. Many American citizens do not understand that affirmative action is a voluntary activity on the part of an employer or organization, even when there is contractual or regulatory requirement. The exception is when a court orders such action to remedy a proven statutory violation.

7. Many Americans are not aware that the Civil Rights Act of 1964 includes protections for all Americans regardless of color, ethnicity, race, or gender.

8. Many Americans are not aware of the difference between goals and quotas or how each is applied in affirmative action or civil rights litigation.
CHAPTER II

LITERATURE REVIEW

Introduction

Actions

At the national level, constitutional amendments have been passed to define who is a citizen and to certify protections and the right to vote. Laws also have been passed by Congress recognizing and protecting particular groups (e.g. women, person with disabilities, veterans, and minorities). Treaties and laws were put in place for American Indian Tribes / Nations (U.S. Congress, Dawes Act, 1887; Indian Reorganization Act, 1934) which define status, rights, and privileges for Native Americans in the United States. Black Americans were granted the right to vote through the Fifteenth Amendment in 1870. However, black Americans throughout the country were not actually able to vote until decades later in the 1960s when the voting rights act was passed. Voting rights for women were granted through the Nineteenth Amendment of 1920. Yet, full employment rights are still being actualized.

The Civil Rights Act of 1964 has been one of the most forceful laws for providing social equity for all Americans. This law and its amendments operationalize equal opportunity and affirmative action requirements. This law provides protections for all Americans against unlawful discrimination based on race, color, religion,
The focus of this study is to examine the benefits employees have received after affirmative action social equity public policy was implemented in the construction industry of Michigan during the thirty-one year period from 1966 to 1997. The issue is to determine to what extent affirmative action efforts have benefited black people or other protected groups to the detriment of society's majority. The construction industry of Michigan is the target of this study. Social equity efforts in Michigan parallel those in Philadelphia, Pennsylvania; and Chicago, Illinois, which resulted after the decision in the Columbus, Ohio case of Ethridge v. Rhodes (U.S. District Court, 1967). The Ethridge v. Rhodes case was the first Fourteenth Amendment (constitutional) case regarding the use of goals and timetables to enforce the legal prohibition against job discrimination within a stated time frame for compliance with state agency requirements. The case was decided by the U.S. District Court in Columbus, Ohio during May 1967. The case, initiated by the National Association for the Advancement of Colored People (NAACP), was the first of its kind to enforce the Equal Employment Opportunity Commission's (EEOC) enforcement plan against job discrimination in construction industries. The case established the principle that affirmative action plans could be used to address past discrimination and to achieve a balanced workforce.

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Advancement of Colored People (NAACP), proposed the principle that state agencies require a contractual commitment from building contractors to employ a specific minimum number of black and other minority workers in each craft at every stage of construction (Squires, 1977, pp. 179-180). According to Squires (1977), the Ethridge case established numerical goals for the later development of the Philadelphia Plan in 1969 and subsequently related construction plans. The “Philadelphia Plan” was developed based on the Ethridge v. Rhodes case. The “Philadelphia Plan” was enacted to provide employment for black people and other minorities in the construction industry to meet the contracting requirements of Executive Orders 11246 and 11375 - Revised Order #4 (Coleman, 1993, pp. 54-58; Morgan, 1997, pp. 51-53; Squires, 1977, pp. 179-180; Taylor, 1986, p. 1713). This plan eventually became known as the “Home Town Plan” and became known as the “Detroit Plan” in the State of Michigan.

Efforts to obtain social equity are currently regulated through affirmative action public policy. These efforts are being challenged regarding the efficacy of continuation through the legitimate process of laws and court decision. These dialectic concerns regarding affirmative action are being observed in various aspects of American life.

Many citizens believe affirmative action policies and programs are no longer required because they give special advantages to black people, other minorities, or other protected group members, or that they have been actualized in intent and are no longer needed (Fryshman in Squires, 1977, pp. 170-171; Leone, 1986, pp. 160-168;
Steele, 1991, p. 154). They assert that these programs discriminate against white males through denial of jobs and promotions (Leone, 1986, pp. 160-168). Steele (1991, p. 154), a critic of affirmative action, maintains that policies of affirmative action do more harm than good. Fryshman, in “Affirmative Action: A Guide For The Perplexed” (Squires, 1977, p. 151), argues that statistical representation as a means of determining the existence of discrimination and the concept of group rights should be rejected. He asserts that affirmative action goals constitute illegal quotas, which result in preferential treatment for women and minorities (Fryshman in Squires, 1977, p. 151). University affirmative action guidelines developed by the Department of Health, Education, and Welfare are appropriate for the construction industry but not for universities, according to Fryshman (Squires, 1977, p. 155). Graduate preparation in colleges and universities is an avenue to meet the employment need for future university and college faculty positions. On Thursday, May 18, 1995, in the Oakland Press, a New York Times article discussed the lack of an “acceptable level of success in desegregating its higher education system in 12 states” (Civil Rights anniversary, 1995, p. A9). Since the landmark decision in the Brown v. Board of Education (1954), universities in the South remain more than 80% white with 60% of black freshman attending historically black colleges or junior colleges. The success rates for minority groups were measured by graduation rates and enrollment in graduate schools, which were stagnant or falling in all 12 states.

Referenced by the New York Times article was the fact that society had promised equal access to institutions for higher education regardless of race, but that not
a single state “can demonstrate an acceptable level of success in reaching that goal.” Additionally, to achieve equal representation of blacks among college graduates, each of the 12 states would have to more than double the number of black graduates, while the challenge for Hispanic students is even greater. The Thursday, May 18, 1995, article concluded by stating that the study looked largely at schools in the South and the findings by the Southern Education Foundation include rising tuition and declining tuition grants for low-income students and freeze minority students out of higher education which is true across the nation as well (Civil Rights anniversary, 1995, p. A9). The voters of California passed Proposal #209 in the fall of 1996 to eliminate affirmative action in that state. David Jaye, a Michigan legislator introduced legislation to end affirmative action in state activities (Kyle, 1995). Cheryl Feller, a construction contractor and past president of the Lansing chapter of Women in Construction, expressed her concern that affirmative action was no longer needed (Kyle, 1995). Feller stated, “It was absolutely necessary twenty years ago. . . . As it stands now, it has outlived its value” (pp. B5, B11).

Proponents of affirmative action argue the need for continuance of the program to ensure a level playing field and to guard against unlawful discrimination. According to the research conducted by Page (1994), education, as well as government affirmative action programs, have narrowed the gap for African Americans in both sectors for managerial positions. In the July 10, 1990 edition of the Los Angeles Times, Benjamin L. Hooks, Executive Director of the National Association for the Advancement of Colored People (NAACP), outlined his agency’s position on
affirmative action. He stated, “Self Help, Just Won’t Do It All. . . . The NAACP has long held the position of ‘self-help’ efforts among blacks, however, affirmative action efforts are as necessary as ever.” On April 24, 1997 (“On the Importance,” 1997) in an advertisement, the Association of American Universities, a prestigious circle of sixty-two of the nation’s leading research universities, adopted a resolution supporting the right of colleges to use affirmative action in their admissions procedures (New York Times). The advertisement in essence said that colleges have the right to determine college admissions by including consideration of ethnicity, race, and gender. The advertisement further explained how affirmative action has had a significant impact on racial composition only in the nation’s elite universities and colleges and not in the schools that educate the vast bulk of young Americans.

Lloyd (1991) argues that discrimination breeds inequality. He states, “Doors are closed to minorities and women as a result of blatant discrimination and subtle bias.” National leaders were charged with destroying the national will to open doors through a rhetoric of “quotas” and “reverse discrimination” (Lloyd, 1991).

If blacks, other minorities, and protected groups have gained from affirmative action programs, then employment patterns and lower poverty levels for these groups may reflect gains. The issue of employment outcome benefits received after affirmative action public policy was implemented has been addressed by numerous authors over the past thirty-one years. However, these authors have not addressed outcome benefits in the construction industry. The issue of economic benefits received from affirmative action has been addressed by Leonard (1986, pp. 360-361; 1990, pp. 52-
The issue of who benefits from affirmative action is not easy to assess according to Frank and Lisser (1995). The application of expectancy theory as self-fulfilling prophecies, which can lead to effective affirmative action programs through educational training programs, is referenced by Crosby and Clayton (1990, pp. 66-67). If employment patterns for protected groups reflect gains, then the employment pattern should also reflect losses for the protected groups of white males. There is an economic outcome benefit impact of affirmative action according to Coleman (1993).

Public opinion statements and actions by prominent community and public leaders also have had an impact on social equity public policy formation. According to Baron (1971, p. 38), the arrest of Rosa Parks in Montgomery, Alabama and the ensuing bus boycott led by Dr. Martin Luther King, Jr. helped forge the social equity effort during the mid to late 1950s. Furthermore, the Montgomery bus boycott re-introduced mass political action into the Cold War era (Baron 1971, p. 38). Baron (1971) notes that, “the boldness of the civil rights movement, plus the success of national liberation movement in the Third World, galvanized the black communities in the major cities” (pp. 38-39). The lack of economic social equity for black people in the United States is due to the absence of public policy regarding black people (Anderson, 1994, p. 44). Statements by government leaders also have shaped governmental policies and practices. Former Senator and presidential candidate Robert Dole delineated in his goals for the nation the importance of removing barriers to the advancement of minorities and women managers (Glass Ceiling Report, 1995).

Presidents Roosevelt through Clinton, Congressional members, Supreme
Court decisions, union leaders, prominent community leaders, and construction industry representatives have had an impact on affirmative action efforts through statements regarding the need for the continuance of affirmative action programs. The actions and statements by these actors have resulted in the employment received by the various protected groups in the area of wages, employment, occupational status, and poverty levels. These benefits are revealed in changes recorded by the federal government in census data gathered by the EEOC and Bureau of Census, in the EEO special files.

Statistical information from the Bureau of the Census, and the Equal Employment Opportunity Commission are the primary sources for comparing improved employment outcome conditions for protected group members that may be attributable to affirmative action. Census statistics regarding economic employment benefits received by protected group members through affirmative action were analyzed by Burman (1973, pp. 101-109, 116-121) and Coleman (1993, pp. 186-189). They discuss how black Americans who positioned themselves through education and training have benefited from affirmative action policy. Sylvia (1989, p. 157) discussed how protected groups are able to become part of public policy based on the funding level provided to them by the presidential administration. Additionally, numerous authors have discussed and tracked affirmative action programs and illustrate the resulting employment benefits received by various protected groups.

The central issue of affirmative action is employment received by black employees compared with other protected group members as a result of
contemporary efforts to have social equity as a reality for all citizens in the United States. Contemporary social equity efforts also are an outgrowth of the new public administration movement of the early 1970s (Chandler & Plano, 1988, p. 33), which is concerned with social equity for all Americans. Contemporary efforts to achieve social equity include new and improved public policy aimed at achieving the desired end.

Efforts today and during previous periods of time in American history reflect the same concerns as defined by social equity:

Classical public administration asked two questions of public policy: (1) Can better services be offered with available resources? (2) Can the level of services be maintained while spending less? In addition to these questions of efficiency and economy, the new public administration asked a third question: Do the services enhance social equity? The standard of social equity requires the fair and equitable distribution of services to eliminate any injury done to people by previous programs or lack of programs. It attempts to make certain that if inequities exist, they benefit previously disadvantaged groups. The normative emphasis of social equity developed out of discontent with the status quo of traditional administration and the perceived neglect of the social responsibilities of government. (Chandler, 1988, pp. 33-34)

The issue of social equity remained a concern of the American Society of Public Administration. This organization, in the February 1997 issue of PA Times, requested responses from the general membership concerning a resolution that would establish professional reasons to support affirmative action. A subsequent issue of PA Times reported responses from the membership. The responses were as dichotomous as those of the general public, national elected and appointed officials and community leaders. The January 1998 issue of the PA Times reported resolutions adopted at the July 1997 national conference and did not include a resolution.
supporting affirmative action. The current divide regarding affirmative action public policy may be the reason for inaction.

Executive Actions, Responses by Congress, and Community Organizations

The president has several means to express concern for public policy development. The options available to the President are: press conferences, interviews, Executive Orders, vetoes, and addresses to the nation including the annual State of the Union. Other options includes persuasion and filing administrative amicus curiae briefs with the Supreme Court as well as the degree to which laws are recognized and implemented through regulations. The president also may opt to do nothing regarding a public policy issue if the salience of the issue is not critical during his/her presidential administration. A chronology of activities by each presidential administration is presented here and emphasizes issues as well as the responses of pertinent congressional and other institutional policy actors (agencies, labor organizations, and community leaders). This chronology amplifies affirmative activities of each presidential administration discussed in this research.

Over the years, the expansion in scope and conflict regarding affirmative action has not necessarily enhanced our understanding of civil rights (Shull, 1993, p. 31). There are still major disagreements and uncertainties about what equality means. Should we merely remove barriers, or should we seek equal results? What are the appropriate remedies for achieving desired social ends? If guidelines and affirmative action are acceptable, are comparable worth and quotas going too far?
These concerns form a framework within which the 1999 state of affirmative action social equity public policy may be understood in the context of discussion. Table 1 is a chronology of national and state (Michigan) activities related to civil rights and affirmative action.

President Franklin D. Roosevelt (1933 - 1945) was the first president of the modern civil rights era to formally address the issue through executive orders and other pertinent statements as well as actions related to social equity for all American citizens. All of the subsequent ten presidents have had an impact in this public policy area ranging from none or minimum to maximum. The role of the president is significant in civil rights policy (Shull, 1993, p. 5). The presidents vary in their influence from strong leadership, such as Johnson as an activist to a move away from an activist president pursuing an expansion of civil rights as initiated by Reagan and Bush (Shull, 1993, p. 7).

President Roosevelt continued his efforts during the 1940s. In 1940, A. Phillip Randolph, a community leader and official of the Brotherhood of Car Porters organized a series of local demonstrations in preparation for the march on Washington, DC (Fletcher, 1974, pp. 31-35; Graham, 1990, p. 10; Jaynes & Williams, 1989, pp. 85-86). The "Dr. New Deal" was replaced by "Dr. Win the War" with a substantially more Negro population in segregated regiments --10% in the army (Graham, 1990, p. 10). Being frozen out of the defense boom caused concern and sparked the potential protests planned by Randolph and the NAACP according to Graham. The demonstrations and anticipated march on Washington were
<table>
<thead>
<tr>
<th>Year</th>
<th>Action</th>
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<tbody>
<tr>
<td>1961</td>
<td>E. O. Kennedy</td>
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<td>1963</td>
<td>E. O. Kennedy</td>
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<tr>
<td>1963</td>
<td>Equal Pay Act</td>
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<td>1964</td>
<td>E. O. Johnson</td>
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<td>1964</td>
<td>Civil Rights Act</td>
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<td>1965</td>
<td>E. O. Johnson</td>
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<td>1967</td>
<td>Age Limit (40 - 70)</td>
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<td>1970</td>
<td>Office of Federal Contract Compliance</td>
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<td>1971</td>
<td>Revised Order #4</td>
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<td>1973</td>
<td>S. C. McDonald v. Green</td>
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<tr>
<td>1972</td>
<td>Equal Employment Act (Amendment to 1964 Act)</td>
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<td>1973</td>
<td>Rehabilitation Act</td>
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<td>1974</td>
<td>S. C. DeFunis v. Odegaard</td>
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<td>1975</td>
<td>S. C. Albemarle Paper Co. v. Moody</td>
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<td>1976</td>
<td>S. C. McDonnell v. Santa Fe Trail</td>
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<td>1977</td>
<td>S. C. Teamsters v. United States</td>
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<td>1977</td>
<td>Congress - Public Works Act - ‘Set Aside’</td>
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<td>1978</td>
<td>S. C. University of California Regents v. Bakke</td>
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<td>1979</td>
<td>S. C. United Steelworkers of America v. Weber</td>
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<td>1980</td>
<td>S. C. Fullilove v. Kluczynski</td>
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<td>1982</td>
<td>S. C. Connecticut v. Teal</td>
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<td>1984</td>
<td>S. C. Memphis Fire Department v. Stotts et al</td>
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<td>1986</td>
<td>S. C. Wygant v. Jackson Board of Ed.</td>
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<td>1987</td>
<td>S. C. United States v. Paradise</td>
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<td>1987</td>
<td>S. C. Johnson v. Transportation Agency of Santa Clara County</td>
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<td>1987</td>
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<td>1987</td>
<td>S. C. Lorraine v. AT &amp; T Technologies</td>
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<td>1989</td>
<td>S. C. Wards Cove Packing Co. v. Antonio</td>
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<td>1989</td>
<td>S. C. Patterson v. McLean Credit Union</td>
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<td>1990</td>
<td>Americans with Disabilities Act</td>
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<td>1990</td>
<td>S. C. Metro Broadcasting Inc. v. FCC</td>
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<td>1993</td>
<td>S. C. Shaw v. Reno</td>
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<td>1995</td>
<td>S. C. Adarand Constructors v. Reno</td>
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<td>1986</td>
<td>S. C. Thornburg v. Gingles</td>
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<td>1988</td>
<td>S. C. Jenkins v. Missouri</td>
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**Table 1**


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<thead>
<tr>
<th>NATIONAL</th>
<th>STATE OF MICHIGAN</th>
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<tr>
<td>1963 E. O. Kennedy</td>
<td>(Michigan Civil Rights Commission created to</td>
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<tr>
<td>1963 Equal Pay Act</td>
<td>supplant Fair Employment Practices</td>
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<tr>
<td>1964 Civil Rights Act</td>
<td>1965 Community Relations Service Conference</td>
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<tr>
<td>1965 E. O. Johnson</td>
<td>of Mayors Changing Employment</td>
</tr>
<tr>
<td>1967 Age Limit (40 - 70)</td>
<td>Practices in the Construction</td>
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<tr>
<td>1971 Revised Order #4</td>
<td>1965 Michigan Department of Civil Rights receives</td>
</tr>
<tr>
<td>1973 Rehabilitation Act</td>
<td>(Construction Trades Agreement).</td>
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<td>1977 S. C. Teamsters v. United States</td>
<td>1973 OFCCP acting director tells MCRC to quit</td>
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<tr>
<td>1979 S. C. United Steelworkers of America v. Weber</td>
<td>establishing MEEBOC.</td>
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<tr>
<td>1987 S. C. Johnson v. Transportation Agency of Santa Clara County</td>
<td>leave” same as other illnesses.</td>
</tr>
<tr>
<td>1987 S. C. Martin v. Wilks</td>
<td>1979 E. O. Governor reaffirming MEEBOC.</td>
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<tr>
<td>1987 S. C. Lorraine v. AT &amp; T Technologies</td>
<td>to MEEBOC.</td>
</tr>
<tr>
<td>1989 S. C. Patterson v. McLean Credit Union</td>
<td>investment in USSR after 1984 investment</td>
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<tr>
<td>1990 Americans with Disabilities Act</td>
<td>in South Africa.</td>
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organized to demand that black people, as citizens of the republic, be given a fair opportunity to compete for jobs in organizations that consume public moneys. In response to the anticipated march on Washington, President Roosevelt issued Executive Order 8802 during June 1941 (Public Papers). This executive order barred discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin and stated that it is the duty of employers and of labor organizations “to provide for the full and equitable participation of all workers in defense industries.” (Burman, 1973, p. 2; Coleman, 1993, pp. 42-43; Graham, 1990, p. 10; Jaynes & Williams, 1989, p. 86, Squires, 1977, p. 1).

The 1941 executive order also created the Fair Employment Practices Commission (FEPC). President Roosevelt issued a second executive order regarding social equity during May 1943 —Executive Order 9346. The 1943 executive order prohibited discrimination in federal agencies and mandated nondiscrimination clauses in all government contracts. However, the executive orders issued by Roosevelt did not include enforcement power (Coleman, 1993; Graham, 1990, pp. 10-11).

The new FEPC had four formidable weaknesses. First of all, “...the small and part-time committee had a staff of only eight members, half of them clerical, and was funded out of the catch-all, special projects fund in Roosevelt’s newly consolidated ‘Executive Office of the Presidency’” (Graham, 1990, pp. 10-11). This precluded the development of normal patterns of federal supervisory activity that were practiced by such congressional approved agencies as the Federal Trade Commission or even the...
new and controversial National Labor Relations Board (NLRB). Like the older regulatory agencies, the NLRB employed a network of regional offices to reflect the reality that 90% of federal civilian employees worked outside Washington—as of course did most defense contractors. Second, while the FEPC’s coverage included federal employees and defense contract employers, the President had no direct authority over labor unions, which were not formal parties to federal contracts. Most private employment remained well beyond the President’s direct reach.

Third, as a creation of executive fiat, the FEPC lacked statutory enforcement powers. The FEPC was therefore concentrated on persuasion, voluntary action to provide social equity through public education, with pressure generated by community organizations primarily through hearings. It could not initiate action without first receiving a complaint, and then could only investigate charges and issue an advisory opinion or recommendation. The members of the FEPC were understandably loath to jeopardize war production, or to relinquish their independence to a tiny upstart agency. Finally—and ultimately fatally—the FEPC lacked political legitimacy in public opinion and in the corridors of national power (Graham, 1990). “Within the government, federal managers instinctively resented a new watchdog agency whose very inquirers seemed to insulate both their competence and their sense of fairness” (Graham, 1990, p. 11). Additionally, the executive orders issued by President Roosevelt, were opposed by Congress and FEPC efforts were ended in 1945 (Graham, 1990, p. 11).

President Harry S. Truman (1945 - 1952) issued two executive orders related
to social equity. During July 1948, Executive Order 9981 provided for the racial integration of the Armed Forces of the United States (Sylvia, 1994). The second executive order issued during December 1951 provided for the establishment of the Committee on Government Contract Compliance with a sunset date of January 1953 (Coleman, 1993, p. 43).

During the administration of President Truman, the leadership of the CIO had strongly supported FEPC, but the AFL and the rank and file of labor did not according to Graham (1990, p. 11). Graham (1990) stated,

As an executive creation unbeholden to Congress for either authority or budget, the FEPC found new friends on Capitol Hill. When the FEPC journeyed into the South in June of 1942 to hold hearings in Birmingham, it stirred congressional resentment and returned to Washington to find itself suddenly transferred to the War Manpower Commission under the directorship of Paul V. McNutt; future funding if any, would now be channeled through the normal congressional budget and review process. (p. 11)

A majority of the members of the FEPC resigned, and FEPC collapsed even though President Truman and the NAACP petitioned for social equity for all Americans through the FEPC.

Dwight D. Eisenhower was president from (1953 - 1960) and was responsible for two executive orders regarding the issue of social equity. The first executive order #10557 was issued in 1954. This order continued the previously established Fair Employment Practices Commission. Vice-president Richard Nixon was assigned responsibility for the commission. During August 1953, President Eisenhower established the Committee on Government Contracts (Coleman, 1993, p. 43; Graham, 1990, p. 17). As with previous executive orders issued by the President
Regarding the issue of social equity for all citizens, these executive orders did not have the support of Congress.

Several years passed before another president issued an executive order regarding social equity for all American citizens. In March 1961, President John F. Kennedy (1961 - 1963) issued Executive Order 10925. This order required not only that federal contractors not discriminate, but also that they "take affirmative action to ensure that applicants are employed, without regard to their race, creed, color, or national origin." This executive order was the first to set out specific penalties for non-compliance (Burman, 1973, p. 2; Coleman, 1993, pp. 41-42; Graham, 1990, p. 28). Executive Order 10925 also instructed agencies to take affirmative action by reviewing their own practices, engaging in recruitment on black college campuses, and developing plans and recommendations for needed changes (Coleman, 1993, p. 44; Sylvia, 1994, p. 57).

President Kennedy subsequently issued Executive Order 11114 (Public Papers). This executive order extended nondiscrimination coverage beyond the contractor to include federally aided construction projects. This extension is important because it ensured that contracts at the state and local levels would be compelled to meet federally mandated contractual requirements regarding affirmative action social equity public policy. In spite of the good intent, these efforts by President Kennedy were less successful than those of his successor President Johnson.

President Lyndon B. Johnson (1963-1968) issued Executive Order 11246 in 1964. This order reassigned contract compliance responsibility from the Vice
President to the Secretary of Labor. This shift of responsibility to Congress ended the congressional opposition to this public policy issue, which had been experienced by the Roosevelt administration. Efforts of social equity public policy were continued by President Johnson when he issued Executive Order 11375 which amended Executive Order 11246 to prohibit pay discrimination based on sex (Clayton & Crosby, 1990, pp. 13-14; Eccles, 1976, p. 3; EEOC; Squires, 1977, pp. 6-7; Sylvia, 1994, p. 57).

From 1969 - 1974 Richard M. Nixon was President. As vice-president during the administration of President Eisenhower, Nixon gained experience with social equity through his work with the FEPC, which seemed to help form the direction of his administration in this area. President Nixon issued Executive Order 11478 in 1969. This order directed agencies to provide sufficient resources to make affirmative action programs work. They were expected to engage in outreach recruitment, use current employees, provide training and advice to managers, use community resources for recruitment, and develop monitoring systems for progress (Sylvia, 1994, p. 57).

During the administration of Richard Nixon, the Office of Contract Compliance issued an order in 1969 known as the “Philadelphia Plan,” which required contractors on federal construction projects in that city to establish “specific goals and timetables for the prompt achievement of full and equal employment.” In 1971, the Office of Contract Compliance generalized the use of goals and timetables for contractors by expanding its Order Number 4, which had originally only required the
existence of an affirmative action plan (Lester, 1980, pp. 138-139; Sylvia, 1994, p. 57). The expanded requirements included a broader definition of minority (protected group) group coverage as well as union responsibility for discrimination (Graham, 1990). Roberts and Stratton (1995, pp. 35-51, 80) argues that Nixon’s action in the construction industry resulted in similar goals and timetables regarding admissions and faculty hiring in education which resulted in the DeFunis v. Odegaard (1974) Supreme Court decision. Nixon’s Department of Labor initiative was followed by Nixon’s establishment of the Department of Health, Education, and Welfare (HEW). Even though Secretary of Labor George P. Shultz and President Nixon were not advocates of affirmative action, they supported this order and weathered Congress’ opposition to it.

The presidency of Gerald Ford (1974 - 1976) was one in which there was minimal civil rights activity according to Shull (1993, pp. 64-65, 79). However, Ford’s administration is known for social equity activity in the policy area of handicapped individuals as is evidenced by the fact that President Ford did not veto the Education for All Handicapped Children Act in 1975 (Shull, 1993, p. 210). Ford also was opposed to busing, but he was not able to get his antibussing proposal passed (Shull, 1993, p. 210).

The passage of the Civil Service Reform Act of 1978 was the mechanism by which President James Carter (1977 - 1980) was able to continue efforts to ensure equal opportunity for all American citizens (Sylvia, 1994, p. 62). As part of the 1978 Civil Service Reform Act (reform of the civil service system), President Carter
transferred to the Equal Employment Opportunity Commission responsibility for
equal employment opportunity in the federal government. Additionally, the result of
Executive Order 12067 gave responsibility for affirmative action leadership in gov-
ernment to EEOC (Sylvia, 1994, p. 61). Age, equal pay, and handicap discrimination
concerns previously administered by the Department of Labor were also given to the
EEOC. President Carter also was able through Executive Order 12250 of November
1980 to allocate leadership for and coordination of nondiscrimination efforts to the
Office of the Attorney General. According to this order, the Attorney General would
monitor agencies’ enforcement of the nondiscrimination provisions of Section 504 of
the 1972 Rehabilitation Act, which related to individuals with handicaps (Sylvia,
1989, p. 62). Noteworthy, too, is President Carter’s veto of an appropriations bill that
would have stripped the Justice Department of the authority to order busing for
school desegregation (Shull, 1993, pp. 37-39, 82). President Carter’s primary affir-
mative action weapons were executive orders and the appointment of women and
minorities to important government positions according to Shull (1993, pp. 111-112).
The concerns of President Carter continued to be issues for his successor, President
Ronald Reagan.

The party change of the White House from Democratic President James
Carter to Republican President Ronald Reagan did not entirely stop social equity
efforts concerning the education of blacks and individuals with handicaps. A review
of both the presidential papers and the annual reports of the Office of Personnel
Management and the EEOC indicates, according to Sylvia (1994), a commitment
during Reagan's first term to improving employment opportunities for disabled persons in the federal service (Sylvia, 1989, p. 62).

President Reagan issued Executive Order 12320 on September 15, 1981. This order provided for federal assistance to improve the administrative structures of black colleges and universities and increased federal funding allocated to them (Codification of Presidential Proclamations and Executive Orders of Ronald Reagan, 1990). During questioning on December 17, 1981, the President was asked about the Supreme Court decision in the case of United Steel Workers v. Weber concerning affirmative action. Initially, the response of President Reagan was vague, "I can't bring that to mind as to what it pertains to and what it calls for." The question was clarified with the following statement:

It's a decision ruled on by the Supreme Court, which allows specifically-in that particular case, it was a labor union and a firm which entered into a voluntary agreement to conduct affirmative action programs for training minorities and moving them up in the work force. William Bradford Reynolds, the Assistant Attorney for Civil Rights, said that that decision should be overturned and that he was looking for future Supreme Court cases in which that decision could be overturned, apparently that was (Codification, 1990, p. 1169).

The President responded: "Well, if this is something that simply allows the training and the bringing up so there are more opportunities for them, in voluntary agreement between the union and management, I can't see any fault with that. I'm for that" (Codification, 1990, p. 1169).

Reagan was opposed to affirmative action, and consequently little emphasis was placed on equal employment opportunity during his term (Sylvia, 1989, p. 63). Sylvia points out how critics charged President Reagan with appointing commissions
and administrative agencies dealing with equal employment opportunity as an attempt to reverse policies put in place by previous presidential administrations. The result of President Reagan's attempts in this area focused on the intensity of enforcement and in legal challenges to what could and should be done to correct past injustices according to Sylvia (1989, p. 64). Reagan, a civil rights activist, forced a redefinition of the term "affirmative action" to mean a reduction in government's role (Shull, 1993, pp. 183-184). These actions and statements by Reagan put civil rights in the forefront of the national political agenda.

On December 21, 1981, President Reagan issued Executive Order 12336 which established "The Task Force on Legal Equity for Women." This order provided for the systematic elimination of regulatory and procedural barriers, which had unfairly precluded women from receiving equal treatment from federal activities (Codification, 1990). The Civil Rights Restoration Bill of March 1988 was vetoed by Reagan and overridden five days later by Congress (Shull, 1993, p. 84). Support for protected groups during his administration focused primarily on blacks and women (Shull, 1993, p. 53). Throughout his administration, President Reagan provided numerous positive actions supporting civil rights, most notably his opposition to quotas (Shull, 1993, p. 54). The issues President Reagan championed included legislation related to Indian self-determination, the disabled, discrimination within private, non-profit educational organizations, pensions, and housing. The actions of President Reagan fueled concerns regarding affirmative action (Shull, 1993, pp. 54-55). The Reagan administration acted as a "party of balance" rather than as a "party of
opposition" in terms of civil rights policy (Belz, 1992, pp. 14, 18).

The administration of President George Herbert Bush (1989 - 1992) is similar to President Reagan's regarding the various positions held for affirmative action and equal employment public policy. On June 30, 1989, President Bush delivered remarks at the White House ceremony commemorating the 25th anniversary of the Civil Rights Act. In part, the President said,

It's appropriate today that we rededicate ourselves to that most American of dreams: a society in which individuals are judged not 'by the color of their skin, but by the content of their character.' That means vigilant and aggressive enforcement of all civil rights laws... The lives of the disadvantaged in this country are affected by economic barriers at least as much as by the remnants of legal discrimination. For that reason, I continue to support affirmative action and minority outreach programs. Moreover, as I've stated before, we must move beyond the protection of rights to the creation of opportunity. (Public Papers, 1989, pp. 834-836)

The President continued by stating, "On the other fronts, we're supporting landmark new legislation to extend the Nation's civil rights guarantees to those more than 36 million Americans with disabilities, bringing them into the mainstream of American society." On August 8, 1989, President Bush in his remarks to the National Urban League Conference stated, "I want to make sure everyone in this room knows just exactly where I stand and just where my administration stands. My administration is committed to reaching out to minorities, to striking down barriers to free and open access" (Public Papers).

Throughout 1990, the President and Congress attempted to put the Civil Rights Act in place. On October 20, 1990, President Bush stressed his revision in the proposed Civil Rights Act. Later, on October 22nd, the President sent a message to
the Senate returning without approval the Civil Rights Act of 1990 (Public Papers & Shull, 1993, p. 89). The President cited, among other problems, references to “quotas” in the bill sent to him by the Senate:

Despite the use of the term ‘civil rights’ in the title of S.2104, the bill actually employs a maze of highly legalistic language to introduce the destructive force of quotas into our Nation’s employment system. . . . S.2104 creates powerful incentives for employers to adopt hiring and promotion quotas.

During the early part of 1991, debate surrounding the nomination of Clarence Thomas to the Supreme Court and the candidacy of David Duke in the gubernatorial race in Louisiana caused Republican senators to re-evaluate their position regarding the pending civil rights bill, and consequently, they sought a compromise (Shull, 1993, p. 90). On November 21, 1991, President Bush signed S. 2104 noting that the quotas which had been originally included in the bill submitted by the Senate had been eliminated. Furthermore, President Bush signed the Civil Liberties Act Amendments of 1992 on September 27, 1992. This act provided for funds to fulfill the 1988 Civil Liberties Act, which designated monetary compensation to persons of Japanese ancestry who had been interned or relocated during World War II and to their families. The 1992 Act also provided technical amendments to the 1988 Act, which would help ensure fair treatment of claimants and smooth administration of the program (Public Papers).

One of the last tasks President Bush accomplished before his administration came to an end was the Glass Ceiling Commission which he inaugurated on October 2, 1992. Specifically, this Commission was established to focus on examining and eliminating discriminatory barriers to the advancement of women and minorities to
senior positions in the workplace. Collectively, the major civil rights activities of Presidents Reagan and Bush are outlined in Figure 2 provided by Shull (1993, p. 42).

William J. Clinton began his presidential administration in 1993 and continues as of this writing. His administration is one in which the issue of social equity regarding affirmative action is at a dialectical peak. For the first two years of his presidency, President William Clinton clearly expressed his commitment to policy regarding affirmative action social equity in his interviews and speeches. For example, on May 11, 1993, President Clinton spoke to the Leadership Conference on Civil Rights. At that time, President Clinton cited his nomination of Lani Guinier to be Assistant Attorney General for Civil Rights. President Clinton also explained how his administration had committed itself to the enforcement of civil rights laws and diversity (Public Papers, 1989, pp. 834-836). On August 4, 1994, President Clinton prepared and sent the “Memorandum for the Heads of Executive Departments and Agencies, Subject: Civil Rights Working Group.” The purpose of this memorandum was to emphasize “our responsibility to promote equal opportunity for all Americans . . . respect one another and to live in harmony and peace . . . bring new energy to our efforts to promote an open and inclusive society” (Public Papers, 1994, p. 1430). This memorandum directed the Working Group to advise appropriate administration officials and the President on how federal laws and policies regarding civil rights and affirmative action might be modified to strengthen protection under the laws and on how to improve coordination of the vast array of federal programs that directly or indirectly affected civil rights (Public Papers).
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<tr>
<th>Year</th>
<th>Event</th>
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<tr>
<td>1981</td>
<td>Federal jurisdiction over private contractors’ personnel practices is rewritten to exclude all but very large companies.</td>
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<tr>
<td>1981</td>
<td>Ronald Reagan’s Executive Order 12320 increases federal government support to historically black colleges and universities.</td>
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<tr>
<td>1982</td>
<td>The Voting Rights Act is extended for 25 years.</td>
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<tr>
<td>1983</td>
<td>Chicago elects a black mayor, Harold Washington.</td>
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<td>1983</td>
<td>Martin Luther King’s birthday is declared a national holiday.</td>
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<td>1984</td>
<td>Memphis Fire Department v. Stotts holds that whites may not be laid off to be replaced by blacks with less seniority.</td>
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<td>1984</td>
<td>Grove City College v. Bell restricts the reach of four antidiscrimination statutes to specific programs or activities within larger organizations receiving federal aid.</td>
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<td>1986</td>
<td>Wygant v. Jackson Board of Education protects white public employees against most racially motivated layoffs but also endorses affirmative action generally, including plans that cost whites entry-level jobs.</td>
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<td>1986</td>
<td>Senate Judiciary Committee rejects (for only the second time in forty-nine years) a Reagan nominee for the federal bench due to his positions on civil rights.</td>
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<td>1987</td>
<td>Johnson v. Transportation Agency approves greatly expanded use of affirmative action in promotions.</td>
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<td>1987</td>
<td>United States v. Paradise upholds the constitutionality of temporary promotion quotas.</td>
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<td>1988</td>
<td>The Civil Rights Restoration Act (PL 100-259) overrides a presidential veto to overturn Supreme Court’s Grove City decision.</td>
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<td>1988</td>
<td>The Fair Housing Act (PL 90-284) extends the antidiscrimination provisions of 1968 act to handicapped individuals and to families with children.</td>
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<td>1989</td>
<td>Richmond v. Croson declares any government program favoring one race over another (through minority set-asides) to be “highly suspect.”</td>
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<td>1989</td>
<td>New York City elects a black mayor, David Dinkins.</td>
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<td>1989</td>
<td>Congress rejects George Bush’s nominee William Lucas for head of the Civil Rights Division.</td>
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<td>1989</td>
<td>Wards Cove v. Atonio holds that employees must prove there was no legitimate business reason for a firm’s alleged discriminatory acts.</td>
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<td>1989</td>
<td>Five other close Supreme Court decisions limit remedies for job discrimination, promoting legislation to overturn them.</td>
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<td>1990</td>
<td>Congress passes a civil rights bill; Bush vetoes it and the Senate fails to override the veto by a single vote.</td>
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<td>1991</td>
<td>Congress passes, and Bush signs after long opposition, the Civil Rights Act (PL 102-166).</td>
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<td>1991</td>
<td>Clarence Thomas, Bush’s nominee for Thurgood Marshall’s seat on Supreme Court, is confirmed by 54-46 vote after considerable controversy.</td>
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<td>1991</td>
<td>Racial violence breaks out in nearly all-white Dubuque, Iowa.</td>
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<td>1992</td>
<td>Racial violence in Los Angeles follows the acquittal of white police officers accused in the beating of black motorist Rodney King.</td>
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<td>1992</td>
<td>Freeman v. Pitts relaxes school desegregation requirements.</td>
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<td>1992</td>
<td>Presley v. Etowah County Commission removes the requirement for Justice Department preclearance of changes in local election districts.</td>
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The President’s commitment to civil rights continued even when in the early part of 1995 affirmative action was being challenged at the local, state, and national levels. On February 24, 1995, President Clinton was questioned regarding his position on affirmative action during his news conference with Prime Minister Jean Chretien of Canada in Ottawa:

Mr. President, is it true that you have ordered a review of affirmative action programs? And does it mean that you are backing off from giving a leg up to disadvantaged from past eras? The President. No, it’s not true that I’m backing off from giving a leg up. It is true, as I have said publicly now for some time, that I believe that we should not permit this affirmative action issue to degenerate into exactly what is happening, just another political wedge issue to divide the American people. I believe that every American would acknowledge that there are affirmative action programs which have made a great deal of difference to the lives of Americans who have been disadvantaged and who in turn have made our country stronger. The best example of all, I believe, are the people who have served in the United States military, who, because of the efforts that have been made to deal with disadvantaged minorities who had not been given a chance to rise as high as their abilities could take them. In education, training, leadership, development, the military today is a model; it looks like America, and it works. (Public Papers, 1995, p. 263)

On March 3, 1995 when President Clinton was answering questions regarding affirmative action, he cited the twists and turns of the past twenty-five years of affirmative action programs. He also explained how the American people wanted an end to discrimination and wanted it punished wherever it existed (Public Papers). On March 23, 1995, President Clinton was questioned about the review status of his administration on the issue of affirmative action. His response crystallized several critical issues of affirmative action:

Well, first, the status is ongoing. I’ll talk a little about where we are now, but I want to emphasize that the review is still underway. And let me urge you—I know there must be a lot of discussion about this on college campuses as it
affects admissions policies. But I want to emphasize to begin with, if you spark a debate about this, it’s important to know what people are talking about when they’re talking about affirmative action. There are policies of the Government and policies in the private sector that affect admissions to colleges, availability of financial aid to schools, admissions to workplaces and promotional policies within the workplace, and access to contracts in the public sector and sometimes in the private sector as well, like big companies contracting with smaller ones. So you’re basically talking about a range of programs. When there is evidence of past discrimination, as found in a court, then there can be more strenuous rules and regulations. Otherwise, there are actually a lot of strictures [structures] on how far affirmative action can go in giving preferences to people based on race or gender. (Public Papers, 1995, pp. 387-388)

The President continued his response by referencing his childhood experiences, which included segregated rest rooms, the lack of knowledge regarding the abolition of poll tax and the lack of women in certain jobs. The President went on to explain how it was in no one’s interest to see that people get positions if they’re completely unqualified to hold them. The President also referenced national and international concern regarding the rights of women and violence against women, as well as ethnic, religious and racial disputes (Public Papers). The March 23, 1995 interview closed with the following statement by the President:

I’m against discrimination. I’m against giving people opportunities who are unqualified. But we all have an interest, including white males, in developing the capacity of all of us to relate to one another, because our economy will grow quicker, it’ll be stronger, and in a global society, our diversity is our greatest asset. We must not let this debate be another cheap political wedge issue to divide the American electorate. We can use this to come together, and that’s what we ought to do. (Public Papers, 1995, pp. 389)

These concerns of President Clinton continued to be expressed on June 13, 1995 when he responded to the Supreme Court decision in the Adarand case regarding affirmative action. The President reaffirmed his belief that affirmative
action was needed to remedy discrimination and to create a more inclusive society
that truly provides equal opportunity but that it must be carefully justified and must
be done the right way. He continued by stating that, “the Court’s opinion in the
Adarand case is not inconsistent with my view” (Public Papers, 1995, p. 877).
According to the President, “the constitutional test is now tougher... but I am
confident that the test can be met in many cases” (Public Papers, 1995, p. 877). The
President’s summary regarding the Adarand case included several questions he pro­
posed to his staff conducting a review of federal affirmative action programs that
make race or sex a condition of eligibility for any kind of benefit:

What, concretely, is the justification for this particular program? Have race
and gender-neutral alternatives been considered? Is the program flexible?
Does it avoid quotas in theory and in practice? Is it transitional and tem­
porary? Is it narrowly drawn? Is it balanced... concentrates its benefits
and its costs? (Public Papers, 1995, p. 878)

The 1995 response to affirmative action from the Speaker of the House, Newt
Gingrich (R-GA) was also dichotomous. During the Winter/Spring of 1995 Gingrich
was an active republican supporter for eliminating affirmative action.

During an appearance on NBC’s “Today Show”, Speaker Gingrich adjusted
his position on affirmative action (“A New Tack,” 1995). Gingrich explained how he
had become more knowledgeable about the controversial subject of affirmative
action during the last six months. Representative Gingrich acknowledged on the
NBC “Today Show” how he now understands

the legitimate fear of African Americans who look back only 30 years ago to
segregation, to state police who were beating people like John Lewis (then a
young civil rights leader, now a Democratic house member from Georgia),
and you can sense the legitimate, genuine fear we could slip back into that

During his appearance, Speaker Gingrich also stated how he remains opposed to
racial quotas and set-asides, however,

Republicans have an obligation to reach out much more emphatically and
more strongly to the black community and communicate that we will in fact
be protecting civil rights, that we're not going to block-grant civil rights, and
the federal government is going to stand firmly committed against discrimina-

These statements by the President and Speaker Gingrich and others have fueled the
debate regarding affirmative action in America. The result is the continued dichot-
omy of interpretation by the court system.

Supreme Court Decisions and Responses by Congress

The Constitution grants the Supreme Court both original and appellate juris-
diction which gives it the authority to hear cases of a particular type. Specifically,
original jurisdiction is the court's authority to hear a case first. Appellate jurisdiction
is the authority of a given court to review cases that have already been tried in lower
courts and have been appealed to it by the losing party; such a court is called an
appeals court or appellate court. The Supreme Court may review a case through a
"Writ of Certiorari" or simply may deny the appeal from the lower court. A "Writ of
Certiorari" is permission granted by a higher court to allow a losing party in a legal
case to bring the case before it for a ruling (Paterson, 1997, p. 469). A denial is
simply a denial and has no precedential value regarding the lower court decision.
However, public reporting confuses what the Supreme Court has done (Justices
O'Connor & Thomas, 1997).

The Court may simply decide a case based on the principle of *stare decisis*, which means to stand by previous decisions (Patterson, 1997, p. 483; Ulmer, 1981, p. 305). Martin Shapiro (Ulmer, 1981, pp. 313-314) argues how the general phenomenon of decision making through the court's use of *stare decisis* might be labeled incrementalism. Incrementalism is then a process of "satisficing" rather than maximizing according to Shapiro (Ulmer, 1981, pp. 313-314). Satisficing is the process of finding a decision alternative that meets the decision maker's minimum standard of satisfaction (Chandler & Plano, 1988, p. 154). According to Chandler & Plano (1988), "If maximizing means getting the most out of something, satisficing means getting only enough to meet the immediate need or selecting the solution that is least upsetting to stability" (p. 154). Shapiro (Ulmer, 1981, p. 313) cites works by two pairs of authors, Cyert and March, and Braybrooke and Lindblom, regarding the decision making process that might apply to both political and economic decisions regarding public policy. All four authors describe this process as a series of incremental judgments instead of a single comprehensive decision. The decision maker compares all alternatives called marginal variations to the status quo. Historical and contemporary experience form the basis upon which alternatives are selected — *stare decisis* (Ulmer, 1981, p. 314).

Cases initially decided in the federal district court system may be appealed to one of the eleven circuit courts of appeal. Some cases are appealed as a matter of right, others only by permission. Michigan courts are within the jurisdiction of the
Sixth Circuit Court of Appeal. Most cases which are appealed from the Circuit Courts to the United States Supreme Court must be appealed by permission, and may proceed only if the Supreme Court, in its discretion, grants review by, certiorari.

Supreme Court opinions may represent a majority of the nine justices, a plurality, a concurring or dissenting opinion by a justice, in which other justices may, or may not, join and a variety of other actions, including returning the case to the lower court (Patterson, 1997, p. 471). Cases which are heard by the court must be based upon a federal statute, or upon a constitutional provision. In the area of affirmative action, most cases have arisen under the provisions of the Thirteenth, Fourteenth, or Fifteenth Amendments of the U. S. Constitution, or under Title VI or Title VII of the Civil Rights Act of 1964. When the Fourteenth Amendment is cited, the case often involves questions of due process or equal protection.

Equal protection analysis is triggered by governmental use of classification. A long line of cases has established that when the classification is based upon race, religion, or national origin, the criteria applied is that of "strict scrutiny". In such cases, the governmental unit must show evidence of a compelling governmental interest to prevail (Fiorina & Peterson, 1998). Gender based classifications are judged by an intermediate level of scrutiny, and all other categories are reviewed on a lower level described as "rational basis". In rational basis cases, the government need show only that there is a rational relationship between the governmental interest and the classification (Ducat & Chase, 1992, pp. 93-96).

Affirmative action cases follow the patterns of a social equity divide
established throughout five decades. Two decisions demonstrate this well. The first is *Plessy v. Ferguson*, 1896, and the second is *Brown v. Board of Education*, 1954. In *Plessy*, the court determined that separate but equal, in a public transportation system, did not violate the Constitution. In 1954, the Court rejected the separate but equal doctrine in deciding that Negro children could not be restricted to segregated schools. The precedent established in the *Brown* case and the passage of the Civil Rights Act of 1964 have generated numerous Supreme Court decisions defining public policy social equity for Americans. The principle of *stare decisis* has operated in most of these cases. It is not unusual for the Court to reverse its own decisions, but the Court often reinterprets a portion of a decision, or finds a different decision in a later case.

A chronological review of Supreme Court decisions related to public policy affirmative action social equity does not adequately analyze the current divisions on these issues in the Court. Table 2 lists cases according to issue areas of affirmative action over the thirty-one year time period of this study. The most relevant cases listed in Table 2 are discussed later in this section.

Employment discrimination cases decided under Title VII are usually a question of whether the alleged discrimination was intentional or unintentional. Although the statute in itself does not define these two categories, court decisions have interpreted intentional discrimination to include evil motive, which is an intentional action to deliberately discriminate against an individual because of group characteristics such as race, color, age, gender, or national origin. Difference of treatment also is
<table>
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<td>Title VII</td>
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<td>Program or entire organization</td>
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<td>Metro Broadcasting Inc. v. FCC</td>
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*Cases discussed in research
included in the definition of intentional discrimination because it represents a choice of action to provide or withhold privileges or opportunities to one individual rather than another, on the basis of group characteristics.

Unintentional discrimination, often disparate impact discrimination, occurs when practices which appear neutral, and fair on their face, have a different and disadvantageous impact of a group which shares similar characteristics such as race, color, gender, or national origin (Schuler & Huber, 1990, p. 94). Cases reviewed under the Thirteenth, Fourteenth, and Fifteenth Amendments must include evidence of intentional discrimination. Cases reviewed under Title VI or Title VII may show either intentional or unintentional discrimination.

Eighteen of the court cases listed in Table 2 are discussed here with reference to the development and implementation of affirmative action public policy. Each decision is identified as either a constitutional or Title VII issue to clarify the basis for review by the court. Furthermore, job qualifications, seniority, admissions, statistical measurement, affirmative action plans, set asides, pregnancy disability, hiring and promotion, and preference were the subjects of the cases reviewed.

Qualification

In 1971, the Supreme Court discussed the full scope of Title VII of the 1964 Civil Rights Act in the Griggs v. Duke Power Company case. In 1955, the Duke Power Company instituted a policy of requiring a high school education for initial assignment to any department except labor and for transfer from the coal handling
department to any inside department. The company abandoned its policy of restricting Negroes to the labor department in 1965 after the Civil Rights of 1964 had been enacted. Completion of high school was made a prerequisite to transfer from labor to any other department.

From the time the high school requirement was instituted to the time of the trial, however, white employees hired before the implementation of the high school education requirement who continued to perform satisfactorily achieved promotions in the operating departments. The issue before the Court in the Griggs case was whether or not the Civil Rights Act of 1964 prohibited an employer from requiring that an applicant have a high school education or passing a standardized general intelligence test as a condition of employment or to transfer to another job. Duke Power Company asserted that intelligence tests were specifically permitted by the Civil Rights Act of 1964, “any professionally developed ability test” that is not designed, intended or used to discriminate because of race is authorized for use. The petitioners argued that Title VII of the Civil Rights Act was violated because neither the high school requirement nor the general intelligence test was shown to have a demonstrable relationship to successful performance on the jobs for which it was used.

In the Griggs case, the Court ruled unanimously that job qualifications must be related to the position being filled. The Civil Rights Law of 1964 thus prohibits an employer from requiring a high school education or passing a standardized general intelligence test as a condition of employment or transfer of jobs when: (a)
Discriminatory educational systems in North Carolina resulted in significantly lower percentages of high school diplomas for black high school graduates; (b) Neither standard is shown to be significantly related to successful job performance; (c) Both requirements operate to disqualify Negroes at a substantially higher rate than white applicants; or (d) The jobs in question formerly had been filled only by white employees as part of a long standing practice of giving preference to whites.

The interpretation by the Supreme Court was that Duke Power Company had openly discriminated against Negroes. Further, Duke Power Company assumed that by requiring individuals to have a high school diploma or by requiring individuals to pass an intelligence test as conditions for employment they could legitimately exclude or limit Negroes from their work force. In North Carolina, where the Duke Power Company was located, the 1960 census statistics showed that 34% of white males had completed high school while only 12% of Negro males had done so. The Court also discussed the discriminatory educational system in North Carolina as a basis for its decision.

Through this ruling, the Supreme Court delivered the message that there had to be a relationship between job requirements and job performance. Prior to the Griggs case, many employers would use job requirements as a shield from hiring minorities. In the Griggs case, the Supreme Court ruled that such practices, while apparently fair on the face, were unlawful in their effect. The issues addressed in the Griggs case regarding qualifications and testing were visited by the Supreme Court on three additional occasions. The Griggs case established the “disparate impact”
theory of unlawful discrimination, which was previously discussed.

**Seniority**

The Constitutional issue in the *Wygant v. Jackson Board of Education* case was decided by the Supreme Court during 1986. In this case, the Supreme Court revisited the issue of layoffs and seniority. In 1972 the School Board of Jackson, Michigan and the teachers' union agreed to maintain the proportions of minority teachers, even in the event of layoffs. Budget restrictions in 1974 required teacher layoffs. The Jackson Board of Education abandoned the previously agreed upon layoff arrangement with the teachers' union, and initially, teachers were given layoff notices according to seniority. In subsequent years, layoffs for the Jackson Board of Education were made according to proportionality based on race.

The issue before the Court was whether or not layoffs could occur through a race-based proportional layoffs system instead of through the established seniority system to maintain minority employment gains. The Court decided in favor of the plaintiff. The Court believed the violation of seniority rights tipped the balance too much to one side. The Court required that race-conscious remedies be justified by a compelling state interest and, in turn, be justified by some showing of prior discrimination by the governmental unit involved.

**Admission**

During 1974, the United States Supreme Court ruled in the case of *DeFunis v.*
DeFunis applied for admission to the University of Washington Law School and was denied admission. DeFunis filed a lawsuit claiming he was illegally denied admission on the basis of reverse discrimination. A lower court forced his admission and graduation was assured, even though these developments resulted from an order barring the school from ejecting DeFunis until the Supreme Court had heard and decided the case. The Supreme Court decision was moot since DeFunis was near graduation and had also been accepted at several other law schools. The DeFunis case is important because of the dissent of Justice William Douglas regarding the importance of a diverse student body. Justice Douglas' dissenting opinion became the basis for Harvard University's voluntary affirmative action plan, which was later approved by the Supreme Court in the University of California Regents at Davis v. Allan Bakke (1978) decision regarding the constitutionality of affirmative action.

In Bakke, the University of California Medical School had been in existence for five years and was unable to demonstrate a history of exclusion, the factual predicate needed to authorize an affirmative action program. Without the predicate, the Court said the affirmative action program was intended to remedy not unlawful discrimination by Davis, but rather "societal discrimination" and thus was impermissible. In this case, the issue before the court was race as a factor in selection for admission. The court ruled in favor of Bakke and also held race could be a selection factor, along with other requirements, but not the only factor.

The University of Texas Law School v. Hopwood case was decided against
the Law School's affirmative action program and the Supreme Court refused to review the matter in 1996. In this case, Hopwood, a white female applicant to the law school, alleges she was denied admission while black applicants with lower qualifications were admitted.

There are two pending cases at the University of Michigan. Two applicants, a white female and a white male applied to the literature, science and arts program at the University of Michigan at Ann Arbor and were denied admission. The two students allege they were denied admission while black applicants with lower grade point averages and ACT scores were admitted. The other pending case was filed by a white woman against the University of Michigan alleging discrimination based on race for denial of admission to the University of Michigan law school.

Statistical Measurement

The 1977 Supreme Court Title VII decision in the case of the Teamsters v. United States is one involving a national motor freight carrier. The company and the union had a history of discrimination in hiring and promoting blacks and Latinos to long district truck driver positions. As of 1969, only one black employee had been promoted or hired as a long distance driver, even though there were terminals in cities with large black populations, and most black people in the work force had the skills.

The company had a combined total employment level of blacks and Latinos of less than .8%. However, after litigation began, the employment level for blacks
increased. The Court found in favor of the employees who had suffered discrimina-
tion after the Civil Rights Act of 1964. Yet, plaintiffs alleging discrimination prior to
the Civil Right Act of 1964 were not given relief or granted retroactive seniority.

The previously cited case of the Teamsters v. United States and the Title VII
case of the Hazelwood School District v. United States (1977) set the standards of
population measurement for representation and comparison of available skills and
recruiting area. The Teamsters case set the first standard under Title VII for the use
of statistics as well as subsequent pattern and practices cases for determining the
appropriate work force. It also set the standard for the use of job qualifications pos-
sessed by the available population work force. The standard in the Teamsters case
was the use of general population statistics for determining the appropriate labor
force, which met the requisite qualification, a driver's license. The Hazelwood case
was brought to the Court through a discrimination hiring suit. The Hazelwood
School District used the percentage of negro students in the district as the appropriate
percentage level for negro teachers in the system. During the 1972-1973 and 1973-
1974 academic years, the Hazelwood School District had negro teaching staff levels
of 1.4% and 1.8% respectively.

The percentage of qualified negro teachers in the area was, according to the
1970 census, at least 5.7%. The Court found that the comparison of Hazelwood's
teacher work force to its student population fundamentally misconceived the role of
statistical representation in skilled employment discrimination cases. The Supreme
Court upheld the Court of Appeals decision which affirmed that the proper
comparison was between the racial composition of Hazelwood's teaching staff and the racial composition of the qualified public school applicants who possessed the required qualifications, e.g. teacher certification within the relevant labor market.

Affirmative Action Plan

In 1979, the court decided a Title VII issue in the case of the United Steelworkers of America v. Weber. In 1974, the petitioners -- United Steel Workers, Kaiser Aluminum, and Chemical Corporation -- entered into a master collective bargaining agreement covering terms of employment. The agreement included an affirmative action plan designed to eliminate racial imbalances at Kaiser Aluminum. The agreement provided for 50% of the openings in Kaiser's plant craft category positions to be filled by black employees through a training program. The Weber case established four standards for affirmative action plan development: there must be a factual predicate for a voluntary affirmative action plan, the plan is a temporary action, the plan is narrowly tailored and does not unnecessarily trammel the interests of the white employees.

Kaiser Aluminum had a history of promotion based on seniority. Brian Weber was a white employee at Kaiser Aluminum and filed suit claiming he was discriminated against because of his race and not selected for promotion even though he had greater seniority than the promoted black employees. The Supreme Court ruled that Kaiser's voluntary affirmative action plan did not discriminate. This decision set the standard for affirmative action plans. Within a two year period, both Bakke and
Weber (white applicant and white employee alleging race discrimination through an affirmative action program in school and in employment) argued they were discriminated against under the Fourteenth Amendment and Title VII of the Civil Rights Act of 1964, yet the Supreme Court ruled differently in each case.

In 1987, a decision regarding gender discrimination was issued by the Supreme Court in the case of Johnson v. Transportation Agency of Santa Clara County. This was the first major case regarding gender and affirmative action under Title VII. Santa Clara County had an affirmative action program, which allowed county managers to take race and/or gender into account when making hiring or promotion decisions. A woman placed third on a promotional examination with a score two points less than two men who tied for second. The woman was promoted to the dispatcher position. The issue before the court was whether or not the affirmative action plan discriminated against white males. The Court ruled in favor of the Santa Clara County Transportation Agency.

Set-Asides

The issue of “set asides” has been addressed by the Court on four occasions. A “set aside” program is one where a given percentage of a governmental contract is given to minority and/or woman contractors (vendors). In 1980, the case of Fullilove v. Klutznick was based on a constitutional issue and involved the statutory requirement that 10% of all federal funds spent on public works projects is to go to businesses that have at least a 50% minority or woman ownership. The Public Works
Employment Act of 1977 was the authority base for the "set aside" program. The court upheld "set aside" because it was based on an act passed by Congress, and Congress has a broad right to make such legislative findings.

The constitutionality of "set asides" was again decided by the Supreme Court during 1989 in the case of the City of Richmond v. J. A. Croson. In 1983, the City of Richmond, Virginia began a minority set-aside program of 30% for all city construction contracts. The Court held that while Congress may have the authority to address the problem of "societal discrimination, a state or local governmental body may not." While agreeing with the Court, Justice Scalia went further to insist that "strict scrutiny" [must] be applied to all government classification by race whether or not its asserted purpose is "remedial" or "benign." Strict scrutiny is the constitutional standard applied to race-conscious affirmative action by public units when "compelling interest" is alleged to rectify discriminatory activities. The Supreme Court rejected Richmond's affirmative action plan (set asides) because it failed to show prior discrimination.

During June 1995, the Supreme Court heard and decided on another case regarding the constitutional issue of "strict scrutiny" in Adarand Constructors v. Pena (1995). The Adarand case involved "subcontractor compensation clauses" in federal agency contracts, where such clauses generally provided that a general or prime contractor would receive additional compensation for hiring subcontractors certified as small businesses owned and controlled by "socially and economically disadvantaged individuals." The issue was whether or not race-based presumptions had been used
to favor some minorities in determining which individuals were considered disadvantaged. The Supreme Court decided such classifications were constitutional only if they were narrowly tailored measures that furthered compelling governmental interests of public units to rectify otherwise discriminatory activities.

The case of Roadbuilders v. State of Michigan (1989) concerned an issue of "set asides" also. Public Act 428 of the State of Michigan established "set asides" and was challenged in the Court by the Roadbuilders Association. The Roadbuilders organization brought its case to court as a result of the State of Michigan's use of "set asides." This case was declared unconstitutional by the U.S. Court of Appeals for the Sixth Circuit and was affirmed by the United States Supreme Court following the Croson decision.

Responses by Congress

The role of the Supreme Court to determine if the laws of Congress and the actions of the President are constitutional is the process of judicial review. Judicial review was established in the case of Marbury v. Madison during 1803 (Patterson, 1996, 67-68). If Congress is not pleased with a Supreme Court decision, it may simply pass a law to change or modify the Supreme Court action. In the areas of affirmative action, and civil rights, Congress on three occasions passed laws after decisions were rendered by the Court.
Pregnancy Disability

Pregnancy disability was the central issue in the case of *Gilbert v. General Electric* (1976). The Supreme Court decided that pregnancy disability was not the same as other disabilities. Congress was not pleased with this decision regarding pregnancy disability and in 1980 passed the Pregnancy Discrimination Act—an amendment to Title VII (Congressional Record).

Federal Funding

The second case, one not previously mentioned in this research is the 1988 Supreme Court decision in *Grove City College v. Bell*. This case involved whether or not a recipient of federal funds is required to follow civil rights and affirmative action laws in the program receiving funds or all programs of the recipient. The Supreme Court ruled the law applied to only the program receiving funds. The United States Congress was not pleased with the United States Supreme Court decision in this case. Congress included language in the 1988 Civil Rights Restoration Act that requires a recipient of funds to meet civil rights and affirmative action requirements for all programs.

Hiring and Promotion

Hiring and promotion were the issues in the *Wards Cove Packing Co., Inc. v. Antonio* (1989) case. This is the third case in the area of affirmative action, which involved a conflict between the Supreme Court and Congress. The Wards Cove case
involved a Title VII issue. This case began in 1973 and alleged discriminatory prac-
tices in hiring and promoting. Wards Cove Packing Company is a seasonal salmon
packing company in the state of Alaska. The company basically had two job classifi-
cations: cannery positions which are non-skilled, and seasonal and non-cannery
positions. White employees occupied all of the non-cannery positions, most of which
were year-round, and cannery positions were occupied by Alaskan natives that lived
in villages near Wards Cove Packing Co.

The company would hire cannery applicants through Local 37 of the Inter-
national Longshoremen’s and Warehousemen’s Union. Non-cannery workers would
be hired during the winter months from the company’s offices in Washington and
Oregon. Non-cannery workers were paid more and ate in separate dormitories from
the cannery workers. The Court ruled in favor of Wards Cove Packing Co., Inc. and
asserted that “lawyers may not rely just on statistics to suggest a pattern of discrimi-
nation. Instead, they must show that a particular hiring or promotion standard caused
the statistical disparity” (Wards Cove Packing Co. v Atonio, 1989). Congress
responded to this decision in 1991 with the pas-sage of the Civil Rights Act, rein-
stated the statistical standard used prior to the Wards Cove decision, by adopting the
formula as it existed, one day before the decision of the Supreme Court in the Ward
Cove case (Congressional Record).

Preference

Preferential awarding of broadcast licenses by the Federal Communication
Commission was a constitutional issue in the 1990 decision of the Supreme Court in
the case of Metro Broadcasting Inc. v. FCC. Metro Broadcasting filed its case as a result of the FCC policies awarding preferences for minority ownership in comparative proceedings for new licenses. The decision by the Court was in favor of the FCC and endorsed the latter's policies,

We hold that benign race-conscious measures mandated by Congress—even if those measures are not 'remedial' in the sense of being designed to compensate victims of past governmental or societal discrimination—are constitutionally permissible to the extent that they serve important governmental objectives within the powers of Congress and are substantially related to achievement of those objectives. (Metro Broadcasting, Inc. v. FCC, 1990)

National activities by the President, Congress, and the Supreme Court regarding affirmative action social equity public policy also were initiated at the state and local governmental levels as discussed in the next section.

Michigan Institutional Action

Michigan state laws, executive orders, and directives by the governor regarding affirmative action have paralleled those established at the national level. This national-state pattern of public policy has followed precedents established in other areas of law. In some instances, the state was first to pass and implement laws in the area of civil rights protections. In other instances, the federal government was first to initiate legislation to protect individuals from unlawful discrimination. These affirmative action laws also were enacted at the state level and ensure the fair expenditure of public funds as well as public accommodation for all citizens. Table 3 is an illustration of states that passed FEPC legislation with enforcement powers as reported in 1968 by Landes in Burman (1973, p. 9).
Table 3
State FEPC Year of Enactment and Existence of Power

<table>
<thead>
<tr>
<th>State</th>
<th>Enactment</th>
<th>Power*</th>
<th>State</th>
<th>Enactment</th>
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</table>

*The existence of power is determined by the existence of a commission with enforcement power. These determinations were made by William M. Landes, “The Economics of Fair Employment Laws,” The Journal of Political Economy, LXXVI, No. 4, Part I (1968), 507 (Burman, 1973).
Michigan initiatives to provide equal opportunity/affirmative action span the entire list of Michigan executive office holders for the time period of this study, specifically, Governors George Romney, William Milliken, James Blanchard, and John Engler. Initiatives by the state include activities regarding prohibitions against illegal discrimination in the areas of programs for protected group members, as well as protections for state employees. Interwoven with other activities of the Michigan legislature, these initiatives provide a chronology of equal opportunity and affirmative action activity within the State of Michigan and form the basis for the focus of this study —the construction industry of Michigan.

The initial approach of Michigan elected officials to equal opportunity was proactive and voluntary, and the same emphasis exists today. The Fair Employment Practices Act (Act 251) enacted by the State Legislature of Michigan in 1955 required that all contracts let by the State and any political or civil subdivisions thereof contain a nondiscrimination clause. However, enforcement of contract compliance was delayed for twelve years (Sheffield, Box 1, Michigan Civil Rights Commission [MCRC]).

The citizens of Michigan passed constitutional protections for civil rights in 1963 (Constitution of Michigan, 1964). These protections provided for the creation of the Michigan Civil Rights Commission to replace the Fair Employment Practices Commission established in 1955 (Act 251). The initial protections provided by this act and the subsequent amendments granted protection against unlawful discrimination in the areas of employment, housing, education, public service, and public
accommodations on the basis of religion, race, color, national origin, age, sex, height, weight, handicap, or marital status. Furthermore, medical protection for pregnancy related discrimination was passed by the Michigan legislature in 1980.

The civil rights laws and Executive Directives of Michigan positioned the State of Michigan to be one of the first governmental units (State/Local) to be granted 706 Agency status by the US EEOC in the area of civil rights enforcement. States, which passed FEPC legislation with enforcement power, are illustrated in Table 2 along with those agencies that did not have enforcement power (Graham, 1990). As a 706 status agency, Michigan is in first position to adjudicate cases of alleged discrimination before they reach the national agency (Equal Employment Opportunity Commission).

In 1982, the Michigan congress passed amendments to the Elliott-Larsen Civil Rights Act to prohibit investments in the United Soviet Socialist Republic of Russia after 1983. The Michigan legislature also included in this act at that time, the prohibition of investments in South Africa after 1984. These acts were consistent with the Michigan legislature's concern for civil rights in the expenditure of state funds.

The U.S. Congress passed the Rehabilitation Act of 1972 to provide protections for individuals with handicaps. This act encouraged the hiring of handicapped individuals through financial incentives to employers and by providing limited medical liability for an on-the-job injury incurred by a handicapped employee who had been certified through the Michigan Department of Education. In 1976, along with
the Elliott-Larsen Civil Rights Act (codification of Michigan equal rights and civil rights laws), the legislature of Michigan passed Public Act 220, which provides protection for individuals with handicaps (differently abled / limiting condition) resulting from both physical and / or mental conditions.

The Elliott-Larsen Civil Rights Act and the Persons with Disabilities Civil Rights Act authorize affirmative action plans as a voluntary method to be utilized to remedy both unlawful discrimination and an employment situation where there is under-representation of one or more protected groups. The standards for review of such plans have been approved by the Michigan Supreme Court in Victorson v. Michigan Department of Treasury (439 Michigan 130, 140, 1992). "Basic Steps to Develop Effective Equal Employment Opportunity Programs" initially was adopted by the Michigan Civil Rights Commission in 1975 and later readopted in 1989 as a standard for the review of voluntary affirmative action plans presented for approval under the statutes (MCRC Archives).

Critical to the Michigan Supreme Court decision in Victorson v. Michigan Department of Treasury is the statement made by the court:

We believe that by enacting the Civil Rights Act, specifically, Section 210, it was the intention of the Legislature to encourage persons subject to the act to voluntarily take steps toward assuring equal opportunity in employment and to be free of charges of discrimination by requiring such plans to be filed with and approved by the Civil Rights Commission before implementation. We also believe that the Legislature, by requiring pre-approval, intended to be sure that these plans did not unnecessarily trammel the rights of non-minority employees. (MCRC Archives)

The Court also found that plans not submitted for approval in advance were not necessarily unlawful. The opportunity to obtain review of a plan, and approval by
the Commission should be emphasized as a significant assurance that the plan does not violate either statutory or constitutional standards, and use of these provisions should be strongly encouraged.

Michigan, as an employer, passed laws and executive directives of the governor to provide equal opportunity in state-classified employment. These state classified employment regulations resulted from a study by the departments of both Civil Rights and Civil Service, which was requested by the governor. This study concluded with a recommendation by the Michigan Civil Rights Commission that the combined efforts of the Department of Civil Service and the Department of Civil Rights together with the full support of the Executive Office would be required if equal employment opportunity were to become a reality in the State of Michigan (MCRC Archives).

In September of 1971, Governor Milliken issued Executive Directive 1971-8 assigning regulatory responsibility to the Department of Civil Service. Civil Service Commission rules were modified to accommodate affirmative action plan development for all departments and agencies of state government. Statistical data from 1970-71 was used to review and to determine the need for affirmative action programs in the various entities of state government (MCRC Archives).

During July 1975, Executive Directive 1975-3 was issued. It established the Michigan Equal Employment Opportunity Council (MEEOC) whose charge was to provide direction to the executive office and departments in developing and implementing affirmative action plans. Two subsequent executive directives were issued
in 1979 and 1983 reaffirming the state’s commitment to affirmative action in state
government, supplanting MEEOC with the Michigan Equal Employment and Busi­ness Opportunity Council (MEEBOC) and designating the lieutenant governor as the State of Michigan Affirmative Action Officer (MCRC Archives).

On May 12, 1985, Executive Order 1985-2, which re-authorized MEEBOC and maintained the requirement for each department and agency to submit its EEO plans to the council for review was issued. Furthermore, the Order sustained the requirement for all departments and agencies to “review and advise the Department of Civil Service, in advance, of final action on every proposed appointment in the classified service equivalent to the 15 level and above” (MCRC Archives), and to ensure that every effort was being made to provide equal employment opportunities in recruitment, selection, promotion, and retention of all classified positions. The most recent action by the governor is Executive Order 1994-16 re-establishing MEEBOC and appointing the Office of the State Employer as the Chief Equal Employment Opportunity Officer of the State of Michigan.

The 1994 Order calls for each department and agency of state government to submit an annual EEO plan to the council for review. Once the plan is submitted, a work force analysis will be conducted to determine if there is a continued need for any remedial affirmative action plans or mechanism to achieve equal employment opportunity. Executive directives and executive orders by the governor and state laws have resulted in a variety of activities to increase the employment of minorities, women, and handicapped persons in state classified service.
Minority high school graduates receive on-the-job training in various areas of civil engineering through the “Aim for Civil Engineering Program” (ACE) developed by the Department of Transportation. The Department of Natural Resources provides a seven week course to introduce minority high school and college students to careers in wildlife management, parks and recreation, and environmental science. The Minority Apprenticeship Program held each summer at Michigan State University is supported by the Department of Agriculture. This same department also hires student assistants, with special financial assistance for minorities, women, and persons with disabilities to introduce them to the food and agriculture industry (MCRC Archives).

“Set Aside” contracts for businesses owned by minorities and women are another area of social equity where the State of Michigan has not been silent. In 1974, the state conducted a study to explore the state’s procurement policies and their effect upon minorities. “A Public Procurement Inventory on Minority Vendors” in July 1974 revealed that the state purchased a mere $155.00 from minority vendors out of $21 million expenditure. These activities revealed unfounded negative attitudes toward minority contractors by those departments who had been charged with the responsibility of awarding an enormous variety of contracts.

Governor William Milliken issued an Executive Order in 1975, which set up a task force to study the participation of minorities in state contracts. The findings of the study include: (a) state contracts usually went to a small number of contractors; (b) minority businesses were involved in very few contracts; (c) state agencies indicated they were not aware of minority businesses who would be eligible for state
contracts; and (d) minority business people indicated that state practices kept them from competing with larger white-owned businesses.

The governor then issued another Executive Order that set up a council composed of representatives of several state departments chaired by the Lt. Governor. Subsequently, this council developed a system to promote minority businesses and to study the specific problems of minority businesses and the problems encountered by state departments in trying to increase the minority share of state contracts. After approximately three years of debate, the Michigan legislature passed Public Act 428 of 1980, which established the Michigan “Set Aside” program. A year later, the Executive Office of the Governor identified the established legislative target employment share levels of 7% and 5% respectively for women and minorities under P.A. 428.

Public Act 428 regarding “Set Aside” programs was challenged in court by the Michigan Roadbuilders Association. This law was initially upheld but subsequently declared unconstitutional by the U.S. Court of Appeals for the Sixth Circuit, and in 1989, that judgment was affirmed by the U.S. Supreme Court, following their decision in the City of Richmond v. J. A. Croson Company. As a result of these decisions, the Michigan legislature ended “Set Aside” programs in Michigan.

As previously stated, implementation and enforcement of the Michigan Fair Employment Practices Act (251 P.A. 155) meant that contracts let by the State and any political or civil subdivisions thereof must contain a nondiscrimination clause was delayed twelve years. To ensure that state tax moneys were not used to
perpetuate unlawful discrimination in public contracting or related employment, Governor George Romney approved in 1965 a voluntary “State Code of Fair Practices” issued by the Michigan Civil Rights Commission. A study of the construction industry in Michigan, conducted by the Michigan Civil Rights Commission showed a history of exclusion. The Department of Civil Rights began its program in 1966, and the resolutions of the State Administrative Board were authorized in 1967 and 1968, in an effort to meet the state's responsibility to promote non-discrimination in the construction industry.

**Contract Compliance**

The enforcement of regulations regarding state and local government contractors' non-discrimination requirements is carried out through the Contract Compliance Program of the Michigan Civil Rights Commission's Department of Civil Rights. The Contract Compliance Program has developed over the years and has maintained a voluntary mode which includes three objectives:

1. To increase job opportunities for racial and ethnic minorities, women and handicappers.

2. To eradicate unlawful discrimination practices.

3. To assure full participation by all citizens in employment which the government finances through contract awards.

These objectives are evaluated by the staff of the Contract Compliance Program through a detailed review of contractor work force data. Each review is
conducted to determine if there is a reasonable representation of minorities, women, and handicapped individuals and must study representation in all occupational categories (White Collar and Blue Collar) not just a specific grouping of job categories such as skilled craft occupations in the construction industry. The review also considers the availability of minorities, women, and handicapped individuals in the appropriate geographic area as well as the need for new or additional employees (MCRC Archives).

The Contract Compliance Program is also responsible for regulating colleges and universities in Michigan in the area of affirmative action. Colleges and universities are encouraged to develop and implement affirmative action plans to ensure reasonable representation of minorities and women employed in faculty, executive, and professional positions as well as other occupational categories.

State of Michigan Business Certification

The Business Certification Process (BCP) of the Contract Compliance Program of the Michigan Department of Civil Rights is the state's continued effort to give minority, female, and handicapper-owned businesses a chance to compete on a level playing field. First, the Department determines the certification status of minority, women, and handicap businesses. Secondly, it provides the names of certified businesses to state procurement officers and buyers and works with private industry to encourage the inclusion of state certified vendors in procurement programs throughout Michigan.
The BCP program was initially mandated by Public Act 428 of 1980 and has continued as a voluntary project even though "Set Aside" programs were found unconstitutional in the Croson case. Successive executive orders by Michigan governors have refined this program through the coordinated efforts of the Michigan Department of Civil Rights and the Accounting Division of the Department of Management and Budget. The Accounting Division through its Equal Access Accounting Reporting System (EAARS) compiled a quarterly report identifying and assessing minority, women and handicapper-owned contract awards and related procurement efforts by the state. Also, the business certification program administered through the BCP is a competitive opportunity for minority, women, and handicap business owners to provide goods, services, and construction to the State of Michigan. The EAARS program was discontinued during the fiscal year 1991. Statistics on race/ethnic and women contractors are no longer available.

Efforts and experiences of the State of Michigan regarding equal opportunity and affirmative action are similar to actions taken at the city level of government. Collective concerns of cities are addressed through the U.S. Conference of Mayors.

Construction Industry National-State

National concern for black employment in the construction industry impacted state and local efforts to achieve equality for all applicants regardless of race including black Americans. In September 1965, the U.S. Conference of Mayors Community Relations Service presented "Changing Employment Practices in the Construction
Industry, Experience Report 102" (The Detroit Commission, Box 74). This report began with guidelines, which included seven elements as outlined in Figure 3. Experience Report 102 also outlined twelve areas of concern, highlighting the experiences of three cities as examples, and ended with an outlook. Each of these segments of the report is discussed below.

**Background**

The initial element discussed in Experience Report 102 was the background of government contracts with the construction industry. In 1964, there was an expenditure of $17 billion by all levels of government on construction; this figure represented approximately one third of all construction moneys spent throughout the nation including school district building expenses. These expenditures generated much controversy in many communities throughout the country because contracts had been awarded to contractors who were not adhering to affirmative action guidelines. Activities highlighting this unrest include the following:

1. Civil rights organizations picketed public construction sites charging that the building trades unions and the contractors were refusing to hire or admit members of minority groups.

2. Civil rights leaders pointed to the limited number of minority union members working on the job site.

3. Demonstrators threatened to prevent the project from moving forward until minority group members were put to work on the site and admitted to the unions.
The trend of actions taken by those Mayors who have initiated special effort to expand equal employment opportunities in the construction industry in their cities have included the following elements:

1. An up-to-date assessment in detail of the current situation in terms of each craft union's practices; the practices being followed by the construction contractors and their associations; the role being played by the public vocational schools and such governmental agencies as the State Employment Service and the regional office of the Federal Bureau of Apprenticeship and Training.

2. An inventory of the city government's own relationship to the problem - the extent of current public construction, the contractors involved, whether or not the contracts contain a non-discrimination clause, whether or not city or state non-discrimination laws may be applicable. The city's licensing activities with regard to the construction trades should also be examined and made a part of the inventory.

3. The development of a well thought through, broad-gauged strategy that provides an opportunity for the prestige of the Mayor's office to be brought to bear in the most effective way possible. It was recognized that this strategy had to include not only the unions and the contractors, but diverse Negro leadership - new as well as old - if the program was to be understood and accepted. It also had to include community service groups, such as the Urban League, Ministerial Associations, PTA's and youth agencies, in order to insure that the counseling, recruitment and motivation needs were met. Various city, state and federal agencies including the schools were also assigned appropriate roles.

4. Technical assistance to the Mayor's office in carrying out these first three phases. In cities with professionally staffed community relations agencies this assistance has been readily available. Lacking staff from the Commission, some other appropriate office or department has been asked to loan staff to work with the Mayor's office, Bi-Racial Committee or Community Relations Commission in devising a comprehensive program.

5. Careful and diligent efforts to insure that Negro organizations as well as the public generally fully understand the realistic limitations on the ability of this sector of the economy to produce any large number of jobs for unemployed Negro workers. Failure to emphasize this aspect of the problem early in the discussion has produced a lack of perspective and unrealistic expectations, which have often prolonged controversy and led to needless disillusionment.

6. Involvement of the public schools and development of supportive programs under the Manpower Development and Training Act (and other Federal aid programs) as part of any long-run effort on this problem. In cities with no local Community Action Program under the Economic Opportunity Act the Regional Offices of the Department of Labor and the office of Vocational Education, H.E.W. might suggest effective ways to take advantage of Federal assistance.

7. Finally, continuing follow through to insure that public commitments are kept. This has perhaps been the most important of all the elements to emerge from local experience thus far. Where this has not been the case, there is evidence that renewed protest and conflict are resulting. Where progress has been made, there is the likelihood that this is one more problem the Mayor can put behind him.

Figure 3. Guidelines.
4. Union officials denied charges.

5. Union officials signed non-discriminatory pledges with the federal government.

6. Union officials pledged to uphold the national AFL-CIO'S policy of admitting qualified Negro journeymen to the union and apprenticeship programs.

7. Union officials pointed out the fact the Negro availability varied by trade and Negroes were well represented in many trades except for some areas in a few trades.

8. Union officials assured cooperation in programs to assure Negro participation.

9. Contractors were caught in the middle, as hires were made through the union hall, and thus the union was at fault.

10. Mayors and local public officials had been asked to ameliorate disputes.

11. Mayors and other public officials had previously been able to resolve these types of disputes and avoid clashes between the unions, contractors, and civil rights groups.

The concerns mentioned above regarding the employment of Negroes in the construction industry where public moneys were used formed the basis for the background of the report.

**Conditions Producing Need for Change**

Unemployment data for 1964 was analyzed to compare adult non-whites with
whites as well as the teenage populations for both groups. During this time period, the unemployment rate for non-whites was more than double compared to whites. A comparison of the teenage population revealed nearly a triple incident (23%) of unemployment for nonwhite teens compared to white teenagers.

These statistics were reported during a long period of prosperity in the nation's recent history. A major reason given for this disparity was the gradual disappearance of the type of jobs that most Negro workers had found most freely open to them — that of unskilled laborers and service workers or in the low ranges of the semi-skilled jobs. Mechanization was credited with the loss of jobs for individuals who were poorly educated and inexperienced — a category which always had embraced large numbers of the working Negro population.

From 1940 to 1960, the non-farm labor force decreased from 9.4% to 5.5% and was 5% in 1965. Federal government projections indicated no increase in employment for this group between 1965 and 1975. During this same period, the federal government anticipated rapidly expanding opportunities in professional and skilled craft categories.

**All Skilled Trades-The New Hope**

The Negro worker who did not have the skills and ability to move into "white collar" service ranks sought opportunities in skilled craft positions. Skilled craftsmen positions in the construction industry as well as in machine shops and on maintenance crews of industrial plants became targets for the Negro worker. The Negro
visualized skilled trades positions as manual labor jobs with a far higher hourly rate of pay.

Construction sites are visible, not like a factory building behind a complex of fences and guards. The lack of black faces in some of the trades on the job site gave the appearance of racial discrimination. Negro job applicants believed they could not obtain a construction skilled trade job because they would be discriminated against by both the contractor and union.

The construction industry is a complex, "unique" system geared to seasonal, technical, and historical factors affecting the industry. To an outsider, the construction industry is puzzling, and as a result, sometimes there can be the appearance of racial discrimination where in fact there is no such discrimination at all. Where discrimination does occur, it can be—and frequently is—based on much more than just the color of a person’s skin. These other issues disallowed easy solutions to the racial discrimination within the skilled construction unions and to the discrimination practiced by some contractors. It was important that those seeking solutions understood the nature of the various issues and practices involved in this highly complex problem.

**The Nature of Craft Unions**

The situation at the time can best be understood with some information about craft unions, particularly the construction craft unions as well as what they were, who were their members, what shaped their thinking, and how that thinking was
influenced. Additionally, it is necessary to understand something about the number of jobs in these crafts by area or on a citywide basis. From 1950 to 1964, new construction had rapidly grown from nearly $33.4 billion to $66.6 billion. Union members were involved in various types of construction including houses, atomic energy plants, bridges, missile complexes, dams, steel mill renovations, highways, and skyscrapers. Union members could participate in only one phase of a job and then had to go on to another site which might have been run by a different employer with an entirely different project before the previous project was completed. Table 4 is an example of construction employment as of May 1965 for selected cities throughout the United States.

In 1965, there were nineteen generally recognized building construction trade unions; eighteen of them were affiliated with the Building and Construction Trades of the AFL-CIO (see Table 5).

The Teamsters Union was involved in virtually all construction activity but has been independent since being expelled from the AFL-CIO in 1957. For the most part, the affiliated unions were the heart of the old American Federation of Labor, which merged with the Congress of Industrial Organizations in 1955. While individual locals of building trades unions may carry a bewildering variety of names (i.e. Rodmen’s Union, Crane Operators Union, Tile Setters’ Union) that make it seem as if there are many more than 19 construction trade unions, all can be traced back to these parent unions: The Asbestos Workers, The Boilermakers, The Bricklayers and Cement Masons, The Carpenters, The International Brotherhood of Electrical Workers (not to be confused with The International Union of Electrical Workers, an industrial union affiliate of the AFL-CIO), The Elevator Constructors, The Operating Engineers, The Laborers (also known as the Hod Carriers’ Union), The Ironworkers, The Lathers, The Painters, The Plasterers, The Plumbers and Pipefitters, The Roofers, The Sheet Metal Workers, The Marble Workers, The Stone Cutters, and The Granite Cutters. (U.S. Conference, 1965)
### Table 4

**Contract Construction Employment - May 1965**

<table>
<thead>
<tr>
<th></th>
<th>Construction</th>
<th>Manufacturing</th>
<th>Total Non-Agr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>3,245,000</td>
<td>17,826,000</td>
<td>60,058,000</td>
</tr>
<tr>
<td>(Sample Cities)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York, NY</td>
<td>115,100</td>
<td>854,700</td>
<td>3,580,200</td>
</tr>
<tr>
<td>Atlanta, GA</td>
<td>33,500</td>
<td>106,500</td>
<td>464,100</td>
</tr>
<tr>
<td>Cincinnati, OH</td>
<td>19,400</td>
<td>148,700</td>
<td>427,100</td>
</tr>
<tr>
<td>St. Louis, MO</td>
<td>46,100</td>
<td>271,800</td>
<td>797,300</td>
</tr>
<tr>
<td>Baton Rouge, LA</td>
<td>5,800</td>
<td>15,800</td>
<td>76,200</td>
</tr>
<tr>
<td>Milwaukee, WI</td>
<td>23,300</td>
<td>196,200</td>
<td>491,400</td>
</tr>
<tr>
<td>Wichita, KS</td>
<td>6,100</td>
<td>42,400</td>
<td>128,400</td>
</tr>
<tr>
<td>Omaha, NE</td>
<td>9,400</td>
<td>34,800</td>
<td>171,000</td>
</tr>
<tr>
<td>New Haven, CT</td>
<td>8,600</td>
<td>44,300</td>
<td>138,800</td>
</tr>
<tr>
<td>Buffalo, NY</td>
<td>17,900</td>
<td>174,900</td>
<td>446,000</td>
</tr>
<tr>
<td>Seattle, WA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Seattle-Everett, i.e.)</td>
<td>19,600</td>
<td>114,300</td>
<td>406,700</td>
</tr>
<tr>
<td>Los Angeles-Long</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beach, CA</td>
<td>132,700</td>
<td>750,500</td>
<td>2,471,400</td>
</tr>
<tr>
<td>Phoenix, AZ</td>
<td>15,500</td>
<td>47,200</td>
<td>234,000</td>
</tr>
<tr>
<td>Dallas, TX</td>
<td>27,500</td>
<td>118,500</td>
<td>470,700</td>
</tr>
<tr>
<td>Charlotte, NC</td>
<td>9,900</td>
<td>33,300</td>
<td>133,400</td>
</tr>
</tbody>
</table>


**Racial Patterns Vary**

Some trades had a considerable number of Negroes because many were slaves when bricklaying and other trowel trades were performed by Negro workmen. The Negro association with these trades continued through migration. With entry established by the presence of other Negroes, it was more natural, then, for some of these unions to admit Negroes to their ranks -- if only occasionally and only in some parts.
Table 5

1964 Membership in Building Trades Department, AFL-CIO

<table>
<thead>
<tr>
<th>Crafts</th>
<th>No. of Members</th>
<th>No. of Local Unions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asbestos Workers</td>
<td>12,000</td>
<td>124</td>
</tr>
<tr>
<td>Boiler Makers</td>
<td>125,000</td>
<td>425</td>
</tr>
<tr>
<td>Bricklayers</td>
<td>151,000</td>
<td>950</td>
</tr>
<tr>
<td>Carpenters</td>
<td>739,207</td>
<td>2800</td>
</tr>
<tr>
<td>Electrical Workers</td>
<td>793,000</td>
<td>1735</td>
</tr>
<tr>
<td>Elevator Constructors</td>
<td>12,000</td>
<td>107</td>
</tr>
<tr>
<td>Engineers</td>
<td>296,503</td>
<td>371</td>
</tr>
<tr>
<td>Granite Cutters</td>
<td>2,957</td>
<td>30</td>
</tr>
<tr>
<td>Hod Carriers</td>
<td>429,279</td>
<td>930</td>
</tr>
<tr>
<td>Iron Workers</td>
<td>138,789</td>
<td>319</td>
</tr>
<tr>
<td>Lathers</td>
<td>18,000</td>
<td>321</td>
</tr>
<tr>
<td>Marble, Slate &amp; Stone Polishers</td>
<td>9,587</td>
<td>129</td>
</tr>
<tr>
<td>Painters, Decorators, &amp; Paper Hangers</td>
<td>196,487</td>
<td>1304</td>
</tr>
<tr>
<td>Plasterers &amp; Cement Masons</td>
<td>68,000</td>
<td>550</td>
</tr>
<tr>
<td>Plumbers</td>
<td>250,531</td>
<td>727</td>
</tr>
<tr>
<td>Roofers</td>
<td>20,570</td>
<td>231</td>
</tr>
<tr>
<td>Sheet Metal Workers</td>
<td>110,870</td>
<td>—</td>
</tr>
<tr>
<td>Stone Cutters</td>
<td>1,049</td>
<td>50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>3,374,829</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Does not include 1,457,252 in the Teamsters Union, part of whose membership is associated with the construction industry.

1 Bulletin No. 1395, U.S. Dept. of Labor.


of the country. At the time, in the District of Columbia, Negroes represented 20% of the Bricklayers union membership.

Although statistics are scarce, it was probable that the Negro found entry into the construction crafts easier during both World Wars when manpower was short and
skills were desperately needed. However, some crafts have been exclusively white for long periods. For example, until 1965, a Sheet Metal Workers local in New York had had only one Negro member in all of its three-quarter century history. Low percentage representation of Negroes in skilled craft positions may have been the result of factors other than race.

An individual construction worker is proud of his craft skill. His journeyman card is either acquired through a long apprenticeship program or some other lengthy on-the-job training. In some instances, his father may have preceded him in the trade manifesting the age-old tradition of handing down the craft. Some unions would give preference in apprenticeship openings to sons of members, but this practice seemed to be diminishing.

**Concerns of Craft Union Members**

The primary concern of an individual craft union member is likely to be the continuous availability of employment. Any threat to regular continuous employment is resisted. It was anticipated that the union card and one's documented skill would provide preferential treatment, and together they were regarded as a ticket for as much continuous employment as the economic conditions of the area or the industry could provide.

The availability of jobs in relation to the number of union craft members available for those jobs were a primary concern of craft union members during 1965. If construction was booming and members were able to move from one completed
job to another with continuous employment, expansion of the union was not much of a worry for the union membership. However, if jobs were scarce, expansion was very much of a worry for the union membership and consequently was not welcome—job control. The availability of jobs for union members was one of the major keys to discrimination.

The political realities of the union itself are geared to permit, and even encourage, job control. It is in the best interest of union members to make sure that the supply of workers does not, over any lengthy period, exceed the demand for those workers whether hiring through the union hall or on the job site. If there is a shortage of sufficient union journeymen available for the construction work required due to a sudden and unexpected upsurge in construction activity, the union is not likely to seek a rapid increase in its membership. Many unions authorize union construction workers from outside the area to come in under special permits to fill vacant jobs.

Once the heavy building activity passes, those outside workers return home to the area from which they came. This method of meeting demand surges was used to avoid having a substantial number of union members “on the bench” once the surges were over. Additionally, too many idle craftsmen might have made it more difficult for the union to maintain high hourly rates of pay for work.

**Basis for Concern**

There were understandable human reasons for this concern over the level of jobs. In 1964, there was an overall unemployment rate of 4.7% compared to 9.9%
for the construction industry while some unions complained of 25% unemployment. What appeared as high hourly rates of pay for building tradesmen were tempered by the fluctuation in the number of jobs. In 1964, the number of jobs varied by more than 850,000 between the high employment month of August and the low employment month of February. Also, from 1950 to 1965, construction had doubled while employment had only increased by 33%. However, these numbers were impacted by numerous changes in construction building technology and mechanization.

Specifically, new machines, faster methods of construction, the substitution of materials, and the pre-construction of some units were important factors that were growing more important in the construction industry. Machines instead of wheelbarrows moved cement around the construction site. Outside walls were pre-constructed in panels; more glass and metal were used in place of stone and brick. Furthermore, electrical devices were prepared at the factory and arrived on site as bundles of pre-constructed parts, ready for installation; thus building them almost amounted to merely snapping the parts in place.

These changes do not alter the fact that the blue collar category of the construction industry had an increase of only 1.3 million skilled craft positions in the previous 15 years while white collar category occupations experienced an increase of more than four million. This difference was quite apparent to the craft worker in spite of the federal government's repeated projections that the demand for skilled craftsmen and employment in the skilled trades was due to expand more than normally.
Entry Into the Crafts

The method the unions used in protecting the job "right" of members was simple and clear: limit the admission of additional craftsmen to the area and limit the number of apprentices the union trained. Negroes had to follow a difficult route for entry into the skilled trades because their admission was based on experience gained on the job. However, to maintain their exclusivity, there was a heightened interest by craft unions in organizing the non-union competition. Thus, the latter became a more traveled avenue for those relatively few Negro craftsmen who had obtained licenses and were working for small non-union contractors.

Absent a real association with the highly skilled trades, there were few Negroes qualified enough to meet even fair or reasonable standards for union entry. It was a fact that, in several cases, protesting Negro groups had been surprised to discover how difficult it was to produce sufficiently qualified journeymen even when a union had expressed a willingness to admit them if they showed the proper qualifications. These instances led to more rather than less bitterness between Negro civil rights groups and the craft unions.

The apprenticeship system was generally the more productive point of entry for Negroes into the construction trades unions even though openings for all youths had been relatively few as of 1965. Nearly all craft union apprenticeship programs had lengthy waiting lists; many local unions, because of high unemployment rates, had not taken in an appreciable number of apprentices in years (Table 6).
Table 6
Apprenticeship Profile - 1964

<table>
<thead>
<tr>
<th></th>
<th>Total Apprentices Registered</th>
<th>Registered In Detroit (Sample City)</th>
<th>Total Openings In 1964</th>
<th>Openings In New York City (Sample City)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bricklayers</td>
<td>8,710</td>
<td>---------</td>
<td>2,545</td>
<td>351</td>
</tr>
<tr>
<td>Carpenters</td>
<td>23,118</td>
<td>623</td>
<td>10,142</td>
<td>938</td>
</tr>
<tr>
<td>Electricians</td>
<td>20,293</td>
<td>246</td>
<td>6,170</td>
<td>1,202*</td>
</tr>
<tr>
<td>Iron Workers</td>
<td>4,820</td>
<td>90</td>
<td>1,684</td>
<td>193</td>
</tr>
<tr>
<td>Lathers</td>
<td>2,093</td>
<td>12</td>
<td>858</td>
<td>110</td>
</tr>
<tr>
<td>Painters</td>
<td>6,031</td>
<td>105</td>
<td>2,825</td>
<td>193</td>
</tr>
<tr>
<td>Plasterers</td>
<td>3,065</td>
<td>17</td>
<td>535</td>
<td>31</td>
</tr>
<tr>
<td>Plumbers</td>
<td>20,764</td>
<td>421</td>
<td>5,147</td>
<td>496*</td>
</tr>
<tr>
<td>Roofers</td>
<td>2,619</td>
<td>---------</td>
<td>1,293</td>
<td>15</td>
</tr>
<tr>
<td>Sheetmetal</td>
<td>10,053</td>
<td>297</td>
<td>2,975</td>
<td>124</td>
</tr>
<tr>
<td>All Other</td>
<td>4,279</td>
<td>---------</td>
<td>1,489</td>
<td>23</td>
</tr>
<tr>
<td>Total</td>
<td>106,913</td>
<td>1,811</td>
<td>36,736</td>
<td>3,664</td>
</tr>
</tbody>
</table>

*During 1963, these locals decided to add an unusually large number of apprentices.

Factors Affecting Apprenticeship Trends

In 1961, the federal government indicated the level of apprentice completions in the construction trades had been far too low to provide the number of journeymen necessary to meet the needs of the 1960s and 1970s. These indications led to a sharp battle with the building trades, which believed the level at the time was sufficient. Both sides debating the apprentice level issue during 1965 agreed that the resolution would be determined in the future.

Apprentice programs were not graduating enough apprentices to cover the journeymen retirement rate even though some unions accepted a high number of
applicants and had experienced a high dropout rate during the 1960s. At the time, some unions accepted a low rate of applicants and experienced a low dropout rate. Nationally, the dropout rate ranged from 30% to 80%. U.S. Labor Department statistics, although not complete for the entire industry at the time, indicated there was approximately a 50% success rate of apprenticeship participants: 105,800 apprentices completed training between 1961 and 1965 while more then 106,100 dropped out during this same period. In 1964 alone, nearly 27,000 dropped out of the apprentice program.

Problems surrounding the Negro applicant to apprentice programs included the quality of education he had received and the alternative opportunities put before him. Until then, Negro youth had not seen Negro journeymen as examples of possible employment and training. The average Negro youth had probably grown up with the impression that certain areas were “closed” to him. This belief had a bearing on his choosing to be a sheetmetal worker, a construction plumber, or an ironworker. Even if a Negro youth wanted to apply for training in these areas, he often did not know how to go about it. Some union officials admitted secrecy regarding the number of apprentice openings and examinations in order to restrict the kind and number of applicants.

A high school diploma was the first requirement of almost all apprenticeship programs, which included extensive classroom and bookwork for highly skilled trades. Apprentice programs, which were often described as “work-oriented colleges”, were not the place for the school dropout or the poor math student. Certainly,
this analogy may be an exaggeration; however, the fact was that skills and knowledge requirements were constantly rising as the complexity of the trades and the construction industry itself increased.

The challenge of the shift in educational requirements of apprentice programs was compounded by the all-too-often inferior secondary education received by Negro youth and placed them at a disadvantage when competing with their white counterparts for positions in apprenticeship programs. Additionally, the brighter Negro high school youths were increasingly choosing the higher potential rewards of a college education.

The dimensions of this part of the problem can be illustrated by two recent examples: a sheet metal workers union in Philadelphia, which had not had a Negro member in its 70-year history, gave intelligence tests to 158 whites and 32 Negroes. The tests, designed to check reading, power of observation, and arithmetic at the high school level, were passed by 102, including seven Negroes. Of the 35 hired on a merit basis as a result of the tests, only two were Negroes (though four others declined job offers). About the same time, somewhat more technical tests were given applicants for journeymen positions; of the 13 Negroes tested, none passed. Earlier in 1965, New York City, Sheet Metal Workers Local Union 28 admitted the first Negro in its 77-year history; the worker was accepted after a court-ordered competitive examination evaluated by New York University. Though he finished first among the 35 Negroes who applied for the apprenticeship class of 65, he ranked 68th among all applicants, and got in only when several white candidates proved to be
In these two cases, there was considerable publicity about the tests to make sure all potential applicants would be reached; also, the New York union had had assistance from Negro civil rights groups to recruit applicants even through coercion. Yet, even after these strenuous efforts, only a few Negroes in the acceptable range, presenting strong evidence that skin color was not the sole problem. Nondiscrimination then, was only a part of the problem, which included: (a) low motivation on the part of the potential Negro applicants, (b) inadequate preparation to insure qualification, (c) lack of remedial help where needed for the potentially qualified Negro youth who was well motivated, and poor information on the current situation stressing that areas and opportunities were now opening to all.

**Broad Changes Now Developing**

The AFL-CIO was taking a lead position to fulfill the objectives and initiatives being taken by city administrations. Previously, efforts of city administrators had focused on easing potentially explosive relations between the factions involved (civil rights groups, unions, and contractors) as well as determining the dimensions and solutions for the problems.

Construction unions had made non-discriminatory pledges to the federal government and accepted federal apprenticeship standards, which require apprenticeship openings to be filled without regard to race, creed, or color. Apprenticeship applicants might also be selected on the basis of merit according to federal
guidelines. If merit was not the criterion for inclusion, then there must be some
evidence that the requirements of equality of opportunity for minority groups had
been fulfilled. Some unions had willingly made more progress than others in
meeting the non-discrimination requirements.

The Plumber's Union was an example of how non-discriminatory efforts were
addressed head on. Peter T. Schoemann, President of the Plumbers' Union, wrote a
lengthy article in an issue of the union's monthly magazine in which he bluntly
declared that "we have a problem (on discrimination)." In building trade union cir­
cles, these were strong words because despite significant actions taken in some
locals, this problem, in too many cases, had not yet been solved, and the sands of
time were running out. Furthermore, Mr. Schoemann made the following policy
declaration: "take them in" provided they are qualified and make sure the qualifica­
tion tests are not rigged. He also urged, "that wherever the strictly competitive
method is used, it might be supplemented by an affirmative search for minority
applicants."

New Preparation and Information Ideas

Federal-local preparation programs in some cities had been designed to build
both qualifications and motivation for earning craft union apprenticeship, and other
training had been instituted. During 1965, in Cleveland, the Labor Department
signed a contract with the National Association for the Advancement of Colored
People and the Urban League to supply funds to help prepare 1,250 youths aged 16 to
25 to take apprenticeship examinations for the building trades and other skilled crafts, as well as industrial training and skills upgrading programs. As a result of this positive action, civil rights groups immediately halted their picketing of a federal building construction site, which the previous summer had been the scene of battling between whites and Negroes. The civil rights groups had complained that Negroes were being denied job opportunities by the craft unions on the basis that Negroes were not able to qualify for the work being done at the site.

At the same time, another program strongly backed in some areas by the construction unions was the establishment of Apprenticeship Information Centers. The centers worked with the State Employment Service and were supervised by an advisory committee drawn from business, labor, and public leaders in the community. For example, in Baltimore, the advisory committee included the President of the Baltimore Building and Construction Trades, the local Industrial Relations Manager for Westinghouse Corp., a member of the Board of the Mechanical Contractors of Maryland, a representative of the Baltimore Association of Commerce, the President of the Interdenominational Ministers Alliance, the head of the Baltimore chapter of CORE, the Assistant to the Mayor of Baltimore, the Assistant to the Governor of Maryland, and other union and Negro group representatives. These centers were operational in Washington, Baltimore, Chicago, Boston, Cincinnati, Detroit, Cleveland, Newark, and Bridgeport. The centers provided a variety of information such as a list of apprenticeship openings, the requirements for entry, and the job outlook for various trades. A secondary function of the centers was referral to and
placement in apprenticeship programs.

The Chicago Experience

The Chicago Apprentice Information Center was established in March 1963. After its first year, the center had received 2,367 inquiries. Less than half of the applicants were tested with a nonwhite participation level slightly more than 10%. Also, only 10% of the qualified apprenticeship population was nonwhite. The center was able to refer 455 individuals to apprenticeship training programs, which included a 10% nonwhite population. Furthermore, of the 232 apprentices placed in jobs, 10% were nonwhite. The center adhered to the traditional prerogative and the authority of joint apprenticeship committees or other apprenticeship sponsors to make the final selection and placement of apprenticeship applicants.

Concurrent with the activities of the Chicago Apprentice Information Center, the Chicago Commission on Human Relations successfully placed fourteen Negro apprentices with various trade locals. Specifically, these placements were in the Tile-setters, Ironworkers, Pipefitters, Asbestos Workers, Sheet Metal Workers, Elevator Constructors, and Operating Engineers Unions. Overall, the commission reported that among the contractors doing business with the city the percentage of apprentices who were Negro increased from 6% in 1963 to 13% in 1964 and that this trend continued in 1965.
The Pittsburgh Experience

In 1963, the Mayor of Pittsburgh instructed the City’s Commission on Human Relations to “investigate and evaluate any and all programs related to apprenticeship opportunities, union membership, and employment of non-whites in the construction industry in Pittsburgh” (U.S. Conference, 1965). City and commission officials then began a series of discussions with unions and companies in the construction industry, as well as with civil rights groups.

The city’s Building and Construction Trades Council unanimously adopted a policy of “eliminating discrimination in the employment of persons in the building and construction industry, where it exists, because of race, color, creed, or national origin” (U.S. Conference, 1965). In 1963 and 1964, a series of conferences were held with leaders of the Master Builders Association and the Building Trades Council, and as a result, a cooperative relationship developed with the commission. Furthermore, for the first time the commission became an active force in helping to recruit, counsel, and even place Negro youths in apprenticeship programs for trades such as iron workers, operating engineers, electricians, and sheet metal workers.

One union sued over the building trade arrangement as part of the Commission. However, the Pittsburgh administration was an example of how focusing attention on the problem and rallying the resources of the community could relax potentially explosive pressures and engender a real spirit of cooperation to solve a complex problem.
The Detroit Experience

The Detroit experience also began in 1963 when the Mayor asked his Commission on Community Relations to assess the racial discrimination situation in public construction. At the time, there were only eleven Negro construction trade apprentices enrolled in the city-wide Trombly Apprenticeship Training School out of a total of 1,244. The eleven Negro apprentices were limited to the Carpenters, Lathers, and Plasterers Unions. The Commission completed a thorough review of the problem and presented it to the mayor.

The mayor then called leaders of the contractors’ associations, the Detroit Building Trades Council, and key Negro organizations to a meeting in his office in July 1963. He requested their cooperation while making it clear that he would exercise his executive power to insure that there would be no discrimination involved in any public construction project in the city. A day later, the Joint Construction Activities Committee (building trades unions, industry leaders, and joint apprenticeship committee members) adopted two resolutions pertaining to equal opportunity.

The first resolution called for affirmative action in the acceptance of qualified apprentices and journeymen without discrimination. A labor arbitrator on the faculty of Wayne State University was recommended to serve as a consultant in implementing the resolution. This resolution also recommended that the aid of local, state, and federal agencies be enlisted to insure the filling of apprenticeships by qualified applicants and the admission of qualified journeymen into the trade unions without discrimination. The second resolution required that the six man executive committee of
the Construction and Allied Industries Joint Apprenticeship Council review the written qualifications for all of the apprenticeship programs and determine whether changes were necessary to insure non-discrimination.

In a follow-up survey completed by the Commission on Community Relations, it was determined that Negro apprentices were working in four trades that had previously not had minority members -- plumbers, electricians, steamfitters, and sheet metal workers. Also, the number of apprentices had increased to forty-two out of a city-wide total of 1,811, and there were indications that the number would continue to increase as recruiting and preparatory efforts were broadened.

The Outlook

Clearly, it appeared that new patterns of employment were emerging in the construction industry. Opportunities were now available on an increasing scale for qualified young men, regardless of race, to enter the building trades through apprenticeship programs. Efforts by mayors to clarify the problem and reach public agreement on a plan that would produce results were going forward in an increasing number of communities. Unfortunately, while these trends may have been encouraging, it was clear that affirmative action was not an area where spectacular results could be achieved overnight.

The mid 1960s was a time when the demands for changes in the old ways had become almost daily cause for concern among public officials, and perhaps this was reason enough for the new energy, which was being given this problem. The actions
of the U.S. Conference of Mayors in Report 102 helped form a base of concern for employment of blacks in skilled craft occupations of the construction industry of Michigan at the state and local levels.

The employment process for skilled craft positions outlined in Experience Report 102 was not the only practice followed in Michigan during the 1960s and early 1970s. The writer was a Contract Compliance Investigator in the Contract Compliance Division of the Michigan Department of Civil Rights in the early 1970s. The employment practices followed at that time are reflected in Figure 4 and also are discussed by Cousens (1969, pp. 64-67). The apprentice program is the formal entry avenue for skilled craft positions. However, it was commonly known that hires for skilled craft positions were made on the job site without requiring apprenticeship training. These activities helped fuel the concern about black people being hired in skilled craft positions at the local and state levels. As a result, in 1965, the Michigan Civil Rights Commission initiated a study of employment patterns and practices in the construction industry in Michigan. The study was undertaken to determine the extent to which employment opportunities were available to black people and other minorities and the entities which influenced the process (MCRC Archives). The proposal to conduct the study of building and construction industries in Michigan was based upon the following:

1. The efforts of the Commission to encourage affirmative activity in 1965 had not affected the pattern of employment.

2. The minority community continued to allege that practices of
Apprentice or Journeyman

*Ticket Holder
Apprentice or Journeyman
Visitor to Area

Union Hall Business Manager

Construction Job Site

Site Walk on Apprentice or Journeyman or Non-status

*White Ticket Holder is the correct title for the above title of Ticket Holder — individuals given special permission to work in an area away from their home location and not related to race.

Figure 4. Application for Construction Position.
discrimination led to the exclusion of minority group members. The leadership of the construction industry continued to defend its position and indicated that changes in procedures and attitudes had indeed occurred.

3. The construction industry was in a period of expansion. The employment expansion was perhaps not as great as the dollar expansion; it was, nevertheless, substantial. There was credible evidence that a genuine shortage of skilled workers existed in Michigan.

There was no recent picture of the employment practices in this industry to support either side of the controversy, and procedures within the individual building trade classifications were little understood outside of the industry itself. There was a need to gather factual data in this area.

The result of the study contained two basic recommendations:

1. Need for recruitment: It was evident that the industry must consider new avenues of recruitment if the overall pattern was to be changed. The internal, informal practices that were used to attract new members to the industry could be expected to produce the same pattern and distribution of white and non-white workers.

2. Comprehensive action needed: Any attempt to alter the employment patterns found in this study must of necessity involve comprehensive affirmative action planning on the part of local, state and national levels of government, labor unions, employer organizations, educational administration and the minority community. Without the energetic commitment of the industry itself, the probability of change is slight.
The findings of the study were the same as those outlined in Experience Report 102 by the U.S. Conference of Mayors. These two documents continued to be the guiding forces in the fight for equality of representation of blacks in the construction industry of Michigan at the local and state levels for governmental agencies responsible for enforcing affirmative action public policy requirements.

Construction Industry Michigan State – Local

Formal efforts to ensure social equity in the construction industry of Michigan began in Detroit, Michigan in 1963. In that year, the mayor took action to address the lack of Negro employment in skilled craft occupations among construction industry contractors who were engaged in public construction. Community groups, governmental entities, construction industry representatives, and related organizations eventually (nearly a decade later) developed what became known as the “Detroit Plan.” The goal of this plan was to remedy the social equity problem of the construction industry by increasing the employment of Negroes in skilled craft occupations among contractors doing business with governmental entities.

Detroit, Michigan was the fifth largest city in the U.S. according to census data compiled for the decennial year 1960. At that time, Negro representation in blue collar categories of skilled craft occupations was 6%. As catalyst of social equity for Negroes in the construction industry of Michigan, the City outpaced efforts of the Detroit Board of Education by two years to increase representation of Negroes in construction skilled trades occupations. Three years later, during January 1968, the
Detroit Board of Education enhanced its efforts by establishing the Department of Equal Opportunity and Contract Relations to enforce compliance with non-discrimination policies of the board by contractors and sub-contractors who bid for board contracts (Sheffield, Box 1).

Ernest Marshall, head of the new department created by the Detroit Board of Education, was featured in an article with the caption, “. . . Skilled Trades Still Practicing ‘Tokenism’” (Sheffield, Box 1). In this article, Marshall explained how policy for the Detroit Board of Education developed in 1965 for compliance with social equity policy regarding non-discrimination for contractors doing business with the Board of Education was only actualized after the creation of the department he was directing. From January to February of 1968, representation of Negro employment was still at a token level even though some of the skilled trades had made employment changes. Marshall referenced the fact that the Board of Education first issued a fair employment policy in 1965 and attributed the small token results to a lack of people to police the policies of the bidders. As a result, he stated, his department was created.

Another concern of the Department of Equal Opportunity and Contract Relations (DEO & CR) was apprenticeship programs. This was an area where the department was in need of broader authority, according to Marshall. When a training class was not approved by the DEO & CR, the unions moved their operations to private union halls or to locations outside the city limits to elude the pressure of the inner city. To increase the number of Negroes in skilled crafts occupations, the Depart-
ment began contacting young Negroes to inform them about apprenticeship programs and skilled craft occupations.

Mr. Marshall explained that one of the problems involved in recruiting young Negroes for skilled craft occupations was the fact that the Negroes who would easily qualify usually would rather go on to college. Additionally, Mr. Marshall discussed how those who were interested were often unprepared by their schools for the training programs admission examinations. Thus, the Department began tutoring classes, which were designed to concentrate on the areas, which were covered on the examinations. Furthermore, the obligation of the school system to prepare young Negroes for skilled craft occupations was stressed by the Department. Another important emphasis of the department, according to Marshall, was to elicit voluntary participation from contractors and unions to increase Negro employment levels in skilled craft occupations.

The activities of the organizations involved in the development of policies to address the issue of increasing Negro employment in skilled craft occupations within the construction industry encountered several legal issues. One issue was whether or not local and state governments could legally include contract language requiring contractors to develop and meet employment quotas for minority persons.

**State Contracts and Minorities**

On December 30, 1969, Frank J. Kelley, Attorney General for the State of Michigan, wrote an opinion in response to a request by Stanley M. Powell, member
of the Michigan House of Representatives, regarding state contracts with minority employment requirements.

In his response, Attorney General Kelley addressed two questions raised by Representative Powell. The two questions were:

A. Does the Civil Rights Commission of the State of Michigan have the legal authority under any provisions of constitutional, statutory or administrative law to require contractors or suppliers bidding on state contracts to hire or promise to hire certain quotas of minority persons on the basis of their race, color or national origin under penalty of forfeiting their right or privilege to bid on state and local government contracts for not complying with such quotas, solicitation requirements or other similar so-called affirmative action programs of the Civil Rights Commission?

B. Under the provisions of Section 29, Article V of the Michigan Constitution of 1963 and Act 251, P.A. 1955 as amended and particularly Section 7 (d) and (e) thereof, can the Michigan Civil Rights Commission conduct so-called compliance investigations, name respondents and hold compliance hearings where there is no specific complaint from a specific person referred to as a complainant who alleges that he personally has been discriminated against or that his civil rights have been violated on account of his race, color, religion, ancestry, national origin, age or sex during his employment or while applying for employment at the named respondent's place of business? (Kelley, 1969, p. 1)

Attorney General Kelley answered the questions asked by Representative Powell with a fifteen page response. The response included references to pertinent language in the Michigan Constitution of 1963, the authority of the Michigan Civil Rights Commission, numerous court cases, state statutes, national law, and nation-state relations.

One portion of the response by Attorney General Kelley addressed the purpose and implementation of the contract compliance program as stated by the Civil Rights Commission:

**Purpose.** Persons doing business with the State of Michigan must take
affirmative action in the areas of recruiting and hiring that will result in reasonably representative integration of the work forces of such businesses. (Civil Rights Commission Directive to State Contractors to Bidders, May 20, 1968).

Implementation. The equal employment practices of all persons doing business with the State of Michigan and/or who propose to do business with the State are subject to a review by the Michigan Civil Rights Commission. If, as a result of such review, a contractor or bidder appears not to be in compliance with these standards, such contractor or bidder shall be required to execute a written plan of action which shall include specific, effective steps to be taken that will result in reasonably representative integration of its work force in each job category and in each trade. In the execution of such a written plan of action, consideration shall be given to the availability of minority group persons and the need for new or additional employees by the contractor or bidder. (Kelley, 1969, p. 6)

Attorney General Kelley then provided a summary of these issues with the following statement:

The policy of the Commission, as understood by the writer, does not propose the imposition of quotas, but rather the execution and implementation of written plans of action that measurably and calculably move toward the result of a reasonably representative work force. (Kelley, 1969, pp. 6-7)

The Civil Rights Commission has the duty to investigate and to secure the equal protection of civil rights; however, Attorney General Kelley noted in his response that such civil rights are not set forth in Article 5, §29 of the state constitution. He further stated,

The source of such civil rights is designated as “the civil rights guaranteed by law and by this constitution.” Possible sources of such civil rights are: Federal law arising out of either Federal statutes or the Constitution of the United States; Michigan law arising out of State statutes or the common law of the States; and the 1963 Michigan Constitution. (Keiley, 1969, pp. 5-6)

Cited in response by Attorney General Kelley was specific reference to Article II, Section 1 of the Michigan Constitution of 1963 (as cited in Kelley, 1969) which provides as follows:
No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation. (p. 9)

Respecting the above provision, the Address to the People, promulgated by the Constitutional Convention, states as follows:

This is a new section. It protects against discrimination because of religion, race, color or national origin in the enjoyment of civil and political rights and grants equal protection of the laws to all persons. The convention record notes that [the principal, but not exclusive, areas of concern are equal opportunities in employment, ...] (2 Official Record of Constitutional Convention p. 3363)

National governmental action in construction contracting also was noted by Attorney General Kelley by his reference to the “Revised Philadelphia Plan for Compliance With Equal Opportunity Requirements of Executive Order 11246 for Federally Involved Construction.” According to Kelley, the pertinent language of Executive Order 11246 of September 24, 1965 as amended (30 F.R. 12319, 32 F.R. 14303, 34 F.R. 12986) reads as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include but not be limited to the following: Employment upgrading; demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship (E. O. 11246, s. 202(1)).

An opinion of the United States Attorney General was cited by Attorney General Kelley regarding contractor requirements for affirmative action under Executive Order 11246:
Among the undertakings required of contractors by Executive Order 11246 is to ‘take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin.’ E. O. 11246, § 202 (1). The obligation to take ‘affirmative action’ imports something more than the merely negative obligation not to discriminate contained in the preceding sentence of the standard contract clause. It is given added definition by the Secretary’s regulations, which require that contractors develop written affirmative action plans which shall ‘provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including, when there are deficiencies, the development of specific goals and time tables for the prompt achievement of full and equal employment opportunity. 41 C.F.R. 60-1.40’.

The Department of Labor order of June 27th is based upon stated findings relating to the enforcement of the nondiscrimination and affirmative action requirements of Executive Order 11246 with respect to the construction trades in the Philadelphia area. The Department of Labor has found that contractors must ordinarily hire a new employee complement for each construction job and that whether by contract, custom or convenience this hiring usually takes place on the basis of referral by the construction craft unions. The Department of Labor has found further that exclusionary practices on the part of certain of these unions, including a refusal to admit Negroes to membership in unions or in apprenticeship programs, and a preference in work referrals to union members and to those who have worked under union contracts, have resulted in the employment of only a small number of Negroes in the six construction trades in the area affected by the Philadelphia Plan. Accordingly, the Department of Labor has found that special measures were required in the Philadelphia area to provide equal employment opportunity in these six specified construction trades.

The Revised Philadelphia Plan requires that with respect to construction contracts in the Philadelphia area which are subject to Executive Order 11246 and where the estimated total cost of the construction project exceeds $500,000, each bidder must, in the affirmative action program submit with his bid, ‘set specific goals of minority manpower utilization which meet the definite standard’ included in the invitation for bids. This standard will be a range of minority manpower utilization prior to the invitation for bids by the Department’s area coordinator in the basis of the extent of minority group participation in the trade, the availability of minority group persons for employment in such trade, and other stated factors. As an alternative to setting such specific goals, the bidder may agree to participate in a multi-employer affirmative action program, which has been approved by the Department of Labor’s Office of Federal Contract Compliance.

The Plan provides that the contractor’s commitment to specific goals ‘is not intended and shall not be used to discriminate against any qualified
applicant or employee,' (S 6 (b) (2)). Furthermore, the obligation to meet the goals is not absolute. 'In the event of failure to meet the goals, the contractor shall be given an opportunity to demonstrate that he made every good faith effort to meet his commitment. In any proceeding in which such good faith performance is in issue, the contractor's entire compliance posture shall be reviewed and evaluated in the process of considering the imposition of sanctions,' (S 8(a)).

The case of Weiner v. Cuyahoga Community College District (19 Ohio St. 2d 35, (1969) (60 CCH Labor Cases, 6687) also was discussed in the response of Attorney General Kelley to Representative Powell. This case involved the effort of a low bidding contractor to enjoin the award of a contract to the second low bidder because of his (the low bidder's) failure to execute a satisfactory written plan of affirmative action. The full content of this case as presented by Attorney General Kelley in his opinion is included here because of its relevance to the critical aspects of affirmative action development in the State of Michigan.

Attorney General Kelley stated,

The Plaintiff's written affirmative action plan included the following language: "this company will continue to make every reasonable effort to see to it that Negro apprentices are employed and placed on this project. However, this company cannot and, therefore, does not guarantee that it will have Negro apprentices on this project." The second low bidder's commitment included the following: "You are hereby advised that we will have Negro representation in all crafts employed on this project." (Kelley, 1969, p. 12)

The Court's opinion presented by Attorney General Kelley contained an array of issues related to affirmative action requirements for contractors doing business with a governmental unit such as Cuyahoga Community College District. Kelley made legal references to both the State of Ohio Gubernatorial Executive Order dated June 15, 1967 and Presidential Executive Order No. 11246. These cites referenced
by Kelley included specific concern regarding nondiscriminatory language for hiring, promotion, training, and pay.

Kelley also referenced the contractors’ responsibility to seek compliance of subcontractors, unions, and employment agencies, all to the end that nondiscrimination in the performance of the contract will be assured. According to the reference by Kelley, the Court document explained the issue of cost associated with affirmative action requirements. Governmental interest of economy is important in that affirmative action cost also includes consideration for the best and responsible bidder instead of the costly alternative of public prosecutions and administrative proceedings, thus, denying the benefits of public contract expenditures to those who would discriminate.

The issue of morality was referenced by Kelley for both state and federal governments regarding fair employment practices. According to Kelley, the Court concluded it was reasonable to have standards which ensure the best and responsible bidder on a contract involving the expenditure of public funds. The issue of guaranteeing employment of Negroes was addressed by the Court. The Court simply stated that the establishment of a quota for employment for any particular minority also would be discriminatory in violation of the Civil Rights Act of 1964. The record provided to the Court did not contain evidence that a promise was either required or solicited, or that the promise would be enforced to the exclusion of all other persons.

The Court records regarding the Weiner v. Cuyahoga Community College District as outlined by Kelley did not contain evidence that such a promise was either required or solicited. The Court decision in this case was concerned that the entire
job be conducted in compliance with the laws. Finally, Kelley explained how the court record supported the findings and conclusion that defendants did not abuse their discretion in rejecting the low bid of Reliance and awarding the contract to the second bidder. The judgment of the Court of Appeals was affirmed.

The previously cited case and other response statements by Attorney General Kelley to Representative Powell contained elements critical to the development of affirmative action public policy in the State of Michigan. The following closing statement in the response letter of Attorney General Frank Kelley to Michigan House of Representative member Stanley M. Powell vividly illustrates the connection between these other precedents and the construction industry of Michigan:

The contract compliance program of the State of Michigan is based upon similar principles. The State Administrative Board, by its resolutions of January 17, 1967 and April 16, 1968, adopted a policy which required that persons seeking to do business with [the] state must submit written plans of affirmative action, which extend equal employment opportunity to minority group persons. That policy is administered by the Civil Rights Commission.

It must be noted that the process involved here is not one of law enforcement in the traditional sense. The relationship between the State and a contractor is, indeed, a contractual one. The requirement for an affirmative action equal employment program is only one provision of such a public contract. Its presence in the agreement serves the same end as do all the other provisions, namely, the public good and welfare of the people of the State of Michigan, in this instance to ensure equality of employment opportunity on public works throughout the whole citizenry of this State. (MCRC Archives).

The above cited response by Attorney General Frank Kelley regarding Michigan law, the Michigan Constitution, national law and contractual compliance authority and intent of the Michigan Civil Rights Commission as well as the intent of the statement promulgated at the Michigan Constitutional Convention formed a legal base from which to develop affirmative action social equity public policy regarding
the construction industry of Michigan. However, many additional legal questions had to be answered and / or addressed before the “Detroit Plan” would be developed and approved by the various governmental entities involved.

The pivotal point of social equity public policy in the area of affirmative action regarding the construction industry of Michigan was the City of Detroit, Michigan. This research project is a study of the many entities involved in the process of providing employment for Negroes in skilled craft occupations in the construction industry. Therefore, national, state and city executive orders, legal opinions, laws and ordinances, as well as community concerns are reviewed in this study as they impact affirmative action efforts in the construction industry of Michigan.

**New York, Philadelphia, and Chicago Plans**

Hometown plans for the construction industry were simultaneously being developed in New York, Philadelphia, and Chicago as well as Detroit. The entities involved in development of the Detroit Plan were aware of the progress related to Hometown Plan development in other cities.

Compliance requirements for both the Michigan Civil Rights Commission and Detroit Commission on Community Relations were real time issues because the “New York Plan” had only achieved 67 to 77% of the plan objectives (The Detroit Commission, Box 90). The “New York Plan” had not achieved reasonable or significant employment levels for Negroes in skilled craft occupations during the tenure of its plan. The MCRC and the city of Detroit questioned the standards set by the
federal government to improve employment opportunities for Negroes in all skilled occupations, and an absence of concern for minority advancement in white collar occupations (The Detroit Commission, Box 90). Additionally, the issue of white collar occupations had not been addressed in the “New York Plan”.

The voluntary New York Plan was put into effect during July 1971. Signed during December 1970 by the City of New York, New York State and the Board of Urban Affairs of the New York building and construction industry representing more than one hundred unions in New York. The plan had a goal to increase through training, black and Spanish employment in the skilled trades of the construction industry by 800 persons. However, one source indicated that only 537 minority trainees had been placed. Another source indicated that 620 minorities were in training, 420 were working, and 34 were journeymen (The Detroit Commission, Box 90).

The New York Plan covered a one year period. In July 1972, Mayor Lindsey extended the plan for an additional six months with the hope that a revised plan could be negotiated. During January 1973, he announced that the city would withdraw from the hiring program. The mayor then attempted to negotiate a new initiative through the regional director of the Labor Department, Clayton J. Cottrell. Concerned with the fact that more than $3 billion in public construction funds was being spent annually in New York for federal, state, and city projects, the city sought a plan with higher goals for minority employment as journeymen in skilled craft occupations and for training positions (The Detroit Commission, Box 90).

To that end, the mayor asked the United States Department of Labor to set
strict goals and timetables for minority employment. He also submitted legislation at the city and state levels requiring affirmative action plans for minority employment on all city-assisted and state-assisted construction (The Detroit Commission, Box 90). The concerns expressed by the mayor of New York were the same concerns echoed by the city of Detroit, the Michigan Civil Rights Commission, and community organizations regarding the Detroit Plan.

The Philadelphia Plan was labeled a “model” for all major cities throughout the U.S. according to Labor Secretary George P. Shultz (Detroit News, February 10, 1970). George Meany, President of the AFL-CIO denounced the “Philadelphia Plan” as a “concoction and contrivance” on the part of the Nixon administration to “mask its over-all retreat on civil rights” (Detroit News, February 10, 1970, p. A-20). Meany continued by explaining how the “Philadelphia Plan” diverted attention from the real solid task of training and qualifying minority workers for a permanent place in the ranks of skilled workers available and qualified for employment in all construction work in an area, and not just federally financed work. At the same time, Meany praised the “Chicago Plan” which was developed at the community level and had an immediate goal of 4,000 job and training opportunities for blacks (Crellin, 1970).

**Local Affirmative Action Efforts**

At the local level, Stan Arnold, president of the Michigan Building Trades Council (100,000-members) indicated that the “Detroit Plan” draft authored by
Samuel Simmons, Assistant Secretary for Equal Opportunity for the Department of Housing and Urban Development could provide the basis for an agreement on hiring blacks in Detroit (Sheffield, Box 1). The Detroit Plan proposed by HUD would be administered by a nonprofit corporation. Furthermore, the plan was supported by HUD because it met the requirements of Executive Order 11246, Title VII as well as revised Order 4 which summarized affirmative action guidelines. The nonprofit corporation would consist of two union representatives, two contractors, the chairman of the Detroit Neighborhood Development Program Coordinating Council, the chairman of the Detroit Model Neighborhood Citizen’s Governing Board and two representatives from minority groups elected by a majority of the other six members.

On March 9, 1970, as reported in the Detroit Free Press, Herbert Hill, national legal director for the National Association for the Advancement of Colored People accused AFL-CIO President George Meany, in his January 12, 1970, speech to the National Press Club in Washington DC, of using incorrect data regarding the number of blacks accepted into trade unions nationally since the AFL-CIO set up its “Outreach” program after black protests the previous year against predominantly white construction unions. The specific issue with which Hill voiced concern was Meany’s assertion that 5,200 blacks had been accepted into construction trade unions nationally (“NAACP Hits,” 1970).

According to figures presented by Hill, the number was far less than the number presented by Meany. Hill reported the following numbers: of the 65% of the 5,200 blacks placed in traditional job classifications, 1,132 were carpenters, 311 were
bricklayers, 269 were cement masons, 411 were roofers, 513 were painters, and 278 were engaged in miscellaneous trades. Furthermore, 964 dropped out of the program. According to Hill, these numbers indicated that the “Out-Reach” program was nothing more than an extension of the traditional practice to simply place blacks in low-paying, low-status jobs usually held by blacks (“NAACP Hits,” 1970).

On September 5, 1970, after many meetings, discussions, and proposals by construction contractors, trade unions, governmental entities, and community organizations, the “Detroit Plan” (Construction Trades Agreement) was signed by the Detroit Building Trades Council (Council), the Construction Employers Council (CEC) and the Coalition (Coordinating Council for Community Redevelopment). The agreement was developed for and limited territorially to Wayne, Oakland, and Macomb counties in Michigan and was to be in force for a five year period (The Detroit Commission, Box 90).

The “Detroit Plan” was comprised of twenty-two sections which included a preamble, sixteen articles, and five attachments to the agreement. Naming the sections of this agreement is critical for understanding how the construction industry would increase employment of black citizens. Specifically, the sections include the following articles, a signature section, and amendment areas:

Sanction for the "Detroit Plan" was engulfed with an abundance of concern on the part of the national, state, and local entities who had been involved in the process of formulating this plan.

**Detroit Plan Support and Opposition**

During February 1970, the Employment Services Division of the City of Detroit, sent a memorandum to the Commission on Community Relations (CCR) outlining its review of the proposed Detroit Plan. The memo explained why the Detroit Plan could not be accepted as fulfilling City of Detroit Ordinance 206-G and Federal Executive Order 11246 as enforced by the Commission Staff. The reasons cited in the memo included:

- The Commission on Community Relations cannot delegate the legal responsibility of ensuring compliance of all City of Detroit contractors. It cannot exempt a party which is signatory to the plan from pre-award review; compliance status must first be determined.
- It is not feasible or reasonable for the Commission on Community Relations and all other local, state, and federal contract compliance agencies to be controlled by an agreement to which they are not a party.
- The five year percentage goals outlined in the plan have either already been met or where there is an absence of percentages, those trades are not signatory to the plan.
- The plan does not include goals for white collar categories or a method by which currently qualified minority workers would be accepted without further training.
- Minority construction contractors were not represented in the drafting of the Detroit Plan.

The memorandum concluded with the recommendation that the plan not be approved in its existing form, and that staff would not be opposed to a revised Detroit Plan that would voluntarily increase minority representation without requiring the suspension
of enforcement of Ordinance 206G as a contingency. The Employment Services Division Staff asked that their statement of position be communicated to the Honorable Common Council and the Mayor's Office (The Detroit Commission, Box 90).

On February 19, 1971, Hank Rogers and Homer J. Fox, representing the ad hoc Construction Coalition, authored Critique and Analysis of the Construction Trades Agreement (Detroit Plan) and submitted it for public consideration. The ad hoc Construction Coalition was a community-based organization of individuals concerned with construction activities in the City of Detroit and its published critique and analysis addressed the concerns outlined in the memo by the staff of the Employment Services Division of the Commission on Community Relations. This critique and analysis also included concerns for individual citizen rights, which would be signed away through the Detroit Plan. For example, the issue of how the right to a hearing and the judicial review of conflicts covered by federal law as guaranteed every citizen was not mentioned in the plan. Also, the wording of certain statements in the plan was a concern of this organization. For instance, the charge of fulfilling plan objectives was conditioned with the phrase, "when economic conditions permit." The ad hoc organization referenced this statement as an opportunity for signatories to the plan to simply do nothing if there was a slow down (recession) in the economy (The Detroit Commission, Box 90).

The Commission on Community Relations issued a press release on February 23, 1971 stating objections to the Detroit Plan, Inc. The primary objection was a provision, which stipulated that participation in this Plan was in and of itself evidence of
fulfillment of the affirmative action requirements of all federal, state, and local Fair Employment Practices Laws. Another objection was the exemption of signatories from individual compliance reviews prior to the awarding of contracts. The press release also criticized the issue of minority hires over the five year period of the plan because the 15 to 20% hiring goals of the plan were less than what would be required by the standards set in the Commission's rules and regulations. Furthermore, economic conditions were cited as a built-in excuse for failure to increase minority employment (The Detroit Commission, Box 90). Beyond a doubt, the press release clearly articulated the position held by the City of Detroit regarding the Detroit Plan.

On several occasions Milton Robinson, Executive Director of the Michigan Civil Rights Commission, voiced objections regarding the Detroit Plan. Specifically, the concerns expressed by Robinson included: (a) an absence of timetables for trainees, (b) clarification of good faith effort was not included, and (c) an explanation of economic conditions permitting. Primarily, Robinson was disturbed by the fact that his agency would be required to abrogate its legal duty to cite contractors who discriminated in hiring workers on state-assisted projects. The specific language of the Detroit Plan regarding state and local compliance agencies stated: "Operation of this agreement is predicated upon acceptance of this program by . . . compliance agencies, as fulfilling the 'affirmative action' requirements of . . . statutes. . . . for all contractors subject to this agreement, regardless of the actual employment situation on any individual project" (Orr, 1971, p. A 17). Regarding the abrogation of state law, Milton Robinson was quoted as saying, "Civil rights laws are not negotiable any
more than any other laws” (Orr, 1971, p. A 17).

In the Sunday, March 7, 1971, edition of the Detroit Free Press, five prominent leaders of Detroit’s black community articulated their support for the controversial Detroit Plan: Francis Komegay, director of the Detroit Urban League; Horace Sheffield, UAW International representative and vice-president of the black-oriented Trade Union Leadership Council (TULC); Thomas Turner, president of the Metropolitan Detroit AFL-CIO Council; James Watts, president of the Michigan chapter of the NAACP, and Kelly Williams of the Coordinating Council on Community Development. Francis Komegay called the proposal “a very fine agreement” and supported it unequivocally. Komegay further stated, “Good people can work through its imperfections” (Orr, 1971, p. A 17).

Horace Sheffield had a history of suing the building trades to democratize the apprenticeship apparatus. With reference to the Detroit Plan, Sheffield stated, “People who are flacking the plan have prejudged it and have sold the Michigan Civil Rights Commission (MCRC) on opposition” (Orr, 1971, p. A 17). Turner criticized the accomplishments of the Civil Rights Commission, noting that “Since the mid-1960s, the MCRC has succeeded in getting just six black bodies in the industry.” Turner also stated, “I’ll debate anyone about the merits of the plan... those who are screaming about it haven’t really digested the plan and resent it because they weren’t consulted.” (Orr, 1971, p. A 17)

The Michigan Civil Rights Commission (MCRC) was the next agency to speak out regarding the Detroit Plan in an article in the Detroit News dated March 23,
1971 (Cain, 1971). On the previous day, the MCRC had voted to formally brand the Detroit Plan as "unacceptable", and the article enumerated the reasons for the label. Specifically, the Commission stated that the private parties could carry out their program and that the Commission would be delighted to help. Also, Assistant Attorney General William Bledsoe stated that the Civil Rights Commission could not legally surrender enforcement authority to the Detroit Plan even if it wanted to.

Three of the Commissioners had hoped the commission would have remained silent until after a meeting with the sponsors of the plan. One commissioner, Mrs. Carole Williams stated, "Voluntary plans have been a plain flop, and I see no difference with the Detroit Plan, Inc." (Cain, 1971). Mrs. Frank W. Wylie, another commissioner said, "The intent of the plan is fine and the motives are laudatory, but it has no guarantees, no internal policing mechanism on how recalcitrants will be handled" (Cain, 1971). Mrs. Wylie further stated that it was her motion to label the Detroit Plan unacceptable and that the commission would make every effort to help the Detroit Plan come into being as a voluntary effort to end discrimination in the construction industry (Cain, 1971).

By May 1972, entities on both sides of the Detroit Plan had had opportunities to publicly express and debate the plan through the media and with enforcement agencies. On May 17, 1972, the Coordinating Council on Human Relations issued a statement regarding the Detroit Plan Construction Trades Agreement to be read at the 10:00 a.m. Common Council Hearing. In essence, the statement supported the position taken by the Commission on Community Relations in its February 23, 1971
press release rejecting the Detroit Plan as written. The public hearing was not held (The Detroit Commission, Box 90).

Cooperative arrangements were made between the Commission on Community Relations (CCR) and the Detroit Plan Board for a 90-trial period to work for the resolve of compliance problems. These arrangements were provided to the Common Council of Detroit in a letter dated July 14, 1972, sent by the Commission on Community Relations' Secretary-Director, Denise J. Lewis (The Detroit Commission, Box 90). This agreement between the CCR and the Detroit Plan Board was made even though the CCR had a history of first determining the awardability status of contractors who had bid on city construction contracts and subsequently provided recommendations to the Detroit Common Council.

Rejection of the Detroit Plan by the City of Detroit and the Michigan Civil Rights Commission fueled the debate regarding the "Supremacy Clause" which in essence, gives final authority to the federal government whenever there was a conflict regarding federal-state jurisdiction. The issue was whether or not state and local compliance agencies had the authority to review and impose requirements on contractors who were signatory to the Detroit Plan and who had compliance approval (contractors and unions) from the federal government. The City of Detroit, through its ordinances, believed its regulations should continue since first, the Detroit Plan did not cover all occupational categories and secondly, the planned hiring level for minorities over the period of the plan was less than what was required by the city. The Michigan Civil Rights Commission firmly believed the state constitution would
not permit the commission to relinquish its responsibility to enforce contract compliance as set forth by the commission.

As previously cited, the City of Detroit, the Michigan Civil Rights Commission, and community organizations expressed concern regarding the supremacy clause issue. The Office of Federal Contract Compliance's acting director Philip J. Davis, in a letter, told James Blair, Director of the MCRC, that the federal government had sole responsibility in determining whether a contractor had met conditions set by the plan and that neither local or state agencies had the right to interfere (The Detroit Commission, Box 90). According to Davis, his office had the final say in such matters, and it had determined that efforts by state and local agencies to impose their own standards were "oftentimes inconsistent or at the very least, unnecessarily onerous."

Thomas Peloso, Deputy Michigan Civil Rights Commission Director, in an article in the Detroit News dated February 27, 1973 (Michigan Rights, 1973), said, "The Michigan Civil Rights Commission (MCRC) will challenge a federal directive that it keep [its] hands off contractors who are participating in the Detroit Plan." Mr. Peloso continued by stating, "At this point I'm not sure that Davis can tell us we can't enforce the Michigan civil rights laws." Furthermore, Mr. Peloso noted that he had asked Michigan Attorney General Frank J. Kelley for a ruling on Davis' order.

On February 28, 1973, according to the Detroit News, James Blair, Executive Director of the Michigan Civil Rights Commission, was planning to respond to the letter from Philip J. Davis when he received a telephone call from him. According to
Blair, Mr. Davis indicated that his whole intent was misconstrued, and a meeting was set for March 15, 1973. Mr. Blair further stated that Mr. Davis indicated he did not see a problem in the MCRC doing its job. "Davis' telephone conversation indicated the federal contract compliance office had backed away from its position that the MCRC should 'cease imposition of its own requirements in any federally assisted construction project'," Blair said. Mr. Blair also asserted that the MCRC had taken a firm position and that "we cannot abdicate our responsibility to enforce the Michigan civil rights laws."

On February 26, 1973, the City of Detroit Commission on Community Relations reconsidered the Detroit Plan Group, Inc.—the Detroit Plan. In spite of the committee's effort, the meeting ended without change of position regarding the plan. In a letter dated February 27, 1973, Denise Lewis, Secretary-Director of Detroit Commission on Community Relations (CCR) and Mrs. Jessie M. Dillard, Chairman, outlined the Commission's position to the Wayne County General Government Committee, which was chaired by Mr. Roscoe Bobo (Wayne State University Archives). The letter included a brief description of the legal issues faced by the city of Detroit regarding the plan.

Specific references to placement standards set by the federal government were made in the letter. The December 1972 report on the plan indicated that more than two hundred minority workers had been placed, and representatives of the plan anticipated that ten thousand minority workers would be placed by December 1977. These numbers represented a gross overstatement according to Denise Lewis in her
letter to Mr. Bobo. Mrs. Lewis wrote, “if 200 people are placed in each of the next four years, approximately 1,000 total minority workers will be added to the local construction industry through the Detroit Plan.” Additionally, according to OFCC placement standards, the plan should have had a minimum of 11% to 16% minority placements in various trades positions by December 1972. The Commission on Community Relations received reports from city contractors fulfilling affirmative action commitments in 1972 which indicated that a minimum of 2,700 minorities had been employed. “If the City of Detroit had been a signator to the plan and had exempted construction contractors from review, there would have been a negative impact on the total contract compliance program,” stated Lewis (The Detroit Commission, Box 90).

The letter motivated the Wayne County Human Relations Commission to continue its enforcement program with county construction contractors. It also urged that the General Government Committee uphold its obligation to assure the expenditure of Wayne County funds so as to promote equal access to employment opportunity for all citizens on county projects through continued enforcement efforts with individual contractors. The efforts of Denise Lewis were directed toward change regarding the position held by Wayne County for acceptance of the Detroit Plan. Wayne County Commissioners Robinson, Mallett, and Silver had previously presented a resolution regarding the Detroit Plan to the General Government Committee of February 1, 1973. Specifically, the resolution endorsed the Detroit Plan without restriction regarding county statutory requirements for construction company
awardability for contracts and technically abrogate legal responsibility of the county (Wayne State University Archives). During the February 28, 1973 meeting of the General Government Committee of the Wayne County Board of Commissioners, the resolution submitted by Robinson, Mallett, and Silver was discussed and approved (The Detroit Commission, Box 90).

After this action, another round of editorial statements began to appear in the media regarding the Detroit Plan. On Tuesday, February 27, 1973, Carl Cederberg, News Director for Storer Broadcasting Co. issued an editorial stating how the Detroit Plan had been successful as a method to increase minority employment in skilled craft trades of the construction industry. The editorial drew support from its list of sponsors, an AFL-CIO endorsement (300,000 members), the Minority Coalition, the Detroit Building Trades Council, the Construction Employers Council and its supporters, as well as the federal government. Cederberg also asserted that the “Plan” was one where eventually 10,000 minority individuals would be placed in training, apprenticeship, and journeyman skilled craft construction positions by the end of 1975 (White, 1973a).

James Blair, Director of the Michigan Civil Rights Commission responded to the editorial of Carl Cederberg on Wednesday, March 5, 1973. First, Mr. Blair summarized the Detroit Plan by referencing critical positive elements of the plan such as “voluntary efforts” and increased minority employment. Mr. Blair continued by stating how it was an assumption to expect state and local enforcement agencies to abrogate their legal authority in enforcing the affirmative action requirements of the State
of Michigan. The state constitution and executive orders were strong whereas the
Detroit Plan had only an emphasis for voluntary and paper aspects of compliance.
Also, Mr. Blair stated that when "good faith" efforts fail, other sanctions must be
utilized.

Mr. Blair ended his editorial response by stating,

...The Detroit Plan is a positive approach towards bringing minority persons
into the construction trades and its efforts are to be commended. However, if
we are to get the job done successfully, we must respect the rights of each
party concerned. Working together, voluntary and compliance efforts can
complement each other and achieve far more than the present bickering over
whose method is right in resolving the problem (White, 1973b).

Horace Sheffield, member of the Detroit Plan Board of Directors and a long
time supporter and spokesman for the Detroit Plan issued his editorial response
regarding the plan of the construction industry on March 8, 1973. In essence, Mr.
Sheffield explained how progress had been made to increase minority employment in
the construction industry. Progress included placing 308 minority (black, Mexican,
Oriental, and American Indian) group members in skilled construction trade posi-
tions. According to Mr. Sheffield, an additional sixty other minorities had been
placed in secretarial, engineering, middle management, and similar positions in the
industry. The accomplishments of the plan, he asserted, were due to the efforts of the
Detroit Plan in the tri-county area construction industry. He continued by explaining
how there had been more progress as a result of the Detroit Plan efforts during the
previous year than the combined efforts of the Michigan Civil Rights Commission
and the Detroit Commission on Community Relation during their entire existence
even though these agencies had huge staffs and vast sums of tax moneys to spend.
According to Sheffield, "job mobility of an individual craft employee is not an area understood by critics of the Detroit Plan." Sheffield explained how a craft worker might work one month on a job site and the next month may be working on a different job site. Furthermore, according to Sheffield, trade-by-trade compliance was the most realistic and productive way to achieve meaningful integration of the building trades. Mr. Sheffield ended his editorial with the statement, "The Detroit Plan is making genuine progress. We are gratified that the United States Department of Labor has intervened with the state and local compliance agencies in a way that will allow us to get the job done" (White, 1973c).

The editorial by Mr. Sheffield was followed by an editorial request from Ruth Hughes, Chairperson of the Coordinating Council on Human Relations (CCHR). The CCHR was a coalition of seventy civic, religious, labor, educational, and social agencies in the metropolitan Detroit area, which had as its goal the elimination of racism, prejudice, and discrimination. The editorial request provided by this organization included employment numbers in the construction industry since the Michigan Civil Rights Commissions' contract compliance efforts began enforcement in 1968; the data also included information regarding total employment increases for minorities in general (The Detroit Commission, Box 90).

During the editorial debate, other agencies and community organizations were expressing concerns and taking action regarding the Detroit Plan. On February 28, 1973, Joyce F. Garrett, Director, Office of Human Relations for Wayne County, sent a memorandum to Roscoe L. Bobo, Chairman, General Government Committee
outlining the legal issues and responsibilities of local and state civil rights contract compliance agencies for construction contract recipients (Wayne State University Archives). The memorandum of Ms. Garrett also clarified the dialogue in the media relative to federal and state editorials on the issue of the Detroit Plan. Also, because the office of Human Relations was the enforcement administrative agency for the Wayne County Fair Employment Practices Resolution, Ms. Garrett suggested endorsement of the plan as long as the County’s authority to continue contract compliance enforcement activities would not be relinquished (The Detroit Commission, Box 90).

On March 3, 1973, Denise J. Lewis, Secretary-Director of the City of Detroit Commission on Community Relations, issued a memorandum in reference to recent developments relative to the Detroit Plan Group, Incorporated. The memorandum referenced numerous activities relative to the requirements of the Detroit Plan, specifically the letter of Philip Davis, various editorials and editorial responses (The Detroit Commission, Box 90). The memo of Ms. Lewis strongly urged three items:

1. Write to Mr. Phillip Davis of the Office of Federal Contract Compliance to make your position known and to uphold enforcement of state and local equal opportunity laws;
2. Immediately petition Mr. Robert Fitzpatrick, Chairman of the Wayne County Board of Commissioners, and contact your own County Commissioner on the issue of Detroit Plan Membership freeing county construction contractors from the obligation to hire minority workers;
3. Join CCR in a meeting at The Region-I Board of Education Conference Room, 3rd Floor, Great Lakes Building on Wednesday, March 14th at 3:00 p.m. so that we can cooperatively determine the best course of action in order to protect constitutional and legislative rights of equal access to employment opportunity for minority group residents of our area.
Community Organizations

Two community organizations, the Coordinating Council on Human Relations (CCHR) and the Coalition for Employment Justice (CEJ), were quick to respond to the issues of the Detroit Plan. The Coordinating Council on Human Relations, an organization for education and research in human relations affiliated with the City of Detroit's Commission on Community Relations sent letters to Phillip J. Davis, Acting Director of the Office of Federal Contract Compliance, U.S. Department of Labor, and Robert Fitzpatrick, Chairman, Wayne County Board of Commissioners, on March 6, 1973. These letters emphasized support for the stand taken by the City of Detroit's Commission on Community Relations regarding the Detroit Plan. The issues outlined in the letter included:

- Support adopted in 1971 for state and local governmental contract enforcement agencies having authority to follow established ordinances within their jurisdiction for anti-discrimination determining awardability status for contractors doing business within their jurisdiction;
- We strongly oppose the directive of Phillip J. Davis, Acting Director of the Office of Federal Contract Compliance which outlined the federal government with sole responsibility for determining contractor conditions with state and local agencies abandoning their legal responsibilities;
- Skilled craft categories as well as other occupational classifications and categories (professional, sales technical, clerical and managerial) of an employer must also be required to fill statutory requirements;
- At a time when the unemployment and welfare roles in the inner city are soaring, it would be criminal for the City and County to be required to drop their compliance programs which bring jobs in the minority community; and
- State, County, and city contract compliance agencies are to be commended for the great strides made in increasing minority hiring in Detroit and no contractor should be exempt from review.

At the March 15, 1973 meeting of the Wayne County Board of Commissioners, the board adopted the Detroit Plan resolution, an amended version of the one...
initially proposed by board members Robinson, Malett, and Silver as previously cited. The adopted resolution included the following amendment as a substitute for the "THEREFORE BE IT RESOLVED" clause titled the "Turner Amendment to Detroit Plan":

That the Board of Commissioners endorse the Detroit Plan as a means of achieving equitable minority participation in the trades industry and accept the Detroit Plan as an affirmative action plan for the County of Wayne provided that the County does not waive or release any rights the County may have under the law or contravene established Board policy. (The Detroit Commission, Box 90).

The adoption of the resolution by the Wayne County Board of Commissioners did not slow down community efforts to obtain social equity. The Coalition for Employment Justice (CEJ) expressed concern for all contracts let by governmental agencies for compliance with requirements for all occupational categories (The Detroit Commission, Box 90). To publicize its views, the CEJ organized a demonstration at the McNamara Federal Building site on May 18, 1973, at 1:00 p.m. It also issued a press release to the media on May 18, 1973 which highlighted the critical issues of the Detroit Plan. Specifically, state and local authority versus national authority, support from community organizations, and the plan's history was highlighted. The press release was followed by a notification to all members of CEJ requesting them to write to the Common Council advising the council to uphold enforcement of the City of Detroit Fair Employment Laws. The notification also asked members to appear at the Common Council Hearing on June 5th to demonstrate support for the position of the Coalition.

Concurrent with the activities of CEJ, the Coordinating Council on Human
Relations issued a press release regarding its position on the Detroit Plan. Included was a chronology of how and why the City of Detroit had established its Fair Employment Practices Ordinance 206-G (The Detroit Commission, Box 90). Furthermore, the press release explained how the Commission on Community Relations of the City of Detroit had followed all the regulations of the state and federal government in the development of Ordinance 206-G.

Prior to the June 5, 1973, meeting, the Common Council received from the Commission on Community Relations a memorandum detailing a chronology of employment patterns for both white collar and blue collar occupations in the construction industry and the Detroit Plan from 1970 to 1973. The report also included information regarding contract compliance activities of the commission on Community Relations and the construction industry. In spite of this information, the June 5, 1973, meeting of the Detroit Common Council did not result in a change regarding the position held by the City of Detroit and the Detroit Plan. Ordinance 206-G would continue to be enforced for each contractor doing business with the City of Detroit for all occupational categories (The Detroit Commission, Box 90).

On July 19, 1973, Peter J. Brennan, U.S. Secretary of Labor, issued a memorandum to heads of all agencies regarding enforcement authority for contract compliance responsibility for federally-funded construction projects (The Detroit Commission, Box 90). The memorandum, in essence, outlined the responsibility of the Secretary of Labor and the Director of the Office of Federal Contract Compliance:

Section 205 of Executive Order 11246, as amended established the authority for the Secretary of Labor to determine rules and regulations;
Secretary of Labor and Director, OFCC issue Bid Conditions;
Administrative agencies are directed to inform their grantees that where
there is a viable and effective hometown or imposed construction industry
plan in operation in a geographical area, additional and/or supplementary
State or local EEO requirements may not be applied to Federally-assisted
construction projects;
This policy is applicable to all present and future grants of construction
assistance;
With respect to federally-assisted construction projects which have
already commenced with supplemental EEO obligations appended by a State
or local government, the Director of the Office of Federal Contract
Compliance should be apprised of these circumstances;
State and local units of government should be encouraged to enforce
State FEP laws and monitor the progress made by contractors in fulfilling
their EEO obligations;
All relevant data such as the monthly utilization reports should be shared
with the State or local government in order that they may have the opportu­

The memorandum ended with a statement encouraging an atmosphere of cooperation
between the Office of Federal Contract Compliance and state and local contract com­
pliance enforcement agencies.

The memorandum of Secretary Brennan generated concern from numerous
community organizations as well as from state and local agencies. Mrs. Ruth
Hughes, Chairwoman of CCHR Executive Board, sent a letter to Robert P. Griffin,
U.S. Senator from Michigan, voicing concern regarding the memo of Secretary
Brennan. On November 2, 1973, the CEJ notified its members of a meeting sched­
uled for Friday, November 9, 1973, to review strategies related to the memorandum.
Additionally, the agenda included the consideration of joining a lawsuit with the
National Association for the Advancement of Colored People (NAACP) challenging
the memorandum (The Detroit Commission, Box 90).

During January 1974, guidelines for the Office of Federal Contract Compliance (OFCCP) were issued in the Federal Register which replicated the procedures outlined in the letter of Secretary Brennan dated July 19, 1973. However, according to V. Lonnie Peek of CEJ, they also were, in part, the results of the lawsuit filed by the City of Detroit, the NAACP, Metropolitan Contractor, et al. vs. The U.S. Department of Labor, Peter Brennan, et al. A meeting was scheduled by CEJ for Wednesday, February 6, 1974 to address the issue of the new regulations of the OFCCP regarding construction contractors and contract compliance requirements.

The State of Michigan Civil Rights Commission, the City of Detroit, and the Wayne County Board of Commissioners formed the full base for state and local statutory jurisdiction for compliance with contractor awardability regarding contracts granted by the respective jurisdiction. The Detroit Plan was labeled as a plan to increase employment for black minority individuals in skilled craft construction positions and white collar occupations in Wayne, Oakland, and Macomb counties. However, as previously narrated in this section and in other areas of this study, expressed concerns were limited to the city of Detroit, Wayne County, the State of Michigan, and community organizations within the city of Detroit. The State of Michigan provided the impetus for social equity beyond the borders of Wayne County where the City of Detroit and Wayne County governments and community organizations attempted to ensure equality of the expenditure of public funds in the construction industry of Michigan for skilled craft occupations as well as other occupational clas-
In a report dated September 12, 1975, Agnes H. Bryant, on behalf of the ad hoc Employment Coalition, published a report detailing minority employment in the construction industry within the six county area of southeast Michigan (The Detroit Commission, Box 90). This report detailed employment data relative to minority participation levels, focusing on:

- minority representation by construction trade;
- recent employment and unemployment data, for the City of Detroit and the metro area (six counties);
- concerns held by the City of Detroit regarding the Detroit Plan, and, the contract compliance monitoring approach of the City of Detroit relevant to skilled trades as well as all other occupational categories.

Agnes Bryant along with representatives of other community organizations and agencies received a carbon copy of a letter dated September 23, 1976, sent to Horace L. Sheffield (Board member of the Detroit Plan) by J. T. Wardlaw, Assistant Regional Administrator for the Office of Federal Contract Compliance Programs. The letter from Wardlaw was a review and analysis of the data submitted by Sheffield regarding employment for minorities in the construction industry under the Detroit Plan. On September 17, 1976, the Office of Federal Contract Compliance Programs withdrew recognition of the Detroit Hometown Plan. Previously, on June 29, 1976, the Federal EEO Bid Conditions for the Detroit Hometown Plan were extended through July 23, 1976. This extension of the Detroit Bid Conditions remained unaffected by the withdrawal of recognition for the Hometown Plan (Sheffield, Box 1).

John P. Davis, Managing Director, Metropolitan Detroit Plumbing &
Mechanical Contractors Association, received a letter from James T. Wardlaw regarding a letter he had sent to Wardlaw dated October 21, 1976, concerning the Hometown Plan in the Detroit area. The letter from Wardlaw, dated October 29, 1976, referenced allegations of Mr. Davis concerning the Detroit Plan and “Set Aside” programs. Mr. Wardlaw dismissed the issue of “Set Asides” regarding the Detroit Plan and simply stated, “the Hometown Plan for the Detroit area had not worked and that minorities and females had not received a fair share of the work that was available.” Mr. Wardlaw also stated, “The action that we took in Detroit was no different from that which was taken in other areas where similar results had been obtained.” In the closing statement of the letter, Mr. Wardlaw stated, “Please let me repeat that we will be anxious to discuss proposals designed to restore a viable hometown plan in Detroit” (Sheffield, Box 1).

The Detroit Plan was not viable according to the local jurisdictions of the City of Detroit, Wayne County, and the State of Michigan Civil Rights Commission. The Detroit Plan concentrated on blue collar, skilled craft occupations. The Detroit Plan did not have goals and timetables for minority and women employment in white collar occupations. The concern regarding minority and women participation levels in the skilled craft trades occupations of the construction industry of Michigan was expressed by James Long in the Metro Times (Mullen, 1998). Previously, during the late 1960s and 1970s, the City of Detroit’s Commission on Community Relations along with the State of Michigan’s Civil Rights Commission and the Human Relations Commission of Wayne County were the impetus regarding employment repre-
sentation of minorities in the construction industry. However, thirty years later there is very little concern according to James Long.

In 1998, James Long had had fifteen years experience working within the city of Detroit government structure in training programs concerned with increasing employment for minorities and women before he resigned earlier during the year. According to Long, the construction boom of big-ticket projects such as casinos, sports stadiums, and Campus Maritus downtown have all fueled an expected job growth (Mullen, 1998). The anticipated boom according to Long is five thousand (5,000) additional jobs in Detroit. Contributions by unions (carpenters, painters, laborers, and operating engineers) and from the Hudson-Webber Foundation were encouraging signs to prepare and train minorities and women for construction jobs. However, the only action taken by the Detroit Works Partnership was to canvas and receive applications (12,000).

In addition to comments by James Long, other individuals interviewed outlined issues that must be addressed if minorities and women are to be a part of the building boom in Detroit. The issues include many of the concerns discussed during the 1960s and 1970s: a comprehensive approach, remedial training, and accessible apprenticeship training programs in Detroit (Mullen 1998). These issues, according to the article, must be addressed or there will be minorities and women standing at the fence watching as out-of-state journeymen work in the city. The article by Mullen ended with a question, "What's the city going to do to ensure that scenario doesn't occur?"
White Collar / Blue Collar Occupations

The occupational groupings of white collar and blue collar categories are reviewed in the context of employment received as a result of affirmative action development in the construction industry of Michigan. At the national level, efforts to increase minority participation in the construction industry began in Philadelphia and subsequently Chicago, New York, and Detroit. These efforts became known as the "Hometown Plan." These plans were the result of efforts by the federal government to increase minority representation in skilled craft positions. The efforts by the federal government were driven through enforcement of the Civil Rights Act of 1964, Title VII and Revised Order 4 regarding federal contracts.

The "Detroit Plan" was a pivotal point for affirmative action in the construction industry of Michigan. The city of Detroit, the county of Wayne, and the state of Michigan had compliance requirements for contractors. Each jurisdiction had an established pre-approval process for contractors. This study is a review of the details experienced by the various entities involved in the development and implementation processes of the Detroit Plan. Experiences include emphasis on white-collar occupational categories along with blue-collar occupations of employers attempting to do business in the city of Detroit, county of Wayne and the state of Michigan governments.

Ordinance 206G of the city of Detroit requires pre-approval of all prospective contractors for compliance with affirmative action regulations in terms of goals and timetables for areas where a contractor may have underutilization of minorities in
their work force (The Detroit Commission, Box 90). Similar statutory affirmative action requirements for contractors were imposed by the county of Wayne and the state of Michigan. These requirements include both white-collar and blue-collar occupational categories. The issue of employment received by protected groups over the time of this study is not only important for skilled trades construction occupations but also benefit received in white-collar construction occupations as well. These issues at the local and state levels regarding occupational categories provide the frame within which intergovernmental relations and public policy are examined concerning the Tenth Amendment of the U.S. Constitution. This study also is a review of unemployment levels experienced by the various protected groups during the time frame of this study, given affirmative action activity emphasis in the construction industry of Michigan.

Changes in the construction industry of Michigan regarding employment received by various protected groups in white-collar categories compared with blue collar categories serves as a framework for analysis concerning actual changes within the two occupational categories at the national level as well. The issue of employment received as a result of affirmative action public policy in white collar and blue collar occupations has been researched by numerous authors. In addition to the previously cited works of Burman (1973) and Coleman (1993) other authors in studies have addressed white collar and blue collar occupations regarding race and gender outcome benefit received as a results of affirmative action.

Jonathan S. Leonard (1984, p. 377) identified the battlefields of affirmative
action as the areas of white-collar and craft occupations. These areas were identified by Leonard as skilled and most employers are sensitive to productivity differences and have complained most about the burden of goals for minority and female employment. Leonard discussed how the relative inelastic supply that the potential wage gains to members of protected groups are the greatest.

In another article Leonard (1990, p. 53) discussed how occupational upgrading reported by employers for black and female employees may have been biased. However, Leonard (1990, p. 53) concluded that it was unlikely because pure reclassification would have caused black losses in the lower occupations which was not observed. Furthermore, occupational advancement for non-white males was supported by population survey wage equations.

In “Measuring the Effect of an Antidiscrimination Program,” Ashenfelter and Heckman (1976, p. 47) described occupational categories increases for protected groups when contractors for the federal government are compared with non-contractors. They found the results of their study statistically significant or greater with large increases for black workers relative to white workers for firms with government contracts. The increases, according to Ashenfelter and Heckman (1976, p. 71), illustrated an increase for black workers compared to white workers primarily in operative occupations.

This study also found decreases for black workers compared with white workers in service and professional occupations. The most important factor outlined by Ashenfelter and Heckman (1976, p. 47) was the region of the United States. The
region to a great degree also was an important determinant of the change in the relative occupation position of black workers. Another important determinant in the change in the relative occupational position of black workers was the geographic location within the United States.

Taylor (1986, p. 1705) discussed how the movement of black people into the professions and other high status occupations is reflected in substantial income gains. Taylor (1986, p. 1705) referenced the fact that by 1981, almost one quarter of all black families had incomes of more than $25,000, compared to only 8.7% in 1960 (measuring income in constant dollars). According to Taylor, the overall income gap between blacks and whites for the entire population has not narrowed over the past two decades. Taylor (1986, p. 1705) also explained that for subgroups who gained some occupational mobility, the gap has closed appreciably.

The Rise of the Black Middle Class

Jaynes and Williams (1989) discussed both occupations and incomes regarding the growth of the black middle class. Prior to World War II, the distribution of black white-collar workers was heavily skewed toward a handful of occupations (Jaynes & Williams, 1989, p. 169). Three white-collar occupational changes cited by Jaynes and Williams includes teachers, salaried managers, and professional government employees. In 1940, teachers accounted for 36% of all blacks in white-collar occupations. By 1980, teachers accounted for 27% of all blacks in white-collar occupations. Salaried managers in the private sector increased from 6 to
18% during the same period. Black managers in government rose from 2% in 1940 to 27% by 1970 (Jaynes & Williams, 1989, p. 169).

The movement of black people into professions and other high status occupations is reflected in substantial income gains according to Taylor (1986, p. 1705). Taylor noted how there had been substantial gains for the subgroup of black families in terms of relative dollar income from 1960 to 1981. At the same time, he also noted how the gap between blacks and whites for the entire population had not narrowed over the previous two decades. Regarding younger blacks, the 25-29 age group who were college graduates earned 93% as much as their white counterparts in 1976.

Reference to greater gains by younger black workers than by older black workers was cited by Freeman (1981, p. 252). He also cited greater gains by the more highly qualified, such as professionals, managers, and craftsmen (to a lesser extent). Darden (1995) explained how the current occupational system was established and is being maintained. According to Darden, white males created the unequal occupational system that excluded women and minorities from professional, technical, and managerial jobs and provided preferences to white males. Darden referenced history as an example of how despite the equal or better qualifications of women and minorities, white males disproportionately hired or promoted other white males. Specific employment areas such as business and institutions of higher education was referenced by Darden where white males are still over-represented in top level jobs. Also, Darden made reference to the Glass Ceiling Commission report.
which documented the extent to which this overrepresentation exists despite decades of affirmative action.

According to the Glass Ceiling Commission report, white males constitute only 29% of the workforce and they hold about 95% of senior management positions (defined as vice-president and above), Darden (1995) stated. Also, Darden stated that women and minorities are not advancing because many middle-and upper-level white male managers view the inclusion of minorities and women in management as a direct threat to their own chances for advancement.

The Rise of Women

Occupational segregation of women between 1950 and 1981 in the United States and Canada was studied by Cullen, Nakamura and Nakamura (1988, pp. 163-177). These authors compared progress of women in the United States which had affirmative action policies and Canada which did not have the same policies. In their study, occupations were defined as higher or lower paying positions. The highest paying occupations identified were managerial and administration, natural sciences and engineering, and social sciences. From 1950/51 to 1980/81 women in these occupations increased from 3.0% to 10.2% in the United States and from 4.3% to 8.7% in Canada. The three lowest income occupations identified by Cullen, Nakamura and Nakamura (1988, p. 173) were service, religion, and farming. The proportion of women in these groups in both the United States and Canada fell for the period of 1950/51 to 1980/81.
Geschwender and Carrol-Seguin (1990, p. 285) discussed how occupational categorization must include consideration of gender when comparisons of wage increases of African-American females and European-Americans females are made regarding white-collar and non white-collar occupation as well as education and total family income. The research by Geschwender and Carrol-Seguin (1990, p. 285) concentrated on the employment level changes of African-American women compared with European-American women. Geschwender and Carrol-Seguin (1990, p. 288) the fact that the gap between educated middle-class African-Americans and their European-American counterparts was closing while the African-American underclass grew in size and sunk further into poverty.

Blacks, women, and other protected groups have experienced positive employment changes in both white collar and blue collar occupational categories over the thirty-one year time period of this research. However, increasing levels of employment for black people in skill craft construction trades is still a concern in 1998. During this time period, unemployment has continued to be a concern and has had a varied impact on protected groups.

**Unemployment**

Bartson and Rabboh (1996, p. 367) explained how two legislative acts by the U.S. Congress were passed to impact unemployment. The legislative concern of the U.S. Congress dates back to the Employment Act of 1946 which establishing the federal government’s obligation of pursuing policies that would bring about
opportunities for those people who are able, willing, and seeking work (Bartson & Rabboh, 1996, p. 354). The second legislative item according to Bartson and Rabboh (1996, p. 367), was the “Full Employment and Balanced Growth Act of 1978” which eventually became “The Humphrey-Hawkins Bill”.

The work force (labor market) is defined as the number of persons sixteen years of age or older who are currently working or actively looking for work (Bartson & Rabboh, 1996). The unemployment rate of the labor force is defined by Bartson and Rabboh (1996, pp. 354-356) as the number of unemployed divided by the total civilian labor force. An example provided by Bartson and Rabboh (1996) is

\[
\text{unemployment rate} = \frac{\text{number of unemployed}}{\text{total civilian labor force}}
\]

According to Bartson and Rabboh (1996, pp. 356-358), unemployment has been a problem in the United States for many years. During the Great Depression, unemployment reached a high of 25%, and a low of 1.2% by the end of World War II. The impact has not been the same for a protected groups during this period.

The Bureau of Labor Statistics of the Department of Labor is responsible for estimating and recording unemployment information throughout the nation.

**Theoretical Perspective**

**Public Policy Theory**

Pivotal to the understanding of any public policy is the policy formulation
process. The policy models of Jones (1984, pp. 29, 36) and Shull (1993, pp. 16, 18) will be used for the conceptual framework for this study. It has been noted by numerous authors how there is a variety of actors in the policy formulation process (Jones, 1984, pp. 25, 26, 28). Jones identifies seven institutional (entities), which may be involved in the policy formulation process. These entities are: the Presidency, the Congress, the Court, the Bureaucracy, Political Parties, Interest Groups, and Intergovernmental Relations. Public policy development may be implemented by a minimum or an array of entities concerned with the issue at hand. For this study, the varied entities (actors) are examined. Figure 5 is an example of the input of the various entities in the policy process.

Conceptual Framework

This study uses two public policy formulation models discussed by Jones (1984, p. 26) as well as two models discussed by (Shull, 1993, pp. 15-17) to examine affirmative action public policy development during the thirty-year time period of this study. Jones favors the public policy definition by Heinz Eulau and Kenneth Prewitt: a “standing decision” characterized by behavioral consistency and repetitiveness on the part of both those who make it and those who abide by it. Shull argues how public policy formulation is a stimulus-response process.

Public policy has been a way of life in the United States since the union was formed. The American citizenry has the responsibility of judging how long a decision must stand, what constitutes behavioral consistency, repetitiveness, population
There are seven entities, which may be involved in the process of developing policy. The policy process is not hierarchical as this figure may suggest. The policy issue at hand will determine the extent to which any or all of the entities are involved in the policy formulation process.

Figure 5. Public Policy Entities.

of policy makers and policy abiders (Jones, 1984, p. 26). The definition discussed by Jones is illuminated through a review of its critical components.

The policy process has four areas of government action: problems to
government, action in government, government to problems, and program to government illustrated in Figure 5 (Jones, 1984, p. 29). Each action is preceded by functional activities and followed by one or more potential products. Jones developed his policy process model from seven “how” questions identified by Harold D. Lasswell in 1963. Jones (1984, p. 28) asks eleven questions, which address “who,” “what,” and “how” as well as “when,” an assumed continuous intervening question.

What the observer sees when he identifies policy at any one point in time is, at most, a stage or phase in a sequence of events that constitute policy development (Jones, 1984, p. 26). Jones (1984, p. 26) argues this process as freezing the action for purposes of analysis. Two descriptive illustrations by Jones explain how public policy is formed and its dependence on the social, economic, and political conditions that exist at a given time. Figure 6 is “The Policy Process: A Framework for Analysis” and Figure 7 is “The American Way of Making Policy” (Jones, 1984, pp. 29, 36).

Public policy formulation is a stimulus-response process (Shull, 1993, pp. 15-17). The stimulus-response model is one where statements and actions (stimuli) incite a variety of results (responses) according to Shull (1993, p. 17). Shull (1993) accepts Jones’ position regarding the beginning and ending of policy: “the important point . . . . is that we don’t really care where one ends and the other begins” (p. 15). The policy process is fluid - basically a one-way relationship that includes feedback as explained in Figure 8 (Shull, 1993, p. 16). Certainly, policy does not always result from an orderly and rational process, which has a clear beginning and an end (Shull,
<table>
<thead>
<tr>
<th>Functional activities</th>
<th>Categorized in government</th>
<th>With a potential product</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perception / definition</td>
<td>Problems to government</td>
<td>Problem</td>
</tr>
<tr>
<td>Aggregation</td>
<td>Demand</td>
<td></td>
</tr>
<tr>
<td>Organization</td>
<td>Access</td>
<td></td>
</tr>
<tr>
<td>Representation</td>
<td>Priorities</td>
<td></td>
</tr>
<tr>
<td>Agenda setting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Formulation</td>
<td>Action in government</td>
<td>Proposal</td>
</tr>
<tr>
<td>Legitimation</td>
<td>Program</td>
<td></td>
</tr>
<tr>
<td>Budgeting</td>
<td>Budget (resources)</td>
<td></td>
</tr>
<tr>
<td>Implementation</td>
<td>Government to problems</td>
<td>Varies (service payments, facilities, controls)</td>
</tr>
<tr>
<td>Evaluation</td>
<td>Program to government</td>
<td>Varies (justification, recommendation, change, solution)</td>
</tr>
<tr>
<td>Adjustment / termination</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 6. The Policy Process: A Framework for Analysis.

Source: Charles O. Jones (1984, p. 29)
Sequence and number of activities may vary

1993, pp, 15-16).

In the area of civil rights, public policy places the president of the United States in the center, is dynamic, and is influenced by a variety of conditions which impact the completion of the policy cycle (Shull, 1993, p. 17). Outcomes refer to the
Problem identified

Proposal developed

Decision-making process

Incremental
Analogizing
Segmented
Differential access
Policy networks
Bargaining / compromise
Short-run

Program results: obtuse, indirect, circuitous, unintegrated

Implementation

(Gradual unfolding of the problem and the effect of the program)

Evaluation: justification and expansion

Figure 7. The American Way of Making Policy.

impact or result of programs on actors, governments, and society (Shull, 1993, pp. 16-17). Shull (1993, p. 17) argues that some individuals may perceive outcomes as conferring benefits while others may see the policy as detrimental. Individuals or
groups who feel strongly about the way they are affected will make their views known (feedback), thus completing the policy-making cycle. Figure 9, “Components of the Presidential Policy Arena” is a visual presentation of the policy components (Shull, 1993, p. 18). The policy theories of Jones (1984) and Shull (1993) are the basis for this study. These theories explain how social equity efforts developed over

<table>
<thead>
<tr>
<th>Statements</th>
<th>Actions</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inputs</td>
<td>Decision Making</td>
<td>Outputs</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advice</td>
<td>Policy</td>
<td>Implementation</td>
</tr>
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<td>Information</td>
<td>(Program)</td>
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<tr>
<td>Perceptions</td>
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<td>Demands</td>
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</tr>
<tr>
<td>Support</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apathy</td>
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<td></td>
</tr>
<tr>
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<td></td>
<td></td>
</tr>
<tr>
<td>Staff</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cabinet</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bureaucracy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Congress</td>
<td></td>
<td></td>
</tr>
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<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>External</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Groups</td>
<td>Media</td>
<td>Public</td>
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<td>Opinion</td>
</tr>
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</tr>
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<td>Opinion</td>
<td>Elections</td>
<td>Political</td>
</tr>
<tr>
<td>Elections</td>
<td>Political</td>
<td>Parties</td>
</tr>
<tr>
<td>Political</td>
<td>Parties</td>
<td></td>
</tr>
<tr>
<td>Parties</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 9. Components of the Presidential Policy Arena.
Source: Shull (1993, p. 18)

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time from the beginning of the United States.

Efforts to obtain social equity in the United States date back to the beginning of the country when the thirteen original colonies declared freedom from the Crown of England. The beginning can be attributed to the statement in The Declaration of Independence, "All men are created equal". Since that time, the checks and balances of the United States government have attempted to provide social equity for all citizens. Attempts to provide social equity include: constitutional amendments, laws and treaties, Supreme Court decisions, and Executive Orders of the President. Formal attempts to shape social equity are influenced by public opinion statements by prominent community leaders and by public officials as well as union officials. Collectively, the efforts of these actors continue to shape social equity policy in the United States. A review of these social equity efforts is a foundation to determine employment received by black employees and other protected group members through equal opportunity and affirmative action public policy programs in the construction industry of Michigan.

National public policy actions related to equal opportunity and affirmative action were previously outlined and addressed the activities of eleven presidents, Congress, the Supreme Court, public officials, union representatives, and community leaders from 1941 - 1997. From these activities evolves the base of knowledge, which the public receives regarding affirmative action.

Public policy formulation has many identifiable actors in the process. Each actor in the policy formulation process has several options, which may be used to
accomplish the desired end. The interrelationship between the relevant actors in the political system is important in the final makeup of programs (Shull, 1993, p. 17). The President uses all means available to obtain the desired result. Other actors initiate as well as respond to actions of the President. Together, these actors individually and collectively communicate and formulate what the average American citizen will have to evaluate the public policy at hand. This public policy process is described by numerous authors Jones (1984) and Shull (1993, pp. 15-16). They describe how interaction among and between the previously named actors eventually form public policy in America. There are several stages and processes that a policy goes through according to Jones (1984, p. 28) and Shull (1993). The processes are not necessarily sequential and may be circuitous as well as repetitive in nature (Jones, 1984, pp. 26, 214; Shull, 1993, pp. 15-16).

The actions of the actors during the eleven presidential administrations were discussed in this research regarding equal opportunity and affirmative action public policy in the United States with a focus on the construction industry in Michigan.
CHAPTER III

METHODS

Introduction

The methods and procedures, which were used in this study, are described in this chapter. Specifically, the identification and selection of data, the variables to be studied, and the procedures for statistical analysis of the data are delineated.

This research was conducted to test the outcome benefit received by protected groups identified by the federal government through its employer reporting requirement in regards to affirmative action public policy. A quasi-experimental regression time-series design was used for this study (Babbie, 1992). Regression and time series design allowed for program and policy analysis (Meier & Brudney, 1993, pp. 281-389; Wholey, 1994, pp. 135-144). Trends regarding employment and unemployment benefits for the identified protected groups over the thirty plus year time period of this study were the central concerns of this research.

The independent variables for this study were interruption dates that are represented by each specified year included in this research. Interruption years for the thirty-one year time period of this study were established based on actions or statements by actors in the public policy process: presidents, decisions by the United States Supreme Court, statements by members of Congress, as well as actions and statements of members of the community relative to affirmative action public policy.
The dependent variables for this study were the employment percentage level as well as the unemployment percentage level of each protected group of this study.

Existing employment and unemployment data from the United States Equal Employment Opportunity Commission (EEOC), the Department of labor (DOL), and the Bureau of Census (BC) for each year used in this study were aggregated and summarized into percentages. These aggregates were an extension of the information provided by the EEOC, DOL, and BC. The data for each year was combined into four units: two units of existing employment data for all private employers reporting in the United States and all employment reported by employers in the private sector for the state of Michigan; and two units of existing data reported by private employers in the construction industry at the national and state of Michigan levels.

The data for each unit was then broken down by race and / or ethnic and gender according to definitions provided by the federal government. Each unit was subsequently divided into two occupational category groupings: either white collar or blue collar. The final aggregation of data for each unit in this research delineated race, ethnic and / or gender for occupational groupings that were labeled areas of concentration within white collar and blue collar occupational categories (EEOC & MCRC). The identified concentration areas were then removed. The occupational groupings removed from the white collar category were office and clerical occupations. The occupational groupings removed from the blue collar category were labor, service and maintenance occupations. These white collar and blue collar occupational classifications have traditionally had at least a reasonable number of minority or
women employees according to standards of the EEOC and MCRC.

Historical documents located at the EEOC, the Bureau of the Census, the Department of Labor, State of Michigan Services Agency, depository libraries for government documents, the Archives of Labor and Urban Affairs (Wayne State University Archives) at Wayne State University, the archives of the Michigan Civil Rights Department, as well as books and articles were reviewed for this research. Also included in these document sources were written communications such as letters, newspaper editorial comments, and memorandums from governmental units, private industry (construction unions), construction trades employers, and community organizations.

A review of the literature indicated that previous studies regarding fluctuations of the economy over time impacted all protected groups included in this research to the same degree (Burman, 1973; Coleman, 1993). Consequently, economic trends for the time period of this study were reviewed and were not incorporated.

Research Methods

Triangulation is a research method, which allowed for the analysis of both quantitative and qualitative data sources. Therefore, this research used a dominant-less dominant triangulation design (Creswell, 1994, pp. 173-190). For the time period of this study, existing quantitative data for both total employment and construction industry employment at the national and state of Michigan levels was obtained.
from the Bureau of Census and the Department of Labor as well as from the Equal Employment opportunity Commission.

**Regression and Time Series Design**

A regression and time series design was selected for its applicability to both internal and external validity issues related to this research. Economic conditions regarding the fluctuation of employment levels were discussed in previous research (Burman, 1973; Coleman, 1993, p. 187). Both researchers argued that economic conditions impacted all protected groups in a similar manner regarding benefit from affirmative action public policy and that all groups fluctuated the same with the economy.

Treatment and measurement for this research were enhanced with data for three additional time dates, which pre-date the time of this study: 1940, 1950, and 1960. The purpose of this data was to provide a historical framework for documented protected groups prior to the pre-test data period of this study. The pre-test data time date for this study was 1965. However, reporting employment data with detailed information regarding each race/ethnic and gender group was not reported and recorded by the federal government in a systematic manner until 1966 (Equal Employment Opportunity Commission). Race and ethnic categories were discussed in the definition section of this research.

Table 7 represents employment level data for the three decade pre-date data periods, specifically, 1940, 1950, and 1960. Table 8 stands for the pre-test data year
Table 7
Pre-Decade Data 1940, 1950, 1960, National Employment Civilian Labor Force

<table>
<thead>
<tr>
<th></th>
<th>1940</th>
<th></th>
<th></th>
<th>1950</th>
<th></th>
<th></th>
<th>1960</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>55,640</td>
<td>100</td>
<td>63,099</td>
<td>100</td>
<td>70,612</td>
<td>100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>41,480</td>
<td>75</td>
<td>44,442</td>
<td>70</td>
<td>47,025</td>
<td>67</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women</td>
<td>14,160</td>
<td>25</td>
<td>18,657</td>
<td>30</td>
<td>23,587</td>
<td>33</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total White</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>41,480</td>
<td>75</td>
<td>44,442</td>
<td>70</td>
<td>42,297</td>
<td>60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women</td>
<td>14,160</td>
<td>25</td>
<td>18,657</td>
<td>30</td>
<td>20,471</td>
<td>29</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Non-White</td>
<td>N/A</td>
<td></td>
<td>N/A</td>
<td></td>
<td>7,844</td>
<td>11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Men</td>
<td>N/A</td>
<td></td>
<td>N/A</td>
<td></td>
<td>4,728</td>
<td>7</td>
<td></td>
<td></td>
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<tr>
<td>Women</td>
<td>N/A</td>
<td></td>
<td>N/A</td>
<td></td>
<td>3,116</td>
<td>4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

N/A - Not Available

Source: Department of Labor, Bureau of Labor Statistics; Employment and Earnings Table No. 296: page 216, Employment Status of the Noninstitutional Population, by Sex and Color: 1940 to 1965. In thousands of persons 14 years old and over. 1940 Data Table No. 204; page 173.

of 1965. Table 9 is an example of the sample test data for the time period of this study. Data for five of the years in this study were not available from the EEOC which has responsibility for data collection (See letter from EEOC in Appendices). Dummy variables were used for the missing five years of data.
Table 8
Pre-Test Data 1965, National Employment Civilian Labor Force

<table>
<thead>
<tr>
<th></th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
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<td>100</td>
</tr>
<tr>
<td>Men</td>
<td>47,957</td>
<td>65</td>
</tr>
<tr>
<td>Women</td>
<td>25,952</td>
<td>35</td>
</tr>
<tr>
<td>Total White</td>
<td>65,805</td>
<td>89</td>
</tr>
<tr>
<td>Men</td>
<td>43,193</td>
<td>58</td>
</tr>
<tr>
<td>Women</td>
<td>22,612</td>
<td>31</td>
</tr>
<tr>
<td>Total Non-White</td>
<td>8,104</td>
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<tr>
<td>Men</td>
<td>4,764</td>
<td>6</td>
</tr>
<tr>
<td>Women</td>
<td>3,340</td>
<td>5</td>
</tr>
</tbody>
</table>


Sample Procedure

The target of this study was the employment population level of each protected group as it was voluntarily reported by private employers to the Equal Employment Opportunity Commission (EEOC). The time frame of this study is 1966-1997. The emphasis of this study was the identified years where employment data for protected groups began and was consistently developed and recorded by the
**Table 9**

**United States - All Employment**

<table>
<thead>
<tr>
<th>Category</th>
<th>Year</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Employees</td>
<td></td>
<td>69.0000</td>
<td>66.0000</td>
<td>63.0000</td>
<td>59.0000</td>
<td>56.0000</td>
<td>54.0000</td>
<td>53.0000</td>
</tr>
<tr>
<td></td>
<td>Men</td>
<td>31.0000</td>
<td>34.0000</td>
<td>37.0000</td>
<td>41.0000</td>
<td>44.0000</td>
<td>46.0000</td>
<td>47.0000</td>
</tr>
<tr>
<td></td>
<td>Women</td>
<td>69.0000</td>
<td>66.0000</td>
<td>63.0000</td>
<td>59.0000</td>
<td>56.0000</td>
<td>54.0000</td>
<td>53.0000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>69.0000</td>
<td>66.0000</td>
<td>63.0000</td>
<td>59.0000</td>
<td>56.0000</td>
<td>54.0000</td>
<td>53.0000</td>
</tr>
<tr>
<td>Black</td>
<td></td>
<td>8.0000</td>
<td>10.0000</td>
<td>11.0000</td>
<td>12.0000</td>
<td>12.0000</td>
<td>13.0000</td>
<td>13.0000</td>
</tr>
<tr>
<td></td>
<td>Men</td>
<td>6.0000</td>
<td>6.0000</td>
<td>6.0000</td>
<td>6.0000</td>
<td>6.0000</td>
<td>6.0000</td>
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</tr>
<tr>
<td></td>
<td>Women</td>
<td>2.0000</td>
<td>4.0000</td>
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</tr>
<tr>
<td></td>
<td>Men</td>
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<td>2.3598</td>
<td>2.7797</td>
<td>3.0000</td>
<td>3.2815</td>
<td>4.0000</td>
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<tr>
<td></td>
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<td>1.1906</td>
<td>1.5664</td>
<td>2.0000</td>
<td>2.3819</td>
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</tr>
<tr>
<td>Asian/Pacific</td>
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<td>1.0000</td>
<td>1.0000</td>
<td>2.0000</td>
<td>2.0000</td>
<td>2.0000</td>
<td>2.7618</td>
</tr>
<tr>
<td></td>
<td>Men</td>
<td>0.3000</td>
<td>0.3000</td>
<td>0.4000</td>
<td>1.0000</td>
<td>1.0000</td>
<td>1.4193</td>
<td>1.7765</td>
</tr>
<tr>
<td></td>
<td>Women</td>
<td>0.2000</td>
<td>0.2000</td>
<td>0.4000</td>
<td>1.0000</td>
<td>1.0000</td>
<td>1.3424</td>
<td>1.6595</td>
</tr>
<tr>
<td>American Indian</td>
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<td>0.3000</td>
<td>0.3000</td>
<td>0.4189</td>
<td>0.4000</td>
<td>0.5000</td>
<td>1.0000</td>
</tr>
<tr>
<td></td>
<td>Men</td>
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<td>0.2000</td>
<td>0.2000</td>
<td>0.2727</td>
<td>0.2000</td>
<td>0.3000</td>
<td>0.3000</td>
</tr>
<tr>
<td></td>
<td>Women</td>
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<td>0.1000</td>
<td>0.1000</td>
<td>0.1462</td>
<td>0.2000</td>
<td>0.2000</td>
<td>0.2000</td>
</tr>
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<td>White</td>
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<td>89.0000</td>
<td>85.0000</td>
<td>84.0000</td>
<td>81.0000</td>
<td>79.7467</td>
<td>77.0000</td>
<td>75.0000</td>
</tr>
<tr>
<td></td>
<td>Men</td>
<td>61.0000</td>
<td>56.0000</td>
<td>53.0000</td>
<td>49.0000</td>
<td>45.3882</td>
<td>42.0000</td>
<td>41.0000</td>
</tr>
<tr>
<td></td>
<td>Women</td>
<td>28.0000</td>
<td>29.0000</td>
<td>31.0000</td>
<td>33.0000</td>
<td>34.3584</td>
<td>35.0000</td>
<td>34.0000</td>
</tr>
<tr>
<td>Minority</td>
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<td>173,843</td>
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</table>

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*

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Equal Employment Opportunity Commission. The data years (1966 - 1997) for this study were based on the availability of information from the EEOC. Data from the EEOC was available for 26 of the thirty-one years of this study.

While employment data for the time period of this study told one story, unemployment data for each protected group told another story. Therefore, this study became a dual analysis of both employment and unemployment levels for protected groups. Bartson and Rabboh (1996, p. 354) argue from an economic perspective regarding how employment data and unemployment data are determined. Rabboh and Bartson (1996, p. 354) explain how unemployment data are simply those individuals not employed and detailed race, ethnic, and gender information is not included. However, an economic analysis of employment alone, which does not explain unemployment trends or capture a crystallization of benefits received or not received by each protected group as a result of affirmative action public policy, is not complete. Therefore, unemployment data for the time period of this study were examined through a regression and time series analysis for each protected group.

Sample Inclusion Criteria

The data for this study includes employment information for three pre-date data census periods (pre-affirmative action 1940-1950-1960), pre-test data (1965), and test data (1966-1997). Unemployment data are included for the time period of this study. The test data are the dependent variable data points, which are the subjects of this study. The pre-date data points were derived from the census cycle of...
data gathering periods used by the Bureau of the Census. Both pre-date data and pre­test data are important as they provided an economic trend base for the test data period and served as intervals by which changes regarding employed individuals were recorded according to race / ethnic and gender by the Department of Commerce’s Bureau of Census, Equal Employment Opportunity Commission, and the Department of Labor.

**Units of Analysis**

The data for this study includes two broad categories: employment and unemployment information. Employment data were organized into two primary organizational groupings (units) for all employment at the national and the state of Michigan levels as well as construction employment for both levels. First, the data for these units were aggregated for each data year of this study including pre-data years, the pre-test data year, and the time variable years. Then, the data for each year were calculated into percentages for each appropriate race, ethnic, and gender grouping within each occupational category. Two occupational groupings also were identified for this study: white collar and blue collar. Each grouping was calculated with the inclusion of all occupational classifications and analyzed for each grouping.

Selected occupational classifications were then summarized as percentages, but these figures excluded those occupational classifications characterized by the federal government as areas of concentration for a given racial/ethnic or gender group (Equal Employment Opportunity Commission & Michigan Civil Right Commission -
EEOC & MCRC). The exclusion process allowed for the review and analysis of the protected group movement of women and minorities into traditional as well as non-traditional occupational classifications. Tables 10 and 11 are examples of the inclusion and exclusion process at the national level for seven selected years of white collar occupations for total employment at the national level. Tables 12 and 13 are examples of the inclusion and the exclusion process for seven selected years of blue collar occupations for total employment at the national level. Total employment at the state of Michigan level is illustrated in Table 14 and the white collar and blue collar inclusion and exclusion process are illustrated respectively in Tables 15-16 and 17-18. Unemployment data for each year of the study were percentaged for each appropriate race/ethnic and gender group.

An additional data unit of analysis was established for this research at the State of Michigan level. The additional unit is the number of employers reporting employment levels to the federal government for each protected group during the thirty-one year period of this study. Analysis of this unit reflected the number of employers who voluntarily reported employment data as a direct result of affirmative action public policy requirements.

Qualitative Research Method

The historical data for this research was collected from archival information on the issue of affirmative action policy initiatives in America. Focusing this data was the issue of the “supremacy clause.” The “supremacy clause” determines
Table 10

U.S. All White Collar Percentages

<table>
<thead>
<tr>
<th>Category</th>
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</tbody>
</table>

| Units Reporting   |      |    |    |    |    |    |    |
|                   | 17,578 | 137,315 | 150,376 | 173,644 | 126,396 | 154,894 | 173,843 |

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
Table 11
U.S. All White Collar Excluding Office and Clerical Percentages

<table>
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</tr>
<tr>
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</table>

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
### Table 12

U.S. All Blue Collar Percentages

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<th>5</th>
<th>6</th>
<th>7</th>
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*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
Table 13

U.S. Blue Collar Excluding Labor and Service Percentages

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*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
**Table 14**

**Michigan All Employment Percentages**

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*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*

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### Table 15

**Michigan White Collar Percentages**

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<th>4</th>
<th>5</th>
<th>6</th>
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*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*

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Table 16

Michigan White Collar Excluding Office and Clerical Percentages

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<th>4</th>
<th>5</th>
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<th>7</th>
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<td>0.1200</td>
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<tr>
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<td>5,964.0</td>
<td>4,116.0</td>
<td>5,105.0</td>
<td>5,793.0</td>
<td></td>
</tr>
</tbody>
</table>

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
Table 17

Michigan All Blue Collar Percentages

<table>
<thead>
<tr>
<th>Category</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Employees</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
</tr>
<tr>
<td>All</td>
<td>84.0000</td>
<td>16.0000</td>
<td>82.2000</td>
<td>17.7000</td>
<td>80.0000</td>
<td>20.0000</td>
<td>75.0000</td>
</tr>
<tr>
<td>Black</td>
<td>All</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
</tr>
<tr>
<td>Hispanic All</td>
<td>1.0000</td>
<td>0.8400</td>
<td>0.1100</td>
<td>0.2000</td>
<td>0.3000</td>
<td>0.4600</td>
<td>0.5600</td>
</tr>
<tr>
<td>Hispanic Men</td>
<td>0.8400</td>
<td>1.2000</td>
<td>0.2000</td>
<td>0.3000</td>
<td>0.4000</td>
<td>0.5000</td>
<td>0.6000</td>
</tr>
<tr>
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<td>0.1100</td>
<td>0.2000</td>
<td>0.1000</td>
<td>0.2000</td>
<td>0.3000</td>
<td>0.4600</td>
<td>0.5600</td>
</tr>
<tr>
<td>Asian/Pacific All</td>
<td>0.0600</td>
<td>0.0400</td>
<td>0.0200</td>
<td>0.0400</td>
<td>0.2000</td>
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<tr>
<td>Asian/Pacific Men</td>
<td>0.0400</td>
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<td>0.2000</td>
<td>0.3000</td>
<td>0.4000</td>
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</tr>
<tr>
<td>Asian/Pacific Women</td>
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<td>0.0600</td>
<td>0.1300</td>
<td>0.2400</td>
<td>0.3200</td>
<td>0.4000</td>
</tr>
<tr>
<td>American Indian All</td>
<td>0.1800</td>
<td>0.1400</td>
<td>0.1800</td>
<td>0.3500</td>
<td>0.4000</td>
<td>0.3500</td>
<td>0.4000</td>
</tr>
<tr>
<td>American Indian Men</td>
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<td>0.1700</td>
<td>0.2900</td>
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<td>American Indian Women</td>
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<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
</tr>
<tr>
<td>All</td>
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<td>Men</td>
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<td>Men</td>
<td>Women</td>
<td>Men</td>
<td>Women</td>
<td>Men</td>
</tr>
<tr>
<td>Minority All</td>
<td>16.2750</td>
<td>13.8450</td>
<td>2.4300</td>
<td>4.0010</td>
<td>4.7970</td>
<td>5.3550</td>
<td>5.9640</td>
</tr>
</tbody>
</table>

Units Reporting

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.*
Table 18

Michigan Blue Collar Excluding Labor and Service Percentages

<table>
<thead>
<tr>
<th>Category</th>
<th>Year</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
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<td></td>
<td></td>
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</tr>
<tr>
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<td></td>
<td>89.000</td>
<td>88.300</td>
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<td>83.200</td>
<td>82.200</td>
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<td>20.000</td>
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<td></td>
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<td></td>
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<td></td>
</tr>
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<td></td>
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<td></td>
</tr>
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<td>0.330</td>
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<td></td>
<td></td>
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<td></td>
</tr>
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<td></td>
</tr>
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<td>5,105.0</td>
<td>5,793.0</td>
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</table>

*Tables 9 through 18 are examples of employment level data for each protected group included in the thirty-one year period of study for this research. The data reflects percentage levels of each protected group for the years 1966, 1970, 1975, 1980, 1985, 1990, and 1995. The percentage levels are a reflection of employment levels reported by employers for each designated year of this research.
whether or not the national government has authority over states regarding a specific area. Paterson (1997, p. 38) reports that the “supremacy clause” provides generally that the laws of the United States shall be supreme over the laws of states. The Tenth Amendment of the United States Constitution gives the States powers not delegated to the national government. The Michigan Civil Rights Commission, the Commission on Community Relations for the city of Detroit, and the Human Relations Commission of Wayne County believed they had legal authority to impose contract compliance requirements according to their statutes even though the requirements exceeded federal requirements.

Data collection was centered around the independent interruption variables of time. This allowed for the designation of specific information related to an individual statement and or action at a given time by the President, the Supreme Court, Congress, and community groups or individuals regarding affirmative action public policy formulation at the national and state of Michigan levels.

Qualitative reliability for this study was determined by establishing three designated points of reference regarding the construction industry: the U.S. Conference of Mayors Report of 1965 (Experience Report 102), the Michigan Civil Rights Commission study of the construction industry (1965), and the Philadelphia Construction Plan (1969) which was the foundation for the nationwide “Home Town Plan” in the construction industry. Archival information related to activities of these entities was studied to ascertain the impact of affirmative action public policy development in the construction industry of Michigan. The analysis of these documents
defined the cycle of public policy formulation as a stimulus-response process (Shull, 1990, pp. 15-17) and as a feedback process, which may or may not have a beginning or an end (Shull, 1993, pp. 15, 17).

Qualitative trustworthiness was enhanced by having other researchers review the documents of the archives, as explained by Marshall and Rossman (1989, pp. 148-149). These individuals were part of the process during the time the documents were developed or witnessed the actions or statements by individuals involved in affirmative action social equity public policy formulation for the construction industry of Michigan. These individuals include current and former staff members of the Michigan Department of Civil Rights, Henry Ford Community College, and Western Michigan University, as well as documents located in the archives of the Walter P. Reuther Library of Wayne State University.

Data Collection Procedure

During the first half of 1996, the staff of the Michigan Civil Rights was contacted as possible sources of information related to affirmative action public policy formulation in the construction industry of Michigan. Three primary sources regarding the construction industry of Michigan were identified by the staff: (1) Report 102 of the U.S. Conference of Mayors, (2) the 1965 Michigan Civil Rights Report on the construction industry, and (3) records of the City of Detroit Commission on Community Relations and files of Horace Sheffield in the Wayne State University Archives of Labor and Urban Affairs (Walter P. Reuther Library). Two
file sources were then identified in the archives at Wayne State University regarding the construction industry of Michigan: the City of Detroit Commission on Community Relations and Horace Sheffield.

An additional source was reviewed: a publication entitled "Public Civil Rights Agencies and Fair Employment: Promise vs. Performance," by Frances Reissman Cousens, a faculty member at Wayne State University and the primary consultant on the study of the construction industry of Michigan for the Michigan Civil Rights Commission. These data sources were discussed with current and former staff members of the Michigan Civil Rights Commission who were members of the Commission during the period the documents were developed. Data from these four sources were analyzed to reveal the chronology of events regarding the implementation of the affirmative action public policy within the construction industry in the state of Michigan.

Pre-date Data Period

Census information for the decades of 1940, 1950, and 1960 were reviewed to determine trends regarding employment participation levels for the various protected groups included in this study. The purpose was to isolate the movement of protected groups identified at each census period as recorded by the federal government. Most importantly, these pre-data years provided a baseline for the movement of each group prior to this study and isolated the absence or inclusion of affirmative action activities and/or economic conditions which may have impacted protected groups.
Pre-test Data

The pre-test data date is the independent time variable for the year 1965 regarding employment levels in the construction industry for the various protected groups identified in this study. The data was obtained from the United States Department of Commerce, Bureau of the Census, the Department of Labor and was not aggregated for the occupational units identified in this study. This data served as a pivotal point for both economic trends and the pre-test data interval for the independent variable.

Test Data

Test data were extrapolated from existing documents of the United States Equal Opportunity Commission (EEOC), the Department of Labor and organized into percentages for the previously cited occupational groupings of this study. The test data reflects the employment level for each race/ethnic and gender group. Unemployment data reflects levels for available race/ethnic and gender groups.

Reliability and Validity of Quantitative Data

Reliability evaluates the consistency of the measurements (Balian, 1994). Consistency is the degree to which all items are part of the instrument and are measured at a given degree and the degree to which inter-items correlate at the same level. Replication of a measurement tool is assessed by the extent to which the same results are repeated or obtained (Carmines & Zeller, 1979, pp. 11-16).
Reliability measurements are presented as correlation coefficients. The higher the correlation value the more reliable the instrument. Correlations may range from 0.0 to + 1.00. A correlation of + 1.00 represents perfect reliability within an instrument; conversely, a reliability of +.10 would reflect a very unreliable instrument (Balian, 1994, p. 104).

Validity is whether or not the items appear to measure what the instrument purports to measure (Creswell, 1994, p. 121). Construct validity is a combination of both content (subjective) and criterion-related (objective) approaches, as utilized in the factor analysis statistical technique (Balian, 1994, pp. 97-100). The question asked was: What has been the outcome benefit received by the various protected groups identified compared with each other for the time period of this study, which may have been the result of affirmative action? The census formulation and reporting cycle of the U.S. Census Bureau of the Department of Commerce, the Department of Labor, and Equal Employment Opportunity Commission were designated as the pivotal points for determining the time periods for this study. Data for 26 of the thirty-one years of this study were analyzed. Civil rights administrators at the Michigan Civil Rights Commission were asked to review and pinpoint critical stakeholders at the Michigan Civil Rights Commission, the city of Detroit’s Commission on Community Relations, and the Human Relations Commission of Wayne County. Construction industry representatives and community organizations were identified in archival data collected in the Walter P. Reuther library at Wayne State University regarding affirmative action in the construction industry for the state of Michigan.
The federal government (Bureau of Census) has been collecting statistical information including an item for race since 1790. Over the years, the data have been combined into a variety of formats. These aggregations now include details regarding race, ethnicity, and gender for both employment and unemployment data. All data categories and definition changes have been documented by the National Research Council. The recording of race, ethnicity, and ancestry has varied over the decades to meet federal mandates at given points in time, and data categories have ranged from two to eighteen groupings for each decade. Furthermore, data for the Equal Employment Opportunity Commission has been consistently subdivided into three or five separate race and ethnic categories during the time of this study.

Qualitative data were identified and collected as a result of repeated discussions with current and former administrators in the Michigan Civil Rights Commission as well as faculty members at Henry Ford Community College and attorneys who have had affirmative action responsibility. Archival data in the form of books, newspaper articles, written memorandum, and letter communications also were reviewed. The qualitative data were then gleaned from these sources and analyzed regarding the different affirmative action standards imposed by the national government versus state and local governments. Resulting from this analysis was a chronological explanation of efforts by national, state, and local agencies, as well as government contractors, unions, and community organizations regarding affirmative action in the construction industry of Michigan. This data parallels the movement of
dependent variables in the regression and time series analysis for the first ten years of
this study.

Threats to Internal Validity

The findings of a study determine whether or not internal validity is attained
from only the effect of the independent variable and cannot be interpreted as the
result of extraneous variables. Berg (1995) reported that content analysis is any tech­
nique for making inferences by systematically and objectively identifying special
characteristics of messages. According to Babbie (1995), “... an advantage of con­
tent analysis is that it provides a means by which to study processes that occur over
long periods of time or that may reflect trends in a society” (p. 320). Also, Babbie
(1995, p. 320) reported that the most important advantage of content analysis may be
that it can be virtually unobtrusive. That is, content analysis seldom has any effect on
the subject being studied (Babbie, 1995, p. 320). The possible threats to the internal
validity of this study are:

1. Archival data threat. Information chosen for this study was derived from
established governmental archives only and did not include archival information
from other entities. Threats affecting the accuracy of this study are the training and
education efforts used by employers to increase employment for protected groups
during the first ten years of this study. These efforts were not analyzed but could
have affected the results of the research in terms of how occupational grouping data
changed.
2. History threat. Events other than outcome trends were not included in this study. Specifically, the historical threats of race relations and community unrest as well as community pressure or media pressure which reflect attitudes and emotions of individuals during the time of this research were not analyzed but could have altered the results if they had been.

3. Voluntary reporting threat. Private employers at the national and local levels voluntarily reported employment information for all protected groups for the time of this study. A threat affecting the accuracy of the data is the fact that all private employers did not voluntarily report. If all private employers had met the reporting requirement, the results could have impacted the outcome of this study.

4. Race, ethnic, gender threat. Data related to race, ethnicity, and gender were consistently collected for this study. However, the federal government did not isolate the category of "other" during the time of this study, and thus, "other" was not included as a dependent variable herein. The category "other" has been collected and maintained by the federal government for a number of years. Consequently, this data is a threat as it was not part of the categorical information delineated by the Bureau of Census, Department of Labor, and by the Equal Employment Opportunity Commission.

5. Agency enforcement threat. The degree to which an agency enforced affirmative action contract compliance requirements was not analyzed.

   Reporting techniques and requirements regarding affirmative action for contractors vary by governmental agency and were not an issue of this study. Therefore,
responses to the techniques or requirements used by an agency to have a union or employer report employment data was not reported in this study.

Threats to External Validity

The results of a study are considered to have external validity when there is confidence that the research is generalized to situations outside the specific research setting. Threats to external validity are:

1. Replication of situation. State and local units of government have long held sovereignty regarding certain rights not delegated to the national government under the constitution. State rights guaranteed by the supremacy clause of the United States Constitution have been continually tested in court. Furthermore, the importance of affirmative action public policy may or may not have been a concern in other regions at the national, state, or local levels. Additionally, community involvement regarding the issue of affirmative action may not have been a salient concern in the construction industry.

2. Enforcement effect. Federal regulations regarding affirmative action are not implemented at the same level in all regions of the country. Also, the enforcement of affirmative action regulations by state and local agencies throughout the various regions is not the same. The efforts of these entities determine to a great degree how affirmative action is implemented and monitored in various regions throughout the country, but they were not considered in this research.

3. Community effect. The resistance of community organizations to the
regulation requirements of the federal government regarding affirmative action policy may have differed from region to region.

4. Employer and union effect. History has shown how employers and unions have acknowledged federal regulations, and has indicated that responses have varied by region. Regarding affirmative action regulations set forth by the federal government, responses could have been reviewed through an analysis of the manner in which employers and unions at the regional level (state, county and city) met voluntary reporting requirements.

Limitations of the Study

Limitations of the study include the following:

Civil Rights Enforcement Agencies. Archival data was obtained regarding affirmative action activity from the Bureau of the Census (Department of Commerce), the Department of Labor and from the Equal Employment Opportunity Commission at the national, state, and local levels which occurred from 1966 to 1997. However, now there is new information regarding how and why the various protected groups received employment from efforts of affirmative action public policy in the construction industry of Michigan.

Private Employers. For each year of the study, the emphasis of the enforcement agencies (governmental entities) involved in affirmative action public policy has been voluntary. Furthermore, total demographic data for all private employers was not collected.
**Independent Variables (Statements and Actions).** These variables were selected from existing archival documents of presidents, Congress, the Supreme Court, and state of Michigan agencies. City and county documents as well as newspaper articles, editorials, and publications were also selected for review. Complete information for all entities involved such as unions and construction contractors was not reviewed.

**Outside Factor.** An overriding factor of this study is the environment. This study was conducted in a state where strong unions directly impact employment. However, union activity was not an issue in this study and was not analyzed for its effect on the outcome. Also, compliance or resistance by unions to affirmative action policy was not analyzed. Many states have right-to-work laws. The right-to-work provision (Section 14b) in the Taft-Hartley Act outlaws the closed shop, except in construction-related occupations, and allows states to pass right-to-work laws. A closed shop requires individuals to join a union before they can be hired. The act did allow the union shop, which requires that an employee join the union, usually 30 to 60 days after being hired. Right-to-work laws are state laws that prohibit both the closed shop and the union shop. They were so named because they allow a person the "right-to-work" without having to join a union. Figure 10 is a visual of states with and without right to work laws (Mathis & Jackson, 1994).

**Designated “706 Agency.”** Status as a “706 Agency” is granted by national government to states and local governments which enforce through litigation their own civil rights regulations. The status for the state of Michigan as a designated
States located in the contiguous United States are states with and without “right-to-work” laws. Alaska and Hawaii (not shown) are both without “right-to-work” laws.

“706 Agency” may have influenced the outcome of employment in Michigan in regards to the impact of affirmative action in the construction industry. State and local agencies which have “706 Agency” status or enforce civil rights and affirmative action regulations also may have had an impact on the outcome of this research.
Strengths of the Study

Existing Data. Documented data from federal, state, and local governmental institutions were utilized for this study. These data are accepted as the standard for recorded employment occurrences in the construction industry of the United States and of the state of Michigan throughout the time period of this study.

Control. The extraneous variable of economic conditions was controlled by applying to protected groups economic conditions established by the President's economic report over the time of this study including the pre-date data period. Upward and downward trends of the economy were taken into consideration for the various protected groups analyzed in this study.

Span of Data. The data in this research not only includes an analysis of the first and last years of the study but also an analysis of all the intervening years through the inclusion of dummy variables for the five missing years of data.

Data Selection. Data selection was based on the census cycle of the Bureau of Census as well as the Department of Labor and the Equal Opportunity Employment Commission during the thirty-one year time period of this research. Employment data for five years of this study was not available from the Equal Opportunity Employment Commission: 1968, 1972, 1974, 1976, and 1977. Additionally, pre-decade data (1940, 1950, and 1960) and pre-date data (1965) were included in this research.

Peer Review. Mathematical computation of the census data into aggregated percentages was reviewed by other researchers, professors of mathematics. These
researchers checked, reviewed, and calculated the inclusion and exclusion process used for the occupational groupings and the development of percentages.

*Design.* Regression and time series analysis controlled for the years in this study.

*Triangulation.* Both quantitative and qualitative research approaches were used to form a dominant/less-dominant design in order to capture both empirical and rich essence information regarding employment in the construction industry of Michigan.

Statistical Analysis of Data

**Multiple Regression Analysis**

Multiple regression analysis is employed as an interval statistical technique to examine the relationship between the eight independent variables and the forty dependent variables in each of the four data sets in this study.

Stepwise regression is used to enter and remove variables one at a time. This process is continuous until the F test statistic indicates that any variables in the equation should be removed or that there is an absence of any variables that are not in the equation and need to be entered (Norris, 1991, pp. 287-290). Five dummy variables are used to compensate for the data of the missing years of 1968, 1972, 1974, 1976, and 1977.
Analysis of Variance

Analysis of variance (ANOVA) was employed to test the significance of differences between the means of the protected group variables. The statistics computed in the analysis of variance was the F test, which is a one-way analysis of variance when comparing several means. $R^2$ instead of an adjusted $R^2$ is used with the F test (Moore, 2000, pp. 500-508). Variability due to differences between variables can be eliminated from the experimental error through the use of ANOVA.

F Test. The F test assesses the evidence for some difference among the population means. The F test determines the significance level for each variable of data sets. The F test statistic and P-value are then compared. The F test statistic and P-value allows for the acceptance or rejection of the null hypothesis. Confidence intervals of 95% are sufficient to reject a null hypothesis at the 0.05 level.

Time Series

Time series analysis is a sequence of observations on some variable when the observations occur at equally spaced time intervals. Most time series analysis has some short-term fluctuations, which can be filtered out by using a moving average (Meier & Brudney, 1993, pp. 337-342). Five of the six steps of time series analysis are used in this study. There are six basic steps in a time series analysis: plot the data; determine if any short-term fluctuations exist and filter them; determine if there is a cyclical trend and lengthen and filter; determine the relationship; use linear regression to estimate the relationship between time and the variable being analyzed;
and forecast by using the regression equation (Meier & Brudney, 1993, pp. 327-332).

Autocorrelation

Autocorrelation is examined to detect measurement error in this study to determine whether or not multicollinearity is a concern and addresses the issue of residual errors. Autocorrelation also addresses the issue of successive time periods and interruption dates. Autocorrelation includes the Durbin-Watson test (Meier & Brudney, 1993, pp. 386-387). In the Durbin-Watson test, statistics close to 2.0 indicate that when there is no autocorrelation, and statistics equal to 0 if there is perfect positive autocorrelation, and equal to 4.0 if there is perfect negative autocorrelation. The Durbin-Watson table is used to test for autocorrelation at the 0.50 level of confidence.

The values for each dependent variable are lagged by one year in each population through the entire set of data.
CHAPTER IV
DATA ANALYSIS

Introduction

In the first section, the results of the study are presented and analyzed. Both
descriptive and inferential statistics are used. The sociodemographic characteristics
of the sample are described and the results of the hypotheses tested are discussed.

For purposes of this study, employment and unemployment data are aggre­
gated by race/ethnic, and gender categories. Employment data also are aggregated by
occupational category. Employer reporting data is presented in a linear method for
each year of this study.

Quantitative Results

Sample Characteristics

The sample consisted of all of the available reported public employment data
from the Equal Employment Opportunity Commission (EEOC) for the period of this
study. The data in this study is a collection of 160 series of yearly measurements
from 1966 to 1997. The EEOC began collecting employment data for the year 1966
and continues as of this writing. There are five years of data missing (1968, 1972,
1974, 1976, and 1977). The measurements are the percentages of total employment

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for groups identified by race/ethnic, gender, and occupational grouping. There are 40 such dependent variables for each of the 4 populations studied. The four data sets are total reported private employment for: All National Employment, All National Construction Employment; All Michigan Employment, and All Michigan Construction Employment.

**Interruptions**

Eight potential interruptions for each series are identified. The eight years with potential interruptions are: 1971, 1975, 1977, 1980, 1989, 1991, 1992, and 1995. The goal of the analysis of each series is to see which, if any, of these years produced significant changes in the series. The existence of missing years eliminated the use of traditional (ARIMA or Box-Jenkins) time series analysis without some method of imputation for the missing data. Since most of the series showed a strong linear trend in time, linear regression methods are used to model the trend and impute the missing data points.

Specifically, the interruptions are modeled as dummy (or indicator) functions which are given the value of 0 for each year before the interruption year and a value of 1 for all years after, including the interruption year. For example, to model the potential interruption for 1971, a variable named int71 is created. The value of int71 is 0 for years 1966 through 1970 and the value of 1 for years 1971 through 1997. Thus, each interruption is modeled as a one time and permanent effect taking place in the year of interruption and continuing thereafter. In some cases, the plot of the
series indicated a delay of a year for the interruption year 1980. Therefore, an additional interruption for the year 1981 (int81) was created and included in this study, which has nine interruptions.

For each dependent variable (proportion of total employment), a stepwise regression was run using as predictors, the year and the 9 interruption indicators. In most cases, the resulting model produced a very high $R^2$ value. The model produced by the stepwise regression was then used to estimate the values of the variable for the missing years.

Using the new series with the imputed values filling in the missing points, another stepwise regression was run on the same predictors plus the value of the variable for the previous year. In other words, an autoregressive term of order 1 was included in the model. Therefore, the model for each response group was represented as the sum of a linear time series (possibly with an autoregressive term) and a set of effects due to the interruption years. The effect of any interruption was measured by the multiplier (coefficient of the dummy variable) or an indicator function representing the interruption year. A negative coefficient, therefore, indicated that the interruption represented a decrease from the general trend over time, while the resulting trend over the time of this study indicated an increase in the general trend. Likewise, a positive trend may have experienced a negative result.

The residuals from the resulting regression model were tested for normality and autocorrelation. In most cases, the residuals were uncorrelated and did not deviate much from being normally distributed.
The $R^2$ for each of the one hundred-sixty variables for the four populations of this study explained the degree of association. The four populations are; All National Employment, All National Construction Employment, All Michigan Employment, and All Michigan Construction Employment. Each of the four data sets has forty variables. The explained association for each variable of these four data sets is illustrated in Table 19. Of the total 160 variables, thirteen variables have an explained degree of association level of less than 72.25%. Each data set has at least two variables below this percentage with a maximum of six variables below this level for one population. Thirteen variables are 8.1% of the total variable populations. Of these thirteen variables, the least explained by the impact of the interruptions is black men in blue collar excluding occupations at 26.54% for the data set of All National Employment. These variables have the least explained degree of association. The variables below 72.25% vary for each of the four populations of this study. This finding indicates that there is a weaker positive association.

The All National Employment population has two variables below 72.25%. The previously cited variable of black men has an $R^2$ of 26.54% and native American men in blue collar occupations has a $R^2$ of 63.63%. Of the forty variables for this population, 75% have an $R^2$ of 90.16% or greater. The remaining explained variables for this population has a range of 75.95% to 88.71%.

Nearly half of the National Construction variables (19), have an explanation of 90.29% or greater. The lowest percentage of any variable for this population is white women in blue collar occupations explained at the 57.78% level. This variable
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<td>White Men blue collar excluding labor and service</td>
</tr>
<tr>
<td>TWMWC</td>
<td>White Men white collar</td>
</tr>
<tr>
<td>TWMWCOC</td>
<td>White Men white collar excluding office and clerical</td>
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</table>
for white women has the least explained degree of association indicating there is a weaker positive strength. The next two least explained variables based on the interruptions are white men in blue collar excluding occupations at 64.28% and Asian women in blue collar excluding occupations at 68.16%. The remaining variables below 90.29% are explained with a range from 74.66% to 89.84%.

The variables for the Michigan All population have 80% explained at the 92.15% level or greater. The least explained positive association is the variable white men in white collar occupations at 56.42%. The other explained variables below 92.15% range from a high of 88.10% to a low of 63.53%.

The Michigan Construction data set also has a variety of explained variables. This data set has the largest number of least explained degrees of association based on the interruptions which is 6. However, this population does not have the lowest explained value. There are six explained variables at or below 72.25%. These variables range from a low of 30.01% for black men in blue collar occupations to a high of 69.97% for black men in white collar excluding occupations. The next least explained variable is white men in white collar occupations at 44.05%. There also are fourteen explained variables above 72.25% and below 90.77% at the range of 73.89% to 89.87% levels. The eighteen remaining variables have a range of explained association for the interruption variables of a low of 90.77% to a high of 98.46% for white men in blue collar occupations.

An interruption indicator that entered the regression model at a p-value of .05 or less was interpreted as being a significant interruption to the series. This indicates
that the effect of the imputation of missing values should only affect the autocorrelation analysis, because the imputation data is only needed to provide equally spaced data points for the calculation of autocorrelation. In most cases, the p-value for the autocorrelation test was very large, so that even if it were off by fifty percent, it would not have indicated significant correlation.

Data were analyzed to determine the impact of the independent interruption dates as outlined for this study. Interruption dates were then analyzed to determine possible outcome benefit received by any race/ethnic, or gender group identified in this study. Two categories emerged regarding interruption criteria which include both positive and negative outcomes for some of the race/ethnic gender groups of this study. Each of the four data sets (percent of total national employment; percent of total national construction; percent of total State of Michigan employment; and percent of total State of Michigan construction) is divided into two occupational groupings: white collar and blue collar. Each grouping is analyzed for all employees including all occupational classifications. Occupational classifications designated as concentrations are then removed from the analysis. According to Equal Employment Opportunity Commission guidelines, concentrations are occupational classifications with an over-representation of minorities or women. The white collar classifications designated as a concentration and employing an over-representation level of minorities or women are office and clerical workers. The blue collar occupational classifications designated concentrations and employing an over-representation level of minorities or women are labor and service. Each category is discussed regarding the
impact of the outcome benefit received, which may be the result of affirmative action public policy over the thirty-one year time period of this study.

Regression and time series procedures identified significant interruption dates for this study. The selected interruption pattern for this study is abrupt-permanent (one time and permanent) regarding percentage changes during the time period studied. The four populations of this study had a total of 211 interruptions for the identified race / ethnic and gender groups. The interruptions for each population are discussed in the context of proportion and percentage for each dependent variable from 1966 to 1997. The proportion is the existing level for each race / ethnic gender group relative to the whole and the percentage is the level relative to the change for the group between the initial year of 1966 and the year 1997. The percentage reflects the increase or decrease for each dependent variable.

Comparison of All National Dependent Occupational Variables

National employment by race/ethnic gender grouping had a total of forty-six (46) interruptions for seven of the nine (9) identified interruptions (thirteen for the delay year 1981). The years 1989 and 1991 do not seem to have produced significant interruptions. The two years with the most interruptions were 1981 and 1995, which produced thirteen and ten interruptions respectively. The year with the least number of interruptions is 1980 with one. The remaining years; 1971, 1975, 1977 and 1992 respectively had 7, 6, 5, and 4 interruptions, which means these years had the least number of explained degrees of association (Table 20).
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The proportional changes for each race/ethnic gender group and occupational category for all National employment variables are illustrated in Table 21. Table 21 illustrates proportional changes in white collar categories as well as blue collar occupation categories. Table 21 also illustrates proportions for total employment.
## Table 21

National Dependent Occupational Variables

<table>
<thead>
<tr>
<th></th>
<th>1966 Proportion</th>
<th>1997 Proportion</th>
<th>Net Change Proportion</th>
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<tbody>
<tr>
<td><strong>White Men</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>White collar</td>
<td>0.131519919</td>
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<td>Blue collar</td>
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<tr>
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<tr>
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<td>0.000311624</td>
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and proportions when concentrated occupations have been excluded.

White women have nine interruptions with at least two in each occupational grouping, except blue collar excluding, which has one. White men experienced six interruptions with at least one in each of the four occupational groupings and Hispanic women had six interruptions in three occupational groupings. The dependent variables for Native American women have five interruptions in three occupational groupings and the variables Hispanic men have five interruptions in all four groupings. Dependent variables for Asian women and Native American men each experienced four interruptions respectively in two and three occupational groupings. Black men dependent variables have three interruptions in two occupational groupings. The dependent variables with the least interruptions are black women and Asian men with two each in two occupational groupings.

Examples of percentage changes are both positive and negative for the various dependent variables, which means the direction of the association was not consistent for all variables. Seven dependent variables experienced employment percentage decreases over the time of this study. All of the other dependent variables experienced a variety of employment percentage increases over the same period. Thirty-three of the race/ethnic gender groups experienced increased employment proportions during the time period of study. Seven dependent variables (white men all four, white women one, blue collar; and black men two, blue collar and blue collar excluding) experienced proportional decreases.

More than half of the dependent variables remain at a proportional level.
increase of less than 1 percent in 1997. These dependent variables are typically identified as race/ethnic gender groups for Asian (men & women), Native American (men & women), Hispanic women, Hispanic men (white collar and white collarexcluding), and black men (white collar-excluding).

Many of the variables in 1997 represent proportional increases double the percent cited in 1966 data. Several larger dependent variables experienced positive percentage increases ranging from 1 percent (black women-white collar excluding) to a high of 6.4 percent for white women (white collar excluding). Percentage decreases also are represented. All dependent variables for the four populations of white men experienced decreases. The decreases for white males range from a percentage low of 0.5 percent in white collar excluding classifications to a high 15.8 percent in blue collar classifications. Black men decreased in blue collar classifications from a percentage of 4.7 in 1966 to 2.3 percent in 1997 and blue collar excluding decreased from 3.5 percent to 2.3 percent. The dependent variable white women in blue collar occupations experienced a decrease from 4.8 percent in 1966 to 4.7 percent in 1997.

There are thirteen delayed interruptions for the interruption date of 1980 in 1981. These interruptions represent both gender and race/ethnic dependent variables, except Asian women, for one interruption. These interruptions varied for occupational categories of white collar, white collar excluding, blue collar, and blue collar excluding.
Comparison of All National Construction Dependent Occupational Variables

There are sixty-three interruptions identified for this population. The greatest number of interruptions of any race/ethnic gender and group is eleven (11) for Native American men. These interruptions are located in all four occupational categories. Four other dependent variable groups have interruptions across all four occupational categories: Hispanic men; white women; white men; and black men respectively with 7, 6, 6, and 7 interruptions. Two dependent variables, Hispanic women and Asian men respectively, have 4 and 8 interruptions in three occupational categories. Three dependent variables experienced a variety of interruptions. Black women (5), Asian women (4), and Native American women (5) each experienced interruptions in two occupational categories.

Eighteen of the sixty-three interruptions are identified in the year 1971. The next greatest number of interruptions is nine for the year 1980. There are eight interruptions in 1975. The years 1981, 1989, and 1991 each have seven interruptions. The other three years; 1992, 1977, and 1995 respectively has interruptions of one, two, and four. Table 22 illustrates net proportional changes over the time of this study for each dependent variable. Again, all of the proportional changes are positive, except the dependent variables for white men.

The national construction variables experienced a variety of percentage increases and decreases. All of the dependent occupational variables for Hispanic, Native American, and Asian experienced increases from a recorded percentage level of zero. All of these variables in 1997 are at a percentage level of less than one.
Table 22
National Construction Dependent Occupation Variables

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<th>1966 Proportion</th>
<th>1997 Proportion</th>
<th>Net Change Proportion</th>
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<td><strong>White Men</strong></td>
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<tr>
<td><strong>Asian Women</strong></td>
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<tr>
<td>White collar</td>
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<tr>
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<td>0.000244397</td>
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percent except Hispanic men in blue collar and blue collar excluding occupations. These two variables for Hispanic men had the greatest percentage increase of all groups with a 1997 level of 5.487% for blue collar and 6.255% for blue collar excluding. Hispanic men in white collar and white collar excluding occupations had increases of .3025% and .251% respectively.

The variables for Hispanic women have percentages ranging from a low of 0.0452% to a high of 0.192%. The dependent variables of Native American men in 1997 have percentage level increases of .463% in blue collar excluding and .428% in blue collar occupations. Asian men (blue collar) and Asian men (blue collar excluding) respectively experienced percentage increases of .238% and .263%. The variables Asian women (white collar), Asian men (white collar), and Asian men (white collar excluding) increased respectively to .118%, .151%, and .133%. All of the other nine dependent variables for Native American and Asian experienced increases of .045% or less.

The remaining dependent variables for white and black men and women experienced increases and decreases. Five variables in this population experienced decreased proportions during the time of this study; white men (white collar, white collar excluding, blue collar, and blue collar excluding as well as black men in blue collar occupations.

The delay of one-year interruption for the year 1980 in 1981 has seven interruptions. The delay for the interruption year of 1980 in 1981 impacted the race/ethnic gender groups of Native American men, black women, black men, white
women, and white men.

Comparison of All State of Michigan Dependent Occupational Variables

The data set of total employment in the state of Michigan had forty-four (44) interruptions during the time of this study. These dependent variables span aggregations ranging from one interruption in 1991 to a maximum of thirteen interruptions in 1981. The dependent variable with the most interruptions is Native American men with nine in all four occupational groupings. The next largest dependent variable group is black women with six interruptions. Black men have five recorded interruptions in all four occupational groups along with five for Native American women and five for white women in three occupational groups. For each Hispanic men variable there is one interruption for each occupational group and four interruptions for Hispanic women in three occupational groups. There are three interruptions for white men in three occupational groups. There are two interruptions for Asian men (two groups) and one for Asian women. An illustration of the interruptions for this population is presented in Table 23.

Eighty-eight percent of this population experienced increases over the time period of this study and more than half of the dependent variables remain with a percentage of less than 1.0%. Variables that are less than 1.0% in all occupational groupings are Hispanic men and women, Native American men and women, and Asian men and women. However, it must be noted, the increases for many of these dependent variables are dramatic when the actual percentage change is analyzed. For
Table 23
Michigan Dependent Occupational Variables

<table>
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<tr>
<th>Ethnic Group</th>
<th>1966 Proportion</th>
<th>1997 Proportion</th>
<th>Net Change Proportion</th>
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<td>Blue collar</td>
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<tr>
<td>Excluding</td>
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<tr>
<td>White collar</td>
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example, Asian men (white collar excluding) increased to .45 percent in 1997 from .031 percent in 1966. Native American men (white collar) experienced an increase from .013 percent in 1966 to .053 percent in 1997.

Black women and white women in blue collar occupations also experienced less than a 1.0 percent change. The proportion for black men (white collar and white collar excluding) increased by less than 1.0 percent during the time period of this study. Dependent variables for white women experienced proportion increases. White women (white collar) had a net increase of 5.5 percent. White women (white collar excluding) had an increase of 6.6 percent. All the dependent variables for black women experienced increases ranging from .96 to 1.87 percent.

Dependent variables for white men decreased, except the variable for white collar excluding. The most dramatic decrease is blue collar occupations with a percentage change of 13.2. The ranges of 1.5 percent to 8.5 percent are the other two dependent variable decreases for white men. The variable for white men in white collar excluding occupational grouping increased by one-tenth of one percent. Two dependent variables for black men had percentage decreases in blue collar occupations. The decrease for blue collar occupations was nearly half of the 1966 percentage. The dependent variable for black men in blue collar excluding decreased nine-tenths of one percent.

This population has thirteen delayed interruptions of one year for 1980 (interrupt 1981). Excluded from this population which had interruptions are Asian women, Asian men, and Hispanic women. Note, interruptions include white collar
Comparison of State of Michigan Construction Dependent Occupational Variables

The most frequent interruption date for this population is 1981 and is associated with twenty-two interruptions. Fifteen interruptions are identified with the interruption year 1971. Interruptions for the remaining years ranged from a high of six in 1989 to a low of one in 1995. A total of fifty-eight interruptions are identified for this population. Ten interruptions are for the four dependent variables for white men. Six dependent variables in this population have five or more interruptions in all four occupational groupings: Native American men (5), Asian women (5), black women (8), Hispanic women (6), white women (7), and white men (10). Variables for black men have 7 interruptions in three occupational groupings and Native American women have five interruptions in three occupational groupings. The variables for Hispanic men have four interruptions in two occupational groupings. There is one interruption for Asian men.

The regression and time series analysis produced a variety of percentage changes for the dependent variables identified in this population. Twenty-seven of the dependent variables for this population have a zero percentage in 1966 and they all experienced increases as of 1997. These increases occurred in each of the following race/ethnic groups: Asian women, Asian men, Native American women, Native American men, Hispanic women, and Hispanic men. Three additional race/ethnic
gender dependent variables also did not have proportions in 1966. These three
dependent variables are white women blue collar excluding, black women blue collar
excluding and, black women white collar excluding. The percentage increase for
these groups ranged from a high of 1.2 percent for white women (blue collar exclud­
ing) to a low of 0.08 percent for black women (white collar excluding). Hispanic
men (blue collar and blue collar- excluding) increased by 5.2 percent (Table 24).

A slight percentage increase is a reality for ninety percent of the dependent
variables. Ten percent of the dependent variables for this population experienced
decreases. Increases and decreases for this population are illustrated in Table 24.

This population has twenty-seven race/ethnic and gender dependent variables
which began this study with a proportion level of zero in 1966. The variables for
Hispanic men, Hispanic women, Native American men, Native American women,
Asian men, and Asian women all experienced increases. However, these groups did
not reach a level of 1% in 1997 even though there were substantial actual percentage
increases from the beginning point of 1966. Other variables which began with a zero
percentage level are: white women in blue collar excluding; and black women in
white collar excluding and blue collar excluding. Three of the variables for this
population increased to a proportional level of at least one percent or greater. White
women in blue collar excluding positions increased from zero percent in 1966 to 1.25
percent in 1997. Hispanic men in both blue collar and blue collar excluding occupa-
tions increased from zero to 5.2 percent and zero to 5.2 percent respectively.

The remaining thirteen variables for this population experienced a variety of
Table 24
Michigan Construction Dependent Occupational Variables

<table>
<thead>
<tr>
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<th>1966 Proportion</th>
<th>1997 Proportion</th>
<th>Net Change Proportion</th>
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increases and decreases. Four dependent variables experienced decreases. White 
men (three variables) experienced decreases from a low of .74 percent for the vari­
able white collar to a high of 14.2 percent for blue collar occupations. Employment 
for black men in blue collar occupations decreased .13 percent. Percentage changes 
for the four variables for white women all increased by at least one percent.

The variable black men (blue collar excluding) increased by 2.6 percent 
which is nearly a hundred percent increase for this group over the time period stu­
died. Variables for black men increased by twenty-five hundredths of one percent 
and twenty hundredths of one percent respectively for white collar and white collar 
excluding positions.

For this population there are twenty-two delayed interruptions for the year 
1981. Two race/ethnic and gender dependent variable groups were not impacted by 
the delayed interruption; Native American women and Native American men (Table 
25). The analysis of this population and the other three populations provide the base 
for data presentation for hypotheses testing.

Comparison of Unemployment Variables for the State of Michigan

Unemployment data was limited by availability from governmental agencies 
regarding the varied race/ethnic and gender variables of this study. National data for 
all race/ethnic and gender unemployment variables was not available for the years of 
this study. At the State of Michigan level, unemployment data was limited to race/ 
ethnic and gender variables for black, white, and total. The variable black includes
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other minorities for the period of 1968 to 1973 although collection and recording
began in 1940 by the Bureau of Labor and Statistics.

Statistical analysis of the unemployment data indicates that the four variables
studied have a P-value ranging from a high of 0.0002 to a low P-value of 0.0001. The R² for this data set has a range from a low of 41.29% to a high of 72.39%. This data set did not have interruptions for the interruption dates of this study.

**Comparison of Voluntarily Reporting Employer Variables**

Throughout the time period of this study, reporting by employers has been a voluntary process according to federal, state, and local contract enforcement agencies. Reporting by private employers over the time period of this study has varied. The variance at both the national and Michigan State level followed the same pattern. Reporting by national, state, and local agencies appear to not have been impacted by the independent variable interruption dates outlined in this study.

There are no interruptions in this data set. There are four variables for this data set; All National employment, All National Construction employment, All State of Michigan employment, and All State of Michigan Construction employment. For this group of variables, the P-value ranged from a low of 0.001 for three variables to a high of 0.0009 for one variable. The R² for this data set has a range from a low of 31.34% to a high of 88.37%.

**Data Presentation for Hypothesis Testing**

The research hypotheses and data are presented in this section. A first order autoregressive model and linear regression methods were utilized to analyze the hypotheses. As previously mentioned in this section, most of the series showed a
strong linear trend in time and linear regression methods were used to remove the trend and impute the missing data points.

All the hypotheses tested in this study involve time. Therefore, eight interruptions dates were determined for testing all the hypotheses. A ninth interruption variable was added to this study with a delay of one year for the 1980 interruption date (1981).

Regression analysis was applied to each dependent variable in a consistent manner to test each hypotheses.

F Test

F test determined the significance level for each variable of the four data sets. The F test statistic and P-value were compared. The confidence intervals for all of the variables in the four data sets is 95%. Each dependent variable was analyzed at the significance level of 0.05..

Stepwise Regression

Stepwise regression was used to enter and remove variables one at a time. This process was continued until the F statistics did not indicate that any variables in the equation should be removed or that there were any variables that needed to be entered in the equation (Norusis, 1991, pp. 287-290).
Autocorrelation

The equations were examined to test for autocorrelation regarding the extent to which there were errors associated with successive time periods. Autoregression was used to detect measurement error in this study to determine whether or not multicollinearity was a concern regarding residual errors. Lag was also examined. The values for each dependent variable are lagged by one year in each data set through the entire research population.

Interruption Dates

The eight interruption dates and the one year delayed interruption date were referenced regarding significance level for each dependent variable of the four populations.

Research Hypothesis I

There is a difference in the employment received by black people as a result of social equity public policy efforts of affirmative action as compared with other protected groups.

Figure 11 is an illustration of all interruptions for the four populations of this study. Black people (both gender groups) had positive and negative experiences over the time period of this study compared to other race / ethnic and gender groups. Employment for black people increased for all the dependent variables except black men in three occupational groupings for blue collar and one blue collar excluding
Figure 11. Total Interruptions for Each Race/Ethnic Group:

Blue Collar Excluding Labor and Service

Blue Collar Interruptions
Figure 11—continued

White Collar Interruptions

White Collar Excluding Office and Clerical

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while other protected groups also have varied changes. The data are not supportive of this hypothesis, therefore, the null hypothesis is accepted.

**Research Hypothesis II**

There is a difference in the employment received by black people when compared with other protected groups in blue collar occupational categories. During the time of this study, black people in blue collar categories received interruptions similar to other protected groups. Figure 11 is an illustration of blue collar interruptions for all protected groups. Therefore, the alternative hypothesis is rejected and the null hypothesis is accepted.

**Research Hypothesis III**

There is a difference in the employment received by black people and other protected groups when compared in skilled construction trade occupations.

The opportunity for growth in the construction skilled craft industry had been projected by the federal government and goals had been developed based on the Detroit Plan, however, the results are striking when interruptions also are viewed in Tables 25 and 26. These tables are illustrations of interruptions in blue collar occupation excluding for both U.S. construction and construction at the State of Michigan levels respectively. This hypothesis is not accepted as the statistical analysis of the data did not support the hypothesis and the null hypothesis is accepted.
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Research Hypothesis IV

There is a difference in the employment received by black people in skilled construction trade occupations when compared with employment of black people in
white collar occupational categories.

The shift of employment from blue collar occupations to white collar and white collar excluding occupations is apparent when the movement of black people is viewed in terms of interruptions for All National and All State of Michigan employment compared and analyzed with overall employment level changes for all variables. When Tables 20 and 27 are analyzed with variable percentage changes during the time of this study increases in white collar and white collar excluding categories are crystallized. The null hypothesis is therefore accepted.

Research Hypothesis V

There is a difference in the overall unemployment rate when protected groups are compared at the state of Michigan level.

During the time of this study, some protected groups experienced greater unemployment levels than other protected groups. In some instances, the unemployment level was more than double the overall unemployment rate. Available unemployment data for the time period of this study are presented in Table 28. The statistical analysis of data is not supportive of the hypothesis, therefore the null hypothesis is accepted.

Summary

A quasi-experimental design utilizing regression and time series formats were employed to test for differences in employment levels by protected groups during the
Table 27

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Application of affirmative action public policy from 1966 to 1997. Additionally, unemployment levels were compared for the protected groups at the State of Michigan level.
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<td>7.1</td>
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For reporting private employment, construction employment, and skilled craft employment at the national level and State of Michigan levels, data were collected for 26 of the 31 years of the study (1966-1997). There were five hypotheses tested in this study. Each hypothesis was partially supported.

**Hypotheses**

Dependent variables for black people, over the time of this study received various employment increases and decreases. However, all of the increases and decreases for these variables were not as great as the increases or decreases for the other race/ethnic gender groups. Black people also continued to experience a higher unemployment level along with Hispanic and Native American groups when compared with dependent variables for white people. Concentration areas where black people were over-represented shifted with increased employment for other race/ethnic gender protected groups.

**Additional Findings**

Analysis of the delayed interruption year 1980 (1981) had 55 interruptions. These interruptions represent 26.1 percent of the total interruptions for all four populations. Analysis by race/ethnic and gender group indicates that white women experienced 14.5 percent of all of the delayed interruptions.

The interruption date of 1971 was an important date for this study. The United States Supreme Court decided the case of *Griggs v. Duke Power Co.* in 1971.
This court decision may have impacted civil right and contract compliance agency enforcement efforts at the state and local levels in Michigan more than at the national level. The stakeholders (City of Detroit's Commission on Community Relations, Wayne County's Office of Human Relations, the Contract Compliance Section of the Michigan Department of Civil Rights), and community organizations were vocal regarding opposition to the Detroit Plan, which had the support of the federal government and the abrogation of their authority. The effort of these groups resulted in the elimination of the Detroit Plan as there had not been sufficient progress for minority groups. There were 42 interruptions for the year 1971. These interruptions were for all race/ethnic gender groups. White men had the largest number of interruptions (9). Native American men had the next largest number of interruptions (8). Hispanic men had five interruptions. The other race/ethnic gender groups each had one, two, three, or four interruptions. An example of the interruptions for 1971 is illustrated in Table 29 for all four populations.

Qualitative Results

**National-State of Michigan**

The Office of Federal Contract Compliance abandoned the Detroit Plan while state and local contract compliance agencies continued enforcement efforts. The activities by state and local agencies over the time of this study may have resulted in the outcome benefit received by the various protected groups. Hypothesis II indicates that black people and other race/ethnic gender groups benefited from the
Table 29

1971 Interruptions for All Four Populations

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<th></th>
<th>National All</th>
<th>Michigan All</th>
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efforts of stakeholders in Michigan.

Construction National-State of Michigan

White collar employment in the construction industry of Michigan experienced greater employment opportunities for women and race/ethnic groups than the national construction industry. These opportunities appear to be the results of state and local enforcement activities in Michigan regarding their contract compliance requirements. The quantitative analysis reported in Hypothesis III substantiates these changes. There have been marginal increases for some of the dependent variables, namely black people and women in skilled craft occupations.

Construction Skilled Craft (Blue Collar Excluding) National-State of Michigan

Minority and women protected group members at the state of Michigan level experienced greater employment increases than at the national level as a result of state and local enforcement of contract compliance regulation. These changes may have resulted from requirements set by state and local agency regulation requirements as well as pressure from black community organizations. When Table 26 (National Construction) and Table 25 (Michigan Construction) variables are compared, it is readily observed which population had better employment increases for minority and women groups in construction craft positions. For this population, white men decreased in representation by 7.76% at the state of Michigan level and decreased by 0.35% at the national level. Black men increased by 2.6% at the state...
of Michigan level and decreased by 1.249% at the national level. The remaining variables reflect the increases for the other race / ethnic gender variables. It is interesting to note, black men received greater increases at the state of Michigan level as compared with decreases at the national level.

**Employers Reporting National-State of Michigan**

Contract compliance enforcement by the state of Michigan and local agencies resulted in a parallel in the number of employers reporting at the national and state levels. The emphasis over the time of this study by state and local contract enforcement agencies was voluntary employment compliance by each contractor on a state or local funded project. Changes regarding the number of employers which reported during the time period of this study are illustrated for both National and state of Michigan levels. Table 30 is an illustration of employers reporting at the National and state of Michigan levels respectively.

**Summary and Recommendations**

The descriptive analyses of the state, local, and national agencies and community action were not supportive of the findings in the regression and time series analysis. And, the qualitative data does not offer insight regarding direct action as well as actions of state and local contract compliance enforcement agencies. Direct action regarding opposition to the Detroit Plan was employed by individuals and community organizations which included letter writing campaigns, demonstrations,
Table 30

Employers Reporting

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attendance and testimony at governmental meetings, and press releases. Officials and boards of state and local contract compliance enforcement agencies passed resolutions and released statements to the media regarding their refusal to relinquish statutory obligations to enforce requirements. From these data are opportunities to glean additional information regarding the movement of protected groups related to employment for the time period studied. The areas of concern are: a comparison of employment received by women in blue collar categories; a comparison of
employment for women white collar occupations; a comparison of women in blue collar versus white collar occupations; a comparison of service and labor category changes by race/ethnic and gender group; a comparison of movement for protected groups into the white collar category of officials and administrators; and comparison of the unemployment rate for women protected groups.

Overall, employment changes indicate how the various employment levels for protected groups have fluctuated over the time of this study. These changes have negatively impacted the protected group of white males in all occupational categories, except white collar-excluding. The decreases experienced by the dependent variables of white men perhaps have been amplified by the belief that black people, particularly black men have received the greatest benefit from affirmative action public policy.

The data for employment in the construction industry reflects those groups, which have benefited from affirmative action public policy. However, over the time of this study, black people have not benefited to the extent perceived by the public. As previously discussed in this study, according to Cheryl Feller, affirmative action is no longer necessary (Kyle 1995). Black people are more visible in white collar occupations which is reflected in the employment increases for black people. The level of black people in traditional blue collar "concentration" occupations have experienced changes. Employment for black men and white men decreased in blue collar occupational categories while other race/ethnic gender protected groups increased. The occupational category of blue collar has traditionally been an area of
under-representation for black men. Variables for black men in the four data sets employed in blue collar occupations experienced decreases along with the variables for white men which remain over-represented although decreases were experienced during this study.

Women as a group have benefited the most from affirmative action. White women in particular received the greatest increases in employment from this public policy. A review of skilled craft occupational changes in the State of Michigan and/or the national level illustrates how employment for protected groups has changed. The qualitative portion of this study clearly demonstrates the need for training and apprenticeship programs at the entry level to increase the levels of representation in the skilled craft occupations for minorities and women. A future study that focuses on the efforts by contractors, unions, and skilled trade training facilities to increase employment for minority and women over the time of this study may produce interesting results. These are salient issues related to protected group beneficiaries regarding the employment received as a result of affirmative action public policy from 1966 to 1997.

A future analysis of which group of women in blue collar occupational categories received the greatest increase in employment would reveal information regarding the specific categories in which employment was received over the time of this study. A detailed analysis which compares women groups in white collar occupational categories also may produce informative results. Additionally, a future comparative analysis of women in blue collar excluding verses white collar excluding
occupational categories would perhaps shed light on the employment received by these protected groups. Variables for women over the time of this study have clearly demonstrated employment benefits for these groups over the time period of this study and studies in the above area would provide informative results.

Over the time of this study, white women have increased employment levels and a future study of unemployment levels for all women groups would perhaps explain which groups truly benefited. The category of service over the time of this study has changed regarding those groups, which may have received outcome benefit as a result of affirmative action public policy. A study of which protected groups have benefited over the time of this study by specific occupations would be informative.

An analysis of the impact of direct action by organizations in communities where other construction industry “Home Town” plans were developed could have varied results. An analysis of enforcement efforts in other “Home Town” communities that were as aggressive as in Michigan, where there were similar conflicts between state-local, and national agencies regarding enforcement in “right to work” state could reveal informative results. According to Saul Alinsky, direct action regarding opposition to public policy can make a difference (Edwards, 1979, pp. 125-128).

The qualitative portion of this study demonstrates a need for a multifaceted approach to increase the levels of employment for women and minority participation in construction skilled trades. Many stakeholder groups must participate in the
process of making equal opportunity a reality for all protected groups if affirmative
action social equity public policy is to become a reality in America. Management
officials, supervisors, line workers and the general public must be made aware of the
original and current intent and meaning of affirmative action as an extension of equal
opportunity. Employers, unions, and training organizations should make the
necessary changes to ensure fair and equitable opportunities for all applicants and
employees regardless of race, ethnicity, or gender.

Through direction, the national government should enforce and regulate state
and local agencies regarding the enforcement of national policy where applicable,
and ameliorate differences between national, state and / or local regulations to ensure
unified public policy implementation and oversight.
CHAPTER V

IMPLICATIONS, CONCLUSIONS,
AND RECOMMENDATIONS

Introduction

The purpose of this study was not to determine whether affirmative action public policy is positive or negative for Americans. Nor was it the purpose of this study to determine whether affirmative action as a social equity policy in America should be changed. The purpose was to dramatize how America arrived at a state of division regarding affirmative action with an analysis of the policy process. Additionally, the purpose was (a) to reveal those groups, which have or have not benefited from affirmative action public policy over the time period of this study; and (b) those groups which have continuously been negatively impacted by unemployment.

Implications related to the conceptual framework are discussed and followed by conclusions related to the interventions, recommendations for human resource officials and administrators, implications for public policy, and recommendations for future research.

Implications Related to the Conceptual Framework

Jones and Shull Models of Public Policy Formulation

The Public Policy Formulation Models by Jones (1984, p. 26) and Shull 244
provide the necessary elements and underpinnings for the development, maintenance, and change of any affirmative action public policy in the United States. The findings of this study are to be evaluated in the light of the facts that these models include specific detailed elements.

The Policy Process

The policy process outlined in Figure 6 (page 158) by Jones (1984, p. 29) is amplified according to Patterson (1997, pp. 497-498). Patterson makes reference to David Eaton who was a pioneer in the concept of politics. In essence, as discussed by Jones, politics does not develop piecemeal, but rather, in reality, is interrelated. The political process is based on many related parts, including the voters, institutions, interest groups, and the political culture (Patterson, 1997, p. 25). Patterson (1997, p. 497) indicates that the political system operates against the backdrop of a constitutional framework that defines how power is to be obtained and exercised. Inputs are important elements of the political process according to Patterson (1997, p. 25). Inputs are the demands that people and groups place on government and the supports they provide for its institutions, leaders, and policies. The inputs examine public opinion, political participation, voting, political parties, interest groups, and the news media (Patterson, 1992, p. 26).

The interrelationships of the actors in the American political system provide for the development of outputs. The outputs of the American political system as outlined by Patterson (1997, p. 26) are binding decisions on society in major areas of
public policy. The final stage of the loop outlined by Patterson is the response of society, which closes the loop of the American political system. The response of society determines if there is a need to modify, continue, or eliminate the specific public policy.

The American Way of Making Policy

Public policy development is the amalgamation of interest expressed by actors regarding a given area of concern. This process has six stages according to Jones (1984). The stages are problem identification, proposal development, decision-making, identification of program results, implementation, and evaluation.

Statements

Statements made by the various actors involved in the formulation process influence public policy. These statements become part of the actions and results of the policy formulation process. The stages are not necessarily one way but rather circuitous and not always sequential according to Shull (1993, p. 16). Shull explained these stages in Figure 8 (page 160) which included agenda setting, evaluation, implementation, modification/adoptions, and formulation. Shull argued that feedback in public policy decisions allows for feedback at any given stage in the process.
Sociodemographics

The sources of information related to employment and unemployment levels were restricted by available sources: the EEOC; Bureau of Census; Department of Labor, and Michigan Services Agency. These data sources are established and recognized. The EEOC began collecting employment data in 1966 with race/ethnicity, and gender information and continues to date. The Bureau of Census began recording data in 1780 and also continues to date for government purposes. The compilation of unemployment data by the Department of Labor began in 1940 and continues to date. An analysis of these sources illustrates the outcome benefit received by each protected group identified in this study for the thirty-one year time period. The employment (increase or decreases) for each protected group are outlined in this research.

Identification by race / ethnicity and gender have been recorded according to the standards established by the agency (EEOC, Bureau of Census, Department of Labor, and the Michigan Services Agency. Race / ethnicity and gender designation are used as recorded by these agencies.

Age

The issue of age was not addressed for the study of employment data, as it was not recorded by the EEOC for the populations investigated in this research. On the other hand, unemployment data for the time period of this study did consider the issue of age. The issue regarding age was for information, which reflected consistent data regarding those individuals who were unemployed. Therefore, unemployment
information was selected which reflected the race/ethnicity and gender identification of those protected groups for which data exists. The protected groups impacted by available unemployment data are the race/ethnicity and gender identification for Negro, Hispanic, Asian, Native Americans, and White.

Conclusions Related to Interruptions

**Interruption Dates**

Eight interruption dates were initially selected for this study. A ninth interruption was included in the research. The initial dates were selected based on decisions by the United States Supreme Court, statements by presidents and members of congress as well as citizens organizations regarding affirmative action public policy. The initial eight dates are: 1971, 1975, 1977, 1980, 1989, 1991, 1992, and 1995. The ninth date (1981) was determined based on what the data charts revealed during the data analysis. These dates were selected to highlight differences in the employment received by the protected groups over the time period of this study as a result of court decisions, statements by presidents and congress, action of congress, and the community.

The year 1971 was selected because the United States Supreme Court decided its first affirmative action case in the *Griggs v. Duke Power Company* decision. The issue of qualifications was addressed in this case. In 1975, the United States Supreme Court decided the case of *Albermarle Paper Company v. Moody*. The *Albermarle Paper Company* case addressed the issue of performance criteria and
standards—tests that result in discrimination. The issue of statistical standards was established in two cases during 1977 (Teamsters v. United States and Hazelwood School District v. United States). The first case decided by the United States Supreme Court regarding “set asides” was the case of Fullilove v Klutznick in 1980. The Court upheld “set aside” programs because it was based on an act passed by Congress, and Congress has a broad right to make such legislative findings.

In 1989, the U.S. Supreme Court decided Wards Cove Packing Co. v. Atonio. This case involved the issue of statistics and the Court ruled that an organization may not rely just on statistics to suggest a pattern of discrimination. In 1991, President Bush signed the Civil Rights Act after a period of opposition regarding the issue of quotes in the bill. In Michigan, during 1992, the case of Victorson v. Michigan Department of Treasury was decided by the Michigan Supreme Court. The Victorson decision established standards for the review of affirmative action plans in Michigan.

The last interruption date is 1995. This date was determined as a result of the case of Adarand Constructors v. Pena. The Pena case addressed the issue of “Strict Scrutiny”. These dates may reflect employment received by each protected group individually and include both increases and decreases over the time of this study.

Presidential Statements

Statements made by the presidents over the time of this study had an impact on the outcome benefit received by the various protected groups. Emphasis and
concern or lack there of may be traced to statements by the incumbent president. While Richard Nixon was president, there was a positive emphasis on affirmative action. During the presidential administration of Gerald Ford there was an absence of activity regarding affirmative action. While Ronald Reagan was president, there was a mix of positive and negative statements and actions. The mix of negative and positive actions by President Reagan regarding affirmative action also were expressed during the Bush presidential administration. President Clinton also expressed a mix of negative and positive concerns regarding affirmative action as well as initiatives.

**Congressional Statements**

Comments made by members of Congress may have had an impact on the employment received by protected group members, e.g. during the winter of 1995, Speaker of the House – Newt Gingrich stated in essence, affirmative action should be discontinued. This statement by Newt Gingrich was later revised by him to include protection against discrimination for protected groups.

**Court Decisions**

Affirmative action progress or lack there of has resulted from Supreme Court decisions regarding the issue. The 1971 decision in the *Griggs v. Duke Power Co.* case by the Supreme Court was the impetus for activities that would ensure a level playing field for all members of American society regardless of race/ethnicity or
gender identification. Subsequent decisions have either increased or decreased enforcement activities of civil rights laws and have resulted in increases of employment for some protected groups and decreases in employment for other protected groups. Increases and decreases are reflected in the four data sets.

Twenty-one of the 160 variables of the four data sets experienced decreases. The variables for white men had a total of fourteen decreases. The variables for white men experienced decreases in all four data sets and occupational categories except for the category of white collar excluding in the data sets of All Michigan Employment and All Michigan Construction Employment. There are six decreases for variables of black men. The variable for black men had decreases in blue collar occupations for each data set. Also, black men had two variables that decreased in the category of blue collar excluding in two data sets (All National and All Michigan). There is one variable that experienced a decrease for white women. The decrease for white women is in the data set of All National Employment in the occupational category of blue collar. The remaining race/ethnic and gender variables for all four data sets had increases.

Community Actions

During the time period of this study numerous individuals and groups throughout the country have expressed concerns regarding affirmative action. National forums were a venue for national concerns of labor unions and community civil rights organizations. Community expressions were most profoundly
emphasized at the regional and local levels by media personalities as well as contractors and spokespersons for civil rights organizations.

Implications Related to “706” Agencies

The thirty-one year time period of this study has a reasonable frame of reference for designated “706 Agencies” to have an impact on affirmative action public policy. Enforcement by a civil rights agency with a “706 Agency” designation varied during the time of this study. The status as a “706 Agency” has been reserved for those entities of government which have remedies for civil right violations established in court proceedings with applicable consequences. There were numerous “706 Agencies” established during the time of this study. The total impact of these organizations over the time of this study is not known. However, the direction of these organizations has had an impact on the efforts of affirmative action public policy. Each “706 Agency” determines the extent to which civil rights laws are enforced within its jurisdiction.

Implications Related to State and Local Agencies

State and local enforcement of civil rights at the state and local levels throughout the United States has varied during the time of this study. Notable examples of rigorous civil rights case enforcement are shown in the Roadbuilders v. State of Michigan and the City of Richmond v. J.A. Croson cases. These cases highlight the emphasis a governmental agency is able to place on the issue of affirmative
action policy at the state and local levels.

Implications Related to Community Involvement

From 1965 through 1997, community groups have been involved in affirmative action public policy at the local, state, and national levels. The activities by community organizations have ranged from the initiation of court cases such as the case of Ethridge v. Rhodes to no action by community organizations regarding affirmative action. The degree of action taken by community organizations may be directly related to affirmative action and subsequent employment of such policy. In Michigan, organized community action appears to have been a factor in not having the “Detroit Plan” firmly established in the construction industry. In New York City, the “Home Town” plan for the construction industry was developed and subsequently abandoned by city administrators.

Implications Related to Public Policy

Several implications may be drawn from this study. The implications include national v. state authority; judicial decision of the United States Supreme Court, Federal Appellate Court; Actions of the United States Congress; and direct action.

National v. State and Local Authority

The Detroit Plan for the construction industry of southeastern Michigan was approved by the United States Department of Labor’s Office of Federal Contract...
Civil rights agencies responsible for contract compliance requirements with the State of Michigan, the City of Detroit, and the County of Wayne, Michigan were opposed to the construction trade goals set for the Detroit Plan. These three units of government did not believe they could legally abrogate their statutory obligation to the federal government. Additionally, these units of government were opposed to the plan because it did not include goals for white collar occupations. Collectively and individually, these three units of government voiced their concerns regarding the Detroit Plan in the media and at meetings of the governmental entities. The Department of Labor’s Office of Federal Contract Compliance eventually disqualified the Detroit Plan because it had not worked and minorities and women had not received a fair share of the work that was available (Wayne State University Archives).

Judicial Decision: United States Supreme Court and State Court


Precedent in the area of set-asides also was followed by the state of Michigan even though the state of Michigan had successfully appealed and won in U.S. District
Court. After the decision by the U.S. Supreme Court in the case of City of Richmond v. J.A. Croson Co. regarding Set-asides, the state of Michigan abandoned Set-aside programs.

**Actions of the United States Congress**

Congress was not pleased with the United States Supreme Court decisions in Gilbert v. General Electric (1976), Wards Cove Packing Co. v. Atonio (1989), and Grove City College v. Bell cases. Congress subsequently passed legislation to reverse or nullify these Supreme Court decisions. In the Wards Cove case, the legislation was back dated to a day before the Court decision.

**Direct Action**

Several community organizations expressed concerns in the media and by petitions to elected officials as well as voicing concerns at governmental meetings regarding the Detroit Plan. One community organization, the Coalition for Employment Justice (CEJ), issued a press release to publicize its concerns regarding employment in all occupational categories. The CEJ also organized a demonstration at the McNamara Federal Building site to dramatize its objection to the Detroit Plan.

**Conclusions Related to Occupational Category Change**

**White Collar Occupational Changes**

Employment in white collar occupations as a percentage of total employment
increased for several protected groups. These increases may be attributable to increases in technical occupations and/or increases in the total number of office and clerical employees as well as official and administrator positions.

**Blue Collar Occupational Changes**

Total employment levels for blue collar occupations decreased over the time period of this study. The decreases may be attributable to a shift in employment patterns to technical occupations and a lesser need for manual workers. However, representation by race/ethnicity and gender group changed over the time of this study.

**Skilled Craft Occupational Changes**

Although blue collar occupations as a whole experienced decreases, skilled craft occupations experienced an increase over the thirty-one year time period of this study. This shift reflects changes from manual to skilled and technical occupations.

**Recommendations for Officials, Managers, Supervisors, and Human Resource Professionals**

**Legal Issues**

Individuals responsible for the administration and supervision of employees regarding any applicable law including civil rights and affirmative action should be made accountable for providing and making available full information to all employ-
ees as well as the employer's position. Full information should include federal and state regulations regarding the intent as well as definitions which bridge equal employment opportunity and affirmative action.

Preference

Preference for any protected group member, including white males, as defined by affirmative action regulation is unlawful. The prohibitions should be regularly articulated by management to all levels of employment and include appropriate discipline as a consequence for violation.

Definition of Goals and Quotas

During the time of this study, governmental agencies, which enforce affirmative action regulations, have made a distinction between goals and quotas. The courts have defined quotas. These distinctions are clear, a goal is a flexible objective to be attained and a quota is generally a temporary fixed solution imposed by the court after an organization has been found guilty of discrimination. Quotas are not to be equated with goals.

Affirmative Action Requirements

Over the time of this study, affirmative action regulations have been clear regarding requirements. However, over time these requirements have come to mean something that is not affirmative action. Employers must make clear affirmative
action requirements regarding its intent and its definition for employees.

Recommendations for Future Research

The results of this study suggest the need for continued investigation of issues related to employment received by protected groups as a result of affirmative action. Additionally, the results of this study support the need to fully clarify the definition of affirmative action, affirmative action policy programs, and procedures, which are implemented and enforced by local, state, and national agencies.

The Construction Industry of Michigan

The construction industry of Michigan in 1999 is booming and is expected to continue at least through the completion of the new baseball stadium, in gambling casinos throughout the state, and ancillary support facilities as well as the lure of international corporations to Michigan. Housing starts continue to increase and commercial interest in the state continues to diversify. Casino facilities in the state of Michigan also are on the rise. These increases provide the opportunity for increased employment for minorities and women in skilled craft positions in Michigan. The question is whether or not all protected groups will have an opportunity to participate in skilled craft construction trades on an equal basis now and in the future as the building boom continues?
Comparison of Occupational Employment Level Changes Regarding Increases and Decreases Between White Collar and Blue Collar Occupational Groupings

Training, subsequent reclassification or upgrading of employees were standard procedures of many employers during the thirty-one year period of this study. During the time of this study, skilled trades applicants were trained and served as an apprentice trainee for a period of time and then received a journeyman card. There is a new horizon in the construction skilled craft occupations – hire a craft person who has a journeyman card or one who has a journeyman card and certificate of apprenticeship. A journeyman card can be purchased by a walk-on job applicant, while an apprenticeship training certificate has to be earned. The question remains whether or not all protected groups are provided the opportunities to apply and receive a journeyman card on an equal level instead of word-of-mouth recruitment, which perpetuates the status quo. Exploration of these changes is yet to be extrapolated for analysis regarding which protected groups benefited from the efforts of affirmative action public policy.

The Impact of Total Employment Shifts Between White Collar and Blue Collar Occupational Groupings for Protected Groups

The occupational shift in terms of increased employment levels from blue collar to white collar occupational categories in the construction industry of Michigan is prime for statistical analysis regarding employment received by protected groups during the time of this study.
The Impact of Designated Interruptions

The interruptions for this study were analyzed all at once. A future analysis of interruption dates sequenced by order of occurrence may produce different results.

Summary

In summary, as a result of the protected group movement during the thirty-one year time period of this study, it is apparent which protected groups have benefited from the efforts of affirmative action public policy in terms of employment and the unemployment level for each group. The four data sets of this study had a total of 21 variables that had outcome benefit decreases during this study.

Negative employment outcome benefit impacted black men, white women, and white men. Black men consistently experienced negative employment in each data set for the variable blue collar. Additionally, the variable for black men in two data sets (National All and Michigan All) for blue collar-excluding occupations experienced employment benefit decreases. There is one employment decrease for white women. White women in the data set National All experienced a decrease in employment over the time of this research in the occupational category of blue collar.

White men experienced 14 employment decreases in this research. In two data sets, Michigan All and Michigan Construction, white men did not experience employment outcome benefit decreases in the occupational category of white collar-excluding.

The remaining 119 variables experienced employment increases. However,
the public may not be fully aware of why and how affirmative action public policy was implemented as well as the requirements set by governmental agencies or how unemployment is determined. The public must be fully educated regarding the intent and meaning of applicable laws related to affirmative action policy, and then make an informed decision about its continuance.
Appendix A

Correspondence From the Equal Employment Opportunity Commission
Regarding the Availability of Private Sector Employment Data
JANUARY 21, 1999

Bill Williamson
Henry Ford Community College Library
5101 Evergreen
Dearborn, MI 48128-1495

Dear Mr. Williamson:

This letter is in response to your request for information dated January 13, 1999.


Thanks for contacting the Research and Technical Information Branch. I hope this information is helpful.

If we can be of further assistance, please contact our office on 202/663-4955.

Sincerely,

Betty A. Turner
Survey Program Specialist
Research & Technical Information Branch

Enclosure

cc: R. Patrick Edwards, Chief
    Research and Technical Information Branch
Appendix B

OFCCP Federal Definitions of Terms
OFCCP DEFINES THE TERMS!

AFFIRMATIVE ACTION
In the employment context, affirmative action is the set of positive steps that employers use to promote equal employment opportunity. Under Executive Order 11246, it refers to a process that requires a government contractor to examine and evaluate the total scope of its personnel practices for the purpose of identifying and correcting any barriers to equal employment opportunity.

PREFERENCES
Giving employment opportunities to those who are not qualified over the qualified based on race, religion, sex or national origin.

QUOTAS
Any system which requires that considerations of relative abilities and qualifications be subordinated to consideration of race, religion, sex or national origin in determining who is to be hired, promoted, or otherwise favored in order to achieve a certain numerical position.

GOALS & TIMETABLES
A numerical objective realistically established based on the availability of qualified applicants in the job market or qualified candidates in the employer’s workforce.

GOOD FAITH EFFORTS
These efforts are measured by the extent to which the contractor has taken steps to overcome real and artificial barriers to nondiscriminatory employment.

DISCRIMINATION
Refusing to hire, promote or terminate individuals or otherwise discriminate based on race, religion, sex, national origin, disability or veteran status.

GLASS CEILING
A phrase used to describe the artificial barriers, based on attitudinal or organizational bias, that prevent qualified individuals from advancing within their organization and reaching their full potential.
Appendix C

Unemployment Data From the State of Michigan
(Michigan Employment Service Agency)
### State of Michigan

#### Unemployment Rates

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Data from 1968 to 1973 is for Blacks and other minorities.

Appendix D

Elliott-Larsen Civil Rights Act (Michigan Department of Civil Rights)
ELLIOTT-LARSEN CIVIL RIGHTS ACT

AN ACT to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; and to repeal certain acts and parts of acts.

The People of the State of Michigan enact:

ARTICLE 1

Sec. 101. This act shall be known and may be cited as the "Elliott-Larsen Civil Rights Act."

Sec. 102. (1) The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, height, weight, or marital status as prohibited by this act, is recognized and declared to be a civil right.

(2) This section shall not be construed to prevent an individual from bringing or continuing an action arising out of sex discrimination before July 18, 1980 which action is based on conduct similar to or identical to harassment.

Sec. 103. As used in this act:

(a) "Age" means chronological age except as otherwise provided by law.

(b) "Commission" means the civil rights commission established by section 29 of article 5 of the state constitution of 1963.

(c) "Commissioner" means a member of the commission.

(d) "Department" means the department of civil rights or its employees.

(e) "National origin" includes the national origin of an ancestor.

(f) "Person" means an individual, agent, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, the state or a political subdivision of the state or an agency of the state, or any other legal or commercial entity.

(g) "Political subdivision" means a county, city, village, township, school district, or special district or authority of the state.

(h) Discrimination because of sex includes sexual harassment which means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature when:

(i) Submission to such conduct or communication is made a term or condition either explicitly or implicitly to obtain employment, public accommodations or public services, education, or housing.

(ii) Submission to or rejection of such conduct or communication by an individual is used as a factor in decisions affecting such individual's employment, public accommodations or public services, education, or housing.

(iii) Such conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment.
ARTICLE 2

Sec. 201. As used in this article:
(a) "Employer" means a person who has 1 or more employees, and includes an agent of that person.
(b) "Employment agency" means a person regularly undertaking with or without compensation to procure, refer, recruit, or place an employee for an employer or to procure, refer, recruit, or place for an employer or person the opportunity to work for an employer and includes an agent of that person.
(c) "Labor organization" includes:
(i) An organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
(ii) A conference, general committee, joint or system board, or joint council which is subordinate to a national or international labor organization.
(iii) An agent of a labor organization.
(d) "Sex" includes, but is not limited to, pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include nontherapeutic abortion not intended to save the life of the mother.

Sec. 202. (1) An employer shall not:
(a) Fail or refuse to hire, or recruit, or discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.
(b) Limit, segregate, or classify an employee or applicant for employment in a way which deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant because of religion, race, color, national origin, age, sex, height, weight, or marital status.
(c) Segregate, classify, or otherwise discriminate against a person on the basis of sex with respect to a term, condition, or privilege of employment, including a benefit plan or system.
(d) Until January 1, 1994, require an employee of an institution of higher education who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, to retire from employment on the basis of the employee's age. As used in this subdivision, "institution of higher education" means a public or private university, college, community college, or junior college located in this state.
(2) This section shall not be construed to prohibit the establishment or implementation of a bona fide retirement policy or system which is not a subterfuge to evade the purposes of this section.
(3) This section shall not apply to the employment of an individual by his or her parent, spouse, or child.

Sec. 203. An employment agency shall not fail or refuse to procure, refer, recruit, or place for employment, or otherwise discriminate against, an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status; or classify or refer for employment an individual on the basis of religion, race, color, national origin, age, sex, height, weight, or marital status.

Sec. 204. A labor organization shall not:
(a) Exclude or expel from membership, or otherwise discriminate against, a member or applicant for membership because of religion, race, color, national origin, age, sex, height, weight, or marital status.
(b) Limit, segregate, or classify membership or applicants for membership, or classify or fail or refuse to refer for employment an individual in a way which would deprive or tend to deprive that individual of an employment opportunity, or which would limit an employment opportunity, or which would adversely affect wages, hours, or employment conditions, or otherwise adversely affect the status of an employee or an applicant for employment, because of religion, race, color, national origin, age, sex, height, weight, or marital status.
(c) Cause or attempt to cause an employer to violate this article.
(d) Fail to fairly and adequately represent a member in a grievance process because of religion, race, color, national origin, age, sex, height, weight, or marital status.

Sec. 205. An employer, labor organization, or joint labor-management committee controlling an apprenticeship, on the job, or other training or retraining program, shall not discriminate against an individual because of religion, race, color, national origin, age, sex, height, weight, or marital status, in admission to, or employment or continuation in, a program established to provide apprenticeship on the job, or other training or retraining.
Sec. 205a. An employer, employment agency, or labor organization, other than a law enforcement agency of the state or a political subdivision of the state, shall not in connection with an application for employment, personnel, or membership, or in connection with the terms, conditions, or privileges of employment, personnel, or membership request, make, or maintain a record of information regarding an arrest, detention, or disposition of a violation of law in which a conviction did not result. A person shall not be held guilty of perjury or otherwise giving a false statement by failing to recite or acknowledge information the person has a civil right to withhold by this section. This section shall not apply to information relative to a felony charge before conviction or dismissal.

Sec. 206. (1) An employer, labor organization, or employment agency shall not print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign relating to employment by the employer, or relating to membership in or a classification or referral for employment by the labor organization, or relating to a classification or referral for employment by the employment agency, which indicates a preference, limitation, specification, or discrimination, based on religion, race, color, national origin, age, sex, height, weight, or marital status.

(2) Except as permitted by rules promulgated by the commission or by applicable federal law, an employer or employment agency shall not:

(a) Make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

(b) Make or keep a record of information described in subdivision (a) or to disclose that information.

(c) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, specification, or discrimination based on religion, race, color, national origin, age, sex, height, weight, or marital status of a prospective employee.

Sec. 207. An individual seeking employment shall not publish or cause to be published a notice or advertisement that specifies or indicates the individual's religion, race, color, national origin, age, sex, height, weight, or marital status, or expresses a preference, specification, limitation, or discrimination as to the religion, race, color, national origin, age, height, weight, sex, or marital status of a prospective employer.

Sec. 208. A person subject to this article may apply to the commission for an exemption on the basis that religion, national origin, age, height, weight, or sex is a bona fide occupational qualification reasonably necessary to the normal operation of the business or enterprise. Upon sufficient showing, the commission may grant an exemption to the appropriate section of this article. An employer may have a bona fide occupational qualification on the basis of religion, national origin, sex, age, or marital status, height and weight without obtaining prior exemption from the commission, provided that an employer who does not obtain an exemption shall have the burden of establishing that the qualification is reasonably necessary to the normal operation of the business.

Sec. 209. A contract to which the state, a political subdivision, or an agency thereof is a party shall contain a covenant by the contractor and his subcontractors not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of the contract.

Sec. 210. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

Sec. 211. Notwithstanding any other provision of this article, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system.

ARTICLE 3

Sec 301. As used in this article:

(a) "Place of public accommodation" means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.
(h) "Public service" means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of the state, a political subdivision, or an agency thereof, or a tax exempt private agency established to provide service to the public.

Sec. 302. Except where permitted by law, a person shall not:
(a) Deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, age, sex, or marital status.
(b) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of religion, race, color, national origin, age, sex, or marital status, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of religion, race, color, national origin, age, sex, or marital status.

Sec. 303. This article shall not apply to a private club, or other establishment not in fact open to the public, except to the extent that the goods, services, facilities, privileges, advantages, or accommodations of the private club or establishment are made available to the customers or patrons of another establishment that is a place of public accommodation or is licensed by the state under Act No. 8 of the Public Acts of 1933, being sections 436.1 through 436.58 of the Michigan Compiled Laws.

ARTICLE 4

Sec. 401. As used in this article, "educational institution" means a public or private institution, or a separate school or department thereof, and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, local school system, university, or a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution.

Sec. 402. (1) An educational institution shall not:
(a) Discriminate against an individual in the full utilization of or benefit from the institution, or the services, activities, or programs provided by the institution because of religion, race, color, national origin, or sex.
(b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of religion, race, color, national origin, or sex.
(c) For purposes of admission only, make or use a written or oral inquiry or form of application that elicits or attempts to elicit information concerning the religion, race, color, national origin, age, sex, or marital status of a person, except as permitted by rule of the commission or as required by federal law, rule, or regulation, or pursuant to an affirmative action program.
(d) Print or publish or cause to be printed or published a catalog, notice, or advertisement indicating a preference, limitation, specification, or discrimination based on the religion, race, color, national origin, or sex of an applicant for admission to the educational institution.
(e) Announce or follow a policy of denial or limitation through a quota or otherwise of educational opportunities of a group or its members because of religion, race, color, national origin, or sex.
(f) Encourage or condone legally required discrimination against an individual on the basis of race or color by knowingly making or maintaining after April 1, 1984. an investment in an organization operating in the republic of South Africa. This subdivision shall not apply to a private educational institution.
(g) Encourage or condone religious discrimination or ethnic discrimination by knowingly making or maintaining after February 1, 1983. an investment in an organization operating in the Union of Soviet Socialist Republics.

(2) The department shall compile, from information obtained from the United States department of commerce, a current register of organizations operating in the republic of South Africa and the Union of Soviet Socialist Republics. The department shall make the register available, upon request, to a person, board, or commission for a reasonable charge.
(3) As used in this section:
(a) "Investment" means money placed in shares of stock and other equity interests. Investment does not
include an evidence of indebtedness arising from a transfer of direct obligations of, or obligations that are
fully guaranteed as to principal and interest by, the United States or any agency thereof, that a bank is
obligated to repurchase or a bank deposit made in the ordinary course of business.

(b) "Organization" means a United States firm, or a subsidiary or affiliate of a United States firm, as
determined by the United States department of commerce.

Sec. 403. The provisions of section 402 related to religion shall not apply to a religious educational
institution or an educational institution operated, supervised, or controlled by a religious institution or
organization which limits admission or gives preference to an applicant of the same religion.

Sec. 404. The provisions of section 402 relating to sex shall not apply to a private educational institution
not exempt under section 403, which now or hereafter provides an education to persons of 1 sex.

ARTICLE 5

Sec. 501. As used in this article:
(a) "Real property" includes a building, structure, mobile home, real estate, land, mobile home park,
trailer park, tenement, leasehold, or an interest in a real estate cooperative or condominium.
(b) "Real estate transaction" means the sale, exchange, rental, or lease of real property, or an interest
therein.
(c) "Housing accommodation" includes improved or unimproved real property, or a part thereof, which
is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence
of 1 or more persons.
(d) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the
expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property;
who negotiates or attempts to negotiate any of those activities; who holds himself out as engaged in those
activities; who negotiates or attempts to negotiate a loan secured or to be secured by a mortgage or other
encumbrance upon real property; who is engaged in the business of listing real property in a publication;
or a person employed by or acting on behalf of a real estate broker or salesman.

Sec. 502. (1) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not
on the basis of religion, race, color, national origin, age, sex, or marital status of a person or a person
residing with that person:
(a) Refuse to engage in a real estate transaction with a person.
(b) Discriminate against a person in the terms, conditions, or privileges of a real estate transaction or in
the furnishing of facilities or services in connection therewith.
(c) Refuse to receive from a person or transmit to a person a bona fide offer to engage in a real estate
transaction.
(d) Refuse to negotiate for a real estate transaction with a person.
(e) Represent to a person that real property is not available for inspection, sale, rental, or lease when in
fact it is so available, or knowingly fail to bring a property listing to a person's attention, or refuse to permit
a person to inspect real property.
(f) Print, circulate, post, mail, or otherwise cause to be published a statement, advertisement, notice, or
sign, or use a form of application for a real estate transaction, or make a record of inquiry in connection
with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a
preference, limitation, specification, or discrimination with respect thereto.
(g) Offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may
be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection
therewith.
(2) This section is subject to section 503.

Sec. 503. (1) Section 502 shall not apply: (a) to the rental of a housing accommodation in a building
which contains housing accommodations for not more than 2 families living independently of each other if
the owner or a member of the owner's immediate family resides in 1 of the housing accommodations, or to
the rental of a room or rooms in a single family dwelling by a person if the lessor or a member of the
lessee's immediate family resides therein.
(b) To the rental of a housing accommodation for not more than 12 months by the owner or lessor where
it was occupied by him and maintained as his home for at least 3 months immediately preceding occupancy by the tenant and is temporarily vacated while maintaining legal residence.

(c) With respect to the age provision only, to the sale, rental, or lease of housing accommodations meeting the requirements of federal, state, or local housing programs for senior citizens, or accommodations otherwise intended, advertised, designed or operated, bona fide, for the purpose of providing housing accommodations for persons 50 years of age or older.

(2) As used in subsection (1), "immediate family" means a spouse, parent, child, or sibling.

(3) Information relative to the marital status of an individual may be obtained when necessary for the preparation of a deed or other instrument of conveyance.

Sec. 504. (1) A person to whom application is made for financial assistance or financing in connection with a real estate transaction or in connection with the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of that person, shall not:

(a) Discriminate against the applicant because of the religion, race, color, national origin, age, sex, or marital status of the applicant or a person residing with the applicant.

(b) Use a form of application for financial assistance or financing or make or keep a record or inquiry in connection with an application for financial assistance or financing which indicates, directly or indirectly, a preference, limitation, specification, or discrimination as to the religion, race, color, national origin, age, sex, or marital status of the applicant or a person residing with the applicant.

(2) Subsection (1)(b) shall not apply to a form of application for financial assistance prescribed for the use of a lender regulated as a mortgagee under the national housing act, as amended, being 12 U.S.C. sections 1701 to 1750g (Supp. 1973) or by a regulatory board or officer acting under the statutory authority of this state or the United States.

Sec. 505. (1) A condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of religion, race, color, national origin, age, sex, or marital status is void, except a limitation of use as provided in Section 503(1)(c) or on the basis of religion relating to real property held by a religious institution or organization, or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(2) A person shall not insert in a written instrument relating to real property a provision that is void under this section or honor such a provision in the chain of title.

Sec. 506. A person shall not represent, for the purpose of inducing a real estate transaction from which the person may benefit financially, that a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, age, sex, or marital status of the owners or occupants in the block, neighborhood, or area in which the real property is located, or represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

Sec. 507. A person subject to this article may adopt and carry out a plan to eliminate present effects of past discriminatory practices or assure equal opportunity with respect to religion, race, color, national origin, or sex if the plan is filed with the commission under rules of the commission and the commission approves the plan.

ARTICLE 6

Sec. 601. (1) The commission shall:

(a) Maintain a principal office in the city of Lansing and other offices within the state as it considers necessary.

(b) Meet and exercise its powers at any place within the state.

(c) Appoint an executive director who shall be the chief executive officer of the department and exempt from civil service, and appoint necessary hearing examiners.

(d) Accept public grants, private gifts, bequests, or other amounts or payments.

(e) Prepare annually a comprehensive written report to the governor. The report may contain recommendations adopted by the commission for legislative or other action necessary to effectuate the purposes and policies of this act.

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(f) Promulgate, amend, or repeal rules to carry out this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(g) Request the services of a department or agency of the state or a political subdivision of the state.

(h) Promote and cooperate with a public or governmental agency as in the commission's judgment will aid in effectuating the act and the state constitution of 1963.

(i) Establish and promulgate rules governing its relationship with local commissions, and establish criteria for certifying local commissions for the deferring of complaints.

(2) The commission may hold hearings, administer oaths, issue preliminary notices to witnesses to appear, compel through court authorization the attendance of witnesses and the production for examination of books, papers, or other records relating to matters before the commission, take the testimony of a person under oath, and issue appropriate orders. The commission may promulgate rules as to the issuance of preliminary notices to appear.

(3) A majority of the members of the commission constitutes a quorum. A majority of the members is required to take action on matters not of a ministerial nature, but a majority of a quorum may deal with ministerial matters. A vacancy in the commission shall not impair the right of the remaining members to exercise the powers of the commission. The members of the commission shall receive a per diem compensation and shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties. The per diem compensation of the commission and the schedule for reimbursement of the expenses shall be established annually by the legislature.

(4) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(5) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 602. The department shall:

(a) Be responsible to the executive director, who shall be the principal executive officer of the department and shall be responsible for executing the policies of the commission.

(b) Appoint necessary employees and agents and fix their compensation in accordance with civil service rules. The attorney general shall appear for and represent the department or the commission in a court having jurisdiction of a matter under this act.

(c) Receive, initiate, investigate, conciliate, adjust, dispose of, issue charges, and hold hearings on complaints alleging a violation of this act, and approve or disapprove plans to correct past discriminatory practices which have caused or resulted in a denial of equal opportunity with respect to groups or persons protected by this act.

(d) Require answers to interrogatories, order the submission of books, papers, records, and other materials pertinent to a complaint, and require the attendance of witnesses, administer oaths, take testimony, and compel, through court authorization, compliance with its orders or an order of the commission.

(e) Cooperate or contract with persons and state, local, and other agencies, both public and private, including agencies of the federal government and of other states.

(f) Monitor contracts to insure compliance by a contractor or a subcontractor with a covenant entered into pursuant to section 210.

Sec. 603. At any time after a complaint is filed, the department may file a petition in the circuit court for the county in which the subject of the complaint occurs, or for the county in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this section, including an order or decree restraining the respondent from doing or procuring an act tending to render ineffectual an order the commission may enter with respect to the complaint. If the complaint alleges a violation of article 5, upon the filing of the petition the department shall file for the record a notice of pendency of the action. The court may grant temporary relief or a restraining order as it deems just and proper, but the relief or order shall not extend beyond 5 days except by consent of the respondent, or after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice.
Sec. 604. If the commission, after a hearing on a charge issued by the department, determines that the respondent has not engaged in a discriminatory practice prohibited by this act, the commission shall state its findings of fact and conclusions of law and shall issue a final order dismissing the complaint. The commission shall furnish a copy of the order to the claimant, the respondent, the attorney general, and other public officers and persons as the commission deems proper.

Sec. 605. (1) If the commission, after a hearing on a charge issued by the department, determines that the respondent has violated this act, the commission shall state its findings of fact and conclusions of law and shall issue a final order requiring the respondent to cease and desist from the discriminatory practice and to take such other action as it deems necessary to secure equal enjoyment and protection of civil rights. If at a hearing on a charge, a pattern or practice of discrimination prohibited by this act appears in the evidence, the commission may, upon its own motion or on motion of the claimant, amend the pleadings to conform to the proofs, make findings, and issue an order based on those findings. A copy of the order shall be delivered to the respondent, the claimant, the attorney general, and to other public officers and persons as the commission deems proper.

(2) Action ordered under this section may include, but is not limited to:

(a) Hiring, reinstatement, or upgrading of employees with or without back pay.

(b) Admission or restoration of individuals to labor organization membership, admission to or participation in a guidance program, apprenticeship training program, on the job training program, or other occupational training or retraining program, with the utilization of objective criteria in the admission of persons to those programs.

(c) Admission of persons to a public accommodation or an educational institution.

(d) Sale, exchange, lease, rental, assignment, or sublease of real property to a person.

(e) Extension to all persons of the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of the respondent.

(f) Reporting as to the manner of compliance.

(g) Requiring the posting of notices in a conspicuous place which the commission may publish or cause to be published setting forth requirements for compliance with civil rights law or other relevant information which the commission determines necessary to explain those laws.

(h) Payment to an injured party of profits obtained by the respondent through a violation of section 506.

(i) Payment to the complainant of damages for an injury or loss caused by a violation of this act, including a reasonable attorney’s fee.

(j) Payment to the complainant of all or a portion of the costs of maintaining the action before the commission, including reasonable attorney fees and expert witness fees, when the commission determines that award to be appropriate.

(k) Other relief the commission deems appropriate.

(3) In the case of a respondent operating by virtue of a license issued by the state, a political subdivision, or an agency thereof, if the commission, upon notice and hearing, determines that the respondent has violated this act and that the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his employment, the commission shall so certify to the licensing agency. Unless the commission’s finding is reversed in the course of judicial review, the finding of the commission may be grounds for revocation of the respondent’s license.

(4) In the case of a respondent who violates this act in the course of performing under a contract or subcontract with the state, a political subdivision, or an agency thereof, where the violation was authorized, requested, commanded, performed, or knowingly permitted by the board of directors of the respondent or by an officer or executive agent acting within the scope of his employment, the commission shall so certify to the contracting agency. Unless the commission’s finding is reversed in the course of judicial review, the finding is binding on the contracting agency.

Sec. 606. (1) A complainant and a respondent shall have a right of appeal from a final order of the commission, including cease and desist orders and refusals to issue charges, before the circuit court for the county of Ingham, or the circuit court for the county in which the alleged violation occurred or where the person against whom the complaint is filed, resides, or has his or her principal place of business. An appeal before the circuit court shall be reviewed de novo. If an appeal is not taken within 30 days after the service of an appealable order of the commission, the commission may obtain a decree for the enforcement of the

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order from the circuit court which has jurisdiction of the appeal. If the appellant files for appeal in the
circuit court for the county of Ingham, the appellee, upon application, shall be granted a change of venue to
hear the matter on appeal in the circuit court for the county in which the alleged violation occurred or
where the person against whom the complaint is filed, resides, or has his or her principal place of business
or where the claimant resides.

(2) A proceeding for review or enforcement of an appealable order is initiated by filing a petition in the
circuit court. Copies of the petition shall be served upon the parties of record. Within 30 days after the
service of the petition upon the commission or filing of the petition by the commission, or within further
time as the court may allow, the commission shall transmit to the court the original or a certified copy of
the entire record upon which the order is based, including a transcript of the testimony, which need not be
printed. By stipulation of the parties to the review proceeding, the record may be shortened. The court may
grant temporary relief as it considers just, or enter an order enforcing, modifying and enforcing as modified,
or setting aside in whole or in part the order of the commission, or may remand the case to the commission
for further proceedings. The commission’s copy of the testimony shall be available at reasonable times to
all parties for examination without cost.

(3) The final judgment or decree of the circuit court shall be subject to review by appeal in the same
manner and form as other appeals from that court.

(4) A proceeding under this section shall be initiated not more than 30 days after a copy of the order of
the commission is received, unless the commission is the petitioner or the petition is filed under subsection
(3). If a proceeding is not so initiated, the commission may obtain a court order for enforcement of its order
upon showing that a copy of the petition for enforcement was served on the respondent, that the respondent
is subject to the jurisdiction of the court and that the order sought to be enforced is an order of the
commission, regularly entered, and the commission has jurisdiction over the subject matter and the
respondent.

ARTICLE 7

Sec. 701. Two or more persons shall not conspire to, or a person shall not:
(a) Retaliate or discriminate against a person because the person has opposed a violation of this act, or
because the person has made a charge, filed a complaint, testified, assisted, or participated in an
investigation, proceeding, or hearing under this act.
(b) Aid, abet, incite, compel, or coerce a person to engage in a violation of this act.
(c) Attempt directly or indirectly to commit an act prohibited by this act.
(d) Wilfully interfere with the performance of a duty or the exercise of a power by the commission or its
member; or authorized representatives.
(e) Wilfully obstruct or prevent a person from complying with this act or an order issued or rule
promulgated under this act.

Sec. 702. A person shall not violate the terms of an order or an adjustment order made under this act.

Sec. 703. If a certification is made pursuant to section 605(3), the licensing agency may take appropriate
action to revoke or suspend the license of the respondent.

Sec. 704. Upon receiving a certification made under section 605(4), a contracting agency shall take
appropriate action to terminate a contract or portion thereof previously entered into with the respondent,
either absolutely or on condition that the respondent carry out a program of compliance with this act, and
shall advise the state and all political subdivisions and agencies thereof to refrain from entering into further
contracts or extensions or other modifications of existing contracts with the respondent until the commission
is satisfied that the respondent carries out policies in compliance with this act.

Sec. 705. (1) This act shall not be construed as preventing the commission from securing civil rights
guaranteed by law other than the civil rights set forth in this act.
(2) This act shall not be interpreted as restricting the implementation of approved plans, programs, or
services to eliminate discrimination and the effects thereof when appropriate.
(3) This act shall not be interpreted as invalidating any other act that provides programs or services for
persons covered by this act.
ARTICLE 8

Sec. 801. (1) A person alleging a violation of this act may bring a civil action for appropriate injunctive relief or damages, or both.

(2) An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, or for the county where the person against whom the civil complaint is filed resides or has his principal place of business.

(3) As used in subsection (1), "damages" means damages for injury or loss caused by each violation of this act, including reasonable attorney's fees.

Sec. 802. A court, in rendering a judgment in an action brought pursuant to this article, may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.

Sec. 803. This act shall not be construed to diminish the right of a person to direct or immediate legal or equitable remedies in the courts of this state.


Clerk of the House of Representatives.

Secretary of the Senate.

Approved

Governor.
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