Guide for Fair Housing Testers
Acknowledgement & Disclaimer

The *Guide for Fair Housing Testers* contains testing guidelines used by the Fair Housing Justice Center, Inc. (FHJC) in its Acting for Justice Program. The guidelines were developed to ensure that testing investigations conducted by the FHJC yield credible, objective, and admissible evidence. The guidelines are not intended to establish a legal or investigative standard that restricts or limits testing conducted by other organizations, government agencies, or individuals that may be equally capable of yielding credible, objective, and admissible evidence.

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# Table of Contents

**Introduction** .................................................................................................................. 1
About the Fair Housing Justice Center ....................................................................................... 1
Acting for Justice Program ........................................................................................................ 2
Fair Housing Laws .................................................................................................................... 3
Testing as an Investigative Tool ................................................................................................. 5

**The Testing Process** ..................................................................................................... 9
Test Coordinator Responsibilities ............................................................................................... 9
Tester Responsibilities ................................................................................................................. 10
Testing Approaches .................................................................................................................. 12

**Testing Guidelines** .................................................................................................... 13
Role of Testers ........................................................................................................................ 13
Preparing to Test ..................................................................................................................... 18
Conducting the Test .................................................................................................................. 22
Following the Test .................................................................................................................. 27

**Recording Protocols** ................................................................................................... 31
Use of Recorders ..................................................................................................................... 31
Concealing the Recorder .......................................................................................................... 32
Identifying the Recording .......................................................................................................... 32
Maintaining the Chain of Custody .............................................................................................. 34

**Practice Test** ............................................................................................................. 35
Introduction

This Guide for Fair Housing Testers contains information about the guidelines, forms, and procedures used by the Fair Housing Justice Center (FHJC) in its fair housing testing program. The Guide is a training tool for individuals who have been selected to participate as fair housing testers. New testers are asked to read this Guide and be prepared to discuss the material at the Training for Fair Housing Testers. Once trained, testers should retain this Guide and refer to it as a source for basic instruction about testing guidelines and procedures. As revisions are made to the Guide, FHJC testers will be informed about any changes and provided an updated copy of the Guide.

As a fair housing tester, you are a key participant in an important effort to ensure that fair housing laws are fairly and vigorously enforced. Your efforts make it possible for the FHJC to conduct investigations and obtain credible and objective information about housing practices.

About the Fair Housing Justice Center

The FHJC is a non-profit civil rights organization dedicated to promoting equal opportunity in housing in New York City and throughout the seven surrounding
New York counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester.

The FHJC is dedicated to:

- Eliminating housing discrimination
- Promoting open, accessible, and inclusive communities
- Strengthening enforcement of fair housing laws

The FHJC provides counseling, investigative assistance (testing), and legal referrals to assist victims of housing discrimination, conducts proactive investigations to identify and challenge discriminatory housing practices, and advocates policies that reduce segregation and poverty concentration throughout the region. The FHJC works to expand housing choice and increase opportunities for all populations, including groups that have been historically marginalized, discriminated against, or excluded.

**Acting for Justice Program**

The fair housing testing program operated by the FHJC is called the Acting for Justice Program. The FHJC has recruited and hired professional actors to work as part-time testers through a partnership with the Actors Work Program (AWP) of the Actors Fund, a national organization that provides services to members of the theatrical arts and entertainment industry. While this partnership is the primary source for FHJC testers, the FHJC may enter into contracts with non-profit organizations to recruit and train additional individuals.
who possess characteristics or qualifications not found among existing FHJC testers. Contracted organizations are reimbursed for releasing selected employees to participate in testing investigations as needed.

Fair housing laws protect everyone from unlawful housing discrimination. For this reason, the FHJC developed a large and diverse pool of trained and experienced testers who can be utilized in many types of fair housing testing investigations. Through the Acting for Justice Program, the FHJC uses testing to investigate housing practices and aid with the enforcement of local, state, and federal fair housing laws.

**Fair Housing Laws**

Fair housing is the law of the land. Fair housing laws prohibit certain forms of discrimination in the sale, rental, financing, insuring, and construction of housing. The federal Fair Housing Act, passed in 1968 and substantially amended in 1988, prohibits housing discrimination on the basis of:

- Race
- National Origin
- Color
- Religion
- Sex
- Familial Status (presence of children in household)
- Disability
The federal Equal Credit Opportunity Act (ECOA), passed in 1974, prohibits discrimination in the provision of financing on the basis of:

- Race
- Color
- Religion
- National Origin
- Sex
- Marital Status
- Age
- Receipt of Income from Public Assistance

State and local fair housing laws vary greatly in the protections offered and in their coverage and enforcement mechanisms. For example, the New York State Human Rights Law includes all of the protected categories found in the federal Fair Housing Act and also prohibits housing discrimination based on:

- Age
- Sexual Orientation
- Marital Status
- Military Status

In New York City, the Human Rights Law includes all of the protected categories found in the federal Fair Housing Act and also prohibits discrimination in housing on the basis of:

- Age
- Sexual Orientation
- Marital Status
• Gender Identity
• Lawful Occupation
• Alienage or Citizenship Status
• Domestic Partnership Status
• Lawful Source of Income (Including housing subsidies)

Testers are not expected to be experts on local, state, and federal fair housing laws.

Testing as an Investigative Tool

Testing is an investigative tool used to gather evidence. Generally, fair housing testing refers to the use of individuals who, without a bonafide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective renters or purchasers of real estate for the purpose of gathering information which may indicate whether a housing provider is complying with fair housing laws. For example, a “paired” test conducted to investigate possible discrimination on the basis of race in the rental housing market might begin by selecting two trained testers. The testers are assigned a set of personal, financial, and home seeking characteristics so that they are closely matched and the primary difference between them is their race. The testers receive instructions to separately visit the same apartment building and inquire about the same type of apartment. Upon completing visits to the apartment building, each tester fills out a report form and provides a factual account of his or her test experience. Comparing the accounts
of these test experiences may make it possible to identify and document any differences in treatment and/or the existence of policies or practices that violate fair housing laws. In other words, testers simulate ordinary housing transactions for the purpose of obtaining credible and objective information about housing practices. In the context of fair housing law enforcement, testing is an essential investigative tool.

Testing provides an opportunity to observe the ordinary or “unvarnished” business practices of housing providers, lenders, insurance companies, and others. Testing is one way to determine whether all housing consumers are being afforded the same information, service, treatment, and access without regard to the characteristics protected by fair housing laws.

There are two circumstances that might prompt the FHJC to conduct a test. First, testing is used to investigate individual complaints that allege violations of fair housing laws. Under fair housing laws, the burden of proving that illegal housing discrimination occurred is always on the victim of discrimination. The value of complaint-responsive testing is that it may provide the vital corroborative evidence needed to assist victims of discrimination in meeting their
burden of proof. Courts have found testing to be persuasive evidence and sometimes the only credible or competent evidence available to corroborate an allegation of housing discrimination.

Second, systemic testing makes it possible for the FHJC to pursue a more vigorous and pro-active approach by uncovering patterns and practices of discrimination without relying exclusively on the filing of individual complaints. There are many advantages to this more pro-active approach. Some violators of fair housing laws have devised techniques to elude detection by individual home seekers. Some violators may mask their discriminatory conduct with good manners or camouflage unequal treatment with common courtesies. The “stealth” quality of some contemporary housing discrimination makes it difficult, if not impossible, for an ordinary home seeker to know or even suspect that illegal discrimination has occurred. Subtle discrimination, while no less insidious than overt discrimination, can be just as effective in restricting housing choice and less likely to result in the filing of a complaint. Testing is an investigative tool that is capable of documenting subtle discriminatory practices. Also, a pro-active approach permits the FHJC to take action to stop discriminatory practices and prevent future home seekers from having to endure the injury, insult, expense, and humiliation that can result from an act of housing discrimination.
As a tester, you may not know why a particular test is being conducted or why a particular entity was selected for testing. Whatever the circumstances may be, you are expected to carry out your responsibilities in a conscientious and objective manner on each and every test. In other words, approach every new testing assignment with an open mind, free of any bias or assumptions about whether or not the entity to be tested is complying with fair housing laws. Remember, the value of testing is that it can often provide credible and objective information about the ordinary business practices of housing providers, lenders, insurers, and other types of housing services.
The Testing Process

Testing can be conducted to investigate a variety of housing situations. As a tester, you may be asked to pose as a person who is interested in renting an apartment, buying a home, applying for financing to purchase housing, inquiring about property insurance for a home, or using other types of housing services. Testing can be used to investigate all types of housing and housing-related services. No matter what type of role you are assigned to portray, you will receive all of your directions from a Test Coordinator.

Test Coordinator Responsibilities

Testing is always performed under the supervision of a Test Coordinator. The Test Coordinator is the person designated to supervise a testing investigation from beginning to end. The Test Coordinator designs and controls the testing process by:

- Establishing the structure for the test
- Selecting one or more testers to participate in the test
- Assigning tester characteristics and instructions
• Maintaining communication with testers
• Collecting test forms and materials from testers
• Assembling and reviewing all of the test file materials
• Preparing a preliminary analysis of the test results

The Test Coordinator designs and controls the testing process so that it produces a fair assessment of housing practices. It is very important that testers adhere to assigned characteristics and follow the instructions provided by the Test Coordinator throughout the testing process.

Tester Responsibilities

The first responsibility of any tester is to complete the required tester training program. To complete the tester training program, testers must:

1. Read this Guide for Fair Housing Testers.

2. Attend and participate in the Training for Fair Housing Testers. At the four (4) hour training session, all of the guidelines, forms and procedures detailed in the manual will be presented again through an oral presentation. If you are unclear about any of the guidelines or procedures described in this manual, please ask questions and raise any concerns at the training session.

3. Conduct a “practice test” soon after attending the training session. Your instructors will provide more information about practice tests during the training session.
You are a trained fair housing tester once you have read this manual, attended the Training for Fair Housing Testers, and completed one practice test. Prior to participating in a testing investigation, it is possible that a Test Coordinator may provide you with supplemental training or instruction or even require that you complete additional practice tests.

Your second responsibility is to carry out each tester assignment in a conscientious and objective manner. You can accomplish this by:

1. Observing the prescribed testing guidelines;
2. Adhering to your assigned characteristics and instructions; and
3. Providing factual, accurate, and complete reports on all of your testing activities.

Finally, it is possible that you could participate in a testing investigation that yields evidence of unlawful housing discrimination. If this should occur, that evidence could be used to support the filing of an administrative complaint or lawsuit and you could be asked to serve as a witness and provide sworn testimony in a deposition, hearing, or trial.
Testing Approaches

There are many ways to structure a testing investigation. Testers may be instructed to make a variety of approaches in order to find a home or apartment, search for financing, inquire about property insurance, or use other types of housing services. You might be asked to make one or more telephone calls or visits to the housing provider or entity being investigated. You might be assigned to make an appointment to view available housing. You could be asked to go to an open house to view a house that is listed for sale. It is possible that you will be asked to “drop in” to an office to inquire about available housing. Whatever the approach, testers always receive detailed instructions from a Test Coordinator on how to conduct the test.
Unless otherwise instructed by the Test Coordinator, testers are asked to observe the following guidelines:

**Role of Testers**

**MAINTAIN CONFIDENTIALITY**
Testing investigations are confidential. Testers are asked not to discuss their testing experiences with anyone, including other testers, unless authorized to do so by the Test Coordinator. Testing may not reveal much about the ordinary business practices of a particular housing provider if the entity being tested learns in advance that a testing investigation is underway. If ever you believe that you may have inadvertently disclosed information about a testing investigation to someone who should not have this information or if you learn of others who have made such disclosures, please inform the Test Coordinator.

**BE OBJECTIVE**
It is important that testers maintain their objectivity throughout the testing process.
• The selection of a housing provider, lender, or other entity to be tested does not necessarily mean that the entity is suspected of violating fair housing laws. Also, you should not draw any inferences or conclusions from the fact that you have been assigned to conduct a test in a particular neighborhood or community. Remember, the value of testing is that it can provide credible and objective information about the ordinary practices of housing providers and others.

• Keep an open mind about the test results and do not jump to conclusions about whether or not the entity being tested is complying with fair housing laws. The Test Coordinator and others who review and analyze all of the testing information are in the best position to evaluate whether the test reveals any conduct which may violate fair housing laws.

• Refrain from making leading remarks or comments that might induce an agent to make discriminatory comments or engage in discriminatory behavior. If you have any doubt about the appropriateness of asking a particular question or making a comment during a test, the best advice is to refrain from asking the question or offering the comment. For instance, do not ask an agent “what kind of people live in this building?” When introduced to an agent, do not say “that is an unusual name, what is the origin?” or “you have an accent I can’t place, where are you from?” What may seem like an innocent question to you could prompt an agent to launch into a discussion about race, national origin, or some other protected characteristic.

• Respond indifferently to unsolicited discriminatory remarks made by an agent during a test. If an agent makes an unsolicited discriminatory
comment, please remain neutral and do not agree or disagree with the agent. Do not interrupt the agent, confront the agent, or prolong the conversation by asking follow-up questions about the agent’s remark. Allow the agent to make any comments and then proceed with your visit. Remaining non-committal when discriminatory comments are made may be difficult, but it is the best response that a tester can provide.

- Prepare your test reports in an accurate and objective manner. Your reports should contain facts, not opinions. When reporting your test experiences, avoid ascribing motives to the actions of an agent. All you will report, as an objective participant, is what you are told and what you observe during a test. Avoid conjecture and speculation about why something occurred during a test. As a tester you need to report what happens, not why it happens.

**BE CONVINCING**

Testing involves acting. You need to be convincing in the role that you are asked to portray on a test. Convey interest in the housing, financing, or services that you are assigned to inquire about on a test. Also, put aside personal preferences, interests and tastes while performing a test. If you are assigned to inquire about purchasing a home or about obtaining financing or insurance for a home and you have never owned a home before, there is no need for concern. The Test Coordinator will prepare each tester who is selected
to participate in any type of investigation. Finally, it is best to be pleasant, positive, and interested on tests and to avoid certain types of behavior such as:

- Becoming argumentative or combative with an agent;
- Engaging in flirtatious behavior with an agent; and
- Bargaining or negotiating with an agent for a better deal (unless you are instructed to do so as part of your assignment).

**FOLLOW INSTRUCTIONS**

Your cooperation is needed throughout the testing process. Please follow the instructions and guidance that you are provided as a tester. The Test Coordinator carefully designs each tester assignment and relies on participating testers to do what they are instructed to do. If you do not understand your instructions, please let the Test Coordinator know before you conduct your test.

**SCHEDULE ENOUGH TIME FOR THE TEST**

If you agree to conduct a test, please set aside enough time in your schedule to complete your assignment. Allow enough time to review your assignment, make any telephone calls that are necessary, travel to and from any sites that you are assigned to visit, complete the appropriate forms, and return everything to the Test Coordinator. The Test Coordinator can help you estimate the time you will need to complete the assignment. Also, it is always possible that the Test Coordinator might want you to have additional contact with the agent you initially tested. It is best to check your schedule and determine if it would
permit such follow-up contact prior to agreeing to accept the initial assignment.

WHEN IN DOUBT, CONTACT THE TEST COORDINATOR

Tests are coordinated to ensure that the testing process is both credible and controlled. The Test Coordinator is responsible for supervising the testing process as carefully as possible from beginning to end. If, as a tester, you are ever in doubt about what to do concerning a particular test, always contact the Test Coordinator.

Tester Assignment

This form is prepared by the Test Coordinator and is used to assign personal, financial, and home seeking characteristics to a tester prior to conducting a test. There are different Tester Assignment forms depending on the type of test that is being assigned (e.g., Rental, Sales, Mortgage Lending, etc.). Every Tester Assignment also includes detailed instructions on how to conduct the test.

(Note: Testers are asked not to write on a Tester Assignment. Testers are asked to return the Tester Assignment to the Test Coordinator after the test has been completed.)
Preparing to Test

**REVIEW TESTER ASSIGNMENT**

Prior to conducting each test, a tester receives a Tester Assignment form. Thoroughly review the information provided on this form before conducting your test. The Tester Assignment form will provide you with personal, household, financial, and home seeking characteristics for a test. This form also contains detailed instructions about what you should do on the test. Carefully review every assignment and consider the following questions:

- Are you uncomfortable with any of your assigned characteristics?
- Are you confused by any of the instructions?
- Are directions to the test site unclear?
- Is this an entity that you should not test due to prior contact or familiarity?
- Is information missing or incomplete?

If the answer is “yes” to any of the questions listed above, please contact the Test Coordinator prior to conducting the test.

**DRESS APPROPRIATELY**

Common sense should be used when determining suitable attire for a test. Unless otherwise instructed by the Test Coordinator, nice casual attire is appropriate for most tests. The Test Coordinator will inform you if a test requires dress other than nice casual attire. It is important for you to dress the part. Here are some other factors that you might want to consider when preparing to dress for the test:

- Wear a watch or have some type of time piece with you. You will need to
note the time that you arrive at a test site and the time that you depart from a test site.

- If you are supposed to be “single” for the test and you are “married” in real life, do not provoke questions by wearing a wedding band on a test. If you are supposed to be married for the test and you are single in real life, the Test Coordinator can provide you with a wedding band to wear on the test.

- It is best not to wear political buttons, badges, t-shirts, sweatshirts or caps with “messages” or “symbols” (e.g., political, religious, sports, etc.) that might evoke a strong positive or negative reaction from an agent during a test.

- Avoid wearing excessive amounts of jewelry on a test. Drawing attention to yourself by wearing a lot of jewelry on a test is generally not a good idea.

- You may be asked to conceal and carry an audio recorder on your test. (Your instructors will offer some advice on how and where recorders can be concealed during the Training for Fair Housing Testers). You may find that you have some clothing that is better suited for concealing a recorder and you may want to reserve these clothes for days when you are going to be conducting tests.

**REVIEW INFORMATION ABOUT PREVIOUS CONTACTS**

There may be instances when someone has contacted a test site to make an appointment for you to visit the test site. When this occurs you will have an opportunity to review the Test Narrative or listen to the audio recording that was made by the person who initiated the previous contact on your behalf. This will help to ensure that you are familiar with any information that was exchanged with an agent in previous conversations.
DEVELOP INFORMATION SHEET IF NECESSARY

There may be occasions when a tester is assigned to complete a test that requires the tester to remember a substantial amount of personal and household financial information. For example, testers may be asked probing questions about personal income, assets, current balances on credit cards, monthly payment amounts on loans, etc. on tests involving contact with real estate sales agents, mortgage brokers, and loan officers. It is common for home buyers to write this type of information down so that it can be provided when requested by an agent, broker, or loan officer. Testers are also permitted to use informal “information sheets” on such tests, but only if the content of the information sheet has been reviewed and authorized in advance by the Test Coordinator. Also, the Test Coordinator is available to assist testers in the development of an appropriate information sheet. Also, please do not use the information sheet for taking notes during your test.

USE ASSIGNED VOICEMAIL NUMBERS AND EMAIL ADDRESSES

As a tester, it is likely that you will be assigned a voice mail number to use as your telephone number during tests. Initially, you will record a personalized greeting on the voice mail number assigned to you with assistance from the Test Coordinator. You will use this voice mail number when you need to provide a telephone number on tests. There is no need for you to call your assigned
telephone number as you will not be able to access messages left on this voice mail number. The Test Coordinator will monitor assigned voice mail numbers. The Test Coordinator is the only person who can access messages left on your assigned voice mail number.

Also, please do not give out this voice mail number to anyone other than the people with whom you have contact on tests.

Please do not give out any personal or work email addresses to agents during tests. If the Test Coordinator wants you to provide an email address during a test, a new email address will be assigned to you for your use during the test. Please do not provide this email address to anyone other than the agents with whom you have contact on that test. The Test Coordinator will monitor any messages that are delivered to your assigned email address. The Test Coordinator is the only person who can access messages left on your assigned email address.

MAKE SURE YOU HAVE EVERYTHING YOU NEED TO CONDUCT THE TEST
As a tester, please check to make sure that you have everything you need with you prior to conducting a visit to a test site.

• Do you have a note pad on which you can take notes during your visit?
• Do you have a pen (not a pencil) to take with you on the test?
• Do you have a watch or time piece with you and is it set to the correct time?
• Do you need a wedding band for the test or do you need to remove your wedding ring for the test?
• Do you need a map or other directions to locate the test site?
• Do you need a cell phone to take with you on the test? If you have a cell phone, wireless handheld device, beeper, etc. with you, did you remember to turn the device off just prior to conducting the test?
Test Report

This form is prepared by a tester as soon as possible following a test. Test Reports record information and observations about test experiences. There are different Test Report forms depending on the type of test that is being conducted (e.g., Rental, Sales, Mortgage Lending, etc.). The Test Coordinator will inform you if and when it is necessary to complete a Test Report form.

(Note: Testers complete Test Reports after having an in-person contact with an agent at a test site where initial information was obtained about the availability of housing and/or housing related services. Test Reports need not be completed by testers after making calls to arrange appointments, most follow-up contact, etc. Testers are asked to use a pen to complete Test Reports.)

Conducting the Test

BE ON TIME
Conduct your test in a timely manner. Plan ahead and allot enough time for travel to the test site. If you are unable to complete your test at the assigned time, notify the Test Coordinator immediately.

BE RESPONSIVE (WITHIN CERTAIN LIMITATIONS)
When a consumer is attempting to rent, purchase, or obtain financing or insurance for housing, those in the business of providing housing or housing-related services may have many
questions. In order to appear as an ordinary home seeker, a tester should generally be responsive to requests for information and provide the information that was contained on the tester assignment. Avoid volunteering too much information before it is requested. Permit the agent to ask about you, your housing needs, and your qualifications. If an agent asks that you sign a guest register or complete a guest card, you should do so. Unless otherwise authorized by the Test Coordinator, there are several ways in which you will not be responsive during a test:

• **Do not complete or sign any document that resembles a rental application, lease, offer to purchase, contract, or loan application.**

  Most testing is limited to the pre-application stage of a housing transaction. Testers are instructed not to complete or sign any document which contractually binds them to rent or purchase housing or to apply for financing or insurance for housing. Also, it is a violation of federal law to submit false information on a loan application.

• **Do not agree to pay or pay for services during a test.**

  If an agent for a housing provider or housing-related service indicates that you will need to pay a fee to access or use one or more services, please find out the amount of the fee and for what purpose it is being requested. Do not offer or agree to pay for any services during your test
unless you have been specifically authorized to do so by the Test Coordinator. If the Test Coordinator wants you to pay a fee of some kind, it will be referenced in your instructions and the funds will be provided to you in advance of conducting your test.

• **Do not provide written or oral authorization for anyone to conduct a credit check.**

Do not give your permission, orally or in writing, to a lender or housing provider to request a copy of your personal credit report from any of the credit reporting agencies. It is quite likely that you have been assigned some personal, household, and financial characteristics that are not your own. This information has been assigned to you for the purpose of matching you with other testers or a complainant. A credit check could quickly disclose the fact that some of this information is untrue and that disclosure could have an adverse effect on the testing investigation that is in progress. Do not provide your **social security number** or precise **date of birth** during a test. You can always politely decline to have a credit check performed. In response to such requests, you can offer the agent or loan officer making the request your assessment of your credit standing based on the information provided on your tester assignment.
TAKE SIMPLE PRECAUTIONS TO AVOID DETECTION
There are several precautions that a tester can take to avoid being detected as a tester:

• If you are driving a vehicle to the test site, make sure that any test materials are properly concealed in your vehicle while it is parked near the test site.
• After leaving a test site, make sure that you travel a safe distance before completing the test forms.
• Do not provide your date of birth or social security number on any test. If an agent or loan officer decides to conduct a credit check, it will quickly disclose that some of the personal and financial characteristics assigned to you are not true.
• Inform the Test Coordinator if you are assigned to test an entity where you might be recognized because of prior contact or familiarity.
• Most people do not know what testing is and it is perfectly plausible that you are also unaware of this activity.
• Avoid filling out your report forms in public places (e.g., restaurants, stores, etc.) where others might be able to observe what you are doing.

ADHERE TO THE ASSIGNMENT
Testers are asked not to indicate a preference for types of housing, housing styles, terms and conditions, types of financing or particular neighborhoods unless these preferences are stated on the Tester
Assignment. Indicating a preference might inject another variable into the testing process that the Test Coordinator did not intend to include and did not control for when the tester assignments were made. Following your test, please let the Test Coordinator know if you may have deviated from your assigned characteristics or from the instructions furnished on your Tester Assignment.

NOTE-TAKING ENCOURAGED
It is perfectly appropriate and natural for persons who are searching for housing or housing-related services to take along a note pad to jot down important information. Testers are encouraged to take notes during most tests. It is particularly important in testing situations where a substantial amount of information is likely to be exchanged between an agent and a tester. Notes taken by testers should only include the type of information that an ordinary consumer might write down. Please use a pen to take notes. All notes taken during a test visit should be saved by the tester, initialed and dated (the date your notes were prepared), and turned over to the Test Coordinator following the test. Tester notes become part of the test file. Also, we ask that testers not write notes on any of the materials provided to them on a test. If you take any notes, please use a separate piece of paper or note pad.

BE OBSERVANT
Make a point of looking at name plates and name tags of employees, building addresses, apartment numbers, and any forms or materials that are presented to you during the test. Also, observe whether an “equal housing opportunity” sign or other policy statements of non-discrimination are conspicuously posted. Also, please remember to observe other employees or customers who may have seen or heard you talking with an agent. Observing these things will help you report on your test experience.
Test Narrative

This form is completed by a tester following any telephone contact with or visit to a test site. Testers need not complete a Test Narrative if an audio recording was made of this contact and the recording is audible. A narrative is a detailed, factual, and chronological account of the test experience.

(Note: Testers are asked to use a pen to write Test Narratives. Testers may use a computer to type the Test Narrative provided that 1) the FHJC Test Narrative format is utilized and 2) the completed narrative is printed out, signed and includes the date and time the narrative was completed. You need not use “exact quotes” in a Test Narrative. If you use quotation marks to highlight a word or phrase, please make sure that the words in quotes are the exact words used during the test. Also, it is not appropriate for a tester to decide what should or should not be included in a Test Narrative based on what the tester believes is relevant or important. The rule in writing Test Narratives is “If you can remember it happened, it should be in the narrative.” Try to put the events in chronological order, but it is okay to add items out of order at the end of the narrative if needed to make the narrative more accurate and complete. Finally, once you have drafted the narrative, read through it one more time. You may think of things that you inadvertently omitted. If so, add this information to your narrative before you sign and date it. Testers should give all completed Test Narratives to the Test Coordinator.)

Following the Test

CONTACT TEST COORDINATOR
After a tester completes a telephone call or visit for a test, the Test Coordinator should be contacted. Remember, the Test Coordinator is supervising the entire investigation and needs to be kept informed about every development.

COMPLETE TEST FORMS
In order to provide an accurate account of any test visit or telephone conversation, testers are asked to document their experiences as soon as
possible following the test. The Test Coordinator will tell you which forms need to be completed. The Test Coordinator will also provide you with blank copies of the appropriate forms. Please remember to complete the appropriate forms in pen. If you make a mistake while completing a form, simply draw a line through the incorrect word or phrase and add the correct word or response that you believe is most accurate and correct. Do not attempt to erase or “white out” anything on report forms or narratives. If you make a correction to a form or narrative after the material has been turned in to the Test Coordinator, simply add your initials and date next to the corrected or added language.

Example of Correcting Mistakes and Adding Information

In the example below, tester Mary Smith discovered that she had provided an incorrect amount of the rent discount that she had been offered during a test. To correct this mistake, she drew a thin line through the incorrect amount and wrote the correct amount next to her error and placed her initials and the date next to the corrected amount. The same tester realized that she had also failed to identify the name of the agent who offered her the rent discount. The tester added this information by writing the name of the agent next to the word “agent” and placed her initials and date next to the newly added information.

(Lisa Condo) M.S. 7/31/2012

“The agent told me that he would discount the rent by $200 if I rented the apartment by March 1st.”

$250 M.S. 7/31/2012
RETAI N AND PRESENT ALL TEST M A T E R I A L S  
Testers are asked to return any Tester Assignment forms and Supplemental Assignment forms, along with any completed Test Report forms and Test Narratives to the Test Coordinator. Also, testers should give the Test Coordinator any materials obtained during the test such as business cards, notes, novelty gifts, applications, brochures, and any other materials. Testers should initial and date (date received) all materials that were obtained during a test. If a recording device was used to record the test experience, the recorder should be returned to the Test Coordinator. Finally, initial and date any notes that you took during your test and turn those in to the Test Coordinator as well.

REPORT FOLLOW-UP CONTACT  
If a tester receives any follow-up contact from an entity that was tested, this contact should be reported to the Test Coordinator immediately. If mail is received, initial and date (date received) the mail and give it to the Test Coordinator. In the unlikely event that you receive an email, print a copy of the email and provide it to the Test Coordinator. If you receive a telephone call, write a detailed narrative of your conversation or the message received.

INITIATE FOLLOW-UP CONTACT ONLY AS DIRECTED  
Testers may be asked by the Test Coordinator to conduct a follow-up telephone call or visit to the test site. When the Test Coordinator decides to arrange for a tester to have follow-up contact, the tester will receive a Supplemental
Assignment. The Supplemental Assignment form will contain detailed instructions on how to make the follow-up contact. No tester will initiate follow-up contact with a test site without being authorized to do so by the Test Coordinator.

Supplemental Assignment
This form is completed by the Test Coordinator and is used to provide a tester with detailed instructions to follow when initiating follow-up contact with a test site.

(Note: Testers are asked not to write on a Supplemental Assignment. The Supplemental Assignment is returned to the Test Coordinator after the follow-up contact has been completed.)

BE AVAILABLE AS NEEDED
While the test may have been completed, your job as a tester may not be finished. The Test Coordinator may need to ask you additional questions about the test that you conducted. If the test is going to be used as evidence in an administrative complaint or in a lawsuit, you may be needed to provide sworn testimony as a witness. If you have to testify in a deposition, hearing, or trial about your test experience, you will have an opportunity to review all of your test materials prior to providing that testimony to refresh your recollection.
Use of Recorders

The FHJC uses digital audio recorders in its Acting for Justice Program. Audio recordings of tests can provide an exact oral account of conversations that take place between testers and agents. Under federal law, one-party consensual recording is lawful. In others words, only one party to a conversation must consent to having the conversation recorded under federal law. States vary on whether they require “one-party” or “two-party” consent. Before any FHJC tester is asked to record a conversation on a test, the FHJC conducts legal research to ascertain the applicable law on recording in that State. In the State of New York, one-party consensual recording is permitted. FHJC testers record in-person contacts as well as telephone conversations.

Testers utilize small digital audio recorders that have been adapted for law enforcement purposes. The recorders are equipped with sensitive stereo microphones along with other features that permit many hours of recording time. At the Training for Fair Housing Testers, your instructors will demonstrate the recorders and provide detailed instruction on the proper way to use them. After completing a test, do not try to review or play back a recording as the
internal speaker on each recorder has been disconnected. Test reports will be completed by testers based on their recollection of what happened, the information provided on any materials obtained, and any notes taken during the test, not by listening to the recordings.

**Concealing the Recorder**

When you are assigned to make an in-person visit on a test, you may need to conceal an audio recorder on your person. In the Training for Fair Housing Testers, you will receive specific instructions on how and where to conceal the recorders.

**Identifying the Recording**

When a tester is equipped with an audio recorder to record the test experience, it is important for the tester to properly identify the recording that is being made. Prior to calling or arriving at the test site, a tester will turn the recorder on and record his or her name, the date and time of the test, and the location of the test site to be contacted or the telephone number to be called. Two examples appear below:

“This is Mary Smith. It is 5:00 p.m. on Friday, July 27, 2012 and I am going to the offices of ABC Apartment Managers located at 555 West Main Street in the City of Whitehaven.”

“This is Mary Smith. It is 3:00 p.m. on Friday, July 27, 2012 and I am calling the offices of ABC Apartment Managers at (212) 555-1212. I am calling from Cell Phone #1 from the office of the Fair Housing Justice Center.”
After the test has been completed, but before turning off the recorder, the tester will record his or her name, the date and time, and the location departed from or the phone number for the call that you just completed. Two examples appear below:

“This is Mary Smith. It is 5:47 p.m. on Friday, July 27, 2012 and I just completed a visit to the offices of ABC Apartment Managers located at 555 West Main Street in the City of Whitehaven.”

“This is Mary Smith. It is 3:06 p.m. on Friday, July 27, 2012 and I just completed a telephone call to the offices of ABC Apartment Managers at (212) 555-1212.”

For test visits, make sure that you are a considerable distance from the test site before adding this identifying information to the recording.

There may be some occasions when you need to turn the recorder off during a test. Perhaps, after arriving at the site, an agent informs you that they must run an errand and they will return to help you in 30 minutes. In this situation, you may leave the test site, turn the recorder off, and call the Test Coordinator to receive additional instructions. If you are instructed to return to the test site after 30 minutes has passed, simply turn the recorder back on, tag the recording again, and meet with the agent. Perhaps, during a test, you will find you need to “use the bathroom facilities.” If this should occur, excuse yourself, and go to the restroom. Turn off the recorder, use the facilities, and then turn the recorder back on again. If you are not able to tag the recording when you turn the recorder on again, simply remember to tag the recording at the end of your visit and before you turn the recorder off. Try to ensure that there is at least one audible tag on every recording segment which identifies the persons making the recording, the date, the time, and the place where the recording was made.
Finally, there may be some investigations where testers are equipped with both audio and video recorders. When this occurs, the Test Coordinator will provide you with supplemental instructions on procedures for concealing and operating video recording devices.

**Maintaining the Chain of Custody**

Once you complete a test, it is important that you return the recorder directly to the Test Coordinator. Do not allow others to use the recorder while it is in your possession. Do not give the recorder to anyone else to return it to the Test Coordinator. Once a recorder contains a digital recording of a test, the recorder should be kept in a secure location and in your possession until it is returned directly to the Test Coordinator. When the Test Coordinator receives a recorder from a tester, the recording is transferred to a computer disk, labeled and placed in an evidence envelope which contains a custody record. The Test Coordinator maintains the chain of custody on the recorded evidence from that point forward.

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**Record of Tester Time**

This form is prepared by a tester to record total tester hours. This form is completed by all testers regardless of whether the tester is a part-time employee working for the FHJC or the tester is being released from their regular duties to participate as a tester pursuant to a contract or agreement that FHJC has with the tester’s employer.

(Note: FHJC testers are also reimbursed for actual travel expenses related to testing activities. At the Training for Fair Housing Testers, the instructors will review the Record of Tester Time.)
After you have read this Guide and participated in the Training for Fair Housing Testers, you will have an opportunity to conduct a practice test. A practice test provides newly trained testers with “hands on” experience in conducting a test and with following the prescribed testing guidelines and procedures. A practice test provides an opportunity for a new tester to apply what was learned in the Training for Fair Housing Testers. Keep in mind that this is only a “practice” test for the tester. The entity being tested is entirely unaware that a testing investigation is underway.
Thank You.

Your conscientious adherence to the guidelines and procedures described in this Guide will enable the FHJC to conduct investigations that yield credible, objective, and admissible evidence. This valuable investigative tool will enable the FHJC to challenge illegal housing discrimination, expand housing opportunities, and foster more open, accessible and inclusive communities. Through your activities as testers, you are making a significant contribution to fair housing by breaking down barriers to housing choice and by aiding others to exercise and enjoy their fair housing rights.