

APPENDIX D -- CONCLUDING THE NATIONAL REPORT
COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF
INTENTIONAL JOB DISCRIMINATION

APPENDIX D -- CONCLUDING THE NATIONAL REPORT COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF INTENTIONAL JOB DISCRIMINATION281

 §1. *Basic Findings*281

 §2. *Background – Statistical Measures Of The Quality Of Work Life*.....282

 A. Numbers Of Workers Affected By Discrimination In Each State282

 B. Probability Of Intentional Job Discrimination In Any Industry284

 C. Proportion Of Workers Affected By “Hard Core” Discriminators Over Time286

 D. Combining Rankings And Introducing Quartiles To Compare States: The Final Rankings.....288

 §3. *No Absolution For Lower Ranked States*290

 §4. *Greater Discrimination In Higher Quartiles—The North And Midwest Surprise*.....291

 §5. *Endnotes*291

§1. BASIC FINDINGS

Having explored intentional job discrimination nationally and in each state, this Chapter compares the states by the severity and persistence of intentional job discrimination in large and mid-sized establishments within each of thirty nine 39 states and the District of Columbia. These forty jurisdictions had sufficient data to permit a comparative analysis. Ranked states are grouped in four quartiles, with the most severe discrimination in the first quartile. Separate rankings are provided for Women, Black, Hispanic and Asian Pacific origin workers. Only Illinois and Wisconsin rank in the top quartile for all four groups.

Black workers make up 49% of the minority employees in the study, and 57% of all minority workers affected by intentional job discrimination. The top ten states where discrimination against Blacks is most severe and persistent are Wisconsin, Michigan, Illinois, Indiana, Pennsylvania, Massachusetts, Missouri, Virginia, Kentucky, and Ohio.

Hispanic workers make up 33% of minority employees in the study, and 28% of all minority affected workers. The top ten states where discrimination against Hispanics is most severe and persistent are Indiana, Pennsylvania, Missouri, Connecticut, Wisconsin, Illinois, Rhode Island, Arkansas, Kentucky, and Minnesota.

Asian-Pacific origin workers make up 17% of minority employees in the study, and 11% of all minority affected workers. The top ten states where this discrimination against Asian Pacific origin workers is most severe and persistent are Pennsylvania, South Carolina, Michigan, Utah, Illinois, Iowa, Minnesota, Wisconsin, North Carolina, and Texas.

Women make up 47% of all the employees in the study, and 42% of all workers affected by intentional job discrimination. The top ten states where this discrimination is most severe and persistent are Illinois, Kansas, Wisconsin, North Carolina, Delaware, Ohio, Rhode Island, Georgia, Michigan, and Texas.

Full comparisons appear in Tables 2, 3 and 4 of this Chapter.

§2. BACKGROUND – STATISTICAL MEASURES OF THE QUALITY OF WORK LIFE

After the national report on the extent of intentional job discrimination in medium and large private employers was released in July, 2002, followed by individual state reports (all available at www.eeol.com), several journalists asked how their states compared with others. We found this question to be quite complicated. First, women and each of the minority groups fared differently in the various states. Only Illinois and Wisconsin are in the top quartile for all four groups. Therefore a single number to rank the states would be misleading. Although it is more complicated, only by comparing the states separately for each group, could there be a reflection of the reality of discrimination. Secondly, how could an analysis based on numbers reflect the quality of discrimination so that it could be compared from state to state?

A. NUMBERS OF WORKERS AFFECTED BY DISCRIMINATION IN EACH STATE

We discarded some of the obvious possibilities. The number of discriminating establishments in a state would reflect the extent of industry; the number of workers affected by discrimination would reflect the size of the labor force. Neither provided a reasonable basis for comparing establishments in one state with those in another. For example, if employers in states were measured by the number of minority and female workers affected by discrimination, California would top the list for Women, Minorities, Hispanics and Asians. [See Table 1, below.]

INTENTIONAL JOB DISCRIMINATION IN METROPOLITAN AMERICA 283
APPENDIX D -- CONCLUDING THE NATIONAL REPORT
COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF INTENTIONAL JOB DISCRIMINATION

Table 1 COMPARING STATES BY NUMBER OF WORKERS AFFECTED BY DISCRIMINATION				
WOMEN WORKERS	MINORITY WORKERS	BLACK WORKERS	HISPANIC WORKERS	ASIAN PAC WKRS
NAT'L AV. 15,213	NATIONAL AV. 18,418	NATIONAL AV. 14,699	NAT'L AV. 7,079	NAT'L AV. 3,869
CA 75,843 1	CA 109,026 1	IL 58,373 1	CA 69,107 1	CA 56,647 1
IL 51,323 2	IL 83,411 2	NY 51,648 2	TX 39,857 2	IL 15,561 2
TX 48,895 3	NY 71,408 3	TX 39,873 3	IL 34,029 3	NY 12,160 3
NY 48,181 4	TX 70,480 4	GA 39,276 4	FL 25,976 4	TX 10,213 4
PA 33,016 5	FL 44,433 5	MI 38,372 5	NY 21,566 5	NJ 7,838 5
OH 30,998 6	MI 41,759 6	FL 34,364 6	NJ 10,980 6	WA 5,896 6
FL 27,060 7	GA 39,172 7	VA 31,862 7	AZ 9,815 7	VA 4,036 7
MI 25,386 8	PA 37,877 8	OH 30,422 8	MA 6,950 8	PA 3,872 8
NJ 24,587 9	NJ 35,671 9	CA 28,706 9	CO 5,074 9	MA 3,502 9
GA 21,764 10	OH 33,531 10	PA 28,033 10	GA 4,898 10	MI 3,338 10
NC 20,002 11	VA 32,203 11	NJ 25,134 11	NC 4,827 11	MD 3,156 11
MA 19,529 12	MD 26,879 12	MD 23,490 12	MD 4,124 12	MN 3,067 12
MN 17,272 13	NC 25,431 13	NC 22,188 13	NV 3,874 13	FL 2,426 13
VA 15,408 14	MA 23,648 14	MO 16,563 14	PA 3,751 14	NV 2,039 14
MD 13,968 15	MO 18,173 15	IN 12,490 15	IN 3,439 15	GA 1,818 15
MO 12,920 16	IN 15,570 16	TN 11,654 16	CN 2,854 16	OR 1,621 16
WI 11,873 17	AZ 13,320 17	MA 10,431 17	WA 2,685 17	NC 1,544 17
WA 11,645 18	WI 12,165 18	LA 9,508 18	WI 2,398 18	DC 1,140 18
AZ 11,163 19	TN 11,874 19	WI 9,100 19	MI 2,289 19	CO 996 19
IN 11,023 20	MN 11,553 20	AL 8,901 20	VA 2,272 20	WI 962 20
TN 9,825 21	WA 11,072 21	SC 7,883 21	MN 2,212 21	AZ 899 21
CO 9,392 22	CO 9,616 22	KY 5,978 22	OH 1,973 22	OH 868 22
CN 6,377 23	LA 9,464 23	CN 5,401 23	OR 1,866 23	UT 714 23
SC 5,972 24	CN 9,186 24	MN 5,081 24	MO 1,660 24	CN 563 24
KS 5,803 25	SC 8,665 25	KS 3,702 25	DC 1,606 25	OK 510 25
KY 5,577 26	AL 8,579 26	CO 3,693 26	UT 1,500 26	IA 444 26
OR 5,572 27	KY 6,852 27	MS 3,226 27	OK 1,384 27	KS 418 27
AL 4,617 28	NV 5,592 28	AR 3,014 28	NM 1,335 28	AR 335 28
UT 4,417 29	KS 5,104 29	OK 2,707 29	SC 1,140 29	MO 283 29
DC 4,380 30	AR 4,060 30	WA 2,389 30	TN 1,058 30	TN 252 30
LA 4,258 31	OR 4,049 31	DC 2,041 31	NE 983 31	DE 224 31
OK 4,056 32	OK 3,911 32	DE 1,883 32	AR 982 32	IN 189 32
NV 3,931 33	MS 3,072 33	NV 1,808 33	KS 903 33	SC 171 33
NE 3,223 34	UT 2,594 34	AZ 1,543 34	AL 585 34	RI 150 34
IA 2,768 35	NE 2,481 35	NE 1,440 35	RI 551 35	NE 142 35
AR 2,711 36	DE 2,278 36	IA 914 36	IA 542 36	KY 99 36
DE 2,175 37	IA 2,234 37	OR 738 37	LA 361 37	AL 67 37
RI 2,002 38	DC 2,219 38	RI 418 38	KY 344 38	LA 46 38
MS 1,636 39	NM 1,398 39	UT 158 39	DE 114 39	NM 32 39
NM 1,128 40	RI 1,309 40	NM 61 40	MS 20 40	MS 8 40

California stands so high on these lists of affected workers because of the basic methodology of this study. Our analysis is based on employer reports to the federal government identifying the race, sex and national origin of their workers in nine occupational categories and more than 200 industries. We identified intentional job discrimination in business establishments which employ Minorities, Women, Blacks, Hispanics and Asians so far below the average of similarly situated employers that they “stick out like a sore thumb.”

The number of affected minority or female workers is the difference between the number employed in an establishment in a specific industry and occupation, and the average of all the establishments in the same labor market, industry and occupation. This approach mirrors Supreme Court decisions on remedies for intentional job discrimination. California has the largest population and the largest labor force we could observe, and therefore the largest number of affected workers. It thus leads the nation with respect to Women, Hispanics, Asian Pacific Origin workers, and ranked ninth with respect to Black workers.

B. PROBABILITY OF INTENTIONAL JOB DISCRIMINATION IN ANY INDUSTRY

If we adopted another measure of comparison – for example the probability that a woman or minority would face discrimination in any industry – the results were strikingly different. Using this standard, California ranked 27th with respect to women, 33rd with respect to Blacks, 37th with respect to Hispanics, and 38th with respect to Asian Pacific origin workers.¹⁸¹ These differences between methods of ranking states and the impact of discrimination on different groups in each state led us to discard the idea of a single factor to compare discrimination between the states. We would have to compare discrimination in the states separately for Women, Blacks, Hispanics and Asians, and search for meaningful comparisons.

Statistical measures that reflected the difference in the quality of worklife between the states were essential for useful comparisons to be made.¹⁸² The probability of facing discrimination in any industry is a factor that reflects the quality of worklife experience. It addresses the question that may arise when a minority or woman is denied a job, or an opportunity during employment. “Was the denial influenced by my race, sex or national origin?” The state with a high average likelihood of discrimination in an industry has a lower quality of worklife for minorities or women than a state where the average is lower. This measure reflects an aspect of the human condition. It appeared in each state report as the proportion of comparisons that reflect discrimination. Table 2, below, shows these comparisons.

INTENTIONAL JOB DISCRIMINATION IN METROPOLITAN AMERICA 285
APPENDIX D -- CONCLUDING THE NATIONAL REPORT
COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF INTENTIONAL JOB DISCRIMINATION

Table 2 COMPARING STATES BY RISK OF FACING DISCRIMINATION IN ANY INDUSTRY BY GROUP, RANKED FROM THE HIGHEST RISK TO THE LOWEST											
RISK OF DISCRIMINATION AGAINST BLACKS IN ANY INDUSTRY NAT'L AV. 34%			RISK OF DISCRIMINATION AGAINST HISPANICS IN ANY INDUSTRY NAT'L AV. 29%			RISK OF DISCRIMINATION AGAINST ASIANS IN ANY INDUSTRY NAT'L AV. 34%			RISK OF DISCRIMINATION AGAINST WOMEN IN ANY INDUSTRY NAT'L AV. 22%		
UT	59%	1	SC	53%	1	IA	62%	1	IL	25%	1
WI	43%	2	MO	50%	2	SC	55%	2	KS	25%	2
IL	41%	3	AR	48%	3	WI	51%	3	WI	25%	3
IA	40%	4	MD	46%	4	AL	47%	4	GA	25%	4
MA	40%	5	OH	45%	5	PA	44%	5	DE	24%	5
MI	40%	6	GA	45%	6	NC	43%	6	UT	24%	6
MN	40%	7	NC	45%	7	RI	43%	7	RI	24%	7
VA	39%	8	PA	43%	8	MI	42%	8	NJ	24%	8
IN	39%	9	IN	42%	9	OK	42%	9	NC	23%	9
OH	38%	10	DC	41%	10	GA	42%	10	MI	23%	10
MO	37%	11	WI	40%	11	UT	41%	11	TN	23%	11
NE	37%	12	OK	40%	12	NE	41%	12	TX	23%	12
PA	37%	13	TN	39%	13	IL	40%	13	OH	23%	13
KY	36%	14	AL	38%	14	IN	40%	14	PA	23%	14
RI	36%	15	MN	38%	15	KY	40%	15	MN	23%	15
GA	36%	16	MA	38%	16	OH	40%	16	OR	23%	16
OR	35%	17	IA	35%	17	MN	39%	17	AR	23%	17
CO	35%	18	MI	35%	18	KS	38%	18	KY	23%	18
AR	35%	19	NE	34%	19	MO	37%	19	IN	23%	19
KS	35%	20	CN	34%	20	TX	37%	20	CN	23%	20
NY	34%	21	IL	33%	21	MA	36%	21	MA	23%	21
TN	34%	22	WA	31%	22	TN	36%	22	NY	22%	22
NJ	33%	23	MS	31%	23	NM	35%	23	MS	22%	23
CN	33%	24	LA	31%	24	MD	35%	24	OK	22%	24
OK	33%	25	OR	30%	25	FL	35%	25	MO	22%	25
MD	32%	26	DE	30%	26	NJ	33%	26	DC	22%	26
NC	31%	27	NJ	30%	27	AZ	33%	27	CA	22%	27
TX	31%	28	FL	29%	28	CO	33%	28	IA	22%	28
MS	31%	29	RI	28%	29	DC	32%	29	VA	22%	29
FL	31%	30	AZ	27%	30	CN	32%	30	NE	22%	30
AL	30%	31	NY	26%	31	LA	32%	31	SC	21%	31
LA	29%	32	TX	26%	32	VA	31%	32	WA	21%	32
CA	29%	33	VA	25%	33	OR	31%	33	MD	21%	33
SC	29%	34	KS	25%	34	NY	29%	34	CO	21%	34
NM	27%	35	KY	25%	35	DE	29%	35	AZ	21%	35
AZ	27%	36	CO	24%	36	WA	28%	36	NV	20%	36
WA	27%	37	CA	24%	37	CA	28%	37	FL	19%	37
DE	25%	38	UT	22%	38	NV	26%	38	AL	19%	38
NV	19%	39	NV	20%	39	MS	25%	39	LA	18%	39
DC	14%	40	NM	19%	40	AR	18%	40	NM	17%	40

This method of comparison is helpful in comparing the human risks of discrimination in each state, but it does not address the persistence of discrimination.

C. PROPORTION OF WORKERS AFFECTED BY “HARD CORE” DISCRIMINATORS OVER TIME

In Chapter 7 of the National Report we had identified four degrees of intentional job discrimination, including discrimination that was carried on by a group of establishments we labeled “hard core” because the discrimination had persisted for at least ten years. They are so far below average utilization in a labor market, industry and occupation that there is at most only a one in one hundred chance that the result occurred by accident (2.5 standard deviations) in 1999 and either 1998 or 1997, and in at least one year between 1991 and 1996, and never average or above between 1991 to 1996. Some were far more deviant than 2.5 standard deviations, and had been so for longer than ten years.

Nationally, some 22,000 of these establishments have been responsible for discrimination against about 50% of all minority affected workers, and 13,000 were responsible for nearly 40% of all affected women.¹⁸³ We knew the number of affected workers in each state in each group, and could identify the percentage of these workers who had been affected by the “Hard Core” establishments. A higher percentage suggests that the discrimination, not only had more impact, but was more persistent and thus would more deeply affect the community than would a lower percentage. Conversely, the lower the percentage, the more favorable the state would compare with other states. At the same time, a low percentage might reflect that the group had only recently increased its presence in the state, and were being accepted, or that discrimination against it had not had time to become routine. California is a good example of the importance of this measure. As noted earlier, if the state was measured by the number of affected workers, it would rank in the top quartile [Table 1]. Using this measure, California falls into the lowest quartile with respect to Blacks, the highest with respect to Hispanics, the second with respect to Asians, and the third with respect to Women.

INTENTIONAL JOB DISCRIMINATION IN METROPOLITAN AMERICA 287
APPENDIX D -- CONCLUDING THE NATIONAL REPORT
COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF INTENTIONAL JOB DISCRIMINATION

Table 3 COMPARING STATES BY PERCENT OF AFFECTED WORKERS ATTRIBUTABLE TO "HARD CORE" ESTABLISHMENTS, RANKED FROM HIGHEST PERCENTAGE TO LOWEST

BLACK WORKERS			HISPANIC WORKERS			ASIAN-PACIFIC ORIGIN			WOMEN WORKERS		
State	% HC	Rnk	State	% HC	Rnk	State	% HC	Rnk	State	% HC	Rnk
Michigan	64%	1	Rhode Is	52%	1	Nevada	52%	1	Michigan	48%	1
Wisconsin	61%	2	Illinois	51%	2	Illinois	51%	2	DC	45%	2
Pennsylvania	59%	3	New York	45%	3	Utah	48%	3	North Carolina	45%	3
Nevada	59%	4	Pennsylvania	45%	4	Pennsylvania	44%	4	New York	44%	4
Illinois	58%	5	DC	45%	5	Michigan	43%	5	Illinois	44%	5
New York	58%	6	Nevada	44%	6	New Jersey	41%	6	Nebraska	44%	6
Indiana	57%	7	California	40%	7	Florida	41%	7	Kentucky	44%	7
Missouri	57%	8	New Jersey	40%	8	New York	41%	8	Louisiana	43%	8
Maryland	55%	9	Texas	39%	9	South Carolina	40%	9	Minnesota	43%	9
Kentucky	55%	10	Florida	39%	10	Minnesota	40%	10	Wisconsin	43%	10
Arkansas	52%	11	Iowa	39%	11	Texas	39%	11	Ohio	42%	11
Louisiana	52%	12	Oregon	38%	12	Louisiana	38%	12	Missouri	41%	12
Virginia	52%	13	Connecticut	38%	13	California	38%	13	Massachusetts	41%	13
Massachusetts	51%	14	Minnesota	37%	14	Maryland	37%	14	Pennsylvania	40%	14
Connecticut	50%	15	Washington	37%	15	Iowa	35%	15	Iowa	39%	15
Ohio	50%	16	Wisconsin	33%	16	Oregon	34%	16	Tennessee	39%	16
North Carolina	48%	17	Nebraska	33%	17	Kansas	34%	17	Alabama	39%	17
Alabama	46%	18	Michigan	32%	18	Tennessee	32%	18	Indiana	38%	18
South Carolina	46%	19	Indiana	32%	19	Kentucky	30%	19	Rhode Island	38%	19
Mississippi	46%	20	Missouri	30%	20	Washington	30%	20	Kansas	38%	20
New Jersey	46%	21	Virginia	28%	21	Virginia	29%	21	South Carolina	38%	21
Florida	45%	22	Massachusetts	28%	22	North Carolina	27%	22	Oregon	37%	22
Kansas	44%	23	Maryland	27%	23	DC	27%	23	California	37%	23
Georgia	42%	24	Colorado	27%	24	Wisconsin	26%	24	Georgia	36%	24
DC	42%	25	Oklahoma	27%	25	Rhode Island	25%	25	Maryland	36%	25
Texas	41%	26	Arizona	25%	26	Massachusetts	25%	26	Texas	35%	26
Minnesota	39%	27	Georgia	24%	27	Ohio	25%	27	Nevada	35%	27
Oklahoma	39%	28	Arkansas	23%	28	Indiana	25%	28	Connecticut	35%	28
Tennessee	38%	29	North Carolina	23%	29	Oklahoma	24%	29	New Jersey	33%	29
Colorado	38%	30	Louisiana	21%	30	Connecticut	21%	30	Arkansas	32%	30
California	38%	31	Kansas	20%	31	Nebraska	18%	31	Florida	31%	31
Iowa	35%	32	New Mexico	19%	32	Arizona	17%	32	Oklahoma	31%	32
Nebraska	32%	33	Utah	13%	33	Georgia	13%	33	Arizona	31%	33
Rhode Island	32%	34	Ohio	11%	34	Colorado	9%	34	Delaware	30%	34
Washington	29%	35	South Carolina	10%	35	Delaware	4%	35	Washington	30%	35
Arizona	26%	36	Kentucky	8%	36	New Mexico	0%	36	Virginia	28%	36
Oregon	22%	37	Delaware	7%	37	Missouri	0%	37	Mississippi	28%	37
Delaware	19%	38	Tennessee	6%	38	Mississippi	0%	38	Colorado	28%	38
New Mexico	0%	39	Alabama	1%	39	Arkansas	0%	39	Utah	27%	39
Utah	0%	40	Mississippi	0%	40	Alabama	0%	40	New Mexico	22%	40

**D. COMBINING RANKINGS AND INTRODUCING QUANTILES TO COMPARE STATES:
THE FINAL RANKINGS**

By combining the ranking by the probability of discrimination in an industry in the state with the ranking by percentage of affected workers associated with “hard core” employers, a numerical figure was attached to each state. The states were then ranked by this combined figure with respect to each of the four groups. We did not seek to weigh these two factors, but treated them equally. We then divided the outcome into four equal groups of ten jurisdictions because the methodology was not sufficiently specific to permit a more exact ranking. Nevertheless, the quartiles provide a generalized comparison within which states are ranked. The lower the total numeral ranking, the more severe and persistent the discrimination appears to be. These rankings appear in Table 4.

[See next page.]

INTENTIONAL JOB DISCRIMINATION IN METROPOLITAN AMERICA 289
APPENDIX D -- CONCLUDING THE NATIONAL REPORT
COMPARING STATES IN THE SEVERITY AND PERSISTENCE OF INTENTIONAL JOB DISCRIMINATION

Table 4 Combined ranking of risk of industry discrimination and workers affected by "hard core" employers

BLACK WORKERS				HISPANIC WORKERS				ASIAN PACIFIC ORIGIN				WOMEN WORKERS			
State	RANK # 1- INDUSTRY	RANK #2- % HARD CORE	TOTAL	State	RANK # 1- INDUS TRY	RANK #2- % HARD CORE	TOTAL	State	RANK # 1- INDUS TRY	RANK #2- % HARD CORE	TOTAL	State	RANK # 1- INDUS TRY	RANK #2- % HARD CORE	TOTAL
Wis	2	2	4	Indiana	10	2	12	Penn	6	4	10	Illinois	1	1	2
Mich	6	1	7	Penn	9	4	13	S Car	3	9	12	Kansas	2	2	4
Illinois	3	5	8	Missouri	3	20	23	Mich	9	5	14	Wis	3	5	8
Indiana	9	7	16	Connt	21	5	26	Utah	12	3	15	N Car	9	4	13
Penn	13	3	16	Wis	12	16	28	Illinois	14	2	16	Del	5	11	16
Mass	5	14	19	Illinois	22	7	29	Iowa	1	15	16	Ohio	13	3	16
Missou	11	8	19	Rhode Is	30	1	31	Minn	18	10	28	Rhode I	7	10	17
Virginia	8	13	21	Ark	4	28	32	Wis	4	24	28	Georgia	4	15	19
Kentuck	14	10	24	Kentuck	2	31	33	N Car	7	22	29	Mich	10	9	19
Ohio	10	16	26	Minn	16	18	34	Texas	21	11	32	Texas	12	7	19
New York	21	6	27	MaryInd	5	30	35	Florida	26	7	33	Penn	14	6	20
Ark	18	11	29	New Yrk	32	3	35	NJersey	27	6	33	NJersey	8	13	21
Minn	7	27	34	N Jersey	28	8	36	Rhode I	8	25	33	Oregon	16	8	24
MaryInd	26	9	35	S Carolin	1	35	36	Kentuck	16	19	35	Utah	6	18	24
Iowa	4	32	36	Del	27	10	37	Kansas	19	17	36	Tenn	11	14	25
Conn	24	15	39	Iowa	18	19	37	Ark	2	37	39	Ark	17	12	29
Georgia	16	24	40	N Car	8	29	37	MaryInd	25	14	39	Kentuck	18	16	34
Utah	1	40	41	Nebrask	20	17	37	Okla	10	29	39	Indiana	19	24	43
Kansas	19	23	42	Miss	24	14	38	Nevada	39	1	40	Minn	15	29	44
Nevada	39	4	43	Okla	13	25	38	Alabama	5	36	41	Cal	27	19	46
Louisiana	32	12	44	Oregon	26	12	38	Tenn	23	18	41	DC	26	20	46
N. Jersey	23	21	44	Wash	23	15	38	Indiana	15	28	43	Conn	20	27	47
Nebraska	12	33	45	Mass	17	23	40	New York	35	8	43	Neb	30	17	47
N. Car	29	17	46	Ohio	6	34	40	Georgia	11	33	44	New Yrk	22	25	47
Missi	28	20	48	Mich	19	22	41	Louisiana	32	12	44	Iowa	28	21	49
Alabama	31	18	49	Texas	33	9	42	Nebraska	13	31	44	Mass	21	33	54
Rhode Is	15	34	49	Nevada	39	6	45	Ohio	17	27	44	Wash	32	22	54
Colorado	20	30	50	Kansas	35	11	46	Mass	22	26	48	Missour	25	32	57
Tenn	22	29	51	Georgia	7	40	47	Oregon	34	16	50	Arizona	35	23	58
Florida	30	22	52	DC	11	37	48	California	38	13	51	MaryInd	33	26	59
Okla	25	28	53	Col	36	13	49	DC	30	23	53	Okla	24	36	60
S. Car	34	19	53	Tenn	14	38	52	Virginia	33	21	54	Virginia	29	31	60
Texas	27	26	53	Ala	15	39	54	Wash	37	20	57	Missi	23	40	63
Oregon	17	37	54	Virginia	34	21	55	Missouri	20	39	59	Nevada	36	28	64
Cal	33	31	64	Florida	29	27	56	Arizona	28	32	60	Florida	37	30	67
DC	40	25	65	Arizona	31	26	57	Connectic	31	30	61	S Car	31	38	69
Arizona	36	36	72	Cal	37	24	61	Col	29	34	63	Col	34	37	71
Wash	37	35	72	Louisian	25	36	61	New Mexi	24	40	64	Ala	38	35	73
N. Mex	35	39	74	Utah	38	33	71	Del	36	35	71	Louisia	39	34	73
Del	38	38	76	N Mexico	40	32	72	Miss	40	38	78	N Mex	40	39	79

RANK #1- Discrimination by industry; RANK #2 - % affected workers by Hard Core establishments; TOTAL = Rank 1 + Rank 2

§3. NO ABSOLUTION FOR LOWER RANKED STATES

These rankings will show intentional job discrimination, but do not absolve establishments in those with lower rankings.¹⁸⁴ The fundamental principle of the methodology is to build on the reality of how employers in a given area, industry and occupation actually utilize minorities and women. We identified intentional discriminators by finding establishments that were so far below that average that the law would presume intent. The average itself is a fact, not a conclusion imposed from outside the data and it varies with each area, industry and occupation within industries. There is no single average for an employer.

The average is neither fair, nor non-discriminatory. It includes the employers who are discriminators. If the major part of an industry is discriminating against a group, it will lower the average for that group and thus conceal those who might be discriminating. Our data cannot tell us if that is the case. Moreover, if hiring patterns reflect geographical or historical mores so that most establishments follow a similar pattern, even one discriminatory by other criteria, there will be few deviant establishments, and thus little intentional discrimination would be visible. Office and clerical work, for example, remains a largely women's job, and has a comparatively low probability of discrimination, because of the continuation of the hiring pattern.

In addition, for the average to identify serious underutilization of qualified workers, the labor market must include a sufficient number of qualified workers already employed in the industry and occupation. For example, many states exhibit high proportions of minorities and women in professional occupations, but a much lower proportion of officials and managers, many of whom come from professional ranks. But if minorities and women have not yet gotten into managerial ranks in sufficient numbers to raise the average and thus identify laggards, they will not be visible to our analysis. We cannot identify intentional discrimination under the Supreme Court's definition until there is a sufficient number of qualified workers in the occupation, industry and labor market to set an industry standard and identify those who do not follow it. As a result, we cannot say that ranking in the lower quartiles in our Table 4 reflect little intentional discrimination.

§4. GREATER DISCRIMINATION IN HIGHER QUANTILES—THE NORTH AND MIDWEST SURPRISE

Establishments in states in the higher quartiles of Table 4 engage in intentional job discrimination to a greater extent than those in the lower quartiles in their industries, in their location and over a significant period of time. Perhaps the most surprising aspect of Table 4 is the large proportion of Northern and Midwestern states that appear in the first quartile of states with the highest proportion of severe and persistent discrimination. At the same time, the Southern states that traditionally have been viewed as more overt discriminators are scattered through the lower quartiles. Part of this result may flow from the location of industrial and commercial growth in the 1990's. Much of this growth came in the Southern and Western states. Industrial and commercial business establishments that started up or grew during this decade would not have had time to develop a ten-year track record to be considered in the "hard core" category.

However, if the hard core ranking is disregarded, the top and bottom quartiles of states remain nearly unchanged, with some shifting in position in the middle quartiles. Kentucky would not be in the top quartile with respect to Blacks, Illinois and Rhode Island would not be in the top quartile with respect to Hispanics, Ohio and Texas would not be in the top quartile with respect to Women. These differences may reflect recent growth in the South and West, but the small number of changes that affect the top quartile confirms that the two factors are measuring aspects of the same underlying phenomena of discrimination.

§5. ENDNOTES

-
181. Similarly, Texas, which ranked fourth or higher in the number of affected workers of any group, ranked 27th in the risk of discrimination in any industry with respect to Black workers, 33rd with respect to Hispanics, 21st with respect to Asian-Pacific origin workers, and 12th with respect to women.
 182. We examined other measures we had used in the national and state reports, such as the probability of discrimination in at least one occupation. This methodology was discarded because we concluded that industry patterns, rather than occupational patterns better reflected the risks of discrimination for comparison purposes.
 183. See Chapter 9 of the National Report.
 184. See Chapter 2, §3 of the National Report.
-