

1977

Fair Employment Practice Commission Report: July 1, 1975 - June 30, 1976

Fair Employment Practice Commission

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FEPC REPORT

July 1, 1975—June 30, 1976

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EMPLOYMENT PRACTICE COMMISSION
OF CALIFORNIA

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FAIR EMPLOYMENT PRACTICE COMMISSION

Report: July 1, 1975—June 30, 1976



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STATE OF CALIFORNIA

Edmund G. Brown Jr., Governor

DEPARTMENT OF INDUSTRIAL RELATIONS

Donald Vial, Director

FAIR EMPLOYMENT PRACTICE COMMISSION

John A. Martin Jr., Chairperson

DIVISION OF FAIR EMPLOYMENT PRACTICES

Alice A. Lytle, Chief

78-8-73



FAIR EMPLOYMENT PRACTICE COMMISSION

- John A. Martin, Jr. Chairperson
- C. L. Dellums Commissioner
- Betty Lim Guimaraes Commissioner
- Mauricio Munoz, Jr. Commissioner
- Anna M. Ramirez Commissioner
- Joseph Roos Commissioner
- William H. Hastie, Jr. Executive Officer

DIVISION OF FAIR EMPLOYMENT PRACTICES

- Alice A. Lytle Chief
- Joanne Lewis Assistant Chief
- Ronald Gee Area Administrator, Northern California
- Carol Schiller Area Administrator, Southern California
- George R. Moore Area Administrator, Affirmative Action
- Lloyd Zimpel Education Officer

Other commissioners who served during this period were Pier Gherini, J. M. Stuchen and Michael Vader. Charles E. Wilson was acting chief and general counsel, and Leonard Stopol, associate counsel. Luis Batiza served as assistant chief.

DEPARTMENT OF INDUSTRIAL RELATIONS

FAIR EMPLOYMENT PRACTICE COMMISSION

455 GOLDEN GATE AVENUE, SAN FRANCISCO

Address reply to: FEPC, P.O. Box 603, San Francisco, CA 94101

Administrative Office 557-2000



15 September 1977

To The Honorable Edmund G. Brown, Jr.
Governor of California

The Honorable James R. Mills
President Pro Tem of the Senate

The Honorable Leo T. McCarthy
Speaker of the Assembly

Gentlemen:

Pursuant to provisions of Section 1419(j) of the Labor Code of California, a report of the California Fair Employment Practice Commission and the Division of Fair Employment Practices in the Department of Industrial Relations is herewith submitted. This report covers the twelve-month period from 1 July 1975 through 30 June 1976.

Respectfully,

FAIR EMPLOYMENT PRACTICE
COMMISSION

John A. Martin, Jr.
John A. Martin, Jr.
Chairperson

INTRODUCTION

The California Fair Employment Practice Commission was created in 1959 through enactment of the State's first anti-discrimination law which declared it is the public policy of California to protect "the right and opportunity of all persons to seek, obtain and hold employment without discrimination because of race, color, creed, national origin or ancestry."

Subsequent amendments to the Act, beginning in 1970, prohibited employment discrimination based on sex, age (years 40 to 64), physical handicap, medical condition, and marital status.

In 1963, passage of the Fair Housing law brought new responsibilities to the Commission, empowering it to administer housing provisions with procedures similar to those for employment. The Fair Housing Act originally prohibited discrimination because of race, color, religion, national origin or ancestry; sex and marital status as bases for discrimination were added in 1975.

Since the laws became effective, the Commission has received more than 26,000 charges of employment discrimination and over 3,400 charges alleging illegal housing bias. Additionally, many hundreds of complaints have been resolved informally or avoided through affirmative action, community relations efforts, and such measures as investigations undertaken by the Commission under authority of Section 1421 of the FEP Act which permits Commission action when persuasive reasons to do so are presented.

The commission consists of seven members from various areas in the state, appointed to four-year terms by the Governor and charged with enforcing the anti-discrimination laws and broadening opportunity for protected groups by means of affirmative action, education, and conciliation. The Commission establishes policy, which is carried out by the Division of Fair Employment Practices, its administrative body, within the Department of Industrial Relations.

Division headquarters are in San Francisco, where the administrative staff directs overall operations and supervises various sections. Within the administrative staff are the chief and deputy chief; the legal section; the information/education section; the training section, and other support personnel.

Staff in the administrative section also maintain liaison with the Department of Industrial Relations and other divisions within that department, particularly those with conjoint goals or responsibilities.

Personnel comprising the enforcement section of the Division staff are allocated to either the Northern Area, headquartered in San Francisco, or the Southern Area, with its principal office in Los Angeles. Administrators of these areas have responsibility for directing activities of consultants who carry out the complaint-processing phase of the Commission's functions, its major responsibility under the law. Personnel in this section, the largest single unit in the Division, are assigned also to branch offices or field-desk operations throughout the state.

Third section is that of affirmative action, with main offices in San Francisco. Established as a separate entity in 1969 after authorization for such programs was added to the Fair Employment Practice Act in 1967, it has responsibility for assisting private and public employers to institute employment programs that facilitate hiring of minorities and women, as well as for undertaking large-scale investigations of alleged discriminatory practices when evidence of such is presented, outside of an individual complaint. An arm of this section is the contract compliance staff, which since 1973 has reviewed and monitored affirmative action hiring programs of public works contractors that do business with the State of California in amounts of \$200,000 or more.

Four new commissioners were appointed by Governor Brown during this period, replacing those whose terms had expired: John A. Martin, Jr., of San Rafael who was named chairperson; Betty Lim Guimaraes of San Francisco; Mauricio R. Munoz, Jr. of Salinas, and Anna M. Ramirez of Gardena. Other commissioners were C. L. Dellums of Oakland, Pier Gherini of Santa Barbara and J. M. Stuchen of Beverly Hills.

Another change was the appointment of William Hastie, Jr., as executive officer to the Commission, providing that body with its own legal affairs and administrative review officer. A new assistant chief, Luis Batiza, also assumed duties near the close of this fiscal year.

In the spring of 1976, the Northern Area complaint-handling section moved from its Golden Gate Avenue offices in San Francisco to larger quarters on Van Ness Avenue, and field desks were established in other communities, on a part-time basis, to provide better FEPC service where the demand was heaviest.

During this period, more than 7,000 new charges of employment and housing discrimination were received by the agency. Many of these were resolved on an informal basis, using a pre-complaint process in situations that promised early resolution, rather than undertaking the full investigation that follows the docketing of a formal complaint.

Advisory Groups

The Technical Advisory Committee on Testing issued its latest revision of a publication, first printed in 1966, for the guidance of employers on the selection and testing of minority, female and handicapped job applicants, and completed initial work on proposed guidelines for employment practices concerning physically handicapped workers. The group also was engaged in developing guidelines to pre-employment inquiries, for Commission consideration, incorporating changes made necessary by amendments to the fair employment practices act in recent years.

Additionally, the compliance review subcommittee assisted the staff by examining a considerable number of cases of particular complexity. A major project was evaluation of police and fire departments' requirements in regard to height, physical agility and promotion practices. Members, at their monthly meetings held alternately in San Francisco or Los Angeles, reported on significant developments in the testing field as discussed at numerous conferences throughout the country during the year.

Another FEPC group, the Women's Advisory Council, continued liaison work with communities and employers through individual members but undertook no projects as a committee.

An inactive committee, the Advisory council on Californians of Spanish Surname, was under Commission consideration for re-organization at the close of the year.

NEW JURISDICTION

Medical Condition. Legislative amendments effective January 1, 1976, extended the Commission's jurisdiction under both employment and housing statutes. The Fair Employment Practice Act was amended to prohibit discrimination because of "medical condition", which is defined as any health impairment related to or associated with a diagnosis of cancer, for which a person has been rehabilitated or cured, based on competent medical evidence.

School Employees. Another change, relating to school certificated employees, added a section to that act which reads "It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

- (a) For the governing board of any school district, because of the pregnancy of any female person, to refuse to select her for a training program leading to employment, or to bar or to discharge her from employment or from a training program leading to employment, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.
- (b) For the governing board of any school district to terminate any employee who is temporarily disabled, pursuant to or on the basis of an employment policy under which insufficient or no leave is available, if the policy has a disparate impact on employees of one sex and is not justified by necessity of the public schools."

Fair Housing. The fair housing law was amended to prohibit discrimination because of sex or marital status and to extend to \$1,000 the limit on damages the Commission can award each aggrieved individual. Since 1963, when the law was enacted, the limit had been \$500.

While the housing amendment, in effect, makes it illegal to restrict housing accommodations to single individuals only or to families, it does not prohibit any post-secondary educational institution, private or public, from providing housing accommodations reserved for either male or female students as long as no individual is denied equal access to housing, or from providing separate accommodations reserved primarily for married students or for students with minor dependents who reside with them.

PUBLIC HEARINGS

In both of the anti-discrimination laws administered by the Commission, there is provision that if attempts at settlement of a complaint through informal and private conciliation procedures are unsuccessful and the commissioner assigned to the case believes the circumstances warrant, that commissioner can issue an accusation requiring the respondent to answer charges at a public hearing. This hearing is held before an administrative procedures hearing officer, usually sitting with a panel of commissioners. The assigned commissioner does not participate in the hearing process unless called as a witness.

The laws also empower the Commission, in connection with a hearing, to subpoena witnesses, examine any person under oath and require papers and documents relevant to the matter under consideration.

If, as the result of evidence presented at the hearing, the Commission makes a finding of unlawful discrimination, it may issue an order requiring the respondent to correct the offending practice and to comply with the law. Such orders are enforceable through court procedures and final orders are subject to judicial review.

During this report period, commissioners issued more than 20 accusations. Most were conciliated short of the public hearing process, but four hearings were held, three in employment and one in housing.

Employment Hearings

All three public hearings on employment cases involved employers in San Diego, where the hearings were held. One involved the complaint of James P. Gains, who alleged racial discrimination by the Deutsch Company, Electronics Components Division. Gains, who was employed as a machinist and mold maker for the firm following a four-year training period, alleged that he was discharged by the company in 1975 because he was black. However, testimony presented before a hearing officer did not establish that Gains was discriminated against because of his race. The Commission adopted the hearing officer's proposed decision to this effect, and the accusation was dismissed.

Age Complaint

Also dismissed was the complaint of Walter Kerrigan against the San Diego City Attorney's office, the Commission's first case of age discrimination to result in a public hearing.

Kerrigan, 55 and a member of the California State Bar, had applied for a position as a deputy criminal attorney. According to his complaint, during a job interview by the chief deputy attorney he was told the office had not in recent years employed an attorney over 50 years of age. Shortly thereafter, Kerrigan was informed that other persons had been selected for the available positions.

Evidence presented at the hearing, however, did not establish that Kerrigan was denied employment solely because of his age or that the respondent had engaged in an unfair employment practice.

Black Welder

Racial discrimination was the issue in the hearing held on the complaint of James Neely, a black welder who charged that because of his race he had been refused promotion to a job as foreman with the San Diego Marine Construction Corporation. However, because of prejudicial remarks made by the complainant at the hearing and his lack of cooperation, the accusation of discrimination was withdrawn by the Commission.

Housing Hearings

The single hearing on a housing discrimination case resulted in an order for damages totalling \$700 to be paid by a property management firm to a Long Beach couple. The order for damages came after a public hearing in Los Angeles on the complaint of Sundra and Gary Divens, who charged they were refused rental of an apartment because of their race.

The Divens' complaint was filed in November 1974 after they responded to a newspaper ad about an apartment at 500 East Pleasant Street, Long Beach, under management of Don Straub and Associates and Don Straub. The resident manager of the building, Harold McKean, required them to complete an application for review and quoted the rental terms as including two months' rent in advance.

The Divens were never again contacted by the management, but when Caucasian friends of theirs were shown the same apartment the following day, that couple was told they could move in immediately by paying the equivalent of a half-month's rent. Later the Divens learned the apartment had been rented to another person.

The evidence at the hearing established that a racially restrictive rental policy existed at the apartment building, and the respondents were ordered to pay to each complainant the sum of \$350, since neither the desired apartment nor a similar accommodation was available.

Frequently when accusations are issued prior to public hearing, conciliation is achieved before the hearing is held. Among such cases this year were:

The complaint of discrimination based on the physical handicap of an insurance firm clerk who was terminated because she had earlier suffered from rheumatoid arthritis, and could not pass the company's physical examination. Investigation revealed that she was able to perform her work competently and that her condition was no impairment. The case was settled with a cash payment of \$2,000.

A complaint of discrimination was filed with FEPC by a woman in her early fifties who alleged that her termination from a grocery clerk's job during the probationary period was because of age bias, since almost all other employees in similar positions were under 30 years. Conciliation terms were based on a cash settlement of \$2,500.

Race was the factor in the complaint of a black painter who received disparate treatment and was eventually discharged after several year's employment with a property management firm. Retaliation for seeking FEPC assistance was also involved in the case, which was resolved with a payment of \$1,000 to the painter.

Among housing discrimination charges settled short of public hearing was that filed by a black woman who charged that although a landlord had offered during a telephone inquiry to show her an apartment in his building, he refused to do so on two occasions when she arrived in person. The matter was conciliated through payment of \$250 to the would-be tenant.

Other Conciliations

Additionally, during this year, several substantial settlements were made during the regular case handling process of investigation, conciliation and persuasion.

The largest such settlement was paid to a long-time female employee of a national insurance company, who sought help from FEPC when she was refused promotion to a manager's job and a male employee was given the position instead. Investigation substantiated her charges and revealed a disparate pattern of promotion for male and female employees.

In addition to an award of \$20,000 to the employee, the settlement agreement spelled out data the company could give for reference purposes so that she would not suffer any retaliatory effects.

Sex discrimination complaints against another insurance company also brought sizeable settlements, one of over \$8,000 and another of some \$5,000. Both complaints involved underwriting positions in one of the firm's central California offices. Compensatory payment for the two women was based on wages lost while the discriminatory practices were in effect.

One woman's complaint against a major financial institution resulted in a study of the firm's wage and salary policies for all women in professional and management positions.

Investigation of the original complaint of sex bias did not substantiate the woman's charge that this discrimination was a factor in her termination by the company, but did reveal she was not paid equitably during her employment. Resolution of the case was based on a financial settlement for the complainant, and adjustments in salary for over 200 other women totalling disbursements of \$229,000 annually.

As the result of a complaint by a woman who charged sex discrimination because she was denied the opportunity to become a police officer in a Southern California city, the city council reviewed its requirements and decided to change the height requirements for officers which had prevented her from being hired.

INFORMATION AND EDUCATION

In addition to its enforcement and compliance activities the Commission is charged with the responsibility to increase public understanding of its jurisdiction and objectives, particularly by informing protected classes of their rights and apprising employers and landlords of their obligations under anti-discrimination laws.

This is accomplished through a comprehensive program which includes production and distribution of printed materials; media coverage of Commission meetings and public hearings; audio-visual presentations; participation in special events, workshops and conferences, and a speakers' service which provides both commissioners and staff personnel for appearances before groups throughout the state. In conjunction with such meetings, quantities of FEPC publications are made available.

The information/education section also maintains liaison with local human relations committees throughout the state, furthering communications by distribution of a directory useful in notifying the public about these community resources.

Among publications most widely distributed in this area were: *Discrimination in Employment is Prohibited by Law* — a poster revised to include "medical condition" as a basis for discrimination in employment, available in English, Spanish and Chinese; *The Law Prohibits Discrimination in Housing* — a similar poster, dealing with specifics of the fair housing law; *Guidelines for Collection of Pre-Employment Ethnic Data*; *Directory of City and County Human Relations Commissions*; *Questions and Answers on Affirmative Action*; *Equal Opportunity in Jobs and Housing*; and *Guide to Pre-Employment Inquiries*.

Additionally, updated versions of the *Fair Employment Practice Act* and the *Laws Regarding Equal Opportunity in Housing* were published and widely distributed, as were issues of *FEPC News*, a four-page newsletter that reports current activities of the agency and other data of civil rights interest.

COMPLIANCE THROUGH INDIVIDUAL CASE PROCESSING

Although race or color continued to be the basis for more complaints than any other FEPC jurisdiction, accounting for 46 percent of the year's docketed cases, those in other classifications—sex, age, physically handicapped, medical condition—represent a sizeable proportion of complaints. This year also brought an increasing number of race or color complaints by Caucasians, more than three times those filed in the 1974-75 fiscal year. National origin or ancestry was cited in 17 percent of the docketed cases, with most of those filed by persons of Spanish surname, as in earlier years. Only two percent of the year's cases were filed on the grounds of religious creed.

Cases docketed on the basis of sex amounted to 23 percent, the same as in the last two years.

Complaints filed because of discrimination based on a physical handicap totalled five percent and on age, eight percent. The category "medical condition" accounts for less than one percent of docketed cases; however, this provision of the law was in effect for only half of the reporting period.

Over half the complaints docketed cited dismissal from employment as the discriminatory act involved, while refusal to hire was alleged in 17 percent, unequal work conditions in 16, and refusal to upgrade in 12 percent. Three percent of the cases docketed, classified as "other," include reprisal, failure to register in a vocational school, withholding job references and failure to pass in an oral examination, as shown in Table 3.

During this period, 1,989 docketed cases were closed, 19 percent by an adjustment satisfactory to the complainant, and 62 percent because of insufficient or no evidence of discrimination under the fair employment practices act was found. In eight percent of the cases the person withdrew the complaint, failed to proceed with the action, or the case was closed because the respondent was unavailable. Another eight percent of the cases was closed when the complainant elected to pursue the matter independently through the courts. Three cases were closed through the public hearing process and 55 cases because the Commission lacked jurisdiction in the matter. Details are given in Table 4.

Private employers were named as respondents in 82 percent of this year's docketed cases, with manufacturing the industry most often involved. Retail and wholesale trade, business services, finance and insurance, and public utilities, including transportation and communication, were also frequently mentioned, as shown in Table 5.

Respondents in the public sector were about equally divided among city, county, state and schools, districts, accounting for 15 percent of the total cases docketed. Labor organizations were named in 45 of the year's docketed cases, and public hospitals in 58.

This year, for the first time in Commission history, the occupation listed by complainants most frequently fell in the professional or technical category. In previous years, those classified as operatives, clerical employees or craft workers filed the most complaints. However the persons in those three categories still account for 40 percent of cases filed.

Table 1
**SUMMARY OF INDIVIDUAL EMPLOYMENT CASES DOCKETED,
CLOSED, AND IN PROCESS**

<i>July 1, 1975 - June 30, 1976</i>				
<i>Fiscal year July 1-June 30</i>	<i>Filed</i>	<i>Closed</i>	<i>Active in period</i>	<i>In process June 30</i>
1975-76	3538	1989	6686	4697
1974-75	4177	3222	6373	3148
1973-74	3514	2600	4796	2196
1972-73	2329	2152	3434	1282
1971-72	2031	1980	3085	1105
1970-71	2021	1819	2873	1054
1969-70	1343	1251	2103	852
1968-69	1240	1065	1825	760
<hr/>				
September 18, 1959-June 30, 1975				
Individual cases docketed				26,913
Individual cases closed				<u>22,216</u>
In process, June 30, 1976				4,697

Table 2
**EMPLOYMENT CASES OPENED: ALLEGED BASIS OF
DISCRIMINATION IN INDIVIDUAL COMPLAINTS**

<i>Alleged basis of discrimination</i>	<i>Number</i>	<i>Percent</i>
Race or Color	1,633	46
Black	1,427	40
Asian	66	2
Caucasian	128	4
Other non-white	12	^a
National Origin or Ancestry	612	17
American Indian	24	1
Filipino	58	2
Spanish surname	431	12
Other	99	3
Creed	58	2
Jewish	21	1
Protestant, Catholic	19	1
Other	18	1
General	1,317	37
Handicapped	172	5
Sex	814	23
Age	290	8
Opposition to discrimination	12	^a
Association	11	^a
Medical condition	18	1
Total	<u>3,538^b</u>	<u>100^b</u>

^aLess than 1/2 of 1 percent.

^bDetails add to more than total because more than one basis may be alleged in a single case.

Table 3
EMPLOYMENT CASES OPENED: ALLEGED
DISCRIMINATORY ACT

<i>Act</i>	<i>Number</i>	<i>Percent</i>
Refusal to hire	596	17
Dismissal from employment	1,856	52
Refusal to upgrade	423	12
Unequal work conditions	551	16
Referral withheld	23	1
Union discrimination	39	1
Other ^a	123	3
Total	3,538 ^b	100 ^b

^aMay include failure to register in a vocational school, reprisal, withholding job reference, failure to pass in oral examination, etc.

^bDetail adds to more than total because more than one discriminatory act may be alleged in a single case.

Table 4
EMPLOYMENT CASES CLOSED: TYPE OF DISPOSITION

<i>Type of Disposition</i>	<i>Number</i>	<i>Percent</i>
Satisfactory adjustment	381	19
Insufficient or no evidence of discrimination	1,238	62
No jurisdiction	55	3
Closed through public hearing	3	^a
Complaint withdrawn ^b	156	8
Elected court action	156	8
Total	1,989	100

^aLess than 1/2 of one percent.

^bIncludes respondent or complainant unavailable.

Table 5
EMPLOYMENT CASES OPENED, TYPE OF RESPONDENT

<i>Type of Respondent</i>	<i>Opened</i>	<i>Percent</i>
Manufacturing	1063	30
Public Utilities	277	8
Construction	88	2
Retail & Wholesale	397	11
Restaurant & Hotels	161	5
Finance & Insurance	246	7
Business Services	422	12
Private Employment Agency	23	1
Labor Organization	45	1
City	147	4
County	134	4
State	113	3
Public Schools	138	4
Public Employment Agency	4	^a
Public Hospital	58	2
Agriculture	33	1
Other ^b	189	5
Total	3538	100

^aLess than 1/2 of one percent.

^bIncludes mining, fisheries, oil.

Table 6
EMPLOYMENT CASES OPENED: COUNTY OF ORIGIN

<i>County</i>	<i>Number</i>	<i>County</i>	<i>Number</i>
Alameda	453	Plumas	1
Butte	10	Riverside	37
Calaveras	1	Sacramento	193
Colusa	1	San Bernardino	34
Contra Costa	144	San Diego	219
Del Norte	3	San Francisco	479
El Dorado	4	San Joaquin	28
Fresno	77	San Mateo	136
Glenn	1	Santa Barbara	13
Humboldt	9	Santa Clara	189
Imperial	4	Santa Cruz	13
Inyo	1	Shasta	3
Kern	16	Siskiyou	2
Lassen	3	Solano	26
Los Angeles	1172	Sonoma	25
Madera	4	Stanislaus	21
Marin	30	Sutter	3
Mendocino	2	Tehama	2
Merced	2	Tulare	10
Modoc	1	Tuolumne	1
Monterey	24	Ventura	21
Napa	9	Yolo	23
Nevada	2	Yuba	3
Orange	71		
Placer	12	TOTAL	3538

Table 7
EMPLOYMENT CASES OPENED; TYPE OF OCCUPATION

<i>Type of Occupation</i>	<i>Opened</i>	<i>Percent</i>
Clerical	584	17
Craft	277	8
Laborers	476	13
Managers & Foremen	265	7
Operatives	523	15
Professional & Technical	809	23
Sales	191	5
Services	335	9
Other ^a	78	2
Total	3538	100^b

^aCombination occupations.

^bDetail percentages may not add to total because of rounding.

Table 8
EMPLOYMENT CASES CLOSED BY CORRECTIVE ACTION:
TYPE OF ACTION TAKEN

<i>Type of corrective action</i>	<i>Number</i>	<i>Percent</i>
Offer of immediate hire, upgrading, rehire, or reinstatement	201	50
Commitment to hire, rehire, reinstate or upgrade for the next opening	50	13
Working conditions corrected	75	19
Back pay granted	28	7
Fair employment policy promulgated or strengthened	2	1
Labor union practices corrected	4	1
Monetary settlement	35	9
Employment referral agreed to, recruitment sources broadened, or offer of hire or upgrade to person other than complainant	4	1
Total	381^a	100^a

^aAdds to more than total because more than one type of corrective action may be agreed to in a single case.

BROAD COMPLIANCE AND COOPERATIVE PROGRAMS

Early in its work the Fair Employment Practice Commission recognized the importance of a broader attack on job discrimination than was possible through the individual complaint handling process and endorsed the concept of affirmative action to remedy past inequities and open up advancement opportunities to all workers.

In 1969 an affirmative action section within the agency was created and given responsibility for directing the voluntary programs designated as affirmative action, for conducting extensive in-depth investigations as authorized under Section 1421 of the Act, and for providing technical assistance to employers that request guidance in creating and carrying out effective equal opportunity programs.

Typical of technical assistance given by FEPC was that provided to a firm with over 3600 employees throughout the state. When the firm's poor workforce pattern was first brought to the attention of the Commission by representatives of women's organizations, the charges were based on disparity between salaries of men and of women; total lack of women in officials' and managers' categories; and unequal working conditions for women. The company's affirmative action program did not include women employees and was not effectively carried out for minorities.

Following consultation with FEPC staff the company agreed that a vigorous affirmative action program, including women, would be written and submitted to the Commission, and that the local human relations commission would monitor progress, with FEPC providing technical assistance where needed.

Among full investigations undertaken during this period was that requested by a union of municipal employees. The preliminary study revealed severe underutilization of minorities and women, especially through maintaining sex-tied job titles and sex-segregated job classifications that result in lower wage scales for women.

The Commission authorized an investigation of the city's employment policies, covering both the city and the employee organizations involved. During the course of the investigation, begun in June 1975, a series of formal conferences was conducted by the assigned commissioner, which resulted in the presentation of 33 recommendations to the city for changes in its personnel practices to avoid further adverse impact and comply with approved affirmative action procedures.

At the request of a San Francisco women's coalition, the Commission at the end of the fiscal year authorized an investigation of several San Francisco employment agencies, a study later expanded to include similar firms in Los Angeles and other areas. Initial steps included correspondence with the agencies in regard to their use of illegal pre-employment inquiries, particularly regarding the sex of applicants. A spot check of several agencies revealed that many agencies continued to accept illegal discriminatory job orders from employers, as had been the practice for some time. Eventually some 300 agencies in the state were included in some phase of the investigation, and the project, in cooperation with the requesting organization, continues.

Some other investigations dealt with the City of Vallejo, Orange County, Pomona School District, Certified Grocers, Hughes Aircraft, and various city police and fire departments.

Among affirmative action surveys taken during the year were those of San Luis Obispo County, the Oakland Police Department, Park Merced Apartments, Railroad Detectives, Williams Brothers Oil Company and the Los Angeles Times Mirror Press.

Preliminary investigations stemming from requests for Section 1421 projects included the West Valley Community College, Delta Community College, East Bay Skills Center, Los Medanos Community Hospital, San Joaquin County, Mendocino Community College, Southern California Rapid Transit District, Los Angeles Public Library and El Monte Elementary School District.

In addition this section evaluated numerous affirmative action programs including Disneyland, United Way Crusade, Los Angeles Community College District, Winchell's Donuts, Los Angeles County Office of the District Attorney, and the Attorney General's Taskforce Education Committee. Another phase of activity was the review of some 50 application employment forms submitted by business firms for FEPC approval or revision.

Also assigned to the affirmative action section at close of the fiscal year was responsibility for a project to assist the state Office of Criminal Justice Planning in carrying out civil rights responsibilities required by Department of Justice regulation and the Law Enforcement Assistance Administration equal opportunity guidelines. Funds for the project were provided by a grant under the Omnibus Crime Control and Safe Streets Act of 1968.

Principal responsibility of FEPC was to evaluate the equal opportunity programs of 25 law enforcement agencies within the state, and provide technical assistance to those agencies and others as needed.

TENSION CONTROL

During the year the Commission also assisted in resolving critical tensions in several communities. In two instances, stress arose from unfriendly attitudes shown by local residents toward black students in Carmel and Taft. Another involved the Casa Blanca neighborhood of Riverside where violence erupted between police and residents of this predominantly Mexican-American area.

In each situation, FEPC efforts to restore harmony were fruitful and the Commission's attention to those trouble-prone spots and others continues.

Carmel. In Carmel, a citizens' petition emphasized zoning regulations to compel eight black students to leave their residence and end an effective outreach program that relocated worthy inner-city students to improve their chances for college admittance. Although the citizens' petitions, plus lack of support from the community, caused the Carmel program to cease, FEPC efforts brought the situation to state-wide attention, with consequent benefits to similar programs.

Taft. In Taft, an oilfield community near Bakersfield, 13 junior college athletes were driven out of town by mob action, and later a newspaper editor was beaten for his criticism and disclosure of the violence.

FEPC action centered on conferences with officials of the college, city government and the police, as well as with a volunteer group, Concerned Citizens for Taft, that strongly opposed the prevailing community attitudes. Efforts were also directed toward hiring more minorities in the potentially rich Taft oilfields, through meetings with the Chamber of Commerce and key officials in the petroleum industry.

An affirmative action consultant followed the situation closely during the ensuing months and met frequently with representatives of the engineering firm awarded the contract for developing oil reserves at Elk Hills, just outside the city of Taft. The contractor and sub-contractors were given assistance in developing affirmative action programs to assure hiring of minority workers in line with population parity.

Casa Blanca. In Casa Blanca, five years of failing communication between the police and the neighborhood climaxed in August with the arrest of 51 residents without apparent good cause, FEPC staff members were told. Tension mounted for several days, culminating in an exchange of gunfire and other violence, which was followed by restrictions in the community and increasing anxiety.

FEPC offered its services and participated in an extended series of weekend meetings at which some 200 residents testified about harassment, inequities and numerous other grievances. Investigative and conciliatory efforts were begun, resulting in creation of an ad hoc committee to determine causes and solutions. Emphasis was placed on establishment of long-term permanent solutions to the disquieting situation, rather than temporary, palliative measures. FEPC continued as a participant in the meetings and as an advisor to both the Riverside city government and the minority community.

Cross burnings. The Commission's attention was also directed to incidents of cross burnings on the lawns of Jewish and black families in various communities of the Los Angeles area. The Commission warned that the state fair housing law guarantees Californians the right to live where they choose and called on law enforcement agencies to investigate the series of incidents to decide whether criminal codes had been violated or civil rights statutes could be invoked.

Arab-Jewish relations. When reports indicated that Arab investment groups, as a condition of investment or trade, would require American business firms to discriminate in the employment of Jews, the Commission warned that such practices were directly contrary to provisions of the Fair Employment Practice Act. In a resolution passed in July, the Commission promised to act against any such discrimination, whether imposed on employers or voluntarily adopted by them. Several inquiries about such discrimination, particularly involving newspaper advertisements, were made to FEPC offices by job applicants, and each instance was investigated.

Contract Compliance

Since 1973 FEPC has administered a contract compliance program through which the Commission investigates, reviews, approves and certifies equal employment opportunity programs on all public contracts over \$200,000 awarded by the State of California. Regulations adopted by the commission at the program's inception specify that holders of such contracts shall, within 60 days of the award, certify that they are either operating under equal opportunity provisions imposed by federal government regulation or that they have taken the minimum affirmative steps as set forth by the Office of Federal Contract Compliance. Contract holders also must submit to the Commission a fee amounting to one-tenth of one percent of the contract amount, not to exceed \$300.

State agencies required to comply include the Department of Transportation, Department of General Services, the State Architect, Department of Water Resources, and Trustees of the State University and Colleges. Since the start of the program, FEPC has received notices of 620 awards and issued 542 certificates.

During this fiscal period the Section was notified of 147 contract awards totalling \$259,418,495.80 and received fees amounting to \$54,062.48 for 146 programs that were certified or recertified.

Each contractor is also required to submit to FEPC monthly reports that include the type of contract, ethnic characteristics of the company, number of minority employees and number of hours worked.

In instances where compliance reports or job site inspection indicate delinquency, FEPC provides technical assistance to promote compliance so the contractor can avoid the filing of individual complaints against the firm.

During the scheduled review of one firm with an \$11 million contract awarded by the Department of Transportation, the contract compliance consultant learned that two FEPC complaints had been filed against the company on the particular project. However, the review brought out that

the contractor's minority worker utilization percentages were quite high. Additionally, the contractor was committed to training 50 apprentices during the various stages of the project and was ahead of schedule in that program. Since investigation indicated that the two complaints filed against the firm stemmed from poor communication, the project equal opportunity officer was advised by FEPC to improve his procedures in that respect and also to take a more affirmative approach in notifying contracting firms owned by minorities or women about subcontract possibilities.

As a result of another review, the contractor was advised to provide the project superintendent with more training on required procedures, inform all employees by means of posters or other means of the company's equal opportunity policy, and to update and submit to the Commission the firm's affirmative action plan.

In January 1976, the contract compliance section published a comprehensive directory of recruitment sources for the construction industry, which lists more than 90 different organizations, agencies or offices throughout California. It includes data on apprenticeship consultants, area hometown programs, unions, federal agencies, trade associations, ethnic organizations, and women's groups.

FAIR HOUSING PROGRAM

Discrimination because of race or color continued to be the cause alleged in the majority of housing cases during this period, accounting for 70 percent of the 265 docketed. All but eight complaints in that category were filed on the basis of race. Six percent of the docketed cases cited national origin or ancestry as the alleged basis for unequal treatment and most of these complaints were from Spanish-surnamed persons. Although the fair housing law did not prohibit discrimination because of sex or marital status until the last six months of this period, ten percent of the year's docketed cases were filed on those grounds. Opposition to discrimination, association with persons of another race, and similar factors accounted for over 13 percent of the year's total. Only four complaints were filed because of religious discrimination.

More than half the housing complaints involved a refusal to rent to the complainant, while a third of the cases concerned eviction or threat of eviction. Refusal to show the premises to the complainant was alleged in six percent of the docketed cases; refusal to grant equal terms in eight percent, refusal to sell in two percent, and aiding and abetting in discrimination another two percent, as shown in Table 11.

Of the 164 docketed housing cases closed during the year, 37 percent were satisfactorily adjusted, a higher rate than for employment cases, but lower than in the early years of the fair housing law. However, since these tables deal only with docketed cases and do not reflect the number of successful resolutions achieved through the pre-complaint inquiry system in effect during part of this fiscal year, those percentages may be deceptive.

In 53 percent of the closed cases there was insufficient or no evidence of discrimination and in five percent, the closure was based on withdrawal of the complaint, the complainant's failure to proceed, or the respondent was unavailable. One case was satisfactorily closed through the public hearing process, and five cases were closed because the complainant elected to take independent court action.

Apartment owners were named as respondents in 47 percent of the housing cases docketed in this period, while apartment managers were cited in 35 percent. Nine percent of the cases involved a real estate firm, and six percent an individual home owner. In the remainder of the cases, complaints were lodged against a tract developer, trailer court owner, mortgage company or a corporation, as shown in Table 13.

In 88 percent of the housing cases docketed, the desired accommodation was an apartment, while complaints regarding houses accounted for 11 percent of the year's 265 cases. One complaint concerned a tract home and one a trailer space, as shown in Table 15.

In the 62 docketed housing cases closed through satisfactory adjustment, 56 percent were conciliated through an offer to rent to the complainant, while three percent involved an offer to show the desired accommodation. In 24 percent of these successfully closed cases, an eviction or threatened eviction notice was rescinded, and in 11 percent, a monetary settlement was negotiated. Corrective action in the remaining cases involved offers of equal terms, or ceasing unlawful practices. Details are given in Table 16.

Table 9
SUMMARY OF HOUSING CASES FILED, CLOSED,
AND IN PROCESS

<i>Fiscal year</i>	<i>Filed</i>	<i>Closed</i>	<i>In process June 30</i>
1975-76	265	164	318
1974-75	278	274	217
1973-74	306	309	203
1972-73	262	347	206
1971-72	346	314	301
1970-71	375	344	269
1969-70	415	361	238
1968-69	348	268	184
September 20, 1963-June 30, 1976			
Individual cases docketed			3427
Individual cases closed			3109
In process, June 30, 1976			318

Table 10
HOUSING CASES OPENED: ALLEGED BASIS
OF DISCRIMINATION

<i>Alleged basis of discrimination</i>	<i>Number</i>	<i>Percent</i>
Race or color	185	70
Black	177	67 ^a
Asian	1	
Caucasian	5	2
Other non-white	2	1
National origin or ancestry	16	6
American Indian	1	^a
Filipino	1	^a
Spanish surname	11	4
Other	3	1
Creed	4	1 ^a
Jewish	1	
Other	3	1
General	61	23
Sex	18	7
Opposition to discrimination or association with persons of another race	36	14
Marital status	7	3
Total	265 ^b	100

^aLess than 1/2 of one percent.

^bDetail adds to more than total since more than one basis may be alleged in a single case.

Table 11
HOUSING CASES OPENED: ALLEGED DISCRIMINATORY ACT

<i>Act</i>	<i>Number</i>	<i>Percent</i>
Refusal to show	15	6
Refusal to rent	138	52
Refusal to sell	4	2
Refusal to grant equal terms	22	8
Eviction	87	33
Other ^a	4	2
Total	265 ^b	100 ^b

^aIncludes aiding and abetting.

^bDetail adds to more than total since more than one discriminatory act may be charged in a single case.

Table 12
HOUSING CASES CLOSED: TYPE OF DISPOSITION

<i>Type of Disposition</i>	<i>Number</i>	<i>Percent</i>
Satisfactory adjustment	61	37
Insufficient or no evidence	87	53
No jurisdiction	2	1
Closed through public hearing	1	1
Complaint withdrawn or failure to proceed	8	5
Elected court action	5	3
Total	164	100

Table 13
HOUSING CASES OPENED: TYPE OF RESPONDENT

<i>Type of Respondent</i>	<i>Opened</i>	<i>Percent</i>
Apartment owner	125	47
Manager	93	35
Tract development	1	^a
Trailer court owner	1	^a
Mortgage company	3	1
Real estate firm	24	9
Individual home owner	17	6
Corporation	1	^a
Total	265	100

^aLess than 1/2 of one percent.

Table 14
HOUSING CASES OPENED: COUNTY OF ORIGIN

<i>County</i>	<i>Number</i>
Alameda	25
Contra Costa	6
Fresno	7
Los Angeles	119
Marin	2
Napa	1
Orange	3
Sacramento	6
San Bernardino	2
San Diego	35
San Francisco	32
San Joaquin	1
San Mateo	7
Santa Barbara	1
Santa Clara	9
Sonoma	5
Ventura	2
Yolo	1
Yuba	1
Total	265

Table 15
HOUSING CASES OPENED: TYPE OF ACCOMMODATION

<i>Type of Accommodation</i>	<i>Opened</i>	<i>Percent</i>
Home	30	11
Apartment or hotel	233	88 ^a
Tract home	1	^a
Trailer space	1	^a
Total	265	100

^aLess than 1/2 of one percent.

Table 16
HOUSING CASES CLOSED: TYPE OF CORRECTIVE ACTION

<i>Type of Action</i>	<i>Opened</i>	<i>Percent</i>
Offer to rent	35	56
Offer to show	2	3
Eviction rescinded	15	24
Practices corrected	1	2
Equal terms offered	2	3
Monetary compensation	7	11
Total	62	100

^aDetail may not add to total because of rounding.

SIGNIFICANT COURT CASES

The 1975-76 United States Supreme Court term resulted in two cases severely limiting the remedies available to the victims of employment discrimination and suggesting that they must now look to federal, and more particularly, state legislation for meaningful protection.

In *Washington v. Davis* 423 U.S. 820 (1976) the court declined to apply the strict scrutiny standard in a non-Title VII challenge to the validity of a qualifying test for Washington, D. C. police officers which had a disparate impact upon blacks. The court applied a less restrictive standard and held the test valid.

Likewise, in *Murgia v. Commonwealth of Massachusetts* 423 U.S. 816 (1976) the court refused to apply the strict scrutiny test in a Fourteenth Amendment equal protection challenge to the mandatory retirement of police at age 50. Although admitting that there may be a better way to accomplish the same end, e.g. individual proficiency tests, the court nonetheless held that the rule is rationally related to Massachusetts' interest in protecting the public by assuring police fitness.

These cases are significant in themselves, but also seriously raise the possibility the court may extend these more relaxed standards to Title VII litigation, possibly when it considers the pregnancy disability cases. Five circuits have held it is unlawful under Title VII to deny equal disability benefits to a woman whose temporary disability was caused by or contributed to by a reproductive problem: *Wetzel v. Liberty Mutual Insurance Company* 511 F.2d 199, (3d Cir. 1975) grant of cert. vacated as non-appealable _____ U.S. _____ 12 FEP 545 (1976); *Gilbert v. General Electric Co.* 519 F.2d 661 (4th Cir. 1975) cert. granted, 423 U.S. 822 (1975); *Communications Workers v. American Telephone and Telegraph Co.* 513 F.2d 961 (9th Cir. 1975); and *Satty v. Nashville Gas Company*, 522 F.2d 850 (6th Cir. 1975). The court has granted cert. on *Gilbert*, and its opinion there may be important in determining not only the disability issue, but also the applicability of the *Washington v. Davis* and *Murgia* rationale to Title VII.

The Supreme court also decided several other important employment cases.

In *DeCanas v. Bica* 423 U.S. 909 (1976) the court held constitutional California Labor Code § 2805(a) prohibiting the employment of illegal aliens where it would have an adverse impact on lawful residents. However, the court remanded the case to the California Appellate Court for review suggesting the statute might be unconstitutionally inconsistent with federal law unless properly limited.

In *Franks v. Bowman* 423 U.S. 814 (1976) the court held that identifiable applicants denied employment because of race may be awarded 'constructive seniority' status retroactive to the dates of their employment applications. The opinion re-emphasized that one of Title VII's major purposes is to make persons whole for injuries suffered on account of unlawful employment discrimination.

In *Hampton v. Wong* _____ U.S. _____ 12 FEP 1377 (1976), a suit brought by five San Francisco Chinese aliens against the Federal Civil Service Commission, the plaintiffs challenged, on Fifth Amendment due process grounds, the Commission's blanket exclusion of aliens from federal employment. The court invalidated the exclusion as not promoting the efficiency, of federal service and not authorized by Congress or the President.

Here in California, in *Mandel v. Hodges* 54 Cal. App. 3d 596 (1976), the Appellate Court declared invalid the traditional Governor's order closing state offices for three hours on Good Friday and paying employees for that time.

CASE HISTORIES

Although ethnic jokes are often harmless and are meant in that way, the constant recurrence of such humor can be disruptive to employees' morale and job efficiency. That's how Jim R——— felt and why he sought FEPC assistance when his manager persisted in making such remarks to fellow workers. FEPC intervention brought a resolution of the problem. Jim received a \$2,000 settlement and his personnel records indicated resignation as the cause of his leaving the job. The company, of course, was advised to make sure that such unprofessional practices were stopped.

Mary Jane W——— thought she had found the perfect apartment as to location, cost and furnishings. However, the manager of the building said she could not rent it because she would have to share the bath with another tenant, and that tenant was a man. Since Mary Jane felt this was unfair, and she really needed a place to live immediately, she consulted FEPC. When the consultant assigned to her case informed the building manager that such denial of accommodations could be construed as illegal discrimination on the basis of sex, the manager decided to comply with the fair housing law and rented her the apartment.

When Archie H——— applied for a job with a public utility company, but was not offered employment, he felt it was because of his religious beliefs, and brought his problem to FEPC. Investigation brought out that the firm had failed to take proper steps to accommodate Archie's religious convictions and was unable to show that reasonable adaptation would result in undue hardship for the firm. The case was settled through agreement of the company to pay Archie \$1,000 in lieu of lost wages, to consider religion-based issues on an individual basis, and to include "religious accommodation" in its union contracts and in its formal personnel policies.

Brenda N———, who held a responsible position with an insurance firm for seven years, was told quite suddenly that her job was to be eliminated. She was given two choices: resign or be reduced in grade by three levels. Brenda chose to resign. She kept in touch with her former co-workers and later learned that after she left, the company had hired a man to fill a higher-paying supervisory position to which she would normally have advanced. Although Brenda got another job within a short time, she sought FEPC counseling about the treatment she had received, particularly the sex discrimination aspect. Her FEPC consultant decided to try for an informal settlement and was successful, with good news for Brenda. The settlement of over \$2,000 she received covered salary differences and a variance in vacation benefits.

A change in a city government's age restrictions for police personnel was effected through FEPC's investigation of the complaint of Mathew O———, 43, who alleged discrimination when he applied for a police officer's job and learned that the maximum age limit for such positions was 34. After the city personnel director was notified of the complaint to FEPC, the matter was brought before the local civil service commission, together with an analysis of the job requirements for law enforcement

personnel. That commission decided to comply with agency recommendations and dropped the restricting specifications, an action of significance to other municipal governments throughout California.

Although both men and women were hired as management candidates for a bank's six-month training program, the women received less training than the men, which served to limit their opportunities, job flexibility and future earnings potential. Janet J——— successfully completed her training but was subsequently discharged by the bank and replaced because, for one thing, the manager said he wanted a male for the job. She alleged sex discrimination in her complaint to FEPC. Investigation, which included a pattern survey of the bank's workforce, supported her allegations. Conciliation negotiations by FEPC resulted in an award of \$4,650 in back wages to Janet who did not wish reinstatement in her job. The settlement included a letter stating the bank would cease and desist from discriminating against females, since the pattern survey revealed a disparate proportion of women in management positions.

Dorothea O———, a skiing instructor in a California resort area, had all necessary credentials and proficiency in her field, but was denied advancement to a management spot with higher income potential. When an FEPC consultant investigated the complaint she brought to the agency, he found evidence of sex discrimination since Dorothea was better qualified than some of the men in supervisory positions, no women had ever held these jobs with the ski school, and the reasons given for such unequal practices were not valid. Successful negotiation by FEPC resulted in Dorothea's promotion to a school supervisor and payment of \$4,500 to her.

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