



---

# Steps in Developing a Testing Program

## Understanding the Requirements for Tests

Christine Rice, PHRC

Housing/Commercial Property Supervisor

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---



# 1. Test standards are those articulated in Bryant - namely:

- a. “wrap around/sandwich test”
  - b. Control Tester, Test Subject Tester; Re-contact by first tester or another control tester.
  - c. Near identical information by testers.
  - d. Objectivity in reporting (to be covered later).
-



- 2. Test must produce actual evidence of “different treatment”.**
  - 3. “Different treatment” must “adversely affect” test subject tester.**
-



## 4. “Prima facie” proof :

- a. Test Subject Tester must be a member of a protected class.
  - b. Test Subject Tester must have created appearance of a bona fide “qualified applicant”.
  - c. Test Subject Tester must ask for information and been given “different and adverse information”.
  - d. Control Tester established unit availability initially and reconfirmed it after test subject tester received “different information.”
-



# PROTECTED CLASSES

<b>PROTECTED CLASSES UNDER PA HUMAN RELATIONS ACT:</b>	RACE	COLOR
RELIGION	NATIONAL ORIGIN	ANCESTRY
AGE 40+ (not public accommodations)	SEX	NON-JOB RELATED DISABILITY
RELATED TO ONE WITH NON-JOB RELATED DISABILITY	USE OF A GUIDE OR SUPPORT ANIMAL	POSSESSING A G.E.D. INSTEAD OF H.S. DIPLOMA
REFUSAL OR WILLINGNESS – ABORTION	FAMILIAL STATUS (HOUSING)	RETALIATION

---

# HOUSING & COMMERCIAL PROPERTY



Refusal to sell, lease,  
finance or otherwise to  
deny or withhold  
housing or commercial  
property (Section 5h1).



---

# HOUSING & COMMERCIAL PROPERTY



Refusal to allow  
modification or make  
reasonable  
accommodations for  
persons with a disability  
(Sections 5h 3.1 and 3.2).





# HOUSING & COMMERCIAL PROPERTY

- Rental situations
- Eviction due to pregnancy or child
- Advertisements
- Real estate practices (Section 5.3)
- Predatory lending & other lending practices



# End of Phase II Part A

Next – Ray Cartwright  
& What Makes a Good Tester

---

# Steps in Developing a Testing Program



## What Makes a Good Tester?

Ray Cartwright, PHRC  
Housing/Commercial Property Division

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---



# Who is a Good Tester?

1. People make good testers.
  2. People who are objective make good testers.
  3. People who are observant make good testers.
  4. People who are “listeners” not “talkers” make good testers. Two ears to listen - one mouth to talk!
-



# Who is a Good Tester?

5. People who don't have an "ax to grind" make good testers.
  6. People who are "crusaders" do not make good testers.
  7. Testers must also be capable of following directions.
  8. Information sharing is taboo at all levels including "pillow talk".
-

# End of Phase II Part B

Next – Martin Kearney  
Recruiting Testers & Training Them

---

# Steps in Developing a Testing Program



## Recruiting Testers and Training Them

Martin Kearney, PHRC  
Education/Community Services Supervisor

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---



# Recruiting & Training

1. A “good tester” is a good information gather.
  2. “Information gatherers” are “listeners”.
  3. We have two ears but only 1 mouth which suggests listening twice as much as talking.
  4. Three “O’s”
    - Objective
    - Observant
    - Organized
-



# Recruiting & Training

5. Community member in good standing;
  6. Available for a long period to test and to testify;
  7. Team Player;
  8. Trainable;
  9. Training will be local with PHRC assistance;
  10. Training materials are all on the disk.
-

# End of Phase II Part C

Next – Raymond Cartwright  
Announcing Testing vs. Covert Testing



---

# Steps in Developing a Testing Program

## Announcing Testing v. Covert Testing

Raymond Cartwright, PHRC  
HCPD Director, Retired

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---



# Announcing v. Covert

1. Historical evidence for both positions.
  2. PHRC main test effort done in 1972 after housing industry was notified of testing methodology.
  3. By contrast in individual cases confidentiality prevails.
  4. Difference: the results.
  5. Confidentiality limits testing as a deterrent but complies with the law.
-



# Announcing v. Covert

6. Industry notice however creates a ripple effect that helps to increase “voluntary compliance”.
  7. This is achieved by creating a shift in perception.
  8. Initially a person who seeks to have persons excluded on the basis of a protected class has the upper hand.
  9. They have and control the flow of information.
-



# Announcing v. Covert

10. They have the power to provide adverse information with apparent impunity.
  11. Once notice is given that testing is occurring the balance shifts to the consumer.
  12. Now the information provider must assume **EVERY PERSON SEEKING INFORMATION IS A TESTER.**
-



# Announcing v. Covert

13. Knowing that testers develop information that is accepted as “evidence” by courts increases their risk of liability for misinformation.
  14. Hence they are more prone to comply.
  15. PHRC will be happy to coordinate “notice” with local agencies.
  16. Remember too that “news” of test cases being filed is also “notice”.
-



# Announcing v. Covert

17. “Notice” of testing can also create the basis for “dialogue” with providers.
  18. Such dialogue can lead to positive and constructive voluntary compliance with local monitoring.
  19. Notice to municipalities with listing ordinances may lead official to reconsider the possible adverse affects.
  20. Notice to all that “appearances of inaccessibility” will be incorporated in all tests prompts change.
-



**PHRC has resources on line at**  
**[www.accessdoctors.state.pa.us](http://www.accessdoctors.state.pa.us)**  
**for providers and advocates**

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---



***Testing is a powerful tool ...***

**USE IT WISELY!!**

**PENNSYLVANIA HUMAN  
RELATIONS COMMISSION**  
*Promoting Equal Opportunity*

---