

Insurance

STATEMENT OF JEROME KAY - COMMISSIONER
NEW YORK CITY COMMISSION ON HUMAN RIGHTS
BEFORE THE U.S. SENATE COMMITTEE ON THE
JUDICIARY, SUBCOMMITTEE ON ANTI-TRUST AND
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My name is Jerome Kay. I am a Commissioner on the New York City Commission on Human Rights.

Mr. Chairman, thank you on behalf of the Commission for this opportunity to participate in your investigation of auto insurance rating and marketing practices. We feel this investigation is of major importance and one of the most important undertaken to date by any investigative body.

The statistical presentation and testimony we offer today is based on:

1. Reports of the New York Assigned Risk Plan for 1964-1965-1966
2. Annual Reports of The New York State Department of Insurance for 1964-1965-1966
3. The examination of applications for insurance in the Assigned Risk Plan for New York City, during the month of February, 1968

The problem is that low income and minority group ghetto residents pay more for and benefit less from automobile insurance, because they don't have the same insurability as white middle class and non-ghetto residents. The low income minority groups pay more for insurance because frequently there are no avenues open to them for voluntary acceptance of their applications. Despite the honest efforts of some sincere brokers, the constant refusal of agencies and companies to accept this ghetto and non-white business forces the applicant for insurance to either authorize the placement of coverage through a high risk (excess) company or the alternative of the Assigned Risk Plan. This has been a practice for a number of years in New York City. This form of discrimination is very subtle, sophisticated and accepted. It permits all these practicing it to deny involvement in it and awareness of it.

The automobile insurance industry has developed a series of procedures to cancel or not renew insurance policies of people living in ghetto or changing areas (white to black and Puerto Rican), thus forcing the expolicyholder to do business in the previously mentioned manner (Assigned Risk Plan). Many companies start this procedure with the cancellation of direct accounts with brokers. Many companies had oral contracts with brokers who were permitted to write business based on their judgment and this was acceptable to the company. Currently, most companies have general agents who act as buffers between themselves and the brokers to evade the responsibility of denying coverage. The mention of a Spanish sounding name or ghetto address is sufficient notice to the agent that the application of a given broker is undesirable. This is one of the techniques used by the companies, with the aid of the agent and sometimes the broker, to deny standard coverage to minority group members. Another aid to identifying ethnic background is a system of coding on applications employed by some companies - the use of numbers or letters, or other inconspicuous ways of identifying an individual's ethnic background, the company thus knows the background of the applicant and can arbitrarily refuse to accept the application without fear of being accused of being discriminatory.

Another technique often used by insurance companies or agents, is to drop the account of a broker who has Negroes and Puerto Ricans for clients, or who is located in a ghetto area. The company claims the broker's business is no longer profitable, that his losses are higher than the earned premiums, or that they are re-assessing underwriting policy and regrouping. Sometimes a broker failed to notify the company of a clients' accident. The chances are, in many cases, that the broker has not been notified by the insured. In other cases some of the cancellations and

terminations are legitimate, however, the policyholders still suffer.

The companies often claim that ghetto residents are poor drivers and these accidents involve more people, because they overcrowd their cars. An insurance executive who must remain anonymous, alleges, that because minority group members have limited intelligence and a limited command of language, they are unable to protect themselves or negotiate when involved in an accident. Further, he said that insurance companies hesitate to take cases to court involving minority group insurance pitted against a white plaintiff or defendant, because juries tend to be sympathetic to white persons.

At this point I would like to introduce statistics of the Assigned Risk Plan, taken from the new applications submitted for the month of February, 1968, in New York City. We examined and recorded information from 3,688 applications.

This chart shows:

Whites (1098) represent 29.8%

PR&N (2590) represent 70.2%

These figures and percentages constitute the total of the test sample.

Of the 994 applicants who had previously had automobile insurance:

Whites represent 36% or 401 of 1098

PR&N " 22.5% or 593 of 2590

The whites in this sampling had more previous insurance, though their sampling or gross numbers were smaller.

Of the 2132 accidents and violations recorded of the test series:

Whites had 36% or 769 accidents and violations (70% of all white applications)

PR&N had 63.9% or 1363 accidents and violations (48.5% of all minority group applications)

The whites had more accidents and violations per person than the

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In the under 25 and over 65 age categories the:

	Accidents	Violations
Whites are 403 or 37% of 1098	113 - 28% per/pers	143 - 35% per pers
PR & N " 563 " 22% " 2590	180 - 32% " "	77 - 14% " "

It is important to note that of the samples taken that this white group represents 37% of their total as opposed to the 21.3% of the minority group category.

In the 25 to 64 age categories the:

	Accidents	Violations
Whites are 692 or 63% of 1098	212 - 31% per person	301 - 43%
PR & N " 2036 " 79% of 2590	478 - 23% " "	618 - 30%

Puerto Ricans and Negroes represent 65% of this age category, and the percentages conclusively show that they have fewer violations and accidents in this category.

CLEAN RISKS

1790 of the 3688 applications examined were applicants between 25 and 64 years of age with driving experience in excess of 3 years and no accidents and/or violations.

Whites are 298 of 1098 or 27%
PR & N are 1192 of 2590 or 58%

Puerto Ricans and Negroes represent more than twice as many "clean risks" as whites in the Assigned Risk Plan.

The following is a breakdown of the numbers of persons in each ethnic group and an accounting of their involvement in accidents and violations.

Accidents & Violations

White 800 of 1098 or 73%
PR & N 1098 of 2590 or 42%

Almost twice as many whites were involved in accidents and violations than Puerto Ricans and Negroes.

The following quotes taken from the New York State Department of Insurance Annual Reports further supports the above charts:
1964

"The current risk classification system discloses fully 36.4 percent of risks insured through the Assigned Risk Plan with no notable characteristics which would identify them as being other than a preferred type of risk. These are the risks with adequate driving experience and with no accident or conviction record and fall in the preferred risk category which is given a 10 percent discount from manual rates. The only characteristic which sets these individuals apart from others in the voluntary insurance market is the fact that the former have been refused insurance in the voluntary market. An individual applicant for automobile insurance seldom, if ever, can learn why the underwriter has declared him unacceptable."

1965

"Despite continuing Department efforts, "Clean" assigned risks comprise almost 70 percent of all assigned risks. About 36 percent of all assigned risks represent "Clean" risks who have adequate driving experience and no accident or conviction record; they therefore fall in a preferred risk category which receives a 10 percent discount from manual rates. Underwriting decisions by insurance companies exclude these risks from the voluntary market. Rates charged assigned risk by most

* See chart #1 in appendix for percentages of "Clean Risks" per ethnic group

companies are comparable to the rates charged their voluntary insureds, a consequence of the Department's insistence."

1966

"Although the percentage of "Clean" assigned risks has declined, this group, despite continuing Department efforts, still comprises 67 percent of all private passenger assigned risks. The Department is currently concentrating on the reported "Clean" risks who have adequate driving experience and no accident or conviction record. These risks fall in the preferred risk category which receives a 10 percent discount from manual rates yet are excluded from the voluntary market by the underwriting decisions of insurance companies."

This problem has not been defined by the Commission but by the very nature of the complaints received regarding the unfair practices of auto insurance industry. These complaints have been numerous, indicating to the Commission that an investigation was necessary.

Presently there is little recognizable policy, Federal, State or Local, dealing with discrimination in the auto insurance area. Although the New York State Department of Insurance formulates state policy relative to automobile insurance it has become apparent that this agency has not heretofore viewed discrimination as a serious problem. The State laws regulating the insurance industry are vast and complex in scope, but they deal primarily with the establishment of rates, rather than the protection of the rights of the individual to purchase insurance on his own merits or from whom he chooses. In short, the poor as in all other walks of life - pay more.

The following chart conclusively shows that the bulk of the applicants in this test series (3688) are low income people. An ethnic breakdown further accentuates this fact.

	White (1098)	Puerto Rican & Negro (2590)
Professional	83 - 8%	122 - 5%
Sales	56 - 5%	59 - 2%
Clerical	191 - 11%	258 - 10%
Crafts	147 - 13%	340 - 13%
Operators	103 - 9%	398 - 15%
Service	235 - 21%	470 - 18%
Labor	108 - 10%	431 - 17%
Household	80 - 7%	194 - 7%
Student	50 - 4%	11 - .4%
Unemployed	107 - 10%	316 - 12%

The evidence of inability of present policies to meet the needs of the low income and minority group population is seen in the increasing number of complaints that public officials and agencies have received from members of these groups. It has already been noted that various legislative and executive bodies are looking, or will look, into this matter. The most influential public body to have begun an extensive examination of the automobile insurance industry is your Committee, gentlemen. It is hoped that from the evidence presented in these hearings - new legislation and controls will be forthcoming.

The New York State Automobiles Assigned Risk Plan is a good example of how the insurance system works to the disadvantage of low income and minority groups, who have been unfairly placed in it.

1. The Plan limits its policyholders to the minimum coverage under the provisions of the New York State Insurance Law, which is \$10,000 and \$20,000 bodily injury and \$5,000 property damages. Whereas, a standard policy offers limitless protection to the insured for a very nominal extra fee.

2. Medical payments benefits are not available as part of an Assigned Risk policy. Whereas, this is not so in a normally written standard policy.
3. The uninsured driver clause is not part of the Assigned Risk policy. Whereas, the uninsured driver clause is available to the standard policy.
4. Towing services are not available to the Assigned Risk policy, but it is available in a standard policy.
5. In the Assigned Risk Plan, an applicant must submit 30% of his premium at the time of application and pay the balance in 30 days. The standard policy applicant can pay his premium quarterly or monthly at a cost of .50¢ per month for bookkeeping. If the Assigned Risk applicant has limited resources he must then turn to loan companies or banks, thus incurring additional expense.

Under a standard policy, the annual rate is a 10% discount rate, it is available to experienced drivers who have had no accidents, or violations in his driver's license. The discount is less if, you have been driving less than 3 years or if you have had accidents and or violations. In the Assigned Risk Plan the same policy holds true with the exception that you are penalized for the accidents and violations - surcharges are imposed up to 100% of the basic premium.

Premium financing of a policy is expensive because:

1. the broker is entitled to a \$10.00 fee for merely filling out a loan application for the insured.
2. Premium financing has a flat fee of \$12.00 for loan periods of less than 9 months and often under \$125.00.

In the Assigned Risk Plan, automobile liability insurance is subject to surcharges for accidents and violations. However, standard risks are not generally charged for accidents or violations except in

rare instances or in the cases of flagrant violators.

Motor Vehicle Reports (State) are required on all Assigned Risk policies and are not required of standard policies. The applicant in the Assigned Risk almost always has his policy and loan contract prior to the completion of the investigations on the part of the company to which the applicant is assigned. On receipt of information to the effect that the insured has additional violations and or accidents going back beyond 18 months, they then asks for surcharges, which often the insured is not in a position to pay. There are no alternatives, you either pay or the policy is cancelled by the lending organization (through the power of attorney unwittingly authorized by the insured) and or company. The policyholder after having paid what he thought to be a total premium and then ^{cancelled} called, has to start again from scratch, because cancelled policies are seldom reinstated. - meaning - new brokers fees and new loan fees for another policy.

An important factor overlooked in paying premiums in advance of the service is that the insurance company is afforded the use of the unearned premium which is not available in the standard type policy. Policy cancellations in the Assigned Risk Plan are very high and have been for the last 5 years averaged: - Statewide -

	Cancellations	Policies Issued
1963 -	105,154	385,149
1964 -	107,682	381,776
1965 -	105,541	402,314
1966 -	113,137	428,515
1967 -	115,873	454,963

These cancellations emphasize the need for change in the Assigned Risk Plan. An obvious effect of these cancellations is the large number of uninsured automobiles involved in accidents in New York City.

At this point in the investigation it is important not to limit the number of possible solutions, nor to structure one's thinking in a particular direction. However, it will be useful to examine a few major directions for possible solutions to the problem of unfair and discriminatory practices in the field of automobile insurance.

1. Regulations of the Insurance Industry to eliminate surcharges and differential rates.

This possible solution requires a brief explanation. Presently, the basic rates one pays one pays for auto insurance are calculated on the basis of the total driving experience, of all insureds including those in the Assigned Risk Plan in a given "territory" (e.g. Manhattan). The total number of accidents by persons in a territory establishes the experience from which the basic rates are determined. Those policyholders having standard coverage pay according to the rates established in a territory which means they too are penalized for the "assigned risks" driving experience. This is unfair to those with standard policies, because the policyholders in the Assigned Risk Plan are, according to the insurance industry's claim, poorer risks than the standard policyholders and should be kept apart. If they are truly to be apart, the Assigned Risk Plan policyholders should not have their driving experiences used to determine basic rates. Furthermore, it seems unfair to charge those in the plan additional rates for accidents and violations, since they are already being penalized by being in the plan. With the elimination of the Assigned Risk Plan, and the surcharges allowed by high risk companies (substandard insurance) the entire driving population in a given territory would be rated on the basis of its total driving experiences and thus everyone would be treated equally.

There would be objections to this possible solution. Some may argue that this would not be an incentive for safe driving, it must be kept in mind that the accumulation of violations leads to the suspension of a driver's license. Another possible objection to this solution is that companies would claim, that rates would have to be much higher even though present rates are based on a total experience. To refute this argument it may be argued that income from premiums and profits from investments should determine the insurance companies' ability to withstand underwriting losses. A company, for example, may show an "underwriting loss" of \$2 million, but have an investment profit of \$11 million (an actual case for one year). Such a company could afford to take a greater loss and still maintain a comfortable profit margin.

The Assistant General Counsel to the Senate Sub-committee investigating automobile insurance has noted that the stock companies (not including the mutuals) expanded their surplus by \$6.3 billion in the past twenty years. In contrast, the companies expanded their capital investment by only \$705 million--one ninth of the amount accumulated through growth of surpluses.

As a possible solution, the regulation of the insurance industry to eliminated surcharges and differential rates, presents some very difficult problems for this investigation. It faces opposition from the entire automobile insurance industry insurance companies, Assigned Risk Plan, the agents, brokers, and the premium lending institutions. In addition, much of the car-driving public may oppose such a solution on the basis that their insurance rates might go up.

2. The creation of a Federal or State agency to undertake the insurance of policyholders who are overcharged or unable to get standard rates from the private insurance companies.

This possible solution would offer a choice to "unwanted" policyholders; the federal or state governments could establish an organization, perhaps a corporation, to undertake this function. This would eliminate the disadvantages to those who are unfairly discriminated against, by offering only rates comparable to those offered in the private market. The state or federal governments would be able to base their charges on true and unbiased statistics on driving experience. This would bring a competitive note into the insurance industry.

Such a proposal would be highly criticized from those elements that believe there is a danger in expanding governmental power and authority. The vested interests of the insurance industry, would probably oppose such a move. On the other hand, the insurance companies may find an advantage in state regulation, since it would rid them of the unwanted Assigned Risk policyholders because of fear of extended state and government regulations of the insurance industry.

The need for change in unfair and discriminatory practices in the automobile insurance industry is based on many complexed factors, and ultimately the responsibility lies on racism, poverty and the creation of ghettos. These may be beyond the formal scope of this investigation, but these are the ultimate factors that force the ghetto dweller to pay more for automobile insurance.

Discrimination in the automobile insurance practices is perhaps not the most important factor underlying ghetto life, nor would erasing it bring instant relief of ghetto social ills. It is possible, however, that by removing this instance of discrimination would lift one more burden from the shoulders of minority and low income group members. The ghetto residents, suffering from discriminations in employment, housing, education and being subjected to a whole series of anti-black

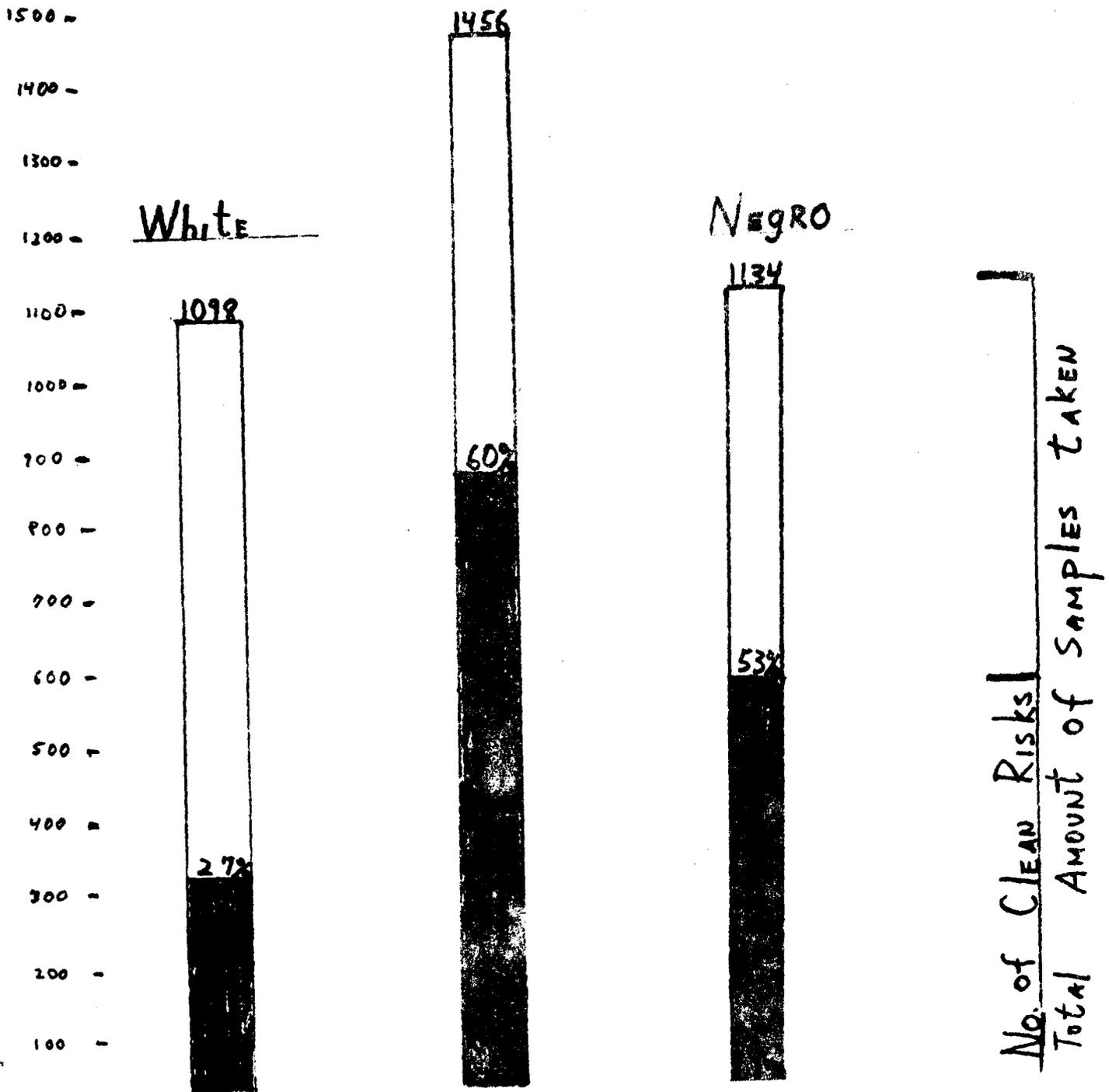
and anti-Puerto Rican attitudes, finds his car an important source of status, and sometimes his only source of recreation, and in many cases the only escape from a dreary apartment and neighborhood. It stands to reason that the elimination of this unfair and frustrating problem faced by ghetto residents would be of benefit to them and to society as a whole.

We respectfully urge this Committee to seriously consider the need for legislative relief in this area. Thank you.

APPENDIX

Total Amount of Clean Risks per Ethnic Group.

Puerto Rican



No. of Clean Risks
Total Amount of Samples Taken