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ABSTRACT

This document comprises the testimony presented at an oversight hearing on equal employment opportunity law enforcement before the House Subcommittee on Employment Opportunities. Among those who testified were the following: (1) Jerry Blakemore, Office of Federal Contract Compliance Programs, United States Department of Labor; (2) James Foster, Labor and Industry Committee, Los Angeles National Association for the Advancement of Colored People; (3) Judith Keeler, United States Equal Employment Opportunity Commission; (4) James Watt, Black Communication Network; and (5) former employees of Northrop Corporation, Glendale Federal Savings & Loan Association, and Rockwell International. Prepared statements are included. (BJV)

EQUAL EMPLOYMENT OPPORTUNITY LAW ENFORCEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

HEARING HELD IN LOS ANGELES, CA, MAY 21, 1988

Serial No. 100-87

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OVERSIGHT HEARING ON EQUAL EMPLOYMENT OPPORTUNITY LAW ENFORCEMENT

SATURDAY, MAY 21, 1988

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES,
COMMITTEE ON EDUCATION AND LABOR,
Los Angeles, CA.

The subcommittee met, pursuant to notice, at 9:36 a.m. in room 350, Los Angeles City Hall, 200 North Spring Street, Los Angeles, California, Hon. Matthew G. Martinez presiding.

Members present: Representatives Martinez and Hawkins.

Mr. MARTINEZ. I would like to call this hearing to order and start out by saying that this hearing of the House Subcommittee on Employment Opportunities is called to receive testimony on equal employment law enforcement in the Los Angeles area.

Chairman Hawkins of the Education and Labor Committee and I, the Chairman of this subcommittee, in response to numerous complaints about the efficiency of the enforcement of equal opportunity laws in our Districts, have decided to review the enforcement process system, as well as the substance of the allegations. We will hear from several community groups, complainants and the Federal agencies involved in the enforcement of the equal opportunity laws.

Let me just say at the beginning that I have taken the Chair's prerogative and if anyone is not happy with it that is just something that they will have to bear with. I decided in this hearing I would have the witnesses and the testimony given from the people that are involved in the complaints, et cetera, thus allowing the chance for the people who run the district offices of the equal employment enforcement offices an opportunity to hear that testimony and rebut, if they feel they need to. Or correct, if they feel they need to, some of the information that they feel is not exactly correct.

I think that is something that I have, in the hearings that I have conducted, been lacking in. Usually the people from the bureaucracy come in, give their testimony, leave, and never listen or bother to read the transcript of the testimony so that they know exactly what the feelings are of the general public. In this case, I decided to do it differently and apologize if I have inconvenienced anybody, but that is just the way it is going to be.

With that, I would like to turn to the Chairman of the full Education and Labor Committee, Mr. Hawkins, and ask if he has an opening statement at this time.

Mr. HAWKINS. Well, thank you, Mr. Chairman. I understand that you would like to expedite the hearing so as to hear from as many witnesses as possible and I certainly do not want to take time away from the possible witnesses. But I would like to, first of all, commend you for these hearings. I think you are acting very responsibly and diligently to see that the laws are lived up to and certainly, we have, I think, heard from a great number of witnesses. I think we have documented a countless number of complaints and it is somewhat reminiscent to me to know that several of the witnesses today were witnesses before the subcommittee when I was the Chairman of the subcommittee, some 18 years ago.

I know one in particular, Ms. McIntosh, testified before the Committee, I think it was in 1975. I suppose it means that some things never change. And certainly, discrimination seems to rage on and I think it is up to this subcommittee, and I can assure you, the full Committee will listen to you, and your recommendations made to the full Committee, that we continue to make sure that eventually the laws either change or to make sure that the laws are upheld. We will certainly take every step necessary to correct injustices.

So again, I wish to commend you, and I look forward to the hearing. I know that it is important. I know that it is one of a number of hearings that will take place and I would certainly suggest that we continue hearing and continue the process of exposing the failure to uphold the law until something is done. Something has to be done and I certainly want to commend you for making sure that something is done. Thank you.

Mr. MARTINEZ. Thank you Mr. Chairman. With that, we will go to our first panel. Let me introduce the first panel. The first panel consists of Mr. James Foster who is the Executive Board Member and Chairman of the Labor and Industry Committee of the Los Angeles NAACP. We also have with us Mr. John Huerta of Gronemeier, Barker and Huerta testifying on behalf of the National Hispanic Media Coalition. Also with us is Jack Clayter, former employee of Glendale Federal Savings and Loan Association. And last, but not least, Mr. James Watt, the President of Black Communication Network.

With that, we will start with Mr. Foster. Would you like to begin?

STATEMENT OF JAMES FOSTER, EXECUTIVE BOARD MEMBER AND CHAIRMAN OF THE LABOR AND INDUSTRY COMMITTEE, LOS ANGELES N.A.A.C.P.

Mr. FOSTER. Thank you, Mr. Chairman. Mr. Chairman, members of the Committee, the Los Angeles Branch of the N.A.A.C.P. has noted an alarming increase in employment discrimination complaints filed with its office in 1987. Our review has revealed that the 812 complaints filed with our office has more than doubled the complaints filed in 1986. We have also noted that complaints filed by Black females have more than tripled than in 1986. This is only the Los Angeles Branch. Similar increases have been reported by the southern—by the Beverly Hills/Hollywood Branch, the Long Beach Branch, and the San Fernando Branch.

Our records have revealed a substantial increase in discrimination cases involving job promotions to management positions. This particular trend has been evident in private industry, of which the greatest offenders appear to be the aerospace industry and in the public sector, the police and fire departments, and including the Federal Government.

We have also noticed a definite increase in complaints against record companies, financial institutions and other companies that use white collar employees.

We have found that many employers are still using the old boy network to prevent the advancement of well-qualified Black employees for upper management positions. In other words, many Blacks between the ages of 35 and 40, who received graduate degrees during the 1970s, are being passed up for promotions despite the fact they possess equal or superior qualifications to their white colleagues receiving the promotion. This denial of advancement has had an adverse impact upon morale and dignity of Black employees in our community.

We believe the reason for the recent complaints is due to the anti-labor tone set by the Reagan Administration. This anti-labor attitude has forced a climate in which employees feel they can discriminate against minorities with impunity. The EEOC, the Equal Employment Opportunity Commission, is the major Government agency responsible for the elimination of discriminatory employment practices. However, it has been my experience that it has always been a weak administratively awkward agency and which is suffering from internal conflicts with a huge backlog of unresolved cases.

In the compliance sector, EEOC investigators are inadequately trained, grossly underpaid, and are overworked. They are simply swamped with cases. The Los Angeles District Office has been continually understaffed. Indeed, they must dispose of a certain number of cases per year. If they fail to meet that quota, they are placed on probation based on their performance. Thus, we have quantity at the expense of quality. This policy has the effect of encouraging investigators to prematurely dispose of their cases. Such a policy has resulted in negotiated settlements providing inadequate remedies and inadequate compensation for past discrimination and immunity from further litigation.

Such policies, along with delays in investigation by a truncated work force has given the EEOC a negative image in the Black community in Los Angeles.

Another problem with the EEOC is lack of significant impact litigation. The EEOC does not seem to have filed any class actions. Indeed, at the Los Angeles District Office, I believe the last class action was filed by myself in 1984 when I was working for the EEOC, on behalf of 80 skycaps who were slated to be laid off by a major airline. It is true this type of litigation that mostly benefits the Black community. It is this type of publicity that provides notice to the public that acts of employment discrimination are not isolated individual occurrences, but are manifestations of institutionalized racism. It also serves to warn employers that certainly unlawful discriminatory practices will not be tolerated. In order to alleviate the situation, the Los Angeles Branch of the N.A.A.C.P.

believes that the following policies should be implemented: we believe that the EEOC's budget must be increased. That the starting salary of investigators should be increased to attract more qualified personnel. That the EEOC should be more aggressive and be more of a law enforcement agency, rather than a record-keeping agency.

The EEOC needs to improve relations among their own employees in order to retain competent employees and prevent rapid employee turnover which is damaging the agency.

I also believe that litigation centers should be established so that the attorneys can be separate from the complaints so that significant litigation can begin again. I also believe that adequate materials and extensive training should be provided to private counsel. And I also believe that the Federal courts, who have recently been hostile to employment discrimination, should appoint private counsel to handle these matters.

Thank you. I am open to any questions you may have.

Mr. MARTINEZ. We will probably ask questions, Mr. Foster, but we will take the testimony of all the panel before we get to that. I am remiss in reminding the panel members that if you have written testimony presented to us, it will be entered into the record in its entirety. And please summarize if you can and give us the real highlights of the testimony. We will read the full testimony. I have already read some of it and absorbed the information therein.

With that, we will turn to Mr. Huerta.

STATEMENT OF JOHN HUERTA, GRONEMEIER, BARGER & HUERTA, TESTIFYING ON BEHALF OF THE NATIONAL HISPANIC MEDIA COALITION

Mr. HUERTA. Thank you. Honorable Congressman Martinez, Honorable Congressman Hawkins, it is indeed a pleasure to testify before this Committee.

I have a full written testimony which I have provided to your staff and multiple copies and I would like to have that presented in the record in its entirety.

I am speaking before you as the General Counsel to the National Hispanic Media Coalition. Prior to joining that position, I was the head of the Southern California office of the Mexican/American Legal Defense and Education Fund, MALDEF. I served three and a half years in the Administration of Jimmy Carter as Deputy Assistant Attorney General for Civil Rights in the U.S. Department of Justice. Prior to that, I was Professor of Law at the University of California-Davis Law School. I have been working in the area of employment discrimination for approximately the last 20 years. I am currently with the law firm of Gronemeier, Barker and Huerta and the majority of my time is spent in the field of employment discrimination.

As General Counsel for the National Hispanic Media Coalition, I had filed a petition before the Equal Employment Opportunity Commission for a commissioners charge against KCBS TV, the local CBS owned and operated station. I am including a copy of that petition for inclusion as part of the record of this hearing. The Coalition was spurred to action because of widespread layoffs and terminations of Hispanics and other minorities at KCBS TV. A ma-

jority of the 22 layoff terminations were minority, and approximately 30 percent were Hispanic. This occurred when Hispanics comprised only 13 percent of the KCBS TV labor force and in a labor market where Hispanics make up approximately 32 percent of the population.

I do not wish to imply by this criticism of KCBS TV that they are the worst of the Los Angeles area stations. In fact, they may be the best of a pitiful group of stations.

Unfortunately, for Hispanics, all of the stations, indeed, all of the employers in the entertainment industry fall woefully, substantially and significantly below the traditional measure of equal employment opportunity, parity with work force availability.

I will address the reasons why I believe this exists within the Southern California entertainment industry, but first I would like to inform the subcommittee about what occurred with the petition for a commissioners charge. We filed the petition on December 29. 1986. 13 months later, on November 29th, 1988, the Commissioner—the Commission informed us that it would not be issuing a Commissioners Charge. I submitted a Freedom of Information Act request to the EEOC in order for the Coalition to make a determination of how serious the EEOC investigated the allegations. The EEOC denied our FOI request. I am hereby submitting our correspondence with the EEOC for the record. I would urge this subcommittee, as a part of its oversight function, to follow up on the EEOC investigation of our request.

I hold Judith Keeler, the Director of the Los Angeles District Office and Robert T. Olmos, the Regional Attorney, in the highest regard. They are fine lawyers and are dedicated to civil rights. However, I do know that the EEOC is an overburdened agency and is undertrained and it has inadequate staff support and is overlaid with bureaucracy like no other in Washington D.C. I know from my experience in the Justice Department that the oversight function of this Committee is a valuable one. The EEOC will become more vigilant and more efficient because of your interest in their day-to-day activities. I would like to join in the comments of Mr. Foster who I have known for the last ten years or so. He has worked with the EEOC for a long period of time and all of his comments were based upon his first-hand experience there, whereas, I have experienced the working with the EEOC through the Justice Department, as working with a co-agency, and then, outside of the agency at MALDEF and now in private practice. And all of his observations, I would say, are joined in by the Latino community here in southern California.

The oversight function of the EEOC over the entertainment industry is an important one. The Coalition went to the EEOC because the Coalition does not have the resources to pursue individual cases of employment discrimination. The Commission has pattern and practice authority and can pursue charges of others, and, indeed, may initiate its own charges under the 1972 amendment to the Civil Rights Act of 1974. The EEOC has the resources to make an impact on the multi-billion dollar entertainment industry.

Private litigants, except in rare cases, do not have the resources to acquire justice through our judicial system because the entertainment industry will employ the best, brightest, albeit, most ex-

pensive legal guns in the business to defend it. Moreover, the entertainment industry has long practiced the art of blackballing anyone who files charges against it. Once one challenges an individual employer within the industry, one is effectively banned from pursuing a career in the industry. That was part of our problem with pursuing a case against KCBS TV. Both employees who were terminated and employees who were not terminated came to us and complained in confidence about employment discrimination at KCBS TV. No one, however, wanted to come forward and lend his or her name to the complaint because of fear of retaliation within the industry. The industry will only change and reflect the real world, the population it is supposed to serve, when the EEOC takes an aggressive pattern and practice litigation posture, vis-a-vis the industry, on a case-by-case basis. To the best of my knowledge, the entertainment industry task force of the EEOC has not accomplished a single significant pattern and practice case against one individual representative of the industry. Until that happens, nothing will change.

The reason that Hispanics are not represented in the industry in significant numbers is because it is a closed industry. Historically, the bulk of hiring was based upon who you know and what you are willing to do for him to get the job. The Old Boy network to which Mr. Foster referred was, and still is, very vigorous within the entertainment industry. The people in control in that industry reflect a white male dominant power structure and their social circles reflect that same power structure and those are the people who hire and they hire people that they run with. Occasionally, a few minorities will be hired in highly visible positions but they remain primarily tokens on the dressing, on the windowset, so to speak. And when you look and analyze the numbers behind the scenes, minorities are clearly excluded from significant participation in the industry.

With rare exceptions, it was not until the Federal Government, in the mid-1970s prosecuted pattern and practice employment discrimination suits on behalf of minorities and women, did these groups get a toe-hold in the industry. Most all of the Hispanics in the industry entered during this period of time. Those that have entered since have found themselves, by and large, in a revolving door. Hispanics have not advanced in significant numbers in the last decade, in spite of our large numbers in the work force, our increasing number of college graduates, and experienced executives. The industry is going to have to aggressively recruit Hispanic executives into top positions with the company if it is going to have any real change over the next decade.

I urge this Committee to continue with its oversight function on a regular basis, of all the enforcement agencies. It is only through spurring them, through looking out for their enforcement budgets, making sure that they bring pattern and practice cases, that there will be any significant change in the entertainment industry or any other industry.

Thank you.

[The prepared statement of John Huerta follows:]

"Equal Employment Law Enforcement

in the Entertainment Industry:

The Broken Promise"

* * *

Testimony of

John E. Huerta, Esq.

General Counsel

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HEARINGS

Before The

SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES

Of The

COMMITTEE ON EDUCATION & LABOR

HOUSE OF REPRESENTATIVES

100TH CONGRESS

2nd Session

May 21, 1988

Los Angeles, California

Testimony of John E. Huerta
Before the Subcommittee on
Employment Opportunities

May 21, 1988
City Hall
Los Angeles, CA

Honorable Congressman Augustus Hawkins,
Honorable Congressman Matthew Martinez, and
Other Esteemed Members of the
House of Representatives.

It is a distinct pleasure to address this Honorable Committee on the most important and timely subject of Equal Employment Law Enforcement in the Entertainment Industry.

I have been invited to testify before this Committee in my capacity as General Counsel to the National Hispanic Medi Coalition. I have had the privilege of being an attorney for th last 20 years. Most of my professional career has been dedicated to serving the public sector. I was a law professor at the University of California, Davis, Law School; I served as Deputy Assistant Attorney General for Civil Rights in the United States Department of Justice during the Administration of President Jimmy Carter; and, I was the Associate Counsel of the Mexican American Legal Defense and Educational Fund (MALDEF) in charge of the Southern California office.

For approximately the last three years I have been a member of the firm of Gronemeier, Barker & Huerta, a law firm that donates a significant amount of its time to public interest and civil rights litigation and representation. Our firm has four Hispanic attorneys, two black attorneys, and four white non-Hispanic attorneys. The entire firm is well-integrated. We deliver high quality legal services, and we practice what we preach.

Testimony of John E. Huerta
Before the Subcommittee on
Employment Opportunities

May 21, 1988
City Hall
Los Angeles, CA

A majority of my time is spent in representing plaintiff-employees in employment discrimination and wrongful termination litigation in state and federal courts. I have been told by representatives of the local office of the Equal Employment Opportunities Commission that I represent more employees in the entertainment industry in this type of litigation than any other attorney in Southern California.

As General Counsel to the National Hispanic Media Coalition I have filed a petition before the Equal Employment Opportunity Commission (EEOC) for a Commissioner's Charge against KCBS-TV, the local CBS owned and operated station. I an including a copy of that petition for inclusion as part of the record of this hearing. The Coalition charged KCBS-TV with a Pattern and Practice of Employment Discrimination in Recruiting, Hiring, Training, Promotion & Retention of Hispanics. The Coalition was spurred to action because of wide-spread lay offs and terminations of Hispanics and other minorities at KCBS-TV. A majority of the 22 layoff/terminations were minority, and approximately 36% were Hispanic. This occurred when Hispanics comprised only 13% of the KCBS-TV labor force and in a labor market (Los Angeles S.M.S.A.) where Hispanics make up approximately 32% of the population.

I do not wish to imply by this criticism of KCBS-TV that they are the worst of the Los Angeles area stations.[1] In fact, they may be the best of a pitiful group of stations. Unfortunately for Hispanics, all of the stations, indeed all of the employers in the entertainment industry, fall woefully, substantially, and significantly below, the traditional measure of equal employment opportunity -- parity with work force availability. I will address the reasons that I believe that this exists within the Southern California entertainment industry, but first I would like to inform this Subcommittee about what occurred with the Petition for a Commissioner's Charge.

We filed the Petition on December 29, 1986. Thirteen months later, on March 29, 1988, the Commission informed us that it would not be issuing a Commissioner's Charge. I submitted a Freedom of Information Act ("FOIA") request to the EEOC in order for the Coalition to make a determination of how serious the EEOC investigated the allegations. The EEOC denied our FOIA request. I am hereby submitting our correspondence with the EEOC for the record. I would urge this Subcommittee, as part of its oversight

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[1] The Coalition has been meeting with KCBS-TV for close to two years. During the last year, under the leadership of Bob Hyland, there has been steady improvement in the "on-air" representation of Hispanics and in the content of balanced news coverage of our community. However, we still have strong objections to their overall numbers for employment of Hispanics which still fall grossly below (by more than 50%) the labor market availability of Hispanics.

function, to follow-up on how the EEOC investigated our request.

I hold Judith Keeler, the Director of the Los Angeles District Office, and Robert T. Olmos, the Regional Attorney, in the highest regard. They are fine lawyers, and are dedicated to civil rights. However, I do know that the EEOC is an overburdened agency, it has an under-trained and inadequate support staff, and is overlaid with bureaucracy like no other in Washinton, D.C. I know from my experience in the Justice Department that the over-sight function of this Subcommittee is a valuable one. The EEOC will become more vigilant and more efficient because of your interest in their day-to-day activities.

Likewise, the over-sight function of the EEOC over the entertainment industry, is an important one. The Coalition went to the EEOC because the Coalition does not have the resources to pursue individual cases of employment discrimination. The Commission has "pattern and practice" authority and can pursue charges of others, and indeed, may initiate its own charges under the 1972 amendments to Title VII of the Civil Rights Act of 1974. The EEOC has the resources to make an impact on the multi-billion dollar entertainment industry.

Private litigants, except in rare cases, do not have the resources to acquire justice through our judicial system because the entertainment industry will employ the best and brightest, albeit most expensive, legal guns in the business to defend it.

Moreover, the entertainment industry has long practiced the art of black-balling anyone who files charges against it. Once one challenges an individual employer within the industry, one is effectively banned from pursuing a career in the industry. That was part of our problem with pursuing a case against KCBS-TV. Both employees who were terminated and employees who were not terminated came to us and complained (in confidence) about employment discrimination at KCBS-TV. No one, however, wanted to come forward and lend his or her name to a complaint because of the fear of retaliation within the industry. The industry will only change, and reflect the real-world, the population it is supposed to serve, when the EEOC takes an aggressive "pattern and practice" litigation posture vis-a-vis the industry on a case by case basis. To the best of my knowledge, the Entertainment Industry Task Force of the EEOC, has not accomplished a single significant "pattern and practice" case against one individual representatives of the industry. Until that happens, nothing will change.

The reasons that Hispanics are not represented in the industry in significant numbers is because it is a closed industry. Historically, the bulk of the hiring was based upon "who you know" and "what you were willing to do for him to get the

job".[2] Mexico's system of "amigismo" pales in comparison to the personal networks that exist in Hollywood.

With rare exceptions, it was not until the Federal government in the mid-1970's prosecuted pattern and practice employment discrimination suits on behalf of minorities and women, did these groups get a "toe-hold" in the industry. Most all of the Hispanics in the industry entered during the period of time. Those that have entered since have found themselves, by and large, in a revolving door. Hispanics have not advanced in significant numbers in the last decade, in spite of our large number in the workforce, our increasing number of college graduates, and experienced executives. The industry is going to have to aggressively recruit Hispanic executives to top positions within the company if it is going to have any real change over the next decade.

In closing, I urge this Subcommittee to continue its oversight function on a regular basis, and require the EEOC to report to you in public on its progress in rooting discrimination from the entertainment industry.

Thank you for the opportunity to share my views with you. I will gladly answer any questions you may have.

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[2] Although this testimony addresses discrimination against Hispanics in the Entertainment Industry, it should be noted that Hispanic women, Latinas, especially have a double-burden. The industry as a whole remains a while-male bastion of power at the top. I have been told horror stories by my female clients of sexual harassment which occurs blatantly within the industry.

Mr. MARTINEZ. Thank you, Mr. Huerta. Mr. Clayter?

STATEMENT OF JACK CLAYTER, FORMER EMPLOYEE, GLENDALE FEDERAL SAVINGS & LOAN ASSOCIATION

Mr. CLAYTER. Honorable Hawkins and Martinez, I appreciate the opportunity to come before you.

I represent the savings and loan industry, or the banking industry, in general, in the California area. The banking industry in California clearly practices discriminatory practices in the sense of loan applications, screening of loans, criteria to establish those loans and a location of facilities within communities, both the Hispanic, Black and Asian; that is a fact. I come out of the industry with nine and a half years as a vice president, manager of corporate employee relations and affirmative action for Glendale Federal Savings. I was the first Black department manager of Glendale Federal Savings. I have handled EEOC and affirmative action cases since the establishment of EEOC and for Glendale Federal, I have managed to win 70 cases of against EEOC, 18 labor law relation cases, as well as gone through two complete OFCC audits.

In my particular case, after the audit in 1984, which we successfully completed since I was the representative for the company, in my department, as the liaison to provide all information, back-up and detail information to that facility, that audit was passed successfully without any question.

Two years later, or in 1987, due to complaints by Hispanics and Blacks for salary disparities and discrimination in promotion and hiring of Blacks and Hispanics at Glendale Federal, the OFCCP accelerated their return and came—notified the company that they would come back within three months from time of notification for a full audit. During that audit, as I stated I was responsible for, the audit was brought about by complaints of four Hispanics and Blacks because they felt that they were not being paid properly and that they knew discrimination was being practiced. During that audit, when we got to the point of true hostility on the part of the company toward the investigating audit team, it took a threat of a class action—a class action suit, as well as the show of cause notice to the company before the company would submit to the final requests of OFCCP.

The main request of that was made by the audit team—was that my department, the Affirmative Action Employee—Corporate Employee Relations Department do a complete salary analysis of all minorities and females within the—within our department, which you have to realize is females who are relatively new to management positions in the banking industry, particularly in the financial industry of the savings and loan group.

Secondly, you have to realize that the financial industry, traditionally, has been very slow to adapt or to move forward in any progressive way to show—keep up with the times. So, consequently, my department did that audit and we identified 127 Blacks and Hispanics and females who were underpaid within their salary group compared to the average caucasian mean, which was the average caucasian male. Because they were there the longest, they had the highest salaries.

That audit investigation on salaries—based on the criteria established by OFCC given to my department as a guideline—we were to do the audit comparisons based on experience brought to the job, experience on the job, education and performance evaluation of the individuals compared to that mean average person. Of the at the conclusion of the audit—as I say, I identified—or the department identified 117 persons which came to a total $335,000 rounded that they needed to be paid to be brought up to the average mean. Once they were brought to the average mean, then we could compete fairly based on performance and the normal regular October merit cycle review would keep them in pace with the average mean.

When I presented those findings to senior management, which I had an open door to up until that time, my senior manager told me there was no way that the company was going to pay that much money to minorities and to females based on the examination and based on the criteria given. They told me to change the figures. I thought about it. I went through quite a bit of thinking about it and quite a bit of concern with my wife and I reached the conclusion I could not do that. So, I went back and told him I would not change the figures. They said, "You will change the figures." I said, "I will not change the figures." And they said, "We will find someone who will." So, they took a peer manager. She agreed to do it. She and the compensation manager did change the figures. They presented a total pay-up of $50,000 notice to OFCCP, that they had cleaned it up. About a third less than a third of the actual monies due to the employees were paid to only a third of those employees. And consequently, OFCCP closed the audit. They closed the audit with the stipulations of quarterly reporting and that they would monitor the hiring, promotion—they did find discrimination in hiring and promotions in Black and Hispanics and Asians.

So, we had a quarterly reporting process to complete for the next year. The numbers went down. The promotions—I was to identify promotables of Blacks and Hispanics throughout the corporation. I identified 75 persons who were right there on the spot eligible for promotion. Within one year, none of the people had been promoted. The audit closure and the stipulations showed a decrease in hiring, a decrease in promotions. Those reports were given to OFCCP and consequently, the at the end of the reporting period, the numbers had gone about fifteen and a half percent lower than when we went into the audit. Still OFCCP did not come back in.

Then, following the closure of the audit, my direct manager was taken out of that position, leaving it vacant, and because priority was to be given to hiring and promotion of minorities, myself and the person who did change the figures were the only two eligible candidates in the company for the promotion to Manager of Human Resources Department. Before my interview, the senior manager that I had been reporting to all this time in the audit said that there was no way I was going to get promoted. I was not a team player and for me to remember what I did at the audit. He made an announcement and one week later, the person who did change the figures was promoted into the position. Following that, she immediately established another position at a higher rank than I, between she and I, and brought in a caucasian male with six months of service, who was a recruiter, who had no experience in

affirmative action or in employee relations, and put that person in charge of me with the distinct and direct idea to get rid of Jack Clayter.

I filed a charge with EEOC, through Fair Housing, to EEOC, for discrimination and promotion over two positions. Prior to the filing of that case, eight of those promotable employees filed a class action notice. That notice, through their counsel, was given to Glendale Federal. My bosses came to me and said, "Do you know anything about this?" And, "We believe that you are a part of it, therefore, you are suspended for 30 days and you will be terminated at the end of that period of time if we cannot find another job for you outside of Human Resources." My background is 20 years of human resources. Coming into that company, having been recruited by Glendale Federal out of St. Louis as a personnel manager of one of the major agencies of St. Louis. All my background was human resources.

Consequently, they offered me a position, totally out of my field, and told me I would have six months to learn how to be a consumer loan officer. They would put me in Encino where there was no minority of any kind, brokers, and I was to learn on my own and reach a 2 million dollar per month sales quota or I would be terminated. I told them I could not accept that position. Consequently, I was terminated on November 27th of 1987, after nine and a half years of outstanding performance-service with that company.

The EEOC received my second charge of retaliation. OFCCP received the charge. They indicated that they were going to do the investigation. However, that notice was given to me in January and I find that just last week they were—they had reached the point of doing the desk audit and the company placed them in Santa Ana and corporate headquarters are in Glendale at the HEF Center in Glendale where I was located. All of the records, all of the persons who were part of the class action, all of the employees part of the salary study who are waiting to talk to OFCCP have been called in by the company, told that they would be terminated if they do not give information with counsel present from the company and they would do it by phone—all information would be passed to Santa Ana and the auditors are not located at headquarters where they could get to the guts of the matter.

So, with that testimony, I would be able to answer any questions dealing with the financial industry.

Thank you.

[The prepared statement of Jack V. Clayter follows:]

Jack v. Clatter vs. Glendale Federal Savings
A Case History of Discrimination

Background

On February 24, 1986 Glendale Federal received notification of a unscheduled audit based on complaints of salary discrimination.

The company had successfully completed a regularly scheduled audit two years earlier in 1984

Glendale Federal successful 1984 Audit representative was Jack v. Clatter — Corporate Affirmative Action Officer for the previous 8-years.

After four (4) months of Auditing Glendale Federal was found to be practicing discrimination in the hiring and promotion of Blacks and Hispanics in the top three (3) EEO-1 Categories of Officials and Managers, Professionals and Technical Groups. It was further found to be discriminatory in Salary to Blacks, Hispanics and females.

At the threat of a Class Case Action Clatter and his Affirmative Action/Employee Relations department were directed to conduct a independent Salary audit of all employees as divided into 120 Salary Pay groups.

Under guidelines established by OFCCP Clatters unit identified 31 pay groups (115) employees underpaid as measured against the mean average calculation in each pay group as compared to the specified guidelines.

When Clatters departmental findings were presented to his Senior Managers with a recommendation for

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Achieving parity, his managers directed him to change his findings, reduce the investigation payout cost and to award approximately ⅓ of the amount due to the affected employees.

After long deliberations, Clayton Refused to change his departmental audit results.

His Senior Managers enlisted a Human Resources Asst Manager to complete the task which she and the Compensation Manager did willingly.

Approximately 70 Employees were paid ⅓ of the actual amount due them and the Audit was closed with three contingencies: (1.) Quarterly reports from Glendale Federal were due to OFCCP for 1-year; (2) a follow-up audit would be initiated by OFCCP against the Company if the Quarterly Reports did not show marked improvement in the hiring and Promotion of Blacks and Hispanics in the designated top three EEO-1 Categories and, (3) Priority in promotions were to be given to Black and Hispanics through a identifiable "Promotables" Program.

Glendale Federal Agreed to these stipulations.

Chronology

By the end of the 1st quarter Glendale Federal had declined in its hiring and Promotion of Blacks and Hispanics into the designated top three categories.

Hiring of Minorities declined and the Commitment continued to be violated throughout the reporting

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period. The "Promotables" program was completely abandoned. Recruitment of the minority groups fell to a all time low.

CLAYTER was refused two promotions: (1) into the vacant position of Manager - Human Resources and the position was awarded to the person who had changed the salary findings during the audit, (2) when the new manager of Human Resources, her first act was to create a position OVER CLAYTER, refuse his request for consideration for the promotion and instead appointed a 9-month, new Caucasian Recruiter into the position. Both parties then proceeded to work on CLAYTERS termination.

On September 29, 1987 Seven (7) Black and Hispanic employees of the "Promotables" group notified Glendale Federal of their intent to file a "Class Action" suit against the company for failure to hire and promote Blacks and Hispanics. (Exhibit 1-A)

Claytors managers ASSUMED CLAYTER was a part and one of the "Class Action" partys and suspended him for 30-days and termination if he did not find a position outside of Human Resources departmental units. After receiving Claytors personal discrimination Charge on October 14, 1988. (Exhibits 1-B, 2)

Glendale Federal, through Claytors Supervisor, Robert Proctor, made CLAYTER a job offer in a department and position he was totally (3)

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unfamiliar or untrained for with the stipulation that should Clayter Refuse the offer, he would be terminated.

Following his November 18, 1987 interview with the Real Estate Lending department manager, Clayter had A in-depth interview with the same manager in private to get all details and "probability of success" information from his long time - 9+ years friend and department head. Based on that in-depth conversation Clayter declined the Companys offer of the position of Commissioned Loan Officer.

Per Proctors November 19, 1987 letter, Clayter was terminated from Glendale Federal on November 2?, 1987. (Exhibit 3)

On December 2, 1987 Clayter filed his 2nd EEOC Charge based on Discrimination and retaliation in Violation of Dept. of Labor - OFCCP Regulations - Paragraph 60-1.32 (Intimidation, threats, etc) and in violation of EEOC Regulations - (Retribution, Retaliation) for participation in A Federal investigative Suit and EEOC charge. (Exhibit 4.

* Summary

Jack V. Clayter, Glendale Federals 9½ year Corporate Affirmative Action Vice-President Manager/officer with 9½ years outstanding Performance Evaluations, refused to Alter departmental disparity findings of US Minority and female Employees. As a result, following the close of the audit, he was refused two (2) higher level promotions.

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THE PERSON who did cooperate and after the findings was given the promotion, created a higher position over CLAYTON, and together they proceeded to force CLAYTONS removal from the Company.

BLACK and Hispanic "Promotables" notified Glendale FEDERAL of their intent to file a "CLASS Action" Suit against the Company based on discrimination in hiring and promotion of minorities.

CLAYTONS managers assumed he was a part of that CLASS Action and upon receipt of his individual discrimination Charge suspended him from the Company.

When CLAYTON refused a JOB offer completely outside of his 20-year area of expertise - Human Resources, CLAYTON was terminated.

On DECEMBER 2, 1987, CLAYTON filed his Second (2) discrimination Charge based on Retaliation the Company and Employer.

The CASE is under investigation by EEOC and EEOC.

Thelo. Clayton

* A FULL TEXT of this CASE with documentative evidence is AVAILABLE upon REQUEST. The complete document consists of 127 PAGES.

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Mr. MARTINEZ. Thank you, Mr. Clayter. Mr. Watt, it is your turn.

STATEMENT OF JAMES WATT, PRESIDENT, BLACK COMMUNICATION NETWORK

Mr. WATT. Thank you. It is a privilege to be here this morning to testify. I am Jim Watt from the Black Communication Network out of Rockwell International.

Going right through this very briefly, we are going to talk about some of the same things that Mr. Foster talked about and hit on them very briefly. There seems to be a standard practice throughout the southern California basin that Mr. Foster and the rest of the colleagues are very, very aware of what we are doing out here. I sit here as being the fourth individual to testify. I can see right now that we have the same problem. The same problems exist in aerospace. It is the same thing as far as blacks are concerned; black females. Promotions, Mr. Chairman it is the same game that they have played for the last 30 years of my life in there. I stayed in there 30 years. It is the same thing where you reach a certain salary grade and you are done. Believe me, after ten years, you are dumped. Because you, then, at that point, according to the salary scope—which that you asked for that back in October. That was a very good analyst that you asked for, that how the grade—bottom, middle and high. But, what they do, when you get to the center of it—believe me, after ten years, if you are Black, you are going to be dumped. You are going to be dropped to an administrative task.

Now, we have heard—we all know this. We are going to move right into the Black females which—that is a very high concern in the Black community right now. The Black females, down through the last 30 years, have been left out of the promotion scope totally. Absolutely, totally left out. They are there are a few that we have not focused in on because I guess they was—they were melted into their part where they were no longer seen. But due to the fact of these inequities that existed within the aerospace has played a deep impact into the Black community because it turned our community into a blood street; the streets of blood. For one reason only that that happened to us is because of her economic growth. And statistically speaking, nine out ten of them are the head of households and they are raising those Black boys that are becoming hoodlums. Somewhere downstream, coming to the 21st Century, we must deal with that now. We must deal with that because I feel the Black male is not going to move until we fix that. So, we must fix that in order; one, two and three.

That is just part of the problems of her and the Black communities deep concern. She has literally been raped in there. I mean, literally been raped. She has been beaten. Jennifer Verdine was actually beaten by a caucasian, physically beaten. Those people in there in management is so reluctant to do these things because they know that your budget and the EEOC and the other agencies are overloaded. So, if they implement this, it overloads your house with all these complaints. They know that you cannot handle them. That is why it takes one to five years to be heard. By that point, the person or the employer is completely out of it mentally.

Each day in my day-to-day tasks I hear—I am picking up five to ten new people that have been mentally destroyed because of the barbarians in aerospace.

Moving right along we are going to talk about the 30 years in there that we have spent as a fighter, trying to bridge some of these inequities that exist. We look back at Rockwell International as one that we have to focus on because I spent over half of my life there. We are just here recently since 1980—we are going to take 1980. A fellow that I am going to through his name out here. I am sure we are very familiar with him, Kenneth Patton. Kenneth Patton was a former laborer, a director out of the Labor Department in Washington, D.C.

Back in 1981, I was a very instrumental young man at that time moving towards inequities. Patton made a decision on the Ray Senna (phonetic) case and the Jim Walton case, and he, at that time, used his power out of Washington to move Lou Madrid from investigating the case and told him to trash can it. We wonder—now, we are coming down to about 1984 and that was a class complaint filed out of B-1 Division at El Segundo. At that point, Kenneth Patton made sure and used his power that all employees that were on that investigation were removed from the work force. They were no longer—they were not longer there to testify.

Moving right along into 1985, December of 1985. Kenneth Patton did the same thing. Al Mejia—all these names again. Al Mejia called a meeting at an unknown place with eight aerospace people and he told them, at that time—Patton told him at that time, "We are able, with my clout in Washington, to disburse and to define anything that the EEOC sent to any company. I have that power."

Mr. Chairman, at this point, the Black community has become very concerned on those issues, and we urge this Committee to open a probe on Mr. Patton for conspiracy to find out—because after he made that decision on the Ray Senna case and the Jim Walton case, just a few months later, he became an employee for Rockwell International. We would like to know what was is—what was his payoff. What did they pay him to come in there? We would like to know that, Mr. Chairman, because the Black community is very, very much concerned about the Black female that has been affected by those type of decisions.

Very briefly, back again, we are going to talk about the time of me, with 30 years. I was the Black President of the Black Communications Network as you can see. I know ten years ago that my time with Rockwell would be short-lived because I was outspoken of the issues and where they come from. So, 1986 I was walked out of the gate for a charge that was manufactured on me. And by the way, it is something that the EEOC and no other agency can deal with is the administrative procedures. The administrative procedure imposed on an employee, that employee, at that time, has no course or no resource to defend himself. Once a company, once aerospace decides that they are going to give you a charge, Mr. Chairman, believe me, it is going to stick and they are going to walk you out the gate without any due process. They do not need any process. The same guy that made the noose and put the rope up is the same guy that is going to hear your case. And how can you win? They have got the 001 procedure when you come back

and the 001 procedure, at that point—the same guy that decided that you are going to get the boot is the same guy that is going to get you coming back.

[Applause.]

And in closure of this, the Black community is concerned about the Committee—this Committee to take under consideration some changes of the EEOC and OFCC's guidelines and change them in coming into the new congress session, that that could be voted on or put before the body for a decision because it is badly needed.

Thank you very much.

[Applause.]

Mr. MARTINEZ. Thank you, Mr. Watt. Thank you very much. You know similar testimony was heard in the past. And some of the testimony deals with the lack of on adequate, workforce, within the EEOC the lack of funding ability to do the job that they are required to do under the law. You know, under the constraints of deficit budgets even though we as a Committee have always pushed for higher funding and in the past years, the Administration has always asked for less. Subsequently, they received more because of the efforts of the Chairman of the Committee on Education and Labor, and subsequently, cooperation from the Senate side on it.

It still is not, I realize, funded in real dollars to the extent that it should be funded. We do with the best we can there. But it seems to me and maybe you too Mr. Foster, that if there is a lack of resources, and there is limited resources by which to work with, that you utilize that to the greatest extent you can. One of the things that I would think of is that a lot of training does not require a lot of resource. Sometimes it requires training by people with the expertise within a department to train other people. So maybe you work a little harder, work a little bit longer, in order to get yourself ready to be able to handle the responsibility you have and then when you go after the cases that are significant enough to make an impact. To me, it seems like I know that we will never eliminate prejudice and discrimination completely, but we ought to be able to, with the resources that we do have, be able to scare the hell out of prejudice so that it does not inhibit, in any way, the rights of the individuals. And those companies, that are working with tax dollars, those that contract with the Federal government, including the aerospace industry that make billions of dollars from contracts with the Federal government—should realize that taxpayers' dollars paid by those of us that are taxpayers do not want that money used to be discriminating against us or ours. You would think that the EEOC ought to be like a policeman or a fireman, and an individual can go to for the help they need. Because when Congress enacted the law, they realized that the individual did not have the resources to compete with or fight large corporations that would be discriminating against them. And that is the whole basis of that.

So, in your experience, did you ever see any attempt, knowing there is limited resources and there is only a certain amount that they can do, an effort to prioritize and an effort to really to go after with a diligence or an enthusiasm to try as I said earlier, scare the hell out of prejudice?

Mr. FOSTER. Well, Mr. Chairman, it has been my experience that in the early 1980s, at one time, there was an attempt by the EEOC

to deal with employers. For some reason, after 1982—and I have to say that goes with the onset of the Reagan Administration——

Mr. MARTINEZ. Would you speak a little louder? Go to the other microphone closer to you. That is also the PA here.

Mr. FOSTER. It seems that after 1982, after the onset of the Reagan Administration, the EEOC has simply declined and the Black community has noticed. Significant litigation has declined. The employees of the EEOC have particularly lost their morale. One of the problems I found is that even though the EEOC says they do not have enough employees, they certainly present problems to their own employees. If any of the employees were free to testify here today, they would inform you of the lack of morale and that the numbers posed upon them, this particular quota system, it takes about 60 hours a week of work to process what used to be done in 40 hours.

Now, I think with Ms. Keeler who has now come on board with the EEOC, things have changed. I left the EEOC shortly after she came aboard, but I still have relations with them and she has improved the agency. I agree with Mr. Huerta when he says that Ms. Keeler and Thomas Olmos are fine lawyers. I work with them every day. But, more needs to be done and I urge this Committee to look into that.

Mr. MARTINEZ. Mr. Foster, one last question for you and this is very important. There has to be linking between the Office of Federal Contract Compliance and the EEOC in regards to those people in aerospace industry. It seems to us from the testimony we receive and if you look at the statistics based on the results of a report that Mr. Hawkins ordered they opened the door and allowed employees in, and in some cases have even hired to the percentages that are equal to the private work force out there for the availability of those particular ethnic members but not much beyond. And looking at the 23 years of effort here, you find that, in most cases, 20 years or 23 years or 26 years is a career for a lot of people. That is a lifetime career, and at some point in time, if they had the aptitude and capability, they should have ascended to those higher positions. And yet, as Mr. Clayter, no, I think it was Mr. Watt testified, you get to a certain level, then you are stuck there. You are not going beyond that and the evidence shows that. The evidence and the statistics from the reports that have been compiled show that they have not gone beyond that point. They have come up to a ceiling then bumped their heads right against it. And even though that evidence is there, and it is factual, there has not been a real effort, an exerted effort, to try to change that in a cooperative way or even in a forceful way. The aerospace industry which have a greater responsibility, I feel, than even a private employer since they are contracting with the Federal government. And the Government has a greater responsibility to make sure that it happens because they allow those contracts.

Was there a linking? Because in the last hearings we had, it seemed that there was not a sufficient linking or coordination by those agencies to allow us to move forward. I will tell you one thing that really scares the devil out of employers—and one way to eliminate prejudice, or at least to make sure that it does not inhibit or infringe on a person's individual rights to the equal opportuni-

ties is to talk about debarring a company. The whole OFCCP has the ability to do that where it is proven that there has been systemic discrimination. That does not mean just from hiring at the lower levels, that means denying people that equal opportunity all the way up the ladder which is something that we do not seem to understand.

Our problem is no longer getting people in the door because the original laws, since they were enacted and implemented, have opened the door and did let people in. Not sufficient as far as I am concerned in many cases, but they did let people in. But, beyond that point, they really did not do much about enforcing the main part of the law, that is, access to equal opportunity in going up.

So, what I am really asking is, in your experiences there, did you see a lack of real cooperation between those two offices? Were efforts made to go after some of these people where there was evidence to prove that there was systemic discrimination to make sure that they understood that if they continued it, they would be debarred?

Mr. FOSTER. Well, I cannot talk for the OFCCP, but as far as the EEOC is concerned, I am still waiting for any implementation on litigation with respect to any class action or with respect to any pattern and practice cases. I think that is what we all have been complaining about, Mr. Huerta and Mr. Clayter, with respect to pattern and practice cases. As I said before, the last class action the EEOC has brought in the Los Angeles District office, as I recall, was the one that I brought when I was a member of the EEOC. We hope to have many more of such cases because that is the only way we can get rid of systemic discrimination.

I have not seen that much activity in the systemic area of the EEOC the works I think the NAACP needs to 40 focus on. I agree with you, Mr. Chairman, that the problems that we have involve promotion and promotional opportunities. I agree with Mr. Clayter that it has an adverse impact on Black women. The NAACP does have intentions to do something about it.

Mr. MARTINEZ. Thank you Mr. Foster.

Mr. FOSTER. Thank you.

Mr. MARTINEZ. Mr. Huerta, in the entertainment industry, is the door opening or closing for minorities? It seems to be closing for minorities.

Mr. HUERTA. Well——

Mr. MARTINEZ. It seemed that there was an opening and now it seems that it is going in reverse.

Mr. HUERTA. It is very clear that it is closing. What is occurring is an overall contraction in the industry and the people that they are laying off are the last hired, and because we were the last ones to come in in this industry, Blacks and Hispanics, we are the first ones to get sent out the door. And, in some cases, even when we have more seniority than someone else because they happen to know the person who makes those employment decisions in a more personal, intimate manner, they do not get terminated as quickly even though they have less seniority.

One thing about the entertainment industry, it is still an extremely sexist industry. A lot of personnel decisions are based upon personal favors that are extended. I have clients that have told me

incredible horror stories about what women have had to do in order to get advanced within the industry. And I do not know about the aerospace industry, but I can tell you that——

[Comments from audience.]

Mr. HUERTA. They are saying it is the same in the aerospace industry. It is outrageous that in 1988 that type of behavior has to occur.

Mr. MARTINEZ. Let me ask you a question because the Hispanic community can be lulled and the Black community can be lulled into a small sense of security simply by things that are very publicized and very apparent. It may also give them a sense of satisfaction, too, in seeing their particular groups portrayed in a good light. I refer to pictures like La Bamba, the Milagaro (phonetic) Beanfield War, Southside and all the rest of them. Is the industry maybe purposely presently to the public an image that they are doing things on behalf of the Hispanic community? Should we really get excited about those kinds of pictures when within the industry, itself, this is a small number of minorities? The production of these pictures involved a small minority of the total work capabilities of Hispanics or Blacks?

Mr. HUERTA. Well, I think we have to share enthusiasm for movies like La Bamba, Stand and Deliver, Milagato Beanfield War, because, for the first time, they are focusing on the Hispanic community in a positive fashion. We have been the pimps and the prostitutes and the pushers in practically every other role that we are permitted to play on the silver screen. This is—for the first time, we are shown that we have other roles in the society and so the National Hispanic Media Coalition, we are glad to be portrayed in a positive role once in a while. That is novel for us.

But, beyond that, you are correct. Those are only a small part of the jobs. We want to get the behind-the-scenes jobs that do not exist for minorities. They are—it is a very complex deal in the entertainment industry because you have got to be a member of a union in order to get a job and you only get to be a member of the union by having experiences in the field. And how do you get experience in the field? Well, you get hired by a producer. The producer will tell you I am sorry, I cannot hire you without a union card. Well, there are some exceptions. But, we are locked out. Blacks and Hispanics are locked out of that industry because of that set-up. Each one passes the buck back and forth saying it is the other fellow that is doing the discrimination.

Both the unions and the industry studios ought to be sued jointly by the EEOC so that in one suit against both of them, proceeding at the same time, that will act to prohibit that blame-casting back and forth and the jury or judge can determine who is culpable here. They both need to be acquitted in that kind of circumstance.

Mr. MARTINEZ. I am trying to operate under the five-minute rule in order that we might expedite the hearing and I have exceeded my time, so at this particular time, I will turn to Mr. Hawkins. Just saying that I have some other questions but I will submit those to you in writing and hope you will respond back to us in writing. I will leave the record open so that that correspondence can be entered into the record.

Mr. Hawkins?

Mr. HAWKINS. Well, thank you. You also reminded me of the five-minute limit.

Mr. Foster, I assume that you have a great number of complaints filed, both with the Los Angeles Branch and the other branches in the Los Angeles area.

Mr. FOSTER. Yes, we do.

Mr. HAWKINS. Now, what do you do with those complaints? Are they referred to the appropriate agency, primarily the EEOC? Where are those complaints now?

Mr. FOSTER. Well, we refer—if they have not gone to the EEOC, we refer them to that agency. They are also investigated by us. We have a person at the branch who does write a letter to start an investigation. Some are referred to private counsel and—which means some will go to my office. So, that is where most of our complaints do go that we receive.

Mr. HAWKINS. Are most of them unsettled as of this time, or what generally happens when they are referred to EEOC, for example?

Mr. FOSTER. Well, we refer them to EEOC just to see whether they have any, you know, any real merit if they have not gone yet.

Mr. HAWKINS. You judge first of all whether or not you believe they have merit, right?

Mr. FOSTER. Well, we try. But we do want them to go to the EEOC as a prerequisite. So, if they have not done so, we certainly refer them to that agency.

Mr. HAWKINS. Well, I think this Committee should have some record of the various complaints that you have on the record so that we can have that as a matter of documentation. Are we—have you indicated that those complaints that you have will be a part of the official record of this subcommittee?

Mr. FOSTER. I will provide you with——

Mr. HAWKINS. I think the——

Mr. FOSTER [continuing]. With the quantity of complaints that you are looking for.

Mr. HAWKINS. Many times that helps in determining whether there is a practice or pattern of discrimination and in that way, it reinforces the work of this Committee.

Mr. FOSTER. Well, we have found that there has been a practice and pattern of discrimination with respect to the aerospace industry.

Mr. HAWKINS. Now, you seem to indicate that there was a increase in the complaints at the beginning of this current Administration, roughly about 1981, 1982, was that correct?

Mr. FOSTER. That is correct.

Mr. HAWKINS. You also indicated that there has been a recent improvement under a new director in the LA area.

Mr. FOSTER. Well, we have noted that there has been an improvement with respect to the response to the complaint. Previously, it appears that the EEOC had no rapport with the Black community whatsoever. Now, with—now that Ms. Keeler has come on board, there has been an attempt to have a rapport with the Black community, with 46 the EEOC. There is still—some improvement still needs be done in that area, I may add.

Mr. HAWKINS. Would you say that there is an unusual concentration on individual cases rather than on systemic cases?

Mr. FOSTER. I would say so. And that, I think, is one of the problems with the Los Angeles District office.

Mr. HAWKINS. Do you think the investigation, generally, is adequate? Are the investigators given sufficient time to really develop a good case?

Mr. FOSTER. Quite frankly, I do not think the investigations are adequate and I do think that the investigators have insufficient time. No, I think that the staff of investigators needs to be increased.

Mr. HAWKINS. Let me go to some of the other witnesses. Thank you, Mr. Foster.

I believe, Mr. Watt, you had mentioned something about conditions among women in the aerospace industry, Black women in particular.

Mr. WATT. Yes, I did.

Mr. HAWKINS. Of being mistreated. We have had meetings with many of the top executive officers in the aerospace industry and without revealing the confidential relationship that we have had with the top officials with an idea of trying to reconcile some of the problems, invariably, we are being told—and I think this is a matter of public record itself, that they generally use what they refer to as "hot lines" whereby any individual feeling discriminated against, or suffering from any type of abuse, has an opportunity to communicate with the top executives. [Laughter.]

Mr. WATT. Mr. Chairman——

Mr. HAWKINS. I have not completed—I have not completed the question. I am trying to get an answer from the witness as a matter of record, but thank you for your support. [Laughter.]

We are constantly being told that there is an established line of communication whereby individuals, feeling abused, feeling the subject of discrimination, have the opportunity in a guarded way to communicate to top executives. Now, what you have said is not in line with that assurance that we have been told about. I am not saying, at this point, whether we believe it or not, I am simply trying to get to the truth. That there is no such opportunity—are you of the opinion that there is already some opportunity for individuals to complain and get some satisfaction?

Mr. WATT. No, it is not, Mr. Chairman. That is a public window dressing that they say is the Hot Line in there. Management's behavior in aerospace is such negative that it does believe, with the type of weapons that they are producing and the technology that they have, that they are unable to be disciplined for anything that they prevail. They feel at this point—take the Black female in there, for instance. They say you have got a Hot Line in any employee relation environment, but that is the same person that made the noose again. The thing that you have got to remember is, that technically, the boss anglo-saxon on minority females, period, use their authorities to get over anything they want with them. They are going to either do it or get out—if they do not do it, they are still going to get the boot.

[Applause.]

Mr. MARTINEZ. Please. Let me admonish you. We all feel sometimes very emotional about this thing, but we have got to maintain order if we are going to get through this. And let us try to be respectful to the witnesses and the people on the panel asking the questions. Otherwise, we are going to continue to have disruptions and we are not going to be able to get through the important things we have to hear about this whole situation. So, please bear with us.

Mr. HAWKINS. Well, let me——

Mr. WATT. Mr. Chairman, I would like to add one more thing. I provided this Committee with some documentation I would like to have entered into this hearing.

Mr. MARTINEZ. It will be entered.

Mr. WATT. Thank you.

Mr. HAWKINS. We are sure the Chairman of the subcommittee will keep the record open. May I indicate to anyone who might like to submit testimony, or submit statements—and apparently, there are quite a few who have individual views on this matter. The record is open to you as well. All you have to do is, in your own handwriting, file a statement which will be in the official record. And we solicit those statements. The only way that we can get to the truth and to refute claims that are being made is that we have individuals who submit their own views for the record. That is the reason we have this hearing.

I think I have exceeded my time at this point. Thank you Mr. Chairman.

Mr. MARTINEZ. Thank you Mr. Chairman. And let me announce now that the record will remain open for two weeks to receive any additional written testimony. Any of you wishing to write, you can write to Washington, D.C., The Subcommittee of Employment Opportunities, to the attention of our Staff Director, Eric Jenson, and we will have that testimony submitted into the record.

With that, I would like to thank the panel for their excellent testimony and excuse you from your positions now and then call up the next panel. Our next panel will consist of Barbara McIntosh, Equal Opportunity Specialist of the Los Angeles Area Office of OFCCP; Mr. Paul Wainwright, former employee of Rockwell; Mr. Rudy Beltran, former employee of Northrop Corporation; and Rodney Caulton, a complainant.

[Pause.]

Mr. MARTINEZ. Again, let me remind the witnesses that if they have submitted written testimony, that that testimony will be entered into the record in its entirety, and feel free to summarize. Can we have a little order so we might hear the witnesses? Ms. McIntosh?

STATEMENT OF BARBARA McINTOSH, EQUAL OPPORTUNITY SPECIALIST, LOS ANGELES AREA OFFICE, OFCCP

Ms. MCINTOSH. Thank you, Mr. Chairman and Congressman Hawkins for inviting me to give the views of the field personnel on how we feel about the vigorous enforcement of equal opportunity.

This statement should not be reviewed as representing an agency, but a statement which summarizes my views as a field per-

sonnel of OFCCP. If the purpose of this hearing is to determine if the Executive Order as amended is being enforced to its fullest, I would like to present my personal views of items I feel that have hampered the equal opportunity and the enforcement effort.

I testified before this Committee in 1975. Today it seems that time stood still in the advancing forces of civil rights. In 1975, the problem hampering vigorous enforcement of the regulations were production, training management support. Today, the problem hampering vigorous enforcement of the regulations are production, training and management support, and a forth item, contractors complaint of unprofessional conduct when any problem of discriminations are found. I will address each of these items and give my reason for placing emphasis on each as I see it from the field's perspective.

Training: In 1975, training was an issue because there were different compliance reviews being conducted in each compliance agency. Some had no manual or guidance for reference. In 1979, this problem became a bigger one. Field personnel is now under one office, but each doing something different from region-to-region. In fact pay was not considered by some as a part of enforcement and the contractor was becoming more aware of how to evade being in compliance and very sophisticated in hiding data. Training was only given at the area regional level or not at all in some regions.

Today, most of the above is still true. In this region, as of January, 1988, we have begun training sessions which can be applied to the day-to-day review process. Future plans to begin training at the national level is in process. It is unfortunate that it took 12 years to receive this type of training that was so badly needed.

New field personnel are not trained enough before they are put into the field, but they manage to master the program if they do not burn out because of the confusion of trying to learn and keep up with the production rate.

Productivity: In 1975, this was a fairly new 53 issue. After 12 years, it has become a major issue. I do not disagree with the concept of production. It can be a very valuable management tool to measure the activity of the field personnel and to establish training and direct more personnel where needed. However, this is not the case in the Los Angeles Office. Production and unproduction as a part of our job requirement. When field personnel does not meet the required production or the number of closed cases, there is a letter or verbal talk from the supervisor. The productive plan now in place does not allow for the loss of field personnel through termination, leave or sickness. You are still required to meet your production rate in spite of above.

The number of days required to complete reviews does not give the field personnel time to complete complex reviews, or compliance reviews, or complaints. The extension system is there but it has not worked for me. Getting the extension will also impact on the office program plan. Counting the number of actions completed and not the number of actions in which discrimination is found does not, in my opinion, stick with the mission of our program. Too much emphasis is being placed on counting the numbers and not looking at the substance of what is taking place in the field area.

However, I cannot blame managers for this when the program plan is tied to their merit raises and performance standards.

There appear to be two rules on how production should be enforced: One by our national office and one by our regional office. For example, the national has consistently stated that production is not a quota, it is part of a plan to manage the resource of the office, which is the field personnel, and not according—to be followed with by flexibility. Region and area directions, however, feel that it is a quota to be met by the EOS or you are looked upon as not fulfilling your job requirements. No one has ever told me I did not find the proper discrimination at the facility. The only question is how many actions have you completed, not what problem of discrimination had been found.

This type of business has put the EOS in a rock and a hard place. We must decide should we close the review and meet our production goals. Or two, should we ask for an extension and end up working long hours at our home to meet our production goals. Or three, just finish the review or complaint and hope we can still meet our production and time frame along with six or seven cases that we are now carrying. Or just—these are reviews with discrimination involved in that I am talking about which would cause us to be late on our program plan. If we use one and two above and miss our production, then we are lectured or written up for late reviews that sometimes carry over into our performance evaluation. Somewhere in this mess, the mission of enforcement sometimes gets lost and the fulfillment of the program plan takes over.

Management support: In 1975, management gave no support to the field. This is still a problem today. Management thinks first of the program plan and then, if what we are doing in the field will affect the outcome of that plan. At the Area 11 you get mixed field support; program first, enforcement later, we do not really know. If the compliance review or complaint have a large amount of money involved, an extension is easy to get. But, for a little person with one year back pay or just changing a contract, pay system or promotion system is not considered to be too important.

If a field personnel who is harassed in the field or a contractor refuses to give data, the EOS thinks twice before seeking management help. They may be viewed as causing problems in our office and management. They ask the contractors to send in writing what happened on site with the EOA. But this I will discuss later.

Sometime it is hard for the EOS to decide who is the enemy, so to speak; the contractor or the office. In some cases, the EEO personnel in the facility gives more support to the field personnel in resolving issues than management. I do not mean that the total management of the office is at fault because we have two supervisors who have just arrived there. But you never know what type of reaction you get when you uncover an effective class or a patent discrimination case.

The stress is building; two EOSs have had heart attacks, one has now died. High blood pressure is not uncommon among the EOS. This is a stressful and thankless job but it could be easier if management could support our efforts and not hinder us.

The impact of the contractor attack on the personnel of the EOS: This is something new that has been taking place over the last

three years. Most of the time, this attention an EOS is a diversionary action to take the attention from the great problem with discrimination found within the contractor's facility. In every case I know of, including my own, the EOS is not given due process to tell his side of the issue. They take the contractor at face value and the EOS is asked to terminate, or they resign, or is downgraded. This is un-American not to be heard. Maybe we need an agency to help us with this.

Contractors, at will, will refuse to give us data or prolong the review by asking questions and clarification for every item within the Executive Order.

The above four items—to this day, there is one aerospace company I am not allowed to review because after they could not make charges stick of unprofessionalism, they feel I would manufacture problems for them if I review their company. I think this is a failure to allow me to do the job for which I am supposed to be doing.

The above four items have a great impact on how an EOS would enforce the regulations. They must think of what the outcome would be for them; no promotion, unfair performance, termination, or run the risk of being downgraded. I was an EOS in the field in 1975. I have not progressed any further. I am still an EOS in the field.

Our morale, needless to say, today is very low, but the number of reviews that we do and the findings that we have demonstrated that we, in the Los Angeles Area Office, believe in the mission that we have undertaken.

In closing, I would like to say, we have changed ARA's four times. The present one, presently is being fair, in line with the mission of our program. The National appointment presently is being fair and have started some things which have excited us in the Los Angeles office. However, the National appointees will leave in January. Where will we be at, then? Also, it took 12 years to get money and material to give us the training that we so badly need. How long will it take us to get the tools to be in the same league with the contractor? You cannot do a good job without the proper tools. We need clerical support. We need supplies. This is a computer world. We now have one computer and we have to find our own training for it. We have a long way to go. The progress being made in our training area at the present time can be overshadowed by some emphasis of area managers emphasizing production.

I thank you.

[The prepared statement of Barbara J. McIntosh follows:]

STATEMENT OF
BARBARA J. MC INTOSH
SENIOR EQUAL OPPORTUNITY SPECIALIST, DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
LOS ANGELES AREA OFFICE

BEFORE THE

COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES
U.S. HOUSE OF REPRESENTATIVES
OVERSIGHT HEARING - LOS ANGELES, CALIFORNIA
MAY 21, 1988

Thank you Mr. Chairman and Congressman Hawkins for allowing me to testify before this Committee to give the views of the Office of Federal Contract Compliance Programs' Field Personnel on the enforcement of Executive Order 11246, as amended.

This statement should not be viewed as representing the agency (DOL), but is a statement which summarizes my views as a field staff person of DOL, OFCCP.

If the purpose of this oversight hearing is to determine if Executive Order 11246, as amended, is being enforced to its fullest, I would like to present my professional views of items I consider have hampered the Equal Opportunity Specialists (EOSs) in their enforcement efforts.

I testified before this Committee in 1975; today, I will testify why time stood still in the enforcement of civil rights. In 1975, the problems hampering vigorous enforcement of the regulations were: 1) training; 2) production; and 3) management support of field personnel. Today, the problems hampering vigorous enforcement of the regulations are: 1) training; 2) production; 3) management support; and 4) contractors' complaints of unprofessional conduct when deficiencies are identified.

I will address each of these items and give my reasons for placing emphasis on each, as I see it, from the field perspective.

1. TRAINING

a) In 1975, training was an issue because there were different compliance reviews being conducted at each compliance agency. Some agencies did not have manuals or reference guides to instruct them on how to conduct compliance reviews or investigate class action complaints.

In 1979, all compliance agencies were placed under one office, U.S. Department of Labor, Employment Standards Administration, and this problem became a bigger one. Field personnel were now under one office, but from region to region and area office to area office each was enforcing the regulations in different ways. Some regions considered back pay as part of the enforcement effort, others did not. The contractors were becoming more aware of how to evade having to be in compliance. Training was only given at the area or regional level or not at all.

b) Today, most of the above is still true. In this region as of January 1988, we have begun training sessions which can be applied in the day-to-day review process. Future training plans will soon begin at the national level. It is unfortunate that it took 12 years to receive this type of training!

New field personnel are not given enough training before they are put in the field. However, they manage in time to master the program, if they don't burn out because of the confusion of trying to learn and to keep up with their production.

2. PRODUCTION

a) In 1975, production of field personnel was a fairly new issue; after 12 years it has become a major issue.

b) I don't disagree with the concept of production; it can be a valuable management tool to measure the activities of our field personnel and to establish training and direct personnel where needed. However, this is not the case within the Los Angeles office. Production or non-production is used as part of your job requirement. When field personnel do not meet the required production (number of closed cases) there is a letter or verbal talk from the office supervisor. The program plan now in place states the production quota each field person must meet but does not allow for the loss of field personnel (termination), leave or sickness. You must meet your required production quota in spite of the above.

The number of days that a compliance review must be completed (60 days) does not give the field personnel time to complete complex reviews or class action complaints. The extension system now in place allows for an extension of the original due date of compliance cases. However, the system has not worked for me. Further, if management grants an extension to any field personnel, the extension will have a negative impact on the Los Angeles Office program plan. Counting the number of compliance actions completed and not the number of compliance actions in which discrimination is found does not, in my opinion, stick with the mission of our program. Too much emphasis is placed on counting the number of compliance actions completed and not on looking at the substance of what is taking place in field reviews. However, I can't blame managers for counting the compliance actions completed, because if their program plan is not achieved, they receive an unfavorable performance evaluation and no merit pay at the end of the year.

There appear to be two rules on how production should be enforced: one by the National Office and one by Region and area offices. For example: the National Office of the OFCCP states in the Program Plan, "The production plan for each field personnel is part of a plan to manage the resources of the agency (field personnel) and not a quota to be followed without flexibility". Regional and area offices review the production plan as being tied to the Program Plan as a quota to be met by the Equal Opportunity Specialist. If you don't meet the program plan, you are looked upon as not fulfilling your job requirement. No one has ever told me I didn't find the proper discrimination at a facility! The question is, "How many actions have you completed?," not, "What great problems have you found?"

Emphasis on the number of compliance actions completed by the management staff puts the field personnel between a "rock and a hard place"! The EOS must decide: 1) should we close the review and meet our production goals; 2) should we request an extension and end up working long hours at home to meet our production goals, or 3) should we just finish the compliance review and hope we can still meet our production? (These are compliance actions where discrimination is found.)

If the EOS uses one and two of the above and meets the 60-day timeframe in conjunction with carrying a workload from six or eight compliance actions and misses his or her production, than he or she is lectured or written-up for late reviews and sometimes it carries over into the performance rating. Somewhere in this mess the mission of enforcement sometimes gets lost, and the fulfillment of the Program Plan takes over.

3. MANAGEMENT SUPPORT

a) In 1975, management gave no support to the field. This is still a problem today. Management thinks first of the Program Plan and if what the EOS is doing in the field will affect the outcome of his plan.

b) In the Los Angeles area you get mixed field support; you are forced to ask: "Program first, enforcement later?" If the compliance reviewer or complainant has a large amount of money or novel issues, an extension is easy to get, but, for the little person with one year's back pay, just changing the contractor's pay system or promotional system is not considered to be too important.

If a field staff person is harassed in the field or a contractor refuses to give data, she or he would think twice before seeking management's help. The EOS may be viewed by management as causing unnecessary problems. In the Los Angeles Office, management has asked contractors to state, in writing, what EOSs have said and to describe the EOSs' performance onsite (which the contractor may think is unprofessional).

Sometimes it is hard for the EOS to decide who is the enemy (so to speak) -- the contractor or the office? In some cases the Equal Employment Opportunity personnel in the facility give more support to the field personnel in resolving issues than our management.

I do not mean that the total management of the office is at fault because we have two new supervisors. But, you never know what type of reaction you will get when you uncover a class action discrimination case.

The stress is building. Two EOSs have had heart attacks and one has died. High blood pressure is not uncommon among the EOSs. This is a highly stressful and thankless job, but, could be made easier if management would support our efforts, not hinder them.

4. IMPACT OF THE CONTRACTORS' ATTACK ON THE PROFESSIONALISM OF THE EOS

MOST OF THE TIME THE ATTACK ON AN EOS IS A DIVERSIONARY ACTION TO DISTRACT ATTENTION FROM GREATER PROBLEMS AND DISCRIMINATION FOUND WITHIN THE CONTRACTOR'S FACILITY!

In every case I know of, including my own, the EOS is not given due process to tell his or her side of the issue. The contactor's view is taken at face value and the EOS is then asked to either terminate the assignment, resign, or be downgraded. This is un-American and unheard of. Maybe we need an agency to help us!

Contractors at will refuse to give data or prolong the review process by asking the EOSs to explain the reason for every request for data normally asked for in a compliance review.

To date, there is one aerospace company I am not allowed to review because they could not make the charges of unprofessionalism stick, and they feel I would manufacture problems for them if I reviewed their company.

The above four items have a great impact on how an EOS would enforce the regulations. EOSs must think about what the outcome would be for them: no promotion, unfair performance ratings, termination or even downgrading. Our morale today is low! However, the number compliance reviews completed by the Los Angeles Office that have major deficiencies and the amount of cash settlements received demonstrate that the Los Angeles Office field personnel do their job (in spite of the problems caused by management) because they believe in the mission of the Office of Federal Contract Compliance Programs.

In closing, I would like to say that an office is only as effective as the management allows it to be. This region has changed Assistant Regional Administrators four times in the last two years. The National Director has changed twice in one year. In January, 1989, the new President will appoint another new Director.

The constant change of leadership means a constant change of enforcement procedures. Unless OFCCP has constant and consist training and leadership, civil rights cannot be vigorously enforced.

It took 12 years to get money for training that was badly needed. How long will it take to get the leadership from the top (National Office) which sticks to the mission of our program?

The OFCCP is not in the same league with the contractor when it comes to analyzing and reviewing personnel data.

This is a computerized world! Everything we receive from the contractors is computerized. We received one computer in January 1988, to be used by 15 people with no training. Each EOS is expected to find training and spend four hours a month learning how to use this one computer.

If the field personnel is expected to vigorously enforce the Executive Order, then having the proper supplies and equipment (computers, clerical support, and periodicals such an Dun and Bradstreet's) is essential. However, the progress being made in the training area will be overshadowed by the management's emphasis on production.

We still have a long way to go!

Mr. MARTINEZ. Thank you Ms. McIntosh. We pass to Mr. Beltrán.

STATEMENT OF RUDOLPH BELTRAN, FORMER EMPLOYEE, NORTHRUP CORP.

Mr. BELTRAN. Honorable Hawkins and Martinez, my name is Rudolph Beltran. I have been asked by my legal counsel, MALDEF, to address this committee on the topic of discrimination within the aerospace industry. I, as well as others here today, have currently on file with the EEOC complaints against our former employer, Northrup Corporation, alleging discrimination practices from which we seek redress on both an individual and a class basis. I am pleased to have the opportunity to describe to this subcommittee my experiences as a victim of job discrimination.

I am a United States citizen by birth, of Hispanic descent. As regards to my personal background, I am 43 years old, have served my country in the United States Air Force for four years as a Viet Nam Veteran. I have 21 years of progressively responsible experience in the aerospace industry. I hold an Associate of Arts degree, a Business Administration degree from California State University at Long Beach, a Masters degree from Pepperdine University. I also have completed in excess of 70 credit hours of college credit at California State College, Long Beach, towards a degree in electrical engineering and computer science. Fifteen of my 21 years in the aerospace industry have been in the Materiel career field, twelve of which have been with my current employer, Hughes Aircraft. I consider myself to be well qualified to address this committee on aerospace discrimination based upon this background.

As regards the situation which gave rise to our complaints, I, along with fellow Hispanics, Eduardo Molina and Tony Aguilar, both seated here today, and Ernest Federico, not present, were concurrently employed with the Northrop Corporation, Electroncis Division, located in Hawthorne, California, during the 1983 to 1985 timeframe. We were all employed and functioning as major Subcontract Administrators within the Materiel Department procuring hardware for the MX Peace Keeper Program of recent congressional notoriety.

During the term of our employment in this procurement group of approximately 15 to 20 people, we were subjected to disparate treatment at the hands of our immediate management. Of the four of us, three were constructively and systematically discharged, while the fourth was compelled to resign for upper management's failure to react to his reported grievance concerning disparate treatment.

Subsequent to my discharge and feeling somewhat victimized, I sought redress through the Company's specified Management Appeals Committee comprised of the Corporate Vice President of Industrial Relations, the Vice President of Operations of the Electronics Division, and the Division Vice President and Manager of Human Resources. My case was likewise dismissed as having no merit despite the fact that I had requested the attendance of Mr. Molina and Mr. Aguilar to corroborate my testimony. It was this failure on the part of Northrup to recognize the injustices perpe-

trated upon us, despite of the overwhelming evidence, which led to our deep conviction that the Company never had any intention of objectively judging the case. We felt that, in essence, Northrup was only conducting a "kangaroo court," that Northrup's Committee was predisposed to upholding our dismissals.

It was at this point, after having exhausted all internal remedies available to us, that we felt compelled to file our formal complaint with the EEOC. On August 18, 1983, I filed a charge of discrimination against Northrup's Electronic Division with the EEOC alleging that I had been disparately treated and had been discriminatorily discharged from my position as a Procurement Specialist.

Mr. Tony Aguilar, a Hispanic employee, also filed a charge against Northrup on that interview. The gross inequity of recurring situations which—as this led to the filing of our individual and mass action complaints.

In October, 1983, I met with attorneys from the Mexican/American Legal Defense and Educational Fund, MALDEF, to seek representation in my EEOC charge against Northrup. MALDEF was initially unable to represent us and referred us to several private attorneys. On January 12, 1984, I wrote the EEOC General Counsel, David Slate, requesting that the EEOC investigate discrimination against Hispanics at Northrup's Electronic Division. On February 2, 1984, I wrote David Slate requesting—excuse me, David Slate requesting that the EEOC investigate discrimination against Hispanics at the Northrup Electronic Division. On February 2, 1984, Mr. Slate wrote me to advise that my case had been designated as an Early Litigation Identification Case. According to Mr. Slate, an ELI designation means "that the District Office will conduct an intensive investigation of these charges and will expand the investigation to examine allegations of class-wide discrimination against Hispanics in other aspects of employment at Northrup Corporation." I was naturally quite pleased that Mr. Slate had apparently found enough merit in the case to so designate my complaint.

Unfortunately, despite this designation, the EEOC's investigation since then has neither been early nor intensive.

Subsequently, MALDEF agreed to represent Mr. Aguilar and Mr. Molina and I on our EEOC charges against Northrup. On April 4, 1984, Mr. Molina filed an amended charge to the EEOC alleging class discrimination by Northrup against Hispanic—against Northrup management claiming discrimination by Northrup against Hispanic managerial and technical personnel in promotions and training. In May, 1984, shortly after the amended charge was filed, the EEOC sent out a request for information to Northrup. MALDEF advised us that the EEOC investigation was likely to take some time. In October, 1984, I wrote to the EEOC to "Offer our cooperation to whatever extent you feel is required to facilitate your findings and conclusions relative to our case."

In January, 1986, seventeen months after I filed my charge, I was interviewed by the EEOC regarding my claim. After requesting and receiving three extensions from the EEOC, Northrup finally responded to EEOC's request for information in May of 1985; one year after the request was served on Northrup. That response, according to the EEOC, was incomplete. Northrup provided the EEOC with additional partial information in July of 1985. For the

remainder of 1985 and into 1986, no action was taken on my charge. In August, 1986, I met with EEOC staff to discuss the relief I was seeking on behalf—on my behalf and on behalf of the class of Hispanic employees. Apparently, due to EEOC staff reservations, there was no further action on my charge until February of 1987, when a new investigator was assigned to my case. I met with this new investigator in March of this year. I am currently awaiting completion of the EEOC's investigation.

It has now been over five years since I filed my charge with EEOC. Throughout this time, I have repeatedly stated my willingness to cooperate fully with the EEOC in its investigation of my charge. Despite my diligence in pursuing this matter, Northrup still has not been required to compensate me or other Hispanics for the discrimination we claim it has engaged in.

Since the outset of our complaints five years ago, we have attempted through our counsel, MALDEF, to request the EEOC to take positive action in investigating our claim. For a multitude of reasons, the EEOC has not done so. Many of the reasons given over the years are attributed to the non-responsiveness of the Northrup Corporation. For instance, when the EEOC generated the request for information, Northrup refused to respond, electing instead to appeal the request on the basis of non-merit of the cases and subjection of undue hardship in collecting the data. Subsequently, Northrup succeeded in hiring Mr. Ronald Martinez as a specialist to handle the responses to the EEOC. Mr. Martinez was hired by Northrup shortly after the time our complaints were filed and directly out of the same office from which our cases were being handled. Consequently, we feel that a large part of the difficulty with obtaining information from the Northrup Corporation was a result of an effective "stonewalling campaign" initiated by this former EEOC employee who presumably knew the EEOC system and procedures very well. Again, Northrup objected contending that the information requested was too comprehensive and unwarranted.

Northrup requested that the class actions be dismissed preferring the claims on an individual basis. At some point, the EEOC conceded and, indeed, the RFI was lengthy at some point the EEOC conceded that, indeed, the RFI was too lengthy and acceded to issuing a modified shorter version. To our knowledge, Northrup has only partially responded to this request and now contends that the individual cases have no merit and that they now be discharged.

A year has elapsed since the time the EEOC attorney resigned her post to seek employment in the private sector. In addition, our prior MALDEF attorney has left her position and we have received new counsel through MALDEF who is now attempting to reconstruct the past history of the case. We also have been notified by the EEOC that our claims have been relegated back to the specialist level, that our claims are no longer being handled by an EEOC attorney. Additionally, there are new EEOC specialists handling the case that advised us that the class nature of our claims have been suspended due to lack of EEOC resources. We have made it known through our counsel that we are demanding that the class action nature of our claims be pursued since we are convinced that widespread discrimination within Northrup is rampant and that Northrup's own employment statistics will substantiate this. For

example, it is a matter of record with the EEOC, that one of the individuals identified in our complaint has received pay increases of over 330 percent cumulatively over the last five years. This individual's only other prior work experience was as a bartender. Normal pay increases for most employees in the aerospace industry is 5 to 6 percent per year which is in keeping with what we, as Hispanics, experienced.

In summation, the EEOC is ineffective partly because too much time elapses in the course of their investigations during which time personnel attrition occurs in all camps. This attrition causes a complete duplication of efforts in reconstructing past events relative to the cases that the EEOC is investigating.

Our attempts have centered on the fact that, aside from our individual difficulties, we failed to evidence any active recruitment, promotion or maintenance of appropriate numbers of Hispanic employees within the Electronics Division of Northrup. Of additional concern, were our observations that less than one-half dozen Hispanics appear to be in the ranks of first level or higher management. If factual, this would appear to be unconscionable in a division of between two to three thousand employees in light of the fact that Northrup is located in a heavily populated Hispanic community such as Los Angeles. Although Northrup professes to adhere to the practices of Equal Opportunity Employment and, indeed, relies on this assertion, to win awards of Government contracts, we failed to see this policy being practiced to any meaningful degree with regard to the Hispanic population.

It was on this pretext that the class nature of our EEOC complaint was initiated. To be sure, this situation is not restricted to Northrup, but rather, the industry at large suffers from this malady in varying degrees. Presumably, this was the charter for which the EEOC was established; to insure equal opportunity.

When corporations continued to flout the ideals of true equal opportunity by practicing any form of discriminatory behavior, they are not only breaking the law, but they are breaking a social contract with the public who is footing the bill for those contracts.

If fortunate enough to obtain employment in the industry, Hispanics suffer from other forms of discrimination. As a victim of job discrimination, I can attest to the many ways one suffers; harassment, humiliation, loss of earnings, loss of basic human dignity and self-esteem. The delays which I have encountered in trying to seek relief through the EEOC have only added to my suffering and the suffering of those who are unfortunate enough to share my plight while employed at Northrup. However, my resolve has not been diminished and I am determined to continue until the discrimination against Hispanics at Northrup stops. I should not, however, have to wait an eternity to receive the simple justice that is the inalienable right every citizen is to receive. I hope that you, as the representative of the American people, will see to it that the policy of true Equal Opportunity Employment is materially advanced for all classes.

[The prepared statement of Rudolph Beltran follows:]

STATEMENT
OF
RUDOLPH BELTRAN

Oversight Hearings on Equal Employment Opportunity Law Enforcement
Subcommittee on Employment Opportunities
Committee on Education and Labor
U.S. House of Representatives
Los Angeles, Ca.

May 21, 1988

Amended 7/17/88

I. INTRODUCTION

My name is Rudolph Beltran. I have been asked by my legal counsel, MALDEF, to address this committee on the topic of discrimination within the aerospace industry. I, as well as others present here today, have currently on file with the EEOC complaints against our former employer, the Northrop Corporation, alleging discriminatory practices for which we seek redress on both an individual and class basis. I am pleased to have the opportunity to describe to this subcommittee my experiences as a victim of job discrimination.

II. PERSONAL BACKGROUND

I am a United States citizen by birth of Hispanic descent. As regards my personal background, I am 43 years old, have served my country in the United States Air Force for four years as a Viet Nam Veteran. I have twenty-one years of progressively responsible experience in the aerospace industry. I hold an Associate of Arts degree, a Business Administration degree from California State University, Long Beach, and a Masters degree (MBA) from Pepperdine University. I have also currently completed in excess of 70 accredited hours of college credit at California State Univerity, Long Beach, towards a degree in Electrical Engineering and Computer Science. Fifteen of my 21 years in the aerospace industry have been in the Materiel career field, twelve of which have been with my current employer, Hughes Aircraft Company. I consider myself to be well qualified to address this committee on the subject of aerospace discrimination based upon this background.

III. CASE HISTORY

As regards the situation which gave rise to our complaints, I, along with fellow Hispanics Eduardo Molina and Tony Aquilar, both seated here and Ernest Federico (not present), were concurrently employed with the Northrop Corporation, Electronics Division located in Hawthorne, California, during the 1981-1983 time frame. We were all employed and functioning as Major Subcontract Administrators within the Materiel Department procuring hardware for the MX Peace Keeper Program of recent congressional notoriety. During the term of our employment in this procurement group of approximately 15-20 people, we were subjected to disparate treatment at the hands of our immediate management. Of the four of us, three were constructively and systematically discharged while the fourth was compelled to resign for upper management's failure to react to his reported grievance concerning disparate treatment. Subsequent to my discharge and feeling somewhat victimized, I sought redress through the Company's specified Management Appeals Committee (MAC) comprised of the Corporate Vice President of Industrial Relations, the Vice President of Operations of the Electronics Division, and the Division Vice President and Manager of Human Resources. My case was likewise dismissed as having no merit despite the fact that I had requested the attendance of Mr.

Molina and Aquilar to corroborate my testimony. It was this failure on the part of Northrop to recognize the injustices perpetrated upon us, (in spite of the overwhelming evidence), which led to our deep conviction that the Company had never had any intention of objectively judging the case. We felt that, in essence, Northrop was only conducting a "kangaroo court" i.e. that Northrop's committee was predisposed to upholding our dismissals. It was at this point, after having exhausted all internal remedies available to us, that we felt compelled to file our formal complaints with the EEOC. On August 18, 1983, I filed a charge of discrimination against Northrop's Electronic Division with the EEOC, alleging that I had been disparately treated and had been discriminatorily discharged from my position as a Procurement Specialist. Mr. Tony Aguilar, a Hispanic employee, also filed a charge against Northrop on that date. Eduardo Molina, a Hispanic, filed a charge of discrimination on September 18, 1983. The most compelling of these being the complaint of Mr. Molina, who resigned after requesting, and not receiving, management corrective action to his complaint regarding disparate treatment from our immediate management. Briefly, Mr. Molina's complaint centered on his being asked by our management to train an attractive caucasian female - new hire with no experience in Major Subcontracts whatsoever. She was hired at roughly the same salary and same labor grade as Mr. Molina despite the fact that Northrop's own internal and external job listing for the job category specified a minimum requirement of five years experience in Major Subcontracting. This was a position which Mr. Molina had worked several years to obtain. It later came to light that this woman had obtained the position through the acquaintances she had made in the social circles her former husband had cultivated; acquaintances which included Northrop upper management. Additionally, we understood that she ran a pleasure boat (small yacht) business in joint ownership with her former husband whose clientele consisted of Northrop management. When these allegations were presented to the EEOC for investigation, the female employee was reported by Northrop to be vacationing indefinitely in Europe and was not available for interview. The gross inequity of recurring situations such as this led to the filing of our individual and class action complaints.

IV. HISTORY WITH THE EEOC

In October 1983 I met with attorneys from the Mexican American Legal Defense & Educational Fund (MALDEF) to seek representation in my EEOC charge against Northrop. MALDEF was initially unable to represent us and referred us to several private attorneys. On January 12, 1984 I wrote to EEOC General Counsel David Slate requesting that the EEOC investigate discrimination against Hispanics at Northrop's Electronic Division. On February 2, 1984, Mr. Slate wrote to advise me that my case had been designated as an Early Litigation Identification (ELI) case. According to Mr. Slate, an ELI designation "means that the District Office will conduct an intensive investigation of these charges and will expand the investigation to examine allegations of class-wide discrimination against Hispanics in

other aspects of employment at the Northrop Corporation." I was naturally quite pleased that Mr. Slate had apparently found enough merit in the case to so designate my complaint. Unfortunately, despite this designation, the EEOC's investigation since then has neither been "early" nor "intensive".

Subsequently, MALDEF agreed to represent Mr. Aguilar, Mr. Molina and I on our EEOC charges against Northrop. On April 4, 1984 Mr. Molina filed an amended charge with the EEOC alleging class discrimination by Northrop against Hispanic managerial and technical personnel in promotions and training. In May 1984, shortly after the amended charge was filed, the EEOC sent out a Request For Information (RFI) to Northrop. MALDEF advised us that the EEOC investigation was likely to take some time. In October 1984, I wrote the EEOC to ".....offer our cooperation to whatever extent you feel is required to facilitate your findings and conclusions relative to our case".

In January 1986 - seventeen months after I filed my charge - I was interviewed by the EEOC regarding my claim. After requesting and receiving three extensions from the EEOC, Northrop finally responded to the EEOC's Request For Information in May 1985 - one year after the requests were served on Northrop. That response, according to the EEOC was incomplete; Northrop provided the EEOC with additional partial information in July 1985. For the remainder of 1985 and into 1986, no action was taken on my charge. In August 1986 I met with EEOC staff to discuss the relief I was seeking on my behalf and on behalf of the class of Hispanic employees. Apparently due to EEOC staff resignations, there was no further action on my charge until February 1987, when a new investigator was assigned to my case. I met with this new investigator in March of this year. I am currently awaiting completion of the EEOC's investigation.

It has now been almost five years since I filed my charge with the EEOC. Throughout this time I have repeatedly stated my willingness to cooperate fully with the EEOC in its investigation of my charge. Despite my diligence in pursuing this matter, Northrop still has not been required to compensate me or other Hispanics for the discrimination we claim it has engaged in.

Since the outset of our complaints, five years ago, we have attempted through our counsel MALDEF to request the EEOC to take positive action in investigating our claims. For a multitude of reasons, the EEOC has not done so. Many of the reasons given over the years are attributed to the non-responsiveness of the Northrop Corporation. For instance, when the EEOC generated the Request for Information (RFI), Northrop refused to respond electing instead to appeal the request on the basis of non-merit of the cases and subjection to undue hardship in collecting the data. Subsequently, Northrop succeeded in hiring Mr. Ronald Martinez as a Specialist to handle responses to the EEOC. Mr. Martinez was hired by Northrop shortly after the time our complaints were filed and directly out of the same office from which our cases were being handled. Consequently, we feel that a

large part of the difficulty with obtaining information from Northrop was a result of a effective "stonewalling campaign" initiated by this former EEOC employee who presumably knew the EEOC system and procedures very well. Again Northrop objected contending that the information requested was too comprehensive and unwarranted. Northrop requested that the class action be dismissed preferring to handle the claims on an individual basis. At some point, the EEOC conceded that indeed the RFI was too lengthy and acceeded to issuing a modifed shorter version. To our knowledge Northrop has only partially responded to this request, now contending that the individual cases have no merit and that they be discharged.

A year has elapsed since the time the EEOC attorney resigned her post electing to seek employment in the private sector. In addition, our MALDEF attorney has left her position, and we have received new counsel who is now attempting to reconstruct the past history of the case. We also have been notified by the EEOC that our cases have been relegated back to a Specialist level; that our claims are no longer being handled by a EEOC attorney. Additionally, our new EEOC specialist handling our case has advised us that the class nature of our claims has been suspended due to lack of EEOC resources. We have made it known through our counsel that we are demanding that the class action nature of our claims be pursued since we are convinced that widespread discimination within Northrop is rampant and that Northrop's own employment statistics will substantiate this. For example, it is a matter of record with the EEOC that one of the individuals identified in our complaint has received pay increases of over 330% cumulatively over a period of the last five years. This individuals only other prior work experience was as a bartender. Normal pay increases for most employees is 5-6% per year which i in keeping with what we as Hispanics experienced.

V. SUMMATION

In summation, the EEOC is ineffective partly because too much time elapses in the course of their investigations during which time personnel attrition occurs in all camps. This attrition causes a complete duplication of effort in reconstructing past events relative to the cases the EEOC is investigating.

Our attempts have centered on the fact that, aside from our individual difficulties, we failed to evidence any active recruitment, promotion or maintenance of appropriate numbers of Hispanic employee's within the Electronics Divison of Northrop. Of additional concern were our observations that less than one-half dozen Hispanics appeared to be in the ranks of first level or higher management. If factual, this would appear unconscionable in a division of between 2000-3000 employees in light of the fact that Northrop is located in a heavily populated Hispanic community such as Los Angeles. Although Northrop professes to adhere to the practices of Equal Opportunity

Employment and indeed relies on this assertion to win awards of Government contracts, we failed to see this policy being practiced to any meaningful degree with regard to the Hispanic population. It was in this context that the class nature of our EEOC complaint was initiated. To be sure, this situation is not restricted to Northrop but rather the industry at large suffers from this malady in varying degrees. Presumably this was the charter for which the EEOC was established; to ensure equal opportunity. When corporations continue to flout the ideals of true equal opportunity by practicing any form discriminate behavior they are not only breaking the law but they are breaking a social contract with the public who is footing the bill for those awards.

If fortunate enough to obtain employment in the industry Hispanics suffer from other forms of discrimination. As a victim of job discrimination I can attest to the many ways one suffers - harassment, humiliation, loss of earnings and the loss of basic human dignity and self-esteem. The delays which I have encountered in trying to seek relief through the EEOC have only added to my suffering and the suffering of those who were unfortunate enough to share my plight while employed at Northrop. However, my resolve has not been diminished and I am determined to continue until the discrimination against Hispanics at Northrop is stopped. I should not, nowever, have to wait an eternity to receive the simple justice that is the inalienable right of every citizen. I hope that you, as the representatives of the American people will see to it that the policy of true Equal Oportunity Employment is materially advanced for all classes.

Rudolph Beltran

Rudolph Beltran

Mr. MARTINEZ. Mr. Wainwright.

STATEMENT OF PAUL WAINWRIGHT, FORMER EMPLOYEE, ROCKWELL INTERNATIONAL

Mr. WAINWRIGHT. Thank you, Congressman Hawkins, Mr. Chairman. Thank you for this opportunity. My name is Paul Wainwright.

As I entered this morning, I spoke with a Mr. Ernest Benfield of the EEOC office and we talked briefly about the problems of the—that the EEOC has. He attests to some of the things I will be identifying.

My employment of 21 years with Rockwell International ended by termination. I have never, in 21 years, broken Company rules, caused harm to anyone, had problems with management, to any extent. In January of 1986, by Ms. Marguerite McDermott of the Corporate Office of Rockwell International, to Howard Chambers, Director of my department, which was Department 435, Mr. Bill DeZureck and Mr. Doug Frazier, Manager of Department 435, as a result of my filing charges with the EEOC for racism, these charges were filed in September of 1985 while I was still employed. These charges also included unfair promotional opportunities and blatant violation of all company policies in regard to employees of such long tenure of 21 years and a good record.

I went to the EEOC for help after my Director, Mr. Bill DeZureck and Doug Frazier, my Manager, denied me the supervisory position that I had applied for, or any increase. I subsequently—they subsequently gave the position to a white male. The EEOC told me that it would take one and one-half to two years before they could even investigate the charge. I asked, at that time, could you investigate it before that time because from the way they are picking on me, I think I will probably be fired before that time. He said we cannot even make a phone call. This was in September.

The second time I went to the EEOC was after they had fired me which was January of 1986. At that time, the charge was retaliation. And they told me at the EEOC, said this charge will get the highest priority which would still be one and a half to two years before they could even investigate. The intake specialist and another member of the EEOC told me that it could be longer than the one and a half to two year period. And they told me, at that time, that I should get an attorney to sue because we are not given the time to properly investigate the charges. We must keep cases moving. We are given 30 days to settle a case, but during the 30 days, we have 30 cases. Now, you can see how much time your case gets; 30 cases, 30 days.

So, I got an attorney. He attempted to reason with Rockwell to allow me to return to work in another position that I had held prior, which was 10 other positions I had held in the 21 years. The law firm—but the Company, instead of trying to reason, they hired their law firm who then was Gibson, Dunn & Crutcher. Mike Ryan and Rick Stevens conducted a year of depositions. Rockwell's Ms. Marguerite McDermott who is at the Corporate Office, Mr. Howard Chambers who was my Director, Mr. Bill DeZureck and Mr. Doug Frazier who was my Manager, instructed Mike Ryan and Rick Stevens to draw up an agreement to give me a few dollars to settle the case.

There were two agreements, which you have before you. The settlement agreements were drafted by Gibson, Dunn & Crutcher had been—by one of the attorneys. My attorney drafted one of these agreements. Rockwell drew up the papers to give settlement in court to Rockwell's favor. My attorney had discussed settling the case but not giving the case away, settling the case in which Rockwell would then given something for the settlement and they would clean my record of any record, any wrongdoing.

The attorney drew up the papers giving the settlement to Rockwell in court, in Rockwell's favor, to Judge Edward Rafitti (phonetic) of the Federal Court. This was in May of 1987. Rockwell breached their part of the agreement in which they were to pay me and other things that they were supposed to have done. Mike Ryan and Rick Stevens of the law firm said they got what they wanted, the judgment, and I would get nothing. Today, I am waiting. After 21 years, a good record—there have never been any complaints filed against me at all in the 21 year tenure with Rockwell. The only complaints I have ever filed was against racism and against promotional opportunities that were denied to me. Rockwell, today—I called about three or four weeks and I talked to Mr. Bill DeZureck who was my Director. He was the one that was instrumental in hiring me. He said they would not even talk to me again. There were several instances where I attempted to get employment at other companies. Well, Rockwell has blackballed me. You have that in the information in front of you there. There are names of people from other companies who told me what had happened. I went to a company and I filled out an application. They gave me a test for a job. I passed the test. But, when time—they gave me a hire date. They said, "Well, we have to check your background to make sure you do have experience." And on checking this background, this person told me that we know you passed the test, but Rockwell has blackballed you. You can never work again in the aircraft industry. I did not believe him.

I went on then to file application after application after application. He was right. Nobody would even talk to me because of what Rockwell has done. And I asked the question, for a good employee of 21 years, never—never having caused any problems, that only does his job, who wanted to be promoted according to the Company policy, according to the policies that were in place, according to the law of the land the EEOC, I feel, is responsible. Let me tell you why I feel that way.

The EEOC, their hands are tied, but they are supposed to do a job. Somebody pays them to do the job just as well as somebody gives the contracts to the aerospace industry, in order to provide employment. But instead, they terminate people that want to be treated fair. After 21 years of service—I talked to Gibson, Dunn and Crutcher's attorney who is Mike Ryan about the—among the money that had been paid out. He said that Rockwell had paid them already more than $60,000 and would not talk to me about coming back to work.

Also, if you look in the information you have in front of you on the termination paper, they terminated me out of the system first. Once you are terminated, you are dead as far as the aircraft industry is concerned. They then mailed me, three weeks later, lay-off

papers saying that if that is all you want, we will give you lay-off papers, but it will not change anything that we have done already which is the termination.

Now, that was in 1986. It had cost me approximately $15,000 trying to fight to win my job back. And I am still fighting. I ask you gentlemen, is there not something that you can do? Is there something that you will not do? If you do not do but one thing, investigate the charges to find that I was right. Make sure that I am compensated. And if you find that I am wrong, I will accept that.

Thank you very much for your time.

Mr. MARTINEZ. Thank you, Mr. Wainwright. Mr. Caulton?

STATEMENT OF RODNEY CAULTON, CONSTITUENT OF CONGRESSMAN HAWKINS OF THE 29TH DISTRICT

Mr. CAULTON. Thank you, Mr. Chairman. Respectfully, Mr. Chairman, I am Rodney B. Caulton, a constituent of Congressman Hawkins of the 29th District.

Mr. MARTINEZ. Pull that microphone a little closer to you.

Mr. CAULTON. Okay. I am here today to request a candid and careful investigation as to the facts and testimony declared here and supported by a wealth of evidence supplied by me to the Associate Counsel, Shirley Wilshire for this committee. I would appreciate some straight answers from this committee as to the rights the United States will grant me. In this case, the EEOC has been granted a sovereign immunity where they have violated the laws.

Beginning with TLA-42562, pursuant to 706 and all the laws that go with it, on May 29th, 1974, I filed a single charge of discrimination against the Hospital of the Good Samaritan for promoting a white male, one Burt Ben Hamid (phonetic) who had less related work experience. Pursuant to 709, 710 of Title 7, the EEOC investigated the charge and—the EEOC investigated the charge with their investigator, Joan Wilson. Ms. Wilson assured me that Mr. Hamid had military experience that made—made him more qualified than I for the position. I laughed at that because I told her that he must have had Swedish—must have been with the Swedish Army because this guy could not nail a nail into the wall and they promoted him over me. This was on November 22, 1974.

Following that, additional charges—in this meeting with Ms. Wilson, additional charges were brought. Those charges were that while I was there as an employee of the Hospital, I was specifically referred by white co-workers as "nigger" and "boy." I had written several numerous complaints to my supervisors, written and verbal. They were ignored and laughed at. Now, this case goes back to 1974 and I know a lot of these people have been talking about 1985, but I am talking about 1974. In December of 1974, the Hospital's Geneva Climber (phonetic), she wrote a letter to the EEOC and stated that this guy had—Mr. Caulton had been six months longer but had no previous related training or experience. Mr. Hamid had five and one-half years of previous experience at Western Electric Company.

Mr. MARTINEZ. Mr. Caulton, let me interrupt you for a minute. Because you are an extra witness as a courtesy to Mr. Hawkins since you are a constituent of his, if you are going to go all the way

from 1974, if you have it well documented please supply that to us, for the record as a history of your charge.

Mr. CAULTON. Okay.

Mr. MARTINEZ. And we will have one of our staff to go ahead, and through that written testimony—then, if you will just summarize now so we can get on.

Mr. CAULTON. Okay, fine.

Mr. MARTINEZ. Give us a bottom line. You evidently, have had a case filed with the EEOC that either was not acted on, or not acted on favorably for you.

Mr. CAULTON. Well, they found a reasonable cause in one area, as far as them calling me "boy, nigger" and as far as them terminating me for responding or requesting help from the EEOC. However, as far as the original charge in which I filed—the original charge that this guy had less related work experience, they filed no reasonable cause. Okay, that—when you go to court on a reasonable cause made by the EEOC, you cannot challenge that. The court will not look at that, you know. And that is one of the things that this committee should certainly look at. When a person—especially when there is evidence that is contrary to it, then certainly, the committee should look at—that a reasonable cause should be able to be challenged. You should be able to go to court and challenge that.

Mr. MARTINEZ. All right, then what we will do is if you have documented that, we will take a look at it and see where we might find some places you have recourse.

Mr. CAULTON. Also, Mr. Chairman, you might recall, following your 1976 meeting, I wrote several letters to yourself and sent documents to you and your committee and your staff members turned them back to me stating—having gotten information from the EEOC on the face value. The EEOC can tell this committee that we had no information, or the information was burnt (sic) and this committee accepts it. They do not go any further than to ask pertinent questions or to even file interrogatories to get at the heart of what is going on.

So, I have I would like to ask Ms. McIntosh about a four-year request that I have before the Solicitor General which has been over four months, four to six months, which has been denied or has not been responded by.

Mr. MARTINEZ. Let me respond to the letters that said 1976. I was not the Chairman of the Committee in 1976. I did not become Chairman until 1984.

Mr. CAULTON. I meant 80—I am sorry, that was 1986. Mr. Martinez. 1986. All right.

Mr. CAULTON. When you had the meetings at Exposition Park.

Mr. HAWKINS. Mr. Chairman?

Mr. MARTINEZ. Yes.

Mr. HAWKINS. Let me get a clarification. First of all, the letters were sent either to you or to me. I am not so sure which.

Mr. CAULTON. I sent some to both of you gentlemen.

Mr. HAWKINS. Well, my understanding is from the Staff that a case is highly complex. It seems to me that some additional information is required. Do I understand that you have carried the case all the way to the Supreme Court?

Mr. CAULTON. I have been to the Supreme Court twice, sir in pro per.

Mr. HAWKINS. And the Supreme Court——

Mr. CAULTON. Denied, sir—on it, both times.

Mr. HAWKINS. Yes. So, you did not—it has gone through the agency. It has gone through the Court. And, in view of that fact

Mr. CAULTON. No, no——

Mr. HAWKINS. Yes, okay, clarify.

Mr. CAULTON. Yes, sir. First of all, when I first went to the First District Court, I was—on procedural grounds, I had no idea what to do in a court. They put me—I had an attorney. When I went into court, he was intimidated by the court. He was intimidated by the EEOC. He told me that he had to quit the case because he felt that they would put a snake in his mailbox. So, he quit the case and the Court left me without an attorney. I had no one to turn to. The Court got up—Judge Ferguson jumped on my case and told me that I need to handle the case on my own. That I should go to the Library and study how to do it.

Mr. MARTINEZ. Well, let us do his, Mr. Caulton. Why do you have got a written statement that seems to be pretty well documented. Provide that to the staff and I will have my staff director be in touch with you and we will review the information given with the EEOC and see exactly what the situation is.

Mr. CAULTON. Well, in—can I ask just one thing, please?

Mr. MARTINEZ. Yes.

Mr. CAULTON. Okay. Now, the sovereign immunity issue—I mean, here we did not even grant Richard Nixon a sovereign immunity and here is a little pipsqueak agency like the EEOC going to claim sovereign immunity when they violated the laws that this committee and the Congress have set down.

Mr. MARTINEZ. I am not aware of any of that. So, I will really have to take a look at it. And like I say, if you will provide that to us, we will make sure that we get back to you and we will provide you with some answers on it.

Mr. HAWKINS. Well, I would if I may, I would suggest that he consult with the staff here because the staff seems to be rather—very familiar with the case. They have followed it and there are some serious matters pending, that we may be of some help. The Court process has been exhausted so you cannot go back—apparently, you cannot go back through the courts. Now, whether or not the staff can do anything under the circumstances, I think remains to be seen in terms of whether or not, in the process, there is something we can do with the EEOC.

Mr. CAULTON. Well, Congressman——

Mr. HAWKINS. But it is a very complex case and I would suggest that you let the staff handle it and do whatever can possibly be made. They are already familiar with the case. They have worked on the case. And what remains that they can do, is highly probable.

Mr. CAULTON. Well, Congressman——

Mr. MARTINEZ. Let me interject something right here. Chairman, are you suggesting that immediately following the meeting that you might get together with——

Mr. HAWKINS. Yeah, I think that legal counsel ... needed in a case such as this. I do not know what we can do in terms of the current hearings. The fact that we can make staff, legal staff available to you is to your credit and they would be very glad to handle it. And beyond that, I do not know what else we can do.

Mr. MARTINEZ. Yeah, I think that the Chairman is right, this is not the particular setting for the disposition of your particular situation. I would suggest, as the Chairman has, that immediately following this hearing, when the staff is freed up from the responsibility of the hearing, that they meet with you and they discuss just what avenues that we might be able to take and what probabilities there are of some results. And the situation that the Chairman has described, and the staff is familiar with, are still unresolved and might be to your benefit.

Mr. CAULTON. Okay, Mr. Chairman. But, tell me, is it—that the United States—that if they are defrauded that that can stand on the record books?

Mr. MARTINEZ. No, we will look into that but we do not know exactly what the situation is.

Mr. HAWKINS. I do not think we should be trying to give you legal advice in this matter.

Mr. CAULTON. Okay.

Mr. HAWKINS. You went to the courts, apparently acting as your own attorney, is that a fact?

Mr. CAULTON. That is correct.

Mr. HAWKINS. And I think you needed qualified legal advice and apparently, that is what you did not have in the process. Now, I am simply suggesting that you consult with our staff——

Mr. CAULTON. Yes, sir.

Mr. HAWKINS. To get adequate legal advice and handle it that way rather than in an open meeting of this nature where whatever we may say to you, may, in a sense, prejudice your case.

Mr. CAULTON. Yes, sir. Thank you.

Mr. MARTINEZ. Thank you, Mr. Caulton. At this time, I do not have any questions of the witnesses. Your testimony was very explicit and to the point. I would, however, ask that besides having it on the record, that if you have any additional written testimony, that you would supply, because you have not supplied before, please supply that to us for individual review.

Upon that, I would ask Mr. Hawkins, if he has any questions.

Mr. HAWKINS. Really not. I was quite interested in Mr. Beltran's case which apparently has been pending for five years. I think other references were made to the unusual amount of time that is spent. Some of it seems to be wasted and many of these matters have not been resolved after such a lengthy time. I think also, Ms. McIntosh referred to the manner in which some of the staff seems to be used, it would seem to me, rather ineffectively.

I think that some of these questions may be asked, however, of the directors, both of whom—OFCCP and EEOC directors I think are seated in the audience and I hope that they heard what was being said, because it seems to me that this is untenable. As Chairman of the full committee, I have recommended to increase the funding according to the staff each year for the past several years. And currently the Congress has not always accepted our full rec-

ommendation but they have received increased funding. Now, this is almost unheard of in Washington these days, that any agency—any entity would be receiving additional money. So, I do not think there is a justified complaint that there has been any required cutback that would, in any way, justify the unreasonable length of time. That is what I think you testified to, if I am not mistaken.

Mr. BELTRAN. I might add, sir, that I did contact the OFCCP several years ago inquiring as to whether or not they had any prior knowledge or any allegations of disparate treatment from the Northrop Corporation on record. And, I received a letter back that said that they maintain an open channel of communication with the EEOC and, no, they did not. Then, asked regarding my particular claim with them and had they received any information. And again, they said no, they did not.

Mr. HAWKINS. Let me ask Ms. McIntosh specifically whether or not there was any pressure placed on you or anyone else to close cases before the investigations were completed?

Ms. MCINTOSH. Yes, there was some.

Mr. HAWKINS. Do you care, in any way, to elaborate on that answer?

Ms. MCINTOSH. It depends on what you want me to say. Are you saying that did I have cases that were completed before I felt that I was through with the investigation?

Mr. HAWKINS. Yes.

Ms. MCINTOSH. Yes.

Mr. HAWKINS. Were they fully—that they were not fully investigated so that——

Ms. MCINTOSH. No, they were not fully investigated, but basically——

Mr. HAWKINS. And when you say pressure, you were told that you had a certain number to close.

Ms. MCINTOSH. Well, no. On one of my cases, I was still working on it. When I came back into the office, it was closed.

Mr. HAWKINS. And as the investigator, you cannot——

Ms. MCINTOSH. As an investigator——

Mr. HAWKINS. Decide whether or not you——

Ms. MCINTOSH. I cannot decide whether or not a case is closed.

Mr. HAWKINS. I see. Okay.

Ms. MCINTOSH. If the management wants to close the case—it is really not our case, it is management's case and they can close the case.

Mr. HAWKINS. Would this be to the benefit of the complainant or to the benefit of the one against whom the charge is brought?

Ms. MCINTOSH. I do not think it would benefit a complainant, no.

Mr. HAWKINS. Sometimes the complainant would not get a full justification of his rights, or a violation of his rights fully revealed by closing the case before it was actually—any satisfaction was obtained?

Ms. MCINTOSH. Well, in my opinion, if you close the case before we can decide one way or the other, we do not know if the complainant is right or the contractor is right because there is no way to second guess what type of material that you are going to find when you are doing an investigation. You have to have an open mind on both sides. So, if you close it before you have gotten every-

thing you think you need to make that decision, you really do not know who benefits from the closing of the case.

Mr. HAWKINS. Well, let me, for the sake of the record, understand, in—currently the agency has been funded at a hundred and eighty-seven—EEOC we have reference to now. The agency has been funded in the amount of $187 million. That is the recommendation, I understand, of the Appropriations Committee. Now, that is in excess of the amount that they received the year before, by $2 million before the year—has this been consistently so for the last five years? The last two years at least. And we have recommended $194 million, is that correct?

[Pause.]

Mr. HAWKINS. Which was also the Administration's recommendations. So, we are talking about an agency that is not being really cut back that much at this current time.

Ms. MCINTOSH. I—I would not know about that. That would probably be in management. The only thing I know is that I work in the field office with 15 people to share two cars and therefore, you are using your own personal car. And when you are talking about mileage, it is such a hard job to get milage money that I do not even turn in mileage anymore. I just use my own car.

Mr. HAWKINS. Thank you. I will forego any further questions.

Mr. MARTINEZ. I just have one questions of you, Ms. McIntosh before I excuse the panel. As testimony was moving on, I got the impression that—and it may be right or wrong—the aerospace industry being investigated has as much control over the investigation as does the investigator at the EEOC, or the Office of Federal Contract Compliance. And I am wondering about that. We have received testimony over and over again, that one of the delays in the investigation, is the reluctance on the part of the person being investigated to provide the information necessary. Now, do you have, as an investigator with the support of your District Manager, the ability to require or force the information you need to be given by that company that you are investigating?

Ms. MCINTOSH. We have—we have the ability to force somebody as a decision made by our director. So, the EOS is only a recommendation person.

Mr. MARTINEZ. All right, then let me ask you another question as a normal follow-up question of that. In the case of where an investigator says these people are not cooperating. I need them to be forced. What is generally the attitude of the manager?

Ms. MCINTOSH. In my case—and I can only speak for me, I have a hard time trying to get that—that enforcement.

Mr. MARTINEZ. There is not an instant decision that if you are not, as the investigator, getting the information in a cooperative manner, there is no instant back-up and support that you need to say all right let us go after them and force them to give you this information, right now, immediately.

Ms. MCINTOSH. I do not have that.

Mr. MARTINEZ. Thank you.

I wish to thank the panel for appearing before us and excuse you.

Our next panel consists of Ms. Judith Keeler, Director of the Los Angeles District Office of the U.S. Equal Employment Opportunity

Commission, and Mr. Gary Blakemore, Director of the Office of Federal Contract Compliance Programs, the U.S. Department of Labor.

[Pause.]

Mr. MARTINEZ. Ms. Keeler, we are going to ask you to go first. And your statement, as we have seen it, is very long. I would like you to summarize that, if you would, please. But more than that, you have heard some of the statements that were made here by the witnesses and I would like you to maybe concentrate a little bit on what they have said enlightening us to what the situation actually is as you see it. It might be different or you might be in concert with what some of the witnesses have said.

Would you please, Ms. Keeler?

STATEMENT OF JUDITH KEELER, DIRECTOR, LOS ANGELES DISTRICT OFFICE, U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ms. KEELER. Certainly. Chairman Martinez, Representative Hawkins, you have asked us to discuss today specifically employment discrimination in the aerospace industry, the entertainment industry, the financial industry and our charge inventory which is a concern for us all.

As you know, I appeared before you last October to discuss briefly our experience with the aerospace industry and at that time, presented some fairly detailed testimony about the types of charges we received and the bases and issues which were alleged. I want to report to you now, that in the last six months, we have received an additional 173 charges against eight major aerospace companies.

Also, I am aware that there is concern within the community and within the Commission about discrimination in the entertainment industry. We have established, and had established by our Chairman, Clarence Thomas, an entertainment task force. In that task force now, there are approximately 138 charges. Unfortunately, last year, we had vacancies in the two key positions in that—on that task force. In order to prevent a total lack of movement with respect to the entertainment industry, we have four class investigations going on outside of the task force. We have also, recently, restaffed the two senior investigator positions and they are investigating a number of charges including a group of about 50 charges which we feel will get to some of the basic systemic causes of perceived discrimination in the industry involving both the major studios, the unions, the guilds, and the major producers.

Mr. MARTINEZ. Ms. Keeler, just for the record, the losses of staff in that particular area were not due to budget cutbacks but just through the normal attrition.

Ms. KEELER. That is right. That is right. There are certain——

Mr. MARTINEZ. Because you indicated that they were replaced.

Ms. KEELER. Yes. They have been replaced. It was a situation where two people moved on to bigger and better things. We had some requirements. We wanted some expertise in that position and it took us a while to fill them.

Mr. MARTINEZ. Thank you. Proceed.

Ms. KEELER. We have filed a law suit against the Screen Extras Guild and we have been pursuing subpoena enforcement actions against the entertainment industry, I might add, because there seems to be some reluctance to cooperate with our investigation in those areas.

With respect to the financial industry, I cannot, in all honesty, tell you that we have focused any special effort there as we have with aerospace and entertainment. During the past three and a half years, we have received 234 charges against banks. And by financial, I am referring to banks here because I did not know how broadly you wanted financial interpreted. And we resolved charges obtaining approximately $200,000 in monetary relief for alleged victims of discrimination.

Mr. MARTINEZ. What was that again?

Ms. KEELER. Approximately $200,000. We have sued Security Pacific Bank obtaining full monetary relief for a charging party in an age discrimination allegation and we presently have pending a law suit against City National Bank. Again, here we are engaged in subpoena enforcement efforts, as, I might add, we are increasingly in all of our charge investigations.

As you, and the people in this audience are aware, our office has had, and continues to have, unfortunately, a significant problem with a large inventory of cases. We presently have approximately 4600 charges that have been filed in our office. Up until last year, we had an average of 25 investigators. We have been very fortunate to hire some, what we believe, are additional staff with a great deal of potential which they are already demonstrating. Despite our large inventory, we have made significant contributions to the elimination of employment discrimination in this area. We have filed 74 law suits in Federal District Court and we have resolved 59 of those law suits, with a total of over $1,299,000 in monetary benefits.

With respect to charges of systemic pattern or practice discrimination, we have resolved five Commissioner's charges alleging a pattern or practice of discrimination benefitting thousands of people with increased employment opportunities and monetary relief. A proposed settlement of our one remaining, pre-1985 Commissioners charge is presently pending in headquarters. And we have recently failed conciliation in a pattern or practice case against a large retailer where we have alleged failure to hire Black and American Indians.

To reduce our inventory, we have implemented a lot of case management systems. We have also hired, and we are training new staff, and these new techniques are working in our office. In the first seven months of this fiscal year—that has started in October, we have closed 1453 charges which is almost as many charges as we closed during the entire previous fiscal year. And I might add, we do not dump charges in our office. We take pride in our work and we do not artificially close charges. We have obtained charge resolutions to date, this is in approximately 7 months, in monetary benefits exceeding $2 million. We have issued 51 letters of determination finding reasonable cause to believe that discrimination is true and that compares with 57 cause recommendations that were done all last year. The office has filed 21 law suits this year, includ-

ing 9 law suits in the last three weeks. And we are proud to say that under the Commission's new appeal procedure, we have one of the lowest remand rates of any office in the Country.

But I think what you want to know is when you and the public can expect to see the elimination of this inventory problem in our office. I wish that we could promise immediate results. During the same period that we resolved 1200 charges, 1500 charges were filed in our office and 700 of those charges will be 270 days old by the end of September. Reducing our inventory without sacrificing the quality of our investigation will take time. However, it is our goal, that by this time next year, we will be able to begin to assign most new charges within 60 days of their receipt and that we will be completing an average investigation within 270 days of its inception. Once we can begin to assign charges when they come into our office, we feel we will get control over our inventory.

In conclusion, I would like to pay my respect to the greatest assets of the Los Angeles office—its dedicated and professional staff. Our staff members know what it is like to be the subject of vicious stereotypes and discrimination, whether because of their race or their sex or their religion or their age or because they happen to have chosen to become public servants and are therefore, characterized as faceless Federal bureaucrats. Our investigators have the tough job of uncovering evidence from all types of sources, analyzing that evidence according to rigorous legal standards and of making recommendations that they know will not be popular with one party or the other. But, we did not enter the field of civil rights law enforcement to be popular. If Equal Employment Opportunity were popular, there would be no need for us. We are in our jobs because we believe in the principles upon which our Country was founded, equality and justice before the law.

I hope that the information that has been provided in my written testimony and which I have supplied now helps respond to your concerns and I will be happy to answer any questions you may have.

[The prepared statement of Judith A. Keeler follows:]

TESTIMONY OF
JUDITH A. KEELER. DISTRICT DIRECTOR, LOS ANGELES OFFICE
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
BEFORE THE SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES
HOUSE EDUCATION AND LABOR COMMITTEE
LOS ANGELES, CALIFORNIA, MAY 21, 1988

MR CHAIRMAN and Members of the Committee: The Committee has requested that the Equal Employment Opportunity Commission assist you in this hearing on employment discrimination in southern California. You have specifically asked us to discuss discrimination charges against employers in the aerospace, entertainment and financial industries. You have also requested information regarding the inventory of charges in the Los Angeles District Office, a subject of concern to all of us.

Last October, I shared with this Subcommittee some of our experience in addressing potential employment discrimination within the aerospace industry. At that time, in the previous two year period approximately 615 charges had been filed with our office against eight major aerospace companies in the Los Angeles area, and we had completed investigations of 230 charges. From November, 1987 to the present, an additional 173 charges have been filed against these aerospace companies.

The profile of these charges is essentially the same as I reported to you in October. We have completed more than 50 additional investigations, resulting in approximately $172,837 in monetary relief. I have been advised that there are at least seven recommendations for cause determinations in process in the office.

As I reported to you in October, three of our investigative units are examining charges filed against three of the major aerospace industries through an integrated method. These unit assignments differ somewhat from our normal case management technique of aggregating related charges for investigation. All charges filed against those three employers are referred to the assigned unit for investigation. The staffs of those respective units have gathered data regarding employment policies and practices, organization, and work force profiles to use in the course of their investigation.

The purpose of this special analysis is to discover whether there are general practices we can identify within the respective companies which tend to produce or foster unlawful employment discrimination. If we find these trends we may refer the data to our Systemic Unit for further development. We also develop class allegations on specific issues or regarding specific employer divisions within the enforcement unit itself.

Most recently, we selected a group of related charges alleging racial discrimination involving one facility of a fourth aerospace company for a special intensive investigative effort. We anticipate that a team of investigators will conduct one coordinated on-site investigation to address the allegations raised in all of these charges during the month of June. We are also reviewing charges filed against the three other major aerospace companies and, if we have the resources available this fiscal year, will initiate similar intensive short-term projects to investigate and resolve groups of those charges.

Since the hearing in October, the Legal Unit in the Los Angeles District office has settled the race discrimination in promotion case which we had filed in August, 1986 in EEOC v

Lockheed for monetary relief for the charging party. In December, 1987, we entered into a settlement for $67,975 in back pay in EEOC v Hughes Aircraft, a case we had filed in March of that year on behalf of a charging party whom we alleged had been denied promotions during his twenty-three year tenure with the company on the basis of his age and national origin. We also unsuccessfully sought a preliminary injunction in EEOC v Hughes Aircraft to protect our processing of a charge filed by an individual who alleged that she had been retaliated against for having filed a charge and for participating in this Subcommittee's October hearing.

There are certain employment practices which are unique to the entertainment industry. In addition, certain industry-wide labor/management agreements affect employment decisions within every major movie and television studio and production company. Members of the entertainment industry have a strong belief that complaints of discrimination will result in retaliatory measures affecting their future employment. And the product of the efforts of the industry have a potentially great impact on society's image of minorities, older workers, and women. For these reasons, approximately three years ago, at the initiative of EEOC Chairman Clarence Thomas, our office established a special project for the investigation of alleged employment discrimination within the entertainment industry.

At the present time, there are approximately 138 charges pending in our office against major studios, producers, guilds and unions, and television networks located in the Los Angeles area. The charges cover both on-camera and production positions, but the majority of the charges involve employment discrimination in technical or general production positions. The discrimination alleged varies, with virtually every basis and issue with which we are familiar represented in the aggregate of charges.

Since its inception, what we call the Entertainment Task Force has closed 52 charges of employment discrimination, obtaining $384,275 in monetary benefits for charging parties through eighteen settlements, and issuing fourteen cause findings. Five of those cause findings were resolved through successful conciliation. To date we have brought three proceedings in federal district court involving entertainment industry employers. In two of those actions, EEOC v American Broadcasting Co. and EEOC v Screen Actors Guild, we obtained orders enforcing subpoenas in aid of ongoing investigations. In EEOC v Screen Extras Guild, filed in November, 1987, we allege that an individual was denied membership because of his age.

Our enforcement efforts were somewhat hampered during 1987 due to the loss of the two experienced investigators in the project. Investigators in other units were assigned designated charges to assure that our enforcement efforts were not stalled, and at the present time there are four potential class investigations ongoing outside of the Task Force. We have now re-staffed the Task Force. The senior investigators assigned to the Task Force are investigating a broad range of charges, including a group of approximately 50 charges which allege discrimination growing out of basic general employment practices

common throughout the entertainment industry.

During the past three and a half years 234 charges have been filed with our office against banks in the southern California area. In resolving those charges we have obtained $199,444 in monetary relief for alleged victims of unlawful discrimination. We have commenced two lawsuits against major banks. In one of those suits, EEOC v Security Pacific Bank, we obtained full monetary relief for a charging party who alleged that she had not been hired because of her age. A second lawsuit, EEOC v City National Bank, which alleges that a charging party was discharged because of her race and sex, is pending in federal court. We also obtained a court order compelling Barclay's International to produce documents necessary for the completion of an investigation of alleged sex discrimination.

As you are aware, the Los Angeles District office has had and unfortunately continues to have a significant problem with a large number of pending charges. At the end of fiscal year 1985, we had a pending inventory of 2822 charges. During the next two years we received an additional 5748 charges. During this two year period, we had an average of 25 investigators available to process those charges.

At the present time, we have approximately 4600 charges in our inventory, over 60 percent of which are over 270 days old, and approximately 20 percent of which were filed two or more years ago. The size of our inventory has hampered our ability to serve the public as effectively as we would like to do. The Chairman, Headquarters staff, and the staff of the Los Angeles office have made reduction of our inventory a top priority.

Despite the large inventory of charges with which we have been faced, the Los Angeles EEOC office has made significant contributions to the elimination of discrimination in southern California. In the past two and a half years, we have resolved over 5285 charges and obtained over $7,238,801 in benefits for charging parties. We have filed 74 lawsuits in federal district court and resolved 59 lawsuits with a total of $1,299,410 in monetary benefits. We have resolved five Commissioners' charges alleging a pattern or practice of discrimination, benefitting thousands of people with increased employment opportunities and monetary relief. A proposed settlement of our one remaining pre-1985 systemic charge is pending in Headquarters. Additionally, we have recently failed conciliation efforts in a limited scope Commissioner's charge alleging the failure to hire blacks and American Indians by a retail store employer.

Over the years various temporary measures have been implemented to help us address our large inventory. Those measures have included transferring charges to other District Offices, engaging in various "backlog" projects, and detailing special teams from Headquarters or other offices to assist in expediting the investigations. While these measures have helped, the large inventory has persisted.

The Commission during the latter half of last fiscal year allocated eleven additional investigative positions to our office. It is our responsibility to assure that those positions are filled by individuals of the highest possible caliber, that

we train those individuals to conduct professional investigations, and that we both reward the good performers and take effective action with respect to poor performers.

Until the latter half of last year, we did not have a reliable computerized tracking system in the Los Angeles office. The importance of reliable data cannot be under-estimated, particularly in an office which has over 4500 pending charges and which receives over 700 new charges each quarter.

Through new case management initiatives, investigators are receiving more substantive guidance from supervisory staff during an investigation, which has helped to resolve charges faster without re-work or unnecessary review time. Our case management efforts include identifying groups of charges of a similar nature and combining their investigation, establishing a continuing contact with charging parties, and modelling our approach to a charge based upon the particular circumstances that the charge presents.

We are also employing new strategies in our investigations which are improving the quality of our work and the speed with which our work is done. We are doing more on-site investigations, interviewing key witnesses and reviewing documents in person rather than relying on employers to provide us with evidence. We are also more aggressively using subpoenas as a way of obtaining necessary documentation without inordinate delays on the part of employers. We are exercising control over the course of the investigation rather than relinquishing control to the employer.

These new techniques are working in Los Angeles. In the first seven months of this fiscal year the office has already closed 1453 charges, which is almost as many charges as it closed during the entire previous fiscal year. To date this year we have obtained charge resolutions which resulted in monetary benefits exceeding $2 million. We have issued 51 Letters of Determination so far this year finding discrimination as compared to a total of 57 cause determinations issued during all of fiscal year 87. The office has filed 21 lawsuits this year. And we are proud to say that we have one of the lowest remand rates from the Commission's Determination Review Program of any District office in the Commission.

When can you and the public expect to see the elimination of this large inventory in the Los Angeles office? I wish that we could promise immediate results. During the same period that we closed over 1200 charges, 1500 new charges were filed with our office, and 700 of those charges will be 270 days old by the end of our fiscal year in September. Reducing our inventory without sacrificing the quality of our investigations will take time.

However, it is our goal that by this time next year we will be able to begin assign most new charges within 60 days of their receipt, and that we will complete an average investigation within 270 days of its inception. Once we can begin to assign charges at the time they are filed, we will gain complete control of our inventory.

I hope that the information which we have presented to you today responds to your concerns and informs you as to the efforts of the Equal Employment Opportunity Commission in this area. I will be happy to respond to any questions you may have.

Mr. MARTINEZ. Before we move to Mr. Blakemore, just one brief question. You mentioned you would like to get it to a 270 days of investigation period of time. What is it now?

Ms. KEELER. Now, from the period of assignment, is approximately 310 days.

Mr. MARTINEZ. 310 days.

Ms. KEELER. That is from the time we assign it for investigation. As you have heard from people who have testified, the biggest problem in our office right now is that people have to wait sometimes one, two years before that is assigned for investigation.

Mr. MARTINEZ. We heard five years in one case.

Ms. KEELER. That—it is still—that case was assigned but is still under investigation.

Mr. MARTINEZ. Okay. I have some other questions later. Mr. Blakemore, would you care to begin.

STATEMENT OF JERRY BLAKEMORE, DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY MANUEL J. VILLAREAL, ASSISTANT REGIONAL ADMINISTRATOR

Mr. BLAKEMORE. Thank you very much, Mr. Chairman, Congressman Hawkins. My name is Jerry Blakemore. I am the Director of the Office of Federal Contract Compliance Programs for the U.S. Department of Labor, Employment Standards Administration. I have been——

Mr. MARTINEZ. You are accompanied by? For the record.

Mr. BLAKEMORE. For the record, I have been in that position for approximately ten months. I have with me Mr. Manuel J. Villareal. He is the Assistant Regional Administrator for this region. He has been in his position since January of 1988. He brings to this position 27 years as a career professional employee of the Federal Government. Those 27 years have been in the areas of field investigation, enforcement, management and administration.

I welcome the opportunity to appear before you today to discuss the management of the Equal Opportunity Compliance Program for Federal contractors, particularly, as it relates to the industries of aerospace, financial, and entertainment industry. This subcommittee is aware of the many initiatives which Assistant Secretary Fred Alvarez and I, along with tremendous support from former Secretary, William Brock, and our current Secretary, Ann McLaughlin (phonetic) have undertaken to enhance both the effectiveness and the efficiency of the OFCCP programs.

I might add, in terms of those efficiency initiatives, we initiated, in October, an initiative to bring down the number of aged cases, both in terms of compliance reviews and in terms of complaint investigation. It is our plan to have a 5 percent age case inventory across the Country and it is an initiative that we undertook. It was just last week that I assigned the final aged case that was part of a National office aged case initiative. So, we are certainly aware of the issue of timeliness and responsiveness and how important it is to you as well as it is to us.

Mr. Chairman, before discussing the OFCCP enforcement record and aerospace, financial, entertainment industry, I would like to

bring you and the subcommittee members up-to-date on the status of the initiative in four key areas which I announced to this committee in October, the last time that Ms. Keeler and I had an opportunity to speak to you.

Last October I indicated that staff development, an issue that has already been discussed here, would be one of the top priorities of the tenure of Mr. Alvarez and myself. Not only have we—which we very much appreciate—accepted very graciously the additional staff that you have provided in the 1988 budget. But, as you know, we have requested that that staff be contained in the Fiscal Year 1989 budget as well. In the area of training for that staff, there have been three major initiatives that are on-going as we speak. One, I announced in October that we would have a National training conference. At that time, we did not know exactly when or how we would pull it off. Those decisions have been made. We will bring together, for the first time in the history of this program, every professional member of the OFCCP family at one place, at one time, so we can conduct a National training session that is directed by the National office to assure that the tools are provided to the field to conduct a thorough and complete investigation. The training conference will bring together more than 800 professionals from OFCCP. The amount of money that we have allocated is more than a quarter of a million dollars, it is money that we feel is well worth spent. That conference will take place in July in St. Louis, Missouri.

There is a second area of staff development which is of critical importance to us as well, And that is the establishment, for the first time, of introductory training courses for OFCCP EEOSs, Equal Employment Opportunity Specialists. The current practice is to provide on-the-job training. There is a desk audit, that is, a desk book that is provided to all new employees and they do not—are not provided classroom training. One of the recommendations of the task force which we put together in October was to establish that and we have provided—we have detailed people into the National office from the field to actually begin the development of that course. We hope to have that completed by the end of this fiscal year for implementation shortly thereafter. That initiative will be critical in light of the additional staffing that has been provided by the committee which, of course, the Secretary has been—and the Assistant Secretary have not only supported, but made it possible for it to be in our budget for Fiscal Year 1989, as well as Fiscal Year—and we are also looking to do the same in Fiscal Year 1990.

One other area of staff development which I feel is very critical is the on-going training that we have established within the OFCCP Academy. It is an Academy of curriculum, not an Academy of walls, and it provides on-going training to EOSs in three areas; advanced, intermediate and basic training, as well as, continued 105 supervisory training, particularly at the mod chief level. We initiated the supervisory training in October of last year where we brought, for the first time in the history of the program, all 80 mod chiefs together to provide supervisory and management training. We will continue that and have requested a half a million dollars in the training budget for Fiscal Year 1989 to continue that effort.

One final area within the OFCCP Academy which I feel is of significance to this committee, as well as to the staff, and that is the training for the micro computer effort. We have an initiative, an ADP initiative that has already begun—which has provided for the field, for the first time again in the history of this program, a micro computer in all 59 Area offices, all 10 Regional offices and the National office. Our micro computer effort not only provides for a micro computer for every office, but a PC for every EOS. One of the recommendations that we are considering for the Fiscal Year 1990 budget, and this, of course, is pending department and other approval, as well as your consideration. We are considering providing 650 additional PCs for the EOSs in the field and, of course, the training that will be necessary for them to utilize them in the most appropriate and effective manner.

Along the same lines, it is our long-term plan within the ADP initiative, to be able to hook up all 70 offices, the 59 Area field offices, as well as the 10 Regional and National office, so we can share the findings of investigations, enforcement and other data that we are able to collect. That is one of the long- term plans.

I might also add, within the initiatives that we discuss, that we have completed the Solicitors Task Force Report. It is currently under review and it has a number of recommendations which I feel will streamline the enforcement process. Along those lines, in October I announced that we would decentralize our enforcement process to make it more effective and efficient, and in January of this year, we issued directives to the field that provided Area office directors and ARAs, Assistant Regional Administrators, basically, total control of conciliation agreements, notwithstanding the amount of money or the number of persons involved, so long as those issues were not novel. And that effort has already proven successful because we have been able to respond more timely and not have to have the National office reviewing all cases that involved either 50 people or a $100,000 or more.

Let me turn very quickly to one other area that I feel is of most significance to this committee. As you know——

Mr. MARTINEZ. Mr. Blakemore, let me interrupt you. On the decentralizing, when you do that, are you also sending down a policy that says that—responding to the question that I asked the investigator when they need to force the aerospace industry to provide information—you support your field personnel and make sure that they have the tools with which to work? You give them the decision making authority, but also, you indicate a little bit of the policy, that unless it was an unusual case or unusual circumstances—they have the decision making authority. I think we need to be explicit here that in this decision making process employees do not all of a sudden determine on their own, who they will go after with the enthusiasm they should and who they will not.

Mr. BLAKEMORE. There are actually two questions there, Mr. Chairman. One is how we distribute the policy and procedures for the entire nation and making sure that that is done in the most appropriate way. And two, how we manage the resources irrespective of what the policy is. Let me respond to both.

In regard to the issue of policy dissemination, one of the major initiatives, again that we announced in October which we have

very close to completing, is the rewriting of the Compliance Manual, a total and complete and systematic review of all of the directives that are currently a part of the program. We have completed that review. In fact, a task force came in and spent more than 3,000 person hours reviewing all of the directives and revising the manual. That manual now is in the clearance process. The Solicitor's Office is reviewing it. The Assistant Secretary's office has already reviewed it. I have already reviewed it. And pursuant to our coordinating departments with the EOC, we will be providing, much as the Department of Labor does its review——

Mr. MARTINEZ. Can this committee have a copy of that?

Mr. BLAKEMORE. That would not be a problem at all, sir. In fact, it is our hope to distribute the Manual, the revised Manual to the field by the first of July. That will coincide very well with our efforts at the National Training Conference which will take place in the middle of July.

In regards to the issue of how we manage our cases, I was made aware of, yesterday, of many of the concerns that were raised. The Assistant Regional Administrator has already begun to look into a number of specifics that have been brought to our attention. We believe that it is our responsibility to be as timely and responsive as possible. It is not our policy, in fact it is the reverse—it is our policy to make sure that we do a thorough and complete investigation, irrespective of the amount of time that it may take. Both the Assistant Secretary and I have said that publicly and to the staff, but we also feel that it is our responsibility to be as responsive and timely as possible. So, we will defer to management to manage cases in the most productive and effective way. And if there are situations where a cases are closed in order to meet numbers, then that is contrary to our policy and the program planning issues are planning issues. They do not have the force and effect of law or should govern when or how we will close a case. The facts of each case should stand or fall on their own merits or lack thereof. That is the position that we have taken.

Mr. MARTINEZ. That is very well and good but to address one more thing—the ability of the investigator to get the information he needs from a company just refusing to cooperate.

Mr. BLAKEMORE. If that is the case, then we have, as part of the enforcement program, the ability to raise those issues and go to enforcement if there is harassment of investigators. And there is specific provisions within the regulations that allow us to do that.

Mr. MARTINEZ. Okay.

Mr. BLAKEMORE. If I might complete the first part for the committee——

Mr. HAWKINS. Could I—could I interrupt at that point. We have seen the testimony, nothing new, it certainly is not unusual, where the investigation is strung out over a long period of time, several years, as a matter of fact. And a lot of it depends on not being able to obtain the information. Do you ever use the right to subpoena the information when it seems that a company may be dragging it out and not really supplying the information that is needed?

Mr. BLAKEMORE. I would have to check with the Solicitor's Office to see under what circumstances we have utilized that authority. I do not know off the top of my head.

Mr. HAWKINS. Well, I understand you can also use a Show——
Mr. BLAKEMORE. Show Cause Notice.
Mr. HAWKINS. Do you ever use it?
Mr. BLAKEMORE. Yes, that is used.
Mr. HAWKINS. Is it unusual for you to use it, or is it——
Mr. BLAKEMORE. That is one——
Mr. HAWKINS. Regularly used so that a company knows that if it does not supply the information, that you are going to use it?
Mr. BLAKEMORE. It is not unusual that it be used. And I believe that most companies are aware, particularly in the past year, of a heightened attention on our part to focus on enforcement issues. There have been a number of articles, in fact, that have talked about the new efforts and revitalization of OFCCP.
Again, I do not have, off the top of my head, the number of times that we have used it. But, it is something that is certainly a part of our arsenal of enforcement mechanisms, and I would not, under any circumstances, where the facts——
Mr. HAWKINS. Well, do you believe this is a serious problem that needs addressing specifically and if it cannot be addressed by the tools that you now have, that perhaps we could strengthen the law. But that is the only way that we could justify strengthening the law is that the power that you use is not being recognized or not effectively reaching the problem. It seems to me a large amount of the time is spent because of the failure to get the information from a non-cooperative company and I do not see the reason why this should be.
Mr. BLAKEMORE. Mr. Chairman, if I may, I would like to defer to the Assistant Regional Administrator who can address the particulars of that issue with respect to this Region.
Mr. MARTINEZ. Would the gentleman yield on that?
Mr. HAWKINS. Yes.
Mr. MARTINEZ. While you are addressing that, let me ask that if you could provide for this committee the number of instances in which you used either subpoena or just cause, for the LA area? The number of times it has been used in the last year.
Mr. BLAKEMORE. Okay.
Mr. MARTINEZ. All right.
Mr. VILLAREAL. Basically, what we have done in Region 9 that I have control over is we have sent procedures where—any case now that looks like it is going to have some problems. I have set rules that the supervisor and the Equal Opportunity Specialist together will call the Solicitors Office to begin to set the groundwork for developing a case according to what the requirements it would take to go to litigation. And, as far as our Show Cause is concerned, what I have now required is that, for sure, before any Show Cause comes to me for signature to be sent out, that we already have the backing of the Solicitors Office and I think that 113 has worked well. We have used it several times. In fact, I have made it a point to advise a lot of the interested groups that we meet with to tell them that in the future, whenever they get a Show Cause, they can rest assured—in case they tell us that they are—or they refuse to act on it, that we will have the backing of the Solicitors Office and we will carry through. So, that has been placed—put in place in this Region, I think, about a month and a half ago.

Mr. HAWKINS. Well, I—I still do not have any idea how many times you have used it or whether or not it has been used occasionally, has been used once or twice or whether or not it is constantly used on a routine basis where the information is not forthcoming.

Mr. VILLAREAL. We have two ways of doing it. We have what we call a Procedural Show Cause which is when they refuse to just provide some records such as an Affirmative Action plan. We use that fairly regularly. Off the top of my head, I do not know the number.

Then, we have a Show Cause when the company refuses to negotiate or meet with us and discuss issues. That is used a lot less. I know that I have signed several since I have been on board. I do not know the exact number but I will get it for you if you request it.

Mr. HAWKINS. That is part of the information which is going to be submitted to the committee at the request of the Chairman of the subcommittee.

Mr. VILLAREAL. Yes, sir.

Mr. BLAKEMORE. There is one other area of information that I would like to share with you that relates specifically to the Los Angeles area. A final initiative of ours was the staff planning pursuant to the additional positions that were provided by Congress in 1988. As you are aware, the distribution decisions have been made. They were made primarily on the basis of where we could focus our additional resources on issues concerning the upper—mid-level and upper management positions of women and minorities and major corporations or multi-establishment positions. This initiative—we call it the Corporate Initiative and we are working with the Solicitor's Office to get a final review on that directive.

Along those lines, however, I think it is significant to point out that once the distribution is complete, the Los Angeles Area office will have 28 EOSs, making it the largest OFCCP office in the entire country, and those 28 will be in the San Diego, the Santa Ana, as well as the Los Angeles office. And if you include in the figures for the planning, the Van Nuys office, this area will actually have the largest number of enforcement personnel in the Country. One reason for that was we focused on those areas where there were either corporate headquarters or intermediate headquarters of multi-establishment companies, and given the large concentration of corporate headquarters and the growth of new businesses in this area, particularly southern California, our resources will be distributed accordingly.

I would be more than happy to answer any other questions that you have, specifically to anything that I have said or is in the record. Thank you.

[The prepared statement of Jerry D. Blakemore follows:]

STATEMENT OF JERRY D. BLAKEMORE
DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
EMPLOYMENT STANDARDS ADMINISTRATION
U.S. DEPARTMENT OF LABOR
BEFORE THE
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

May 21, 1988

Mr. Chairman and Members of the Subcommittee:

I welcome the opportunity to appear before you today to discuss the management of the equal employment opportunity compliance program for Federal contractors, particularly as it impacts upon employment practices in the aerospace, financial, and entertainment industries.

As you know, the Office of Federal Contract Compliance Programs (OFCCP) is responsible for enforcing Executive Order 11246, as amended, which prohibits employment discrimination by Federal contractors on the basis of race, color, religion, sex, or national origin. The Executive Order--along with the applicable sections of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended--also requires that companies doing business with the Federal Government take affirmative action in employment.

This Subcommittee is aware of the Department of Labor's commitment to the vigorous enforcement of the affirmative action and equal employment opportunity programs administered by OFCCP. That commitment is reflected in the significant progress made on the major initiatives described during my appearance before this Subcommittee in October of last year.

Mr. Chairman, before discussing OFCCP's enforcement record in the aerospace, financial, and entertainment industries, I would like to bring you and the Subcommittee up to date on the status of major initiatives in four key areas, which I described in testimony before this Subcommittee last year and one new initiative. These include staff development, decentralization of decisionmaking, improving policy guidance to staff, improving and enhancing coordination with the Office of the Solicitor, and monitoring more closely mid- and upper-level management positions at the corporate and intermediate organizational levels.

Last October, I announced that staff development would be one of our top priorities. I would like to briefly discuss how this initiative is being implemented. It consists of the following three components: (1) the National Training Conference for all professional personnel, (2) the OFCCP Training Academy, and (3) the introductory training course for new Equal Opportunity Specialists (EOSs).

We have already briefed the staffs of the full Committee and Subcommittee on the purpose, content, and format of the National Training Conference. I would like to take a few moments to briefly describe the training conference to the Subcommittee this morning.

We have committed nearly $3/4 million to the National Training Conference for all of OFCCP's 825 professional staff to be held in St. Louis the last three weeks in July. This will be the first time in the history of the program that the entire professional staff will be trained under the direction of the National Office. The training program which runs in one week increments is designed to enhance the skills and knowledge of the staff and to ensure uniformity in the application of OFCCP policies and procedures. We expect an important by-product of the training will be improved morale as staffs from the various offices meet to share ideas. A major commitment to the development and institutionalization of training at all staff levels is continuing in full force.

In addition to the National Training Conference, about $1/2 million has been budgeted for the OFCCP Training Academy for Fiscal Year 1989. A five-phase training program is being developed for the Academy to provide continuing training to develop the skills of new employees and to sharpen those of more experienced Equal Opportunity Specialists. A three-phase training course (basic, intermediate, and advanced) for EOSs is being established that will emphasize investigation techniques, supervisory training for management personnel, and micro-computer training. These specialists must have unique skills for determining the compliance of covered contractors and subcontractors with the laws administered by OFCCP.

Since last October, we have completed the training of our first-line managers. This is another phase of training developed for the Academy. Eighty module chiefs and field office directors have completed a one-week supervisory training seminar developed specifically for OFCCP first-line managers. We also have begun development of the introductory training course for new EOSs. We hope to complete this effort by the end of this fiscal year. This will be the first time in the history of the program that formal classroom training will be provided to new EOSs.

The second area of initiatives includes several that are designed to enhance the quality and efficiency of the review process by eliminating numerous layers of unnecessary reviews. We have taken additional steps to further decentralize decision-making since my last appearance before this Subcommittee. In our effort to streamline the review process, we have delegated to our Assistant Regional Administrators the authority to sign Conciliation Agreements without National Office review, and authorized them to redelegate to Area Office Directors signature authority for certain types of Conciliation Agreements and Settlement Agreements. This will enhance both the quality and the efficiency of the compliance review process.

The third major undertaking is the rewriting of the Compliance Manual. For the first time in the history of the program, OFCCP will provide to its staff a sole source of authority, in writing, for its policies and procedures. This process will result in the providing of clear, written policy and procedural guidance to field staff to ensure consistency and uniformity in enforcement. We are pleased that the Task Force, announced to the Subcommittee last year, has completed its work. The Task Force recommended that 133 of the 261 policy directives be eliminated and that the remaining 128 be retained. Forty-five of these are administrative in nature and will be incorporated in our Administrative Manual, 27 will be included in our legal binder and the remaining 56 operational directives will be incorporated into the new Contract Compliance Manual. The Manual is under review, and our objective is to have the Manual ready for distribution to our field staff by July.

The fourth initiative involves efforts to strengthen enforcement by improving coordination between OFCCP and the Office of the Solicitor (SOL). Shortly after last year's hearing, a Task Force was established in November to consider procedures for revitalizing the OFFCP/SOL Coordinating Committees in the regions and for streamlining the format and content of the OFCCP enforcement file. The Task Force consisted of eleven members, including representatives from the OFCCP National, regional and area offices, and the SOL National and regional offices. The Task Force recommended re-establishing in each region OFCCP/SOL Coordinating Committees and revising the enforcement file to replace the current 17-tab system with a single OFCCP file format to present materials in all investigations, not just those referred for enforcement, in an orderly and logical manner. The Task Force recommendations are now under review.

Finally, I would like to briefly describe to the Subcommittee the fifth initiative, a major new approach which we call the "corporate initiative." OFCCP will soon publish

a policy directive to encourage government contractors to increase their efforts in placing women and minorities in mid-level, high-level, and executive level corporate positions. Corporations with multiple establishments will be required to list and set goals in their corporate headquarters Affirmative Action Program for all positions filled by decisionmakers at the corporate level, and to similarly list and set goals in appropriate Affirmative Action Programs for those positions filled as a result of decisions made at an intermediate organizational level. This will allow OFCCP and corporate America to focus their resources on mid- and senior-level management positions.

Mr. Chairman, we believe that it was important to take some time this morning to bring the Subcommittee up to date on initiatives to strengthen OFCCP's enforcement program. We would be pleased, at the Subcommittee's convenience, to brief more fully you or your staff on the initiatives discussed this morning.

Now, I would like to focus my testimony on OFCCP's compliance activity since 1983 in California with special attention on the greater Los Angeles area in those industries of particular interest to this Subcommittee--aerospace, finance, and entertainment.

In aerospace, OFCCP has conducted compliance reviews of 153 Los Angeles area establishments since 1983. This is about 7[illegible] percent (153 of 225 or 68%) of the aerospace establishments in the greater Los Angeles area, and more than half (56%) of the aerospace compliance reviews conducted by OFCCP state-wide during the same period. Violations were found in 76% of these Los Angeles aerospace reviews and were resolved by Conciliation Agreements or Letters of Commitment.

Additionally, OFCCP received 20 complaints filed against Los Angeles aerospace establishments. Seven of these investigations remain ongoing. Of the remaining 21, in ten, no violations were found; in eight, violations were resolved either by OFCCP (2) or by the contractor's internal review procedure (6); two were closed administratively and one has been referred for further enforcement.

In the financial industry, OFCCP has conducted compliance reviews of 39 Los Angeles area establishments since 1983. This represents 6% of the total Los Angeles financial establishments (39 of 631), it is again over a third of the financial establishment reviews conducted state-wide during the same period (39 of 107 or 36%). Violations were identified in 65% of these reviews.

Additionally, OFCCP received six complaints against Los Angeles area financial establishments. In four, no violation was found; one violation was resolved by OFCCP; and one was closed administratively.

In the entertainment industry, OFCCP has conducted ten compliance reviews since 1983. This represents 36% of the 28 entertainment industry contractor establishments in the greater Los Angeles area and almost all (10 of 12 or 83%) of entertainment industry reviews conducted region-wide during the same period. In half of these Los Angeles area entertainment reviews, violations were found and were resolved either in a Conciliation Agreement or Letter of Commitment.

Additionally, OFCCP received two complaints against Los Angeles area entertainment industry contractors. Both involved violations that were resolved through the contractor's internal review procedures.

This concludes my prepared statement. I will be pleased to answer any questions that the Subcommittee may have.

Mr. MARTINEZ. Thank you, Mr. Blakemore. I have just a couple of questions. One is to you, Ms. Keeler. Are you particularly familiar with the Beltran and Molina case?

Ms. KEELER. Mr. Chairman, as you know, I am precluded from discussing the particulars of any charge investigation or even from acknowledging the existence of a charge pursuant to Title 7 which would make it a criminal penalty for me to discuss it.

Perhaps how we could handle this is that I could discuss generally what happens with charges sometimes which raise class issues and why they go on.

Mr. MARTINEZ. All right. Would you please.

Ms. KEELER. At some period during our past two years, we have identified investigations where we acknowledge and recognize that they were potential class issues. Those charges became identified for special treatment to be dealt with between a lawyer and an investigator. Unfortunately, what happened quite often is that those charges would be put on the back burner as other far more pressing issues were brought to our attention. We would have to put the investigation aside.

In some charges, what we have done--those charges are under investigation now. All those types of charges that we have, and in some cases, what we have found is that if we first narrow—not to eliminate the class, but narrow the class that we are looking at in order to obtain some data, particularly from respondents who are recalcitrant, that we know we can support through a subpoena for this charge. Then we can make a determination whether we need to expand the charge and whether, in fact, the charge is appropriate for investigation within our normal enforcement unit or whether it needs to go to our systemic unit. And that is the procedure that we are taking with several of the charges.

Mr. MARTINEZ. Thank you.

There is one thing that I would ask both you Ms. Keeler and Mr. Blakemore because I have heard it several times now. Initially it was affecting one, and now, it appears there is more than one. I know that we have talked recently on the Federal level and there are pieces of legislation now trying to deal with this. We have in the law in some cases, the ability of people who work for the Federal government, to then go to work for companies that have situations where that experience from the Government operation they were involved in benefits that entity. And in one regard, we already passed the law because we realize it is totally unfair to everyone else out there. I am wondering if maybe there is a need for a law. I do not know of, but you might know, any Federal regulation regarding people who have worked for either the Office of Federal Contract Compliance or the EEOC, going to work for corporations or companies that they were monitoring in that position that they held before? I would ask both of you, is there any regulations or rules or anything regarding this?

Ms. KEELER. The EEOC does have procedural regulations and ethical rules, the violation which would make you subject to discipline and I believe those rules are Government-wide. And one of the things that those rules address is the ability to go to a private employer or some other industry from your position, where you

have had any involvement in the issues that you might be dealing with in those cases.

Mr. MARTINEZ. Thank you.

Mr. BLAKEMORE. The Office of Federal Contract Compliance Programs is governed by the same ethical rules as was discussed by Ms. Keeler. I might add one other. I note, for example, that an appointee, I am prohibited for either—for a full year of even doing any lobbying with the entire Department whether it was within OFCCP or not on issues regarding labor issues after I leave. I am not certain if that is limited to political appointees, but the ethical rules that were discussed by Ms. Keeler apply to us as well.

Mr. MARTINEZ. In the interest of time, I would like to pursue this with both of you a little further. So, we will do that, either I will make arrangements to meet with you or to have some written communication. I think there is a problem here that is beginning to surface that we need to deal with if only for the confidence of the people we are trying to serve.

Mr. Chairman?

Mr. HAWKINS. As you know, the committee did have an investigation about a year ago. The staff did visit various offices—I am referring now to Office of Federal Contract Compliance Programs. At that time, the staff of this committee was told by many investigators that cases were prematurely closed in the Los Angeles Area office. Referring to some specific cases, this happened, or was supposed—alleged to have happen in a Northrop case, Parson's case, Santee Dairy case and Aerojet case. And as a result of this, it seemed, we concluded, that the morale of the staff was adversely affected.

I would like to know as a result of that, we have reasons to believe that—the investigation by the committee was done on a very high level basis. Have reasons to believe there was some substantial reason behind these statements. May I ask what is being done to prevent such a thing from happening?

Mr. BLAKEMORE. First of all, I would add, Mr. Chairman, if there are other specific instances where those type of allegations have been brought, we certainly would like to have, at the highest levels of this management, particularly my level and the Assistant Regional Administrator, we would like to pursue those allegations so we can have them resolved. A couple of those issues were just recently brought to our attention and we are pursuing those.

In terms of the long-term plans for eliminating, or at least reducing the possibility of that, I really think we are talking about providing the staff development training at every level; the management as well as the EOS level. But more importantly, I think it is as one of the things that the Assistant Secretary and I have tried to do is to, by our own conduct and what we say and do, indicate that as a philosophy, we are interested in a thorough and complete and professional review. In the terms of the planning that we do, we attempt to anticipate any of the issues that may lead to be problems, then we can make our program plans according to those issues. But it is not intentional, at all, to close any case prior to an appropriate time of closing them and we have been very clear about our philosophy on that.

Just this past week, the Assistant Regional Administrators and I had an opportunity to spend a week together to go over a number of issues and the standards for the amount of time that it takes for us to complete a review and respond to a complaint were discussed, as well as the philosophy that I just outlined. In fact, both the Assistant Secretary and I spent time with the ARAs on that. I think that what we said will have long-term impact and we are also looking to have more participation at the field level in the planning process as a way of really identifying up front, or before we are into the review process, the amount of time and energy it is actually going to take.

Mr. HAWKINS. Well, I certainly want to assure you that if we hear of any allegations of this nature in the future, we are certainly going to move in rapidly and I hope we have the cooperation of the agency in a thorough investigation of such allegations.

May I ask you, Ms. Keeler, what is the status of the Early Litigation Case program in which such class cases, as Mr. Beltran testified about, are targeted for litigation potential. Are you—do you have anything to offer with respect to what is happening in connection with this?

Ms. KEELER. In the Los Angeles office, we have several ways that we approach the identification and development of class litigation. There is no formal ELI Program as it was constructed years ago. What we have in Los Angeles, I believe, is working better. For example, we had a class project where we assigned three investigators to work directly with the legal unit to develop and resolve approximately 34 charges that had been identified for potential class impact. We, of course, have our Systemic Unit which has now, for the first time, resolved all of those older systemic charges with substantial relief and has targeted eight perspective new employers for potential pattern or practice investigation.

We have, within in the units each unit has an attorney assigned to that unit. The attorney works with the investigator in that unit and with the supervisor, not just on potential class cases, but on other cases which we may find have potential class impact as they are investigated.

You are aware, because of my testimony in October and, additionally, the written testimony today, that we have focused our attention on some aerospace industries as well as some other companies where, in addition to the normal sort of batching of charges that we do, all charges filed against that employer go to one unit so that that unit can become an expert in the employment practices of that employer. I think that you will find—and I might add, that we have filed five class action law suits; class action law suits involving black and white females, class actions involving Hispanic females, class actions involving age discrimination, and class actions involving a breadth of issues in the last two years. And I think that our—I think I am looking forward to some more results in the pattern and practice and class litigation area.

Mr. HAWKINS. Well, I certainly hope so. It seems that we are constantly being told about the wonderful things that are going to happen next year. Then, next year arrives and then nothing happens. Maybe you go onto better things and you leave and somebody else comes in. They say, well, next year is going to be better. I

would certainly hope that Mr. Martinez will have a constant schedule to maintain that we do not get around—we get around a little more often so that we keep up with these things and that they are not always prospective but that we are able to show some results.

You indicate the charges that pile up. I do not know what is going to happen if they keep piling up and we do not get earlier resolution of these cases. We certainly are cooperating by giving you what we think—additional staff. We have done, I think, a good job in way of OFCCP. But, if we do not get some results, we are not going to be able to justify the requests that we make to the Appropriations Committee. And so, in that way, you can cooperate with us.

Mr. Blakemore, I assume that you, also, have an Early Litigation Case program, do you?

Mr. BLAKEMORE. No, we do not have an Early Litigation Program as such. Our enforcement effort works a little bit differently than the EEOC. What Mr. Villareal outlined as the early identification of potential cases is something that is done in this Region. It is not something that we do necessarily in every Region, but the reason that all of us came together last week was to sort of share the different strategies that are being used to do that.

I actually think, though, that the implementation of the task force report from the Solicitors Office which OFCCP and the Solicitors Office participated in together, which we would be more than happy to share with the committee staff and membership, will really help us do more thorough and complete investigations that prepare basically every case for litigation if that is what is needed. Right now, we have a two-track system. We only prepare an enforcement file. If we reach a point in the case that we feel we need to go to enforcement—and one of the recommendations of the task force was to provide, in every case, a case file that could go to enforcement if that is what we really needed to do, and we worked that out in conjunction with the Solicitors Office and that is one of the recommendations that the Solicitor and the Assistant Secretary and I are reviewing presently.

Mr. HAWKINS. Thank you. Thank you.

Mr. MARTINEZ. Thank you, Mr. Chairman. Let me thank both of the witnesses. And in closing, just let me say that one of the things that concerns both myself and the Chairman of the full Committee, is the serious number of complaints we get when people feel that an agency that is supposed to be serving them is not. And maybe there are justifiable reasons; the case overload, the lack of sufficient personnel, et cetera, et cetera. We can make many excuses, but somewhere in the process, we have got to find a way to deal with all of those excuses and rather than have excuses, have results.

I do not want to liken this or make an analogy of any situation of criminal intent with the situation here, but certainly, we have said over and over again, in the case of swift and just punishment as a deterrent to crime, swift and just punishment of people who are discriminating would be a discouragement to those people that are discriminating. And I think that is a trust that we have been given and that is one we should pursue.

I would like to continue our dialogue, and as the Chairman has said, continue our monitoring of the progress that is made, then hopefully, see some developments of progress.

Thank you both for participating and we are now adjourned.

[Whereupon, at 12:40 p.m., the above-entitled matter adjourned.]

[Additional material submitted for [illegible] follows:]

TESTIMONY

AFFIDAVIT/FOIA REQUEST

by

Rodney B. Caulton

To the Subcommittee on Employment Opport· .ies

Chair by the Honorable Matthew G. Martinez

Submitted June 3, 1988

Mr. Matthew G. Martinez
Chairman
Subcommittee on Employment Opportunities
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON EEO LAW ENFORCEMENT

Respectfully, Mr. Chairman, I am RODNEY B. CAULTON, constituent to Congressman Hawkins of the 29th District. I am here today to request a candid and careful investigation as to the fact and evidence presented herein. I would appreciate some straight answers from this Committee as to rights the United States will grant me. Whereas this Committee's offer of representation as counsel is a waiver of the United States Sovereignty Immunity in this matter.

The reasonableness of Congressional intervention on the merits in this case should be based on the fact that there was no other reasonable forum available to Mr. Caulton within territorial jurisdiction and domestic remedies have been exhausted. Within the process of exhaustion of local remedies, the tribunals of the United States under executive pressure rendered judgements against Mr. Caulton improperly in manifest violation of laws of the land, thus going beyond refusal of access to courts.

The Supreme Court of the United States which is created directly by the Constitution, is the court of ultimate review for giving judicial protection against the acts of the executive, willingly shut its eyes, ears and lips to the picayunish cowardice of the Attorney General who cunningly defeated legitimate results of Congressional supply of benefits (public laws, acts, statutes and treaties) as expressed in Title VII, the Civil Rights Acts of 1866, as well as U.S. Const. Amend. XIV 1, 5. The failure of the United States Courts and the Attorney General, to supply benefits where perjury, fraud and conspiracy are MAJOR elements of criminal activity identified herein, can be considered as a source of discrimination against which CONGRESSIONAL PROTECTION is sought and extremely urgent. The refusal of the Judicial and the Executive in this instance to grant the assistance of counsel and the free access to the courts is equivalent to Mr. Caulton's expulsion and denial of citizenship and disenfranchisement, since in this case Mr. Caulton is being deprived of the "SUPREME LAW OF THE LAND." Under the pretense of recognizing equality of rights, the Judicial and the Executive Administrations ultimately have reduced guaranteed civil rights and citizenship of Black Americans to the condition of fixed and adjudicated serfdom.

The Ninth Circuit Court of Appeals erred in its Memorandum in several areas, additionally due process and equal protection clauses of the Fourteenth Amendment are unconstitutionally denied. The Ninth improperly advanced issues not established by the District Court and the scope of its interpretation of the rights and claims of Mr. Caulton. Evidence of the records shows that in Caulton 1 (CV77-4487F), Judge Robert M. Takasugi, on April 10, 1978 (acting for Judge Ferguson) pursuant to stipulation and collusion between counsel for the Hospital and Mr. Caulton's counsel, whereby the Court ordered the complete removal of counsel and the denial of assistance. In view of the "extremely high premium" placed by Congress on the defined role of the trial court §706(e) 2(f)(g)(h), §707(a)(b), §709(c)2 (in part) " . . . If the Commission or the Court . . . may grant appropriate relief." 42 USC §2000e 5 (f)(g)(k), §2000e 6 (b) of Title VII (1972); Also see Robinson v. Lorillard Corp., 444 F.2d 791 (4th Cir. 1971); Rosen v. Public Service Elec. Co., 328 F.Supp. 454 (D.C. N.J. 1970). In Caulton 1, Judge Ferguson rejected the notion that the XIV Amendment applied to Mr. Caulton and offered a watered down subjective version of the individual guarantees of the Bill of Rights. On November 13, 1978, the Court stated:

> . . . The only thing I am telling you is that the EEOC is not on trial . . . and I will not in the course of your trial, receive any evidence concerning the fault of the EEOC. The fault, if there is any in this case, is only the fault of the Good Samaritan Hospital.

Courts of the United States are entitled to all relevant facts in order that it might fulfill judicial duties as authorized by Congress §706(e) 2(f)(g)(k) supra. In Parliament House Motor Hotel v. EEOC, CA. Ala. 1971, 444 F.1335, the court concluded that once charge of racial discrimination in employment has been held sufficient to invoke the procedures of 42 USC § 2000 e 9, the trial court MUST VERY CAREFULLY SCRUTINIZE THE CHARGES TO DETERMINE THE COMPLETE SUBSTANCE OF AGGRIEVED PARTY'S ALLEGATIONS in order to determine the scope of the EEOC's investigation. Mr. Caulton's conclusory assertions of conspiracy are not allegations of fact but statements of legal conclusions, Garland v. Ruskin, D.C. N.Y. 1965, 249 F.Supp. 1977.

The main question under the present heading, therefore, is whether the District Courts and the Appellate Courts (in both actions) made any effort to ascertain the truth or falsity of the charges, which could have been discovered with a minimum of investigation.

STATEMENT OF
PEARL THORNTON
EQUAL OPPORTUNITY SPECIALIST, DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
LOS ANGELES AREA OFFICE

BEFORE THE

COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES
U.S. HOUSE OF REPRESENTATIVES
OVERSIGHT HEARING - LOS ANGELES, CALIFORNIA
MAY 21, 1988

Mr. Chairman and members of the Subcommittee my name is Pearl Thornton. I am an Equal Opportunity Specialist currently employed at OFCCP Los Angeles office. I am sorry I was unable to appear before you on May 21 as expected, but due to the condition of my left leg the doctor recommended that I go home immediately and get off it.

When I first came into OFCCP I had the impression this was an excellent place to work and that with my prior 15 years experience of volunteer community work would be of value in it.

I would like to describe in my own words how I feel the program has progressed or failed in the Los Angeles area office.

In the seventeen years that I have been in this program the last eight years have been the most difficult (in terms of getting cooperation from management in the Los Angeles office and some contractors.) I'd like to sight several instances.

For example, one of the aerospace companys I had reviewed for several years had been in the past and continues not to be in compliance with Executive Order 11246 as amended. I had attempted on several occasions to try to get the company to resolve various problem areas. I was unsuccessful. Each and every time I cited the company they called in attorneys. Management in our office refused to back and uphold my findings, such as accepting five year goals on all job groups instead of three years, regardless of turnover opportunities and hiring percentages.

Approximately a year or so ago a class action complaint was filed against the company; I conducted the investigation. After spending considerable time reviewing the contractor files and obtaining approximately three or four inches of documentation from the complainants, interviewing, etc., I examined and evaluated all the data, and found that the company had violated the Executive Order's mandates and that discriminatory practices were being used. I proceeded to write the findings up and prepare the notification of violation for issuance. Management requested that I turn everything in as it was, which

I did, over protest. The company was issued a letter of no-violation. The company attorneys are now boasting in writing that OFCCP found no discrimination. Wrong. The EOS who conducted the investigation found discriminatory practices and lots of violations. The complainants were not made whole and the company received an inaccurate letter of findings.

I conducted a thorough investigation to insure that the contractor as well as the complainants received a fair and impartial review process. I had received many complaints regarding management in personnel, their hiring practices, policies and procedures, stated insensitivity towards minorities and women by the personnel management.

When I look back at what I consider a good example, I had spent a lot of time sitting on the hard chair surfaces at the company which caused me a great deal of pain and swelling of my left leg. So I asked the personnel manager (whom I had worked closely with for at least 8 to 10 years during previous compliance reviews) if he would let me use a soft cushion from one of the chairs. He looked at me and said "Pearl why don't you bring your own pillow" I replied "I would if I had one". I realize that it is not the contractor's obligation to make accomodations for my disability; but it was the insensitivity that was prevalent which was one of the issues previously brought out by employees during compliance review interviews. In my opinion, sensitivity certainly helps when working with equal opportunity and affirmative action.

A second example: An aerospace company, one in which I had previously conducted a compliance review was accused of discrimination by three separate class action complaints. I was assigned these class action complaints and proceeded to develop the data required to conduct the investigation. I met with hostile resistance from the contractor which ultimately resulted in a letter writing campaign against me.

The contractor never submitted the data requested which is covered in the OFCCP manual as being acceptable. Continuing in my attempt to conduct the investigation we were suddenly involved with corporate attorneys. Prior to 1981 we prepared our findings and then the attorneys became involved.

In this case OFCCP management saw fit to set up meetings with the attorneys without my knowledge and prior to any investigation. There was nothing to discuss with attorreys, yet management asked that I submit all of the complainants statements for that meeting. My question "since when did we stop protecting the confidentiality of complainants? or share the data they intrusted to us? Since when did we stop trying to protect their right to file a complaint or not be harassed, intimidated and maybe fired"? That information was explicit, named names of managers, supervisors and other employees. This information was gathered for OFCCP to expedite time and move the investigation more rapidly. Management seemed determined to share this confidential information with the Corporate attorneys.

It has always been my thought that the contractor was only privy to a copy of the complaint. In this case the Corporate attorneys did not meet with the EOS and obtain the confidentia' information. Management was very irratated and asked me to turn over the cases, which I did. The complainants upon hearing that I was removed from the cases wrote a letter to a State Senator asking why

I had been removed from the case, that as far as they knew I was still working on other cases and had not been charged with anything. Immediately after management received a copy of that letter they did everything to me mentioned in that letter: (1) they took all my other cases away from me (no matter what stage the case was in); (2) I was charged with refusing to turn over sensitive information. For these trumpted up charges I was demoted an entire grade level and six steps. Many years ago I was trained and told,"We are here to see that affirmative is implemented", etc.

A third example: An Entertainment Contractor: I conducted a regular compliance review. In the process the contractors files and interviews with employees revealed nepotism, favortism and discriminatory practices. I had a great deal of difficulty with the contractor from the beginning; an attorney who worked for the contractor called. He yelled and screamed at me about their not having government contracts. I explained to him that we had a microfiche system which we were required to use and contracts had been identified. He proceeded to ask for my supervisor. He yelled and screamed at my supervisor who told him that he was not hard of hearing and to give him a chance to speak. I was then contacted by another company attorney, a black female. I went onsite and continued with the review. At this point much of the data requested was not available or in poor order. Questions that could not be answered by the attorney were left unanswered at that point. Later I was introduced to the person I was told was the one in charge of affirmative action.

The contractor prepared a personnel roster that I had to cut and paste together in order to have all the information to select names at random for interviews and file folders. I completed the onsite and prepared the letter of deficiency. At the exit conference the contractor had obtained the services of an attorney from one of the law firms. I discussed each item, the attorney responded etc.

After the exit conference this attorney started writing character assassination letters against me and the findings. A conciliation agreement had been requested by me and the attorney tried to cloud the issues by trying to discredit me. I wrote a twenty-seven page deficiency letter itemizing by name who by relationship was promoted over whom, who by relationship received additional salaries vs. the minorities etc. All of my information had documentation.

OFCCP management cut me completely out of all except one conciliation meeting overriding my decisions regarding several of the identified affected class members and the resolutions for making them whole.

Ultimately the conciliation agreement read different than the one I prepared. I was not given the opportunity to review the conciliation agreement.

There were many complaints filed with community organizations against this company. In my opinion management let the contractor develop its own conciliation agreement leaving issues partially resolved or not resolved at all.

I have had other cases closed by management (not supervision) with a total disregard for the findings. The contractor received a no deficiency letter.

Being a large contributor to meeting the program plan, I resent my cases being closed with no deficiencies when my hard work, efforts and commitments to the program have proven otherwise.

I don't know EOSs across the country but I do know thos who work and have worked in the Southern California offices many of whom I've worked with 17 years. I have seen the commitment of many EOSs like myself who do the very best job that they can. There isn't a person in the program that knows a contractor's status, profile and compliance status better than the EOS that has conducted a thorough compliance review and/or investigation.

In my opinion, if it was not for those EOS's who did their jobs through all obstacles, those in management and supervision who gave them the support and help to do the job, and the contractors that were dedicated to the concept of the program, there wouldn't be any affirmative action or equal opportunity.

The program works when you have individuals in management who are committed to the law and help in every way that they possibly can to support the EOSs. When there are a few bad apples in a bushel of good ones you throw the bad apples out to save the rest.

When I was still in the 3 year training program, I reviewed an aerospace company. There was a supervisor who was accused of harassing the women and minorities in his department. The president asked me what he should do to stop the man. I told him that I couldn't tell him what would work but if the president or top on-site official says, "I will not tolerate this type of behavior, Stop it immediately or go out the front door" that settles it. Commitment comes from the top. He thanked me and hopefully he took his stand. The next time I returned that situation did not exist.

There are contractors whose presidents, vice-presidents, management and supervisors are working for affirmative action and equal employment, many because they believe in it and because its right. It shows in the workforce analysis, the EEO-s, the interviews of personnel, among other things.

One contractor in particular which will always be remembered had an international workforce in all categories, departments and job titles. During the tour of the facilities, I commented to the Human Resources Director how seldom I review a contractor with a workforce so affirmative action orientated. He stated that the president would not tolerate discrimination.

The president of that company could have talked all day about how sincere he was and what he believed in, but the proof was in the pudding. He practiced what he preached.

Some of the entertainment contractors are improving. When you take a look at what their profiles were fifteen or twenty years ago they have come a long way.

The Executive Order was made law for all to uphold; not some, not a few, but all who are under those guidelines. It isn't fair that some do and others don't.

There is a song "I don't want to live in a world without love." Well you shouldn't want to live in a world without equal opportunity. The training for EOS's when I came into the program was not as defined and explanatory as it is today. Some of us learned the hard way. You were given a copy of the guidelines and the manual and told to read. After some time of reading you were assigned to a senior EOS who along with their work load took us on-site and we assisted with some of the on-site data. We helped with the preparation of the off-site data and report.

We learned enough to be able to conduct full scale compliance reviews and investigations. Within that three year training period, our skills increased and we were promoted accordingly to the top of the EOS journey level. In my opinion the current training for EOSs is excellent. It provides not only the guidelines with instructions in writing on how to follow the Executive Order and the manual, but detailed training sessions, seminars and conferences which includes written updated material for the training manual that they have provided for us.

Everytime I complain about the injustices, closures of cases, mistreatment of co-workers, etc., I get the "ole fickled finger of fate." I haven't been able to get a transfer no promotion just demotion. No accomodation for a handicap condition. Management has known about this condition for years. They don't refuse; they don't make any accomodations for me. Affirmative action should begin in our offices. The contractors have been more sensitive to my health than management has. Is this a "do as I say and not as I do" program?

Over the years I've experienced all kinds of attitudes from contractors and I have to say that the majority of them were courteous, considerate and cooperative. They might have called me something else besides Pearl behind my back, but they were professional in my presence and I appreciate that.

Many EOSs have complained of being treated with disrespect by the contractors, but those few instances for me changed before the review was over. There is no law that says you have to love an EOS, but give them respect when they come in.

It is my opinion that it would help eliminate the overflow of complaints to EEOC if within a given time, i.e. 30 days, 60 days etc., a number of complaints are received against the same contractors, with the same issues, they should be combined and assigned to OFCCP (It is a class action complaint)

I have made suggestions to management on ways to improve the morale (which in my opinion remains at an all time low) to improve our working relationship with EEOC. I am always ignored.

I believe the Los Angeles Area Office EOSs have done a commendable job, many of whom have, in my opinion, been under the axe for quite a few years, experiencing harassment, intimidation, cruel treatment by a person in management. They have managed to do their jobs and make management look good on paper. Management who, in my opinion, right or wrong, continues to receive awards for stomping the employees into the ground.

There have been many complaints and cries for help including a threat on the life of a person. Personally, I would hate to think that anyone has let

this situation get to the point of a threat like this. It would be a sad day for a life to be taken because no one was willing to listen or do something about it. I don't believe anyone would feel comfortable after a tragedy such as that. Let's do something people before someone goes off and makes a mistake that could affect all of us.

The Los Angeles Area Office has a unique opportunity to make a difference in EEO because Los Angeles County is a melting pot of nationalities, ethnic backgrounds and races. We have a commitment to help abolish discrimination in all forms.

Affirmative Action and Equal Opportunity not only benefits minorities and women; handicapped persons come in all colors and sexes. Veterans come in al' colors and sexes. Elderly persons come n all colors and sexes.

To those in the contractor community who believe in the concept of affirmative action and equal opportunity you have helped us do our jobs, you have made a difference in the job market toward affirmative action and equal opportunity. Thank God for you.

As a famous boxing promoter always says: "Only In America" In America a great country we have the freedom to chose where we wish to worship, our occupation, lifestyle and many other wonderful things.

We can also give people of all races, creeds, nationalities, women, veterans, the handicapped and people of all ages a chance for equality. The law is here. It is enforceable. It is right.