

CHAPTER 11
DISCRIMINATION AGAINST BLACKS¹

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The Civil Rights Act of 1964 began as an effort to finally end a legacy of oppression against Black people that began before the founding of the nation. The legacy was rooted in race slavery, and the movement to end it had started among Whites by 1760 when James Otis had argued, in Massachusetts, "The Colonists are by the law of nature free born, as indeed all men are, white or black."

It had continued with the equality principle of the Declaration of Independence and the creation of a slave-free Northwest Territory in 1787 whose soldiers and votes had been crucial in the Civil War that ended formal slavery. The effect of that effort was blunted by political compromise in 1877, withdrawing U. S. troops from the south. Southern states came as close as they could to resurrecting slavery.¹²² In the Civil Rights Cases, the Supreme Court reduced the northern victory in the war to allowing former slaves and their dependents a "legal personality" that was virtually without substantive rights.¹²³ For eighty years,

1. The EEO-1 definition of Black is "(Not of Hispanic origin)_All persons having origins in any of the Black racial groups of Africa." See Appendix to National Report. The term "African American" has come into common usage, but has not replaced "Black." We use the term "Black" throughout this study, to conform to the data in the EEO-1 report.

former slaves and their descendents lived in this shadow world of oppression, a period the Supreme Court has recently called “an unfortunate and ignominious page in this country’s history.”¹²⁴

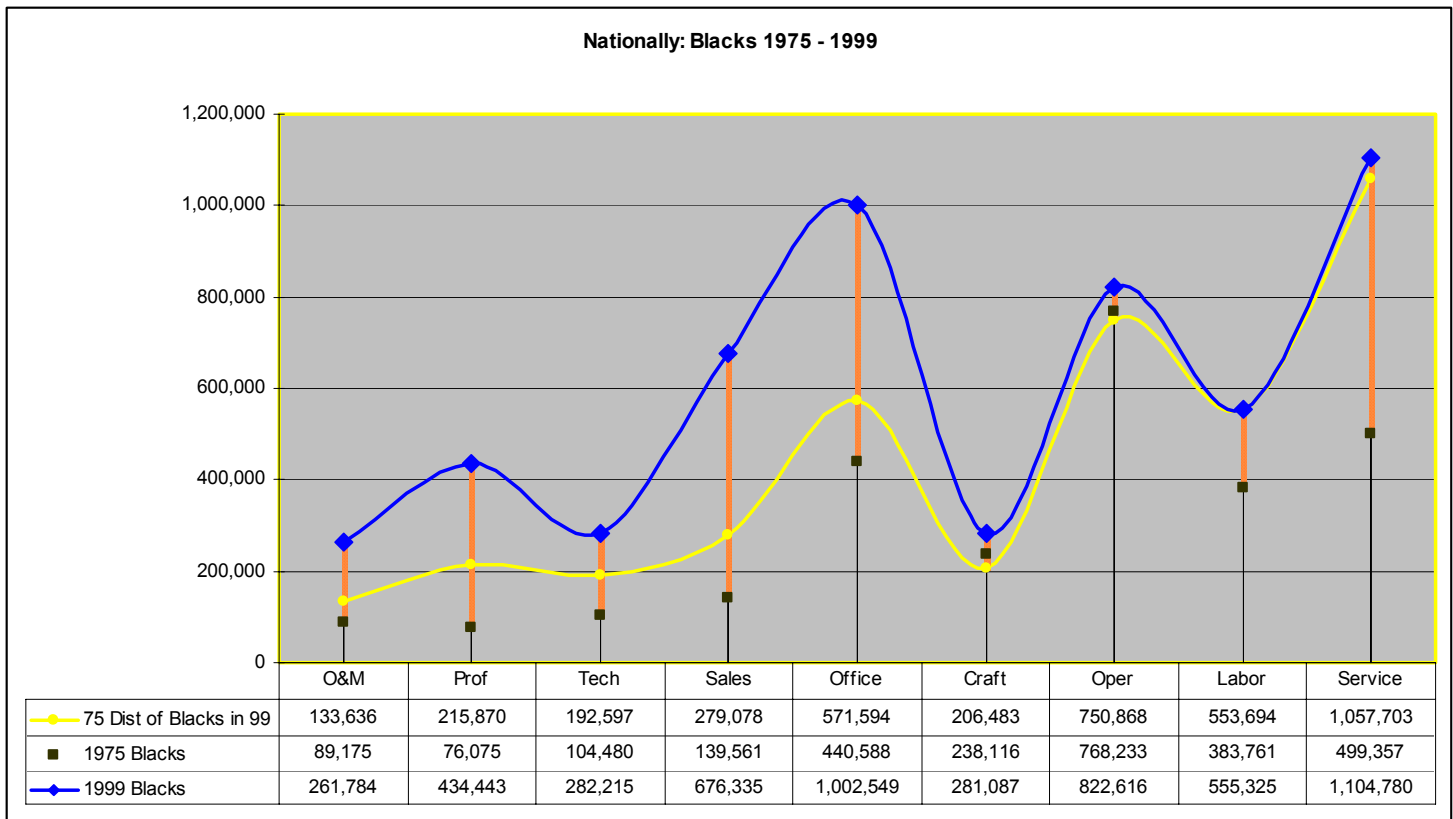
The Civil Rights Act of 1964 ended the compromise of 1877. The Civil Rights Movement generated an Act that was based on a far broader principle than protecting the descendants of slaves; it vowed to end not only race discrimination, but color discrimination as well, thus extending its reach to all non-whites. It went further: embracing women, thus laying the foundation for modern law to replace ancient concepts of female subordination, and religion to address the scars of non-believers and of those whose faiths were uncommon here. It also provided protection for the dominant classes of Whites and Males.¹²⁵ It provided precedent for protecting against age and disability discrimination. The principle of equality is now on a footing as sound as the Constitution itself. It is irreversible because of the voting rights act. As has happened often in our history, the sufferings of one group had brought legal redress to many, including women, older workers and disabled persons. But establishing a principle and seeing it implemented in daily life are quite different matters.¹²⁶

§1. IMPROVEMENT IN JOB OPPORTUNITIES FOR BLACK WORKERS SINCE 1975.

There has been improvement in job opportunities for Black workers since the Civil Rights Act was passed. In 1975, Title VII – the equal employment opportunity provision of the 1964 Civil Rights Act – had been in effect for only a decade. Many employer practices that had subordinated minorities and women were still clearly traceable to their roots in the pre-65 era when such oppression was legal. But change was afoot, as Herbert Hammerman’s study of the 1970-1980 period shows.¹²⁷ This study takes up in 1975, but it addresses a narrower aspect of employment opportunity – the extent of intentional employment discrimination. That discrimination was the “most obvious evil” to which the law was directed.¹²⁸ The improvement in opportunities that occurred between 1964 and 1999 created over that time an increased pool of qualified and available minorities and women workers in virtually every field of endeavor. The findings of this study build on the improvement in minority and female opportunity that created a larger labor pool of qualified and available workers and a culture better structured to receive them.

Table 1. Changes in Black Job Distribution in EEO-1 Labor Force, 1975 – 99

BLACKS										
	O&M	Prof	Tech	Sales	Office	Craft	Oper	Labor	Service	All
1975 Blacks	89,175	76,075	104,480	139,561	440,588	238,116	768,233	383,761	499,357	2,739,346
1975 All Groups	2,712,997	2,220,476	1,269,851	2,340,845	4,365,745	3,188,002	4,683,252	1,798,075	2,064,301	24,643,544
1975 % of All Groups	3.29%	3.43%	8.23%	5.96%	10.09%	7.47%	16.40%	21.34%	24.19%	11.12%
1999 All Groups	4,065,634	6,300,816	2,340,820	4,680,944	5,663,873	2,764,488	4,577,393	2,594,281	4,372,459	37,360,708
75 Dist of Blacks in 99	133,636	215,870	192,597	279,078	571,594	206,483	750,868	553,694	1,057,703	4,152,970
1999 Blacks	261,784	434,443	282,215	676,335	1,002,549	281,087	822,616	555,325	1,104,780	5,421,134
Net Change	128,148	218,573	89,618	397,257	430,955	74,604	71,748	1,631	47,077	1,268,164



How well has society served its original intended beneficiaries of equal employment opportunity laws – the descendants, directly or indirectly, of Black slaves? This Chapter addresses a narrow part of that question, dealing with intentional job discrimination against Blacks in the EEO-1 labor force, consisting of employers of 50 or more workers in establishments located within metropolitan areas.

§2. INTENTIONAL DISCRIMINATION IN 1999

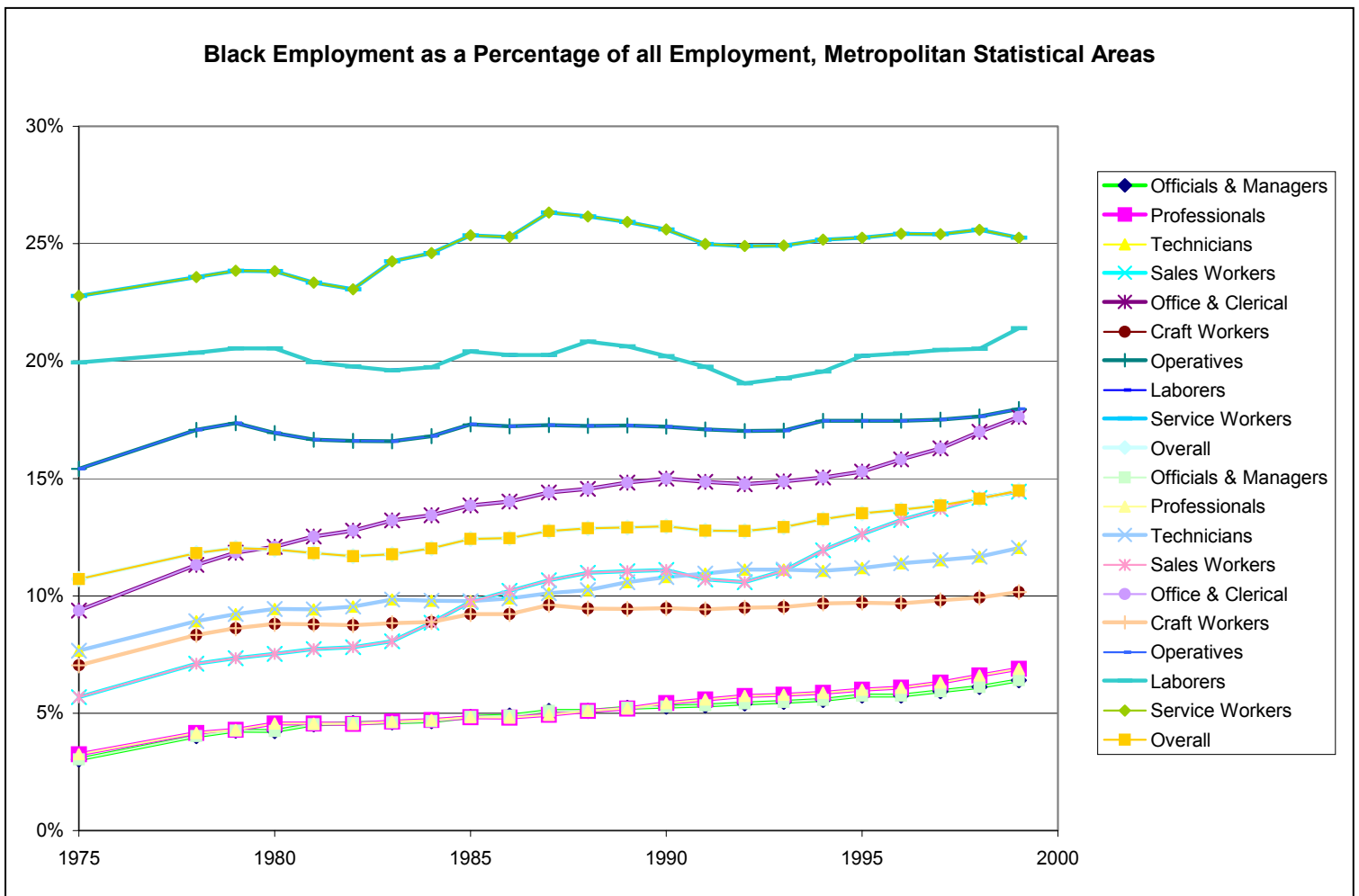
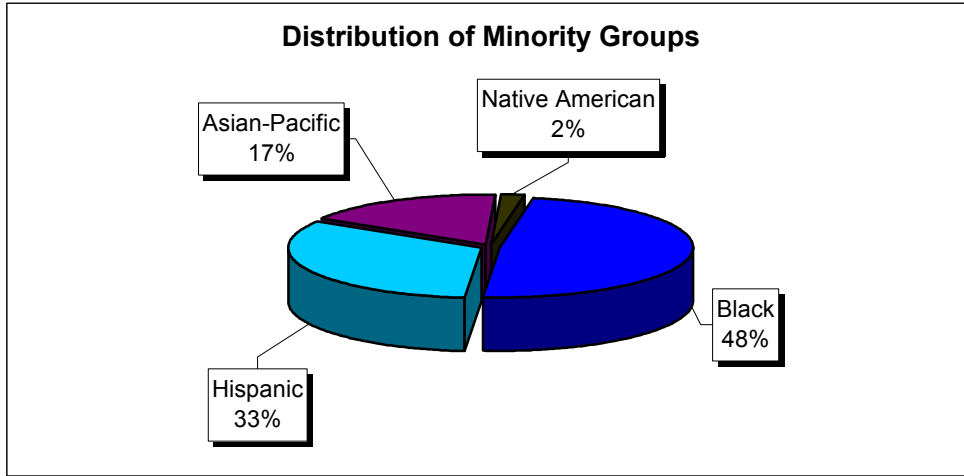
This Chapter is concerned with intentional job discrimination against qualified and available Black workers. This discrimination is measured by comparing the average employment of qualified Black employees in the same labor market, industry and occupation to identify any establishment that employs so few that it stands out like a sore thumb. Thus we are not concerned with root problems of poor education, poverty, welfare or other social ills often cited as the causes of inferior social and economic status. We have reached two key findings that suggest that Blacks continue to be the most discriminated against minority group in the country.

- 1. For 1999, 35,870 or 26.6% of establishments visibly discriminated against Blacks in at least one occupational category. This discrimination affected 586,771 Blacks who were qualified and available to work in the labor markets, industries and occupations of those who discriminated.**
- 2. For 1999, the discrimination against Blacks was most severe in terms of numbers of establishments discriminating, numbers of affected workers and proportion of the Labor Force of Blacks compared to the total Black Employment in the EEO-1 Labor Force.**

Race/ethnic group	Distribution of minority employees by group	Distribution of Affected Workers by Minority Group		Affected Workers as percent of each minority group
		#	%	
Black	49%	586,771	57%	15%
Hispanic	33%	283,150	28%	11%
Asian-Pacific	17%	149,214	15%	11%
Native American	2%	1,983	0%	1%
All	100%	1,021,118	100%	12%

Table 2. Distribution of minority employees by group.

(Differences from table above are due to rounding.)



The first conclusion that flows from Tables 1 and 2 is that Black workers – African Americans in the language of 2002 – continue to suffer the most severe extent of intentional job discrimination. At the national level, they constitute 57% of the minority victims of discrimination, while they are only 49% of the minority labor force. Discrimination affects 15% of the Black labor force, considerably higher than the 11% suffered by both Hispanics and Asians.¹²⁹

Table 3. Discrimination against Blacks by Occupation

Discrimination Against Blacks, by Occupation -- 1999			
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	Number of Affected Workers
O & M	26.6%	2,070	15,236
Prof	27.6%	3,305	44,162
Tech	29.1%	2,310	29,341
Sales	39.5%	9,574	126,159
O & C	31.8%	7,226	98,833
Craft	28.7%	1,956	18,195
Oper	33.2%	4,941	67,250
Labor	34.9%	3,120	39,830
Service	40.3%	9,209	147,765
All Comparisons	34.1%	43,711	586,771
Any Occupation	41.0%*	34,107	*
Notes: An establishment "discriminates" if its employment of minorities in the occupational category is 1.65 standard deviations below the industry mean of the establishment's MSA.			
*This represents the number of establishments that discriminate in any occupation. Due to establishments discriminating in more than one occupation, this number is not equal to the sum of the number of establishments that discriminate in each occupation.			

The largest numbers of affected workers are in semi and unskilled workers, sales, service. These are areas of substantial availability. But in Officials and Managers, Professionals, Technical and Craft Workers, where availability is less, the proportion of discrimination is accordingly lower.

This further illustrates that a low level of discrimination may be symptomatic of a limited number of Blacks in the occupational category involved.¹³⁰ The lowest proportion of discrimination is found in officials and managers, where it is 27 percent. The top three categories (officials, professionals, technical) with relatively small numbers of affected workers, has rates of discrimination in the high 20's. But in the area of traditionally black jobs (operatives, laborers and service) the discrimination is in the 30+% range.

§3. BACKGROUND OF THIS STUDY

Each year, private sector employers of more than 100 employees and government contractors of more than 50 employees are required to file a report, named EEO-1, on the race, sex, and ethnic composition of its workforce by nine occupational categories.¹³¹

This study describes the extent of intentional job discrimination among private sector establishments in metropolitan areas with 50 or more employees who have filed EEO-1 reports in metropolitan statistical areas (MSA's). It includes discrimination by occupational category and by industries for which we have sufficient data. The industries are identified by the Standard Industrial Classification system, 1987 (SIC). The definitions of MSA and SIC are set forth in Part I of the National Report, and in its Appendix.¹³² The analysis of employer EEO-1 reports is explained in Part I of the National Report. See the National Report, Part I for a full explanation of the definitions and methodology used in this study.

This study has identified the average – mean – use of minorities or women by industry and occupation in a labor market of all establishments that have 20 or more employees in the occupational category in the same industry. All establishments in that industry and occupation are then compared to the mean. Table 1 is an example of such a comparison, taken from an earlier report in the State of Washington. It graphically explains why we call this a “sore thumb” diagram.

§4. THE VARIETIES OF INTENTIONAL DISCRIMINATION

“Intentional Discrimination” exists “when a complaining party demonstrates that **race, color, religion, sex or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.**”¹³³ This means that the intent need not be the sole factor in an employment decision. It is enough to show that it was one of the motivating factors. If an employer has both a legitimate reason for its practices and also a discriminatory reason, then it is engaged in intentional discrimination under the Civil Rights Act.

Intentional discrimination may exist when an establishment’s utilization of minorities or women is so far below the average in the same metropolitan area and industry, and in the same occupational category, that it is unlikely to have occurred by chance. The legal significance of statistical evidence varies with the distance an establishment falls below that average as measured by standard deviations; a statistical measure of the probability that an observed event occurred by chance.

Table 5. Probabilities of Discrimination and Legal Presumptions

Standard Deviations	Probability		Described in this study as:	Legal effect
	Chance	Not chance		
1.65	1 in 10	90%	At Risk	Admissible if relevant; weighed with all other evidence; worker must prove that he/she was discriminated against.
2.0	1 in 20	95%	Presumed	Admissible; creates presumption of discrimination; employer must prove it had only legitimate non-discriminatory reasons. As the probability of result occurring by chance declines, the presumption of discrimination strengthens and raises the risk that employer will lose litigation; most such cases settle.
2.5	1 in 100	99%	Clearly Visible	
2.5 over 10yrs			Hard Core	

This study identifies four degrees of intentional job discrimination depending on the statistics in particular situations.

A. AT RISK DISCRIMINATORS.

“At Risk” discriminators are so far below average in an occupation that there is only a one in ten (10%) chance that the result occurred by accident (1.65 standard deviations) in 1999 plus fact specific evidence relating individual complainants to the occupation addressed by the statistics. The statistics play a supporting role. We do not know the specific facts in those situations and therefore report no “affected workers” in this category.

Table 6. "At Risk" Discrimination Against Blacks--1999

"At Risk" Discrimination Against Blacks--1999			
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	Number of Affected Workers
O & M	7%	548	NA
Prof	6%	698	
Tech	6%	444	
Sales	5%	1,320	
O & C	5%	1,206	
Craft	5%	369	
Oper	5%	747	
Labor	5%	441	
Service	5%	1,099	
All Comparisons	5%	6,872	
Any Occupation	6%	4,838	

Notes: An establishment is an "At Risk" discriminator if its employment of minorities is 1.65 to 2 standard deviations below the industry mean in the occupation and MSA.

* This represents establishments that discriminate in any occupation. Because some establishments discriminate in more than one occupation, this number is smaller than the sum of the establishments that discriminate in each occupation

B. PRESUMED DISCRIMINATORS.

“Presumed” discriminators are so far below average in an occupation that there is only a one in twenty (5%) chance that the result occurred by accident (2 standard deviations). Intentional discrimination is presumed by law at this level, subject to the employer demonstrating that it had a legitimate non-discriminatory reason and overcoming the presumption of discrimination. Number of affected workers is identified.

Table 7. "Presumed" Discrimination Against Blacks--1999

Presumed Discrimination Against Blacks--1999			
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	Number of Affected Workers
O & M	9%	671	3,664
Prof	8%	916	6,006
Tech	7%	518	3,308
Sales	8%	1,930	13,017
O & C	7%	1,658	10,821
Craft	9%	588	3,318
Oper	7%	969	6,058
Labor	7%	612	3,514
Service	7%	1,629	11,147
All Comparisons	7%	9,491	60,854
Any Occupation	8%	6,941	

Notes: An establishment is a "Presumed" discriminator if its employment of minorities is 2 to 2.5 standard deviations below the industry mean in the occupation and MSA.

* This represents establishments that discriminate in any occupation. Because some establishments discriminate in more than one occupation, this number is smaller than the sum of the establishments that discriminate in each occupation

C. CLEARLY VISIBLE DISCRIMINATORS.

“Clearly Visible” discriminators are so far below average in an occupation that there is only a one in one hundred (1%) chance that the result occurred by accident (2.5 standard deviations) in 1999. Number of affected workers is identified.

Table 8. "Clearly Visible" Discrimination Against Blacks--1999

Clearly Visible Discrimination Against Blacks--1999			
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	Number of Affected Workers
O & M	7%	564	6,564
Prof	9%	1,022	16,107
Tech	9%	736	10,785
Sales	12%	2,937	42,216
O & C	11%	2,497	41,054
Craft	8%	580	6,831
Oper	13%	1,889	28,188
Labor	15%	1,379	21,285
Service	14%	3,229	55,906
All Comparisons	12%	14,833	228,935
Any Occupation	14%	12,032	

Notes: An establishment is a "Clearly Visible" discriminator if its employment of minorities is 2.5 standard deviations or more below the industry mean in the occupation and MSA.
 * This represents establishments that discriminate in any occupation. Because some establishments discriminate in more than one occupation, this number is smaller than the sum of the establishments that discriminate in each occupation

D. HARD CORE DISCRIMINATORS.

“Hard Core” discriminating establishments demonstrate a severe statistical case of discrimination that has existed over a long period of time. They are so far below average in an occupation that there is only a one in one hundred chance that the result occurred by accident (2.5 standard deviations) in 1999 and in either 1998 or 1997, and in at least one year between 1991 and 1996, and was not above average between 1991 to 1996. Included are establishments that are more than 2.5 standard deviations below the mean and have been so for longer than ten years.

Table 9. "Hard Core" Discrimination Against Blacks--1999

Hard Core Discrimination Against Blacks--1999			
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	Number of Affected Workers
O & M	4%	287	5,009
Prof	6%	669	22,048
Tech	8%	612	15,248
Sales	14%	3,387	70,926
O & C	8%	1,865	46,958
Craft	6%	419	8,046
Oper	9%	1,336	33,003
Labor	8%	688	15,032
Service	14%	3,252	80,712
All Comparisons	10%	12,515	296,982
Any Occupation	12%	10,296	
Notes: An establishment is a "Hard Core" discriminator if its employment of minorities is 2.5 standard deviations or more below the industry mean in the occupation and MSA over 9 years. * This represents establishments that discriminate in any occupation. Because some establishments discriminate in more than one occupation, this number is smaller than the sum of the establishments that discriminate in each occupation			

Ninety percent of the discrimination against Blacks (525,917 of 586,771) that we have identified has been engaged in by establishments that were 2.5 standard deviations or more below the average utilization of Blacks in the same labor market, industry and occupation. There is only one in 100 probability that this resulted by chance.

E. SUMMARY OF VISIBLE JOB DISCRIMINATION AGAINST BLACKS

Table 10. Degrees of Intentional Discrimination against Blacks and the Number of Workers Affected

Degree	Establishments		Affected Workers
	#	%	
Hard Core	10,296	10%	296,982
Clearly Visible	12,302	12%	228,935
Presumed	6,941	7%	60,854
At Risk	4,838	5%	NA*
Total	34,377 **		586,771
* Affected workers are not identified with “At Risk” discrimination.			
** Actual number of establishments may be lower because this number may include employers who discriminate in more than one degree of discrimination against Blacks in different occupations.			

**§5. THE RISK OF DISCRIMINATION AGAINST BLACKS
 BY OCCUPATION**

Column A in the table below describes in stark form the burden of appearing to be Black, no matter what kind of job is sought in metropolitan United States. The percentages reflect the probability that a Black person will face discrimination in the occupational category in which he or she seeks an employment opportunity. The discrimination may take any form; denial of initial employment, job assignment, promotion, pay, layoff discipline and termination. The EEO-1 data does not address the specific forms of discrimination.

Table 11. Occupational Discrimination against Blacks -- 1999

Discrimination Against Blacks, by Occupation – 1999			
	A	B	C
	Percentage of Establishments that Discriminate	Number of Establishments that Discriminate	# of Affected Workers
O & M	26.6%	2,070	15,236
Prof	27.6%	3,305	44,162
Tech	29.1%	2,310	29,341
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Oper	33.2%	4,941	67,250
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Service	40.3%	9,209	147,765
All Comparisons	34.1%	43,711	586,771
Any Occupation	41.0%*	34,107	*

Notes: An establishment "discriminates" if its employment of minorities in the occupational category is 1.65 standard deviations below the industry mean of the establishment's MSA.

*This represents the number of establishments that discriminate in any occupation. Due to establishments discriminating in more than one occupation, this number is not equal to the sum of the number of establishments that discriminate in each occupation.

§6. THE INCIDENCE OF DISCRIMINATION AGAINST BLACKS BY INDUSTRIES – CRATERS IN THE PLAYING FIELD

Each establishment describes its principal product or activity on its EEO-1 form. Establishments are then classified by industry in accordance with the 1987 *Standard Industrial Classification (SIC) Manual*, Office of Management and Budget. This is a classification structure for the national economy. It provides data according to the level of detail, from the general to the quite specific. For example, manufacturing is a major industrial division; food and kindred products (Code 20) is one of its major groups. One of the ways this group is further divided is into meat products (Code 201) and meat packing plants (Code 2011).¹³⁴ The major industrial divisions are identified by 1-digit codes, major groups by 2 digits, and further subdivisions by 3 and 4 digits. The major divisions in the private sector are: Agriculture, Forestry and Fishing; Mining; Construction; Manufacturing; Transportation, Communications, Electric, Gas and Sanitary Services; Wholesale Trade; Retail Trade; Finance, Insurance and Real Estate; and Services. The SIC numbers in the following table refer to that classification system. Appendix B in the National Report contains a list of SIC codes including the 1, 2, and 3 digits used in this report. The following table uses the three-digit level of generalization.

The following table identifies those industries that discriminate at two standard deviations or more against more than a thousand Black workers. (A table of the 206 industries that discriminate against Black workers appears in Chapter 15.) The industries are ranked by the number of affected workers. “Affected Workers” are the difference between the number of Black workers in an establishment that discriminates at the two standard deviation level or greater, and the number that the establishment would have employed if it had been employing at the average in the same industry, labor market, and occupational category. Ranking by “affected workers” places the industries with the most jobs toward the top of the list. Thus Health Services, Eating and Drinking Places, General Merchandise Stores and Food Stores appear at or near the top of such lists in part because of the extensive employment in those industries.

The third column shows the proportion of comparisons that show discrimination at 1.65 standard deviations or more in these same industries. This reflects the probability or risk that a Black worker will face discrimination when he or she seeks an employment opportunity in that industry.

Following the table will be an analysis of the “*Affected Worker*” column highlighting establishments with the largest numbers of affected Black workers,

and the “*Comparisons with Discrimination*” Column showing the industries which have the highest and lowest probabilities of discriminating against a Black worker.

Table 12. Top 1/3 Industries Discriminating against Black Workers.

Top one third of industries discriminating* against Black Workers, by number of affected workers				
SIC	Industries	Affected Workers		Discrim. Risk **
		Rank	#	%
806	Hospitals	1	89,314	41%
581	Eating and Drinking Places	2	55,591	43%
541	Grocery Stores	3	53,333	41%
531	Department Stores	4	50,959	37%
805	Nursing and Personal Care Facilities	5	39,429	35%
602	Commercial Banks	6	20,131	37%
481	Telephone Communication	7	19,857	32%
701	Hotels and Motels	8	17,960	29%
421	Trucking & Courier Services, Ex. Air	9	15,842	35%
371	Motor Vehicles and Equipment	10	14,470	36%
533	Variety Stores	11	9,924	34%
451	Air Transportation, Scheduled	12	8,597	30%
737	Computer and Data Processing Services	13	8,206	28%
809	Health and Allied Services	14	6,767	35%
632	Medical Service and Health Insurance	15	5,751	28%
521	Lumber and Other Building Materials	16	5,551	37%
514	Groceries and Related Products	17	4,783	34%
308	Miscellaneous Plastics Products	18	4,662	33%
633	Fire, Marine, and Casualty Insurance	19	4,012	22%
832	Individual and Family Services	20	3,630	35%
808	Home Health Care Services	21	3,465	32%
836	Residential Care	22	3,449	33%
594	Miscellaneous Shopping Goods Stores	23	3,216	36%
864	Civic and Social Associations	24	3,019	47%
367	Electronic Components and Accessories	25	3,001	33%
801	Offices & Clinics Of Medical Doctors	26	2,987	33%
631	Life Insurance	27	2,972	31%
751	Automotive Rentals, No Drivers	28	2,805	31%
641	Insurance Agents, Brokers, & Service	29	2,768	30%
415	School Buses	30	2,670	52%
484	Cable and Other Pay TV Services	31	2,536	36%
422	Public Warehousing and Storage	32	2,414	28%
346	Metal Forgings and Stampings	33	2,338	40%
491	Electric Services	34	2,295	29%
621	Security Brokers and Dealers	35	2,277	29%
539	Misc. General Merchandise Stores	36	2,170	33%
271	Newspapers	37	2,094	37%
591	Drug Stores and Proprietary Stores	38	2,021	40%
208	Beverages	39	2,004	25%

Top one third of industries discriminating* against Black Workers, by number of affected workers				
SIC	Industries	Affected Workers		Discrim. Risk ** %
		Rank	#	
504	Professional & Commercial Equipment	40	1,984	26%
275	Commercial Printing	41	1,984	31%
873	Research and Testing Services	42	1,926	27%
573	Radio, Television, & Computer Stores	43	1,914	27%
833	Job Training and Related Services	44	1,902	37%
811	Legal Services	45	1,874	21%
871	Engineering & Architectural Services	46	1,792	25%
331	Blast Furnace and Basic Steel Products	47	1,758	35%
783	Motion Picture Theaters	48	1,747	42%
201	Meat Products	49	1,720	33%
283	Drugs	50	1,718	25%
205	Bakery Products	51	1,677	32%
344	Fabricated Structural Metal Products	52	1,660	33%
401	Railroads	53	1,640	27%
565	Family Clothing Stores	54	1,577	40%
267	Misc. Converted Paper Products	55	1,511	30%
839	Social Services	56	1,498	36%
732	Credit Reporting and Collection	57	1,454	39%
372	Aircraft and Parts	58	1,443	34%
265	Paperboard Containers and Boxes	59	1,384	26%
501	Motor Vehicles, Parts, and Supplies	60	1,354	30%
489	Communication Services	61	1,322	27%
596	Nonstore Retailers	62	1,319	35%
616	Mortgage Bankers and Brokers	63	1,314	26%
357	Computer and Office Equipment	64	1,310	28%
366	Communications Equipment	65	1,269	20%
458	Airports, Flying Fields, & Services	66	1,253	33%
569	Misc. Apparel & Accessory Stores	67	1,226	32%
373	Ship and Boat Building and Repairing	68	1,217	39%
495	Sanitary Services	69	1,186	28%
349	Misc. Fabricated Metal Products	70	1,174	33%
209	Misc. Food and Kindred Products	71	1,119	35%
615	Business Credit Institutions	72	1,110	34%
251	Household Furniture	73	1,104	32%
653	Real Estate Agents and Managers	74	1,096	33%
872	Accounting, Auditing, & Bookkeeping	75	1,081	22%
225	Knitting Mills	76	1,043	34%
384	Medical Instruments and Supplies	77	1,012	27%
603	Savings Institutions	78	983	31%
221	Broadwoven Fabric Mills, Cotton	79	942	33%
*	Discrimination at 1.65 standard deviations below average utilization in labor market, industry and occupation.			
**	Probability of discrimination based on Comparisons.			

§7. ANALYSIS OF RANKING BY NUMBER OF AFFECTED BLACK WORKERS

- The above table only includes the 79 industries that discriminated against the largest number of affected Black workers in 1999. There were a total of 236 industries that discriminated against 586,771 Black workers that year.
- **Ten industries accounted for 376,886 of the 586,771 Black workers or 64% of those affected by discrimination.**

Table 13. Top Ten Industries Visibly Discriminating Against Black Workers

Discrimination Against Blacks by top ten Industries at 1.65 Standard Deviations -- 1999				
SIC	Name of Industry	Affected Workers		Comparisons w.
		#	Rank	%
806	Hospitals	89,314	1	41%
581	Eating and Drinking Places	55,591	2	43%
541	Grocery Stores	53,333	3	41%
531	Department Stores	50,959	4	37%
805	Nursing and Personal Care Facilities	39,429	5	35%
602	Commercial Banks	20,131	6	37%
481	Telephone Communication	19,857	7	32%
701	Hotels and Motels	17,960	8	29%
421	Trucking & Courier Services, Ex. Air	15,842	9	35%
371	Motor Vehicles and Equipment	14,470	10	36%
Total Affected Workers		376,886		

§8. PROPORTION OF COMPARISONS SHOWING DISCRIMINATION.

The proportion of comparisons that show discrimination by industry (see above) also show the probability of discrimination should a Black worker seek an employment opportunity in that industry. This is the risk that a Black worker takes because of his race or color in seeking an employment opportunity in that industry. The table that follows gives the fifteen industries with the highest probability of discrimination and the fifteen with the lowest.

Table 14. Top and Bottom Fifteen Industries Discriminating Against Blacks

Table A – Top Fifteen industries in the percentage of comparisons showing discrimination against Blacks				
SIC	Industry name	Affected workers	% showing discrim.	Rank
415	School Buses	2,670	52%	1
593	Used Merchandise Stores	100	50%	2
363	Household Appliances	220	50%	3
864	Civic and Social Associations	3,019	47%	4
525	Hardware Stores	71	47%	5
279	Printing Trade Services	17	45%	6
224	Narrow Fabric Mills	58	45%	7
343	Plumbing , Heating, ex Electric	140	44%	8
835	Child Day Care Services	158	44%	9
581	Eating and Drinking Places	55,591	43%	10
336	Nonferrous Foundries (castings)	415	43%	11
783	Motion Picture Theaters	1,747	42%	12
243	Millwork, Plywood & Structural Members	288	42%	13
207	Fats and Oils	33	42%	14
806	Hospitals	89,314	41%	15
	Total	153,841		
Table B -- Bottom fifteen industries in the percentage of comparisons showing discrimination against Blacks				
SIC	Industry name	Affected workers	% showing discrim.	Rank
276	Manifold Business Forms	13	9%	236
726	Funeral Service and Crematories	21	10%	235
286	Industrial Organic Chemicals	152	14%	234
781	Motion Picture Production & Services	115	14%	233
223	Broadwoven Fabric Mills, Wool	73	15%	232
553	Auto and Home Supply Stores	2	15%	231
376	Guided Missiles, Space Vehicles, Parts	69	16%	230
672	Investment Offices	122	17%	229
381	Search and Navigation Equipment	70	17%	228
502	Furniture and Homefurnishings	47	17%	227
152	Residential Building Construction	53	18%	226
611	Federal & Fed.-sponsored Credit	16	18%	225
386	Photo Equipment & Supplies	65	19%	224
291	Petroleum Refining	186	19%	223
281	Industrial Inorganic Chemicals	483	19%	222
517	Petroleum & Petroleum Prods	34	19%	221
	Total	1,523		

§9. ANALYSIS

The **Hospital Industry, Eating and Drinking places, Civic and Social organizations, School Bus Operators and Movie Theater Operators** were high on the list of industries in terms of numbers of affected Black workers, and also high on the list of industries where Black workers faced high risks of discrimination. This combination makes it difficult to attribute this result solely to the fact that some of these industries had large numbers of jobs. In considering other reasons, it is difficult to ignore the fact that workers in these industries have a high degree of personal relationships with customers and beneficiaries of the services they provide.

§10. CONCLUSION

The seriousness of intentional job discrimination against Black workers by major and significant industries is evident. The “playing field” is far from level. The situation of those industries in the top one third of industries that discriminate against Black workers is even more serious because of the fact that 28 of these industries are in the top one third of industries that discriminate against Hispanic workers (see Chapter 12), and many are among the 40 industries that discriminate against White Women, Blacks, Hispanics, and Asian-Pacific workers. (See Chapter 15, §2).

§11. ENDNOTES

122. Eric Foner, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863 - 1877 (1988).
 123. 109 US 3 (1883).
 124. Albemarle Paper Co. v. Moody, 422 US 405, 418 (1975).
 125. See Chapter 16.
 126. Alfred W. Blumrosen, MODERN LAW: THE LAW TRANSMISSION SYSTEM AND EQUAL EMPLOYMENT OPPORTUNITY, 3-14 (1993).
 127. Herbert Hammerman, A DECADE OF NEW OPPORTUNITY, AFFIRMATIVE ACTION IN THE 1970S, pp. 39-50 (Washington: The Potomac Institute, 1984).
 128. Teamsters v. United States, 431 US at 324, 335, n. 15 (1977).
 129. See Chapters on Hispanics and on Asians.
 130. The average utilization of minorities and women on which this study is based includes the discriminating establishments. The average does not purport to be "non discriminatory" or "fair." See Part I of the National Report.
 131. The data on Native Americans is so limited in comparison with the other groups that its reliability is in doubt. EEO-1 forms are not required for establishments on Reservations, and the exclusion of establishments not in metropolitan areas and those with fewer than 50 employees may affect Native Americans more severely than other groups. For these reasons, this study will not further detail the conditions of Native Americans.
 132. Alfred W. Blumrosen and Ruth G. Blumrosen, THE REALITIES OF INTENTIONAL JOB DISCRIMINATION IN METROPOLITAN AMERICA, 1999.
 133. §3 (m) of Title VII of the Civil Rights Act of 1964 as amended by the Civil Rights Act of 1991. See Part 1, Ch. 5, §2, National Report
 134. Statistical Abstract, 2000, p. 533-34.
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