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CNTJ

OCT 21 1985

5:00 p.m.

Talking Points: Executive Order 11246

Background

- ° Executive Order 11246, first promulgated in 1965, forbids federal contractors from discriminating against employees and applicants because of race, color, religion, sex or national origin. (Section 202)
- ° The Executive Order also requires federal contractors to "take affirmative action to ensure that" applicants and employees "are treated . . . without regard to their race, color, religion, sex or national origin." (Section 202)
- ° Federally-assisted construction contracts are also subject to these requirements. (Part III; see Section 302(b))
- ° Department of Labor Revised Order Number 4, promulgated under President Nixon (December 4, 1971) required that contractors correct so-called underutilization, thus providing that a statistical imbalance in the work force demands a "remedy," and firmly entrenching the use of "goals" as part of the Executive Order enforcement program.
- ° OFCCP regulations have been construed as requiring -- and justifying -- racially discriminatory behavior in order to attain particular statistical measures. A number of courts have found the Executive Order program to be a legitimate defense to charges of reverse discrimination. E.g., Hollander v. Sears, Roe-Buck and Co., 17 FEP cases 1348 (D. Conn. 1978); McLaughlin v. Great Lakes Dredge and Dock Company, 23 FEP cases 1296 (N.D. 1979); Sisco v. J.S. Alberici, 26 FEP cases 1162 (8th Cir. 1981), cert. denied, 455 U.S. 976 (1982).
- ° Thus, the Executive Order, through administrative interpretation and judicial deference to that interpretation, has evolved into a requirement for preferential treatment. The Executive Order can be restored to its original purpose only by Presidential action amending the Executive Order.

Law

- ° The principle embodied in our Constitution and civil rights laws is one of nondiscrimination. This principle reflects the basic tenet of American society that all persons should be judged on the basis of individual merit and ability, rather than immutable and irrelevant characteristics such as skin color and gender.

° Pursuant to this policy, every actual victim of illegal discrimination, including entire classes of such victims, are made whole.

° Affirmative action which calls for increased recruiting, outreach, and training to ensure that minorities and others traditionally overlooked are made aware of opportunities is consistent with these fundamental principles.

° Affirmative action which calls for race- or gender-conscious conduct, however, not only contradicts the nondiscrimination principle, it is illegal under our Constitution and laws.

° DOL regulations implementing the Executive Order call for precisely this kind of race- and gender-consciousness.

° The Supreme Court has stated in Firefighters v. Stotts (1984) that Congress prohibited a court from according preferential relief on the basis of race to nonvictims of an employer's discrimination.

° The granting of certiorari by the Supreme Court in three affirmative action cases is in no way grounds for further delay in revision of the Executive Order. The Executive Order is an exercise of the President's discretion, and its proper enforcement does not turn only on Constitutional and legislative interpretation, although these are important.

Policy

° The President has always believed, as a matter of policy, that race and gender must be irrelevant in employment decisions.

° In his official 1980 campaign statement on affirmative action, he stated:

I believe in equal opportunity. No American should be discriminated against because of race, ethnic background, sex, or religion in hiring, education, or in any other way. . . . [P]rograms, whether government or private, which make an extra effort to find qualified minority applicants are beneficial. They ensure that minority members will not be overlooked, and help provide them with equal opportunity for

further advancement. . . . However, we must not allow this noble concept of equal opportunity to be distorted into Federal guidelines or quotas which require race, ethnicity, or sex -- rather than ability and qualifications -- to be the principal factor in hiring or education. Increasing discrimination against some people in order to reduce it against others does not end discrimination

- ° On October 26, 1984 he stated:

I have always believed that it is unjust to limit any individual's chance to fulfill his or her unique potential based on such irrelevant prejudgments as sex, race, national origin

Citing the Stotts opinion, he added:

I am pleased at the movement of law and policy in the direction of a color-blind society.

- ° Most recently, in his June 15, 1985, radio address to the Nation, he stated:

The principle that guides us, and the principle embodied in the law, is one of non-discrimination. I am sure that you have seen the statue representing justice that presides in many of our courtrooms -- the woman with the blindfold covering her eyes. Her eyes are covered because true justice should never depend on whether you are rich or poor, or black or white, or if you are Hispanic or Asian, or if your ancestors came from Italy, Poland, Latvia, or any other country, including Ireland, where some of my family is from.

Equal treatment and equality before the law -- these are the foundations on which a just and free society is built. But there are some today who in the name of equality would have us practice discrimination. They have turned our civil rights laws on their head, claiming they mean exactly the opposite of what they say. These people tell us that the government should enforce

discrimination in favor of some groups through hiring quotas under which people get or lose particular jobs or promotions solely because of their race or sex. Some bluntly assert that our civil rights laws only apply to special groups and were never intended to protect every American.

Well, they could not be more wrong

Negative Consequences of Governmentally Imposed Goals and Timetables

° Governmentally-imposed gender and racial goals and timetables have caused gender and race discrimination, and many such cases have gone so far as to reach the case reports.

° All goals and quotas hurt those minorities who are not within the favored group.

-- New Orleans Police case -- Hispanic and female police officers challenged the 50% black promotion quota.

-- Dade County, Florida set-aside for black contractors denied Hispanic businesses many contracting opportunities.

° Some goals and quotas directly discriminate by setting ceilings on minority representation.

-- Starrett City - blacks are allotted a 30% quota of the housing units and are prevented from renting more units than their quota.

-- Tennessee Higher Education case -- "other race" desegregation goals require black universities to set goals for white faculty and students that discriminate against better qualified black applicants.

° Goals and quotas often become converted into caps or ceilings.

-- A 50% hiring quota in Jackson, Mississippi acts as a cap on black hires for police and fire departments that have 75.4% and 68.8% black

applicant flow, thus retarding an increased black presence in those departments.

- Asian-American students are denied admission to certain Ivy League schools because the universities had already exceeded their minority goals.

- ° Goals and quotas are discredited by those who prefer to be recognized on merit.

- Four Hispanic firefighters in Miami refused to be promoted on the basis of goals contained in a consent decree, preferring instead to be considered on the basis of their qualifications.

- ° Goals and timetables do not even help those who are the supposed beneficiaries:

- ° In general, the evidence shows the OFCCP "goals" */ have not significantly helped any minority group and have had a negative impact on some. Any advances made by minority groups would have occurred absent the goals requirement.

- ° The percentage of all employed black men who work in establishments governed by OFCCP fell between 1974 and 1980, the heyday of "vigorous" enforcement of the "goals" requirement.

- ° The greatest wage gains for black men and women, and the greatest shifts in minority employment to OFCCP-covered businesses, came before 1974 (Smith and Welch Study).

- ° Contractors that terminated costly OFCCP "goals" negotiations by refusing to change goals deemed unacceptable by OFCCP actually increased their black male employment percentages faster than other establishments.

- ° OFCCP goals were deliberately inflated and not met. For example, a goal to increase the employment percentage of black men by ten percent resulted in an actual increase of

*/ The information on OFCCP, unless otherwise indicated, is taken from the report of Jonathan S. Leonard, The Impact of Affirmative Action (Report submitted to the Department of Labor, 1983). This report has been widely hailed as demonstrating the success of the OFCCP Program.

only one percent. Goals for other groups had similarly dismal results.

- ° OFCCP goals have been "generally ineffective" in increasing the representation of nonblack groups.

Why There is a Need to Amend the Executive Order

- ° A perception has developed in the business community subject to the Executive Order, the beneficiaries of the Executive Order, and the public generally that this Administration is divided on the meaning of affirmative action.
- ° Without a change in the Executive Order, particularly in light of recent publicity concerning leaked drafts, the perception of division will increase and confusion will grow concerning the Administration's civil rights enforcement policies.
- ° There is universal understanding that Executive Order enforcement has led to discrimination and that the President can correct that problem "by the stroke of a pen." His failure to act, particularly in light of news stories about leaked drafts, will suggest a lack of firm Administration resolve to correct the problem.
- ° Only by amending the Executive Order can the President make clear to the public the Administration's unity on this issue.
- ° Repeated regulatory efforts to reform the Office of Federal Contract Compliance Programs during the first term always got side-tracked. An announcement that yet another regulatory reform effort is underway will not be credible, will foster the impression that division continues and has not yet been resolved, and may also, itself, get side-tracked without the urgency and clear mandate of Presidential action.

Civil
Att

FACT SHEET

Nondiscriminatory Affirmative Recruitment Is A More Effective Method of Increasing the Employment of Minorities and Women Than Numerical "Goals"

*REASONS

1. A vigorous and specific affirmative outreach policy causes a fundamental reform of personnel practices to eliminate the apathy and arbitrary barriers that have traditionally excluded minorities and women from the workforce. Goals do not lead to such basic and permanent reform, but are simply a "quick fix" that substitutes one racially-based employment system for another.

2. Affirmative recruitment is accomplished through simpler and more effective federal enforcement. Under affirmative recruitment, contractors will be required to fulfill specific commitments which will be readily verifiable (as opposed to the multitude of excuses which are offered for failure to meet a statistical goal). Equally important, a straightforward, detailed affirmative recruitment scheme focuses enforcement efforts on real problem areas and "bad actors."

3. Affirmative recruitment leads to more cooperation by employers. Employment goals require the hiring of less qualified individuals and the establishment of expensive, useless "underutilization" analyses. The additional costs involved deter employment growth, make the employer reluctant to hire minorities who will not advance as quickly as their more qualified peers (leading to more costly litigation) and creates resentment towards the federal bureaucrats' unrealistic "numbers game." Affirmative recruitment eliminates all of these problems.

4. Affirmative recruitment helps all minority groups. Under affirmative recruitment, employers cannot merely produce the "right numbers" by favoring certain minority groups to the exclusion of others. By casting a wider net and engaging in nondiscriminatory selection, the employer provides members of all minority groups with a truly equal opportunity to advance. Moreover, unlike goals, affirmative recruitment benefits minority group members from all levels of society, not just those already at the top.

*FACTS

1. OFCCP goals program */ -

- ° In general, the evidence shows the OFCCP "goals" have not significantly helped any minority group and have had a negative impact on some. Any advances made by minority groups would have occurred absent the goals requirement.
- ° The percentage of all employed black men who work in establishments governed by OFCCP fell between 1974 and 1980, the heyday of "vigorous" enforcement of the "goals" requirement.
- ° The greatest wage gains for black men and women, and the greatest shifts in minority employment to OFCCP-covered businesses, came before 1974 (Smith and Welch Study).
- ° During the period 1974-1980, the businesses that stopped contracting with the federal government (and thus left OFCCP jurisdiction) had more growth in employment for white and black females than did firms that remained contractors.
- ° Contractors that terminated costly OFCCP "goals" negotiations by refusing to change goals deemed unacceptable by OFCCP actually increased their black male employment percentages faster than other establishments.
- ° Goals were deliberately inflated and not met. For example, a goal to increase the employment percentage of black men by ten percent resulted in an actual increase of only one percent. Goals for other groups had similarly dismal results.
- ° OFCCP goals have been "generally ineffective" in increasing the representation of nonblack groups.

*/ The information on OFCCP, unless otherwise indicated, is taken from the report of Jonathan S. Leonard, The Impact of Affirmative Action (Report submitted to the Department of Labor, 1983). This report has been widely hailed as demonstrating the success of the OFCCP Program.

- ° OFCCP's general requirements, when measured by job category, often had a negative impact on white females. OFCCP compliance reviews "significantly retarded the growth in white female representation."

2. Quotas and Goals Generally -

- ° Numerical affirmative action programs generally have not contributed to, and may have retarded, the economic progress of minorities. (Studies by Thomas Sowell and Charles Murray)
- ° The economic progress of minorities was better during the "race-neutral" period of the 1960's than during the "preferential treatment" era of the 1970's (Sowell). For example, black family income fell from 62% to %60 of the national average from 1969 to 1977 (Sowell).
- ° A sophisticated, statistical regression analysis demonstrates that the introduction of affirmative action raised the minority unemployment rate significantly and caused the median income of the minority population to fall slightly (William F. Sughart, II, Clemson University).
- ° Numerical affirmative action only helps those minorities who have already succeeded. The relative position of lower-income individuals within the groups singled out for preferential treatment has declined under affirmative action (Sowell).

3. Affirmative Recruitment -

- ° The affirmative recruitment program of the Civil Rights Division has produced excellent results.
- ° The number of minorities recruited or hired has usually met, and sometimes exceeded, the percentage of that minority in the relevant labor market.
- ° In Little Rock, Arkansas, for example, the number of minorities hired for the police and fire departments was double that of the qualified minority population. Similarly, in the Duquesne Light case, the recruitment figures were three times the available minority labor force. Excellent results have also been produced in Fairfax County, Virginia, Nassau County, New York, Virginia Highway Department, North Carolina Bureau of Investigation and a host of other cases.



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 16, 1985

The Honorable William E. Brock
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Mr. Secretary:

I have your letter of October 1, 1985, raising seven questions concerning the revised draft of Executive Order 11246. I agree that there should be a clear understanding as to how the revised Executive Order would work.

In response to your questions:

- "(1) Have we given sufficient thought to the imposition of an affirmative obligation to engage in recruitment and training programs upon contractors regardless of the level of minority and female employment? I'm concerned about the contractor who clearly has a representative workforce having additional burdens placed upon him."

Answer: I believe that a great deal of thought has been given to this question by different agencies over the past four-and-a-half years. The question assumes that there is some "correct" level or percentage of minority and female employment in a particular business. There is no such "correct" percentage. Our policies have always been premised on the view that sound civil rights enforcement in employment includes vigorous, nondiscriminatory affirmative measures to enlarge the applicant and promotion pool together with nondiscriminatory hiring, promotion, etc. This view does not turn on the current number or percentage of any group in the employer's work force. The obligation not to discriminate certainly does not end when a particular percentage is reached, nor should the duty to engage in affirmative action end at that point. Such a misguided position would, in my view, treat a particular "level" or "representativeness" in an employer's work force as a cap on equal opportunity. This, I should add, has always been one of my principal fears about the Government's enforcement of numerical employment criteria. There

should be no relaxation of effort on behalf of those seeking entry or advancement just because others ahead of them have had opportunities or otherwise constitute any particular percentage of an employer's work force.

- "(2) As you know, many state and local programs presently require numerical goals and timetables. A typical example is New York E.O. 50. I'm interested in resolving how we shall deal with situations such as these, where compliance with the federal order may mean noncompliance with the state or local order. Are there present conflicts with the current order and, if so, how are such conflicts now resolved?"

Answer: The revised Executive Order retains the nondiscrimination requirement which has been imposed upon federal contractors for twenty years. Moreover, the revised draft explicitly notes that voluntary use of goals is not forbidden so long as they are not used or allowed to operate to discriminate against anyone. If compliance under the revised order conflicts with a particular existing state or local affirmative action program, the conflict will not arise as a result of the revisions but exists today under the Executive Order's present nondiscrimination command.

Perhaps more to the point is that, under the preemption doctrine, any State or local hiring or promotion program requiring preferential treatment on the basis of racial or gender goals and timetables would undoubtedly be preempted by Title VII of the 1964 Civil Rights Act, thereby obviating your concern about a possible conflict with the Executive Order.

- "(3) Under the current scheme, there is no obligation to train. Although I think training is a good approach, it is unclear from the revised draft whether provision of such training would become mandatory in all instances, even where the contractor's work force is representative of the minorities and women in the relevant labor force. We have some need for clarity on this point. What is your view as to the extent of the training requirement on a contractor under a revised executive order with regard to (a) his workforce, and (b) his applicant pool."

Answer: I believe some training requirements are imposed on some construction contractors under current OFCCP regulations (see 41 CFR § 60-4.3, "Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)," at paragraphs 4 and 7e). In any event, as I suggested in my answer to your first question, non-discriminatory affirmative action should not turn on the number or percentage of a particular group in the employer's work force. Ensuring full consideration and opportunity in employment is as appropriate for those persons seeking entry into an employer's work force (or advancement) as it is for those persons who have already been hired or advanced and thereby providing a particular level of representation. That is, opportunities -- to be recruited, trained, or otherwise -- for any person should not turn on the number of persons of the same race, ethnic group, or gender already employed.

I do believe that, while training and recruiting should be mandatory for all federal contractors, subject perhaps to a small business exception which can be promulgated in new regulations, the extent and nature of these requirements can vary depending upon the particular circumstances of the employer. For example, it clearly makes no sense to require an employer to recruit when the employer is not hiring and has no plans to hire in the foreseeable future. Further, if an employer already has adequate training programs which are open to all on a nondiscriminatory basis and which can reasonably be expected to attract minorities and women, it may not be necessary to implement additional programs. I believe these are matters which can be addressed in revised regulations.

"(4) If an educational institution or medical facility of a state or local government chose to develop a voluntary affirmative action plan under the program, could they incorporate numerical goals and timetables in that plan?"

Answer: The revised Executive Order does not forbid a federal contractor -- including state educational institutions or medical facilities -- from voluntarily incorporating into its affirmative action plan goals which are not used or are operated to discriminate against anyone.

Of course, any federal contractor would have to exercise care in incorporating such goals and they should be carefully reviewed by the Government to ensure they are not causing discrimination. Incidentally, if a public employer, including a federal contractor, discriminates in employment, whether by improper use of a goal or otherwise, the constitutional guarantee of equal protection comes into play as an additional constraint. The United States' position on this issue is well stated in our recent brief filed with the Supreme Court in Wygant v. Jackson School Board, No. 84-1340, a copy of which is attached for your review.

- "(5) The relationship between Title VII law and the Executive Order program continues to be a source of concern. As you know, the Supreme Court has recognized that under Title VII certain categories of violations can at least be established by statistics. Under present practice, OFCCP applies Title VII law, as decided by the courts, to Executive Order investigations and litigation. Under the draft, OFCCP would not be able to assert a violation based upon statistical disparities because the proposal would prohibit any requirement that contractors adopt or attain statistical measures. OFCCP could therefore not assert a violation based on Title VII statistical cases, nor could the Department rely upon Title VII precedents (as we do now). My concern is that these results would be reached because the draft would prohibit OFCCP from continuing Title VII procedures, because of their reliance upon statistics, notwithstanding our assertion that Title VII would not be altered. I'd appreciate it if you could clarify this dilemma."

Answer: Let me make clear that nothing in the revised Executive Order prohibits OFCCP from continuing to collect employment statistics from federal contractors. Moreover, as expressly noted in the revised Executive Order, OFCCP can continue to use statistics as a basis for further inquiry to determine whether an employer's employment practices are not discriminatory. Further, those statistics, together with other evidence collected during OFCCP's further inquiry, can be used as evidence in an enforcement action. For example, if an employer's statistics show that few minorities or women are being hired

despite a high percentage or large numbers of minorities or women in the applicant pool, this may well be sufficiently suggestive of a prima facie case of employment discrimination to compel an explanation from the employer. If OFCCP learns that there are discriminatory employment practices which have caused these low hiring statistics, that accumulated evidence (including the statistics) makes out a violation. If the employer's practices are free of discrimination, on the other hand, there is no violation notwithstanding the statistics. Thus, while a contractor need not adopt or attain any statistical measures, he is still bound by the nondiscrimination requirements of the revised Executive Order; statistics, so long as they are not abused, will continue to play a role in detecting whether discrimination is occurring.

Standing alone, however, statistics will not be enough in and of themselves to establish the unlawfulness of a contractor's employment practices or make out a case of noncompliance with the revised Executive Order.

- "(6) Similarly, under the revised draft, it appears that OFCCP could no longer apply certain provisions in the Uniform Guidelines on Selection Procedures (regulations governing the use by employers of tests and other devices to select or screen persons for certain jobs) in determining whether a contractor's selection procedures unlawfully discriminate. Recognizing that there may be changes to these guidelines, nevertheless, these guidelines have been adopted by EEOC, the Departments of Justice, Labor and Treasury, as well as OPM, and are currently in place."

Answer: The Uniform Guidelines on Employer Selection Procedures (UGESP) are under review and plainly in need of revision in light of several recent Supreme Court decisions. Until revised, UGESP is available in its present form to OFCCP and may be followed to the extent that the UGESP requirements remain legally binding on OFCCP.

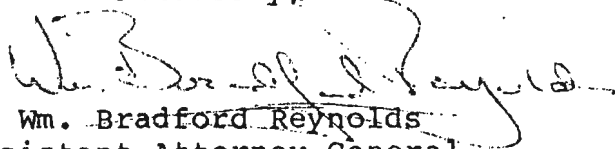
- "(7) Finally, it appears that the revised draft would not eliminate the numerical goals requirement for federally assisted construction contracts. This apparently results because the proposed draft amends only Part II of the Executive Order,

and Part III is devoted exclusively to federally assisted construction contracts."

Answer: The effect of the revised draft is to eliminate the numerical goals requirement for federally assisted construction contracts. Section 302(b) of the current Executive Order states: "The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein."

If you believe the applicability of Part II of the revised Executive Order to federally assisted construction contracts would be made clearer by the deletion of the word "Government" preceding "contractor and subcontractor" in the revised draft, this change is easily accomplished.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm. Bradford Reynolds", is written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

Attachment

A Pen for the President, A PC for Gamblers, A Modest Proposal for the Newhouses, and Other Matters.

BY DANIEL SEIGMAN

Waiting for a Stroke

■ The big news about civil rights these days is something that isn't happening. What is happening is giving the *Washington Post* con-riptions and causing it to overproduce headlines and editorials about the Reagan Administration's presumably devastating assault on affirmative action. On one day recently you could read in the paper about the Justice Department's stepped-up attacks on employment quotas. Also about the department's planned promotion of Assistant Attorney General William Bradford Reynolds, a major supporter of anti-affirmative-action suits. Also about the new line at the U.S. Commission on Civil Rights, whose Reaganite appointees have been out front in arguing for colorblind solutions instead of preference.

Against this background, what isn't happening is really most peculiar. What isn't happening is the stroke of the pen that would essentially end affirmative action in American employment. Ronald Reagan could do it all by himself, without asking Congress or the courts or Ben Bradlee. All he has to do is issue an executive order repealing Revised Order No. 4, which requires goals and timetables and provides the legal basis for the quotas now imposed on government contractors (meaning just about every sizable company). Revised Order No. 4, a creation of the Nixon Administration, is still on the books and still enforced by the Labor Department. Your servant does not claim to know whether the Reaganites plan to get rid of the order or keep it; possibly they have just forgotten it's there. An interesting experiment would be to give Ron a pen and see what happens. It just might make his day.

After the Ball Is Over

■ A Santa Rosa, Calif., teen-ager ... Steven Lloyd, 18, wanted to take his 15-year-old girlfriend to his prom last June ... But ... there is a school rule that forbids senior-high students ... from mingling with those from the junior high ...

School counsel Robert J. Henry says the teens' mothers sought an injunction to force the school to let their children attend the dance ... Judge Joseph P. Murphy denied a restraining order ...

Once the dance passed ... all the teens

RESEARCH ASSOCIATE Michael McFadden

could sue for was damages ... The school's insurance adjuster advised a \$4,500 settlement, which the pair accepted.

—From an article in the *National Law Journal*.

The Road to Monte Carlo

■ Friends, you would not believe the backbiting that goes on here in the FORTUNE offices, and especially when the subject is personal computers and how the different editors are utilizing same, and which of these efforts impinge most favorably on the Time Inc. bottom line. The long and short of it is that adjacent editorial wisenheimers continue to carp and cavil at your correspondent's programming breakthroughs and are even aspersing his famous dressing program, even though this dazzling exercise basically made the February 4 issue and to this day remains a banner and a beacon to all executives wishing to know in what sequence they might put their clothes on in the morning. Scotch the contention that this programming coup was a lucky one-shot, the item you are reading now will depict a powerful new program that could finally vindicate the Monte Carlo technique and put it to some practical use for a change, and here we allude to the world premiere of "Year of Action," as we have provisionally labeled our computer simulation of 365 consecutive evenings spent at the casino.

A funny thing about the Monte Carlo technique is that it seems never to have been used by folks visiting casinos. To judge from the textbooks at our better business schools, the technique is useful mainly for capital budgeting, inventory planning, and managing

Only in America (cont'd)

■ ROCKLAND, Maine—A judge ordered the state to pay for sex-change treatments for a transsexual being held in Maine State Prison on a murder charge ...

"If you're saying to me that the Department of Corrections cannot provide treatment ... then it seems to me there is a serious question as to whether the Department ... can hold this person," Knox County Superior Court Justice Donald Alexander told an assistant attorney general.

Glen Robert Askeborn, ... also known as Samantha Glenner, has been denied female sex hormone treatments since his arrest last fall.

—From a UPI dispatch.



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THE SCIENCE AND POLITICS OF ETHNIC ENUMERATION

Ira S. Lowry

January 1980

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THE SCIENCE AND POLITICS OF ETHNIC ENUMERATION*

Ira S. Lowry

The Rand Corporation, Santa Monica, California

Introduction

Next April, the Bureau of the Census will begin its decennial effort to detail the ethnic composition of the American population. Its conclusions will be of much more than academic interest: Under current laws and regulations, the 1980 census reports on ethnicity will significantly influence everyone's access to education, employment, housing, and a wide assortment of federal benefits. It is therefore important for us as citizens as well as scientists to understand and assess the Bureau's plans for ethnic enumeration.

Briefly, my paper argues that the Bureau does not know how to conduct a scientific ethnic census. That should not be surprising, because social science has yet to offer validated methodological instruction. In fact, I see the elements of a vicious circle. Most scientific research dealing with ethnic distinctions relies on census data and therefore on the ethnic concepts used in past censuses. The main plea of the science lobby is for continuity in census concepts and methods, so the Bureau is encouraged to perpetuate its follies. Only rarely do social scientists challenge the absence of a coherent conceptual basis for the Bureau's ethnic distinctions, or the known unreliability of the methods it uses to identify an individual's ethnic status. Those who do challenge are ineffective because they cannot offer better alternatives.

*This paper was prepared for the annual meeting of the American Association for the Advancement of Science in San Francisco, California, 3-8 January 1980. It was presented at a session on "The 1980 Census: Plans, Procedures, Uses, and Evaluation," organized by Paul C. Glick.

Mr. Glick and others at the Bureau of the Census were helpful in supplying documents and answering my questions. At Rand, Donna Betancourt helped me to locate sources and verify information; she also supervised production of this document. Arturo Gandara and Kevin F. McCarthy commented helpfully on the draft.

Where science is weak, politics flourish. Civil rights legislation since 1960 has created vested interests in ethnic classification and enumeration, interests whose efforts are clearly visible in the 1980 census instrument and field procedures. Various ethnic lobbies have pressed hard for separate status in census reporting, for more complete enumeration of their constituencies, and for identification procedures that classify marginal cases with a favored group. Ethnic enumeration has become so important a practical issue that the federal Office of Management and Budget has imposed a uniform system of ethnic accounting on all federal agencies, including the Bureau of the Census.

In my judgment, the Bureau has dealt responsibly with all these pressures, embracing the most sensible and resisting the most outrageous proposals. But this balancing act will become increasingly difficult if, as I expect, ethnic lobbies multiply and their influence increases. The Bureau badly needs a solidly scientific basis for ethnic concepts and enumeration procedures, as a defense against manipulation. My paper concludes by recommending some specific steps the Bureau could take toward securing the knowledge it needs.

The Concept of Ethnicity

Throughout this paper, I shall use the term "ethnicity" to denote a particular kind of social identity--that which derives from belonging to a group whose members share a common race, religion, language, or national origin, or some combination of these factors.* Such groups are larger than families and, usually, smaller than nations; and the members of each are bound together by their sense of a common history and destiny, often despite powerful differences in values and life styles.

* In common speech, the term "ethnicity" has a variety of meanings, the most usual being "national origin." Thus, the phrase "white ethnics" is often used to describe groups such as Italian- or Polish-Americans, a usage that appears in some scientific writing. Also, ethnicity as a cultural distinction is sometimes contrasted with race as a genetic or morphological distinction. However, my usage is etymologically sound, has precedents in the literature of the social sciences, and is surprisingly convenient for this discussion.

Because ours is a nation of immigrants formed in an era of global upheaval and long-distance migration, we have a very large number of distinguishable ethnic groups. For example, the Bureau of the Census has compiled a list of some 1,500 ethnic appellations in current use. But many ethnic groups are only sparsely represented in the United States; and among many others, the sense of difference from ethnically adjoining groups is slight.

Clearly, ethnic identity has its roots in some historical community of people who inhabited a specific territory, developed a common language and culture, and practiced endogamy. The surprising feature of ethnic identity is its persistence for generations among those who left their homelands to mingle with other populations, as has been the case of immigrants to America.

According to an idea articulated as early as 1782 and gaining currency throughout the 19th and early 20th centuries, America was destined to be a melting pot of immigrant ethnic groups, each losing its separate identity in a new blend that drew the best genetic and cultural qualities from its components.* The idea was so appealing to both the popular and scientific mind that contrary evidence was rarely noted until the 1950s. In 1944, a sociological study of marriage partners in New Haven, Connecticut, offered the first major empirical challenge to the melting-pot theory. Its author, R. J. R. Kennedy, reported that ethnic endogamy was the rule, not the exception. Endogamy within national origin groups was extremely high (91 percent) in 1870, and by 1940 had only diminished to 64 percent. Within religious groups, endogamy was even more persistent. In 1940, about 80 percent of the Protestant marriages, 84 percent of the Catholic marriages, and 94 percent of the Jewish marriages in New Haven were between persons of the same religious group.**

*The history of the "melting pot" idea is well presented in Milton M. Gordon, *Assimilation in American Life*, New York, Oxford University Press, 1964, Ch. 5. I should acknowledge here that Gordon is my principal guide to the sociology of ethnic groups.

**Ruby Jo Reeves Kennedy, "Single or Triple Melting Pot? Inter-marriage Trends in New Haven, 1870-1940," *American Journal of Sociology*, Vol. 49, No. 4, January 1944, pp. 331-9.

Studies of other aspects of ethnic separatism, both in New Haven and elsewhere, followed; and these were capped in 1963 by Glazer and Moynihan's *Beyond the Melting Pot*, a methodologically eclectic study of the major ethnic groups in New York City. The authors concluded that "The notion that the intense and unprecedented mixture of ethnic and religious groups in American life was soon to blend into a homogeneous end product has outlived its usefulness, and also its credibility. In the meantime, the persisting facts of ethnicity demand attention, understanding, and accommodation."^{*} More recently, the same authors perceive a worldwide recrudescence of ethnicity as a principle of social and political organization.^{**}

In America, the turn-of-the-century ideology of the melting pot has indeed lost ground to an alternative, the ideology of "cultural pluralism." Its adherents propose that, rather than seeking to assimilate ethnic groups into a common American culture, we should work to preserve distinctive ethnic heritages because each tradition nourishes its members' self-esteem and adds flavor to our national life. During the past two decades, the rhetoric of ethnic activists has increasingly stressed the validity of their own traditions rather than the "Americanization" of their constituencies, and our schoolbooks have been rewritten accordingly.

However, the joke seems to be on the cultural pluralists. According to one thoughtful student of assimilation, most ethnic minorities have readily assimilated American culture even while maintaining their group identities. Milton Gordon cites an impressive body of sociological evidence supporting the proposition that the major cultural divisions in America today are along the lines of social class; regional and rural-urban distinctions, though once important, have greatly attenuated under the onslaught on modern mass communication and geographical mobility. Social classes also exist within ethnic groups;

^{*} Nathan Glazer and Daniel Patrick Moynihan, *Beyond the Melting Pot*, Cambridge, Massachusetts: The M.I.T. Press and Harvard University Press, 1963, p. v.

^{**} Nathan Glazer and Daniel P. Moynihan (eds.), *Ethnicity: Theory and Experience*, Cambridge, Massachusetts, and London, England: Harvard University Press, 1975, pp. 1-26.

and the norms, aspirations, customs, and behavior of middle-class blacks, Jews, Puerto Ricans, white Catholics, and white Protestants are all both very much alike and considerably different from the common culture of their lower-class coethnics.*

In Gordon's view, cultural assimilation has generally preceded and need not be followed by "structural assimilation" as indicated by ethnically mixed participation in organizations and social relationships. On the contrary, "within the ethnic group there develops a network of organizations and informal social relationships which permits and encourages the members of the ethnic group to remain within the confines of the group for all of their primary relationships and some of their secondary relationships throughout all stages of the life-cycle."**

The result is a set of ethnically enclosed subsocieties, each more or less parallel in class structure and class culture (although the distribution of members among the classes varies considerably between ethnic groups, reflecting primarily the group's economic history).

Is Ethnicity Measurable?

Not all sociologists agree fully with Gordon's model of our national social structure as an orthogonal matrix of ethnicity and social class,*** and Gordon himself offers qualifications that I have not detailed. But I find the model persuasive in accounting for many features of the American scene in 1980, and seminal in that it suggests what we should do to improve our understanding of the functional significance of ethnic identity in our society and its appropriate place in national policy: We need first to establish a reliable method of ethnic identification; then, for the numerically important ethnic groups, we should measure the degree of their ethnic enclosure.

* Gordon, *Assimilation in American Life*, op. cit., pp. 40-59; illustrative material is presented in pp. 160-232.

** Ibid., p. 34.

*** See William L. Yancey, Eugene P. Ericksen, and Richard N. Julian, "Emergent Ethnicity: A Review and Reformulation," *American Sociological Review*, Vol. 41, No. 3, June 1976, pp. 391-403, both for the paper's argument and its helpful bibliography.

A major impediment to the scientific classification of ethnic groups is the lack of a clearly specified membership rule. An individual's ethnic status is partly ascribed by his community from observation of his parentage, physical characteristics, language or mode of speech, organizational affiliations, and social circle. Some but not all these personal characteristics can be manipulated by the individual himself to reinforce or weaken the communal perception, so ethnicity is also partly an achieved status. An individual may place either a positive or negative value on his ascribed ethnicity; and in either case may consider his ethnic identity to be important or unimportant. A particular ethnic identity may not be consistently ascribed by others even when they have access to the same information about the subject individual, and self-identification may differ from the communally ascribed status.

When self-identification and communal identification agree, they are mutually reinforcing; when they disagree, the discord of mutual expectations generates a tension that is resolved only when one view or the other prevails. The problems of ethnic identification therefore focus on the marginal cases, whether of an individual who seeks to separate himself from a well-defined ethnic group, or of a group that is itself disintegrating or merging with some adjoining ethnic group. For example, a reinterview study by the Bureau of the Census showed that people who identify themselves as Hispanic (vs. non-Hispanic) in one interview often report differently in a second interview, and the reverse.* The same study shows that response consistency is strongly related to ascertainable facts of family history such as the ethnic consistency of parental lineage, and generational residence histories.

A general empirical study of ethnic self-identification and its objective correlatives would help considerably to resolve classification problems and to guide the design of an ethnic questionnaire suitable for mass administration, as in the decennial census. However,

* U.S. Bureau of the Census, Census of Population and Housing: 1970, Evaluation and Research Program, PHC(E)-9, *Accuracy of Data for Selected Population Characteristics as Measured by Reinterviews*, U.S. Government Printing Office, Washington, D.C., 1974.

the systematic classification of ethnic groups also requires other information concerning the functional importance of the nominated groups. Here, I think that a joint or parallel study of the degree of ethnic enclosure would be critical. Let us say, for example, that we locate a group of individuals who consistently identify themselves as Armenians. To what degree do they form a separate subsociety whose members "remain within the confines of the group for all of their primary relationships and some of their secondary relationships throughout all stages of the life-cycle"? Without going into detail, I suggest that the measurement of ethnic enclosure is fully within the state of the art of survey research. Given the appropriate data on a substantial sample of the relevant populations, it would be feasible to develop a coherent system of ethnic classification that reflected not only ethnic differences, but intergroup relationships. In short, such a study would reveal the implicit ethnic structure of American society.

The final section of this paper suggests how such research might be conducted. I should at this point reassure the reader that I do not suppose that the decennial census is an appropriate vehicle for gathering all the information needed for such an ethnic analysis. Rather, I suppose that such an analysis would teach us how to better conduct an ethnic census, just as quite detailed studies of social class have taught us how to conduct more efficient surveys and censuses of socio-economic status.

Ethnic Identification in the Decennial Census

I began by asserting that the Bureau's planning for the 1980 ethnic census lacked a solid foundation in science, and that the absence of science facilitated the intrusion of politics. Having dealt above with the scientific issues, I turn now to the political ones. Beginning with a few paragraphs of census history, I will try to illuminate the political context of the 1980 ethnic enumeration.

The first decennial census was taken in 1790, pursuant to Article I, Sec. 2 of the Constitution, which required a decennial enumeration of the new nation's people as the basis for apportionment among the states of both congressional representation and direct

federal taxes. That simple decennial enumeration grew into today's immense compendium of demographic, social, and economic statistics. The expansion of the census's scope reflects a growing federal role in domestic affairs, a shifting agenda of national concerns, and the gradual legitimation of the social sciences.*

The first ethnic data (1790-1820) were essentially byproducts of the distinction between white citizens (counted for representation and taxation) and others with fewer civil rights and liberties: foreigners not naturalized, slaves (presumably black), and tribal Indians, and, on some early schedules, "all other free persons, except Indians not taxed." In 1830, the first nationally uniform schedule distinguished white from "colored" persons. In 1850, the concept of color was codified as white, black, or mulatto; and country of birth was first recorded for free inhabitants.

The censuses of 1870 and 1880 made a quantum leap in ethnic identification. In 1870, all inhabitants were classified as to color (white, black, mulatto, Chinese, or Indian) and country of birth; and it was recorded whether or not each parent was of foreign birth. In 1880, the specific country of birth was recorded for each parent, and a special census of the Indian population was conducted under the supervision of that giant of government science, John Wesley Powell. The Indian census schedule is interesting because it probes in an unprecedented way for ethnic identity, not just civil status.**

From 1890 through 1930, the census schedules gradually increased their attention to the complexities of ethnic identification, a response to the social and political issues raised by the swelling tide of immigration.*** Each census recorded country of birth for the

* Details of census schedules in the following paragraphs are taken from U.S. Bureau of the Census, *Population and Housing Inquiries in U.S. Decennial Censuses, 1790-1970*, Working Paper No. 39, Washington, D.C., 1973.

** Enumerated persons are distinguished as to ancestral mixture (both tribal and non-Indian), languages spoken (both tribal and non-Indian), habitual clothing ("citizen's" vs. tribal dress), and residence on or off reservations; and non-Indian adoptees into Indian tribes are identified. See *ibid.*, p. 69.

*** During the peak decade, 1905-1914, over 10 million immigrants officially entered the United States, increasing the national

enumerated person and both parents; and by 1920, language questions included "mother tongue" for all three persons. For the foreign-born, both the date of immigration and current civil status were reported. In 1930, the list of categories for "race and color" grew to include white, Negro, Mexican, Indian, Chinese, Japanese, Filipino, Hindu, and Korean, with (for the first time) space for other write-in choices.

The census of 1960 was the first to use self-enumeration extensively.* The census schedule was consequently simplified and vetted for possibly offensive language, with some loss of precision. The former "color or race" question was replaced by one which read: "Is this person--White, Negro, American Indian, Japanese, Chinese, Filipino, Hawaiian, Part Hawaiian, Aleut, Eskimo, (etc.)?" The respondent had to induce the categorical structure within which identity was sought, and write in an answer (rather than checking a box). Country of birth was included for the enumerated person and both parents; and for the enumerated person only, mother tongue. In New York state only, a redundant nativity question distinguished "U.S., Puerto Rico, Elsewhere" as places of birth, and asked whether those born "Elsewhere" were U.S. citizens.

Problems with the 1960 answers to the implicit color or race question prompted a return in 1970 to an explicit "color or race" query with checkoff entries for "white, Negro or black, Indian (Amer.), Japanese, Chinese, Filipino, Hawaiian, Korean, Other"; and write-in space for a specified "other" or an Indian tribal designation. At some distance from the color or race question, the respondent was asked the state or country of birth for the enumerated person and his parents *and* to describe that person's "origin or descent" as one of the following:**

population by a fourth. The census of 1920 enumerated nearly 14 million foreign-born residents in a population of 54 million.

*"Self-enumeration" must be interpreted loosely. A form is mailed or delivered to each household, covering all members of the household. Typically, the form is filled out by one member (sometimes even a non-member) on behalf of all members of the household.

**Independently of this question concerning Hispanic origin or descent, the Bureau also coded respondents with Hispanic surnames.

Mexican	Central or South American
Puerto Rican	Other Spanish
Cuban	No, none of these

For those who were foreign-born, the schedule asks whether they are now naturalized, aliens, or were born abroad of American citizens; when they "came to the United States to stay," and "What language, other than English, was spoken in this person's home when he was a child?"

Playing the Numbers Game

Civil rights legislation and judicial decisions after 1960 bestowed a new significance on the Census Bureau's ethnic enumerations. A combination of laws and executive orders^{*} prohibited discrimination based on race, color, religion, sex, or national origin in voter registration, education, public and private employment, privately owned public accommodations, public facilities, the sale or rental of publicly assisted and most private housing, mortgage lending and property insurance, and selecting the beneficiaries of federal grants under some 400 programs administered by over 25 federal agencies.

Whereas earlier statutes and judicial decisions had addressed problems of overt discrimination against specific individuals, the Congress and the courts went further in the 1960s, instructing federal authorities to look for patterns of discrimination, as evidenced by the underrepresentation of "disadvantaged minorities" in the activity of interest; and, where such underrepresentation was found, requiring "affirmative action" by the relevant party to correct it, whether or not the underrepresentation resulted from deliberate discriminatory policies.

^{*}The principal laws were the Civil Rights Act of 1964 (PL 88-352), the Voting Rights Act of 1965 (PL 89-110), the Civil Rights Act of 1968 (PL 90-284), the Equal Employment Opportunity Act of 1972 (PL 92-261), and the Voting Rights Act of 1975 (PL 94-73). The principal executive orders were 11063 (Equal Opportunity in Housing), 1962; 11246 (Equal Employment Opportunity), 1965; 11478 (Equal Employment Opportunity in the Federal Government), 1969; and 11764 (Nondiscrimination in Federally Assisted Programs), 1974.

The "pattern of discrimination" and "affirmative action" concepts together form a watershed in civil rights legislation. Their underlying principle is that each minority group is entitled to a fair share of all "openings," whether ballots, jobs in a factory, seats in a classroom, apartments in a housing development, or food stamps. And each group's fair share is, basically, its share of the population at large or some relevant subset of that population.* By 1965, counting ethnic minorities had become a serious business, affecting the outcomes of elections, admission to graduate schools, marketing strategies of housing developers, federal contract awards, hiring, firing, and promotion policies of private employers, and the disbursement of federal grants to state and local governments.

I have yet to learn who decided, and on what basis, which ethnic minorities were candidates for affirmative action on their behalf. By whatever process, federal authorities settled on four such groups: American Indians or Alaskan Natives, Asian or Pacific Islanders, Blacks, and Hispanics. Whereas substantial underrepresentation of any of these groups is grounds for a civil rights compliance action, fair shares are not defined for any of the commonly distinguished components of each group (e.g., for Puerto Ricans as distinct from Mexican Hispanics), or for any ethnic minority not included in the Big Four.**

Ethnic activists were quick to understand the practical significance of the fair share principle: The larger the official count of

* The general principle has many qualifications that are specific to the various statutes and regulations. Most qualifications center on the appropriate definition in a particular case of the population which is "at risk" of discrimination. For example, ethnic underrepresentation in employment by a particular firm may be tested with reference to the ethnic composition of the labor force living in the firm's vicinity and already possessing the relevant skills; or the base may include all those plausibly trainable for the jobs in question. The firm's labor market may be determined to vary with job classification, from local to national.

** The Office of Federal Contract Compliance Programs does recognize possible discrimination in executive and middle-management jobs against "members of various religious and ethnic groups primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups," but its compliance guidelines for employers do not (yet?) include the arithmetical tests provided for the Big Four (41 *Code of Federal Regulations* 60-50).

their group's numbers, the greater would be the group's legal advantage in the competition for jobs, promotions, placement in training programs, housing, education, and access to federal benefits. So began the great numbers game of the 1970s.*

The census of 1970 was disappointing to ethnic activists in several respects. First, postcensal analysis convinced the Bureau that, despite an excellent enumeration overall, the census substantially undercounted blacks (by 7.7 percent, vs. 1.9 for whites) and, probably, Hispanics and Asian and Pacific Islanders.** The basic reasons were that within each minority group there is an above-average incidence of persons with irregular living arrangements (making them hard to locate); persons who cannot read the Bureau's mailed messages (so do not learn about the purposes or even the existence of the census); persons who receive census forms but do not complete and return them (because the form's intricacies are beyond their comprehension); and persons who have real or fancied reasons for being officially invisible (such as illegal aliens).

Second, the responses to the battery of ethnic questions did not allow the Bureau to say with confidence who belonged in which group.

*The nature of the game is neatly captured in a recent interchange between the Bureau, the National Black Caucus of Elected Officials, and a prominent Mexican-American politician. At a meeting of the Caucus, Larry Lucas, a Bureau spokesman, predicted that Hispanics would not outnumber blacks in the U.S. until the year 2057. According to a press report, "Eddie Williams [a member of the Caucus] said talk of a fast-growing Hispanic population, with its potential Hispanic political gains, has 'created some tensions between blacks and Hispanics.' Although black and Hispanic leaders are unhappy about it, the politics of poverty have put the two groups in competition for their share of dwindling federal dollars. And, as Lucas told the local officials, the census is 'involved in how the national pie is cut up.'" (*Los Angeles Times*, 26 November 1979.)

Within a few days, the Bureau's projection was hotly disputed by Mario Obledo, California's Secretary of Health and Welfare, who took the Bureau to task for underenumerating Hispanics and predicted that "Hispanics will be the largest minority group in this country sometime before the end of the century." (*Los Angeles Times*, 30 November 1979).

**U.S. Bureau of the Census, Census of Population and Housing: 1970, Evaluation and Research Program, PHC(E)-4, *Estimates of Coverage of Population by Sex, Race, and Age: Demographic Analysis*, U.S. Government Printing Office, Washington, D.C., 1973.

On about a tenth of the person-records, the question on "color or race" was unanswered. Write-in responses included many unclassifiable answers such as "American," racially uninformative national origins, hyphenated designations presumably reflecting mixed parentage, and other puzzlers.* It was often difficult to reconcile answers to the "color or race" question with answers to the "origin or descent," "place of birth," or "home-spoken language" questions. In postcensal reinterviews, respondents often answered differently than they did in the original enumeration.**

Ethnic spokesmen further speculated that their constituents often failed to recognize the category intended for them by the Bureau because they had developed different self-appellations (e.g., Chicano as opposed to Mexican or Spanish); and that some chose to misrepresent their ethnicity for ideological reasons ("Wherever my family came from, I'm an American now") or practical concerns (e.g., blacks who have "passed" as whites).

Finally, some ethnic activists were disappointed that the census schedule, the Bureau's coding guide, and tabulation formats jointly militated against identification of various ethnic groups that were arguably distinctive in their racial inheritance, social and economic status, culture, and aspirations.*** Some chose to be insulted as well as incensed by the Bureau's failure to draw finer distinctions.

* Tabulations of the long form administered to a 5 percent sample of households originally indicated that the sample equivalent of 517,000 persons had reported some racial designation other than those explicitly named on the census schedule. Editors subsequently reclassified three-fifths of these cases as "white." (Ibid., p. 4.)

** For example, about 18 percent of those who reported Spanish origin or descent in the original enumeration reported otherwise upon reinterview; and 23 percent who were so identified at reinterview were reported as non-Spanish in the original interview. Both calculations exclude nonrespondents. (U.S. Bureau of the Census, Census of Population and Housing: 1970, Evaluation and Research Program, PHC(E)-9, *Accuracy of Data for Selected Population Characteristics as Measured by Reinterviews*, U.S. Government Printing Office, Washington, D.C., 1974, Table D.)

*** For example, in 1978 a representative of the Taiwanese Club of America pointed out to the Bureau that "The number of Taiwanese-Americans in this country is approaching 100,000. . . . These immigrants

When the Bureau began to plan the 1980 census, it formed advisory committees for the black, Spanish-origin, and Asian and Pacific-American populations. These groups addressed their inquiries and advice mainly to four salient issues: the Bureau's affirmative action employment plan, publicity and field procedures that would affect the completeness of minority enumeration, the format of ethnic questions on the 1980 census schedule, and the Bureau's plans for tabulating ethnic data. Each committee lobbied vigorously for measures that it believed would increase the 1980 count of its constituents or would make those constituents more visible in census reports.*

I think it is fair to say that the Bureau responded constructively to the often conflicting advice and occasional peremptory demands of its advisory committees. In a series of pretests, it experimented with publicity and expensive field procedures aimed at locating minority populations and persuading them to participate in the census. It also experimented with the format of questions related to ethnic identification, constrained as always by the space available on the census schedules and the cost and technical problems of coding open-ended responses. It was also constrained by a directive of the Office of Management and Budget (OMB) issued in May 1978.** OMB promulgated five basic racial and ethnic categories for federal statistics and program administrative reporting, whose definitions were as follows:

- o *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North

have their own unique social background. Their educational level, spoken language, and cultural tradition are grossly different from those of the early Chinese immigrants. . . . The majority of Taiwanese do not want to be called 'Chinese.'" (U.S. Bureau of the Census, *Minutes and Report of Committee Recommendations, Census Advisory Committee on the Asian and Pacific-American Population for the 1980 Census*, 9 November 1978, p. 31.)

*The *Minutes and Report of Committee Recommendations* of the three committees were published by the U.S. Bureau of the Census at intervals during 1977-79. The Bureau apparently offered to charter an American Indian Advisory Committee, but the leaders of that constituency preferred less formal consultation.

**The National Archives of the United States, *Federal Register*, Vol. 43, No. 87, pp. 19269-70.

America, and who maintains cultural identification through tribal affiliation or community recognition.

- o *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, South-east Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.
- o *Black.* A person having origins in any of the black racial groups of Africa.
- o *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- o *White.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Although the directive encourages the separate reporting of "race" (designating all of the above except Hispanic as races) and "ethnicity" (Hispanic origin/not of Hispanic origin), Hispanic ethnicity takes precedence over race in a combined format. More detailed data may be collected, but must be collapsible into the basic racial and ethnic categories listed above. Finally, OMB advises that "The category which most closely reflects the individual's recognition in his community should be used for purposes of reporting on persons who are of mixed racial and/or ethnic origins."

Ethnic Identification in the 1980 Census

The census of 1980 continues the practice introduced in 1950 of using a short form for 100 percent enumeration and a longer form for a sample of respondents. The short form includes a "color or race" query (Q. 4) and an "origin or descent" query (Q. 7). The long form asks for country of birth (Q. 11), citizenship and date of immigration if foreign-born (Q. 12), domestic language and proficiency in spoken English (Q. 13), and ancestry (Q. 14). The long form, whose sample is adequate for national, state, and large SMSA estimates of fairly

small populations, thus contains seven clues to ethnic identity.* Because the instrument is self-administered, the answers reflect a respondent's essentially unaided comprehension of the questions and his unguided perception of the appropriate responses. Generally, some adult member of the household is expected to complete the form on behalf of all its members; but friends, neighbors, volunteers, or census field staff may help those who seek help.

Ethnic lobbying for a place in the sun is most visible in Q. 4, which reads:

4. Is this person -- <i>Fill one circle.</i>	<input type="radio"/> White	<input type="radio"/> Asian Indian
	<input type="radio"/> Black or Negro	<input type="radio"/> Hawaiian
	<input type="radio"/> Japanese	<input type="radio"/> Guamanian
	<input type="radio"/> Chinese	<input type="radio"/> Samoan
	<input type="radio"/> Filipino	<input type="radio"/> Eskimo
	<input type="radio"/> Korean	<input type="radio"/> Aleut
	<input type="radio"/> Vietnamese	<input type="radio"/> Other-- <i>Specify</i>
	<input type="radio"/> Indian (Amer.)	
<i>Print tribe</i> → _____		

The fourteen listed options defy classification. Some items map roughly into traditional racial distinctions, but at wildly different levels of classification. Others are more readily understood as national or territorial origins. Although only one choice is allowed, the entries are not necessarily mutually exclusive. For example, a respondent whose father was black and whose mother was white could choose either or both racial designations; or an Oriental living in Hawaii might consider himself both Chinese and Hawaiian. Anyone

* It does not include the 1970 items on country of birth for the parents of the enumerated person. The census last asked about the parents' "mother tongues" in 1920.

dissatisfied by the alternatives offered can write in some other appellation, but must intuit the relevant aspect of his identity.*

The intent of the short form's Q. 7 is somewhat clearer in that the options form a logically complete set:

- | | |
|---|--|
| 7. Is this person of Spanish/
Hispanic origin or descent?
<i>Fill one circle.</i> | <input type="radio"/> No (not Spanish/Hispanic)
<input type="radio"/> Yes, Mexican, Mexican-Amer.,
Chicano
<input type="radio"/> Yes, Puerto Rican
<input type="radio"/> Yes, Cuban
<input type="radio"/> Yes, other Spanish/Hispanic |
|---|--|

2 However, neither "Spanish/Hispanic" nor "origin or descent" are rigorously defined in the accompanying instructions.** A respondent whose lineage, whatever its dominant ingredients, includes any individual born in one of the named countries (or any unnamed other "Spanish/Hispanic" country) is encouraged to identify himself as Hispanic.***

* The instruction sheet that will accompany the mailed-out census schedule is not very helpful. Apropos of Q. 4, it says: "Fill the circle for the category with which the person most closely identifies. If you fill the 'Indian (Amer.)' or 'Other' circle, be sure to print the name of the specific Indian tribe or specific group."

** The instructions for Q. 7 read as follows: "A person is of Spanish/Hispanic origin or descent if the person identifies his or her ancestry with one of the listed groups, that is, Mexican, Puerto Rican, etc. Origin or descent (ancestry) may be viewed as the nationality group, the lineage, or country in which the person or the person's parents or ancestors were born."

*** As the Bureau's review of the 1970 "origin or descent" responses notes, "If a person had Spanish ancestry on one side of the family several generations back, he may or may not perceive himself to be of Spanish origin when reporting on the census questionnaire. . . . Since the question may have been answered on the basis of the respondent's self-perception, the idea of a 'correct' or 'incorrect' response does not seem to apply." (U.S. Bureau of the Census, *Accuracy of Data for Selected Population Characteristics as Measured by Reinterviews*, op. cit., p. 5.)

I am told that the Bureau also plans, as in 1970, to flag Spanish surnames (it has a list of some 8,500 such surnames) and tabulate their incidence as an alternative measure of the Hispanic population. In the past, Spanish surname has not correlated very well with self-identified Hispanic origin or descent.

Long-form questions 11 through 13 ask for generally known or ascertainable facts: state or country of birth, citizenship status for the foreign-born, whether the enumerated person speaks a language other than English at home, and how well he speaks English. But Q. 14 seems to be a generalization of both Q. 4 and Q. 7, again lacking any clear categorical structure:

14. What is this person's ancestry? *If uncertain about how to report ancestry, see instruction guide.*

(For example: Afro-Amer., English, French, German, Honduran, Irish, Italian, Jamaican, Korean, Lebanese, Mexican, Nigerian, Polish, Ukrainian, Venezuelan, etc.)

The instructions for answering this question, like those for Q. 7, legitimate a variety of choices for any respondent.* The Bureau has compiled a coding guide that allocates over 1,500 possible responses among nine geographical regions of the world, but with an overriding nongeographical "Spanish" category; and at a second level, among over 170 categories that are a mixture of smaller geographical areas, national states, and multinational ethnic groups.

Using 1980 Ethnic Statistics

My review of census schedules over the past three decades is intended to reveal what I perceive as the gradual articulation of the

*"Print the ancestry group with which the person identifies. Ancestry (or origin or descent) may be viewed as the nationality group, the lineage, or the country in which the person or the person's parents or ancestors were born before their arrival in the United States. Persons who are of more than one origin and who cannot identify with a single group should print their multiple ancestry (for example, German-Irish).

Be specific; for example, if ancestry is 'Indian,' specify whether American Indian, Asian Indian, or West Indian. Distinguish Cape Verdean from Portuguese, and French Canadian from Canadian.

A religious group should not be reported as a person's ancestry."

Bureau's stance on ethnic identification. Going beyond any language actually published by the Bureau,^{*} I perceive its position to be as follows:

Ethnic identity cannot be established by objective criteria, at least in largescale self-administered surveys. We therefore accept that an individual's ethnicity is whatever he says it is. The Bureau's job is to elicit self-identification and then to group the responses into recognizable categories that (a) are mandated for federal civil rights enforcement, (b) satisfy the more vocal ethnic lobbies, and (c) provide enough continuity with past census statistics to satisfy social scientists engaged in longitudinal analysis.

In my judgment, the 1980 schedule's Q. 7, including its "tilt" in favor of Hispanic self-identification, responds quite directly to item (a) above.^{**} The peculiar list of "racial" options in Q. 4 clearly reflects skillful lobbying by Asian and Pacific Islanders. Questions 10-14 of the long form are meant mainly to meet the needs of researchers, a constituency with which the Bureau has a long and mutually supportive relationship.

However, the Bureau's success in balancing the claims of constituencies was achieved at the expense of its fundamental mission: gathering valid and reliable information about the population of the United States. I see little reason to suppose that the 1980 census statistics will describe the ethnic composition of that population in a way that supports either fairness in civil rights enforcement or progress in the social sciences. One reason is that neither the

^{*} But see comments by Jacob S. Siegel, senior statistician, and Daniel B. Levine, associate director for demographic fields, in U.S. Bureau of the Census, *Minutes and Report of Committee Recommendations, Census Advisory Committee on Population Statistics*, 6 April 1979, pp. 19-24.

^{**} Compare the instructions for Q. 7 with the OMB directive on racial and ethnic reporting, *supra*.

Bureau nor its constituents has a coherent group of ethnic identity to guide data collection and interpretation. A second reason is that the Bureau's own studies show a low order of response consistency in ethnic self-identification.

These concerns were shared by a census advisory panel appointed by the National Research Council, who reported in part as follows:*

The nature of the [ethnic ancestry and Spanish origin] questions raises serious doubts about validity and reliability. Validity and reliability are dependent on the precision of the concept being measured. The phrases "origin or descent" and "ancestry" can refer to having one or more forebears from a particular country, or to nationality of a multinational country [sic], or to an ethnic identity (the referent most encountered in discussions of these questions). The discussions in the Panel make it clear that there were different interpretations of, or one could say confusion about, exactly what was being measured (validity). In the concrete, the answer will be what the respondent decides he or she is, or wants to be identified as, etc.

It is by no means clear that persons in similar situations and with similar characteristics will answer in the same way . . . We are speaking here not of splitting hairs, but of possibly wide variations in respondent behavior across and within generations and cultural groups leading to serious doubts about what the [ancestry] question measures or what its objective referent is . . . The Spanish origin or descent question has some of the same problems.

Reliability is important in two respects in regard to these questions. First, even if we accept the contention that the "truth" here is self-identification, would those in the household, especially adults and adolescents who do not fill out the census form, agree with the respondent? . . . Second, would the respondent identify himself or herself in the same way at a later time, if the census were taken at a different time of the year [e.g., St. Patrick's Day or Columbus Day] or if the respondent were not exposed to organized efforts to educate people to answer ethnic origin or ancestry questions in particular ways?

* Panel on Decennial Census Plans, Committee on National Statistics, Assembly of Behavioral and Social Sciences, National Research Council, *Counting the People in 1980: An Appraisal of Census Plans*, National Academy of Sciences, Washington, D.C., 1978, pp. 67-76. The quoted sentences are from pp. 71-72.

From the perspective of civil rights enforcement, there is something fundamentally wrong with the notion that ethnic status is elective. If one can gain advantages by claiming membership in a particular ethnic group, surely some of us will make unwarranted claims. Although ethnic self-identification in the census does not lead directly to advantages for each individual who reports himself as a member of a disadvantaged minority, the census's ethnic tabulations form the benchmark for many legal tests of ethnic underrepresentation. The larger the minority's count, the greater advantage all its members have in affirmative action programs.*

It is only fair to add that the Bureau of the Census does not make civil rights enforcement policy, and cannot by itself resolve the intrinsic ambiguities of affirmative action. But neither is the Bureau required by law to choose ethnic self-identification as its criterion of classification. Both civil rights and science would be better served by a more analytical approach to data collection and dissemination.

From the perspective of social science, ethnic self-identification is indeed salient evidence of an individual's social identity. But for it to be scientifically useful evidence, three conditions must be met: First, self-identification must be elicited in an ethnically neutral context; the respondent must not be "led" to a choice among alternatives, none of which may in fact apply. Second, the intensity of an ethnic self-identification must be established by additional probes; for many who readily acknowledge a particular ethnic background, it is a trivial rather than salient element of self-concept. Third, self-identification must be analytically related to ascertainable facts about a person's life history, ancestry,

* In affirmative action programs, the numerators of ethnic participation rates are even more unreliable than the denominators. For instance, under the rules of the Equal Employment Opportunity Commission, employers engaged in affirmative action compliance are forbidden to ask job applicants their ethnic identities until after they have been hired; and are discouraged from doing so then. Typically, an ethnic identity is assigned to each employee by his employer, based on whatever clues can be found in physiognomy, speech patterns, name, and place of birth. Employees rarely know how they have been classified.

and behavior; only as such relationships are established by statistical analysis do ethnic data acquire functional significance.

Improving the Census's Ethnic Statistics

The 1980 census schedule is now fixed, and the specific ethnic items on which the U.S. population reports next April will be widely used both for public policy and academic research. Granted the doubts I share with the panel organized by the National Research Council and with some members of the Bureau's Advisory Committee on Population Statistics, what can be done to limit misinterpretation of the ethnic statistics that the Bureau will publish in due course? How should future censuses and intercensal surveys approach ethnic identification?

First, it is clearly appropriate to include in each publication that carries ethnic statistics a clear statement of the process that generated them and the reasons why they must be assumed to be imprecise. That statement should indicate that what was tabulated was the ethnic identities assigned to each member of a household by whoever completed the enumeration schedule; that the schedule guided respondents toward Hispanic identifications; and that response consistency, when it has been tested, is not much over 60 percent for some minorities.

Second, I urge a postcensal survey of ethnic identification that would serve two purposes: (a) It would clarify the meaning of the 1980 ethnic statistics, and (b) it would aid in designing future surveys and censuses.

An appropriate instrument for a postcensal probe of ethnicity would differ substantially from any that I have ever caught the Bureau using. First, its design would reflect a coherent analytical purpose, that of establishing a scale of intensity for ethnic self-identification and relating the scalar values insofar as possible to ascertainable facts about the respondents. Second, its format would reflect survey techniques that have been extensively used and evaluated in social-psychological surveys. These techniques include devices such as screening questions to eliminate respondents who do not have opinions

about the matter at issue, nondirective probes for categories of self-identification, questions with scaled rather than dyadic responses, and redundant questions to test response consistency. There should be detailed questions about family lineage, languages, and residence history, and questions that measure the respondent's interaction with others of his ethnic group. The instrument should also ask about the respondent's religious heritage and affiliations, a topic that is statutorily excluded from the decennial census but is legally permissible in surveys to which response is not compulsory.

Although the Bureau is undoubtedly aware of the accomplishments of surveys using such social-psychological techniques,^{*} it has not often used them. I am not sure of all the reasons; but one, certainly, is concern about the reactions of Congressional "know-nothings" who from time to time erupt about the Bureau's nosiness. Another, I feel confident, is institutional conservatism; the Bureau has a solid reputation as our national fact-gatherer, which it hesitates to contaminate by venturing into the softer area of attitude research. Finally, I am sure that there are some at the Bureau who are genuinely concerned about adverse public reactions to such probing inquiries--even though survey researchers generally agree that such reactions are rare among respondents.^{**} In particular, one major Jewish organization and at

^{*}In fact, over a decade ago, the Bureau sponsored a conference on *Survey Applications of Social Psychological Questions* (reported by Norman W. Storer, and published under the above title as U.S. Bureau of the Census Working Paper 29, Washington, D.C., 1969). According to the introduction, "The immediate occasion for taking up this general topic is the increasing involvement of the Census Bureau, especially through its current population survey, in collecting data relevant to new social programs in such areas as poverty, manpower training, education, urban redevelopment, and health care." Despite the generally positive conclusion of the conferees, the Bureau did not subsequently make much use of "social-psychological questions" in its surveys, even those conducted under contract to other federal agencies.

^{**}The conference report cited above notes that "Experience in the field has shown consistently that respondents are much less likely to be disturbed by questions that are sensitive [i.e., whose answers might embarrass or humiliate the respondent] than are their "public protectors"--Congressmen, spokesmen for ethnic groups, the American Civil Liberties Union (ACLU), etc. No good examples could be offered

least one minor Protestant denomination have officially opposed even noncompulsory religious censuses, at least if conducted by an agency of government.

Some who agree that a probing survey of ethnic identity would be socially and scientifically valuable nonetheless argue that such a survey would be more appropriately conducted by a less official scientific institution, such as an academic survey research center. However, there is an overriding technical objection to disconnecting such a survey from the Census Bureau. Because the survey's target is ethnic minorities, efficient sampling requires a sampling frame that identifies at least the nominal ethnicity of potential respondents. The decennial census provides not just the best but the only such national sampling frame. The impracticality of adequately sampling a number of small groups from the ethnically blind sampling frames available to academic researchers is one very good reason why research on ethnicity is meager.

My proposal, therefore, is that the Bureau use the returns from the decennial census to classify the nation's people according to nominal ethnic status, then sample as many of the minority groups as informed judgment and budgets allow; then survey each group, using a carefully designed, probing instrument to elicit both the intensity and objective correlatives of ethnic self-identification.*

I believe that the results of such a survey would substantially alter our current conceptions of the categorical structure and social significance of ethnic identity. From these findings, the Bureau could construct a less ambiguous and more efficient instrument for ethnic identification in future decennial censuses and sample surveys. The Bureau would be better equipped to resist pressure for favored

by the discussants of questions that have elicited widespread hostility from respondents, or even that have met with a high proportion of refusals to answer." (Ibid., p. 1.)

* Although both instrument design and sampling for such a survey are well within the state of the art, field procedures would present some formidable difficulties. The sampled households would be widely dispersed geographically, a substantial number would have moved from their April 1980 addresses, and language barriers would complicate interviewing.

treatment in instrument design from what we should expect to be an increasing number of ethnic lobbies with increasingly divergent interests. There is even some chance that the results of such a postcensal survey would be so startling that they would alter the political or legal premises of affirmative action. Most certainly, the findings would enhance our national understanding of the facts and social implications of "cultural pluralism" in American life.

THE WORLD AHEAD

Black Parents Prepare Their Children For Pride and Prejudice

By Thomas Morgan

THE MEMORY OF the motel sign is still vivid despite the years. Neatly printed black letters on white spelled a puzzling message for a young black boy from suburban St. Louis traveling with his parents through sleepy Arkansas towns with the rural charm of Norman Rockwell paintings.

The sign read: "Whites Only." When the boy asked about it, his mother answered resignedly, "It means we can't stay there, son."

Nearly 30 years have passed since I saw that sign and pondered its message. I have grown and prospered because my father, a postal employee, and my mother, a public-school teacher, sent me, like Moses through the bulrushes, to the shores of new opportunity created by the civil-rights movement. I was one of two blacks to integrate a suburban elementary school in 1958. Later, a white ninth-grade English teacher encouraged me to become a journalist because she saw a spark of writing talent.

After college, I served as an Air Force lieutenant and White House military social aide under President Ford, which allowed me, in a position other than that of a servant, to see the gracious pomp and ceremony surrounding the First Family. In the late 1960's and early 70's, with the implementation of affirmative-action programs, I was among those blacks who found entry-level jobs in professions that, for the most part, had been closed to our parents.

Despite the advances in race relations that my life may exemplify and my close friendships with

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several whites, I cannot in good conscience tell a young black child he can succeed by merit alone. Nor could I tell a black child to expect, in general, the same opportunities as whites, because prejudice, though waning, lingers.

I still see the sign, "Whites Only," but it is not hanging from some Southern motel. The words "Whites Only" come to mind when I go as a journalist to cocktail parties and other events where crucial contacts and decisions are being made and I am the only black not serving the hors d'oeuvres. I see the sign when I hear racially insensitive comments by white acquaintances who profess a knowledge of black culture, love the 60's and the Motown sound and reject the idea of discrimination, but who have no real black friends or who do not socialize with blacks outside professional settings.

It is an enigma to me, a 34-year-old middle-class black man, because although I have benefited from civil-rights advances and better relationships with whites than my parents, the reality I see from my own experiences, and one that is supported by recent surveys and polls, is that America remains a divided society outside the office. This reality is even more difficult for young, middle-class, professional blacks, who came of age in the 1960's and still feel racism of a subtler nature both at work and in recent policy positions taken by the Federal Government. Although a recent New York Times-CBS News poll shows that President Reagan's approval rating among blacks has increased from 10 percent in 1982 to 28 percent this year, 60 percent of blacks still disapprove of his performance.

At social gatherings, church events and in the privacy of their own homes, black parents are discussing a dilemma: How to explain discrimination to their children, who have different racial experiences. Parents want to know how to help them establish a black identity and pride while they are learning white mainstream cultural values through the influences of television, popular music and friendships with whites. These parents, many bet-

Civil
rights

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ter educated and more politically sophisticated than their parents, feel that they must prepare their children, the next generation growing up in integrated environments, for prejudice and teach them how to deal with it.

SHIRLEY AND ANDREW CARTER were sitting in the bedroom of their sprawling home several months ago when Ellis, their 17-year-old son, entered clearly troubled.

"He was apprehensive, he was confused and torn, and I remember feeling, 'Now what? What are we going to have to deal with now?'" Mrs. Carter says.

The Carters live in a recent subdivision of wooden-frame, three-level homes in a tree-shaded bedroom community of rolling hills in Rock Hill, S.C., about 20 miles south of Charlotte, N.C. Tricycles and toys dot the neatly kept lawns where black and white children play together. The Carters have three sons, Neal, 4, Michael, 13, and Ellis, a senior at Northwestern High School. Both parents serve as youth advisers at their church, New Mount Olivet African Methodist Episcopal. At supper, family members hold hands and bow their heads as they offer grace.

At age 42, Andrew Carter, his black hair flecked with gray, is a senior industrial engineer for Rockwell International. Raised in Mobile, Ala., he was a Marine navigator, flying more than 200 missions during a 10-month tour in Vietnam before leaving the service with the rank of captain.

Mrs. Carter, 40, small and soft-spoken, has spent much of her working career as a homemaker, although she has taught college psychology and high-school special education locally. A graduate of Bennett College, a black women's school in Greensboro, N.C., Mrs. Carter is the family's emotional bedrock.

The Carters say Ellis was upset because, earlier that day, he and another black student who had announced their candidacy for student-council president had learned that the requirements had changed: Unless they had served on a junior-high council, which they had not, they would be ineligible to run.

"I remember him asking us, 'What do you think I should do?'" Shirley Carter says.

Andrew Carter, who met with the principal privately, says that after other black parents also complained, school officials delayed implementation of the changes.

Ellis says, "Since last year's president was a black woman, a lot of blacks thought that the change was done to keep us out. I ran for senior-class president instead and won.

"None of the students, black or white, could understand why the change came about. The racial problem at school is not with the students, but the faculty and adults. Students felt that the advisers made the change."

Earl Lovelace, Northwestern's principal, says students, not school officials, decide eligibility. "I can't change the constitution of the student council without it going to committee and then being voted on by the students," he says.

Lovelace points out that although blacks make up only about 25 percent of the student body, several have been elected council officers. "I don't think anything was decided on a racial basis," he says. "Our relations here, I feel, are excellent."

Several weeks later, Ellis presented his parents with another dilemma: An advanced chemistry class was overcrowded, and nine students would be excluded. Ellis and the three other blacks registered for the class were among the nine.

"He approached us, and he said, 'I think this might be racial,'" Mrs. Carter recalls. "There is no proof that this was, in fact, racial discrimina-

tion. We don't know who made up the list or that it was a deliberate attempt to exclude blacks. I get the feeling that the whole thing was just handled poorly."

After several parents complained, all of the students were allowed to take chemistry. In explaining the incident, Lovelace says school officials merely looked at numbers, not the names of people signed up.

Ellis, a deliberate speaker with his mother's shy smile, says that his junior-year social-studies class discussed civil rights and its impact. Most students, including himself, decided that the civil-rights movement had improved society.

Yet, in the murky twilight between childhood and manhood, Ellis is groping to understand the world, people's actions and motivations. "I have problems with my friends because my black friends sometimes don't like me spending time with my white friends, and my white friends don't feel comfortable around my black friends," he says. "I feel like I have to straddle two worlds sometimes.

"Last year, the student-council president, who was black, wanted to set aside a day to honor Martin Luther King. A lot of blacks said it was a good thing to do, but a lot of whites said it was a waste of time and was not fair. A lot of whites don't know about famous black people.

"I felt hurt that they would accept me as a black person but would not accept the idea of honoring a black person," Ellis says. "One of my white friends said, 'I don't see you as a black friend, but as a friend.' But I want them to look at me for what I am. I am a black person."

Although Ellis understands that prejudice occurs, he says he feels that his parents see more of it than he does. Both he and Michael, who wants to be an astronaut, believe their parents are making too much of the race issue.

The Carters, thinking of the future, worry that their teen-age sons are naive and may be ill-equipped to handle racism when it confronts them. Ellis began to ask questions about racism only last year, and they were grateful they could discuss relevant issues before he left home for college.

"Twenty years ago, the signs of racial discrimination were clear," says Andrew Carter, "and you knew they were there and you knew what they were. Now, our kids are dealing with subtleties."

Shirley Carter says, "It's difficult for us to explain these things because the subtleties are not always clear to us."

"We worry all the time about what they might face, and whether we, as parents, have prepared them properly," Carter says. "It's unrealistic for us to have them think that things are going to be rosy."

DR. JAMES P. COMER, Maurice Falk Professor of Child Psychiatry at Yale University Child Study Center, says that he co-authored a book, "Black Child Care," with Dr. Alvin F. Poussaint of Harvard University in 1975 because he had received repeated requests for advice from black parents. "I did it," he says, "because I was dealing with so many parents at cocktail parties who asked me questions like, 'The kid comes home and says, 'I wish I was white.' Or, 'He comes home and says, 'The white kids called me names.'"

"It's hard to go around dealing with the race problem all the time. Some parents don't want to. The world tells you there is no race problem, the President tells you the same thing and says that black civil-rights leaders only want to keep their jobs. Schools don't talk about it, and for all different reasons, white school-

(Continued on Page 90)



Shirley and Andrew Carter and their children, from left: Michael, Ellis and Neal. "We worry, as parents, whether we have prepared them properly," says Andrew Carter.



PHOTOGRAPHS BY DMITRI KASTERINE

'Twenty years ago, the signs of racial discrimination were clear,' says a black father. 'Now, our kids are dealing with subtleties.'



Above: Percy Stith (left) says "so what" if his best friend, Evan Pressman, is white. Left: The Stith family starts Sunday dinner with a prayer.



PHOTOGRAPHS BY DMITRI KASTERINE

Black parents must play a vital role ingraining their children with a strong ethnic awareness.



Above: Keira Edwards (center) with friends Arhonti Papadopoulos and Mina DelSanto, and, left, with her parents, Tom and Jane Edwards. Keira says it is difficult to chart a course between her black and white friends.

FIRST ENCOURAGEMENTS

AT LEHIGH UNIVERSITY in the fall of 1968, Prof. David Greene called one of my freshman English papers "Whitmanesque."

I had no idea what he meant by the remark. I hadn't read Whitman. I hadn't read anything. I was a 17-year-old kid who liked making noise in his own loud language. Still, in keeping with my hunger for affirmation, I knew when I was being complimented. That the compliment went over my head just made it sweeter; it could mean whatever I wanted it to mean. *Whitmanesque* — it was less a description than an incantation, and I sometimes feel that the entire future course of my life was determined by its insinuating power. First encouragements seep deeper than any that come after.

They are also the hardest debts ever to repay. The person receiving the encouragement, being young, has no reserves of confidence or grace from which to draw a fitting gratitude. And the person giving the encouragement, the mentor, is invested with a stature and a seeming self-sufficiency that makes mere human-scaled thanks seem impossibly paltry.

In any case, having once felt the thrill of praise, I hung, from that day forward, on Professor Greene's every word. As a lecturer, I found him endlessly sly, irreverent, galvanic. He occasionally cursed and occasionally screamed. He tickled us by daring to assert that certain acknowledged classics were pretty lousy books. And when he loved something, he made you feel it under your ribs. He had a goatee and wore sloppily knotted skinny ties that never came down lower than the bottom of his breastbone.

One day he took me aside. "Have you ever noticed," he asked, "that the most important questions tend to suggest the most subversive answers?"

Laurence Shames's book, *"The Big Time,"* about the Harvard Business School class of 1949, will be published next spring.

I hadn't noticed. I hadn't read anything and I hadn't noticed anything.

"Do you ever wonder, for example," he said to me, "if knocking around a university is the best thing you could do with your next four years?"

In fact I had asked myself that. But I wasn't about to quit school. I was the first of my family to be able to go to college; renunciation of the privilege would only become an option for later generations. Besides, there was a war on. So I hedged. I transferred to N.Y.U. and lived in the East Village. I was half a bohemian and half a sophomore. The move, in some partial and inchoate way, had been made to please Prof. David Greene, yet the upshot of it seemed to be that I would never see or talk with him again.

That wasn't, of course, how I'd planned it. In my imagined future, he and I would stay warmly in touch as experience and accomplishments brought us ever closer

to being equals. The scenario, however, presupposed that I would have accomplishments, and that turned out to be a problem. My pride would not allow me to be just one more former student who sent a card at Christmas and a newsy little letter now and then. I had to have some worthy offering to lay at his feet. But what could I offer? The short stories I was writing then always got rejected, and if they weren't good enough for some assistant editor, they certainly weren't good enough for David Greene. I couldn't very well send him the unpublished novels I fell into the habit of writing after graduation; it would have seemed uncomfortably ironic to pay him tribute with evidence of how much fruitless effort his advice had led me to. So I sent nothing, and one day in 1979 it occurred to me that a decade had gone by since I'd last sat in his classroom.

It also dawned on me around that time that I prob-

ably wasn't a fiction writer. So I started writing essays and articles, and after awhile I began to publish work that I was proud of. Finally I had something to send to David Greene. But now I seemed to be too busy. The phone rang, assignments came in, and the awful truth is that when you get used to being paid by the word, writing somebody a letter feels like throwing money out the window. Five more years went by.

A couple of months ago, I ran into David Greene, by chance, at the opera. I spotted him across the promenade at the tail end of the first intermission. He looked no older than I remembered him, but in some way outside of age itself, he struck me as ancient, archaic. He seemed smaller than in memory. In his classroom, he'd seemed a one-man swarm, a presence who reached everywhere, like vines enveloping a house. Here, he seemed recessive, meek, overmatched by the chandeliers and velvet;

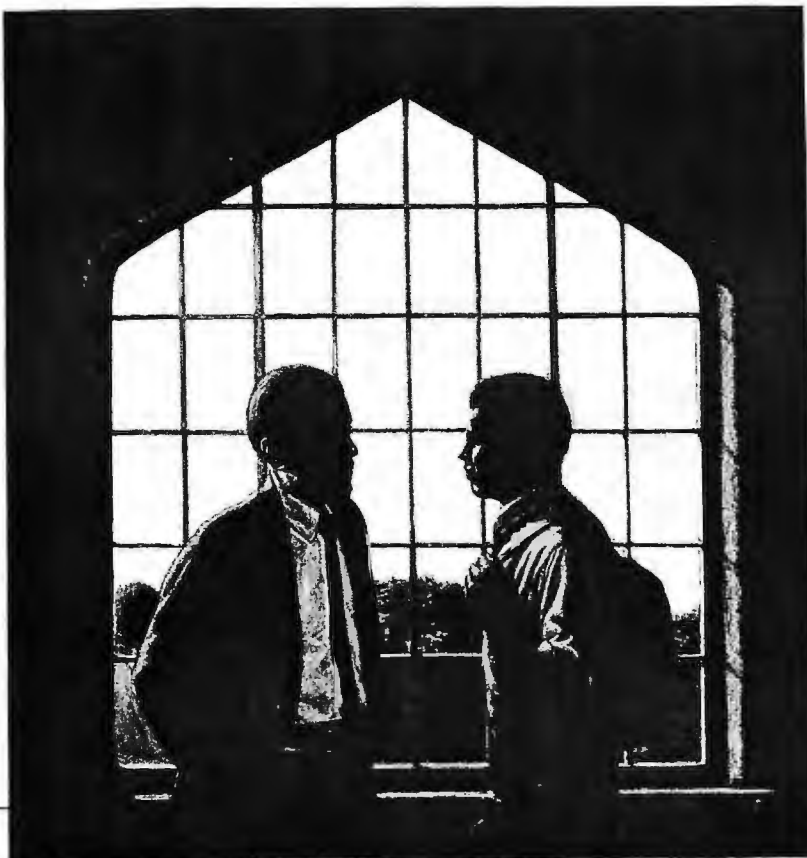
measured against the world I now presumed to count myself a part of, he seemed like one more out-of-towner on a big night out, vaguely ill at ease and secretly depressed at what it cost to park the car. I made my way over to him just as the ushers were herding us back in.

After an awkward moment he remembered me. He introduced me to his wife, who was plump and bashful and wore white gloves. There was no time to talk. We arranged to meet at the same spot during the second intermission.

The next act went by as background music. I couldn't get my mind off David Greene. In some absurd and churlish way I was angry at him for shrinking. The feeling made me ashamed, and I reacted against it by deciding that, once and for all, I would tell my old professor how important he had been to me. I would praise him to the skies. But on reflection there seemed to be as much self-congratulation as generosity in the impulse: I was succeeding at what I was born to do, and he should feel good that he had helped me do it. Still, how else did one thank a teacher?

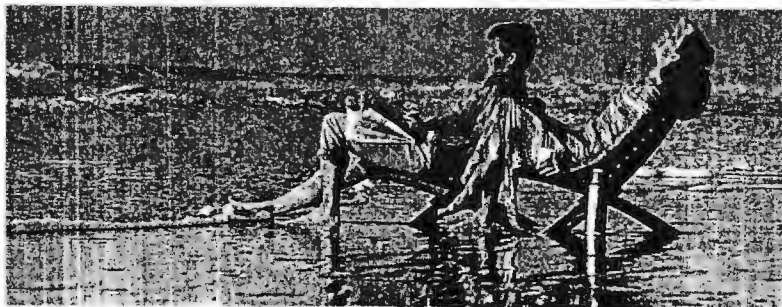
I headed up the aisle before the applause had stopped. I still didn't know what I'd say. I needn't have worried. My old professor didn't show up. I waited, I searched; he didn't appear. Why? I still don't know. Maybe he didn't want to be repaid; maybe he didn't want to let me kid myself that I ever could repay him. Or maybe he knew that what he'd given me would lose its resonance if examined out of context, away from the classroom in which he held dominion, removed from the past in which his encouragement's timeliness had been a large and perhaps crucial part of its power. Greene was still sly, oblique, and final.

So after awhile I went back to my seat. I couldn't listen very well to the next act of the opera, either. ■



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stutter, I think because of it.

"One day, when you were little, you came home and wanted to know why your hair was curly. You never thought those things before you went to the white school. I said, 'Tommy, you are black. People are different.' You said, 'I don't understand, I don't want to be different,' and you cried.

"Another time, when the television program 'Bat Masterson' was popular, you had a Bat Masterson T-shirt, and you loved to wear it," says my mother. "One morning, I put it on your bed with the other clothes you were to wear, and you said you didn't want to wear it anymore. You said the children said there was no such thing as a black Bat Masterson, and you refused to wear it. I wanted to go to that school and tear it up.

"I had to be very careful not to show you all the resentment I have for white people. I do not trust them. I think many of them have false faces, and while I know that there are good white people in the world and I know you have white friends, I believe that if it comes down to a white having to make a deci-

sion on whether to give something to a white or a black, the white will always get it."

As I grew up, my mother's expressive anger was often balanced by my father's calm and by his experience working and socializing with whites as a young man. When a high-school counselor told me I would never be elected student-council president because the school was not ready for a black in that office, I told my father that I would run for vice president only. "Never aim for second place," he replied.

"I don't think children should be taught differences in people," my father said recently. "They should be taught to take advantage of opportunities. When you were born, I knew that your options would be better than mine, and I never thought you had to be limited to any one type of life, or think of racial limitations. If I could go back in time, I would tell you the same thing. Only I would be more alert to what was happening to you at school."

For some black parents, the irony is all too evident. The dream of the 1960's civil-
(Continued on Page 96)

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BLACK PARENTS

Continued from Page 35

teachers say that discussing the issue is too painful for them.

"I was a grown man before I could handle matters of race without consuming a large amount of energy," Dr. Comer says. "Much of it was frustration and anger about the whole racial situation."

"I realized that was hurting me, and as a consequence of that I really began to think about how that is a problem for blacks in general. The amount of energy consumed and the distraction that racial prejudice presents are enormous."

Dr. Deborah Prothrow Stith, a 31-year-old Harvard-trained Boston internist specializing in adolescent medicine, and her husband, the Rev. Charles R. Stith, pastor of the interracial 500-member Union United Methodist Church in Boston's South End, are raising three children. Both grew up in the South and met while he was at Atlanta's Interdenominational Theological Center and she at nearby Spelman College.

"I lived in black Atlanta," says Dr. Stith. "My parents went to a black college. Their friends were black. My father worked for a black company, and his boss was black. And when I went to the white high school in eighth grade, it was not on the level of 'Let's go be friends with these people.' It was on the level of 'We've got to show them that black folks can be as good as, if not better than, they are.' It was a totally different dynamic."

Dr. Stith, who lives in Roxbury, a black community in Boston, says she asked her 7-year-old son, Percy, when he was 5 who his best friend was. "He said, 'Evan,' his friend at school, Evan Pressman," says Dr. Stith, who also has a 3-year-old daughter, Mary Mildred (Mimi). "I said, 'But Percy, Evan's white.' Percy said, 'So what?' And I thought for a moment and said, 'Percy, you're right. So what?'"

"It really struck me because when I was 5 years old, I didn't have a white best friend," she says.

James (Trey) Edmondson, 15, the Stith's nephew and ward, listens to his aunt with an expression of amusement. Later, he says he has heard this all before. A sophomore at Boston Latin School, a distinguished preparatory insti-

tution, Trey says he has not encountered any racist situations at school. He dismisses racial epithets he has heard as jokes blacks tell about whites and whites tell about blacks.

"Older people talk too much about discrimination," observes Trey, shifting uncomfortably in an overstuffed chair in the Stith living room. "They talk so much about it because of their past experiences. I haven't seen any racial situations."

"But what about the play, Trey?" Dr. Stith asks.

"Oh yeah, the play," he says, his puzzled frown turning into a smile of recognition. "About two years ago, at the William Monroe Trotter school, there was a play, a school production, 'The Wizard of Oz.' None of the black kids had any of the major roles. The black kids played the role of monkeys, without masks. Only one white kid played a monkey, and he had a gorilla mask on."

Dr. Stith, who had taken Trey and Percy to the play, says she was livid and later wrote to school officials and a local newspaper protesting the casting of black children as evil characters or monkeys. She used the incident to teach Trey about discrimination. But even now Trey seems unperturbed.

His reaction reminded me of a personal incident that had occurred years ago. I had been chosen to play the role of Ali Hakim, the Persian peddler, in my high-school production of "Oklahoma!" I was the only black in the play. During a rehearsal, the choral director made a slight change in the script, which calls for Ali to kiss one of the leading ladies. I would kiss only her hand.

I remember being bothered that I wouldn't get to kiss a girl as some of my male friends in the cast would, but I simply dismissed the matter. A few years later, as I thought about the racial implications of that slight change, I became angry. It was one of several such occurrences I never told my parents.

"We tried to shield you from prejudice, but when you integrated your elementary school as a 7-year-old, you went through stress that we never really understood," recalls my mother, Loris Willis Morgan. "You developed a

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tions were finally completed in New York. Cushman led a handful of his troops out to a restaurant for what they assumed would be a victory dinner — though he will not reveal the size of his commission, it was clearly in the millions of dollars. But Cushman included in the party a prospective client, and the dinner was spent pitching for new business. The real-estate broker was in pursuit of his next big deal.

ON THE FACE OF IT, conditions in the nation's real-estate market today seem far from encouraging for the likes of John Cushman. Office vacancy rates in downtown Los Angeles, for example, are 13.5 percent — they were as low as 0.2 percent in 1980. New York remains the strongest market in the country, but even there, vacancy rates have risen slightly. Inevitably, many developers are having trouble getting financial backing for new buildings.

And there are political storm clouds on the horizon. Some proposals for Federal tax reform include lengthening the time over which investors in buildings can write off their costs. Another proposal, to end the deductibility of local taxes for Federal tax returns, could lead some companies to leave high-tax cities like New York. Either proposal could increase the office vacancy rates.

How will all this affect Cushman? Very little, he insists. Financially strong companies often see downturns in the real-estate market as a chance to upgrade their office space at a bargain price. And when major corporations need to enlarge their office space, John Cushman says, they tend to ignore the cyclical ups and downs of the real-estate market. "It takes seven years to conceive, design, redesign and build a major office building," he says.

William Zeckendorf Jr. agrees. "Even if there is a 25 percent vacancy rate," he says, "some tenants will need a new building." And brokers can play "a particularly key role," he adds — particularly those who know how to obtain ownership positions for their clients.

Forget the vacancy rates, Cushman says. "Well-conceived, well-located buildings will continue to do well," he insists. "The ones that will get hurt are the ones that should never have been built in the first place." ■



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THE NEW YORK TIMES MAGAZINE / OCTOBER 27, 1985 89

June 23, 1983

MEMORANDUM FOR: JOHN RAISIAN

FROM: ARLENE ROLLEN
HAL SIDER
ANDY STARRS

SUBJECT: Review of "The Impact of Affirmative
Action on the Employment of Minorities
and Females," by Jonathan Leonard

This study examines the effects of affirmative action on the employment of minorities and females and attempts to determine whether affirmative action affects economic efficiency. Based on his empirical results Leonard advocates various policy changes. However, we do not agree with some of his basic findings, and feel that some of his policy proposals are unwarranted. The issue here is whether affirmative action eliminates discriminatory practices that would otherwise exist or, instead, whether it induces reverse discrimination.

Leonard finds that affirmative action significantly increases the employment of black males in the federal contractor sector. He generally finds the same true for other minority groups, although many of his results suggest that the program may have decreased the employment of white females. These basic findings are for the most part consistent with previous studies.

It should be emphasized that the study examines the effects of affirmative action on employment only in the federal sector. The extent to which the program may shift demographic groups between the federal contractor sector and other sectors is not examined, nor is the program's effect on the total employment of minorities and females.

In order to determine whether affirmative action eliminates discrimination or induces reverse discrimination it is necessary to examine its effect on productivity. Based on the outcome of three separate tests, Leonard concludes that affirmative action has not had a significant impact on productivity, a result that indicates that it has not induced reverse discrimination. This conclusion is unwarranted, however, because the tests appear to be misspecified, important variables are omitted from the analysis and the data used have several weaknesses.

More specifically, Leonard estimates an aggregate production function using industry-by-state data. His basic equation relates industry-by-state value added to the amount of capital and labor (by demographic group) while also taking account of regional and industry differences. One criticism of this approach is the use of value added, which in part is composed of labor costs. For those industries which are disproportionately affected by affirmative action, the increase in labor costs could simply increase value added. Hence the industries heavily affected by affirmative action may look more productive than is in fact the case. This would bias the results toward finding affirmative action does not reduce productivity. Other flaws of this approach are seen by examining each one of Leonard's productivity results.

The first test examines productivity of nonwhite males relative to white males and the productivity of females relative to white males for the pre-affirmative action year (1966) and the post-affirmative action year (1977). The reasoning is that if affirmative action induces reverse discrimination, the relative productivity of women and minorities should fall. [p. 162] His empirical results indicate that the relative productivities of nonwhite males to white males and females to white males did indeed increase from 1966 to 1977, although tests of statistical significance indicate that he cannot reject the hypothesis that there has been no change in the relative productivities. He concludes from these results that there is no significant evidence of a decline in the relative productivity of minorities or females [p. 175] with the implication that reverse discrimination has not occurred.

On theory alone, we feel his rejection of reverse discrimination is unwarranted. More specifically, if affirmative action induces reverse discrimination, it can be viewed as a tax on white males in the federal contractor sector. (This is a framework that Leonard examines in Chapter 3). Viewing affirmative action as a tax means that even in production for the private sector, firms with federal contracts have an incentive not to employ white males, thus depressing wages for white males. Nonfederal contractors do not face this "tax" and hence have more incentive to employ white males. In the federal contractor sector white male relative productivity should be higher than before affirmative action, but in the nonfederal contractor sector it should be lower. If we take a weighted average of the two relative productivities, it will be ambiguous as to whether this average will be greater or less than the previous relative productivities. Thus Leonard's finding that the weighted average relative productivity of minorities and females has not fallen does not allow rejection of the reverse discrimination argument.

Leonard's second test to examine the effect of affirmative action on productivity is to add to his basic 1977 estimating equation the variables percent change 1966-1977 in female employees and nonwhite employees. He finds their coefficients to be positive but very small and statistically insignificant. What is troubling, however, is that when these results are compared with a previous regression without these two variables the new equation substantially changes many of the coefficients. This suggests specification error.

The third and final test for productivity effects is to add to his basic equation the variable percent of employment in a state-by-industry cell in 1974 that is in federal contractor establishments. Using a pooled cross-section for the years 1966 and 1977 he finds this new variable has a positive coefficient, although statistically insignificant. Interpreting this result to mean that firms that are federal contractors are no less productive than other firms, we do not feel this test is adequate to determine the presence or absence of a productivity effect of affirmative action.

Aside from possible productivity effects of reduced discrimination, there are other possible reasons for this coefficient to be positive. His estimated equation does not hold constant the technological progress that occurred between 1966 to 1977. Nor does he account for changes in labor quality over the period. The federal contractor variable is likely to be positively correlated with these or other factors changing over time, leading to a positively biased coefficient. Even if affirmative action imposes productivity declines on federal contractor firms, we still could estimate a positive coefficient.

On the basis of the above three tests Leonard concludes that affirmative action has not had a significant impact on productivity. [p. 181] This conclusion, however, is unwarranted. The issue of whether affirmative action eliminates discrimination or promotes reverse discrimination is still open. Leonard's basic results seem explainable under both sets of hypotheses.

A suggested improvement to these tests would be to separately estimate the productivities of minorities and females relative to white males in federal contractor firms and in nonfederal contractor firms. If affirmative action has eliminated discrimination the relative productivity of minorities and females in federal contractor firms should increase. If affirmative action has induced reverse discrimination the relative productivity of minorities and females in federal contractor firms should decrease. Leonard could test this by adding to his basic equation interaction terms of (percent federal contractor) x (percent female) and (percent federal contractor) x (percent nonwhite male).

Summary and Critique

"The Impact of Affirmative Action" by Jonathan Leonard

I. Background and Overview

1. The Leonard report is a reworking of his Ph.D. dissertation at Harvard University, which was supported in part by a small contract from the Office of Policy.
2. The paper addresses many different facets of affirmative action (AA). It is the most comprehensive study of its kind to date, made possible because Leonard was able to obtain heretofore unavailable confidential data from OFCCP. No other researchers will be able to verify or dispute Leonard's findings because these data remain confidential.
3. Leonard presents many results, some conflicting. Our impression is that he has been relatively modest and careful in interpreting his results. Individuals using his results in the press have been less modest and careful. Due to the report's broad scope, there is "something for everyone."
4. We feel Leonard has performed a generally competent analysis of these data. His report, however, is quite sloppy in places, leaving obvious questions unanswered.

II. Objectives of the Report

1. Compare employment patterns among federal contractors and non-federal contractors.
 - Leonard utilizes EEO-1 data on 70,000 establishments that submitted EEO-1 forms in both 1974 and 1980. These data contain detailed information on the demographic composition of the workforce for contractors and non-contractors.
 - This is the section of the report cited most frequently in the press.
2. Examine the effect of AA on productivity.
 - Tries to distinguish whether AA reduces discrimination or induces reverse discrimination.

- That is, does job redistribution under AA hurt productivity by inducing firms to hire less qualified people (induce reverse discrimination); or does AA improve productivity by breaking down barriers that keep qualified individuals from good jobs (reduce discrimination)?
 - Leonard analyzes aggregate productivity with data on various industries and states to address this question.
3. Examine the compliance review system:
 - Who is and who should be reviewed?
 - Utilizes establishment specific data to address these questions.
 4. Examine the impact of class action lawsuits filed under Title VII of the Civil Rights Act of 1964 on demographic composition of the workforce.

III. Main Conclusions

These results are presented as Leonard reports them; our critique follows.

1. AA has been successful in promoting the employment of black males and females; blacks' share of total employment increased more at federal contractor establishments than at non-contractor establishments between 1974 and 1980.
2. AA's impact on minority employment has been greatest in high-skill occupations.
3. There is no significant evidence that the increased employment of minorities and females in recent years has been associated with a decline in productivity. This finding calls into question some of the large efficiency costs attributed to job redistribution under AA.
4. Compliance reviews have been an effective regulatory tool in increasing black employment. The targeting of compliance reviews could be improved by focusing on firms with low shares of minorities and women.
5. Litigation under Title VII of the Civil Rights Act has played a significant role in increasing black employment and has had a relatively greater impact than AA.

IV. Elaboration and Comments

A. Employment Effects

1. Results on employment effects should not be surprising. They are consistent with previous studies, although other studies have been limited to the pre-1974 period.
2. Results are sensitive to econometric specification (i.e., the assumed functional form of the regression framework). Leonard focuses on the results that yield the largest estimated impact of AA.
3. Leonard finds a positive employment impact on blacks but a small effect on white females. (Griffin Crump finds a much larger impact on females). The effect on non-black minorities is also ambiguous.
4. Leonard does not examine the extent to which gains in the federal contractor sector are offset by declines in the non-contractor sector. Aggregate, economy-wide changes in employment patterns are not examined.
5. Differences between contractors and non-contractors with respect to changes in workforce composition are statistically significant, but not dramatic in terms of magnitudes. For example:

Black Males' Share of
Total Employment

	<u>1974</u>	<u>1980</u>
Non-Contractor	5.6%	5.6%
Contractor	7.3%	7.4%

- Instead of simply comparing these means, Leonard performs a regression analysis that controls for industry, region, establishment size, employment growth and whether or not the firm was reviewed for compliance. After accounting for these factors, Leonard concludes that black males' share of total employment grew 17 percent faster at contractor firms than at non-contractor firms during 1974-1980; black females' share grew 15 percent faster at contractor firms, while white females' share grew 4 percent faster.

- Leonard's results appear to indicate that if there had been no affirmative action between 1974-1980 then black males' share of employment in contractor firms would have fallen from 7.3 percent to 6.2 percent.

6. Some other patterns in the results:

- Large firms tend to have a larger share of blacks and a smaller share of whites relative to small firms.
- Unionized firms tend to have more blacks than non-unionized firms (based on a sample of California firms).
- Growing firms tend to have more black males, black females and white females than firms in declining industries. (Note: this does not imply firms in declining industries discriminate more. These firms have less turnover of the workforce so there will be a longer lag between changes in hiring patterns and noticeable changes in workforce composition).

7. Impacts on Occupational Status:

- Leonard finds that contractors increase black males' employment share most relative to non-contractors in high-skill occupations (occupational upgrading).
- There appears to have been a small amount of occupational upgrading for black females.
- There has been occupational downgrading for white females (that is, any relative increase in white females' share of employment among contractors has been in low-skill occupations). Leonard has no explanation for this anomalous pattern.

8. Effects of Changes in Contractors' Status

- When Leonard examines employment in establishments that changed contractor status between 1974-1980, he finds firms that stopped contracting with the federal government had more growth in employment for white and black females than did firms that remained contractors. Firms that remained contractors had the largest increases in black male employment.
- Leonard offers no explanation for this pattern.

B. Productivity Effects

1. Productivity is analyzed to determine whether AA reduces discrimination or induces reverse discrimination. Does AA hurt productivity by inducing firms to hire less qualified people, or does it help productivity by breaking down barriers that keep qualified individual from good jobs?
 - Leonard concludes there has been no decline in productivity that can be traced to AA, implying no reverse discrimination.
2. We have serious problems with Leonards productivity analysis and consider it invalid.
 - One major problem is his use of value added (VA) as a proxy for output in productivity analysis. VA by definition largely reflects labor costs. If AA increases labor costs, VA will also increase. This distorts productivity measurement and biases the results toward rejecting the reverse discrimination hypothesis.
 - Leonard looks at productivity in the aggregate economy. He should instead focus on the contracting sector alone. Productivity increases in the non-contracting sector can easily offset changes in the contracting sector leading to a conclusion of no impact when productivity among contractors is, in fact, affected.
 - We have written a detailed technical memo on these issues which is attached as an appendix.

C. Compliance Review Impacts

1. In analyzing employment changes between 1974 and 1980, Leonard includes a variable on whether or not a firm underwent a compliance review over this period.
 - He finds contractors that underwent a compliance review showed slightly higher increases in the employment share of minorities and females compared with non-reviewed contractors.
2. In an analysis of which contractors get reviewed, he finds that (a) firms with larger shares of minorities and females; (b) larger firms and (c) growing firms are more likely to be reviewed.

-- he concludes that targeting is inefficient (given a goal of reducing discrimination) because the inspected firms are generally "doing better" than non-inspected firms.

D. The Impact of Title VII Lawsuits

1. In a brief and rather cursory analysis, Leonard finds that in areas of the country in which relatively more class action lawsuits have been filed under Title VII of the Civil Rights Act, there has been relatively higher rates of employment growth among blacks.

-- We are very skeptical about this analysis because of its emphasis on measuring regional impacts of a federal law (without explaining why such regional effects should occur). It is likely that this "regional propensity to litigate" proxies for other regional factors which are not controlled for in the analysis.