

2017 Seattle Office for Civil Rights Testing Program

Executive Summary

The Seattle Office for Civil Rights' (SOCR) testing program utilizes testers to identify discriminatory practices and bias in access to Seattle's rental housing market using single testers and matched pair design (also known as an audit design). Matched pair testing is conducted by two testers who are carefully paired (similar profiles) and matched to control for all essential differences except the difference that is being measured, such as a protected class.

SOCR conducted testing in both housing and employment. The employment testing is ongoing and results were not available at the date of this publication. In housing, tests were conducted by email, phone, and using in-person testers. The testing program also reviewed online advertisements in which housing ads were analyzed to see if the language in the advertisement or online application criteria was discriminatory. While the in-person tests focused on race, there were many other protected classes tested, including: Section 8 vouchers, disability, national origin, and familial status. A difference in treatment was identified in 110 tests. In 58 (53 percent) of the tests where a difference was observed, that difference favored the tester who was not identifying as: Latino/a, African-American, someone with a disability or service animal, parent, or someone with a Section 8 voucher. SOCR issued 25 Director's charges in 2017 or 15 percent of the total charges filed in that year. Director's charges are those that are initiated by SOCR and not the result of an individual complaint. The majority of those charges were generated by the testing program and resulted in a high settlement rate.

The testing program's unique tools support SOCR in its proactive approach to combat discrimination within the city and address issues of bias through outreach, education, and enforcement of civil rights laws. Through its proactive enforcement strategies of testing, community partnership, and outreach, SOCR is able to provide the community with better service in combating discriminatory barriers to housing access and jobs. As the testing program continues, the relationships with community organizations and the information SOCR receives directly from community members will assist in keeping the testing program relevant to the challenges of bias impacting access to basic needs such as housing.

2017 Seattle Office for Civil Rights Testing Program

WHY DO WE USE TESTING?

Underreporting of instances of discrimination is a problem nationwide. For this reason, agencies have turned to testing strategies as the most effective tool to gather evidence to identify violations of fair housing law. In the Spring/Summer 2014 issue of Evidence Matters, HUD noted that overt housing discrimination is less frequent than in 1977 when it conducted its first study, and that subtle forms of discrimination are increasing. Testing uncovers practices that are barriers to accessing housing such as differences in pricing, availability, neighborhood steering, implicit bias and micro-aggressions. It also provides flexibility for an agency to respond quickly to discriminatory housing practices from community.

Fair housing organizations have used testing since the 1960s. Some organizations use testing as a tool for investigating complaints regarding housing providers and bring to light differential treatment that is systemic in the broader marketplace. As such, the benefits of testing can range from assisting in the investigation of discrimination suffered by an individual, to unearthing the broader systemic forms of discrimination such as policies and practices that impact populations.

The Seattle Office for Civil Rights (SOCR) has utilized housing testing to identify discriminatory practices for over a decade, working with non-profit housing advocacy organizations to conduct fair housing tests. Throughout its history of testing, SOCR has found that differential treatment persists to the detriment of the groups protected under the anti-discrimination laws. In 2017, SOCR designed its own in-house civil rights testing program to address discriminatory practices in both housing and employment. SOCR works in partnership with community organizations to identify barriers to housing for communities most impacted by discrimination.

HOW DOES THE TESTING PROGRAM SUPPORT SOCR'S MISSION?

Seattle has some of the nation's most expansive and protective anti-discrimination laws, offering protection to 18 different protected groups. Moreover, SOCR champions innovative, community-driven solutions to advance race and social justice, housing access, economic equity, and gender justice, in addition to providing support to the City's four civil rights commissions (Human Rights Commission, Women's Commission, LGBTQ Commission and the Commission for People with disAbilities). SOCR also leads the Race and Social Justice Initiative, a citywide effort to end institutional racism in City government and to achieve racial equity across our community. SOCR is responsible for enforcing the All-gender Restroom Ordinance, the Ban on Conversion Therapy on Minors, and the Fair Chance Housing Ordinance. SOCR works to advance civil rights and end barriers to equity by enforcing these laws as well as those against discrimination in public accommodation and contracting.

With the creation of this testing program, the City of Seattle has one of the first civil rights enforcement agencies with an in-house testing program. The testing program's unique tools support SOCR in its proactive approach to combat discrimination within the city and address issues of bias through outreach, education, and enforcement of housing and employment discrimination laws.

The testing program is an integral part of SOCR's ability to proactively enforce the civil rights laws by identifying discriminatory policies and practices that impact the city's most vulnerable populations. SOCR issued 25 Director's charges in 2017, representing 15 percent of the total charges filed in 2017. Director's charges are those that are initiated by SOCR and not the result of an individual complaint. The majority of those charges were generated by the testing program and resulted in a high settlement rate. Through its proactive enforcement strategies of testing, community partnership, and outreach, SOCR is able to provide the community with better service in combating discriminatory barriers to housing access and jobs.

HOW DOES THE TESTING PROGRAM WORK?

SOCR's testing program utilizes testers to identify discriminatory practices and bias in access to Seattle's rental housing market using single testers and matched pair design (also known as an audit design).

Matched pair testing is a well-established research design that has been used nationwide to document differential treatment in various contexts, including housing. This method is used by public agencies, community/advocacy organizations, and nonprofits to unearth discriminatory practices against protected groups that may or may not be apparent to the individual receiving the differential treatment.

Matched pair testing is conducted by two testers who are carefully paired (similar profiles) and matched to control for all essential differences except the difference that is being measured, such as a protected class. The testers present themselves as potential renters/tenants who are seeking housing. Testing is conducted in different types of housing available for rent. The tests are conducted using email, online chat, phone, and in-person interaction. A combination of any of these forms of communication may be utilized in a single test.

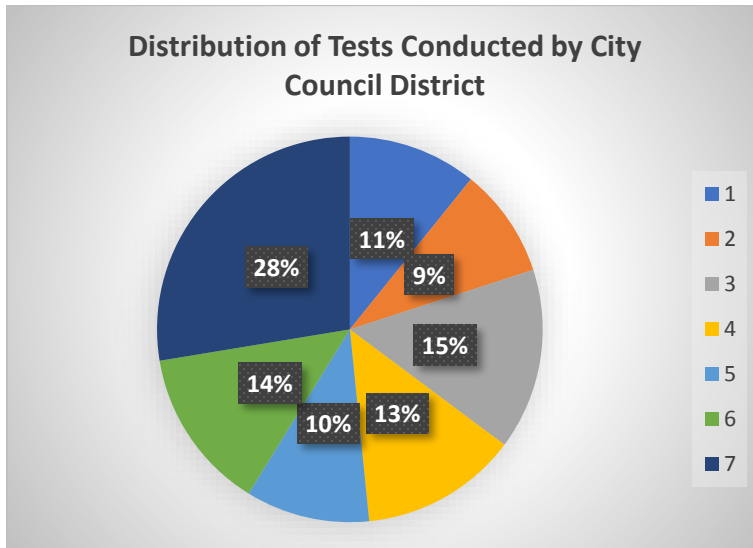
A single tester design is conducted for tests where a matched pair is not necessary. For example, a tester calls and is told that the apartment building does not accept Section 8 vouchers. A policy of not accepting Section 8 vouchers is unlawful in Seattle and the single tester can confirm the unlawful policy.

WHAT TYPE OF TESTING WAS CONDUCTED IN 2017?

In 2017, SOCR conducted testing in both housing and employment. The employment testing is ongoing, and results were not available at the date of this publication. In housing, the testing program partnered with New York City's Fair Housing Justice Center (FHJC) and the Council on American-Islamic Relations - Washington State (CAIR-WA). Tests were conducted by email, phone, and using in-person testers. The testing program also reviewed online advertisements in which housing ads were analyzed to see if the language in the advertisement or online application criteria was discriminatory.

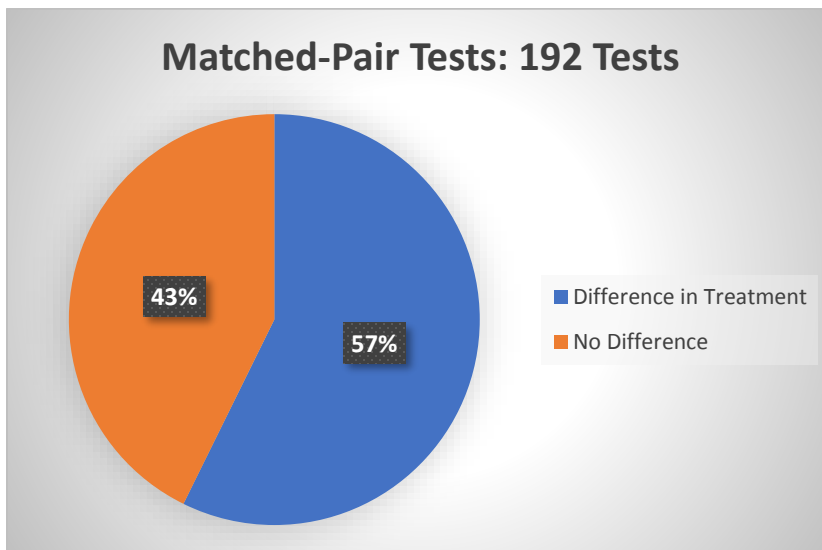
Twenty-four trained testers participated in the testing program in 2017. Tests were conducted in every City Council district to provide a distribution of testing sites.

Distribution of Tests Conducted by City Council District



Housing tests were fairly evenly distributed across council districts with the exception of District 7 which includes part of the Chinatown/International District up through downtown, Queen Anne, South Lake Union, and up to Magnolia. The testing program encountered a higher frequency of available units in District 7 during the 2017 testing. The areas in District 7 have seen rapid growth and development, including development of multi-unit rental housing.

WHAT DID SOCR OBSERVE IN 2017?



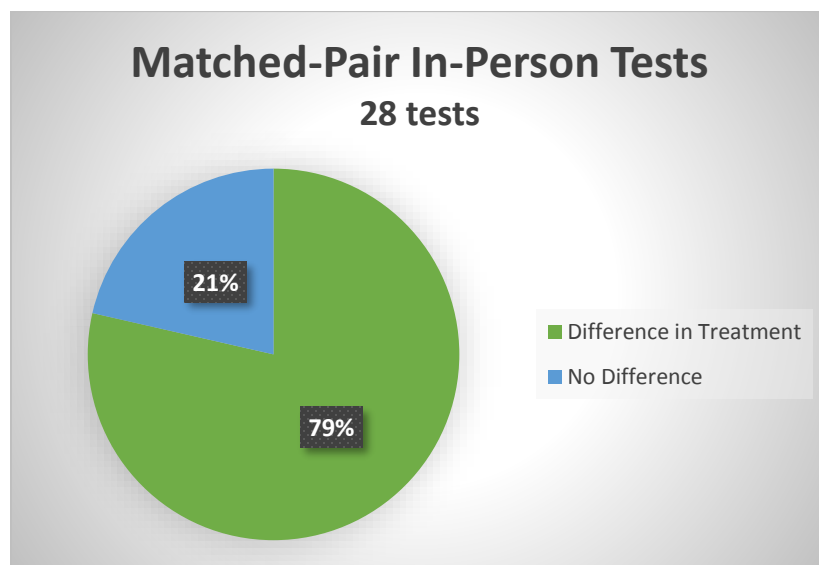
Testing Results for Differential Treatment in Housing

One hundred and ninety-two matched pair tests (conducted by email and in-person) were completed and fell into one of two categories:

- *Difference in Treatment (110 tests/58 percent)*
- *No difference in Treatment (82 tests/43 percent)*

Additional matched pair tests were conducted but were inconclusive or there was no response from the property. In addition, two tests were conducted using only one tester (not matched-pair).¹ Of these 110 tests, a total of nine tests resulted in a discrimination charge. Eight of the discrimination charges were resolved through settlement and are closed, and one remains open. The terms of the settlements included a monetary penalty, mandatory training, and requirement of public notification of fair housing protections in Seattle. The discrimination charges were based on Section 8 subsidies, disability, race, national origin, and familial status.

Tests Conducted with In-person Testers



In-person tests were used in a matched pair design account for 28 of the tests categorized as: Difference in Treatment or No Difference in Treatment. Among the 28 matched pair in-person tests a difference in treatment was observed in 22 tests (79 percent). No difference in treatment was observed in 6 tests (21 percent).

An example of differential treatment:
The Caucasian tester was given additional information about deposit amounts, amenities, or application information that was not provided to the African-American tester.

Different treatment took a variety of forms. The type most frequently observed was in which one tester received more information or details than the other. This additional information was often provided during the tour, or in email or phone communication following the tour. In 22 tests, the testers went to

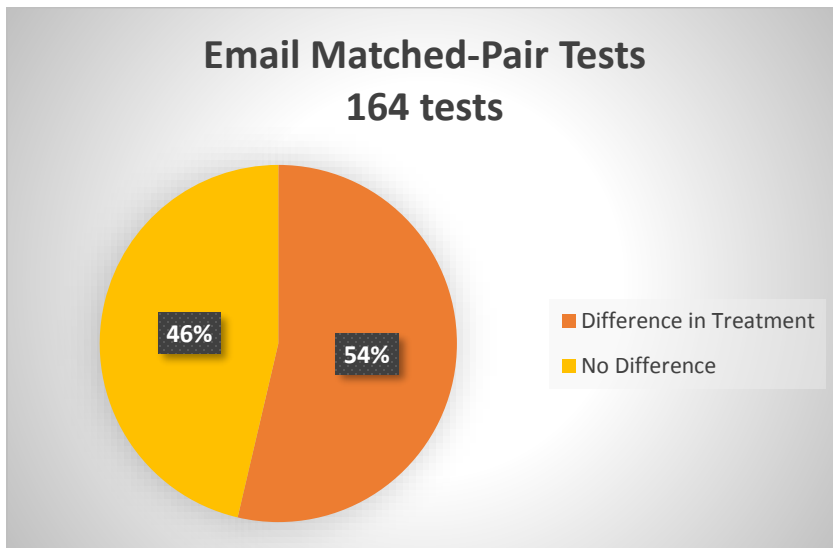
¹ The total tests completed were 248. This report focuses on the total 192 matched-pair tests that were completed and categorized as “Difference in Treatment” or “No Difference in Treatment.” The 248 tests can be broken down into: 197 matched-pair email tests, 49 matched-pair phone/in-person tests, 2 single tester phone tests.

a property in-person and different treatment was observed. No difference in treatment was observed in six tests. Different treatment was observed in 18 tests where one tester was African-American.

The difference in treatment was further broken down into instances that favor or deter one tester over the other. Instances where the African-American tester received less favorable or negative treatment were observed in 11 tests, or 61 percent of the in-person tests. These tests include instances where the African-American tester received less information or details, was provided fewer unit options, or where the African-American tester was given information or asked questions about criminal history or income verification requirements. Criteria such as a criminal background check or income verification are areas that are historically linked to negative stereotypes about African-Americans and were counted as disfavoring/deterring the African-American tester in tests where the African-American tester was the only tester informed of this requirements or, as one test showed, the African-American tester was told about the criminal background check as part of the application requirements, but when the agent told the other Caucasian tester about the background check, the agent made an apologetic joke of having to run the criminal background. Instances that favored the African-American tester were observed in 39 percent of the tests.

Email Tests

Email matched pair tests were conducted in various protected classes, specifically: race, national origin, disability, age, Section 8 subsidies, and familial status. Among the 164 tests conducted that fell into the categories of Difference in Treatment or No Difference in Treatment, a difference was observed in 88 tests (54 percent). Thirty-five tests were conducted in subsidies, 37 in race, 46 in disability, 35 in national origin, 7 in familial status, 4 in age.



In tests where the first tester emailed a property and stated that they had a Section 8 voucher and the second tester did not, a difference was found in 22 tests. The results favored the tester without a Section 8 voucher in 64 percent of the tests. The tester who stated they had a voucher was provided with less information or denied the ability to pursue the rental compared to the tester who did not state they had a Section 8 voucher. The responses ranged from no response or a statement that Section 8 were not accepted, to less information or details about the unit.

In email tests looking at race, a difference in treatment was observed in 16 tests and no difference in treatment was observed in 21 tests. In seven of the 16 tests (44 percent), favorable treatment of the “African-American-named” tester was observed. The other tester was favored in nine out of 16 tests (56 percent).

Discriminatory Advertising in Housing

In 2017, the testing program identified 35 advertisements that contained potentially discriminatory language based on a protected class. Thirteen resulted in a discrimination charge. Six of the 13 charges were resolved through settlement which involved monetary penalty, mandatory training, requirement of a fair housing poster and change in advertising practices. Seven charges remain open/pending. The charges were in the areas of: subsidies (Section 8), national origin, familial status, and race.

An example of an exclusion: *an advertisement or housing application that states: “No Section 8”, is a clear exclusion for anyone with a Section 8 housing choice voucher. These ad-based reviews do not require the use of live testers to determine whether the law is being followed because the violation is seen in the advertisement itself.*

Discriminatory language in advertisements for housing can discourage applicants from applying for housing. Some discriminatory advertising results in a clear exclusion of a group from renting.

An example of a discouraging applicants:
An advertisement for a 2-bedroom house that requires a “2-person maximum occupancy” will have the effect of dissuading families with a child from renting.

HOW DOES TESTING MAKE A DIFFERENCE?

The testing program allows SOCR to respond to community concerns and react quickly to information about where the community is experiencing possible discrimination. With the tools provided by the testing program, SOCR can stretch beyond the limits of a complaint-based system and proactively identify and combat discrimination.